

Relevant Extract of the 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
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- (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 Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
1	A/YL-PH/375	Temporary open storage of construction materials for a period of 3 years	14.12.2001 on review	(1), (2), (3), (4), (5), (6)
2	A/YL-PH/553	Temporary open storage of construction materials and machinery for a period of 3 years	4.1.2008 [Revoked on 4.7.2008]	(2), (3), (4), (7), (8), (9), (10)
3	A/YL-PH/597	Proposed temporary open storage of construction materials and machinery for a period of 3 years	23.10.2009	(1), (2), (3), (4), (7), (8), (9), (11)
4	A/YL-PH/655	Temporary open storage of construction materials, machinery and second-hand vehicles for a period of 3 years	21.12.2012 [Revoked on 21.6.2013]	(1), (3), (4), (7), (8), (9), (11), (12), (13)
5	A/YL-PH/677	Temporary open storage of construction materials, machinery and second-hand vehicles for a period of 3 years	8.11.2013 [Revoked on 20.12.2013]	(1), (2), (3), (4), (7), (8), (9), (11), (12), (14)
6	A/YL-PH/699	Temporary Open Storage of Construction Materials, Machinery and Second-hand Vehicles for a Period of 3 Years	26.9.2014	(1), (2), (3), (4), (7), (8), (9), (11), (14)

Approval Conditions

- (1) Submission/implementation of landscaping/tree preservation proposals within a specified time limit.
- (2) Submission/implementation of drainage facilities within a specified time limit.
- (3) If any of the planning conditions was not complied with by the specified time limit or during the planning approval period, the approval given shall cease to have effect and shall be revoked without further notice.
- (4) Reinstatement of the application site upon expiry of the planning permission.
- (5) Submission/implementation of environmental mitigation measures proposals within a specified time limit.
- (6) Provision of fencing and paving of the application site within a specified time limit.
- (7) No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities should be carried out at the site at any time during the planning approval period.
- (8) No heavy vehicles, i.e. over 24 tonnes, were allowed for the operation of the site at any time

- during the planning approval period.
- (9) Restriction on operation hours/time.
 - (10) Existing landscape plantings on the site should be maintained at all times during the planning approval period.
 - (11) Submission and implementation of fire service installations proposal.
 - (12) Existing drainage facilities on the site should be maintained at all times during the planning approval period.
 - (13) Submission of a record of the existing drainage facilities on the site within a specified time limit.
 - (14) Provision of fire extinguisher(s) with a valid fire certificate (FS 251).

Rejected Applications

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC)</u>	<u>Main Rejection Reasons</u>
1	A/YL-PH/207	Proposed temporary open storage of construction machinery and materials for a period of 12 months	28.8.1998	(1), (2), (3)
2	A/YL-PH/534	Temporary open storage of plastic materials for a period of 3 years	19.1.2007	(2), (4)
3	A/YL-PH/585	Temporary open storage of tires for a period of 3 years	24.7.2009	(2), (4)

Main Rejection Reasons

- (1) The proposed development was not in line with the planning intention of the “R(D)” zone which is to improve and upgrade the existing domestic accommodations and to cater for low-rise, low-density residential development. It was also not in line with the planning intention of the “AGR” zone which is to retain and safeguard good agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation/it was also not in line with the planning intention of the “V” zone which is to designate both existing recognised villages and areas of land considered suitable for village expansion. There was no strong justification in the submission for a departure from such planning intentions even on a temporary basis.
- (2) The proposed development did not comply with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ in that it is incompatible with the surrounding land-uses which are rural in character with cultivated and fallow agricultural land and scattered domestic structures/there were local objection and adverse departmental comments on environmental, drainage, landscape or agricultural aspects.
- (3) The approval of the application would set an undesirable precedent for other similar applications. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.
- (4) There was insufficient information in the submission to demonstrate that the development would not have adverse environmental, drainage and landscape impacts or increase fire hazard on the surrounding areas.

**Similar Applications for Various Open Storage Uses
within the Same “R(D)” Zone and the Adjoining “AGR” and “V” Zones
on the Pat Heung Outline Zoning Plan**

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/589	Temporary open storage of vehicles, vehicle parts and construction materials (electric generators) for a period of 3 years	7.8.2009	(1), (2), (3), (4), (7), (8), (9), (10)
2	A/YL-PH/610	Renewal of Planning Approval for Temporary “Open Storage of Construction Materials and Machinery” under Application No. A/YL-PH/544 for a Period of 3 Years	27.8.2010 [revoked on 14.9.2011]	(2), (3), (4), (7), (9), (10), (12)
3	A/YL-PH/613	Temporary open storage of construction materials and vehicle parts for a period of 3 years	24.9.2010 [revoked on 24.9.2011]	(1), (2), (3), (4), (6), (7), (9), (10), (12)
4	A/YL-PH/627 [#]	Temporary open storage of construction materials, machinery (electricity generator), vehicle parts, temporary transit shipment particles and containers for storage of plastic barriers for a period of 3 years	21.10.2011 [revoked on 21.9.2013]	(1), (2), (3), (4), (5), (7), (9), (10), (11), (12), (13)
5	A/YL-PH/641	Temporary open storage of construction materials and vehicle parts for a period of 3 years	6.7.2012	(1), (2), (3), (4), (5), (6), (7), (9), (10), (12)
6	A/YL-PH/656	Temporary open storage of construction machinery and second hand vehicles for a period of 3 years	21.12.2012 [revoked on 21.3.2013]	(1), (2), (3), (4), (5), (7), (9), (10), (12)
7	A/YL-PH/660	Temporary Open Storage of Vehicles, Vehicle Parts and Construction Materials for a Period of 3 Years	3.5.2013 [revoked on 3.11.2015]	(1), (2), (3), (4), (7), (8), (9), (10), (5), (12), (13)
8	A/YL-PH/685	Temporary open storage of construction machinery	4.4.2014	(1), (2), (3), (4), (5), (7), (9), (10),

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
		(electricity generator), vehicle parts, temporary transit shipment particles and container for storage of plastic barriers for a period of 3 years		(12), (13)
9	A/YL-PH/710	Temporary open storage of construction machinery and second hand vehicles for a period of 3 years	27.3.2015	(1), (2), (3), (4), (5), (7), (9), (10), (12), (13), (14)
10	A/YL-PH/716	Temporary open storage of Construction Materials and Vehicle Parts for a Period of 3 Years	19.6.2015	(1), (2), (3), (4), (5), (6), (7), (9), (10), (12), (13), (14)
11	A/YL-PH/729	Temporary open storage of new vehicles, vehicle parts and construction materials for a period of 3 years	10.6.2016	(1), (2), (3), (4), (5), (7), (9), (10), (12), (13)
12	A/YL-PH/741	Renewal of Planning Approval for Temporary Open Storage of Construction Materials, Machinery (Electricity Generator), Vehicle Parts, Temporary Transit Shipment Particles and Containers for Storage of Plastic Barriers for a Period of 3 Years	3.3.2017	(1), (2), (3), (4), (5), (7), (9), (10), (12), (13)

Remarks:

Application straddles partly within the same “R(D)” and “AGR” zones on the OZP.

Approval Conditions

- (1) The submission and/or implementation of landscaping/tree preservation proposals /maintenance of landscape plantings.
- (2) The provision/submission and implementation/maintenance of drainage facilities/drainage record.
- (3) If any of the planning conditions is not complied with during the planning approval period/by a specified date, the approval hereby given shall cease to have effect and shall be revoked without further notice.
- (4) Upon expiry of the planning permission, the reinstatement of the application site to an amenity area.
- (5) Provision of fire extinguisher(s)
- (6) The stacking height of construction materials stored within 5m of the periphery of the application site should not exceed the height of the boundary fence of the application site
- (7) No repairing, maintenance, dismantling, cleansing, paint spraying or other workshop activities are allowed on the site
- (8) Restriction on types of vehicles allowed for the operation of the site
- (9) Restriction on operation hours
- (10) The submission and implementation of fire service installations proposals

- (11) No storage of used electrical appliances or any other types of electronic waste
- (12) No medium or heavy goods vehicles, including container tractors/trailers, as defined in the Road Traffic Ordinance, were allowed
- (13) No reversing of vehicles into or out of the site is allowed/ No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period
- (14) The existing boundary fencing on the site should be maintained at all times during the planning approval period

Rejected Applications

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Main Rejection Reasons</u>
1	A/YL-PH/587 [%]	Temporary open storage of recyclable office equipment for a period of 3 years	21.8.2009	(1), (2), (4), (5)
2	A/YL-PH/591	Temporary open storage of vehicles (including private cars and light goods vehicles) for a period of 3 years	21.8.2009	(1), (2), (4), (5)
3	A/YL-PH/624	Temporary Open Storage of Recyclable Office Equipment with Ancillary Workshop for a Period of 3 Years	18.11.2011	(1), (2), (3), (4)
4	A/YL-PH/625	Proposed Temporary Open Storage of Used Cars for Recycling with Ancillary Workshop for a Period of 3 Years	18.11.2011	(1), (2), (3), (4)
5	A/YL-PH/629	Proposed Temporary Open Storage of Used Cars and Vehicle Parts for Recycling for a Period of 3 Years	6.12.2011	(1), (2), (3), (4)
6	A/YL-PH/634	Temporary Open Storage of Used Car Parts for Recycling for a Period of 3 Years	10.2.2012	(1), (2), (3)
7	A/YL-PH/636	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	24.2.2012	(1), (2), (3)

Remarks:

[%] Applications straddled partly within the subject "AGR" and the adjoining "V" zones on the OZP on the OZP

Main Rejection Reasons

- (1) The development was not in line with the planning intentions of the “R(D)”/”AGR”/”V” zones. There was no strong justification for a departure from the planning intention even on a temporary basis.
- (2) The development did not comply with the TPB Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ as it was not compatible with the nearby land-uses; there was no previous planning approval granted on site; there were adverse departmental comments on environmental, drainage, landscape and agricultural aspects or local objection.
- (3) The proposed development would generate adverse environmental impact on the surrounding areas, and no technical assessment had been submitted to demonstrate that the proposed development would not generate any adverse impacts on the surrounding areas.
- (4) Approval of the application would set an undesirable precedent for other similar applications.
- (5) There was land zoned “Open Storage”/”Industrial (Group D)” on the Pat Heung OZP to meet the demand of land for the use under application.

Appendix V of RNTPC
Paper No. A/YL-PH/765A

Detailed Comments of the Chief Town Planner/Urban Design and Landscape,
Planning Department (CTP/UD&L, PlanD)

- (i) No objects/garbage should be stacked within the root zone of trees. A min. 1m clearance around root zone should be maintained free of any objects/garbage for healthy growth of trees.
- (ii) Climbers on tree canopies or within 1m surrounding tree trunks should be removed.
- (iii) In general, it is not recommended to have materials tied on trees. In case if it is necessary, regular adjustment should be arranged to cope with tree growth.

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 issue relating to the development with other concerned owner(s) of the Site;
- (b) the Site should be kept in a clean and tidy condition at all time;
- (c) prior planning permission should have been obtained before commencing the applied use at the site;
- (d) note DLO/YL, LandsD's comments 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. Lot No. 2888 in D.D. 111 is covered by a Short Term Waiver (STW) No. 3930 to permit structures erected thereon for the purpose of "Temporary Open Storage of Construction Materials, Machinery (Electricity Generator), Vehicles Parts, Temporary Transit Shipment Particles and Containers for Storage of Plastic Barriers". The Site is accessible to Kam Tin Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way. The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limit within SKAHRA. The STW holder(s) will need to apply to his office for modification of the STW conditions to regularize any irregularities (if any) 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 the 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;
- (e) note C for T's comments that the Site is connected to the public road network via a section of local access road which is not managed by the Transport Department. The land status of the local access road should be checked with the Lands Department. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (f) note CHE/NTW, HyD's comments that HyD is not and shall not be responsible for the maintenance of the access road connecting the Site and Kam Tin Road. Adequate drainage measures should be provided at the site access to prevent surface water flow from the Site to the nearby public roads or exclusive road drains;
- (g) 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;
- (h) note CTP/UD&L's comments at **Appendix V** of the RNTPC paper;

- (i) note CBS/NTW, BD's comments if the existing structures are erected on leased land without approval of the BD (not being New Territories Exempted Houses), they are unauthorized under the BO and should not be designated for any use under the application. 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 Building Authority should be obtained. Otherwise, they are Unauthorized Building Works (UBW). An Authorized Person 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 (B(P)R) respectively. 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 site under the BO. If the Sites do not abut on a specified street of not less than 4.5m wide, their permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage;

- (j) 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. Besides, the good practice guidelines for open storage (**Appendix VI** of this RNTPC paper) should be adhered to. To address the 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 Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans; and

- (k) note CE/C, WSD's comments that for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction operation and maintenance of the inside services within the private lots to WSD's standards.