

**Relevant Extract of 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 1,000m<sup>2</sup> for open storage uses and 2,000m<sup>2</sup> 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 Applications**

**Rejected Applications**

<b>Application No.</b>	<b>Uses/Developments</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE-MUP/24	Open Storage for Construction Machinery and Materials and Open Storage of Containers for a Temporary Period of 12 Months	19.12.1997	R1 & R3
A/NE-MUP/28	Temporary Open Storage of Bamboo, Nylon Safety Nets & Steel Accessories for 12 Months	3.9.1999 (on review)	R1, R3 & R4
A/NE-MUP/86	Temporary Open Storage of Recycled Materials (Plastic) for a Period of 1 Year	16.8.2013	R2, R3 & R5

**Rejection Reasons**

- R1 The development was not in line with the planning intention of the “Agriculture” (“AGR”) zoning for the area which was to retain and safeguard good agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation. There was no strong justification in the submission for a departure from the planning intention even on a temporary basis
- R2 The application was not in line with the planning intention of the “Agriculture” (“AGR”) zone which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended 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 such planning intention, even on a temporary basis
- R3 The approval of the application would set an undesirable precedent for similar applications in the area, the cumulative effect of which would result in a general degradation of the environment of the area
- R4 The subject open storage use was incompatible with the surrounding land-uses which were predominantly agricultural and rural in character
- R5 The application did not comply with the Town Planning Board (TPB) 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 proposed 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 comments from the relevant Government departments and local objections against the application; and there was no information in the application to demonstrate that the proposed development would have no adverse traffic, environmental and landscape impact on the surrounding areas

**Detailed Departmental Comments**

1. Comments from the Chief Building Surveyor/New Territories West, Buildings Department (BD):
  - (i) before any new building works (including containers/open sheds of temporary buildings) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
  - (ii) for UBW erected on leased land, enforcement action may be taken by the BA 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;
  - (iii) in connection with (i) above, 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 B(P)Rs respectively; and
  - (iv) if the Site is not abutting on a specified street having a width not less than 4.5m, the development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage.
  
2. Comments from the Chief Engineer/Construction, Water Supplies Department (WSD):
  - (i) existing water mains inside the Site will be affected (**Plan A-2**). The applicant is required to either divert or protect the water mains found on Site;
  - (ii) if diversion is required, existing water mains inside the Site are needed to be diverted outside the Site to lie in Government land. A strip of land of minimum 1.5m in width should be provided for the diversion of existing water mains. The cost of diversion of existing water mains upon request will have to be borne by the applicant; and the applicant shall submit all the relevant proposal to WSD for consideration and agreement before the works commence;
  - (iii) if diversion is not required, the following conditions shall apply:
    - existing water mains are affected as indicated on **Plan A-2** and no development which requires resiting of water mains will be allowed;
    - details of site formation works shall be submitted to D of WS for approval prior to commencement of works;
    - no structures shall be built or materials stored within 1.5m from the centre line of water mains. Free access shall be made available at all times for staff of the D of WS or their contractor to carryout construction, inspection,

operation, maintenance and repair works;

- no trees or shrubs with penetrating roots may be planted within the Water Works Reserve or in the vicinity of the water main(s). No change of existing site condition may be undertaken within the aforesaid area without prior agreement of the D of WS. Rigid root barriers may be required if the clear distance between the proposed tree and the pipe is 2.5m or less, and the barrier must extend below the invert level of the pipe;
- no planting or obstruction of any kind except turfing shall be permitted within the space of 1.5m around the cover of any value or within a distance of 1m from any hydrant outlet; and
- tree planting may be prohibited in the event that the D of WS considers that there is any likelihood of damage being caused to water mains; and

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

3. Comments from the Chief Engineer/Mainland North, Drainage Services Department (DSD):

(i) his preliminary comments on the drainage proposal are as follows:

- the applicant should be advised that the limited desk-top checking by Government on the drainage proposal covers only the fundamental aspects of the drainage design which will by no means relieve his obligations to ensure that (i) the proposed drainage works will not cause any adverse drainage or environmental impacts in the vicinity; and (ii) the proposed drainage works and the downstream drainage systems have adequate capacity and are in good conditions to receive the flows collected from his lot and all upstream catchments;
- the details (invert level, gradient, general sections etc.) of the proposed drain/surface channel, catchpit shall be provided;
- cover should be provided to each catchpit;
- a sand trap/catchpit should be provided at the outlet of the proposed drainage system and regularly desilted by the applicant or the successive owners of the proposed development to prevent sand and silt from being washed into the existing drainage system/ channel at its downstream. Details of the catchpit with sand trap should be provided;
- a catchpit should be provided at each interception point and/or at a location of a sharp change of flow of the proposed surface channels to avoid spillage of the collected storm-water;

- the applicant should show the connection details between the proposed 600mm u-channel and existing drain with the invert levels in the drainage proposal;
- from the landscape and tree preservation proposal, it is noted that the site fence/ boundary wall would be provided along the site boundary. Under such circumstance, the existing flow paths of conveying surface runoff from adjoining lots of the Site and passing through the Site will be disrupted. If the proposed site fence/ boundary wall is unavoidable and would affect the overland flow, the applicant should construct adequate openings at the foot of the site fence/ boundary wall to allow the passage of rain water. The applicant is required to provide sectional views of the proposed site fence/ boundary wall showing clearly the details of such openings. The alignment of the site fence/ boundary wall should also be shown clearly on the drainage proposal for his easy reference;
- the applicant is required to provide the sectional views of the Site showing clearly any walls would be erected or kerbs would be laid along the boundary of the Site, the site formation level and ground level in the vicinity, the size of the existing and proposed drainage facilities and the flow direction of the Site and adjoining lots for his easy reference;
- catchment areas should be shown for his reference;
- the cover levels of proposed channels should be flush with the existing adjoining ground level;
- the applicant should check and ensure that the existing drainage channel 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 applicant should also ensure that the flow from the Site will not overload the existing drainage system;
- the applicant is 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 with details to be agreed by DSD;
- the applicant is 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 applicant 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 drain, channels and watercourses on or in the vicinity of the Site at any time during or after the works;
- the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained by the applicant at their own expense. For works to be undertaken outside the site boundary, the applicant should obtain prior consent and agreement from DLO/N and/or relevant private lot owners. The applicant shall be liable for and indemnify claims and demands arising out of damage or nuisance caused by any inadequate construction or

maintenance of the drainage facilities completed under the development;

- the applicant should make good all the adjacent affected areas upon completion of the drainage works;
- the applicant 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
- upon completion of the works, the applicant should apply to DSD for audit of the drainage connections, using an “HBP1” form. The applicant may visit DSD’s website [www.dsd.gov.hk](http://www.dsd.gov.hk) for details of connection audit fees and arrangements. Then, a joint inspection with his division shall be arranged and those as-built drainage connection records and materials certificates should be furnished to his division for his record purpose.

**Recommended Advisory Clauses**

- (a) the planning permission is given to the development/uses under application. It does not condone any other development/uses which currently exist on the Site but not covered by the application;
- (b) to note the comments of the District Lands Officer/North, Lands Department on the following:
  - (i) the Site comprises private lots, namely Lots 171 RP and 174 S.B RP in D.D. 38. The lots are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access;
  - (ii) it is noted that the Site has incorporated the Government land on the southeastern side of the Site, and that the applicant intends to turn the Government land to access road. According to the land status records, a proposed Short Term Tenancy (STT) NX 1780 for a proposed Pai Lau would be affected (**Plan A-2**);
  - (iii) it is noted that there are unauthorized structures erected on Lots 171 RP and 174 S.B RP in D.D. 38 without prior approval from his office. The aforesaid structures are not acceptable under the leases concerned and his office reserves the right to take necessary lease enforcement actions against the aforesaid structures;
  - (iv) the actual occupation area does not tally with the Site. It is the responsibility of the applicant to delineate a proper application boundary which tallies with the subject proposed user. Meanwhile, the applicant should make his own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement; and
  - (v) should planning approval be granted, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) for any erected structure(s). The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, its commencement date would be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fees as considered appropriate by his office;
- (c) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD) that the applicant should submit drainage proposal associated with the proposed road widening works for comments from relevant Government departments;
- (d) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department on the following:
  - (i) that there is public sewerage near the Site. A sewerage proposal should be submitted for approval if sewer connection to public sewerage is required;



(ii) his preliminary comments on the drainage proposal are as follows:

- the applicant should be advised that the limited desk-top checking by Government on the drainage proposal covers only the fundamental aspects of the drainage design which will by no means relieve his obligations to ensure that (i) the proposed drainage works will not cause any adverse drainage or environmental impacts in the vicinity; and (ii) the proposed drainage works and the downstream drainage systems have adequate capacity and are in good conditions to receive the flows collected from his lot and all upstream catchments;
- the details (invert level, gradient, general sections etc.) of the proposed drain/surface channel, catchpit shall be provided;
- cover should be provided to each catchpit;
- a sand trap/catchpit should be provided at the outlet of the proposed drainage system and regularly desilted by the applicant or the successive owners of the proposed development to prevent sand and silt from being washed into the existing drainage system/ channel at its downstream. Details of the catchpit with sand trap should be provided;
- a catchpit should be provided at each interception point and/or at a location of a sharp change of flow of the proposed surface channels to avoid spillage of the collected storm-water;
- the applicant should show the connection details between the proposed 600mm u-channel and existing drain with the invert levels in the drainage proposal;
- from the landscape and tree preservation proposal, it is noted that the site fence/ boundary wall would be provided along the site boundary. Under such circumstance, the existing flow paths of conveying surface runoff from adjoining lots of the Site and passing through the Site will be disrupted. If the proposed site fence/ boundary wall is unavoidable and would affect the overland flow, the applicant should construct adequate openings at the foot of the site fence/ boundary wall to allow the passage of rain water. The applicant is required to provide sectional views of the proposed site fence/ boundary wall showing clearly the details of such openings. The alignment of the site fence/ boundary wall should also be shown clearly on the drainage proposal for his easy reference;
- the applicant is required to provide the sectional views of the Site showing clearly any walls would be erected or kerbs would be laid along the boundary of the Site, the site formation level and ground level in the vicinity, the size of the existing and proposed drainage facilities and the flow direction of the Site and adjoining lots for his easy reference;
- catchment areas should be shown for his reference;
- the cover levels of proposed channels should be flush with the existing adjoining ground level;
- the applicant should check and ensure that the existing drainage channel

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 applicant should also ensure that the flow from the Site will not overload the existing drainage system;

- the applicant is 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 with details to be agreed by DSD;
  - the applicant is 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 applicant 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 drain, channels and watercourses on or in the vicinity of the Site at any time during or after the works;
  - the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained by the applicant at their own expense. For works to be undertaken outside the site boundary, the applicant should obtain prior consent and agreement from DLO/N and/or relevant private lot owners. The applicant shall be liable for and indemnify claims and demands arising out of damage or nuisance caused by any inadequate construction or maintenance of the drainage facilities completed under the development;
  - the applicant should make good all the adjacent affected areas upon completion of the drainage works;
  - the applicant 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
  - upon completion of the works, the applicant should apply to DSD for audit of the drainage connections, using an "HBP1" form. The applicant may visit DSD's website [www.dsd.gov.hk](http://www.dsd.gov.hk) for details of connection audit fees and arrangements. Then, a joint inspection with his division shall be arranged and those as-built drainage connection records and materials certificates should be furnished to his division for his record purpose;
- (e) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) on the following:
- (i) before any new building works (including containers/open sheds of temporary buildings) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
  - (ii) for UBW erected on leased land, enforcement action may be taken by the BA 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;

- (iii) in connection with (i) above, 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 B(P)Rs respectively; and
  - (iv) if the Site is not abutting on a specified street having a width not less than 4.5m, the development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage;
- (f) to note the comments of the Director of Fire Services on the following:
- (i) 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;
  - (ii) in such circumstances, except where building plan is circulated to the Centralized Processing System of Buildings Department, the applicant is required to submit relevant layout plans to his department incorporated with the proposed FSIs for approval. The applicant should also note that:
    - the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
    - the location of the proposed FSIs and the access for emergency vehicles should be clearly marked on the layout plans; and
  - (iii) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans. The applicant will need to subsequently provide such FSIs according to the approval proposal;
- (g) to note the comments of the Chief Engineer/Construction, Water Supplies Department on the followings:
- (i) existing water mains inside the Site will be affected (**Plan A-2**). The applicant is required to either divert or protect the water mains found on Site;
  - (ii) if diversion is required, existing water mains inside the Site are needed to be diverted outside the Site to lie in Government land. A strip of land of minimum 1.5m in width should be provided for the diversion of existing water mains. The cost of diversion of existing water mains upon request will have to be borne by the applicant; and the applicant shall submit all the relevant proposal to WSD for consideration and agreement before the works commence;
  - (iii) if diversion is not required, the following conditions shall apply:
    - existing water mains are affected as indicated on **Plan A-2** and no development which requires resiting of water mains will be allowed;
    - details of site formation works shall be submitted to D of WS for approval prior to commencement of works;

- no structures shall be built or materials stored within 1.5m from the centre line of water mains. Free access shall be made available at all times for staff of the D of WS or their contractor to carryout construction, inspection, operation, maintenance and repair works;
- no trees or shrubs with penetrating roots may be planted within the Water Works Reserve or in the vicinity of the water main(s). No change of existing site condition may be undertaken within the aforesaid area without prior agreement of the D of WS. Rigid root barriers may be required if the clear distance between the proposed tree and the pipe is 2.5m or less, and the barrier must extend below the invert level of the pipe;
- no planting or obstruction of any kind except turfing shall be permitted within the space of 1.5m around the cover of any valve or within a distance of 1m from any hydrant outlet; and
- tree planting may be prohibited in the event that the D of WS considers that there is any likelihood of damage being caused to water mains; and

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

- (h) to follow the environmental mitigation measures as set out in the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Director of Environmental Protection in order to minimise any possible environmental nuisances; and
- (i) to note the comments of the Director of Electrical and Mechanical Services (DEMS) that based on the information provided, the Site is within the vicinity of electricity supply facilities of CLP Power. Early consultation with CLP Power is required to ensure that the proposed development/ works would not affect the safe operation and maintenance of these electricity supply facilities.