APPLICATION FOR PERMISSION UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYY/399

Applicant : Mr To Kin Chung represented by Metro Planning and Development

Company Limited

Site : Lot 827 RP (Part) in D.D. 130, Fuk Hang Tsuen, Lam Tei, Tuen Mun, New

Territories

Site Area : About 1,303 m²

<u>Lease</u> : Block Government Lease (demised for agricultural use)

Plan : Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-

LTYY/10

Zoning : "Residential (Group C)" ("R(C)")

[Restricted to a maximum plot ratio of 0.4 and a maximum building height of 3

storeys (9m) including car park]

Application: Temporary Public Vehicle Park (Private Cars Only) 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 public vehicle park (private cars only) for a period of 3 years (**Plan A-1**). According to the Notes for the "R(C)" zone on the OZP, 'Public Vehicle Park (excluding container vehicles)' is a Column 2 use which requires permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site was involved in four previous applications (No. A/TM-LTYY/230, 294, 306 and 349) (**Plan A-1**) for the same use. The last application (No. A/TM-LTYY/349) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 4.5.2018. All the time-limited approval conditions have been complied with. The planning permission lapsed on 11.6.2020. Details of the previous application are summarized at paragraph 5 below and **Appendix II**.
- 1.3 According to the applicant, the Site abuts Fuk Hang Tsuen Road (**Plan A-2**). No vehicle without valid licence issued under Road Traffic Ordinance (RTO) is permitted to park at the Site. No light goods vehicle, medium goods vehicle or heavy goods vehicle including container tractor/trailer will be allowed to enter/park at the Site. No vehicle repairing, dismantling, car beauty, car washing

or workshop activity is allowed on the Site (**Appendix Ib**). The ingress/egress of the Site shifts southwards due to its close proximity of the future pedestrian crossing proposed under the Widening of Fuk Hang Tsuen Road (Between Castle Peak Road – Lam Tei and Fuk Hang Tsuen Lane). A T.S.111 road sign is also proposed to restrict the right turn of vehicle to enhance pedestrian safety (**Appendix Id**). The operation hours are from 7am to 11pm every day. The site plan, layout plan, as-planted landscape and tree preservation plan and as-built drainage plan are at **Drawings A-1 to A-4** respectively.

1.4 A comparison of the major development parameters of the last approved application and current application is as follows:

Major Development Parameters	Last Approved Application No. A/TM-LTYY/349 (a)	Current Application No. A/TM-LTYY/399 (b)	Difference (b)-(a)
Applied Use	Renewal of Planning Approval for Temporary Public Vehicle Park (Private Cars only) for a Period of 2 Years	Temporary Public Vehicle Park (Private Cars Only) for a Period of 3 Years	Longer approval period
Site Area	About 1,303 m ²		No change
Gross Floor Area (GFA)	-		No change
Number of Structures	4 (2 for rain shelters, 1 for site office and shroff and 1 for portable toilet)	3 (2 for rain shelters and 1 for portable toilet)	-1
Maximum Building Height	Not exceeding 3.5m and 1 storey		No change
Car Parking Space	30 (5m x 2.5m) (for private cars only)		No change
Operation hours	7:00 a.m. to 11:00 p.m. daily (including Sundays and public holidays)		No change

- 1.5 Compared with the last approved application No. A/TM-LTYY/349, the current application is submitted by a different applicant for the same use at the same site with similar development parameters and changes in the ingress/egress point and the layout.
- 1.6 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form and attachments received on (Appendix I) 20.5.2020
 - (b) Further Information (FI) providing responses to (Appendix Ia) departmental comments, a site plan and the run-in/out design diagrams received on 17.6.2020
 - (c) FI providing responses to departmental comments and (Appendix Ib) minor clarification on the operation received on

17.6.2020

- (d) FI providing a revised layout plan and a revised asplanted landscape and tree preservation plan received on 29.6.2020
- (e) FI providing a revised site plan, a revised layout plan (Appendix Id) and a revised as-planted landscape and tree preservation plan received on 29.7.2020

[(b), (c) and (e) are accepted and exempted from publication and recounting requirements]

[(d) is accepted but not exempted from publication and recounting requirements]

2. <u>Justifications from the Applicant</u>

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the Application Form at **Appendix I**. They can be summarised as follows:

- (a) The proposed development is in line with the planning intention of "R(C)" zone and is intended for the convenience of the nearby residents. There is insufficient supply of parking space to meet the exigent demand in Fuk Hang Tsuen.
- (b) The proposed development is compatible with the surrounding environment. There would be no significant traffic and environmental impacts to the surrounding areas. The applicant has provided trees and surface u-channel at the Site.
- (c) The proposed development will be manned within the operation hours so that it could well protect the vehicles as well as properties within the vehicle for the car owners.
- (d) The applicant has complied with all the planning conditions imposed to the last planning permission No. A/TM-LTYY/349.

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. 31A) by sending a registered mail to the Tuen Mun Rural Committee and by posting notice at the Site. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site is not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site was involved in four previous applications (No. A/TM-LTYY/230, 294, 306 and 349) for temporary public vehicle park (for private cars/private cars only)). Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Applications No. A/TM-LTYY/230 and A/TM-LTYY/294 for temporary public vehicle park (for private cars/private cars only) for a period of 3 years at the Site submitted by different applicants were approved with conditions by the Committee on 24.2.2012 and 17.4.2015 respectively on the major considerations of not incompatible with the surrounding land uses and no objection or adverse comments from government departments. However, the planning permissions were revoked on 24.10.2013 and 17.7.2015 respectively due to non-compliance with approval conditions on the provision of peripheral fencing, implementation of run-in/run-out proposal and submission and implementation of drainage proposal (A/TM-LTYY/230); and non-compliance with approval conditions on the submission of drainage, fire service installations and run-in/run-out proposals and provision of boundary fencing (A/TM-LTYY/294).
- 5.3 Application No. A/TM-LTYY/306 for temporary public vehicle park (private cars only) for a period of 2 years was approved with conditions by the Committee on 10.6.2016 on similar considerations. Application No. A/TM-LTYY/349 for renewal of planning approval for temporary public vehicle park (private cars only) for a period of 2 years was approved with conditions by the Committee on 4.5.2018 on similar considerations. All time-limited approval conditions have been complied with. The application lapsed on 11.6.2020.
- 5.4 Compared with the last approved application No. A/TM-LTYY/349, the current application is submitted by a different applicant for the same use at the same site with similar development parameters and changes in the ingress/egress point and the layout.

6. Similar Application

There is no similar application in the same "R(C)" zone.

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

- 7.1 The Site is:
 - (a) currently used for the applied use without valid planning permission; and
 - (b) accessible to Fuk Hang Tsuen Road via a strip of government land (GL) (Plan A-2).
- 7.2 The surrounding areas have the following characteristics:
 - (a) to its immediate north and northeast are parking of vehicles and storage yards and residential dwellings. To the further north and northeast are warehouse and storage uses, residential dwellings and a temporary office with valid planning permission under application No. A/TM-LTYY/360;
 - (b) to its immediate east is an office. To the further east are residential

- dwellings, cultivated and fallow agricultural land, storage yards and unused land;
- (c) to its immediate south are workshop and residential dwellings. To the further south and southeast are residential dwellings, storage yards and car trading and servicing; to the further south across Fuk Hang Tsuen Road are parking of vehicles and Agricultural Fa Pao Committee; and
- (d) to the northwest, west and southwest across Fuk Hang Tsuen Road are residential developments including The Sherwood, Green View and Botania Villa, parking of vehicles and vacant land.

8. Planning Intention

The "R(C)" zone is intended 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 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):
 - (a) The Site falls within portion of Lot No. 827 RP in D.D. 130 ("the Lot"). The Lot is an Old Schedule Lot held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
 - (b) According to his records, a Modification of Tenancy ("MOT") permit and a Letter of Approval ("LOA") have been issued permitting the erection of domestic and agricultural structures on the Lot. However, porches and some other structures are found erected on the Lot which are not in compliance with the MOT and the LOA.
 - (c) The Site is accessible via a strip of GL adjoining Fuk Hang Tsuen Road. His office does not carry out maintenance works for the said GL nor has granted any right-of-way over the GL to the Site.
 - (d) In the event that planning permission is given by the Board, the lot owner may consider submitting an application to his office for a Short Term Waiver to permit erection of the proposed structures on the Lot. However, notwithstanding that planning permission has been given, there is no guarantee that the application will be approved or any right-of-way will be granted. The application will be considered by LandsD acting in his capacity as the private landlord as its sole discretion. The application, if approved,

would be subject to such terms and conditions as the Government shall deem fit to do so, including charging of waiver fee from such date as may be appropriate, deposit and administration fee etc. The Government also reserves the right to take any enforcement action as may be considered appropriate regarding any unauthorized structures erected on the Lot or any encroachment or unauthorized use of GL.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T) and Chief Highways Engineer/Works, Highways Department (CHE/Works, HyD):
 - (a) Further to the FI at **Appendix Id** regarding the revised run-in/out location and FI at **Appendix Ia** regarding the proposal of no right turn from the Site, they have no further comment on the proposed run-in/out.
 - (b) The applicant should coordinate with the Works Division, HyD on the detailed design of the proposed run-in/out including the setting out. The applicant should also inform the Works Division, HyD prior to the construction of the proposed run-in/out.
- 9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):
 - (a) There is a strip of unallocated GL between the Site and Fuk Hang Tsuen Road, which is not and will not be maintained by HyD.
 - (b) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.

Environment

- 9.1.4 Comments of the Director of Environmental Protection (DEP):
 - (a) Should the application be approved, the applicant is advised to follow the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" (CoP) issued by DEP to minimise potential environmental impacts on the surrounding environment.
 - (b) There has been no environmental complaint concerning the Site received in the past 3 years.

Drainage

- 9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
 - (a) He has no objection in principle to the application from public drainage point of view.
 - (b) It is noted that the applicant intended to adopt the existing drainage facilities as shown in Figure 5 of the application form at

Appendix I (Drawing A-4) which had been accepted in previous planning application No. A/TM-LTYY/349. In this regard, he has no comment from public drainage point of view on the drainage proposal. Should the application be approved a condition should be included to request the applicant to maintain the drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area.

- (c) In regards to the drainage proposal, his comments are below:
 - (i) The applicant should refer to the guidelines as specified in "Technical Note to prepare a Drainage Submission" which is available at DSD's website (https://www.dsd.gov.hk/EN/Technical_Documents/DS D_Guidelines/index.html).
 - (ii) Presumably it is the intent of the applicant to make drainage connection to public drainage to discharge runoff from the Site. According to his records, there is no DSD maintained facility in the vicinity of the Site. In this regard, the applicant should be reminded to identify such public drainage and consult, as appropriate, the relevant authorities/owners of the existing drainage for consent of the connection works.
 - (iii) The proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their own expense. For any works to be carried out outside his lot boundary, the applicant should consult DLO/TM and seek consent from relevant lot owner before commencement of the drainage works.
 - (iv) The applicant is required to rectify the drainage system if they are found to be inadequate of ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system.
 - (v) The proposed works should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas.

Fire Safety

- 9.1.6 Comments of the Director of Fire Services (D of FS):
 - (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
 - (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should also be advised on the following points:

- (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
- (ii) the location of where the proposed FSIs 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 (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Landscape

- 9.1.7 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
 - (a) With reference to the site visit conducted by his office on 12.6.2020 and the aerial photo of 2019, the Site is hard paved with existing trees observed generally along the northern boundary within the Site. The Site is situated in an area of urban fringe landscape character surrounded by mixed rural uses. The applied use is observed to be already in operation. In consideration of previous application No. A/TM-LTYY/349 for temporary public parking use, significant change to the landscape character arising from the application is not envisaged.
 - (b) Should the application be approved, a condition should be included to require the applicant to maintain all existing trees within the Site in good condition for the duration of the planning approval period.

Building Matters

- 9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
 - (a) There is no record of approval by the Building Authority (BA) for the structures existing at the Site and BD is not in a position to offer comments on their suitability for the use related to the application.
 - (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures are erected on leased land without approval of the BA (not being a New Territories Exempted House), they are unauthorized under the Building Ordinance (BO) and should not be designated for any approved use under the application.
 - (ii) 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 BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorised

Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.

- (iii) For UBW erected on leased land, enforcement action may be taken by the BA 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.
- (iv) In connection with (ii) 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)R) respectively.
- (v) Formal submission under the BO is required for any proposed new works, including any temporary structures.

Others

9.1.9 Comments of the Chief Town Planner/Housing and Office Land Supply, Planning Department (CTP/HOLS, PlanD) and the Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

The Site falls within the Study Site of the on-going Preliminary Land Use Study for Lam Tei Quarry and the Adjoining Areas (the Study) jointly commissioned by CEDD and PlanD. They have no specific comment on the application as far as the Study is concerned.

District Officer's Comments

9.1.10 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

He has distributed consultation letters to the concerned locals and understand that they will provide their comments (if any) to the Board direct.

- 9.2 The following government departments have no comment on the application:
 - (a) Director of Electrical and Mechanical Services (DEMS);
 - (b) Director of Food and Environmental Hygiene (DFEH);
 - (c) Director of Leisure and Cultural Services (DLCS);
 - (d) Director of Agriculture, Fisheries and Conservation (DAFC);
 - (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
 - (f) Head (Geotechnical Engineering Office), CEDD (H(GEO), CEDD);
 - (g) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES (A&M), AMO); and
 - (h) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Periods

The application and the FI were published for public inspection on 29.5.2020 and 3.7.2020. During the statutory public inspection periods, three public comments were received from the management company of the Botania Villa expressing views on the traffic condition in the vicinity and two individuals, one expressing views that the long-term planning intention should be realised to solve the shortage of land for housing and the other one raising concern on traffic safety (**Appendices III-1 to III-3**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary public vehicle park (private cars only) for a period of 3 years at a site zoned "R(C)" on the OZP. The planning intention of the "R(C)" zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. Whilst the development is not entirely in line with the planning intention of the "R(C)" zone, the development could provide car parking spaces to serve any such demand in the area and there is no known development programme of the Site. Approval of the application on a temporary basis would not jeopardize the long-term planning intention of the "R(C)" zone.
- 11.2 The Site is mainly surrounded by workshop, parking of vehicles, office, storage yards and residential dwellings (**Plan A-2**). The applied use is not incompatible with the surrounding land uses.
- Relevant government departments, including C for T, CE/MN of DSD, 11.3 CHE/NTW of HyD, CTP/UD&L of PlanD, DEP and D of FS have no objection to or no adverse comment on the application. The proposed use will unlikely create significant adverse traffic, environmental and drainage impacts to the surrounding areas. There has been no substantiated environmental complaint 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 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 the possible environmental impacts on the nearby sensitive receivers.
- 11.4 The Committee has approved four previous applications for the same use at the Site (**Plan A-1**). Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 Regarding the public comments received, the planning considerations and assessments in paragraphs 11.1 to 11.4 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 above, the Planning Department <u>has no objection</u> to the application.

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 21.8.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 11:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only private cars as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to enter/be parked on the Site at all times during the planning approval period;
- (c) a notice shall be posted at a prominent location of the Site to indicate only private cars as defined in the Road Traffic Ordinance are allowed to be parked/stored on the Site at all times during the planning approval period;
- (d) no vehicle without valid licence issued under the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on the Site at any time during the planning approval period;
- (e) no right turn of vehicles into Fuk Hang Tsuen Road towards Castle Peak Road Lam Tei, as proposed by the applicant, upon leaving the site is allowed at any time during the planning approval period;
- (f) a 'Turn Left' traffic sign shall be erected at the junction of the access road with Fuk Hang Tsuen Road, as proposed by the applicant, at all times during the planning approval period;
- (g) no vehicle repair, dismantling, car beauty, car washing or workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (h) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (i) the existing screen planting including trees and shrubs on the Site shall be maintained at all times during the planning approval period;
- (j) the submission of a run-in/out proposal within **6 months** from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by 21.2.2021;
- (k) in relation to (j) above, the implementation of the run-in/out proposal within **9 months** from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board by <u>21.5.2021</u>;
- (l) the submission of a condition 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 21.11.2020;

- (m) in relation to (l) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (n) the submission of a 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 <u>21.2.2021</u>;
- (o) in relation to (n) above, the implementation of the fire service installations 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 <u>21.5.2021</u>;
- (p) the existing boundary fencing shall be maintained at all times during the planning approval period;
- (q) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h), (i), (m) or (p) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (r) if any of the above planning conditions (j), (k), (l), (n) or (o) is not complied with by the above 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 IV**.

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. No strong planning justification has been given in the submission for 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.
- 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 and attachments received on 20.5.2020

Appendix IaFI received on 17.6.2020Appendix IbFI received on 22.6.2020Appendix IcFI received on 29.6.2020Appendix IdFI received on 29.7.2020

Appendix II Previous s.16 Application Covering the Application Site

Appendix III Public Comments Received During Statutory Publication Periods

Appendix IV Recommended Advisory Clauses

Drawing A-1 Site Plan
Drawing A-2 Layout Plan

Drawing A-3 As-planted Landscape and Tree Preservation Plan

Drawing A-4 As-built Drainage Plan

Plan A-1 Location Plan
Plan A-2 Site Plan
Plan A-3 Aerial Photo
Plan A-4 Site Photos

PLANNING DEPARTMENT AUGUST 2020