

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/280

- Applicant** : Mr. Tang Yui Kan represented by Metro Planning & Development Company Limited
- Site** : Lots 34 RP (Part), 35 (Part), 36 (Part), 37 (Part), 38 (Part), 39 (Part) & 41 (Part) in D.D. 128, Ha Tsuen, Yuen Long
- Site Area** : 1,648m² (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”) (96.8%); and
[restricted to maximum building height of 8 storeys]

“Open Space” (“O”) (3.2%)
- Application** : Renewal of Planning Approval for Temporary Open Storage of Construction Materials with Ancillary Workshop for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary open storage of construction materials with ancillary workshop for a further period of 3 years (**Plan A-1**). The Site falls within an area mainly zoned “G/IC” (96.8%) with minor encroachment onto the “O” zone (3.2%) on the approved HSK and HT OZP. According to the covering Notes of 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. The Site is currently used for the applied use with valid planning permission (**Plan A-4**).
- 1.2 The Site is related to 10 previous applications for temporary open storage of construction materials with/without ancillary workshop for a period of 3 years (**Plan A-1**). The last application No. A/HSK/52 for the same applied use was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 16.3.2018 for a period of 3 years with validity till 16.3.2021. All time-limited approval conditions have been complied with.

- 1.3 The Site is accessible from Ping Ha Road via Fung Kong Tsuen Road, Kai Pak Ling Road and local track (**Drawing A-1 and Plans A-2 to A-3**). As shown on the layout plan at **Drawing A-2**, the site is divided into northern and southern portions. Two ingress/egress points of the northern portion are located at its northwestern and southwestern boundaries. For the southern portion, a single ingress/egress point is located at its northern corner. Seven temporary structures with a total floor area of 560m² and of 1 to 2-storey (3 to 6.5m in height) are proposed, with 4 structures at the northern portion and 3 structures at the southern portion for storage of construction materials, site office and meter room. The open areas are for open storage of construction materials. Two private car parking spaces and a loading/unloading bay for light goods vehicle are provided at the northern portion. The Site is fenced with 2.5m high galvanized sheets and hard paved. According to the applicant, the operation hours are from 7:00 a.m. to 11:00 p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays. The proposed tree preservation plan, as-built drainage plan and fire service installations (FSIs) plan are at **Drawings A-3 to A-5**.
- 1.4 Compared with the last planning application (No. A/HSK/52), the current application is submitted by the same applicant for the same use at the same site, and the development parameters and site layout remain unchanged.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 25.11.2020 **(Appendix I)**
 - (b) Supplementary Information (SI) received on 30.11.2020 **(Appendix Ia)** confirming no change in layout and providing the FSIs plan and related certificate
 - (c) Supplementary Information (SI) received on 1.12.2020 **(Appendix Ib)** advising the operation hours and traffic generation rate

2. Justifications from the Applicant

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

- (a) The Site is the subject of ten previous planning permissions since 2000 and the applied use is the same as the approved use since 2015. The applicant had complied with all the approval conditions in the last previous planning permission.
- (b) The Site is situated within the Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) so that existing port back-up uses may be given sympathetic consideration until the Site is required for the implementation of the NDA development according to the Town Planning Board Guidelines for Application of Open Storage and Port Back-up Uses (TPB PG-No.13F).
- (c) The proposed development is a temporary use for a period of 3 years and would not jeopardize the long-term planning intention of the current zoning.
- (d) There is a shortage of land for port back-up purpose in Ha Tsuen.
- (e) The applied use is not incompatible with the surrounding environment including open storage and port back-up uses. The planning circumstances pertaining to the Site are similar to the recent approval of adjacent open storage and port back-up uses.

- (f) There are insignificant environmental and noise impacts since the applied use is housed within an enclosed structure and no operation will be held during sensitive hours. There will also be insignificant drainage impact because surface U-channel has been provided at the Site. Minimal traffic impact is expected.

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. 31A) by posting site notice and sending notice to the Ha Tsuen Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 4.1 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 HSK/HT NDA under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C) are relevant to the application. The relevant assessment criteria are at **Appendix III**.

5. Background

The Site is not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site is related to 10 previous applications (No. A/YL-HT/160, 181, 265, 266, 401, 402, 572, 754 and 944 and A/HSK/52) for open storage of construction materials with/without ancillary workshop. Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1b**.
- 6.2 All these applications were approved with conditions by the Committee for a period of 3 years between 2000 and 2108 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. 13 and no major adverse comments from concerned Government departments. However, the planning permissions under applications No. A/YL-HT/160 and 181 were subsequently revoked due to non-compliance with the time-specific approval conditions.
- 6.3 The last application No. A/HSK/52 submitted by the same applicant for the same applied use as the current application was approved with conditions by the Committee for a period of 3 years on 16.3.2018 with validity up to 16.3.2021. All time-limited approval conditions have been complied with. The layout and development parameters of the current application are the same as the last planning approval. The current application is a renewal application.

7. Similar Applications

There are five similar applications (No. A/HSK/77, 150, 151, 159 and 176) within the same “G/IC” zone on the OZP for various temporary open storage uses between 2018 and 2019 which were all approved with conditions by the Committee on similar considerations as mentioned in paragraph 6.2 above. Details of these applications are summarized at **Appendix V** and their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) currently used for the applied use under valid planning permission; and
- (b) accessible to Ping Ha Road via Fung Kong Tsuen Road, Kai Pak Ling Road and local track.

8.2 The surrounding areas have the following characteristics:

- (a) to its immediate northwest is an open storage yard of construction materials while to its further northwest is another open storage yard of construction materials under valid planning permission and a warehouse;
- (b) to its northeast and southeast across the nullah are several yards for logistic centres with two of them under valid planning permissions;
- (c) to its immediate south is an open storage yard of construction machinery and materials under valid planning permission while to its immediate southeast is a logistic centre under valid planning permission. To its southwest is an open storage yard of metalware and its further southwest is an open storage yard of scrap metal and plastic under valid planning permission; and
- (d) to its west is a piece of unused land and a residential structure (about 29m away) while to its further west is an open storage yard of construction materials (**Plan A-2**).

9. Planning Intention

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 received are summarized as follows:

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots held under 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 lots which are covered by Short Term Waivers (STWs) are listed below:

Lot No. (in D.D.128)	STW No.	Purposes
34 RP	4461	Temporary Open Storage of Construction Materials with Ancillary Workshop
35, 36, 37 and 41	4462	Temporary Open Storage of Construction Materials with Ancillary Workshop

- (c) 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(s) 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. Besides, given the proposed use is temporary in nature, only application for regularization 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.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

- (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 Transport Department (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 Fung Kong Tsuen Road.

Environment

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

- (a) There was no 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 relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites'.

Drainage

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

- (a) According to the applicant's submission, the existing drainage facilities which were implemented under an approved application No. A/HSK/52 will be maintained for the subject development. He has no objection in principle to the application from a drainage point of view.
- (b) Should the application be approved, a condition should be stipulated in the approval requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.
- (c) The applicant should be reminded of the detailed comments in **Appendix VII**.

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) The applicant should be reminded of the detailed comments in **Appendix VII**.

Fire Safety

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

He has no objection in principle to the renewal application subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.

Nature Conservation

10.1.8 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) As the Site is paved and disturbed, he has no strong view on the application from nature conservation point of view.

- (b) Should the application be approved, the applicant should adopt good site practices and implement necessary water pollution control measures to avoid causing water pollution to the nearby watercourse.

Long-Term Development

10.1.9 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, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) The Site falls within the boundary of HSK/HT NDA. To ensure timely and orderly implementation, the development of HSK/HT NDA and relevant site formation and infrastructure works would be implemented in three phases, viz. First Phase development, Second Phase development and Remaining Phase development. The lot(s) concerned falls within a site under Remaining Phase development of HSK/HT NDA. While the detailed implementation programme for the project is still being formulated, it is envisaged that the site formation and engineering infrastructure works for the Remaining Phase development will commence in 2030.

Others

10.1.10 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) The Site falls within areas zoned “G/IC” and “O” 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 involves private lot only, he has no in-principle objection to the application.

District Officer’s Comments

10.1.11 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. Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no comment on the application.

11. Public Comment Received During Statutory Publication Period

On 4.12.2020, 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. The commenters raised concerns/objected to the application on reasons that the development will increase traffic flow and pose safety hazards to the villagers, and that approving the brownfield uses would cause environmental degradation and affect the implementation of the planned development (**Appendices VI-1 to 2**).

12. Planning Considerations and Assessment

- 12.1 The application is for renewal of planning approval for temporary open storage of construction materials with ancillary workshop for a period of 3 years at a site mainly zoned “G/IC” (96.8%) on the OZP. The planning intention of the “G/IC” zone 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. Whilst the applied use is not in line with the planning intention of the “G/IC” zone, PM/W of CEDD has no objection to the temporary use 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 Site is located in an area predominantly occupied by various logistics centre, open storage yards and warehouse uses. The applied use is generally not incompatible with the surrounding land uses (**Plan A-2**).
- 12.3 The current application is a renewal application of the last approved application (No. A/HSK/52) for three more years. There has been no major change in planning circumstances of the Site and the surrounding areas since the previous temporary approval, and the approval of the application on a temporary basis would not jeopardize the implementation of the zoned use. Compared with the last approved application No. A/HSK/52, the current application is submitted by the same applicant for the same use at the same site, and the development parameters and site layout remain unchanged, and all the approval conditions under the last approved application have been complied with. In view of the above, the renewal application is considered generally in line with the TPB PG-No. 34C.
- 12.4 Relevant Government departments, including C for T, DEP, CE/MN, DSD and D of FS, have no objection to or adverse comment on the application. 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.
- 12.5 The Committee has approved 10 previous applications for the similar open storage uses at the Site (**Plan A-1b**) and 5 similar open storage uses within the same “G/IC” zone. Approval of the current application is in line with the Committee’s previous decisions.
- 12.6 There are two public comments received on the application during the statutory publication period as summarised in paragraph 11 above. The planning considerations and assessments in the above paragraphs are relevant.

13. Planning Department's Views

- 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 renewal of planning approval for temporary open storage of construction materials with ancillary workshop could be tolerated for a further 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 and be renewed from **17.3.2021 to 16.3.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation from 11:00 p.m. to 7:00 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 existing landscape planting on the Site shall be maintained at all times during the planning approval period;
- (e) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (f) the existing fire services installations shall be maintained in efficient working order at all times during the planning approval period;
- (g) the submission of a condition record of the existing drainage facilities on Site within **3** months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **17.6.2021**;
- (h) if any of the above planning conditions (a), (b), (c), (d), (e) 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
- (i) if the above planning condition (g) 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.

*[Conditions (a), (b), (c), (d), (e) and (g) are all the same as the previous Application No. A/HSK/52 while the previous conditions on the submission and implementation of FSIs are replaced by condition (f), as the FSIs have been accepted by D of FS and fire certificates issued (**Appendix Ia**)]*

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 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 to deviate 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	Application Form received on 25.11.2020 with drawings
Appendix Ia	SI received on 30.11.2020 confirming no change in layout and providing the FSIs plan and related certificate
Appendix Ib	SI received on 1.12.2020 advising the operation hours and traffic generation rate
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	Relevant extracts of Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C)
Appendix IV	Previous Applications Covering the Site
Appendix V	Similar applications within the same “G/IC” zone on the approved Hung Shui Kiu and Ha Tsuen OZP
Appendices VI-1 to 2	Public Comments
Appendix VII	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Tree Preservation Plan
Drawing A-4	As-built Drainage Plan
Drawing A-5	Fire Service Installations Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos