

**Relevant Extracts of Town Planning Board Guidelines on  
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 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 1,000m<sup>2</sup> for open storage uses and 2,000m<sup>2</sup> 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**

<b><u>No.</u></b>	<b><u>Application No.</u></b>	<b><u>Proposed Use</u></b>	<b><u>Date of Consideration (RNTPC)</u></b>	<b><u>Approval Condition(s)</u></b>
1	A/YL-KTN/45	Temporary Open Storage of Cars and Car Repairing Workshop for a Period of 12 Months	5.12.1997	(1), (2), (3), (6)
2	A/YL-KTN/76	Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale with Ancillary Office Use for a Period of 12 Months	27.11.1998	(1), (2), (3), (4)
3	A/YL-KTN/104	Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale with Ancillary Office Use for 3 a Period of 3 Years	14.1.2000 for 2.5 years	(1), (2), (3), (4), (6)
4	A/YL-KTN/179	Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale with Ancillary Office for a Period of 3 Years	19.9.2003	(3), (5), (7), (8), (9), (10)
5	A/YL-KTN/254	Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale for a Period of 3 Years	18.8.2006	(3), (5), (6), (7), (8), (9), (10), (11)
6	A/YL-KTN/332	Renewal of Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale for a Period of 3 Years	7.8.2009	(1), (3), (5), (7), (10), (13), (13)
7	A/YL-KTN/389	Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale for a Period of 3 Years	5.10.2012	(1), (3), (5), (7), (10), (13), (13), (15)
8	A/YL-KTN/486	Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale for a Period of 3 Years	6.11.2015 [revoked on 18.12.2015]	(1), (2), (3), (5), (7), (9), (10), (12), (13), (14), (15)
9	A/YL-KTN/539	Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale for a Period of 3 Years	11.11.2016	(3), (5), (7), (9), (10), (12), (13), (14), (15),

**Approval Conditions**

- (1) Submission and implementation of landscaping proposals / tree preservation proposal
- (2) Submission and/or provision of drainage facilities / submission of existing drainage facilities record
- (3) Reinstatement of the application site after the expiry of the planning approval
- (4) Stacking height of the vehicles
- (5) Revocation of approval condition if the approval condition is not complied with during the approval period or by the specified date/time
- (6) No paint spraying activities
- (7) No vehicle dismantling, repairing, maintenance, cleansing and other workshop activities
- (8) Submission and implementation of car parking layout
- (9) Maintenance of landscape planting / trees
- (10) Maintenance of drainage facilities
- (11) Submission and implementation of run-in proposal
- (12) Restriction on operation hours
- (13) Submission / implementation / provision of fire service installations proposal / fire extinguisher
- (14) No heavy goods vehicles as defined in the Road Traffic Ordinance are allowed
- (15) No reversing of vehicles into or out from the Site

**Similar s.16 Applications within the same “R(D)” zone on Kam Tin North OZP**

**Approved Applications**

	<b>Application No.</b>	<b>Proposed Use</b>	<b>Date of Consideration (RNTPC/TPB)</b>	<b>Approval Condition(s)</b>
1	A/YL-KTN/312	Temporary Open Storage of Light Goods Vehicles for Sale for a Period of 3 Years	7.11.2008	(3), (6), (7), (8), (10), (11), (12), (13), (15)
2	A/YL-KTN/328	Renewal of planning approval for Temporary Open Storage of Construction Machinery, Private Vehicles and Vehicle Parts under application No. A/YL-KTN/252 for a Period of 3 Years	5.6.2009	(3), (5), (6), (7), (9), (10), (11), (13)
3	A/YL-KTN/336	Renewal of planning approval for Temporary “Open Storage of Private Vehicles and Vehicle Parts” under application no. A/YL-KTN/266 for a Period of 3 Years	20.11.2009	(2), (4), (5), (7), (8), (9), (10), (11), (13)
4	A/YL-KTN/367	Temporary Open Storage of Light Goods Vehicles for Sale for a Period of 3 Years	16.12.2011	(3), (6), (7), (8), (10), (11), (12), (13), (14), (15), (18)
5	A/YL-KTN/381	Renewal of planning approval for Temporary Open Storage of Construction Machinery, Private Vehicles and Vehicle Parts for a Period of 3 Years	18.5.2012	(3), (5), (6), (7), (9), (10), (11), (12), (13), (14), (15)
6	A/YL-KTN/395	Renewal of planning approval for Temporary “Open Storage of Private Vehicles and Vehicle Parts” for a Period of 3 Years	9.11.2012	(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (13), (14), (15), (16)
7	A/YL-KTN/455*	Temporary Open Storage of Private Cars for a Period of 3 Years	2.1.2015 [revoked on 13.2.2015]	(1), (3), (6), (7), (8), (11), (13), (14), (16), (17)
8	A/YL-KTN/456	Temporary Open Storage of Light Goods Vehicles for Sale for a Period of 3 Years	16.1.2015	(3), (6), (7), (8), (10), (11), (13), (14), (15), (16), (18)

9	A/YL-KTN/462	Renewal of planning approval for Temporary Open Storage of Construction Machinery, Private Vehicles and Vehicle Parts for a Period of 3 Years	22.5.2015	(3), (5), (6), (7), (9), (10), (11), (12), (13), (14), (15), (16), (18)
10	A/YL-KTN/491	Renewal of planning approval for Temporary "Open Storage of Private Vehicles and Vehicle Parts" under application no. A/YL-KTN/395 for a Period of 3 Years	20.11.2015	(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (13), (14), (15), (16)
11	A/YL-KTN/580	Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale for a Period of 3 Years	26.1.2018	(3), (6), (7), (8), (10), (11), (13), (14), (15), (16),
12	A/YL-KTN/601	Renewal of planning approval for Temporary "Open Storage of Construction Machinery, Private Vehicles and Vehicle Parts" for a Period of 3 Years	1.6.2018	(3), (5), (6), (9), (10), (11), (13), (14), (15), (16), (18),
13	A/YL-KTN/631*	Temporary Open storage of Private Cars for a Period of 3 Years	8.3.2019	(3), (4), (6), (7), (8), (10), (13), (14), (16), (17),
14	A/YL-KTN/635	Renewal of planning approval for Temporary "Open Storage of Private Vehicles and Vehicle Parts" for a Period of 3 Years	16.11.2018	(2), (4), (5), (6), (7), (8), (9), (10), (11), (13), (14), (17)

\*straddling "R(D)" and "Open Space" zones.

#### Approval Conditions

- (1) the submission and/or implementation of landscaping proposals / tree preservation proposal
- (2) the setting back of the southern boundary of the application site by 25m from Kam Tin Road, as proposed by the applicant, at any time during the planning approval period;
- (3) reinstatement of the application site after the expiry of the planning approval
- (4) the fencing and paving of the application site
- (5) the stacking height of the vehicles
- (6) if planning condition is not complied with during the planning approval period or by the specified date, the approval shall cease to have effect and be revoked without further notice
- (7) no vehicle repairing / dismantling / maintenance / cleansing / painting spraying / workshop activities
- (8) no medium or heavy goods vehicles or container vehicles should be parked/stored
- (9) existing trees should be preserved and the landscaping planting on the site should be maintained
- (10) the drainage facilities on the application site should be maintained
- (11) submission and implementation of emergency vehicular access, water supplies for fire-fighting and/or fire service installations
- (12) the submission and/or provision of run-in proposal
- (13) restriction on operation hours
- (14) no vehicles are allowed to queue back to or reverse onto / from the Site
- (15) submission of record of existing drainage facilities
- (16) provision of fire extinguisher(s)
- (17) the submission and implementation of drainage proposals
- (18) Maintenance of the existing run-in

### Rejected Application

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Main Reasons for Rejection</u>
1	A/YL-KTN/345	Temporary Open Storage of Private Vehicles for Sale for a Period of 3 Years	15.10.2010	(1), (2), (3)

#### Rejection reasons

- (1) The development was not in line with the planning intention of the "Residential (Group D)" ("R(D)") zone which was 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 planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis.
- (2) The application did not comply with the Town Planning Board PG-No. 13E in that there was no previous approval for open storage use granted at the site, and that the applicant had not included in the submission technical assessments to demonstrate that the development would not generate adverse drainage, traffic and landscaping impacts on the surrounding areas.
- (3) The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the "R(D)" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.





**Appendix V of RNTPC**  
**Paper No. A/YL-KTN/677**

**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) prior planning permission should have been obtained before commencing the applied use at the Site;
- (b) the Site should be kept in a clean and tidy condition at all time;
- (c) note DLO/YL, LandsD's comments 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. The Site is accessible from Kam Tin Road via Government Land (GL). His office provides no maintenance works for the GL involved and does not guarantee any right-of-way over the GL to the Site. The STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. 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. Applications for any of the above 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 LandsD;
- (d) follow the relevant mitigation measures and requirements as set out in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP to minimize any potential environmental nuisances;
- (e) note CHE/NTW, HyD's comments that adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains;
- (f) note CBS/NTW, BD's comments that if the existing structures (not being New Territories Exempted Houses) are erected on leased land without the approval of the BA, they are unauthorized 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 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 buildings works (including containers / open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained. Otherwise, they are UBW. An Authorized Person 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 Regulation 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively. The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at building plan submission stage; and

- (g) note D of FS' comments that in consideration of the design/nature of the proposal, 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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans. The applicant should also be advised to adhere to the good practice guidelines for open storage (**Appendix V**). To address the approval condition on 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 BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.