

**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 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: 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; and

- (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.

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 Land Officer/Tai Po, Lands Department (DLO/TP, LandsD) that
 - (i) the lots are held under the Block Government Lease demised for agricultural purpose, no structure shall be erected on the lots without the prior approval from LandsD;
 - (ii) a recent site inspection revealed that 9 containers and 3 temporary structures were found on the Site without the prior approval from LandsD;
 - (iii) the lots owners are required to submit application for Short Term Waiver (STW) to LandsD should they wish to erect any structure on the Site. However there is no guarantee at this stage that the STW application would be approved. If the STW application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD including the payment of waiver fee and administrative fees as considered appropriate;
 - (iv) the applicant is required to clear any existing structures on the Site immediately unless they are covered by valid approval. Otherwise, appropriate lease enforcement action will be taken in due course; and
 - (v) there is no guarantee to the grant of a right of way to the Site or approval of the emergency vehicular access (EVA) thereto;
- (c) to note the comments of the Commissioner for Transport (C for T) that:
 - (i) the applicant should assess the impact of the additional traffic loading arising from the applied use on Sai Sha Road during the AM and PM peak period to demonstrate that it would not cause any adverse traffic impact;
 - (ii) the applicant is required to justify the need to provide car parking in the application site;
 - (iii) the applicant is required to demonstrate that sufficient space within the application site could be provided for manoeuvring of vehicles. In addition, no vehicle queuing and no reverse movement of vehicles on public road is allowed; and
 - (iv) the existing village access on and near the application site is not under TD's management. It is suggested that the land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes;

- (d) to note the comments of the Director of Environmental Protection (DEP) that the applicant should follow the latest 'Code of Practice on Handling Environmental Aspects of Open Storage Uses' to minimize any possible environmental nuisance;
- (e) to note the comments of the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) that:
 - (i) surface channels should be provided along the perimeter of the site area to collect all the runoff generated from the Site and its uphill overland flow or passing through the Site, and discharge the runoff collected to a proper discharge point;
 - (ii) the applicant is required to maintain all proposed drainage facilities properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
 - (iii) the applicant should design the drainage proposal based on the actual site condition for his department's comment/agreement. In the design, the applicant should consider the workability, the drainage impact to the surrounding environment and seek comments from all concerned parties/departments if necessary. The applicant should make sure no adverse drainage impact will be caused to the area due to the proposed development. The existing natural stream, village drains, ditches and the adjacent areas should not be adversely affected;
 - (iv) the proposed drainage works, whether within or outside the above lots, should be constructed and maintained by the applicant at their expense;
 - (v) for works to be undertaken outside the above lots, prior consent and agreement from DLO/TP and/or relevant private lot owners should be sought; and
 - (vi) the applicant should take all precautionary measures to prevent any disturbance, damage and pollution from the developments to any parts of the existing drainage facilities in the vicinity of the lots. In the event of any damage to the existing drainage facilities, the applicant would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom.
- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that:
 - (i) there is no record of submission of the proposed temporary buildings or structures to the Building Authority (BA) for approval. The proposed temporary structures are subject to the control of Part VII of the Building (Planning) Regulations and require prior approval and consent under the Buildings Ordinance (BO);
 - (ii) 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 BA 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;

- (iii) 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;
 - (iv) the Site shall be provided with means of obtaining access thereto from a street under the Building (Planning) Regulation 5 and EVA shall be provided under Building (Planning) Regulation 41D;
 - (v) if the Site is not abutting on a specified street having a width not less than 4.5m, the development intensity shall be determined by the BA under Building (Planning) Regulation 19(3) at building plan submission stage; and
 - (vi) detailed consideration will be made at building plan submission stage.
- (g) to note the comments of the Director of Fire Services (D of FS) that:
- (i) in consideration of the design/nature of the proposal, the applicant is advised to submit relevant layout plans incorporated with the proposal of fire services installations (FSIs) and water supplies for firefighting to his Department for approval;
 - (ii) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of where the proposed FSI to be installed should be clearly marked on the layout plans;
 - (iii) good practice guidelines for open storage should be adhered to; and
 - (iv) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.