

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/404

- Applicant** : Rich Tone Management Limited represented by R-riches Property Consultants Limited
- Site** : Lot 288 RP (Part) in D.D. 112, Shek Kong, Yuen Long, New Territories
- Site Area** : About 405m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
- Zoning** : “Agriculture” (“AGR”)
- Application** : Temporary Shop and Services with Ancillary Workshop for a Period of 3 Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary shop and services with ancillary workshop 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 OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land in “AGR” zone also requires planning permission from the Board. The Site is hard-paved, fenced-off, occupied by a few temporary structures and currently used for the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Kam Sheung Road via a local access (**Plan A-2**), with an ingress/egress (about 4.5m wide) at the southern part of the Site. The applied use comprises three single-storey structures (about 2.5m to 4m in height) for shop and services, office, portable toilet, storage of goods, meter room and ancillary workshop, with a total floor area of about 221m² (**Drawing A-1**). According to the applicant, the applied use is for selling vehicle products, whereas the ancillary workshop provides space for consumers to install the vehicle products purchased at the Site. No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities will be conducted, and no dangerous goods will be stored at the Site. A total of three private car parking spaces are provided under part of structure B3. The operation hours are from 9:00 a.m. to 7:00 p.m. daily, including public holidays. The applicant also applies for

regularisation of the land filling works that had already been undertaken for the entire Site with concrete of not more than 0.1m in depth (from about 24.2mPD to about 24.3mPD) (**Drawing A-2**). The layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

1.3 The Site is the subject of four previous applications for temporary shop and services (No. A/YL-SK/202, 216, 218 and 348) (**Plan A-1**), which were all approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2014 and 2023 (detailed at paragraph 5 below). The planning permission under the last application No. A/YL-SK/348 was revoked in 2024 due to non-compliance with time-limited approval conditions. Compared with the last application, the current application is submitted by a different applicant for the similar use at the same site with minor changes to the layout and an increase in the total floor area (from 149m² to 221m² (i.e. +292m²)) as well as the site coverage (from 37% to 55% (i.e. +18%)).

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

- (a) Application Form received on 31.12.2024 and Supplementary (**Appendix I**) Information (SI) received on 3.1.2025
 - (b) Further Information (FI) received on 12.2.2025 and 13.2.2025* (**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, SI and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) The applied use is for shop and services selling vehicle products, such as dash camera, sunshades and seat covers, to serve nearby villagers and business operators.
- (b) No agricultural activity has been carried out at the Site over the past years. Temporary approval of the applied use will better utilize previous land resources and will not frustrate the long-term planning intention of the “AGR” zone. The extent of the associated filling of land has been kept to minimal and no further filling of land will be carried out for the current application.
- (c) The applied use is considered not incompatible with surrounding land uses which are mainly open storage of construction materials and warehouses. Similar applications have also been approved by the Board within or straddling the “AGR” zone on the OZP.
- (d) The applicant has submitted a fire service installations (FSI) proposal, run-in/out proposal and a set of photographic record with an as-built drainage plan to support the current application. The applicant is also committed to fulfilling all approval conditions.
- (e) The applicant will remove the unauthorised structure(s) and submit Short Term Waiver (STW) application to the Lands Department (LandsD).

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

The applicant is not a “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 notice to Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active planning enforcement action.

5. Previous Applications

5.1 The Site is the subject of four previous applications (No. A/YL-SK/202, 216, 318 and 348) which were submitted by different applicants for temporary shop and services with or without filling of land, and with slightly different layout and development parameters as compared to the current application. These four applications were approved with conditions by the Committee between 2014 and 2023 each for a period of three years mainly on the considerations that the proposed/applied use would not frustrate the long-term planning intention of “AGR” zone; the proposed/applied use was not incompatible with the surrounding environment; and the government departments consulted generally had no objection to/ no adverse comment on the application. For the last two previous applications, the planning permission of application No. A/YL-SK/318 was revoked in 2023 due to non-compliance with approval conditions on submission and implementation of a run-in/out proposal and implementation of the FSI proposal; whereas that of application No. A/YL-SK/348 was revoked in 2024 due to non-compliance with approval conditions on submission of condition record of existing drainage facilities and implementation of FSI proposal.

5.2 Details of the previous applications are summarised at **Appendix II** and their location are shown on **Plan A-1**.

6. Similar Application

6.1 During the past five years, there is one similar application (No. A/YL-SK/392) for proposed temporary shop and services and associated filling of land within the same “AGR” zone in the vicinity of the Site. The application was approved with conditions by the Committee in 2024, mainly on similar considerations as stated in paragraph 5.1 above.

6.2 Details of the similar application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) hard-paved, fenced-off, occupied by a few temporary structures and currently used

for the applied use without valid planning permission; and

(b) accessible from Kam Sheung Road via a local access.

7.2 The surrounding areas are rural in character predominated by vehicle repair workshops, warehouse/open storage yards, residential structures, plant nurseries, vacant land and cultivated or fallow agricultural land.

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 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 within the “AGR” zone.

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 have reservation on or do not support the application:

Lands Administration

9.2.1 Comments of the District Lands Officer/Yuen Long, LandsD:

- (a) the Site comprises Old Schedule Agricultural Lot 288 RP in D.D.112 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) LandsD has reservation on the planning application since there is/are unauthorised structure(s) on the private lot which is/are already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/apply for regularisation on the lease breaches as demanded by LandsD;
- (c) there is/are unauthorised structures within/extended from the said private lot not covered by the subject planning application. The lot owner(s) should immediately rectify/apply for regularisation on the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (d) the Government Land (GL) adjoining the said private lot has been unlawfully occupied with unauthorised structure(s) without permission. The GL being unlawfully occupied is not included in the application. Any occupation of GL without Government's prior approval is an offence under Cap. 28. His office reserves the rights to take necessary land control when against the unlawful occupation of GL without further notice; and
- (e) the lot owner(s)/applicant shall remove the unauthorised structure(s) and cease the unlawful occupation of GL not covered by the subject planning application immediately and, subject to the approval of the Board to the planning application which shall have reflected the rectification or amendment as aforesaid required, apply to his office for an STW to permit the structure(s) erected. 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 to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owner(s)/applicant for any breach of the lease conditions, including the breach(es) already in existence or to be detected at any point of time in future and land control action for any unlawful occupation of GL.

Agriculture and Nature Conservation

9.2.2 Comments of the Director of Agriculture, Fisheries and Conservation:

- (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 with 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.

10. Public Comments Received During Statutory Publication Period

On 7.1.2025, the application was published for public inspection. During the statutory public inspection period, a total of three public comments were received (**Appendix V**). Two of the comments are from the indigenous inhabitant representatives of Pat Heung Lin Fa Tei and an individual raising objection mainly on the grounds that the applied use would cause adverse impacts on the surrounding area in terms of traffic and environmental hygiene. The remaining

public comment is from an individual raising concern that the approval conditions of the previous application were not complied with.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services with ancillary workshop for a period of three years and associated filling of land at the Site zoned “AGR” (**Plan A-1**). Whilst 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, the applicant claims that the applied use could serve the residents nearby. In view of the above and taking into account the planning assessments below, there is no objection to the applied use on a temporary basis of three years with associated filling of land.
- 11.2 Filling of land in the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. The applicant applies for regularisation of the land filling works that had been undertaken for the entire Site with concrete of not more than 0.2m in depth. In this regard, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection have no objection to the application from drainage and environmental planning perspectives respectively. As the site is zoned “AGR”, an approval condition requiring reinstatement of the Site upon expiry of the planning permission so as to uphold the planning intention of the “AGR” zone and restore the greenery of the area is recommended should the Committee decide to approve the application.
- 11.3 The applied use is considered not incompatible with the surrounding areas which are predominated by vehicle repair workshops, warehouse/open storage yards, residential structures, plant nurseries, vacant land and cultivated or fallow agricultural land (**Plan A-2**). The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no adverse comment on the application from landscape planning perspective and considers that further significant adverse landscape impact within the Site arising from the applied use is not anticipated.
- 11.4 Regarding DLO/YL, LandsD’s concern on the unauthorised structure(s) and uses on the concerned lot and the illegal occupation of GL, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application. Other relevant government departments consulted including the Commissioner for Transport and Director of Fire Services (D of FS) have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, relevant approval conditions are recommended in paragraph 12.2 below. It is also recommended to advise the applicant to follow the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department to minimise any potential environmental nuisance by the applied use on the surrounding areas.
- 11.5 The Site is the subject of four previously approved applications submitted by different applicants for similar use as detailed in paragraph 5 above. Although the planning permissions under the last two previous applications (No. A/YL-SK/318 and 348) were revoked in 2023 and 2024 due to non-compliance with time-limited approval conditions related to the submission and implementation of a run-in/out proposal, the implementation of FSI proposal, as well as the submission of condition record of existing

drainage facilities, the current application is submitted by a different applicant who has committed to fulfilling all approval conditions. To support the current application, the applicant has submitted condition record of existing drainage facilities, a run-in/out proposal and a FSI proposal, which are accepted by CE/MN, DSD, Chief Engineer/New Territories East of Highways Department, Commissioner for Transport and D of FS respectively. Besides, there is one approved similar application within the same “AGR” zone in the vicinity of the Site in the past five years as detailed in paragraph 6 above. Approval of the current application is in line with the Committee’s previous decisions.

- 11.6 Regarding the public comments mentioned in paragraph 10, 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 comments mentioned in paragraph 10, PlanD has no objection to the application.
- 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 28.2.2028. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (b) 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 28.11.2025;
- (c) the implementation of the accepted run-in/out proposal 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 28.11.2025;
- (d) if the above planning condition (a) 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; and
- (e) if any of the above planning condition (b) or (c) 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;
- (f) upon the expiry of the planning permission, the reinstatement of the site, including the removal of fill materials and hard paving, and grassing of the site to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached 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 with associated 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. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form received on 31.12.2024 and SI received on 3.1.2025
Appendix Ia	FI received on 12.2.2025 and 13.2.2025
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
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
FEBRUARY 2025**