

RNTPC Paper No. A/YL-PH/768B  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 17.8.2018

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

**APPLICATION NO. A/YL-PH/768**

- Applicant** : Win Century International Investments Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 29 (Part), 33 (Part) and 35 (Part) in D.D. 111 and Adjoining Government Land, Pat Heung, Yuen Long
- Site Area** : About 5,432 m<sup>2</sup> (about) (including about 448m<sup>2</sup> of Government Land )
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Residential (Group D)” (“R(D)”)  
[maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m)]
- Application** : Proposed Temporary Public Vehicle Park for Private Car and Light Goods Vehicle for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary public vehicle park for private car and light goods vehicle for a period of 3 years. According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ use is a Column 2 use under the “R(D)” zone which requires planning permission from the Town Planning Board (the Board). The Site is not subject to any previous application and is currently vacant and fenced (**Plans A-2 and A-4a to A-4c**)
- 1.2 According to the applicant, a total of 44 parking spaces will be provided within the Site including 30 spaces for private car and 14 spaces for light goods vehicles. Three single-storey structures with a total floor area of not exceeding 44m<sup>2</sup> and 3m high will be provided for office, guard room and toilet uses. No vehicle exceeding 5.5 tonnes including medium and heavy goods vehicles and container

tractor/trailer will be allowed to park at the Site. Also, no vehicle repairing, dismantling or workshop activity will be carried out at the Site. The Site is accessible via a local track branching off Fan Kam Road on the west. The operation hours will be 24 hours daily including public holidays. Boundary fencing and proper signage will be provided along the boundary of the Site. The site layout plan, landscape and tree preservation proposal, drainage plan and vehicular access plan submitted by the applicant are at **Drawings A-1 to A-4**.

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

- (a) Application form and supplementary planning statement and information with plans received on 18.1.2018 **(Appendix I)**
- (b) Supplementary Information (SI) submitted on 18.1.2018 clarifying the name of the applicant and site area **(Appendix Ia)**
- (c) Further information (FI) submitted on 28.6.2018 providing a traffic assessment **(Appendix Ib)**  
*(accepted but not exempted from publication and recounting requirements)*
- (d) FI submitted on 5.7.2018 providing further justification for the proposed development **(Appendix Ic)**  
*(accepted and exempted from publication and recounting requirements)*
- (e) FI submitted on 30.7.2018 clarifying the survey details of the traffic assessment **(Appendix Id)**  
*(accepted and exempted from publication and recounting requirements)*
- (f) FI submitted on 8.8.2018 in response to departmental comments on the drainage proposal **(Appendix Ie)**  
*(accepted and exempted from publication and recounting requirements)*

1.4 The application was originally scheduled for consideration by the Rural and New Town Planning Committee (the Committee) on 16.3.2018. Upon the request of the applicant, the Committee agreed to defer making a decision on the application on 16.3.2018 and 1.6.2018 respectively to allow time for the applicant to address the departmental comments. After the respective deferral

requests, the applicant had submitted revised technical assessments and further justification for the proposal in response to departments' comments.

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

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement in **Appendices I and Ic**. They can be summarized as follows:

- (a) The proposed public vehicle park is a Column 2 use of the "R(D)" zone. As similar applications for the proposed use were approved in "R(D)" zone, similar favorable consideration should be granted to this application. The proposed development is a temporary use which would not jeopardize the long term planning intention of the "R(D)" zone. The applicant indicates that the Site is intended for houses development and the public vehicle park is temporary in nature.
- (b) The proposed development could cater for the nearby parking demand. Support from villagers of Shui Kan Shek Tsuen has been obtained.
- (c) The proposed public vehicle park is compatible with the surrounding environment. The impacts on traffic, environment, noise and drainage aspects generated by the proposed development would be insignificant. Measures to minimize environmental impact will be implemented.

## **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 posting site notice and sending a letter to Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

## **4. Background**

The Site was the subject of an enforcement action (No. E/YL-PH/780) with Enforcement Notice (EN) alleging for unauthorized land filling issued to the responsible person in late 2017. Reinstatement Notice requiring the removal of all fill materials on the land was issued in early 2018. Upon the removal of the fill materials on site, Compliance Notices were issued on 10 and 13.7.2018, i.e. the previously identified unauthorized development has been rectified.

**5. Previous Application**

The Site is not the subject of any previous application.

**6. Similar Application**

There is a similar application for public car park in the same “R(D)” zone (Application No. A/YL-PH/181) approved with conditions under review by the Board on 20.11.1998 for a period of 3 years mainly on the grounds that the proposed use would help satisfy some of the parking demand from local residents in the area; the propose car park was not incompatible with the surrounding areas which was mainly open storage yards, workshops and fallow agricultural land; and the use was considered compatible with and functional in support the low-rise, low-density residential developments in the area; and in general no adverse comments from relevant government departments. Details of the application are summarized in **Appendix II** while the location of the site is shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) vacant and fenced;
- (b) a water channel running underneath the middle of the Site; and
- (c) accessible via a local track branching off Fan Kam Road to its west (**Plan A-2**).

7.2 The surrounding area is mixed with open storage yards of building materials and/or vehicles, cultivated agricultural land, plant nursery, residential structures/dwellings and vacant/unused land:

- (a) to its north is an open storage yard for building material, residential structures/dwellings and vacant/unused land;
- (b) to its east is a storage yard, residential structures/dwellings, cultivated agricultural land and vacant/unused land;
- (c) to its south is mainly residential structures/dwellings and vacant/unused land. Temporary open storage yards for vehicles and/or building materials under approved planning application nos. A/YL-PH/738 and 757 and a plant nursery are at its further southwest; and
- (d) to its west are a water channel and vacant/unused land.

## 8. **Planning Intention**

The planning intention of the “R(D)” is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

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

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

### **Land Administration**

9.1.1 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 Government Land (GL) (about 448m<sup>2</sup> subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed.
- (c) The Site is accessible to Fan Kam Road via GL. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a formal approval prior to the actual occupation of the GL portion. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) 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 the LandsD.

### **Traffic**

#### 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from the traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) 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 checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

#### 9.1.3 Comments of the Chief Highway Engineer/NT West, Highway Department (CE/NTW, HyD):

- (a) HyD does not and will not maintain any access connecting the Site and Fan Kam Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Environment**

#### 9.1.4 Comments of the Director of Environmental Protection (DEP):

There was no environmental complaint received in the past 3 years. The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

## **Landscape**

- 9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
- (a) She has some reservation to the application from the landscape planning point of view.
  - (b) Based on the aerial photo taken in April 2017, the Site is located in a rural landscape setting with small houses, car parks, open storage sites and scattered tree groups. Although the proposed use is not entirely in line with the planning intention of “R(D)” zone, it is not incompatible with the surrounding landscape character.
  - (c) Based on the site visit in February 2018, the Site is cleared and vacant. Ten existing trees of *Ficus variegata* (青果榕) and *Macaranga tanarius* (血桐) of semi-mature size are found along the southeastern boundary within the Site. Adverse impact on significant landscape resources is not anticipated. Referring to the submitted tree preservation and landscape plan, all existing trees will be preserved and screen plantings will be provided along the site boundary to enhance the screening and landscape quality of the Site. Significant impact arising from the proposed development on existing rural landscape character is not expected.
  - (d) However, comparing the current site condition and recent aerial photo taken in April 2017, it is apparent that vegetation has been cleared within the Site prior to submission of the application. Approval of this application would set an undesirable precedent to encourage vegetation clearance prior to application.
  - (e) Should the application be approved, approval conditions on submission and implementation of a tree preservation and landscape proposal should be included.
  - (f) Detailed comments on the submitted landscape plan are at **Appendix III**.

## **Nature Conservation**

- 9.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) There are some trees located at the boundary of the Site and on surrounding government land, which should not be affected by the proposed development. There are also two watercourses to the west of the Site and in the middle of the Site.
- (b) There has been recent suspected unauthorized felling of trees and vegetation clearance on government land directly abutting the western boundary of the Site, near the proposed ingress/egress of the application. Upon the recent site investigations, at least 8 trees on government land were felled/damaged. The case is currently under his investigation. Land-filling activities and paving on government land was also detected, which may have affected a watercourse and may further affect some other existing trees on government land. ‘Destroy First, Develop later’ approaches should not be encouraged.

### **Drainage**

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

- (a) Should the application be approved, conditions requiring the submission and implementation of a revised drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Town Planning Board should be included.
- (b) His detailed comments on the submitted drainage proposal submitted are at **Appendix IV**.

### **Fire Safety**

9.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no in principle objection to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (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 layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.



- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

#### 9.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) 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.
- (c) 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.
- (d) 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.

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

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

His office has not received any comments from locals upon close of consultation and has no particular comment on the application.

9.2 The following Government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager/West, Civil Engineering and Development Department (PM/NTW, CEDD);
- (c) Commissioner of Police (C of P); and
- (d) Director of Electrical and Mechanical Services Department (DEMS).

## **10. Public Comments Received During Statutory Publication Period**

- 10.1 The application and subsequent FI submitted by the applicant were published on 30.1.2018 and 13.7.2018 respectively. During the first three weeks of the statutory public inspection period, which ended on 20.2.2018 and 3.8.2018, five objecting comments from representative of indigenous villagers of Sheung Che Tsuen and two general publics (**Appendices V-1 and V-5**) were received.
- 10.2 Representative of indigenous villagers of Sheung Che Tsuen objects to the application mainly on the grounds that the Site is close to burial grounds and would adversely affect the 'Fung Shui' of the village; suspected illegal occupation of GL; the watercourse near the entrance of the Site is covered and may lead to flooding; the ingress/egress at Fan Kam Road is steep and affects pedestrian safety; parking spaces are available at Sheung Che and Ha Che Tsuen and the applicant had not consulted the villagers on parking demand; and the Site may be used for other purpose. Another commenter objects to the application as the proposed use is not in line with the planning intention and is inefficient use of land; parking facilities should accommodate in high-rise building, underground or in stacked facilities; and setting undesirable precedent. The other commenter raises objection to the application mainly on the grounds that the Site is under Block Government Lease for agricultural use instead of building lot and the current application would breach the lease and should not be considered by the Board; the requirements under Block Government Lease should be adhered to; the access of the Site occupied GL illegally; there is suspected illegal filling of watercourse and erecting of retaining wall; adverse impact on traffic and the watercourse and pollution to the nearby water pipeline; and setting undesirable precedent.

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

- 11.1 The planning intention of the "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. The proposed temporary public vehicle

park for private car and light goods vehicle is not entirely in line with the planning intention of the “R(D)” zone. However, according to the applicant, the proposed use can serve the nearby parking demand and support from the villagers of the nearby Shui Kan Shek Tsuen has been obtained. Since there is no known permanent development programme at this part of the “R(D)” zone, approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone.

- 11.2 The proposed development for public vehicle park for private car and light goods vehicle is not incompatible with the surrounding land uses mixed with open storage yards, residential dwellings/structures, and vacant /unused land (**Plan A-2**). Since the Site is in proximity to Fan Kam Road and can be accessed without passing through residential dwellings, it is expected that the proposed use will not generate significant environmental impact on the surrounding area. DEP has no adverse comment on the application. There is also a similar application for public car park within the same “R(D)” zone approved by the Board in 1998.
- 11.3 Relevant departments including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. CTP/UD&L of PlanD has some reservations to the application as it apparent that vegetation has been cleared within the Site prior to the submission of the application and approval of the application would set an undesirable precedent to encourage vegetation clearance prior to application. DAFC also noted that tree felling/land filling on government land was carried out. To address CTP/UD&L of PlanD’s concern, approval conditions requiring submission and implementation of a tree preservation and landscape proposal are recommended. To minimize any potential nuisance, approval conditions restricting vehicle type, prohibiting workshop activities and provision of boundary fence are recommended in paragraphs 12.2 (a) to (d) and (f) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on site will be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP in order to alleviate any potential impact. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2(e), (g) to (l) below.
- 11.4 Five public comments objecting to the application were received as stated in paragraph 10 above. In response to the public concerns, the applicant submitted traffic assessment to demonstrate that the proposed development will not have adverse traffic impact to the surroundings. Regarding the concern on drainage, watercourse, environmental, pedestrian safety and traffic aspects, relevant departments consulted including CE/MN of DSD, DEP and C for T have no adverse comments/objections to the application. The planning assessments and considerations above are also relevant.

## 12. **Planning Department's Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10, the Planning Department considers that the proposed temporary public vehicle park for private car and light goods vehicle 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 17.8.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (b) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) a notice should be posted at a prominent location of the Site to indicate that no medium or heavy goods 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 all times during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the provision of the boundary fence for 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 17.2.2019;
- (g) the submission of tree preservation and 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 17.2.2019;

- (h) in relation to (g) above, the implementation of tree preservation and 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 17.5.2019;
- (i) 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 17.2.2019;
- (j) in relation to (i) 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 17.5.2019;
- (k) the submission of 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 17.2.2019;
- (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 17.5.2019;
- (m) if any of the above planning conditions (a), (b), (c), (d) 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;
- (n) if any of the above planning conditions (f), (g), (h), (i), (j), (k) or (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 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 at **Appendix VI**.

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

the development is not in line with the planning intention of the "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density

residential developments subject to planning permission from the Board. There is no strong planning justification in the submission for a departure from such 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 applicants.

### **14. Attachments**

- Appendix I** Application form and supplementary planning statement and information with plans received on 18.1.2018
- Appendix Ia** SI received on 18.1.2018
- Appendix Ib** FI submitted on 28.6.2018
- Appendix Ic** FI submitted on 5.7.2018
- Appendix Id** FI submitted on 30.7.2018
- Appendix Ie** FI submitted on 8.8.2018
- Appendix II** Similar applications within the same “R(D)” zone on the Pat Heung Outline Zoning Plan
- Appendix III** Detailed comments of CTP/UD&L of PlanD
- Appendix IV** Detailed comments of CE/MN of DSD
- Appendices V-1 to V-5** Public comments received during the statutory publication period
- Appendix VI** Advisory Clauses

<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Landscape and Tree Preservation Plan
<b>Drawing A-3</b>	Drainage Plan
<b>Drawing A-4</b>	Vehicular Access Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and 4c</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2018**