

**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 1,000m<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 Application covering the Application Site

Rejected Application

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC)</u>	<u>Main Rejection Reasons</u>
1	A/YL-PH/258	Temporary Open Storage of Lorries Prior to Sale for 12 Months	5.2.1999	(1), (2), (3), (4)

Main Rejection Reasons

- (1) The proposed development is not in line with the planning intention of the "Village Type Development" zone on the draft Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/2, which is to designate both existing recognized villages and areas of land considered suitable for village expansion. No strong justification has been given in the submission for a departure from the planning intention even on a temporary basis.
- (2) The proposed development does not comply with the Town Planning Guidelines for "Application for Open Storage and Port Back-up Uses" in that it is not compatible with the surrounding village settlements of Wang To Shan San Tsuen and the adjacent village houses.
- (3) On the draft Pat Heung OZP, 74.5 ha of land has been zoned "Open Storage" ("OS") to cater for the demand for land for open storage. No information has been given in the submission to demonstrate as to why a suitable site within the "OS" zones could not be identified for the use under application.
- (4) 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.



Similar Applications within the same “V” zone on Pat Heung OZP

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-PH/582	Temporary Open Storage of Private Cars and Light/Medium Goods Vehicles Prior to Sale for a Period of 1 Year	5.6.2009	(1), (2), (3), (5), (6)
2	A/YL-PH/599	Temporary Open Storage of Private Cars and Light/Medium Goods Vehicles Prior to Sale for a Period of 2 Years	30.4.2010 (on review)	(1), (2), (5), (6)
3	A/YL-PH/688	Temporary Open Storage of Vehicles Prior to Sale for a Period of 3 Years	10.10.2014 (on review)	(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	9.1.2015 (on review)	(1), (2), (3), (4)
5	A/YL-PH/775	Proposed Temporary Open Storage of Construction Materials for Small House Development for a Period of 3 Years	20.4.2018	(1), (2), (3), (4)

\* Straddling “V” and “AGR” zones

Rejection Reasons

- (1) The development was not in line with the planning intention of the “V” 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 there was no exceptional circumstance to allow continuation of the applied use on-site/ no exceptional circumstances that warrants sympathetic consideration/it was not compatible with the surrounding areas and/or no previous approval had been granted at the site.
- (3) The applicant failed to demonstrate that the development would not have adverse drainage and /or environmental/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.
- (5) There were about 96.46 ha of land zoned "Open Storage" ("OS") on the Pat Heung OZP. There was no information in the submission to demonstrate why suitable sites within the “OS” zones were not available for the applied use.
- (6) The development was not compatible within the surrounding areas which were predominated by residential developments.



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) 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. No permission is given for occupation of Government Land (GL) (about 50m<sup>2</sup> subject to verification) included in the Site. Attention is drawn to the fact that any occupation of GL without Government's prior approval is not allowed. The Site is accessible to Kam Tin Road via 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 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. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a formal approval prior to the actual occupation of the GL portion. 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 TD. The land status of the local access road should be checked with 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 CE/NTW, HyD's comments that HyD is not and shall not be responsible for the maintenance of any existing vehicular 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;
- (e) 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 DEP;
- (f) note D of FS' 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 V** of RNTPC paper). To address the condition on provision of fire extinguisher(s), the applicant should be advised to submit a valid fire certificate (FS 251) to his office. 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

- (g) note CE/C, WSD's comments that the existing 10m waterworks reserve will be affected (**Plan A-2** of RNTPC paper). No structure shall be erected over this waterworks reserve and such area shall not be used for storage purposes. The Water Authority and his officers 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 laying, repairing and maintenance of water mains. All other services across, through or under the waterworks reserve are required to seek authorization from the Water Authority. 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.