

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/104

- Applicant** : Mr. TO Chi Kin represented by Metro Planning & Development Company Limited
- Site** : Lots 2949 (Part), 2950 RP (Part) and 2956 (Part) in D.D. 129, Ha Tsuen, Yuen Long
- Site Area** : 500m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2 (currently in force)
[Draft HSK & HT OZP No. S/HSK/1 at the time of submission]
- Zoning** : “Government, Institution or Community” (“G/IC”)
[Restricted to maximum building height (BH) of 8 storeys]
- Application** : Temporary Warehouse for Storage of Vehicle Parts 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 warehouse use for storage of vehicle parts for a period of 3 years (**Plan A-1a**). The Site falls within “G/IC” zone on the approved HSK and HT OZP. 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 zone 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 related to 5 previous applications Nos. A/YL-HT/320, 467, 654, 816 and 979 for various open storage uses (**Plan A-1b**). The last application No. A/YL-HT/979 which covers the same extent of the Site and submitted by the same applicant for renewal of planning approval under application No. A/YL-HT/816 for temporary open storage of vehicle parts was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 6.11.2015 for a period of 3 years till 20.11.2018. The applicant has complied with all the approval conditions. The Site is currently being used for the applied use.
- 1.3 The Site is accessible from Lau Fau Shan Road via a local track (**Plan A-2**). As

shown on the layout plan at **Drawing A-2**, the ingress/egress is located at the northern boundary of the Site. A total of two 2-storey temporary structures (7m high) with a total floor area of 290m² are proposed for storage of vehicle parts within stacked up converted containers. A light goods vehicle loading/unloading space is also proposed. According to the applicant, the operation hours are from 8:00 a.m. to 7:00 p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays. No cleaning, repairing and dismantling work will be held on the Site. The proposed landscape and tree preservation plan and as-built drainage plan are at **Drawings A-3** and **A-4** respectively.

- 1.4 A comparison of the major development parameters of the last approved application and the current application is given in the following table:

Major Development Parameters	Last Approved Application (A/YL-HT/979) (a)	Current Application (A/HSK/104) (b)	Difference (b) – (a)
Applied Use	Renewal of Planning Approval under Application No. A/YL-HT/816 for Temporary Open Storage of Vehicle Parts	Temporary Warehouse for Storage of Vehicle Parts	Change from open storage to warehouse for the same storage purpose
No. of Structures	6	5	-1 (different in layout)
Total Floor area	195m ²	290m ²	+95m ²
No. of Loading/Unloading Bays	1 private car/light goods vehicle parking space 1 light goods vehicle loading/unloading space	1 light goods vehicle loading/unloading space	-1 private car/light goods vehicle parking space

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

- (a) Application Form received on 18.9.2018 (**Appendix I**)
- (b) Supplementary planning statement with vehicular access plan, proposed layout plan, proposed landscape and tree preservation plan and as-built drainage plan (**Appendix Ia**)

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 planning circumstance is similar to the date of last planning approval and compatible with the surrounding environment. Similar applications for port back-up

and open storage uses have been approved in the vicinity, such as A/YL-HT/1017, 1031, 1032, 1063 and A/HSK/50 and 59.

- (b) The Site has been the subject of a previous planning application No. A/YL-HT/979 for the same applied use. All of the approval conditions have been complied with.
- (c) The planning intention of the “G/IC” zone could not be realized within the coming 3 years since land resumption for the development of Hung Shui Kiu new town is yet to commence.
- (d) The Site falls within the “Category 1 areas” of the Town Planning Board’s Guidelines for Application for Open Storage and Port Back-Up Uses (TPB PG-No. 13E) which are considered suitable for open storage and port back-up uses.
- (e) There is a pressing demand for storage and logistics facilities in proximity to the Kong Sham Western Highway, Ha Tsuen is considered in general satisfaction for open storage use and port back-up activities as revealed by the study commissioned by the Government.
- (f) The proposed development would not generate significant impact to the surrounding environment. To minimize potential environmental impact, mitigation measures including peripheral tree planting, no dusty materials will be stored on site, no cleaning, repairing and dismantling works, provision of peripheral fencing and the operation hours is restricted to 8:00 a.m. to 7:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays are proposed.

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 a registered mail to Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

Since the use currently on site is still covered by a valid planning permission for storage use (No. A/YL-HT/979), follow up investigation will be taken upon expiry of the current planning permission if the subject application is not approved by the Committee.

5. Previous Applications

- 5.1 The Site is related to 5 previous applications No. A/YL-HT/320, 467, 654, 816 and 979 for various open storage uses submitted by different applicants. Details of these previous applications are summarized at **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Applications No. A/YL-HT/320 and 467 for temporary open storage of used air conditioners and metal wares submitted by another applicant were approved with conditions by the Committee on 5.12.2003 and 17.11.2006 for periods of 3 years.

- 5.3 Applications Nos. A/YL-HT/654 and 816 for temporary open storage of vehicle parts was approved for a period of 3 years by the Committee on 20.11.2009 and 9.11.2012 respectively. The last approval submitted by the same applicant was renewed for a period of 3 years till 20.11.2018 was approved with conditions by the Committee on 6.11.2015 under Application No. A/YL-HT/979 and all the approval conditions have been complied with.
- 5.4 Compared with the last approved application (No. A/YL-HT/979), the current application is for a different form of storage use (from open storage to warehouse of same goods).

6. Similar Application

There is no similar application within the same “G/IC” zone.

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

7.1 The Site is

- (a) accessible from Lau Fau Shan Road via a local track (**Plan A-2**); and
- (b) currently being used for the applied use.

7.2 The surrounding areas have the following characteristics:

- (a) predominately open storage/storage, logistics centre, parking of vehicles and vehicle repairing workshop uses;
- (b) to its immediate south is a cluster of temporary structures for residential use (the closest one being about 4m away) and to its further east across Lau Fau Shan Road is the village cluster of Sha Kong Wai and San Hing Tsuen;
- (c) there are logistics centres, open storage of scrap metal and parking of vehicles in the vicinity with valid planning approvals (Nos. A/YL-HT/1017, 1063, A/HSK/5 and 59, and A/YL-LFS/310); and
- (d) other open storage yards and vehicle repair workshop in the vicinity are suspected unauthorized developments (UDs), except a vehicle repair workshop to its immediate east which may be tolerated under the Town Planning Ordinance.

8. Planning Intention

The “G/IC” zone is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.

9. Comments from Relevant Government Departments

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

Land Administration

9.1.1 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 the prior approval of the Government.
- (b) The private land (PL) of Lot No. 2950 RP in D.D. 129 is partly covered by Short Term Waiver (STW) No. 2368 to permit structures for the purpose of “Vehicle Repair Workshop”.
- (c) The Site is accessible from Lau Fau Shan Road through PL only. His office does not guarantee any right-of-way.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should the application be approved, the lot owners will need to apply to his office to permit the structures to be erected or regularize any irregularity on site, if any. Besides, 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. Furthermore, the STW holder will need to apply to his office for modification of the STW conditions where appropriate. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such applications will be approved. If such applications are 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 LandsD.

Traffic

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

- (a) He has no adverse comments on the application from traffic engineering view point.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from the public roads.
- (c) The local track leading to the Site is not under TD’s purview. The applicant shall obtain consent of the owners/managing departments of

the local track for using it as the vehicular access to the Site.

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

- (a) The access arrangement should be commented by 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 Lau Fau Shan Road.

Environment

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

- (a) He does not support the application because there are sensitive uses in the vicinity of the Site (the closest one being about 4m away) (**Plan A-2**) and along the access road (Lau Fau Shan) and environmental nuisance is expected.
- (b) No substantiated environmental complaint pertaining to the Site has been received in the past three years.
- (c) Should the application be approved, the applicant is advised to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' ('COP').

Drainage

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

- (a) According to the applicant's submission, the existing drainage facilities which was implemented under an approved application No. A/YL-HT/979 will be maintained for the subject development. He has no objection in principle to the proposed development from drainage point of view.
- (b) 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

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

- (a) 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.

- (b) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (c) 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.
- (d) 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

9.1.7 Comments of Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (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.
- (d) 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

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

- (a) No objection to the proposed 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.

District Officer's Comments

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

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

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

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

10. Public Comments Received During Statutory Publication Period

On 28.9.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 19.10.2018, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The Site falls within area zoned "G/IC" on the approved HSK and HT OZP. The planning intention of the "G/IC" zone is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. Whilst the development is not in line with the planning intention of the "G/IC" 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.
- 11.2 The Site is located in an area which is predominately occupied by open storage yards, logistics centre, parking of vehicles and vehicle repairing workshop uses. The applied use therefore is not incompatible with the surrounding land uses (**Plan A-2**).
- 11.3 There is no adverse comment from concerned Government departments, except DEP. DEP does not support the application because there are sensitive uses in the

vicinity (the nearest residential structure being about 4m away), and environmental nuisance is expected (**Plan A-2**). However, there is no environmental complaint pertaining to the Site in the past three years. Furthermore, relevant approval conditions have been recommended in paragraph 12.2 to address the concerns on the possible environmental nuisances or the technical requirements of concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and the use on Site would be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' in order to minimize the possible environmental impacts on the nearby sensitive receivers.

- 11.4 The Committee has approved 5 previous applications for various open storage uses at the Site. The approval of the subject application is in line with the Committee's previous decisions (**Plan A-1b**).
- 11.5 There is no public comment received on the application during the statutory publication period.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11, the Planning Department considers that the proposed temporary warehouse for storage of vehicle parts could be tolerated for a period of 3 years.
- 12.2 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 **16.11.2021**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 8:00 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) no vehicle queuing back to public road and reverse onto/from the public road is allowed at any time during the planning approval period;
- (d) no cleaning, repairing and dismantling, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (e) the existing trees and landscape planting on the Site shall be maintained at all time during the planning approval period;
- (f) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (g) the existing drainage facilities shall be maintained at all times 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 the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **16.2.2019**;
- (i) 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 **16.5.2019**;
- (j) in relation to (i) 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 **16.8.2019**;
- (k) 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; and
- (l) if any of the above planning conditions (h), (i) or (j) 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 III**.

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

- (a) the applied use is not in line with the planning intention of the "G/IC" zone which is primarily for the provision of government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.
- (b) the applicant fails to demonstrate that the applied development would not have adverse environmental impact on the surrounding areas.

13. Decision Sought

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

13.2 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.

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 18.9.2018
Appendix Ia	Supplementary planning statement with vehicular access plan, proposed layout plan, proposed landscape and tree preservation plan and as-built drainage plan
Appendix II	Previous Applications covering the Application Site
Appendix III	Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Plan
Drawing A-4	As-built Drainage Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2018**