

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-TKLN/79**

<b><u>Applicant</u></b>	: Kin Hing Timber Engineering Limited represented by Ying Shing (Hopewell) Engineering Ltd.
<b><u>Site</u></b>	: Lots 499, 500 RP, 501 S.A RP, 501 S.A ss.1 <sup>1</sup> , 501 S.B, 501 S.C, 501 S.D, 501 S.E, 517 RP and 517 S.A in D.D. 80, Ta Kwu Ling North, New Territories
<b><u>Site Area</u></b>	: About 5,377m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2
<b><u>Zoning</u></b>	: “Recreation” (“REC”)
<b><u>Application</u></b>	: Proposed Temporary Warehouse for Storage of Construction Material for a Period of Three Years and Associated Filling of Pond

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a proposed temporary warehouse for storage of construction material for a period of three years with associated filling of pond at the application site (the Site) which falls within an area zoned “REC” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years and filling of pond within the “REC” zone require planning permission from the Town Planning Board (the Board). The Site is currently formed and vacant.
- 1.2 According to the applicant, the application is submitted to facilitate the relocation of his current operation at Ma Tso Lung which is affected by government project, i.e. the Kwu Tung North New Development Area (KTN NDA). It is anticipated that land resumption for the operation will take place by July 2024.
- 1.3 The Site is accessible from its south via adjacent brownfield operations leading to Lin Ma Hang Road (**Plan A-1**). According to the applicant, the proposed use comprises two single-storey structures (building height of not more than 7m) with a total floor area of about 2,222m<sup>2</sup> for warehouses use. The proposed warehouse is intended for storage of construction materials mainly imported from Mainland China. Two private car parking spaces and two loading/unloading (L/UL) bays for medium goods vehicle will be

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<sup>1</sup> Lot 501 S.A RP in D.D. 80 has been sub-divided into Lot 501 S.A RP and Lot 501 S.A ss.1.

provided at the Site. The proposed use also involves filling of two ponds with a total area of about 38m<sup>2</sup> with a depth of about 0.5m. The operation hours are from 9:00 a.m. to 6:00 p.m. from Mondays to Fridays. There would be no operation on Saturdays, Sundays and public holidays. The proposed layout plan submitted by the applicant is shown in **Drawing A-1**.

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

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|-----|---|----------------------|
| (a) | Application Form with attachments received on 10.1.2024 | <b>(Appendix I)</b>  |
| (b) | Supplementary Information (SI) received on 17.1.2024    | <b>(Appendix Ia)</b> |
| (c) | Further Information (FI) received on 4.3.2024*          | <b>(Appendix Ib)</b> |
| (d) | FI received on 8.4.2024*                                | <b>(Appendix Ic)</b> |
| (e) | FI received on 17.4.2024^                               | <b>(Appendix Id)</b> |
| (f) | FI received on 28.5.2024^                               | <b>(Appendix Ie)</b> |
| (g) | FI received on 24.6.2024^                               | <b>(Appendix If)</b> |
| (h) | FI received on 9.7.2024^                                | <b>(Appendix Ig)</b> |

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

*\* accepted but not exempted from the publication and the recounting requirements*

1.5 On 1.3.2024 and 24.5.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer making a decision on the application for two months.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed at **Appendices I** and **Id** as summarized below:

- (a) the application is submitted to facilitate the relocation of the applicant's operation for timber and construction business for 28 years in Ma Tso Lung which is affected by the KTN NDA. The affected site, with an area of about 5,514m<sup>2</sup>, will be resumed by the Government by July 2024 and there is an imminent need for the applicant to secure a relocation site to continue the affected operation;
- (b) the applicant has spent effort in identifying suitable sites for relocation of his operation affected by the government development. While the applicant has identified three alternative sites in Ta Kwu Ling North and Man Kam To area, those sites were considered not suitable due to various issues such as insufficient site area, operational requirement and technical constraints. The Site is considered suitable for the relocation due to its location and sufficient size;
- (c) the Site is located near the Heung Yuen Wai Boundary Control Point and within the Boundary Commerce and Industry Zone under the Northern Metropolis Action Agenda 2023. The proposed temporary warehouse for storage of construction materials will be able to support major developments in the area;
- (d) the Site is located in a very remote area and it is difficult to develop the Site for recreation use. Temporary approval would not frustrate the long-term planning intention. The proposed temporary warehouse could better utilize valuable land resources;

- (e) the proposed use is considered not incompatible with the surrounding areas. No adverse traffic, drainage, landscape and environmental impacts arising from the proposed use are anticipated. Consent from lot owners for the access between Lin Ma Hang Road and the Site has been obtained; and
- (f) there are no ponds in existence at the Site at the time of the submission of the application, hence no filling of ponds will be involved for the proposed use.

### **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 publishing notices in local newspapers and sending notice to the Sha Tau Kok District Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

- 4.1 The Site is part of the subject of an active enforcement case regarding unauthorized storage use (including deposit of containers) (No. E/NE-TKLN/73) with Enforcement Notice (EN) issued on 5.10.2022 (**Plans A-1 and A-2**). According to recent site inspections, the enforcement site was partially vacant at its east. Compliance Notice was issued to the registered owners of Lots 499, 500 RP, 501 S.A RP, 501S.B and 501 S.A ss.1 in D.D. 80 on 3.7.2024. As the unauthorized development (UD) in the remaining western portion of the enforcement site outside the Site has not been discontinued, prosecution action is being taken.
- 4.2 There are also some other active enforcement cases (No. E/NE-TKLN/66, 67, 68 and 76) involving unauthorized storage use near the Site (**Plans A-1 and A-2**).
- 4.3 The Site and its surrounding areas were largely vegetated around the time of the gazette of the draft Ta Kwu Ling North Development Permission Area (DPA) Plan No. DPA/NE-TKLN/1 on 30.7.2010 (**Plan A-3b**). Vegetation clearance at the Site was observed since 2020 (**Plan A-3d**).

### **5. Previous Application**

There is no previous application at the Site.

### **6. Similar Applications**

- 6.1 There were two similar applications (No. A/NE-TKLN/29 and 31) for proposed temporary warehouse and open storage of containers; and temporary logistics warehouse falling within the same “REC” zone in the vicinity of the Site in Ta Kwu Ling North area in the past five years. The applications were rejected by the Committee on 17.1.2020 and 6.3.2020 respectively mainly on the grounds of not in line with the planning intention of the “REC” zone; and the applicant failed to demonstrate that the proposed use would not generate adverse traffic and/or drainage impacts on the surrounding areas.

- 6.2 Details of the similar applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

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

- 7.1 The Site is:
- (a) formed and vacant; and
  - (b) accessible from Lin Ma Hang Road via adjacent brownfield operations<sup>2</sup> to its west.
- 7.2 The Site is located in an area of rural character comprising vacant land, temporary structures, and tree clusters. Brownfield operations that are subject to enforcement actions are found at its west (**Plan A-1**). The area to further south across Lin Ma Hang Road in less than 100m is a large piece of woodland zoned “Green Belt” (“GB”). To the north of the Site is Shenzhen River with residential developments on the opposite side of the river in Shenzhen.
- 7.3 While the application involves proposed filling of ponds, as clarified by the applicant (**Appendix Id**) and shown on aerial photo (**Plan A-3a**), no pond is currently found in the Site.

## **8. Planning Intention**

- 8.1 The planning intention of the “REC” zone is primarily for low-density recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the low-density recreational developments may be permitted subject to planning permission.
- 8.2 According to the Explanatory Statement of the OZP, as filling of pond may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities in the “REC” zone.

## **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 III** and **IV** respectively.
- 9.2 The following government departments have the following comments on the application:

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<sup>2</sup> According to the applicant’s submission, the proposed access road passes through the adjacent brownfield operations, which are subject to enforcement cases No. E/NE-TKLN/66 and 68 regarding unauthorized storage use. Their locations and the access road are shown on **Plan A-1**.

## **Landscape**

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

- (a) comparing the aerial photo of March 2022 (**Plan A-3e**) and site photos taken on 5.2.2024 (**Plans A-4a** and **A-4b**), the Site is currently vacant and vegetation clearance within the Site is observed. Adverse landscape impact on existing landscape resources has taken place; and
- (b) with reference to the aerial photo of 2022 (**Plan A-3e**), the Site is located in an area of uplands and hillsides landscape character comprising woodland at the south within the “GB” zone, tree clusters, vegetated areas and temporary structures at the west which are constructed between 2015 (**Plan A-3c**) and 2022 (**Plan A-3e**). There is a concern that approval of the application may further alter the landscape character and degrade the landscape quality of the “REC” zone.

## **Environment**

### 9.2.2 Comments of the Director of Environmental Protection (DEP):

- (a) does not support the application from environmental perspective as there are residential development in the vicinity of the Site (the nearest to the north) (**Plan A-4a**) and use of heavy vehicles is involved;
- (b) no environmental complaint against the Site has been received over the past three years.

## **10. Public Comments Received During Statutory Publication Periods (Appendix V)**

On 19.1.2024, 12.3.2024 and 19.4.2024, the application was published for public inspections. During the statutory public inspection periods, seven comments were received, including three comments from a member of North District Council (NDC) indicating no comment on the application; two comments from the Kadoorie Farm and Botanic Garden recommending the Board to consider whether the application is in line with the planning intention and would cause any adverse impacts, and take into account any enforcement case covering the Site; and two comments from an individual objecting to the application mainly on the grounds of adverse landscape, drainage, and sewerage impacts.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for a proposed temporary warehouse for storage of construction material for a period of three years with associated filling of pond at the Site which falls within an area zoned “REC” on the OZP (**Plan A-1**). The proposed temporary use is not in line with the planning intention of the “REC” zone, which is primarily for low-density recreational developments for the use of the general public. There are no strong justifications in the submission for a departure from the planning intention of the “REC” zone, even on a temporary basis.

- 11.2 Comparing the previous and recent aerial photos, the Site was largely vegetated around the time of the gazette of the draft Ta Kwu Ling North DPA Plan No. DPA/NE-TKLN/1 in 2010, but subsequently vegetation clearance and emergence of temporary structures including UD's are observed in the area since 2020 (**Plans A-3a to A-3e**). CTP/UD&L of PlanD considers that adverse landscape impact on existing landscape resources has taken place, and raises concern that the approval of the application may further alter the landscape character and degrade the landscape quality of the "REC" zone. DEP considers that the application should not be supported as the proposed use involves the use of heavy vehicles and environmental nuisance on the sensitive receivers (i.e. residential development) in the vicinity of the Site is expected (**Plan A-4a**).
- 11.3 The Site is accessible from Lin Ma Hang Road via adjacent brownfield operations to its west. Taking account of the traffic demand (including the increased cross-boundary trips relating to the Heung Yuen Wai Boundary Control Point in the weekends and public holidays) and the capacity of the road network in the vicinity as well as the FIs submitted by the applicant, the Commissioner for Transport has no adverse comment on the application from a traffic engineering viewpoint subject to the condition that the proposed warehouse will not operate on Saturdays, Sundays and public holidays. Other relevant government departments consulted, including Director of Fire Services and Chief Engineer/ Construction, Water Supplies Department have no objection to or no adverse comment on the application.
- 11.4 There were two similar applications (No. A/NE-TKLN/29 and 31) involving temporary warehouse use within the same "REC" zone in the Ta Kwu Ling North area in the past five years. Both applications were rejected in 2020 mainly on the grounds of not being in line with the planning intention of the "REC" zone; and adverse traffic and/or drainage impacts. As there is no approved similar application in the vicinity, approval of the current application would encourage the proliferation of brownfield uses at the subject "REC" zone.
- 11.5 The application involves filling of two ponds with a total area of about 38m<sup>2</sup> with a depth of about 0.5m. Filling of pond within "REC" zone requires planning permission as it may cause adverse impact on drainage and natural environment. As clarified by the applicant and observed on the aerial photo (**Plan A-3a**), no pond is found in the Site. Chief Engineer/Mainland North, Drainage Services Department has no objection to the application from the public drainage view point, while Director of Agriculture, Fisheries and Conservation has no comment from fisheries and nature conservation perspectives.
- 11.6 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 12 and having taken into account the public comments as mentioned in paragraph 10, the Planning Department does not support the application for the following reason:
- the proposed use is not in line with the planning intention of the "REC" zone, which is primarily for low-density recreation developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

- 12.2 Alternatively, 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 19.7.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation on Saturdays, Sundays and public holidays, as proposed by the applicant, is allowed on the Site 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 19.1.2025;
- (c) in relation to (b) 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 19.4.2025;
- (d) in relation to (c) above, the implemented drainage facilities at 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 19.1.2025;
- (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 19.4.2025;
- (g) if any of 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; and
- (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.

Advisory Clauses

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

**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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments**

<b>Appendix I</b>	Application Form with Attachment received on 10.1.2024
<b>Appendix Ia</b>	SI received on 17.1.2024
<b>Appendix Ib</b>	FI received on 4.3.2024
<b>Appendix Ic</b>	FI received on 8.4.2024
<b>Appendix Id</b>	FI received on 17.4.2024
<b>Appendix Ie</b>	FI received on 28.5.2024
<b>Appendix If</b>	FI received on 24.6.2024
<b>Appendix Ig</b>	FI received on 9.7.2024
<b>Appendix II</b>	Similar Applications
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendix V</b>	Public Comments
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plans A-3a to A-3e</b>	Unmanned Aerial Vehicle Photo and Aerial Photos
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
JULY 2024**