

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/806

- Applicant** : Mr LI Pui Hei represented by R-riches Property Consultants Limited
- Site** : Lots 869 S.F, 870 RP(Part), 871 and 2141 RP(Part) in D.D. 83, Lung Yeuk Tau, Fanling, New Territories
- Site Area** : 1,952m² (about)
- Land Status** : Block Government Lease and New Grant Lot (demised for agricultural use)
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19
- Zonings** : “Agriculture” (“AGR”) (53% of the application site)
“Residential (Group C)” (“R(C)”) (47% of the application site)
- Application** : Proposed Temporary Public Vehicle Park (PVP) (Excluding Container Vehicle) for a Period of Three Years and associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary PVP (excluding container vehicle) for a period of three years and associated filling of land at the application site (the Site). The Site is partly zoned “AGR” and partly zoned “R(C)” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘PVP (excluding container vehicle)’ is a Column 2 use within “R(C)” zone, and temporary use of ‘PVP (excluding container vehicle)’ for a period of three years and filling of land within the “AGR” zone require planning permission from the Town Planning Board (the Board). The northern part of the Site within the “R(C)” zone (the “R(C)” portion) is currently used for a temporary PVP under an approved application (see paragraph 5.4 for details), while the remaining part under “AGR” zone (the “AGR” portion) is currently parked with vehicles without planning permission. The application also serves to regularize the land filling works within the “AGR” zone¹.
- 1.2 According to the applicant, the applied use will provide a total of 64 private car parking spaces at the Site, serving the residents nearby including Ma Liu Shui San Tsuen and

¹ According to the Notes of the OZP, planning permission for land filling within the “R(C)” zone is not required.

Queen's Hill public housing development. The Site is accessible via Hai Wing Road to Lung Ma Road (**Plans A-1 and A-2**). According to the application, traffic management measures to restrict vehicles from entering/exiting the temporary PVP via the western portion of Hai Wing Road and Lung Ma Road will be imposed. The applicant estimates that there would be about 16 vehicular trips per hour on average. The proposed development will operate 24 hours daily, including public holidays. There will be a 1-storey temporary structure with a total GFA of 18m² serving as an indoor workspace for one administrative staff to support the daily operation of the temporary PVP. The proposed layout plan submitted by the applicant is shown in **Drawings A-1**.

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

- (a) Application Form with attachments received on 28.8.2023 (**Appendix I**)
- (b) Further Information (FI) received on 5.10.2023 ^ (**Appendix Ia**)
- (c) FI received on 19.10.2023 ^ (**Appendix Ib**)

^ *accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendix I**, as summarized below:

- (a) the proposed temporary PVP could serve the residents nearby (i.e. Ma Liu Shui San Tsuen and Queen's Hill Estate). In view of the growing population and shortage of parking spaces in the area, the proposed use could cater for the parking needs of residents nearby;
- (b) the proposed development is not incompatible with the surrounding land uses and approval of the application on a temporary basis of three years would not frustrate the long-term planning intention of the "AGR" zone and would better utilize the land resources;
- (c) the northern portion of the Site is the subject of an approved application (no. A/NE-LYT/775) for the same use (**Plan A-2**). The approval of the current application is in line with the Board's previous decision;
- (d) as the traffic generation and attraction of the proposed development is insignificant, adverse traffic impact on the surrounding road network is not anticipated; and
- (e) 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 on and nuisances to the surrounding areas.

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

- 4.1 The first statutory plan covering the Site (i.e. the Lung Yeuk Tau and Kwan Tei South Interim Development Permission Area (IDPA) Plan No. IDPA/NE-LYT/1) was gazetted on 17.8.1990. As revealed in the aerial photo taken in July 1990 (**Plan A-3b**), part of the Site was formed and used for storage use. Since then, the Site has been intermittently used for storage/workshop uses until it was used for vehicle parking in mid-2023 (**Plans A-3c, A-3d and A-4a**). The "AGR" portion of the Site is subject to on-going planning enforcement action (No. E/NE-LYT/275) against unauthorized development (UD) for parking of vehicles (**Plan A-2**). Enforcement Notice was issued on 15.6.2023 requiring discontinuation of UD for parking of vehicles. The Site was under monitoring by the Planning Authority.
- 4.2 The Site is the subject of a previous application No. A/NE-LYT/800 covering a larger portion of the "AGR" zone as compared to the current application with a total site area of 5,693m² for a proposed temporary PVP with a total of 171 parking spaces submitted by the same applicant as the current application. The application was withdrawn by the applicant on 15.9.2023.

5. Previous Applications

- 5.1 The Site, in part or in whole, is the subject of four previous applications (No. A/NE-LYT/444, 646, 730 and 775) submitted by different applicants. Applications No. A/NE-LYT/646 and 730 for temporary open storage of recyclable products and ancillary workshop and proposed temporary recyclable collection centre with ancillary office respectively, are not relevant to the current application.
- 5.2 Application No. A/NE-LYT/444 for temporary private vehicle park for coaches and temporary storage use was rejected by the Board on review on 17.2.2012 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 environmental and traffic impacts on the surrounding areas.
- 5.3 Application No. A/NE-LYT/775, covering only the "R(C)" portion of the Site, for proposed temporary PVP (excluding container vehicle) for a period of 5 years submitted by a different applicant was approved by the Committee on 31.3.2023 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 application. As compared to the current application, the proposed number of parking spaces increases from approved 24 to 64 (+167%) while the site area increases from 821m² to 1,952m² (+138%).
- 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 While there are no similar application straddling both “AGR” and “R(C)” zones, there are one similar application within the “R(C)” zone and eight similar applications within the “AGR” zone on the Lung Yeuk Tau and Kwan Tei South OZP in the vicinity of the Site over the past five years.
- 6.2 Application No. A/NE-LYT/752 for temporary vehicle park for private car and light goods vehicle and loading/unloading bays within the “R(C)” zone was approved by the Committee in 2021 mainly on considerations that the use was not incompatible with the surrounding land uses; unlikely cause any significant adverse traffic, drainage, environmental and landscape impacts on the surrounding areas; relevant government departments had no objection to the applications; and the site was the subject of a previous planning approval.
- 6.3 For similar applications within the “AGR” zone, 6 of them (No. A/NE-LYT/689, 704, 706, 742, 747 and 777) involving five sites for the same use² (ranging from 11 to 40 carparking spaces) were approved by the Committee between May 2019 and January 2023 mainly on considerations that the use was not incompatible with the surrounding land uses; unlikely cause any significant adverse traffic, drainage, environmental and landscape impacts on the surrounding areas; no adverse departmental comments except from the Agriculture, Fisheries and Conservation Department (AFCD); and the Site was the subject of previous planning approvals³.
- 6.4 The remaining two applications (No. A/NE-LYT/718 and 795) to the further northeast of the Site within “AGR” zone (**Plan A-1**) were rejected by the Committee on 6.3.2020 and 14.7.2023 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 (Application No. A/NE-LYT/718 only). Review Application No. A/NE-LYT/795 is scheduled for consideration by the Board on 1.12.2023.
- 6.5 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-4c)

7.1 The Site is:

- (a) paved and used for temporary PVP with planning permission (application no. A/NE-LYT/775) for the “R(C)” portion ; and paved with concrete and parked with a few vehicles which is now under enforcement action as detailed in paragraph 4.1 for the “AGR” portion. The “AGR” portion falls within the Queen’s Hill Site of Archaeological Interest (SAI) (Archaeological Site No. AM01-1654) (**Plan A-2**);

² The scale of the latest approved applications involving five sites are: 26 (application no. A/NE-LYT/689), 24 (application no. A/NE-LYT/704), 11 (application no. A/NE-LYT/742), 40 (application no. A/NE-LYT/747), 4 (application no. A/NE-LYT/752) and 21 (application no. A/NE-LYT/777) parking spaces respectively.

³ Applications No. A/NE-LYT/704, 742, 747 and 777 were the subject of previous approvals for the same use.

- (b) accessible at its north via Hai Wing Road, which is a 6.5m wide local access road under private ownership mainly serving Ma Liu Shui San Tsuen, leading to Lung Ma Road and Dao Yang Road (**Plans A-1 and A-2**); and
 - (c) segregated by vegetated areas, a few structures and vacant area to its south, and thus is not directly accessible via Lung Chun Road to its south which has a gradient difference and with no pedestrian connection between Queen's Hill public housing development and the Site (**Plans A-3a and A-4a**). Pedestrian would need to walk about 15 minutes from Queen's Hill public housing development to the Site via Lung Ma Road and Hai Wing Road (**Plan A-1**).
- 7.2 The surrounding areas are mainly a mixed rural landscape character dominated by low-rise residential buildings, village houses, active/fallow agricultural land and vehicle repair workshops. A number of development zones are found around the Site, including the "R(C)" zone to the north; the "Government, Institution and Community" ("GIC") and "GIC(1)" zones to the west; and the "Village Type Development" ("V") and "Residential (Group A)" ("R(A)") zones (i.e. Queen's Hill public housing) to the south (**Plan A-1**).

8. Planning Intentions

- 8.1 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.
- 8.2 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.
- 8.3 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government departments 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 at **Appendices IV and V** respectively.
- 9.2 Commission for Transport (C for T) supports the application on the following considerations from traffic engineering point of view:
- (a) the provision of additional parking lots can relieve the shortage of available parking spaces in the area;
 - (b) improper on-street parking is observed in the vicinity of Ma Liu Shui San Tsuen, particularly along Hai Wing Road and Dao Yang Road (**Plan A-1**). Acute illegal parking problem is also observed further from the Site on Lung

Ma Road and Lung Chun Road. Such issues can be addressed by the provision of additional parking lots; and

- (c) the applicant has committed to impose management measures to restrict vehicles from entering/leaving the PVP via the western portion of Hai Wing Road and Lung Ma Road, and it is demonstrated in the traffic assessment that the additional parking lots would not impose significant traffic impact on Hai Wing Road, Dao Yang Road, Lung Ma Road and Sha Tau Kok Road (**Plan A-1**).

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

Agriculture and Nature Conservation

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

- (a) the Site falls within the “R(C)” and “AGR” zones and is generally used for car parking. 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 and plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the proposed development is not supported from agricultural perspective; and
- (b) nevertheless, he has no comment on the application from nature conservation perspective.

9.4 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 Chairman of Fanling District Rural Committee has no comment;
- (b) the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Ma Liu Shui San Tsuen and local resident object to the application as Hai Wing Road and Dao Yang Road have already reached the maximum capacity as private roads serving the village; proposed use is not in line with the planning intention of “AGR” zone; the proposed use would destruct the agricultural land and would further cause adverse traffic and drainage impacts and safety issues; it would be unfair for the villagers to bear the burden and take the responsibility to maintain Hai Wing Road and Dao Yang Road; and the drainage facilities underneath the roads would also be affected. They also have made suggestions (e.g. restrict cars to leave the Site by turning right onto Hai Wing Road to access Sha Tau Kok Road via Dao Yang Road only) if application is approved; and
- (c) the Chairman of Lung Shan Area Committee also comments that the Site should

be kept clean and ensure smooth traffic for the roads nearby to avoid inducing any traffic impacts on the villagers while the incumbent North District Councilor of N18 Constituency has not replied.

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

On 1.9.2023, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 11 public comments were received. While the Chairman of Sheung Shui District Rural Committee indicates no comment on the application and one individual supports the application as there is parking shortage in the Lung Yeuk Tau area, the remaining nine individuals object to the application mainly on the grounds that approval of the application would cause adverse traffic, drainage and environmental impacts on the surrounding areas, thus affecting the safety and quality of life of the nearby residents. As Hai Wing Road and Dao Yang Road are private road and do not meet the standard of a public road, the proposed temporary PVP would attract many vehicles which would wear out the roads and infrastructures underneath. It would be unfair and unreasonable for the villagers to be responsible for the maintenance of private roads (i.e. Hai Wing Road and Dao Yang Road) while the current application is to address the parking shortage in Queen's Hill development. The proposed development is not in line with the planning intention of the "AGR" zone and approval of the application would set an undesirable precedent of similar applications.

11. Planning Considerations and Assessments

- 11.1 The Site falls partly within the "R(C)" zone (about 47%) and partly the "AGR" zone (about 53%) on the OZP. While the "R(C)" portion is currently used for a temporary PVP with valid planning permission under application no. A/NE-LYT/775, the "AGR" portion is paved and subject to enforcement action against UD for parking of vehicles as detailed in paragraph 4.2 above. The applicant is applying to regularize the subject PVP and associated land filling works in the "AGR" portion. The applied use within the "AGR" portion of the Site is not in line with the planning intention of the "AGR" zone as detailed in paragraph 8.1 above. As the Site possesses potential for agricultural rehabilitation, DAFC does not support the application from agricultural perspective and indicates that the Site could be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. According to the applicant, the applied use is to serve residents nearby. Taking into account this and the assessment below, approval of the application on a temporary basis for a period of three years could be tolerated.
- 11.2 Filling of land within the "AGR" zone requires planning permission as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) and Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspectives. An approval condition requiring reinstatement of the "AGR" portion of the Site to an amenity is recommended should the Committee decide to approve the application.
- 11.3 The Site is accessible via Hai Wing Road which is a private road leading to Lung Ma Road (**Plans A-1 and A-2**). The applied temporary PVP will provide a total of 64 private car parking spaces. It is located in Ma Liu Shui San Tsuen and surrounded mostly by low-

rise residential buildings, village houses, active/fallow agricultural land and vehicle repairing workshops (**Plans A-2 to A-4b**). Significant adverse impact on the landscape character and existing landscape resources within the Site arising from the proposed use is not anticipated. In this regard, CTP/UD&L, PlanD has no objection to the application from landscape point of view.

- 11.4 The provision of 64 private car parking spaces in the Site can relieve the shortage of available parking spaces in the area and address acute illegal parking problem observed in the vicinity of Ma Liu Shui San Tsuen. The applicant has committed to impose management measures to restrict vehicles from entering/leaving the PVP via the western portion of Hai Wing Road and Lung Ma Road. It is also demonstrated in the traffic assessment that the additional parking lots would not impose significant traffic impact on Hai Wing Road, Dao Yang Road, Lung Ma Road and Sha Tau Kok Road. In this regard, C for T supports the application from traffic engineering point of view.
- 11.5 Other government departments consulted, including DEP, CE/MN of DSD, Chief Engineer/Construction, Water Supplies Department, Director of Fire Services and Chief Heritage Executive (Antiquities & Monuments), Antiquities and Monuments of Office, have no adverse comment on or no objection to the application.
- 11.6 The “R(C)” portion of the Site is currently covered by a valid planning application No. A/NE-LYT/775 for a temporary PVP. As for the “AGR” portion of the Site, it has been formed and used intermittently for storage/workshop uses since the 1990s. Moreover, the current application for a PVP is supported by the C for T on the considerations mentioned in paragraphs 9.2 and 11.4 above. In this regard, sympathetic consideration may be given to the application.
- 11.7 While there is no similar application straddling both “AGR” and “R(C)” zones, there are eight similar applications within the “AGR” zone on the Lung Yeuk Tau and Kwan Tei South OZP in the vicinity of the Site. Six applications were approved mainly on considerations as detailed in paragraph 6.3 above. Two similar applications (No. A/NE-LYT/718 and A/NE-LYT/795) submitted by a same applicant were rejected by the Committee in March 2020 and July 2023 respectively. The application No. A/NE-LYT/718 was rejected as the applicant failed to demonstrate that the applied use would not cause adverse traffic impact on the surrounding area, whereas application No. A/NE-LYT/795⁴ was rejected for being not in line with the planning intention of the “AGR” zone. In considering the latter application, the Committee noted that the site was covered by self-seeded vegetation and some trees of common species, and vegetation clearance would be required. Compared with the rejected applications, the current application is supported by C for T from traffic engineering point of view. Furthermore, the “AGR” portion of the Site has been formed and used intermittently for storage/workshop uses since the 1990s. Approving the current application is generally not in conflict with previous decisions of the Committee.
- 11.8 Regarding the local concerns on management issue of the adjacent road connecting with the Site, the applicant agrees to consult all major stakeholders as well as the local community in the surrounding area after obtaining planning permission. With regards to

⁴ The application site of A/NE-LYT/795 covered a site approved for temporary PVP use and an extension area all within “AGR” zone, and the applicant claimed that the application was an extension of an existing PVP.

other local and public comments as detailed in paragraphs 9.3 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 local comments conveyed by DO(N) of HAD and public comments as detailed in paragraphs 9.3 and 10 respectively, the Planning Department considers that the proposed temporary development could be tolerated for a period of 3 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 three years until 27.10.2026. 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 (Registration and Licensing of Vehicles) Regulations is allowed to be parked/stored on the Site at any time during the planning approval period;
- (b) only private car and light goods vehicles 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 the design of vehicular access to/from the Site within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 27.4.2024;
- (d) in relation to (c) above, the provision of the vehicular access to/from the Site within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 27.7.2024;
- (e) the implementation of traffic management measures as proposed by the applicant shall 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 27.4.2024;
- (g) in relation to (f) 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 27.7.2024;
- (h) in relation to (g) above, the implemented drainage facilities at the Site shall be maintained at all times during the planning approval period;
- (i) 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 27.4.2024;

- (j) in relation to (i) 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 27.7.2024;
- (k) if any of the above planning condition (a), (b) (e) or (h) 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 condition (c), (d), (f), (g), (i) ~~and~~ **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; and
- (m) upon expiry of the planning permission, the reinstatement of the “AGR” portion of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

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 applied use 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.

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 with Attachments received on 28.8.2023
Appendix Ia	FI received on 5.10.2023
Appendix Ib	FI received on 19.10.2023
Appendix II	Previous Applications

Appendix III	Similar S.16 Applications for Temporary PVP in the vicinity of the application site within the “R(C)” or “AGR” 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-3a	Aerial Photo
Plan A-3b, 3c and 3d	Aerial Photos on 27.7.1990, 15.7.1991 and 1.8.2004
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2023**