

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MKT/39

- Applicant** : Hang Sing Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 466 RP (Part) and 467 RP in D.D. 90, Lin Ma Hang Road, Man Kam To, New Territories
- Site Area** : About 1,500m²
- 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 Construction Materials 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 construction materials 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 currently fenced-off, largely vacant with some vacant temporary structures and generally covered with wild grass (**Plan A-4b**).
- 1.2 According to the applicant, the application is submitted to facilitate the relocation of a business operation at the original site in Shan Ha Tsuen affected by Yuen Long South New Development Area (YLS NDA) which will be resumed by the Government. The affected operation is for storage of construction materials, involving a site area of about 818m², as claimed by the applicant.

- 1.3 The Site is abutting Lin Ma Hang Road to the southeast (**Plan A-2**). According to the submission, the proposed use consists of five structures of not more than 6m in height (one to two storeys) with a total floor area of not more than 907m² for warehouse (for storage of construction materials), Fire Services (F.S.) pumping room, site office, toilet and electricity meter room. Two poles with mounted transformers will be erected on the Site for electricity use. Two private car parking spaces (5m x 2.5m) for staff use and one loading/unloading (L/UL) space (7m x 3.5m) for light 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. No workshop activities are proposed within the Site. 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 southeast of the Site (**Drawing A-1**) and sufficient space will be provided within the Site for manoeuvring of vehicles. According to the traffic management measures proposed by the applicant (**Appendix Ia**), to ensure no queuing back of vehicles outside the Site, no drop bar will be provided at the Site; traffic signs will be provided at the ingress/egress of the Site to ensure pedestrian safety; and an advance booking of L/UL space will be required to prevent illegal parking.
- 1.5 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 drainage proposal (**Drawing A-3**), with the provision of U-channels and catchpits at the Site, is submitted by the applicant in support of the application. The intercepted stormwater shall discharge to the existing drainage system to the east of the Site. A gap of 0.1m will be reserved at the toe of site hoarding to allow unobstructed flow of surface runoff.
- 1.6 In support of the application, the applicant has submitted the following documents:
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|-----|---|------------------------|
| (a) | Application Form received on 6.8.2024 | (Appendix I) |
| (b) | Supplementary Planning Statement (SPS) | (Appendix Ia) |
| (c) | Supplementary Information (SI) received on 7.8.2024 | (Appendix Ib) |
| (d) | Further Information (FI) received on 12.9.2024* | (Appendix Ic) |
| (e) | FI received on 29.11.2024* | (Appendix Id) |
- * *accepted and exempted from publication and recounting requirements*
- 1.7 On 4.10.2024, 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.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in 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 construction materials) affected by YLS 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 due to its

highly accessibility as well as its comparable site area to support the operations of the relocated business;

- (c) the proposed use, layout, form and scale are considered not incompatible with the surrounding areas where warehouses were commonly found along Lin Ma Hang Road;
- (d) the Site has been vacant for a long period of time, which has not been rehabilitated for agricultural activities. Besides, 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 precedent case (application No. A/NE-MKT/17¹) approved by the Committee in the same “AGR” zone; and
- (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) and comply with the relevant mitigation measures and requirements.

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

The applicant is not a “current land owner” but 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 land owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not the subject of any active enforcement action.

5. Previous Applications

- 5.1 The Site is the subject of two previous applications (No. A/NE-MKT/11 and 24) submitted by a different applicant for temporary place of recreation, sports or culture (hobby farm)/renewal of planning approval for hobby farm both for a period of three years, and the considerations of which are not relevant to the current application for a different use. The planning permission of the last approved application No. A/NE-MKT/24 is valid until 31.3.2026.
- 5.2 Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

¹ Application No. A/NE-MKT/17 is for proposed temporary rural workshop (timer 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 the said application is not applicable to the current application.

6. Similar Applications

- 6.1 There were seven similar applications (No. A/NE-MKT/25, 26, 29, 31, 34, 35 and 37) for 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, 35 and 37 located to the southwest of the Site for proposed temporary warehouse were approved by the Committee between July 2024 and early January 2025 mainly on the considerations that the applications were to facilitate relocation of business operations affected by government projects (i.e. Kwu Tung North (KTN) and YLS 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 other 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; and 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 III** 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 and A-4b**)**

- 7.1 The Site is:
- (a) fenced-off, largely vacant with some vacant temporary structures and generally covered by wild grass; and
 - (b) abutting Lin Ma Hang Road to the southeast.
- 7.2 The surrounding areas mainly comprise temporary domestic structures, open storage yards, active/fallow agricultural land, vegetated areas and tree clusters. To the north of the Site is the village proper of Muk Wu Nga Yiu zoned “Village Type Development”. To the southwest is a temporary warehouse for storage of food provisions covered with a valid planning permission under application No. A/NE-MKT/37. To the further east of the Site across Lin Ma Hang Road is a densely vegetated knoll zoned “Green Belt” (“GB”), which is a permitted burial ground for indigenous villagers.

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 bureau/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 IV and V** respectively.

9.2 The following government bureau supports the application:

Policy Support

9.2.1 Comments of the SDEV:

- (a) the application is to facilitate relocation of a business operation for storage in Yuen Long, which will be affected by the YLS NDA Second Phase Development;
- (b) according to the applicant, a site search has been conducted with a view to identifying suitable site for re-establishment of the business elsewhere to pave way for the clearance under the YLS NDA Second Phase Development, and the Site under the current application is the most suitable relocation site. The applicant also claims that the Site, which is larger than his current facility, is intended to support the business operation of the relocated business; and
- (c) in view of the above and subject to no adverse comments on land use compatibility and technical aspects from concerned departments, the application is supported from the policy perspective.

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

Land Administration

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

- (a) she objects to 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) the following irregularity covered by the application has been detected by her office:

Unauthorised structures within the said private lots covered by the application

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

- (d) the following irregularity not covered by the application has been detected by her office:

Unlawful occupation of GL not covered by the application

the GL adjoining the said private lots has been fenced off without permission. The GL being illegally occupied is not included in the application. Any occupation of GL without Government's prior approval is an offence under the Land (Miscellaneous Provisions) Ordinance (Cap. 28). Her office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;

- (e) the lot owners/applicant shall cease the illegal occupation of the GL not covered by the application immediately, and subject to the approval of the Board to the application which shall have reflected the rectification as aforesaid required, apply to her office for Short Term Waiver (STW) to permit the structure erected/to be erected. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of back-dated waiver fee from the first date the erection of authorised structures and administrative fee as considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owners/applicant for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future and land control action for any unlawful occupation of GL. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered;
- (f) unless and until unlawful occupation of GL is duly rectified by the lot owners/applicant, it should be taken as her office's objection to the application which must be brought to the attention of the Board when they consider the application; and
- (g) her other advisory comments are at **Appendix V**.

Agriculture

9.3.2 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 with some structures; 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.

Landscape

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

- (a) the Site is vacant with temporary structures. No sensitive landscape resources is observed within the Site. 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, the Site is located in an area of rural inland plains landscape character comprising of vegetated areas, clusters of tree groups, temporary structures and woodland within the “GB” zone to the east. There is concern that approval of application may alter the landscape character and degrade the landscape quality of the surrounding area.

10. Public Comments Received During Statutory Publication Period

On 13.8.2024, the application was published for public inspection. During the statutory public inspection period, six public comments were received (**Appendix VI**). Amongst them, five comments from the Indigenous Inhabitant Representative of Muk Wu, Kadoorie Farm and Botanic Garden and three individuals object to the application due to concerns on the potential environmental degradation in the area and road safety associated with the proposed use; being not in line with the planning intention of the “AGR” zone; and/or not complying with Town Planning Board Guidelines No. 13G. The remaining public comment from a member of the North District Council indicates no comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for storage of construction materials 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 the YLS NDA; and the Site is identified by the applicant as the most suitable relocation site and the increase in site area is intended to support the business operation, SDEV supports the application subject to no adverse comments on land use compatibility and technical aspects from concerned departments. 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 land filling of the entire Site with concrete by about 0.2m in depth for site formation purpose (**Drawing A-2**). 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 and Director of Environmental Protection have no objection to the application from the public drainage viewpoint and environmental perspective respectively. Should the application be approved, approval conditions requiring the applicant to submit a condition record of the existing drainage facilities and to reinstate the Site to an amenity area are recommended in paragraph 12.2 below.

- 11.3 The Site, being situated in an area of rural character, mainly comprising temporary domestic structures, open storage yards, active/fallow agricultural land, vegetated areas and tree clusters, is generally vacant with some temporary structures and covered with wild grass (**Plans A-2, A-3, A-4a and A-4b**). The proposed use is considered not entirely incompatible with the surrounding land uses. While CTP/UD&L, PlanD advises there is a concern that approval of the application may alter the landscape character and degrade the landscape quality of the surrounding area, there is no sensitive landscape resources observed within the Site and significant adverse impact arising from the proposed use is not anticipated.
- 11.4 The Site is abutting Lin Ma Hang Road to the southeast (**Plan A-2**). The Commissioner for Transport has no comment on the application from traffic engineering perspective. 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 and advisory clauses are recommended in paragraph 12.2 below and **Appendix V** respectively. Regarding the DLO/N, LandsD's concern on the unauthorised structures erected within the Site and the illegal occupation of GL, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 11.5 There were seven similar applications within the same "AGR" zone in vicinity of the Site in the past five years (**Plan A-1**). Whilst four of them were rejected by the Committee or the Board on review in 2023 mainly on grounds as detailed in paragraph 6 above, there were three similar applications (No. A/NE-MKT/34, 35 and 37) related to the relocation of brownfield operations affected by government projects which were approved with conditions by the Committee in 2024 and early January 2025 mainly for the reasons that the applications were to facilitate relocation of business operations affected 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 are similar to those of the approved similar applications. As such, approval of the current application is in line with the Committee's previous decisions.
- 11.6 Regarding the adverse public comments mentioned in paragraph 10, the government departments' comments and 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 public comments in paragraph 10 above, the Planning Department considers that the proposed 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 24.1.2028.

The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of a condition record of the existing drainage facilities within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 24.4.2025;
- (b) in relation to (a) above, the implemented drainage facilities 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 24.7.2025;
- (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 24.10.2025;
- (e) if the above planning condition (b) 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;
- (f) if any of the above planning condition (a), (c) or (d) 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
- (g) 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 V**.

- 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 6.8.2024
Appendix Ia	SPS
Appendix Ib	SI received on 7.8.2024
Appendix Ic	FI received on 12.9.2024
Appendix Id	FI received on 29.11.2024
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	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 and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2025**