

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/741

- Applicant** : Wing Fook Land Investment Company Limited represented by Metro Planning & Development Company Limited
- Site** : 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
- Site Area** : About 4,000 m² (including about 272 m² of Government land)
- Lease** : (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
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Public Vehicle Park for Private Cars and Medium Goods Vehicles, and Warehouse for Storage of Construction Materials 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 for private cars and medium goods vehicles, and warehouses for storage of construction materials for a period of three years. 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 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 public vehicle park with valid planning permission until 13.5.2022.
- 1.2 According to the applicant, there are 25 parking spaces for private vehicles and eight for medium goods vehicles. Four structures including two single-storey (each about 3.8m in height) warehouses, one guard room and one electricity room with a total Gross Floor Area (GFA) of about 433 m² (10.8% of the site area) are also proposed at the Site. The operation hours of the proposed development are from 7:00 a.m. to 9:00 p.m. daily, except the warehouses will operate on Mondays to Saturdays only, excluding public holidays. Plans showing the proposed site layout, landscape and tree preservation

proposals and solid boundary fencing plan are at **Drawings A-1 to A-3** respectively.

- 1.3 The Site is the subject of two previous applications (No. A/NE-LYT/586 and 691) submitted by the same applicant for similar temporary public vehicle park which were approved with conditions by the Rural and New Town Planning Committee (the Committee) in 2016 and 2019 respectively. The applicant has complied with all approval conditions of both applications. As compared with the last previous approved application (No. A/NE-LYT/691), there is no major change in the layout except a minor reduction in the number of medium goods vehicle parking space (i.e. from 9 to 8), and the addition of two warehouses and other ancillary uses under the current submission.
- 1.4 In support of the application, the applicant has submitted the following documents:
- | | |
|--|----------------------|
| (a) Application Form with attachments received on 30.11.2020 | (Appendix I) |
| (b) Supplementary Information received on 1.12.2020 | (Appendix Ia) |
| (c) Further Information (FI) received on 22.3.2021^ | (Appendix Ib) |
| (d) FI received on 3.5.2021^ | (Appendix Ic) |
| (e) FI received on 12.7.2021^ | (Appendix Id) |
| (f) FI received on 25.8.2021^ | (Appendix Ie) |

^ accepted and exempted from publications and recounting requirements

- 1.5 At the request of the applicant, the Committee of the Board agreed on 22.1.2021 and 14.5.2021 respectively to defer making a decision on the application for two months each pending the preparation of FI to address the departmental comments. The applicant submitted FI on 22.3.2021, 3.5.2021, 12.7.2021 and 25.8.2021 (**Appendices Ib to Ie**) and the application is re-scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the Application Form, Supplementary Information and FI at **Appendices I, Ia to Ie**. They can be summarized as follows:

- (a) the Site is the subject of two previous applications for public vehicle park approved since 2016 serving the nearby residents of Ng Uk Tsuen;
- (b) due to the strong demand for the construction industry in Northeast New Territories areas, the applicant intends to lease out the proposed warehouses for the storage of metal which will provide metal supply to the clients in Fanling, Ta Kwu Ling and Ping Che areas;
- (c) a public vehicle park with planning permission (No. A/NE-LYT/645) is found to the northeast of the Site (**Plan A-1**);
- (d) the submitted estimated traffic generation arising from the proposed development demonstrates that the proposed development would not generate adverse traffic impact; and
- (e) the proposed development is not incompatible with the surrounding environment and insignificant noise and environmental impacts are anticipated because the construction materials will be accommodated in the two proposed warehouses. The applicant

undertakes to implement environmental mitigation measures to reduce noise impact and potential environmental nuisance to the nearby domestic structures (i.e. 2.75 m high solid boundary walls and adopt soundproofing materials for warehouse construction) (**Drawing A-3**).

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

The applicant is the sole current land owner of the private land portion of the Site. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the ‘Owner’s consent/notification’ requirements under 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) are not applicable to the application.

4. Previous Applications

- 4.1 The Site is the subject of two previous applications No. A/NE-LYT/586 and A/NE-LYT/691 for temporary public vehicle park for private cars, light goods vehicles and medium goods vehicles for a period of three years submitted by the same applicant of the current application. Application No. A/NE-LYT/586 was approved on 13.5.2016 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 the concerned Government departments had no adverse comment on the application. The applicant has complied with all approval conditions. Application No. A/NE-LYT/691 is a renewal application which was approved with conditions on 3.5.2019 mainly on the similar considerations as detailed above. All approval conditions under application No. A/NE-LYT/691 have been complied with and the planning permission of which is valid until 13.5.2022. The comparison between the last approved application and the current application is set out in paragraph 1.3
- 4.2 Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

5. Similar Applications

- 5.1 There is no similar application for temporary warehouse use within or partly within the “AGR” zone in the vicinity of the Site.
- 5.2 For temporary public vehicle park, there are seven relevant applications (No. A/NE-LYT/495, 556, 645, 698, 699, 712 and 749) involving three sites within the same “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area. Of them, five applications were approved while two were rejected. Applications No. A/NE-LYT/495, 556, 645 and 749 involving the same site and application No. A/NE-LYT/712 were approved with conditions by the Committee between January 2013 and June 2021 mainly on the considerations that the development was not incompatible with the surrounding land uses; the development would unlikely cause any significant adverse impacts on the traffic, environment, drainage and landscape of the area; there were previous planning approvals granted on the site for the same use and the applicant had complied with all approval conditions; and there were no adverse comments from concerned departments. Applications No. A/NE-LYT/698 and 699 were rejected by the Committee in July 2019 mainly on the grounds that the applicant failed to demonstrate that the developments would not cause adverse traffic impact on the surrounding areas.

5.3 Details of these similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

6. The Site and Its Surrounding Area (Plans A-1, A-2, and aerial photo on Plan A-3 and site photos on Plans A-4a and A-4b)

6.1 The Site is:

- (a) currently used for a public vehicle park with valid planning permission up to 13.5.2022; and
- (b) accessible via Sha Tau Kok Road – Ma Mei Ha.

6.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character with active and fallow agricultural land and clusters of village houses/temporary structures for mainly domestic purpose to the south;
- (b) to its immediate north are vehicle parks and a car repair workshop, and to the immediate southeast is an adventure training centre with planning permission approved on 3.5.2019;
- (c) to its east lies Tan Shan River; and
- (d) to the north across Sha Tau Kok Road – Ma Mei Ha is the village cluster of Hung Leng.

7. Planning Intention

The planning intention of the “AGR” zone 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.

8. Comments from Relevant Government Departments

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

Land Administration

8.1.1 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 access. The applicant should make his own arrangement for acquiring access to the application lots and there is no guarantee that any adjoining Government land will be allowed for the vehicle access of the applied use (**Plan A-2**);

- (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. His office reserves the rights to take enforcement actions against the structures concerned; 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) covering all the actual occupation area and structures concerned. The application 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

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

- having considered the FI submission (**Appendices Ib and Ic**), she considered that the traffic impact induced by the proposed development is tolerated and thus has no objection to the application from traffic engineering perspective.

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

- should the application be approved, condition should be included to request the applicant to maintain the existing run-in/out in good conditions at all times at the Site.

Agriculture

8.1.4 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. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view; 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.

Environment

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

- (a) having considered the FI submissions (**Appendices Id** and **Ie**), she has no objection to the application;
- (b) the applicant is reminded of his obligation to comply with all environmental protection/pollution control ordinances, and adopt good site practice to avoid any potential environmental nuisance/impact, for example the *ProPECC 5/93 Drainage Plans subject to Comment by the Environmental Protection Department*; and
- (c) there is no substantiated environmental complaint related to the Site for the past three years.

Landscape

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

- (a) she has no in-principle objection to the application from the landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character surrounded by temporary structures, village houses and clusters of trees. As observed from the aerial photo taken, the Site is hard paved and vegetation is located along the site boundary. The proposed use is considered not entirely incompatible with the surrounding environment, therefore no significant adverse landscape impact arising from the proposed development is anticipated; and
- (c) given that the Site is set back from Sha Tau Kok Road with existing vegetation buffer along the site boundary, 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.

Drainage

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

- (a) he has no objection to the application from the public drainage viewpoint; and
- (b) should the application be approved, condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse impact to the adjacent area since the Site is in an area where no public sewerage connection is available.

Building Matters

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

- he has no objection to the application and his advisory comments are at **Appendix V**.

Fire Safety

8.1.9 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) being provided to the satisfaction of his department; and
- (b) detailed fire service requirements will be formulated upon receipt of formal submission of general building plans. His detailed comments are appended at **Appendix V**.

District Officer's Comments

8.1.10 Comment of the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) he has consulted the locals regarding the application. The Chairman of Fanling District Rural Committee (FDRC) cum the Resident Representative (RR) of Ko Po, the First Vice-Chairman of FDRC and Vice-Chairman of FDRC cum Indigenous Inhabitant Representative (IIR) of Ko Po, the RR of Kan Tau Tsuen, the RR and the IIR of Hung Leng objected to the application, and 25 villagers of Leng Tsui and Ma Mei Ha signed an objection letter, mainly on the grounds of pedestrian safety; not in line with the planning intention of "AGR" zone; blockage to the vehicular flow on Sha Tau Kok Road by the traffic generated from the previous applications; and the potential noise and air pollution to the nearby residents; and
- (b) the North District Council member of the subject constituency and the IIR of Kan Tau Tsuen had no comment.

8.2 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).

9. Public Comments Received During Statutory Publication Period (Appendix IV)

On 8.12.2020, the application was published for public inspection. During the statutory public inspection period, three public comments were received. The Chairman of Sheung Shui District Rural Committee has no comment on the application. Two individuals object to the application mainly on the grounds that the temporary vehicle park and the warehouse for storage of construction materials will increase traffic flow in the surrounding area, affect road safety and living quality of the nearby villagers; there was no previous approval for the applied use of temporary public vehicle park and warehouse for construction materials; and the potential environmental impacts induced by open storage of construction materials.

10. Planning Considerations and Assessments

- 10.1 The application is for a temporary public vehicle park for private cars and medium goods vehicles, and warehouse for storage of construction materials for a period of three years at the Site zoned “AGR” on the OZP. The proposed development is not in line with 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. DAFC does not support the application from agricultural point of view since the Site possesses potential for agricultural rehabilitation. Nevertheless, given its temporary nature, it is considered that 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 “AGR” zone.
- 10.2 The Site is currently used for public vehicle park and located to the west of Ng Uk Tsuen. The applied use is considered not incompatible with the surrounding land uses which comprise mainly agricultural land, vehicle parks, village houses and temporary domestic structures (**Plans A-1 and A-2**). Since significant adverse impact on existing landscape resources arising from the proposed development is not anticipated, CTP/UD&L, PlanD has no objection to the application from landscape planning perspective.
- 10.3 C for T, upon review of the FI submitted by the applicant, has no further comment on the application from the traffic engineering point of view. DEP has no comment on the application having considered the FI from the applicant. The applicant is advised to comply with all environmental protection/pollution ordinances and ProPECC PN5/93 issued by EPD and adopt good site practice to avoid any potential environmental nuisance/impact. Other Government departments, including CE/MN of DSD, CHE/NTE of HyD and DFS have no objection or no adverse comment on the application.
- 10.4 The Site is the subject of two previous planning applications (No. A/NE-LYT/586 and 691) for temporary public vehicle park for private cars, light goods vehicles and medium goods vehicles for a period of three years submitted by the same applicant (**Plan A-1**). These applications were approved with conditions in 2016 and 2019 respectively, mainly on similar considerations stipulated in paragraph 4.1. The applicant has complied with all approval conditions and the planning permission of application No. A/NE-LYT/691 is still valid until 13.5.2022. As compared with the last previous approved application (No. A/NE-LYT/ 691), there is no major change in the layout except a minor reduction in the number of medium goods vehicle parking space (i.e. from 9 to 8), and the addition of two warehouses and other ancillary uses under the current submission. There has been no major change in the planning circumstances since the approval of the previous application (No. A/NE-LYT/691) in 2019, and relevant government departments including EPD and TD, etc. have no adverse comment on/no objection to the application.

- 10.5 While there is no similar application for the applied use within the same “AGR” zone, there are seven applications involving three sites for temporary vehicle park within the same “AGR” zone in the vicinity of the Site (**Plan A-1**). Five of which were approved with conditions by the Committee between 2013 and 2021 mainly on the considerations that the development was not incompatible with the surrounding land uses and would unlikely cause significant adverse impacts. The two remaining applications (No. A/NE-LYT/698 and 699) were rejected by the Committee in July 2019 mainly on the grounds that the applicant failed to demonstrate that the development would not generate adverse impacts. Regarding the public vehicle park use in the submission, the circumstances of the current application are similar to those approved applications.
- 10.6 Regarding the local comments conveyed by DO(N) of HAD and the adverse public comments as detailed in paragraphs 8.1.10 and 9 above, the Government department’s comments and the planning assessments above are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the local comments conveyed by DO(N) of HAD and public comments in paragraphs 8.1.10 and 9 above respectively, the Planning Department considers that the temporary use under the application could be tolerated for a period of 3 years.
- 11.2 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 10.9.2024. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) no operation for the proposed development 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 operation for the warehouses on public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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;
- (d) 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;
- (e) the existing run-in/out on the Site should be maintained at all times during the planning approval period;
- (f) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 10.3.2022;

- (g) in relation to (f) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 10.6.2022;
- (h) the submission of proposals for water supplies for fire-fighting 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 10.3.2022;
- (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 planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 10.6.2022;
- (j) the implementation of proposals for environmental mitigation measures within **9** months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 10.6.2022;
- (k) if any of the above planning conditions (a), (b), (c), (d) or (e) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (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**.

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

- the proposed development is not in line with the planning intention of the "AGR" zone which is to primarily 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. There is no strong planning justification in the submission to justify a departure from the planning intention, even on a temporary basis.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 12.2 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.
- 12.3 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.

13. Attachments

Appendix I	Application Form with attachments received on 30.11.2020
Appendix Ia	Supplementary information received on 1.12.2020
Appendix Ib	Further Information (FI) received on 22.3.2021
Appendix Ic	FI received on 3.5.2021
Appendix Id	FI received on 12.7.2021
Appendix Ie	FI received on 25.8.2021
Appendix II	Previous Applications
Appendix III	Similar s.16 Applications 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	Proposed Layout Plan
Drawing A-2	Proposed Landscape and Tree Preservation Plan
Drawing A-3	Proposed Solid Boundary Fencing Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a & 4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**