

**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: 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.

**Similar Applications within the same "AGR" zone on
Kam Tin North OZP and Pat Heung OZP**

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition (s)</u>
Kam Tin North OZP				
1.	A/YL-KTN/338	Temporary Open Storage of Second-hand Vehicles for Export for a Period of 3 Years	15.1.2010 (for 1 year) [revoked on 15.11.2010]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
2.	A/YL-KTN/339	Temporary Open Storage of Excavators for a Period of 3 Years	15.1.2010 (for 1 year) [revoked on 15.11.2010]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
3.	A/YL-KTN/341	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	29.1.2010 (for 1 year) [revoked on 29.11.2010]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
4.	A/YL-KTN/343	Proposed Temporary Open Storage of Construction Materials with Ancillary Office for a Period of 3 Years	27.8.2010 [revoked on 27.8.2011]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
5.	A/YL-KTN/355	Temporary Open Storage of Second-hand Vehicles for Export for a Period of 3 Years	1.4.2011	(1), (2), (3), (4), (5), (6), (7), (8), (9)
6.	A/YL-KTN/363	Temporary Open Storage of Construction Materials with Ancillary Office and Storage for a Period of 3 Years	20.5.2011	(1), (2), (3), (4), (5), (6), (7), (8), (9)
7.	A/YL-KTN/364	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	21.10.2011	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
8.	A/YL-KTN/373	Temporary Open Private Car Park for Medium Goods Vehicles and Storage of Construction Materials for a Period of 3 Years	10.2.2012 (for 1 year) [revoked on 10.11.2012]	(1), (2), (3), (4), (5), (6), (7), (8), (9), (11)
9.	A/YL-KTN/399	Temporary Private Car Park for Medium Goods Vehicles and Storage of Construction Materials for a Period of 3 Years	24.5.2013	(1), (2), (3), (4), (5), (6), (7), (8), (9), (11)
10.	A/YL-KTN/441	Renewal of Planning Approval for Temporary "Open Storage of Construction Materials with Ancillary Office and Storage" for a Period of 3 Years	9.5.2014	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (12)

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition (s)</u>
11.	A/YL-KTN/442	Temporary Open Storage of Building Materials with Ancillary Site Office and Staff Restroom for a Period of 3 Years	23.5.2014 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9)
12.	A/YL-KTN/452	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	17.10.2014 (for 3 years)	(1), (2), (3), (5), (6), (7), (8), (9), (10)
13.	A/YL-KTN/517	Temporary Private Car Park for Medium Goods Vehicle and Storage of Construction Materials for a Period of 3 Years	10.6.2016 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11)
14.	A/YL-KTN/553	Renewal of Planning Approval for Temporary Open Storage of Building Materials with Ancillary Site Office and Staff Lounge for a Period of 3 Years	7.4.2017 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
15.	A/YL-KTN/559	Renewal of Planning Approval for Temporary "Open Storage of Construction Materials with Ancillary Office and Storage" for a Period of 3 Years	12.5.2017 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (12)
16.	A/YL-KTN/578	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	22.12.2017 (for 3 years)	(1), (2), (3), (6), (7), (8), (9), (10)
Pat Heung OZP				
17.	A/YL-PH/618	Proposed Temporary Open Storage of Construction Materials and Machinery with Ancillary Office for a Period of 3 Years	28.1.2011 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9)
18.	A/YL-PH/682	Renewal of Planning Approval for Temporary Open Storage of Construction Materials and Machinery with Ancillary Office for a Period of 3 Years	17.1.2014 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9)
19.	A/YL-PH/739	Renewal of Planning Approval for Temporary Open Storage of Construction Materials and Machinery with Ancillary Office for a Period of 3 Years	23.12.2016 (for 3 years)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)

Approval conditions

- (1) Restriction on operation hours/time
- (2) No medium or heavy goods vehicles or container trailers/tractors
- (3) No dismantling, maintenance, modification, repairing, cleansing, paint spraying or other workshop activities
- (4) Provision/ Maintenance of boundary fencing
- (5) Submission and/or implementation of landscaping proposal/ Maintenance of existing trees and landscape planting
- (6) Submission and/or implementation of drainage proposal/ Maintenance of existing drainage facilities/ Submission of record of existing drainage facilities
- (7) Submission and implementation of fire service installations proposal/ Provision of fire extinguisher(s)

- (8) Revocation of the planning approval if any of the planning conditions is not complied with by the specified dated or during the planning approval period
- (9) Reinstatement of the site to an amenity area/ condition which is suitable for agricultural uses/ original state prior to the temporary open storage use
- (10) No vehicle is allowed to reverse into or out of the site/ no queuing back of vehicles to public road from the site/ restriction on vehicular access/ provision of sufficient manoeuvring space
- (11) No vehicle without valid licence issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations is allowed to be parked/stored/a notice should be posted at a prominent location of the site to indicate that no heavy goods vehicle
- (12) The site should be kept in a clean and tidy condition and the materials stored at the site should be covered up

Rejected Applications

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Main Rejection Reasons</u>
Kam Tin North OZP				
1	A/YL-KTN/386	Proposed Temporary Open Storage of Vehicles with Ancillary Office for a Period of 3 Years	6.7.2012	(1), (2), (3), (4)
Pat Heung OZP				
2	A/YL-PH/697	Proposed Temporary Open Storage of Building Materials with Ancillary Office and Parking Facilities for Lorries and Private Cars for a Period of 3 Years	29.5.2015	(1), (2), (3), (4)
3	A/YL-PH/700	Proposed Temporary Open Storage of private cars and light goods vehicles for a Period of 3 Years	26.9.2014	(1), (2), (3), (4)
4	A/YL-PH/751	Proposed Temporary Open Storage of Vehicle Parts for a Period of 3 Years	11.8.2017	(1), (2), (3), (4)

Rejection Reasons

- (1) The development was not in line with the planning intention of the “AGR” zone. No strong justification had been given in the submission for a departure from the planning intention even on a temporary basis.
- (2) The development did not comply with the Town Planning Board Guidelines for “Open Storage and Port Back-up Uses”, in that it was not compatible with the surrounding areas and/or no previous approval had been granted at the site, and adverse comment from relevant government department and local objections.
- (3) There was insufficient information in the submission to demonstrate that the development would not have adverse drainage/environmental/visual/landscape impacts on the surrounding areas.
- (4) The approval of the application would set an undesirable precedent. The cumulative effect would result in a general degradation of the environment of the area.

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

Detailed Comments

1. Noting the proposed maneuver path is in conflict with existing trees at the eastern and southern part of the Site, it is advised the path to be realigned to avoid impact on existing trees.
2. Noting proposed trees are located along the proposed maneuver path of vehicles, tree protective measures, e.g. kerbs or wheel stoppers at a min. distance of 1m in front of the proposed trees, should be installed and indicated on the plan.
3. Drainage provision should be indicated on plan. Please be advised that a min. distance of 1m should be maintained between the proposed trees and drainage provision.
4. Please be reminded that all proposed trees should be planted at grade of min. 1m(W) x 1m(L) x 1.2m(soil depth) and supported with tree stakes for healthy establishment of the trees.
5. Noting a pipe runs along the eastern boundary, applicant is advised to seek comments from relevant administrative party for potential impact arising from the proposed development on it.
6. Noting the proposed vehicular access to the Site via the fenced-off area of the adjacent Site, access arrangement from relevant administrative party should be sought.

**Appendix V of RNTPC
Paper No. YL-PH/774**

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.

- (a) 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.
- (b) Should the applicant wish to apply for exemption from the provision of certain FSIs as prescribed, the applicant is required to provide justifications to his department for consideration.

Advisory Clauses

- (a) resolve any land issues relating to the development with the concerned owners of the Site;
- (b) 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 to Kam Tai 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 to the Site. 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 lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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;
- (c) note C for T's comments that the Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (d) note CHE/NTW, HyD's comments that his offices is not and shall not be responsible for the maintenance of any existing vehicular access connecting the Site and Kam Tai Road. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (e) note CE/RD2-1, RDO, HyD's comments that the temporary access under the Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) project may or may not be provided after XRL completion. The maintenance for that access is still being discussed with DO/YL,HAD. It may be narrow to one lane two way as requested by DO/YL,HAD subject to local consultation with Tsat Sing Kong Village Representatives;
- (f) follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Open Storage and Temporary Uses" issued by the DEP;
- (g) note CTP/UD&L, PlanD's comments at **Appendix IV** of this RNTPC paper;
- (h) note CBS/NTW, BD's comments that 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 BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be

appointed as the co-ordinator for the proposed building works in accordance with the BO. If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of his department, they are unauthorized under the BO and should not be designated for any approved 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. 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;

- (i) note D of FS's comments that the applicant should be advised that the installation/ maintenance/ modification/ repair work of FSIs shall be undertaken by an Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him. In addition, the applicant should also be advised to adhere to the "Good Practice Guidelines for Open Storage" in **Appendix V** of the RNTPC paper. To address the approval condition on the 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;
- (j) note DEMS's comments that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines; and
- (k) note CE/C, WSD's comments that existing water mains will be affected. A Waterworks Reserve within 1.5 meters from the centerline of the water mains shown on **Plan A-2** of the RNTPC paper shall be provided to his offices. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage or car-parking purpose. The Water Authority and his officer and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of construction, inspection, operation, maintenance and repair works. All other services across, through or under the Waterworks Reserve are required to seek authorization from the Water Authority. No trees or shrubs with

penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main shown on **Plan A-2** of the RNTPC paper. The developer shall bear the cost of any necessary diversion works affected by the proposed development. 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.

