

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/706

<u>Applicant</u>	Anson Technology Limited represented by Top Bright Consultants Ltd.
<u>Site</u>	Lot 1508 S.A (Part) in D.D. 83, Lung Yeuk Tau, Fanling, New Territories
<u>Site Area</u>	About 895 m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
<u>Zoning</u>	“Agriculture” (“AGR”)
<u>Application</u>	Proposed Temporary Public Vehicle Park (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 a proposed temporary public vehicle park (private car) for a period of three years (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17. According to the Notes of the OZP, temporary use not exceeding a period of three years within “AGR” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for in terms of the Plan. The Site is currently vacant and fenced off.
- 1.2 According to the applicant’s submission, there will be 21 parking spaces for private cars (2.5 m x 5m each) within the Site. A two-storey container will be provided as site office for storage of maintenance equipment at the southeastern part of the Site (with a total floor area of 60 m² and height in 5 m) (**Drawing A-1**). The car park operates on a monthly rental basis for local residents and visitors 24 hours a day. The ingress/egress point is located at the southern boundary of the Site. The Site is accessible via Siu Wan Road leading to Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-2**). The applicant estimates that there will be less than 25 vehicular trips per day as most vehicles exit and enter the Site approximately once per day. The site layout plan and landscape proposal submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.3 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with attachments received on 8.7.2019 (**Appendix I**)
 - (b) Further Information (FI) received on 21.8.2019 (**Appendix Ia**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in supplementary planning statement and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) the proposed use primarily serves the local villagers/residents and their visitors;
- (b) there is genuine demand for more parking space in the Lung Yeuk Tau area as private development can provide a proper place for parking their vehicles and prevent the existing traffic congestion arising from improper parking/stopping on the local tracks on Siu Wan Road (**Plan A-2**);
- (c) the site condition and its surrounding are not favourable for agricultural activities and the potential for rehabilitation is low. The proposed temporary use could allow a better utilisation of land resources and meet the parking need of villagers without jeopardizing the planning intention;
- (d) the Site is not incompatible with the surrounding land uses which mainly comprises of domestic structures, parking of vehicles, storage and vacant land;
- (e) to ensure the pedestrian safety, the applicant has proposed some traffic management measures in support of the application; and
- (f) no car washing, repairing or similar workshop activities would be permitted on Site. The proposed use is a monthly rental car park with estimated less than 25 trips per day. No heavy vehicles including container vehicles or heavy goods vehicles would be allowed to park on the Site. As such, adverse environmental, traffic and drainage impacts are not anticipated.

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

The applicant is the sole “current land owners” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Chief Town Planner / Central Enforcement and Prosecution, Planning Department (CTP/CEP) advises that the Site is not subject to any active enforcement case. There were two previous enforcement cases (No. E/NE-LYT/103 (storage use) and E/NE-LYT/146 (parking of vehicles)) in 2003 and 2007 respectively of which the unauthorized developments were discontinued and the cases were closed.

5. Previous Application

- 5.1 The Site is the subject of a previous application No. A/NE-LYT/281 covering a smaller site for temporary open storage of washroom accessories for a period of 3 years. The application was rejected by the Committee on 13.8.2004 mainly on the consideration that there was insufficient information in the submission to demonstrate that the development would not degrade the rural village landscape character of the area; the development did not comply with the Town Planning Board Guidelines No. 13C for “Application for Open Storage and Port Back-up Uses” in that there was no previous planning approval granted

to the application site; and no technical assessments/ proposals had been submitted to demonstrate that the subject development would not generate adverse impacts on the surrounding areas.

- 5.2 Details of the previous application are at **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 In the past 10 years, there are seven similar applications (No. A/NE-LYT/ 462, 560, 577, 598, 662, 689 and 704) involving three sites for temporary public vehicle park use within the same “AGR” zone in the Lung Yeuk Tau and Kwan Tei South area.
- 6.2 Three similar applications (No. A/NE-LYT/462, 560 and 662) involving the same site for temporary public vehicle park for private cars and light goods vehicles/ renewal of the same applied use for a period of 3 years were approved with conditions by the Committee between 2012 and 2018 mainly on the considerations that the developments were not incompatible with the surrounding land uses; the developments would unlikely cause any significant adverse impacts on the traffic, environment, drainage and landscape of the area; there were previous planning approvals granted on the site for the same use and the applicants had complied with all approval conditions; and there was no adverse comment from concerned departments.
- 6.3 The other four similar applications No. A/NE-LYT/577, 598, 689 and 704 involving two sites for temporary public vehicle parks for a period of 3 years were approved by the Committee between 2015 and August 2019 mainly on the similar grounds as the three approved similar applications mentioned in paragraph 6.2 above. Application No. A/NE-LYT/577 was revoked on 20.9.2016 due to non-compliance with approval conditions.
- 6.4 Details of these similar applications are summarised at **Appendix III** and the locations are shown on **Plan A-1**.

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

- 7.1 The Site is:
- (a) hard paved, fenced off, and currently vacant; and
 - (b) accessible from Sha Tau Kok Road – Lung Yeuk Tau via Sui Wan Road (**Plan A-2**).
- 7.2 The surrounding areas have the following characteristics:
- (a) situated at the fringe of Lung Yeuk Tau with village houses to the north, west and south, and car park to its east intermixed with some vacant land and temporary structures (**Plan A-2**);
 - (b) to the immediate east are some temporary domestic structures and a car park under approved application No. A/NE-LYT/662;
 - (c) to the immediate west are village houses and the village office and to the further

west across Sha Tau Kok Road – Lung Yeuk Tau is the village development of San Uk Tsuen; and

- (d) to the immediate south are village houses of Wing Ning Wai.

8. Planning Intention

The planning intention of the “AGR” zone in the Lung Yeuk Tau and Kwan Tei South area is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

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/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises an Old Schedule lot held under Block Government Lease (demised for agricultural use) without any guaranteed right of vehicular access. The applicant should make his own arrangement for acquiring access, and there is no guarantee that any adjoining Government Land (GL) will be allowed for the vehicular access of the proposed use;
- (b) one container type structure was erected on the Site without approval from his office. The aforesaid structure is not acceptable under the lease concerned. His office reserves the right to take enforcement actions against the aforesaid structures;
- (c) some GL adjoining the Site is being fenced up and occupied without approval. The applicant should remove the fences erected on the GL concerned at his own cost and stop the illegal occupation. His office reserves the right to take necessary land control actions against the irregularities;
- (d) the actual occupation area does not tally with the application boundary; and
- (e) if the planning application is approved, the owner of the lot concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) covering all the actual occupation area. The applications for STW and STT will be considered by Government in its landlord’s capacity and there is no guarantee that they will be approved. If the STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payments of waiver fee/rent and administrative fees as considered appropriate by his office.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T):
- (a) having reviewed the FI submitted by the applicant (**Appendix Ia**), she has no further comment and no objection to the application;
 - (b) the applicant shall provide the traffic management measures to ensure pedestrian safety as stated in the FI; and
 - (c) the vehicular access between the Site and Sha Tau Kok Road – Lung Yeuk Tau is not managed by Transport Department (TD). The applicant should seek comment from the responsible party.
- 9.1.3 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):
- (a) he has no comment on the application from the highways viewpoint; and
 - (b) he advised that Sui Wan Road adjacent to the Site is not maintained by Highways Department (HyD).

Environment

- 9.1.4 Comments of the Director of Environmental Protection (DEP):
- (a) it is noted that the Site will not involve parking of heavy goods vehicle and container truck, he has no objection to the application; and
 - (b) should the application be approved, the applicant is advised to follow the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” issued by DEP.

Landscape

- 9.1.5 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) the Site is located in an area of rural landscape character, surrounded by village houses, hard paved with no significant landscape resource observed. Therefore, significant adverse impact on existing landscape resources arising from the application is not anticipated. Moreover, the Site is situated in an area of rural landscape character surrounded by village houses and car parks, the proposed use is considered not incompatible with the surrounding area; and
 - (c) since there is no major public frontage along the site boundary, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Drainage

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

- (a) he has no objection to the application from the public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse impact to the adjacent area; and
- (c) the Site is in an area where no public sewerage connection is available.

Building Matters

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

- (a) he has no objection to the application; and
- (b) the applicant's attention is drawn to the following points:
 - (i) before any new building/drainage works are to be carried out on the Site, the prior approval and consent from the Building Authority (BA) should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
 - (ii) any temporary shelters or converted containers for site office are considered as temporary buildings are subject to control under the Building (Planning) Regulations Pt. VII;
 - (iii) the Site shall be provided with means of obtaining access thereto from a street under the Building (Planning) Regulations 5 and emergency vehicular access shall be provided under the Building (Planning) Regulation 41D;
 - (iv) if the Site is not abutting on a specified street having a width not less than 4.5 m, the development intensity shall be determined under the Building (Planning) Regulations 19(3) at building plan submission stage; and
 - (v) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments under BO will be provided at building plan submission stage.

Agriculture

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

the Site is currently an enclosed area. Agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc. As the Site possesses potential

for agricultural rehabilitation, the application is not supported from agricultural point of view.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) being provided to the satisfaction of his department; and
- (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. In addition, 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 FSI to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Building Ordinance (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Water Supply

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

- (a) he has no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend the inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

District Officer's Comments

9.1.11 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The incumbent North District Council (NDC) Member of the subject constituency cum the Indigenous Inhabitant Representative (IIR) of Lung Yeuk Tau and another IIR of Lung Yeuk Tau support the application mainly on the grounds that there is insufficient parking space in the area. The 1st Vice-Chairman and Vice-Chairman of Fanling District Rural Committee (FDRC) and five residents from Lung Yeuk Tau object to the application mainly on the grounds that the proposed use would cause adverse impacts on environment and fung shui; and the proposed development would aggregate the existing traffic and cause adverse traffic impacts to the

surrounding areas. The remaining IIR of Lung Yeuk Tau has no comment on the application.

9.2 Project Manager (North Development Office), Civil Engineering and Development Department has no comment on / no objection to the application.

10. Public Comments Received During Statutory Publication Period

On 16.7.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, eleven public comments were received (**Appendix IV**). One NDC member supports the application on the ground that the proposed use would meet the needs of villagers. The Chairman of Sheung Shui District Rural Committee has no comment on the application. The Chairman, 1st Vice-Chairman and Vice-Chairman of Fanling District Rural Committee, Kadoorie Farm and Botanic Garden, Designing Hong Kong Limited, two villagers from Lung Yeuk Tau (with six signatures) and two individuals object to the application mainly on the grounds that the development is not in line with the planning intention of “AGR” zone; there are still available parking spaces in the nearby villages; the proposed use would cause adverse impacts on environment and feng shui; the proposed development would aggregate the existing traffic and cause adverse traffic impacts to the surrounding areas; and the heavy traffic generated would threaten the safety of the villagers.

11. Planning Considerations and Assessments

11.1 The application is for a temporary public vehicle park for a period of three years at the Site zoned “AGR” on the OZP. The proposed development is not in line with the planning intention of the “AGR” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agricultural development point of view. Nevertheless, given its temporary nature and small in scale, it is considered that the approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “AGR” zone.

11.2 The Site is located to the immediate north of the Wing Ning Wai and near the existing village houses, temporary structures and car park (**Plans A-2 and A-3**). The proposed development is considered not incompatible with the surrounding land uses. Since adverse landscape impact arising from the development is not anticipated, CTP/UD&L, PlanD has no objection on the application from landscape planning perspective.

11.3 After considering the further submission (**Appendix Ia**), C for T has no objection to the application and requested the applicant to provide traffic management measures to ensure pedestrian safety. Noting that the Site will not involve parking of heavy goods vehicle and container truck, DEP has no objection to the application but advise that the applicant should follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisances, should the application be approved. Other relevant Government departments consulted, including CE/MN of DSD, CE/C of WSD and D of FS, have no adverse comment on or no objection to the application.

11.4 There are seven similar applications involving three sites for temporary vehicle park within the same “AGR” zone (**Plan A-1**) s. All seven applications were approved with conditions by the Committee between 2012 and August 2019 mainly on the considerations that the

developments were not incompatible with the surrounding land uses; the developments would unlikely cause any significant adverse impacts on the traffic, environment, drainage and landscape of the area; there were previous planning approvals granted on the site for the same use; and there was no adverse comment from concerned departments. There has not been major change in planning circumstances since the approval of the similar applications.

11.5 Two supporting local comments conveyed by DO(N), HAD in paragraph 9 above are noted. As for the adverse public comments against the application as detailed in paragraph 10 and the local objections conveyed by DO(N) in paragraph 9.1.11 above, the Government departments' comments and planning assessments above are relevant.

12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the temporary use under application could be tolerated for a period of 3 years.

12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 6.9.2022. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no vehicle without valid licence issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (b) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance is allowed to be parked /stored on or enter/exit the Site at any time during the planning approval period;
- (c) only private car as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) a notice should be posted at a prominent location of the Site to indicate that only private car as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) no car washing, vehicle repair, dismantling, paint spraying or other workshop activities is allowed on the Site at any time during the planning approval period;
- (f) the provision of boundary fencing on the Site within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 6.3.2020;
- (g) 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 6.3.2020;
- (h) in relation to (g) above, the provision of drainage facilities 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 6.6.2020;

- (i) the submission of proposals for water supplies for firefighting and fire service installations 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 6.3.2020;
- (j) in relation to (i) above, the provision of water supplies for firefighting and 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 6.6.2020;
- (k) the submission of traffic management measures within 6 months to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 6.3.2020;
- (l) in relation to (k) above, the implementation of traffic management measures within 9 months to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 6.6.2020;
- (m) if any of the above planning conditions (a), (b), (c), (d) 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
- (n) if any of the above planning conditions (f), (g), (h), (i), (j), (k) or (l) 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 at **Appendix V**.

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

the proposed development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention of "AGR" zone, even on a temporary basis.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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

Appendix I	Application form with attachments received on 8.7.2019
Appendix Ia	FI received on 21.8.2019
Appendix II	Previous s.16 Application
Appendix III	Similar s.16 applications for vehicle park within the “AGR” zone in the Lung Yeuk Tau and Kwan Tei South Area
Appendix IV	Public Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Landscape Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2019**