RNTPC Paper No. A/HSK/239 For Consideration by the Rural and New Town Planning Committee on 21.8.2020

<u>APPLICATION FOR PERMISSION</u> <u>UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE</u>

APPLICATION NO. A/HSK/239

<u>Applicant</u>	:	Ms. LIU Mei Li represented by Metro Planning and Development Company Limited
<u>Site</u>	:	Lots 280 (Part), 282 (Part) and 285 (Part) in D.D.125 and Adjoining Government Land (GL), Ha Tsuen, Yuen Long
<u>Site Area</u>	:	about 1,460m ² (including about 36m ² GL (about 2.5%))
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/2
<u>Zoning</u>	:	"Open Space" ("O") (75.3%); and
		an area shown as 'Road' (24.7%)
Application		Temporary Open Storage of Recyclable Materials (including Metal and

<u>Application</u>: Temporary Open Storage of Recyclable Materials (including Metal and Plastic) for a Period of 3 Years

1. <u>The Proposal</u>

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of recyclable materials (including metal and plastic) for a period of 3 years (**Plan A-1**). The Site straddles over "O" zone (75.3%) and an area shown as 'Road' (24.7%) 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 OZP, all uses or developments require planning permission from the Site is currently used for the applied use without valid planning permission (**Plans A-4a and 4b**).
- 1.2 The Site was involved in 2 previous applications for the same applied use (**Plan A-1**). The last application No. A/HSK/71 was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 15.6.2018 for a period of 3 years but the permission was subsequently revoked due to non-compliance with two time-limited approval conditions on implementation of drainage proposal and fire service installations (FSIs) proposal. The current application is submitted by the same applicant for the same use at a slightly larger site.

- 1.3 The Site is accessible from Kai Pak Ling Road via local track with the ingress/egress located at the western boundary of the Site (Drawing A-1, Plans A-2 and A-3). As shown on the layout plan at Drawing A-2, 5 single-storey temporary structures with a total floor area of 304m² (including 3 open sheds of 5 to 5.5m high for storage use, and 2 structures of 3 to 5m for F.S. pump room and F.S. water tank) are proposed. One loading/unloading space for light goods vehicle is also proposed. The remaining area is for manoeuvring and open storage of recyclable materials use. According to the applicant, no cutting, dismantling, cleansing, compacting or other workshop activity will be undertaken within the Site. The operation hours of the Site are from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays. The proposed landscape plan, drainage plan and fire service installations (FSIs) proposal are shown at Drawings A-3 to A-5 respectively.
- 1.4 A comparison of the major development parameters of the current application and the last approved application is given in the following table:

Major Development Parameters	Last Approved Application (A/HSK/71)	Current Application (A/HSK/239)	Difference
	(a)	(b)	(b) - (a)
Applied Use	Temporary open storage o	Same	
	(including metal		
	(3 year		
Site Area	1,354m ²	1,460m ²	$+106m^{2} (+8\%)$
No. of Structures	3	5	+2 (+67%)
Total Floor Area	290m ²	304m ²	$+14m^{2}(+5\%)$
No. of Parking Spaces	Nil		Same
No. of Loading/ Unloading Bay	1 for light goods vehicle		Same
Operation Hours	9:00 a.m. to 7:00 p.m., Mondays to Saturdays, with no operation on Sundays and public holidays		Same

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

(a)	Application Form and plans received on 30.6.2020	(Appendix I)
(b)	Supplementary Information (SI) received on 2.7.2020 providing reason for not complying with implementation of drainage works under the previous application	(Appendix Ia)
(b)	SI received on 3.7.2020 clarifying site information	(Appendix Ib)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ib**. They can be summarized as follows:

- (a) The Site was previously covered by two planning permissions since 2017 with the last planning application No. A/HSK/71. The applied use is the same as the previous one.
- (b) The applied use conforms with the Town Planning Board Guidelines No. 13F since it is covered by previous planning permission.
- (c) The proposed development is a temporary use for 3 years which would not jeopardize the long-term planning intention of the current zoning.
- (d) The proposed development is not incompatible with the surrounding environment including open storage use and port back-up activities.
- (e) Open storage and port back-up uses adjoining the Site were granted with planning permission. Similar preferential treatment should be granted to the current application.
- (f) There are shortage of land for open storage and port back-up uses in Ha Tsuen.
- (g) Minimum traffic and insignificant environmental and drainage impact on the surrounding area. The applicant has obtained consent from the adjacent land owner for allowing the surface U-channel passing through adjoining lots to the existing drain to serve the proposed development.

3. <u>Compliance with the "Owner's Consent/Notification" Requirements</u>

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. 31A) by posting site notice and sending notice to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members' inspection. The "Owner's Consent/Notification" Requirements under TPB PG-No. 31A are not applicable to the Government land portion.

4. Town Planning Board Guidelines

On 27.3.2020, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F). The Site falls within Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. <u>Background</u>

The Site is being used for the applied use. Subject to the collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be taken if the current application is not approved by the Committee.

6. <u>Previous Applications</u>

- 6.1 The Site was the subject of two previous applications (No. A/YL-HT/1066 and A/HSK/71) for the same open storage of recyclable materials use. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan** A-1.
- 6.2 Both applications were approved by the Committee between 2017 and 2018 on the considerations that the applied uses were not incompatible with the surrounding areas, generally in line with the then Town Planning Board Guidelines TPB PG-No. 13E and no major adverse comments from concerned Government departments. However, both of them were subsequently revoked due to non-compliance with time-limited approval conditions on the implementation of drainage and FSIs proposals.
- 6.3 Compared with the last application, the current application is submitted by the same applicant for the same use at a slightly larger site with similar layout and development parameters.

7. <u>Similar Application</u>

There are one similar application No. A/HSK/132 for open storage of recyclable materials use within the same "O" zone on the OZP which was approved with conditions by the Committee in 2019 on similar considerations as mentioned in paragraph 6.2 above. Details of this application are summarized at **Appendix IV** and its location is shown on **Plan A-1**.

8. <u>The Site and Its Surrounding Areas</u> (Plans A-1 to A-4b)

- 8.1 The Site is:
 - (a) currently used for the applied use without valid planning permission; and
 - (b) accessible from Kai Pak Ling Road via a local track on both private lot and GL.
- 8.2 The surrounding areas have the following characteristics:
 - (a) to its north and east are open storage of recyclable materials and/or containers under valid planning permissions while to its further northeast is an open storage of containers with ancillary logistics use and workshop under valid planning permission;
 - (b) to its immediate southeast is a residential dwelling (about 3m away) while to its south are some open storage of recyclable materials, constructions materials and vehicles and warehouses; and
 - (c) to its west is an open storage of constructions materials under valid planning permission; while to its northwest is an open storage of recyclable materials under valid planning permission; and to its southwest are a warehouse, a vehicle repair workshop, some residential dwelling and vacant chicken sheds.

9. <u>Planning Intention</u>

The planning intention of the "O" zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

10. <u>Comments from Relevant Government Departments</u>

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 Scheduled 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) No permission is given for occupation of the GL included in the Site (about 36m² subject to verification). The act of occupation of GL without Government's prior approval is not allowed.
 - (c) Should the application be approved, the lot owner(s) of the lot(s) 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 regularisation or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by 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 LandsD.

<u>Traffic</u>

- 10.1.2 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 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 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 Kai Pak Ling Road.

Environment

- 10.1.4 Comments of the Director of Environmental Protection (DEP):
 - (a) There was no substantiated environmental complaint pertaining to the Site received in the past 3 years.
 - (b) 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

- 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) Should the application be approved, he would suggest imposing a planning condition requiring the applicant to implement and maintain the proposed drainage facilities to the satisfaction of his Division.
 - (c) The applicant is reminded that the development should neither obstruct overland flow nor adversely affect existing stream course, natural streams, village drains, ditches and the adjacent areas.
 - (d) The applicant should consult DLO/YL and seek consent from the relevant owners for any works to be carried out outside the Site before commencement of the drainage works.

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.
 - (b) If the existing structures (not being a New Territories Exempted Houses) are erected on leased land without approval of the BA, they are unauthorized building works (UBW) under the Buildings 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 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, demolition and land filling) are to be carried out on the Site, prior approval and consent of 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.
- (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

- 10.1.7 Comments of the Director of Fire Services (D of FS):
 - (a) He has no objection in principle to the application 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 him 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. The applicant should adhere to the 'Good Practice for Open Storage for Open Storage Sites' at **Appendix V**.
 - (d) Having considered the nature of the open storage, an additional approval condition requiring "the provision of fire extinguisher(s) within 6 weeks from the date of planning approval" should be stipulated. To address this approval condition, the applicant is advised to submit a valid fire certificate (FS 251) to his department for approval.
 - (e) The applicant is reminded that if the proposed structure(s) is required to comply with the BO, 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 (West), Civil Engineering and Development Department (PM/W, 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) The Site falls within the boundary of Hung Shui Kiu and Ha Tsuen New Development Area (HSK/HT NDA). According to the Planning and Engineering Study for the HSK/HT NDA and the latest plan, to ensure timely and orderly implementation, the development of HSK/HT 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 2 and 3 Works in the latest programme of the HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that clearance of the Site will not be arranged before 2024.
- 10.1.9 Comments of the Director of Leisure and Cultural Services (DLCS):
 - (a) The Site is zoned "O" and an area shown as 'Road' on the approved HSK & HT OZP No. S/HSK/2. The portion zoned "O" is not on the priority list for development agreed by the Yuen Long District Council. He has no plan to develop the Site into public open space at present.
 - (b) Since the application is for a temporary period of 3 years, he has no in-principle objection to the application.

District Officer's Comments

- 10.1.10 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):
 - (a) He has no comment on the application from departmental point of view.
 - (b) 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) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
 - (b) Director of Agriculture, Fisheries and Conservation (DAFC).

11. Public Comments Received During Statutory Publication Period

On 7.7.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from individuals were received. Commenters raise concern/object to the application that the implementation of the future developments will be affected by approving the brownfield uses, and that the development will increase traffic flow and risk the life of villagers (Appendices VI-1 to 2).

12. Planning Considerations and Assessment

- 12.1 The application is for temporary open storage of recyclable materials (including metal and plastic) for a period of 3 years at a site straddling over "O" zone and an area shown as 'Road' on the OZP. The planning intention of the "O" zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Whilst the applied use is not in line with the planning intention, the implementation programme for this part of NDA is still being formulated, and PM/W of CEDD and DLCS have no objection to the temporary use for a period of 3 years at 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 the implementation of government projects.
- 12.2 The open storage of recyclable materials (including metal and plastic) under application is not incompatible with the surrounding land uses which are predominantly used for open storage yards, warehouses, logistics centre and vehicle repair workshops. While there are some residential dwellings in the surrounding area, it is noted that only light goods vehicles will be used to serve the applied use (**Plan A-2**).
- 12.3 The Site falls within the HSK/HT NDA. For applications in NDAs, the following considerations under the TPB PG-No. 13F are relevant:

For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant) until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments, where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed through the implementation of the approval conditions. In view of the impending implementation of NDAs, new open storage and port back-up uses are generally not encouraged to infiltrate into the NDAs. There is a general presumption against such uses at greenfield areas and/or at sites with land use compatibility issue, e.g. in close proximity to existing residential dwellings which may be subject to environmental nuisances caused by the open storage and port back-up uses.

12.4 The applied use is generally in line with the TPB PG-No. 13F in that the Site falls within HSK/HT NDA and previous planning approvals have been given under the previous OZPs. While the planning permissions under two previous applications were revoked due to non-compliance with approval conditions on the implementation of drainage and FSIs proposals, it is noted that the applicant has recently resolved the issue on provision of drainage channel at the adjoining lots and has submitted a FSIs proposal in the current application (**Drawing A-5**). In this regard, CE/MN, DSD and D of FS have no in-principle objection to the application. As such, sympathetic consideration may be given to the application. However, as the previous permissions submitted by the same applicant have been

revoked, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. Should the application be approved, the applicant will be advised that should he fail to comply with any of the approval conditions resulting in revocation of planning permission, sympathetic consideration would not be given to any further applications.

- 12.5 There is no adverse comment from concerned Government departments including DEP. To address the concerns on the possible environmental nuisances or the technical requirements of the concerned Government departments, relevant approval conditions have been recommended in paragraph 13.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and any unauthorized development on the Site would 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' to minimize the possible environmental impacts on the surrounding areas.
- 12.6 There are two previously approved planning applications for the same applied use at the Site and one similar application approved within the subject "O" zone on the OZP (**Plan A-1**). Approval of the subject application is in line with the Committee's previous decisions.
- 12.7 There are two public comments received on the application during statutory publication period as summarised in paragraph 11. The planning considerations and assessments in the above paragraphs are relevant.

13. <u>Planning Department's Views</u>

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary open storage of recyclable materials (including metal and plastic) <u>could be tolerated</u> 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 <u>21.8.2023</u>. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation from 7:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no cutting, dismantling, cleaning, compacting or other workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no goods vehicles exceeding 5.5 tonnes, including medium/heavy goods vehicles, container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit the Site at any time 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 trees and landscape planting on the Site shall be maintained at all times during the planning approval period;
- (g) the implementation of the 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 <u>21.2.2021</u>;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the provision of fire extinguisher(s) and the submission of a valid fire certificate (FS251) 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 <u>30.9.2020</u>;
- (j) the submission of a fire service installations proposal within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by <u>21.11.2020</u>;
- (k) in relation to (j) above, the implementation of the 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 <u>21.2.2021</u>;
- (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 above 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 VII.

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

the development is not in line with the planning intention of the "O" zone which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. 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 reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I Appendix Ia	Application Form and plans received on 30.6.2020 SI received on 2.7.2020 providing reason for not complying with implementation of drainage works under the previous application
Appendix Ib	SI received on 3.7.2020 clarifying site information
Appendix Ic	FI from the applicant received on 10.8.2020 clarifying the drainage proposal for the Site
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)
Appendix III	Previous Applications covering the Site
Appendix IV	Similar Application within the same "O" Zone on the
Appendix V	approved Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/2 Good Practice Guidelines for Open Storage issued by the Director of Fire Services
Appendices VI-1 and 2	Public Comments
Appendix VII	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed landscape plan
Drawing A-4	Proposed Drainage Plan
Drawing A-5	FSIs Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

PLANNING DEPARTMENT AUGUST 2020