

**Relevant Extract of 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)**

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 with 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: 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. 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, planning permission could be granted on a temporary basis up to a maximum period of 3 years;
 - (c) Category 3 areas: Applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. In that connection, 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. 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, planning permission could be granted on a temporary basis up to a maximum period of 3 years;
 - (d) Category 4 areas: Applications for open storage and port back-up uses 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, 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 merits.

- (e) Taking into account the increasing demand for cross-boundary car parking facilities, applications for cross-boundary parking facilities at suitable sites in San Tin area, particularly near the existing cross-boundary link in Lok Ma Chau, may also be considered. Application of such nature will be assessed on its own merits, including its nature and scale of the proposed use and the local circumstances, and subject to satisfactory demonstration that the proposed use would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas, and each case will be considered on its individual merits.

2. In assessing applications for open storage and port back-up uses, the other major relevant assessment criteria are also summarised as follows:

- (a) 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;
- (b) adequate screening of the sites through landscaping and/or fencing should be provided at the periphery of the site within the boundary, especially where sites are located adjacent to public roads or are visible from surrounding residential areas;
- (c) there will be a general presumption against development on sites of less than 2,000 m² for port back-up uses, and below 1,000 m² for open storage 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 and concentrate activities within appropriate surroundings, thus minimising sprawl over countryside areas and reducing travel trips;
- (d) 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;
- (e) there is a general presumption against conversion of agricultural land and fish ponds to other uses on an ad-hoc basis in rural areas, 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, the Board may refuse to grant permission, or impose a shorter compliance period for the approval conditions, notwithstanding other criteria set out in the Guidelines are complied with.

**Similar S.16 Applications for Temporary Open Storage
within/partly within “Agriculture” Zone in the vicinity of the Application Site in the
Hung Lung Hang Area**

Rejected Applications

Application No.	Uses/Development	Date of Consideration	Rejection Reasons
A/NE-HLH/14	Proposed Temporary Open Storage of Construction Equipment for a Period of 3 Years	28.3.2008	R1
A/NE-HLH/17	Temporary Open Storage of Construction Machinery and Mechanical Spare Parts for a Period of 3 Years	29.4.2011 (on Review) (Appeal dismissed on 27.12.2012)	R2, R5 & R6
A/NE-HLH/20	Proposed Temporary Open Storage of Construction Machinery and Construction Materials with Ancillary Site Office for a Period of 3 Years	6.9.2013	R3, R5 & R6
A/NE-HLH/21	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	13.12.2013	R4, R5 & R6

Rejection Reasons

- R1 The application did not comply with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ (TPB-PG No. 13D) in that no previous planning approval had been granted to the application site and there were adverse departmental comments on the application. Insufficient information had been submitted to demonstrate that the proposed use would not generate adverse environmental, traffic and landscape impacts on the surrounding areas.
- R2 The use under application 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 no previous planning approval had been granted to the application site and the applicant had failed to demonstrate that the development under application would not have adverse environmental impact on the surrounding areas.

- R3 The application did not comply with 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) in that the development was not compatible with the surrounding land uses which were predominantly rural in character; there was no previous planning approval granted at the site; there were adverse departmental comments against the application; and there was insufficient information in the application to demonstrate that the development would had no adverse environmental and landscape impacts on the surrounding areas.
- R4 The application did not comply with the Town Planning Board Guidelines No. 13E in that there was no previous planning approval granted at the site; the proposed development was not compatible with the surrounding land uses which are predominantly rural in character; there were adverse departmental comments on the application; and the applicant had failed to demonstrate that the development would have no adverse environmental and landscape impacts on the surrounding areas.
- R5 The use under application was not in line with the planning intention of the “Agriculture” (“AGR”) zone for the area which was primarily intended to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.
- R6 The approval of the application would set an undesirable precedent for similar applications within the “AGR” zone, the cumulative impact of approving similar applications would result in a general degradation of the environment in the area.

Detailed Comments of Chief Engineer/Mainland North, Drainage Services Department

- (a) the general requirements in the drainage proposal should include:
- (i) surface channel with grating covers should be provided along the site boundary;
 - (ii) the details (invert level, gradient, general sections, etc.) of the proposed drain/surface channel, catchpits and the discharge structure shall be provided;
 - (iii) the cover levels of proposed channels should be flush with the existing adjoining ground level;
 - (iv) a catchpit with covers should be provided where there is a change of direction of the channel/drain;
 - (v) catchpits with sand trap shall be provided at the outlets of the proposed drainage system;
 - (vi) the applicants should check and ensure that the existing drainage downstream to which the proposed connection will be made have adequate capacity and satisfactory condition to cater for the additional discharge from the site. The applicants should also ensure that the flow from the Site will not overload the existing drainage system;
 - (vii) the applicants are reminded that where walls are erected or kerbs are laid along the boundary of the same, peripheral channels should be provided on both sides of the walls or kerbs, and/or adequate openings should be provided at the walls/kerbs to allow existing overland flow passing through the Site to be intercepted by the drainage system of the Site with details to be agreed by DSD;
 - (viii) for those existing drainage facilities to which the applicants proposed to discharge the storm water from the Site is not maintained by DSD, the applicants should identify the owners of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owners prior to commencement of proposed works;
 - (ix) the applicants are reminded that all existing flow paths as well as the run-off falling onto and passing through the Site should be intercepted and disposed of via proper discharge points. The applicants shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drains, channels and watercourses on or in the vicinity of the Site any time during or after the works;
 - (x) the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained by the applicants at his own expense;
 - (xi) for works to be undertaken outside the lot boundary, the applicants should obtain prior consent and agreement from DLO/N of LandsD and/or relevant private lot owners;

- (xii) the applicants should make good all the adjacent affected areas upon the completion of the drainage works;
- (xiii) the applicants should construct and maintain the proposed drainage works properly and rectify the system if it is found to be inadequate or ineffective during operation; and
- (xiv) clear photos should be submitted showing the current conditions of the existing drainage from the discharge point(s) to the downstream and the existing drainage around the site.

Recommended Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the Site;
- (b) to note the comments of the District Lands Officer/North, Lands Department that:
 - (i) he noted that:
 - (a) the occupation boundary and the application site does not tally;
 - (b) portion of the Government land adjoining Lot 184 S.A in D.D 87 is being illegally occupied; and
 - (c) unauthorized structures, which fall within the occupation boundary, were erected on the application lot;
 - (ii) the unauthorized structures and illegal occupation of Government land are not acceptable. His office reserves the right to take necessary land control and lease enforcement actions against the irregularities on the Site; and
 - (iii) if the planning application is approved, the owners of the lot concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) covering all the actual occupation area. The applications for STW and STT will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW and STT applications are approved, their commencement date would be backdated to the first date of occupation, and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office.
- (c) to note the comments of the Commissioner for Transport that:
 - (i) the vehicular access to the application site is via Kong Nga Po Road which is not managed by Transport Department (TD). The applicants should provide the following transport-related information for his further consideration:
 - (a) location of vehicular ingress/egress to the Site;
 - (b) drawing showing vehicle maneuvering at ingress/egress to demonstrate no vehicles reversing on village tracks; and
 - (c) the estimated trip rate accessing the Site; and
 - (ii) the mentioned village track and Kong Nga Po Road are not under TD's management. The applicant should check the land status of the access with the lands authority, and clarify its management and maintenance responsibilities with the relevant lands and maintenance authorities accordingly.

- (d) to note the comments of the Director of Environmental Protection (DEP) that the applicants should be reminded of their obligation to comply with all environmental protection/pollution control ordinance, in particular the Water Pollution Control Ordinance and Waste Disposal Ordinance, and to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” (COP) issued by DEP, in particular measures such as drainage channels and oil interceptors, etc. to avoid water pollution as given in the Notes to Annex I of the COP;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the Site is in an area where no public sewer connection is available and the general requirements in the drainage proposal appended in **Appendix IV**;
- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that:
 - (i) if the existing structures are erected on lease land without approval of the 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;
 - (ii) 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 the BD should be obtained, otherwise they are unauthorized buildings works (UBW). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
 - (iii) 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;
 - (iv) if the proposed use under application is subject to the issue of a licence, please be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority;
 - (v) 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)Rs) respectively; and
 - (vi) 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)Rs at the building plan submission stage.
- (g) to note comments of the Director of Agriculture, Fisheries and Conservation that the applicants should be reminded to perform good site practice to prevent surface-off and debris from polluting the ditches nearby;
- (h) to note comments of the Chief Engineer/Construction, Water Supplies Department that for

provision of water supply to the development, the applicants may need to extend their inside services to the nearest suitable Government water mains for connection. The applicants shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards; and

- (i) to note comments of the Director of Fire Services that:
 - (i) to address the condition on provision of fire extinguisher(s), the applicants should submit certificate(s) under Regulation 9(1) of the Fire Service (Installations and Equipment) Regulations (Chapter 95B) to his department for compliance of condition;
 - (ii) if covered structures (e.g. container-converted office, temporary warehouse and temporary shed used as workshop) are erected within the Site, FSIs will need to be installed;
 - (iii) except where building plan will be circulated to his department via the Centralized Processing System of BD, the applicants are required to send the relevant layout plans to his department incorporated with the proposed FSIs for approval. In preparing the submission, the applicants are advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the locations of the proposed FSIs to be installed and the access for emergency vehicles should be clearly indicated on the layout plans;
 - (iv) detailed fire safety requirements will be formulated upon receipt of formal submission of the aforesaid plans. The applicants will need to subsequently provide such FSIs according to the approved proposal; and
 - (v) emergency vehicular access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by BD.