

RNTPC Paper No. A/YL-ST/600
For Consideration by
the Rural and New Town
Planning Committee
on 24.12.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/600

<u>Applicant</u>	: Smart Union Motors (Asia) Company Limited represented by Top Bright Consultants Limited
<u>Site</u>	: Lots 733 S.F (Part), 737 RP (Part), 738 RP, 741 (Part), 742 RP (Part) and 744 RP (Part) in D.D. 99 and Adjoining Government Land (GL), San Tin, Yuen Long
<u>Site Area</u>	: About 7,858 m ² (including GL of about 531 m ² (about 7%))
<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>	: “Other Specified Uses” annotated “Service Stations” (“OU(SS)”)
<u>Application</u>	: Proposed Temporary Shop and Services for a Period of 3 Years and Associated Filling and Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services for a period of 3 years and associated filling and excavation of land (**Plan A-1a**). According to the Notes for the “OU(SS)” zone of the OZP, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). Moreover, under the remarks of the Notes for the “OU(SS)” zone of the OZP, any filling of ponds or excavation of land requires planning permission from the Board. The Site is partly vacant and partly occupied by shop and services (motor vehicle showroom) under the approved Application No. A/YL-ST/559 (**Plan A-1b**).
- 1.2 The Site in part is the subject of five previous applications (No. A/YL-ST/36, 192, 262, 445 and 559) (**Plan A-1b**). The last application (No. A/YL-ST/559) submitted by the same applicant for the same use was approved by the Rural and New Town Planning Committee (the Committee) on 15.11.2019 for a period of 3 years. The current application is submitted to include a larger site area together with the associated filling and excavation of land.

- 1.3 According to the applicant, the application is to provide a trading business of used private vehicles to local villagers and visitors. As shown on the layout plan, site plan and plan showing the general area at **Drawing A-1, Drawing A-2 and Plan A-1**, the Site is accessible from Tung Wing On Road leading to Castle Peak Road – San Tin via a local access. The proposed development has a total gross floor area (GFA) of 2,325m². The existing structures within the Site will be replaced by three 1-storey structure (about 4.5-11.6m high) for motor vehicle showroom, one 1-storey structure (about 3m high) for ancillary sales office and one 1-storey structure (about 3m high) for toilet. Ten private car parking spaces (2.5m x 5m; 6 spaces for visitors and 4 spaces for staff) will be provided within the Site. The operation hours are from 8:00 a.m. to 8:00 p.m. daily including public holidays.
- 1.4 Associated filling and excavation of land is proposed within the Site for constructing ancillary drainage facilities. Peripheral channels are proposed to be constructed within the Site to prevent surface runoff from the Site directly flowing onto the existing adjacent access. It is estimated that the total filling area is about 102 m² with a depth ranging from 2.48 to 2.93m and the total excavation area is about 337.14 m² with a depth ranging from 0.5 to 2.93m.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 25.10.2021 and **(Appendix I)** replacement pages received on 2.11.2021
 - (b) Planning Statement **(Appendix Ia)**
 - (c) Further Information (FI) received on 16.12.2021 **(Appendix Ib)** providing responses to departmental comments*

Remarks: * 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 in section 6 of the Planning Statement at **Appendix Ia**. They can be summarised as follows:

- (a) There are very limited areas designated for the provision of different types of services for second hand vehicles in the San Tin area. The expansion with different configuration of the Site can meet the demand for sale of second hand vehicles.
- (b) The use is on temporary basis and will not pre-empt the original planning intention of the “OU(SS)” zone.
- (c) Planning applications for similar shop and services use had been approved in “OU(SS)” zone in the past years.
- (d) The Site is bounded by relevant uses that are compatible in land use terms, including village houses and public car park. The proposed use is compatible with

village houses. The proposed use would not involve any workshop and repairing activities and will not result in any interface problems with the surroundings.

- (e) No adverse traffic, environmental, visual and drainage impacts are envisaged.

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

The applicant is not a “current land owner” of the private lots within 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 by registered post. Detailed information would be deposited at the meeting for Members’ inspection. The remaining part of the Site is GL, and the “owner’s consent/notification” requirements are not applicable.

4. Town Planning Board Guidelines

According to the Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (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

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

6. Previous Applications

- 6.1 The Site in part is the subject of 5 previous applications (No. A/YL-ST/36, 192, 262, 445 and 559) with 3 approved and 2 rejected (**Plan A-1b**). Only a minor portion of the Site is covered by Application No. A/YL-ST/36.
- 6.2 Applications No. A/YL-ST/36 and 445 for cross-border traffic service station were approved by the Committee for a period of 3 years on 19.9.1997 and 26.9.2014 respectively mainly on the consideration that the development would provide supporting service facilities for the cross-boundary traffic and the container related

facilities in the area, the developments were not incompatible with the surrounding land uses; and the development will not have adverse impacts on the surroundings. However, the permission of Application No. A/YL-ST/445 was revoked on 26.12.2015.

- 6.3 Application No. A/YL-ST/559 for temporary shop and services was approved by the Committee for a period of 3 years on 15.11.2019 mainly on the consideration that the proposed motor vehicle showroom would serve the local villagers and visitors; the developments was not incompatible with the surrounding land uses; and the development will not have adverse impacts on the surroundings.
- 6.4 Applications No. A/YL-ST/192 and 262 for cross-border traffic service station were rejected by the Committee on 15.3.2002 and 14.5.2004 respectively mainly for the reasons that there was insufficient information in the submission to demonstrate that due regard had been given to minimize the adverse impacts of the development including drainage, traffic, sewerage, environment and ecology on the surroundings in particular the Mai Po Nature Reserve.
- 6.5 Details of these applications are summarised at **Appendix II**. Their locations are shown on **Plan A-1b**.

7. Similar Applications

- 7.1 There are five applications for similar temporary shop and services and commercial uses covering two sites within the same “OU(SS)” zone on the OZP. All the applications were approved by the Committee.

Temporary cross-boundary shopping centre

- 7.2 Application No. A/YL-ST/476 and its renewal application No. A/YL-ST/529 for proposed temporary cross-boundary shopping centre with ancillary car park, eating place, shop and services (fast food shop), office and storage of consumer goods were approved with conditions by the Committee on 18.9.2015 and 7.9.2018 respectively for a period of 3 years mainly on the consideration that approval of the application at the Site on a temporary basis would not frustrate the long-term planning intention of the “OU(SS)” zone; the proposed development was not incompatible with the surrounding areas; and the development would unlikely have significant off-site negative impact on the ecological value of the WCA and would not cause adverse impact on the surrounding areas.

Proposed temporary shop and services

- 7.3 Applications No. A/YL-ST/480 and 533 for temporary shop and services covering the same site and No. A/YL-ST/592 including the adjoining GL in the southern part of their site (A/YL-ST/480 and 533) were approved by the Committee on 19.2.2016, 21.12.2018 and 13.8.2021 respectively for a period of 3 years. The approvals were mainly on the consideration that the proposed developments were considered not incompatible with the surrounding land uses and would not frustrate the long-term

planning intention of the “OU(SS)” zone.

- 7.4 Details of these applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) accessible from Tung Wing On Road leading to Castle Peak Road – San Tin via a local access; and
- (b) currently fenced off, used for shop and services (motor vehicle showroom) for the eastern part and vacant for the western part.
- (c) located within the WBA.

8.2 The surrounding areas are predominated by vehicle parks, vacant land, temporary cross-boundary shopping centre and village areas.

- (a) to its north are San Tin Tsuen Road and vehicle park, container storage area, storage of container tractors and construction materials, tyre repair and shop and services under Application No. A/YL-ST/575;
- (b) to its east is the vacant land; and
- (c) to its south and further southeast are vehicle parks approved under Applications No. A/YL-ST/531 and 536, village houses of Tung Chan Wai and Wing Ping Tsuen and vacant land.

9. Planning Intention

- 9.1 The “OU(SS)” zone is intended primarily to provide support service facilities such as eating places, petrol filling stations, etc. for the cross-boundary traffic and the container related facilities nearby.
- 9.2 According to the Explanatory Statement (ES) of the OZP, sites within the “OU(SS)” zone could be developed for commercial uses subject to planning permission of the Board. In order to have a better control of the impact of any development on drainage, traffic, sewerage, environment and ecology on the nearby extensive fish pond area, for those uses which require planning permission, the applicant has to prepare a layout plan and to demonstrate that due regard has been given to minimize the adverse impacts of the development on the surroundings in particular the Mai Po Nature Reserve and the contiguous fish pond areas.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots (OSALs) and GL. The OSALs are 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) Lot No. 744 RP in D.D. 99 is covered by Short Term Waiver (STW) No. 4045 for the purpose of 'Temporary Vehicle Park (including Container Vehicles), Container Storage Area, Storage of New Unlicensed Container Tractors, Storage of Construction Materials, Tyre Repair, Shop and Services (Sale of Container Vehicles and the Related Parts/Accessories), Vehicle Repair and Services and Ancillary Offices'.
- (c) No permission is given for occupation of GL included in the Site (about 531m² subject to verification). The act of occupation of GL without Government's prior approval is not allowed. Our site inspection in November 2021 revealed that western portion of GL (about 219.68m²) in the application site was illegally occupied. With reference to aerial photos in 2017 and 2021, such illegal occupation was commenced after 28.3.2017. According to our prevailing policy, application for regularization by way of Short Term Tenancy on the concerned GL will not be entertained, even if the planning application is approved by the Board.
- (d) Should planning approval be given to the application, the STW holders will need to apply to this office for modification of the STW conditions where appropriate. The owner(s) of the lots without STW will need to immediately apply to this office for permitting the structures to be erected or regularize any irregularities on site, if any. Also, the applicant has to either exclude the GL from the application site or apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) 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 the LandsD.

Traffic

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

- (a) The Site is connected to the public road network via a section of a local access which is not managed by Transport Department (TD). The land status of the local access should be clarified with the 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) As there is no information about the vehicular access at the private lot(s) to the concerned site, the applicant should seek the relevant land owner(s) on the right of using the vehicular access.
- (c) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

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 commented and approved by TD;
- (b) HyD shall not be responsible for the maintenance of 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.
- (d) Part of the Site falls into the railway influence area. Comment from RDO of HyD on the captioned planning application should be sought.

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

- (a) The Site is in proximity to the alignment of Northern Link (NOL) Spur Line under study by MTRCL. Should the applicant intend to extend the application after 3 years, the applicant should be aware of the potential NOL Spur Line alignment and any potential impacts to the application of extension.
- (b) The Site falls within the Administrative Route Protection (ARP) and area of influence (AOI) of the proposed NOL. Those areas within the ARP and AOI may be required to be vacated at the time for the construction of the NOL and subject to nuisances, such as noise and vibration of the proposed NOL.

- (c) He has no comment on the application from the railway development viewpoint, provided that the applicant is satisfied with surrounding condition of nuisance taking into account the future construction, operation and maintenance of NOL.

Environment

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

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 Sites” (COP) issued by DEP.

Landscape

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

- (a) She has no objection to the application from the landscape planning perspective.
- (b) With reference to the aerial photo, it is observed that there is no significant change in the landscape character for adjacent area since the last application (No. A/YL-ST/559). The proposed use is not incompatible with the landscape character of the surrounding environment.
- (c) With reference to the site photos, landscape impact within the Site arising from the development is not anticipated.
- (d) In view that there are existing trees outside the northern site boundary which act as landscape buffer, and the site is not abutting prominent public frontage, it is considered not necessary to impose a landscape condition should the application be approved by the Board.

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 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.

Building Matters

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

- (a) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing 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 the BO.
- (b) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (c) His detailed comments are at **Appendix V**.

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 drainage operation and maintenance point of view.
- (b) As the current application involves a larger site area and different layout, it would be processed a new case. In this aspect, the applicant shall submit a drainage submission to demonstrate how he will collect, convey and discharge rain water falling onto or flowing to the Site. A clear drainage plan showing full details of the existing drains and the proposed drains (e.g. cover & invert levels of pipes/catchpits/outfalls and ground levels justifying waterfowl etc.) with supporting design calculations & charts should be included. The applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on the

Site.

- (c) The drainage proposal attached with the application are considered too small to read and without the required detailed design formation mentioned above. As such, the applicant is requested to duly revise the proposal and resubmit it for his approval.
- (d) After completion of the required drainage works, the applicant shall provide DSD a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan for reference.
- (e) His detailed comments are at **Appendix V**.

Others

10.1.10 Comments of the Project Manager (North), Civil Engineering and Development Department (PM(M),CEDD):

The Site is within the proposed boundary of San Tin / Lok Ma Chau Development Node (STLMC DN). According to the latest target programme of STLMC DN, it is targeted to commence works in phases for STLMC DN from 2024, and thus to seek the funding approval from Finance Committee in 2024. Therefore, the Site, within the boundary of STLMC DN, may probably be required for timely clearance and construction.

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

- (a) Director of Agriculture, Fisheries and Conservation;
- (b) Commissioner of Police;
- (c) Project Manager (West), CEDD;
- (d) Chief Engineer/Construction, Water Supplies Department; and
- (e) District Officer (Yuen Long), Home Affairs Department.

11. Public Comment Received During Statutory Publication Period

On 5.11.2021, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 26.11.2021, three public comments were received from individuals and San Tin Rural Committee (STRC) (**Appendix IV**) raising concerns that the proposed use will exacerbate the traffic congestion problem of Tung Wing On Road and the risk of fire hazard, and will cause flooding, air and noise pollution.

12. Planning Considerations and Assessments

- 12.1 The applicant seeks permission for temporary shop and services (motor vehicle showroom) use for a period of 3 years and associated filling and excavation of land. The Site falls within the “OU(SS)” zone which is intended to provide support service facilities such as eating places, petrol filling stations, etc. for the cross-boundary traffic and the container related facilities nearby. According to the ES of the OZP, sites under the “OU(SS)” zone could be developed for commercial uses subject to planning permission of the Board. The proposed motor vehicle showroom is to provide a trading business of used private vehicles to local villagers and visitors. Approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “OU(SS)” zone. The proposed development is not incompatible with the surrounding uses which are predominated by vehicle parks, vacant land, temporary cross-boundary shopping centre and residential dwellings.
- 12.2 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. In this regard, DAFC has no comment on the application from nature conservation perspective.
- 12.3 Other concerned Government departments, including DEP, C for T, D of FS, CTP/UD&L of PlanD and CE/MN of DSD have no objection to or no adverse comment on environmental, traffic, fire safety, landscape and drainage aspects respectively. To mitigate potential impacts on the surrounding areas and address technical concerns, approval conditions restricting the operation hours and requiring the submission and implementation of drainage and FSIs proposals, and the maintenance of the implemented drainage facilities are recommended in paragraphs 13.2 below, should the application be approved. Non-compliance with any of the approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action by the Planning Authority. Besides, the applicant should be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.
- 12.4 The Committee has approved five applications (Nos. A/YL-ST/476, 480, 529, 533 and 592) for similar temporary shop and services and commercial uses within the same “OU(SS)” zone 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 “OU(SS)” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.5 There are three public comment as detailed in paragraph 11. The planning assessments and departmental comments above are of relevance.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the

public comment 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 up to 24.12.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 8:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from the Site to the public road at any time during the planning approval period;
- (c) 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 24.6.2022;
- (d) in relation to (c) 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 24.9.2022;
- (e) 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 24.6.2022;
- (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 24.9.2022;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) if any of the above planning condition (a), (b) 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
- (i) if any of the above planning condition (c), (d), (e) or (f) 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 V**.

- 13.3 There is no apparent reason to reject the application.

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 25.10.2021 and replacement pages received on 2.11.2021
Appendix Ia	Planning Statement
Appendix Ib	FI received on 16.12.2021
Appendix II	Previous applications covering the application site
Appendix III	Similar Application
Appendix IV	Public comment received during statutory publication period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Plan Showing the General Area
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2021**