

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/824

<u>Applicant</u>	:	Country Rich Development Limited represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lot 1422 RP (Part) in D.D. 83, Lung Yeuk Tau, Fanling, New Territories
<u>Site Area</u>	:	About 4,110m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19
<u>Zoning</u>	:	“Village Type Development” (“V”)
<u>Application</u>	:	Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of Five Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary public vehicle park (PVP) (excluding container vehicle) for a period of five years at the application site (the Site), which falls within an area zoned “V” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/19 (**Plan A-1**). According to the Notes of the OZP, ‘PVP (Excluding Container Vehicle)’ is a Column 2 use within the “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is paved, fence-off, and currently used for PVP with valid planning permission (**Plan A-4**).
- 1.2 The Site, with an ingress/egress at its west, is accessible from Sha Tau Kok Road – Lung Yeuk Tau via a local access (**Plans A-1 and A-2**). According to the applicant, the applied use is for a temporary PVP providing more parking spaces to cater for the demand from the nearby residents. The current application involves a total of 72 parking spaces including 55 for private cars (5m x 2.5m each) and 17 for light goods vehicles (LGVs) (7m x 3.5m each) at the Site. Two single-storey structures with building heights (BHs) of about 2.5m/2.8m and a total gross floor area (GFA) of 20m² are proposed near the ingress/egress at the western portion of the Site for guardroom and site office (**Drawing A-1**). The operation hours of the applied use are 24 hours daily (including public holidays). Sufficient manoeuvring space is provided within the Site and no vehicle would queue back

to or reverse onto/from the Site to the public road. No vehicle without valid license is allowed to be parked/stored at the Site. To remind the users that no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, is allowed to be parked/stored on or enter/exist the Site, a notice will be posted at a prominent location of the Site. To maintain the pedestrian safety of the area, management measures such as staff deployed at the ingress/egress to direct vehicles enter/exist the Site, are proposed. The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.3 The Site, in part or in whole, is the subject of seven previous applications, and six of which involved temporary PVP use (details in paragraph 5 below). The last application (No. A/NE-LYT/755) submitted by the same applicant as the current application for the same use was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 1.4.2022 with validity up to 1.4.2027. A comparison of the major development parameters of the current application and the last approved application No. A/NE-LYT/755 is summarised as follows:

Major Development Parameters	Approved Scheme under Application No. A/NE-LYT/755 (a)	Proposed Scheme under Current Application (b)	Differences (b) – (a)
Site Area	About 4,110m ²	About 4,110m ²	No change
No. of Structures	2	2	No change
GFA	30m ²	20m ²	-10m ²
BH	2.8m, one storey	2.5m/2.8m, one storey	No increase
Parking Space for Private Cars	43	55	+12
Parking Space for LGVs	0	17	+17

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

- (a) Application Form with Supplementary Information (SI) (**Appendix I**) received on 6.2.2024
 - (b) Further Information (FI) received on 15.3.2024[^] (**Appendix Ia**)
 - (c) FI received on 23.7.2024[^] (**Appendix Ib**)
 - (d) FI received on 21.8.2024[^] (**Appendix Ic**)
- [^] accepted and exempted from the publication and recounting requirements

- 1.5 On 5.4.2024 and 21.6.2024, the Committee of the Board agreed to defer making a decision on the application for two months each as requested by the applicant.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form, SI and FIs at **Appendices I to Ic** as summarised below:

- (a) the application is for a temporary PVP to serve the local residents and it is considered in line with the long-term planning intention of the “V” zone;

- (b) the applicant is the sole land owner of the Site and there is no known long-term development programme for the Site. The temporary PVP can better utilise the land resource;
- (c) the Site is the subject of a number of approved previous applications for the same use. Compared with the last approved application No. A/NE-LYT/755, the current application involves additional parking spaces for private cars and LGVs which could cater for the demand from local residents;
- (d) the applied use is not incompatible with the surrounding areas and would not induce significant adverse environmental, drainage and landscape impacts on the surroundings. Besides, drainage proposal and fire services installations (FSIs) proposal are also submitted in support of the current application; and
- (e) the applicant undertakes to apply for Short Term Wavier (STW) to regularise the applied use upon approval of the current planning application.

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

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

4. Background

The Site is currently not subject to any planning enforcement action.

5. Previous Applications

- 5.1 The Site, in part or in a whole, is the subject of seven previous applications (No. A/NE-LYT/270, 385, 439, 448, 477, 710 and 755). Six previous applications involving the same/similar PVP use, including the last two (i.e. applications No. A/NE-LYT/710 and 755) submitted by the same applicant as the current application, were all approved with conditions by the Committee/the Board upon review between 2004 and 2022 mainly on considerations that the proposed/applied use would not frustrate the long-term planning intention of the “V” zone; it was not incompatible with the surrounding areas; and no significant adverse traffic, drainage and landscape impacts on the surrounding areas were anticipated.
- 5.2 Application No. A/NE-LYT/439 for temporary open storage was rejected by the Committee in 2011 and its consideration is not relevant to the current application as it involved a different use.
- 5.3 The planning permission of the last approved application No. A/NE-LYT/755 is valid until 1.4.2027. Compared with the last approved application, the current application mainly involves additional parking spaces for private car and LGVs as detailed in paragraph 1.3 above.
- 5.4 Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.

6. Similar Applications

- 6.1 There are two similar applications for temporary private car park of similar scale¹ (No. A/NE-LYT/760 and 813) involving the same site within the “V” zone in the vicinity of the Site in the past five years (**Plan A-1**). The applications were approved with conditions by the Committee on 6.5.2022 and 15.3.2024 respectively mainly on similar considerations as stated in paragraph 5.1 above.
- 6.2 Details of the similar applications are summarised at **Appendix III** and their 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, fenced off and currently used as the PVP with valid planning permission; and
 - (b) accessible from Sha Tau Kok Road – Lung Yeuk Tau via a local access.
- 7.2 The surrounding areas mainly comprise village houses, vacant/unused land and tree clusters. To the north of the Site is the Suen Douh Camp within “Government, Institution or Community” (“G/IC”) zone. To the west across the local access is Ma Wat River.

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government departments as set out in paragraphs 9.2.1 and 9.2.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and recommended advisory clauses are provided at **Appendices IV** and **V** respectively.

¹ Both Applications No. A/NE-LYT/760 and 813 are for temporary private vehicle park providing 66 parking spaces for private car and 34 for LGVs at the concerned application site in “V” zone.

- 9.2 The following government departments object to the application/conveyed local views on the application:

Land Administration

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

- (a) the Site comprises Old Schedule Agriculture Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. No right of access via Government land is granted to the Site;
- (b) the Site is already being used for the applied use under the application;
- (c) according to the photo records provided in the FI received on 21.8.2024 (**Appendix Ic**), some unauthorised structures within portion of Lot 1422 RP in D.D. 83 under the application (i.e. within the Site) had been rectified. However, the STW (if applied after obtaining the planning approval) will be considered for the Lot 1422 RP in D.D. 83 (i.e. the whole lot basis), therefore the unauthorised structures within and also extended from the said private lot not covered by the subject application have to be rectified as well. The lot owner should rectify the lease breaches and her office reserves the rights to take necessary lease enforcement action against the breaches without further notice;
- (d) the lot owner shall either (i) remove the unauthorised structures not covered by the subject application immediately; or (ii) include the unauthorised structures in the subject application for the further consideration by the relevant departments and, subject to the approval of the Board to the application which shall have reflected the rectification or amendment as aforesaid required, apply to her office for STW to permit the structures erected/to be erected. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate to be imposed by LandsD. Besides, given the applied use is temporary in nature, only erection of temporary structures will be considered. In addition, LandsD reserves the right to take enforcement action against the lot owner for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future;
- (e) unless and until the unauthorised structures not covered by the subject application are duly rectified by the lot owner, her office has objection to the application and it must be brought to the attention of the Board when they consider the application; and
- (f) there is no Small House application received for the Site.

District Officer's Comments

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

he has consulted the locals regarding the application. A member of North District Council (NDC) supports the application, whilst the Chairman of Fanling District Rural Committee and five other members of NDC have no comment on the application.

10. Public Comments Received During Statutory Publication Period

On 16.2.2024, the application was published for public inspection. During the statutory public inspection period, three public comments were received (**Appendix VI**). One individual objects to the application mainly due to the noise impacts arising from the applied use, while another queries on the scale of the applied use under the current application. The remaining comment submitted by a member of NDC indicates no comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary PVP (excluding container vehicle) for a period of five years at the Site zoned “V” on the OZP. Whilst the applied use is not entirely in line with the planning intention of the “V” zone, the applicant advises that it could serve the local villages/residents for meeting their needs on car parking facilities. Besides, DLO/N, LandsD advises that there is no Small House application received for the Site. In this regard, approval of the application on a temporary basis for a period of five years would not frustrate the long-term planning intention of the “V” zone.
- 11.2 The Site, being accessible from Sha Tau Kok Road – Lung Yeuk Tau via a local access, is paved, fenced off and currently used for the PVP with valid planning permission (**Plan A-4**). It is situated in an area of rural landscape character comprising village houses, vacant/unused land and tree clusters. The applied use is considered not incompatible with the surrounding land uses.
- 11.3 The Commissioner for Transport has no comment on the application from traffic engineering perspective. Other concerned government departments consulted, including the Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and Director of Fire Services (D of FS) have no objection to or no comment on the application from environmental, drainage and fire safety aspects respectively. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Should the planning application be approved, the applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental nuisance on the surroundings.

- 11.4 Regarding DLO/N, LandsD's concern on the unauthorised structure erected outside the Site which is subject to lease enforcement actions, the applicant will be advised to liaise with LandsD to deal the land issue separately under the land administration regime.
- 11.5 There were six approved previous applications at the Site involving the same/similar temporary PVP use as detailed in paragraph 5 above. Whilst the planning permission under the last approved application No. A/NE-LYT/755 is still valid until 1.4.2027, the same applicant advises that the current application mainly involves additional parking spaces which could cater for the demand from the nearby residents. The applicant has submitted drainage and FSIs proposals in support of the current application, and both of which are considered acceptable by CE/MN, DSD and D of FS respectively. Besides, there were two approved similar applications of similar scale in "V" zone in the vicinity of the Site. The planning circumstances of the current application are similar to those of the approved applications. As such, approval of the current application is generally in line with the Committee's previous decisions.
- 11.6 Regarding the adverse public comments as detailed in paragraph 10 above, the government departments' comments and the 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 public comments and the local views/comments as conveyed by DO(H), HAD in paragraphs 10 and 9.2.2 respectively, the Planning Department has no objection to the application.
- 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 20.9.2029. The following conditions of approval and advisory clauses are suggested for Members' reference:
- (a) the implementation of the accepted 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 20.6.2025;
 - (b) in relation to (a) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
 - (c) the implementation of the accepted 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 20.6.2025;
 - (d) if the above planning condition (b) 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
 - (e) if any of the above planning condition (a) or (c) 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 applied use is not in line with the planning intention of the "V" zone which is to designate both existing recognised villages and areas of land considered suitable for village expansion and land within this zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification in the submission for a departure from such 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 SI received on 6.2.2024
Appendix Ia	FI received on 15.3.2024
Appendix Ib	FI dated 23.7.2024
Appendix Ic	FI dated 21.8.2024
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix Va	"Requirements of Fireman's Emergency Switch" issued by Fire Services Department
Appendix VI	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos