

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/415

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| <u>Applicant</u> | : Mr. CHAN Wah On represented by Top Bright Consultants Limited |
| <u>Site</u> | : Lots 2448 (Part), 2455 (Part) and 2459 (Part) in D.D. 104, Ngau Tam Mei, Yuen Long |
| <u>Site Area</u> | : About 628 m ² |
| <u>Land Status</u> | : Block Government Lease (demised for agricultural use) |
| <u>Plan</u> | : Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. A/YL-NTM/12 |
| <u>Zoning</u> | : “Residential (Group D)” (“R(D)”) |
| <u>Application</u> | : Temporary Public Vehicle Park (Private Cars and Light Goods Vehicles Only) for a Period of 3 Years |

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary public vehicle park (private cars and light goods vehicles only) for a period of 3 years. The Site falls within an area zoned “R(D)” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12 (**Plan A-1**). According to the Notes of the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without planning permission.
- 1.2 The Site is involved in 2 previous applications. The last application (No. A/YL-NTM/359) for the same applied use with the same layout, submitted by the current applicant, was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 9.2.2018. All approval conditions have been complied with. The planning permission lapsed on 10.2.2021.
- 1.3 Planning permission is now sought for continuing the private cars and light goods vehicles park use at the Site. According to the submitted layout plan (**Drawing A-1**), ingress/egress to the Site is located at the southwestern corner of the Site, which is accessible to San Tam Road through Chuk Yau Road. The Site is elongated in shape. A total of 13 parking spaces including 11 parking spaces

(2.5m x 5m) for private cars and 2 parking spaces (3.5m x 7m) for light goods vehicles of not exceeding 5.5 tonnes are provided along the eastern boundary of the Site. The remaining part of the Site will be maintained as pedestrian access to the adjacent sites to its north and west. The public vehicle park under application operates 24 hours daily. No structure is proposed within the Site.

1.4 The current application is the same as the last approved application in terms of applied use, site area, layout, number of parking spaces and operating hours.

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

(a) Application form received on 18.2.2021. **(Appendix I)**

(b) Supplementary Planning Statement **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I to Ia**. They can be summarised as follows:

- (a) The applied public car park mainly serves the nearby locals in vicinity as there is no vehicular access to the squatter areas to the north of the Site.
- (b) The land owners have no plans for any residential development of the Site in coming years. It is considered that the applied temporary use would not jeopardise the planning intention of the “R(D)” zone and would better utilise the scarce land resources to meet the needs of nearby residents.
- (c) The applied use is the same as the previous applications which were approved by the Committee in 2016 and 2018. As there has been no substantial change in the planning circumstances such as land use zoning and the physical settings surrounding the Site, no adverse planning implication is anticipated under the current application.
- (d) All approval conditions of the last application (No. A/YL-NTM/359) have been complied with. There is no change in the layout and planning parameters. The applicant will maintain the existing facilities for the current application.
- (e) As ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use of the “R(D)” zone on the OZP, it indicates that the applied use is compatible with the surrounding land uses, especially as the applied public vehicle park is mainly used by local residents.
- (f) The Site is hard-paved and has been used for parking of vehicles for years. No car washing, repairing or other workshop activities will be permitted on Site. Noise associated with the development would be minimal. As such, no adverse environmental impact is anticipated.

- (g) The ingress/egress to the Site is about 6m wide and one-way vehicular traffic is allowed within the access area at a time. The Site provides sufficient spaces for vehicles to manoeuvre without queuing, parking or reverse movement onto public roads. The minimum requirement width of 5.5m for the parking aisle is provided. The vehicular trip rate is estimated to be about 25 trips per day. No additional traffic will be generated from the Site and no further adverse impact is anticipated.
- (h) The Site is currently served by the surface channels approved by Drainage Services Department (DSD) for compliance with the approval conditions of the last application (No. A/YL-NTM/359). No adverse drainage impact will be anticipated to the Site and its surroundings.

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

The applicant is not the “current land owner” and 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 San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

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

5. Previous Applications

- 5.1 The Site is involved in 2 previous Applications No. A/YL-NTM/340 and 359 (**Plan A-1**) from the current applicant for the same applied use with the same layout.
- 5.2 The first application (No. A/YL-NTM/340) was approved by the Committee on 25.11.2016 mainly on considerations that the development could provide vehicle parking spaces to meet local demand and serve the adjacent residential development; temporary approval would not frustrate the long-term planning intention of the “R(D)” zone; the applied use was not incompatible with the surrounding land uses and there were no adverse departmental comments. However, the planning approval was revoked on 25.11.2017 due to non-compliance with the approval conditions on submission/ implementation of drainage proposal and implementation of landscape proposal.
- 5.3 The second application (No. A/YL-NTM/359) was approved by the Committee on 9.2.2018 on similar considerations as the first application. The applicant had fulfilled all approval conditions (including implementation of landscape proposal, and submission/implementation of drainage and fire service installations (FSIs) proposals), and the planning permission lapsed on 10.2.2021.
- 5.4 Details of the applications are at **Appendix II**.

6. Similar Application

There is no similar application for vehicle park use within the subject “R(D)” zone on the OZP.

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

7.1 The Site is:

- (a) currently used for vehicle park without planning permission; and
- (b) accessible from Chuk Yau Road through an adjacent private lot.

7.2 The surrounding areas have the following characteristics:

- (a) to its north and east within the same “R(D)” zone are mostly temporary structures/residential dwellings, ponds, unused land, with a few rural workshop/storage/open storage uses (suspected unauthorised developments (UDs));
- (b) abutting the western boundary of the Site is a footpath leading to the residential dwellings in the north. To its further west within the same “R(D)” zone are a warehouse (suspected UD), unused land and grave; and
- (c) to its immediate south are residential dwellings, with the area across Chuk Yau Road zoned “Village Type Development” where low-rise, low-density residential developments of Sheung Chuk Yuen and vehicle park are located.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, LandsD (DLO/YL, LandsD):

The Site comprises Old Schedule Agricultural Lots 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. He notes that no structure is proposed in the application.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The Site is connected to a section of San Tam Road via a section of a local access road and Chuk Yau Road which are not managed by the Transport Department (TD). The land status of the local access road and Chuk Yau Road should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access and Chuk Yau Road should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) As there is no information about the vehicular access at the private lot(s) to the Site, the applicant should seek the relevant land owner(s)' consent on the right of using the vehicular access.
- (c) Should the application be approved, no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Chuk Yau Road is not maintained by HyD.
- (b) The proposed access arrangement of the Site from San Tam Road should be approved by TD.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and San Tam Road.
- (d) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

9.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, HyD (CE/RD 2-2, RDO, HyD):

He has no comment from railway development viewpoint as the Site falls outside any administrative route protection boundary, gazetted railway scheme boundary or existing railway protection boundary of any railway systems.

Environment

9.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) The applicant is advised to follow the environmental mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage and Temporary Sites” (COP) issued by DEP.
- (b) No environmental complaint pertaining to the Site has been received over the past 3 years.

Landscape

9.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) The Site is not located in landscape sensitive zoning and there are no significant landscape resources within the Site. No significant landscape impact is envisaged.
- (b) Should the application be approved by the Board, all existing trees within the Site should be maintained satisfactorily at all times during the approval period.
- (c) The applicant is reminded that approval of the application does not imply approval of tree works such as pruning, transplanting and felling. The applicant should seek comments and approval from the relevant authority on the proposed tree works and carry out replacement/compensatory planting where necessary.

Drainage

9.1.7 Comments of the Chief Engineer/Mainland North, DSD (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development.
- (b) Should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated in the approval letter requiring the applicant (i) to maintain the drainage facilities implemented under Application No. A/YL-NTM/359; and (ii) to submit records of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board.

Fire Safety

9.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application subject to FSIs being provided to his satisfaction.

- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. The applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if any proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

9.2 The following Government departments have no objection to or no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation;
- (b) Chief Building Surveyor/New Territories West, Buildings Department;
- (c) Chief Engineer/Construction, Water Supplies Department;
- (d) Commissioner of Police;
- (e) Project Manager (West), Civil Engineering and Development Department (CEDD); and
- (f) Head of Geotechnical Engineering Office, CEDD; and
- (g) District Officer (Yuen Long).

10. Public Comments Received During Statutory Publication Period

On 2.3.2021, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 23.3.2021, 2 public comments were received from individuals (**Appendix III**) objecting to the application mainly on the grounds that there are frequent traffic congestions at Chuk Yau Road and accidents in Castle Peak Road – Tam Mi, the applied use would cause damages to village roads, noise pollution, and affect the daily life and commuting activities of the villagers.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary public vehicle park (private cars and light goods vehicles only) for a period of 3 years in “R(D)” zone. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. While the temporary public vehicle park is not entirely in line with the

planning intention of the “R(D)” zone, it could provide vehicle parking spaces to meet the local demand and serve the local residents in the area. As there is no known long-term development for the Site, approval of the application would not frustrate the long-term planning intention of the Site.

- 11.2 The subject public vehicle park for private cars and light goods vehicles is considered not incompatible with the surrounding areas comprising mainly temporary structures and low-rise, low-density residential dwellings (**Plan A-2**).
- 11.3 The public vehicle park under application would unlikely cause significant adverse traffic, environmental, drainage, ecological, fire safety and landscape impacts on the area. There are no adverse comments from the concerned departments including C for T, DEP, CE/MN of DSD, DAFC, D of FS and CTP/UD&L of PlanD. Approval conditions on traffic, landscape, drainage and fire safety requirements are recommended in paragraphs 12.2 (e) to (j) below as per the advice of relevant departments if the application is approved. There was no environmental complaint relating to the Site received by DEP in the past 3 years. To mitigate the potential environmental impacts of the development on the surrounding areas, approval conditions restricting the types of vehicles and prohibiting workshop type activities at the Site are recommended in paragraphs 12.2 (a) to (d) below. Besides, the applicant will be advised to follow the latest COP.
- 11.4 As detailed in paragraph 5, the Committee has approved 2 previous applications from the current applicant for the same use at the Site. The applicant has complied with all the approval conditions of the last application (No. A/YL-NTM/359). Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 Two objections were received during the statutory public inspection period of the application as detailed in paragraph 10. The planning assessment and departmental comments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, 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 3 years until 16.4.2024. The following conditions of approval and advisory clauses are also 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 and light goods vehicles not exceeding 5.5 tonnes as defined in the Road Traffic Ordinance are allowed to park on the Site at any time during the planning approval period;
- (c) a notice should be posted at a prominent location of the Site to indicate that only private cars and light goods vehicles as defined in the Road Traffic Ordinance are allowed to park on the Site at any time during the planning approval period;
- (d) no car washing, vehicles repair, dismantling, paint spraying or other workshop activities is allowed on the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) all existing trees within the Site shall be maintained satisfactorily at all times during the planning approval period;
- (g) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of records of the existing drainage facilities on the Site 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 16.7.2021;
- (i) the submission of 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 16.10.2021;
- (j) in relation to (i) above, the implementation of 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 16.1.2022;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) 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
- (l) if any of the above planning conditions (h), (i) 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.

Advisory Clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' consideration:

the planning intention of the "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission. The development is not in line with the planning intention of the "R(D)" zone. No strong planning justification has been given 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 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

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| Appendix I | Application form received on 18.2.2021 |
| Appendix Ia | Supplementary Planning Statement |
| Appendix II | Previous Applications |
| Appendix III | Public comments |
| Appendix IV | Recommended Advisory Clauses |
| Drawing A-1 | Layout Plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a to A-4b | Site Photos |

**PLANNING DEPARTMENT
APRIL 2021**