

**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 1,000m² 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.

Previous s.16 Applications covering the application site

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
1	A/YL-PH/304	Temporary Open Storage of Construction Materials for a Period of 3 Years	5.11.1999 [revoked on 5.8.2000]	(1), (2), (5), (6)
2	A/YL-PH/377	Temporary Open Storage of Construction Materials for a Period of 3 years	14.12.2001 (on review)	(1), (2), (3), (4), (5), (6)
3	A/YL-PH/789	Temporary Open Storage of Construction Materials and Machineries for a Period of 3 Years	21.9.2018 [revoked on 21.3.2019]	(1), (2), (4), (5), (6), (7), (8), (9), (10), (11), (12)

Approval Conditions

- (1) Submission, implementation and/or maintenance of landscape proposal/plantings
- (2) Submission, implementation and/or maintenance of drainage proposal/facilities
- (3) Submission and implementation of environmental mitigation measures (proposal)
- (4) Provision/maintenance of fencing and/or paving of the applicant site
- (5) If any of the planning conditions is not complied with at all time during the approval period/by specified date, the approval shall cease to have effect and be revoked without further notice
- (6) Upon expiry of the planning permission, the reinstatement of the site to an amenity area
- (7) Restriction on operation hours
- (8) No vehicle dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities
- (9) No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the site at any time
- (10) No vehicle is allowed to queue back to or reverse onto/from public road at any time
- (11) Provision of fire extinguisher(s)
- (12) Submission and implementation of fire service installations proposal

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reasons</u>
1	A/YL-PH/206	Temporary lorry and private car repairing workshop for a period of 12 months.	18.12.1998 (on review)	(1), (2), (3)

Rejection Reasons

- (1) The development is not in line with the planning intention of the "Residential (Group D)" ("R(D)") zone. No strong justification has been given in the submission for a departure from the planning intention, even on a temporary basis
- (2) The development is incompatible with the nearby residential structures and the village settlement of Wang Toi Shan Wing Ning Lei to its west
- (3) Approval of the application would set an undesirable precedent for similar applications. The cumulative effect of approving such applications would result in a general degradation of the environment of the area

**Similar Applications for Various Open Storage Uses
within the Same "R(D)" Zone or straddling "R(D)" and "AGR" 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), (6), (7), (8), (9)
2	A/YL-PH/597 [#]	Temporary open storage of construction materials and machinery for a period of 3 years	23.10.2009	(1), (2), (3), (4), (6), (7), (8), (9)
3	A/YL-PH/610	Temporary open storage of construction materials and machinery for a period of 3 years	27.8.2010 [revoked on 14.9.2011]	(1), (2), (3), (4), (6), (7), (8), (9)
4	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), (8), (9), (14)
5	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), (6), (8), (9), (10), (11)
6	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), (8), (9), (14)
7	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), (2), (3), (4), (6), (7), (8), (9)

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
8	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), (6), (7), (8), (9), (13)
9	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), (5), (6), (7), (8), (9)
10	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), (5), (6), (8), (9), (11)
11	A/YL-PH/685 [#]	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	4.4.2014	(1), (2), (3), (4), (5), (6), (8), (9), (11)
12	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), (5), (6), (7), (8), (9)
13	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), (6), (8), (9), (11), (13)
14	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), (5), (6), (8), (9), (11), (13), (14)
15	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), (6), (8), (9), (11), (12)
16	A/YL-PH/741 [#]	Renewal of Planning Approval for Temporary Open Storage of Construction Materials, Machinery (Electricity Generator), Vehicle Parts,	3.3.2017	(1), (2), (3), (4), (5), (6), (8), (9), (11), (12)

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
		Temporary Transit Shipment Particles and Containers for Storage of Plastic Barriers for a Period of 3 Years		
17	A/YL-PH/765 [#]	Temporary Open Storage of Construction Materials, Machinery, Second-Hand Vehicles and Vehicle Parts with Ancillary Office for a Period of 3 Years	6.4.2018	(1), (2), (3), (4), (5), (6), (8), (9), (11), (12)
18	A/YL-PH/776	Renewal of Planning Approval for Temporary "Open Storage of Construction Material and Vehicle Parts" for a Period of 3 Years	20.4.2018	(1), (2), (3), (4), (5), (6), (8), (9), (11), (12), (13), (14)
19	A/YL-PH/814	Temporary Open Storage (Vehicles, Vehicle Parts and Construction Materials) for a Period of 3 Years	16.8.2019	(2), (3), (5), (6), (8), (9), (11), (12)

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/drainage arrangement and the record of the existing drainage facilities on the site.
- (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) No repairing, maintenance, dismantling, cleansing, paint spraying or other workshop activities are allowed on the site.
- (7) No heavy goods vehicles as defined in the Road Traffic Ordinance allowed.
- (8) Restriction on operation hours.
- (9) The submission and implementation of fire service installations proposals / implementation of the accepted fire service installations proposal.
- (10) No storage of used electrical appliances or any other types of electronic waste.
- (11) No medium or heavy goods vehicles as defined in the Road Traffic Ordinance allowed.
- (12) 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.
- (13) Provision of boundary fence/ maintained the existing boundary fencing on the site at all times.
- (14) The stacking height of construction materials stored within 5 metres of the periphery of the site should not exceed the height of the boundary fence of the site.

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/585 [#]	Temporary open storage of tires for a period of 3 years	24.7.2009	(1), (2)
2	A/YL-PH/636 [#]	Temporary open storage of construction materials for a period of 3 years	24.2.2012	(1), (2), (3)

Remarks:

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

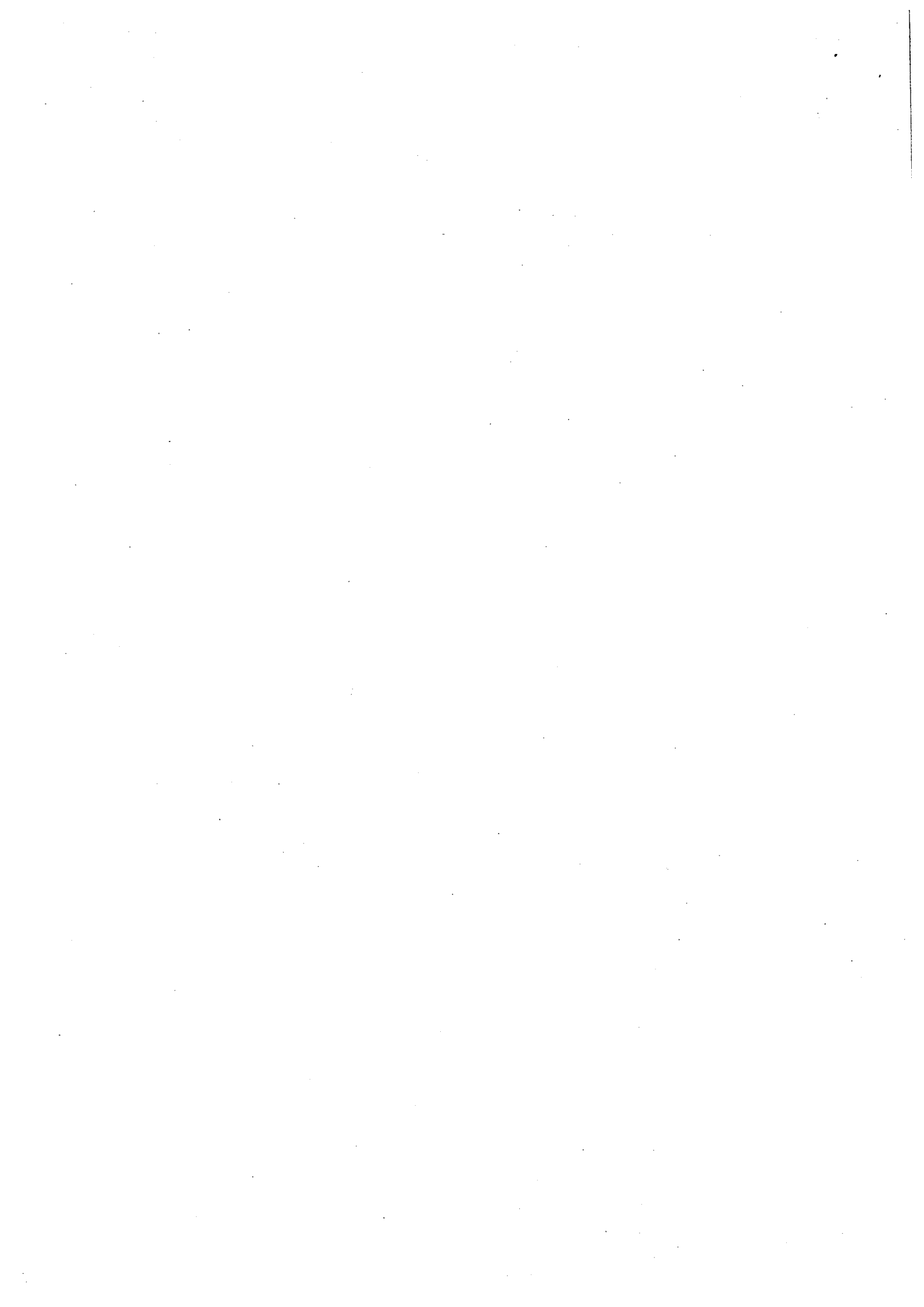
Rejection Reasons

- (1) The development did not comply with the Town Planning Board Guidelines for 'Application for Open Storage and Port Back-up Uses' (TPB PG-No.13E) in that there was no previous approval and/or there were local objections and adverse departmental comments.
- (2) The development would generate adverse environmental impacts and/or increase fire hazards to the surrounding areas, and no technical assessments had been conducted to address the potential issues.
- (3) The proposed development was not in line with the planning intention of the "Agriculture" zone which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. There was no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis.

**Detailed Comments from the Chief Engineer/Mainland North, Drainage Services
Department (CE/MN, DSD):**

Comments on the Submitted Drainage Proposal

1. The gradient of u-channel should be indicated on plan.
2. Cross sections showing the existing ground levels of the Site with respect to the adjacent areas should be given. The level of the channel should be lower than the adjacent ground in order to collect the overland flow.
3. Standard details should be provided to indicate the sectional details of the proposed u-channels and catchpits.
4. Sand trap or provision alike should be provided before the collected runoff is discharged to the public drainage facilities.
5. If the proposed stormwater drainage facilities would be connected to any existing drainage facilities, the applicant shall seek consent from the relevant owners or parties who are responsible for the maintenance of such existing facilities and keep relevant departments informed. The applicant shall check and ensure that the proposed drainage works and their downstream drainage systems have the adequate capacity and are in good conditions to accommodate the surface runoff collected from the Site and its upstream catchments. The applicant shall effect any subsequent upgrading of these proposed works and the downstream drainage systems whenever necessary.
6. Where walls or hoarding are erected are laid along the site boundary, adequate opening should be provided to intercept the existing overland flow passing through the Site.
7. The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas etc.
8. The applicant should consult DLO/YL and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works.



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 development at the Site;
- (b) resolve any land issues relating to the development with the concerned owner(s) of the Site;
- (c) 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. The Site is accessible from 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 over the GL to the Site. The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure 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, if any. 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 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;
- (d) 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;
- (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 the nearby public roads / drains. His department shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road;
- (f) 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;
- (g) note D of FS's comments that the installation / maintenance / modification / repair work of Fire Service Installations shall be undertaken by a 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 the Director of Fire Services. The applicant is also advised to adhere to the "Good Practice Guidelines for Open Storage Sites" (**Appendix VI** of this RNTPC paper). 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. If the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;

- (h) note CE/MN of DSD comments on the submitted drainage proposal that the gradient of u-channel should be indicated on plan. Cross sections showing the existing ground levels of the Site with respect to the adjacent areas should be given. The level of the channel should be lower than the adjacent ground in order to collect the overland flow. Standard details should be provided to indicate the sectional details of the proposed u-channels and catchpits. Sand trap or provision alike should be provided before the collected runoff is discharged to the public drainage facilities. If the proposed stormwater drainage facilities would be connected to any existing drainage facilities, the applicant shall seek consent from the relevant owners or parties who are responsible for the maintenance of such existing facilities and keep relevant departments informed. The applicant shall check and ensure that the proposed drainage works and their downstream drainage systems have the adequate capacity and are in good conditions to accommodate the surface runoff collected from the Site and its upstream catchments. The applicant shall effect any subsequent upgrading of these proposed works and the downstream drainage systems whenever necessary. Where walls or hoarding are erected are laid along the site boundary, adequate opening should be provided to intercept the existing overland flow passing through the Site. The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas etc. The applicant should consult DLO/YL and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works; and
- (i) 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 BD, 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 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 UBW. An Authorized Person (AP) 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. 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; and
- (j) note C of P's comments that the applicant is advised to implement sufficient security measures such as installation of CCTV, flood light and employment of security guard to the Site as preventive of crime.