

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/997

<u>Applicant</u>	: Sunny Sea Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 512 S.A-S.B and 512 S.C-S.E in D.D. 113, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 1,539m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Warehouse (excluding Dangerous Goods Godown) with Ancillary Facilities for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities 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 Kam Tin South OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use of land not exceeding a period of three 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, partly vacant and partly used as storage of construction machinery with temporary structures erected without valid planning permission (**Plans A-3 to A-4**).
- 1.2 According to the applicant, the proposed temporary warehouse is for storage of construction materials and machineries and it comprises two single-storey structures for warehouse, ancillary office and washroom with a total floor area of about 378m² and building heights of about 8m (**Drawing A-1**). The applicant also applies for regularisation of filling of land for the whole Site with concrete with a depth of not more than 0.2m up to a level of +20.4mPD for site formation and vehicular circulation (**Drawing A-2**). The proposed operation hours are between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays

and public holidays. Three parking spaces for private car and a loading/unloading space for medium goods vehicle will be provided within the Site. The Site is accessible from Kam Ho Road via local tracks (**Plans A-1 and A-2**). The site layout plan and the 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 supplementary statement (**Appendix I**) received on 15.3.2024
- (b) Further Information (FI) received on 23.4.2024* (**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, supplementary statement and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) There is no active agricultural use at the Site. The proposed development can meet the increasing demand for warehouse floor space in recent years and support the local warehousing and storage industry.
- (b) The surrounding areas are dominated by open storage yards and temporary structures. The proposed use is not incompatible with the surrounding uses. The proposed development is temporary in nature and approval of the current application will not frustrate the long-term planning intention of the “AGR” zone.
- (c) The applied filling of land is necessary for site formation and vehicular circulation to meet the operational needs of the proposed development. The applicant undertakes to reinstate the Site upon expiry of the planning approval.
- (d) As medium goods vehicles would be used for transportation of the construction materials and machineries, loading/unloading space and sufficient manoeuvring space would be provided within the Site to ensure that no vehicle would turn back onto the local track. Adverse traffic impact on the surrounding road network should not be anticipated.
- (e) The applicant will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ and ‘Professional Persons Environmental Consultative Committee Practice Notes’ to minimise the environmental impacts and to design the on-site drainage system.
- (f) No dangerous goods or workshop activities will be stored/conducted at the Site. No visitor is anticipated at the Site. The proposed use will not create significant nuisance to the surrounding areas. Adequate measures will be provided by the applicant to mitigate any adverse impact arising from the proposed use.

- (g) The Site is the subject of a previous application submitted by the same applicant for temporary animal boarding establishment which was approved with conditions for five years in January 2021. Although the approved animal boarding establishment use has not been implemented at the Site due to financial concern, the applicant has submitted and implemented the drainage and fire service installations proposals at the Site for compliance with the approval conditions under the previous application. Those accepted proposals are submitted to support the current application.

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

The applicant is the sole “current land owner”.

4. Background

The Site is not subject to any active enforcement action.

5. Previous Applications

- 5.1 The Site is the subject of two previous applications (No. A/YL-KTS/853 and 869). Application No. A/YL-KTS/853 covering a larger site area was for temporary open storage which is not relevant to the current application.
- 5.2 The last application No. A/YL-KTS/869 submitted by the same applicant as the current application was for temporary animal boarding establishment and filling of land and it was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 22.1.2021, mainly on the considerations that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the proposed development was not incompatible with the surrounding uses and the departments consulted in general had no adverse comment or their concerns could be addressed by relevant approval conditions. All of the approval conditions have been complied with and the planning permission is valid until 22.1.2026.
- 5.3 Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are two similar applications (No. A/YL-KTS/946 and 959) for temporary warehouse use (one with filling of land) within “AGR” zone in the vicinity of the Site in the past five years, which were approved with conditions by the Committee of the Board in May and June 2023 respectively mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the proposed use was not incompatible with the surrounding uses; the departments consulted in general had no adverse comment or their concerns could be addressed

by relevant approval conditions; and policy support was given for the application to facilitate relocation of business operation displaced by the government projects.

- 6.2 Details of the similar applications are summarised in **Appendix III** 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) currently paved, partly vacant and partly used as storage of construction machinery with temporary structures erected without valid planning permission; and
- (b) accessible from Kam Ho Road via local tracks.

- 7.2 The surrounding areas are rural in character intermixed with pigsty farms as well as open storage yards, warehouse/storage yard, vehicle repair workshop, residential dwellings/structures (the nearest is about 50m to the northeast). The open storage yards, warehouse/storage yard and vehicle repair workshop are without valid planning permission.

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 for the “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.

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 IV** and **V** respectively.

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

Land Administration

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

- (a) has adverse comment on the application;
- (b) the Site comprises Old Schedule Agricultural Lot Nos. 512 S.A-S.B and 512 S.C-S.E in D.D. 113 held under the Block Government Lease which contains 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 are unauthorised structures and uses on Lot Nos. 512 S.A-S.B and 512 S.C-S.E in D.D. 113 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/apply for regulation 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 Short Term Waiver (STW) to permit the structure(s) erected within the private lots. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it 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 proposed use is temporary in nature, only erection of temporary structure(s) will be considered.

Agriculture and Nature Conservation

9.2.2 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 structures. 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 on the planning application from nature conservation perspective.

Environment

9.2.3 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 dwellings/structures are found in the vicinity of the Site and the proposed use will cause traffic of heavy vehicles, thus environmental nuisance is expected;
- (b) no comment on to the applied filling of land;
- (c) there was no substantiated environmental complaint concerning the Site received in the past three years; and
- (d) should the application be approved, the applicant should note his advisory comments in **Appendix V**.

10. Public Comments Received During Statutory Publication Period

During the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) with ancillary facilities 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Whilst the proposed use 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 use on a temporary basis of three years could be tolerated.
- 11.2 Filling of land within the “AGR” zone also 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 and DEP have 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 to an amenity area is recommended in paragraph 12.2 below should the Committee decide to approve the application.
- 11.3 The proposed use is considered not incompatible with the surrounding land uses mainly intermixed with pigsty farms as well as open storage yards, warehouse/storage yard, vehicle repair workshop and residential

dwellings/structures. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant landscape impact is not anticipated and has no objection to the application from landscape planning perspective.

- 11.4 DEP does not support the application as the proposed use involves use of heavy vehicles and environmental nuisance is expected as there is sensitive receiver in the vicinity. To address DEP's concerns, approval conditions restricting the operation hours and prohibiting workshop activities are recommended in paragraph 12.2 below. The applicant is also advised to follow the revised 'Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites' issued by DEP to minimise possible environmental nuisance generated by the proposed use.
- 11.5 DLO/YL, LandsD has adverse comments on the application in view of the unauthorised structures and uses under lease on the subject lots. In this regard, relevant advisory clause on need for application to LandsD for regularisation for unauthorised structures and uses is recommended should the Committee decide to approve the application.
- 11.6 Other relevant departments consulted including the Commissioner for Transport 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.
- 11.7 There are two similar applications within "AGR" zone in the vicinity of the Site which were approved with conditions in 2023 mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the proposed use was not incompatible with the surrounding uses; and the departments consulted in general had no adverse comment or their concerns could be addressed by relevant approval conditions, as stated in paragraph 6.1 above. Approving the current application is generally in line with the Committee's previous decisions.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the proposed use could be tolerated for a period of three 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 three years until 10.5.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 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 dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities shall be carried out on the site at any time during the planning approval period;
- (d) the implementation of the accepted 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 10.2.2025;
- (e) in relation to (d) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (f) 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 10.2.2025;
- (g) if any of the above planning condition (a), (b), (c) 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;
- (h) if any of the above planning condition (d) 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**.

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

the proposed use with 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. 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 15.3.2024
Appendix Ia	FI received on 23.4.2024
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications within “AGR” Zone in the Vicinity of the Site in the Past Five Years
Appendix IV	Government Departments’ General Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	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
MAY 2024**