

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

**APPLICATION NO. A/YL-KTN/1040**

<b><u>Applicant</u></b>	: Mr. LAM Tung Man represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	: Lots 1139 (Part), 1140 (Part), 1141 (Part), 1142 (Part), 1143, 1144 (Part), 1145 (Part), 1147 (Part), 1148 (Part), 1149 (Part), 1152 (Part), 1153 S.A, 1153 RP, 1154 (Part) and 1156 (Part) in D.D. 107, Fung Kat Heung, Kam Tin, Yuen Long, New Territories
<b><u>Site Area</u></b>	: About 3,158m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Temporary Open Storage for Construction Materials and Warehouse for a Period of Three Years and Associated Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary open storage for construction materials and warehouse 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 Kam Tin North OZP No. S/YL-KTN/11 (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land in the “AGR” zone also requires planning permission from the Board. The Site is fenced, paved and used for the applied use without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site is accessible from Mei Fung Road via local tracks (**Plans A-2 and A-3**). According to the applicant, the applied use involves an area of about 991m<sup>2</sup> (or 31.4% of the Site) for open storage of construction materials (including tiles, beams, bricks, rods and screws) and three single-storey structures with a height of about 6m and a total floor area of about 656m<sup>2</sup> for warehouse of miscellaneous goods (including packaged food, apparel, footwear, electronic goods and furniture), ancillary site office and washroom. The remaining open area will be used for vehicular parking and manoeuvring. Two parking spaces for private car, one loading/unloading (L/UL) space for light goods vehicle and one L/UL space

for medium goods vehicle will be provided (**Drawing A-1**). The applicant also applies for regularisation of filling of land for the entire Site with a depth of not more than 0.1m (to levels ranging from +17.0mPD to +17.8mPD) for site formation and vehicular circulation (**Drawing A-2**). The proposed operation hours will be between 7 a.m. and 7 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

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

- (a) Application form with attachments received on 2.8.2024 and 7.8.2024 (**Appendix I**)
- (b) Further Information (FI) received on 10.9.2024\* (**Appendix Ia**)

*\* 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 FI at **Appendices I** and **Ia** and can be summarised as follows:

- (a) There is no active agricultural use at the Site. The applied use is for open storage of construction materials with stacked-up height of not more than 2.5m and warehouse of miscellaneous goods. The applied use is temporary in nature and will not frustrate the long-term planning intention of the “AGR” zone. There were similar applications approved by the Rural and New Town Planning Committee (the Committee) of the Board in the vicinity of the Site. The Site falls within Category 2 areas according to the Town Planning Board Guidelines for application for open storage and port back-up uses, and the applied use is not incompatible with the surrounding environment.
- (b) The filling of land is necessary for site formation and vehicular circulation to meet the operational needs. The applicant undertakes to reinstate the Site to an amenity area upon expiry of the planning approval.
- (c) Sufficient space is allowed for vehicle manoeuvring within the Site and infrequent trip generation is anticipated. No dangerous goods will be stored at the Site, and no dismantling, cleansing, recycling and other workshop activities will be carried out at the Site. The applicant will follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ and undertakes to comply with the approval condition(s) should planning approval be granted. The applicant will also follow up with Short Term Waiver (STW) application for the applied use at the Site.

### **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 posting site notice and sending notice to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Member’s inspection.

### **4. Background**

Majority part of the Site is subject to planning enforcement action (No. E/YL-KTN/686) against unauthorized development (UD) involving storage use (**Plan A-2**). Enforcement Notice was issued on 20.6.2024 requiring discontinuation of the UD by 20.9.2024. If the notice is not complied with, prosecution action would be considered.

### **5. Town Planning Board Guidelines**

The Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (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, and relevant extract of which is at **Appendix II**.

### **6. Previous Application**

There is no previous application covering the Site.

### **7. Similar Applications**

7.1 Whilst there is no similar application for temporary open storage and warehouse, there are three similar applications for temporary open storage with filling of land (all three applications are within Category 2 areas under TPB PG-No. 13G) and 23 similar applications for temporary warehouse (including one renewal of temporary approval granted and 22 applications with filling of land) within the same “AGR” zone in the vicinity of the Site in the past five years. All these applications were approved with conditions by the Committee between June 2020 and July 2024 mainly on the considerations that the proposed/applied use on a temporary basis would not jeopardise the long-term planning intention or could be tolerated; it was not incompatible with the surrounding uses; the relevant government departments consulted generally had no adverse comments or their technical concerns could be addressed by approval conditions; and the application was in line with the Town Planning Board Guidelines for application for open storage and port back-up uses (for the three similar applications for temporary open storage use). The planning permissions under five of these applications (No. A/YL-KTN/824, 852, 898, 938 and 962) were subsequently revoked between January and August 2024 due to non-compliance with approval conditions.

- 7.2 Details of the similar applications are summarised in **Appendix III** and their locations are shown on **Plan A-1**.

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

- 8.1 The Site is:

- (a) currently fenced, paved and used for the applied use without valid planning permission; and
- (b) accessible from Mei Fung Road via local tracks.

- 8.2 The surrounding areas are rural in character with an intermix of open storage/storage yards, parking of vehicles, works site and residential structures.

## **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 for “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

## **10. Comments from the Relevant Government Departments**

- 10.1 Apart from the government departments as set out in paragraph 10.2 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 in **Appendices IV** and **V** respectively.
- 10.2 The following government departments do not support or have adverse comments on the application:

### **Land Administration**

- 10.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) he has adverse comment on the application;
  - (b) the Site comprises Old Schedule Agricultural Lot Nos. 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1147, 1148, 1149, 1152, 1153 S.A, 1153 RP, 1154 and 1156 all in D.D. 107 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) LandsD has reservation on the planning application since there is/are unauthorised structure(s) and/or uses on Lot No. 1153 RP in D.D. 107 which is/are already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/apply for regularisation on the lease breaches as demanded by LandsD; and
- (d) if the planning application is approved, the lot owner(s) shall apply to his office for a STW to permit the structure(s) erected within the said private lots. The application(s) for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate by LandsD. Besides, given the applied use is temporary in nature, only erection of temporary structure(s) will be considered.

### **Environment**

#### **10.2.2 Comments of the Director of Environmental Protection (DEP):**

- (a) according to the revised ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’, he does not support the application as sensitive receivers, i.e. residential structures are found in the vicinity of the Site and the applied use will involve the use of heavy vehicles, thus environmental nuisance is expected;
- (b) no comment on the applied filling of land; and
- (c) there was no environmental complaint concerning the Site received in the past three years.

### **Agriculture and Nature Conservation**

#### **10.2.3 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):**

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the “AGR” zone and is being used for storage of construction materials. 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 and plant nurseries; and

- (c) no comment from nature conservation perspective.

## **11. Public Comments Received During Statutory Publication Period**

On 9.8.2024, the application was published for public inspection. During the statutory public inspection period, four public comments were received from individuals, Conservancy Association (CA) and Kadoorie Farm & Botanic Garden Corporation (KFBGC) (**Appendix VI**). An individual indicates no comment. Another individual and CA object to the application mainly on the grounds that there is no previous history of approval; the applied use is not in line with the planning intention of the “AGR” zone; there will be adverse drainage and environmental impacts; and it will set undesirable precedent of “destroy first, build later” practice. KFBGC raises concerns on the status of the Site; whether enforcement action is involved at the Site; and the current trend of proliferation of non-agricultural uses in the area.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for temporary open storage for construction materials and warehouse for a period of three years and associated filling of land at the Site zoned “AGR” (**Plan A-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. Whilst the applied use is not in line with the planning intention of the “AGR” zone and DAFC does not support the application from agricultural perspective, taking into account the planning assessments below, the applied use on a temporary basis for a period of three years could be tolerated.
- 12.2 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and DEP has no objection to or no comment on the applied filling of land from drainage and environmental perspectives. An approval condition requiring the reinstatement of the Site upon expiry of the planning permission is recommended should the Committee decide to approve the application.
- 12.3 The Site is currently paved and used for the applied use, which is considered not incompatible with the surrounding land uses which are rural in character with an intermix of open storage/storage yards, parking of vehicles, works site and residential structures. The Chief Town Planner/Urban Design and Landscape of Planning Department considers that significant adverse landscape impact arising from the applied use is not anticipated and she has no objection from landscape planning perspective.
- 12.4 DEP does not support the application as the applied use involves the use of heavy vehicles and there are sensitive receivers in the vicinity of the Site. Nonetheless, there was no environmental complaint concerning the Site received in the past three years. To address DEP’s concerns, the applicant will be advised to follow

the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance caused by the applied use. The operation of the applied use is also subject to the relevant pollution control ordinances.

12.5 DLO/YL, LandsD has adverse comments on the application in view of the unauthorised structure(s) and/or uses on the concerned lot within the Site. In this regard, the applicant indicates that STW application for the applied use will be followed up. An advisory clause on the need for rectifying or regularising the lease breaches with LandsD is recommended should the Committee approve the application.

12.6 The Site falls within Category 2 areas under 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 three 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, should be submitted to demonstrate that the proposed use would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

12.7 The application is considered generally in line with TPB PG-No. 13G in that the relevant government departments consulted, including the Commissioner for Transport, CE/MN of DSD and the Director of Fire Services have no objection to or no adverse comment on the application from traffic, drainage and fire safety perspectives respectively. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below.

12.8 There are 26 previously approved similar applications for temporary open storage or warehouse uses in the vicinity of the Site in the past five years as mentioned in paragraph 7.1 above. Approving the current application is in line with the Committee's previous decisions.

12.9 Regarding the public comments mentioned in paragraph 11, the departmental 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, the Planning Department considers that the applied 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 20.9.2027. 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 planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.3.2025;
- (b) in relation to (a) 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 20.6.2025;
- (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 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 1.11.2024;
- (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 20.3.2025;
- (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 20.6.2025;
- (g) 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;
- (h) 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
- (i) 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 V**.

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

the applied 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 given 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 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**

<b>Appendix I</b>	Application form with attachments received on 2.8.2024 and 7.8.2024
<b>Appendix Ia</b>	FI received on 10.9.2024
<b>Appendix II</b>	Relevant Extracts of TPB PG-No. 13G
<b>Appendix III</b>	Similar applications
<b>Appendix IV</b>	Government departments' general comments
<b>Appendix V</b>	Recommended advisory clauses
<b>Appendix VI</b>	Public comments
<b>Appendix VII</b>	Fire Services Department's good practice guidelines for open storage sites
<b>Drawing A-1</b>	Site layout plan
<b>Drawing A-2</b>	Land filling plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a &amp; 4b</b>	Site photos

**PLANNING DEPARTMENT  
SEPTEMBER 2024**