

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MKT/46

- Applicant** : Mr. CHENG Ming Yin represented by Ms. TSIM Lee Hing, Sita
- Site** : Lot 40 in D.D. 86, Man Kam To, New Territories
- Site Area** : About 448m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plans** : Draft Man Kam To Outline Zoning Plan (OZP) No. S/NE-MKT/6
(currently in force)

Draft Man Kam To OZP No. S/NE-MKT/5 (at the time of submission)
- Zoning** : “Agriculture (“AGR”)

[No change to the “AGR” zone under the current OZP]
- Application** : Proposed Temporary Warehouse for Storage of Construction Materials for a
Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse for storage of construction materials for a period of three years at the application site (the Site) falling 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 or building not exceeding a period of three years within the “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is generally vacant and fenced, largely hard-paved and partly overgrown with weeds. (**Plans A-4a** and **A-4b**).
- 1.2 According to the applicant, the application is submitted to facilitate the relocation of a business operation at the original site affected by Kwu Tung North/Fanling North New Development Area (KTN/FLN NDA) which has been resumed by the Government.
- 1.3 The Site is accessible from a local track leading to Lin Ma Hang Road (**Plan A-2**). According to the submission, the proposed use consists of a one-storey structure of not more than 5.5m in height with a total floor area of about 380.8m² for a warehouse primarily for storing construction materials. One light goods vehicle (LGV) loading/unloading space (7.5m (L) x 3.5m (W)) is proposed within the Site. The

operation hours of the proposed use are between 8:00 a.m. and 8:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The layout plan submitted by the applicant is shown in **Drawing A-1**. While it is observed that the Site has been largely filled with asphalt, the applicant indicates that the proposed use does not involve filling of land.

- 1.4 According to the applicant, an ingress/egress is proposed at the southwest of the Site (**Drawing A-2**). A swept path analysis for LGV is submitted in support of the application. According to the traffic management measures proposed by the applicant (**Appendix Ic**), staff will be deployed to instruct the LGV entering the Site; posting of a notice at a prominent location of the Site to prevent queuing/parking outside the Site; and flashing lights will be provided at the ingress/egress of the Site to ensure pedestrian safety. In addition, the applicant will be responsible to construct a drainage system to effectively manage rainwater and prevent flooding.
- 1.5 In support of the application, the applicant has submitted the following documents:
- | | | |
|-----|---|------------------------|
| (a) | Application Form with attachments received on 26.5.2025 | (Appendix I) |
| (b) | Supplementary Planning Statement (SPS) | (Appendix Ia) |
| (c) | Further Information (FI) received on 2.6.2025 and 4.6.2025* | (Appendix Ib) |
| (d) | FI received on 2.7.2025 and 6.7.2025* | (Appendix Ic) |
| (e) | FI received on 11.7.2025* | (Appendix Id) |
| (f) | FI received on 14.7.2025* | (Appendix Ie) |

** accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

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

- (a) the proposed use is to facilitate the relocation of brownfield operation affected by KTN/FLN NDA. The applicant intends to relocate the business to the Site to continue the business operation, which could support the surging demand for storage of construction materials necessary for various development projects in Sheung Shui and Fanling, and near the Site;
- (b) the Site is located away from residential areas and other sensitive locations. The operation of warehouse will not disturb local residents;
- (c) no significant adverse impacts in terms of environmental, traffic, drainage, etc. are anticipated; and
- (d) the applicant has obtained consent from the land owner(s) of the nearby private lot (i.e. Lot 38 in D.D. 86) for shared vehicular access.

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 publishing notices in local newspaper and posting site notice. Detailed information would be deposited at the meeting for Members' inspection.

4. **Background**

The Site is currently not subject to any active enforcement action.

5. **Previous Application**

The Site is not the subject of any previous application.

6. **Similar Applications**

- 6.1 There were nine similar applications (No. A/NE-MKT/25, 26, 29, 31, 34, 35, 37, 39 and 40) for temporary warehouses with or without open storage within the same "AGR" zone in the vicinity of the Site in the past five years (**Plan A-1**). Amongst them, five applications (No. A/NE-MKT/34, 35, 37, 39 and 40) to the southwest of the Site for proposed warehouse were approved by the Committee between July 2024 and May 2025 mainly on the considerations that the applications were to facilitate relocation of business operations affected by government projects (i.e. KTN and Yuen Long South NDAs) and the Secretary for Development (SDEV) rendered policy support to the applications; there were no major adverse departmental comments on the applications; and the proposed uses were not entirely incompatible with the surrounding land uses.
- 6.2 The remaining four applications (No. A/NE-MKT/25, 26, 29 and 31) were all rejected by the Committee/the Board on review in 2023 mainly for the reasons of being not in line with the planning intention of the "AGR" zone; and being failed to demonstrate that the proposed uses would not induce adverse traffic, drainage, landscape and/or environmental impacts on the surrounding areas.
- 6.3 Details of the similar applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

7. **The Site and Its Surrounding Areas** (**Plans A-1** and **A-2**, aerial photo on **Plan A-3** and site photos on **Plans A-4a** and **A-4b**)

- 7.1 The Site is:
 - (a) generally vacant and fenced, largely hard-paved and partly overgrown with vegetation; and
 - (b) accessible from a local track leading to Lin Ma Hang Road.
- 7.2 The surrounding areas are of rural character intermixed with storage yards, vegetated land and tree clusters. To the north and southeast of the Site are densely vegetated knolls zoned "Green Belt" ("GB"), which are permitted burial grounds for indigenous villagers.

8. Planning Intention

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.

9. Comments from Relevant Government Bureau/Departments

9.1 Apart from the government bureau/department as set out in paragraphs 9.2 and 9.3 below, other government 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 are provided at **Appendices III** and **IV** respectively.

9.2 The following government bureau supports the application.

Policy Support

9.2.1 Comments of SDEV:

- (a) the application is to facilitate relocation of a brownfield operation providing warehouse services, which has been affected by the Remaining Phase development of the KTN/FLN NDA; and
- (b) subject to concerned departments’ comments on land use compatibility and technical aspects, the application is supported from the policy perspective.

9.3 The following government department does not support on the application.

Agriculture and Nature Conservation

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

- (a) the Site falls within the “AGR” zone and is generally vacant. 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.;
- (b) as the Site possesses potential for agricultural rehabilitation, the proposed use is not supported from agricultural perspective; and
- (c) based on the aerial photo, the Site is vacant. He has no comment on the application from nature conservation perspective.

10. Public Comments Received During Statutory Publication Period

On 3.6.2025, the application was published for public inspection. During the statutory public inspection period, four public comments were received (**Appendix V**). Amongst them, three comments from Kadoorie Farm and Botanic Garden and two individuals object to the application on the grounds that the proposed use does not comply with Town Planning Board Guidelines No.

13G (i.e. Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance); the Site is located within/in close proximity to permitted burial ground sites and “GB” zones; the Site is the subject of suspected unauthorized development/involved in ongoing enforcement case(s); the applicant has not obtained consents from the land owners of nearby private lots (i.e. Lots 36 and 38 in D.D. 86) for shared vehicular access; and the applicant is not authorised by the land owners to submit the application. The remaining public comment from a member of the North District Council indicates no comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for storage of construction materials for a period of three years at the Site zoned “AGR” on the OZP (**Plan A-1**). 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 as the Site possesses potential for agricultural rehabilitation. Nevertheless, the application is submitted to facilitate the relocation of a brownfield operation affected by KTN/FLN NDA; and the Site is considered suitable for relocation as identified by the applicant, SDEV supports the application. Taking into account the planning assessments below and with the policy support given by SDEV, sympathetic consideration could be given to the proposed use on a temporary basis of three years.
- 11.2 Noting that the Site is largely hard-paved and the applicant has not applied for land filling, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no objection to the application from public drainage viewpoint and environmental perspective respectively. As the Site is zoned “AGR”, an approval condition requiring 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, accessible from a local track leading to Lin Ma Hang Road, is located in an area of rural character intermixed with storage yard, vegetated land and tree clusters, and is generally vacant and fenced, largely hard-paved and partly overgrown with vegetation (**Plans A-2 to A-4**). The proposed use is considered not entirely incompatible with the surrounding land uses. The Chief Town Planner/Urban Design and Landscape of Planning Department has no adverse comment on the application and advises that significant adverse impact on existing landscape resources within the Site arising from the proposed use is not anticipated.
- 11.4 Other relevant government departments consulted, including the Director of Fire Services, have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions and advisory clauses are recommended in paragraph 12.2 below and **Appendix IV** respectively. Should the application be approved, the applicant will also be advised to follow the environmental mitigation measures as set out in the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ to minimise any possible environmental nuisance.
- 11.5 There were nine similar applications within the same “AGR” zone in vicinity of the Site in the past five years (**Plan A-1**). In particular, there were five similar applications (No. A/NE-MKT/34, 35, 37, 39 and 40) related to the relocation of brownfield operations

affected by government projects, which were approved with conditions by the Committee between July 2024 and May 2025 mainly on the considerations as detailed in paragraph 6.1 above. The planning circumstances of the current application are similar to those of the approved similar applications. Approval of the current application is in line with the Committee's previous decisions.

- 11.6 Regarding the public comments mentioned in paragraph 10, the government departments' comments and planning assessments above are relevant. For the public comment expressing that the applicant is not authorised by the land owner(s) to submit the application, the applicant has complied with the requirements as set out in TPB PG-No. 31B as mentioned in paragraph 3 above.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10 above, the Planning Department 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 18.7.2028. The following conditions of approval and advisory clauses are 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 18.1.2026;
- (b) in relation to (a) above, the implementation of the drainage facilities 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 18.4.2026;
- (c) in relation to (b) above, the implemented drainage facilities 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 18.1.2026;
- (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 18.4.2026;
- (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 the expiry of the planning permission, the reinstatement of the application site, including removal of fill materials and hard paving, and grassing the application site to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are 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 is not in line with the planning intention of the "AGR" 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 in the submission for a departure from such 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 the 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 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 26.5.2025
Appendix Ia	SPS
Appendix Ib	FI received on 2.6.2025 and 4.6.2025
Appendix Ic	FI received on 2.7.2025 and 6.7.2025
Appendix Id	FI received on 11.7.2025
Appendix Ie	FI received on 14.7.2025
Appendix II	Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos