

**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 s.16 Application covering the Application Site

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-KTN/263	Temporary Open Storage of Building Materials and Vehicle Parts for a Period of 3 Years	25.5.2007	(1), (2), (3), (4), (5)

Rejected Reasons

- (1) The development was not in line with the planning intention of the "Agriculture" ("AGR") zone which was to retain and safeguard good agricultural land for agricultural purposes. No strong justification had been given in the submission for a departure from the planning intention.
- (2) The development was not compatible with the surrounding land uses which were predominantly rural in character with cultivated and fallow agricultural land, residential dwellings and river channel. There was insufficient information to demonstrate that the proposed development would not generate adverse environmental, drainage and landscape impacts on the surrounding areas
- (3) The application did not comply with the Town Planning Board Guidelines for Open Storage and Port Back-up Uses in that there was no previous approval granted at the site; residential dwellings were located in close proximity to the site and would be susceptible to adverse environmental nuisances generated by the development; and there were adverse comments from concerned departments.
- (4) There was no information given in the submission to demonstrate that other suitable sites within the "Industrial (Group D)" and "Open Storage" zone could not be identified for the use under application.
- (5) The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the "AGR" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

**Similar Applications within the "AGR" Zone in the vicinity on the
Kam Tin North OZP and Pat Heung OZP**

Approved Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
Kam Tin North OZP				
1	A/YL-KTN/338	Temporary Open Storage of Second-hand Vehicles for Export for a Period of 3 Years	15.1.2010 (for 1 year) [Revoked on 15.11.2010]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
2	A/YL-KTN/339	Temporary Open Storage of Excavator for a Period of 3 Years	15.1.2010 (for 1 year) [Revoked on 15.11.2010]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
3	A/YL-KTN/341	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	29.1.2010 (for 1 year) [Revoked on 29.11.2010]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
4	A/YL-KTN/343	Proposed Temporary Open Storage of Construction Materials with Ancillary Office for a Period of 3 Years	27.8.2010 [Revoked on 27.8.2011]	(1), (2), (3), (4), (5), (6), (7), (8), (9)
5	A/YL-KTN/355	Temporary Open Storage of Second-hand Vehicles for Export for a Period of 3 Years	1.4.2011	(1), (2), (3), (4), (5), (6), (7), (8), (9)
6	A/YL-KTN/363	Temporary Open Storage of Construction Materials with Ancillary Office and Storage for a Period of 3 Years	20.5.2011	(1), (2), (3), (4), (5), (6), (7), (8), (9)
7	A/YL-KTN/364	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	21.10.2011	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (12)
8	A/YL-KTN/373	Temporary Open Private Car Park for Medium Goods Vehicles and Storage of Construction Materials for a Period of 3 Years	10.2.2012 (for 1 year) [Revoked on 10.11.2012]	(1), (2), (3), (4), (5), (6), (7), (8), (9), (11)
9	A/YL-KTN/399	Temporary Private Car Park for Medium Goods Vehicles and Storage of Construction Materials for a Period of 3 Years	24.5.2013	(1), (2), (3), (4), (5), (6), (7), (8), (9), (11)
10	A/YL-KTN/441	Renewal of Planning Approval for Temporary "Open Storage of Construction Materials with Ancillary Office and Storage" for a Period of 3 Years	9.5.2014	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (12)
11	A/YL-KTN/442	Temporary Open Storage of Building Materials with Ancillary Site Office and Staff Restroom for a Period of 3 Years	23.5.2014	(1), (2), (3), (4), (5), (6), (7), (8), (9)

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Conditions</u>
12	A/YL-KTN/452	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	17.10.2014	(1), (2), (3), (5), (6), (7), (8), (9),(10)
13	A/YL-KTN/517	Temporary Private Car Park for Medium Goods Vehicles and Storage of Construction Materials for a Period of 3 Years	10.6.2016	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11)
14	A/YL-KTN/553	Renewal of Planning Approval for Temporary Open Storage of Building Materials with Ancillary Site Office and Staff Lounge for a Period of 3 Years	7.4.2017	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
15	A/YL-KTN/559	Renewal of Planning Approval for Temporary "Open Storage of Construction Materials with Ancillary Office and Storage" for a Period of 3 Years	12.5.2017	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (12)
16	A/YL-KTN/578	Temporary Open Storage of Vehicles and Vehicle Parts for Export for a Period of 3 Years	22.12.2017	(1), (2), (3), (6), (7), (8), (9), (10)
17	A/YL-KTN/648	Renewal of Planning Approval for Temporary Private Car Park for Medium Goods Vehicles and Storage of Construction Materials for a Period of 3 Years	3.5.2019	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11)
Pat Heung OZP				
18	A/YL-PH/618	Proposed Temporary Open Storage of Construction Materials and Machinery with Ancillary Office for a Period of 3 Years	28.1.2011	(1), (2), (3), (4), (5), (6), (7), (8), (9)
19	A/YL-PH/682	Renewal of Planning Approval for Temporary Open Storage of Construction Materials and Machinery with Ancillary Office for a Period of 3 Years	17.1.2014	(1), (2), (3), (4), (5), (6), (7), (8), (9)
20	A/YL-PH/739	Renewal of Planning Approval for Temporary Open Storage of Construction Materials and Machinery with Ancillary Office for a Period of 3 Years	23.12.2016	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)

Approval conditions

- (1) Restriction on operation hours/time
- (2) No medium and/or heavy vehicles or container trailers/tractors
- (3) No dismantling, maintenance, modification, repairing, cleansing, paint spraying or other workshop activities
- (4) Provision/maintenance of fencing
- (5) Submission and/or implementation of landscaping proposal/maintenance of existing landscape plantings/trees and vegetation
- (6) Submission and/or implementation of drainage proposal/maintenance of drainage facilities/submission of record of drainage facilities

- (7) Submission and/or implementation of fire service installations proposal and/or provision of fire extinguisher
- (8) Revocation of the planning approval if any of the planning condition is not complied with by specified date or during the planning approval
- (9) Reinstatement of the site to an amenity area/ condition which is suitable for agricultural uses/original state prior to the temporary open storage use
- (10) No vehicle is allowed to reverse into or out of the site/no queuing back of vehicles to public road from the site/restriction on vehicular access/ provision of sufficient manoeuvring space
- (11) No vehicle without valid licence issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations is allowed to be parked/stored/a notice should be posted at a prominent location of the site to indicate that no heavy goods vehicle
- (12) The site should be kept in a clean and tidy condition and the materials stored at the site should be covered up

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejected Reasons</u>
Kam Tin North OZP				
1	A/YL-KTN/375	Temporary Open Storage of Spare Materials for Maintenance and Beautification of Private Housing and Land for a Period of 3 Years	22.6.2012 (on review)	(1), (2), (3), (4)
2	A/YL-KTN/386	Proposed Temporary Open Storage of Vehicles with Ancillary Office for a Period of 3 Years	6.7.2012	(1), (2), (3), (4)
3	A/YL-KTN/392	Temporary Open Storage of Precast Concrete Unit for a Period of 3 Years	22.2.2013	(1), (2), (3), (4)
4	A/YL-KTN/405	Temporary Open Storage of Construction Machinery for a Period of 3 Years	13.9.2013	(1), (2), (3), (4)
5	A/YL-KTN/552	Temporary Open Storage of Waste Metals, Construction Materials and Vehicle Maintenance Workshop for a Period of 3 Years	7.4.2017	(1), (2), (3), (4)
Pat Heung OZP				
6	A/YL-PH/697	Proposed Temporary Open Storage of Building Materials with Ancillary Office and Parking Facilities for Lorries and Private Cars for a period of 3 years	29.5.2015 (on review)	(1), (2), (3), (4)
7	A/YL-PH/700	Proposed Temporary Open Storage of Horticultural Plants with Greenhouse for a Period of 3 Years	26.9.2014	(1), (2), (3), (4)
8	A/YL-PH/751	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	11.8.2017	(1), (2), (4), (5)

Rejected reasons

- (1) The proposed development was not in line with the planning intention of the "Agriculture" ("AGR") zone. 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) There was insufficient information in the submission/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 would set an undesirable precedent. The cumulative effect would result in a general degradation of the environment of the area.
- (5) The applicant fails to demonstrate that the proposed development would not generate adverse environmental impacts on the surrounding areas.

**Appendix V of RNTPC
Paper No. A/YL-KTN/654**

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 the concerned owner(s) of the Site;
- (b) note DLO/LandsD's comments that the Site comprises an Old Scheduled 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 Site is accessible from Kam Tai 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 lot owner(s) will need to apply to his office if any structures are to be erected 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 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;
- (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 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;
- (d) note HyD's comments that his department does not and will not maintain any access (including the section of Kam Tai Road on the northern side of Kam Tin River) 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) note CE/RD2-2, RDO, HyD's comments that the Site falls within the gazette railway scheme boundary of the XRL. With reference to the procedures in PNAP APP-24, the applicant is reminded to consult MTRCL with respect to operation, maintenance, safety and future construction of the existing railway network;
- (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 DEP;
- (g) note DAFC's comments that the applicant is advised to adopt necessary measures to avoid polluting or disturbing the adjacent watercourse during operation;

- (h) note D of FS's comments that in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit revised 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. The applicant should be advised to adhere to the good practice guidelines for open storage in **Appendix V** of the RNTPC paper. To address the approval condition on the provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS251) to his department for 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
- (i) note CBS/NTW, BD's comments that 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 should be appointed as the co-ordinator for the proposed building works in accordance with the BO. 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. 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.