

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

**APPLICATION NO. A/HSK/197**

- Applicant** : Mr. To Chi Kin represented by Metro Planning & Development Company Limited
- Site** : Lots 2938 RP (Part), 2939 RP, 2940 RP (Part), 2946, 2947 (Part), 2950 S.B (Part) and 2950 RP (Part) in D.D.129, Ha Tsuen, Yuen Long
- Site Area** : about 950m<sup>2</sup>
- 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” (about 72.9%);  
“Residential (Group B) 2” (about 20.1%); and  
*[restricted to a maximum plot ratio of 2.5]*  
an area shown as ‘Road’ (about 7.0%)
- Application** : Temporary Open Storage of Scrap Metal 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 scrap metal for a period of 3 years (**Plan A-1a**). The Site straddles over “Open Space” (72.9%) and “R(B)2” (20.1%) zones and an area shown as ‘Road’ (7.0%) 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 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 Site is currently being used for the applied use with a valid planning permission until 3.2.2020 (**Plans A-4a to 4b**).
- 1.2 The Site is involved in 8 previous applications No. A/YL-HT/228, 395, 551, 628, 660, 708, 877 and 1063 for various open storage uses (**Plan A-1b**). The last application No. A/YL-HT/1063 for temporary open storage of scrap metal and

plastic was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 3.2.2017 for a period of 3 years. All the time-specific approval conditions had been complied with. The current application is submitted by the same applicant for similar open storage use at the same site.

- 1.3 The Site is directly abutting Lau Fau Shan Road through an ingress/egress point at the north-eastern corner of the Site (**Drawing A-1** and **Plan A-2**). As shown on the layout plan at **Drawing A-1**, 3 single-storey temporary structures with a total floor area of not exceeding 79m<sup>2</sup> (including a 3m site office (floor area not exceeding 20m<sup>2</sup>), a 6m high rain shelter (floor area not exceeding 50m<sup>2</sup>) and a 3m high toilet (floor area not exceeding 9m<sup>2</sup>) are proposed. One loading/unloading bay for light goods vehicle not exceeding 5.5 tonnes is also proposed. The remaining open area is for open storage of scrap metal. According to the applicant, the operation hours are from 7:00 a.m. to 7:00 p.m. from Mondays to Saturdays and no operation would be carried out on Sundays and public holidays. The as-built landscape and tree preservation plan and drainage plan are at **Drawings A-2 to A-3** 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:

<b>Major Development Parameters</b>	<b>Last Approved Application (A/YL-HT/1063) (a)</b>	<b>Current Application (A/HSK/197) (b)</b>	<b>Difference (b) - (a)</b>
<b>Applied Use</b>	Temporary Storage of Scrap Metal and Plastic (3 Years)	Temporary Storage of Scrap Metal (3 Years)	No longer for storage of plastic
<b>Site Area</b>	950m <sup>2</sup>		same
<b>No. of Structures</b>	3		same
<b>Total Floor Area</b>	About 79m <sup>2</sup>		same
<b>No. of Loading/ Unloading Bay</b>	1 for light goods vehicle		
<b>Operation Hours</b>	7:00 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 with received on 25.10.2019 **(Appendix I)**
  - (b) Supplementary planning statement with proposed layout plan, as-built landscape and tree preservation 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**. They can be summarized as follows:

- (a) The proposed development is temporary in nature and would not jeopardize the long term planning intention of the respective zones on the OZP and will not bring about any long-term adverse impacts to the area.
- (b) The proposed use is not incompatible with the surrounding environment which is occupied by open storage yards, port back-up uses and intermixed with a few rural workshops. It will also help meet the pressing need for storage and logistics facilities in proximity to the Kong Sham Western Highway.
- (c) The Site falls within Category 1 areas under the Town Planning Board Planning Guidelines for Application of Open Storage and Port Back-up Uses (TPB PG-No.13E) which are considered suitable for open storage and port back-up uses.
- (d) The Site has been operated for temporary open storage use since 2001 with planning permissions. The last planning application No. A/YL-HT/1063 was approved by the Committee on 3.2.2017 for similar open storage use. As the previous planning permission will be lapsed, the current application is therefore submitted. The applicant has complied with all the approval conditions under the previous planning permissions. There are no major change in planning circumstance and its surrounding environment since the last approval.
- (e) The traffic generation from the proposed development is not great and will not cause adverse traffic impact on the local road network. The applicant commits that adequate space for manoeuvring and loading/unloading will be provided within the Site. The drainage facilities implemented under the previous approval will be maintained.
- (f) Insignificant environmental and noise impact will be generated and a number of mitigation measures have been suggested. Peripheral planting is in place and no dusty materials will be stored. The applicant will follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' ('COP') to minimize potential environmental nuisance to the surrounding area.

### **3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is not a "current land owner" and 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 by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

### **4. Town Planning Board Guidelines**

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

## 5. **Background**

The Site is currently covered by a valid planning permission No. A/YL-HT/1063. As such, the use is not subject to planning enforcement action. Follow-up investigation will be taken upon expiry of the current planning permission if the subject application is not approved by the Board.

## 6. **Previous Applications**

- 6.1 The Site is related to 8 previous applications No. A/YL-HT/228, 395, 551, 628, 660, 708, 877 and 1063 for various open storage uses. All the applications were approved with conditions by the Committee. However, application No. A/YL-HT/551 was subsequently revoked due to non-compliance with the time-specific 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 application (No. A/YL-HT/1063) for temporary open storage of scrap metal and plastic was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 3.2.2017 for a period of 3 years. All the time-specific approval conditions had been complied with. Compared with this last approved application, the current one is submitted by the same applicant for similar open storage use at the same site.

## 7. **Similar Applications**

There are 6 similar applications (No. A/YL-HT/588, 657, 711, 833 & 999 and A/HSK/127) for various open storage within the same “O” zone on the approved HSK and HT OZP since the promulgation of TPB PG-No. 13E on 17.10.2008. All of these similar applications were approved with conditions by the Committee. Details of the above applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1a**.

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

- 8.1 The Site is:
- (a) being used for the applied use with a valid planning permission No. A/YL-HT/1063; and
  - (b) directly abutting Lau Fau Shan Road.
- 8.2 The surrounding areas have the following characteristics:
- (a) to its immediate north is a vehicle repair workshop and to its northwest is a storage of vehicle parts under a valid planning permission No. A/HSK/104. To the further north are a yard for parking of vehicles, a vehicles services centre and several open storage of containers and construction materials and a residential dwelling;
  - (b) to its east across Lau Fau Shan Road is the “Village Development Zone” for the village settlement of Sha Kong Wai;

- (c) to its south is a logistics centre under the planning permission No. A/HSK/145 and an open storage of new vehicles; and
- (d) to its west are a number of residential structures (the closet being about 22m away) and an open storage of construction materials and machinery while to its further west is a logistics centre under a valid planning permission No. A/HSK/59,.

## 9. **Planning Intention**

- 9.1 The Site straddles over “O” and “R(B)2” zones and an area shown as ‘Road’ on the approved HSK and HT OZP. The planning intention of the “O” zone is intended 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.
- 9.2 The planning intention of the “R(B)2” zone is intended primarily for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted with or without application to the Board.

## 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 an Old Schedule Agricultural Lot 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) in the Site is listed below:

<b>Lot No. in D.D.129</b>	<b>STW No.</b>	<b>Purpose</b>
2939 RP	2257	Ancillary Use to Open Storage of Scrap Metal and Plastic
2950 RP	2368	Vehicle Repair Workshop

- (c) The Site is accessible from Lau Fau Shan Road through Government Land (GL). His office provides no maintenance works to the GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.

- (e) Should planning approval be given, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. The owner(s) of the lot without STW will need to apply to his office to permit the structures to be erected or to regularize any irregularity 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. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications 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 will be approved. If such application 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/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 vehicle is allowed to queue back to public road or reverse onto/from the public road.

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 Lau Fau Shan 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 relevant mitigation measures and requirements in the latest 'Code of Practice ('COP') on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' to minimize any potential environmental nuisance.

### **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 development 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/1063 will be maintained for the subject development.
- (c) Should the application be approved, he suggests imposing approval conditions requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.
- (d) The applicant should be reminded that the required condition record should include coloured photos showing the current condition of the drainage facilities and a layout plan indicating the locations of the photos taken. The submitted photos should cover all internal surface channels, catch pits, sand traps, manholes, terminal catch pits/manholes and the downstream discharge path as indicated on the submitted drainage proposal.

### **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 the BD to effect their removal in accordance with the policy for control UBW in the future. 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 the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the BO.

- (e) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (f) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the (B(P)R) at the building plan submission stage.

### **Fire Safety**

#### 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, the following additional approval condition shall be added:

The provision of fire extinguisher(s) within 6 weeks from the date of planning approval.

To address the above 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 Buildings Ordinance (Cap. 123), 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/Ha Tsuen New Development Area (HSK/HT NDA, formerly known as HSK NDA). According to the Planning and Engineering Study (P&E 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 4 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 in question will not be arranged before the first population intake of the HSK/HT NDA expected in 2024.

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

- (a) The Site falls within the area zoned “O”, “R(B)2” and area shown as ‘Road’ on the approved HSK and HT OZP No. S/HSK/2. It is not on the priority list for development agreed by the Yuen Long District Council. She has no plan to develop the Site into public open space at present.
- (b) Since the application involves private lot only, she 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) Commissioner of Police (C of P);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (c) Chief Engineer/Construction, Water Supplies Department (WSD).

**11. Public Comments Received During Statutory Publication Period**

On 1.11.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 22.11.2019, no public comment was received.

**12. Planning Considerations and Assessment**

12.1 The application is for temporary open storage of scrap metal for a period of 3 years at the Site straddling over “O” and “R(B)2” zones and an area shown as ‘Road’ on the approved HSK and HT OZP. The “O” zone is intended 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 while that of the “R(B)2” zone is primarily for medium-density residential developments. Whilst the development is not in line with the planning intentions, the

implementation programme for this part of NDA is still being formulated, and PM/NTW of CEDD and DLCS have no objection to the proposed temporary use for a period of 3 years on the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site. However, should the application be approved, it is suggested to include an advisory clause stating that the Site may be required by the Government at any time during the planning approval period for the implementation of government projects.

- 12.2 The Site falls within Category 1 areas under the 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.

- 12.3 The proposed development is generally 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.
- 12.4 The proposed open storage of scrap metal is not incompatible with the surrounding land uses which are predominantly used for open storage yards, vehicle repair workshop and logistics centre (**Plan A-2**).
- 12.5 There is no major adverse comment from concerned Government departments including DEP, AC for T, CE/MN, DSD and D of FS on the proposed development and no substantiated environmental complaint pertaining to the Site was received 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 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 had approved 8 previous planning applications for various open storage uses at the Site and 6 similar applications within the same "O" and "R(B)2" zones on the approved HSK and HT OZP since the promulgation of TPB PG-No. 13E on 17.10.2008 (**Plan A-1a**). Approval of the subject application is in line with the Committee's previous decisions.
- 12.7 There is no public comment received during the statutory publication period.

### **13. Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department considers that the temporary open storage of scrap metal 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 **13.12.2022**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval conditions

- (a) no operation between 7:00 p.m. and 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 cutting, dismantling, melting, cleaning, repairing or other workshop activities, as proposed by the applicant, are allowed at any time during the planning approval period;
- (d) the existing trees and landscape planting on the Site shall be maintained at all times during the planning approval period;
- (e) the existing drainage facilities on Site shall be maintained at all times during the planning approval period;
- (f) the submission of a condition record of existing drainage facilities within **3** months to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **13.3.2020**;
- (g) 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 **24.1.2020**;
- (h) 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 **13.6.2020**;
- (i) in relation to (h) 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 **13.9.2020**;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (e) 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;
- (k) if any of the above planning conditions (f), (g), (h) or (i) 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 reason for rejection is suggested for Members' reference:

the development is not in line with the planning intentions of the "O" and "R(B)2" zones, which are intended 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 and for medium-density residential developments respectively. There is no strong planning justification 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 reason(s) for rejection should be given to the applicant.

#### **15. Attachments**

<b>Appendix I</b>	Application Form received on 25.10.2019
<b>Appendix Ia</b>	Supplementary planning statement with proposed layout plan, as-built landscape and tree preservation plan and as-built drainage plan
<b>Appendix II</b>	Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
<b>Appendix III</b>	Previous applications covering the Application Site
<b>Appendix IV</b>	Similar Applications within the same "O" and "R(B)2" Zones on the approved Hung Shui Kui and Ha Tsuen OZP No. S/HSK/2
<b>Appendix V</b>	Good Practice Guidelines for Open Storage issued by the Director of Fire Services
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	As-built Landscape And Tree Preservation Plan
<b>Drawing A-3</b>	As-built Drainage Plan
<b>Plan A-1a</b>	Location Plan with Similar Applications
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4b</b>	Site Photos