

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/551

<u>Applicant</u>	:	Starwall Solar System Limited represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lots 3339 RP (Part), 3340 RP (Part), 3346 RP (Part), 3347 (Part), 3348 (Part), 3349 (Part) and 3350 S.B RP in D.D. 91 and Lots 1486 RP (Part), 1490 (Part), 1491 (Part) and 1493 RP (Part) in D.D. 100, Lin Tong Mei, Kwu Tung South, Sheung Shui, New Territories
<u>Site Area</u>	:	6,604m ² (about)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/22 (currently in force) Draft Kwu Tung South OZP No. S/NE-KTS/21 (at the time of submission) [The zoning and development restrictions of the application site remain unchanged on OZP No. S/NE-KTS/22]
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Warehouse (excluding Dangerous Goods Godown) with Ancillary Facilities for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities for a period of three years and associated filling of land at the application site (the Site), which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the

Board). Filling of land in the “AGR” zone also requires planning permission from the Board. The Site is currently vacant and largely covered by weeds (**Plan A-4**).

- 1.2 According to the applicant, the application is to facilitate relocation of the warehouse operation at a site of about 6,320m² in Tong Yan San Tsuen, Yuen Long which is affected by government project, i.e. the First Phase of Yuen Long South (YLS) Development, and the land of the affected operation was resumed in August 2022.
- 1.3 The Site is accessible from Fan Kam Road via a local access (**Plans A-1 to A-3**), with a proposed ingress/egress of about 9m wide at the north-eastern corner of the Site. According to the applicant, the proposed use for storage of vehicle parts and goods involves two single-storey structures with heights of not more than 11m and a total floor area of about 4,134m² for warehouse, ancillary site office, washroom, and rain shelter for loading/unloading (L/UL) activities (**Drawing A-1**). The applicant also applies for proposed filling of land for about 6,554m² (99% of the Site) with concrete of not more than 2.3m in depth (to levels ranging from about 32.8mPD to 34.2mPD) for site formation and vehicular circulation (**Drawing A-3**). No storage of dangerous goods, open storage or workshop activities will be involved at the Site. A 2.5m-high solid metal wall will be erected along the Site boundary to minimise noise nuisance to the surrounding areas. Five parking spaces for private car and three L/UL spaces (two for medium goods vehicle and one for container vehicle) will be provided within the Site. 25 existing trees within the Site are proposed to be felled, and 25 new trees will be planted along the north-western, northern and north-eastern boundaries of the Site as compensation and buffer from the surrounding areas (**Drawing A-2**). Septic tank and soakaway system will be provided to collect sewage generated from the proposed use. Staff will be deployed to direct incoming/outgoing vehicles, and revolving lights and pedestrian signage will be installed at the ingress/egress of the Site to enhance pedestrian safety. The operation hours will be between 7:00 a.m. to 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. Plans showing the site layout, landscape proposal and land filling area submitted by the applicant are on **Drawings A-1 to A-3**.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 9.1.2025 (**Appendix I**)
 - (b) Further Information (FI) received on 13.2.2025[#] (**Appendix Ia**)
 - (c) FI received on 6.3.2025 and 7.3.2025* (**Appendix Ib**)
 - (d) FI received on 14.4.2025* (**Appendix Ic**)
 - (e) FI received on 29.5.2025* (**Appendix Id**)

[#] *accepted but not exempted from publication and recounting requirements*
^{*} *accepted and exempted from publication and recounting requirements*
- 1.5 On 11.4.2025, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months as requested by the applicant.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Application Form and FIs at **Appendices I to Id**, and can be summarised below:

- (a) The current application is to facilitate relocation of the applicant's warehouse operation in Tong Yan San Tsuen, Yuen Long which is affected by the First Phase of YLS Development. The affected operation has already been ceased due to land resumption by the Government in August 2022 thus a suitable site for relocation is desperately needed to continue his business and the applicant has been conducting the site search.
- (b) The applicant has undergone a thorough site selection process in the New Territories for relocation of the affected operation, but cannot identify other suitable sites due to land use incompatibility, environmental concerns, land ownership issue, poor accessibility and small site area, and the Site is considered the only suitable one with flat topography and good accessibility. The proposed site area (about 6,604m²) and total floor area (about 4,134m²) are slightly larger than the original affected operation (site area of about 6,320m² and total floor area of about 3,940m²) to meet the latest operational needs. The uncovered portion of the Site will be reserved for vehicular circulation for efficient operation.
- (c) The surrounding areas are semi-rural in character and predominated by storage yards, shop and services, vacant land and temporary structures. The proposed use is considered not incompatible with the surrounding areas. It would not frustrate the long-term planning intention of the "AGR" zone whilst utilising vacant land in the New Territories.
- (d) The proposed filling of land is necessary to meet the operational needs. The applicant undertakes to reinstate the Site to an amenity area upon expiry of the planning approval.
- (e) The proposed use will not result in adverse traffic impact on the surrounding road network as the vehicular trips generated/attracted by the proposed use are expected to be minimal. The traffic management measures of deploying staff to direct incoming/outgoing vehicles and installing revolving lights and pedestrian signage at the ingress/egress will be implemented.
- (f) The proposed use would not induce adverse environmental, fire safety, drainage and landscape impacts on the surrounding areas. The applicant will strictly follow the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' ('CoP') issued by the Environmental Protection Department, the relevant environmental protection/pollution control ordinances and the Professional Persons Environmental Consultative Committee Practice Notes to minimise adverse environmental impacts during the construction and operation stages. Drainage and fire service installations proposals would be submitted and duly implemented upon approval of the application.

- (g) The applicant has demolished the unauthorised structures previously occupying the Government land (GL) adjoining the Site on the local access. Upon approval of the application, the applicant will follow up with the necessary applications for Short Term Waiver (STW) and/or Short Term Tenancy (STT) to the Lands Department (LandsD) as appropriate for implementing the proposed use. Regarding the issue of obstructing the right-of-way for the adjacent lots 1493 S.B and 1494 S.B ss.2 to the southeast of the Site (**Plan A-2**) as raised in the public comments, the concerned lots are outside the Site and they are currently accessible to Fan Kam Road via a local access to their east without passing through the Site. The proposed use will not affect the current access of the concerned lots. Notwithstanding this, the applicant will further liaise with owners of the concerned lots to address the right-of-way issue.

3. **Compliance with the ‘Owner’s Consent/Notification’ Requirements**

The applicant is not a ‘current land owner’ but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the ‘Owner’s Consent/Notification’ Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting site notice and sending notice to the Sheung Shui Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not subject to any active planning enforcement action. The Site was the subject of two previous planning enforcement cases against unauthorized use for place for parking of vehicles (case No. E/NE-KTS/285) and unauthorized workshop use, storage use (including deposit of containers) and use for place for parking of vehicles (case No. E/NE-KTS/293) in 2023, and it has been reinstated with Compliance Notices issued in 2024.

5. **Previous Applications**

The Site is the subject of four previous applications covering larger site areas, including one application (No. A/DPA/NE-KTS/141) for residential development and three applications (No. A/NE-KTS/96, 102 and 117) for temporary golf driving-range. Considerations of these applications are not relevant to the current application due to different use involved. Details of the previous applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

6. **Similar Application**

There is no similar application within the same “AGR” zone in the vicinity of the Site in the past five years.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

7.1 The Site is:

- (a) currently vacant and largely covered by weeds; and
- (b) accessible from Fan Kam Road via a local access.

7.2 The immediate surrounding areas are rural in character with an intermix of storage yards, parking of vehicles, restaurant, vacant land and fallow agricultural land. About 100m to the west of the Site is the village settlement of Lin Tong Mei within “Village Type Development” zone and about 80m to the south is the low-rise residential development namely Cadenza within “Residential (Group C) 2” zone (**Plan A-2**). To the further south and southwest of the Site within the same “AGR” zone are mainly clusters of active farmland intermixed with woodland, vegetated vacant land and scattered residential/agricultural structures surrounding the village settlements of Chan Uk Po and Tsiu Keng Lo Wai (**Plan A-1**).

8. Planning Intention

- 8.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 8.2 According to the Explanatory Statement of the OZP for the “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. Comments from Relevant Government Bureau/Departments

- 9.1 Apart from the government bureau/departments as set out in paragraphs 9.2 to 9.4 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses, if any, are provided in **Appendices III** and **IV** respectively.
- 9.2 The following government bureau supports the application:

Policy Aspect

Comments from the Secretary for Development (SDEV):

- (a) supports the application from policy perspective subject to no adverse comments on land use compatibility and technical aspects from concerned government departments;

- (b) the application is to facilitate relocation of business operation for storage in Yuen Long, which is affected by the First Phase of YLS Development (the Project); and
- (c) according to the applicant, a site search has been conducted with a view to identifying suitable site for re-establishment of the business elsewhere to pave way for the clearance under the Project, and the Site under the current application is the most suitable relocation site. The applicant also claims that the Site, which is larger than their current facility, is the only suitable site identified after a thorough site search and is necessary to accommodate their operational needs.

9.3 The following government department has adverse comments on the application:

Land Administration

Comments of the District Lands Officer/North (DLO/N), LandsD:

- (a) adverse comments on the application;
- (b) the Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. No right of access via GL is granted to the Site;
- (c) no consent is given for the proposed vehicular access via GL. The applicant should make his own arrangements for acquiring access to the Site. Any occupation of GL without Government's prior approval is an offence under the Land (Miscellaneous Provisions) Ordinance (Cap. 28);
- (d) the following irregularity has been detected:

Unlawful occupation of GL not covered by the application

the GL adjoining the Site has been fenced-off without permission. The GL being illegally occupied is not included in the application. Any occupation of GL without Government's prior approval is an offence under Cap. 28. His office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice. For direct grant of STT of the adjoining GL to the applicant for temporary use, prior policy support from the relevant bureau has to be obtained;

- (e) the lot owner shall cease the illegal occupation of the GL not covered by the application immediately and, subject to the approval of the Board to the application which shall have reflected the rectification as required and subject to the availability of policy support, apply to his office for STW and STT to permit the structures to be erected and the occupation of GL. The application for STW/STT will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW/STT, if approved, will be on whole lot basis and subject to such terms and conditions including the payment of waiver fee/rent and administrative fee as

considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take land control action for any unlawful occupation of GL. Besides, given the proposed use is temporary in nature, only erection of temporary structures will be considered; and

- (f) advisory comments are at **Appendix IV**.

9.4 The following government departments do not support the application:

Environment

9.4.1 Comments of the Director of Environmental Protection (DEP):

- (a) does not support the proposed use from environmental perspective;
- (b) the proposed use will cause traffic of heavy vehicles in its operation and the Site boundary is within 100m from the nearest residential structure. It is anticipated that the proposed use would cause environmental nuisance to the residential structures nearby;
- (c) given no public sewerage connection is available in the vicinity of the Site, septic tank and soakaway system is an acceptable means for wastewater collection, treatment and disposal;
- (d) there was no environmental complaint related to the Site for the past three years;
- (e) no comment on the applied filling of land; and
- (f) advisory comments are at **Appendix IV**.

Agriculture and Nature Conservation

9.4.2 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the “AGR” zone and is generally abandoned. Agricultural infrastructures such as road access and water source are available in the area. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.;
- (c) no comment from nature conservation perspective; and
- (d) advisory comments are at **Appendix IV**.

10. Public Comments Received During Statutory Publication Periods

On 17.1.2025 and 21.2.2025, the application and FI were published for public inspection. During the statutory public inspection periods, 10 public comments were received, including two from the same North District Council Member; two from the Kadoorie Farm and Botanic Garden Corporation; one from the Village Representative of Lin Tong Mei; one from Lin Tong Mei villagers; two from an owner of lots 1493 S.B and 1494 S.B ss.2 adjacent to the Site (**Plan A-2**) and his representative; and two from the same individual. Except for the North District Council Member indicating no comment on the application, all the remaining comments object to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; the Site may involve unauthorized development; there would be potential impacts on the Agricultural Priority Areas; there is no justification for having brownfield operation at the Site; the proposed use would obstruct the right-of-way for the adjacent lots 1493 S.B and 1494 S.B ss.2 (**Plan A-2**); and the proposed use would induce adverse impacts on traffic, road safety, environmental and public security aspects (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities for a period of three years and associated filling of land at the Site zoned “AGR” (**Plan A-1**). Whilst the proposed use is not in line with the planning intention of the “AGR” zone and DAFC does not support the application from agricultural perspective, the application is to facilitate relocation of the applicant’s warehouse operation in Tong Yan San Tsuen which is affected by the First Phase of YLS Development and SDEV supports the application to facilitate relocation of brownfield operation displaced by the said government project. In view of the relocation need with SDEV’s support mentioned above and taking into account the planning assessments below, there is no objection to the proposed use on a temporary basis of three years with associated filling of land.
- 11.2 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department has no objection to the application from public drainage perspective and DEP has no comment on the applied filling of land from environmental perspective. As the Site is zoned “AGR”, an approval condition requiring the reinstatement of the Site upon expiry of the planning permission so as to uphold the planning intention of the “AGR” zone and restore the greenery of the area is recommended should the Committee decide to approve the application.
- 11.3 The Site is located away from and without direct interface with the active farmland clusters to the further south and southwest within the same “AGR” zone surrounding Chan Uk Po and Tsiu Keng Lo Wai (**Plan A-1**). Whilst the nearest residential development and village settlement are located in distances of about 80m to 100m to the south and west from the Site respectively (**Plan A-2**), the proposed use at the Site is considered not incompatible with the immediate surrounding areas which are rural in character with an intermix of storage yards, parking of vehicles, restaurant, vacant land and fallow agricultural land (**Plan A-2**). The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no

adverse comment on the application from landscape planning perspective considering that the proposed use is not incompatible with the setting in the proximity and significant adverse landscape impact is not anticipated.

- 11.4 Whilst considering the proposed septic tank and soakaway system an acceptable means for wastewater collection, treatment and disposal, DEP does not support the proposed use from environmental perspective as heavy vehicles are involved and there are residential structures in the vicinity of the Site. Nonetheless, the proposed ingress/egress at the north-eastern corner of the Site will allow the vehicles to travel to Fan Kam Road via only a short section of local access without passing through the residential development and village settlement located to the south and west of the Site. According to the applicant, no open storage or workshop activities will be involved and a 2.5m-high solid metal wall is proposed along the Site boundary to minimise noise nuisance to the surrounding areas. Besides, buffer planting of 25 trees will be provided along the north-western, northern and north-eastern boundaries near the proposed vehicular circulation space in the Site. Should the application be approved, the applicant will be advised to follow the revised 'CoP' to minimise any potential environmental nuisance caused by the proposed use. The operation of the proposed use will also be subject to the relevant pollution control ordinances. Regarding DLO/N, LandsD's concern on the illegal occupation of GL, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 11.5 Other relevant government departments consulted, including the Commissioner for Transport, Director of Fire Services and Commissioner of Police, have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 12.2 below.
- 11.6 Regarding the public comments on the right-of-way issue for lots adjacent to the Site as detailed in paragraph 10, the applicant indicates that the proposed use at the Site would not affect the current access of the concerned lots and the applicant will further liaise with the concerned lot owners to address the issue. The applicant will be advised to resolve the land issue with the concerned owners. For the other concerns in the public comments, the departmental comments and planning considerations above are also relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, PlanD has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 6.6.2028. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.12.2025;
- (b) in relation to (a) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.3.2026;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.12.2025;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.3.2026;
- (f) if the above planning condition (c) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (g) if any of the above planning condition (a), (b), (d) or (e) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (h) upon expiry of the planning permission, the reinstatement of the site, including the removal of hard paving and fill materials and grassing of the site to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use with associated filling of land is not in line with the planning intention of the "Agriculture" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with attachments received on 9.1.2025
Appendix Ia	FI received on 13.2.2025
Appendix Ib	FI received on 6.3.2025 and 7.3.2025
Appendix Ic	FI received on 14.4.2025
Appendix Id	FI received on 29.5.2025
Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Landscape Proposal
Drawing A-3	Land Filling Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2025**