

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

**APPLICATION NO. A/YL-KTS/900**

<b><u>Applicant</u></b>	:	TRANS-CONCEPT LIMITED represented by R-Riches Property Consultants Limited
<b><u>Site</u></b>	:	Lot 1165 (Part) in D.D. 106, Pat Heung, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 775m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<b><u>Zoning</u></b>	:	“Agriculture” (“AGR”)
<b><u>Application</u></b>	:	Proposed Temporary Shop and Services for a Period of 3 Years and Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services for a period of 3 years and filling of land. The Site falls within the “AGR” zone on the approved Kam Tin South OZP. According to the Notes of the OZP, ‘Shop and Services’ is neither a Column 1 nor Column 2 use under the “AGR” zone which requires planning permission from the Town Planning Board (the Board). According to the covering Notes of the OZP, temporary use not exceeding a period of 3 years requires planning permission from the Board, notwithstanding that the use or development is not provided for in terms of the OZP. Filling of land in “AGR” zone also requires planning permission from the Board. The Site is mostly vacant, partly paved, fenced, covered by some vegetation and deposited with a container (**Plans A-2 and A-4**).
- 1.2 The Site is the subject of a previous application (No. A/YL-KTS/809) for the similar use by the same applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in January 2019. However, the previous planning permission was revoked in June 2021 due to non-compliance with approval conditions.

- 1.3 According to the applicant, the proposed temporary shop and services will be used as a real estate agency to serve the nearby locals. The proposed development will involve three 1 to 2-storey structures with a building height of about 3 to 6m and a total floor area of about 297m<sup>2</sup> for real estate agency, fire service water tank and pump room uses. About 624m<sup>2</sup> (81%) of the Site is proposed to be filled with concrete by not more than 0.2m in depth (from about 16.4mPD to 16.6mPD) for site formation of structures and vehicle circulation purposes. The operation hours will be from 9:00 a.m. to 8:00 p.m. daily, including public holidays. The estimated number of staff working at the Site is 10 and the estimated daily number of visitors to the Site is 15. Four private car parking spaces will be provided on the Site. The Site is accessible from Kam Sheung Road via a local access. The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with plans received on 27.7.2021 (**Appendix I**)
  - (b) Supplementary information (SI) received on 30.7.2021 (**Appendix Ia**) providing clarifications on the application
  - (c) Further Information (FI) received on 21.9.2021 in (**Appendix Ib**) response to departmental comments  
(*accepted and exempted from publication requirement*)

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

The justifications put forth by the applicant in support of the application are detailed in the application form, SI and FI in **Appendices I to Ib**. They can be summarized as follows:

- (a) The applicant would like to use the Site for a real estate agency to serve the nearby locals. The application is only on a temporary basis and will not jeopardize the long term planning intention of the “AGR” zone.
- (b) The proposed development will not result in adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. The applicant will strictly follow the relevant code of practice and practice notes so as to minimize the possible adverse impacts and environmental nuisance to the nearby residents.
- (c) The land filling by not more than 0.2m in depth (with concrete) at about 81% of the Site is for site formation and vehicular circulation purposes. The applicant will reinstate the Site to an amenity area upon expiry of the planning approval.

- (d) The planning permission of the last application (No. A/YL-KTS/809) was revoked due to non-compliance with approval condition on the implementation of fire service installations (FSIs) proposal. In support of the current application, the applicant has submitted the FSIs and drainage proposals accepted by relevant departments under the previous application (**Appendix Ia**). The applicant undertakes to comply with relevant planning conditions to be stipulated by the Committee.

### 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. 31A) 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 action.

### 5. **Previous Application**

The Site is involved in a previous application (No. A/YL-KTS/809) for proposed temporary shop and services (real estate agency) submitted by the same applicant. It was approved with conditions by the Committee in January 2019 mainly on the considerations that approval of the application on a temporary basis of 3 years would not jeopardize the long-term planning intention of the “AGR” zone; the proposed use was considered not incompatible with the surrounding land uses; the proposed use would unlikely generate significant adverse traffic and landscape impacts and environmental nuisance to the nearby residential development; relevant departments in general had no adverse comment; and possible environmental nuisance generated by the proposed use could be minimized by appropriate approval conditions. However, the planning permission for Application No. A/YL-KTS/809 was revoked in June 2021 owing to non-compliance with approval condition related to implementation of the FSIs proposal. Details of the application is in **Appendix II** and its location is shown on **Plan A-1**.

### 6. **Similar Applications**

#### Shop and Services (Real Estate Agency)

- 6.1 There are 11 similar applications (No. A/YL-KTS/495, 497, 513, 608, 619, 649, 704, 729, 742, 845 and 846) involving 4 sites for temporary shop and services

(real estate agency) uses within the same “AGR” zone in the vicinity of the Site. All applications were approved with conditions by the Committee between 2010 and 2020 for similar reasons that temporary approval would not frustrated the long-term planning intention; the developments were not incompatible with the surrounding land uses; relevant departments in general had no adverse comment; and the technical requirements of relevant departments could be addressed by appropriate approval conditions. However, the planning permissions for Applications No. A/YL-KTS/495, 608, 649 and 704 were revoked due to non-compliance with approval conditions. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

#### Filling of Land

- 6.2 There is no similar application involving filling of land within the same “AGR” zone in the vicinity of the Site.

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

- 7.1 The Site is:

- (a) mostly vacant, partly paved, fenced, covered by some vegetation and deposited with a container; and
- (b) accessible via a local track connecting to Kam Sheung Road.

- 7.2 The surrounding areas are rural in character intermixed with residential development, a few residential dwellings/structures, warehouses, open storage/storage yards, and unused land (**Plan A-2**):

- (a) to its north and east are warehouses, open storage/storage yards, a few residential dwellings/structures and an unused land with a planning approval (No. A/YL-KTS/826) for temporary hobby farm use;
- (b) to its southwest is a local access leading from Kam Sheung Road and to its further west is a residential development namely, Seasons Palace (四季豪園), within “Residential (Group C)1” (“R(C)1”) zone; and
- (c) to its further southeast across Kam Sheung Road are open storage/storage yards, a plant nursery and a residential dwelling.

### **8. Planning Intention**

- 8.1 The planning intention of the “AGR” zone is 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 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 The following Government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises an Old Schedule Agricultural Lot 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.
- (b) Should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by the LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

### **Traffic**

- 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, an approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be imposed.

- (c) The Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department. The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

**Agriculture and Nature Conservation**

9.1.4 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) The Site falls within the “AGR” zone and is currently a cemented vacant land. Agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water sources are also available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application for the proposed use and land filling is not supported from agricultural point of view.
- (b) He has no comment on the application from the nature conservation perspective noting that the Site has been paved.

**Environment**

9.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) There was no substantiated environmental complaint concerning the Site received by DEP in the past three years.
- (b) He has no objection to the application.
- (c) The applicant is advised (i) 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 minimize any potential environmental nuisance; (ii) to provide adequate supporting infrastructure / facilities for proper collection, treatment and disposal of waste / wastewater generated from the proposed use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of EPD’s Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” including percolation test; and (iii) that it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances.

### **Landscape**

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

- (a) With reference to the aerial photos of 2020, the Site is situated in an area of miscellaneous rural fringe landscape character comprising of temporary structures, low-rise residential buildings, Small Houses and scattered tree groups. The proposed development with three structures (up to 6m in height) is considered not entirely incompatible with the surrounding landscape setting.
- (b) According to the site photos taken by his office on 13.8.2021, seven existing trees of common species, including *Mangifera indica* (杧果), *Celtis sinensis* (朴樹), *Dimocarpus longan* (龍眼), *Melia azedarach* (楝) and *Carica papaya* (番木瓜) are found within the Site. Three of them are in large mature size (i.e. Two *Mangifera indica* (杧果) with DBM of 0.9m and 0.6m and a *Celtis sinensis* (朴樹) with DBM of 0.7m. According to the submitted FI (**Drawing A-2**), locations of Structures B2 and B3 have been revised and land filling area has been reduced to minimize direct conflict with existing trees. In view of the above, we have no further comment on the potential impact on existing trees within the Site.

### **Fire Safety**

9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations being provided to his satisfaction.

- (b) In consideration of the design/nature of the proposal, fire service installations (FSIs) are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. The applicant is advised to update the project details, i.e. project name and date as stated in the submitted layout plan.
- (c) The applicant is reminded that if the proposed structures are required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Drainage**

9.1.8 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) Based on the drainage proposal enclosed in the application, apparently the applicant would maintain the same drainage facilities as those maintained under previous Application No. A/YL-KTS/809. He has no objection in principle to the proposed development.
- (b) Should the application be approved, the conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-KTS/809 and submission of records of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

### **Building Matters**

9.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).

- (b) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix V**.
- (c) Detailed checking under the BO will be carried out at building plan submission stage.

#### **District Officer's Comments**

9.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any locals' comment on the application and he has no comment from departmental point of view.

9.2 The following Government departments have no adverse comment on / no objection to the application:

- (a) Project Manager (West), Civil Engineering and Development Department;
- (b) Chief Engineer / Construction, Water Supplies Department;
- (c) Director of Electrical and Mechanical Services; and
- (d) Commissioner of Police.

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

On 2.8.2021, the application was published for public inspection. During the three-week statutory publication period, a public comment from an individual was received (**Appendix IV**). The commenter commented that the previous planning permission was revoked owing to non-compliance of FSIs implementation which should not be tolerated as there are many people living in the vicinity.

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

11.1 The application is for proposed temporary shop and services for a period of 3 years at the "AGR" zone and filling of land at most of the Site (about 624m<sup>2</sup> or 81%) by not more than 0.2m in depth. 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. The proposed use is not entirely in line with the planning intention of the "AGR" zone. DAFC does not support the application from agricultural point of view as the Site possessed potential for agricultural rehabilitation. Nevertheless, approval of the application on a temporary basis for a period of 3 years would not jeopardize the long-term planning intention of the "AGR" zone.

- 11.2 The applicant stated the proposed development for a real estate agency is to serve the nearby locals. The proposed use is considered not incompatible with the surrounding rural land uses intermixed with residential development, residential dwellings/structures, warehouses, open storage/storage yards, and unused land. According to the applicant, the filling of land is for site formation of structures and vehicle circulation purposes. The applicant has revised the site layout and minimize the land filling extent to avoid conflict with the existing mature trees within the Site (**Appendix Ib**). Both CE/MN of DSD and DEP have no adverse comment on the proposed filling of land from the drainage and environmental perspectives.
- 11.3 In view of its nature and relatively small in scale, it is unlikely that the proposed temporary shop and services would generate significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. Relevant government departments consulted including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD and D of FS, except DAFC from the agricultural point of view, have no adverse comment on the application. To minimize the possible environmental nuisance generated by the proposed use, approval conditions restricting the operation hours and the type of vehicles are recommended in paragraphs 12.2 (a) and (b) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact. The technical requirements of C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS could be addressed by approval conditions (c) to (h) in paragraph 12.2 below.
- 11.4 As the last approved application (No. A/YL-KTS/809) submitted by the same applicant for the same use as the current application was revoked due to non-compliance with approval condition as stated in paragraph 5 above, shorter compliance periods are recommended to monitor the progress of compliance with approval conditions should the Committee decide to approve the current application. Moreover, the applicant will be advised that should the applicant fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application. There are 11 similar applications for similar temporary shop and services (real estate agency) within the same “AGR” zone in the vicinity of the Site, which were all approved by the Committee from 2010 to 2020 as stated in paragraph 6.1 above. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 A public comment was received during the statutory publication period raising concern on the application as stated in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments as stated in 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 considers that the proposed temporary shop and services with filling of land 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 24.9.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### **Approval Conditions**

- (a) no operation between 8:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) existing trees within the Site shall be maintained at all times during the planning approval period;
- (e) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 24.12.2021;
- (g) the submission of a fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 24.12.2021;
- (h) the implementation of the fire service installations proposal within **6** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 24.3.2022;
- (i) if any of the above planning condition (a), (b), (c), (d) or (e) 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;

- (j) if any of the above planning condition (f), (g) or (h) 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
- (k) 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 advisory clauses are in **Appendix V**.

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

the development is not in line with the planning intention of the "AGR" zone which is to retain and safeguard good agricultural land for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justification has been given in the submission for a departure from the planning intention, even on 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**

<b>Appendix I</b>	Application Form with Plans received on 27.7.2021
<b>Appendix Ia</b>	SI received on 30.7.2021
<b>Appendix Ib</b>	FI received on 21.9.2021
<b>Appendix II</b>	Previous Application covering the Site

<b>Appendix III</b>	Similar Applications within the Same “AGR” Zone in the vicinity of the Site
<b>Appendix IV</b>	Public Comment
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Land Filling Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2021**