

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/606

<u>Applicant</u>	: Mr. TO Wai Kit represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lots 3045 RP and 3056 RP in D.D. 102 and adjoining Government Land (GL), San Tin, Yuen Long
<u>Site Area</u>	: 456m ² (including about 258 m ² of GL)
<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>	: Temporary Public Vehicle Park for Private Car 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 for private car for a period of 3 years (**Plan A-1a**). 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 paved and currently used for the applied use.
- 1.2 The Site (in whole or in part) is the subject of 9 previously approved applications (Nos. A/YL-ST/57, 104, 261, 288, 317, 343, 391, 479 and 537) for temporary container trailer/tractor park/public vehicle park/sale office for private vehicles (**Plan A-1b**). The latest approved application No. A/YL-ST/537 submitted by the current applicant for the same use was approved by the Rural and New Town Planning Committee (the Committee) on 22.2.2019 for a period of 3 years (**Plan A-1b**). All approval conditions have been complied with. The planning permission is valid until 22.2.2022.

- 1.3 As shown on **Drawing A-2 and Plan A-2**, the Site is accessible from Castle Peak Road – San Tin via a local access. **Drawing A-1** shows the layout plan of the public vehicle park. Ingress/egress (7.5m wide) to the Site is provided at the southeastern site boundary. The public vehicle park will provide a total of 11 private car parking spaces and a two-storey site office with toilet (6m high) with a total gross floor area (GFA) of about 70 m². The carpark will be operated 24 hours from Mondays to Sundays including public holidays.
- 1.4 As compared to the last approved application No. A/YL-ST/537, there is no change to the main use of the Site for public vehicle park for private car, number of private car parking spaces, building height and operation hours. The current proposal has a similar layout but adjusted the disposition and size of the site office (an increase in GFA by about 35 m²).
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 1.12.2021 and supplementary information received on 8.12.2021 **(Appendix I)**
 - (b) Further Information (FI) received on 13.1.2022 providing responses to departmental comments **(Appendix Ia)**
 - (c) FI received on 21.1.2022 clarifying the information about the last application and the activities undertaken on-site **(Appendix Ib)**

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 to Ib**. They can be summarised as follows:

- (a) The proposed development is in line with the planning intention of the “V” zone which is primarily for the convenience of the villagers. The applied use can meet the parking demand for nearby villagers.
- (b) The proposed development for parking of private car is compatible with surrounding development.
- (c) 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. No vehicle repairing, dismantling, car beauty/washing and workshop use will be undertaken.
- (d) Previous planning approvals had been given for public vehicle park at the Site and all the planning conditions had been complied with. Similar public vehicle parks had been approved in nearby areas within the same “V” zone.
- (e) The proposed development would not cause significant traffic, environmental and drainage impacts to the surrounding areas.

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

The applicant is not a “current land owner” 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 San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For GL, the “owner’s consent/notification” requirements are not applicable.

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)

According to 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 active planning enforcement action.

6. Previous Applications

- 6.1 The Site (in whole or in part) is involved in 19 previous applications (No. A/YL-ST/16, 34, 41, 57, 104, 126, 153, 203, 222, 261, 270, 288, 307, 317, 343, 391, 479, 505 and 537) of which 9 were approved by the Committee and remaining 10 rejected (**Plan A-1b**).
- 6.2 Applications No. A/YL-ST/16, 34, 41, 57, 104, 126, 153, 203 and 222 (container trailer/tractor park/vehicle repair workshop), No. A/YL-ST/261 (temporary sale office for second-hand private vehicles) and No. A/YL-ST/505 (proposed temporary shop and services) were for different uses and not relevant to the current application.

Public Vehicle Park (6 approved, 2 rejected)

- 6.3 Applications No. A/YL-ST/270 and 307 on larger sites for temporary public car parks for periods of 3 years were rejected by the Committee on 30.7.2004 and 28.4.2006 respectively for reasons that the proposed developments were not in line with the planning intention of the “V” zone and there were programmes for Small House developments within the sites.
- 6.4 4 applications (No. A/YL-ST/288, 317, 343 and 391) on larger sites for temporary public vehicle parks (excluding container vehicle) were approved by the Committee/the Board upon review between 2005 and 2010 for periods of 12 months or 3 years mainly on the considerations that the proposed developments were considered not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “V” zone. However, the planning permissions for Applications No. A/YL-ST/288 and 317 were subsequently revoked on 18.2.2006 and 18.7.2007 respectively due not non-compliance with approval conditions in relation to the submission/provision of drainage proposal and the provision of proper run-in to the site.
- 6.5 Application No. A/YL-ST/479 on the same site for proposed temporary public vehicle park for private car and light goods vehicle, and No. A/YL-ST/537 for temporary public vehicle park for private car, both submitted by the current applicant, were approved by the Committee on 18.12.2015 and 22.2.2019 respectively for a period of 3 years mainly on the same considerations as set out in paragraph 6.4 above. All approval conditions for both applications, including those in relation to fire service installations (FSIs) proposals, revised drainage, landscape and tree preservation proposals, and the provision of boundary fencing have been complied with. The planning permission for the former application lapsed on 19.12.2018 and the latter application will lapse on 23.2.2022.
- 6.6 Details of these applications are summarised at **Appendix II**.

7. Similar Applications

- 7.1 During the past five years, there are 11 applications for similar parking uses within the same “V” zone on the OZP. All of them were approved by the Committee mainly on the considerations that the proposed development was considered not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “V” zone.
- 7.2 Details of these similar applications are summarised at **Appendix III**.

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

- 8.1 The Site is:
- (a) accessible from the south via a local access off Castle Peak Road – San Tin;

- (b) currently paved and used for the applied use; and
- (c) located within the WBA of Deep Bay.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are village houses, shops, vehicle parks, vacant land and temporary shop and services approved under Application No. A/YL-ST/574. To the further north across Tung Wing On Road is a site approved for temporary shop and services use under Application No. A/YL-ST/592 which is currently occupied by vacant structures. Area further north is the former site of The Boxes which has ceased operation;
- (b) to its west are village houses in Wing Ping Tsuen. To its further west are car parks, small houses and a temporary public vehicle park approved under Application No. A/YL-ST/555;
- (c) to its south across a local access are car parks including one approved under Application No. A/YL-ST/541, residential/shops and storage; and
- (d) to its east across Castle Peak Road – San Tin are Highways Department Maintenance Centre, Drainage Services Department's site office, vehicle park and grassland.

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 New Territories Exempted House (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 application are summarized as follows:

Land Administration

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

- (a) 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.
- (b) The portion of GL (about 258 m²) of the Site is covered by Short Term Tenancy (STT) No. 2942 for the purpose of “Temporary Public Vehicle Park for Private Car and Light Goods Vehicle”.
- (c) Should planning approval be given to the planning application, the STT holder will need to apply to his office for modification of STT conditions where appropriate. Also, 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 applied use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Application(s) 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(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 LandsD.
- (d) According to his office’s record, there is no Small House application received/being processed within the Site.

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 road should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) The applicant should seek the relevant land owner(s) on the right of using the vehicular access.
- (c) Having considered the FI submitted by the applicant, he has no adverse comment on the application from the traffic engineering point of view.
- (d) Should the application be approved, a condition should be incorporated that 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 Castle Peak Road – San Tin should be approved by TD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road – San Tin.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint related to the Site in the past 3 years.
- (b) 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” to minimise potential environmental impacts on the surrounding areas.

Landscape

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

- (a) According to the aerial photo of 2021, the surrounding area comprises village houses, vacant land, open storage and scattered tree groups. The applied use is considered not incompatible with the existing landscape setting in proximity.
- (b) According to the site photo taken in December 2021, the Site was hard paved and existing trees of common species in fair condition were along the site boundary. According to the site layout plan (**Drawing A-1**), the proposed temporary structures are not in conflict with existing trees. Given that no further adverse landscape impact within the Site arising from the development is anticipated, she has no objection from landscape planning perspective.
- (c) In consideration that there is limited space for meaningful landscaping and the Site is surrounded by existing trees, it is considered not necessary to impose any landscape-related condition should the application be approved by the Board. The advisory comments are at **Appendix V**.

Drainage

10.1.6 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) The applicant should provide DSD a set of the latest record photographs showing the completed drainage works (including the internal condition of the drains) with corresponding photograph and location clearly marked on the approved drainage plan for reference. DSD will inspect the completed drainage works jointly with the applicant with reference to the set of photographs.
- (c) The applicant should ensure and keep all drainage works on the Site under proper maintenance at all times at his own cost.
- (d) His advisory comments are at **Appendix V**.

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 FSIs being provided to his satisfaction.
- (b) FSIs are anticipated to be required in consideration of the design/nature of the proposal. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of the proposed FSI 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) 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 Buildings Authority (BA) should be obtained, otherwise they are unauthorised

building works (UBW) under BO. An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with BO.

- (b) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy by BD 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 advisory comments are at **Appendix V**.

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

- (a) Chief Engineer/Railway Development 2-2, Railway Development Office, HyD;
- (b) Commissioner of Police;
- (c) Director of Agriculture, Fisheries and Conservation;
- (d) Project Manager (West), Civil Engineering and Development Department;
- (e) Chief Engineer/Construction, Water Supplies Department; and
- (f) District Officer (Yuen Long).

11. Public Comment Received During Statutory Publication Period

On 10.12.2021, the application was published for public comments. During the first three weeks of the statutory publication period which ended on 31.12.2021, one public comment was received from an individual raising objection to the application on the grounds that the development will lead to traffic problems, environmental pollution and fire risk which will affect the safety and living quality of the villagers (**Appendix IV**).

12. Planning Considerations and Assessments

- 12.1 The application is for temporary public vehicle park for private car for a period of 3 years. 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. Commercial, community and recreational uses may be permitted on application to the Board. The proposed use is not entirely in line with the planning intention of the “V” zone. However, 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 applied use is not incompatible with the surrounding uses which mainly comprises village houses/residential dwellings, vehicle parks and shops and services uses. According to the applicant, the development is to serve the nearby

villagers. The proposed use could meet some of the local demand for private car parking spaces in the vicinity.

- 12.3 The Site falls within the WBA of the TPB PG-No. 12C and the guidelines specify that planning applications for temporary uses are exempted from the requirement of EcoIA. DAFC has no comment on the application from nature conservation point of view.
- 12.4 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. Technical requirements of C for T, D of FS and CE/MN of DSD are imposed through approval conditions in paragraphs 13.2 below. Besides, the applicant should be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to mitigate any potential environmental impacts on the surrounding areas.
- 12.5 The Site is the subject of 6 previous applications approved by the Committee for temporary public vehicle park (excluding container vehicle) uses as detailed in paragraph 6 above. During the past five years, the Committee has approved a total of 11 applications for similar uses within the same “V” 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 “V” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 Regarding the public comment raising objection/concerns on the proposed development as detailed in paragraph 11 above, 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 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 until 28.1.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no car washing, vehicle repair, dismantling, paint spraying or other workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (b) no vehicles without valid licenses issued under the Road Traffic

Ordinance, as proposed by the applicant, is allowed to be parked/stored on the Site at any time during the planning approval period;

- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of as-built drainage plans and photographic records 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 TPB by **28.4.2022**;
- (e) in relation to (d) above, the existing drainage facilities shall be maintained at all times during the planning approval period;
- (f) 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 **28.7.2022**;
- (g) in relation to (f) 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 **28.10.2022**;
- (h) if any of the above planning conditions (a), (b), (c) or (e) 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 conditions (d), (f) or (g) 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 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied use is not in line with the planning intention of the "V" zone, which is primarily 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 1.12.2021 and supplementary information received on 8.12.2021
Appendix Ia	FI received on 13.1.2022
Appendix Ib	FI received on 21.1.2022
Appendix II	Previous s.16 Applications
Appendix III	Similar s.16 Applications
Appendix IV	Public comment
Appendix V	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Vehicular Access Plan
Drawing A-3	Drainage Plan
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
JANUARY 2022**