

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1050

<u>Applicant</u>	: Mr. LAM Tung Man represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 1131 (Part), 1144 (Part), 1145 (Part), 1146, 1147 (Part), 1148 (Part), 1149 (Part), 1150, 1212 S.A (Part) and 1212 RP (Part) in D.D. 107, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 5,448m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Temporary Open Storage and Warehouse for Construction Materials and Machineries 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 and warehouse for construction materials and machineries 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 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 largely fenced and paved, erected with some temporary structures and used for the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site comprises eastern and western portions separated by an existing watercourse and some open storage uses in between, and is accessible from Mei Fung Road via local tracks (**Plans A-2 and A-3**). According to the applicant, the applied use for storage of construction materials (including tiles, bricks, glass, pipes and metal beams) and machineries (including cranes, elevated platforms, excavators and mobile cranes) involves an open area of about 2,353m² (43% of the Site) for storage yards, and six single-storey structures with heights of not more than 8.23m, a total floor area of about 592m² and a total site coverage of about 11% for warehouse, ancillary utilities room, site office and washroom

(Drawing A-1). No dangerous goods or workshop activities will be involved at the Site. Fence wall with height of about 2.5m will be erected along site boundary. A 6m-wide access in north-south direction will be provided through the western portion of the Site and open to the nearby users. One existing tree within the Site will be retained in-situ. The applicant also applies for regularisation of filling of land for about 5,151m² (or 94.5%) and proposed filling of land for about 294m² (or 5.4%) of the Site with concrete of not more than 0.1m in depth (to levels ranging from 12.9mPD to 17mPD) for site formation and vehicular circulation **(Drawing A-2).** Five parking spaces for private car and three loading/unloading spaces for light goods vehicle and container vehicle will be provided. The operation hours are between 8:00 a.m. and 7:00 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 Part of the western portion of the Site is the subject of a previously approved application No. A/YL-KTN/905 for temporary warehouse submitted by the same applicant as the current application. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 19.5.2023 and the planning permission was subsequently revoked on 19.11.2024 due to non-compliance with approval conditions. Details of the previous application are given in paragraph 6 below.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 9.9.2024 and 11.9.2024 **(Appendix I)**
 - (b) Further Information (FI) received on 11.12.2024* **(Appendix Ia)**
 - (c) FI received on 6.1.2025* **(Appendix Ib)**
- * *accepted and exempted from publication and recounting requirements*
- 1.5 On 8.11.2024, the Committee agreed to defer making a decision on the application for two months as requested by the applicant.

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** and can be summarised as follows:

- (a) The applied use is to support the construction industry in the New Territories. The temporary use will not frustrate the long-term planning intention of the “AGR” zone. The Site falls within Category 2 areas under the Town Planning Board Guidelines for application for open storage and port back-up uses and is located close to the “Industrial (Group D)” (“I(D)”) zone. The applied use is not incompatible with the surrounding land uses and there were similar applications approved in the vicinity of the Site.
- (b) Due to increase in demand for storage use, a larger site is included in the current application as compared with the previous application for warehouse use. In the

current scheme, the open storage use will be supported by the warehouse for indoor storage space.

- (c) The applied filling of land is necessary to meet the operational needs. Sufficient space is allowed for vehicle manoeuvring within the Site and infrequent trip generation is anticipated. In support of the application, the applicant has submitted drainage and fire service installations (FSIs) proposals.

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

The Site is currently not subject to any active planning enforcement action. Subject to collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be undertaken.

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

- 6.1 Part of the Site is the subject of a previous application (No. A/YL-KTN/905) for temporary warehouse (excluding dangerous goods godown) for a period of three years and filling of land submitted by the same applicant as the current application, which was approved with conditions by the Committee on 19.5.2023 mainly on the considerations that the proposed use on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone; the proposed use was not incompatible with the surrounding land uses; and the relevant government departments consulted generally had no adverse comments or the concerns could be addressed by approval conditions. The planning permission of the application was subsequently revoked on 19.11.2024 due to non-compliance with approval conditions related to submission and/or implementation of drainage and FSIs proposals.
- 6.2 Details of the previous application are summarised in **Appendix III** and its location is shown on **Plan A-1**.

7. Similar Applications

- 7.1 There are five similar applications for temporary open storage with filling of land (two of which also involving warehouse use) and 29 similar applications for temporary warehouse (including one for renewal of temporary approval granted and 28 with filling of land/pond) 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 2020 and 2024 mainly on similar considerations as mentioned in paragraph 6.1 above and the consideration that the application was in line with the Town Planning Board Guidelines for application for open storage and port back-up uses (for the five similar applications for temporary open storage). The planning permissions under seven of these applications (No. A/YL-KTN/824, 852, 890, 898, 904, 938 and 962) were subsequently revoked between January and November 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-4)

- 8.1 The Site is:
- (a) largely fenced and paved, erected with some temporary structures 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 (including three sites with valid planning permissions under applications No. A/YL-KTN/1019, 1040 and 1054), animal boarding establishment, holiday camp, residential structures (the nearest is within about 20m to the north of the eastern portion of the Site), grassland and vacant land.

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, if any, are provided in **Appendices IV** and **V** respectively.

10.2 The following government departments do not support the application:

Environment

10.2.1 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 vehicle, thus environmental nuisance is expected;
- (b) no comment on the applied filling of land;
- (c) there was no environmental complaint concerning the Site received in the past three years; and
- (d) detailed advisory comments are at **Appendix V**.

Agriculture and Nature Conservation

10.2.2 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 generally occupied by some sundries. 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 on the application from nature conservation perspective.

11. Public Comments Received During Statutory Publication Period

On 17.9.2024, the application was published for public inspection. During the statutory public inspection period, three public comments were received from The Conservancy Association and two individuals objecting to the application mainly on the grounds that the Site was paved without prior approval; the application is contrary to the Government's policy of phasing out brownfield uses; the applied use is not in line with the planning intention of the "AGR" zone; there would be adverse drainage and environmental impacts; and the applied use would obstruct the access connecting the land located to the north of the western portion of the Site (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage and warehouse for construction materials and machineries for a period of three years and associated filling of land at the Site zoned "AGR" (**Plan A-1**). 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 in 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, DSD) has no objection to the application from public drainage perspective and DEP has no comment on the applied filling of land. An approval condition requiring the reinstatement of the Site to an amenity area upon expiry of the planning permission is recommended should the Committee decide to approve the application.
- 12.3 The applied use is considered not incompatible with the surrounding land uses which are rural in character with an intermix of open storage/storage yards, animal boarding establishment, holiday camp, residential restructures, grassland and vacant land. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no objection to the application from landscape planning perspective considering that significant adverse landscape impact is not anticipated.
- 12.4 DEP does not support the application as the applied use involves the use of heavy vehicle and there are sensitive receivers in the vicinity of the Site. 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 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.

- 12.6 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, DSD and Director of Fire Services, have no objection to or no adverse comment on the application from traffic, drainage and fire safety perspectives respectively. DEP's concerns can be addressed as mentioned in paragraph 12.4 above. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below.
- 12.7 The Site is involved in a previously approved application No. A/YL-KTN/905, which was submitted by the same applicant for warehouse as stated in paragraph 6.1 and the planning permission was subsequently revoked due to non-compliance with approval conditions related to submission and/or implementation of drainage and FSIs proposals. In this regard, the applicant has submitted the relevant drainage and FSIs proposals in support of the current application. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.8 Given that there are a previously approved application for temporary warehouse and 34 approved similar applications for temporary open storage and/or warehouse uses within the same "AGR" zone in the vicinity of the Site in the past five years, approving the current application is in line with the Committee's previous decisions.
- 12.9 Regarding the public comment concerning the access connecting the land located to the north of the Site as mentioned in paragraph 11 above, according to the submission, a 6m-wide access which is open to the nearby users will be provided through the Site to connect the concerned land. For other public comments, the departmental comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 above, PlanD 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 24.1.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a revised 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 24.7.2025;
- (b) in relation to (a) above, the implementation of the revised 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 24.10.2025;
- (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 7.3.2025;
- (e) the implementation of the accepted 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 24.10.2025;
- (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;
- (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; and
- (h) 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 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, and 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

Appendix I	Application Form with attachments received on 9.9.2024 and 11.9.2024
Appendix Ia	FI received on 11.12.2024
Appendix Ib	FI received on 6.1.2025
Appendix II	Relevant Extracts of TPB PG-No. 13G
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
Appendix VII	Fire Services Department's good practice guidelines for open storage sites
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
JANUARY 2025**