

**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.

**Appendix III of RNTPC
Paper No. A/YL-KTS/858**

Previous s.16 Applications Covering The Application Site

Approved Applications

	<u>Applications No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
1.	A/YL-KTS/145	Temporary Open Storage of Vehicles and Vehicle Parts for a Period of 12 months	8.1.1999	(1), (2), (3)
2.	A/YL-KTS/209	Temporary Open Storage of Vehicles and Vehicle Parts for a Period of 3 Years	5.5.2000 (Revoked on 5.2.2001)	(2), (3), (4), (5)
3.	A/YL-KTS/262	Temporary Open Storage of Vehicles (Pending Repair and Insurance Compensation) and Spare Parts for a Period of 3 Years	11.1.2002	(1), (2), (3), (4), (5), (6)
4.	A/YL-KTS/339	Temporary Open Storage of Vehicles (Pending Repair and Insurance Compensation) and Spare Parts for a Period of 3 Years	18.3.2005	(3), (4), (5), (7), (8)
5.	A/YL-KTS/419	Temporary Open Storage of Vehicles (Pending Repair and Insurance Compensation) and Spare Parts for a Period of 3 Years	18.4.2008	(3), (4), (5), (7), (8), (9)
6	A/YL-KTS/530	Renewal of Planning Approval for "Temporary Open Storage of Vehicles (Pending Repair and Insurance Compensation) and Spare Parts" under Application No. A/YL-KTS/419 for a Period of 3 Years	15.4.2011	(3), (4), (5), (7), (8), (9), (10), (11), (12), (13), (14)
7	A/YL-KTS/636	Renewal of Planning Approval for "Temporary Open Storage of Vehicles (Pending Repair and Insurance Compensation) and Spare Parts" under Application No. A/YL-KTS/530 for a Period of 3 Years	4.4.2014 (Revoked on 30.5.2014)	(1), (2), (3), (4), (5), (7), (8), (9), (10), (11), (12), (14)

	<u>Applications No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
8	A/YL-KTS/652	Temporary Open Storage of Vehicles (Pending Repair and Insurance Compensation) and Spare Parts for a Period of 3 Years	31.10.2014	(1), (3), (4), (5), (7), (8), (9), (10), (11), (12), (14)
9	A/YL-KTS/750	Renewal of Planning Approval for "Temporary Open Storage of Vehicles (Pending Repair and Insurance Compensation) and Spare Parts" for a Period of 3 Years	22.9.2017	(3), (4), (5), (7), (8), (9), (10), (11), (12), (14)

Approval Conditions:

- (1) submission and implementation of landscaping proposals
- (2) submission/provision of drainage facilities
- (3) reinstatement of the application site after the expiry of the planning approval
- (4) the stacking height of the vehicles
- (5) if planning condition is not complied with at any time/by specified date, the approval shall cease to have effect and be revoked without further notice
- (6) the submission/provision of environmental mitigation measures
- (7) no vehicle repairing and paint spraying activities
- (8) the maintenance of landscape/drainage facilities
- (9) restriction on operation hours
- (10) no medium or heavy goods vehicle exceeding 5.5 tonnes, including container vehicles, as defined in the Road Traffic Ordinance
- (11) no vehicular reversing in or out from the site to Kam Sheung Road
- (12) submission of a record of the existing drainage facilities
- (13) submission/provision of a run-in proposal at Kam Sheung Road
- (14) submission/provision of fire service installations (FSIs)/ fire extinguishers

Similar s.16 Applications within the same "Agriculture" Zone on Kam Tin South 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-KTS/450	Temporary open storage of vehicles and vehicle parts (3 years)	23.1.2009 (revoked on 23.7.2009)	(2), (3), (4), (5), (6), (7), (8), (9)
2.	A/YL-KTS/474	Temporary open storage of vehicles and vehicle parts (3 years)	23.10.2009	(2), (3), (4), (5), (6), (7), (8), (9), (10)
3.	A/YL-KTS/579	Renewal of Planning Approval for Temporary "Open Storage of Vehicles and Vehicle Parts" for a Period of 3 Years	5.10.2012	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13)
4.	A/YL-KTS/678	Renewal of Planning Approval for Temporary "Open Storage of Vehicles and Vehicle Parts" for a Period of 3 Years	9.10.2015	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13)
5.	A/YL-KTS/798	Renewal of Planning Approval for Temporary "Open Storage of Vehicles and Vehicle Parts" for a Period of 3 Years	19.10.2018	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13)

Approval Conditions

- (1) the submission and implementation of landscape/ tree preservation proposals
- (2) reinstatement of application site after the expiry of the planning approval
- (3) the stacking height of the vehicles
- (4) if any of the planning conditions is not complied with at any time during the planning approval period / by the specified date, the approval shall cease to have effect and be revoked without further notice
- (5) no vehicle dismantling, maintenance, repairing, cleansing, print spraying or other workshop activities
- (6) the maintenance of landscape/drainage facilities
- (7) restriction on operation hours

- (8) no machinery to be stored
- (9) submission/provision of fire service installations
- (10) no heavy goods vehicles exceeding 24 tonnes including container tractors/trailers, as defined in the Road Traffic Ordinance were allowed to be parked/stored on or enter/exit the site
- (11) the loading/unloading space and the ingress/egress of the site should be maintained
- (12) no reversing of vehicles into or out from the site
- (13) provision of fire extinguisher(s) together with a valid fire certificate (FS251)

Advisory Clauses

- (a) note DLO/YL, LandsD's comments that the Site comprises an 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 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 his department shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road. Adequate drainage measures should be provided to prevent surface 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 Environmental Protection Department to minimize any potential environmental nuisances;
- (e) note CBS/NTW, BD's comments that if the existing structures are erected on leased land without approval of BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application. Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) 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; and

- (f) note DFEH's comments that such work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding. For any waste generated from the such activities or operations, the applicants should arrange disposal properly at their own expenses.