

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/207

<u>Applicant</u>	:	澳達物業有限公司 represented by M&D Planning and Construction Consultant Limited
<u>Site</u>	:	Lot 189 RP (Part) in D.D. 38, Sha Tau Kok, New Territories
<u>Site Area</u>	:	About 1,859.12m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<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 Open Storage of Construction Materials 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 proposed temporary open storage of construction materials 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 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 fenced-off and largely vacant, and is hard-paved without planning permission.
- 1.2 According to the applicant, the planning application is to facilitate the relocation of their business operation in Ho Sheung Heung being affected by government project, i.e. Kwu Tung North/ Fanling North New Development Area (KTN/FLN NDA) development. The affected operation involves a site area of about 1,393.54m² and a floor area of about 420m², and was used for the same use as the current application. The land resumption has already been taken place and the applicant plans to relocate his operation to the Site in 2025.
- 1.3 The Site is accessible via Sha Tau Kok Road – Wo Hang (**Plan A-1**). According to the applicant, the proposed use involves a total floor area of about 465.46m² which comprises (i) an open-sided shelter with a height of about 7m; (ii) five single-storey container structures for storage, each with a height of about 2.59m, locating under the open-sided shelter; and (iii) a two-storey structure for office and ancillary facilities with a height of about 5.18m. The remaining area will be used for open storage (including electric cable,

pipes and electrical installations), loading/ unloading (L/UL), a medium goods vehicle parking space/ L/UL space and circulation area. The applicant also applies for regularisation of filling of land for the entire Site by concrete with about 0.2 m in depth to prevent soil loss caused by the weight of the proposed structures and vehicles, as well as to minimize the spread of dust. The applicant undertakes to reinstate the Site upon expiry of the planning permission. The proposed operation hours are between 9 a.m. and 6 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The proposed layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.4 According to the applicant, sufficient vehicle waiting/ manoeuvring space will be provided at the Site such that no waiting or queuing of vehicle outside the Site is anticipated. To ensure pedestrian's safety, staff will be deployed to manage the traffic entering and leaving the Site, and warning signs will be erected. A septic tank and soakaway system will be installed to treat the sewage generated from the staff washroom. The existing tree (*Musa sp.*) at the southwestern part of Site will be preserved (**Plan A-2**) with 1.2m buffer area.
- 1.5 The Site is the subject of two previous applications (No. A/NE-MUP/7 and 9) for temporary lorry and/or container trailer/tractor park which were rejected by the Rural and New Town Planning Committee (the Committee) of the Board and approved by the Board on review in 1995 and 1996 respectively. Details of the previous applications are at paragraph 5 below.
- 1.6 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 13.8.2024 (**Appendix I**)
 - (b) Supplementary Information received on 19.8.2024 (**Appendix Ia**)
 - (c) Further Information received on 11.9.2024 and 16.9.2024* (**Appendix Ib**)
 - (d) Further Information received on 19.9.2024* (**Appendix Ic**)

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

2. Justifications from the Applicant

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

- (a) the application is submitted to facilitate the relocation of the applicant's business for open storage use which has been operating in Ho Sheung Heung since the 2000s, and is affected by the KTN/FLN NDA. The land resumption has already been taken place and the applicant plans to relocate his operation to the Site in 2025;
- (b) the site area and the floor area of the proposed use (about 1,859.12m² and about 465.46m² respectively) are larger than those of the affected operation (a site area of about 1,393.54m² and a floor area of about 420m²). The additional site area is necessary for provision of the proposed mitigation measures, including the provision of vehicle waiting/ manoeuvring space and implementation of a drainage system. Furthermore, due to a recent service agreement with CLP Power Hong Kong Limited for cable laying and emergency maintenance works in the New Territories, additional storage space is required to meet the applicant's operational need;
- (c) while the applicant has spent efforts in identifying a number of alternative sites in Yuen Long and Fu Tei Au for relocation, those sites were considered not suitable due to high

rental cost or short tenancy term which may lead to further relocation in the future. The Site is considered suitable mainly in view of its suitable location and size and affordable rent.

- (d) the proposed use is compatible with the surrounding area with warehouse and open storage uses. No adverse traffic, environmental, visual or drainage impacts arising from the proposed use are anticipated; and
- (e) there is an approved application (No. A/NE-MUP/194) for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities for a period of three years and associated filling of land in the vicinity of the Site (**Plans A-1 and A-2**). The approval of the subject application will not set an undesirable precedent.

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

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

5. Town Planning Board Guideline

The Town Planning Board Guidelines No. 13G for Application for Open Storage and Port Back-up Uses under section 16 of the Town Planning Ordinance (TPB PG-No 13G) promulgated by the Board on 14.4.2023 is relevant to the application. The Site falls within Category 2 areas under TPB PG-No. 13G. Relevant extracts of the Guidelines are attached at **Appendix II**.

6. Previous Applications

- 6.1 The Site is the subject of two previous applications (No. A/NE-MUP/7 and 9) submitted by a different applicant for temporary lorry and/or container trailer/tractor park, which were rejected by the Committee on 9.6.1995 and approved by the Board on review on 19.1.1996 respectively. In view of the different use, the previous applications are considered not relevant to the current application.
- 6.2 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

7. Similar Application

- 7.1 There was a similar application (No. A/NE-MUP/192) for proposed temporary open storage of planters and landscaping materials and site office for a period of three years falling within another “AGR” zone in the vicinity of the Site in the past five years. The application was approved with conditions by the Committee on 22.12.2023 mainly on considerations that the application site fell within the Category 2 areas and generally complied with TPB PG-No. 13G in that there was no adverse departmental comment or

their concerns could be addressed by relevant approval conditions; and the proposed use was not incompatible with the surrounding areas.

- 7.2 Details of the similar application are summarised at **Appendix IV** and its location is shown on **Plan A-1**.

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

- 8.1 The Site is:

- (a) fenced-off, largely vacant and hard-paved; and
- (b) accessible via Sha Tau Kok Road – Wo Hang.

- 8.2 The surrounding areas are of rural character mainly comprising temporary structures, residential structures, plant nursery, open storage yard, car repairing workshop, a pond and fallow agricultural land. A similar application (No. A/NE-MUP/194) for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities for a period of three years and associated filling of land approved by the Committee in 2024 is located to the further northeast.

9. Planning Intention

- 9.1 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.
- 9.2 According to the Explanatory Statement of the OZP, permission from the Board is required for filling of land within the “AGR” zone, as the activity may cause adverse drainage and environmental impacts on the adjacent areas.

10. Comments from Relevant Government Bureau/ Departments

- 10.1 Apart from the government bureau/departments as set out in paragraphs 10.2 and 10.3 below, other 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 V** and **VI** respectively.

- 10.2 The following government bureau supports the application:

Policy Support

- 10.2.1 Comments of the Secretary for Development (SDEV):

- (a) on the understanding that there is no adverse comment from technical departments, and that the Site is not subject to any unauthorised development, she has the following comments on the application:

- (i) the current application is submitted by 澳達物業有限公司 representing 旭泰建築工程有限公司, who is a business operator whose operation will be displaced by the government-led KTN NDA. The applicant seeks planning permission for a temporary open storage for a period of three years to facilitate relocation of the aforementioned affected operation;
- (ii) according to the applicant, he has undergone a site search process and the Site, with comparable size to the affected operation in KTN NDA, is considered suitable for the relocation. The proposed use is compatible with the surrounding land uses, and will not result in any adverse traffic, drainage, fire safety, landscape and environmental impact; and
- (iii) the land freed up by the displaced operation will, together with other cleared land, be redeveloped into the KLN NDA capable of providing about 49,900 housing units by phases. Facilitating the relocation of affected brownfield operations is crucial to the smooth clearance for and implementation of the NDA project. From the perspective of ensuring the 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 the policy perspective.

10.3 The following government departments do not support/ have comments on the application:

Agriculture

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

the Site falls within the “AGR” zone and is generally vacant. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the proposed use is not supported from an agricultural perspective.

Landscape

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

- (a) according to a recent site inspection, the Site is hard paved with few plants, *Musa sp.* found to the southwest within the Site. Comparing the aerial photos taken on 22.2.2023 and site record taken on 28.8.2024, vegetation clearance within the Site is observed.
- (b) the applicant claimed to preserve the identified plants, *Musa sp.* at the Site. Given that vegetation clearance within the Site has been taken place, further significant adverse impact on the existing landscape resources within the Site arising from the proposed use is not anticipated; and

- (c) with reference to the aerial photos taken in 2023, the Site is located in an area of rural inland plain landscape character comprising farmlands, ponds, vegetated areas, tree clusters and woodlands to the further west and north where the “Green Belt” zones locate. There is a concern that approval of the application may further alter the rural landscape character and degrade the landscape quality of the “AGR” zone.

Environmental

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

- (a) according to the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP), the application should not be supported as there are residential structures in the vicinity of the Site (the nearest about 30m to the west of the Site) (**Plan A-2**) and the use of heavy vehicles is involved;
- (b) no comment on the filling of land from environmental planning perspective;
- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the COP to minimize any potential environmental nuisances; and
- (d) no environmental complaint against the Site has been received over the past three years.

11. Public Comments Received During Statutory Publication Period

On 23.8.2024, the application was published for public inspection. During the statutory public inspection period, four comments were received (**Appendix VII**). The Chairman of the Lung Shan Area Committee indicates no comment on the application. Kadoorie Farm and Botanic Garden provides views that the Board should take into account any enforcement case covering the Site. Two individuals object to the application mainly on the grounds that the proposed use is not compatible with the surrounding agricultural use; there are potential adverse environmental and traffic impacts; and vegetation clearance with land filling is observed at the Site.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary open storage of construction materials with ancillary facilities for a period of three years and associated filling of land within the “AGR” zone on the OZP (**Plan A-1**). 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 the agricultural perspective as the Site possess potential for agricultural rehabilitation. According to the applicant, the application is to facilitate the relocation of their business operation in Ho Sheung Heung affected by KTN/ FLN NDA development. SDEV advises that for 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 the policy perspective. Taking into account the planning assessments below and the policy support rendered by SDEV, sympathetic consideration could be given to the proposed use on a temporary basis of three years.

- 12.2 The application involves regularisation of filling of land for the entire Site by concrete with about 0.2 m in depth. 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 (CE/MN of DSD) has no in-principle objection to the application from the public drainage viewpoint, while DEP has no comment on the filling of land from the environmental planning perspective.
- 12.3 The Site abuts Sha Tau Kok Road – Wo Hang and is situated in an area of rural character mainly comprising temporary structures, residential structures, plant nursery, open storage yard, car repairing workshop, a pond and fallow agricultural land (**Plans A-2 and A-3**). To the northeast is the site of an approved application (No. A/NE-MUP/194) involving temporary warehouse use (**Plan A-2**). The proposed temporary use is considered not entirely incompatible with the surrounding areas. While CTP/UD&L, PlanD has concern that approval of the application may further alter the rural landscape character and degrade the landscape quality of the “AGR” zone, she considers that further significant adverse impact on the existing landscape resources within the Site arising from the proposed use is not anticipated. Furthermore, the applicant also undertakes to preserve the existing tree (*Musa sp.*) within the Site and to reinstate the Site upon expiry of the planning permission. An approval condition requiring the reinstatement of the Site to an amenity area is recommended in paragraph 13.2 below.
- 12.4 The Site falls within the Category 2 areas under the TPB PG-No. 13G. The following considerations in the Guidelines are relevant:
- Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate or if required, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.
- 12.5 The application generally complies with the TPB PG-No. 13G in that relevant departments consulted, including the Commissioner for Transport, CE/MN of DSD, Chief Engineer/Construction of Water Supplies Department and the Director of Fire Services, have no objection to or no adverse comment on the application. DEP does not support the application as the proposed use involves the use of heavy vehicles and environmental nuisance to the sensitive receivers (i.e. residential structures) in the vicinity of the Site is expected. In this regard, it is noted that the vehicular access to the Site will not pass through residential structures. The applicant will be advised to follow the environmental mitigation measures set out in the COP to minimise the possible environmental impact on the surrounding areas in the Recommended Advisory Clauses at **Appendix VI**.
- 12.6 There was a similar application (No. A/NE-MUP/192) for proposed temporary open storage of planters and landscaping materials and site office for a period of three years falling within another “AGR” zone in the vicinity of the Site. The application was approved with conditions by the Committee on 22.12.2023 mainly on the considerations that the application site fell within the Category 2 areas and generally complied with TPB

PG-No. 13G in that there was no adverse departmental comment or their concerns could be addressed by relevant approval conditions; and the proposed use was not incompatible with the surrounding areas. The planning circumstances of the current application are similar to those of the approved application. As such, approval of the current application is in line with the Committee's previous decision.

- 12.7 Regarding the public comments as detailed in paragraph 11, government departments' comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11 above, the Planning Department considers that the proposed use could be tolerated for a period of three years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 4.10.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) 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 4.4.2025;
- (b) in relation to (a) above, the provision of drainage facilities within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.7.2025;
- (c) in relation to (b) above, the implemented drainage facilities at the Site shall be maintained at all times during the planning approval period;
- (d) the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 15.11.2024;
- (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 4.4.2025;
- (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 4.7.2025;
- (g) 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 4.7.2025;
- (h) if the above planning condition (c) 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), (f) or (g) 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 at **Appendix VI**.

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

the proposed use 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form with Attachment received on 13.8.2024
Appendix Ia	Supplementary Information received on 19.8.2024
Appendix Ib	Further Information received on 11.9.2024 and 16.9.2024
Appendix Ic	Further Information received on 19.9.2024
Appendix II	Relevant Extracts of TPB PG-No. 13G
Appendix III	Previous Applications
Appendix IV	Similar Application
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comments

Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2024**