

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/973

<u>Applicant</u>	:	港昇發展有限公司
<u>Site</u>	:	Lot 466 (Part) in D.D. 110, Pat Heung, Yuen Long
<u>Site Area</u>	:	About 674m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Temporary Storage of Cleansing Products and Packaging with Ancillary Office for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary storage of cleansing products and packaging with ancillary office 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 Pat Heung 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 paved, erected with a few temporary structures, and used for the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the applied use involves two canopies with a gross floor area of about 462m² and building heights ranging from about 2.8m to about 6m for storage, ancillary office, washroom and ventilation. Two open-air storage areas with a total area of about 38m² (5.64% of site area) are designated near the ingress/egress. The applicant also applies for regularisation of filling of land for the whole site with concrete by not more than 0.22m in depth (from about +14.5mPD to levels ranging from +14.65mPD to +14.72mPD) for site formation and circulation (**Drawing A-2**). The operation hours are between 9:00 a.m. and 5:30 p.m. from Mondays to Fridays, and between 9:00 a.m. to 5:00 p.m. on Saturdays; with no operation on Sundays and public holidays. A loading/unloading area for light goods vehicle/private car is provided at the Site. The Site is accessible to Kam Tin 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 29.9.2023 and 6.10.2023
- (b) Further Information (FI) received on 2.11.2023* (Appendix Ia)
- (c) FI received on 17.11.2023* (Appendix Ib)

** 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 FIs at **Appendices I to Ib**. They can be summarised as follows:

- (a) The applied use can meet the market demand for storage use. It will not induce adverse environmental impact on the surrounding areas nor affecting the quality of soil.
- (b) Only dishwashing detergents will be stored at the Site. No dangerous goods will be stored and no workshop activities will be carried out at the Site.
- (c) Storage and packaging activities which take place at the Site will generate minimum waste. The applicant will arrange disposal of waste generated from the applied use properly.
- (d) The applicant undertakes to comply with the approval conditions to be stipulated by the Rural and New Town Planning Committee (the Committee) should the application be approved.

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 obtaining land owners’ consents, and sending notification letter to notify one of the “current land owners” 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

There is no previous application covering the Site.

6. Similar Applications

- 6.1 There are three similar applications (No. A/YL-PH/844, 914 and 952) for various temporary warehouse uses (including renewal of planning approval) within or straddling 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 between July 2020 and June 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) paved, erected with a few temporary structures, and used for the applied use without valid planning permission; and
 - (b) accessible to Kam Tin Road via a local track.
- 7.2 The surrounding areas are rural in character mainly intermixed with open storage/storage yards, workshops, vacant lands (including sites with planning permissions for temporary open storage under application No. A/YL-PH/873; temporary shop and services under application No. A/YL-PH/921; and temporary public vehicle park and shop and services under application No. A/YL-PH/955) and residential structures/dwellings. To the further southwest across Leung Shing Road is Shek Kong Stabling Sidings of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (**Plan A-2**).

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.

9.2 The following government department does not support the application:

Agriculture and Nature Conservation

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 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 application from nature conservation perspective.

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

The application was published for public inspection. During the statutory public inspection period, a public comment from an individual was received raising concern on the application that the applied use at the Site has been under operation without planning permission.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary storage of cleansing products and packaging with ancillary office 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. Whilst the applied 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 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 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 the Director of Environmental Protection (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 applied use is considered not incompatible with the surrounding land uses which are rural in character mainly intermixed with open storage/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 applied use is not anticipated and has no objection to the application.
- 11.4 There were two environmental complaint cases against the Site regarding waste aspect received in the past 3 years. In this regard, the applicant states that storage and packaging activities at the Site would generate minimum waste and would not induce environmental nuisance, and they will arrange disposal of the waste generated from the applied use properly. The Director of Food and Environmental Hygiene and DEP have no adverse comment on the application. Should the application be approved, relevant approval condition prohibiting workshop activities is recommended in paragraph 12.2 below. The applicant will also be advised to arrange disposal of any waste properly at their own expenses; and to follow the revised 'Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites' issued by Environmental Protection Department to minimise any potential environmental nuisances.
- 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 for warehouse uses 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 public comment raising concern on 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 comment mentioned in paragraph 10, 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 24.11.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:30 p.m. and 9:00 a.m. from Mondays to Fridays, and between 5:00 p.m. and 9:00 a.m. on Saturdays, 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 vehicles exceeding 5.5 tonnes, including container tractors/trailers, 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;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities, shall be carried out on the site at any time during the planning approval period;
- (e) 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 24.5.2024;
- (f) in relation to (e) 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 24.8.2024;
- (g) in relation to (f) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (h) 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 24.5.2024;
- (i) in relation to (h) 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 24.8.2024;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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;
- (k) if any of the above planning condition (e), (f), (h) or (i) 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
- (l) 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 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. 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 29.9.2023 and 6.10.2023
Appendix Ia	FI received on 2.11.2023
Appendix Ib	FI received on 17.11.2023
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout plan
Drawing A-2	Paving plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos