

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/828

- Applicant** : Win Alliance Investment Limited
- Site** : Lot 1511 RP (Part) in D.D. 83, Wing Ning Wai, Fanling, New Territories
- Site Area** : About 1,776.3m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) S/NE-LYT/19
- Zoning** : “Agriculture” (“AGR”)
- Application** : Temporary Public Vehicle Park for Private Cars and Light Goods Vehicles for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary public vehicle park (PVP) for private cars and light goods vehicles (LGVs) for a period of three years at the application site (the Site) which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is hard-paved and currently occupied by the applied use without any valid planning permission.
- 1.2 According to the applicant, a total of 20 private carparking spaces (5m (L) x 2.5m (W) each) and 20 LGVs (7m (L) x 3.5m (W) each) are provided at the Site (**Drawing A-2**). There are two converted container structures (6.1m (L) x 2.44m (W) x 2.59m (H)) for car park office use within the Site. The car park will operate 24 hours daily, including public holidays with staff on duty from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays. The Site is accessible via Sui Wan Road leading to Sha Tau Kok Road – Lung Yeuk Tau (**Drawing A-1**). The car park layout is shown in **Drawing A-2**.
- 1.3 The Site is the subject of nine previous applications. The last application (No. A/NE-LYT/747) for the same use was submitted by the same applicant under the current application and was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 11.6.2021 and the permission

was lapsed on 20.6.2024. Details of the previous applications are set out in paragraph 5.1 below.

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

- (a) Application Form with Attachments received on (Appendix I)
10.5.2024
- (b) Further Information (FI) received on 21.6.2024 (Appendix Ia)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia** as summarized below:

- (a) the PVP allows only private cars and LGVs not exceeding 5.5 tonnes to parked within the Site as defined in the Road Traffic Ordinance;
- (b) all approval conditions relating to drainage facilities and fire service installations under the previous planning approval (application No. A/NE-LYT/747) were complied with and the concerned facilities are under proper maintenance;
- (c) the Site has been used as a PVP since the planning permission under application No. A/NE-LYT/335 was granted in 2006. The applied use would not result in adverse environmental impact on the surrounding areas. The existing tress within the Site would be preserved and maintained at all times during the planning approval period; and
- (d) the application should be approved as the applied use could address the parking needs of the local residents in the vicinity.

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 not subject to active planning enforcement action.

5. Previous Applications

- 5.1 The Site is the subject of nine previous applications (No. A/NE-LYT/256, 302, 317, 335, 394, 462, 560, 662 and 747). Among them, seven applications (No. A/NE-LYT/256, 335, 394, 462, 560, 662 and 747) for the same applied use as the current application were approved, while the two remaining applications (No. A/NE-LYT/302 and 317) for other temporary uses were rejected by the

Committee and the consideration of which are not relevant to the subject application.

- 5.2 Applications No. A/NE-LYT/256, 335, 394, 462, 560, 662 and 747 for the same applied use for a period of three years as the current application were approved by the Committee between 2003 and 2021 mainly on considerations that the development was not incompatible with the surrounding land uses; the development was unlikely to cause any significant adverse impacts on the surrounding areas; relevant government departments had no adverse comment on the application; the approval conditions under the previously approved application had been complied with. The last application No. A/NE-LYT/747 was submitted by the same applicant as the current application. All approval conditions of that application have been complied with and the planning permission was valid until 19.6.2024. Compared with the last application, while there is no change in the major development parameters, the operating hours will be extended from Mondays to Saturdays 9:00 a.m. to 7:00 p.m., to 24 hours daily including public holidays.
- 5.3 Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are four similar applications (No. A/NE-LYT/704, 706, 777 and 820) covering three sites for temporary PVP within the same “AGR” zone in the close vicinity of the Site, which were all approved with conditions by the Committee between 2019 and 2024 mainly on considerations that the development was not incompatible with the surrounding land uses and would unlikely cause any significant adverse impacts on the surrounding areas.
- 6.2 Details of the similar applications are summarized 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) fenced off, flat and hard-paved;
 - (b) currently used for the applied use without any valid planning permission; and
 - (c) accessible via Sui Wan Road leading to Sha Tau Kok Road – Lung Yeuk Tau.
- 7.2 The surrounding areas are predominantly rural in character comprising village houses, car park, open storage in immediate south and east, car-detailing workshop in the south and vacant land.

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 department as set out in paragraph 9.2 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.

9.2 The following department does not support the application:

Agriculture

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

- (a) the applied use is not supported from agricultural perspective; and
- (b) the Site falls within the “AGR” zone and is generally vacant. The 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. The Site possesses potential for agricultural rehabilitation.

9.3 The following departments have comments/conveyed local views on the application:

Land Administration

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

- (a) he has adverse comments on the application;
- (b) the Site comprises an Old schedule Lot No. 1511 RP in D.D. 83 held under Block Government Lease for agricultural and building purpose. No right of access via Government land is granted to the Site;
- (c) the Site is already being used for a PVP under the current application. The structures erected do not tally with the previously approved planning application (No. A/NE-LYT/747) nor the proposed layout plan of the application. The unauthorized structures had been identified in the previous

application in May 2021, however, no rectification had been carried out. The applicant did not have genuine intention to apply for a STW since 2021 by not providing the requisite information and withdrew the application thereafter;

- (d) there are unauthorized structures on the private lot. The applicant should immediately rectify the lease breaches and LandsD reserves the rights to take necessary lease enforcement action against the breaches without further notice; and
- (e) should the application be approved, the applicant shall apply to LandsD for a Short Term Waiver (STW) to permit the structures erected or to be erected within the private lot. 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 backdated waiver fee and administrative fee as considered appropriate by LandsD. Besides, given the applied use is temporary in nature, only erection of temporary structures will be considered.

District Officer's Comments

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

- (a) the Chairman and 1st Vice-chairman of Fanling District Rural Committee object to the application mainly for reasons that the applied use would aggravate the existing traffic congestion problem and cause pedestrian safety concern;
- (b) three members of North District Council (NDC) and one Indigenous Inhabitant Representative of Lung Yeuk Tau support the application for reason that the applied use could provide more parking spaces; and
- (c) four members of NDC have no comment on the application. The Chairman of Lung Shan Area Committee has no comment on the application and provides additional views that the applicant should be reminded to keep the Site clean and set up clear signs to prevent road congestion.

10. Public Comments Received During Statutory Publication Period

On 17.5.2024, the application was published for public inspection. During the statutory public inspection period, six public comments were received, including three supportive comments from individuals mainly on the grounds that the applied use has served as a PVP for many years without causing adverse impacts to the surrounding environments and could meet the local parking needs (**Appendix VIa**); two comments received from the Chairman and 1st Vice-chairman of Fanling District Rural Committee raise objections to the application mainly for reasons that the applied use would

aggravate the existing traffic congestion problem and cause pedestrian safety concerns (**Appendix VIb**); and the remaining one from an individual indicates no comment on the application (**Appendix VIc**).

11. Planning Considerations and Assessment

- 11.1 The application is for a temporary PVP for private cars and LGVs for a period of three years at the Site zoned “AGR” on the OZP. The applied use is not in line with the planning intention of the “AGR” zone as detailed in paragraph 8 above. While DAFC does not support the application as the Site possesses potential for agricultural rehabilitation, the Site has been served as the applied use for many years. In view of the planning considerations and assessment below, it is considered that the approval of the applied use on a temporary basis for three years could be tolerated.
- 11.2 The Site is accessible via Sui Wan Road leading to Sha Tau Kok Road – Lung Yeuk Tau. It is located at a rural inland plains landscape character comprising vehicle parking, warehouse/storage, domestic structures and vacant land. In terms of the scale and intensity, the applied use is considered not entirely incompatible with the surrounding areas. Chief Town Planner/Urban Design and Landscape of the Planning Department (PlanD) has no objection to the application from landscape planning point of view and considers that further significant adverse impact on the existing landscape resources within the Site is not anticipated. Other relevant government departments concerned, including the Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department, Director of Environmental Protection and Director of Fire Services have no objection to or no adverse comment on the application. It is anticipated that the applied use would not cause adverse landscape, drainage, environmental and fire safety impacts on the surroundings.
- 11.3 The Site is the subject of nine previous applications. Seven of them (applications No. A/NE-LYT/256, 335, 394, 462, 560, 662 and 747) were for the same use as the current application, which were all approved by the Committee between 2003 and 2021 mainly on considerations as mentioned in paragraph 5 above. For the last approved application (No. A/NE-LYT/747), all approval conditions have been complied with. The site layout and key development parameters of the current application remain the same as this previous application though the operating hours of the applied use under the current application will be extended.
- 11.4 There are four approved similar applications within the same “AGR” zone (**Plan A-1**). Approval of the current application is in line with the previous decisions of the Committee mainly on similar considerations as mentioned in paragraph 6 above. The planning circumstances for approving this similar case are largely applicable to the current application.
- 11.5 Regarding the local views conveyed by DO(N) of HAD in paragraph 9.3.2 and the public comments objecting to the application as summarized in paragraph 10 above, government departments’ comments and the 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 local views conveyed by DO(N) of HAD in paragraph 9.3.2 and public comments mentioned in paragraph 10 above, the PlanD considers that the applied use could be tolerated for a period of three years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until **5.7.2027**. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the existing drainage facilities on the application site shall be maintained at all times during the planning approval period;
- (b) the submission of a condition 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 Town Planning Board by 5.10.2024;
- (c) the submission of a proposal for water supplies for fire-fighting and fire service installations 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 5.1.2025;
- (d) in relation to (c) above, the provision of water supplies for fire-fighting and fire service installations 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 5.4.2025;
- (e) if the above planning condition (a) 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
- (f) if any of the above planning condition (b), (c) or (d) 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 "AGR" zone which is primarily to retain and safeguard good 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 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 10.5.2024
Appendix Ia	FI received on 21.6.2024
Appendix II	Previous Applications
Appendix III	Similar Applications
Appendix IV	Government Department's General Comments
Appendix V	Recommended Advisory Clauses
Appendix Va	Requirements for the Fireman's Emergency Switch
Appendix VI	Public Comments
Drawing A-1	Location Plan submitted by the Applicant
Drawing A-2	Site Plan submitted by the Applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2024**