

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-LYT/751**

<b><u>Applicant</u></b>	:	Main Plan Development Limited
<b><u>Site</u></b>	:	Lots 751 RP (Part), 752 (Part), 753 S.A (Part), 753 RP (Part), 754 (Part), 757 (Part), 758 (Part), 759 (Part), 776 (Part), 777 (Part) and 778 (Part) in D.D. 83, Lung Yuek Tau, New Territories
<b><u>Site Area</u></b>	:	About 10,733 m <sup>2</sup>
<b><u>Lease</u></b>	:	- Block Government Lease (demised for agricultural use) - Lots 751 RP, 757, 758 & 776 are covered by Modification of Tenancy (MOT) and/or Letter of Approval
<b><u>Plan</u></b>	:	Approved Lung Yeuk Tau & Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
<b><u>Zoning</u></b>	:	“Agriculture” (“AGR”)
<b><u>Application</u></b>	:	Proposed Temporary Green Design and Plantation Research Centre for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a proposed temporary green design and plantation research centre for a period of 3 years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Lung Yeuk Tau & Kwan Tei South OZP No. S/NE-LYT/17. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within “AGR” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for under the Notes of the OZP. The Site is largely occupied by farmland with some temporary structures.
- 1.2 According to the applicant, the proposed development mainly comprises four single-storey structures (building height of about 5-8 m) with a total floor area of about 3,500 m<sup>2</sup> for office, and mock-up areas for testing green design and landscape features (**Drawing A-1**). The remaining area will be mainly used for landscaping, plantation area and internal circulation. The plantation area will be used for conducting research on operation and feasibility of various planting as green features/eco-landscaping (i.e. ornamental planting, aquaponics, etc.). A total of three parking spaces for private vehicles (2.5 m x 5 m) for staff and two loading/unloading spaces for light goods vehicles (3.5 m x 7 m) will be provided at the Site. The proposed ingress/egress will be via Dao Yang Road leading to Sha Tau Kok Road – Lung Yuek Tau (**Plan A-1**). The operation hours of the proposed

development are from 9:00 a.m. to 6:00 p.m. daily including public holidays. The proposed development is not open to the public, and there will be 12 workers on the Site. The proposed site layout and section plans submitted by the applicant are at **Drawings A-1** and **A-2**.

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

- (a) Application Form with attachments received on 15.7.2021 (Appendix I)
- (b) Supplementary Planning Statement (Appendix Ia)
- (c) Further Information (FI) received on 3.8.2021 (*accepted but excepted from publication and recounting requirements*) (Appendix Ib)

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 4 of the Supplementary Planning Statement and FI at **Appendices Ia and Ib**. They can be summarised as follows:

- (a) the 2020 Policy Address also promotes carbon neutrality by 2050, this would require both the Government and private sector to work together to achieve such target;
- (b) the proposed development will explore various innovative construction technologies to meet the new green buildings and energy efficiency and take the lead in assisting the industry as well as developers to get the right green design (materials and plants) to verify its sustainability and energy efficiency. It will provide a pilot platform for knowledge sharing among suppliers and professionals, which could benefit the entire industry and society;
- (c) the plantation is also for agricultural use for different production. The same active agriculture area on the Site has been maintained and thus could achieve planting “multi-use” principle;
- (d) the Site is located in the proximity of the future major residential and commercial developments in the New Territories. The Site has its locational advantages for testing appropriate green design/materials and plant species;
- (e) it is proposed to use recycled construction materials and rapidly renewable materials such as bamboo and natural linoleum. These green features adopted in the buildings will be monitored in terms of their effectiveness and applicability; and
- (f) the proposed development will not create significant adverse visual, landscape, traffic and other environmental impacts on the surrounding areas.

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

The applicant is the “current land owner” of the lots. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Previous Application**

4.1 Part of the Site is the subject of a previous application (No. A/NE-LYT/315) for proposed temporary open storage of construction materials for a period of 18 months submitted by a different applicant. That application was rejected by the Rural and New Town Planning Committee (the Committee) on 23.12.2005 mainly on the grounds that the application did not comply with TPB Guidelines for Application for Open Storage and Port Back-up Uses in that no information had been submitted to demonstrate that the development would not generate adverse traffic, drainage and environmental impacts on the surrounding areas.

4.2 Details of the previous application is summarized at **Appendix II** and the location is shown on **Plan A-1**.

5. **Similar Application**

There is no similar application for proposed temporary green design and plantation research centre within the “AGR” zone on the OZP.

6. **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 to A-4c**)

6.1 The Site is:

- (a) largely covered by farmland with some temporary structures; and
- (b) accessible from Sha Tau Kok Road – Lung Yeuk Tau via Dao Yang Road (**Plan A-1**).

6.2 The surrounding areas have the following characteristics:

- (a) to the immediate south are warehouses with approved planning application; and to the further south and southeast are active/fallow agricultural land intermixed with some domestic structures;
- (b) to the immediate north and west are fallow agricultural land intermixed with some domestic structures, vacant land and open storage use; to the immediate northwest is Tung Chun soy sauce factory; and
- (c) to the immediate east is a farm; further east are active/fallow agricultural land intermixed with some domestic structures.

## **7. Planning Intention**

The planning intention of the “AGR” zone is intended 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. Comments from Relevant Government Departments**

8.1 The following Government departments have been consulted and their views on the application are summarised as follows:

### **Land Administration**

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

- (a) the lots under application are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. As the Site is surrounded by private lots, the applicant should make his own arrangement for acquiring access to the Site, and there is no guarantee that any Government Land will be allowed for vehicular access to the Site for the proposed use (**Plan A-2**);
- (b) it is noted that there are unauthorized structures erected on the Site without prior approval from his office. His office reserves the right to take necessary lease enforcement actions against the aforesaid structures;
- (c) the Lots 751 RP, 757, 758 & 776 are covered by Modification of Tenancy (MOT) and/or Letter of Approval (LoA) which were issued for the erection of temporary structure. Given the use and dimensions of the existing structures on the Site do not tally with the approved ones under the aforesaid MOTs and LoAs, his office reserves the rights to take enforcement action and cancel the MOTs and LoAs if situation warrants;
- (d) it is noted that two of the proposed structures would be built for toilet use. The applicant should note that any proposed toilet facility should meet the current health requirements; and
- (e) if the application is approved, the owner of the lots concerned shall apply to his office for a Short Term Waiver (STW) covering all the actual occupation area and the structure concerned. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date would be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by his office.

## **Agriculture**

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

- (a) the Site falls within the “AGR” zone and currently comprises vegetable fields and a paved vacant land occupied by temporary structures. The agricultural activities are active in the vicinity (**Plans A-1** and **A-2**), 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. As the Site is under active cultivation and possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view;
- (b) the Government announced in the 2016 Policy Address the implementation of the New Agriculture Policy encompassing more proactive support to protect, revitalise/rehabilitate, and optimise the use of good quality agricultural land for agricultural purposes. Majority of the Site currently comprises commercial crop production for local consumption which should be proactively preserved with best efforts. As the existing commercial crop field will be replaced by the proposed development, DAFC does not support the proposed use from agricultural point of view; and
- (c) the Site covers a broad area of active crop production farmland serving with agricultural infrastructures e.g. road access and water supply. Such area made important contribution to the local crop production in Hong Kong. Hence, the replacement of such (i.e. from active commercial crop fields to green design and plantation research centre) would, to some extent, diminish the crop production in local market. The cumulative effect of approving such application would encourage the expansion of non-agricultural activities in the area at the expense of existing commercial farming, which deviates from the objective of “AGR” zone to preserve good agricultural land for agricultural production.

## **Landscape**

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

- (a) having reviewed the FI submission (**Appendix Ib**), she could not render support to the application from landscape planning perspective at this stage due to insufficient information to ascertain the potential landscape impact;
- (b) the Site is located in an area of rural inland plains landscape character surrounded by temporary structures, scattered tree groups and agricultural land. The proposed development is considered not incompatible with the surrounding environment;
- (c) according to the site inspection in 2021, active farmland and existing trees of common species were observed within the Site. Existing pond was found in the middle of the Site. Whilst the existing trees in the FI submission is indicated, the location and the numbers of the existing trees within the Site do not fully tally with the site condition based on the site inspection;

- (d) despite no tree felling required as stated in the Planning Statement, the existing trees are still in conflict with the revised layout of temporary structure. The proposed landscape treatment on each existing tree to be felled and/ or retained within the Site is unclear. No information of the existing trees e.g. their plant species and size etc. is provided in the FI submission;
- (e) the potential landscape impact arising from the proposed development to these existing trees cannot be reasonably ascertained. The applicant should provide revised tree treatments and mitigation measures for further consideration;
- (f) noting some of shrub species are proposed to be planted on the green roof. However, soil depth (i.e. 20-30mm) as indicated in the section is considered not sufficient for their sustainable growth. Besides, it is noted the level difference on green roof to the ground is approximate 8.15m height. Vegetation maintenance access should be clearly provided and indicated in the section; and
- (g) in view that there is no major public frontage along the site boundary, should the application be approved, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

### **Traffic**

#### **8.1.4 Comments of the Commissioner for Transport (C for T):**

- (a) having considered the FI submission (**Appendix Ib**), she considered that the traffic impact induced by the proposed development is tolerated and thus has no objection to the application from traffic engineering perspective; and
- (a) the vehicular access between the Site and Lung Ma Road is not managed by Transport Department. The applicant should seek comment from the responsible party.

#### **8.1.5 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):**

- (a) he has no comment on the application; and
- (b) please note that the proposed access route (Dao Yang Road and Hai Wing Road) is not maintained by HyD.

### **Drainage**

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

- (a) he has no objection to the application from the public drainage viewpoint;
- (b) the Site is in an area where public sewerage connection is available; and

- (c) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area.

### **Environment**

#### 8.1.7 Comments of the Director of Environmental Protection (DEP):

- (a) she has no objection to the application;
- (b) the applicant is reminded of his obligation to observe all environmental protection / pollution control ordinances, including but not limited to Water Pollution Control Ordinance, adopt best management practices to avoid refuse/ wastewater/ sewage and other pollution from entering the surface runoff and the watercourses, and avoid / minimise generation of wastewater both chemically and biologically; and
- (c) the applicant should follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP) including but not limited to the environmental measures regarding dust and noise nuisance, and sewerage.

### **Fire Safety**

#### 8.1.8 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) being provided to the satisfaction of his department; and
- (b) detailed fire service requirements will be formulated upon receipt of formal submission of general building plans. His detailed comments are appended at **Appendix IV**.

### **Building Matters**

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

- for any new proposed building, the applicant is advised to note his advisory comments under the Buildings Ordinance appended at **Appendix IV**.

### **District Officer's Comments**

#### 8.1.10 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- he has consulted the locals regarding the application. The Chairman, the First Vice-Chairman and the Vice-Chairman of Fanling District Rural Committee object to the application mainly on the grounds of local objections received from villagers. The Chairman of Lung Shan Area Committee has no comment. The Indigenous Inhabitant Representative of Fu Tei Pai, the Resident Representative of Fu Tei Pai and the incumbent North District Council Member of subject constituency did not reply.

8.2 The following Government departments have no comment on/no objection to the application:

- (a) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD);
- (b) Commissioner of Police; and
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

## **9. Public Comments Received During Statutory Publication Period (Appendix III)**

On 23.7.2021, the application was published for public inspection. During the statutory public inspection period, six public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Four comments from the Chairman, the First Vice-Chairman and the Vice-Chairman of Fanling District Rural Committee and Kadoorie Farm and Botanic Garden object to the application mainly on the grounds that the proposed development is not in line with the planning intention of “AGR” zone; approval of this application would set a precedent for other similar applications; and local objections were received. The remaining one comment from an individual expresses concerns that the proposed development would affect the potential for genuine agricultural activity; and there is no indication that the applicant has expertise in the design field.

## **10. Planning Considerations and Assessments**

10.1 The application is for a proposed temporary green design and plantation research centre for a period of 3 years in the “AGR” zone on the OZP. According to the applicant, the proposed development mainly comprises four single-storey structures with a total floor area of about 3,500 m<sup>2</sup> for office, and mock-up areas for testing green design and landscape features with the plantation area for conducting research on operation and feasibility of various planting as green features/eco-landscaping. The proposed development for research and plantation use is generally 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. Majority of the Site currently comprises commercial crop production for local consumption which should be proactively preserved with best efforts, DAFC does not support the application from agricultural point of view since the Site covers a broad area of active crop production farmland serving with agricultural infrastructures. Such area made important contribution to the local crop production in Hong Kong. The replacement of existing commercial crop field to the proposed development would, to some extent, diminish the crop production in local market. The cumulative effect of approving such application would encourage the expansion of non-agricultural activities in the area at the expense of existing commercial farming, which deviates the objective of “AGR” zone to preserve good agricultural land for agricultural production. There is no strong justification in the submission to justify a departure from the planning intention of “AGR” zone, even on a temporary basis.

10.2 The Site is situated in an area of rural inland plains landscape character surrounded by temporary structures, scattered tree groups and agricultural land (**Plan A-2**). Whilst the proposed temporary development is not entirely incompatible with the surrounding environment. Having reviewed the FI submission, CTP/UD&L of PlanD could not render support to the proposed development from landscape planning perspective in that there is insufficient information in the submission to illustrate the proposed treatments of the existing trees and viability of the landscape proposal. The potential landscape impact



arising from the proposed development to these existing trees cannot be reasonably ascertained.

- 10.3 C for T, upon review of the FI submitted by the applicant, has no further comment on the application from the traffic engineering point of view. DEP has no objection to the application from environmental planning perspective. The applicant is reminded of his obligation to observe all environmental protection / pollution control ordinances, including but not limited to Water Pollution Control Ordinance; and follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Other Government departments consulted, including CHE/NTE of HyD, CE/MN of DSD, and D of FS have no adverse comment on or no objection to the application.
- 10.4 The Site is the subject of a previous application (No. A/NE-LYT/315) for temporary open storage use rejected in 2005. There is no similar application for temporary green design and plantation research centre within the “AGR” zone on the OZP.
- 10.5 Regarding the local objections conveyed by DO(N), HAD and adverse public comments as detailed in paragraphs 8.1.10 and 9 above respectively, the Government departments’ comments and planning assessments above are relevant.

## **11. Planning Department’s Views**

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the local objections conveyed by DO(N), HAD and public comments mentioned in paragraphs 8.1.10 and 9 above respectively, the Planning Department does not support the application for the following reasons:
- (a) the proposed development 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; and
  - (b) the applicant fails to demonstrate in the submission that the proposed development would not cause adverse landscape impact on the surrounding areas.
- 11.2 Alternatively, 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 3 years until 10.9.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### **Approval Conditions**

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the submission of drainage proposal, as proposed by the applicant, 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 10.3.2022;

- (c) in relation to (b) 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 10.6.2022;
- (d) the submission of proposals for fire service installations and water supplies for fire-fighting 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 10.3.2022;
- (e) in relation to (d) above, the implementation of proposals for fire service installations and water supplies for fire-fighting 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 10.6.2022;
- (f) if planning condition (a) 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 conditions (b), (c), (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 to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

#### Advisory Clauses

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

## **12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 12.3 Alternatively, 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. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 15.7.2021
<b>Appendix Ia</b>	Supplementary Planning Statement
<b>Appendix Ib</b>	Further Information received on 31.8.2021
<b>Appendix II</b>	Previous Application
<b>Appendix III</b>	Public Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Proposed Section Plan
<b>Plan A-1</b>	Location Plan

<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to A-4c</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2021**