

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/805

<u>Applicant</u>	: Smart Long Development Limited
<u>Site</u>	: Lot 217 (Part) in D.D. 84, Ping Che, New Territories
<u>Site Area</u>	: About 630m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Temporary Open Storage of Construction Machinery and Construction Materials and Associated Filling of Land for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage of construction machinery and construction materials and associated filling of land 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 Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years and filling of land within the “AGR” zone require planning permission from the Town Planning Board (the Board). The Site is hard paved and currently used for the applied use without valid planning permission.
- 1.2 The Site is accessible via a local access road leading to Ping Che Road (**Plan A-1**). According to the applicant, about 350m² of the Site (about 56%) will be used for open storage of construction machinery and construction materials. A private car parking space and a medium goods vehicle parking cum loading/unloading space will be provided at the Site. The applicant also applies for regularisation of filling of land for the entire Site with concrete and asphalt of about 0.15m in depth for site formation purpose. The operation hours of the applied use are 9:00 a.m. to 6:00 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**.
- 1.3 According to the applicant, no heavy goods vehicles will enter the Site. Traffic signs to alert the driver and closed-circuit television monitoring system will be installed at the Site. Each loading/unloading operation is designated for single vehicle, and no additional

vehicles are permitted to queue outside the Site. The applicant also submits a drainage proposal and fire service installations (FSIs) proposal in support of the application.

1.4 The Site is the subject of a previous application No. A/NE-TKL/714 submitted by the same applicant as the current application for the same use (except with the addition of associated filling of land), which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 19.5.2023. The planning approval was subsequently revoked on 19.11.2024 due to non-compliance with approval conditions. Details of the previous application are set out in paragraph 6 below. Compared with the previous application, the layout and major development parameters of the current application remain largely unchanged.

1.5 In support of the application, the applicant has submitted the following documents:

- | | |
|--|----------------------|
| (a) Application Form with attachment received on 26.6.2025 | (Appendix I) |
| (b) Further Information (FI) received on 1.8.2025* | (Appendix Ia) |
| (b) FI received on 8.8.2025* | (Appendix Ib) |
- *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 and FIs at **Appendices I to Ib**, as summarised below:

- (a) the applied use is not incompatible with the surrounding land uses which are predominantly occupied by open storage yards and warehouses;
- (b) the Site is already formed and the application serves to regularise the filling of land. No further filling of land is needed;
- (c) the applied use is temporary in nature and will not jeopardise the long-term planning intention; and
- (d) loading/unloading activities will only be carried out three to four times per week and traffic impact is minimal. No significant adverse environmental and noise impacts are anticipated. The applicant will comply with the approval conditions as soon as possible.

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 obtaining consent of a “current land owner” and notifying two “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site partly involves two active enforcement cases, including No. E/NE-TKL/508 regarding unauthorized use for place for parking of vehicles and unauthorized storage use and No. E/NE-TKL/509 regarding unauthorized storage use. Enforcement Notices (ENs) were issued on

19.6.2025 requiring discontinuation of the Unauthorized Developments. The ENs will expire on 19.9.2025 and 19.8.2025 respectively and the Site will be under monitoring according to the established procedures.

5. Town Planning Board Guidelines

Town Planning Board Guidelines No. 13G for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13G) promulgated by the Board on 14.4.2023 is relevant to the application. The Site falls within Category 2 areas under TPB PG-No. 13G. Relevant extracts of the Guidelines are attached at **Appendix II**.

6. Previous Application

6.1 The Site is the subject of a previous application No. A/NE-TKL/714 submitted by the same applicant as the current application for the same use (except with the addition of associated filling of land), which was approved with conditions by the Committee on 19.5.2023 mainly on the considerations that the application generally complied with TPB PG-No. 13G in that there was no major adverse departmental comment or the concerns of the departments could be addressed by relevant approval conditions. The planning approval was subsequently revoked on 19.11.2024 due to non-compliance with approval conditions on the submission and implementation of drainage and FSIs proposals.

6.2 Details of the previous application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

7. Similar Applications

7.1 There were 12 similar applications (No. A/NE-TKL/642, 671, 695, 707, 724, 734, 745, 746, 758, 762, 784 and 786) involving eight sites for temporary open storage (with/without warehouse use) within the same “AGR” zone in the vicinity of the Site in the past five years. All of them were approved with conditions by the Committee between 2020 and 2025 mainly on similar considerations as stated in paragraph 6.1 above.

7.2 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) paved and currently used for the applied use without valid planning permission; and
- (b) accessible via a local access road leading to Ping Che Road.

8.2 The surrounding areas are rural in character comprising mainly open storage yards, warehouses, workshops and domestic structures. Two “Green Belt” zones are located to the northwest and southeast of the Site.

9. **Planning Intention**

- 9.1 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.
- 9.2 According to the Explanatory Statement of the OZP, as filling of land within the “AGR” zone may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

10. **Comments from Relevant Government Departments**

- 10.1 Apart from the government departments as set out in paragraph 10.2 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 V** and **VI** respectively.
- 10.2 The following government departments do not support or have adverse comments on the application:

Land Administration

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

- (a) he has adverse comments on the application;
- (b) the Site comprises Old Schedule Agricultural Lot 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. The proposed ingress/egress of the Site is required to pass through Government land (GL) but no right of access via GL is granted to the Site;
- (c) it is noted that no structure is proposed in the application. However, unauthorised structures are erected within and outside the said private lot and illegal occupation of GL is detected as further elaborated below;
- (d) the following irregularity covered by the planning application has been detected by his office:

unauthorised structures within the said private lot covered by the planning application

there are unauthorised structures on the private lot. The lot owner should immediately rectify the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (e) the following irregularities not covered by the planning application have been detected by his office:

unauthorised structures within the said private lot not covered by the planning application

there are unauthorised structures within the said private lot and extended to adjoining Lot 219 in D.D. 84 and adjoining GL not covered by the planning application. The lot owner should immediately rectify the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

unlawful occupation of GL not covered by the planning application

the GL adjoining the said private lot has been fenced off and illegally occupied with unauthorised structures 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. Regularisation of the said illegal occupation of GL would not be considered;

- (f) the lot owner should immediately remove the unauthorised structures extended on the GL and cease the illegal occupation of the GL. On this basis, the lot owner shall either (i) remove the unauthorised structures erected within the said private lot immediately; or (ii) include all the unauthorised structures on the private lot in the planning application for further consideration by the relevant departments and, subject to the approval of the Board to the planning application which shall have reflected the rectification or amendment as aforesaid and required, apply to his office for Short Term Waiver (STW) to permit the structures erected/to be erected. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be on the whole lot basis and subject to such terms and conditions including the payment of back-dated waiver fee from the first date when the unauthorised structures were erected as well as administrative fee as considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owner for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future and land control action for any unlawful occupation of GL. Besides, given the applied use is temporary in nature, only erection of temporary structures will be considered;
- (g) unless and until the unauthorised structures and the unlawful occupation of GL are duly rectified by the lot owner/applicant or entirely included in the planning application, his office has adverse comments on the application which must be brought to the attention of the Board when they consider the application; and
- (h) his advisory comments are at **Appendix VI**.

Agriculture

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

- (a) the applied use is not supported from agricultural perspective; and
- (b) the Site falls within the “AGR” zone and is generally vacant with some vehicles being parked. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. The Site possesses potential for agricultural rehabilitation.

Environmental

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

- (a) domestic structures within 50m from the access road are identified and use of heavy vehicle is involved, he is unable to lend support to the application;
- (b) no particular comment on the proposed regularisation of filling of land;
- (c) no environmental complaint against the Site was received in the past three years; and
- (d) his advisory comments are at **Appendix VI**.

11. Public Comments Received During Statutory Publication Period

On 4.7.2025, the application was published for public inspection. During the statutory public inspection period, two comments were received (**Appendix VII**). A comment from an individual objects to the application mainly on the grounds that approval conditions in the previous approval were not complied with. The remaining comment from a member of the North District Council indicates no comment on the application.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of construction machinery and construction materials and associated filling of land for a period of three years at the Site falling within the “AGR” zone on the OZP. The applied 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. Taking into account the planning assessments below, there is no objection to the applied use with associated filling of land on a temporary basis of three years.
- 12.2 The application involves regularisation of filling of land for the entire Site with concrete and asphalt with about 0.15m in depth for site formation purpose. Filling of land within “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 (CE/MN, DSD) has no objection to the application from public drainage viewpoint and DEP has no particular comment on the regularisation of

filling of land. 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.

- 12.3 The Site is situated in an area of rural character comprising mainly open storage yards, warehouses, workshops, and domestic structures. The Chief Town Planner/Urban Design and Landscape of Planning Department has no adverse comment on the application from landscape planning perspective and advises that further significant adverse impact on existing landscape resources within the Site arising from the applied use is not anticipated.
- 12.4 The Site falls within Category 2 areas under the TPB PG-No. 13G. The application generally complies with the TPB PG-No. 13G in that relevant government departments consulted, including the Commissioner for Transport, CE/MN, DSD, Chief Highway Engineer/New Territories East of Highways Department and Director of Fire Services (D of FS) have no objection to or no adverse comment on the application. To address the technical requirements of the concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. While DEP is unable to lend support to the application as the applied use involves the use of heavy vehicles and domestic structures within 50m from the access road are identified, no environmental complaint pertaining to the Site was received in the past three years. Should the application be approved, the applicant will be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impact caused by the applied use on the surrounding areas. Regarding DLO/N, LandsD’s concerns on the unauthorised structures erected within/ outside the Site and 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.
- 12.5 The Site is the subject of a previous application No. A/NE-TKL/714 submitted by the same applicant as the current application for the same use (except with the addition of associated filling of land), which was approved with conditions by the Committee on 19.5.2023 mainly on the considerations as detailed in paragraph 6.1 above. The planning permission was subsequently revoked on 19.11.2024 due to non-compliance with approval conditions. In support of the current application, the applicant submits the drainage and FSIs proposals. In this regard, CE/MN, DSD and D of FS have no objection to the application. Should the Committee decide to approve the application, the applicant will be advised that should they fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.6 There are also 12 similar applications for temporary open storage (with/without warehouse use) within the same “AGR” zone in the vicinity of the Site approved by the Committee between 2020 and 2025. Approval of the current application is in line with the Committee’s previous decisions.
- 12.7 Regarding the public comments as detailed in paragraph 11 above, the government departments’ comments and planning assessments above are relevant.

13. **Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 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 15.8.2028. The following conditions of approval 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 15.2.2026;
- (b) in relation to (a) above, the provision of 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 15.5.2026;
- (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 15.2.2026;
- (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 15.5.2026;
- (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) or 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 fill materials and hard-paving, 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 at **Appendix VI**.

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

the applied use with associated filling of land 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 the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with Attachment received on 26.6.2025
Appendix Ia	FI received on 1.8.2025
Appendix Ib	FI received on 8.8.2025
Appendix II	Relevant Extracts of TPB PG-No. 13G
Appendix III	Previous Application
Appendix IV	Similar Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2025**