

**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.

Previous Applications covering the Application Site

Approved Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
1	A/YL-KTN/33*	Public Car Park	20.6.1997	1, 2, 4, 7
2	A/YL-KTN/77*	Temporary open storage of private cars for 12 months	27.11.1998	1, 2, 3
3	A/YL-KTN/128*	Temporary open storage of private cars for 3 years	2.2.2001 (revoked on 2.11.2001)	1, 2, 3
4	A/YL-KTN/160*	Temporary open storage of private cars for 3 years	17.1.2003	1, 2, 3, 5, 6
5	A/YL-KTN/241*	Renewal of planning approval for temporary open storage of private cars for 3 years	13.1.2006 (lapsed on 13.1.2009)	1, 3, 4, 5, 8
6.	A/YL-KTN/455*	Temporary open storage of private cars for 3 years	2.1.2015 (revoked on 13.2.2015)	1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13

* Application straddled "O" and "R(D)" zones

Approval Conditions

1. the submission and/or implementation of landscaping and/or tree preservation proposals
2. the submission and/or provision of drainage facilities
3. reinstatement of the application site after the expiry of the planning approval
4. if planning condition is not complied with during the planning approval period or by the specified date, the approval shall cease to have effect and be revoked without further notice
5. no vehicle repairing / dismantling / maintenance / cleansing / painting spraying / workshop activities
6. submission and/or implementation of vehicle manoeuvring space arrangement/ vehicular access
7. no vehicles without valid licences allowed on-site
8. the drainage facilities on the application site should be maintained
9. restriction of operation hours

10. 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
11. provision of fire extinguisher(s) with valid fire certificate
12. submission and provision of fire services installation proposal
13. no reversing of vehicles into or out from the site

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Main Reasons for Rejection</u>
1	A/YL-KTN/148*	Temporary open storage of private cars and company cars maintenance for 3 years	9.8.2002	1 , 2

* Application straddled "O" and "R(D)" zones

Rejection reasons:

1. The development does not comply with the Town Planning Board Guidelines for "Application for Open Storage and Port Back-up Uses" in that residential dwellings which are located to its close proximity would be susceptible to adverse environmental nuisances generated by the development
2. There is insufficient information in the submission to demonstrate that the development would not cause adverse environmental and drainage impacts on the surrounding areas.

**Similar s.16 Applications within the same “O” and “R(D)” Zones on the
 Kam Tin North OZP**

Approved Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
1	A/YL-KTN/312	Temporary open storage of light goods vehicles for sale for period of 3 years	7.11.2008	3, 6, 7, 8, 10, 11, 13
2	A/YL-KTN/318	Temporary open storage of private cars and light goods vehicles for a period of 3 years	13.3.2009	3, 6, 7, 8, 9, 10, 11, 12, 13, 15
3	A/YL-KTN/328	Renewal of planning approval for temporary open storage of construction machinery, private vehicles and vehicle parts under application No. A/YL-KTN/252 for a period of 3 years	5.6.2009	3, 5, 6, 7, 9, 10, 11, 13
4	A/YL-KTN/332	Renewal of planning approval for temporary open storage of vehicles (lorries, vans and private cars) for sale under Application No. A/YL-KTN/254 for a Period of 3 Years	7.8.2009	1, 3, 6, 7, 10, 11, 13
5	A/YL-KTN/336	Renewal of planning approval for temporary “open storage of private vehicles and vehicle parts” under application no. A/YL-KTN/266 for a period of 3 years	20.11.2009	2, 4, 5, 7, 8, 9, 10, 11, 13, 18
6	A/YL-KTN/367	Temporary open	16.12.2011	3, 6, 7, 8, 10,

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
		storage of light goods vehicles for sale for a period of 3 years		11, 12, 13, 14, 15, 16
7	A/YL-KTN/374	Renewal of Planning Approval for "Temporary open storage of private cars and light goods vehicles" use under Application No. A/YL-KTN/318 for a period of 3 years	24.2.2012	3, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16
8	A/YL-KTN/381	Renewal of planning approval for temporary open storage of construction machinery, private vehicles and vehicle parts for a period of 3 years under Application No. A/YL-KTN/328	18.5.2012	3, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15
9	A/YL-KTN/389	Temporary open storage of vehicles (lorries, vans and private cars) for sale for a period of 3 years	5.10.2012	1, 3, 6, 7, 10, 11, 13, 14, 15, 16
10	A/YL-KTN/395	Renewal of planning approval for temporary "open storage of private vehicles and vehicle parts" under application no. A/YL-KTN/336 for a period of 3 years	9.11.2012	3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 18
11	A/YL-KTN/456	Temporary Open Storage of Light Goods Vehicles for Sale for a Period of 3 Years	16.1.2015	3, 6, 7, 8, 10, 11, 13, 14, 15, 16
12	A/YL-KTN/459	Renewal of Planning Approval for Temporary "Open Storage of Private Cars and Light Goods Vehicles" for a Period of 3 Years	6.2.2015	3, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16
13	A/YL-KTN/462	Renewal of Planning	22.5.2015	3, 5, 6, 7, 9,

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
		Approval for Temporary "Open Storage of Construction Machinery, Private Vehicles and Vehicle Parts" for a Period of 3 Years		10, 11, 12, 13, 15, 16
14	A/YL-KTN/486	Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale for a Period of 3 Years	6.11.2015 [revoked on 18.12.2015]	3, 6, 7, 8, 9, 10, 11, 13, 14, 15
15	A/YL-KTN/491	Renewal of Planning Approval for Temporary "Open Storage of Private Vehicles and Vehicle Parts" for a Period of 3 Years	20.11.2015	3, 4, 5, 6, 7, 8, 10, 11, 13, 14, 15, 16, 18
16	A/YL-KTN/539	Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale for a Period of 3 Years	11.11.2016	3, 6, 7, 8, 9, 10, 11, 13, 14
17	A/YL-KTN/580	Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale for a Period of 3 Years	26.1.2018	3, 6, 7, 8, 9, 11, 13, 14, 15, 16
18	A/YL-KTN/598	Temporary Open Storage of Private Cars and Light Goods Vehicles for a Period of 3 Years	18.5.2018	1, 3, 6, 7, 8, 10, 11, 13, 15, 16
19	A/YL-KTN/601	Renewal of Planning Approval for Temporary "Open Storage of Construction Machinery, Private Vehicles and Vehicle Parts" for a Period of 3 Years	1.6.2018	3, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16
20	A/YL-KTN/635	Renewal of Planning Approval for Temporary "Open	16.11.2018	5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Condition(s)</u>
		Storage of Private Vehicles and Vehicle Parts” for a Period of 3 Years		

Approval Conditions

1. submission and/or implementation of landscaping proposals
3. reinstatement of the application site after the expiry of the planning approval
4. the fencing and paving of the application site
5. the stacking height of the vehicles
6. if planning condition is not complied with during the planning approval period or by the specified date, the approval shall cease to have effect and be revoked without further notice
7. no vehicle repairing / dismantling / maintenance / cleansing / painting spraying / workshop activities
8. no medium or heavy goods vehicles or container vehicles should be parked/stored
9. existing trees should be preserved and the landscaping planting on the site should be maintained
10. the drainage facilities on the application site should be maintained
11. submission and implementation of emergency vehicular access, water supplies for fire-fighting and/or fire service installations
12. the submission and/or provision and maintenance of run-in proposal
13. restriction on operation hours
14. no queue back/ reversing of vehicles into or out from the site
15. submission and/or implementation of drainage proposals/ submission of record of existing drainage facilities
16. provision of fire extinguisher(s)
17. the existing fencing erected should be maintained at all times
18. setting back of the southern boundary of the Site

Rejected Application

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Main Reasons for Rejection</u>
1	A/YL-KTN/345	Temporary Open Storage of Private Vehicles for Sale for a Period of 3 Years	15.10.2010	1, 2, 3

Rejection Reasons

1. The development was not in line with the planning intention of the “Residential (Group D)” (“R(D)”) zone.
2. The application did not comply with the Town Planning Board PG-No. 13E in that there was no previous approval for open storage use granted at the site, and that the applicant had not included in the submission technical assessments to demonstrate that the development would not generate adverse drainage, traffic and landscaping impacts on the surrounding areas.
3. The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the "R(D)" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

Appendix V of RNTPC
Paper No. A/YL-KTN/631B

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) shorter compliance periods were recommended to monitor the progress of compliance. Should the applicant fails to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given by the Committee to any further application;
- (b) prior planning permission should have been obtained before commencing the applied use at the Site;
- (c) the permission is given to the development/use under application. It does not condone any other development/use which are not covered by the application;
- (d) resolve any land issues relating to the development with the concerned land owner(s) of the Site;
- (e) note DLO/YL, LandsD's comments that the Site comprises Government Land (GL) and 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 GL. 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 STW and STT holder(s) will need to apply to his office for modification of the STW/STT conditions where appropriate. The owner(s) of the lot without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. 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 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 premium or fee, as may be imposed by the LandsD;
- (f) 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;
- (g) note CHE/NTW, HyD's comments his department does not and will not maintain any access connecting the Site and Kam Tin Road. The applicant should be responsible for his own access arrangement. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;

- (h) follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses" issued by the EPD;
- (i) note D of FS's comments that the applicant should be advised that the installation/ maintenance/ modification/ repair work of FSI 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 him. To address the approved condition on provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS251) to his department for approval. The applicant is advised to adhere to the 'Good Practice Guidelines for Open Storage Sites' in **Appendix V** of the RNTPC paper. 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
- (j) note CBS/NTW, BD's comments that if the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the BO and should not be designated for any use under 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) Regulation 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 Building (Planning) Regulation at the building plan submission stage.