

RNTPC Paper No. A/YL-ST/549
For Consideration by
the Rural and New Town
Planning Committee
on 5.7.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/549

- Applicant** : TO Shun Hei
- Site** : Lot 97 (Part) in D.D. 99 and Lot 2208 S.B RP (Part) in D.D. 96, San Tin, Yuen Long
- Site Area** : About 1,047 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
- Zoning** : “Undetermined” (“U”)
- Application** : Proposed Temporary Public Vehicle Park (excluding Container Vehicle) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary public vehicle park (excluding container vehicle) for a period of 3 years (**Plan A-1**). According to the covering Notes of the OZP, all uses or developments falling within area zoned “U”, except those specified, require permission from the Town Planning Board (the Board). The Site is currently vacant and hard-paved.
- 1.2 As shown on the layout plan at **Drawing A-1**, the Site is accessible from Lok Ma Chau Road with its ingress/egress located at the north-eastern boundary of the Site. The major parameters of the application are as follows:

Applied use	Proposed Temporary Public Vehicle Park (excluding Container Vehicle) for a Period of 3 Years
Site area	About 1,047 m ²
No. of parking spaces	18 private car parking spaces
Operation hours	24 hours daily, Mondays to Sundays

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

- (a) Application Form received on 7.5.2019 (Appendix I)
- (b) Planning Statement Report (Appendix Ia)
- (c) Further Information (FI) dated 18.6.2019 and 26.6.2019 providing clarification on users of the proposed development and adjustment in site area with revised layout plan, and response to departmental comments (Appendix Ib)

2. **Justifications from the Applicant**

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

- (a) The Site falls within “U” zone on OZP which is reserved for the development of the Spur Line and the proposed Northern Link railway system. Approval of the proposed temporary development would not jeopardize the long term planning intention of land use in the area. It is not incompatible with the surrounding land uses which are mainly public vehicle parks.
- (b) A number of applications for similar uses in the same “U” zone were approved by the Board.
- (c) The proposed development could serve the parking demand of local community including residents in Ha Wan Tsuen as well as cross-boundary drivers. The trip generation is low.
- (d) The proposed development is small in scale, and drainage facilities would be provided on the Site. No additional traffic, drainage and environmental impacts will be anticipated.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the TPB Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

TPB Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C)

- 4.1 According to TPB PG-No. 12C, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows:
- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
 - (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. However, some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

TPB Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13E)

- 4.2 TPB PG-No.13E provides guidelines for open storage and port back-up uses. The site falls within Category 3 area under the guidelines. While the applied use is not for open storage and port back-up uses, the Guidelines has made special reference to cross-boundary car parking facilities in the San Tin Area. The following criteria are relevant:

Taking into account the increasing demand for cross-boundary car parking facilities, applications for cross-boundary parking facilities at suitable sites in San Tin area, particularly near the existing cross-boundary link in Lok Ma Chau may also be considered. Applications for such nature will be assessed on its own merits, including its nature and scale of the proposed use and the local circumstances, and subject to satisfactory demonstration that the proposed use would not have adverse environmental, traffic and infrastructural impacts on the surrounding areas, and each case will be considered on its individual merits.

5. Background

The Site is not subject to active planning enforcement action.

6. Previous Application

The Site is not the subject of any previous application.

7. Similar Applications

- 7.1 Since 2008, within the “U” zone on the OZP, there are 18 applications for similar temporary public vehicle park use, amongst which 17 were approved by the Committee between 2009 and 2019 mainly on consideration that the developments were not incompatible with the surrounding land uses and the concerns of Government departments could be addressed by imposing approval conditions; the applications were in line with relevant TPB Guidelines; and approval of the applications were in line with previous decisions of the Committee on similar applications within the same “U” zone. Of the 17 approved applications, 2 of them (application Nos. A/YL-ST/400 and 435) were subsequently revoked due to non-compliance with approval conditions.
- 7.2 The remaining similar application (No. A/YL-ST/417) was rejected by the Board on 10.5.2013 mainly on grounds that the development was not in line with the planning intention of “Green Belt” (“GB”) zone (as majority of the site (about 53%) was within “GB” zone), and TPB Guidelines Nos. 10 and 13E; the applicant failed to demonstrate that the development would not have adverse landscape, traffic and drainage impacts on the surrounding area; there were adverse comments from Government departments; approval of the application would set an undesirable precedent for other similar applications; and the cumulative effect of approving such similar applications would result in general degradation of the environment of the area.
- 7.3 Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

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

- 8.1 The Site is:
- (a) accessible at the northeast off Lok Ma Chau Road;
 - (b) located within the WBA; and
 - (c) currently vacant and hard-paved.
- 8.2 The surrounding areas mainly comprise of scattered residential dwellings, ponds, vehicle parks, stores and storage/open storage yards. Some storage/open storage yards and vehicle parks are suspected UD subject to enforcement action by the Planning Authority:
- (a) to its immediate north, northwest and southeast are ponds and residential dwellings;
 - (b) to its south, southeast and southwest are storage and open storage yards of vehicles and vehicle parts, vehicle parks, stores and some unused land;

- (c) to its further west and southwest are ponds and scattered residential dwellings; to its further northwest are some unused land and pond within “Conservation Area” (“CA”) zone; and
- (d) to its east across Lok Ma Chau Road are hill slopes, refuse collection point, pond, car park, open storage yard and some unused land within “GB” zone.

9. Planning Intention

The area zoned “U” is for the planning and development of the Spur Line and the proposed Northern Link railway system. Under the “U” zone, any developments or redevelopments, except those permitted under the covering Notes of the OZP, require planning permission from the Board so as to ensure that the environment would not be adversely affected and that infrastructure, Government, Institution or Community (GIC) facilities, open space would be adequately provided.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (b) The Site is accessible from Lok Ma Chau Road through Government land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should approval be given to the application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularity 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. No construction of New Territories Exempted Building(s) will be considered or allowed. 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.

Traffic

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

- (a) No further comment on the application and the provision of 18 parking spaces at the Site, and the swept path analysis submitted by the applicant.
- (b) Should the application be approved, the following condition should be incorporated:

No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The access arrangement should be commented by the Transport Department (TD).
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Lok Ma Chau Road. The relevant departments will provide their comments, if any.
- (c) Adequate drainage measures should be provided at the Site access to prevent surface water running from the Site to the nearby public roads/drains.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

The Site falls within the area of influence of the possible long term extension of the proposed Northern Link to Lok Ma Chau. He has no comment on the application from railway development viewpoint noting the temporary nature of the application.

10.1.5 Comments of the Commissioner of Police (C of P):

The applicant is reminded to adopt sufficient security measures at the Site and no obstruction caused to the vicinity would be tolerated.

Landscape

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

- (a) The Site, located to the west of Lok Ma Chau Road, falls within an area zoned “U” on the approved San Tin OZP No. S/YL-ST/8.
- (b) With reference to the aerial photos taken in 2018, the surrounding area of the Site is comprised of ponds, temporary structures, car parks and tree groups. The proposed use is considered not incompatible with existing landscape setting in the proximity.
- (c) According to their site visit conducted on 24.5.2019, the Site was fenced off and hard paved. No landscape resource was observed within the Site. As further significant adverse landscape impact arising from the proposed use is not anticipated, he has no objection to the application from the landscape planning perspective.
- (d) In view that there is no adequate space for meaningful landscape, should the application be approved by the Board, landscape condition in the planning permission is not recommended.

Environment

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

- (a) Based on the information provided by the applicant, the car park contains 18 private car spaces; and the car park is proposed for serving the local residents, including the residents living in the same lot. He has no adverse comment on the application.
- (b) The applicant is reminded that discharge of wastewater from the Site shall comply with the requirements stipulated in the Water Pollution Control Ordinance. The applicant should also follow the relevant mitigation measures listed in Annex 1 of the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, so as to minimize the water quality impact to the ponds adjacent to the Site and the noise nuisance to the nearby sensitive receivers.

Nature Conservation

10.1.8 Comments from Director of Agriculture, Fisheries and Conservation (DAFC):

Noting that the Site is paved, he has no adverse comments on the application. Nevertheless, the Site is adjacent to two ponds to the

northwest and southeast. Should the application be approved, the applicant is advised to adopt appropriate measures (e.g. erection of hoarding, provision of screen planting as far as practicable, proper discharge of surface run-off away from ponds) to avoid causing pollution or disturbance to the adjacent ponds during operation.

Fire Safety

10.1.9 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 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 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 FSIs to be installed should be clearly marked on the layout plans.

Building Matters

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

- (a) It is noted from the survey plan of the application that there are some existing structures within the Site. However, there is no proposed building/structure in the layout plan for the application. Though the current use(s) of the Site as revealed in the application is vacant, it is unknown whether demolition works of existing building/structure would be involved.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO).
- (c) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) Before any demolition works are to be carried out on the Site,

prior approval and consent of BD should be obtained. An Authorized Person (AP) should be appointed as the co-ordinator for any demolition works in accordance with the BO. Should the AP/RSE confirm the works fall into the Minor Works Control System (MWCS), then the applicant may proceed with the works under the MWCS. For details of the submission procedure under the MWCS, the applicant may wish to visit the website at www.bd.gov.hk.

Drainage

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

- (a) He has no objection in principle to the application from drainage operation and maintenance point of view.
- (b) The applicant shall submit a drainage submission to demonstrate how he will collect, convey and discharge rain water falling onto or flowing to his Site. A clear drainage plan showing full details of the existing drains and the proposed drains (e.g. cover and invert levels of pipes/catchpits/outfalls and ground levels justifying waterflow etc.) with supporting design calculations and charts should be included. (Guideline on preparation of the drainage proposal is available in DSD homepage at http://www.dsd.gov.hk/EN/Files/Technical_Manual/dsd_guideline/Drainage_Submission.pdf). The applicant is reminded that approval of the drainage proposal must be sought prior to the implementation of drainage works on Site.
- (c) After completion of the required drainage works, the applicant shall provide DSD for reference a set of record photographs showing the completed drainage works with corresponding photograph locations marked clearly on the approved drainage plan. DSD will inspect the completed drainage works jointly with the applicant with reference to the set of photographs.
- (d) The applicant shall ascertain that all existing flow paths would be properly intercepted and maintained without increasing the flooding risk of the adjacent areas.
- (e) The applicant is reminded that the proposed drainage works as well as the Site boundary should not cause encroachment upon areas outside his jurisdiction.
- (f) No public sewerage maintained by CE/MN, DSD is currently available for connection. For sewage disposal and treatment, agreement from DEP shall be obtained.

- (g) The applicant should consult DLO/YL, LandsD regarding all the proposed drainage works outside the Site boundary in order to ensure the unobstructed discharge from the Site in future.
- (h) All the proposed drainage facilities should be constructed and maintained by the applicant at his own cost. The applicant should ensure and keep all drainage facilities on Site under proper maintenance during occupancy of the Site.

District Officer's Comments

10.1.12 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

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

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

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

11. Public Comments Received During Statutory Publication Period

On 17.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 8.6.2019, 2 objecting comments were received from the members of the public raising concerns that the development would aggravate the traffic congestion and generate road safety issue, and casting doubt on the efficiency of land use.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary public vehicle park (excluding container vehicle) for a period of 3 years. The Site falls within "U" zone on the OZP for the Spur Line and the proposed Northern Link railway system. Noting the temporary nature of the application, CE/RD 2-2, RDO, HyD has no comment

on the application from railway development viewpoint. The applied use is considered not incompatible with the surrounding land uses which are predominantly vehicle parks, open storage yards and scattered residential dwellings. The applied use could meet some parking demand of local villagers/residents.

- 12.2 The Site falls within the WBA of the TPB PG-No.12C and the guidelines specify that planning applications for temporary uses are exempted from the requirement of EcoIA. DAFC has no adverse comment on the application as the Site is paved.
- 12.3 The application is in line with the TPB PG-No. 13E. The Site is located in the vicinity of the Lok Ma Chau Control Point, and complies with the Guidelines which mention that suitable sites in San Tin area may be considered for cross-boundary parking facilities based on individual merits. Apart from meeting some parking demand of local villagers/residents, the applied use could satisfy some of the demand for parking use for cross-boundary travellers.
- 12.4 Adverse environmental, traffic and infrastructural impacts on the surrounding areas are not anticipated. Concerned Government departments, including C for T, DEP, D of FS, CE/MN of DSD and CTP/UD&L of PlanD, have no objection to or no adverse comment on traffic, environmental, fire safety, drainage and landscape aspects respectively. The technical requirements from CE/MN of DSD and D of FS could be addressed by imposing the approval conditions recommended in paragraphs 13.2 (e) to (i) below. To mitigate potential environmental impacts on the surrounding area, approval conditions restricting the type of vehicles to access the Site and the activity on Site, and requiring the provision of boundary fencing are recommended in paragraph 13.2 (a) to (d) below. Non-compliance with any of the approval conditions would result in revocation of the planning permission and UD on-site would be subject to enforcement action by the Planning Authority. Besides, the applicant should be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.
- 12.5 Since 2008, the Committee has approved 17 applications for similar temporary public vehicle park use within the “U” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 There are two objecting public comments received raising concerns on traffic impact and road safety issue. The planning assessments and the departmental comments above are of relevance.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until

5.7.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from the Site at all times during the planning approval period;
- (b) no car washing and vehicle repair workshop/dismantling, repairing works involving metal cutting, drilling, hammering, paint spraying and oil/lubricant changing are allowed on the Site;
- (c) 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 the Site;
- (d) 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 5.1.2020;
- (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 5.1.2020;
- (f) in relation to (e) above, the implementation of the drainage proposal 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 5.4.2020;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 5.1.2020;
- (i) in relation to (h) above, the provision of fire service installations within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 5.4.2020;
- (j) if any of the above planning conditions (a), (b), (c) or (g) 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
- (k) if any of the above planning conditions (d), (e), (f), (h) or (i) 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**.

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

the applied use is not in line with the planning intention of the "U" zone which is for the Spur Line and the proposed Northern Link railway system. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 7.5.2019
Appendix Ia	Planning Statement Report
Appendix Ib	Further Information dated 18.6.2019 and 26.6.2019
Appendix II	Similar s.16 applications within the "U" zone on the approved San Tin Outline Zoning Plan No. S/YL-ST/8
Appendix III	Public Comments
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-4a & 4b Site Photos

**PLANNING DEPARTMENT
JULY 2019**