

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

APPLICATION NO. A/HSK/150

- Applicant** : Mr Tang Yui Kan represented by Metro Planning and Development Company Limited
- Site** : Lots 37 (Part), 41 (Part), 42 (Part), 43 (Part), 44 (Part), 45 (Part), 46 (Part), 47 (Part), 49 (Part), 50 (Part) and 51 (Part) in D.D.128, Ha Tsuen, Yuen Long
- Site Area** : 4,996m² (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
- Zoning** : "Government, Institution or Community" ("G/IC") (about 99 %) [Restricted to maximum BH of 8 storeys]; and

Area shown as 'Road' (about 1%).
- Application** : Temporary Open Storage of Metal Ware 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 metal ware for a period of 3 years (**Plan A-1**). The Site falls within the "G/IC" (99%) zone with minor encroachment onto area shown as 'Road' (1%) 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. In any area shown as 'Road' on the approved HSK and HT OZP, all uses or developments require planning permission from the Board. The Site is currently being used for the applied use without a valid planning permission.
- 1.2 The Site is related to 9 previous applications (No. A/YL-HT/53, 57, 169, 277, 318, 485, 668, 851, and 1023) for similar open storage uses. The last application No. A/YL-HT/1023 for the same applied use was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for 3

years on 13.5.2016. All the approval conditions had been complied with. However, the planning permission lapsed on 13.5.2019.

- 1.3 The Site is accessible from Kai Pak Ling Road via a local track and the ingress/egress point is located at the south-eastern part of the Site (**Drawings A-1 and A-2**). According to the layout plan (**Drawing A-2**), a single-storey (3m high) container-converted structure with a floor area of not exceeding 20m² for site office and storage use is proposed. One loading/unloading bay for medium goods vehicle (11m x 3.5m) and an area for manoeuvring purposes are proposed at the south-eastern part of the Site while the remaining areas is for open storage of metal ware. According to the applicant, no cutting, cleaning, melting, dismantling and workshop activity will be carried out at the Site. The operation hours are from 7:00 a.m. to 7:00 p.m. Monday to Saturday and there will be no operation on Sundays and public holidays. The proposed tree preservation and landscape plan and as-built drainage plan submitted by the applicant are at **Drawings A-3 to A-4**.
- 1.4 The major development parameters of the current application and the last approved application are the same and are given in the following table:

Major Development Parameters	Previously Approved Application (A/YL-HT/1023)	Current Application (A/HSK/150)
Site Area	about 4,996m ²	
Applied Use	Temporary Open Storage of Metal Ware for a Period of 3 Years	
No. and Height of Structures	1 - 1 single-storey (3m) structure for office and storage use (20 m ²)	
No. of Loading/Unloading Bay	1 for medium goods vehicle (11m x 3.5m)	
Operation Hours	7:00 a.m. to 7:00 p.m. Monday to Saturday, no operation on Sundays and public holidays	

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 17.4.2019 **(Appendix I)**
 - (b) Supplementary Planning statement with proposed vehicular access plan, layout plan, tree preservation and landscape 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** and are summarized as follows:

- (a) The Site falls within the “Category 1 areas” of the Town Planning Board 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 proposed use is compatible with the surrounding land uses which are mostly open storage and port back-up uses such as logistics centre, warehouse and container depots. The Board has also approved numerous similar applications in the vicinity and approval of the application will not set an undesirable precedent for similar applications.
- (c) The application is subject to previous planning permission No. A/YL-HT/1023 for the same applied use for a period of 3 years and the applicant managed to comply with all the planning conditions imposed by Board. There has been no significant change in the planning circumstances of the Site since the last planning permission in 2016.
- (d) There is a shortage of land for open storage use and container depots and the temporary approval of the applied development would not jeopardize the long term planning intention of the Site, which could not be realized within the coming 3 years.
- (e) The applicant commits to provide a number of mitigation measures, including restriction of the operation hours to 7:00 a.m. to 7:00 p.m. with no operation on Sundays and public holidays and no cutting, cleaning, melting, dismantling and workshop activity would be carried out on the Site.
- (f) The proposed use will not cause adverse traffic impact on the local road network. Adequate parking facilities and manoeuvring space will be provided within the Site. Adequate drainage facilities will be provided to ensure no adverse drainage impact on the surrounding areas. The drainage facilities will be well maintained by the operator.

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

4. Background

As the storage use on the Site is not covered by a valid planning permission, it would be subject to planning enforcement action.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) promulgated on 17.10.2008 is relevant. The Site falls within Category 1 areas under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

6. Previous Applications

6.1 The Site is the subject of 9 previous applications (No. A/YL-HT/53, 57, 169, 277, 318, 485, 668, 851, and 1023) for similar temporary open storage uses. All of these applications were approved with conditions by the Committee/Board between 1998 and 2016. However, planning permission No. A/YL-HT/169 was subsequently revoked due to non-compliance with approval conditions. Details of these previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.

6.2 The last approved application No. A/YL-HT/1023 for the same applied use was approved with conditions by the Committee for three years on 13.5.2016. All the approval conditions had been complied with. However, the planning permission lapsed on 13.5.2019. Comparing with the last application No. A/YL-HT/1023, the current application is submitted by the same applicant for the same use with the same development parameters at the same site.

7. Similar Applications

There are 15 similar applications (No. A/YL-HT/627, 667, 670, 671, 754, 788, 842, 846, 944, 952 1020, 1021 and 1070 and A/HSK/52, 77) for various temporary open storage uses within the same "G/IC" zone on the HSK and HT OZP since the promulgation of TPB PG-No. 13E on 17.10.2008. All of them were approved with conditions by the Committee between 2009 and 2018. However, two of these applications (No. A/YL-HT/627 and 671) were subsequently revoked due to non-compliance with approval conditions. Particulars of these applications and the decisions of the Committee are summarized at **Appendix IV**. The locations of these application sites are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) currently being used for the applied use without a valid planning permission; and
- (b) accessible from Kai Pak Ling Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are some temporary structures for residential use, a yard for open storage of construction materials, and a warehouse. To its further north are a cluster of burial grounds and woodland;
- (b) To its northeast are temporary structures for residential use, a yard for open storage of construction materials under a valid planning permission No. A/HSK/52;
- (c) to its east is a yard for open storage of construction machinery and materials;
- (d) to the immediate south are a yard for open storage of construction materials, a yard for open storage of construction material and metal ware under a valid planning permission No. A/YL-HT/1070, and a yard for open storage of scrap metal and plastic under a valid planning permission No. A/HSK/77. To its further south are a workshop, a yard for storage of plastic bottle, a warehouse and some graves; and
- (e) to its west is a plastic workshop.

9. Planning Intentions

The Site falls within the “G/IC” zone with minor encroachment onto area shown as ‘Road’ on the approved HSK and HT OZP No. S/HSK/2. 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. 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.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (b) The private lots which are covered by Short Term Waivers (STW) are listed below:

Lot(s) No(s) in D.D.128	STW No.	Purposes
51	3101	Office Ancillary to Open Storage of Used Air Conditioner & Metal Wares
49	3331	Storage of Used Paper Products & Ancillary Workshop
37 and 41	4462	Temporary Open Storage of Construction Materials with Ancillary Workshop

- (c) The Site is accessible from Kai Pai Ling Road through government land (GL) and private lots. 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) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should the application be approved, the lot owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularity on site, if any. The STW holders will need to apply to his office for modification of the STW conditions where appropriate. 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

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

- (a) He has no adverse comment on the 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.

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

Drainage

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

- (a) He has no objection in principle to the proposed application 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/1023 will be maintained for the subject development.
- (c) Should the application be approved, he would suggest imposing a planning condition requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.

Environment

10.1.5 Comment 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 10m to its north) (**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 application be approved, the applicant is reminded to follow the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" to minimize any potential environmental nuisance.

Building Matters

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) 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.
- (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 (B(P)R) 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 B(P)R at the building plan submission stage.

Fire Safety

10.1.7 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 (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 are to be installed should be clearly marked on the layout plans and the applicant should adhere to "Good Practice Guidelines for Open Storage" at **Appendix V**.
- (d) Having considered the nature of the open storage, the following additional 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) or relevant licensing requirements, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Long Term Development

10.1.8 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 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 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.
- (c) It is noted that the access to the Site is passing through the existing Fung Kong Tsuen Road, Kai Pak Ling Road and a local track. Under HSK NDA Stage 1 Works, part of Fung Kong Tsuen Road along this access would be widened with the remaining section of the access unaffected. As the programme of Stage 1 Works is still being formulated, the access arrangement to the Site may have to be re-considered during its operation.

District Officer's Comments

10.1.9 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) Secretary for Education (S for E);
- (b) Commissioner of Police (C of P);
- (c) Director of Agriculture, Fisheries and Conservation (DAFC); and

- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 26.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 17.5.2019, no public comment was received.

12. Planning Considerations and Assessment

12.1 The Site mainly falls within the “G/IC” zone with minor encroachment onto area shown as ‘Road’ 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 on the territory. Whilst the applied use 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 and S for E have no objection to the applied use on the Site for 3 years. 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.

12.2 The applied uses are not incompatible with the surrounding areas which are predominately occupied for open storage yards, workshops and warehouses.

12.3 The Site falls within Category 1 areas under the revised 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.

12.4 The proposed development is in line with the 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 technical concerns of relevant Government departments could be addressed through the implementation of approval conditions.

12.5 There is no major adverse comment from concerned Government departments, except DEP who does not support the application because there are sensitive uses in the vicinity of the Site (the nearest dwelling is about 10m away) and environmental nuisance is expected (**Plan A-2**). However, there was no

substantive environmental complaint pertaining to the Site in the past 3 years. To address the concerns on the possible environmental nuisances or the technical requirements of the other concerned Government departments, relevant approval conditions have been recommended in paragraph. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorized development on Site would thus be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also 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

12.6 The Committee/Board has approved 9 previous applications on the Site and 12 similar applications within the subject "G/IC" zone for similar temporary open storage uses since the promulgation of TPB PG-No. 13E on 17.10.2008 (Plans A-1a and A-1b). Approval of the subject application is in line with the Committee's previous decisions.

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 metal ware 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 of 3 years, until **31.5.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. to 7:00 a.m., as proposed by the applicant, is allowed on the Site during the 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, cleaning, melting, dismantling and workshop activity, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from the public roads at any time during the planning approval period;
- (e) the existing trees and landscape plants on the Site shall be maintained at all times during the approval period;

- (f) the existing fencing on the Site shall be maintained at all times during the approval period;
- (g) the submission of the condition record of the existing drainage facilities on the 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 **31.8.2019**;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the approval period;
- (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 **12.7.2019**;
- (j) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by **30.11.2019**;
- (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 Director of Fire Services or of the Town Planning Board by **29.2.2020**;
- (l) if any of the above planning conditions (a), (b), (c), (d) (e), (f) or (h) 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
- (m) if any of the above planning conditions (g), (i), (j) or (k) 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 applied use is not in line with the planning intention of the "Government, Institution or Community" zone, which is intended primarily for the provision of Government, institution or community facilities. There is no strong planning justification given in the submission for a departure from the planning intentions, even on a temporary basis.

14. Decision Sought

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

14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

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

15. Attachments

Appendix I	Application Form received on 17.4.2019
Appendix Ia	Supplementary Planning Statement with proposed vehicular access plan, layout plan, tree preservation and landscape plan and as-built drainage plan
Appendix II	Relevant extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
Appendix III	Previous Applications covering the Application Site
Appendix IV	Similar Applications within the Same "G/IC" Zone on the approved HSK and HT OZP No. S/HSK/2 since the Promulgation of TPB PG-No. 13E on 17.10.2008
Appendix V	"Good Practice Guidelines for Open Storage" issued by the Director of Fire Services
Appendix VI	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Tree Preservation and Landscape Plan
Drawing A-4	As-built Drainage Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Location Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2019**