

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/816

- Applicants** : Wing Fook Land Investment Company Limited and Siu Kai Wai Boni represented by Lawson David & Sung Surveyors Limited
- Site** : Lots 1445 S.B ss.2, 1445 S.B RP, 1489, 1490, 1492 and 1494 in D.D. 76 and Adjoining Government Land (GL), Ng Uk Tsuen, Sha Tau Kok Road, Fanling, New Territories
- Site Area** : About 4,033m² (including GL of about 232m² or about 6%)
- Lease** : Block Government Lease (demised for agricultural use) (about 94%)
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Warehouse and Open Storage of Construction Materials for a Period of Three Years

1. The Proposal

- 1.1 The applicants seek planning permission to use the application site (the Site) for proposed temporary warehouse and open storage of construction materials for a period of three years. The Site falls within an area zoned “AGR” on the approved Lung Yeuk Tau OZP No. S/NE-LYT/19 (**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 within the “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is paved and currently vacant.
- 1.2 According to the applicants, the proposed temporary use will involve two 2-storey warehouses (about 12m in height) with a total floor area of 2,927m² for storage of construction materials and ancillary offices, while the open area of the Site (about 64%) will be used for open storage of construction materials and vehicle manoeuvring with provision of two loading/unloading spaces for container vehicles/medium goods vehicles and three private carparking spaces for staff/visitors (**Drawing A-1**). A footpath will be reserved along the southern periphery of the Site for local villager’s access from Sha Tau Kok Road- Ma Mei Ha to the village settlements nearby to its further southeast (**Drawing A-1, Plans A-1 and A-2**). A minimum of 2m set back from the trunk of existing trees and a minimum 1m wide planting strip for tree planting areas are proposed (**Drawing A-2**). The Site with ingress/egress point at the west is accessible via Sha Tau Kok Road- Ma Mei Ha (**Plan A-2**). A safety guard would be deployed to manage the run-in/run-out

traffic to minimize conflict with the nearby bus lay-by. The operation hours of the Site are between 8:00a.m. and 7:00 p.m. from Mondays to Saturdays only. There will be no operation on Sundays and public holidays.

- 1.3 The applicants have provided information to undertake the following mitigation measures to minimize potential environmental nuisance to the nearby sensitive receivers: (i) no workshop activities will be conducted at the Site; (ii) 2.5m high corrugated metal fencing will be erected along the site boundary; (iii) all loading/unloading activities will be conducted within the warehouse; (iv) the warehouse structure will have a surface mass density of at least 7kg/m², and windows of the warehouse will be kept closed at all times; and (v) no more than three round trips by goods vehicles daily to minimize the traffic and noise impacts.
- 1.4 The Site is the subject of a previous application No. A/NE-LYT/741 submitted by one of the same applicants as the current application for proposed temporary public vehicle park (PVP) for private cars and medium goods vehicles and warehouse for storage of construction materials, which was approved by the Rural and New Town Planning Committee (the Committee) on 10.9.2021. Details of the previous application are set out in paragraph 6.2 below.
- 1.5 In support of the application, the applicants have submitted the following documents:
 - (a) Application Form with attachments received on 4.12.2023 (Appendix I)
 - (b) Further Information (FI) received on 2.2.2024[^] (Appendix Ia)
 - (c) FI received on 19.2.2024[^] (Appendix Ib)
 - (d) FI received on 22.2.2024[^] (Appendix Ic)
 - (e) FI received on 29.2.2024[^] (Appendix Id)
 - (f) FI received on 27.3.2024[^] (Appendix Ie)
 - (g) FI received on 8.4.2024[^] (Appendix If)
 - (h) FI received on 7.5.2024[^] (Appendix Ig)

[^] accepted and exempted from the publication and recounting requirements
- 1.6 On 26.1.2024 and 15.3.2024, the Committee agreed to the applicants' request to defer making a decision on the application each for two months.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed at **Appendix I** as summarised below:

- (a) the proposed use would cater for the demand of warehouse and open storage facilities;
- (b) the Site is not suitable for agricultural rehabilitation;
- (c) it allows optimization of valuable land resources;
- (d) the Site has previous planning approval for similar warehouse use;
- (e) it is in compliance with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13G);

- (f) it is considered not incompatible with surrounding land uses; and
- (g) it will not generate adverse traffic, drainage and environmental impacts on the surrounding areas.

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

The applicants are the sole “current land owners” of the Site. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion of the Site, Town Planning Board Guidelines on Owner’s Consent/Notification Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) are not applicable.

4. Town Planning Board Guideline

TPB PG-No.13G promulgated on 14.4.2023 is relevant to this application. The Site falls within Category 2 area 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 Applications

- 6.1 The Site is the subject of three previous applications (No. A/NE-LYT/586, 691 and 741). Application No. A/NE-LYT/586 and 691 were approved for temporary PVP for private cars, lights goods vehicles and medium goods vehicles for a period of three years which were approved on 13.5.2016 and 3.5.2019 respectively, which are not relevant to the current application.
- 6.2 Application No. A/NE-LYT/741 for proposed temporary PVP for private cars and medium goods vehicles and warehouse for storage of construction materials submitted by one of the same applicants as the current application was approved on 10.9.2021, mainly on considerations that the temporary use was not incompatible with the surrounding areas; adverse impacts arising from the use were not anticipated; the Site was subject of previous approvals for PVP; and the concerned government departments had no adverse comment on the application. The application was revoked on 10.6.2023 due to non-compliance with the approval conditions in relation to implementation of proposals for environmental mitigation measures and provision of fire service installations. Compared with the previously approved application, the current proposal solely applies for the warehouse and open storage use. Although the number of structures of the warehouses has changed from 4 to 2, the current proposal has increased the total floor area of the warehouse from 433m² to 2,927m² and building height from 3.8m to 12m.
- 6.3 Details of the previous applications are summarized at **Appendix III** and the locations are shown on **Plan A-1**.

7. Similar Application

- 7.1 There is one similar application No. A/NE-LYT/685 for proposed temporary open storage use for a period of three years within the same “AGR” zones in the past five years on the OZP. The application was rejected by the Committee on 1.2.2019 mainly on the grounds that the proposed use was not in line with the planning intention of the “AGR” zone; the application did not comply with the then TPB-PG No. 13E in that no previous approval had been granted at the site and there were adverse departmental comments and local objections on the application; there was no information in the submission to demonstrate that the proposed use would not cause adverse traffic impact on the surrounding areas; and approval of the application would set an undesirable precedent for similar applications within the “AGR” zone.
- 7.2 Details of the similar application are summarized at **Appendix IV** and its location are shown on **Plan A-1**.

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

- 8.1 The Site is:
- (a) paved and currently vacant; and
 - (b) accessible via Sha Tau Kok Road – Ma Mei Ha.
- 8.2 The surrounding areas are predominantly rural in character with active and fallow agricultural land and clusters of village houses/temporary structures for mainly domestic purpose to the south. To the east is Tan Shan River and its west is an adventure training centre. To the north across Sha Tau Kok Road – Ma Mei Ha is the village cluster of Hung Leng, and to the further southeast are the village clusters of Ng Uk Tsuen and Ho Pa Tsuen.

9. Planning Intention

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government departments as set out in paragraphs 10.2 and 10.3 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments are provided at **Appendices V** and **VI** respectively.
- 10.2 The following government departments do not support/have comments on the application:

Environment

- 10.2.1 Comments of the Director of Environmental Protection (DEP):

- (a) he does not support the application as there are residential buildings within 100m from the boundary of the Site (**Plan A-2**) and the use of heavy vehicle is involved. Environmental nuisance is anticipated;
- (b) there is no substantive environmental complaint pertaining to the Site received in the past three years;
- (c) nevertheless, if the application is approved, the applicants have to implement the proposed mitigation measures to minimize potential environmental nuisance to nearby sensitive receivers. The following advisory clauses should be incorporated: In case the connection to public sewer is not feasible, septic tank and soakaway system is also considered to be acceptable provided that its design and construction follow the requirements of the ProPECC PN 1/23 "Drainage Plans subject to Comment by the Environmental Protection Department", in particular the distance between stream and soakaway systems, and are duly certified by an Authorized Person. Besides, the applicants should comply with all environmental protection/pollution control ordinances, including the Water Pollution Control Ordinance; and
- (d) the applicants are also advised to follow relevant environmental mitigation measures as set out in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by Director of Environmental Protection in order to minimize any possible environmental nuisances to nearby sensitive receivers and watercourses.

Agriculture

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

From agricultural perspective

- (a) the Site falls within the "AGR" zone and is generally vacant. 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. As the Site possesses potential for agricultural rehabilitation, the application is not supported from an agricultural perspective; and

From nature conservation perspective

- (b) it is noted that the Site is hard paved and disturbed. It is adjacent to Tan Shan River to the east (**Plan A-2**). Should the subject application be approved, the applicants should be reminded to perform good site practice so as not to pollute the watercourses nearby.

10.3 District Officer (North), Home Affairs Department (DO(N), HAD) has relayed the following local views on the application:

- he has consulted the locals regarding the application. The Chairman, 1st Vice-chairman and Vice-chairman of Fanling District Rural Committee and

the Resident Representative (RR) of Kan Tau Tsuen object to the application as the proposed use would induce traffic impacts and road safety issue to pedestrian. The Chairman of Lung Shan area Committee and Indigenous Inhabitant Representative (IIR) of Kan Tau Tsuen have no comment while the IIR and the RR of Hung Leng did not reply to HAD.

11. Public Comments Received During Statutory Publication Period (Appendix VII)

On 12.12.2023, the application was published for public inspection. During the first three weeks of statutory public inspection period, 18 public comments were received. A Member of North District Council indicates no comment on the application. The remaining 17 comments made by the Chairman, 1st Vice-chairman and Vice-chairman of Fanling District Rural Committee, IIR and RR of Hung Leng, a group of villagers of Ho Pa Tsuen, Chairman of 聯慶堂花炮會 and 11 individuals raise objection to the application mainly on the grounds that the proposed use is not in line with the planning intention of “AGR” zone; adverse environmental and traffic impacts; incompatible with the surrounding uses. The villagers of Ho Pa Tsuen suggest to maintain the clearance of the Site as it serves as existing path to Ho Pa Tsuen and access for the refuse collection vehicles to the existing villagers’ refuse collection point (RCP) (**Plan A-2**).

12. Planning Considerations and Assessments

12.1 The application is for a proposed temporary warehouse and open storage of construction materials for a period of three years at the Site zoned “AGR” (**Plan A-1**). The proposed use is not in line with the planning intention of the “AGR” zone as detailed in paragraph 9. DAFC does not support the application from the agricultural perspective as the Site possesses potential for agricultural rehabilitation. Nonetheless, taking into account the planning assessment below, the proposed use on a temporary basis of three years could be tolerated.

12.2 The Site falls within Category 2 areas under the TPB PG-No. 13G. The following considerations in the Guidelines are relevant:

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

12.3 The Site is paved and currently vacant. It is located in an area of rural inland plains landscape character comprising active/fallow agricultural land, clusters of small houses, temporary structures, vehicle parks, and tree clusters (**Plans A-2 and A-3**). The proposed use is considered not entirely incompatible with the surrounding environment. As a minimum of 2m setback for the proposed structures from the trunk of existing trees will be provided within the Site (**Drawing A-2**), the Chief Town Planner/Urban Design & Landscape, Planning Department has no objection to the application from landscape planning perspective.

12.4 DEP expresses concerns on the application as the proposed use would involve use of medium/heavy goods vehicles and environmental nuisance on the sensitive users in the

vicinity of the Site (**Plan A-2**) is expected. However, it is noted that the Site is directly accessible via Sha Tau Kok Road without the need to pass through the domestic structures, and there is no substantive environmental complaint received in the past three years. To address DEP's concerns, relevant approval conditions including restriction on the operation hours at the Site and implementation of the proposed mitigation measures have been recommended in paragraph 13.2 below. Should the application be approved, the applicants will also be advised to implement the proposed mitigation measures and follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' to minimize the possible environmental impacts on the surrounding areas.

- 12.5 Regarding the proposed run-in/run-out located near the franchised bus and minibus stop along Sha Tau Kok Road, the applicants advises that a safety guard would be deployed to manage the run in/run out traffic to minimize conflict with the nearby bus lay-by. In this regard, C for T has no adverse comment on the application, and the Chief Highway Engineer/New Territories East of Highways Department also has no comment on the application. Other concerned government departments, including District Lands Officer/North of Lands Department, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services, Director of Food and Environmental Hygiene, Chief Building Surveyor/New Territories West Section of Buildings Department and Project Manager (North)/North Development Office, Civil Engineering and Development Department have no adverse comment on or no objection to the application.
- 12.6 The application generally complies with TPB PG-No. 13G in that no major adverse departmental comments have been received on the application and the concerns of the relevant government departments can be addressed through implementation of approval conditions.
- 12.7 The Site is the subject of previous application No. A/NE-LYT/741 for proposed PVP and warehouse use approved by the Committee on 10.9.2021 mainly on considerations as detailed in paragraph 6.2 (**Plan A-1**). Compared with the previously approved application No. A/NE-LYT/741, the current proposal solely applies for the warehouse and open storage uses without PVP and the current proposal has increased the total floor area of warehouse from 433m² to 2,927m² and building height from 3.8m to 12m. The previous application was subsequently revoked in 2023 due to non-compliance with approval conditions on the provision of fire service installations and implementation of proposals for environmental mitigation measures. It is noted that the current application is submitted by one of the same applicants as the current application with a different proposal. The applicants have submitted FSIs proposals for this application with proposed environmental mitigation measures. D of FS also has no objection to the application while the proposed mitigation measures are recommended in paragraph 13.2 to address DEP's concern. Sympathetic consideration may be given to the current application.
- 12.8 Regarding the public comments on the application as detailed in paragraph 11 above, the applicant has excluded the area of the existing RCP from the Site and provide space for the refuse collection vehicles to access to the Site, and DFEH has no objection to the application. A pedestrian path will also be reserved along the southern periphery of the Site for local villagers accessing from Sha Tau Kok Road- Ma Mei Ha to the village settlements of Ho Pa Tsuen located in Ng Uk Tsuen (**Drawing A-1** and **Plan A-2**). Regarding traffic and environmental impacts, 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 public comments as detailed in paragraphs 11 above, the Planning Department considers that the proposed temporary use could be tolerated for a period of 3 years.
- 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 24.5.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 8:00 a.m., as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicants, is allowed on the Site during the planning approval period;
- (c) 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 24.11.2024;
- (d) in relation to (c) 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 24.2.2025;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) the provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 5.7.2024.
- (g) 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 24.11.2024;
- (h) in relation to (g) 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 24.2.2025;
- (i) the implementation of the proposed environmental mitigation measures within **9** months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 24.2.2025;
- (j) if any of the above planning condition (a), (b) or (e) 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; and
- (k) if any of the above planning condition (c), (d), (f), (g), (h) or (i) 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

- (l) 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 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 is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good 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. 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 applicants.

15. Attachments

Appendix I	Application Form with Attachments received on 4.12.2023
Appendix Ia	FI received on 2.2.2024
Appendix Ib	FI received on 19.2.2024
Appendix Ic	FI received on 22.2.2024
Appendix Id	FI received on 29.2.2024
Appendix Ie	FI received on 27.3.2024
Appendix If	FI received on 8.4.2024
Appendix Ig	FI received on 7.5.2024
Appendix II	Relevant Extract of TPB Guidelines No. TPB PG-No. 13G
Appendix III	Previous Applications
Appendix IV	Similar s.16 Applications for Temporary Open Storage within the "AGR" zone in the vicinity of the Site in the Lung Yeuk Tau Area
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comments
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Landscape and Tree Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan

Plan A-3

Aerial Photo

Plan A-4

Site Photos

**PLANNING DEPARTMENT
MAY 2024**