

**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.

**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.

Previous s.16 Applications covering the Application Site

Approved Applications

	<u>Application No.</u>	<u>Zoning(s) and OZP at the time of consideration</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Reasons for Rejection</u>
1	A/YL-HT/562	“OS(1)” on draft HT OZP No. S/YL-HT/9	Temporary Centre for Inspection of New Vehicles with Ancillary Offices and Storerooms (3 Years)	1.8.2008 (revoked on 1.2.2009)	1, 3, 4, 5, 6, 7
2	A/YL-HT/629	“OS(1)” on approved HT OZP No. S/YL-HT/10	Temporary Centre for Inspection of New Vehicles with Ancillary Offices and Storerooms (3 Years)	10.7.2009 (revoked on 10.10.2011)	1, 3, 4, 5, 6, 7
3	A/YL-HT/854	“OS(1)” on approved HT OZP No. S/YL-HT/10	Temporary Centre for Inspection of New Vehicles, Car Repair Workshop and Open Storage of New Vehicles with Ancillary Offices and Storerooms (3 Years)	16.8.2013	1, 4, 5, 8, 9, 10, 11
4	A/YL-HT/1030	“OS(1)” on approved HT OZP No. S/YL-HT/10	Temporary Centre for Inspection of New Vehicles, Car Repair Workshop and Open Storage of New Vehicles with Ancillary Offices and Storerooms (3 Years)	24.6.2016	1, 2, 4, 5, 6, 8, 9, 11

Approval Condition(s):

- 1 no night-time operation and no operation on Sundays and public holidays clause.
- 2 no vehicle is allowed to queue back to or reverse onto/from the public road.
- 3 no vehicle repairing, painting and other workshop activities is allowed on the site.
- 4 revocation clause.
- 5 the provision of fire extinguisher(s) and/or submission of fire service installations (FSIs) proposals and the provision of FSIs.
- 6 the preservation and maintenance of the existing trees within the site.
- 7 the submission of drainage proposals and provision of drainage facilities.
- 8 the maintenance of the existing drainage facilities.
- 9 the submission of a condition record of the existing drainage facilities.
- 10 the submission/ implementation of tree preservation and landscape proposal.
- 11 the provision/maintenance of existing boundary existing.

Rejected Applications

	<u>Application No.</u>	<u>Zoning(s) and OZP at the time of consideration</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Reasons for Rejection</u>
1	A/YL-HT/423	“R(D)” & “REC” on draft HT OZP No. S/YL-HT/6	Temporary Open Storage of Brand New Vehicles (including Container Tractor and Coach) (3 Years)	9.12.2005	1, 2, 3
2	A/YL-HT/433	“R(D)” & “REC” on draft HT OZP No. S/YL-HT/7	Temporary Open Storage of Brand New Vehicles (including Container Tractor and Coach) (3 Years)	17.3.2006	1, 2, 3
3	A/YL-HT/469	“R(D)” & “REC” on draft HT OZP No. S/YL-HT/8	Temporary Centre for Inspection of New Vehicles and Office (3 Years)	16.3.2007 by TPB	1, 2, 3

Reasons for Rejection:

- 1 the development was not in line with the planning intention of the “R(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 and for low-rise, low-density residential developments subject to planning permission from the Town Planning Board. No strong justification had been given in the submission for a departure from such planning intention, even on a temporary basis.
- 2 the development was not in line with the Town Planning Board Guidelines for Application for Open Storages and Port Back-up Uses in that there were adverse departmental comments and there was insufficient information in the submission to demonstrate that the development would not have adverse environmental, traffic and drainage impacts on the surrounding area.
- 3 the approval of the application would set an undesirable precedent for similar applications within “R(D)” zone. The cumulative impact of approving such applications would result in a general degradation of the environment.

**Similar s.16 Applications within the same “OU(LF)” Zone
on the approved 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>Zoning(s) and OZP at the time of consideration</u>	<u>Applied use(s)/ Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1.	A/YL-HT/639	“OS(1)” on approved HT OZP No. S/YL-HT/10	Renewal of Planning Approval for Temporary Goods Vehicles Repair Workshop (3 years)	4.9.2009 (3 years) (revoked on 4.3.2010)	1, 3, 5, 7, 8, 9
2.	A/YL-HT/664	“OS(1)” on approved HT OZP No. S/YL-HT/10	Temporary Goods Vehicles Repair Workshop (3 years)	9.4.2010 (3 years)	1, 3, 5, 6, 8, 9
3.	A/YL-HT/850	“OS(1)” on approved HT OZP No. S/YL-HT/10	Temporary Goods Vehicles Repair Workshop (3 years)	19.7.2013 (3 years)	1, 3, 4, 5, 7, 8, 9

Approval Conditions

- 1 The submission and implementation of tree preservation or/and landscaping proposals.
- 2 The submission and implementation of drainage proposals.
- 3 No night time operation and no operation on Sundays and public holidays
- 4 No vehicle queuing was allowed back to public road or vehicle reversing onto/from the public road
- 5 Revocation clause.
- 6 Reinstatement clause.
- 7 No material is allowed to be stored / dumped within 1m of any tree.
- 8 The submission of a condition record and maintenance of the existing drainage facilities.
- 9 The submission of FSI proposal and provision of FSI facilities.

Advisory Clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (b) to note that the Site might be resumed at any time during the planning approval period for implementation of government projects;
- (c) to note the comments of the District Lands Officer/Yuen Long (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 74m² subject to verification) is covered by Short Term Tenancy No. 3004 (STT3004) for the purposes of Temporary Centre for Inspection of New Vehicles, Car Repair Workshop and Open Storage of New Vehicles with Ancillary Offices and Storerooms. The private lots which are covered by Short Term Waivers (STWs) are listed below:

Lot No(s).	STW No.	Purposes
Lot No. 4 in D.D. 124	4604	Temporary Centre for Inspection of New Vehicles, Car Repair Workshop and Open Storage of New Vehicles with Ancillary Offices and Storerooms
Lot No. 5 in D.D. 124	4605	
Lot No. 6 in D.D. 124	4606	
Lot No. 7 S.A in D.D. 124	4607	
Lot No. 1498 S.BRP in D.D. 125	4608	

The Site is accessible from Ha Tsuen Road through private lot(s). The STW/STT holders will need to apply to his office for modification of the STW/STT conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Buildings(s) will be considered or allowed. 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;

- (d) 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. The local track leading to the Site is not under TD's purview. The applicant is advised to obtain consent of the owner/managing departments of the local track for using it as the vehicular access to the Site;
- (e) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that the access arrangement to the Site from Tin Ha Road should be approved by the Transport Department. Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site onto nearby public roads/drains. Highways Department shall not be responsible for the maintenance of any access connecting the Site and Ha Tsuen Road;
- (f) to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection to minimize any potential environmental nuisance;

- (g) 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 existing structures at the Site. If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Building Ordinance (BO) and should not be designated for any proposed use under this 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 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). An Authorized Person (AP) should be appointed as the coordinator 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 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;
- (h) to note the comments of the Director of Fire Services (DFS) that the existing fire service installations (FSI) implemented on the Site should be maintained in efficient working order at all times; and
- (i) 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 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.