

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MKT/33

<u>Applicant</u>	: GD Management Limited
<u>Site</u>	: Lots 665 S.A (Part), 666 S.A (Part), 667, 669 S.B RP and 685 in D.D. 90 and Adjoining Government Land (GL), Lin Ma Hang Road, Man Kam To, New Territories
<u>Site Area</u>	: 4,364m ² (about) (includes GL of about 555m ² , or about 12.7% of the Site)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Man Kam To Outline Zoning Plan (OZP) No. S/NE-MKT/4
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Private Vehicle Park (PVP) (Excluding Container Vehicle) with Ancillary Electric Vehicle (EV)-Charging Facilities for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary PVP (excluding container vehicle) with ancillary EV-charging facilities for a period of three years and associated filling of land at the application site (the Site). The Site falls within an area zoned “AGR” on the Man Kam To OZP (**Plan A-1**). According to the covering Notes of the OZP, any temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Notes of the OZP also state that filling of land within the “AGR” zone requires planning permission from the Board.
- 1.2 The Site, situated close to a watercourse to the north, is currently vacant and largely covered with dense vegetation including seasonal marsh and scattered trees (**Plans A-2 and A-4b**). The Site is accessible via Lin Ma Hang Road and the proposed ingress/egress point is located in the southeastern part of the Site (**Plan A-2**). The proposed use involves two single-storey structures (building height of not more than 4m) with a floor area of about 68m² for an electric transformer room and a site office; and two open-sided sheds of about 3m in height and floor area of about 490m² for covered parking spaces. The total floor area is about 558m². A total of 36 parking spaces for private cars/taxis (5m (L) x 2.5m (W)) are proposed, which will be equipped with EV-charging facilities (i.e. four

direct current (DC) chargers with output power of over 100kW¹ and 32 alternating current (AC) chargers with output power of 7kW to suit different types of EVs), and will be rented to the nearby residents and cross boundary travellers on an hourly and monthly basis. Fee payment is required for using the EV-chargers. Besides, a total of 27 parking spaces (not equipped with EV-chargers) for light buses (8m (L) x 3.5m (W)) and coaches (12m (L) x 3.5m (W)) are proposed in the western part of the Site. According to the applicant, these parking spaces will be rented out and operated by a local transport service provider, i.e. Wan Chun Tours Company Limited (**Appendix Ib**). The proposed use will operate 24 hours daily, including public holidays. The applicant also applies for filling of the entire Site with rubber and concrete by not more than 1.2m in depth for site formation and circulation area. The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.3 According to the applicant, sufficient space will be provided within the Site for manoeuvring of vehicles. A swept path analysis was submitted in support of the application. To ensure no queuing back of vehicles outside the Site, staff will be deployed to direct vehicles entering/exiting the Site. Traffic signs will be erected at the ingress/egress of the Site to ensure pedestrian safety. No vehicle without valid license issued under the Road Traffic (Registration and Licensing of Vehicle) Regulations will be allowed to park at the Site at any times during the planning approval period.
- 1.4 Eight trees, which are of fair to poor conditions, are identified within the Site. No Old and Valuable Trees (OVTs) or protected species was identified. According to the applicant, all existing trees will be felled. To compensate for the loss of trees, eight trees with continuous planting strips of not less than 1m wide will be provided in the western part of the Site (**Drawing A-1**). A solid metal fence wall of 2.5m high will be erected along the site boundary to minimize the potential nuisance to the surrounding areas and to protect the existing peripheral trees. A drainage proposal, with provision of peripheral U-channels and catchpits within the Site, is submitted by the applicant to cater for the stormwater runoff generated by the proposed use as well as the surrounding catchments (**Drawing A-2**). The proposed site formation level will continue to allow the Site to receive overland flow from the surrounding areas². The intercepted stormwater will then be discharged to the existing watercourse to the north of the Site via an underground pipe. The proposed use is located at least 3m away from the watercourse to the north of the Site. To avoid possible impact on the existing watercourse, there will be a setback distance of the proposed use for not less than 3m along the northern boundary of the Site.
- 1.5 In support of the application, the applicant has submitted the following documents:

(a)	Application Form received on 26.1.2024	(Appendix I)
(b)	Supplementary Planning Statement (SPS)	(Appendix Ia)
(c)	Supplementary Information (SI) received on 2.2.2024	(Appendix Ib)
(d)	Further Information (FI) received on 25.3.2024*	(Appendix Ic)
(e)	FI received on 30.4.2024^	(Appendix Id)
(f)	FI received on 24.6.2024*	(Appendix Ie)
(g)	FI received on 23.7.2024*	(Appendix If)
(h)	FI received on 30.7.2024*	(Appendix Ig)

¹ Three quick charging stations with dimensions of 0.866m (W) x 2.479m (H) x 1.05m (D) will be installed for the DC charging spots, with one carrying two cables to allow simultaneous charging of two EVs at the same time.

² According to the applicant, the proposed site formation level of the majority of the Site will be maintained at +8.3mPD to +8.6mPD (a gradient sloping from southwest to northwest of the Site), which is lower than the elevation levels to the east (about 11.2mPD) and south (about 8.6mPD to 9.2mPD) of the Site. The Site will continue to receive runoff from the external catchment to the south of the Site.

** accepted and exempted from publication and recounting requirements*

^ accepted but not exempted from publication and recounting requirements

- 1.6 On 15.3.2024 and 21.6.2024, 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 each to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendices Ia to Ih**, as summarized below:

- (a) as the popularity of EVs has increased in recent years, there is a shortage of EV-charging facilities in Hong Kong. The proposed use could meet the pressing demand for EV-charging/parking facilities in the Man Kam To area to serve the nearby residents and the cross-boundary travellers as well as transportation industry;
- (b) the Site is not incompatible with the surrounding areas comprising workshops, open storage yards and residential dwellings. As the application is on a temporary basis, it will not frustrate the long-term planning intention of the "AGR" zone. The applicant undertakes to reinstate the Site upon expiry of the planning approval;
- (c) the Site is ideally situated next to Man Kam To Boundary Control Point (BCP) and about 3km away of Heung Yuen Wai BCP, whilst the town centre of Sheung Shui area is also in closed proximity. The Site is well served by major road networks including Lin Ma Hang Road and Ma Kam To Road. Public transport facilities are also available in the vicinity of the Site, which is convenient for the coach drivers. It is the most suitable site for the proposed use and it allows the transport operator to deploy vehicles flexibly;
- (d) the demand for land-based cross boundary travel has increased dramatically since the re-opening of the BCPs last year. Such demand will be further boosted by the development in the Northern Metropolis. There is a pressing demand for parking spaces to support cross boundary travel mode. After parking their vehicles at the Site, travellers could use the public light bus services to reach Heung Yuen Wai BCP or cross boundary hire car services provided by authorized operators at the Site for travelling to the Mainland via Man Kam To BCP;
- (e) there is extreme shortage of coach parking spaces, which has led to illegal parking. The proposed use could alleviate the shortage of coach parking spaces;
- (f) the applicant undertakes to strictly follow the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site' (the COP) and 'Professional Persons Environmental Consultative Committee Practice Notes (ProPECC PN) 5/93 to minimize adverse environmental impacts/nuisance to and sewerage impact on the surrounding areas; and
- (g) with the proposed mitigation measures, the proposed use will not generate significant nuisance to the surrounding areas.

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

The applicant is one of the “current land owners” of the Site and has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by publishing notices in local newspapers and sending notice to the Ta Kwu Ling District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion of the Site, TPB PG-No. 31B is not acceptable.

4. Background

The Site is not subject to any active enforcement action.

5. Previous Application

The Site is not the subject of any previous application.

6. Similar Application

There is no similar application for the proposed use in the vicinity of the Site within the same “AGR” zone in the Man Kam To area in the past five years.

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

7.1 The Site is:

- (a) currently vacant and largely covered with dense vegetation including seasonal marsh and scattered trees;
- (b) located close to an existing watercourse in the north running in a southeast-northwest direction;
- (c) situated to the immediate west of an unauthorized open storage which is currently subject to active planning enforcement action (No. E/NE-MKT/41); and
- (d) accessible via Lin Ma Hang Road from the southeast.

7.2 The surrounding areas are mainly intermixed with scattered unauthorized open storages/storage yards subject to planning enforcement action, temporary domestic structures/village houses, fallow agricultural land and tree clusters. To the immediate west and further northwest are some boundary control related facilities (such as Man Kam To Food Inspection Facilities, Man Kam To Food Control Office, Animal Inspection Station and Livestock Monitoring Station) and Man Kam To BCP respectively. Across the watercourse to the north of the Site is a densely vegetated knoll/hillslope zoned “Green Belt” (“GB”), which is a permitted burial ground for indigenous villagers. The village proper of San Uk Ling is located to the south of the Site across Lin Ma Hang Road. To the further east of the Site along Lin Ma Hang Road is a temporary warehouse covered by a

valid planning permission (application No. A/NE-MKT/35).

8. Planning Intention

- 8.1 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.
- 8.2 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.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government bureau/departments as set out in paragraphs 9.2 and 9.3 respectively below, other government departments consulted have no objection to/no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices II and III** respectively.
- 9.2 The following government bureau supports the application:

Policy Support

- 9.2.1 Comments of the Secretary of Environment and Ecology Bureau (SEE):
- (a) according to the applicant’s submission, all private car/taxi parking spaces will be equipped with EV-chargers with output power of not less than 7kW (i.e. medium chargers). As such, the application is supported since it is in line with the Government’s policy direction of promoting the wider use of EVs in Hong Kong; and
 - (b) his advisory comments are set out at **Appendix III**.
- 9.3 The following government departments have objection to/reservation on/adverse comment on the application/and conveyed local views on the application.

Agriculture and Nature Conservation

- 9.3.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
 - (b) 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.; and

- (c) it is noted from our previous field inspection that majority of Lot 666 S.A in D.D. 90 is a seasonal marsh where aquatic plants were recorded. As loss of marsh is not desirable from nature conservation perspective, she has reservation on the application from nature conservation perspective.

Landscape

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

- (a) based on the site record, the Site is mostly inaccessible and covered by self-seeded vegetation. A small portion of the Site to the southeast near Lin Ma Hang Road is hard-paved. Some trees of common species are observed within the Site and along the northeastern and southwestern site boundary. According to the applicant's submission, all of the existing trees within the Site would be felled and eight new trees (i.e. *Bauhinia x blakeana*/ *Celtis sinensis*) with a continuous planting strips of not less than 1m wide would be provided. Significant adverse impact on the existing landscape resources within the Site arising from the proposed use is not anticipated; and
- (b) with reference to the aerial photo of 2023, the Site is located in an area of rural inland plain landscape character comprising woodland within the "GB" zone in the immediate north, tree clusters, vegetated areas, temporary structures and open storage yards. There is concern that approval of the application may alter the landscape character and degrade the landscape quality of the surrounding area, where the "GB" zone is in close proximity to the north of the Site.

District Officer's Comments

9.3.3 Local views/comments conveyed by the District Officer (North), Home Affairs Department (DO(N), HAD) are as follows:

- (a) one member of North District Council (NDC) supports the application without providing justification;
- (b) the 1st Vice-chairman of Ta Kwu Ling District Rural Committee cum Resident Representative (RR) of San Uk Ling, the RR of Muk Wu and the Indigenous Inhabitant Representatives (IIRs) of San Uk Ling and Muk Wu object to the application mainly on grounds that the Site comprises Tso Tong land; the applicant has not obtained owner consent for the proposed use at the Site; and the proposed use would generate air pollution/environmental and ecological impact, threaten pedestrian safety, and lead to flooding; and
- (c) four members of NDC have no comment on the application.

10. Public Comments Received During Statutory Publication Periods

- 10.1 On 6.2.2024 and 10.5.2024, the application was published for public inspection. During the statutory public inspection periods, a total of ten public comments were received, in which eight object to the application and two indicate no comment.
- 10.2 The eight objecting comments are from Kadoorie Farm & Botanic Garden Corporation (received two submissions), a RR of San Uk Ling and three local villagers (with 60 signatures from nearby villagers) as well as an individual (**Appendix IVa**). Their major grounds of objection are that the proposed use is not in line with the planning intention of the “AGR” zone; there is a previously rejected application for open storage and warehouse uses adjacent to the Site; the Site involves Tso Tong land, which the applicant has not obtained any owner’s consent for using the Site for the proposed use; land filling works was carried out at part of the Site which has led to flooding; and land being converted into polluting and disorderly brownfield reflects the administration’s failure in land management.
- 10.3 Two public comments from the Chairman of Sheung Shui District Rural Committee indicate no comment on the application (**Appendix IVb**).

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary PVP (excluding container vehicle) with ancillary EV-charging facilities for a period of three years and filling of land at the Site zoned “AGR” on the OZP. Although SEE rendered policy support to the application as the proposed development equipped with EV-charging facilities is in line with the government’s policy and directions of promoting the wider use of EVs in Hong Kong, the proposed use 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 purpose, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.
- 11.2 The application involves filling of the entire Site with rubber and concrete of not more than 1.2m in depth for site formation and circulation area. Filling of land within the “AGR” zone requires planning intention from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. The Site is abutting an existing watercourse to the north (**Plan A-2**) and the applicant has submitted a drainage proposal in support of the application. Chief Engineer/Mainland North, Drainage Services Department has no in-principle objection to the application from public drainage perspective. Approval conditions requiring the provision of drainage facilities and maintenance of implemented drainage facilities are recommended in paragraphs 12.2(a) and 12.2(b) below. Director of Environmental Protection (DEP) has no particular comment on the proposed land filling provided that the applicant would strictly comply with all environmental protection/pollution control ordinances. DEP’s advice is included in the Recommended Advisory Clauses at **Appendix III**.
- 11.3 The Site is situated in an area of rural character mainly intermixed with scattered unauthorized open storages/storage yards subject to planning enforcement action,

temporary domestic structures/village houses, fallow agricultural land and tree clusters. To the immediate west and further northwest are some boundary control facilities and Man Kam To BCP respectively whilst to the immediate east and further east are an unauthorized open storage and a temporary warehouse (covered with a valid planning permission (application No. A/NE-MKT/35)) respectively. To the north across the existing watercourse is a densely vegetated knoll/hillslope zoned “GB” (**Plans A-2 and A-3**). The proposed use is considered not entirely incompatible with the surrounding uses. Nonetheless, the proposed use and associated filling of land would involve extensive clearance of existing dense vegetation including seasonal marsh and trees at the Site (**Plan A-4b**). DAFC has reservation on the application from nature conservation perspective as part of the Site is a seasonal marsh and the loss of marsh is not desirable. Furthermore, CTP/UD&L of PlanD was of the view that whilst significant adverse impact on the existing landscape resources within the Site arising from the proposed use is not anticipated, approval of the application may alter the landscape character and degrade the landscape quality of the surrounding areas, where the “GB” zone is in close proximity to the north of the Site.

- 11.4 Various traffic management measures are proposed by the applicant as mentioned in paragraph 1.3 above. Commissioner for Transport has no comment on the application from traffic engineering perspective. DEP has no objection to the application from environmental perspective and advises that the applicant should implement the relevant mitigation measures as detailed at **Appendix II** as well as to follow the requirements in the latest COP. Other consulted departments, including Director of Fire Services and Chief Engineer/Construction of Water Supplies Department, etc., have no objection to/no adverse comment on the application.
- 11.5 Regarding the objecting public comments as detailed in paragraph 10 above, government departments’ comments and planning assessments above are relevant. For the public comments in relation to land dispute, it should be noted that land administration issue is not a material planning consideration.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local comments conveyed by DO(N) of HAD and the public comments in paragraphs 9.3.3 and 10 above respectively, the Planning Department does not support the application for the following reasons:
 - (a) the proposed use with associated filling of land is not in line with the planning intention of the “AGR” zone which is to retain primarily 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. 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 use with associated filling of land would not induce adverse landscape impact on the surrounding areas.

- 12.2 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 three years until 16.8.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) 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 16.5.2025;
- (b) in relation to (a) above, the implemented drainage facilities at the Site shall be maintained at all times during the planning approval period;
- (c) 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 16.2.2025;
- (d) in relation to (c) 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 16.5.2025;
- (e) the implementation of the traffic management measures, as proposed by the applicant, within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 16.5.2025;
- (f) in relation to (e) above, the implemented traffic management measures shall be maintained at all times during the planning approval period;
- (g) if any of the above planning condition (b) or (f) 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;
- (h) if any of the above planning condition (a), (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
- (i) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

13. Decision Sought

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

- 13.3 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.

14. Attachments

Appendix I	Application Form received on 26.1.2024
Appendix Ia	SPS
Appendix Ib	SI received on 2.2.2024
Appendix Ic	FI received on 25.3.2024
Appendix Id	FI received on 30.4.2024
Appendix Ie	FI received on 24.6.2024
Appendix If	FI received on 23.7.2024
Appendix Ig	FI received on 30.7.2024
Appendix II	Government Departments' General Comments
Appendix III	Recommended Advisory Clauses
Appendices IVa and IVb	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Drainage Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
AUGUST 2024**