

**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. 34C)

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. may be shorter than the time under request.

Previous s.16 Applications Covering the Site

Approved Applications

<u>No.</u>	<u>Application No.</u>	<u>Zoning</u>	<u>Development/Use</u>	<u>Date of Consideration</u>	<u>Approval Conditions</u>
1	A/YL-PN/16	“CPA”	Temporary Fishing Ground for a Period of 3 Years	4.7.2008	1-3, 11
2	A/YL-PN/28	“CPA”	Temporary Recreation Use (Fishing Ground) for a Period of 3 Years	2.9.2011	1, 3-8, 11
3	A/YL-PN/39	“CPA”	Renewal of Planning Approval for Temporary Recreation Use (Fishing Ground) for a Period of 3 Years	22.8.2017	3-7, 9-11
4	A/YL-PN/50	“CPA”	Temporary Recreation Use (Fishing Ground) for a Period of 3 Years	8.9.2017	1, 3-7, 9, 11

Approval Conditions

- (1) Submission and implementation of tree preservation and landscape proposal.
- (2) Submission and implementation of drainage proposal.
- (3) Submission and implementation of fire service installations proposal.
- (4) No night time operation.
- (5) Provision of a waterworks reserve within 1m from the centreline of the affected water mains within the site.
- (6) Existing drainage facilities on the site should be maintained at all time.
- (7) Submission of condition record of existing drainage facilities on-site.
- (8) Submission and implementation of a run-in/out proposal.
- (9) No vehicle is allowed to queue back to or reverse onto/from public road.
- (10) Maintenance of existing trees on the site.
- (11) Revocation clause.

Rejected Applications

<u>No.</u>	<u>Application No.</u>	<u>Zoning</u>	<u>Development/Use</u>	<u>Date of Consideration</u>	<u>Rejection Reasons</u>
1	A/YL-PN/7	“CPA”	Temporary Fishing Ground	27.2.2004	1, 2

Rejection Reasons

- (1) There was no information in the submission to demonstrate that the proposed development would not have adverse traffic and hygiene impacts on the surrounding area.
- (2) The approval of the application would set an undesirable precedent for other similar

applications within the "Coastal Protection Area" zone and the cumulative effect of approving such applications would result in a general degradation of the area.

**Similar s.16 Applications for Temporary Recreation Use (Fishing Ground)
within the same “CPA” zone on the Sheung Pak Nai and Ha Pak Nai OZP**

Approved Applications

<u>No.</u>	<u>Application No.</u>	<u>Zoning</u>	<u>Development/Use</u>	<u>Date of Consideration</u>	<u>Approval Conditions</u>
1	A/YL-PN/22	“CPA”	Temporary Recreation Use (Fishing Ground) for a Period of 3 Years	23.1.2009	1-5, 10
2	A/YL-PN/36	“CPA”	Temporary Recreation Use (Fishing Ground) for a Period of 3 Years	1.6.2012	1-7, 10
3	A/YL-PN/44	“CPA”	Temporary Recreation Use (Fishing Ground) for a Period of 3 Years	20.11.2015	1-5, 8, 10
4	A/YL-PN/57	“CPA”	Temporary Recreation Use (Fishing Ground) for a Period of 3 Years	8.3.2019	1, 8-10

Approval Conditions

- (1) No night-time operation.
- (2) Submission of a landscape proposal with perimeter tree planting.
- (3) Implementation of the landscape proposal.
- (4) Submission of fire service installations proposals.
- (5) Provision of fire service installations.
- (6) Submission of a run-in/out proposal.
- (7) Implementation of a run-in/out proposal.
- (8) No vehicle is allowed to queue back to or reverse onto/from public road.
- (9) All vegetation within the site shall be maintained.
- (10) Revocation clauses.

Rejected Applications

<u>No.</u>	<u>Application No.</u>	<u>Zoning</u>	<u>Development/Use</u>	<u>Date of Consideration</u>	<u>Rejected Reasons</u>
1	A/YL-PN/48	“CPA”	Proposed Temporary Place of Recreation (Fishing Ground) with Ancillary Vehicle Park and Office for a Period of 3 Years	28.7.2017	1, 2, 4
2	A/YL-PN/53	“CPA”	Proposed Temporary Place of Recreation, Sports or Culture (Fishing Ground) for a Period of 3 Years	18.5.2018	1, 3

Rejection Reasons

- (1) The “Coastal Protection Area” (“CPA”) zoning is intended to conserve, protect and retain

the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. There is a general presumption against development in this zone. The proposed development is not in line with the planning intention of the “CPA” zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

- (2) The applicant fails to demonstrate that the proposed development would not generate adverse environmental, ecological, landscape and traffic impacts on the surrounding areas.
- (3) The applicant fails to demonstrate that the proposed development would not generate adverse environmental impacts on the surrounding areas.
- (4) Approval of the application would set an undesirable precedent for similar applications in the “CPA” zone, encouraging ‘destroy first, build later’ activities. The cumulative effect of approving such applications would result in a general degradation of the natural environment and landscape quality in the area.

Advisory clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site (the Site);
- (b) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that the Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. Lot No. 19 in D.D. 135 is covered by Short Term Waiver No. 3674 (STW3674) for the purposes of temporary recreation use (fishing ground). No permission is given for occupation of the Government Land (GL) included in the Site (about 1,083m² subject to verification). The act of occupation of GL without Government's prior approval is not allowed. The STW holders will need to apply to his office for modification of the STW conditions where appropriate. 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. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) for 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 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 that sufficient manoeuvring space shall be provided within the Site;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that a proper road connection or run-in/out should be constructed to the satisfaction of HyD. 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 Nim Wan Road;
- (e) to note the comments of the Director of Agriculture, Fisheries and Conservation (DAFC) that the applicant is advised to implement necessary measures to avoid causing disturbance to the nearby fish ponds and the fish culture activities there during the operation of the fishing ground;
- (f) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) that the approval of application by the Town Planning Board does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. The applicant is reminded to approach relevant authority/government department(s) direct to obtain the necessary approval on tree works;
- (g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorised building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed 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. Before any new Building works (including containers/open sheds as temporary buildings) are to be carried out on the leased land of the Site, prior approval

and consent of the BD should be obtained, otherwise they are UBW. An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with 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;

- (h) to note the comments of the Director of Fire Services (D of FS) that in consideration of the design/nature of the proposal, fire services installations (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. In addition, the applicant should be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of the proposed FSIs to be installed should be clearly marked on the layout plans. The applicant is also reminded that if the proposed structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and
- (i) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that no structure shall be built or materials stored within the waterworks reserve. Free access shall be made available at all times for staff of the Director of Water Supplies and their contractor to carry out construction, inspection, operation, maintenance and repair works. No trees or shrubs with penetrating roots may be planted within the waterworks reserve or in the vicinity of the water main. 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.