

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/775

- Applicant** : Shun Yu Development Consultant Limited represented by R-riches Property Consultants Limited
- Site** : Lots 870 RP (Part), 871 (Part) and 2141 RP (Part) in D.D. 83, Lung Yeuk Tau, Fanling, New Territories
- Site Area** : 821m² (about)
- Land Status** : (a) Block Government Lease (demised for agricultural use) for Lots 870 RP (Part) and 871 (Part) in D.D. 83
(b) New Grant Lot (demised for agricultural use) for Lot 2141 RP in D.D. 83
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19
- Zoning** : “Residential (Group C)” (“R(C)”)
- Application** : Proposed Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of Five Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary public vehicle park (excluding container vehicle) for a period of five years at the application site (the Site) which falls within an area zoned “R(C)” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use within the “R(C)” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently vacant.
- 1.2 According to the applicant, the development will provide 24 parking spaces (5m x 2.5m each) for private cars, serving the residents of nearby area including Ma Liu Shui San Tsuen and Queen’s Hill Estate. The Site is accessible via Hai Wing Road to Lung Ma Road (**Plan A-1**). The applicant estimates that there would be about 6 vehicular trips per hour. The proposed development will operate 24 hours daily, including public holidays. The proposed layout plan submitted by the applicant is in **Drawing A-1**.

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

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|-----|--|----------------------|
| (a) | Application Form with attachments received on 6.9.2022 | (Appendix I) |
| (b) | Supplementary Information (SI) received on 7.9.2022 | (Appendix Ia) |
| (c) | Further Information (FI) received on 20.2.2023 | (Appendix Ib) |
| (d) | FI received on 7.3.2023 | (Appendix Ic) |

1.4 On 28.10.2022 and 13.1.2023, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's requests to defer making a decision on the application for 2 months to allow more time for the applicant to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the Application Form, SI and FI at **Appendices I to Ic** respectively, as summarized below:

- (a) the proposed temporary vehicle park could serve the nearby residents (i.e. Ma Liu Shui San Tsuen and Queen's Hill Estate). The parking spaces within the Site would be rented to the nearby residents on a monthly basis;
- (b) the proposed development would only be operated for 5 years. The proposed development would not jeopardize the long-term planning intention of the "R(C)" zone;
- (c) the proposed development is not incompatible with the surrounding land uses and environment as the area is dominated by low-rise residential structures;
- (d) sufficient space would be provided within the Site to allow vehicles to smoothly manoeuvre to/from and within the Site. As such, no queuing and turning back of vehicles outside the Site is anticipated;
- (e) as the traffic generation and attraction of the proposed development is minimal, adverse traffic impact to the surrounding road network is not anticipated;
- (f) there will be no adverse environmental, landscape and drainage impacts on the surroundings caused by the proposed development; and
- (g) the applicant undertakes to strictly follow the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (CoP) issued by Environmental Protection Department to minimize environmental impacts and nuisances to the surrounding areas. To mitigate any adverse impact arising from the proposed development, the applicant also undertakes to provide adequate mitigation measures in terms of drainage and fire service installations aspects.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not the "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

posting site notice and sending notice to the Fanling District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site is not subject to active enforcement action.

5. Previous Applications

- 5.1 The Site, in part or in whole, is the subject of three previous applications (No. A/NE-LYT/444, 646 and 730) submitted by different applicants.
- 5.2 Applications (No. A/NE-LYT/444 and A/NE-LYT/646) involving partly "R(C)" and partly "Agriculture" ("AGR") zone with a larger area for temporary private vehicle park for coaches and storage use, and temporary open storage of recyclable products and ancillary workshop were rejected by the Board on review on 17.2.2012 and by the Committee on 18.5.2018 respectively mainly on the grounds that the developments were not in line with the planning intentions of the "R(C)" and "AGR" zones; failure to demonstrate that the developments would not generate adverse landscape, environmental and traffic impacts on the surrounding areas; and non-compliance with the then Town Planning Board Guidelines for 'Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance' (TPB PG-No. 13E).
- 5.3 Application No. A/NE-LYT/730 for a proposed temporary recyclable collection centre with ancillary office was approved by the Committee on 18.12.2020. The application was subsequently revoked on 18.6.2021 due to non-compliance with approval conditions.
- 5.4 Details of the previous applications are summarized at **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are seven similar applications within the "R(C)" zone on the Lung Yeuk Tau and Kwan Tei South OZP in the vicinity of the Site.
- 6.2 These seven applications (No. A/NE-LYT/196, 308, 396, 496, 541, 640 and 752) involving the same site for temporary vehicle park for private car and light goods vehicle and loading/unloading were approved by the Committee between 2000 and 2021 mainly on considerations that the development was not incompatible with the surrounding land uses; the development would unlikely cause any significant adverse traffic, drainage, environmental and landscape impacts on the surrounding areas; and relevant government departments had no objection to the applications.
- 6.3 Details of the similar applications are summarized at **Appendix III** and the locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) paved and fenced off;
- (b) accessible via Hai Wing Road leading to Lung Ma Road (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) mainly a mixed rural landscape character dominated by low-rise residential buildings, active/fallow agricultural land and vehicle repairing workshops;
- (b) to the east and west along Hai Wing Road are low-rise residential buildings and vehicle repairing workshops and warehouses within the “R(C)” zone;
- (c) to the north across Hai Wing Road are mainly low-rise residential buildings and vacant land; and
- (d) to the south is open storage use and active/fallow agricultural land intermixed with domestic structures within the “AGR” zone, and further south is Queen’s Hill Estate (**Plan A-1**).

8. 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.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 below, other government departments consulted have no objection to/no adverse comment on the application. Their general comments on the application and advisory comments are provided in **Appendices IV** and **V** respectively.

9.2 The following government department has relayed the following local views on the application.

District Officer’s Comments

Comments 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 and the Chairman of Lung Shan Area Committee have no comment on the application. The Resident Representative (RR) of Ma Liu Shui San Tsuen and the incumbent North District Councillor of N18

Constituency object to the application mainly on the grounds that the proposed development is situated on a narrow one-way road, where the traffic induced by the development would cause traffic and noise nuisances to residents nearby. The Indigenous Inhabitant Representative (IIR) of Ma Liu Shui San Tsuen has not replied.

10. Public Comments Received During Statutory Publication Period (Appendix VI)

On 13.9.2022, 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 indicates no comment on the application. An individual objects to the application mainly on the grounds that approval of the application would cause adverse traffic and environmental impacts on the surrounding areas and increase fire risks, thus affecting the safety and quality of life of the nearby residents. The remaining comment submitted by another individual objects to the application mainly on the ground that the proposed development is not in line with the planning intention of the “R(C)” zone.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary public vehicle park (excluding container vehicles) for a period of 5 years at the Site zoned “R(C)” on the OZP. The proposed 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. Notwithstanding, it could serve the local residents’ needs for car parking. Given its temporary nature, 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 accessible via Hai Wing Road leading to Lung Ma Road (**Plan A-1**). The public vehicle park will provide a total of 24 parking spaces for private cars. The Site is paved and fenced off. It falls within the “R(C)” zone, which is a non-landscape sensitive zoning and no significant landscape impact arising from the proposed development is anticipated. In this regard, CTP/UD&L, PlanD has no objection to the application from landscape point of view. C for T has no comment on the application from traffic engineering perspective. Noting that the proposed application does not involve parking of heavy vehicles and container trucks, DEP has no objection to the application, but advises that the applicant should follow the latest CoP to minimize any potential environmental impacts on the nearby residents, if the application is approved. Other relevant government departments consulted, including D of FS, CE/MN of DSD, CE/C of WSD, CHE/NTE of HyD and C of P, have no adverse comments on or objection to the application.
- 11.3 The Site is subject of a relevant previous planning application (No. A/NE-LYT/444) for temporary private vehicle park/storage use involving partly “R(C)” and partly “AGR” zone with a larger area. It was rejected in 2012 mainly on the ground that the applicant failed to demonstrate that the development would not generate adverse environmental and traffic impacts on the surrounding areas. The current application involves no “AGR” zone and relevant government departments have no major adverse comment on the application

on environmental and traffic aspects. The planning circumstances of the current application are different from the previously rejected application.

- 11.4 There are seven similar applications (No. A/NE-LYT/196, 308, 396, 496, 541, 640 and 752) involving the same site for temporary car parking and loading/unloading area within the same “R(C)” zone. The applications were approved by the Committee mainly on the grounds that the developments were not incompatible with the surrounding land uses; the developments would unlikely cause any significant adverse traffic, drainage, environmental and landscape impacts on the surrounding area; and relevant government departments had no objection to the application. The planning circumstances of the current application are similar to the approved applications.
- 11.5 Regarding the local comments conveyed by DO(N) of HAD and public comments on the application as detailed in paragraphs 9.2 and 10 above, government departments’ comments and planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local comments conveyed by DO(N), HAD and public comments as detailed in paragraphs 9.2 and 10 above, the Planning Department has no objection to the application for a period of 5 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of five years until 31.3.2028. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) no vehicle without valid license issued under the Road Traffic Ordinance is allowed to be parked/stored on the Site at any time during the planning approval period;
- (b) only private cars as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) the 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 31.9.2023;
- (d) in relation to (c) above, the provision of drainage facilities 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 31.12.2023;
- (e) in relation to (d) above, the implemented drainage facilities at the Site should be maintained at all times during the planning approval period;
- (f) 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 31.9.2023;

- (g) in relation to (f) 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 31.12.2023;
- (h) if the above planning conditions (a), (b) 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
- (i) if any of the above planning condition (c), (d), (f) or (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

The recommended advisory clauses are 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 proposed development is not in line with the planning intention of the "R(C)" zone which is primarily for low-rise, low-density residential developments. There is no strong planning justification 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 the 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 6.9.2022
Appendix Ia	SI received on 7.9.2022
Appendix Ib	FI received on 20.2.2023
Appendix Ic	FI received on 7.3.2023
Appendix II	Previous Applications
Appendix III	Similar S.16 Applications for Temporary Public Vehicle Park in the vicinity of the application site within/partly within the "Residential (Group C)" zone in the Lung Yeuk Tau and Kwan Tei South Area

Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2023**