

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/742

- Applicant** : Lau Kung Yi (or I) Tong represented by Toco Planning Consultants Limited
- Site** : Lot 470 (Part) in D.D. 83 and Adjoining Government Land, Kwan Tei, Fanling, New Territories
- Site Area** : About 420 m² (including about 75 m² of Government land)
- Land Status** : (a) Block Government Lease (demised for agricultural use)
(b) Government Land
- Plan** : Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Public Vehicle Park (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 a proposed temporary public vehicle park for private cars for a period of three years. The Site falls within an area zoned “AGR” on the approved Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/17 (**Plans A-1 and A-2**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the “AGR” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for under the Notes of the Plan.
- 1.2 According to the applicant, a total of 11 parking spaces (5m x 2.5m each) for private cars will be provided within the Site to serve local residents. No structure or kiosk will be erected on the Site (**Drawing A-1**). The operation hours of the temporary public vehicle park are 24 hours daily. It is estimated that there will be about 22 daily trips made by private cars from / to the Site and the peak hourly vehicular trips will be about 8. The Site is accessible via a local track to Sha Tau Kok Road – Lung Yuk Tau (**Plan A-1**). The layout plan is at **Drawing A-1**. The Site is currently vacant.
- 1.3 The Site is the subject of a previous application No. A/NE-LYT/568 for the same applied use as the current application submitted by the same applicant. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 7.8.2015. All approval conditions have been complied with and the

planning permission had lapsed on 8.8.2018. Compared with the previous application, the major development parameters, including the site area, number of parking spaces and layout, remain unchanged.

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

- (a) Application Form with attachments received on 7.12.2020 (Appendix I)
 - (b) Supplementary Planning Statement (Appendix Ia)
 - (c) Supplementary Information received on 14.12.2020 (Appendix Ib)
 - (d) Further information (FI) received on 18.1.2021 ^ (Appendix Ic)
- ^ accepted and exempted from publications and recounting requirements*

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Planning Statement and FI at **Appendices Ia and Ic**. They can be summarized as follows:

- (a) the proposed public vehicle park is intended to meet the genuine demand for more parking spaces to serve the local residents in Kwan Tei Village;
- (b) it would help relieve the parking problem in the area by reducing illegal roadside parking;
- (c) the Site is suitable for the proposed use since it has been paved for some time and it is adjoining the “Village Type Development” (“V”) zone ;
- (d) the proposed use is compatible with the surrounding land uses which are predominantly village houses, local tracks and vacant land;
- (e) the proposed scheme has no change compared with the previously approved scheme. There has been no salient change in planning circumstances within the Site and the surrounding area since the approval was granted;
- (f) the temporary application will not frustrate the long-term planning intention of the “AGR” zone;
- (g) the small scale development will not result in any significant traffic, environmental, drainage and landscape impacts;
- (h) it will not set an undesirable precedent provided that the circumstances of many approved cases in the area were similar to this application; and
- (i) there is local support from members of Fanling District Rural Committee and local residents on the considerations that the Site can be fully utilized for meeting the parking demand; it would alleviate illegal parking issue and adverse impact is negligible due to small scale (**Appendix Ic**).

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

The applicant is the sole current land owner of the private land portion of the Site. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the ‘Owner’s consent/notification’ requirements as set out in the TPB PG-No. 31A are not applicable to the application.

4. **Previous Application**

4.1 The Site is the subject of a previous application No. A/NE-LYT/568 for the same use as the current application for a period of three years submitted by the same applicant. The application was approved with conditions by the Committee on 7.8.2015 mainly on the considerations that 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; the development was not incompatible with the surrounding land uses; and the development would unlikely cause any significant adverse traffic, drainage, environmental and landscape impacts. All approval conditions had been complied with and the planning permission had lapsed on 8.8.2018. Compared with the previous application, the major development parameters, including the site area, number of parking spaces and layout, remain unchanged.

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

5. **Similar Application**

5.1 There is one similar application (No. A/NE-LYT/718) for temporary public vehicle park within the same “AGR” zone to the west of the Site in the Lung Yeuk Tau and Kwan Tei South area. The application was rejected by the Committee on 6.3.2020 mainly on the considerations that the applicant failed to demonstrate that the development would not cause adverse traffic impact on the surrounding areas.

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

6. **The Site and Its Surrounding Area** (Plans A-1, A-2, and aerial photo on Plan A-3 and site photos on Plans A-4a & A-4b)

6.1 The Site is:

- (a) paved, fenced off and vacant; and
- (b) accessible via Sha Tau Kok Road – Lung Yeuk Tau via a local track.

6.2 The surrounding areas have the following characteristics:

- (a) the surrounding land uses are predominantly rural in character intermixed with open storage of construction materials, vacant / unused land, fallow agricultural land and domestic structures;

- (b) to the immediate east is the village proper of Kwan Tei Village;
- (c) to the immediate south, south-west and west are vacant / unused land, fallow / active agricultural land and domestic structures; and
- (d) to the immediate north is a pond, and to its further north are Kwan Tei Playground and a football field.

7. **Planning Intention**

The planning intention of the “AGR” zone 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.

8. **Comments from Relevant Government Departments**

8.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

8.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises a private lot which is Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. The applicant should make his own arrangement for acquiring access to the application site, and there is no guarantee that any adjoining Government land (“GL”) will be allowed for the vehicle access of the applied use;
- (b) the actual occupation area does not tally with the application boundary. The GL within the application site is being occupied without prior approval of this office (**Plan A-2**). His office reserves the right to take enforcement actions against the unauthorized occupation of GL; and
- (c) if the planning application is approved, the owner of the lots concerned shall apply to his office for a Short Term Tenancy (“STT”) covering all the actual GL being occupied. The application for STT will be considered by Government in its landlord’s capacity and there is no guarantee that they will be approved. If the STT is approved, its commencement date would be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of rent and administrative fee as considered appropriate by his office.

Traffic

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

considering the proposed use and the number of parking spaces under the current application are same as the previous application No. A/NE-LYT/568, he has no objection to the application.

Agriculture

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

the Site is currently paved and vacant. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The subject site can be used for agricultural activities such as greenhouses, plant nurseries, etc. As the subject site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

Environment

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

- (a) it is noted that the application will not involve parking of heavy goods vehicle nor container truck. The applicant is advised to follow the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” issued by DEP; and
- (b) there was no record of environmental complaint against the Site for the past three years.

Landscape

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

- (a) he has no objection to the application from the landscape planning point of view;
- (b) the Site is situated in an area of rural inland plains landscape character surrounded by temporary structures, houses, grassland, pond and scattered tree groups. As observed from the aerial photo taken in 2020, the Site is hard paved and vegetation is located along the site boundary. The proposed use is considered not entirely incompatible with the surrounding environment, therefore no significant adverse landscape impact arising from the proposed development is anticipated; and
- (c) given that there is existing vegetation buffer and pond to the southwest and north of the Site respectively, it is considered not necessary to impose a

landscape condition as the continued use of the temporary public vehicle park is unlikely to cause further significant adverse landscape impact.

Drainage

8.1.6 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, 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.

Fire Safety

8.1.7 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) and water supplies for firefighting being provided to the satisfaction of his department;
- (b) having considered the design / nature of the proposal, the applicant is advised to submit the relevant layout plans incorporated with the proposed FSIs to his department for approval. In preparing the submission, the applicant is 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 locations of the proposed FSIs to be installed and the access for emergency vehicles should be clearly indicated on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (cap. 123), detailed fire safety requirements will be formulated upon receipt of formal submission of the aforesaid plans. The applicant will need to subsequently provide such FSIs according to the approved proposal.

District Officer's Comments

8.1.8 Comment of the District Officer (North), Home Affairs Department (DO(N), HAD):

she has consulted the locals regarding the application. The Indigenous Inhabitant Representative of Kwan Tei, the Resident Representative of Kwan Tei and the

First Vice-chairman of the Fanling District Rural Committee supported the application for the reasons that the proposed use can relieve the problem of illegal roadside parking, enhance pedestrian road safety and improve the traffic condition of the area. The North District Council member of the subject constituency did not reply.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager/North, New Development Office, Civil Engineering and Development Department (PM/N, CEDD);
- (c) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD); and
- (d) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD).

9. Public Comments Received During Statutory Publication Period (Appendix IV)

On 15.12.2020, the application was published for public inspection. During the statutory public inspection period, two public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Another comment from an individual objects to the application mainly on the considerations of the potential environmental impacts to the pond adjacent to the Site; continuing the applied use after the previous planning approval expired; and not in line with planning intention of “AGR” zone.

10. Planning Considerations and Assessments

- 10.1 The application is for a proposed temporary public vehicle park for private cars 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 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 agricultural point of view since the Site possesses potential for agricultural rehabilitation. 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.
- 10.2 The Site is located at the western fringe of Kwan Tei Village and surrounded mostly by village houses and fallow / active agricultural land. The proposed development is **not** considered not entirely incompatible with the surrounding land uses which are predominantly temporary structures, village houses, fallow / active agricultural land, pond and scattered tree groups (**Plans A-2 and A-3**). Since significant adverse impacts on existing landscape resources arising from the proposed development is not anticipated, CTP/UD&L, PlanD has no objection to the application from landscape planning perspective.
- 10.3 The Site is the subject of a previous application (No. A/NE-LYT/568) for the same use submitted by the same applicant as the current application. The application was approved with conditions by the Committee on 7.8.2015 mainly on the considerations that 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 and the development would unlikely cause any significant adverse traffic, drainage, environmental and landscape impacts. All approval conditions had been complied with and the planning permission had lapsed on 8.8.2018. Compared with the previous application, the major development parameters, including the site area, number of parking spaces and layout, remain unchanged. There is no major change in the planning circumstances since the last planning approval.

- 10.4 C for T considered that the proposed use and the number of parking spaces under the current application are same as the previous application No. A/NE-LYT/568, he has no objection to the application. DEP has no objection to the application as the Site will not involve parking of heavy goods vehicle nor container truck, but advises 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 impacts should the application be approved by the Board. Other relevant Government departments consulted, including CE/MN, DSD, CE/C of WSD and D of FS, have no adverse comment on or no objection to the application.
- 10.5 There is one similar application for temporary public vehicle park (No. A/NE-LYT/718) within the same “AGR” zone to the immediate west to the Site providing 63 parking spaces for private vehicles and / or light goods vehicles. The application was rejected by the Committee on 6.3.2020 mainly on the ground that the applicant failed to demonstrate that the development would not cause adverse traffic impact on the surrounding areas. It is considered that the planning circumstances of the current application are different from the rejected application in that C for T has no objection to the current application.
- 10.6 Regarding the adverse public comment objecting to the application as detailed in paragraph 9 above, Government departments’ comments and planning assessments above are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account local comment conveyed by DO (N) of HAD and public comment as detailed in paragraphs 8.1.8 and 9 above, the Planning Department has no objection to the application.
- 11.2 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 three years until 5.2.2024. The following conditions of approval and advisory clauses are also 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 the Site at any time during the planning approval period;
- (b) only private cars 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) a notice should be posted at a prominent location of the Site to indicate that only private cars, 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) the boundary fence on the Site should be maintained at all times during the planning approval period;
- (e) the submission of drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 5.8.2021;
- (f) in relation to (e) 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 5.11.2021;
- (g) the submission of proposals for water supplies for fire-fighting 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 5.8.2021;
- (h) in relation to (g) above, the provision of water supplies for fire-fighting 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 5.11.2021;
- (i) if any of the above planning conditions (a), (b), (c) or (d) 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
- (j) if any of the above planning conditions (e), (f), (g) or (h) 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**.

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

the development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good 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, even on a temporary basis.

12. Decision Sought

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

12.2 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.

12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

13. Attachments

Appendix I	Application Form with attachments received on 7.12.2020
Appendix Ia	Supplementary Planning statement
Appendix Ib	Supplementary Information received on 14.12.2021
Appendix Ic	Further Information received on 18.1.2021
Appendix II	Previous Application
Appendix III	Similar s.16 Application within same “AGR” zone in the vicinity of the Site in the Lung Yeuk Tau and Kwan Tei South area
Appendix IV	Public Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a & A-4b	Site Photos

**PLANNING DEPARTMENT
FEBURARY 2021**