

Town Planning Board Guidelines for
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 Site

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition (s)</u>
1	A/YL-PH/295	Temporary open storage of new private cars, vehicle parts and construction materials for a period of 12 months	10.9.1999	(1), (2), (5)
2	A/YL-PH/357	Temporary open storage of new vehicles, vehicle parts and construction materials prior to sale for a period of 3 years	30.3.2001	(1), (2), (3), (4), (5)
3	A/YL-PH/547	Temporary open storage of new vehicles, vehicle parts and construction materials (electric generators) prior to sale for a period of 3 years	28.9.2007 (revoked on 28.12.2008)	(4), (5), (6), (7), (8), (9), (10), (11)
4	A/YL-PH/589	Temporary open storage of vehicles, vehicle parts and construction materials (electric generators) for a period of 3 years	7.8.2009	(4), (5), (6), (7), (8), (9), (10), (11)
5	A/YL-PH/660	Temporary open storage of vehicles, vehicle parts and construction materials for a period of 3 years	3.5.2013 (revoked on 3.11.2015)	(1), (2), (4), (5), (6), (7), (8), (9), (11)
6	A/YL-PH/729	Temporary open storage (vehicles, vehicle parts and construction materials) for a period of 3 Years	10.6.2016	(1), (2), (4), (5), (6), (8), (9), (11), (12)

Approval conditions

- (1) Submission/implementation of landscaping / tree preservation proposals within a specified time limit
- (2) Submission/implementation of drainage facilities within a specified time limit
- (3) Submission/implementation of suitable noise and environmental mitigation measures within a specified time limit.
- (4) Revocation of the planning approval if any of the planning conditions is not complied with by the specified dated or during the planning approval period
- (5) Reinstatement of the Site to an amenity area or to the original state
- (6) No repairing, maintenance, dismantling and workshop activities were allowed on the Site at any time during the planning approval period
- (7) No heavy vehicles were allowed for the operation of the Site at any time during the planning approval period
- (8) Restriction on operation time

- (9) The drainage facilities on the Site should be maintained
- (10) The landscape planting on the Site should be maintained
- (11) Submission/implementation/ provision of fire service installations / fire extinguishers within a specified time limit
- (12) No reversing of vehicles into or out of the Site is allowed at any time during the planning approval period

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-PH/111	Temporary open storage of vehicles and vehicle parts with repairing workshop for a period of 12 months	27.2.1998 on review	(1), (2), (3), (4)
2	A/YL-PH/230	Proposed temporary open storage of construction materials for a period of 12 months	29.1.1999 on review	(1), (2), (4)

Main Rejection Reasons

- (1) The development was not in line with the planning intention of the “Residential (Group D)” zone which was to improve and upgrade the existing domestic accommodations within the zone and to cater for low-rise, low density residential development. There was no strong justification for a departure from the planning intention even on a temporary basis.
- (2) The development was incompatible with the well wooded small knoll, located to its immediate south, which was zoned “Conservation Area”.
- (3) There was land zoned “Open Storage” on the Pat Heung Outline Zoning Plan to the further south of the application Site on the other side of Kam Tin Road to meet the demand of land for the use under application.
- (4) The approval of the application would set an undesirable precedent for similar applications, the cumulative effect of which would further degrade the environment of the area.

Similar Applications for Various Open Storage Uses within the Same “R(D)” Zone, or straddling partly within the same “R(D)” zone and the adjoining “AGR” zone

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition (s)</u>
1	A/YL-PH/597#	Proposed Temporary Open Storage of Construction Materials and Machinery for a Period of 3 Years	23.10.2009	(1), (2), (3), (4), (5), (6), (7), (8)
2	A/YL-PH/610	Renewal of Planning Approval for “Temporary Open Storage of Construction Materials and Machinery” use for a Period of 3 Years	27.8.2010 (Revoked on 14.9.2011)	(1), (2), (3), (4), (5), (6), (7), (8)
3	A/YL-PH/613	Temporary Open Storage of Construction Materials and Vehicle Parts for a Period of 3 Years	24.9.2010 (Revoked on 24.9.2011)	(1), (2), (3), (4), (5), (6), (7), (8), (9)
4	A/YL-PH/627#	Temporary Open Storage of Construction Materials, Machinery (Electricity Generator) , Vehicle Parts, Temporary Transit Shipment Particles and Containers for Storage of Plastic Barriers for a Period of 3 Years	21.10.2011 (Revoked on 21.9.2013)	(1), (2), (3), (4), (5), (6), (7), (8), (10), (11)
5	A/YL-PH/641	Temporary Open Storage of Construction Materials and Vehicle Parts for a Period of 3 Years	6.7.2012	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
6	A/YL-PH/655#	Temporary Open Storage of Construction Materials, Machinery and Second-Hand Vehicles for a Period of 3 Years	21.12.2012 (Revoked on 21.6.2013)	(1), (2), (3), (4), (5), (6), (7), (8), (10)
7	A/YL-PH/656	Temporary Open Storage of Construction Machinery and Second Hand Vehicles for a Period of 3 Years	21.12.2012 (Revoked on 21.3.2013)	(1), (2), (3), (4), (5), (6), (7), (8), (10), (12)
8	A/YL-PH/677#	Temporary open storage of construction materials, machinery and second-hand vehicles for a period of 3 years	8.11.2013 (Revoked on 20.12.2013)	(1), (2), (3), (4), (5), (6), (7), (8), (10)
9	A/YL-PH/685#	Temporary open storage of construction materials, machinery (electricity generator), vehicle parts, temporary transit shipment particles and containers for storage of plastic	4.4.2014	(1), (2), (3), (4), (5), (6), (7), (8), (10)

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition (s)</u>
		barriers for a period of 3 years		
10	A/YL-PH/699#	Temporary open storage of construction materials, machinery and second-hand vehicles for a period of 3 years	26.9.2014	(1), (2), (3), (4), (5), (6), (7), (8), (10)
11	A/YL-PH/710	Temporary open storage of construction machinery and second hand vehicles for a period of 3 years	27.3.2015	(1), (2), (3), (4), (5), (6), (7), (8), (12)
12	A/YL-PH/716	Temporary Open Storage of Construction Materials and Vehicle Parts for a Period of 3 Years	19.6.2015	(1), (2), (3), (4), (5), (6), (7), (9), (10)
13	A/YL-PH/741#	Renewal of Planning Approval for Temporary Open Storage of Construction Materials, Machinery (Electricity Generator), Vehicle Parts, Temporary Transit Shipment Particles and Containers for Storage of Plastic Barriers for a Period of 3 Years	3.3.2017	(1), (2), (3), (4), (5), (6), (7), (8), (10), (13)
14	A/YL-PH/765#	Temporary Open Storage of Construction Materials, Machinery, Second-Hand Vehicles and Vehicle Parts with Ancillary Office for a Period of 3 Years	6.4.2018	(1), (2), (3), (4), (5), (6), (7), (8), (10), (13)
15	A/YL-PH/776	Renewal of Planning Approval for Temporary "Open Storage of Construction Material and Vehicle Parts" for a Period of 3 Years	20.4.2018	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (12), (13)
16	A/YL-PH/789	Temporary Open Storage of Construction Materials and Machineries for a Period of 3 Years	21.9.2018	(1), (2), (3), (4), (5), (6), (7), (8), (10), (12), (13)

Remarks:

Application straddles partly within the same "R(D)" and "AGR" zones on the OZP.

Approval conditions

- (1) Restriction on operation hours/time
- (2) No repairing, maintenance, dismantling and workshop activities were allowed on the Site at any time during the planning approval period
- (3) Restriction on the types of vehicle allowed for the operation of the Site at any time during the planning approval period
- (4) Submission and implementation of landscaping and/or tree preservation proposal / The landscape planting on the Site should be maintained

- (5) Submission and implementation of drainage proposal / The drainage facilities on the Site should be maintained / Submission of records of existing drainage facilities
- (6) Submission and implementation of fire service installations proposal
- (7) Revocation of the planning approval if any of the planning conditions is not complied with by the specified dated or during the planning approval period
- (8) Reinstatement of the Site to an amenity area or to the original state
- (9) The stacking height of construction materials stored within 5 metres of the periphery of the Site should not exceed the height of the boundary fence of the Site
- (10) Provision of fire extinguisher(s)
- (11) no storage of used electrical appliances or any other types of electronic waste was allowed on the open area of the Site
- (12) The fencing on the Site should be maintained
- (13) No vehicle is allowed to queue back to or reverse onto / from the public road during the planning approval period

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-PH/585#	Temporary Open Storage of Tires for a Period of 3 Years	24.7.2009	(1), (2)
2	A/YL-PH/636#	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	24.2.2012	(1), (3), (4)

Remarks:

Application straddles partly within the same "R(D)" and "AGR" zones on the OZP.

Main Rejection Reasons

- (1) The development did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No.13E) in that there were local objections and adverse departmental comments on environmental and agricultural aspects.
- (2) The development would pose adverse environmental impacts and increase fire hazards to the surrounding areas, and no technical assessments had been conducted to address the potential issues.
- (3) The proposed development was not in line with the planning intention of the "Agriculture" zone which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. There was no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis
- (4) There were residential dwellings in the vicinity of the Site. The proposed development would generate adverse environmental impact on the surrounding areas

**Appendix V of
RNTPC Paper No. A/YL-PH/814**

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) prior planning permission should have been obtained before commencing the applied use at the Site;
- (b) resolve any land issues relating to the development with the concerned owner(s) of the Site;
- (c) note DLO/YL, LandsD's comments that the Site comprises Old Scheduled Agricultural Lots held under Block Government Lease which contains the restriction that no structure is allowed to be erected without the prior approval of the Government. A portion of the Site falls within Fung Shui Area 71/YGS/60. The Site is accessible from Kam Tin Road via 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 height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA. The STW/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, if any. 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 LandsD;
- (d) 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;
- (e) note CHE/NTW, HyD's comments that adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains. His department is / shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road;
- (f) adopt relevant mitigation measures and requirements in the latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the DEP to minimise any potential impact;
- (g) note CE/MN,DSD's comments that the applicant should inform relevant departments if the existing drainage arrangement has been changed;

- (h) note D of FS's comments that the installation /maintenance/ modification/ repair work of fire service installations shall be undertaken by an 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. The applicant should adhere to the good practice guidelines for open storage in **Appendix V** of this RNTPC Paper. To address the approval condition on provision of fire extinguisher, the applicant should submit a valid fire certificate (FS 251) 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 buildings works (including containers / open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of BD should be obtained. Otherwise, they are Unauthorized Building Works (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 New Territories Exempted Houses) are erected on leased land without approval of BD, they are 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 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 Regulation 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 building plan submission stage.