

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/NE-LYT/691

<u>Applicant</u>	Wing Fook Land Investment Company Limited
<u>Site</u>	Lots 1445 S.B RP (Part), 1489, 1490 (Part), 1492 (Part) and 1494 in D.D.76 and adjoining Government land, Ng Uk Tsuen, Sha Tau Kok Road, Fanling, New Territories
<u>Site Area</u>	About 4,000 m ² (including about 272m ² of Government land)
<u>Land Status</u>	(a) Block Government Lease (demised for agricultural use) Modification of Tenancy (MOT) No. 36513 for erection of temporary structures for the purposes of dwelling and shade for Lot 1490 in D.D. 76 (b) Government land
<u>Plan</u>	Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
<u>Zoning</u>	“Agriculture” (“AGR”)
<u>Application</u>	Renewal of Planning Approval for Temporary Public Vehicle Park for Private Cars, Light Goods Vehicles and Medium Goods Vehicles for a Period of 3 Years until 13.5.2022

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for temporary public vehicle park for private cars, light goods vehicles and medium goods vehicles for a further period of three years until 13.5.2022. The Site falls within an area zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17 (**Plans A-1 and A-2**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the “AGR” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for under the Notes of the Plan. The Site is currently used for the applied use with valid planning permission until 13.5.2019.
- 1.2 According to the applicant, there are 25 parking spaces (5m x 2.5m each) for the parking of private cars/light goods vehicles and 9 parking spaces (11m x 3.5m each) for the parking of medium goods vehicles within the Site. The operation hours of the temporary public vehicle park are from 7:00 a.m. to 9:00 p.m. daily. Plans

showing the site layout, landscape and tree preservation proposal and accepted drainage plan are at **Drawings A-1 to A-3**.

- 1.3 The Site is the subject of a previous application No. A/NE-LYT/586 submitted by the same applicant. That application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 13.5.2016 for a period of three years up to 13.5.2019. The development scheme submitted under the current renewal application is largely the same as the previous application No. A/NE-LYT/586 in terms of the applied use, site area and number of car parking spaces, except minor change of the site layout (i.e. the location of the parking spaces) and no guard room is provided. The applicant has complied with all approval conditions of the last approved application.
- 1.4 In support of the application, the applicant has submitted the following documents:
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|-----|---|----------------------|
| (a) | Application form with attachments received on 13.3.2019 | (Appendix I) |
| (b) | Supplementary Information received on 15.3.2019 | (Appendix Ia) |
| (c) | Supplementary Information received on 19.3.2019 | (Appendix Ib) |
| (d) | Further Information received on 9.4.2019 | (Appendix Ic) |
| (e) | Further Information received on 12.4.2019 | (Appendix Id) |
| (f) | Further Information received on 15.4.2019 | (Appendix Ie) |
| (g) | Further Information received on 17.4.2019 | (Appendix If) |
| (h) | Further Information received on 18.4.2019 | (Appendix Ig) |

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 **Appendix I**. They can be summarized as follows:

- (a) the development under application is temporary in nature. It would not frustrate the long term planning intention of the “AGR” zone. The Site could be converted back to agricultural use whenever there is a demand;
- (b) the scale, nature, form and layout of the development is compatible with the surrounding environment and is largely the same as the previous approved application;
- (c) the temporary vehicle park is intended to serve the villagers of Ng Uk Tsuen for meeting their car parking needs;
- (d) the Site has been paved for a long time and no site formation works will need to be carried out for the development;
- (e) similar application, with its site located to the immediate northeast of the Site under the current application, has been approved by the Board on a temporary basis (**Plans A-1 and A-2**); and
- (f) the submitted landscape and tree preservation proposal, drainage proposal and estimated traffic generation have demonstrated that the development under application would generate insignificant impacts to the surrounding environment.

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. Town Planning Board Guidelines

4.1 The Town Planning Board Guidelines No. 34B (TPB-PG No. 34B) on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ are relevant to this application. The relevant assessment criteria are summarized as follows:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

4.2 Under normal circumstances, the approval period for renewal application should not be longer than the original validity period of the temporary approval. In general, the Board is unlikely to grant an approval period exceeding three years unless there are strong justifications and the period is allowed for under the relevant statutory plans. Depending on the circumstances of each case, the Board could determine the appropriate approval period, which may be shorter than the time under request.

5. Previous Application

5.1 The Site is the subject of a previous application No. A/NE-LYT/586 which was approved with conditions by the Committee on 13.5.2016 for a period of three years up to 13.5.2019 mainly on the considerations that the temporary development was not incompatible with the surrounding area; adverse impacts arising from the development were not anticipated; and concerned Government departments had no adverse comment on the application.

5.2 The development scheme submitted under the current renewal application is largely the same as the last previous application No. A/NE-LYT/586 in terms of the applied use, site area and number of car parking spaces, except a minor change of the site layout (i.e. location of the parking spaces) and no guard room is provided. All the approval conditions have been complied with and the planning permission is valid

until 13.5.2019.

- 5.3 Details of the previous application are summarized at **Appendix II** and the location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 In the past 10 years, there are five similar applications involving two sites for temporary public vehicle park within or partly within the “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area.
- 6.2 Four similar applications (No. A/NE-LYT/414, 495, 556 and 645) for renewal of the planning approval for temporary public vehicle park for private cars and light goods vehicles involving the same site to the northeast of the Site were approved with conditions by the Committee between 2010 and 2018 mainly on considerations that the developments were not incompatible with the surrounding land uses and would unlikely cause significant adverse traffic, drainage, environmental and landscape impacts; and there was no local objection against the renewal application.
- 6.3 The remaining similar application (No. A/NE-LYT/392) for temporary public vehicle park for private cars and lorries and open storage of building materials located to the further northeast of the Site, was rejected by the Committee in 2009 mainly on the grounds that the development was not in line with the planning intention for “AGR” and “Green Belt” (“GB”) zones; the applicant failed to demonstrate that the development would not generate adverse impacts on the surrounding area; the development was not complied with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’; and the setting of an undesirable precedent for similar applications.
- 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 to A-3 and A-4a and A-4b)

- 7.1 The Site is:
- (a) current occupied by a public vehicle park; and
 - (b) accessible from Sha Tau Kok Road – Ma Mei Ha.
- 7.2 The surrounding areas have the following characteristics:
- (a) predominantly rural in character with active and fallow agricultural land to the south and clusters of village houses / temporary structures for mainly domestic purpose to the south and north, across Sha Tau Kok Road;
 - (b) to the northeast are a few vehicle parks and a workshop, and to the east is a temporary structure for storage use;
 - (c) the application site of another planning application (No. A/NE-LYT/692) for

temporary training centre (adventure training centre) is located to its immediate southwest which would be considered in the same meeting (**Plan A-2**); and

- (d) to the north across Sha Tau Kok Road is Hung Leng Village.

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 private lots which are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guarantee of right of vehicular access. The applicant should make his own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicle access of the applied use;
- (b) Modification of Tenancy (MOT) No. 36513 in respect of Lot 1490 in D.D. 76 was issued for erection of temporary structures for the purposes of dwelling and shade. The dimensions and users of the existing structures erected at the Site may not tally with those permitted under the conditions of the MOT. Besides, the Government land within the Site is being occupied without prior approval from his office. His office reserves the right to take enforcement actions against the structures concerned and the unauthorized occupation of Government land; and
- (c) if the planning application is approved, the owner of the lots concerned shall apply to his office for a Short Term Waiver (STW) and a Short Term Tenancy (STT). The applications for STW/STT will be considered by Government in its landlord’s capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office.

Traffic

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

having reviewed the application and further information (**Appendices I and If**) submitted by the applicant, she 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 objection to the application from the highways viewpoint; and
- (b) should the application be approved, the applicant is required to construct the run-in/out as shown in the layout submitted by the applicant to his satisfaction (**Appendix Ic**). Upon expiry of the planning approval, the applicant is required to reinstate the run-in/out to its original state.

Environment

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

- (a) it is noted that the Site will have no parking of heavy goods vehicle nor container truck. The applicant is advised to follow the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” issued by DEP; and
- (b) no environmental complaint related to the Site was received for the past three years.

Landscape

9.1.5 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 point of view;
- (b) the Site is situated in an area of rural landscape character surrounded by temporary structures, village houses and clusters of trees. No significant change is observed within the Site and surrounding environment since the last planning approval. According to the site layout plan provided by the applicant, there is no significant change in the layout compared to that in the previous application. Significant adverse impact on existing landscape resources arising from this renewal application is not anticipated;
- (c) should the application be approved, the applicant should be advised to properly maintain all existing trees and vegetation within the Site at

all times during the planning approval period. Since existing tree groups and trees are found in close proximity and within the Site respectively as buffer between Sha Tau Kok Road – Ma Mei Ha Section and the Site, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent;

- (d) should the application be approved, the applicant should be advised of the following:
 - (i) the approval of application does not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted direct to DLO/N, LandsD for approval; and
 - (ii) useful information published by the Greening, Landscape & Tree Management Section, Development Bureau on general tree maintenance and tree risk management is available for reference on its website.

Drainage

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

- (a) having reviewed the drainage record (**Appendix Ig**) submitted by the applicant, he has no objection to the application from the public drainage viewpoint; and
- (b) should the application be approved, condition should be included to maintain the 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 any existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorised under the Buildings Ordinance (BO) and should not be designated for any approved use under this application;
- (b) before any new building works (including temporary buildings/structures and containers etc.) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised 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;
- (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; and
- (f) detailed comments under the BO will be provided at building plan submission stage.

Fire Safety

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

- (a) it is noted that the layout of the applied use is different from those under the previous application (No. A/NE-LYT/586);
- (b) he has no in-principle objection to the application subject to fire service installations (FSIs) and water supplies for fire-fighting being provided to the satisfaction of his department; and
- (c) detailed fire safety requirements will be formulated upon receipt of formal submission of the general building plans.

Agriculture

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

- (a) the Site has been largely hard-paved and currently used as a car park, he has no comment on the application for renewal of the planning approval; and
- (b) the Site is adjacent to Tan Shan River to the east (**Plan A-2**). The applicant should be reminded to perform good site practice so as not to pollute the watercourse nearby.

District Officer's Comments

9.1.10 Comment 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 cum the Resident Representative (RR) of KO Po, the incumbent North District Council (NDC) Member of the subject

constituency, the Indigenous Inhabitant Representative (IIR) and RR of Hung Leng have no comment on the application whereas the IIR and RR of Kan Tau Tsuen object the application mainly on the view that the temporary vehicle park would worsen the traffic of the already congested Sha Tau Kok Road.

- 9.2 The following Government departments have no comment on / no objection to the application:
- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
 - (b) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD).

10. Public Comments Received During Statutory Publication Period

On 22.3.2019, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period, five public comments on the application were received (**Appendix IV**). The Chairman of Sheung Shui District Rural Committee and a NDC Member indicate no comment on the application. The Vice-chairmen of Fanling District Rural Committee, villagers of Ho Bar Village (also called Ng Uk Tsuen) and Hung Leng Tsuen and an individual object to the application mainly on the considerations that the temporary vehicle park would cause air pollution, traffic congestion and danger to pedestrians; the Site is too large for a vehicle park for only 34 parking spaces; and the Site near the river should be used for recreation use.

11. Planning Considerations and Assessments

- 11.1 The application is for renewal of planning permission for temporary public vehicle park (private car, light goods vehicle and medium goods vehicle) for a period of three years at the Site zoned “AGR” on the OZP. The development is not in line the planning intention of the “AGR” zone which is primarily to retain and safeguard 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. Nevertheless, DAFC has no comment on the renewal of the planning approval as the Site has been largely formed and occupied for the applied use. Approval of the application on a temporary basis for another three years would not frustrate the long-term planning intention of “AGR” zone.
- 11.2 The current development proposed scheme is largely the same as the previously approved scheme (No. A/NE-LYT/586) in terms of the applied use, site area and number of car parking spaces, except a minor change of the site layout and no guard room is provided. The applied use is considered not incompatible with the surrounding land uses which are mixed uses comprising mainly agricultural land, vacant land, vehicle parks, village houses, training centre and temporary domestic structures. It is also not expected to have significant adverse impacts on the surrounding area. Concerned Government departments consulted, including C for T, CE/MN, DSD, DEP, D of FS and CTP/UD&L, PlanD, have no objection to or no adverse comment on the renewal application.

- 11.3 The Site is the subject of a previous application (No. A/NE-LYT/586) for the same temporary use which was approved with conditions by the Committee on 13.5.2016. All the approval conditions for the last approved application have been complied with and the planning permission will lapse on 14.5.2019. There are five similar applications involving two sites for temporary vehicle park within or partly within the “AGR” zone in the vicinity of the Site. Four similar applications (No. A/NE-LYT/414, 495, 556 and 645) for temporary public vehicle park for private cars and light goods vehicles involving the same site to the northeast of the Site were approved with conditions by the Committee between 2010 and 2018 mainly on the considerations that the developments were not incompatible with the surrounding land uses and would unlikely cause significant adverse impacts; and there was no local objection against the applications. The remaining application (No. A/NE-LYT/392) located to the further northeast of the Site was rejected by the Committee in 2009 mainly on the considerations that the development was not in line with the planning intention for “AGR” and “GB” zones; and the applicant failed to demonstrate that the development would not generate adverse impacts. There has not been major change in planning circumstances since the approval/rejection of the previous and similar applications.
- 11.4 The application generally complies with the TPB PG-No. 34B on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ as there has not been any material change in planning circumstances since the approval of the last application; there are no major adverse departmental comments against the renewal application; all the approval conditions for the last application have been complied with; and the approval period sought which is for the same as the last approval granted by the Board is not unreasonable.
- 11.5 Regarding the adverse public comments as detailed in paragraph 10 and the local objections conveyed by DO(N), HAD in paragraph 9.1.10 above, the Government department’s comments and the planning assessment above are relevant.

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 use under application could be tolerated for a further 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 further period of 3 years, and be renewed from 14.5.2019 until 13.5.2022. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) no operation between 9:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle without valid licence issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations is allowed to be parked/stored on the Site at any time during the planning approval period;

- (c) no heavy goods vehicle exceeding 24 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance is 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 heavy goods vehicle exceeding 24 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) no car washing, vehicle repair, dismantling, paint spraying or other workshop activities is allowed on the Site at any time during the planning approval period;
- (f) the boundary fence on the Site should be maintained at all times during the planning approval period;
- (g) the existing drainage facilities should be maintained properly at all times during the planning approval period and rectified if they are found inadequate/ineffective during operation;
- (h) the submission of proposals for water supplies for fire-fighting and fire service installations within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 14.11.2019;
- (i) in relation to (h) above, the provision of water supplies for fire-fighting and fire service installations within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 14.2.2020;
- (j) the submission of run-in/out proposal within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 14.11.2019;
- (k) in relation to (k) above, the implementation of run-in/out proposal within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 14.2.2020;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) 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;
- (m) if any of the above planning conditions (h), (i), (j) or (k) 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
- (n) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

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 "Agriculture" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification to merit a departure from the 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 for renewal of the planning 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 13.3.2019
Appendix Ia	Supplementary Information received on 15.3.2019
Appendix Ib	Supplementary Information received on 19.3.2019
Appendix Ic	Further Information received on 9.4.2019
Appendix Id	Further Information received on 12.4.2019
Appendix Ie	Further Information received on 15.4.2019
Appendix If	Further Information received on 17.4.2019
Appendix Ig	Further Information received on 18.4.2019
Appendix II	Previous s.16 Application
Appendix III	Similar s.16 Applications within/partly within "AGR" zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area
Appendix IV	Public Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape and Tree Preservation Proposal
Drawing A-3	Accepted Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a & A-4b	Site Photos