

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/KTN/44

<u>Applicant</u>	Ms. Wu San Jie represented by Metro Planning and Development Company Limited
<u>Site</u>	Lot 904 in D.D. 92 and Adjoining Government Land, Yin Kong, Sheung Shui, New Territories
<u>Site Area</u>	1,200 m ² (including 5 m ² of Government land)
<u>Lease</u>	Old Schedule lot held under the Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Kwu Tung North Outline Zoning Plan (OZP) No. S/KTN/2
<u>Zoning</u>	“Other Specified Uses” annotated “Business and Technology Park” (“OU(BTP)”), “Other Specified Uses” annotated “Amenity Area” (“OU(A)”) and area shown as ‘Road’
<u>Application</u>	Temporary Coach, Container Tractor and Trailer Park for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary coach, container tractor and trailer park at the application site (the Site) for a period of 3 years. The Site falls within an area zoned “OU(BTP)”, “OU(A)” and an area shown as ‘Road’ on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). According to the Notes of the OZP, temporary use not exceeding a period of 3 years in area zoned “OU(BTP)” or “OU(A)” or ‘Road’ area requires permission of the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is the subject of a previous planning permission No. A/KTN/23 approved by the Rural and New Town Planning Committee (the Committee) on 4.3.2016 for same use, but was revoked on 4.4.2018 due to non-compliance of approval condition relating to implementation of drainage proposal. The current application is submitted by a different applicant but for the same use. The Site is currently used for the applied use without valid planning permission.
- 1.2 According to the applicant’s submission, the applied development comprises 8 parking spaces for coach and container tractor/trailer (**Drawing A-2**). No structure

is proposed. The Site is accessible from the Castle Peak Road – Kwu Tung via the adjacent site (**Drawing A-1**). Vehicle manoeuvring space is provided within the Site. The operation hours are from 9:00 a.m. to 6:00 p.m., from Mondays to Saturdays, and no operation on Sundays and Public Holidays. The estimated traffic generated/attracted by the applied development at peak hours are 5 and 7.5 passenger car unit (pcu) per hour respectively. The applicant has submitted a drainage proposal and a landscape and tree preservation plan to support the application.

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

- (a) Application form with attachments received on 24.4.2018 **(Appendix I)**
- (b) Supplementary Planning Statement received on 24.4.2018 **(Appendix Ia)**
- (c) Supplementary information received on 24.4.2018 **(Appendix Ib)**
- (d) Further Information (FI) dated 25.5.2018 **(Appendix Ic)**
(accepted and exempted from publication and recounting requirements)
- (e) FI dated 31.5.2018 **(Appendix Id)**
(accepted and exempted from publication and recounting requirements)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices Ia** and **Id**. They are summarized as follows:

- (a) The Site is subject to a previous planning permission for the same use. Due to change of occupant, the new occupant submits a fresh application to the Board.
- (b) The applied development is a temporary use which would not jeopardize the planning intentions of “OU(BTP)”, “OU(A)” and ‘Road’ zones.
- (c) The applied development is not incompatible with the surrounding environment which are mainly occupied by similar uses such as vehicle repair workshops, factory and rural workshop.
- (d) The applied development is intended to receive the coach and container trailer/tractor to be inspected and repaired in the adjacent site which is under an approval planning application No. A/KTN/18¹. It is also intended for parking of coach and container trailer and tractor for cross-border traffic. The Site is close to the border so that it is an ideal location for the applied use.
- (e) The traffic generated by the applied development is insignificant. Adequate space for manoeuvring would be provided. No reversing of vehicle on the local roads would happen. The applied development would not aggravate traffic condition of adjacent area.

¹ Application No. A/KTN/18 for temporary coach and container trailer parking with ancillary vehicle repair workshop was approved with conditions on 18.9.2015 for 3 years until 18.9.2018.

- (f) The applied use would generate neither significant environmental nor noise disturbance to the residents in the area. Some environmental ameliorate and preventive measures have been proposed including hard paving of the access area at the site frontage and 5m strip of the area beyond the access gate to avoid any fugitive dust impact and restriction on the opening time to guarantee that the environmental condition would not be degraded because of the applied development. The existing trees will also be preserved.
- (g) Drainage proposal is submitted so as to provide relevant information to demonstrate that the Site would not generate adverse drainage impacts.

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

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

4. **Background**

The Site is not the subject of any active enforcement case. Investigation is underway to ascertain whether the current use of the Site constitutes an unauthorized development. Should there be sufficient evidence to prove that the current use of the Site is an unauthorized development under the Town Planning Ordinance, appropriate enforcement action will be taken.

5. **Town Planning Board Guidelines**

The Site falls within Category 3 area under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13E) promulgated on 17.10.2008. The relevant extract of the Guidelines is attached at **Appendix II**.

6. **Previous Application**

The Site is involved in one previous application No. A/KTN/23 for temporary coach, container tractor and trailer park, the same as the applied use. Details of this application are summarized at **Appendix III** and its location is shown on **Plan A-1**. It was approved for 3 years with conditions by the Committee on 4.3.2016 mainly on grounds that the temporary use would not frustrate the long-term planning intention, was not incompatible with the existing surrounding land uses and would unlikely have significant adverse impacts on the surrounding area. Approval conditions relating to fire services installation and landscape treatment as well as drainage proposal were complied with, but the remaining condition relating to implementation of drainage proposal had not been complied with. The approval was revoked on 4.4.2018. The current application is submitted by a different

applicant with the same site area and layout.

7. Similar Application

There is one similar application No. A/KTN/18, which is adjacent to the Site, for temporary coach and container trailer parking with ancillary vehicle repair workshop. Details of this application are summarized at **Appendix IV** and its location is shown on **Plan A-1**. It was approved for 3 years with conditions by the Committee on 18.9.2015 mainly on grounds that the temporary use would not frustrate the long-term planning intention, was not incompatible with the existing surrounding land uses and would unlikely have significant adverse impacts on the surrounding area. The Site was granted with previous planning approvals for similar use.

8. The Site and Its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3 and A-4)

8.1 The Site is:

- (a) flat and fenced off and currently used for the applied use; and
- (b) accessible from Castle Peak Road – Kwu Tung via the adjacent site.

8.2 The surrounding areas have the following characteristics:

- (a) to the north and north-east are a stone workshop, a temporary parking of coach, container trailer and tractor, a workshop and domestic structure, active agricultural land and some domestic structures;
- (b) to the east and south-east are active and fallow agricultural land, some domestic structures, logistic centres and a trucks park;
- (c) to the immediate south are a coach and container trailer parking with vehicle repair workshop (under planning permission No. A/KTN/18) and further south are Castle Peak Road – Kwu Tung and Fanling Highway; and
- (d) to the west are some domestic structures, a car park and Kwu Tung Road.

9. Planning Intentions

9.1 The planning intention of the “OU(BTP)” zone is primarily for medium-density development to provide a mix of commercial, office, design, research and development uses for promoting high technology business development.

9.2 The planning intention of the “OU(A)” zone is primarily for the provision of landscaping and planting to enhance the environment.

9.3 The area shown as ‘Road’ is intended for road development.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application and/or the public comment received are summarized as follows:

Land Administration

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

- (a) the Site comprises a private lot, namely Lot No. 904 in D.D. 92 and adjoining Government land. The lot is an Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access;
- (b) there are unauthorized structures erected on Lot No. 904 in D.D. 92 and the adjoining Government land within and adjoining the Site without prior approval from his office. The aforesaid structures are not acceptable under the Leases concerned and his office reserves the right to take necessary lease enforcement and land control actions against the aforesaid structures;
- (c) unauthorized occupation of the Government land within and adjoining the Site is detected. The applicant should cease occupation of the said portion of the Government land with demolition of the workshop and the related porch. His office reserves the right to take necessary land control actions against the irregularities. Meanwhile, applicant should make her own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement; and
- (d) as it is stated in the application materials that no structures would be erected on the Site, therefore, if the planning application is approved, the owner of the lot concerned shall ensure that all existing structures erected on the Site shall be demolished. Otherwise, it would be in breach of the Leases concerned and his office reserves the right to take necessary enforcement actions against any unauthorized structures and illegal occupation of Government land.

Traffic

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

- (a) he considers that the application can be tolerated from traffic engineering viewpoint based on the applicant's FI providing the width of ingress/egress and that vehicles can manoeuvre within the Site without reversing on the public road; and
- (b) the Site connects Castle Peak Road - Kwu Tung via a local village track/private land, which are not managed by his department. In this regard, the land status of the access leading to the Site should be checked with the lands authority. The management and maintenance

responsibilities of the access should also be clarified with the relevant lands and maintenance authorities accordingly.

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

he has no comment on the application. The vehicular access leading from Castle Peak Road to the Site is not maintained by HyD.

Future Development

10.1.4 Comments of the Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD):

he has no comment on the application from the project interface point of view. The Site falls within the Remaining Packages of Kwu Tung North New Development Area (KTN NDA) project.

Environment

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

the Site is in an area where no public sewer connection is available.

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

- (a) he does not support the application since the applied use is expected to generate traffic of heavy vehicles and there are domestic uses within 100m of the site boundary (the nearest domestic structures are to the immediate east of the Site). Environmental nuisance to nearby residents is anticipated;
- (b) there is no environmental complaint case related to the Site from January 2015 to March 2018; and
- (c) should the application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites'.

Landscape

10.1.7 Comments of the Chief Town Planner/Urban Design & Landscape, PlanD (CTP/UD&L, PlanD):

- (a) she has no objection to the application from the landscape planning perspective;
- (b) compared the aerial photo of 2016 to latest photo of 2017, there is no significant change in the rural landscape character where the Site is

located. It comprises of temporary structures, car parks, scattered tree groups and some farmlands. The applied use is not incompatible with the surrounding environment;

- (c) according to the site photos taken on 20.4.2018, the Site is used as a container tractor park. Existing trees, including a large and mature *Ficus microcarpa* (細葉榕) by the entrance and other trees surrounding the Site which were planted under previous approval condition, all in good condition. As there is no change in site layout as compared with previous application, adverse landscape impact arising from the applied use is not anticipated; and
- (d) should the application be approved, an approval condition requiring maintenance of all existing trees in good condition throughout the approval period is recommended.

Drainage

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

- (a) he has no objection in principle to the application from the public drainage point of view; and
- (b) should the application be approved, a condition requiring the submission and implementation of drainage proposal for the Site should be included to ensure that it will not cause adverse drainage impact to the adjacent areas. The general requirements in the drainage submission are at **Appendix VI**.

Building Matters

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

he has no objection to the application and his detailed comments are at **Appendix VI**.

Fire Safety

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

he has no in-principle objection to the application subject to fire service installations being provided to the satisfaction of his department.

District Officer's Comments

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

he has consulted the locals from 14.5.2018 to 25.5.2018. The North

District Council (NDC) members of the subject Constituency and the Resident Representatives (RRs) of Kwu Tung (North) and Kwu Tung (South) have no comment on the application. The Chairman of SSDRC, the Indigenous Inhabitant Representative (IIR) and the RR of Yin Kong objected to the application mainly on the grounds that:

- (a) there is noise nuisance to the nearby residents; and
- (b) heavy vehicle park use is not suitable in Castle Peak Road – Kwu Tung which is very busy. The applied development would affect the daily lives of nearby residents.

10.2 The following Government departments have no objection/adverse comment on the application. Their comments, if any, are at **Appendix VI**:

- (a) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Commissioner of Police (C of P);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (e) Director of Electrical and Mechanical Services (DEMS); and
- (f) Chief Estate Surveyor/Acquisition, Lands Department (CES/A, LandsD).

11. Public Comments Received During Statutory Publication Period

On 4.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 25.5.2018, 2 public comments from general public were received (**Appendices Va** and **Vb**). They both indicate no comment on the application.

12. Planning Considerations and Assessments

12.1 The Site falls within Category 3 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant:

Category 3 areas: within these areas, 'existing use' and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications would normally not be favorably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions.

12.2 The application is for temporary coach, container tractor and trailer park for a period

of 3 years. The Site falls within an area zoned “OU(BTP)” and “OU(A)” and an area shown as ‘Road’ on the approved Kwu Tung North OZP No. S/KTN/2 (**Plan A-1**). The applied use is not in line with the planning intention of the above zonings which are mainly for Business and Technology Park, amenity or road use under the KTN NDA development. However, the Site falls within the Remaining Packages of KTN NDA project. PM/N, CEDD has no objection to the application in relation to the implementation of the NDA. In view of the above, approval of the application for 3 years would not jeopardize the long-term development of the Site.

- 12.3 The applied use is not incompatible with the existing surrounding land uses which comprises mainly stone workshop, logistic centres, trucks park, coach and container trailer parking with vehicle repair workshop intermixed with some domestic structures. To its south is a temporary coach and container trailer parking with vehicle repair workshop approved under planning permission No. A/KTN/18.
- 12.4 The application is generally complied with the TPB PG-No. 13E in that the Site is the subject of a previous approval (application No. A/KTN/23) for the applied use for 3 years approved with conditions by the Committee on 4.3.2016. Concerned Government departments except DEP have no objection to the application. C for T considers that the application can be tolerated from traffic engineering viewpoint. CE/MN, DSD and CTP/UD&L of PlanD have no adverse comment on/no objection to the application from drainage and landscape aspects. Although DEP does not support the application as the applied use is expected to generate environmental nuisance to residents in the vicinity of the Site, no environmental complaint was received in the past three years. The concern of DEP on possible environmental nuisance to surrounding areas could be addressed through the incorporation of approval conditions restricting the operating hours and days and paving of the Site in paragraph 13.2 (a), (b) and (d) below. Any non-compliance with the approval conditions will result in revocation of the planning permission. Besides, the applicant would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP in order to minimize any possible environmental nuisances.
- 12.5 The Site is involved in one previous application (**Plan A-1**) for temporary coach, container tractor and trailer park which was approved by the Committee on 4.3.2016 mainly on considerations that the applied use would not frustrate the long-term planning intention, was not incompatible with the surrounding land uses, and unlikely have significant adverse impacts on the surrounding area. The applicant of the previous application complied with most of the approval conditions except the implementation of drainage proposal. The planning permission was revoked on 4.4.2018. The applicant of the current application is different from the previous application. According to the current applicant, due to change of occupant of the Site, a fresh application is submitted. The applicant has submitted drainage proposal to support the application, and proposed to preserve existing trees on the Site. Hence, sympathetic consideration could be given to the current application.
- 12.6 There are 5 local comments conveyed by DO(N) and 2 public comments. Apart from 2 local objections conveyed by DO(N), other comments indicated no comment on the application (paragraphs 10.1.11 and 11 refer). The 2 objecting comments are mainly on the grounds that there is noise nuisance to the residents and villagers; and heavy vehicle park use is not suitable in Castle Peak Road – Kwu Tung. Relevant

Government departments' comments and planning considerations set out in paragraphs 12.1 to 12.4 above are relevant.

13. Planning Department's Views

13.1 Based on the assessments made in paragraph 12 and having taken into account the local views and public comments in paragraphs 10.1.11 and 11, the Planning Department considers that the temporary coach, container tractor and trailer park could be tolerated for a period of 3 years.

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 15.6.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the existing trees on the site shall be maintained at all times during the planning approval period;
- (d) the paving of the vehicular access area of the application site, as proposed by the applicant, within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 15.12.2018;
- (e) the submission of proposal for fire service installations and water supplies for fire-fighting 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 15.12.2018;
- (f) in relation to (e) above, the implementation of proposal for fire service installations and water supplies for fire-fighting 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 15.3.2019;
- (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 15.12.2018;
- (h) in relation to (g) above, the implementation of drainage proposal with 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.3.2019;
- (i) if any of the above planning conditions (a), (b) or (c) is not complied with

during the planning approval period, the approved hereby given shall cease to have effect and shall be revoked without further notice; and

- (j) if any of the above planning conditions (d), (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 attached at **Appendix VI**.

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

the applicant fails to demonstrate that the applied development would not generate adverse environmental impact on surrounding areas.

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 reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application form received on 24.4.2018
Appendix Ia	Supplementary Planning Statement received on 24.4.2018
Appendix Ib	Supplementary information received on 24.4.2018
Appendix Ic	FI dated 25.5.2018
Appendix Id	FI dated 31.5.2018
Appendix II	Extract of Town Planning Board Guidelines No. 13E
Appendix III	Previous Application
Appendix IV	Similar Application
Appendices Va and Vb	Public Comments
Appendix VI	Advisory Clauses
Drawing A-1	Site Plan
Drawing A-2	Landscape and Tree Preservation Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2018**