

**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(s)/Development(s)</u>	<u>Date of Consideration By RNTPC/TPB</u>	<u>Approval Conditions</u>
1.	A/YL-PH/175	Temporary Open Storage of Building Materials for a Period of 12 Months	6.3.1998	(1), (2), (3), (4)
2.	A/YL-PH/271	Temporary Open Storage of Building Materials for a Period of 12 Months	30.4.1999	(2), (3), (4), (5)
3.	A/YL-PH/332	Temporary Open Storage of Building Materials for a Period of 3 Years	2.6.2000	(2), (3), (4), (6)
4.	A/YL-PH/436	Temporary Open Storage of Building Materials for a Period of 3 Years	25.7.2003	(4), (6), (7), (8)
5.	A/YL-PH/525	Temporary Open Storage of Building Materials for a Period of 3 Years	21.7.2006	(4), (6), (7), (8), (9), (10)
6.	A/YL-PH/588	Temporary Open Storage of Building Materials for a Period of 3 Years	7.8.2009	(4), (6), (7), (8), (9), (10), (11),
7.	A/YL-PH/644	Renewal of Planning Approval for "Temporary Open Storage of Building Materials" for a Period of 3 Years	20.7.2012 (revoked on 7.6.2014)	(3), (4), (6), (7), (8), (9), (10), (11), (12)
8.	A/YL-PH/705	Temporary Open Storage of Building Materials and Vehicles for Sale for a Period of 3 Years	14.11.2014	(2), (3), (4), (6), (8), (9), (10), (11), (12), (13)
9.	A/YL-PH/757	Renewal of Planning Approval for Temporary "Open Storage of Building Materials and Vehicles for Sale" for a Period of 3 Years	27.10.2017	(2), (3), (4), (6), (8), (9), (10), (11), (12), (13), (14)

Approval Conditions:

- (1) The provision of vehicular access leading to the Site.
- (2) The submission / implementation of landscaping proposal / landscaping proposal

- (including a Tree Preservation Scheme).
- (3) Provision of drainage facilities / submission of a record of the existing drainage facilities at the Site.
 - (4) Reinstatement of the Site to an amenity area upon expiry of the planning permission.
 - (5) Provision of paving of the Site.
 - (6) Revocation of planning approval for non-compliance with conditions by a specified date or during the planning approval period.
 - (7) Maintenance of the existing landscape planting.
 - (8) Maintenance of the existing drainage facilities.
 - (9) Restriction on operation hours.
 - (10) Submission / implementation of fire service installations proposal / provision of fire service installations / provision of fire extinguisher.
 - (11) No dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities should be carried out at the Site.
 - (12) Provision / maintenance of the boundary fencing.
 - (13) Submission of a report on the condition of the existing water mains underneath the ingress and egress of the Site and Implementation of mitigation measures to avoid impact on the existing water mains.
 - (14) No vehicle is allowed to queue back to or reverse onto/from public road.

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration By RNTPC/TPB</u>	<u>Approval Conditions</u>
1.	A/YL-PH/12	Development of 20 N.T. Exempted Houses	11.4.1995	(1), (2), (3), (4), (5)

- (1) The proposed development is not in line with the planning intention of the "Residential (Group D)" zone which is to improve and upgrade the existing domestic accommodations and to allow very low-rise and low density residential development within the zoned area.
- (2) The development intensity of the proposed development with a plot ratio of 1.07, a site coverage of 35.71% and a building height of 3 storeys is excessive.
- (3) No measures have been included in the submission to mitigate the noise and visual impacts from the surrounding open storages and car wrecking yards on the development.
- (4) The proposed development is unacceptable as part of the site encroached upon the 10m wide waterworks reserve. The proposed vehicular access is in conflict with the existing pumping house.
- (5) Insufficient information about and no mitigation measures against the prevailing traffic noise impacts on the proposed development have been included in the submission.

Similar Applications for temporary open storage uses within the same "R(D)" zone on Pat Heung OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration By RNTPC/TPB</u>	<u>Approval Conditions</u>
1.	A/YL-PH/574	Temporary Open Storage of Goods Vehicles for Sale for a Period of 3 Years	9.1.2009	(1), (2), (3), (4), (5), (6), (7), (8), (9)
2.	A/YL-PH/646	Temporary Open Storage of Goods Vehicles for Sale for a Period of 3 Years	7.9.2012	(1), (2), (3), (4), (5), (7), (8), (9), (10), (11), (12), (13)
3.	A/YL-PH/692	Temporary Open Storage (Building Materials and Vehicles) for a Period of 3 Years	12.9.2014 (revoked on 12.12.2015)	(1), (2), (3), (5), (6), (7), (8), (9), (12), (13), (14)
4.	A/YL-PH/718	Temporary Open Storage of Goods Vehicles for Sale for a Period of 3 Years	17.7.2015	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13)
5.	A/YL-PH/728	Temporary Open Storage (Building Materials and Vehicles) for a Period of 3 Years	13.5.2016 (revoked on 24.6.2016)	(1), (2), (3), (5), (6), (7), (8), (9), (12), (13), (14)
6.	A/YL-PH/738	Proposed Temporary Open Storage of Vehicles and Landscape Plant Materials for a Period of 3 Years	9.12.2016	(1), (2), (3), (5), (7), (8), (9), (12), (13), (14)
7.	A/YL-PH/781	Renewal of Planning Approval for Temporary "Open Storage of Goods Vehicles for Sale" for a Period of 3 Years	1.6.2018	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12),
8.	A/YL-PH/817	Renewal of Planning Approval for Temporary Open Storage of Vehicles and Landscape Plant Materials for a Period of 3 Years	1.11.2019	(1), (2), (3), (6), (7), (8), (12), (13), (14),

Approval Conditions

- (1) Restriction on operation hours.
- (2) No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities.
- (3) No goods vehicles (exceeding 16 / 24 / 30 tonnes) as defined in the Road Traffic Ordinance or container trailers/tractors, were allowed to be parked/stored on the Site.
- (4) The setting back of the western boundary of the site to avoid encroachment onto the Water Supplies Department's reserve for an existing strategic 48" diameter water main.
- (5) Submission / implementation of landscape proposal / tree preservation proposals / maintenance of existing landscape plantings.
- (6) Submission / provision of drainage facilities / implementation of drainage proposal / maintenance of drainage facilities.
- (7) Submission / implementation of fire service installations proposal / provision of fire extinguisher.
- (8) Revocation of the planning permission if any planning conditions are not complied with any time during the planning approval period / by the specific date.
- (9) Reinstatement of the site to amenity area upon expiry of the planning permission.
- (10) No tree/shrub should be planted within the Waterworks Reserve area.
- (11) A proper vehicular access/run-in between the site and the public road should be maintained.
- (12) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.
- (13) Submission of records of existing drainage facilities.
- (14) Maintenance / Provision of the boundary fencing.

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, and the lot 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, if any. Besides, given the applied 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 the 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 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;
- (c) note CHE/NTW, HyD's comments that HyD shall not be responsible for the maintenance of any access connecting the Site and Fan Kam Road. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (d) 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 DEP;
- (e) note DAFC's comments that the Site is immediately adjacent to a watercourse to the east. The applicants shall be advised to adopt necessary measures to avoid polluting the watercourse during operation;
- (f) note D of FS's comments that in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicants are 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. The good practice guidelines for open storage (**Appendix V of the RNTPC Paper**) should be adhered to. To address the approval condition on provision of fire extinguisher(s), the applicants should be advised to submit a valid fire certificate (FS 251) to his department for approval. The applicants are reminded that if the structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;

- (g) note CE/C, WSD's comments that based on the site layout plan, the western portion of storeroom (B), proposed fence and gate at northern portion of the Site would encroach onto the waterworks reserve (WWR) (**Plan A-2 of the RNTPC Paper**). No structure shall be erected over the WWR and such area shall not be used for storage purpose. The Water Authority and his officers and contractors, his or their workmen shall have free access at all times to the WWR with necessary plant and vehicles for the purpose of construction, inspection, operation, maintenance and repair works. All other services across, through or under WWR are required to seek authorization from the Water Authority. Government shall not be liable to any damage whatsoever and howsoever cause arising from burst or leakages of the public water mains within and in close vicinity of the Site; and
- (h) note CBS/NTW, BD's comments that before any new building works (including containers / open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of BD should be obtained. Otherwise, they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the BO. If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are 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. 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.