

Relevant Extracts of Town Planning Board Guidelines on
Application for Open Storage and Port Back-up Uses
(TPB PG-No.13F)

1. On 27.3.2020, 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. 13F) were promulgated, which set out the following criteria for the various categories of area:
 - (a) Category 1 areas: considered suitable for open storage and port-backup uses. 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 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 (if required) 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 fresh applications relevant technical assessments/proposals (if required) 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) The use of sites less than 1,000m² for open storage uses and 2,000m² for port back-up uses in rural areas, is generally not encouraged, 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 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</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Conditions</u>
1	A/YL-KTN/175	Temporary car accessories retail shop and ancillary open storage of light goods vehicles for sale for a period of 3 years	25.7.2003	1, 2, 3, 4, 5, & 6
2	A/YL-KTN/250	Renewal of Application for "Temporary car accessories retail shop and ancillary open storage of light goods vehicles for sale" under Application No. A/YL-KTN/175 for a period of 3 years	16.6.2006 (revoked on 16.12.2006)	4, 5, 7, 8, 9, 10, 11
3	A/YL-KTN/275	Temporary car accessories retail shop and ancillary open storage of light goods vehicles for sale for a period of 3 years	11.5.2007 (revoked on 11.2.2008)	4, 5, 7, 8, 10, 11, 12
4	A/YL-KTN/289	Temporary open storage of light goods vehicles for sale for a period of 3 years	22.2.2008 (revoked on 22.8.2008)	4, 5, 7, 8, 10, 11, 13
5	A/YL-KTN/312	Temporary open storage of light goods vehicles for sale for a period of 3 years	7.11.2008	4, 5, 7, 8, 10, 11, 13
6	A/YL-KTN/367	Temporary open storage of light goods vehicles for sale for a period of 3 years	16.12.2011	4, 5, 7, 8, 9, 10, 11, 13, 14
7	A/YL-KTN/456	Temporary Open Storage of Light Goods Vehicles for Sale for a Period of 3 Years	16.1.2015	4, 5, 7, 8, 10, 11, 13, 14
8	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	4, 5, 7, 8, 10, 11, 13, 14, 15

Approval Conditions:

1. the submission and implementation of landscaping proposals
2. the submission and provision of drainage facilities
3. paving of the site
4. if any planning condition is not complied with during planning approval period/by the specified date, the approval shall cease to have effect and be revoked without further notice
5. no vehicle repairing/dismantling/maintenance/repairing/cleansing/painting spraying/workshop activities
6. submission and implementation of vehicle manoeuvring space arrangement
7. no medium/heavy vehicles/container trailers/tractors are allowed
8. maintenance of drainage facilities / submission of records of existing drainage facilities
9. the submission and implementation of run-in proposals / maintenance of existing run-in
10. the submission of fire service installations proposal and provision of fire service installations
11. reinstatement of the site to an amenity area after the expiry of the planning approval
12. setting back of the site as non-building area as when required by the Government
13. restriction on operation time
14. provision of fire extinguishers
15. no vehicle is allowed to queue back to or reverse onto/ from public road

Similar s.16 Applications within the same “R(D)” Zone on Kam Tin North OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1	A/YL-KTN/328	Renewal of planning approval for temporary open storage of construction machinery, private vehicles and vehicle parts	5.6.2009	3, 5, 6, 7, 9, 10, 11, 13
2	A/YL-KTN/332	Renewal of planning approval for temporary open storage of vehicles (lorries, vans and private cars) for sale	7.8.2009	1, 3, 6, 7, 10, 11, 13
3	A/YL-KTN/336	Renewal of planning approval for temporary “open storage of private vehicles and vehicle parts”	20.11.2009	2, 4, 5, 7, 8, 9, 10, 11, 13
4	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	18.5.2012	3, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15
5	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
6	A/YL-KTN/395	Renewal of planning approval for temporary “open storage of private vehicles and vehicle parts”	9.11.2012	3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16
7	A/YL-KTN/455*	Temporary open storage of private cars for a period of 3 years	2.1.2015	1, 3, 6, 7, 8, 11, 13, 14, 16, 17
8	A/YL-KTN/462	Renewal of Planning Approval for Temporary "Open Storage of Construction Machinery, Private Vehicles and Vehicle Parts"	22.5.2015	6, 7, 9, 10, 14, 15, 16, 18, 19

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
9	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, 16
10	A/YL-KTN/491	Renewal of Planning Approval for Temporary "Open Storage of Private Vehicles and Vehicle Parts"	20.11.2015	2, 3, 4, 5, 6, 7, 8, 10, 13, 14, 15, 18, 19
11	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
12	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, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17
13	A/YL-KTN/631*	Temporary Open Storage of Private Cars for a Period of 3 Years	8.3.2019	3, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17
14	A/YL-KTN/635	Renewal of Planning Approval for Temporary "Open Storage of Private Vehicles and Vehicle Parts" for a Period of 3 Years	16.11.2018	2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17
15	A/YL-KTN/677	Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale for a Period of 3 Years	15.11.2019	6, 7, 8, 10, 11, 13, 14, 16, 17

*straddling "R(D)" and "Open Space" zones.

Approval Conditions

1. the submission and/or implementation of landscaping proposals
2. the setting back of the southern boundary of the application site by 25m from Kam Tin Road, as proposed by the applicant, at any time during the planning approval period;
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 of run-in proposal
13. restriction on operation hours
14. no reversing of vehicles into or out from the site
15. submission of record of existing drainage facilities
16. provision of fire extinguisher(s)
17. the submission and implementation of drainage proposals

Rejected Application

	<u>Application No.</u>	<u>Proposed Uses</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Main Reason(s) 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 proposed development was not in line with the planning intention of the "Residential (Group D)" zone and no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.
- (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.



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) 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 STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by the LandsD acting in the capacity of landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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.
- (b) note CHE/NTW, HyD's comment that adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (c) adopt the relevant mitigation measures and requirements as set out in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP to minimize any potential environmental nuisances;
- (d) note CE/MN, DSD' comments that the applicant should inform relevant department if the drainage facilities on-site has been changed;
- (e) note D of FS's comments that in consideration of the design/nature of the proposal, fire service installations (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 FSIs to be installed should be clearly marked on the layout plans. Besides, the applicant should observe the good practice guidelines for open storage site in **Appendix V** of this RNTPC paper. To address the approval condition on 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
- (f) 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 the BD, they are unauthorized building works (UBW) under the BO and should not be designated for any 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 BD should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the coordinator 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 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.