

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/587

<u>Applicant</u>	: Mr. MAN Kwei Nam represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lot 733 S.D ss.11 (Part) in D.D. 99, Yan Shau Wai, San Tin, Yuen Long
<u>Site Area</u>	: 830 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Application</u>	: Proposed Temporary Public Vehicle Park (Private Cars 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 proposed temporary public vehicle park (private cars only) for a period of 3 years (**Plan A-1**). The Site falls within a “V” zone covering several villages in San Tin. 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 paved and vacant.
- 1.2 As shown on **Plans A-2 and A-3**, the Site is accessible from a local access leading from Tung Wing On Road connecting to San Tin Tsuen Road. The layout plan showing the proposed public vehicle park is shown in **Drawing A-1**. Ingress/Egress (7m wide) to the Site is proposed at the southeastern site boundary. The proposed public vehicle park will provide a total of 35 private car parking spaces with a guard room (3m high, 20m²) and will be operated 24 hours from Mondays to Sundays including public holidays. No vehicle without valid licences issued under the Road Traffic Regulation will be permitted to park and no workshop activity will be carried out at the Site.

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

- (a) Application Form with a drainage proposal and estimated traffic generation received on 23.3.2021 **(Appendix I)**
- (b) Further Information (FI) received on 30.4.2021 providing response to departmental comments with a revised drainage plan [#] **(Appendix Ia)**
- (c) FI received on 4.5.2021 providing a cross section plan of the proposed drainage pipe [#] **(Appendix Ib)**
- (d) FI received on 10.5.2021 providing response to departmental comments with estimated trip generation of the proposed development [#] **(Appendix Ic)**

[#] *exempted from publication requirement*

2. Justifications from the Applicant

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

- (a) The proposed development is in line with the planning intention of the “V” zone and compatible with the surrounding environment.
- (b) There is insufficient supply to meet the exigent car parking demand in Yan Shau Wai. New Territories Exempted Houses (NTEHs) were built without vehicular access and vehicles can only park in the vacant land at roadside.
- (c) The proposed development is limited in scale and no significant amount of traffic will be generated. Existing Lychee trees within the Site will be preserved (**Drawing A-1**). Peripheral channels (375mm surface u-channels) will be provided along the site boundary to intercept the storm water passing through and generated at the Site (**Drawing A-2**). Sufficient manoeuvring space is provided within the Site (**Drawing A-3**). No adverse traffic, noise, drainage and environmental impacts would be generated.
- (d) Similar applications have been approved in the same “V” zone.

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

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

4. Town Planning Board Guidelines

Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C) is relevant to the application. According to the TPB PG-No. 12C, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarised as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

5. Background

A warning letter was issued on 22.2.2021 for parking of vehicles on the Site. The Site is under close monitoring and would be subject to planning enforcement action as necessary.

6. Previous Application

There is no previous application at the Site.

7. Similar Applications

During the past 10 years, there were 23 applications for public vehicle park uses within the same “V” zone on the OZP. All of them were approved by the Rural and New Town Planning Committee (the Committee) of the Board, mainly on the considerations that the proposed developments were not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “V” zone. Amongst them, 9 applications were to support cross-boundary traffic, while 14 applications were to serve local villagers. Details of these applications and their locations are at **Appendix II** and **Plan A-1** respectively.

8. The Site and its Surrounding Areas (Plans A-1 to A-4)

8.1 The Sites are:

- (a) accessible from the southeast via a local access leading from Tung Wing On Road connecting to San Tin Tsuen Road; and
- (b) currently paved and vacant.

8.2 The surrounding areas are predominantly village houses with some vehicle parks and unused land:

- (a) to the immediate north are a drainage channel and San Tin Tsuen Road. To the further north are unused land and pond;
- (b) to the south and southeast of the Site are residential dwellings, some unused/vacant land and a few vehicle parking areas;
- (c) to the immediate east is a piece of vacant land; and
- (d) to its southwest are a toilet and a vehicle park. Further west and southwest are pumping stations and a vehicle park.

9. 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 the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural 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.
- (b) According to his record, there is no Small House application being processed/approved at the Site.
- (c) Should planning approval be given to the application, the lot owner(s) will need to immediately apply to his office to permit the structures to be erected or regularise any irregularity on the Site, if any. Besides, given the proposed use is temporary in nature, only

application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

Traffic

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

- (a) The Site is connected to Tung Wing On Road via section of a local access which is not managed by the Transport Department (TD). The land status of the local access should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) The FI (**Appendix Ic**) providing details of trip generation of the proposed development and manoeuvring space for the vehicles within the Site (**Drawing A-3**) is noted. There is no adverse comment on the application from the traffic engineering perspective.
- (c) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should the application be approved.

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

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

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

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

Environment

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

The applicant is advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP to minimise potential environmental impacts on the surrounding areas.

Landscape

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

- (a) The Site is within WBA and close to WCA. It is located to the north of Yan Shau Wai and to the south of San Tin Tsuen Road. With reference to the aerial photo of 2020, the Site is situated in an area of rural inland plains and miscellaneous urban fringe landscape character comprising fish ponds village houses, temporary structures and vehicular parking area. Similar uses were approved in 2018 and 2019 to the east of the Site. The proposed development is considered not incompatible with the surrounding landscape setting.
- (b) With reference to the site photos in March 2021, the Site is hard paved with 4 nos. of existing trees along the northern boundary of the Site. According to **Drawing A-1**, all of the 4 existing trees would be preserved and the proposed development would not be in direct conflict with the existing trees. Significant adverse impact to the existing landscape resources arising from the proposed development is not anticipated. As such, she has no objection to the applicant from the landscape planning perspective.
- (c) In view that the Site is not abutting the major public frontage and significant adverse landscape impact arising from the proposed development is not anticipated, should the Board approve the application, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent. Her advisory comments are at **Appendix IV**.

Fire Safety

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

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

- (b) In consideration of the design/nature of the proposals, 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.

Building Matters

10.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) If any structures (not being a NTEH) are erected on leased land without the approval of the Building Authority (BA), they are unauthorised building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (b) For UBW erected on leased land, enforcement action may be taken by BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under BO.
- (c) His detailed comments are at **Appendix IV**.

Drainage

10.1.9 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the application from the drainage operation and maintenance point of view.
- (b) The applicant shall make a drainage submission to demonstrate how he will collect, convey and discharge rain water falling onto or flowing to the Site. The applicant is reminded that approval of the drainage proposal must be sought prior to implementation of drainage works on the Site.

- (c) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
- (d) No public sewerage maintained by CE/MN, DSD is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained.
- (e) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on the Site under proper maintenance during occupancy of the Site.
- (f) The applicant should consult DLO/YL, LandsD regarding all the proposed drainage works outside the site boundary in order to ensure unobstructed discharge from the Site in future.
- (g) His detailed comments are at **Appendix IV**.

Water Supplies

10.1.10 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection in principle to the application.
- (b) Existing water mains in the area will be affected (**Plan A-2**). In case it is not feasible to divert the affected water mains, a waterworks reserve within 1.5m from the centre line of the water mains shall be provided to WSD. No structure shall be built or materials stored within this waterworks reserve. Free access shall be made available at all times for WSD and their contractor to carry out construction, inspection, operation, maintenance and repair works.
- (c) No trees or shrubs with penetrating roots may be planted within the waterworks reserve or in the vicinity of the water mains shown on **Plan A-2**.
- (d) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

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

- (a) Director of Agriculture, Fisheries and Conservation;
- (b) Commissioner of Police;

- (c) Project Manager (West), Civil Engineering and Development Department (CEDD); and
- (d) District Officer (Yuen Long), Home Affairs Department.

11. Public Comments Received During Statutory Publication Period

On 9.4.2021, the application was published for public comments. During the first 3 weeks of the statutory publication period, 3 public comments were received from the San Tin Rural Committee and 2 individuals raising objection to the application on the grounds that there is no need of a 24-hour public vehicle park in Yan Shau Wai; the proposed development will increase the traffic flow on Tung Wing On Road which will result in traffic congestion, environmental pollution, increasing fire risk, road safety problem and affect the living environment of the villagers; and it is questionable if any pond filling and illegal use of the Site have been involved (**Appendix III**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary private vehicle park (private cars only) for a period of 3 years. The Site falls within the “V” zone which is intended 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. According to DLO/YL, LandsD, there is no Small House application being processed/approved at the Site. Approval of the application on a temporary basis for a period of 3 years would not frustrate the long term planning intention of the “V” zone.
- 12.2 The proposed use is not incompatible with the surrounding areas which are predominantly village houses with some vehicle parks and unused/vacant land. The proposed use can provide convenient parking facilities for villagers living nearby.
- 12.3 Although the Site falls within the WBA, it is specified in the TPB PG-No. 12C that planning applications for temporary uses are exempted from the requirement of EcoIA. DAFC has no comment on the application.
- 12.4 Relevant government departments including C for T, DEP, D of FS, CE/MN of DSD and CTP/UD&L of PlanD have no objection to or no adverse comment on the application. Adverse impacts on traffic, environment, fire safety, drainage and landscape aspects are not envisaged. To mitigate the potential environmental impacts on the surrounding area, approval conditions restricting the type of vehicles allowed to access the Site and activities on the Site are recommended in paragraphs 13.2 (a), (b) and (d) below. Besides, the applicant should be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Technical requirements of C for T, D of FS and CE/MN of DSD are imposed through approval conditions in paragraphs 13.2 (c), (e) to (i) below.

- 12.5 For the past 10 years, the Committee has approved a total of 23 applications for public vehicle park uses within the same “V” zone (of which 14 are to serve the local villagers similar to the current application) as detailed in paragraph 7 above. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 There are 3 public comments raising objection to the application as detailed in paragraph 11. The planning considerations and departmental comments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department has no objection to the application.
- 13.2 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 14.5.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no vehicle other than private cars as defined in the Road Traffic Ordinance is allowed to enter/be parked on the Site during the planning approval period;
- (b) no vehicle without valid licence issued under the Road Traffic Ordinance is allowed to be parked/stored on the Site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road during the planning approval period;
- (d) no workshop activity, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (e) the submission of 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 14.11.2021;
- (f) in relation to (e) above, the implementation of 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 14.2.2022;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;

- (h) 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 14.11.2021;
- (i) in relation to (h) above, the implementation of 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 14.2.2022;
- (j) if any of the above planning conditions (a), (b), (c), (d) 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
- (k) if any of the above planning conditions (e), (f), (h) or (i) 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**.

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

the proposed development 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. Land within "V" zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I Application Form received on 23.3.2021

Appendix Ia	FI received on 30.4.2021
Appendix Ib	FI received on 4.5.2021
Appendix Ic	FI received on 10.5.2021
Appendix II	Similar s.16 Applications within the Same “V” Zone on the Approved San Tin Outline Zoning Plan No. S/YL-ST/8
Appendix III	Public comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Proposed Layout and Tree Preservation Plan
Drawing A-2	Proposed Drainage Plan
Drawing A-3	Proposed Layout showing the Manoeuvring Space
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos

PLANNING DEPARTMENT
MAY 2021