

RNTPC Paper No. A/YL-NTM/365B  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 19.10.2018

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

**APPLICATION NO. A/YL-NTM/365**

- Applicant** : Honour Will Development Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 630 (Part), 631 (Part), 632, 633 (Part), 634 (Part) and 651 (Part) in D.D. 105 and Adjoining Government Land (GL), Shek Wu Wai San Tsuen, Ngau Tam Mei, Yuen Long
- Site Area** : About 1,570 m<sup>2</sup> (includes GL of about 20m<sup>2</sup>)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
- Zoning** : “Comprehensive Development Area” (“CDA”)
- Application** : Temporary Open Storage of Construction Material for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of construction material for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “CDA” on the approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12. According to the Notes of OZP, temporary use not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is not subject of any previous application, and is currently being used for the applied use without valid planning permission (**Plans A-4a and b**).
- 1.2 As shown on the location plan at **Plan A-1** and layout plan at **Drawing A-1**, the Site is accessible at its southwest via a local track off Shek Wu Wai Road. A 12m-diameter vehicle manoeuvring space is proposed to be located near the ingress/egress at the south-western portion of the Site. The applicant has submitted landscape and drainage proposals. The proposed development parameters are summarized below:

<b>Major Development Parameters</b>	<b>Applied Open Storage of Construction Material</b>
Site Area	About 1,570 m <sup>2</sup>
No. of Structure(s)	2 ( a site office and a toilet)
Total floor area	Not exceeding 94 m <sup>2</sup>
Height of structures	Not exceeding 3m (1 storey) to not exceeding 6.5m (2 storeys)
No. of Loading/Unloading Bays	1 for light goods vehicle (LGV) not exceeding 5.5 tonnes (7m x 3.5m)
Operation Hours	9:00a.m. to 7:00 p.m. Mondays to Saturdays, no operation on Sundays and public holidays

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

- (a) Application form with drainage proposal, landscape proposal (**Appendix I**) and estimated traffic generation received on 7.3.2018
- (b) Further Information (FI) received on 25.6.2018 providing response to departmental comments with revised drainage proposal (**Appendix Ia**)  
*(accepted and exempted from publication and recounting requirements)*

1.4 The application was received on 7.3.2018. On 4.5.2018 and 3.8.2018, the Committee decided to defer a decision on the application as requested by the applicant pending further submission from the applicant to address departmental comments. The applicant has not submitted any FI since last deferment, and the application is scheduled for consideration by the Committee at this meeting.

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

The justifications put forth by the applicant in support of the application are detailed in part 9 of the Application Form at **Appendix I** and FI at **Appendix Ia**. They can be summarized as follows:

- (a) The applied development is temporary in nature that would not jeopardize the long-term planning intention of the “CDA” zone.
- (b) The nature and form of the applied development is not incompatible with the surrounding uses including open storage yards and warehouses. The applied development would not generate adverse impact on the surrounding environment.
- (c) Only LGV not exceeding 5.5 tonnes will be allowed to enter/park at the Site for the convenience of staff.

- (d) The applicant has submitted landscape and drainage proposals to support the application. In view of the nature, scale and form of the proposed development, significant adverse impact on the surrounding environment is not anticipated.

### **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. 31) by sending notice to San Tin Rural Committee and posting notice on the Site. Detailed information would be deposited at the meeting for Members’ inspection. The remaining of the Site is GL, and the “Owner’s Consent/Notification” requirements are not applicable.

### **4. Background**

The current use at the Site is a suspected unauthorized development (UD) under investigation. Should there be sufficient evidence to prove that the current use on the Site constitutes an UD under Town Planning Ordinance, enforcement action will be taken.

### **5. Town Planning Board Guidelines**

The Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No.13E) provides guidelines for open storage and port back-up uses. The Site falls within Category 3 areas under the guidelines. The following criteria are relevant:

Category 3 areas: applications would normally not be favourable considered unless the applications are on site with previous planning approvals. Sympathetic consideration may be given if the applicant have demonstrated genuine efforts in compliance with approval condition of the previous planning application and included in the fresh applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 year, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions.

### **6. Previous Application**

There is no previous application covering the Site.

### **7. Similar Applications**

- 7.1 There are 2 similar applications (Nos. A/YL-NTM/354 and 362) for proposed temporary open storage of construction material use with ancillary site office and

storage area/ temporary open storage of construction material for a period of 3 years respectively within the “CDA” zones on the Ngau Tam Mei OZP. The applications were rejected by the Committee on 22.12.2017 and 21.9.2018 respectively mainly on the consideration that the proposed developments were not in line with the planning intention of the “CDA” zone, no strong planning justification was provided for a departure from such planning intention even on a temporary basis; not in line with TPB PG-No. 13E in that no previous approval had been granted and there were adverse departmental comments; approval of the application would set an undesirable precedent for similar applications within the “CDA” zone; and the cumulative effect of approving such application would result in general degradation of the environment of the area.

7.2 Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) accessible at the southwest of the Site via a local track off Shek Wu Wai Road; and
- (b) mostly fenced off with part of the Site being used for open storage of construction material which is a suspected UD.

8.2 The surrounding areas are intermixed with open storage yard, warehouses, residential dwellings, farm land, ponds, unused and vacant land; some open storage and parking of vehicles uses are suspected UD subject to planning enforcement. (**Plan A-2**).

- (a) to its east are storage area, residential dwellings, watercourse, ponds, unused and vacant land;
- (b) to its south is residential dwellings and open storage yards, unused and vacant land;
- (c) to its west across the local track are residential dwellings, warehouse, and logistic centre which is a suspected UD subject to enforcement action ; and
- (d) to its north are farm land residential dwellings, storage area and unused land.

## **9. Planning Intention**

The planning intention of the “CDA” zone is primarily for comprehensive development/redevelopment of the area for residential use with commercial, open space and other supporting facilities. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

## **10. Comments from Relevant Government Departments**

10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

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

- (a) The Site comprises Old Schedule Agricultural Lots 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) No permission is given for occupation of GL of about 20m<sup>2</sup> in area (subject to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed.
- (c) The Site is accessible to Shek Wu Wai Road through both GL and private land. His office provides no maintenance work of the GL involved and does not guarantee any right-of-way.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the application, the lot owners will need to apply to his office to permit the structures to be erected or regularize any irregularity on site. Besides, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Such application will be considered by Lands Department (LandsD) acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application is approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

### **Traffic**

10.1.2 Comments of the Commissioner for Transport (C for T):

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

- (b) Should the application be approved, the following conditions should be incorporated:
  - (i) In view of the limited space as proposed by the applicant, only private car or light goods vehicle not exceeding 5.5 tonnes should be allowed to enter/park at the Site;
  - (ii) No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

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

- (a) The proposed access arrangement of the Site from Shek Wu Wai Road should be commented by TD;
- (b) His department does not and will not maintain any access connecting the Site and Shek Wu Wai Road;
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

10.1.4 Comments of the Chief Engineer/Railway Development 1-1, Railway Development Office, Highways Department (CE/RD 1-1, RDO, HyD):

He has no in-principle objection to the application from railway development point of view. However, the Site falls within the administrative route protection boundary for the proposed Northern Link (NOL). Although the programme and the alignment of the proposed NOL are still under review, those areas within the administrative route protection boundary may be required to be vacated at the time for the construction of the NOL. The applicant shall be reminded of the above when planning its land use application.

**Environment**

10.1.5 Comment of the Director of Environmental Protection (DEP):

- (a) DEP has no objection to the application, as it is noted that no heavy vehicle and dusty construction material is involved in the application.
- (b) Should the application be approved, the applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issue by DEP to minimize potential environmental impacts on the surrounding area.

### **Nature Conservation**

- 10.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
- (a) He has no adverse comment on the application from the nature conservation point of view as the Site is located within “CDA” zone and surrounded by temporary structures.
  - (b) As there is a watercourse to the east of the Site (**Plan A-2**) and a pond to the north-east of the Site, should the application be approved, the applicant is advised to adopt appropriate measures to avoid disturbing and polluting the watercourse and ponds during operation.

### **Building Matters**

- 10.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
  - (b) If the existing structures (not being New Territories Exempted Houses) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any approved use under the application.
  - (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD’s enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
  - (d) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
  - (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.

- (f) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

### Drainage

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

He does not support the application as flooding/drainage complaints have been recorded based on their record and the area adjoining the Site is subject to overland flows and possible flooding, unless the applicant can submit a drainage proposal to mitigate the flooding risk of the area to DSD's satisfaction. However, the revised drainage proposal (**Appendix Ia**) submitted by the applicant is considered unacceptable from drainage operation and maintenance point of view.

### Landscape

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

- (a) He has no objection to the application from the landscape planning view of point.
- (b) The Site is within an area zoned "CDA" at Shek Wu Wai San Tsuen. The area is of rural landscape character comprised of fallow and active agriculture land, temporary structures and village houses. Similar land use cannot be found in proximity of the Site.
- (c) According to the series of aerial photos since 2001, the open storage is already exists since then. With reference to the site photos dated 16.3.2018, the Site is hard paved and significant landscape resource cannot be found within the Site. Considering that further impact arising from the proposed use on the existing landscape is unlikely, he has no objection to the application from the landscape planning view of point.
- (d) His comments on the landscape plan (**Drawing A-2**) submitted by applicant are as follows:
  - (i) the applicant should clarify whether the proposed trees will be planted at-grade. Tree pit of 1m x 1m x 1.2m soil depth should be provided for at-grade planting. A minimum spacing of 4m should be provided for sustainable tree growth and a minimum 2m horizontal clearance should be kept between structures and tree;



- (ii) for trees to be planted along vehicular access within the Site, a fence/kerb/bollard at a minimum distance of 1m from the tree trunk should be provided between the tree and vehicle to guard against potential physical damages to the trees arising from vehicular movement; and
- (iii) all hard-paved area, planting area and drainage design should be indicated on plan.
- (e) Should the application be approved by the Board, the following approval condition is suggested to be included in the planning approval:

Submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

### **Fire Safety**

#### 10.1.10 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 (FSIs) being provided to the satisfaction of the D of FS.
- (b) In consideration of the design/nature of the proposal, 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 applicant should also be advised on the following points:
  - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy;
  - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans; and
  - (iii) good practice guidelines for open storage (**Appendix III**) should be adhered to.
- (c) Having considered the nature of the open storage, the following approval condition shall be added:

The provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of D of FS
- (d) To address the subject approval condition, applicant should submit a valid fire certificate (FS 251) to his Department for approval.

- (e) The applicant is reminded that if the proposed structure(s) is 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.

### **Others**

#### 10.1.11 Comments of the Commissioner of Police (C of P):

He has no objection in principle subject to no parallel trading/ general merchandise operations (GMO) activities involved.

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

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

His office has no comment on the application and the local comments shall be submitted to the Board direct, if any.

#### 10.2 The following Government departments have no comments on/no objection to the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (d) Director of Leisure and Cultural Services (DLCS); and
- (e) Head of the Geotechnical Engineering Office, CEDD (H(GEO), CEDD).

## **11. Public Comment Received During Statutory Publication Period**

On 16.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 6.4.2018, one objecting comment was received from a private individual (**Appendix IV**) raising concerns that the proposed use is not in line with the planning intention of "CDA" zone, storage use should be accommodated in purpose built park, and approval of the application would set an undesirable precedent for similar application in the "CDA" zone.

## **12. Planning Considerations and Assessments**

12.1 According to the TPB PG-No. 13E, the Site falls within Category 3 areas. The following criteria are relevant:

Category 3 areas: applications would normally not be favourably considered unless the applications are on site with previous planning approvals. Sympathetic consideration may be given if the applicant has demonstrated genuine efforts in compliance with approval condition of the previous planning application and included in the fresh applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 year, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions

- 12.2 The Site falls within “CDA” zone which is for comprehensive development/redevelopment of the area for residential use with commercial, open space and other supporting facilities. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints. The applied use for open storage of construction material is not in line with the planning intention of the “CDA” zone. Despite there is no approved development/programme in the “CDA” zone, no strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.
- 12.3 The surrounding areas are intermixed with open storage yard, warehouses, residential dwellings, farm land, ponds, unused and vacant land (**Plan A-2**). The applied use is considered not entirely compatible with the surrounding land use. The Site has been hard-paved. DSD does not support the application as the Site is subject to overland flows and possible flooding. However, the revised drainage proposal submitted by the applicant is considered unacceptable from drainage operation and maintenance point of view.
- 12.4 According to the TPB PG-No. 13E, the Site falls within Category 3 areas and application would normally not be favourably considered unless the applications are on site with previous planning approvals. The application is not in line with the TPB PG-No. 13E in that no previous approval for open storage use has been granted for the Site, there are adverse comments from DSD, and the submitted technical assessments/proposals fail to demonstrate that the applied use would not have adverse drainage impact on the surrounding areas.
- 12.5 No approval has been given to any application for temporary open storage use within the “CDA” zones in the Ngau Tam Mei OZP. Two similar applications (Nos. A/YL-NTM/354 and 362) for proposed temporary open storage of construction material use with ancillary site office and storage area/ temporary open storage of construction material for a period of 3 years within “CDA” zone were rejected by the Committee on 22.12.2017 and 21.9.2018 respectively. Approval of the application without addressing the adverse drainage impact would set an undesirable precedent and encourage other applications for similar development in the area. The cumulative effect of approving the similar application would result in piecemeal development and general degradation of the environment of the area.

12.6 There is one objecting comment raising concern that the proposed use is not in line with the planning intention of “CDA” zone, storage use should be accommodated in purpose built park, and approval of the application would set an undesirable precedent for similar application in the “CDA” zone. The planning consideration and assessments above are of relevance.

### **13. Planning Department’s Views**

13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department does not support the application for following reasons:

- (a) the proposed development is not in line with the planning intention of the “CDA” zone, which is primarily for comprehensive development/redevelopment of the area for residential use with commercial, open space and other supporting facilities. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the proposed development is not in line with the Town Planning Board Guidelines No.13E for Application for Open Storage and Port Back-up Uses in that no previous approval has been granted for the Site, there are adverse departmental comments on the drainage aspect and the applicant fails to demonstrate that the proposed development would not have any adverse drainage impact on the surrounding areas; and
- (c) the approval of the application would set an undesirable precedent for similar applications within the “CDA” zone. The cumulative effect of approving such application would result in general degradation of the environment of the area.

13.2 Alternatively, 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 year up to 19.10.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### **Approval Conditions**

- (a) no operation between 7:00p.m. and 9:00a.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) only private car and light goods vehicle not exceeding 5.5 tonnes should be allowed to enter/park at the Site;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (e) the provision of fencing of the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 19.4.2019;
- (f) the submission of 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 19.4.2019;
- (g) in relation to (f) above, the implementation of 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 19.7.2019;
- (h) the submission of landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town planning Board by 19.4.2019;
- (i) in relation to (h) above, the implementation of landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town planning Board by 19.7.2019;
- (j) the provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 30.11.2018;
- (k) the submission of fire service installations proposals 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 19.4.2019;
- (l) in relation to (k) above, the provision of fire service installations 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 19.7.2019;
- (m) if any of the above planning conditions (a), (b), (c) and (d) 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;
- (n) if any of the above planning conditions (e), (f), (g), (h), (i), (j), (k) and (l) 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
- (o) upon the expiry of the planning permission, the reinstatement of the application 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**.

**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 reasons for rejection should be given to the applicant.

**15. Attachments**

<b>Appendix I</b>	Application form received on 7.3.2018
<b>Appendix Ia</b>	FI received on 25.6.2018
<b>Appendix II</b>	Similar applications within the “CDA” zone on the OZP
<b>Appendix III</b>	Good Practice Guidelines for Open Storage Sites
<b>Appendix IV</b>	Public comment received during publication period
<b>Appendix V</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Proposed Landscape Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and b</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2018**