

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

APPLICATION NO. A/HSK/140

- Applicant** : Wah's Investment Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 597 RP (Part), 599 RP, 601 RP, 602 (Part), 637 RP (Part), 638 RP, 639 RP, 648 RP, 649 RP, 650, 651, 652 (Part) and 653 RP in D.D. 124 and adjoining Government Land, Ha Tsuen, Yuen Long
- Site Area** : 6,000 m² (about) (including about 140 m² of Government Land)
- 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
- Zoning** : "Commercial (3)" ("C(3)") (about 50.9%);
[Restricted to maximum plot ratio (PR) of 5 and maximum building height (BH) of 140mPD]

"Residential (Group A) 2" ("R(A)2") (about 23.7%); and
[Restricted to maximum plot ratio (PR) of 6 and maximum building height (BH) of 120mPD]

Area shown as 'Road' (about 25.4%)
- Application** : Temporary Warehouse for Storage of Exhibition Materials 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 for storage of exhibition materials for a period of 3 years. The Site straddles over "C(3)" (50.9%) and "R(A)2" (23.7%) zones and an area shown as 'Road' (25.4%) on the approved HSK and HT OZP No. S/HSK/2 (**Plan A-1**). According to the Notes of the OZP, there is no provision for 'Warehouse' use in "C(3)" and "R(A)2" zones. According to the covering Notes on the OZP, temporary use not exceeding a period of three years 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. In any area shown as 'Road' on the OZP, all uses or developments require planning permission from the Board. The Site is currently being used for warehouse for storage of exhibition materials without a valid planning permission.

- 1.2 The Site is related to a previous application No. A/YL-HT/8 for open storage of containers with repairing workshop approved with conditions for a period of 2.5 years by the Rural and New Territories Planning Committee (the Committee) on 22.3.1996.
- 1.3 The Site is accessible from Hung Chi Road via a local track and the ingress/egress point is located at the eastern part of the Site (**Drawing A-1 and Plan A-2**). As shown on the proposed layout plan at **Drawing A-1**, 6 temporary structures with a total floor area of about 4,922m² are proposed. These include a single-storey (12m high) warehouse for storage of exhibition materials, a single-storey (3m high) structure for toilet use, a single-storey structure (3m high) for guard room use, a two-storey (10m high) structure for site office use, a single-storey (5m high) rain shelter and a single-storey (5m high) water tank and pump room. One loading/unloading bay (11m x 3.5m) for medium/heavy goods vehicle is also proposed within the Site. The operation hours of the Site are from 8:00 a.m. to 8:00 p.m. and there will be no operation on Sundays and public holidays.
- 1.4 The major development parameters of the current application are summarized as follows:

Major Development Parameters	Current Submission No. A/HSK/140
Site Area	About 6,000m ² (including about 140 m ² of Government Land)
Applied Use	Proposed Temporary Warehouse for Storage of Exhibition Materials (3 years)
Maximum Building Height	About 12m
Total Floor Area	About 4,922m ²
No. of Loading/ Unloading Bay	1 for medium/heavy goods vehicle (11m x 3.5m)
Operation Hours	8:00 a.m. to 8:00 p.m. Monday to Saturday excluding Sundays and public holidays

- 1.5 In support of the application, the applicant has submitted the following document:
- (a) Application form received on 25.1.2019 **(Appendix I)**
 - (b) Supplementary planning statement with proposed layout plan, proposed landscape plan and proposed 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 in **Appendix Ia**. They can be summarized as follows:

- (a) The Site was previously zoned “Open Storage” (“OS”) purpose. The Site falls within the Category 1 Areas in accordance with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E), which is considered suitable for open storage and port back-up uses.

- (b) The Site is mainly zoned “R(A)2”, “C(3)” and ‘Road’ and land resumption for the development of Hung Shui Kiu New Development Area is yet to commence. Given the proposed development is temporary in nature, it would not jeopardize the long term planning intention of the Site which could not be realized within the coming 3 years.
- (c) There is a general shortage of land and strong demand for storage and logistics facilities in the area. Temporary approval for the subject application could relieve the pressing demands and create employment opportunity in Ha Tsuen area.
- (d) The proposed development is compatible with its surrounding areas, which is mainly occupied by open storage yards, logistics centres and warehouses. The proposed development is similar to those port back-up uses previously approved by the Board such as Application No. A/YL-HT/1075 to the north of the Site.
- (e) The proposed use will not cause adverse traffic impact on the local road network. Adequate maneuvering space will be provided within the Site. No vehicle is allowed to queue back to or reverse onto/from the public road.
- (f) The proposed development would not generate significant impact (environmental, noise and drainage) to the surrounding area and a number of environmental mitigation measures including provision of fencing and restrictions on operation hours to minimize potential environmental impact have been recommended.

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 by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

4.1 The Site was previously zoned “OS” on the then Ha Tsuen OZP No. S/YL-HT/10 before superseded by the current HSK & HT OZP. With reference to the aerial photo taken in 2013 (**Plan A-3b**), it appears that the two structures on the Site have already existed since then.

4.2 The storage use on the Site is not subject to any active planning enforcement case.

5. Previous Application

The Site is related to part of a previous application No. A/YL-HT/8 for open storage of containers with repairing workshop approved with conditions by the Committee on 22.3.1996 for a period of 2.5 years. Details of this application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Application

There is one similar application No. A/HSK/18 for proposed temporary warehouse use within the same “C(3)” and “R(A)2” zones on the OZP. The application was approved with conditions by the Committee on 13.10.2017 taking into consideration that the applied use was not incompatible with the surrounding uses and it would not generate adverse impacts. Particulars of the application and the decision of the Committee are summarized at **Appendix III** and its location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) currently being used as warehouse for storage of exhibition materials; and
- (b) accessible from Hung Chi Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to its north is a logistics centre under a valid planning permission No. A/YL-HT/1075 while to its immediate northwest is a warehouse of recycling material under a valid planning permission No. A/HSK/18 (**Plan A-2**);
- (b) to its east is a local track and Hung Tin Road;
- (c) to its immediate south is the West Rail Emergency Access Point. To its further south is a yard for parking of vehicle and coach repair workshop; and
- (d) to its west are various open storage yards for parking of vehicles, vehicle repair workshops and open storage of construction machinery while to its immediate southwest is a logistics centre.

8. Planning Intention

8.1 The Site straddles over “C(3)” & “R(A)2” zones and an area shown as ‘Road’ on the approved HSK and HT OZP. The planning intention of the “C(3)” zone is primarily for commercial developments, which may include uses such as office, shop, services, place of entertainment, eating place and hotel, functioning as territorial business/financial centre and regional or district commercial/shopping centre. These areas are usually major employment nodes.

8.2 The planning intention of the “R(A)2” zone is primarily for high-density residential developments. 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.

8.3 The Site straddles over “Commercial” (“C”) and “Special Residential” (“RS”) zones and an area shown as ‘Road’ on the adopted HSK and HT ODP No. D/HSK/1.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot 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) No permission is given for occupation of Government Land (GL) (about 140m² subject to verification) included in the Site. Attention is drawn to the fact that the act of occupation of GL without Government's prior approval is not allowed.
- (c) The Site is accessible from Hung Chi Road through GL. His office provides no maintenance works to the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) Lot No. 637 RP in D.D.124 is covered by Short Term Wavier (STW) No. 4664 for the purposes of Temporary Cargo Handling and Forwarding Facility.
- (e) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should the application be approved, the STW holders will need to apply to his office for modification of the STW conditions where appropriate and the lot owner(s) of the lot without STW will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on site, if any. The applicant has to either exclude the GL from the site or apply for a formal approval prior to the actual occupation of the GL. 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. Application(s) 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 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 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 comment on the planning application from traffic engineering viewpoint.
 - (b) Sufficient manoeuvring spaces shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from 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.
- 9.1.4 Comments of the Chief Engineer/Railway Development Division 2-2, Highways Department (CE/RD 2-2, HyD):
- (a) The Site falls within the protection boundary of the West Rail Line. As the operation of the existing railway system is not under the jurisdiction of his office, he has no comment on the application from railway development viewpoint.
 - (b) However, with reference to the procedures in PNAP APP-24, MTRCL should be consulted with respect to operation, maintenance, safety and future construction of the existing railway network.
- 9.1.5 Comments of the MTR Corporation Limited (MTRCL):
- (a) The Site falls within the West Rail protection boundary. All works shall comply with the requirements as stated in the Environment, Transport and Works Bureau Technical Circular (Works) No. 33/2003 or PNAP APP-24 whichever is applicable for MTR protection.
 - (b) For any works that involve lifting appliances adopted on site, they shall be positioned as far as possible away from the West Rail tracks/ structures. MTRCL's prior agreement on the locations of these lifting appliances before their operations on site shall be sought.
 - (c) The construction proposal shall be submitted to MTRCL for comment and prior agreement before commencement of any works on site, which shall include (i) method statements, together with an indication of the tools and plants to be adopted; (ii) programme of work; and (iii) emergency contact list.

Environment

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

- (a) No pollution complaint pertaining to the Site has been received in the past 3 years.
- (b) Should the application be approved, the applicant is 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

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

- (a) He has no objection in principle to the application from a drainage point of view.
- (b) Should the application be approved, he would suggest that a condition should be stipulated requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to his satisfaction.
- (c) Detailed comments on the submitted drainage proposal are at item (j) of the Advisory Clauses at **Appendix V**.

Landscaping

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

- (a) With reference to the site photos dated 5.3.2019, it is observed that the Site is hard paved and more than half of the Site is occupied by a large existing temporary structure. In view of other similar approved planning application (i.e. A/HSK/18 for temporary warehouse use) in the vicinity (**Plan A-2**), significant change to the landscape character arising from the application is not envisaged.
- (b) Should the application be approved, in consideration that the Site is not facing any prominent public frontage and not situated in a landscape sensitive zoning, it is not necessary to impose a landscape condition.

Building Matters

9.1.9 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 proposed in 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 the 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 UBWs. An Authorized Person 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 (B(P)R) 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 B(P)R at the building plan submission stage.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations 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.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs are 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

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

- (a) He has no objection to the application for a period of three 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 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 Advance 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.

9.1.12 Comments of the Director of Housing (D of H):

- (a) The proposed temporary use falls within part of the planned public housing sites (Area 16B and 52A) under the Approved HSK and HT OZP.
- (b) He has no objection to the proposal under application provided that it would not affect the development programme of Public Rental Housing/Subsidized Sale Flats (PRH/SSF) development under the implementation of HSK NDA.

District Officer's Comment

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

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

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

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

10. Public Comment Received During Statutory Publication Period

On 5.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 26.3.2019, one

public comment was received from a member of the public, objecting to the application on the grounds that the site owners should amalgamate their sites and develop high rise custom buildings to accommodate the brownfield operations in the designated zones (**Appendix IV**).

11. Planning Considerations and Assessments

- 11.1 The Site straddles over “C(3)” and “R(A)2” zones and an area shown as ‘Road’ on the approved HSK and HT OZP. The planning intention of the “C(3)” and “R(A)2” zones is primarily for commercial developments and high-density residential developments respectively. Whilst the development is not in line with their planning intentions, the implementation programme for this part of NDA is still being formulated. PM/NTW of CEDD and Director of Housing have no objection to the proposed temporary 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 was previously zoned “OS” on the then approved Ha Tsuen OZP. According to the aerial photo in **Plan A-3b**, the two structures on Site have already existed before the gazettal of the HSK and HT OZP. It is noted that both ‘Warehouse’ and ‘Open Storage’ are Column 1 uses which were permitted in the then “OS” zone. According to the covering Notes of the HSK & HT OZP, a use or development of any land or building permitted under an earlier plan and effected or undertaken during the effective period of that plan, is always permitted. While the previous use within the structures before gazetting of the HSK & HT OZP has not been established by the applicant, favourable consideration may be given to the present application for temporary warehouse use. In addition, a number of warehouses, open storage yards, logistics centres and workshops, which are permitted uses on the previous “OS” zone, are found in the vicinity. The applied use is not incompatible with the surrounding land uses (**Plan A-2**).
- 11.3 There are no adverse comments or objections from concerned Government departments on the proposed development and no substantiated environmental complaint pertaining to the Site in the past three years. Relevant approval conditions have been recommended in paragraph 12.2 to address the possible environmental nuisances or the technical requirements of the concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorised development on the 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 with conditions one previous application for temporary open storage of containers with repairing workshop at the Site and one similar application within the same “C(3)” and “R(A)2” zones on the OZP (**Plan A-1**). Approval of the current application is in line with the previous decisions of the Committee.

11.5 There is one public comment received with concern stated in paragraph 10 above. The planning considerations and assessments in the above paragraphs are relevant.

12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10, the Planning Department considers that the proposed temporary warehouse for storage of exhibition materials 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 **12.4.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 8:00 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 is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (d) the submission of a revised 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 **12.10.2019**;
- (e) in relation to (d) above, the implementation of the revised 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 **12.1.2020**;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) 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 **12.10.2019**;
- (h) in relation to (g) 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 **12.1.2020**;
- (i) if any of the above planning conditions (a), (b), (c) or (f) 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
- (j) if any of the above planning conditions (d), (e), (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 V**.

- 12.3 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 intentions of the "C(3)" and "R(A)2" zones which are primarily for commercial developments and high-density residential developments. There is no strong planning justification given in the submission for a departure from the planning intentions, even on a temporary basis.

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 25.2.2019
Appendix Ia	Supplementary planning statement with proposed layout plan, proposed landscape plan and proposed drainage plan
Appendix II	Previous application covering the site
Appendix III	Similar application within the same "C(3)" and "R(A)2" Zones on the approved Hung Shui Kiu and Ha Tsuen OZP
Appendix IV	Public Comment received during statutory publication period
Appendix V	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Landscape Plan
Drawing A-3	Proposed Drainage Plan
Plan A-1	Location Plan with previous and similar applications
Plan A-2	Site Plan
Plan A-3a	Aerial Photo taken on 3.1.2018
Plan A-3b	Aerial Photo taken on 30.6.2013
Plans A-4a to 4c	Site Photos