

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/HSK/85

- Applicant** : Fine Vision Investments Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 94 (Part), 98 (Part), 99 (Part), 100 (Part), 105(Part), 106 (Part), 107 (Part), 108 (Part), 110 (Part), 116 (Part) and 760 (Part) in D.D.125, Ha Tsuen, Yuen Long
- Site Area** : 4,990m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/1
- Zoning** : “Residential (Group A)2” (“R(A)2”) (about 39.7%),
[Restricted to maximum plot ratio (PR) of 6 and maximum building height (BH) of 140mPD];
- “Residential (Group A)3” (“R(A)3”) (about 27.2%)
[Restricted to maximum PR of 5.5 and maximum BH of 140mPD]; and
- an area shown as ‘Road’ (about 33.1%)
- Application** : Temporary Logistics Centre and Ancillary Parking of Vehicle for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application Site (the Site) for a temporary logistics centre for a period of 3 years (**Plan A-1a**). The Site straddles over “R(A)2” (39.7%), “R(A)3” (27.2%) and an area shown as ‘Road’ (33.1%) on the Draft 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.
- 1.2 The Site is related to 5 previous applications Nos. A/YL-HT/121, 637, 873, 939 and 960 for temporary open storage or logistics centre uses (**Plan A-1b**). The last

application No. A/YL-HT/960 for the same applied use was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 3.7.2015 with conditions for a period of 3 years. All the time-specific approval conditions have been complied with. The Site is currently being used for the applied use.

- 1.3 The Site is accessible to Ping Ha Road via a local track (**Drawing A-1**). As shown on the layout plan at **Drawing A-2**, the ingress/egress is at the northeast corner of the Site. 4 structures with a total floor area of 3,660m² including a 11m high structure (not exceeding 3,540m²) with rain shelter for logistic use, a 3.5m high structure (not exceeding 40m²) as Site office, a 5m high structure (not exceeding 60m²) water tank and pump room and a 3.5m high toilet (not exceeding 20m²) are proposed. The proposed logistic centre is proposed at the western side of the Site while the proposed Site office, toilet, water tank with pump room, 2 parking spaces for medium and heavy goods vehicles and 1 parking space for container trailer occupy the eastern portion of the Site. The remaining area is maneuvering spaces (**Drawing A-2**). According to the applicant, the operation hours are from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays. There would be no operation on Sundays and public holidays and no workshop activities within the Site. The Site is hard paved and the applicant proposes to fence off the Site. The proposed landscape and tree preservation plan and the as-built drainage plan are at **Drawings A-3 and A-4** respectively.
- 1.4 A comparison of the major development parameters of the last approved application and the current application is given in the following table:

Major Development Parameters	Last Approved Application (A/YL-HT/960) (a)	Current Application (A/HSK/85) (b)	Difference (b) – (a)
Site Area	About 4,990m ²	About 4,990m ²	No change
Applied Use	Temporary Logistics Centre and Ancillary Parking of Vehicle	Temporary Logistics Centre and Ancillary Parking of Vehicle	No change
No. of Structures	3	4	+1 (for pump room and water tank)
Total Floor area	3,600 m ²	3,660 m ²	+60m ²
No. of Parking Space for Medium/Heavy Goods Vehicles	2	2	No change
No. of Parking Space for Containers/Trailers/Tractors	1	1	No change

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

(a) Application Form received on 12.6.2018 **(Appendix I)**

- (b) Supplementary planning statement with proposed tree preservation and landscape plan and as-built drainage plan **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement at **Appendix Ia**. They can be summarized as follows:

- (a) The Site falls within the Category 1 areas of the Town Planning Board's Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E), where there is a conglomeration of logistics yards and container yards. The proposed development has fulfilled the assessments of the guidelines and the applicant has committed to provide a series of ameliorative measures to maintain the surrounding environmental quality. Therefore, favourable consideration should be given to the application;
- (b) The Site is zoned "R(A)2" and "R(A)3" on the OZP. While the planning intention could be hardly achieved in the near future, alternative temporary use which generates no significant nuisance should be encouraged in the interim to make economic use of scarce land resource;
- (c) With regards to the sustaining growth of boundary trades and the opening of the Shenzhen Bay Bridge and Kong Sham Western Highway, open storage yards and off-Site port back-up activities are common across Northwest New Territories. There is a pressing demand for open storage and port back-up facilities in proximity to the western port and Ha Tsuen is considered suitable for such uses;
- (d) Container depots and similar logistic centre are found in close proximity to the Site which makes the proposed development compatible with the surrounding landscape. Almost all of the open storage and port back-up uses surrounding the application Site are granted with planning permission by the Board;
- (e) There are minimal traffic impact, insignificant environmental and drainage impacts from the development. The applicant will provide fencing and paving for the Site. He has also submitted landscaping proposal to ensure that the proposed development would not generate any adverse impacts to the surrounding areas; and
- (f) The operation hours are from 8:00 a.m. to 8:00 p.m. from Monday to Saturday and there will be no operation on Sunday and public holidays. No workshop activities will be carried out at the Site and a 2.5m high peripheral fencing will be provided for screening purpose.

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 post. 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 not subject to any active enforcement case. Should a material change of use be identified on Site, which constitutes an unauthorized development under the Town Planning Ordinance, enforcement action would be instigated subject to sufficient evidence collected.

6. Previous Applications

- 6.1 The Site is involved in 5 previous applications Nos. A/YL-HT/121, 637, 873, 939 and 960. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 Application No. A/YL-HT/121 for temporary open storage of construction machinery, construction materials and marble on a much larger site was approved by the Committee for a period of 3 years with conditions on 17.12.1999. However, the permission was revoked on 17.9.2000 due to non-compliance with the approval conditions. Application No. A/YL-HT/637 for temporary open storage of construction machinery with ancillary workshop was approved by the Committee on 21.8.2009 for a period of 3 years. All the planning approval conditions had been complied with.
- 6.3 Application Nos. A/YL-HT/873 and 939 for temporary logistics centre and ancillary parking of vehicle was approved by the Committee for a period of 3 years on 22.11.2013 and 27.3.2015 respectively. However, the A/YL-HT/939 was revoked on 27.9.2015 due to non-compliance with the approval conditions.
- 6.4 The last planning application No. A/YL-HT/960 for temporary logistics centre and ancillary parking of vehicle was approved by the Committee on 3.7.2015 for a period of 3 years. All the planning approval conditions had been complied with and the permission expired on 4.7.2018.
- 6.5 Compared with the last application No. A/YL-HT/960, the current application is submitted by the same applicant for the same uses on the same Site with an additional structure for water tank and pump room, and increase in floor area (+60 m²).

7. Similar Applications

- 7.1 There are 11 similar applications for temporary logistics centre use within the same "R(A)2" and "R(A)3" zones in the draft HSK&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 between 2008 and 2016. Among them, 2

applications Nos. A/YL-HT/935 and 1014 were subsequently revoked due to non-compliance with approval conditions. Details of these applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1a**.

- 7.2 For Members' information, Application No. A/HSK/86 for Temporary Logistics Centre for a Period of 3 Years within the same "R(A)3" zone will also be considered at this meeting (**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; and
- (b) accessible from Ping Ha Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) predominately open storage/storage yards, logistics centres, warehouses, vehicle repair workshops and parking of vehicles uses;
- (b) scattered residential structures are found in the vicinity of the Site with the nearest one located 28m away to its south;
- (c) there are open storage yards and warehouses in the vicinity of the Site under valid planning application Nos. A/YL-HT/994 and 1000 and A/HSK/1, 3 and 9 (**Plan A-2**);
- (d) other open storage/storage yards, logistics centres, parking of vehicles and vehicle repair workshops in the vicinity are suspected unauthorized developments (UDs) subject to enforcement action taken by the Planning Authority.

9. Planning Intentions

The Site straddles over "R(A)2", "R(A)3" zones and an area shown as 'Road' on the draft HSK and HT OZP. The "R(A)2" and "R(A)3" zones are intended primarily for high-density residential developments. Commercial uses are always permitted on the lowest two floors of a building excluding basements, or in a free-standing purpose-designed non-domestic building up to five storeys.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application 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 Site is accessible to Ping Ha Road through Government land (GL) and private lot(s). His Office provides no maintenance works to the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The private lots which are covered by Short Term Waivers (STWs) are listed below:

Lot No(s). in D.D. 125	STW	Purpose
94	4097	Temporary Open Storage of Container & Logistic Centre with Ancillary Open Storage of Recyclable Materials
99	4530	Temporary Logistic Centre & Ancillary Parking of Vehicle
100	4099	Temporary Open Storage of Container & Logistic Centre with Ancillary Open Storage of Recyclable Materials
105, 106, 107, 108 & 760	4531	Temporary Logistic Centre & Ancillary Parking of Vehicle
116	3922	Temporary Logistic Centre

- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should the application be approved, the STW holders will need to apply to his Office for modification of the STW conditions if there are any irregularities on Site and the lot owner(s) of the lot(s) without STW will need to apply to his office for permit the structures to be erected or regularize any irregularities on Site. Such application(s) will be considered by the Lands Department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the Lands Department.

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 comment on the application from traffic engineering point of view.
- (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 Ping Ha Road.

Environment

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

- (a) DEP does not support the application because there are sensitive uses in the vicinity of the Site (the nearest one being about 28m away to the south of the Site) (**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 Open Storage and Temporary Uses' ('COP').

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 was implemented under an approved application No. A/YL-HT/960 will be maintained for the subject development. He has no objection in principle to the development from a drainage point of view.
- (b) Should the application be approved, he would suggest a condition should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.

Building Matters

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

- (a) As there is no record of approval by the Building Authority (BA) for the existing structures at the Site, Buildings Department (BD) is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted Houses) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the captioned application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the 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 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 Building (Planning) Regulations at the building plan submission stage.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire services installation (FSIs) being provided to the satisfaction of D of FS.
- (b) In consideration of the design/nature of the structures, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs are to be installed should be clearly marked on the layout plans. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) 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 Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD):

- (a) He has no objection to the temporary use for 3 years, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) However, the Site falls within the boundary of the Hung Shui Kiu New Development Area (HSK NDA). According to the Planning and Engineering Study (P&E Study) for the HSK NDA, to ensure timely and orderly implementation, the development of HSK NDA and relevant Site formation and infrastructure works would be implemented in five stages, viz. Advance Works and Stage 1 to Stage 4. The concerned lot(s) falls within a Site under Stage 3 Works stage. While the detailed implementation programme for the project is still being formulated, based on the P&E Study, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the HSK NDA expected in 2024.

10.1.9 Comments of the Director of Housing (D of H):

He has no objection to the proposals under the application provided that the development programme of Public Rental Housing/ Subsidized Sale Flats (PRH/SSF) development under the implementation of HSK NDA would not be affected.

District Officer's Comments

10.1.10 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the locals on the application.

10.2 The following Government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Commissioner of Police (C of P);
- (d) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD); and
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 19.6.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 10.7.2018, no public comment was received.

12. Planning Considerations and Assessments

12.1 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.

12.2 The Site straddles over “R(A)2” and “R(A)3” zones and an area shown as ‘Road’ on the OZP. The planning intentions of the “R(A)2” and “R(A)3” zones are intended primarily for high-density residential developments. Whilst the development is not in line with their planning intentions, the implementation programme for this part of NDA is still being formulated, and PM/NTW of CEDD and D of H 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 resumed by the Government at any time during the planning approval period for implementation of government projects.

12.3 The Site is located in an area which is predominantly occupied by warehouse, vehicle repair workshop and open storage/storage uses. The applied use is not incompatible with the surrounding land uses (**Plan A-2**).

12.4 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.

12.5 There is no major adverse comment from concerned Government departments, except DEP. DEP does not support the application because there are sensitive uses in the vicinity (the nearest residential dwelling being about 28m away), and environmental nuisance is expected (**Plan A-2**). However, there is no environmental complaint pertaining to the Site in the past three years. Furthermore, relevant approval conditions have been recommended in paragraph 13.2 to address the concerns on the possible environmental nuisances or the technical requirements of the other concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and UD on Site would subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will 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 has approved 5 previous applications for open storage and logistics centre uses at the Site (**Plan A-1b**) and 11 similar logistics centre uses within the same “R(A)2” and “R(A)3” zones on the OZP since the promulgation of TPB

PG-No. 13E on 17.10.2008 (**Plan A-1a**).

12.7 There is no public comment received on the application during the statutory publication period.

13. Planning Department's Views

13.1 Based on the assessment made in paragraph 12, the Planning Department considers that the temporary logistics centre and ancillary parking of vehicle use could be tolerated for a period of 3 years.

13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis of 3 years until **3.8.2021**. The following conditions of approval with shorter compliance periods and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays or public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no workshop activity, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) no vehicle is allowed queue back to or reverse onto/from the public road at any time during the planning approval period;
- (e) the existing trees and landscape planting on the Site shall be maintained at all time during the planning approval period;
- (f) the existing fencing on the Site shall be maintained at all times during the planning approval period;
- (g) 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 **3.11.2018**;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a fire service installations proposal within **6** months to the satisfaction of the Director of Fire Services or of the Town Planning Board by **3.2.2019**;
- (j) in relation to (i) above, the implementation of the fire service installations proposal within **9** months to the satisfaction of the Director of Fire Services or of the Town Planning Board by **3.5.2019**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (h) is not

complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;

- (l) if any of the above planning conditions (g), (i) or (j) 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; and
- (m) upon expiry of planning permission, the reinstatement of the application Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are at **Appendix V**.

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

- (a) the applied use is not in line with the planning intentions of the "R(A)2" and "R(A)3" zones which are intended primarily for medium-density residential development. There is no strong justification to deviate from the planning intention even on a temporary basis; and
- (b) the applicant fails to demonstrate that the applied development 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 reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 12.6.2018
Appendix Ia	Supplementary planning statement with proposed tree preservation and landscape plan and as-built drainage plan
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
Appendix III	Previous s.16 applications covering the Application Site
Appendix IV	Similar s.16 Applications within the same "R(A)2" and "R(A)3"

	Zones on the draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan since the promulgation of TPB PG-No. 13E on 17.10.2008
Appendix V	Advisory clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Plan
Drawing A-4	As-built 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
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