

Relevant Extracts of Town Planning Board Guidelines on
Application for Open Storage and Port Back-up Uses
(TPB PG-No.13F)

1. On 27.3.2020, 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. 13F) were promulgated, which set out the following criteria for the various categories of area:
 - (a) Category 1 areas: considered suitable for open storage and port-backup uses. 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 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 (if required) 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 fresh applications relevant technical assessments/proposals (if required) 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) The use of sites less than 1,000m² for open storage uses and 2,000m² for port back-up uses in rural areas, is generally not encouraged, 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 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.

Appendix III of RNTPC
Paper No. A/YL-PH/873

Similar Applications within “AGR” Zone on the Pat Heung Outline Zoning Plan

Approved Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Conditions</u>
1	A/YL-PH/603	Renewal of Planning Approval for “Temporary Open Storage of Private Cars and Lorries” for 3 Years	29.1.2010	(1), (2), (5), (6), (7), (8), (9), (13)
2	A/YL-PH/608*	Proposed Temporary Open Storage of Second-Hand Vehicles for Display and Export for 2 Years	28.1.2011 (Revoked on 28.9.2012)	(1), (2), (3), (4), (5), (6), (7), (8), (9)
3	A/YL-PH/616	Proposed Temporary Open Storage of Backdrop Screens, Advertising Aluminium Frames and Construction Materials for 3 Years	28.1.2011	(1), (2), (3), (4), (5), (6), (7), (8), (9)
4	A/YL-PH/635	Temporary Building Materials and Automotive Parts Storage Yard and Ancillary Staff Canteen for 3 Years	20.1.2012 (Revoked on 20.4.2013)	(1), (2), (3), (5), (6), (7), (8), (9)
5	A/YL-PH/658	Renewal of Planning Approval for “Temporary Open Storage of Private Cars and Lorries” for 3 Years	25.1.2013 (Revoked on 29.7.2013)	(1), (2), (3), (5), (6), (7), (8), (9), (11)
6	A/YL-PH/659	Temporary Open Storage of Construction Materials with Ancillary Site Office for a Period of 3 Years	8.2.2013 (Revoked on 8.11.2013)	(1), (2), (3), (5), (6), (7), (8), (9), (12)
7	A/YL-PH/666	Temporary Open Storage of Second-Hand Vehicles for Export, Vehicle Parts and Construction Materials for a Period of 3 Years	7.6.2013	(1), (2), (3), (4), (5), (6), (7), (8), (9)
8	A/YL-PH/667	Temporary Open Storage of Building Materials, Second-hand Vehicles and Automotive Parts with Ancillary Staff Canteen for a Period of 3 Years	5.7.2013 (Revoked on 5.10.2013)	(1), (2), (3), (5), (6), (7), (8), (9)

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Conditions</u>
9	A/YL-PH/680	Temporary Open Storage of Private Cars and Lorries for 3 Years	13.12.2013 (Revoked on 13.11.2015)	(1), (2), (3), (5), (6), (7), (8), (9), (11), (14)
10	A/YL-PH/683	Temporary Open Storage of Building Materials, Second-hand Vehicles and Automotive Parts with Ancillary Staff Canteen for a Period of 3 Years	7.2.2014	(1), (2), (3), (5), (6), (7), (8), (9), (10)
11	A/YL-PH/686	Proposed Temporary Open Storage of Backdrop Screens, Advertising Aluminium Frames and Construction Materials for a Period of 3 Years	4.4.2014 [Revoked on 4.10.2014]	(1), (2), (3), (5), (6), (7), (8), (9)
12	A/YL-PH/701	Temporary Open Storage of Backdrop Screens, Advertising Aluminium Frames and Construction Materials for a Period of 3 Years	26.9.2014	(1), (2), (3), (5), (6), (7), (8), (9)
13	A/YL-PH/719	Temporary Open Storage of Construction Materials for a Period of 3 Years	7.8.2015	(1), (2), (3), (4), (5), (6), (7), (8), (9)
14	A/YL-PH/724	Temporary Open Storage of Private Cars and Lorries for 3 Years	22.1.2016 (Revoked on 22.12.2017)	(1), (2), (5), (6), (7), (8), (9), (11), (14), (15)
15	A/YL-PH/733	Temporary Open Storage of Second-Hand Vehicles for Export, Vehicle Parts and Construction Materials for a Period of 3 Years	10.6.2016	(1), (2), (3), (5), (6), (7), (8), (9), (11)
16	A/YL-PH/740	Temporary Open Storage of Building Materials, Second-hand Vehicles and Automotive Parts with Ancillary Staff Canteen for a Period of 3 Years	12.5.2017	(1), (2), (3), (5), (6), (7), (8), (9), (11)
17	A/YL-PH/756	Temporary Open Storage of Backdrop Screens, Advertising Aluminium Frames and Construction Materials for a Period of 3 Years	22.9.2017 [revoked on 22.6.2019]	(1), (2), (3), (5), (6), (7), (8), (9), (11)

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Conditions</u>
18	A/YL-PH/782	Renewal of Planning Approval for Temporary Open Storage of Construction Materials for a Period of 3 Years	1.6.2018 (for renewal of the permission from 8.8.2018 to 7.8.2021)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (11)
19	A/YL-PH/803	Temporary Open Storage of Backdrop Screens, Advertising Aluminium Frames and Construction Materials for a Period of 3 Years	12.4.2019	(1), (2), (3), (5), (6), (7), (8), (9), (11)
20	A/YL-PH/805*	Renewal of Planning Approval for Temporary "Open Storage of Second-Hand Vehicles for Export, Vehicle Parts and Construction Materials" for a Period of 3 Years	3.5.2019 (for renewal of the permission from 11.6.2019 to 10.6.2022)	(1), (2), (3), (5), (6), (7), (8), (9), (11)
21	A/YL-PH/834	Renewal of Planning Approval for Temporary Open Storage of Building Materials, Second-hand Vehicles and Automotive Parts with Ancillary Staff Canteen for a Period of 3 Years	24.4.2020 (for renewal of the permission from 13.5.2020 to 12.5.2023)	(1), (2), (3), (5), (7), (8), (9), (11)
22	A/YL-PH/865	Temporary Open Storage (Private Car and Vans Prior to Sale) for a Period of 3 Years	8.1.2021	(1), (2), (3), (5), (7), (8), (9), (11), (14)

*Site falls within "AGR" and "OS" zones

- (1) Restriction on operation time
- (2) No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities allowed
- (3) No medium and heavy vehicles exceeding 5.5 tonnes allowed
- (4) The provision of fencing of the application site within a specified time limit / maintenance of existing boundary fence
- (5) The submission of drainage proposals and provision of drainage facilities and/or drainage record within a specified time limit / maintaining existing drainage facilities at all times
- (6) The submission / implementation of landscaping and/or landscape proposals within a specified time limit/maintenance of existing landscape plantings / maintenance of existing trees / submission / implementation of tree preservation proposal
- (7) The submission / implementation of Fire Service Installations proposal/provision of fire extinguisher / maintenance of existing Fire Service Installations
- (8) Reinstatement of the site to an amenity area upon expiry of the planning permission

- (9) Revocation of the planning approval if any of the planning condition is not complied with at any time during the planning approval / by specified date
- (10) No disturbance and no filling of the stream within the site
- (11) No vehicle is allowed to queue back to or reverse onto / from public road
- (12) Implementation of environmental migration measures within a specified time limit
- (13) No heavy vehicles exceeding 24 tonnes allowed
- (14) Submission / provision of a run-in / out proposal
- (15) No vehicles exceeding 3.3 tonnes allowed

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Conditions</u>
1	A/YL-PH/645	Temporary Open Storage of Soil from Cut-and-Cover Method and Building Materials for 3 Years	24.8.2012	(1), (2), (3), (4)
2	A/YL-PH/678	Temporary Open Storage of Soil and Construction Materials with Ancillary Site Office and Staff Rest Room for a Period of 3 Years	8.11.2013	(1), (2), (3), (4)
3	A/YL-PH/687	Proposed Temporary Open Storage of Horticultural Plants with Greenhouse for a Period of 3 Years	25.4.2014	(1), (2), (3), (4)
4	A/YL-PH/698*	Temporary Open Storage of Construction Materials and Containers with Parking of Heavy Vehicles for a period of 3 years	12.9.2014	(2), (3), (4), (5)
5	A/YL-PH/752	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	11.8.2017	(1), (2), (4)
6	A/YL-PH/770	Temporary Open Storage of Private Cars and Lorries for a Period of 3 Years	16.3.2018	(1), (6)

*Site falls within "AGR" and "V" zones

- (1) The proposed development was not in line with the planning intention of the "Agriculture" ("AGR") zone which is to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation. 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 Guidelines No. 13E in that the proposed development was not compatible with the surrounding land uses. There was also no previous approval granted at the site and there were adverse departmental comments and/or local objections against the application.
- (3) The applicant failed to demonstrate that the proposed development would not generate adverse environmental/drainage/landscape impacts on the surrounding areas.
- (4) The approval of the application, even on a temporary basis, would set an undesirable precedent for other similar uses to proliferate into this part of the "AGR"/"V" zones. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.
- (5) Not in line with the planning intentions of the "Village Type Development" and "Agriculture" zones. No strong planning justification has been given in the submission for a departure from the planning intentions, even on a temporary basis

- (6) Previous planning permissions granted to the applicant under Applications No. A/YL-PH/658, 680 and 724 were revoked due to non-compliance with approval conditions. Approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning applications for temporary uses which are also subject to the requirement to comply with the approval conditions, thus nullifying statutory planning control.

Appendix IV of RNTPC
Paper No. A/YL-PH/873

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) 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 lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on Site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. 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 rent or fee, as may be imposed by the LandsD;
- (b) 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;
- (c) note CHE/NTW, HyD's comments that Leung Shing Road is not maintained by HyD. His department shall not be responsible for the maintenance for any access connecting the Site and Kam Tin Road. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (d) follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the DEP;
- (e) 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. Good practice guidelines for open storage should be adhered to (**Appendix IV** of the RNTPC paper). To address the approval condition on provision of fire extinguisher(s), the applicant should be advised to submit a valid fire certificate (FS 251) for his 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
- (f) note CBS/NTW, BD's comments that if the existing structures (not being a New Territories Exempted House) 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 the BD to effect their removal in

accordance with the prevailing 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, demolition and land filling etc.) 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 Regulations 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 the building plan submission stage. Any temporary shelters or converted containers for office, storage, washroom or other uses are considered as temporary buildings and are subject to the control of Part VII of the B(P)R. Detailed checking under the BO will be carried out at building plan submission stage.