

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

**APPLICATION NO. A/YL-KTS/975**

<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
<b><u>Site Area</u></b>	:	About 770m <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>	:	Temporary Eating Place with Ancillary Facilities 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 temporary eating place with ancillary facilities for a period of 3 years and filling of land. The Site falls within an area zoned “AGR” on the Kam Tin South OZP. (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any 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 currently paved, fenced-off, partly vacant and partly occupied by temporary structures used for the applied use without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the applied use involves three one-to-two-storey structures with a total floor area of about 297m<sup>2</sup> and building heights of 3m to 7m for eating place and washroom uses. The applicant also applies for regularisation of filling of land by not more than 0.2m in depth with concrete (to the existing level at 16.5mPD and 16.6mPD) for 763m<sup>2</sup> (about 99%) of the Site without affecting four existing trees. The proposed operation hours are between 11:00 a.m. to 10:00 p.m. daily. Four parking spaces for private cars and one loading/unloading (U/UL) space for light goods vehicles will be provided on-site. The Site is accessible from Kam Sheung Road via a local track. The site 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 29.8.2023 and 31.8.2023
- (b) Further Information (FI) received on 16.10.2023 and (Appendix Ia) 19.10.2023\*

*\*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 in **Appendices I** and **Ia**. They can be summarised as follows:

- (a) The applied use is temporary in nature which will not jeopardise the long-term planning intention of the “AGR” zone.
- (b) The applied temporary eating place with ancillary facilities is intended to serve the nearby locals.
- (c) The land filling is for site formation, parking and L/UL spaces and considered necessary for the operation of the applied use. The applicant will reinstate the Site to an amenity area upon expiry of the planning approval.
- (d) The proposed development will not create significant nuisance to the surrounding areas. The applicant will strictly follow the relevant statutory environmental requirements and practice notes so as to minimise the possible adverse impacts and environmental nuisance to the nearby residents.

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

The applicant is not the “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” Requirement under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and sending notice 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 Applications**

The Site is involved in two previous applications (No. A/YL-PH/809 and No. A/YL-KTS/900) for temporary shop and services which are not relevant to the current application for temporary eating place. Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

## 6. **Similar Application**

There is no similar application within the same “AGR” zone.

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

7.1 The Site is:

- (a) currently paved, fenced-off, partly vacant and partly occupied by temporary structures used for the applied use without valid planning permission; and
- (b) accessible from Kam Sheung Road via a local track from the southwest .

7.2 The surrounding areas have the following characteristics:

- (a) to its north, east and south are warehouses, open storage/storage yards, vehicle repair workshops and a few residential dwellings/structures;
- (b) to its southwest across the local access is a residential development namely, Seasons Palace (四季豪園), within “Residential (Group C)1” zone; and
- (c) to its further southeast is Kam Sheung Road.

## 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 department 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.

### **Agriculture and Nature Conservation**

#### 9.2. 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 vacant. 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.

### **10. Public Comment Received During Statutory Publication Period (Appendix V)**

During the statutory publication period, one public comment was received from an individual raising concerns mainly on the standards and conditions required for eating place use.

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

- 11.1 The application is for temporary eating place with ancillary facilities for a period of 3 years and filling of land at the Site zoned “AGR”. 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 applied use is not in line with the planning intention of the “AGR” zone, and DAFC does not support the application from agricultural perspective. According to the submission, the applied eating place is intended to serve the nearby locals. Taking into account the planning assessments below, the applied use 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. In this regard, the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) and the Director of Environmental Protection (DEP) have no objection to the filling of land from drainage and environmental perspectives. An approval condition requiring reinstatement of the Site to an amenity area is recommended should the Rural and New Town Planning Committee decide to approve the application.
- 11.3 The surrounding areas of the Site have been mainly occupied by temporary operations without agricultural activities. The applied use is considered not incompatible with the surrounding uses which are rural in character intermixed with residential dwellings/ structures, warehouses, open storage/storage yards and vehicles repair workshops.

- 11.4 Relevant government departments consulted, including the Commissioner for Transport, DEP, the Director of Food and Environmental Hygiene, 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. To minimise any potential environmental nuisance, the applicant will also be advised to follow the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”; the Practice Note for Professional Person PN 5/93 on “Drainage Plans subject to Comment by Environmental Protection Department (EPD)” including retention time for grease trap and minimum clearance distance, percolation test and certification by Authorized Person for septic tank and soakaway system; and “Control of Oil Fume and Cooking Odour from Restaurant and Food Business” issued by EPD.
- 11.5 Regarding the public comment raising concerns on the application as stated in paragraph 10 above, the departmental comments and planning assessments 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 applied use 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 27.10.2026. The following approval conditions and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) the submission of condition records 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 27.1.2024;
- (b) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (c) 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 27.4.2024;
- (d) in relation to (c) above, 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 27.7.2024;
- (e) if the above planning condition (b) 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;

- (f) if any of the above planning condition (a), (c) or (d) 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
- (g) upon the 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 attached in **Appendix IV**.

- 12.3 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purpose. No strong planning justification has been given in the submission for a departure from the planning intentions 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**

<b>Appendix I</b>	Application form with supplementary information received on 29.8.2023 and 31.8.2023
<b>Appendix Ia</b>	FI received on 16.10.2023 and 19.10.2023
<b>Appendix II</b>	Previous applications
<b>Appendix III</b>	Government departments' general comments
<b>Appendix IV</b>	Recommended advisory clauses

<b>Appendix V</b>	Public comment
<b>Drawing A-1</b>	Site layout plan
<b>Drawing A-2</b>	Paving plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4a to 4b</b>	Site photos

**PLANNING DEPARTMENT  
OCTOBER 2023**