

**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
 - (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 in the “AGR” zone on the Approved Tai Tong OZP

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-TT/240	Temporary Open Storage of Electronic Parts with Ancillary Recyclable Workshop for a Period of 3 Years	30.10.2009 (on review)	(1), (3), (4), (5), (6), (7)
2	A/YL-TT/295#	Proposed Temporary Warehouse for Storage of Building Materials for a Period of 3 Years	16.12.2011	(2), (3), (5), (7)

Remarks:

Straddling the adjacent “V” zone.

Rejection Reasons

- (1) The development was considered not in line with the planning intention of the "Village Type Development" ("V") zone which was to designate both existing recognized villages and areas of land considered suitable for village expansion. Also, the zoning boundary of the "Agriculture" ("AGR") zone in this area had been broadly delineated to reflect the rural character and to provide a buffer for the stream course and the nearby dwellings from undesirable impacts due to the adjoining open storage/ port backup activities.
- (2) The development was not in line with the planning intention of the "Agriculture" ("AGR") zone which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- (3) There was no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis.
- (4) There was no strong planning justification given to explain why the applied use needed to extend outside the "Open Storage" zone.
- (5) The development was considered not compatible with the surrounding residential and agricultural uses. It would cause adverse environmental impacts on the surrounding areas.
- (6) 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 part of it fell within Category 3 and 4 areas. There was no previous planning approval granted on-site and there were adverse departmental comment and local objections against the application.
- (7) Approval of the application would set an undesirable precedent for other similar uses in the "AGR" and/or "V" zones. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

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 applied use at the application site (the Site);
- (b) the Site should be kept in a clean and tidy condition at all times;
- (c) to note the comments of the District Lands Officer/Yuen Long, Lands Department (LandsD) 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 prior approval of the Government. The Site is accessible from Pak Sha Shan Road via Government Land (GL) and private land. Her office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site. The lot owner(s) shall apply to her office to permit the structures to be erected or regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation 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 her department acting in the capacity as landlord or lessor at her 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 her department;
- (d) to note the comments of the Commissioner for Transport that the applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking of vehicles on public road are allowed;
- (e) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains. His department shall not be responsible for the maintenance of any access connecting the Site and Pak Sha Shan Road;
- (f) to note the comments of the Director of Environmental Protection that the applicant should 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 Environmental Protection Department to minimise any potential environmental nuisance;
- (g) to note the comments of the Director of Fire Services that in consideration of the design/nature of the proposal, fire service installations (FSIs) are anticipated to be required. The applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant is advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should also be clearly marked on the layout plans. The good practice guidelines for open storage (**Appendix IV** of this RNTPC Paper) should be adhered to. The applicant is also 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;

- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that the excavation works should be carried out under the supervision of a competent person. Attention is drawn to Building (Minor Works) Regulation that excavation with a depth between 0.3m to 3m falls within the items of Class I or Class II minor works and subject to the Minor Work Control System. The excavation works should be supervised by competent persons, who are Professional and/or Prescribed Registered Contractor. The applicant may visit BD's website for details. Adequate precautionary measures and suitable working procedures should be adopted in carrying out the subject works to safeguard the stability of any building, structure, land, street or services. Any precautionary measures, which involve new building works, are subject to the relevant comment below. When any natural, formed or man-made land has due to any cause been rendered so dangerous or liable to become so dangerous that it will collapse, or be likely to collapse, and thereby will cause, or will be likely to cause, a risk of injury to any person or damage to any property, enforcement action may be taken by the BD. If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BD, they are unauthorised building works (UBW) under the 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, site formation works such as excavations on sloping 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 Authorised 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 Regulation 5 and 41D of the Building (Planning) Regulation (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
- (i) to note the comments of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department that the applicant is reminded to ensure that the erected hoarding should not affect public safety and details of such hoarding should be submitted to relevant government department(s) (e.g. BD, LandsD and others) for comment, if found necessary.