

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/640

- Applicant** : Shun Cheong Strategic Limited represented by Alliance Architects Ltd.
- Site** : Lots 799 S.A RP, 800 S.B RP and 801 S.B in D.D. 83, 192 Sha Tau Kok Road, Lung Yeuk Tau, Fanling, New Territories
- Site Area** : 772 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- For Lots 800 S.B RP and 801 S.B in D.D. 83
Short Term Waiver (STW) No. 1206
- Restricted to workshop and storage of electrical appliances/fittings
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
- Zoning** : “Residential (Group C)” (“R(C)”)
- Application** : Temporary Private Vehicle Park for Private Car and Light Goods Vehicle (Excluding Container Vehicle) and Loading/Unloading 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 private vehicle park for private car and light goods vehicle (excluding container vehicle) and loading/unloading for a period of three years (**Plan A-1**). The Site falls within an area zoned “R(C)” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within “R(C)” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for under the Notes of the OZP. The Site is currently used by the applied use without a valid planning permission.
- 1.2 According to the applicant, there are two structures, with a total floor area of about 383m², for rainshelter for loading and unloading, and guard house and pantry respectively. They are 6m and 3m in height with floor area of 350 m² and 33 m² respectively. Three parking spaces (3m x 5m) for private vehicle and/or LGV and one loading/unloading space are provided within the Site (**Drawing A-1**). The

loading/unloading area is solely used for the purpose of delivery and disposal of cargo by the adjoining factory owned by the applicant. The adjoining factory was the subject of a planning application (No. IDPA/NE-LYT/8) approved by the Director of Planning on 11.4.1991 for the purpose of workshop and storage of electrical appliances/fittings (**Plan A-2**).

- 1.3 The Site is accessible via Sha Tau Kok Road. According to the applicant's submission (**Appendix Ie**), there will be 3 to 5 daily trips made by light goods vehicle to/from the Site and the vehicle trips time at the Site is estimated to be 15 to 20 minutes. The operation hours of the Site are between 8:00 a.m. to 6:00 p.m. on Mondays to Saturdays, and there will be no operation on Sundays and public holidays.
- 1.4 The Site is the subject of six previous approved applications (No. A/NE-LYT/149, 196, 308, 396, 496 and 541) for the similar/same uses submitted by the same applicant. The latest planning application No. A/NE-LYT/541 for the same use submitted by the same applicant as the current application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 22.8.2014 for a period of three years and its planning permission lapsed on 23.8.2017. The current application is largely the same as the previous application No. A/NE-LYT/541 in terms of the number and disposition of car parking spaces and loading/unloading area, except an increase in floor area of the guard house and pantry from 11m² to 33 m².
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with attachments received on 17.10.2017 (**Appendix I**)
 - (b) Supplementary Information received on 20.10.2017 (**Appendix Ia**)
 - (c) Letter dated 22.11.2017 requesting for deferment of consideration of the application (**Appendix Ib**)
 - (d) Further Information received on 6.2.2018 (**Appendix Ic**)
 - (e) Letter dated 24.3.2018 requesting for deferment of consideration of the application (**Appendix Id**)
 - (f) Further Information received on 25.5.2018 (**Appendix Ie**)
 - (g) Letter dated 1.6.2018 informing a change of applicant's representative (**Appendix If**)
- 1.6 At the request of the applicant (**Appendices Ib and Id**), the Rural and New Town Planning Committee (the Committee) of the Board agreed on 8.12.2017 and 6.4.2018 to defer making a decision on the application for two month each pending the preparation of further information to address the comments of Transport Department. The applicant submitted the further information (**Appendix Ie**) on 25.5.2018 and the application is re-scheduled for consideration by the Committee on 20.7.2018.

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 and the supplementary/further information at **Appendices I, Ia, Ic and Ie** respectively. They can be summarized as follows:

- (a) the Site is the subject of previous approved applications and the scale of car parking spaces and loading and unloading area are same as the previous approved applications;

- (b) the loading/unloading area is solely used by the adjoining factory owned by the applicant for the purpose of delivery and disposal of cargo. The loading and unloading area will not be used as storage of cargo within the area; and
- (c) the existing peak traffic generation from the vehicle park for private car is about 8 total trips (2-ways) and loading/unloading area for light good vehicle (LGV) is about 20 total trips (2-ways) daily. The temporary uses under application would not generate additional traffic to the surrounding road networks and hence no significant traffic impact is anticipated.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department, the Site is not involved in any of the active enforcement case by the Planning Authority.

5. Previous Applications

- 5.1 The Site is the subject of six previous applications (No. A/NE-LYT/149, 196, 308, 396, 496 and 541) for the similar/same uses submitted by the same applicant. All of them were approved with conditions by the Committee between 1998 and 2014.
- 5.2 The application No. A/NE-LYT/149 for extension of workshop and storage of electrical appliances/fittings with car parking and loading/unloading for a period of 12 months was approved by the Committee on 20.2.1998 mainly on the consideration that the Site was for open-air ancillary car parking and loading/unloading purposes for an existing workshop on the site which was not incompatible with the surrounding land uses; and the proposed car parking and loading/unloading facilities would not have adverse environmental, drainage and traffic impacts on the surrounding areas.
- 5.3 The remaining applications (No. A/NE-LYT/196, 308, 396, 496 and 541) for temporary car parking and loading/unloading area or temporary private vehicle park for private car and light goods vehicle (excluding container vehicle) and loading/unloading were approved with conditions by the Committee between February 2000 and August 2014 mainly on the consideration that the Site had been used for such uses since 1998 which were not incompatible with the surrounding land uses and would unlikely cause any significant adverse traffic, drainage, environmental and landscape impacts on the surrounding area; there was no local objection against the applications; and there were previous approved applications for the similar/same uses. The applicant has complied with all the approved conditions stipulated under application No. A/NE-LYT/541 and its planning permission lapsed on 23.8.2017.
- 5.4 Compared with the previous application No. A/NE-LYT/541, the current application is

largely the same in terms of the number and disposition of car parking spaces and loading/unloading area, except an increase in floor area of the guard house and pantry from 11m² to 33 m².

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

6. Similar Application

There is one similar application (No. A/NE-LYT/444) for temporary private vehicle park within/partly within the same “R(C)” zone in the vicinity of the Site. The application was rejected on review by the Board on 17.2.2012 mainly on the grounds that the development was not in line with the planning intentions of the “AGR” and “R(C)” zones and the applicant had failed to demonstrate that the development would not generate adverse environmental and traffic impacts on the surrounding areas. Details of the application are summarized at **Appendix III** and its location is shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plan A-4)

7.1 The Site is:

- (a) flat and partly fenced off;
- (b) currently used as car parking and loading/unloading area for the adjacent factory; and
- (c) accessible via Sha Tau Kok Road – Lung Yeuk Tau.

7.2 The surrounding areas have the following characteristics:

- (a) the surrounding land uses are predominantly factories, logistics centre, warehouses, vacant land, open storage, workshop and domestic structures;
- (b) to the immediately east and west are a logistics centre and a factory respectively;
- (c) to the south are open storage uses and car repair workshop;
- (d) to further west are vacant land, storage use and domestic structures; and
- (e) to the north across Sha Tau Kok Road are San Wai Barracks and an open storage yard.

8. Planning Intention

The planning intention of the “R(C)” zone in the Lung Yeuk Tau and Kwan Tei South area is primarily for low-rise, low-density residential developments where commercial uses serving

the residential neighbourhood may be permitted on application to 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 Comment of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises private lots which are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access. Two of the lots (i.e. Lot 800 S.B RP and 801 S.B in D.D. 83) are covered by Short Term Waiver (STW) No. 1206 for the purpose of workshop and storage of electrical appliances/fittings. The total permitted site coverage of STW No. 1206 shall not exceed 1,235m²;
- (b) the actual occupation area does not tally with the Site. Portions of the structures erected on the Site encroach onto adjoining lots in D.D.83 and the total built-over area structures erected exceeds the one mentioned in the subject planning application; and
- (c) if the application is approved, the applicant shall apply to his office for STW to cover all the actual occupation area. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date will be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by his office.

Traffic

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

based on the updated TIA (**Appendix Ie**) and the applied use will generate 3-5 vehicle trips of LGV per day, it is considered that the temporary car park can be tolerated from the traffic engineering point of view.

Environment

9.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) she has no comment on the application as only three numbers of parking spaces for private car/LGV are proposed and there will be no parking of container vehicle at the Site;

- (b) there was no substantiated environmental complaints against the Site during the past three years; and
- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses”.

Landscape

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

- (a) she has no objection to the application from the landscape planning perspective;
- (b) the Site is situated in an area of disturbed rural landscape predominantly comprising of open storages with temporary structures and scattered tree groups. The temporary private vehicle park and loading/unloading use is not incompatible with the surrounding environment;
- (c) the Site is fenced off, hard paved with temporary structures occupying majority of the Site. The planting implemented under previous approval condition are mostly maintained in good condition except one tree is missing and one tree is dead. Replacement of these trees is required. Significant changes or disturbances to the existing landscape character and resources arising from subject application are not anticipated; and
- (d) should the application be approved by the Board, an approval condition on the submission and implementation of tree preservation and landscape (tree replacement) proposals is recommended.

Drainage

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

- (a) he has no in-principle objection to the application from the public drainage point of view;
- (b) should the application be approved, a conditional record of the existing drainage facilities on-site as previously implemented on the same site under applications No. A/NE-LYT/149, 196, 308, 396, 496 and 541 should be submitted; and
- (c) the applicant is required to maintain those existing drainage facilities properly and rectify those facilities if they are found inadequate/ineffective during operation.

Building Matters

- 9.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
- (a) if the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
 - (b) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - (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) 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)Rs) respectively; and
 - (e) if the Site does not abut 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)Rs at the building plan submission stage.

Nature Conservation

- 9.1.7 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
- since the Site has been used as the applied use for some time, he has no strong view on the application from nature conservation perspective.

Fire Safety

- 9.1.8 Comments of the Director of Fire Services (D of FS):
- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) and water supplies for firefighting being provided to the satisfaction of his department;
 - (b) emergency vehicular access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by BD; and
 - (c) detailed fire safety requirements will be formulated upon receipt of formal

submission of the general building plans.

District Officer's Comments

9.1.9 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The Chairman of Fanling District Rural Committee (FDRC) objects to the application mainly on the grounds that adverse traffic and environmental impacts would be caused by the proposed development to the surrounding areas. The North District Council (NDC) member of the subject constituency and the Indigenous Inhabitant Representative of Ma Liu Shui San Tsuen have no comments on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Director of Food and Environmental Hygiene;
- (c) Chief Highway Engineer/New Territories East, Highways Department; and
- (d) Project Manager (North), North Development Office, Civil Engineering and Development Department.

10. Public Comments Received During Statutory Publication Periods

The application and subsequent further information submitted by the applicant were published three times for public inspection on 24.10.2017, 13.2.2018 and 8.6.2018 respectively. During the statutory public inspection periods, seven public comments from four parties were received. Six comments from the Chairman of Sheung Shui District Rural Committee and a NDC member indicate no comment on the application, whereas the Chairman of FDRC objects to the application mainly on the grounds that adverse traffic and environmental impacts would be caused by the proposed development to the surrounding areas. An individual for the owner of Tin Wah Building, which is located to the immediate east of the Site (**Plan A-2**), stated that the temporary parking, loading/unloading activities would easily extend to his land and requests to put the application on hold until disagreement on the common lot boundary of Tin Wah Building and the Site is resolved.

11. Planning Considerations and Assessments

11.1 The Site falls within an area zoned "R(C)" on the OZP. The temporary private vehicle park for private car and light goods vehicle (excluding container vehicle) and loading/unloading is not in line with the planning intention of the "R(C)" zone, which is primarily for low-rise, low-density residential developments. Nevertheless, it is noted that the Site is located at the fringe of the "R(C)" zone and the Site has been used as the same/similar use since 1998. The approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the subject "R(C)" zone.

11.2 The temporary uses under application are not incompatible with the surrounding land

uses, which comprise factories, warehouses, logistic centre, open storage, vacant land and domestic structures (**Plan A-2**). CTP/UD&L, PlanD considers that the development is not incompatible with the surrounding environment and significant changes and disturbances to the existing landscape character and resources arising from subject application are not anticipated.

- 11.3 Upon review of the further information regarding the revised TIA submitted by the applicant, C for T considered that the application could be tolerated from the traffic engineering point of view. Other Government departments consulted, including DEP, D of FS and CE/MN of DSD, have no adverse comment on or no objection to the application.
- 11.4 The Site is the subject of six previous applications (No. A/NE-LYT/149, 196, 308, 396, 496 and 541) for the similar/same uses submitted by the same applicant. All of them were approved with conditions by the Committee between 1998 and 2014. Compared the last approved application (No. A/NE-LYT/541) with the current application, the current application is largely the same in terms of the number and disposition of car parking spaces and loading/unloading area, except the increase in floor area of the guard house and pantry from 11m² to 33 m². The applicant has complied with all the approval conditions under the last approval application and its planning permission lapsed on 23.8.2017. As there is no major change in the planning circumstances since the last planning approval, sympathetic consideration could be given to the application.
- 11.5 There are seven public comments received during the statutory publication periods, five of them having no comment on/providing no views to the application and one of them objecting to the application on the grounds as summarized in paragraph 10 above. The planning considerations and assessments in the above paragraphs are relevant. Regarding a public comment on the concern of possible extension of the temporary use to the adjoining site (i.e. Tin Wah Building), an approval condition on maintenance of peripheral fencing of the Site is recommended to address the concern.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and public comments in paragraph 10 above, the Planning Department considers that the temporary use under the application 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 20.7.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;

- (c) no container tractor/trailer is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) the peripheral fencing of the Site should be maintained at all times during the planning approval period;
- (e) the existing drainage facilities shall be properly maintained at all times during the planning approval period and rectified if they are found inadequate/ineffective during operation;
- (f) the submission of a conditional record of the existing drainage facilities within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 20.10.2018;
- (g) the submission of tree preservation and landscape (tree replacement) proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 20.1.2019;
- (h) in relation to (g) above, the implementation of tree preservation and landscape (tree replacement) proposals within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 20.4.2019;
- (i) the submission of proposals for water supplies for firefighting and fire service installations 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 20.1.2019;
- (j) in relation to (i) above, the implementation of proposals for water supplies for firefighting and 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 20.4.2019;
- (k) 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; and
- (l) if any of the above planning conditions (f), (g), (h), (i) or (j) 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.

Advisory Clauses

The recommended advisory clauses are at **Appendix V**.

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

the development is not in line with the planning intention of the "R(C)" zone which is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

The submission is not justifiable 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 the 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 attachments received on 17.10.2017
Appendix Ia	Supplementary Information received on 20.10.2017
Appendix Ib	Letter dated 22.11.2017 requesting for deferment of consideration of the application
Appendix Ic	Further Information received on 6.2.2018
Appendix Id	Letter dated 20.3.2018 requesting for deferment of consideration of the application
Appendix Ie	Further Information received on 25.5.2018
Appendix If	Letter dated 1.6.2018 informing a change of applicant's representative
Appendix II	Previous s.16 Applications
Appendix III	Similar s.16 Application within/partly within the "R(C)" zone on the Lung Yeuk Tau and Kwan Tei South OZP
Appendix IV	Public Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos