

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-PK/296

- Applicant** : Mr. LAI Ho Yin represented by Allgain Land Planning Limited
- Site** : Lots 762 (Part), 961 (Part), 962 (Part) and 963 (Part) in D.D. 217, Tai Chung Hau Road, Sai Kung, New Territories
- Site Area** : About 920m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
- Zoning** : “Recreation” (“REC”)
- Application** : Proposed Temporary Shop and Services for a Period of Three Years

1. The Proposal

1.1 The applicant seeks planning permission for proposed temporary shop and services for a period of three years at the application site (the Site), which falls within an area zoned “REC” on the approved Pak Kong and Sha Kok Mei OZP No. S/SK-PK/11 (**Plan A-1**). According to the Notes of the OZP for the “REC” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently hard-paved, vacant and partly fenced by corrugated metal (**Plans A-4a** and **A-4b**).

1.2 The Site is accessible via a local track connecting Tai Chung Hau Road to its northwest (**Plans A-2** and **A-3**). According to the applicant, the proposed shop and services involve four two-storey container-converted structures (not exceeding 7m in height) with a total floor area of about 500m² (**Drawings A-1** and **A-2**), which are mainly for retailing of groceries, household, pet and gardening products. The second storey of the structures is mainly for storage of goods. The ingress/egress will be at the northern boundary of the Site while two loading/unloading (L/UL) spaces for light goods vehicles (LGVs) are proposed within the Site. The layout plan and elevation plan submitted by the applicant are at **Drawings A-1** and **A-2**.

1.3 The major development parameters of the proposed development are summarised as follows:

Site Area (about)	920m ²
Total Floor Area (about)	500m ²
- Structure A	140m ²
- Structure B	120m ²
- Structure C	120m ²
- Structure D	120m ²
No. of Structures	4
Building Height / No. of Storeys	Not more than 7m / 2 storeys
No. of L/UL Spaces	2 (for LGVs (7m x 3.5m))
Operation Hours	9:00 a.m. to 8:00 p.m. daily, including public holidays

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

- (a) Application Form with Supplementary Planning Statement (**Appendix I**) (SPS) received on 10.7.2024
 - (b) Supplementary Information (SI) received on 15.7.2024 (**Appendix Ia**)
 - (c) Further Information (FI) received on 12.8.2024* (**Appendix Ib**)
 - (d) FI received on 23.8.2024* (**Appendix Ic**)
- *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 SPS and FI at **Appendices I, Ib** and **Ic**. They can be summarised as follows:

- (a) the proposed use, which comprises four temporary container-converted structures, is small in scale and does not involve large-scale development;
- (b) the proposed use would not involve warehouse or open storage uses. It is temporary in nature which does not contravene the planning intention of the “REC” zone and is not incompatible with the surrounding land uses;
- (c) the proposed shop and services aims to serve nearby residents with only 8 to 10 staff working inside;
- (d) the proposed use would not cause any adverse impact or nuisance to the surrounding areas in environmental, drainage, traffic, landscape and visual terms;
- (e) the applicant is committed to observe relevant regulations as imposed by the Government, including submission of Short Term Waiver (STW) application to the Lands Department (LandsD) and to reinstate the Site upon expiry of the planning permission;

- (f) while no toilet facility would be provided within the Site, visitors and staff can make use of the public toilet at Tai Chung Hau Road;
- (g) there is a similar application for temporary shop and services near the Site in the same “REC” zone approved by the Board; and
- (h) the Site would be fenced off along the site boundary should planning approval be granted. No occupation of government land (GL) would be involved within the Site.

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

The applicant is one of the “current land owners” of the Site. In respect of another “current land owner”, the applicant 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 other “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

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

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There is one similar application for proposed temporary shop and services within the same “REC” zone of the OZP in the past five years. Application No. A/SK-PK/294, which was submitted by the same applicant for temporary shop and services with ancillary office for a period of three years, was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 5.4.2024 on the grounds that approval of the application on a temporary basis would not jeopardise the long-term development of the area, the proposed use was not incompatible with the surrounding landscape character, the relevant departments consulted generally had no adverse comment or their technical concerns could be addressed by relevant approval conditions and adverse impacts were not envisaged. Details of the application are summarised in **Appendix II** and its location is shown on **Plans A-1 and A-2**.

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) currently hard-paved, vacant and partly fenced by corrugated metal; and
- (b) accessible via a local track connecting Tai Chung Hau Road to its northwest.

7.2 The surrounding areas are in rural fringe character comprising mainly temporary structures for domestic, plant nursery and storage uses intermixed with village houses to the north and east of the Site. To the immediate west and south are predominantly scrublands and tree groups. Hiram's Highway is about 120m to the east of the Site.

8. **Planning Intention**

The planning intention of the "REC" zone is primarily for 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 recreational developments may be permitted subject to planning permission.

9. **Comments from Relevant Government Departments**

9.1 Apart from the government department as set out in paragraph 9.2 below, other bureau/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 in **Appendices III and IV** respectively.

9.2 The following government department has adverse comment on the application:

Land Administration

9.2.1 Comments of the District Lands Officer/Sai Kung (DLO/SK), LandsD:

- (a) he has adverse comment on the application;
- (b) the Site comprises 4 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;
- (c) structures including gate and hoardings were found erected in the vicinity of the Site on private agricultural land and adjoining GL. No permission is, however, given for occupation of GL. Any occupation of GL without Government's prior approval is not allowed. Land control actions as appropriate will be taken in accordance with the prevailing guidelines and priority setting; and

(d) advisory comments are detailed at **Appendix IV**.

10. Public Comment Received During Statutory Publication Period

On 19.7.2024, the application was published for public inspection. During the statutory publication period, one public comment was received from an individual objecting to the application mainly on the grounds that the Site is not proximate to residences and the proposed use would encourage extension of the open storage operations in the area and to the adjacent “Green Belt” zone (**Appendix V**).

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services for a period of three years at the Site which falls within an area zoned “REC” on the OZP (**Plan A-1**). Although the proposed use is not entirely in line with the planning intention of the “REC” zone, there is no known proposal for recreational development at the Site. Approval of the application on a temporary basis for a period of three years would not jeopardise the long-term development of the area.

11.2 The proposed use is considered not incompatible with the surrounding temporary setting and landscape character which is predominated by scrublands, temporary structures for domestic, plant nursery and storage uses intermixed with village houses (**Plan A-2**).

11.3 Concerned government departments including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland South of Drainage Services Department and Director of Fire Services have no objection to/adverse comments on the application from traffic, environmental, drainage and fire safety aspects respectively. Relevant approval conditions are recommended in paragraph 12.2 below to address the technical requirements of concerned government departments.

11.4 Regarding the comments of DLO/SK, LandsD that structures are found on GL in the vicinity of the Site and occupation of GL is without permission which would be subject to land control actions, the applicant clarifies that the concerned hoardings and gate are outside the Site and he would fence off the Site along the site boundary and no occupation of GL would be involved within the Site (**Appendix Ib**). The applicant will apply for STW with LandsD for the proposed structures within his lots.

11.5 A similar application (No. A/SK-PK/294) for temporary shop and services with ancillary office in close proximity to the Site within the same “REC” zone was approved by the Committee in 2024 as stated in paragraph 6 above. Approval of the current application is generally in line with the Committee’s previous decision.

11.6 Regarding the public comment received objecting to the application as summarised in paragraph 10 above, the proposed use is not for open storage and planning assessments in paragraphs 11.1 to 11.5 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 comment mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 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 6.9.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of a drainage proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.3.2025;
- (b) in relation to (a) above, the implementation of the drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.6.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the Site 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 the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.3.2025;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.6.2025;
- (f) 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; and
- (g) if any of the above planning condition (a), (b), (d) or (e) 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 attached at **Appendix IV**.

- 12.3 Alternatively, should the Board 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 "Recreation" zone which is primarily for recreational developments for the use of the general public. No strong planning justification has been given 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 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 SPS received on 10.7.2024
Appendix Ia	SI received on 15.7.2024
Appendix Ib	FI received on 12.8.2024
Appendix Ic	FI received on 23.8.2024
Appendix II	Similar Application
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Layout Plan
Drawing A-2	Elevation Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2024**