

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/792

<u>Applicant</u>	: Mr LAU Wing On represented by Toco Planning Consultants Limited
<u>Site</u>	: Lots 466 (Part) and 470 (Part) in D.D. 83 and Adjoining Government Land (GL), Kwan Tei, Fanling, New Territories
<u>Site Area</u>	: About 1,921m ² (including 109m ² of GL)
<u>Lease</u>	: (i) Block Government Lease (demised for agricultural use) (about 94%) (ii) GL (about 6%)
<u>Plan</u>	: Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Public Vehicle Park (PVP) (Private Car Only) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary PVP (private car only) for a period of three years on the application site (the Site) (**Plan A-1**). The Site is zoned “AGR” on the OZP. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is partly covered by vegetation and partly used for a temporary PVP with planning permission.
- 1.2 According to the applicant, the Site would involve two portions, i.e. Site A (the eastern portion of about 420m²) and Site B (the western portion of about 1,501m²) (**Drawing A-1**). The applicant claims that Site B forms an extension of an approved temporary PVP for private cars at Site A. A total of 54 parking spaces for private cars will be provided on the Site (i.e. 8 parking spaces within Site A and 46 within Site B). The Site is accessible via a local track to Sha Tau Kok Road – Lung Yeuk Tau with ingress/egress point at the eastern fringe of the Site. The proposed layout plan is shown in **Drawing A-2**.
- 1.3 The Site is the subject of three previous planning applications (No. A/NE-LYT/568, 718 and 742) for temporary PVP. Application Nos. A/NE-LYT/568 and 742 involving the same Site A for temporary PVP submitted by a different applicant were approved by the

Rural and New Town Planning Committee (the Committee) on 7.8.2015 and 5.2.2021 respectively. The planning permission under application No. A/NE-LYT/742 is valid until 5.2.2024. Application No. A/NE-LYT/718 involving the Site B area for proposed temporary PVP submitted by the same applicant as the current application was rejected by the Committee on 6.3.2020. Details of the previous applications are set out in paragraph 5 below.

- 1.4 The site is the subject of a withdrawn application (No. A/NE-LYT/766) involving the Site B area for proposed temporary PVP submitted by the same applicant as the current application. The applicant withdrew the application after the Paper was issued before the Committee's consideration scheduled for 23.12.2022.
- 1.5 In support of the application, the applicant has submitted the following documents:
- | | |
|---|----------------------|
| (a) Application Form received on 15.2.2023 | (Appendix Ia) |
| (b) Planning Statement with Traffic Impact Assessment (TIA) Study | (Appendix Ib) |
| (c) Further Information (FI) received on 20.3.2023 | (Appendix Ic) |
| (d) FI received on 21.3.2023 | (Appendix Id) |

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 4 of the Planning Statement at **Appendix Ib**, as summarized below:

- (a) the proposed temporary PVP is an integration of the approved PVP (Site A) and the proposed car park extension (Site B);
- (b) the applied use could meet the strong demand for car parking spaces in Kwan Tei Village and help in solving the traffic problems such as illegal roadside parking, vehicle-pedestrian conflicts, traffic deadlock in Kwan Tei Village;
- (c) with limited available land in Kwan Tei Village, the Site is in close proximity to the village proper of Kwan Tei Village. It is considered suitable for the applied use, which would maximize utilization of land resources;
- (d) given the temporary nature and small scale of the development, the applied use is considered compatible with the surrounding land uses. The approval of the application on a temporary basis will not frustrate the long-term planning intention of the "AGR" zone and the applied use will not affect future agricultural rehabilitation as the applied use would not involve site formation work and removable materials (i.e. gravel) will be used for constructing the car park;
- (e) compared with the previous scheme submitted under planning application no. A/NE-LYT/766 (previously withdrawn), the scale of development at Site B has been revised by further reducing the site area and the number of parking spaces from 2,009m² to 1,501m² and from 63 to 46 respectively. The vehicular access to the application site would be the current local road located at the eastern side of the approved car park;
- (f) adverse traffic, environmental, drainage and landscape impacts are not anticipated;

- (g) there are similar planning applications in the vicinity of the Site for temporary PVPs within the “AGR” zone on the same OZP and approval of the current application will not set an undesirable precedent; and
- (h) supports from relevant villagers and residents are obtained.

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 a notice to the Fanling Rural District Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the “Owner’s Consent/Notification” requirements are not applicable.

4. **Background**

Parts of the Site are subject of two previous planning enforcement cases against unauthorized parking of vehicles (**Plan A-2**). Site A is the subject of a previous planning enforcement case No. E/NE-LYT/198 with its Cancellation Notice was issued on 9.11.2015 after the approval of planning application No. A/NE-LYT/568. Site B is the subject of a previous planning enforcement case No. E/NE-LYT/241. As the unauthorized parking of vehicles had been discontinued, Reinstatement Notice (RN) was issued on 17.6.2021 and Compliance Notice for RN was issued on 4.2.2022.

5. **Previous Applications**

- 5.1 The Site is the subject of three previous planning applications (No. A/NE-LYT/568, 718 and 742) for temporary PVP. Application Nos. A/NE-LYT/568 and 742 involving 11 parking spaces at Site A for a period of three years submitted by a different applicant were approved by the Committee on 7.8.2015 and 5.2.2021 respectively. They were approved mainly on considerations that the development was not incompatible with the surrounding land uses; and the development would unlikely cause any significant adverse traffic drainage, environmental and landscape impacts. All approval conditions under Application No. A/NE-LYT/742 had been complied with and the planning permission is valid until 5.2.2024.
- 5.2 Application no. A/NE-LYT/718 covering a larger site area than Site B for the proposed PVP submitted by the same applicant as the current application was rejected by the Committee on 6.3.2020 mainly on the grounds that the proposed development was not in line with the planning intention of “AGR” zone and the applicant failed to demonstrate that the development would not cause adverse traffic impact on the surrounding areas.
- 5.3 Details of the previous applications are summarized at **Appendix II** and its location shown on **Plan A-1**.

6. Similar Application

There is no similar application within the same “AGR” zone for the same temporary use in the vicinity of the area.

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

7.1 The Site is:

- (a) mainly flat and partly covered with self-seeded vegetation with some trees of common species (e.g. *Bombax ceiba* 木棉) and invasive species in the western part of the Site (i.e. Site B) while the eastern portion (Site A) is paved and partly used for a temporary PVP with planning permission (application no. A/NE-LYT/742); and
- (b) accessible from Sha Tau Kok Road – Lung Yeuk Tau via a local track.

7.2 The surrounding areas have the following characteristics (Plan A-2):

- (a) the surrounding land uses are predominantly rural in character intermixed with village houses and active/fallow agricultural land;
- (b) to the immediate east is a local track connecting to Sha Tau Kok Road – Lung Yeuk Tau and to the further east is the village proper of Kwan Tei Village;
- (c) to the immediate north is fallow agricultural land, groups of trees and a pond; further north is a football field and Kwan Tei Children’s playground; and
- (d) to the immediate west and south are fallow agricultural land, a watercourse and some domestic structures.

8. 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.

9. Comments from Relevant Government Departments

9.1 Apart from the government departments as set out in paragraphs 9.2 and 9.3 below, other departments consulted have no objection to/adverse comment on the application. Their general comments on the application and advisory comments are at **Appendices III** and **IV** respectively.

9.2 The following government department has adverse comments on the application:

Agriculture and Nature Conservation

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

- The Site falls within the “AGR” zone and is vacant. 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 open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the proposed development is not supported from agricultural perspective.

9.3 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):

- (a) he has consulted the locals regarding the application. The Indigenous Inhabitant Representatives (IIRs) of Kwan Tei support the application as the village has insufficient parking space; and
- (b) the Chairman of Lung Shan Area Committee and the Chairman of Fanling District Rural Committee have no comment on the application. Other consultees including the incumbent North District Councilor of N18 Constituency, the IIR and the Resident Representative (RR) of Fu Tei Pai and the RR of Kwan Tei did not reply to her office.

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

On 21.2.2023, the application was published for public inspection. During the statutory publication period, four public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The remaining three public comments are made by individuals and Kadoorie Farm & Botanic Garden Corporation. One expresses concerns on whether the applicant has obtained landowners' consents for accessing to the Site. The remaining individual and Kadoorie Farm & Botanic Garden Corporation raise objection to the application mainly on grounds of previous rejection history, adverse traffic impacts and the applied use would be not in line with the planning intention of “AGR” zone and considered as inefficient use of land.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary PVP (private car only) for a period of three years on a Site falling within “AGR” zone on the OZP. The proposed vehicle park is not in line with the planning intention of the “AGR” zone, which 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. The Site forms part of a large piece of fallow agricultural land which extends from the periphery of Kwan Tei Village to its west (**Plan A-1**). As the Site possesses potential for agricultural rehabilitation, DAFC does not support the application from agricultural perspective. There are no strong justifications in

the submission to justify a departure from the planning application of the “AGR” zone, even on a temporary basis.

- 11.2 The Site is partly covered with self-seeded vegetation with some trees of common species and invasive species in the west, and partly occupied by a temporary PVP in the east. It is located to the west of Kwan Tei Village near the existing village proper and surrounded mostly by village houses, active/fallow farmland and tree clusters (**Plans A-2 and A-3**). The proposed temporary PVP is considered not entirely incompatible with the surrounding areas. In this regard, CTP/UD&L, PlanD has no objection to the application from landscape planning perspective. Nevertheless, DAFC indicates that the Site could be used for open field cultivation, greenhouses, etc., and should be reserved for agricultural use.
- 11.3 Having reviewed the TIA at **Appendix Ib**, the Commissioner for Transport considers that the application is tolerable for three years from traffic engineering point of view. Nevertheless, having regard to the “AGR” zoning of the Site, it is considered that public carparking provision should be located in areas intended for development purposes from planning point of view. Parking problem should be addressed by provision of car parks in suitable locations with necessary traffic enforcement action instead of allowing undesirable proliferation of rural car parks in the “AGR” zone. Other relevant government departments consulted including CE/MN of DSD, CE/C of WSD have no adverse comment on or no objection on the application.
- 11.4 The Site is the subject of three previous applications (Nos. A/NE-LYT/568, 718 and 742) considered by the Committee for the same temporary use. Application Nos. A/NE-LYT/568 and 742 submitted by a different applicant for temporary PVP involving only 11 private vehicle parking spaces at Site A were approved by the Committee on 7.8.2015 and 5.2.2021 respectively mainly on consideration that the development was not incompatible with the surrounding land uses; and the development would unlikely cause any significant adverse impacts on the traffic, environment, drainage and landscape of the area. Application No. A/NE-LYT/718 for proposed temporary PVP involving 58 private vehicles and 5 light goods vehicles parking spaces at Site B submitted by the same applicant under the current application was rejected by the Committee on 6.3.2020 largely on the ground that the proposed development was not in line with the planning intention of “AGR” and the applicant failed to demonstrate that the development would not cause adverse traffic impact on the surrounding areas. Although the traffic issue is addressed in the current application, the consideration that the application is not in line with the planning intention of “AGR” zone and AFCD’s reservation on the application are still valid.
- 11.5 The applicant claims that the western portion of the Site (i.e. Site B) with an area of 1,501m² is an extension of the approved PVP under application No. A/NE-LYT/742 at Site A (**Drawings A-1 and A-2**). Nevertheless, Site A with an area of 420m² involves only 11 parking spaces and the integration of Site A and Site B with an area of about 1,921m² would result in a total of 54 parking spaces (i.e. additional 43 parking spaces (+390%) and additional site area of about 1,501m² (+357%) as compared to the approved PVP). With significant increase in scale in terms of area and the number of parking spaces, the current application should be considered as a fresh application. As such, the planning circumstances of the current application are different from the previously approved application.

- 11.6 There is no similar application within the same “AGR” zone for the same temporary use in the vicinity of the area.
- 11.7 Regarding the public comments as detailed in paragraph 10 above, government departments’ comments and planning assessment above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments as detailed in paragraph 10 above, the Planning Department does not support the application for the following reason:
- the proposed development is not in line with the planning intention of the “AGR” zone which is to retain primarily 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 for a departure from the planning intention, even on a temporary basis.
- 12.2 Alternatively, 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 31.3.2026. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) no vehicle without valid licence 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 is 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 30.9.2023;
- (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 shall 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 30.9.2023;
- (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 any of the above planning condition (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;
- (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; and
- (j) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix IV**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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.

14. Attachments

Appendix Ia	Application form with attachments received on 15.2.2023
Appendix Ib	Planning Statement with TIA Study
Appendix Ic	FI received on 20.3.2023
Appendix Id	FI received on 21.3.2023
Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Site Plan by the Applicant
Drawing A-2	Site Layout Plan by the Applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
MARCH 2023**