

**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.

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 1,000 m² for open storage uses and 2,000 m² 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 Application Site

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1.	A/YL-HT/65	Proposed temporary open storage of construction materials and machinery (1 Year)	5.2.1999 (1 Year)	1, 2, 3, 5
2.	A/YL-HT/147	Temporary open storage of construction machinery and materials, and ancillary repairing workshop (3 Years)	19.5.2000 (3 Years) (revoked on 19.2.2001)	1, 3, 4, 5, 8, 9, 10
3.	A/YL-HT/202	Temporary open storage of construction machinery and materials (3 Years)	26.10.2001 by TPB (3 Years)	1, 3, 4, 5, 6, 7, 8, 9, 10
4.	A/YL-HT/263	Temporary open storage of construction machinery and materials (minor amendment to the A/YL-HT/202) (3 Years)	25.7.2002 by DPO (up to 26.10.2004)	2, 3, 4, 5, 6, 7, 9
5.	A/YL-HT/366	Temporary open storage of construction materials and construction machinery (3 Years)	3.12.2004 (3 Years) (revoked on 3.12.2005)	4, 9, 11, 12, 13, 14
6.	A/YL-HT/436	Temporary open storage of construction materials and machinery, and logistics vehicles back-up center (3 Years)	7.4.2006 (3 Years) (revoked on 7.7.2006)	1, 4, 9, 11, 12, 13, 14
7.	A/YL-HT/464	Temporary open storage of construction materials and machinery, and logistics vehicles back-up centre (3 Years)	20.10.2006 (2 Years)	1, 3, 4, 7, 9, 11, 12, 13, 14
8.	A/YL-HT/584	Temporary open storage of construction materials and machinery, and logistics vehicles back-up centre (3 Years)	19.12.2008 (3 Years)	4, 5, 6, 7, 9, 10, 11, 12, 13, 15, 16
9.	A/YL-HT/685	Temporary open storage of converted containers, used containers, construction materials, construction machinery, logistics vehicles back-up centre and recycling of metal with ancillary repair workshop (3 Years)	10.9.2010 (3 Years) (revoked on 10.6.2011)	1, 4, 5, 6, 9, 10, 11, 16, 17, 18
10.	A/YL-HT/797	Temporary open storage of converted containers, construction materials and construction machinery, logistics vehicles back-up centre, sales of metals and warehouse (1 Year)	20.7.2012 (1 Year) (revoked on 21.9.2012)	1, 3, 4, 5, 7, 8, 12, 13, 17, 18, 21, 22, 38, 42

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
11.	A/YL-HT/896	Proposed temporary shop for construction machinery parts with warehouse and workshop, logistic centre and logistic vehicles back-up centre and ancillary site office, guard room, and staff canteen (3 Years)	23.5.2014 (3 Years) (revoked on 23.2.2015)	1, 4, 5, 9, 10, 11, 13, 14, 15, 18, 19, 20
12.	A/YL-HT/957	Proposed temporary shop for construction machinery parts with warehouse and workshop, logistic centre and logistic vehicles back-up centre and ancillary site office, guard room, and staff canteen (3 Years)	19.6.2015 (3 Years)	1, 4, 5, 9, 10, 11, 13, 16, 18, 19, 20,

Approval Conditions:

- 1 The submission and implementation of landscaping proposals and/or provision of replacement planting
- 2 The submission of vehicular access proposal and/or provision of vehicular access arrangement (or alternative vehicular entrance to the site) as well as parking and loading/unloading spaces
- 3 The submission of DIA/drainage proposals and/or provision of drainage facilities/implementation of drainage proposal
- 4 Reinstatement clause
- 5 The provision of paving, and/or fencing, and/or screening planting to the site
- 6 The stacking height of the containers/materials stored within 5m of the periphery of the site should not exceed the height of the boundary fence/2.5m
- 7 The setting back of the site boundary to avoid encroaching upon the public works project limit
- 8 The provision of internal circulation area, set back of the ingress/egress point and internal queuing area
- 9 Revocation clauses
- 10 No night-time operation and/or no operation on Sundays and public holidays
- 11 The maintenance of drainages facilities on the site and the submission of a condition record of the existing drainage facilities
- 12 The maintenance of landscape planting/existing trees on the site
- 13 The submission and implementation of the run-in/or run-out proposals
- 14 The provision of a 9-litres water type/3kg dry powder fire extinguisher for the site office
- 15 The construction of an intercept channel at the entrance to prevent run-off flowing out from the site to the nearby public roads and drains through the access point
- 16 The submission/implementation of FSIs proposals and/or provision of FSIs, with or without sprinkler system
- 17 The stacking height of containers stored should not exceed 7/8 units
- 18 No material is allowed to be stored/dumped and/or no vehicle is allowed to be parked within 1m of any tree
- 19 no vehicle queuing is allowed back to public road or no vehicle reversing onto/from the public road
- 20 no cutting, dismantling, repairing, melting, compaction, cleansing activity is allowed on the site, except within the workshops

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejected Reason(s)</u>
1.	A/YL-HT/832	Temporary Open Storage of Container Offices, Used Containers, Tools, Construction Materials, Construction Machinery, Sales of Metals with Ancillary Workshops and Logistics Vehicles Back-up Centre (3 Years)	26.7.2013 By TPB	1, 2

Rejection Reasons:

- 1 The development would have adverse environmental impacts on the surrounding areas.
- 2 Approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning applications for temporary uses which were also subject to the requirement to comply with the approval conditions, thus nullifying statutory planning control.

**Similar s.16 Applications within the subject “Government, Institution or Community” Zone
on the draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan
since the Promulgation of TPB PG-No. 13E on 17.10.2008**

Approved Applications

	<u>Application No.</u>	<u>Applied use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1.	A/YL-HT/758	Temporary warehouses (storage of paper) (3 years)	16.12.2011 (3 years)	1, 2, 3, 4, 6, 7, 8, 9, 10, 12, 14
2.	A/YL-HT/795	Proposed temporary logistic centre and ancillary parking of vehicles (3 years)	6.7.2012 (3 years)	1, 2, 3, 4, 7, 8, 9, 10, 12, 14
3.	A/YL-HT/808	Temporary logistics centre and ancillary tyre repair workshop (3 years)	19.4.2013 (3 years)	1, 2, 5, 7, 8, 11, 14, 15
4.	A/YL-HT/866	Temporary logistics centre and ancillary parking of vehicles (3 years)	17.1.2014 (3 years)	1, 2, 3, 4, 7, 8, 9, 10, 14
5.	A/YL-HT/898	Temporary logistic centre and ancillary tyre repair workshop (3 Years)	23.5.2014 (3 years) (revoked on 23.11.2014)	1, 3, 4, 5, 6, 7, 8, 9, 10, 12, 15
6.	A/YL-HT/958	Temporary logistic centre and ancillary tyre repair workshop (3 Years)	3.7.2015 (3 years)	1, 2, 3, 4, 7, 8, 9, 11, 12, 15
7.	A/YL-HT/962	Temporary logistic centre and warehouse (storage of paper) (3 years)	3.7.2015 (3 years)	1, 2, 3, 4, 7, 8, 9, 11, 12, 14, 15
8.	A/YL-HT/1043	Proposed temporary logistics centre (3 years)	14.9.2016 (3 years)	1, 2, 3, 4, 7, 8, 9, 11, 12, 14, 15
9.	A/YL-HT/1072	Temporary logistics centre and ancillary parking of vehicle (3 years)	17.3.2017 (3 years) (Revoked on 17.9.2017)	1, 2, 3, 4, 7, 8, 9, 11, 12, 14, 15
10.	A/HSK/40	Temporary logistics centre and ancillary parking of vehicle (3 years)	26.1.2018 (3 years)	1, 2, 3, 4, 7, 8, 9, 11, 14, 15

Approval Conditions

- 1 The submission and/or implementation of landscaping and/or tree preservation proposals, and/or provision of replacement planting and/or the replacement of dead trees/ maintenance of existing trees.
- 2 The submission of DIA/drainage proposals and/or provision of drainage facilities/implementation of the drainage facilities proposed, and/or submission of a condition record of the existing drainage facilities.
- 3 Reinstatement clause.
- 4 The submission/implementation of FSIs proposals and/or provision of FSIs, with or without sprinkler system.
- 5 The permission shall cease to have effect on dd.mm.yyyy unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.
- 6 The provision of paving, and/or fencing, and/or screening planting.
- 7 Revocation clauses.
- 8 No night-time operation and/or no operation on Sundays and public holidays.
- 9 The maintenance of the drainage facilities.
- 10 No cutting, dismantling, repairing, and/or melting, and/or compaction, and/or unpacking, and/or re-packing, and/or vehicle repair, and/or container repair, cleansing and workshop activity.

- 11 No cutting, dismantling, cleansing, repairing, compaction, unpacking, re-packing, vehicle repair and workshop activity, other than tyre repair/minor ancillary container repairs.
- 12 The submission and implementation of run-in/run-out proposal(s).
- 13 The stacking height of containers stored should not exceed 7/8 units.
- 14 No material is allowed to be stored/dumped and/or no vehicle is allowed to be parked within 1m of any tree.
- 15 No vehicle queuing is allowed back to public road or vehicle reversing onto/from public road is allowed at all time.

Advisory Clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the Site;
- (b) the Site should be kept in a clean and tidy condition at all time;
- (c) to note that the Site might be resumed at any time during the planning approval period for implementation of government projects;
- (d) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) 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. No permission is given for occupation of Government Land (GL) of about 2.8m² in area (subject to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed.

The private land (PL) of the following lots are covered by Short Term Waiver (STW) as below table:

STW No.	Lot No. (in D.D. 129)	Purposes
3054	3169	Ancillary Use to Storage
3242	3173 S.B	Workshop and Ancillary Use To Storage of Machinery and Construction Materials
4068	3177	Temporary Logistic Centre and Ancillary Parking of Vehicles
4069	3179 & 3183	
4373	3170	Temporary Shop for Construction Machinery Parts with Warehouse and Workshop, Logistics Warehouse and Logistics Vehicles Back-up Centre, and Ancillary Site Office, Guard Room and Staff Canteen
4375	3173 S.C	
4376	3175	
4377	3176	
4378	3184	
4379	3178	
	RP 187	

The Site is accessible to Ping Ha Road through GL. 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 does not fall within Shek Kong Airfield Height Restriction Area. The lot owners will need to apply to his office to permit the structures to be erected or regularize any irregularity on Site. Besides, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Furthermore, the STW holders will need to apply to his office for modification of the STW conditions if there is any irregularity on Site. Such application 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;

- (e) to note the comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) that sufficient manoeuvring spaces shall be provided within the Site;
- (f) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that the access arrangement should be commented by TD. Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains. HyD shall not be responsible for the maintenance of any access connecting the Site and Ping Ha Road;
- (g) to follow the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses' issued by the Environmental Protection Department;
- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that there is no record of approval by the Building Authority (BA) for the structures existing at the site and Buildings Department (BD) is not in a position to offer comments on their suitability for the use related to the application. If the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted Houses), they are unauthorized under the BO and should not be designated for any approved use under the application. Before any new building works (including containers/open shed as temporary buildings) are to be carried out on the application site, the prior approval and consent of the BA should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO. For UBW erected on leased land, enforcement action may be taken by the BA 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 application 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 Regulation 5 and 41D of the Building (Planning) Regulations respectively. If the Site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage;
- (i) to note the comments of the Director of Fire Services (D of FS) that in consideration of the design/nature of the structures, fire service installations (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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123) or relevant licensing requirements,

detailed fire service requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority; and

- (j) to note the comments of the Project Manager (New Territories West), Civil Engineering and Development Department (PM/NTW, CEDD) that 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 lot(s) concerned 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.