

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/HSK/47**

- Applicant** : Mr. TANG Ka Wai
- Site** : Lots 798 S.A RP (Part), 799 (Part), 800 (Part), 801 (Part), 802 (Part) and 804 RP (Part) in D.D. 125 and Adjoining Government Land, Ha Tsuen, Yuen Long
- Site Area** : 1,865 m<sup>2</sup> (about) (including about 141 m<sup>2</sup> of Government land (GL))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan (OZP) No. S/HSK/1
- Zoning** : "Residential (Group A) 3" ("R(A)3") (97.6%) and an area shown as "Road" (2.4%)
- Application** : Temporary Open Storage of Scrap Metal and Logistics Centre for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of scrap metal and logistics centre for a period of 3 years (**Plan A-1a**). The Site straddles mainly over "R(A)3" zone (97.6%) with a minor portion shown as "Road" (2.4%) on the Draft Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/1. According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years within the zones requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP.
- 1.2 The Site is involved in 8 previous applications, including Application Nos. A/YL-HT/11, 158, 248, 400, 573, 752, 885 and 933 for temporary container vehicle park and various open storage uses. The last application No. A/YL-HT/933 for the temporary open storage of scrap metal was approved by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board with conditions for a period of 3 years on 6.2.2015. All

approval conditions have been complied with.

1.3 The Site is directly abutting and accessible from Ping Ha Road. As shown on the layout plan at **Drawing A-2**, the ingress/egress is located at the south-western boundary of the Site. There are 3 temporary structures with a total floor area of 245m<sup>2</sup> including a two-storey (6m high) site office with a total floor area of 120m<sup>2</sup>, a single-storey (2.5m high) toilet with a floor area of 5m<sup>2</sup> and a single-storey (6m high) metal sun-shade with a floor area of 80m<sup>2</sup> for car-parking use. 2 parking spaces for private cars and 2 parking spaces for heavy goods vehicles are provided. According to the applicant, the operation hour of the Site is 8:00 am to 8:00 pm from Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The proposed tree preservation and landscape proposal and proposed drainage plan are at **Drawings A-3** and **A-4** respectively.

1.4 A comparison of the major development parameters of the current application and the previous applications is given in the following table:

<b>Major Development Parameters</b>	<b>Last Application (A/YL-HT/933) (a)</b>	<b>Current Approved Application (A/HSK/47) (b)</b>	<b>Difference (b) – (a)</b>
Applied Use	Temporary Open Storage of Scrap Metal for a Period of 3 Years	Temporary Open Storage of Scrap Metal and Logistics Centre for a Period of 3 Years	+ logistics centre
Site Area	about 1,865 m <sup>2</sup>	about 1,865 m <sup>2</sup>	-
No. of Structures	3	3	-
Total Floor Area	138 m <sup>2</sup>	245 m <sup>2</sup>	+107 m <sup>2</sup>
Uses of Structures	site office, toilet and electricity meter room	site office, toilet and sun-shade for car-parking	Delete meter room and additional structure of sun-shade for car-parking
No. of Parking Spaces	2 for private car 2 for heavy goods vehicle	2 for private car 2 for heavy goods vehicle	-

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

- (a) Application Form received on 28.12.2017 **(Appendix I)**
- (b) Supplementary planning statement with site plan, location plan, proposed layout plan, landscape and tree preservation plan, as-built drainage plan **(Appendix Ia)**
- (c) Further Information (F.I.) submitted on 17.1.2018 for **(Appendix Ib)** traffic flow matters

## **2. Justifications from the Applicant**

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

- (a) The Site falls within the “Category 1 areas” of the Board’s Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) in which open storage and port back-up uses are considered suitable.
- (b) The Site was the subject of seven approved applications since 1999. The approved uses of the last two planning permissions were same as the applied use of current application.
- (c) There are also similar developments adjacent to the Site, including open storage and port back-up uses. Most of them have been approved by the Board for temporary use. The proposed development is compatible with the surrounding environment.
- (d) The proposed development would not jeopardize the long term planning intention of the area.
- (e) All of the approval conditions of the previous application (A/YL-HT/933), including landscape, drainage, FSIs, environmental protection measures and fencing, have been complied with.

## **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 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 site notice and sending notice to Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Town Planning Board Guidelines**

On 17.10.2008, the Board promulgated the revised 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). The Site falls within Category 1 areas under the TPB PG-No. 13E. Relevant extracts of the Guidelines are at **Appendix II**.

## **5. Background**

The Site is not a subject of any active planning enforcement case, as the use is covered by a valid planning application No. A/YL-HT/933.

## 6. Previous Applications

- 6.1 The Site is involved in 8 previous applications Nos. A/YL-HT/118, 158, 248, 400, 573, 752, 885 and 933 for various open storage and container trailer and tractor park uses were approved by the Committee since 1999. Application Nos. A/YL-HT/118, 158, 752 and 885 were subsequently revoked due to non-compliance with approval conditions.
- 6.2 The last planning permission of Application No. A/YL-HT/933 for temporary open storage of scrap metal for a period of 3 years was approved by the Committee on 6.2.2015. All of the approval conditions including the submission of condition record of drainage facilities, provision of fire extinguishers, submission and implementation of fire services installation (FSIs) proposal, and the submission and implementation of landscape proposal, have been compiled with. Details of these applications are summarized at **Appendix III** and their location is shown on **Plan A-1b**.
- 6.3 Comparing with the last applications No. A/YL-HT/933, the current application is submitted by the same applicant for slightly different use (additional logistics centre use) with largely the same development parameters.

## 7. Similar Applications

There are 10 similar applications for temporary open storage uses and/or logistics centre use within the same “R(A)3” zone since the promulgated of the TPB PG-No. 13E on 17.10.2008. All of the similar applications were approved by the Committee. Two of these applications (Nos. A/YL-HT/939 and 990) were subsequently revoked due to non-compliance with approval conditions. Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1a**.

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

- 8.1 The Site is:
- (a) being used for temporary open storage of scrap metal under planning permission No. A/YL-HT/933 valid until 6.2.2018; and
  - (b) directly abutting and accessible from Ping Ha Road.
- 8.2 The surrounding areas have the following characteristics:
- (a) to its immediate east and northeast is a logistics centre and warehouse (storage of paper) under planning permission No. A/YL-HT/962;
  - (b) to its immediate south are a warehouse and parking of vehicles with workshop which is a suspected unauthorized development (UD) and two residential dwellings (with the nearest one being 20m away). To its further south are two vehicle repair workshops and an open storage yard for

recycling materials, which are suspected UDs. To its far southeast is a logistics centre under planning permission No. A/YL-HT/1078;

- (c) to its west and southwest across Ping Ha Road are an open storage yard for container vehicles under planning permission No. A/YL-HT/946, a warehouse, which is a suspected UD, and a vacant factory, which is a tolerated use under the Town Planning Ordinance; and
- (d) to its immediate north are an open storage yard of trucks under planning permission No. A/HSK/16 and a vehicle repair workshop, which is a suspected UD.

## 9. Planning Intention

The “R(A)3” zone is intended primarily for high-density residential development. Commercial uses are always permitted on the lowest two floors of a building excluding basements, or in a free-standing purpose-designed non-domestic building up to five storeys. It is subject to a maximum plot ratio (PR) of 5.5 and a maximum building height (BH) ranging from 120mPD to 160mPD.

## 10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application received 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 Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Government Land (GL) in the Site is covered by Short Term Tenancy (STT) No. 2818 for the purpose of “Temporary Open Storage of Scrap Metal”.
- (c) The private lots which are covered by Short Term Waivers (STWs) are listed below:

Lots Nos. (All in D.D. 125)	STW	Purpose
798 S.ARP	3112	Vehicle Repair Workshop” (Excluding Paint-spraying)
799	2213	
800	4581	Temporary Logistics Centre and Warehouse (Storage of Paper)
801	4582	

804 RP	4003	Temporary Open Storage of Scrap Metal
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- (d) The Site is accessible to Ping Ha Road through GL. Her office provides no maintenance works to the GL involved and does not guarantee any right-of-way.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should the application be approved, the STT/STW holders will need to apply to her office for modification of the STT/STW conditions if there are any irregularities on Site and the lot owner(s) of the lots without STW will need to apply to her office for permit the structures to be erected or regularize any irregularities on Site. Such application(s) will be considered by the Lands Department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) 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 the Lands Department.

### **Traffic**

#### 10.1.2 Comments of the Assistant Commissioner for Transport/ New Territories, Transport Department (AC for T/NT, TD):

- (a) He has no adverse comment to the application from traffic engineering point of view.
- (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicle is allowed to queue back to public road or reverse onto/from the public road.

#### 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 Transport Department (TD).
- (b) Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Ping Ha Road.

## **Environment**

### 10.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) He does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one about 20m to its south) (**Plan A-2**), and environmental nuisance is expected.
- (b) There was no substantiated environmental complaint concerning the Site received in the past 3 years.
- (c) Should the planning application be approved, the applicant will 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”.

## **Drainage**

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

- (a) He has no objection in principle to the proposed development from a drainage point of view.
- (b) According to the applicant’s submission, the existing drainage facilities which was implemented under an approved application no. A/YL-HT/933 will be maintained for the subject development.
- (c) Should the application be approved, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.

## **Building Matters**

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site and Buildings Department (BD) is not in a position to offer comments on their suitability for the use related to the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Building Ordinance (BO) and should not be designated for any proposed use under this application.

- (c) For UBW erected on leased land, enforcement action may be taken by the 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 new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively.
- (f) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage.

### **Fire Safety**

#### 10.1.7 Comments of Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction.
- (b) In consideration of the design/nature of the structures, 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.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. Attached good practice guidelines for open storage should be adhered to (**Appendix V**).
- (d) The following approval condition shall be added:  
  
"The provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of D of FS."
- (e) The applicant is advised to submit a valid fire certificate (FS 251) to his Department for approval.



- (f) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Long Term Development**

#### 10.1.8 Comments of Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD):

- (a) He has no objection to the application for temporary use for 3 years, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) However, the Site falls within the boundary of the Hung Shui Kiu New Development Area (HSK NDA). According to the Planning and Engineering Study (P&E Study) for the HSK NDA, to ensure timely and orderly implementation, the development of HSK NDA and relevant site formation and infrastructure works would be implemented in five stages, viz. Advance Works and Stage 1 to Stage 4. The lot(s) concerned falls within a site under Stage 4 Works stage. While the detailed implementation programme for the project is still being formulated, based on the P&E Study, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the HSK NDA expected in 2024.

### **Others**

#### 10.1.9 Comments of Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

### **District Officer's Comment**

10.1.10 Comment of District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the locals on the application.

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

- (a) Commissioner of Police (C of P);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC); and

## **11. Public Comments Received During Statutory Publication Period**

On 5.1.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 26.1.2018, no public comment was received.

## **12. Planning Considerations and Assessment**

12.1 The Site falls within Category 1 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant:

Category 1 areas: favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

12.2 The planning intention of the "R(A)3" zone is intended primarily for high-density residential development. Whilst the development is not in line with the planning intention of the "R(A)3" zone, the implementation programme for this part of NDA is still being formulated, and PM/NTW of CEDD has no objection to the applied use for 3 years on the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site. However, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for implementation of government projects.

12.3 The Site is located in an area which is predominantly occupied by open storage yards and logistics centre uses. The applied use is not incompatible with the surrounding land uses (**Plan A-2**).

- 12.4 The application is generally in line with TPB PG-No. 13E in that the Site falls within Category 1 areas which are considered suitable for open storage and port back-up uses; relevant proposals have been submitted to demonstrate that the proposed use would not generate adverse impacts; and the technical concerns of relevant Government departments could be addressed through the implementation of approval conditions.
- 12.5 There is no adverse comment on the application from concerned Government departments, except DEP. DEP does not support the application there are sensitive uses in vicinity (with the nearest residential dwelling is 20m to the south of the Site (**Plan A-2**)), and environmental nuisance is expected. However, there has been no substantial environmental complaint concerning the Site received in the past 3 years. To address the concerns on environmental aspect and the technical requirements of other concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact, and to keep the Site clean and tidy at all times.
- 12.6 The Committee has approved 8 previous applications for various open storage and vehicle park uses at the Site and 10 similar applications in the same “R(A)3” zone.
- 12.7 There is no public comment received on the application during the statutory publication period.

### **13. Planning Department’s Views**

- 13.1 Based on the assessment made in paragraph 12 above, the Planning Department considers that the temporary open storage of scrap metal and logistics centre 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 **9.2.2021**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval conditions

- (a) no operation from 8:00 p.m. to 8:00 a.m. on Mondays to Saturdays, 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) no cutting, dismantling, cleansing, repairing, and workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (f) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the landscape planting on the Site shall be maintained at all time during the planning approval period;
- (h) the submission of a condition record of the existing drainage facilities on site within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **9.5.2018**;
- (i) the provision of the fire extinguisher(s) and the submission of a valid fire certificate (FS 251) within 6 weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **23.3.2018**;
- (j) the submission of a 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 **9.8.2018**;
- (k) in relation to (j) above, the implementation of the fire service installations proposal 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 **9.11.2018**;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (m) if any of the above planning conditions (h), (i), (j) or (k) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (n) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are at **Appendix VI**.

- 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 "R(A)3" zone, which is intended primarily for high-density residential development. 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**

<b>Appendix I</b>	Application Form received on 28.12.2017
<b>Appendix Ia</b>	Supplementary planning statement with site plan, location plan, vehicular access plan, proposed layout plan, tree preservation and landscape plan, proposed drainage plan
<b>Appendix Ib</b>	Further Information submitted on 17.1.2018 for traffic flow matters
<b>Appendix II</b>	Relevant extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
<b>Appendix III</b>	Previous applications covering the Application Site
<b>Appendix IV</b>	Similar applications within the subject “R(A)3” zone on the Draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan No. S/HSK/1
<b>Appendix V</b>	Good Practice Guidelines for Open Storage issued by the Director of Fire Services
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Drawing A-3</b>	Proposed Landscape and Tree Preservation Plan
<b>Drawing A-4</b>	Proposed Drainage Plan
<b>Plan A-1a</b>	Location Plan with Similar Applications
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4b</b>	Site Photos

**PLANNING DEPARTMENT  
FEBRUARY 2018**