

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/816

<u>Applicant</u>	: Smart Long Development Limited represented by R-riches Planning Limited
<u>Site</u>	: Lots 518 RP, 519 and 520 in D.D. 77, Ta Kwu Ling, New Territories
<u>Site Area</u>	: About 2,923m 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>	: Proposed Temporary Open Storage of Construction Materials and Machinery and Associated Filling of Land for a Period of Three Years

1 The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary open storage of construction materials and machinery 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 “AGR” zone require planning permission from the Town Planning Board (the Board). The Site is partly hard-paved and partly covered with grass with some vacant structures.
- 1.2 According to the applicant, the current application is to facilitate the relocation of the business operation in Fanling affected by government project, i.e. Fanling North New Development Area (FLN NDA).¹ The affected operation involves a total site area of about 2,143m². The affected site was reverted to the Government in April 2024.
- 1.3 The Site is accessible from Ping Che Road via Ng Chow Road and a local track (**Plan A-1**). According to the applicant, about 1,546m² or about 53% of the Site is intended for open storage of construction materials (i.e. bricks, roofing materials, tiles, steel columns, etc.) and machinery (i.e. elevated platform, digging machine, generator, etc.). The construction materials and machinery will only be stored at designated area with a

¹ The applicant and the operator of the affected business operation have entered a Memorandum of Understanding that upon approval of the current application by the Board, the Site will be operated by the operator of the affected business operation for the proposed use.

stacking height of not more than 3m. No dangerous goods will be stored and no workshop activities will be conducted at the Site. No structure will be erected within the Site. The remaining open area will be used for two private car parking spaces, one loading/unloading (L/UL) space for container vehicle and vehicle manoeuvring space. The operation hours of the proposed use are between 9 a.m. and 7:00 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**.

- 1.4 The applicant also applies for regularisation of filling of land at part of the Site (about 2,135m²) with concrete of not more than 0.1m in depth, and further filling of land on top at part of the Site (about 2,700m² or 92.4% of the Site) with concrete not exceeding 0.2m in depth (i.e. the proposed site levels are +14.5 to 14.8mPD) for open storage, vehicle parking, L/UL and circulation spaces. The applicant proposes felling of all 35 existing trees within the Site and to compensate the same number of new trees mainly along the eastern and southern boundaries of the Site to mitigate the landscape impact of the proposed use. Traffic management measures such as deploying staff to direct vehicles entering/exiting the Site and erecting signs at the ingress/egress to ensure pedestrian safety are also proposed. A 2.5m tall solid metal fencing along the site boundary will be erected with regular maintenance. The landscape plan and land filling plan submitted by the applicant are shown in **Drawings A-2** and **A-3** respectively.
- 1.5 In support of the application, the applicant has submitted the following documents:

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|-----|--|----------------------|
| (a) | Application Form with attachments received on 28.8.2025 | (Appendix I) |
| (b) | Further Information (FI) received on 10.10.2025 [^] | (Appendix Ia) |
| (c) | FI received on 7.11.2025 [#] | (Appendix Ib) |

[^]accepted and exempted from publication and recounting requirements

[#] accepted but not exempted from publication and recounting requirements

- 1.6 On 24.10.2025, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer making a decision on the application for two months.

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 application is submitted to facilitate the relocation of the business operation affected by FLN NDA. There is a desperate need to identify a site for relocation;
- (b) the applicant has spent efforts in identifying suitable sites for relocation of the business operations such as in Lau Fau Shan, Kam Tin and Ma Tso Lung, but they were considered not suitable due to various reasons such as site area, compatibility with the surrounding land uses, etc. The Site is considered suitable for relocation as it has no active agricultural activities on site, accessible from public road and is in close proximity to the original premises and Border Control Points;
- (c) although the proposed site area is larger than the affected business operation (about +780m² or about +36%), the actual area designated for the open storage (i.e. about

1,546m²) is similar to that of the affected business operation. The larger site area will enhance the operational efficiency, minimise the potential adverse traffic impact on the surrounding road network and alleviate the pressing demand for open storage space;

- (d) the proposed use is not incompatible with the surrounding land uses which consist mainly of open storage yards, warehouses, workshops and vacant/unused land. There are similar planning approvals for open storage use in the same “AGR” zone. Approval of the application on a temporary basis would not frustrate the long-term planning intention and better utilise deserted land in the New Territories;
- (e) the applicant will apply for non-exclusive right of way under the Short Term Waiver application for the occupation of Government land (GL) and demolish the structures erected on Lot 519 in D.D. 77 within the Site upon approval of the planning application; and
- (f) no adverse impact on the surrounding areas is anticipated. The applicant will follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (COP), the good practices stated in Professional Persons Environmental Consultative Committee Practice Notes to minimise the impact on the nearby watercourse, the relevant mitigation measures in the Recommended Pollution Clause for Construction Contracts, and comply with all environmental protection/pollution control ordinances.

3 Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not the “current land owner” but have 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 Ta Kwu Ling District Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4 Town Planning Board Guidelines

The 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 3 areas under TPB PG-No. 13G. Relevant extracts of the Guidelines are attached at **Appendix II**.

5 Background

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

6 Previous Application

- 6.1 Part of the Site is the subject of a previous application (No. A/NE-TKL/607) for temporary place of recreation, sports or culture (hobby farm) which was approved with conditions by the Committee on 17.5.2019. The planning considerations of the previous application are not relevant to the current application which is for a different use.

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

7 Similar Applications

- 7.1 There are three similar applications (No. A/NE-TKL/672, 765 and 801) involving two sites for various temporary open storage uses within/partly with the “AGR” zone in the vicinity of the Site in the past five years (**Plan A-1**). These similar applications with the sites falling within the Category 3 areas under TPB PG-No. 13F/13G were approved with conditions by the Committee between 2021 and 2025 mainly on the considerations that it generally complied with the relevant TPB Guidelines; policy support from the Secretary for Development (SDEV) was obtained as the application was to facilitate relocation of business operation affected by government project (application No. A/NE-TKL/801 only); the site was subject to previous approvals (applications No. A/NE-TKL/672 and 765 only); and there were no major adverse departmental comments and concerns of the relevant government departments could be addressed through imposition of approval conditions.
- 7.2 Details of the similar applications are summarised at **Appendix II** 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) partly hard-paved and partly covered with grass with some vacant structures; and
 - (b) accessible from Ping Che Road via Ng Chow Road and a local track.
- 8.2 The surrounding areas are of rural character comprising mainly open storage yards within the “Open Storage” (“OS”) zone to the immediate east of the Site, domestic structures and vacant land. To the immediate north is Ping Yuen River. A “Village Type Development” (“V”) zone is located to the southwest of the Site. A “V” zone and a “Green Belt” zone are located to the further south across Ng Chow Road.

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 Bureau/Departments

10.1 Apart from the government bureau and departments as set out in paragraphs 10.2 and 10.3 respectively 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 bureau supports the application:

Policy Aspect

10.2.1 Comments of the SDEV:

- (a) the application is to facilitate relocation of a brownfield operation which has been affected by the Remaining Phase development of the FLN NDA;
- (b) according to the applicant, a site search was conducted with a view to identifying suitable site for re-establishment of the business elsewhere, and the Site under the current application is considered suitable for relocation; and
- (c) subject to concerned departments' comments on land use compatibility and technical aspects, the application is supported from the policy perspective.

10.3 The following government departments have adverse comments on/ do not support the application:

Land Administration

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

- (a) he has 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. The proposed ingress/egress of the Site is required to pass through GL and other private lot but no right of access via GL is granted to the Site;
- (c) it is noted that no structure is proposed in the planning application but there are structures erected on Lot 519 in D.D. 77 as further elaborated below;
- (d) the following irregularity covered by the planning application has been detected by his office:

structures within the said private lot covered by the planning application

there are structures erected within Lot 519 in D.D. 77. Erection of the structures without the prior approval of the Government should not be encouraged. The lot owners/applicant should remove the structures erected on Lot 519 in D.D. 77 immediately. His office reserves the rights to take necessary lease enforcement action against any breaches without prior notice;

- (e) unless and until the structures are duly rectified by the lot owner/applicant, his office has adverse comment on the application which must be brought to the attention of the Board when they consider the application; and
- (f) his advisory comments are at **Appendix VI**.

Agriculture

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

- (a) the application is not supported from the agricultural perspective; and
- (b) the Site falls within the “AGR” zone and is generally vacant and abandoned with some structures. 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.

Environment

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

- (a) since residential dwellings are identified within 100m of the site boundary and the use of heavy vehicle is involved, he is unable to lend support to the application from the environmental planning perspective;
- (b) no adverse comment on the proposed associated filling of land subject to the implementation of mitigation measures as listed in the Recommended Pollution Control Clauses for Construction Contracts;
- (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 Periods

On 5.9.2025 and 14.11.2025, the application was published for public inspection respectively. During the statutory public inspection periods, four comments were received (**Appendix VII**). Two comments from an individual object to the application mainly on the grounds that the Site

is located within Category 3 areas under the TPB PG-No. 13G; sufficient land has been set aside for brownfield operations in Category 2 areas; and no justification to support the application. Two comments from a member of the North District Council indicate no comment on the application.

12 Planning Considerations and Assessments

- 12.1 The application is for proposed temporary open storage of construction materials and machinery and associated filling of land for a period of three years at the Site falling within an area zoned “AGR” on the OZP. 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. According to the applicant, the application is to facilitate the relocation of the business operations in Fanling affected by FLN NDA development and the Site is considered suitable for relocation as identified by the applicant. In this regard, SDEV advises that the application is to facilitate the relocation of a brownfield operation affected by the Remaining Phase development of the FLN NDA, and subject to concerned departments’ comments on land use compatibility and technical aspects, the application is supported from the policy perspective. Taking into account the planning assessments below and the policy support rendered by SDEV, sympathetic consideration could be given to the proposed use with associated filling of land on a temporary basis of three years.
- 12.2 The application involves regularisation of filling of land at part of the Site (about 2,135m²) with concrete of not more than 0.1m in depth, and further land filling on top at part of the Site (about 2,700m² or 92.4% of the Site) with concrete of not more than 0.2m in depth for open storage, vehicle parking, L/UL and circulation spaces. 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 viewpoint while DEP has no adverse comment on the proposed associated filling of land subject to the implementation of mitigation measures as listed in the Recommended Pollution Control Clauses for Construction Contracts. In this regard, the applicant advises that relevant mitigation measures will be followed. 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 within the “OS” zone to the immediate east of the Site, domestic structures and vacant land. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no adverse comment on the application from landscape planning perspective and considers that the proposed use is not entirely incompatible with the landscape character of the surroundings and with 35 new trees to be planted within the Site to compensate the tree felling, significant adverse landscape impact is not anticipated.
- 12.4 The Site falls within the Category 3 areas under the TPB PG-No. 13G. The application generally complies with TPB PG-No. 13G in that policy support is rendered by SDEV to the application for relocation of brownfield operation affected by government project, and relevant departments consulted, including the Commissioner for Transport, Director of Fire Services and Chief Engineer/Construction of Water Supplies Department, have no objection

to or no adverse comment on the application. To address the technical requirements of the concerned departments, relevant approval conditions are recommended in paragraph 13.2 below. DEP is unable to lend support to the application as the proposed use involves the use of heavy vehicles and residential dwellings within 100m from the site boundary are identified. In this regard, the applicant proposes to erect a 2.5m tall solid metal fencing along the site boundary and commits to comply with all environmental protection/pollution control ordinances. Should the application be approved, the applicant will be advised to follow the environmental mitigation measures as set out in the COP to minimise any potential environmental nuisance. Regarding DLO/N, LandsD's concern on the structures erected within the Site, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.

- 12.5 There are three similar applications for temporary open storage use within the "AGR" zone in the vicinity of the Site in the past five years. They were approved with conditions by the Committee between 2021 and 2025 as mentioned in paragraph 7.1 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.
- 12.6 Regarding the public comments as detailed in paragraph 11 above, the government bureau and 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 in paragraph 11 above, PlanD 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 19.12.2028. 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 19.6.2026;
- (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 19.9.2026;
- (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 19.6.2026;

- (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 19.9.2026;
- (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 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 proposed 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 Attachments received on 28.8.2025
Appendix Ia	FI received on 9.10.2025
Appendix Ib	FI received on 7.11.2025
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
Drawing A-2	Landscape Plan
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
DECEMBER 2025**