

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MKT/37

- Applicant** : Active Full Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 478 S.A RP, 482 (Part), 484 and 487 (Part) in D.D. 90, Lin Ma Hang Road, Man Kam To, New Territories
- Site Area** : About 2,950m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plans** : Draft Man Kam To Outline Zoning Plan (OZP) No. S/NE-MKT/5 (currently in force)

Approved Man Kam To OZP No. S/NE-MKT/4 (at the time of submission)
- Zoning** : “Agriculture” (“AGR”)

[No change to the “AGR” zone under the current OZP]
- Application** : Proposed Temporary Warehouse for Storage of Food Provisions for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse for storage of food provisions 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 OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years and filling of land within the “AGR” zone require planning permission from the Town Planning Board (the Board). The Site is generally vacant covered with grass and trees, and traversed by a footpath.
- 1.2 According to the applicant, the application is submitted to facilitate the relocation of a business operation at the original site in Kwu Tung affected by Kwu Tung North New Development Area (KTN NDA) which will be resumed by the Government. The affected operation is for storage of food provisions, involving a site area of about 2,175m² as claimed by the applicant.
- 1.3 The Site is abutting from Lin Ma Hang Road to the south (**Plan A-2**). According to the applicant, the proposed use consists of one single-storey temporary structure of about

8.5m in height with a total floor area of 1,600m² for storage of soy bean products. Two loading/unloading (L/UL) spaces for medium and heavy goods vehicles are proposed within the Site. The operation hours of the proposed use are between 9:00 a.m. and 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.4 According to the applicant, an ingress/egress is proposed at the south of the Site and sufficient space will be provided within the Site for manoeuvring of vehicles. A swept path analysis was submitted in support of the application. According to the traffic management measures proposed by the applicant, to ensure no queuing back of vehicles outside the Site, no drop bar will be provided at the Site; flashing light and traffic signs will be provided at the ingress/egress of the Site to ensure pedestrian safety; and only vehicles with prior arrangements will be allowed to park at the Site.
- 1.5 A revised Tree Group Inspection Report and a revised Compensatory Planting Proposal (**Appendix Id**) have been submitted in support of the application. There are 38 trees identified within the Site, which are in fair to poor conditions. According to the applicant, all trees are proposed to be felled. To compensate for the loss of trees, 10 whip trees and eight standard trees will be replanted, and they will be located at least 2m away from the existing trees to ensure their healthy establishment.
- 1.6 The applicant also applies for filling of land for the entire site with concrete by about 0.2m in depth for site formation purpose (**Drawing A-2**). A revised Drainage Proposal (**Drawing A-3**), with provision of surface U-channel and catchpits within the Site, is submitted by the applicant to cater for the stormwater runoff generated by the proposed use and the surrounding catchment. The collected stormwater will be dissipated to the culvert to the southwest of the Site. A gap of 0.1m will be reserved at the toe of the site hoarding to allow unobstructed flow of surface runoff.
- 1.7 In support of the application, the applicant has submitted the following documents:

(a)	Application Form received on 23.4.2024	(Appendix I)
(b)	Supplementary Planning Statement (SPS)	(Appendix 1a)
(c)	Supplementary Information (SI) received on 25.4.2024	(Appendix Ib)
(d)	Further Information (FI) received on 31.7.2024 [#]	(Appendix Ic)
(e)	FI received on 15.11.2024*	(Appendix Id)

* *accepted and exempted from publication and recounting requirements*
accepted but not exempted from publication and recounting requirements
- 1.8 On 21.6.2024 and 20.9.2024, the Rural and New Town Planning Committee (the Committee) of the Board decided to defer making a decision on the application as requested by the applicant for two months each to address the departmental comments.

2. Justifications from the Applicant

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

- (a) the proposed use is to facilitate the relocation of brownfield operations (i.e. storage of food provisions) affected by KTN NDA. The applicant wishes to relocate the business to the Site to continue the business operation;

- (b) the applicant has conducted a site search process to identify suitable site for the relocation of the affected operation and the Site is considered most suitable for relocation;
- (c) the proposed use, layout, form and scale is considered not incompatible with the surrounding areas;
- (d) the proposed use is temporary in nature and would not jeopardise the long-term planning intention of the “AGR” zone;
- (e) there was a similar precedence case (application No. A/NE-MKT/17¹) approved by the Committee in the same “AGR” zone;
- (f) no significant adverse impacts in terms of environmental, traffic, drainage, etc. are anticipated. The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (the COP) issued by Environmental Protection Department (EPD), comply with the relevant mitigation measures and requirements;
- (g) the storage of construction materials will be housed within an enclosed structure. No workshop activities is proposed and no container trailer/tractor will access/park at the Site; and
- (h) the temporary structure at Lot 487 in D.D. 90 will be demolished before the erection of new temporary structure for the proposed use. The applicant will apply for Short Term Waiver (STW) upon planning approval and no temporary structure will be erected before the issuance of the STW.

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

The applicant is one of the “current land owners” 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 obtaining consent from the other land owners. Detailed information would be deposited at the meeting for Member’s inspection.

4. Background

The Site is currently not subject to any active enforcement case.

5. Previous Application

There is no previous application covering the Site.

¹ Application No. A/NE-MKT/17 is for proposed temporary rural workshop (timber yard and sawmill) for a period of three years which was approved with conditions by the Committee on 30.4.2021, but the permission was subsequently revoked on 30.11.2023 due to non-compliance of the implementation of relevant approval conditions on drainage proposal, fire service installations and water supplies for firefighting, and the environmental mitigation measures. As the current application is for a different use, the planning consideration of which is not relevant to the current application.

6. Similar Applications

- 6.1 There are six similar applications (No. A/NE-MKT/25, 26, 29, 31, 34 and 35) for proposed temporary warehouse with or without open storage and/or associated filling of land within the same “AGR” zone in the vicinity of the Site in the past five years (**Plan A-1**). Amongst them, applications No. A/NE-MKT/34 and 35 located to the southwest of the Site for proposed temporary warehouses were approved by the Committee on 20.9.2024 and 19.7.2024 respectively mainly on the considerations that both of them were to facilitate relocation of business operations affected by government projects (i.e. Yuen Long South (YLS) NDA and KTN NDA) and the Secretary for Development (SDEV) rendered policy support to the applications; there were no major adverse departmental comments on the applications; and the proposed uses were not entirely incompatible with the surrounding land uses.
- 6.2 The remaining four applications (No. A/NE-MKT/25, 26, 29 and 31) were all rejected by the Committee/the Board on review in 2023 mainly for the reasons of being not in line with the planning intention of the “AGR” zone; being failed to demonstrate that the proposed uses would not induce adverse traffic, drainage and environmental impacts on the surrounding areas.
- 6.3 Details of the similar applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

7. 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**)**

- 7.1 The Site is:
- (a) generally vacant covered with grass and trees, and traversed by a footpath; and
 - (b) abutting Lin Ma Hang Road to the south.
- 7.2 The surrounding areas comprise temporary domestic structures, open storage yards, warehouses, active/fallow agricultural land, vegetated areas and tree clusters. To the southwest is a temporary warehouse for storage of construction materials with associated filling of land covered with a valid planning permission under application No. A/NE-MKT/34. To the further north of the Site is the village proper of Muk Wu Nga Yiu zoned “Village Type Development”.

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 for “AGR” zone, as filling of land 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 Bureau/Departments

- 9.1 Apart from the government departments as set out in paragraphs 9.2 and 9.3 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 in the Recommended Advisory Clauses are provided at **Appendices III and IV** respectively.
- 9.2 The following government bureau supports the application.

Policy Support

9.2.1 Comments of the SDEV:

- (a) the current application is submitted by Active Full Limited seeking planning permission for proposed temporary warehouse for storage of food provisions for a period of three years to relocate an affected food business. As advised by the applicant, Active Full Limited and Hung Fook Food Wholesales Limited are owned by the same persons, and Hung Fook Food Wholesales Limited is a business operator whom will be displaced by the government-led KTN NDA project. The applicant also confirms that the Site, upon approval of the planning permission, will be operated by Hung Fook Food Wholesales Limited;
- (b) according to the applicant, an extensive land search has been conducted to identify a relocation site. The Site, with an area similar to the existing operation at KTN NDA, is considered suitable for relocation after land search. The applicant also advised that the proposed use would not create adverse traffic, environmental, visual, drainage impacts, and that it is also compatible with the surrounding environment; and
- (c) the land freed up by the displaced operation will, together with other cleared land, be redeveloped into the KTN NDA capable of providing about 49,900 housing units by phases. Facilitating relocation of affected brownfield operations is crucial to the smooth clearance for and implementation of the NDA project. From the perspective of ensuring timely development of the NDA and delivery of the housing yield, as well as facilitating the continued operation of displaced brownfield operations still meeting the need of economy, she supports the application from policy perspective.

- 9.3 The following government departments do not support or have adverse comments on the application.

Land Administration

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

- (a) she has adverse comments on the application;
- (b) the Site comprises Old Schedule Agricultural Lots held under the Block Government lease which contains the restriction that no structures are

allowed to be erected without the prior approval of the Government. No Right of access via Government Land (GL) is granted to the Site;

- (c) Lot No. 487 in D.D. 90 is covered by a Letter of Approval (LoA) No. 5316 and a Modification of Tenancy (MOT) No. 38178 for erection of temporary structures. Her office reserves the rights to take enforcement action for irregularities and cancel the LoA/MOT as appropriate;
- (d) the following irregularity not covered by the planning application has been detected by her office:

Unauthorised structures within the said private lot not covered by the planning application

there are unauthorised structures within Lot No. 487 in D.D. 90 not covered by the planning application. 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;

- (e) the lot owners/applicant shall remove the unauthorised structures not covered by the planning application immediately; or include the unauthorised structures in the planning application for the further consideration by the relevant departments and, subject to the approval of the Town Planning Board to the planning application which shall have reflected the rectification as aforesaid required, apply to her office for a STW to permit the structures erected/to be erected. The application for STW will be considered by the Government in its capacity as a landlord and there is not guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate to be imposed by LandsD;
- (f) LandsD reserves the right to take enforcement action against the lot owners for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future;
- (g) given the proposed use is temporary in nature, only erection of temporary structures will be considered;
- (h) the approach of first erection of unauthorised structures then regularisation should not be encouraged; and
- (i) her other advisory comments are at **Appendix IV**.

Landscape

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

- (a) with reference to the site record, the Site is covered by wild grasses and self-seeded vegetation. Trees of common species are observed within the

Site, and would be in conflict with the proposed warehouse, L/UL spaces and vehicular access;

- (b) according to the aerial photo of 2023, the Site is located in an area of rural inland plains landscape character comprising temporary structures, vegetated areas, clusters of tree groups and woodland within the “Green Belt” zone to the south;
- (c) there is concern that approval of the application may alter the landscape character and degrade the landscape quality of the surrounding area; and
- (d) her advisory comments are at **Appendix IV**.

Agriculture

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

- (a) as the Site processes potential for agricultural rehabilitation, the proposed use is not supported from agricultural perspective;
- (b) the Site falls within the “AGR” zone and is generally abandoned; and
- (c) 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.

Environment

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

- (a) according to the COP, the application should not be supported as the proposed use involves the use of heavy vehicles and there are sensitive receivers in the vicinity of the Site (the nearest domestic structure is located in the immediate east and northwest of the Site) (**Plan A-2**);
- (b) he has no objection to the proposed filling of land;
- (c) no environment complaint was received for the Site in the past three years; and
- (d) his advisory comments are at **Appendix IV**.

9.4 The following government department has conveyed local views on the application:

Local Views

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

two members from the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Muk Wu object to the application mainly on the grounds that the proposed use would cause adverse traffic and drainage

impacts as well as environmental nuisance. It could potentially pose safety risks to nearby villagers (**Appendix IIIa**).

10. Public Comments Received During Statutory Publication Periods

On 30.4.2024 and 9.8.2024, the application was published for public inspections. During the statutory public inspection periods, a total of 14 public comments were received (**Appendix V**). Amongst them, 12 comments from The Conservancy Association, Kadoorie Farm and Botanic Garden and individuals object to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; and it would cause environmental and ecological degradation in the area; and there are grave concerns on noise nuisance, air pollution, adverse drainage impacts, and road safety arising from the proposed use. The remaining two comments from a member of the North District Council indicate no comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for storage of food provisions for a period of three years and associated filling of land at the Site zoned “AGR” on the OZP. 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 purposes, 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. Nonetheless, the current application is submitted to facilitate the relocation of brownfield operations affected by KTN NDA and the Site is the most suitable relocation site as identified by the applicant. From the perspective of ensuring timely development of the NDA and delivery of housing yield, as well as facilitating the continued operation of displaced brownfield operations still meeting the need of economy, SDEV supports the application from policy perspective. Taking into account the planning assessments below and with the policy support given by SDEV, sympathetic consideration could be given to the proposed use on a temporary basis of three years.
- 11.2 The applicant also applies for filling of land for the entire site with concrete by about 0.2m in depth for site formation purpose. Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department has no objection to the application from the public drainage viewpoint, while DEP has no objection to the filling of land from environmental perspective. Should the application be approved, approval conditions requiring the applicant to submit and implement the drainage proposal are recommended in paragraph 12.2 below.
- 11.3 The Site, being situated in an area of rural character comprising temporary domestic structures, open storage yards, warehouses, active/fallow agricultural land, vegetated areas and tree clusters, is generally vacant and covered with grass and trees (**Plans A-2, A-3 and A-4a to A-4c**). The proposed use is considered not entirely incompatible with the surrounding land uses. The Chief Town Planner/Urban Design and Landscape of Planning Department advises that approval of the application may alter the landscape character and degrade the landscape quality of the surrounding area as it involves felling of 38 existing trees of common species within the Site. In this regard, the applicant submitted a tree compensatory proposal with replanting of 18 trees at the Site. Should

the application be approved, an approval condition requiring the applicant to reinstate the Site to an amenity area is recommended in paragraph 12.2 below.

- 11.4 The Site is abutting from Lin Ma Hang Road to the south. The Commissioner for Transport has no comment on the application from traffic engineering perspective. DEP does not support the application as the proposed use involves use of heavy vehicles and environmental nuisance to the sensitive receivers (i.e. temporary domestic structures) in the vicinity of the Site is expected (**Plan A-2**). To minimise any possible environmental nuisance, the applicant will be advised to follow the environmental mitigation measures as set out in the COP. Other relevant government departments consulted, including the Director of Fire Services, have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Regarding the DLO/N, LandsD's concern on the unauthorised structures erected within the Site, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 11.5 There were six similar applications within the same "AGR" zone in vicinity of the Site in the Man Kam To area in the past five years (**Plan A-1**). While four of them were rejected by the Committee or the Board on review in 2023 mainly on the grounds as detailed in paragraph 6 above, there were two similar applications (No. A/NE-MKT/34 and 35) related to relocation of brownfield operations affected by government projects approved with conditions by the Committee in 2024 mainly for the reasons that the applications were to facilitate relocation of business operations affected by NDA developments and SDEV rendered policy support to the applications; and there were no major adverse departmental comments on the applications. The planning circumstances of the current application is similar to those of the approved applications. As such, approval of the current application is in line with the Committee's previous decisions.
- 11.6 Regarding the local views conveyed by DO(N), HAD and the adverse public comments mentioned in paragraphs 9.4.1 and 10 above respectively, the government department's comments and the planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local views conveyed by DO(N) of HAD and the public comments in paragraphs 9.4.1 and 10 above respectively, the Planning Department considers that the temporary use could be tolerated for a period of three years.
- 12.2 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 10.1.2028. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of a revised 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 10.7.2025;
- (b) in relation to (a) above, the implementation of the 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 10.10.2025;

- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the submission of a fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 10.7.2025;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 10.10.2025;
- (f) the implementation of the traffic management measures, as proposed by the applicant, within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 10.7.2025;
- (g) in relation to (f) above, the implemented traffic management measures shall be maintained at all times during the planning approval period;
- (h) if any of the above planning condition (c) or (g) 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;
- (i) if any of the above planning condition (a), (b), (d), (e) or (f) 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
- (j) 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 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 with associated filling of land is not in line with the planning intention of the "AGR" zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

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 period of which the permission should be valid on a temporary basis.

- 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 applicant.

14. Attachments

Appendix I	Application Form received on 23.4.2024
Appendix Ia	Supplementary Planning Statement
Appendix Ib	SI received on 25.4.2024
Appendix Ic	FI received on 31.7.2024
Appendix Id	FI received on 15.11.2024
Appendix II	Similar Applications
Appendix III	Government Departments' General Comments
Appendix IIIa	Local Comments conveyed by HAD
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Land Filling Plan
Drawing A-3	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
JANUARY 2025**