

**Relevant Extract of Town Planning Board Guidelines No.34B 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 circumstance 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.

**Relevant Extract of 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: Within these areas, “existing” and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications within Category 3 areas would normally not be 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.

**Appendix IV of RNTPC
Paper No. A/YL-PH/781**

Previous Applications covering the Application Site

Approved Applications

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
1	A/YL-PH/305	Temporary open storage of new private cars, vehicle parts and construction materials for a period of 3 years	22.10.1999 (revoked on 22.7.2000)	(1), (2), (3), (4), (5), (6)
2	A/YL-PH/381	Temporary open storage of vehicles (private cars only) for a period of 3 years	18.1.2002 on review	(2), (3), (4), (5), (6), (7), (8), (9), (10)
3	A/YL-PH/574	Temporary open storage of goods vehicles for sale for a period of 3 years	9.1.2009	(3), (5), (6), (8), (10), (11), (12), (13), (14), (15)
4	A/YL-PH/646	Temporary open storage of goods vehicles for sale for a period of 3 years	7.9.2012	(3), (5), (6), (8), (10), (11), (12), (13), (14), (15)
5	A/YL-PH/718	Temporary Open Storage of Goods Vehicles for Sale for a Period of 3 Years	17.7.2015	(3), (5), (6), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19)

Approval Conditions

- (1) The application site should only be used for open storage of new private cars, vehicle parts and construction materials without any workshop activities.
- (2) Submission and implementation of landscaping proposals within a specified time limit.
- (3) Submission of drainage proposals and/or provision of drainage facilities without a specified time limit/the submission of the record of the existing drainage facilities on the site/the existing drainage facilities on the site shall be maintained at all times during the planning approval period.
- (4) Provision of fencing and paving of the application site within a specified time limit.

- (5) If any of the planning conditions is not complied with by the specified dates, the approval given shall cease to have effect and shall on the same dates be revoked without further notice.
- (6) Reinstatement of the application site to an amenity area upon expiry of the planning permission.
- (7) The stacking height of vehicles and spare parts stored within 5m of the periphery of the application site should not exceed the height of boundary fence of the application site.
- (8) Provision of vehicular access.
- (9) Submission and implementation of environmental mitigation measure proposals.
- (10) The existing trees/landscape planting on the site should be maintained at all time during the approval period
- (11) Restriction on operation hours
- (12) No operation on Sundays and public holidays was allowed on the site during the planning approval period.
- (13) If planning condition is not complied with at any time during planning approval, the approval shall cease to have effect and be revoked without further notice.
- (14) Setting back of the site.
- (15) No dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities should be carried out at the site
- (16) No tree/shrub shall be planted within the Waterworks Reserve area at any time during the planning approval period
- (17) a proper vehicular access/run-in between the site and the public road shall be maintained at all times during the planning approval period
- (18) no reversing of vehicles into or out from the site is allowed at any time during the planning approval period
- (19) submission of fire service installations/implementation of fire service installations proposal/provision of fire extinguisher(s) with valid fire certificate

Rejected Applications

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Main Rejection Reasons</u>
1	A/DPA/YL-PH/15*	Open storage of cars and spare parts	5.3.1993	(1), (2), (3)
2	A/DPA/YL-PH/21*	Open storage of vehicles & spare parts	5.11.1993	(1), (4), (5)
3	A/DPA/YL-PH/33*	Open storage of vehicles and spare parts	25.11.1994 on review	(1), (6), (7)

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Main Rejection Reasons</u>
4	A/YL-PH/494	Temporary open storage of private vehicles and vehicle parts for 3 years	4.11.2005 on review	(8), (9), (10)

*The site was zoned "Unspecified Use" at the time of application on the then DPA Plan

Main Rejection Reasons

- (1) The proposed development might adversely affect an important water main and no protective measures to safeguard it from damage had been provided in the submission.
- (2) No information on the sewage and waste oil treatment and disposal facilities to demonstrate that the proposed development would not cause adverse environmental impact on the surrounding areas had been included in the submission.
- (3) No landscaping proposal to mitigate the visual impact of the proposed development on the surrounding areas had been included in the submission.
- (4) The proposed site boundary, that encroached upon the waterworks reserve of the water main, was not acceptable.
- (5) The proposed landscape planting along the waterworks reserve, that was close to the water main pipeline, was not acceptable.
- (6) The development was not in line with the planning intention of "Unspecified Use" area designated on the approved Pat Heung Development Permission Area Plan which was to encourage agricultural activities as far as possible.
- (7) The development would pose safety hazard to the road users of Fan Kam Road in view of the insufficient sightlines for vehicles leaving the site.
- (8) The proposed development was not in line with the planning intention of the "Residential (Group D)" zone, which was intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It was also intended for low-rise, low-density residential developments subject to planning permission from the Town Planning Board.
- (9) The proposed development did not comply with the Town Planning Board Guidelines No. 13D for Application for Open Storage and Port Back-up Uses in that it was not compatible with the nearby residential structures and the rural character.
- (10) There was insufficient information in the submission to demonstrate that the proposed development would not have adverse environmental impacts on the surrounding areas.

Similar applications within the same “R(D)” zone on the Pat Heung OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/Appeal Board)</u>	<u>Approval Conditions</u>
1	A/YL-PH/588	Temporary open storage of building materials for a period of 3 years	7.8.2009	(1), (2), (3), (4), (5), (6), (7)
2	A/YL-PH/644	Renewal of Planning Approval for Temporary “Open Storage of Building Materials” for a Period of 3 Years	20.7.2012 [Revoked on 7.2.2013]	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
3	A/YL-PH/692	Temporary Open Storage of Building Materials and Vehicles for a Period of 3 Years	12.9.2014	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
4	A/YL-PH/705	Temporary Open Storage of Building Materials and Vehicles for a Period of 3 Years	14.11.2014	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
5	A/YL-PH/728	Temporary Open Storage (Building Materials and Vehicles) for a Period of 3 Years	13.5.2016 [Revoked on 24.6.2016]	(1), (2), (3), (4), (5), (6), (7), (9), (11), (12), (13)
6	A/YL-PH/738	Proposed Temporary Open Storage of Vehicles and Landscape Plant Materials for a Period of 3 Years	9.12.2016	(1), (2), (3), (4), (5), (6), (7), (9), (11), (12), (13)
7	A/YL-PH/757	Renewal of Planning Approval for Temporary "Open Storage of Building Materials and Vehicles for Sale" for a Period of 3 Years	27.10.2017	(1), (2), (3), (4), (5), (6), (7), (9), (11), (12), (13), (14), (15)

Approval Conditions:

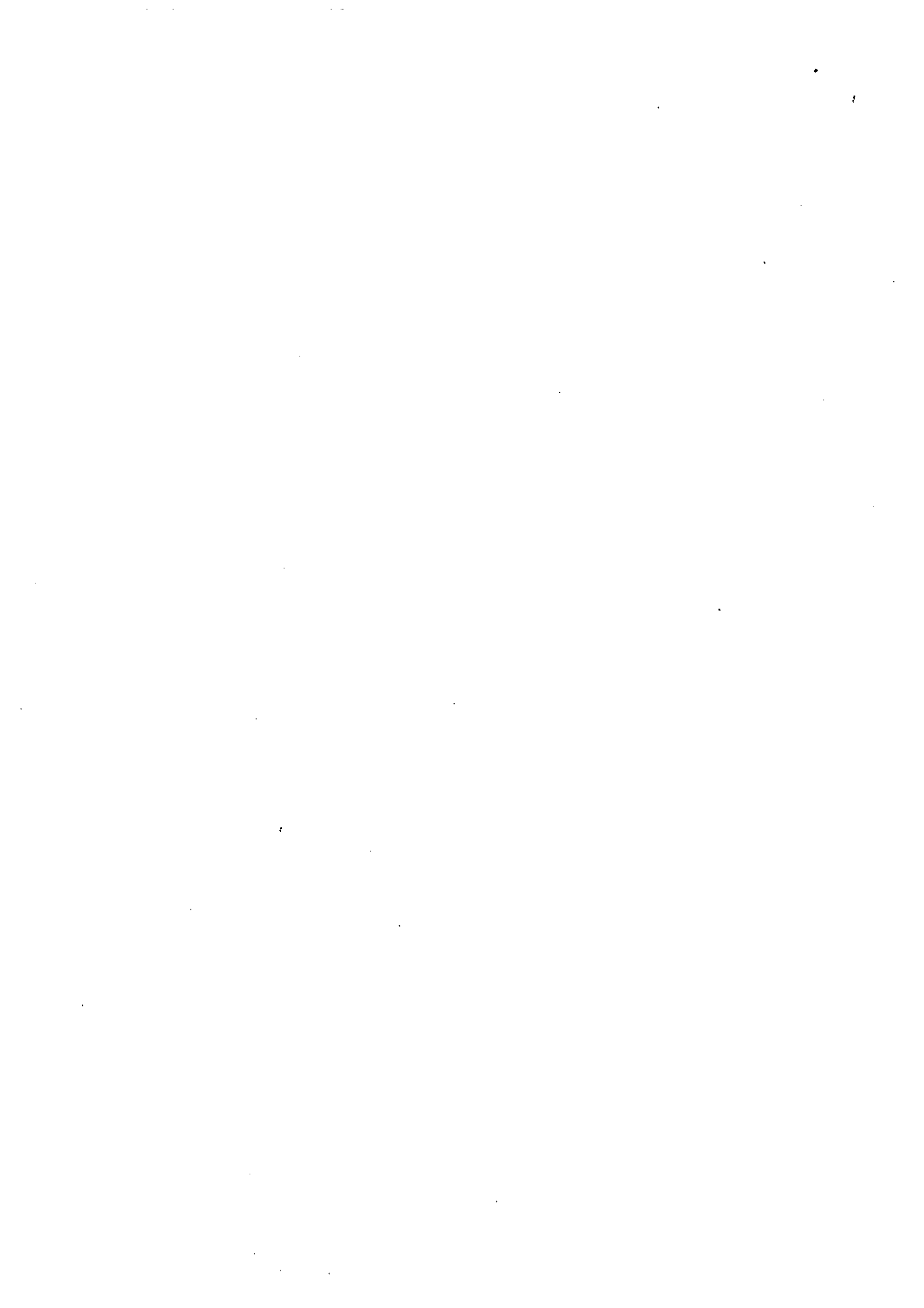
- (1) Reinstatement of the application site to an amenity area upon the expiry of the planning permission.
- (2) Revocation of the planning permission if any of the specified approval condition is not complied with by the specified date/at any time during the planning approval period.
- (3) The landscape planting on the site should be maintained at all time during the approval period /the existing trees/vegetation on the site shall be maintained satisfactorily at all times during the planning approval period/ submission /implementation of tree preservation and landscape proposal.

- (4) The drainage facilities on the site should be maintained at all time during the approval period/ submission of records of existing drainage facilities on the site.
- (5) Restriction of operation hours on the site during the planning approval period.
- (6) No operation on Sundays and public holidays was allowed on the site during the planning approval period.
- (7) Provision of fire extinguisher / submission of FSI proposal and provision of FSIs.
- (8) Provision of boundary fence for the site.
- (9) no dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities should be carried out at the site during the planning approval period;
- (10) setting back of the site to avoid encroachment on waterworks reserve at all times during the planning approval period;
- (11) no heavy goods vehicles exceeding 30 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the site at any time during the planning approval period
- (12) no reversing of vehicles into or out of the site are allowed at any time during the planning approval period/no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period
- (13) maintenance of existing boundary fencing on the site during the planning approval period
- (14) submission of a report on the condition of the existing water mains underneath the ingress and egress of the site
- (15) the implementation of mitigation measures to avoid impact on the existing water mains

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.



Advisory Clauses

- (a) resolve any land issues relating to the development with the concerned owners of the Site;
- (b) note DLO/YL, LandsD's comments that 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 and Government Land (GL). The Site is accessible to Fan Kam Road via GL and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site. The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA. The STW and STT holder(s) will need to apply to his office for modification of the STW/STT conditions if there is any irregularities on site. The owner(s) of the lot without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as 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 LandsD;
- (c) note C for T's comments that the Site is connected to the public road network via a piece of land which is not managed by Transport Department (TD). The land status of that piece of land should be checked with the LandsD. Moreover, the management and maintenance responsibilities of this piece of land should be clarified with the relevant lands and maintenance authorities accordingly;
- (d) note CHE/NTW, HyD's comments that his department does not and will not maintain any access connecting the Site and Fan Kam Road. The applicant should be responsible for his own access arrangement. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (e) follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Open Storage and Temporary Uses" issued by the DEP;
- (f) note DAFC's comments that the applicant should adopt precautionary measures to avoid disturbance and pollution to the watercourse immediately to the east of the Site, especially in terms of surface runoff;
- (g) note WSD's comments that the Site encroaches upon 10m wide WSD's Waterworks Reserve for an existing strategic 48" diameter water main as shown on **Plan A-2** of this RNTPC paper. Diversion of this water main shall not be considered. The development should set back to avoid encroaching the existing Waterworks Reserve or the developer must ensure that no structure shall be erected over this 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. No tree/shrub shall be planted within the Waterworks Reserve. No change of the existing conditions shall be undertaken without prior agreement of WSD. 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;

- (h) note CBS/NTW, BD's comments that before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO. If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of his department, they are unauthorized under the BO and should not be designated for any approved use under the application. 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 (B(P)R) 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 B(P)R at the building plan submission stage; and
- (i) note D of FS's comments that the applicant should be advised that the installation/ maintenance/ modification/ repair work of FSIs shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him. In addition, the applicant should also be advised to adhere to the "Good Practice Guidelines for Open Storage" in **Appendix VI** in this RNTPC paper. To address the approval condition on the provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS 251) to his department for approval. The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.