

REVIEW OF APPLICATION NO. A/SK-SKT/20
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

**Proposed Temporary Minor Relaxation of Gross Floor Area Restriction
for a Period of 3 Years to Enable the Permitted Shop and Services Use
at 1A Chui Tong Road, Sai Kung**

1. Background

- 1.1 On 9.5.2018, the applicant, Albury Garden Investment Limited represented by Townland Consultants Limited, sought planning permission for the proposed temporary relaxation of Gross Floor Area (GFA) restriction for a period of 3 years to enable conversion of existing public vehicle park to shop and services use at the Site. The Site falls within an area zoned “Other Specified Uses” (“OU”) annotated “Commercial Development (with Multi-storey Vehicle Park)” on the approved Sai Kung Town OZP No. S/SK-SKT/6 (**Plan R-1**). According to the Notes of the OZP for “OU” annotated “Commercial Development (with Multi-storey Vehicle Park)” zone, ‘Shop and Services’ use is always permitted. Development within this zone is also subject to a maximum GFA of 23,722m², of which not less than 17,396m² shall be provided for ‘Public Vehicle Park’, and a maximum building height (BH) of 10 storeys (excluding basements). Based on the individual merits of a development or redevelopment proposal, minor relaxation of the GFA/BH restrictions may be considered by the Board.
- 1.2 The Site is currently occupied by a 10-storey commercial development with public vehicle park for private cars, light goods vehicles (LGVs), heavy goods vehicles (HGVs) and coaches on G/F, 1/F, 2/F, 5/F to 9/F and R/F. The applicant proposes temporary conversion of 8/F and 9/F of the development from public vehicle park to ‘Shop and Services’ use and close the public vehicle park on R/F. A total of 94 LGV parking spaces, 22 HGV parking spaces and 19 coach parking spaces on G/F to 2/F and 5/F to 7/F are proposed to be removed to make space for ancillary parking facilities of the new ‘Shop and Services’ use and for reprovisioning of parking spaces for private cars.
- 1.3 According to the applicant, the proposed conversion will not involve any change in building bulk of the development. The proposal will result in a total GFA of 24,025.561m² with 13,374.572m² for public vehicle park. In comparison with the GFA restriction on the OZP, the proposed total GFA increases by 303.561m² (+1.28%) with GFA for public vehicle park reduces by 4,021.428m² (-23.12%).
- 1.4 On 22.3.2019, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application for the reason that no information is provided in the application to demonstrate any planning merit for the proposed relaxation of GFA restrictions which would result in reduction in the provision of public vehicle park in the area.

1.5 For Members' reference, the following documents are attached:

- (a) RNTPC Paper No. A/SK-SKT/20C (Annex A)
- (b) Extract of minutes of the RNTPC Meeting held on 22.3.2019 (Annex B)
- (c) Secretary of the Board's letter dated 12.4.2019 (Annex C)

2. **Application for Review**

On 23.4.2019, the applicant applied, under section 17(1) of the Ordinance, for a review of the RNTPC's decision to reject the application (**Annex D**). The applicant has not submitted other document in support to the review application.

3. **The Section 16 Application**

The Site and Its Surrounding Areas (Plans R-1 to R-4c)

3.1 The situation of the Site and its surrounding areas at the time of consideration of the s.16 application by the RNTPC is described in paragraph 6 of **Annex A**. There has been no major change in the situation of the Site and the surrounding areas which are recapitulated as follows.

- (a) The Site is:
 - (i) occupied by a multi-storey commercial development with public vehicle park named Centro;
 - (ii) abutting Hiram's Highway, Chui Tong Road and Fui Yiu Lane; and
 - (iii) falling within the consultation zone of Pak Kong Water Treatment Works (PKWTW), which is a Potentially Hazardous Installation (PHI).
- (b) The surrounding areas have the following characteristics:
 - (i) Sai Kung Town centre is about 500m to the northeast;
 - (ii) to its north across Hiram's Highway are low-rise residential developments within the "Residential (Group D)" ("R(D)") zone;
 - (iii) to its immediate east is the village houses cluster of Fui Yiu Ha. To the further east is the Sai Kung Old Town occupied by village houses with commercial uses including restaurants and retail shops on the ground floors;
 - (iv) to its south is an existing 8 to 13-storeys residential development named Lakeside Garden; and
 - (v) to its southwest across Chui Tong Road are five existing industrial buildings falling within the same "Residential (Group E)1" ("R(E)1") zone. Planning permissions have been granted for redevelopment of three

of the industrial buildings into residential use under applications No. A/SK-SKT/10 and 14.

Planning Intention

- 3.2 There has been no change in planning intention of the “OU” annotated “Commercial Development (with Multi-storey Vehicle Park)” zone mentioned in paragraph 7 of **Annex A** which is recapitulated below:

The “OU” annotated “Commercial Development (with Multi-storey Vehicle Park)” zone is intended for commercial and multi-storey vehicle parking uses.

Previous and Similar Application

- 3.3 There is no previous application at the Site and no similar application in the vicinity of the Site.

4. Comments from Relevant Government Departments

- 4.1 Comments on the s.16 application made by relevant government departments are stated in paragraph 8 of **Annex A**.
- 4.2 For the review application, relevant government departments have been further consulted and their comments are summarised as follows:

Traffic

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

- (a) he does not support the application;
- (b) the applicant mentions about the low occupancy of the parking spaces which does not directly reflect the parking demand in the district. It is observed that the adjacent car parks and on-street parking spaces are often fully occupied especially at weekends or public holidays. In addition, he has been receiving requests from various parties for providing more parking spaces in Sai Kung;
- (c) contrary to applicant’s allegation that the car park is remote from town centre, the car park is actually within walking distance from the town centre and places of attractions in the district;
- (d) the applicant concludes in the TIA submitted in May 2018 (**Appendix Ia of Annex A**) that the traffic generation has no adverse impact on the local road network. Nevertheless, Transport Department (TD) reiterates that there is a shortage of parking spaces for commercial vehicles in the territory. The proposed reduction of parking spaces for LGVs/HGVs and coaches does not tally with the Government’s current policy in according priority of parking spaces to commercial vehicles;

- (e) he has reservation on the statement that the applicant has provided sufficient evidence that the public is choosing not to use the commercial parking available at Centro (**Appendix Ic of Annex A**):
- according to the inspection on 9.5.2019, the parking spaces for HGV and coach on the 1st floor of Centro were used for private cars. Therefore there is great doubt on whether the owner of Centro fulfils his responsibility in providing parking spaces for commercial vehicles under the lease requirements;
 - there is no clear signage about the availability of parking spaces for commercial vehicles at Centro. The applicant should consider providing more signage for public's awareness of the carpark at Centro;
 - according to the Traffic Study Final Report by the applicant in May 2018 (**Appendix Ia of Annex A**), the utilization survey was carried out when the said reduction of parking charge and promotion had not yet been implemented at Centro. The quoted monthly parking charge for LGV, HGV and coach at that time were \$2650 to \$3500, \$5250 to \$5800 and \$5750 to \$6500 respectively which are in general higher than the market price;
 - there are public comments stating that Centro does not accept new application of monthly parking and that the monthly parking charge is more than \$5000;
- (f) according to his observation on a typical Sunday, the observed illegally parked vehicles at Sai Kung Town were 223 no. of private car, 9 no. of LGV, 29 no. of Medium/HGV and 1 no. of coach. Utilization of the subject carpark would be increased if proper enforcement action is taken in future;
- (g) the extract of Legislative Council Paper No. CB(4)326/17-18(01) quoted in the responses-to-comments (**Appendix Ic of Annex A**) is from paragraph 10 of the paper and in relation to private car park shortage. According to the paper, there is a shortage of parking spaces for commercial vehicles;
- (h) considering the seriousness of illegal parking of various types of vehicles particularly at weekends and holidays, the area of carpark should not be sacrificed for additional shop and services. The applicant may consider and apply for converting some parking spaces for use by private cars if sufficient and genuine justifications on the utilization of parking spaces are given;
- (i) the car park near Mei Yu Street is short-term nature and does not offer coach parking. He is not aware of any planned development for a new public vehicle park at that site for the time being; and
- (j) although the applicant has responded that the proposed development is only on a temporary basis, such type of development, if permitted, will set an undesirable precedent case for similar applications in the

future. The resulting cumulative adverse impact on the parking spaces for commercial vehicles in the territory could be substantial.

- 4.3 The following government departments have no further comment on the review application and maintain their previous comments on the s.16 application as recapitulated below:

Land Administration

- 4.3.1 Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) the Site falls within Lot 1140 in D.D. 215, which has a site area of about 3,163m² and is held under the Conditions of Sale dated 18.6.1998 and registered in the Land Registry as New Grant No. 9329 (“the New Grant”). The New Grant contains, inter alia, the following conditions:
- (i) the lot is restricted to be used for non-industrial (excluding residential, hotel, service apartment, petrol filling station and godown) purposes;
 - (ii) the purchaser shall not erect, construct or maintain upon the lot any building or buildings other than a building or buildings comprising a multi-storey vehicle park. The purchaser may in addition to but not in substitution of the multi-storey vehicle park, erect, construct and maintain upon the lot accommodation for non-industrial (excluding residential, hotel, service apartment, petrol filling station and godown) purposes;
 - (iii) the multi-storey vehicle park shall contain spaces for the parking of not less than 350 motor vehicles licensed under the Road Traffic Ordinance. There shall be provided within the multi-storey vehicle park:
 - not less than 200 parking spaces for the parking of licensed private car, light buses and taxi;
 - not less than 100 parking spaces for the parking of licensed light goods vehicles;
 - not less than 50 parking spaces for the parking of licensed medium good vehicles, heavy goods vehicles, coaches or buses;
 - not less than 80% in respect of each of the parking spaces so provided shall be available for letting to the public at any time for parking on an hourly basis;
 - the total GFA of any building and building on the lot shall not be less than 14,233m² and shall not exceed 23,722m² provided that the total GFA of any building or buildings

erected or to be erected on the lot excluding the multi-storey vehicle park shall not exceed 6,326m²;

- any building on the lot shall not exceed 10 storeys including any floor or space below the level of the ground;
 - no part of any building or other structure on the lot shall exceed a height of 42 metres above the mean formation level on which it stands, save the machine rooms, air-conditioning units, water tanks stairhoods and similar roof-top structures may be erected or places on the roof of the building subject to prior written approval of the Director of Lands; and
- (b) the conversion proposal under the planning application is in breach of lease conditions of the New Grant, in particular the GFA restriction and the provision requirement of the multi-storey vehicle park. If the planning application is approved by the Board, the owner of the lot will need to apply to DLO/SK for a temporary waiver to effect the proposal. However, there is no guarantee that such temporary waiver would be approved by the Government. Such application, if eventually approved, would be subject to such terms and conditions including payment of a waiver fee and an administrative fee as the Government considers appropriate.

Environment

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

he has no comment from the environmental protection perspective.

Landscape

4.3.3 Comments of the Chief Town Planner/Urban Design & Landscape, Planning Department:

the application involves conversion of internal use for the temporary relaxation of GFA restriction, significant landscape impact arising from the application is not envisaged.

Sewerage

4.3.4 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

he has no further comment on the revised SIA (**Appendix Ib of Annex A**) from sewerage point of view.

4.3.5 Comments of the DEP:

the revised SIA (**Appendix Ib of Annex A**) has demonstrated no adverse sewerage impact to the existing public sewerage system and he has no objection to the application.

Building Matters

4.3.6 Comments of the Chief Building Surveyor/New Territories East 2 and Rail, Buildings Department (CBS/NTE2 & Rail, BD):

- (a) she has no in-principle objection to the planning application for temporary conversion under the Buildings Ordinance (“BO”) subject to the following comments:
 - (i) Authorized Person (AP) should be appointed to submit building plans to the Building Authority (BA) for approval;
 - (ii) Barrier Free Access and facilities including accessible lift and accessible toilets should be provided to the proposed temporary conversion under Building (Planning) Regulation (B(P)R) 72;
 - (iii) adequate provision of Means of Escape and sanitary fitments should be provided after the conversion. In particular, the existing required staircases serving the storeys above the ground storey should have a total discharge value of not less than the total occupant capacity of those storeys;
 - (iv) the existing premises on the application site intended to be used for Shop and Services is required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority, if applicable;
 - (v) applicant’s particular attention should be drawn to any additional loading implication resulting from the proposed change in use. Reference should be made to Code of Practice for Dead and Imposed Loads 2011;
- (b) noting that the proposed maximum GFA is well within the permissible PR under 1st Schedule of B(P)R, he has no particular comment under the BO on the GFA calculation of the proposal; and
- (c) detailed comments will be provided at building plan submission stage.

Fire Safety

4.3.7 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 and water supplies for fire fighting being provided to the satisfaction of Fire Services Department (FSD).

Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans; and

- (b) as no details of emergency vehicular access (EVA) have been provided, comments could not be offered by FSD at the present stage. Nevertheless, the applicant is advised to observe the requirements of EVA as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 which is administered by the Buildings Department.

Water Supply

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

- (a) he has no objection to the application; and
- (b) according to the applicant's FI at **Appendix Ic of Annex A**, the application does not necessitate new water supply facility.

4.4 The following government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) District Officer/Sai Kung, Home Affairs Department (DO/SK, HAD); and
- (c) Director of Electrical and Mechanical Services (DEMS).

5. Public Comments Received During Statutory Publication Period

- 5.1 On 3.5.2019, the review application was published for public inspection. During the first three weeks of the statutory public inspection periods, which ended on 24.5.2019, no public comment was received on the review application.
- 5.2 At the stage of s.16 application, 4 public comments objecting to the application were received. Details are in paragraph 9 of **Annex A**.

6. Planning Considerations and Assessments

- 6.1 The application is for a review of RNTPC's decision on 22.3.2019 to reject the subject application for temporary relaxation of GFA restriction for a period of 3 years to enable conversion of existing public vehicle park to shop and services use. The application was rejected mainly for the reason that no information is provided in the application to demonstrate any planning merit for the proposed relaxation of GFA restrictions which would result in reduction in the provision of public vehicle park in the area. The applicant has not submitted further information to substantiate the review application. There has been no material change in planning circumstances for the Site since the rejection of the application and the planning considerations and assessments as set out in paragraph 10 of **Annex A** remain valid.
- 6.2 At present, the development at the Site provides a total of 350 parking spaces for private cars, good vehicles and coaches. The applicant proposes to convert 8/F and

9/F of the development from public vehicle park to shop and services use and close the public vehicle park on R/F. A total of 94 LGV parking spaces, 22 HGV parking spaces and 19 coach parking spaces are proposed to be deleted. The Site falls within the “OU” annotated “Commercial Development (with Multi-storey Vehicle Park)” zone on the OZP. The planning intention of the said “OU” zone is for commercial and multi-storey vehicle parking uses. Development within this zone is subject to a maximum GFA of 23,722m², of which not less than 17,396m² shall be provided for ‘Public Vehicle Park’. According to the Explanatory Statement of the OZP, to provide design flexibility for innovative design adapted to the characteristics of the Site, minor relaxation of the GFA restriction may be considered by the Board.

- 6.3 The proposed temporary conversion would result in an increase of the total GFA of the development to 24,025.561m² (i.e. an increase of 303.561m² (+1.28%)), whereas the GFA for public vehicle park would be reduced to 13,374.572m² (i.e. a reduction of 4,021.428m² (-23.12%)) when compare with the GFA restriction stipulated on the OZP. While the proposal only involves internal conversion works at the existing building and ‘Shop and Services’ use is always permitted within the subject “OU” zone and such use is considered not incompatible with the surrounding area, no information is provided in the application to demonstrate any planning merit for the proposed relaxation of GFA restrictions which would result in reduction in the provision of public vehicle park in the area.
- 6.4 The Site is located at the junction of Hiram’s Highway and Chui Tong Road. It is within walking distance from Sai Kung Town Centre and other places of attraction in the area. The development of the Site is currently one of the major vehicle parking facilities in Sai Kung. C for T does not support to the application as the proposed reduction of parking spaces for goods vehicles and coaches does not tally with the Government’s policy in according priority of parking spaces to commercial vehicles. C for T advises that the adjacent car parks and on-street parking spaces are often fully occupied especially at weekends or public holidays. Besides, requests have been received from various parties for providing more parking spaces in Sai Kung. Considering the seriousness of illegal parking of various types of vehicles particularly at weekends and holidays, the area of carpark should not be sacrificed for additional shop and services uses.
- 6.5 Relevant departments including DEP, CE/MN, DSD, DEMS and CE/Construction, WSD have no objection to/comment on the application.
- 6.6 There was no public comment received on the review application.

7. Planning Department’s Views

- 7.1 Based on the assessments made in paragraph 6 and given that there is no change in the planning circumstances, the Planning Department maintains its previous view of not supporting the review application for the reason that no information is provided in the application to demonstrate any planning merit for the proposed relaxation of GFA restrictions which would result in reduction in the provision of public vehicle park in the area.
- 7.2 Alternatively, should the Board decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years from 12.7.2019 to 12.7.2022. The following conditions of approval and advisory clauses

are also suggested for Members' reference:

Approval Conditions

- (a) the design of public vehicle parking within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 12.1.2020;
- (b) in relation to (a) above, the provision of public vehicle parking within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 12.4.2020;
- (c) the submission of water supplies for firefighting and fire service installations proposals 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 12.1.2020;
- (d) in relation to (c) above, the implementation of water supplies for firefighting and fire service installations proposals 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 12.4.2020; and
- (e) if the above planning conditions 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

7.3 The recommended advisory clauses at **Annex E** are suggested for Members' reference.

8. Decision Sought

- 8.1 The Board is invited to consider the application for a review of the RNTPC's decision and decide whether to accede to the application.
- 8.2 Should the Board decide to approve the review application, Members are invited to consider the approval conditions and advisory clauses to be attached to the permission, and the date when the validity of the permission should expire.
- 8.3 Alternatively, should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

9. Attachments

Plan R-1	Location Plan
Plan R-2	Site Plan
Plan R-3	Aerial Photo
Plans R-4a to R-4c	Site Photos
Annex A	RNTPC Paper No. A/SK-SKT/20C
Annex B	Extract of Minutes of the 623 rd Meeting of RNTPC on 22.3.2019
Annex C	Secretary of the Board's letter dated 12.4.2019

Annex D
Annex E

Applicant representative's letter dated 23.4.2019
Advisory Clauses

PLANNING DEPARTMENT
JULY 2019