

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/959

<u>Applicant</u>	:	蔡德理先生 represented by Goldrich Planners and Surveyors Limited
<u>Site</u>	:	Lots 1367 RP, 1368 S.A, 1368 RP, 1372 S.A, 1372 RP, 1376 S.A, 1376 S.B, 1376 S.C and 1376 S.D in D.D. 109, Yuen Long, New Territories
<u>Site Area</u>	:	About 3,732m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Warehouse (excluding Dangerous Goods Godown) with Ancillary Office and Open Storage for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse (excluding dangerous goods godown) with ancillary office and open storage for a period of 3 years and filling of land at the application site (the Site), which falls within an area zoned “AGR” on the Kam Tin North OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use of land not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). Filling of land within the “AGR” zone also requires planning permission from the Board. The Site is fenced, paved, partly vacant and partly used for storage of containers and parking of vehicles without valid planning permission (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed temporary warehouse is for storage of construction materials and it involves erection of six single-storey structures with a total floor area of about 1,127m² and building heights of not more than 9m for warehouses, ancillary office and water tank, as well as an open-air storage area of about 876m² (23.5% of site area) for interim storage before the construction materials are moved in the warehouses (**Drawing A-1**). The applicant also applies for regularisation of filling of land for the whole site with concrete by not more than 0.3m in depth (from +6.9mPD to +7.2mPD) for site formation (**Drawing A-2**). A maximum of 3 staff will be stationed at the Site to support the operation. The

operation hours will be between 9:00 a.m. and 7:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. No workshop, recycling, cleansing, dismantling and other workshop activities will be carried out at the Site. A parking space for heavy goods vehicle will be provided. The Site abuts Kong Po Road to the south with direct access (**Plans A-1 and A-2**). The layout plan and paving plan submitted by the applicant are at **Drawings A-1 and A-2**.

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

- (a) Application form with supplementary information received (Appendix I) on 20.9.2023
- (b) Further Information (FI) received on 6.11.2023* (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, supplementary information and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) The proposed development is temporary in nature and will not frustrate the long-term planning intention of the “AGR” zone.
- (b) The proposed development can meet the demand for warehouse. There are similar applications approved by the Rural and New Town Planning Committee (the Committee) in the vicinity of the Site within the same “AGR” zone.
- (c) The filling of land is necessary for site formation, parking, drainage and vehicular circulation purposes to meet the operational needs of the proposed development. The Site will be reinstated upon expiry of the planning approval.
- (d) The proposed development will not induce adverse environmental, traffic and drainage impacts to the surrounding areas.

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

The applicant is not the “current land owner” of the Site 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 notification letter to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

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

5. **Previous Application**

Part of the Site is involved in a previous application (No. A/YL-KTN/779) for temporary animal boarding establishment which is not relevant to the current application. Details of the previous application are summarised in **Appendix II** and the location is shown on **Plan A-1**.

6. **Similar Applications**

- 6.1 There are three similar applications (No. A/YL-KTN/925, 928 and 940) for temporary warehouse uses with filling of land within the same “AGR” zone in the vicinity of the Site in the past 5 years. All the applications were approved with conditions by the Committee in August 2023 mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; and the departments consulted in general had no adverse comment or their concerns could be addressed by relevant approval conditions.
- 6.2 Details of the applications are summarised in **Appendix II** and the 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) fenced, paved, partly vacant and partly used for storage of containers and parking of vehicles without valid planning permission; and
- (b) abutting Kong Po Road to the south with direct access.

7.2 The surrounding areas are rural in character mainly intermixed with open storage yards (including sites with planning permissions for temporary animal boarding establishment under applications No. A/YL-KTN/856 and 798), vacant lands (including sites with planning permissions for temporary animal boarding establishment under application No. A/YL-KTN/889; and temporary warehouses under applications No. A/YL-KTN/925, 928 and 940) and residential structures/dwellings (the nearest at about 70m to the north). To the south across Kong Po Road and Kam Tin North River is a residential development namely Seasons Monarch (四季名園).

8. **Planning Intention**

- 8.1 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.
- 8.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

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 in **Appendices III and IV** respectively.

- 9.2 The following government departments do not support the application:

Agriculture and Nature Conservation

- 9.2.1 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 vacant. 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.; and
- (c) no comment from nature conservation perspective.

Environment

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

- (a) does not support the application as it involves the use of heavy vehicles and there is residential dwelling within 100m from the Site (**Plan A-2**), environmental nuisance on the nearby residential uses could be generated by the proposed use;
- (b) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of

Temporary Uses and Open Storage Sites” to minimise any potential environmental nuisance from the proposed use; and

- (c) no environmental complaint was received concerning the Site in the past three years.

10. Public Comments Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, two public comments from Kadoorie Farm and Botanic Garden Corporation and an individual were received objecting to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; approval the application would set a precedent for similar applications and promote brownfield use in the “AGR” zone; and the filling of land by concrete would cause damage to the soil layer and increase flooding risk.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) with ancillary office and open storage for a period of 3 years and 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Whilst the proposed development is not in line with the planning intention of “AGR” zone and DAFC does not support the application from agricultural perspective, taking into account the planning assessments below, the proposed development on a temporary basis of 3 years could be tolerated.
- 11.2 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 the Drainage Services Department (CE/MN of DSD) and DEP have no objection to the application from drainage and environmental perspectives. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 11.3 The proposed use is considered not incompatible with the surrounding land uses which are rural in character mainly intermixed with open storage yards, vacant lands and residential structures/dwellings. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant adverse landscape impact arising from the proposed development is not anticipated and has no objection to the application.
- 11.4 DEP does not support application as the use of heavy vehicles would be involved and environmental nuisance could be generated. In this regard, the Site abuts Kong Po Road to the south with direct access without passing through the nearby domestic structures to the north. According to the applicant, there will be no workshop activities carried out at the Site. To address DEP’s concerns, relevant

approval conditions restricting the operation hours and prohibiting workshop activities are recommended in paragraph 12.2 below. To minimise any potential environmental nuisances, the applicant will also be advised to follow the revised “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites” issued by DEP.

- 11.5 Relevant 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. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below.
- 11.6 There are three approved similar applications in the vicinity of the Site as mentioned in paragraph 6.1 above. Approving the current application is in line with the Committee’s previous decisions.
- 11.7 Regarding the two public comments objecting the application as mentioned in paragraph 10, the departmental comments and planning assessments as stated 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 mentioned in paragraph 10, the Planning Department considers that the proposed development could be tolerated for a period of 3 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 3 years until 10.11.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the site during the planning approval period;
- (c) no recycling, cleansing, repairing, dismantling work nor other workshop activities, as proposed by the applicant, is allowed on the site at any time during the planning approval period;
- (d) the submission of a run-in/out proposal at the access point of Kong Po Road within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 10.5.2024;
- (e) in relation to (d) above, the implementation of the run-in/out proposal at the access point of Kong Po Road within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport and the

Director of Highways or of the Town Planning Board by 10.8.2024;

- (f) 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 10.5.2024;
- (g) in relation to (f) 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 10.8.2024;
- (h) in relation to (g) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (i) the provision of fire extinguisher(s) with a valid fire certificate 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 22.12.2023;
- (j) 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 10.5.2024;
- (k) in relation to (j) 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 10.8.2024;
- (l) if any of the above planning condition (a), (b), (c) or (h) 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;
- (m) if any of the above planning condition (d), (e), (f), (g), (i), (j) or (k) 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
- (n) 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 development 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.

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 supplementary information received on 20.9.2023
Appendix Ia	FI received on 6.11.2023
Appendix II	Previous and similar application(s)
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Paving plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
NOVEMBER 2023**