

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/252

<u>Applicants</u>	: Everland Hong Kong Development Limited and Asia Tact Planning & Consultant Co. Limited represented by Top Bright Consultants Limited
<u>Site</u>	: Lot 185 RP (Part) in D.D. 52, Fu Tei Au, Sheung Shui, New Territories
<u>Site Area</u>	: About 776m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Fu Tei Au & Sha Ling Outline Zoning Plan No. S/NE-FTA/18
<u>Zoning</u>	: “Other Specified Uses” annotated ‘Port Back-up Uses’ (“OU(PBU)”)
<u>Application</u>	: Proposed Warehouse (excluding Dangerous Goods Godown)

1. The Proposal

- 1.1 The applicants seek planning permission for proposed warehouse (excluding dangerous goods godown) at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “OU(PBU)” on the OZP. According to the Notes of the OZP, ‘Warehouse (excluding Dangerous Goods Godown)’ is a Column 2 use in the “OU(PBU)” zone which requires planning permission from the Town Planning Board (the Board). The Site is hard-paved, fenced-off and currently occupied by two largely vacant warehouse structures and other ancillary structures (**Plans A-4a and 4b**).
- 1.2 The Site is accessible from its south via a local track leading to Man Kam To Road (**Plan A-1**). According to the applicants, the proposed use comprises seven single-storey structures with building heights (BH) ranging from 2m to 5.9m and a total floor area of about 438.1m², including two warehouses with solar panels at the roof level, a rain shelter, a meter room, a storeroom, a fire services (F.S.) water tank and a F.S. pump room. One light goods vehicle (LGV) loading/unloading (L/UL) space is proposed within the Site. No open storage and workshop activities will be carried out at the Site. Only LGV under 5.5 tonnes will be used to deliver storage materials. Existing boundary fencing with corrugated metal sheets of 2.5m to 3m high will be maintained by the applicants. A 7m-wide vehicular access and a 1m-wide pedestrian access are provided at the southern boundary of the Site. The landscape proposal implemented at the Site shall be properly maintained. The operation hours are between 7:00 a.m. and 11:00 p.m. from Mondays to Saturdays, and no operation on Sundays and public holidays. The layout plan submitted by the applicants is shown in **Drawing A-1**.

- 1.3 The Site is the subject of a previous application (No. A/NE-FTA/157) submitted by the same applicants for the same use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 20.11.2015. The planning permission lapsed on 20.11.2019. Details of the previous application are set out in paragraph 5 below. A comparison of the major development parameters of the current application and the previous application is summarised as follows:

Major Development Parameters	Approved Scheme under Application No. A/NE-FTA/157 (a)	Proposed Scheme under Current Application (b)	Differences (b)-(a)
Site Area	About 776m ²	About 776m ²	No change
Total Floor Area	About 388.2m ²	About 438.1m ²	+49.9m ² (+13%)
No. of Structures	3	7	+4
BH	Not exceeding 5.5m (1 storey)	Not exceeding 5.9m (1 storey)	+0.4m (+7%)
L/UL space	1	1	No change

- 1.4 In support of the application, the applicants have submitted the following documents:

- (a) Application Form with supplementary planning statement (**Appendix I**) received on 16.8.2024
- (b) Supplementary Information (SI) received on 20.8.2024 (**Appendix Ia**)
- (c) Further Information (FI) received on 24.9.2024* (**Appendix Ib**)
- (d) FI received on 4.12.2024* (**Appendix Ic**)

** accepted and exempted from publication and recounting requirements*

- 1.5 On 4.10.2024, the Committee agreed to the applicants' request to defer making a decision on the application for two months to address departmental comments.

2. Justifications from the Applicants

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

- (a) the Site falls within an area zoned "OU(PBU)" and is located in proximity to Man Kam To boundary crossing point. The proposed use, which caters for the demand for cross-boundary trade in the Northern Metropolis, is in line with the planning intention of the "OU(PBU)" zone and compatible with the surrounding land uses;
- (b) the Site is the subject of an approved application (No. A/NE-FTA/157) for the same use and the current warehouse has been in operation for nearly nine years. There have been no substantial changes in planning circumstances since approval of the previous application. Furthermore, there were also a number of applications for similar port back-up uses approved within the "OU(PBU)" zone;
- (c) the applicants have demonstrated genuine efforts in compliance with all approval conditions of the previous application, including provision of boundary fencing, submission and implementation of drainage, landscape and fire service installations

proposals. The applicants will continue to seek approval of Short Term Waiver (STW) from the Lands Department (LandsD) upon approval of the subject application;

- (d) the Site falls within Category 1 areas under 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), which is considered suitable for open storage and port back-up uses; and
- (e) no adverse environmental, visual, drainage and traffic impacts are anticipated.

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

The applicants are the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to active enforcement action.

5. Previous Application

- 5.1 The Site is the subject of a previous application (No. A/NE-FTA/157) submitted by the same applicants for the same use, which was approved by the Committee on 20.11.2015 mainly on the considerations that the proposed use was generally in line with the planning intention of the “OU(PBU)” zone; it was not incompatible with the surrounding areas; and the technical concerns of relevant government departments could be addressed through the implementation of approval conditions. All approval conditions under the previous application were complied with. The planning permission however ceased to have effect on 21.11.2019 as the development thereby permitted had not commenced yet.
- 5.2 Compared with the previous application, the current application mainly involves additional structures for ancillary uses including a rain shelter, a meter room, a storeroom, a F.S. water tank and a F.S. pump room, with an increase in total floor area (about 13%) and BH (about 7%), as detailed in paragraph 1.3 above.
- 5.3 Details of the previous application are summarised at **Appendix II** and its location is shown in **Plan A-1**.

6. Similar Applications

- 6.1 There were four similar applications (No. A/NE-FTA/189, 211, 235 and 236) involving two sites for temporary warehouse/logistics warehouse within the same “OU(PBU)” zone in the vicinity of the Site in the past five years (**Plan A-1**). The applications were approved with conditions by the Committee between 2019 and 2024 mainly on the considerations that the proposed use was generally in line with the planning intention of the “OU(PBU)” zone; it was not incompatible with the surrounding areas; it generally complied with TPB PG-No. 13G; and the concerns of the relevant government departments could be addressed through implementation of approval conditions.

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

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

7.1 The Site is:

- (a) hard-paved, fenced-off and currently occupied by two largely vacant warehouse structures and other ancillary structures;
- (b) sandwiched between a logistics warehouse and a cargo handling and forwarding facility each covered by a valid planning permission (applications No. A/NE-FTA/236 and 249); and
- (c) accessible from its south via a local track leading to Man Kam To Road.

- 7.2 The surrounding areas comprise of warehouses, open storages/storage yards, workshop, domestic structures, vacant land and tree clusters. A 15m-wide waterworks reserve is located to the immediate south of the Site. Domestic structures can be found in the vicinity with the nearest located at about 50m to the south of the Site. To the further north is a woodland within the “Green Belt” zone.

8. Planning Intention

The planning intention of the “OU(PBU)” zone is primarily for accommodating the anticipated increasing cross-boundary freight traffic, especially the parking of container vehicles, including container trailers and tractors, and other port back-up uses.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) she has no objection to 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. No right of access via Government land is granted to the Site;
- (c) the following irregularity covered by the planning application has been detected by her office:

Unauthorised structures within the private lot covered by the planning application

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

- (d) the lot owner shall apply to her office for a STW to permit the structures erected within the said private lot. The application for STW will be considered by the Government in its capacity as a landlord on a whole lot basis and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of back-dated waiver fee from the first date of the erection of unauthorised structure and administrative fee as considered appropriate to be imposed by LandsD.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

noting that the scale, nature and use of the current application remain generally unchanged from the previously approved application (No. A/NE-FTA/157), she has no comment on the application from traffic engineering viewpoint.

Drainage

9.1.3 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) she has no objection in principle to the application from public drainage viewpoint;
- (b) should the application be approved, approval conditions should be included to request the applicants to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area; and
- (c) her advisory comments are at **Appendix IV**.

Environment

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

- (a) he has no adverse comment on the application;
- (b) the applicants confirmed that no toilets will be provided within the Site and on-site staff will use the toilet (a public toilet – Wa Shan Tsuen Public Toilet) located at 250m from the Site;
- (c) no environmental complaint concerning the Site was received in the past three years; and

- (d) his advisory comments are at **Appendix IV**.

Landscape

- 9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

the Site falls within non-landscape sensitive zoning and no significant landscape impact arising from the proposed use is anticipated.

Water Supplies

- 9.1.6 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection in principle to the application; and
- (b) his advisory comments are at **Appendix IV**.

Fire Safety

- 9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) he has no objection in principle to the application subject to fire service installations and water supplies for firefighting being provided to his satisfaction; and
- (b) his advisory comments are at **Appendix IV**.

Building Matters

- 9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) he has no objection to the application;
- (b) it is noted that seven structures are proposed in the application. Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works under the Building Ordinance (BO). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO; and
- (c) his advisory comments are at **Appendix IV**.

- 9.2 The following government departments have no objection to or no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD);

- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD); and
- (d) District Officer (North), Home Affairs Department (DO(N), HAD).

10. Public Comments Received During Statutory Publication Period

On 23.8.2024, the application was published for public inspection. During the statutory public inspection period, 13 public comments were received (**Appendix V**). Eleven individuals support the application as the proposed use would not affect the nearby residents and would facilitate local economic development and bring job opportunities. One individual complains that the Site is being used as mini-storage and its requirements should be different from warehouse. The remaining comment from a member of North District Council indicates no comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed warehouse (excluding dangerous goods godown) at the Site zoned “OU(PBU)” on the OZP. The proposed use is considered generally in line with the planning intention of the “OU(PBU)” zone which is primarily for accommodating the anticipated increasing cross-boundary freight traffic, especially the parking of container vehicles, including container trailers and tractors, and other port back-up uses.
- 11.2 The Site is hard-paved, fenced-off and currently occupied by two warehouse structures and other ancillary structures. The proposed use is considered not incompatible with the surrounding land uses which comprise warehouses, logistics centres/warehouses, open storages/storage yards and workshop intermixed with domestic structures, vacant land and tree clusters. CTP/UD&L, PlanD advised that the Site falls within non-landscape sensitive zoning and no significant landscape impact arising from the proposed use is anticipated.
- 11.3 Noting that the proposed use only involves the use of LGV with low traffic to/from the Site for goods delivery and no wastewater would be discharged from the warehouse, both C for T and DEP have no objection to or no adverse comment on the application. It is anticipated that the proposed use would not have significant traffic and sewerage impacts on the surrounding area. Other relevant government departments consulted, including CE/MN, DSD and D of FS, have no objection to or no comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Regarding DLO/N, LandsD’s concern on the unauthorised structures erected within the Site, the applicants will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 11.4 The Site is the subject of a previously approved application (No. A/NE-FTA/157) submitted by the same applicants for the same use but the planning permission ceased to have effect in 2019 as the development thereby permitted had not commenced yet. Compared with the previously approved scheme, the current scheme mainly involves a few additional ancillary structures with an increase in total floor area and BH. Should the application be approved, the applicants indicate that they shall continue to liaise with LandsD to seek approval of the STW application. In view of the above, favourable consideration may be given to the current application.

- 11.5 There were four similar applications for temporary warehouse/logistics warehouse approved by the Committee between 2019 and 2024 in the close vicinity of the Site as mentioned in paragraph 6 above. The planning circumstances of the current application are similar to those of the approved applications. As such, approval of the current application is generally in line with the Committee's previous decisions.
- 11.6 Regarding the objecting public comment as detailed in paragraph 10 above, the applicants respond that the two warehouses are currently vacant and they commit to comply with all applicable laws, rules and regulations, and planning conditions if the current application is approved.

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, 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 until 10.1.2029, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (b) the submission and implementation of fire service installations proposal to the satisfaction of the Director of Fire Services 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 is not in line with the planning intention of the "OU(PBU)" zone which is primarily for accommodating the anticipated increasing cross-boundary freight traffic, especially the parking of container vehicles, including container trailers and tractors, and other port back-up uses. There is no strong justification in the submission for a departure from such planning intention.

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 date when the validity of the permission should expire.
- 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 applicants.

14. Attachments

Appendix I	Application Form with Attachment received on 16.8.2024
Appendix Ia	SI received on 20.8.2024
Appendix Ib	FI received on 24.9.2024
Appendix Ic	FI received on 4.12.2024
Appendix II	Previous Application
Appendix III	Similar s.16 Applications for Temporary Warehouse/Logistics Warehouse within the “OU(PBU)” zone in the vicinity of the Site in the Fu Tei Au and Sha Ling Area
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 4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2025**