

RNTPC Paper No. A/YL-NSW/278A
For Consideration by
the Rural and New Town
Planning Committee
on 26.6.2020

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NSW/278

- Applicant** : Siu Kin Ching represented by Metro Planning & Development Company Limited
- Site** : Lots 751 (Part), 763 (Part), 764 S.A. RP (Part) in D.D. 115, Castle Peak Road – Yuen Long Section, Yuen Long
- Site Area** : About 450 m²
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8
- Zoning** : “Undetermined” (“U”)
- Application** : Temporary Shop and Services (Sales of Private Cars) 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 shop and services (sales of private cars) for a period of 3 years. The Site falls within an area zoned “U” on the approved Nam Sang Wai OZP No. S/YL-NSW/8 (**Plan A-1**). According to the covering Notes of the OZP, any use or development in the “U” zone, except those specified as always permitted under the covering Notes, requires planning permission from the Town Planning Board (the Board). The Site is paved, currently occupied by a temporary structure accommodating private cars and some office areas.
- 1.2 As shown on **Plans A-2** and **A-3**, the Site is accessible by Castle Peak Road – Yuen Long Section via a local track through the proposed ingress/egress at the southeastern boundary of the Site. A two-storey structure (not exceeding 7m in height) for accommodating 5 second hand cars for sale with a GFA of 310m², and 3 private car parking spaces are proposed within the Site (**Drawing A-1**). The operation hours are 9:00 a.m. to 7:00 p.m. from Mondays to Sundays including public holidays.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form and supplementary documents including a drainage assessment received on 26.2.2020 **(Appendix I)**
 - (b) Further Information (FI) received on 11.5.2020, 18.5.2020 and 18.6.2020 providing response to comments of Transport Department (TD) *(exempted from publication and recounting requirements)* **(Appendices Ia to Ic)**
- 1.4 On 24.4.2020, the Rural and New Town Planning Committee (the Committee) decided to defer decision on the application for a period of 2 months as requested by the applicant pending submission of FIs to address departmental comments. On 11.5.2020, 18.5.2020 and 18.6.2020, the applicant submitted FIs, and the application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

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

- (a) The Site zoned “U” on the Nam Sang Wai OZP mainly consists of squatters, small stone houses and fishponds. The long term planning intention of the “U” zone is still being formulated. The proposed development which is temporary in nature would not jeopardize the long term planning intention of the Site and the adjoining area.
- (b) The proposed development, with a site that is limited in size, is compatible with the surrounding uses which mainly comprise vacant land, a church, a hotel and some residential dwellings. With the commercial use (i.e. hotel) and institutional use (i.e. church) in close proximity, the proposed development that is regarded as a commercial use is not incompatible with the surrounding uses.
- (c) The proposed development for sales of private cars would benefit the nearby residents by providing a sales outlet.
- (d) A similar application for temporary retail shop for wheels and tyres for a period of 3 years in the same “U” zone has been approved by the Board before.
- (e) The traffic impact generated by the proposed development is insignificant. Staff will commute by public transport and second hand cars will be driven to the Site instead of being transported by trucks. Adequate space for manoeuvring of vehicles would be provided within the Site and queueing up of vehicles would not be resulted. The proposed parking spaces at the Site would only be available to visitors with prior appointment. The negligible increase in traffic would not aggravate the traffic condition of Castle Peak Road and nearby road networks.

- (f) The proposed development would not generate adverse environmental and drainage impacts. The development will be housed in an existing structure, and no frequent traffic and associated traffic noise will be generated. There will be no operation within the sensitive hours (i.e. from 7:00pm to 9:00am). No noise nuisance, effluent and dust emission will be resulted. There will be no adverse drainage impact with the implementation of drainage facilities.

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

The applicant is not the “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 sending registered post to the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

- 4.1 The Site falls within the “U” zone (26.3 ha) south of the Yuen Long Highway (**Plan A-1**) and has been zoned “U” on the draft Nam Sang Wai OZP No. S/YL-NSW/1 since 3.6.1994. It was so designated as several major transport and drainage projects, including Yuen Long Highway, MTR West Rail (WR) and Yuen Long Bypass Floodway (YLBF), which were under planning at that time, would traverse the area. According to the Explanatory Statement of the Nam Sang Wai OZP, the “U” zone is within a transitional location between the urban and rural areas. Development within the areas has to be comprehensively planned as piecemeal development or redevelopment would have the effect of degrading the environment and thus jeopardizing the long-term planning intention of the areas. Under the “U” zone, any developments or redevelopments require planning permission from the Board so as to ensure that the environment would not be adversely affected and that infrastructure, GIC facilities, open space are adequately provided. The proposed development should also take into account the WR and the YLBF.
- 4.2 Following the completion of the infrastructure projects of the Yuen Long Highway, WR and YLBF, and upon preliminary review, the subject “U” zone is considered to have potential for housing developments and other uses. According to the 2017 Policy Address, the subject “U” zone is one of the 26 potential sites for public housing development in the short to medium term. The detailed land use proposal and appropriate development parameters are subject to further review. The long term use of the Site will be examined in the future land use review of the subject “U” zone.
- 4.3 The Site is not a subject of any active enforcement case. Should a material change of use be identified on site, which constitutes an unauthorized development (UD) under the Town Planning Ordinance, enforcement action would be instigated subject to sufficient evidence collected.

5. Previous Application

There is no previous application for the Site.

6. Similar Application

6.1 There is one similar application for temporary shop and services use within the “U” zone on the Nam Sang Wai OZP. Application No. A/YL-NSW/115 for temporary retail shop for wheels and tyres for a period of 3 years was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in 2002 for reasons that the temporary development would not jeopardize the long term planning intention of the “U” zone and was not incompatible with the surrounding land uses; the development was not likely to generate any adverse environmental, traffic and drainage impacts and there were no adverse departmental comments; and there was no local objection.

6.2 Details of the application are summarized at **Appendix II**. Its location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) paved, currently occupied by a two-storey structure accommodating private cars and office space in which no operation is noticed; and
- (b) accessible via a local track leading to Castle Peak Road – Yuen Long Section (**Plans A-2 and A-3**).

7.2 The surrounding areas are intermixed with parking of vehicles, vehicle repair workshops, open storage yards, scattered residential dwellings and unused land. Some of these uses are suspected UDs subject to enforcement action by Planning Authority:

- (a) to the immediate north are parking of vehicles and vehicle service centre and residential dwellings. Further north are warehouse of food, open storage of metal piles and gully cover, storeroom, metal workshop, residential dwellings and vacant land;
- (b) to the immediate west are residential dwellings, office and vehicle repair workshops. Further northwest are residential dwellings and open storage of construction materials;
- (c) to the immediate east are open storage of vehicles and unused land. Further east are residential dwellings and a church;

- (d) to the south across Castle Peak Road – Yuen Long Section are a petrol station, vehicle showroom, elderly centre and residential dwellings.

8. Planning Intention

Under the “U” zone, any developments or redevelopments require planning permission from the Board so as to ensure the environment would not be adversely affected and that infrastructure, GIC facilities, open space are adequately provided. The proposed development should also take into account the WR and the YLBF. To realise a built-form which represents a transition from Yuen Long New Town to the rural area, the development intensity should take into account the urban type developments immediately to the west of the “U” zone and the rural characteristics of the area to its north. Development within the areas has to be comprehensively planned as piecemeal development or redevelopment would have the effect of degrading the environment and thus jeopardising the long-term planning intention of the areas.

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):

- (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) Should planning approval be given to the application, the lot owner(s) will need to apply to LandsD to permit the structures to be erected or regularize any irregularities on site, if any. Given the proposed use is temporary in nature, only application for regularization 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 premium or fee, as may be imposed by LandsD.

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

- (a) He has no comment on the application from traffic engineering perspective.

- (b) The Site is connected to the public road network via a section of a local access road which is not managed by TD. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (c) Should the application be approved, the following conditions should be incorporated:
 - i. only private cars are allowed to be parked on the Site at any time during the planning approval period; and
 - ii. 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) HyD is not and will not be responsible for the maintenance of any access connecting the Site and Castle Peak Road – Yuen Long.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads or exclusive road drains.

9.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (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):

According to the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP), he has no comment on the application. This temporary use will not cause traffic of heavy vehicles and dust nuisance is not expected.

Nature Conservation

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

He has no comment from nature conservation point of view as the Site is disturbed and largely paved.

Landscape

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

- (a) He has no objection from landscape planning perspective.
- (b) Based on an aerial photo of 2019, the Site is situated in an area of rural landscape character comprising scattered tree groups and temporary structures. Previously approved application (No. A/YL-NSW/115) with similar use is found within the same area zoned “U” near the Site. The proposed development is considered not incompatible with the surrounding environment. Moreover, it is noted that the Site is hard paved and occupied by a temporary structure. No existing tree is observed within the Site. Significant adverse impact on landscape resources due to the proposed development is not anticipated.

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 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 D of FS 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 the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Buildings Matters

9.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings

Department (CBS/NTW, BD):

- (a) As there is no record of approval granted by the Building Authority for the existing structures at the Site, he is not in the position to offer comments on their suitability for the use proposed in the application.
- (b) His advisory comments are at **Appendix IV**.

Drainage

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

- (a) He has no objection in principle to the application from public drainage point of view.
- (b) He has no adverse comment on the submitted drainage proposal. Nevertheless, the applicant should be reminded to note the following:
 - (i) the applicant should implement the drainage facilities on site in accordance with the agreed drainage proposal;
 - (ii) the applicant is required to rectify the drainage system if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system;
 - (iii) the proposed development would neither obstruct overland flow nor adversely affected any existing natural streams, village drains, ditches and the adjacent areas; and
 - (iv) the applicant should consult DLO/YL and seek consent from relevant lot owners for any works to be carried out outside his lot boundary before commencement of drainage works.
- (c) The proposed development consists of toilet facilities but there is no public sewer connection available in the vicinity. Regarding sewage disposal and treatment, agreement from DEP shall be obtained.

Others

9.1.11 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) He has no comment on the application.
- (b) No Food and Environmental Hygiene Department's facilities shall be affected and such work and operation shall not cause any

environmental nuisance, pest infestation and obstruction to the surrounding.

- (c) For any waste generated from such activity/operation, the applicant should arrange disposal properly at their own expenses.

District Officer's Comments

9.1.12 Comments of the District Officer (Yuen Long) (DO(YL)):

His office has no comment on the application and local comments shall be submitted to the Board directly, if any.

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

- (a) Commissioner of Police (C of P);
- (b) Director of Leisure and Cultural Services (DLCS);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (e) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (f) Director of Electrical and Mechanical Services (DEMS).

10. Public Comments Received During Statutory Publication Period

On 6.3.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 27.3.2020, 3 public comments were received from a Yuen Long District Council member, Tung Shing Lei Village Residents Welfare Association Yuen Long and an individual objecting to the application. They are concerned that the Site was related to unauthorized development and brownfield use; noise and air pollution would be generated by the proposed development; and GIC or recreational use would be more compatible at the Site (**Appendix III**).

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services (sales of private cars) for a period of 3 years at the Site. The Site falls within an area zoned "U" on the Nam Sang Wai OZP which was so designated as several major transport and drainage projects, including WR and YLBF, which were under planning at that time, would traverse the area. Any developments or redevelopments require planning permission from the Board so as to ensure that the environment would not be adversely affected and the infrastructure, GIC facilities and open space are adequately provided. The subject "U" zone has been identified in the 2017 Policy Address with potential for housing development. The detailed land use proposal and appropriate development

parameters for the “U” zone are subject to further study. As the long term use of the “U” zone is subject to further study, approval of the proposed temporary use for a period of 3 years would not jeopardise the long term land use planning for the area.

- 11.2 The proposed development is not incompatible with the surrounding land uses which are mostly vehicle car parks/ vehicle repair workshops, scattered residential dwellings and unused land (**Plan A-2**). The Site is located at the fringe of the “U” zone with direct access to Castle Peak Road – Yuen Long Section. According to the applicant, the temporary shop and service use could serve the needs of local residents by providing a retail outlet for sales of private cars.
- 11.3 Concerned Government departments, including C for T, DAFC, DEP, CE/MN of DSD, D of FS and CTP/UD&L, PlanD, have no objection to or no adverse comment on traffic, nature conservation, environmental, drainage, fire safety and landscape aspects respectively. The technical concerns/requirements of CE/MN of DSD and D of FS could be addressed by imposing approval conditions recommended in paragraph 12.2 (d) to (f) below should the Board decide to approve the application. To mitigate potential environmental impacts on the surrounding areas, approval conditions restricting the operation hours and traffic arrangement are recommended in paragraphs 12.2 (a) to (c) below. Besides, the applicant will be advised to follow the latest ‘Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses’.
- 11.4 The Committee has approved a similar application for temporary retail shop for wheels and tyres in the vicinity of the Site and within the same “U” zone as detailed in paragraph 6 above. Approval of the current application is in line with the previous decision of the Committee.
- 11.5 Three public comments were received during the statutory public inspection period objecting to the application as detailed in paragraph 10. The planning assessment above is of relevance.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, 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 up to 26.6.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 7:00pm and 9:00am on Mondays to Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning

approval period;

- (b) only private cars are allowed to be parked on the Site at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period;
- (d) the implementation of the submitted 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 26.12.2020;
- (e) 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 26.12.2020;
- (f) in relation to (e) above, the implementation of the 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 26.3.2021;
- (g) if any of the above planning condition (a), (b) or (c) 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
- (h) if any of the above planning condition (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 IV**.

12.3 There is no apparent reason to reject the application.

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 and supplementary documents received on 26.2.2020 |
| Appendices Ia - Ic | FI dated 11.5.2020, 18.5.2020 and 18.6.2020 from Applicant |
| Appendix II | Similar application |
| Appendix III | Public comments received during public inspection period |
| Appendix IV | Recommended Advisory Clauses |
| Drawing A-1 | Layout Plan |
| 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
JUNE 2020**