

**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 1,000m<sup>2</sup> for open storage uses and 2,000m<sup>2</sup> 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**

**Rejected Applications**

	<b><u>Application No.</u></b>	<b><u>Proposed Uses</u></b>	<b><u>Date of Consideration (RNTPC/TPB)</u></b>	<b><u>Rejection Reasons</u></b>
1	A/YL-PH/529	Proposed Temporary Vehicle Park for Heavy Vehicles (Including Container Vehicles) for a Period of 3 Years	3.11.2006	(1), (2), (3)
2	A/YL-PH/542	Proposed Temporary Open Storage of Construction Materials and Machinery for a Period of 3 Years	27.7.2007	(1), (2), (3)
3	A/YL-PH/623	Temporary Open Storage of Sand and Bricks for a Period of 3 Years	23.12.2011 (on review)*	(1), (2), (3), (4)
4	A/YL-PH/662	Temporary Open Storage of Construction Machinery and Second-hand Private Vehicles and Lorries for a Period of 3 Years	15.3.2013	(1), (2), (3), (4), (5)
5	A/YL-PH/691	Proposed Temporary Open Storage of Second-hand Private Cars and Trucks (30 tonnes) for a Period of 3 Years	27.6.2014	(1), (2), (3), (4), (5)

*\*The appeal lodged by the applicant in response to the TPB's decision to reject the application was subsequently abandoned by the appellant.*

**Rejection Reasons**

- (1) The proposed development was not in line with the planning intention of the "R(D)" zone. No strong justification had been provided for a departure from the planning intention, even on a temporary basis.
- (2) The proposed development was not compatible with the residential dwellings in the immediate vicinity / not compatible with the surrounding land uses which were predominated by residential structures / dwellings and agricultural land.
- (3) The proposed development did not comply with the then Town Planning Board Guidelines for 'Application for Open Storage and Port Back-up Uses' in that the application site did not have any previous planning approvals / adverse departmental comments were received / no relevant technical assessments/proposals were submitted to demonstrate that the proposed development would not generate adverse environmental, drainage, traffic and / or landscape impacts on the

surrounding areas.

(4) Approval of the application would set an undesirable precedent.

(5) The applicant failed to demonstrate that the development would not generate adverse environmental, landscape and drainage impacts on the surrounding areas.

**Similar Applications within the Same “R(D)” Zone on the Pat Heung Outline Zoning Plan**

**Approved Applications**

	<b><u>Application No.</u></b>	<b><u>Proposed Uses</u></b>	<b><u>Date of Consideration (TPB/RNTPC)</u></b>	<b><u>Approval Conditions</u></b>
1	A/YL-PH/602	Temporary open storage of excavators and loaders for a period of 3 years	29.1.2010	(3), (4), (5), (6), (7), (8), (9), (10)
2	A/YL-PH/664	Temporary open storage of excavators and loaders and construction material for a period of 3 years	19.4.2013	(3), (4), (5), (6), (7), (8), (9), (10)
3	A/YL-PH/731	Temporary Open Storage of excavators loaders for a Period of 3 Years	8.1.2016	(1), (2), (3), (4)
4	A/YL-PH/801	Renewal of Planning Approval for Temporary Open Storage of excavators and loaders for a Period of 3 Years	8.3.2019	(3), (4), (5), (6), (8), (9), (10), (11), (12), (13)

**Approval Conditions**

- (1) Submission/implementation of landscaping/ tree preservation proposals within a specified date.
- (2) Submission/implementation of drainage proposals within a specified date.
- (3) Maintenance of the landscape planting / trees on the site.
- (4) Restriction on operation hours.
- (5) Submission/provision of fire fighting and fire service installations within a specified time limit/should be maintained at all times during the approval period.
- (6) If any of the planning conditions is not complied with during the approval period/by the specified dates, the approval given shall cease to have effect and shall immediately/on the same date be revoked without further notice.
- (7) Reinstatement of the application site to amenity area upon the expiry of the planning permission.
- (8) No repairing, maintenance, dismantling, cleansing, paint spraying or other workshop activities.
- (9) Maintenance of the drainage facilities implemented on-site.
- (10) Provision / maintaining of boundary fencing.
- (11) No vehicle is allowed to queue back to or reverse onto / from public road.
- (12) Submission of a record of existing drainage facilities.
- (13) Provision of fire extinguishers.

## Rejected Applications

	Application No.	Proposed Use	Date of Consideration (RNTPC/TPB)	Rejection Reasons
1	A/YL-PH/681	Temporary Open Storage of Construction Machinery for 3 Years	17.1.2014	(1), (2), (3), (4)
2	A/YL-PH/684	Proposed Temporary Open Storage of Vehicles for Sale for a Period of 3 Years	4.4.2014	(1), (2), (3), (4)
3	A/YL-PH/695	Temporary Open Storage of Metals with Ancillary Office for a period of 3 years	8.8.2014	(1), (2), (3), (4)
4	A/YL-PH/704	Proposed Temporary Open Storage of Plastic Barriers and Pipes for Public Utility Purposes for a Period of 2 Years	31.10.2014	(1), (2), (3), (4)
5	A/YL-PH/722	Temporary Open Storage of Scrap Metal for a Period of 3 Years	8.1.2016	(1), (2), (3), (4)
6	A/YL-PH/760	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	23.3.2018* (on review)	(1), (2), (3), (4)

*\*The case was dismissed by the Town Planning Appeal Board on 13.3.2019*

## Rejection Reasons

- (1) The development was not in line with the planning intention of the "R(D)" 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 then TPB Guidelines No. 13E for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13E) in that no previous approval had been granted at the site, no technical assessments had been included in the submission/the applicant failed to demonstrate that the development would not generate adverse environmental, landscape and drainage impacts on the surrounding areas, and there were adverse departmental comments and local objection against the application. The development was also not compatible with the surrounding land uses which were predominated by residential structures/dwellings and agricultural land/orchards.
- (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.
- (4) The applicant fails to demonstrate that the development would not generate adverse environmental / drainage impacts on the surrounding areas.

**Good Practice Guidelines for Open Storage Sites**

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.





**Appendix VII of RNTPC  
Paper No. A/YL-PH/869**

**Advisory Clauses**

- (a) note DLO/YL, 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 lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. 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 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 rent 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 DEP;
- (e) note CE/MN, DSD's comments that the stormwater drainage proposal required under the relevant approval conditions should demonstrate how the development would not affect part of the existing watercourse and its bank slightly encroached by the southern boundary of the Site;
- (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 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 FSI to be installed should be clearly marked on the layout plans. The good practice guidelines for open storage in **Appendix V** of the RNTPC paper should be adhered to. 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

- (g) note CBS/NTW, BD's comments that before any new building works (including containers/ open sheds as temporary buildings, demolition and land filling etc.) are to be carried out on the Site, prior approval and consent of the BA 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. If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (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 the prevailing 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. The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage. Any temporary shelters or converted containers for office, storage, washroom or other uses are considered as temporary buildings and are subject to the control of Part VII of the B(P)R. Detailed checking under the BO will be carried out at building plan submission stage.