

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/183

<u>Applicant</u>	: Mr YEUNG Sung Wing represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 52 S.A (Part), 52 S.B (Part), 245, 246, 250, 251, 252 (Part) and 255 (Part) in D.D. 37, Man Uk Pin, Sha Tau Kok, New Territories
<u>Site Area</u>	: About 6,453m ²
<u>Lease</u>	: (i) Block Government Lease (demised for agricultural use) (ii) Lot 252 in D.D. 37 is covered by Letter of Approval No. L1290 for purpose of erection of temporary structure for pigsty purpose
<u>Plan</u>	: Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) and Holiday Camp (Caravan) with Ancillary 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 place of recreation, sports or culture (hobby farm) and holiday camp (caravan) with ancillary facilities for a period of three years and associated filling of land at the application site (the Site) which falls within an area zoned “AGR” on the approved Man Uk Pin OZP (the OZP) (**Plan A-1**). According to the Notes of the OZP, ‘Hobby Farm’ is a Column 2 use within the “AGR” zone and temporary use of ‘Holiday Camp (Caravan)’ for a period of three years and filling of land within the “AGR” zone require permission from the Town Planning Board (the Board). The Site is mainly covered with vegetation while some temporary structures are found at the northern portion of the Site.
- 1.2 The proposal comprises the northern and southern portions of the Site (**Drawing A-1**). The northern portion will be used for hobby farm, ancillary office/storage facilities. 17 private car parking spaces and 1 loading/unloading space for light goods vehicle are also proposed in the northern portion. There will be two single-storey temporary structures of about 4m high and a total floor area of about 336m² for agricultural education centre/store room/meter room and site office/reception (**Drawing A-2**). The southern portion will have 4 caravans for accommodating not more than 16 campers and a hobby farm area. There will be two single-storey temporary structures of about 3m high and a total floor area of about 36m² for washroom/changing room. The southern portion of the Site will

set back 3m from the Man Uk Pin Ecologically Important Stream (EIS) (**Drawing A-1**). The total area of the farming area is about 3,947 m² (about 61% of the site area). Except for the overnight camping activities at the caravans and the ancillary washing rooms and changing rooms which are intended to operate 24 hours daily, other facilities will operate from 9 am to 10 pm daily. Each caravan could accommodate 4 campers. The maximum number of visitors (including campers and hobby farm users) is 30 per day, all visitors are required to make appointment and then purchase ticket for entrance. There will be 6 staff working at the Site. The Site is accessible via a local access road leading to Wo Keng Shan Road (**Plan A-1**). The proposed layout plan, landscape plan and filling of land plan submitted by the applicant is shown in **Drawings A-1 to A-3** respectively.

- 1.3 Associated filling of land with concrete is proposed within the Site for the purposes of site formation for temporary structures, car parking spaces, loading/unloading space and vehicular circulation respectively (**Drawing A-3**). The estimated land filling area is about 1,472m² (i.e. about 23% of the Site) with a depth not more than about 0.2m.
- 1.4 The proposed development will minimize the sewerage impact to the surrounding areas by adopting the septic tank for sewerage treatment.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 20.3.2023 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 24.3.2023 (**Appendix Ia**)
 - (c) Further Information (FI) received on 18.7.2023* (**Appendix Ib**)
 - (d) FI received on 21.8.2023* (**Appendix Ic**)
 - (e) FI received on 12.9.2023* (**Appendix Id**)
 - (f) FI received on 1.11.2023* (**Appendix Ie**)

**accepted and exempted from the publication and recounting requirements*

- 1.6 On 19.5.2023 and 11.9.2023, the Committee agreed to the applicant's requests to defer making a decision on the application for two months to allow more time for the applicant to address departmental comments respectively.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form, SI and FI at **Appendices I to Ie**, and as summarized below:

- (a) the proposed development will promote organic farming and local camping due to increased demand;
- (b) the proposed use is not incompatible with the surrounding areas, and significant adverse traffic, environmental and landscape and drainage impacts are not anticipated. It will not frustrated the long-term planning intention of the "AGR" zone;
- (c) filling of land is considered necessary as the concrete site formation may strengthen ground reinforcement, stabilize the existing soiled ground and prevent erosion from surface run-off. It will minimize the impact of compacting existing soil ground by vehicles and structures; and
- (d) the applicant will strictly follow the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Environmental

Protection Department (EPD) to minimize adverse environmental impacts and nuisance to the surrounding area and the Professional Persons Environmental Consultative Committee Practice Notes for sewerage treatment. No public announcement system or any form of audio amplification system will be used at the Site during the planning approval period.

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.31A) by posting site notice and sending notice to the Sha Tau Kok District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to any planning enforcement action.

5. Previous Application

Part of the Site is the subject of a previous application (No. A/NE-MUP/75) submitted by different applicant for proposed temporary open storage of new and second-hand vehicles for a period of three years. The application was rejected by the Committee on 7.12.2012 and is not relevant to the current application.

6. Similar Application

There is no similar application within the “AGR” zone on the Man Uk Pin OZP in the vicinity of the Site in the past five years.

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

7.1 The Site is:

- (a) fenced off, covered with vegetation at both northern and southern portions separated by Man Uk Pin EIS;
- (b) occupied by some temporary structures at the northern portion; and
- (c) accessible via local access road leading to Wo Keng Shan Road.

7.2 The surrounding areas are predominantly rural inland plains landscape character comprising of woodlands, tree clusters, farmlands, vegetated areas, temporary structures and village houses.

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 may cause adverse drainage and environmental impacts on the adjacent area, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government department as set out in paragraph 9.2 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 at in **Appendices III** and **IV** respectively.
- 9.2 The following government department has the following comments on the application.

Land Administration

- 9.2.1 Comments of the District Lands Office/North, Lands Department (DLO/N, LandsD):
- (a) 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;
 - (b) there is an unauthorized structure erected on the Lot no. 52 S.B in D.D. 37. The lot owner(s) should immediately rectify the lease breaches and her office reserves the rights to take necessary lease enforcement action against the breaches without separate notice;
 - (c) Lot no. 252 in D.D. 37 is covered by a Letter of Approval (LoA) No. L1290 for erection of temporary structure for pigsty purpose. Given the existing site situation do not tally with the approval one under the aforesaid LoA, her office reserves the rights to take enforcement action and cancel the LoA;
 - (d) as land filling works is proposed in the planning application, the applicant should comply with all the land filling requirements imposed by relevant Government departments, if any and in no event cause any disturbance to GL; and
 - (e) the lot owner(s) will need to apply to her office for a Short Term Waiver (STW) to permit the structures erected/to be erected on the Site. Besides, given that the proposed use is temporary in nature, only applications for regularization or erection of temporary structure(s) will be considered. The application will be considered by the LandsD acting in the capacity of the lessor at its sole discretion and there is no

guarantee that such application will be approved. If such application is approved, its commencement date would be the first date of the occupation and they will be subject to such terms and conditions, including among others the payment of fee and administrative fee, as may be imposed by the LandsD.

- 9.3 The following government department has relayed the following local views on the application.

District Officer's Comments

- 9.3.1 Comments of the ~~District Office/North, Lands Department (DLO/N, LandsD)~~ District Office (North), Home Affairs Department (DO(N), HAD):

- (a) he has consulted the locals regarding the application. The Resident Representative (RR) of Man Uk Pin objects to the application with no reason provided; and
- (b) other consultees, including the Chairman of Sha Tau Kok District Rural Committee, the incumbent North District Councilor of N16 Constituency, the Chairman of Lung Shan Area Committee and the Indigenous Inhabitant Representative (IIR) of Man Uk Pin, have no comment.

10. Public Comments Received During Statutory Publication Period

On 28.3.2023, the application was published for public inspection. During the statutory public inspection period, four public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. One individual and the Conservancy Association object to the application on the grounds that the proposed development is not in line with the planning intension of "AGR" zone; adverse drainage, sewerage and environmental impacts on the surrounding areas; the Site has good potential for rehabilitation for agricultural purposes; and insufficient of information on the operation details. The Kadoorie Farm & Botanic Garden Corporation raises concerns on whether the area of the proposed filling of land is too excessive; and the treatment of potential sewerage generated by the proposed development as to prevent sewerage impact on the watercourse in the vicinity.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary place of recreation, sports or culture (hobby farm) and holiday camp (caravan) with ancillary facilities for a period of three years at the Site zoned "AGR". According to the submission, about 3,947m² (about 61% of the site area) will be used for cultivation and farm area and the remaining area of about 2,506m² (about 39% of the site area) will be used for caravan camping and other ancillary uses including agricultural education centre/store room/meter room, site office/reception, car parking spaces and loading/unloading space, and washing room/changing room. The proposed development is considered generally 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 has no strong view against the application from agricultural point of view. Taking into account this and the assessments below, approval of the application on a temporary basis for a period of three years could be tolerated.

- 11.2 Filling of land within the “AGR” zone requires planning permission as it may cause adverse drainage and environmental impacts on the adjacent area. The applicant indicates that the filling of land area involving about 1,472m² (about 23% of the site area) is necessary for strengthening the existing soiled ground for erection of ancillary temporary structures, circulation space and carpark. In this regard, CE/MN of DSD and DEP have no objection to the application from drainage and environmental perspective. An approval condition requiring reinstatement of the Site to an amenity area is recommended, should the Committee decide to approve the application.
- 11.3 Noting that the southern portion of the Site is in close vicinity to the natural stream to the immediate north and west which is the upstream of the Man Uk Pin Ecologically Important Stream (**Plan A-2**), the applicant proposes to have the southern portion of the Site set back from 3m from the stream. Furthermore, fencings and sandbags will be placed along the stream to avoid disturbance during the planning approval period (**Appendices Ib to Ie**). In this regard, DAFC has no adverse comment from nature conservation perspective. CTP/UD&L of PlanD has no objection as significant landscape impact arising from the proposed development is not anticipated.
- 11.4 Having review the FI, C for T has no comment on the application from the traffic engineering perspective and considers that the traffic impact induced by the temporary development tolerable. DEP advises the applicant to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by DEP to minimize the possible environmental impacts on the surrounding areas. Other relevant departments consulted, including D of FS, CE/C of WSD and CO (LA), HAD etc. have no adverse comment on/no objection to the application.
- 11.5 While DLO/N of LandsD has concerns on the application for reasons of the presence of unauthorized structure, land filling and different land use from the LoA within the Site, which are subject to lease enforcement actions, the applicant indicates that he would liaise with LandsD to rectify/regularize the matters and settle the land issues separately after the planning permission is granted (**Appendix Ib**).
- 11.6 Regarding the public comments on the application as detailed in paragraph 10 above, 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 taking into account the public comments in paragraph 10 above, the Planning Department considers that the proposed 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 10.11.2026. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) no public announcement system or any form of audio amplification system is allowed to be used on the Site, as proposed by the applicant, during the planning approval period;

- (b) 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 10.5.2024;
- (c) in relation to (b) above, the implementation of the drainage proposal 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 10.8.2024;
- (d) in relation to (c) above, the implementation drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) 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 10.5.2024;
- (f) in relation to (e) 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 10.8.2024;
- (g) if the above planning condition (a) or (d) 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 (b), (c), (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
- (i) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfactory of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason is suggested for Members' reference:

the proposed development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

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 20.3.2023
Appendix Ia	SI received on 24.3.2023
Appendix Ib	FI received on 18.7.2023
Appendix Ic	FI received on 21.8.2023
Appendix Id	FI received on 12.9.2023
Appendix Ie	FI received on 1.11.2023
Appendix II	Previous Application
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Landscape Plan
Drawing A-3	Proposed Filling of Land Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2023**