

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/208

- Applicant** : Mr. TSOI Chuen Pan represented by Mr. PANG Hing Yeun
- Site** : Lots 758 S.B RP (Part) and 767 S.B in D.D. 46 and Adjoining Government Land (GL), Loi Tung, Sha Tau Kok, New Territories
- Site Area** : About 936.7m² (Includes about 50.08m² of GL, or about 5% of the Site)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Warehouse for Storage of Construction Materials for a Period of Three Years

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 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 within the “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is fenced-off, hard-paved and occupied by vacant temporary structures.
- 1.2 The Site is accessible via Sha Tau Kok Road – Wo Hang (**Plan A-2**). According to the applicant, the proposed use involves a single-storey warehouse (about 7m in height) for storage of construction materials (including metal frames, wooden boards, plastic pipes and tiles) and a two-storey site office (about 6m in height) with a total floor area of about 443.65m². Parking spaces for two private car and two light goods vehicles (LGV) with a weight of not more than 3.3 tonnes will be provided. The operation hours are between 10:00 a.m. and 4:30 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**.
- 1.3 According to the applicant, prior notification is required for vehicles entering the Site to ensure the availability of parking space, and adequate space for vehicle manoeuvring will be provided at the Site. Signages will be installed to remind that illegal parking and vehicles waiting outside the Site are prohibited. To ensure pedestrian safety, staff will be deployed to manage the traffic entering and leaving the Site, and warning signs and alarms

will be installed at the entrance.

1.4 The Site is the subject of four previous applications (No. A/NE-MUP/11, 36, 44 and 63) for temporary open storage use, which were rejected on review by the Board between 1996 and 2011. Appeals against the decision of the Board on applications No. A/NE-MUP/11, 44 and 63 were also dismissed by the Town Planning Appeal Board (TPAB) between 1999 and 2013. Details of the previous applications are set out in paragraph 5 below.

1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with attachments received on 23.10.2024 (Appendix I)
- (b) Supplementary Information (SI) received on 29.10.2024 (Appendix Ia)
- (c) Further Information (FI) received on 1.12.2024* (Appendix Ib)

** accepted and exempted from 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 Ib**, as summarised below:

- (a) the Site is located within an area designated for port back-up use to address the demand for open storage and port back up uses. The Site is suitable for warehouse use;
- (b) many existing open storage yards are resumed by the Government to facilitate the developments of the Northern Metropolis. The Government should provide more land for open storage or warehouse uses; and
- (c) the proposed use involves storage of construction materials of smaller sizes. Land uses nearby the Sites include drainage channel, vacant land and open storage yards with the nearest residential dwelling from the Site separated by Sha Tau Kok Road. No felling of trees or filling of land would be required. No adverse environmental and sewerage impacts are anticipated.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection. For the GL within the Site, the requirements as set out in the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) are not applicable.

4. Background

The Site was subject to planning enforcement action against unauthorized development (UD) involving storage use (No. E/NE-MUP/105). An Enforcement Notice was issued on 31.7.2019 (**Plan A-2**). Subsequent site inspection revealed that the UD was discontinued.

5. Previous Applications

- 5.1 The Site is the subject of four previous applications (No. A/NE-MUP/11, 36, 44 and 63¹) for temporary open storage use for a period of one or three years. All applications were rejected by the Board on review between 1996 and 2011 mainly on the grounds that the proposed use was not in line with the planning intention of the “AGR” zone; not compatible with the surrounding areas; and did not comply with the then Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) (for No. A/NE-MUP/63 only). The applicants of A/NE-MUP/11, 44 and 63 lodged appeals to the Board’s decisions, which were subsequently dismissed by the TPAB on 18.6.1999, 21.9.2004 and 9.12.2013 respectively. In view of the different use, the previous applications are considered not relevant to the current application.
- 5.2 Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Application

- 6.1 There was one similar application (No. A/NE-MUP/194) for proposed temporary warehouse for a period of three years within the same “AGR” zone in the vicinity of the Site in the past five years. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 16.2.2024 mainly on the considerations that the applied use was not entirely incompatible with the surrounding areas; and there was no adverse departmental comment or their concerns could be addressed by relevant approval conditions.
- 6.2 Details of the similar application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

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

- 7.1 The Site is:
- (a) fenced-off, hard-paved and occupied by vacant temporary structures; and
 - (b) accessible via Sha Tau Kok Road – Wo Hang.
- 7.2 The surrounding areas are of rural character comprising mainly temporary structures, plant nurseries, car repair workshop, residential dwellings, active/ fallow agricultural land and parking of vehicles. Ng Tung River is located to the north of the Site.

8. Planning Intention

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.

¹ Application No. A/NE-MUP/11 was submitted by Thai & Metal Trading Co., application Nos. A/NE-MUP/36 and 44 each were submitted by both Thai & Metal Trading Co. and the current applicant, and application No. A/NE-MUP/63 was submitted by the current applicant.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government departments as set out in paragraph 9.2 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 IV** and **V** respectively.
- 9.2 The following government departments have adverse comment on/ do not support the application:

Land Administration

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

- (a) has adverse comment 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 GL is granted to the Site;
- (c) the Site is already being used for the uses under the application;
- (d) the following irregularities covered by the subject planning application have been detected by her office:

unauthorised structures within the said private lots covered by the planning application

LandsD has reservation on the planning application since there are unauthorised structures on the private lots which are already subject to lease enforcement actions according to case priority. The lot owner should rectify the lease breaches as demanded by LandsD;

unlawful occupation of GL adjoining the said private lots covered by the planning application

the GL within the Site (about 50.08m² as mentioned in the Application Form) has been fenced off without any permission. Any occupation of GL without Government's prior approval is an offence under Cap. 28. Her office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice; and

- (e) if the planning application is approved, the lot owner shall apply to her office for Short Term Waiver (STW) and Short Term Tenancy (STT) to permit the structures erected/to be erected and occupation of GL. The application for STW/STT will be considered by LandsD in its capacity as landlord and there is no guarantee that it will be approved. The STW/STT, if approved, will be on whole lot basis and subject to such terms and conditions including the payment of back-dated waiver fee/rent from the

first date of when the unauthorised structures were erected and the GL was occupied as well as administrative fee as considered appropriate by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owner 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.

Agriculture and Nature Conservation

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

Agricultural perspective

- (a) the Site falls within the “AGR” zone and is generally vacant with some structures. 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 agricultural perspective; and

Nature conservation perspective

- (b) no comment on the application from nature conservation perspective.

10. Public Comments Received During Statutory Publication Period

On 5.11.2024, the application was published for public inspection. During the statutory public inspection period, five comments were received (**Appendix VI**). Two comments from Kadoorie Farm & Botanic Garden Corporation (KFBG) and an individual object to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; storage use near watercourse is undesirable; and no information on the tree to be felled. KFBG also provides views that the Board should consider whether the rejection reasons of the previous applications are applicable to the current application. One comment from an individual advises that there is a lack of vehicular access and carpark. Two comments from a member of the North District Council and the Chairman of the Lung Shan Area Committee indicate 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 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 the agricultural perspective as the Site possess potential for agricultural rehabilitation. Nonetheless, taking into account the planning assessments below, the proposed use on a temporary basis of three years could be tolerated.

- 11.2 The surrounding areas are of rural character comprising mainly temporary structures, plant nurseries, car repair workshop, residential dwellings, active/ fallow agricultural land and parking of vehicles. The Chief Town Planning/Urban Design & Landscape of Planning Department has no adverse comment on the application from the landscape planning perspective and advises that significant adverse impact on the existing landscape resources within the Site arising from the proposed use is not anticipated.
- 11.3 According to the applicant, the proposed use involves the storage of construction materials of smaller sizes. The Site is accessible to Sha Tau Kok Road – Wo Hang and is sandwiched between the road and Ng Tung River. The Commission for Transport has no comment on the application from traffic engineering perspective, and advises to impose approval conditions on the implementation and maintenance of the proposed traffic management measures as stated in paragraph 12.2 below in view of the context of the Site including its location, existing adjacent developments, traffic conditions etc. Regarding the Ng Tung River to the North of the Site, DAFC has no comment on the application from nature conservation perspective. Other government departments consulted, including the Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services and Chief Highway Engineer/New Territories East of Highways Department have no objection to or no adverse comment on the application. Regarding 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.
- 11.4 There was one similar application (No. A/NE-MUP/194) for temporary warehouse for a period of three years falling within the same "AGR" zone in the vicinity of the Site. The application was approved with conditions by the Committee on 16.2.2024 mainly on the considerations as detailed in paragraph 6.1 above. 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.
- 11.5 Regarding the public comments 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 having taken 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 20.12.2027. 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 20.6.2025;

- (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 20.9.2025;
- (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 20.6.2025;
- (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 20.9.2025;
- (f) 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 20.9.2025;
- (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 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 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.

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 with Attachments received on 23.10.2024
Appendix Ia	SI received on 29.10.2024
Appendix Ib	FI received on 1.12.2024
Appendix II	Previous Applications
Appendix III	Similar Application
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Layout Plan
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
DECEMBER 2024**