

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/752

- Applicant** : Shun Cheong Strategic Limited represented by Alliance Architects Ltd.
- Site** : Lots 799 S.A RP, 800 S.B RP and 801 S.B in D.D. 83, 192 Sha Tau Kok Road, Lung Yeuk Tau, Fanling, New Territories
- Site Area** : 741 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- For Lots 800 S.B RP and 801 S.B in D.D. 83
Short Term Waiver (STW) No. 1206
- Restricted to workshop and storage of electrical appliances/fittings
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
- Zoning** : “Residential (Group C)” (“R(C)”)
- Application** : Temporary Private Vehicle Park for Private Car and Light Goods Vehicle (Excluding Container Vehicle) and Loading/Unloading for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary private vehicle park for private car and light goods vehicle (excluding container vehicle) and loading/unloading for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “R(C)” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within “R(C)” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for under the Notes of the OZP. The Site is currently used for the applied use with previous planning permission lapsed on 21.7.2021.
- 1.2 According to the applicant, there is a single-storey structure for rain shelter for loading/unloading area with a total floor area of about 312.5 m². Three parking spaces for private vehicle and/or light goods vehicle and one loading/unloading space for light good vehicle are provided within the Site (**Drawing A-1**). The Site

is accessible via Sha Tau Kok Road – Lung Yuek Tau. The operation hours of the Site are between 8:00 a.m. to 6:00 p.m. on Mondays to Saturdays, and there will be no operation on Sundays and public holidays. Plan showing the site layout is at **Drawing A-1**.

- 1.3 The Site is the subject of seven previous approved applications for the similar / same uses submitted by the same applicant approved between 1998 and 2018. The latest planning application No. A/NE-LYT/640 for the same use as the current application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 20.7.2018 for a period of 3 years and its planning permission lapsed on 21.7.2021. Compared with the last previous application, the number of temporary structures and the total floor area are reduced from 2 to 1, and from 383 m² to 312.5 m² (i.e. -70.5 m²) respectively. Other development parameters including the vehicle parking spaces remain unchanged.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 6.8.2021 **(Appendix I)**
 - (b) Supplementary Planning Statement **(Appendix Ia)**
 - (c) Further Information received on 7.9.2021 (*accepted but excepted from publication and recounting requirements*) **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in part 9 of the application form, the Supplementary Planning Statement and the FI at **Appendices I to Ib** respectively. They can be summarized as follows:

- (a) the Site is the subject of approved applications. The last previously approved application (No. A/NE-LYT/640) lapsed on 21.7.2021. The applicant forgot to make a renewal application, a fresh application is therefore required;
- (b) the scale of car parking spaces and loading and unloading area are the same as the previously approved application, except the removal one structure, which is no longer required for the operation;
- (c) the loading/unloading area is used by the adjoining factory which is owned by the same applicant under the current application; and
- (d) all approval conditions of the previous application have been complied with. No adverse traffic and environmental impacts are anticipated.

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

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

4. Previous Applications

- 4.1 The Site is the subject of seven previous applications for the similar/ same uses submitted by the same applicant. All of them were approved with conditions by the Committee between 1998 and 2018.
- 4.2 The application No. A/NE-LYT/149 for extension of workshop and storage of electrical appliances/fittings with car parking and loading/unloading for a period of 12 months was approved by the Committee on 20.2.1998 mainly on the consideration that the Site was for open-air ancillary car parking and loading/unloading purposes for an existing workshop on the site which was not incompatible with the surrounding land uses; and the proposed car parking and loading/unloading facilities would not have adverse environmental, drainage and traffic impacts on the surrounding areas.
- 4.3 The remaining applications (No. A/NE-LYT/196, 308, 396, 496, 541 and 640) for temporary car parking and loading/unloading area or temporary private vehicle park for private car and light goods vehicle (excluding container vehicle) and loading/unloading were approved with conditions by the Committee between February 2000 and July 2018 mainly on the consideration that the Site had been used for such uses since 1998 which were not incompatible with the surrounding land uses and would unlikely cause any significant adverse traffic, drainage, environmental and landscape impacts on the surrounding area; there was no local objection against the applications; and there were previous approved applications for the similar/same uses. The applicant has complied with all the approved conditions stipulated under application No. A/NE-LYT/640 and its planning permission lapsed on 21.7.2021.
- 4.4 Compared with the previous application No. A/NE-LYT/640, the number of temporary structures and the total floor area are reduced from 2 to 1, and from 383 m² to 312.5 m² (i.e. -70.5 m²) respectively. Other development parameters including the vehicle parking spaces remain unchanged.
- 4.5 Details of these previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

5. Similar Application

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

6. The Site and Its Surrounding Areas (Plans A-1, A-2, A-3 and A-4)

6.1 The Site is:

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

6.2 The surrounding areas have the following characteristics:

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

7. Planning Intention

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.

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 Comment of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises private lots which are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access. The applicant should make his own arrangement for acquiring access to the Site, and there is no guarantee that any Government land will be allowed for vehicular access to the Site for the applied use (**Plan A-2**);

- (b) two of the lots are covered by Short Term Waiver (STW) No. 1206 for the purpose of workshop and storage of electrical appliances/fittings. His recent inspection detected irregularities in the STW area and his office reserves the right to take enforcement action against the STW;
- (c) the actual occupation area does not tally with the Site. The existing total built-over area is larger than it mentioned in the application. The existing number of structures do not tally with those mentioned in the application; and
- (d) if the application is approved, the owner of the application lots and the lots covered by the STW should apply to his office for cancel-and-reissue of the existing STW to cover all the actual occupation area and to regularize the authorized structures on the Site. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date will be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by his office.

Traffic

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

- (a) she has no objection to the planning application; and
- (b) it is considered that the applied use can be tolerated from the traffic engineering point of view.

Environment

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

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

Landscape

- 8.1.4 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
- (a) she has no objection to the application from the landscape planning perspective;
 - (b) the Site is situated in an area of disturbed rural landscape predominantly comprising open storages with temporary structures and scattered tree groups. The temporary use is not incompatible with the surrounding environment;
 - (c) with reference to the submitted Planning Statement, it is acknowledged that 5 nos. of existing trees will be retained and therefore impact on the existing vegetation within the Site is not anticipated; and
 - (d) given there is no adverse landscape impact arising from the continuous use within the Site, it is considered not necessary to impose a landscape condition should be the application be approved by the Board.

Drainage

- 8.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
- (a) he has no in-principle objection to the application from the public drainage point of view;
 - (b) should the application be approved, a condition record of the existing drainage facilities on-site as previously implemented on the same Site should be submitted; and
 - (c) the applicant is required to maintain those existing drainage facilities properly and rectify those facilities if they are found inadequate/ineffective during operation.

Building Matters

- 8.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
- for any new proposed building, the applicant is advised to note his advisory comments under the Buildings Ordinance appended at **Appendix V**.

Nature Conservation

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

- the Site has been paved and used as the applied use for some time, he has no comment on the application from nature conservation perspective.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to fire service installations implemented on the Site being maintained in efficient working order at all times; and
- (b) the fire service installations proposal and FS 251 submitted are considered acceptable.

District Officer's Comments

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

- he has consulted the locals regarding the application. The Chairman, the First Vice-Chairman, the Vice-Chairman of Fanling District Rural Committee object to the application mainly on the grounds of adverse traffic impact, and concern on pedestrian safety. The Chairman of Lung Shan Area Committee and the Indigenous Inhabitant Representative of Ma Liu Shui San Tsuen have no comment.

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

- (a) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Commissioner of Police; and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

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

On 13.8.2021, the application was published for public inspection. During the statutory public inspection period, five public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Four

comments from the Chairman, the First Vice-Chairman, the Vice-Chairman of Fanling District Rural Committee and an individual object to the application mainly on the grounds of adverse traffic and environmental impacts, and concern on pedestrian safety.

10. Planning Considerations and Assessments

- 10.1 The Site falls within an area zoned “R(C)” on the OZP. The temporary private vehicle park for private car and light goods vehicle (excluding container vehicle) and loading/unloading is not in line with the planning intention of the “R(C)” zone, which is primarily for low-rise, low-density residential developments. Nevertheless, it is noted that the Site is located at the fringe of the “R(C)” zone and the Site has been used as the same/similar use since 1998. The approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “R(C)” zone.
- 10.2 The Site is situated in an area of disturbed rural landscape predominantly comprising open storages with temporary structures and scattered tree groups. (**Plan A-2**). CTP/UD&L, PlanD has no objection to the application as the development is not incompatible with the surrounding environment and significant changes and disturbances to the existing landscape character and resources arising from application are not anticipated.
- 10.3 C for T considered that the application could be tolerated from the traffic engineering point of view. DEP has no objection to the application. The applicant is advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by EPD to minimise the potential environmental impacts on the surrounding areas. 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 seven previous applications (No. A/NE-LYT/149, 196, 308, 396, 496, 541 and 640) for the similar/ same uses submitted by the same applicant. All of them were approved with conditions by the Committee between 1998 and 2018. Compared the last approved application (No. A/NE-LYT/640) with the current application, the number of temporary structures and the total floor area are reduced from 2 to 1, and from 383 m² to 312.5 m² (i.e.-70.5 m²) respectively. Other development parameters including the vehicle parking spaces remain unchanged. The applicant has complied with all the approval conditions and its planning permission lapsed in July 2021. There is no major change in the planning circumstances since the last planning approval.
- 10.5 There is one similar planning application (No. A/NE-LYT/444) partly within the same “R(C)” zone and partly within the “AGR” zone for temporary private vehicle park in the vicinity of the Site. The application was rejected on review by the Board on 17.2.2012 mainly on the grounds that the applicant failed to demonstrate that the development would not generate adverse environmental and traffic impacts on the surrounding areas. It is considered that the planning circumstances of the current application are different from this application.
- 10.6 Regarding the local comments conveyed by DO(N) of HAD and the adverse public comments as detailed in paragraphs 8.1.9 and 9 above, the Government

department's comments and the planning assessment 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 objections conveyed by DO(N), HAD and public comments mentioned in, paragraphs 8.1.9 and 9 above, the Planning Department considers that the temporary use 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 24.9.2024. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the peripheral fencing of the Site should be maintained at all times during the planning approval period;
- (d) the existing fire service installations implemented shall be maintained in efficient working order at all times during the planning approval period;
- (e) the existing drainage facilities shall be properly maintained at all times during the planning approval period and rectified if they are found inadequate/ineffective during operation;
- (f) the submission of a conditional record of the existing drainage facilities within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 24.12.2021;
- (g) 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; and
- (h) if the above planning condition (f) 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 development is not in line with the planning intention of the “R(C)” zone which is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. The submission is not justifiable for a departure from such planning intention, even on a temporary basis.

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 6.8.2021
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Further Information received on 7.9.2021
Appendix II	Previous s.16 Applications
Appendix III	Similar s.16 Application partly within the “R(C)” zone on the Lung Yeuk Tau and Kwan Tei South OZP
Appendix IV	Public Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos