

**Extract of 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. 34B)

1. The criteria for assessing applications for renewal of planning approval include:
 - (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
 - (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
 - (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
 - (d) whether the approval period sought is reasonable; and
 - (e) any other relevant considerations.

2. Under normal circumstances, the approval period for renewal should not be longer than the original validity period of the temporary approval. In general, the Board is unlikely to grant an approval period exceeding three years unless there are strong justifications and the period is allowed for under the relevant statutory plans. Depending on the circumstances of each case, the Board could determine the appropriate approval period, which may be shorter than the time under request.

**Town Planning Board Guidelines for
Application for Open Storage and Port Back-up Uses
(TPB PG-No.13E)**

1. On 17.10.2008, the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13E) were promulgated, which set out the following criteria for the various categories of area:
 - (a) 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;
 - (b) Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no 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, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas;
 - (c) Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions; and
 - (d) Category 4 areas: applications would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. The intention is however to encourage the phasing out of such non-conforming uses as early as possible. A maximum period of 2 years may be allowed upon renewal of planning permission for an applicant to identify suitable sites for relocation. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merit.

2. In assessing applications for open storage and port back-up uses, the other major relevant assessment criteria are also summarized as follows:
- (a) there will be a general presumption against development on sites of less than 1,000m² for open storage uses and 2,000m² for port back-up uses in rural areas, other than sites located in major corridors, industrial/godown/workshop areas, quarrying activities or where it is demonstrated that optimum use is made of the site. This is to prevent the further proliferation of small sites in rural areas, minimizing sprawl over countryside areas and reducing travel trips;
 - (b) port back-up sites and those types of open storage uses generating adverse noise, air pollution and visual intrusion and frequent heavy vehicle traffic should not be located adjacent to sensitive receivers such as residential dwellings, hospitals, schools and other community facilities;
 - (c) port back-up uses are major generators of traffic, with container trailer/tractor parks generating the highest traffic per unit area. In general, port back-up sites should have good access to the strategic road network, or be accessed by means of purpose built roads;
 - (d) adequate screening of the sites through landscaping and/or fencing should be provided where sites are located adjacent to public roads or are visible from surrounding residential areas;
 - (e) there is a general presumption against conversion of agricultural land and fish ponds to other uses on an ad hoc basis, particularly in flood prone areas or sites which would obstruct natural drainage channels and overland flow; and
 - (f) for applications involving sites with previous planning approvals, should there be no evidence to demonstrate that the applicants have made any genuine effort to comply with the approval conditions of the previous planning applications, planning permission may be refused, or a shorter compliance period for the approval conditions may be imposed, notwithstanding other criteria set out in the Guidelines are complied with.

Previous s.16 Applications Covering the Site

Approved Applications

<u>No.</u>	<u>Application No.</u>	<u>Development/Use</u>	<u>Zoning</u>	<u>Date of Consideration</u>	<u>Approval Conditions</u>
1	A/DPA/YL-PS/30	Temporary Use of Open Storage of New Vehicles	Unspecified Use	21.10.1994 (Approved for 3 Years)	(5), (7), (8), (9), (11), (12), (15), (16) and (18)
2	A/YL-PS/14	Temporary Open Storage of New Vehicles for a Period of 12 Months	REC	3.10.1997	(8), (11), (12), (15), (16) and (18)
3	A/YL-PS/40	Temporary Open Storage of New Vehicles for a Period of 12 Months	REC	16.10.1998	(11), (12), (15) and (18)
4	A/YL-PS/76	Temporary Open Storage of New Vehicles for a Period of 3 Years	REC and V	19.5.2000 (Revoked on 19.8.2001)	(11), (12), (17) and (18)
5	A/YL-PS/106	Temporary Open Storage of New Vehicles (Cars, Taxis and Light Vans Only) for a Period of 3 Years	REC	1.3.2002 (Revoked on 22.8.2002)	(1), (15), (17) and (18)
6	A/YL-PS/122	Temporary Open Storage of New Vehicles (Cars, Taxis and Light Vans Only) for a Period of 3 Years or Less	REC	11.10.2002 (Approved for 3 Years)	(1), (17) and (18)
7	A/YL-PS/167	Temporary Open Storage of New Vehicles (Cars, Taxis and Light Vans Only) for a Period of 3 Years	REC	19.12.2003	(1), (6), (11), (12), (17) and (18)
8	A/YL-PS/255	Renewal of Planning Approval for Temporary Open Storage of New Vehicles (Cars, Taxis and Light Vans Only) under Application No. A/YL-PS/167 for a Period of 3 Years	REC	1.12.2006	(1), (2), (4), (6), (11), (12), (17) and (18)
9	A/YL-PS/311	Temporary Open Storage of New Vehicles (Cars, Taxis, Light Goods Vehicles and Light Buses Only) for a Period of 3 Years	REC	19.3.2010	(1) to (3), (6), (10), (11), (12), (13), (14), (17) and (18)
10	A/YL-PS/405	Temporary Open Storage of New Vehicles (Cars, Taxis, Light Goods Vehicles and Light Buses Only) for a Period of 3 Years	REC and V	15.3.2013	(1) to (3), (6), (11), (12), (13), (14), (17) and (18)
11	A/YL-PS/511	Temporary Open Storage of New Vehicles (Cars, Taxis, Light Goods Vehicles and Light Buses Only) for a Period of 3 Years	REC and V	5.2.2016	(1) to (3), (6), (11), (12), (13), (14), (17) and (18)

Approval Conditions

- (1) No night-time operation.
- (2) No repair, car washing or other workshop activities.

- (3) No medium or heavy goods vehicles exceeding 5.5 tonnes as defined in the Road Traffic Ordinance, buses exceeding 16 seats, container vehicles, container tractors and trailers were allowed to be parked on the site.
- (4) No vehicles other than new private cars, taxis and light vans should be stored on the site.
- (5) Submission of traffic impact assessment.
- (6) Delivery route via Tin Wah Road should be adhered.
- (7) Carrying out of proposed works in the vicinity of existing waterworks installations.
- (8) Setting back of the site from existing waterworks or water main.
- (9) Setting back of the site to avoid encroachment onto the proposed work limit to Ha Mei San Tsuen for Village Flood Protection Phase IV.
- (10) Provision of waterworks reserve.
- (11) Submission and implementation of landscaping proposal/Existing trees or landscape planting within the site boundary should be maintained.
- (12) Existing drainage facilities should be maintained and submission of drainage record/ provision of drainage facilities.
- (13) Submission and implementation of fire service installations.
- (14) Provision of peripheral fencing of the site.
- (15) Implementation of noise mitigation measures.
- (16) Provision of vehicular access.
- (17) Revocation clauses.
- (18) Reinstatement clause.

Rejected Application

<u>No.</u>	<u>Application No.</u>	<u>Development/Use</u>	<u>Zoning</u>	<u>Date of Consideration</u>	<u>Reasons for Rejection</u>
1	A/DPA/YL-PS/3	Proposed Open Storage of New Vehicles	Unspecified Use	13.5.1994 (on review)	(1) to (3)

Reasons for Rejection:

- (1) Not in line with planning intention.
- (2) Not compatible with surrounding land uses.
- (3) The impact of stormwater discharge on the existing stormwater drain along Tin Tze Road has not been adequately addressed.
- (4) The information on the existing access road is incomplete and the applicant have not demonstrated that the number of vehicles received/despached in future will be maintained at the present level.
- (5) The visual and noise impacts caused by proposed development have not been adequately addressed.

**Similar s.16 Applications within the same “REC” and “V” Zones
on the approved Ping Shan OZP
since the promulgation of TPB PG-No. 13E on 17.10.2008**

Approved Applications

<u>No.</u>	<u>Application No.</u>	<u>Proposed Use</u>	<u>Zoning</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Conditions</u>
1	A/YL-PS/436	Proposed Temporary Open Storage of New Vehicles (Privates Cars and Light Goods Vehicles Only) for a Period of 3 Years	REC	25.4.2014	(1) to (12)
2	A/YL-PS/537	Temporary Open Storage of New Vehicles (Privates Cars and Light Goods Vehicles) for a Period of 3 Years	REC	12.5.2017	(1) to (5), (8) to (14)

Approval Conditions

- (1) No night-time operation.
- (2) No operation on Sundays and public holidays.
- (3) No repair, car washing or other workshop activities.
- (4) Only private cars and light goods vehicles not exceeding 5.5 tonnes, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on the site.
- (5) No vehicle queuing back to public road or vehicle reversing onto/from the public road.
- (6) Provision of peripheral fencing and paving of the site.
- (7) Submission and implementation of drainage proposal.
- (8) Submission and implementation of landscape and tree preservation proposal.
- (9) Provision of fire extinguishers.
- (10) Submission and implementation of fire service installations.
- (11) Revocation clauses.
- (12) Reinstatement clause.
- (13) Maintenance of drainage facilities on site and submission of the condition record of the existing drainage facilities..
- (14) Maintenance of fencing on site.

Rejected Application

<u>No.</u>	<u>Application No.</u>	<u>Proposed Use</u>	<u>Zoning</u>	<u>Date of Consideration (RNTPC)</u>	<u>Rejecting Reasons</u>
1	A/YL-PS/365	Proposed Temporary Open Storage of New Vehicles (Privates Cars and Medium Goods Vehicles) (under 12 tonnes) for a Period of 3 Years	V	30.3.2012	(1) to (6)

Reasons for Rejection:

- (1) Not in line with planning intention.
- (2) Not compatible with surrounding rural and residential neighbourhood.
- (3) No strong planning justification had been given for a departure from the planning intention, even on a temporary basis.
- (4) Not comply with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E).
- (5) Failed to demonstrate no adverse environmental, landscape and drainage impacts.
- (6) Undesirable precedent.

Good Practice Guidelines for Open Storage Sites

		Internal Access for Fire Appliances	Lot Boundaries (Clear Width)	Distance between Storage Cluster and Temporary Structure	Cluster Size	Storage Height
1.	Open Storage of Containers		2m	4.5m		
2.	Open Storage of Non-Combustibles or Limited Combustibles	4.5m	2m	4.5m		
3.	Open Storage of Combustibles	4.5m	2m	4.5m	40m x 40m	3m

Remarks: Smoking and naked flame activities shall not be allowed within the open storage / recycling site.

**Appendix VIII of RNTPC
Paper No. A/YL-PS/579**

Advisory Clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the Site;
- (b) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that 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. The Government Land (GL) (about 358m²) is covered by Short Term Tenancy No. 2868 (STT2868) for the purposes of temporary open storage of new vehicles (cars, taxi, light goods vehicles and light buses only). The private land of Lots No. 102 and 233 in D.D. 126 is covered by Short Term Waivers (STW) No. 4225 and 2756 respectively to permit structures for the purpose of “temporary open storage of new vehicles (cars, taxi, light goods vehicles and light buses only)” and “storage of plastic materials”. The Site is accessible to Tin Wah Road through GL. Her office provides no maintenance works for the GL involved and does not guarantee any right-of-way over the GL to the Site. The Site does not fall within any Shek Kong Airfield Height Restriction Area. The STW/STT holders will need to apply to his office for modification of the STW/STT 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 regularize any irregularities on the 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. No construction of New Territories Exempted Building(s) will be considered or allowed. Application(s) of 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/are 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;
- (c) to note the comments of the Commissioner for Transport (C for T) that the Site is connected to the public road network via a section of a local access which is not managed by Transport Department (TD). The land status of the local access road should be clarified with the LandsD by the applicant. The management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly. Sufficient manoeuvring spaces shall be provided within the Site. No vehicles are allowed to queue back to public road or reverse onto/from the public road;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads/drains. HyD shall not be responsible for the maintenance of any access connecting the Site and Tin Wah Road;
- (e) to note the comments of the Director of Environmental Protection (DEP) that 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' (COP);

- (f) to note the comments of the Director of Fire Services (D of FS) 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;
- (g) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, Plan D) that approval of the application under S.16 does not imply approval of tree works such as felling, transplanting or pruning under lease. The applicant shall be reminded to approach relevant authority /government department(s) direct to obtain the necessary approval for any proposed tree preservation or removal scheme involving trees within or outside the Site;
- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that if 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 unauthorized building works (UBW) under the Building Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO. 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. 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. 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;
- (i) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that existing water mains will be affected. The developer shall bear the cost of any necessary diversion works affected by the proposed development. In case it is not feasible to divert the affected water mains within the Site, a waterworks reserve within 1.5 metres from the centreline of the water main shall be provided to the WSD. No structure shall be erected over the waterworks reserve and such area shall not be used for storage purposes. The Water Authority and his officers and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority may require or authorize. The Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.