

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

**APPLICATION NO. A/NE-LYT/645**

<b><u>Applicant</u></b>	:	Supreme Style Limited
<b><u>Site</u></b>	:	Lot 1495 S.B RP in D.D. 76, Ng Uk Tsuen, Sha Tau Kok Road, Fanling, New Territories
<b><u>Site Area</u></b>	:	921.4 m <sup>2</sup> (about)
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
<b><u>Zoning</u></b>	:	“Agriculture” (“AGR”)
<b><u>Application</u></b>	:	Temporary Public Vehicle Park for Private Cars and Light Goods Vehicles for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a temporary public vehicle park for private cars and light goods vehicles for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “AGR” 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 3 years within the “AGR” zone 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 currently used for the applied use without valid planning permission.
- 1.2 The Site is the subject of four previous approved applications (Nos. A/NE-LYT/352, 414, 495 and 556) for the same applied use as the current application. The last application No. A/NE-LYT/556 was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 2.1.2015 for a period of 3 years. All the approval conditions have been complied with and the permission lapsed on 3.1.2018.
- 1.3 The Site is accessible from Sha Tau Kok Road via a local track (**Drawing A-1 and Plan A-2**). The applicant proposes to provide 34 private car and/or light goods vehicle parking spaces within the Site. A converted container, with a total floor area of about 16.5 m<sup>2</sup> and height of about 2.6 m, is erected on the Site for storage purpose (**Drawing A-1**). The operation hours of the Site are between 8:00 a.m. to 8:00 p.m. daily. The applicant submits a site layout plan, a drainage plan, a landscape plan and a fire service installation

(FSI) plan in supporting the application (**Drawings A-1 to A-4**).

- 1.4 The major development parameters of the current application and the last approved application are as follows:

Major Development Parameters	Last Approved Application No. A/NE-LYT/556	Current Application No. A/NE-LYT/645
Site Area	About 921.4 m <sup>2</sup>	
Applied Use	Temporary Public Vehicle Park for Private Cars and Light Goods Vehicles for a Period of 3 Years	
No. of Parking Spaces	30	34
Structures	1 Structure with a Total Floor Area of about 16.5 m <sup>2</sup> and Height of about 2.6 m for Storage Purpose	
Operation Hours	8:00 a.m. to 8:00 p.m. daily	

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

- (a) Application Form with a layout plan, a drainage plan, a **(Appendix I)** landscape plan and a FSI plan received on 8.1.2018
- (b) Further Information received on 19.1.2018 clarifying the **(Appendix Ia)** number of parking spaces with revised plans (*accepted and exempted from the publication and recounting requirements*)
- (c) Further Information received on 30.4.2018 providing a **(Appendix Ib)** response to comment table and a traffic impact assessment report (TIA) (*accepted but not exempted from the publication and recounting requirements*)
- (d) Further Information received on 26.6.2018 providing **(Appendix Ic)** responses to comments on the TIA and supplementary information (*accepted and exempted from the publication and recounting requirements*)

- 1.6 At the requests of the applicant, the Committee on 2.3.2018 and 15.6.2018 decided to defer a decision on the application each for two months pending the preparation of further information to address the departmental comments. Since the second deferment, the applicant submitted the further information on 26.6.2018, 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 8 of the Application Form at **Appendices Ia, Ib and Ic**. They can be summarized as follows:

- (a) the Site is currently used as a temporary public vehicle park for private cars and light goods vehicles. The applicant undertakes to make it compatible with the surrounding

environment;

- (b) there is a lack of parking spaces in the vicinity of the Site to serve the residents nearby;
- (c) the operation of the temporary public vehicle park will be the same as the last application No. A/NE-LYT/556 including only private car and/or light goods vehicle parking is allowed within the Site, the access thereto is via Sha Tau Kok Road and the operation hours are between 8:00 a.m. to 8:00 p.m. daily; and
- (d) according to the TIA submitted by the applicant, the proposed use will not induce additional adverse traffic impact on the surrounding road network and is considered acceptable from traffic engineering point of view.

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

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

### 4. **Background**

The Site has not been involved in any active enforcement case/ action.

### 5. **Previous Applications**

- 5.1 The Site is the subject of four previous applications (Nos. A/NE-LYT/352, 414, 495 and 556) for the same applied use as the current application. Applications Nos. A/NE-LYT/352 and 414 were approved with conditions by the Committee on 9.3.2007 and 5.3.2010 respectively for a period of 3 years. Application No. A/NE-LYT/495 was approved with conditions by the Committee on 25.1.2013 for a period of 3 years but subsequently revoked on 6.6.2014 due to non-compliance with approval conditions in relation to the submission and implementation of drainage proposal, and landscape and tree preservation proposal.
- 5.2 The last application (No. A/NE-LYT/556) was approved with conditions by the Committee on 2.1.2015 for a period of 3 years mainly on considerations that the application was more or less the same as the previous approved application (No. A/NE-LYT/495); the Site had been used for the same use since 2007 which was not incompatible with the surrounding land uses and would unlikely cause any significant adverse traffic, drainage, environmental and landscape impacts. All the approval conditions with specified time limits have been complied with and the permission lapsed on 3.1.2018.
- 5.3 Compared with the last approved application (No. A/NE-LYT/556), the current application is submitted by the same applicant for the same use at the same site with the same major development parameters, except the increase in the number of parking spaces from 30 to 34.
- 5.4 Details of these previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

## **6. Similar Applications**

- 6.1 There are three similar applications (Nos. A/NE-LYT/384, 392 and 586) for temporary public vehicle park and related use(s) within or partly within “AGR” zone in the vicinity of the Site.
- 6.2 Application No. A/NE-LYT/586 in the close proximity of the Site was approved with conditions by the Committee in 2016 for a period of 3 years mainly on considerations that the development was not incompatible with the surrounding land uses; it would unlikely cause significant adverse impacts; and the circumstances of the application were similar to those of the approved similar applications.
- 6.3 The remaining two similar applications (Nos. A/NE-LYT/384 and 392) were rejected by the Committee in 2009 mainly for the reasons of being not in line with the planning intention of the “AGR” zone, not complying with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ (for Application No. A/NE-LYT/392 only), adverse impacts on the surrounding areas, and setting of undesirable precedent.
- 6.4 Details of these similar applications are at **Appendix III** and their locations are 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, hard paved and partly fenced off with a converted container within the Site;
  - (b) currently used as a public vehicle park without valid planning permission; and
  - (c) accessible from Sha Tau Kok Road – Ma Mei Ha via a local track.
- 7.2 The surrounding areas have the following characteristics:
  - (a) the surrounding land uses are predominantly rural in character intermixed with car park / vehicle parking facilities, vacant/unused land, active agricultural land and domestic structures;
  - (b) to the immediate east and south-east is Tan Shan River;
  - (c) to the immediate south and southwest are car park / vehicle parking facilities; and
  - (d) to the north across Sha Tau Kok Road are the village proper of Hung Leng Village, vehicle parking facilities and a logistics centre.

## **8. Planning Intention**

The planning intention of the “AGR” zone in the Lung Yeuk Tau and Kwan Tei South area 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.

## **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/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises an Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access;
- (b) the occupation boundary of the existing site does not tally with the one of the Site. Portions of Government land adjoining the lot have been occupied and some fencings have been extended from the lot to the nearby Government Land Licence (GLL) T2890 which is for cultivation purpose. His office reserves the right to take necessary land control actions against the above irregularities; and
- (c) if the planning application is approved, the applicant shall apply to his office for a Short Term Tenancy (STT). The application for STT will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STT is approved, the 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 rent and administration fees as considered appropriate by his office. The applicant also has to settle the fencing extension with the GLL tenant by himself.

### **Traffic**

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

Based on the application and the further information submitted, he has no comment on the application from the traffic engineering point of view.

9.1.3 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) he has no adverse comment on the application and the further information submitted; and
- (b) there is no proper run-in/out for the Site. If the application is approved, the applicant should be advised that he should be responsible for constructing a run-in/out at his own cost and to the satisfaction of HyD. Upon the expiry of the temporary planning permission, the applicant is also required to reinstate the run-in/out at his own cost to its original state to the satisfaction of HyD.

### **Agriculture**

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

- (a) the Site has been under the same applied use for a few years and is of low potential for agricultural rehabilitation. As such, she has no strong view on the application from agricultural point of view; and
- (b) it is noted that the Site is located adjacent to the Tan Shan River and may have encroached upon the drainage channel. EPD and DSD on water quality and drainage aspects should be consulted.

### **Environment**

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

- (a) it is noted that the Site is the subject of a previous approved application No. A/NE-LYT/556. 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 (COP)” issued by DEP;
- (b) regarding the Tan Shan River in the proximity of the Site, the applicant should be reminded to follow relevant environmental measures in Annex I of the COP and to strictly observe the Water Pollution Control Ordinance to avoid any pollution to the watercourse; and
- (c) there is no environmental complaint case related to the Site received in the past three years.

### **Drainage**

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

- (a) he has no objection in principle to the application;
- (b) if the application is approved, the applicant is required to submit a condition record of the existing drainage facilities on site as previously implemented on the Site in the application No. A/NE-LYT/556 to his satisfaction within 3 months from the date of the planning approval; and
- (c) maintain those existing drainage facilities properly and rectify those facilities if they are found inadequate / ineffective during operation.

### **Building Matters**

9.1.7 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) if the proposed use under application is subject to the issue of a licence, please be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority;
- (e) in connection with (b) above, 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
- (f) 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.

### **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 FSIs and water supplies for firefighting being provided to his satisfaction;
- (b) EVA 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 general building plans.

### **Landscape**

9.1.9 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) comparing the aerial photos of 2017 and 2014 (under the last application), there is no significant change in landscape character which comprises village clusters, tree groups and car parks of various sizes. The proposed

continued use is not incompatible with the surrounding landscape setting;

- (c) her site record dated 15.1.2018 noted that there are trees planted for compliance with previous approval condition. Nonetheless, some trees especially those along the southeastern boundary of the Site are smothered by wild climbers and removal of climbers is necessary. The applicant should step up the routine tree maintenance works to establish healthy tree growth; and
- (d) should the Board approve the application, an approval condition “to maintain all existing trees in proper and healthy condition at all times throughout the approval period” is recommended.

### **District Officer’s Comments**

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

his office has consulted the locals regarding the application. In gist, the Indigenous Inhabitant Representative (IIR) and Resident Representative (RR) of Kan Tau Tsuen object to the application on the ground that the public vehicle park would aggravate the existing traffic congestion of Sha Tau Kok Road and lead to accident. The Chairman of Fanling District Rural Committee (FDRC) cum the RR of Ko Po, the incumbent North District Council (NDC) members of subject constituency, and the IIR and RR of Hung Leng have no comments on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department; and
- (b) Project Manager (New Territories East), Civil Engineering and Development Department.

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

On 9.1.2018 and 8.5.2018, the application and the further information subsequently submitted by the applicant (**Appendix Ib**) were published for public inspection respectively. During the first three weeks of the statutory public inspection periods, seven public comments were received (**Appendix IV**). Five of which are from two NDC members and the Chairman of FDRC who have no comment on the application, while the other two are from an individual who objects to the application mainly on the grounds that the development is not in line with the planning intention of the “AGR” zone and approval of the application would set an undesirable precedent for similar uses, and proposes that the Site could be for temporary container homes.

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

11.1 The Site falls within an area zoned “AGR” on the OZP. The temporary public vehicle park for private cars and light goods vehicles is not in line with the planning intention of the “AGR” zone, which is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and it is also intended to



retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Nevertheless, as the Site has been used for the applied use since 2007 and the potential for agricultural rehabilitation is low, DAFC has no strong view on the application. The applied use on a temporary basis for 3 years would not jeopardize the long-term planning intention of “AGR” zone.

- 11.2 The applied use is not incompatible with the surrounding areas which are predominantly used for car park / vehicle parking facilities, vacant/unused land and domestic structures (**Plans A-2 and A-3**).
- 11.3 Government departments consulted, including C for T, DEP, CE/MN, DSD, D of FS, CTP/UD&L, PlanD have no objection or adverse comment on the application. Significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas are not envisaged. There has been no environmental complaint case concerning the Site received in the past 3 years. To minimize any potential environmental nuisances and to address the technical requirements of concerned Government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise any potential environmental impacts.
- 11.4 The Committee has approved four previous applications (Nos. A/NE-LYT/352, 414, 495 and 556) for the same applied use as the current application at the Site and another similar application in its close proximity (**Plan A-1**). Compared with the last approved application (No. A/NE-LYT/556), the current application is submitted by the same applicant for the same use at the same site with the same major development parameters, except the increase in the number of parking spaces from 30 to 34. All the approval conditions under the previous approval have been complied with.
- 11.5 Seven public comments were received, two of which (from the same person) object to the application mainly on grounds stated in paragraph 10. The planning considerations and assessments in the above paragraphs are relevant. Regarding the proposal that the Site could be for temporary container homes, it should be noted that the Site is a private lot in “AGR” zone, on which the development will be effected principally through private sector initiatives.

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

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the temporary public vehicle park for private cars and light goods vehicles 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 8 p.m. and 8 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) 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 any time during the planning approval period;
- (c) the existing drainage facilities on the Site shall be maintained properly at all times during the planning approval period;
- (d) the existing trees on the Site shall be maintained in proper and healthy condition at all times during the planning approval period;
- (e) the submission of a condition record of the existing drainage facilities on Site 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;
- (f) the submission of a fire service installations (FSIs) and water supplies for firefighting 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 20.1.2019;
- (g) in relation to (f) above, the implementation of the FSIs and water supplies for firefighting 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 20.4.2019;
- (h) if any of the above planning conditions (a), (b), (c) or (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;
- (i) if any of the above planning conditions (e), (f) or (g) 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 attached at **Appendix V**.

12.3 There is no strong planning reason to recommend rejection of the application.

## **13. Decision Sought**

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

**Attachments**

<b>Appendix I</b>	Application Form and Attachments received on 8.1.2018
<b>Appendix Ia</b>	Further Information received on 19.1.2018
<b>Appendix Ib</b>	Further Information received on 30.4.2018
<b>Appendix Ic</b>	Further Information received on 26.6.2018
<b>Appendix II</b>	Previous Applications covering the Application Site
<b>Appendix III</b>	Similar Applications within/partly within the “AGR” Zone in the vicinity of the Site on the Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan No. S/NE-LYT/17
<b>Appendix IV</b>	Public Comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Drainage Plan
<b>Drawing A-3</b>	Landscape Plan
<b>Drawing A-4</b>	Fire Service Installation Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JULY 2018**