

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/311

- Applicant** : Mr. TANG Sheung Chai represented by Metro Planning and Development Company Limited
- Site** : Lots 280 (Part), 281 (Part) and 681 (Part) in D.D. 125, San Wai, Ha Tsuen, Yuen Long, N.T.
- Site Area** : about 7,000m²
- 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** : “Open Space” (“O”) (about 43.5%);
“Government, Institution or Community” (“G/IC”)(23.7%); and
[Restricted to maximum Building Height (BH) of 8 storeys]
an area shown as ‘Road’ (about 32.8%)
- Application** : Temporary Open Storage of Recyclable Materials (including Metal and Plastic) & Construction Materials and Warehouses for Storage of Construction 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 open storage of recyclable materials (including metal and plastic) and construction materials and warehouses for storage of construction materials for a period of 3 years (**Plan A-1a**). The Site straddles over the “O” (43.5%) and “G/IC” (23.7%) zones and an area shown as ‘Road’ (32.8%) on the approved HSK and HT OZP. According to the Notes of the OZP, ‘open storage’ and ‘warehouse’ are neither Column 1 nor 2 use under the “G/IC” and “O” zones. 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 zones 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 western part of the Site is currently used for open storage of recyclable materials under valid planning permission, while the eastern part is largely vacant. (**Plans A-4a to 4b**).

- 1.2 The Site is related to two previous applications No. A/YL-HT/949 and A/HSK/132 (**Plan A-1b**). Application No. A/YL-HT/949 for proposed filling of pond for permitted agricultural use covering the western part of the Site and an adjoining area was rejected by the Board on review on 30.10.2015. Application No. A/HSK/132 for proposed temporary open storage of recyclable materials (including metal and plastic) for a period of 3 years and filling of pond, covering most of the Site except a small portion at its southeastern part, was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 12.4.2019. The current application is submitted by the same applicant with a larger site area (about 888 m² increase).
- 1.3 The Site is accessible from Kai Pak Ling Road via a local track with the ingress/egress point at the north-western corner of the Site (**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 two storage units with open storage of recyclable materials (metal and plastic) at its western part and open storage of construction materials and warehouses at its eastern portion. 4 temporary structures (6 to 8m high) with a total of floor area of about 724m² are proposed for warehouses for storage of construction materials and site office. No workshop activity would be allowed on the Site. The proposed drainage plan is shown at **Drawings A-3**.
- 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/132) (a)	Current Application (A/HSK/311) (b)	Difference (b) - (a)
Applied Use	Temporary open storage of recyclable materials (including metal and plastic) and filling of pond (3 years)	Temporary open storage of recyclable materials (including metal and plastic) and construction materials and warehouses for storage of construction materials (3 years)	Addition of open storage of and warehouses for storage of construction materials; no filling of pond
Site Area	6,112m ²	7,000m ²	+888m ² (+14.5%)
No. of Structures	2	4	+2
Total Floor Area	43m ²	724m ²	+681m ² (+1583.7%)
Height of Structures	1 to 2 storeys (6m high)	1 to 2 storeys (8m high)	+2m (+33.3%)
No. of Loading/ Unloading Spaces	1 for medium goods vehicles		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 document:

- (a) Application Form received on 10.5.2021 with drainage assessment, estimated traffic generation and plans **(Appendix I)**

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 proposed development is not incompatible with the surrounding environment including open storage use and warehouse activities.
- (b) The application site is subject to a previous planning permission for open storage use. In view of the TPB PG-No.13F, planning permission should be granted to the current application because land resumption is yet to commence. The proposed development is a temporary use for a period of 3 years which would not jeopardize the long term planning intention of the current zoning.
- (c) Similar warehouse and open storage uses have been approved within the same “O”, “G/IC” and Road zonings. Open storage yards and port back-up uses in close proximity were granted with planning permissions on temporary basis for similar uses (including No. A/HSK/89 & 272). Similar preferential treatment should be given to the present application.
- (d) Three warehouses are proposed at the south-eastern part of the Site to shield the potential noise and visual impacts from the village houses to the southeast of the Site.
- (e) The construction materials to be stored at the Site include pipes and metal. The recyclable materials being stored at the Site include metal and plastic only such as cans, scrap metal and scrap plastic. No workshop activity is proposed in the application.
- (f) There are insignificant environmental, noise and drainage impacts since the applied use will not operate in sensitive hours and surface drainage channel will be provided. The proposed use would not generate significant traffic impacts. No heavy goods vehicles exceeding 24 tonnes will access the Site.

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

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. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site is related to 2 previous applications (No. A/YL-HT/949 and A/HSK/132) respectively for proposed filling of pond for permitted agricultural use and for temporary open storage of recyclable materials (including metal and plastic) for a period of 3 years and filling of pond. Application No. A/YL-HT/949 was rejected by the Board upon review on 31.10.2015 on the ground of the failure to demonstrate that the proposed development would not have adverse ecological and landscape impacts on the surrounding area; and of creating an undesirable precedent for similar applications within the then “Green Belt” zone. Application No. A/HSK/132 was approved by the Committee on 12.4.2019 on the considerations that the applied use was not incompatible with the surrounding areas and no major adverse comment from concerned Government departments. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 Compared with the last application No. A/HSK/132, the current application is submitted by the same applicant for similar use with a larger area and additional use for open storage and warehouse of storage of construction materials.

7. Similar Application

There are 11 similar applications (No. A/HSK/4, 49, 66, 71, 89, 121, 166, 239, 272, 282 and 296) within the same “O” and “G/IC” zones on the OZP for various temporary open storage uses, warehouse and logistics centre, which were all approved with conditions by the Committee between 2017 and 2021 on similar considerations as mentioned in paragraph 6.1 above. However, two planning permissions were subsequently revoked due to non-compliance with approval conditions. Details of these applications are summarized at **Appendix IV** and its location is shown on **Plan A-1a**.

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

- 8.1 The Site is:
- (a) currently partly used for temporary open storage of recyclable materials (including metal and plastic) under valid planning permission and partly vacant; and
 - (b) accessible from Kai Pak Ling Road via a local track.
- 8.2 The surrounding areas have the following characteristics:
- (a) to its immediate north and northwest is an open storage of containers with ancillary logistics uses, vehicle and container repairing workshops and parking of tractors under valid planning permission;
 - (b) to its immediate west and southwest are two open storage yards of recycling materials. The one to its southwest is under valid planning permission;
 - (c) to its immediate south is a vacant site. A residential dwelling is about 35m away

at the south (**Plan A-2**). Further south, there are a warehouse and some storage yards of recyclable materials (including a site which is the subject of an application for warehouse for storage of spare parts and recyclable materials (No. A/HSK/313) scheduled for the consideration of the Committee at this meeting); and

(d) to its immediate east and southeast are unused land.

9. Planning Intentions

- 9.1 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.
- 9.2 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. 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 Scheduled 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) Should the application be approved, the lot owner(s) 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 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 rent 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 or Deep Bay Road.

Environment

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

- (a) He does not support the application as there are sensitive uses in the vicinity of the Site (the nearest residential dwelling being about 35m away) (**Plan A-2**), and environmental nuisance is expected.
- (b) There was no environmental complaint pertaining to the Site received in the past 3 years.
- (c) Should the application be approved, the applicant is advised to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' ('COP').

Drainage

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

- (a) No objection in principle to the application from a drainage point of view. Should the application be approved, a condition should be stipulated requiring the applicant to implement and maintain the proposed drainage facilities to the satisfaction of his Division.
- (b) 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. The applicant should consult DLO/YL and seek consent from the relevant owners for any works to be carried out outside his lot boundary 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):

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):

- (a) He has no objection in principle to the application subject to fire services 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; good practice guidelines for open storage (**Appendix V**) should be adhered to.
- (d) Having considered the nature of the open storage, the following 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 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, 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/NT 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 the sites under Second Phase and 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 Second Phase development will commence in 2024. In this regard and subject to necessary approvals as required, the government plans to acquire these relevant sites by end 2023 progressively for the development of HSK/NT NDA.

Others

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

- (a) The Site falls mainly within “G/IC” and “O” zones and an area shown as ‘Road’ on the approved HSK and 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) He notes that the application involves private lots only and 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 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 objection to/no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 18.5.2021, 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 the reasons that the development will increase traffic flow and environmental nuisances and pose safety hazards to the villagers; the applicant was unable to timely fulfill the approval conditions of previous application and the development may cause irreversible damage of the soil (**Appendices VI-1 and 2**).

12. Planning Considerations and Assessment

12.1 The application is for temporary open storage of recyclable materials (including metal and plastic) and construction materials and warehouses for storage of construction materials for a period of 3 years at a site which straddles over the “O” (43.5%) and “G/IC” (23.7%) zones and an area shown as ‘Road’ (32.8%) 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, while that for 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 intentions of the “G/IC” and “O” zones, PM/W of CEDD and DLCS have no objection to the proposed 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 applied use is not incompatible with the surrounding land uses which are predominantly occupied by open storage of containers and recyclable materials.

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 a previous planning approval (application No. A/HSK/132) for the related applied use was given. The current application is for similar use of the last approved application. The planning permission of which is still valid. Compared with the last planning permission, the current application is for similar open storage with a slightly larger site with the additional use of open storage and warehouse of construction materials submitted by the same applicant. Sympathetic consideration may be given to the application.

12.5 Concerned government departments, including C for T, CE/MN, DSD and D of FS, have no objection to or no adverse comment on the proposed development, except DEP. DEP does not support the application because there are sensitive uses in the vicinity (the nearest residential dwelling being about 35m away), and environmental nuisance is expected (**Plan A-2**). However, there is no environmental complaint pertaining to the Site in the past three years. 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 one previous planning approval for similar storage use at the majority of the Site (**Plan A-1b**) and 11 similar approved applications for open storage of construction materials and/or recyclable materials and warehouses within the same "G/IC" and "O" zones (**Plan A-1a**). 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. 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 temporary open storage of recyclable materials (including metal and plastic) and construction materials and warehouses for storage of construction materials 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 for a period of 3 years until **9.7.2024**. 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 workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (d) no heavy goods vehicle exceeding 24 tonnes, including container trailer/tractor, as defined in the Road Traffic Ordinance, as proposed by the applicant is allowed to access the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back or reverse onto/from the public road at any time during the planning approval period;
- (f) the implementation of the accepted drainage proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **9.4.2022**;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the provision of fire extinguisher(s) 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 **20.8.2021**;
- (i) the submission of a fire service installations proposal within **6** months from the

date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **9.1.2022**;

- (j) in relation to (i) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **9.4.2022**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (g) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (l) if any of the above planning conditions (f), (h), (i) or (j) 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 reasons for rejection are suggested for Members' reference:

- (a) the applied use is not in line with the planning intentions of the "G/IC" and "O" zones, which are 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, and outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public respectively. There is no strong planning justification in the submission for a departure from the planning intentions, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the applied use would not have adverse environmental impact on the surrounding areas.

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 10.5.2021 with drainage assessment, estimated traffic generation and plans
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 “G/IC” and “O” Zones
Appendix V	Good Practice Guidelines for Open Storage issued by the Director of Fire Services
Appendices VI-1 to 2	Public Comments
Appendix VII	Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Drainage 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
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
JULY 2021**