

**Relevant Extract 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 Application

Approved Application

Application No.	Uses/Developments	Date of Consideration	Approval Conditions
A/YL-SK/268	Proposed Temporary Logistics Centre for a Period of 3 Years	15.11.2019	A1 to A10

Approval Conditions

- A1 No operation between 8:00 p.m. to 8:00 a.m. is allowed.
- A2 No operation on Sundays and public holidays is allowed.
- A3 No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site at any time.
- A4 No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time.
- A5 No vehicle is allowed to queue back to or reverse onto/from public road at any time.
- A6 The submission of a drainage proposal.
- A7 The implementation of drainage proposal.
- A8 The implemented drainage facilities on the Site shall be maintained at all times.
- A9 The submission of fire service installations proposal.
- A10 The provision of fire service installations proposal.



**Similar s.16 Applications for
Proposed Temporary Logistics Centre for a Period of 3 Years
Within the same "I (D)" Zone on the
Approved Shek Kong Outline Zoning Plan No. S/YL-SK/9**

Approved Application

Application No.	Uses/Developments	Date of Consideration	Approval Conditions
A/YL-SK/239	Temporary Logistics Centre for a Period of 3 Years	17.8.2018	A1 to A10
A/YL-SK/246	Proposed Temporary Logistics Centre for a Period of 3 Years	22.3.2019	A1 to A10

Approval Conditions

- A1 No operation between 8:00 p.m. to 8:00 a.m. is allowed.
- A2 No operation on Sundays and public holidays is allowed.
- A3 No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site at any time.
- A4 No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site, as proposed by the applicant, at any time.
- A5 No vehicle is allowed to queue back to or reverse onto/from public road at any time.
- A6 The submission of a revised drainage proposal.
- A7 The implementation of drainage proposal.
- A8 The implemented drainage facilities on the Site shall be maintained at all times.
- A9 The submission of fire service installations proposal.
- A10 The provision of fire service installations proposal.



Advisory Clauses

- (a) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that:
- (i) the Site comprises Government land (GL) and 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;
 - (ii) no permission has been given for occupation of GL (about 270m² subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed;
 - (iii) DLO/YL, LandsD will not consider to direct grant a Short Term Tenancy (STT) for the proposed GL even if the Board approves the planning application in view of the GL under application together with other GL at its adjoining location is capable for separate alienation; and
 - (iv) the lot owner(s) will need to apply to DLO/YL, LandsD to permit the structure(s) to be erected or regularize any irregularities on Site. Besides, given that the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Furthermore, the applicant has to exclude the GL portion from the Site. 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.
- (b) to note the comments of the Commissioner for Transport (C for T) that:
- (i) the Site is connected to the public road network via a section of a local access road which is not managed by his department; and
 - (ii) 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) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that:
- (i) HyD is not/shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road; and
 - (ii) 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.

- (d) to note the comments of Director of Environmental Protection (DEP) to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by his department to minimize any potential environmental nuisances.
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) on the submitted drainage proposal that the applicant should prepare a plan showing the existing drainage facilities at/near the subject lots particularly the adjacent watercourse and its upstream; should demonstrate how the proposed development would not materially affect the aforesaid drainage facilities near the Site; and should show how the existing flow paths as well as the runoff falling onto and passing through the Site could be intercepted and disposed of via proper discharge points.
- (f) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that:
 - (i) existing water mains will be affected as shown on the plan. A waterworks reserve within 1.5 meters from the center line of the water main shall be provided to WSD. No structure shall be built or materials stored within this waterworks reserve. Free access shall be made available at all times for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, operation, maintenance and repair works;
 - (ii) no trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main shown on the plan; and
 - (iii) the Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.
- (g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that:
 - (i) if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Building Authority, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application;
 - (ii) 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;
 - (iii) before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they

are UBW under the BO. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO;

- (iv) the Site shall be considered as two separate sites and 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; and
 - (v) 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.
- (h) to note the comments of the Director of Fire Services (D of FS) that:
- (i) 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 FSIs to be installed should be clearly marked on the layout plans; and
 - (ii) the applicant is reminded that if the proposed structure(s) is required to comply with BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

