

**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 the “Agriculture” zone in the vicinity of the Site in the
Ping Che & Ta Kwu Ling Area**

Approved Applications

Application No.	Uses/Developments	Date of Consideration	Approval Conditions
A/NE-TKL/334 ¹	Renewal of Planning Approval for Temporary Open Storage of Building Materials for a Period of 3 Years	5.3.2010	A1, A2, A4, A5, A12, A14, A15, A19, A26 & A27
A/NE-TKL/342 ²	Temporary Open Storage of Construction Equipment for a Period of 3 Years	10.9.2010	A1 - A5, A9, A11, A12, A14, A15, A21, A22, A26 & A27
A/NE-TKL/390 ³	Temporary Open Storage and Storage of Goods (Aerial Working Platform and Elevating Platform) for a Period of 3 Years	21.9.2012 (Revoked on 21.3.2013)	A1, A2, A4, A5, A14, A16, A22, A26 - A29
A/NE-TKL/443 ²	Temporary Open Storage of Construction Equipment for a Period of 3 Years	27.9.2013	A1, A2, A4, A5, A8, A11, A12, A14, A15, A21, A22, A26 - A28
A/NE-TKL/454 ³	Proposed Temporary Open Storage of Construction Materials and Equipment with Ancillary Storage of Construction Equipment and Tools and Site Office for a Period of 3 Years	22.11.2013	A1, A2, A4, A5, A11, A14, A21, A22, A26 - A28, A30
A/NE-TKL/460 ¹	Temporary Open Storage of Construction Materials for a Period of 3 Years	13.12.2013 (Revoked on 13.6.2015)	A1, A2, A6, A11, A12, A14, A18, A22, A26 - A28
A/NE-TKL/553 ²	Temporary Open Storage of Construction Equipment and Materials for a Period of 3 Years	14.10.2016	A1, A2, A6 - A8, A11, A12, A14, A15, A21, A22, A26 - A28
A/NE-TKL/555 ³	Temporary Open Storage of Construction Materials, Equipment and Machineries with Ancillary Storage of Construction Equipment, Machineries, Tools and Site Office for a Period of 3 Years	25.8.2017	A1, A2, A4, A5, A13 - A15, A21 - A23, A26 - A28, A30 & A31

A/NE-TKL/564 ¹	Proposed Temporary Open Storage of Waste Paper, Waste Plastics and Waste Metal Cans for Recycling and Workshop for Recycling for a Period of 3 Years	4.5.2018	A1, A2, A6, A11, A14, A15, A17, A22, A24 - A28
A/NE-TKL/567	Proposed Temporary Curtain Wall Testing Centre, Ancillary Office and Open Storage of Materials for a Period of 3 Years	10.11.2017	A1, A2, A4, A5, A10, A13 - A15, A20, A22, A25 - A28, A32
A/NE-TKL/622 ²	Renewal of Planning Approval for Temporary Open Storage of Construction Equipment and Materials for a Period of 3 Years	6.9.2019	A3, A6, A8, A11, A12, A14, A15, A21, A22, A26 - A28, A33

Remarks

- ¹: The application nos. A/NE-TKL/334, A/NE-TKL/460 and A/NE-TKL/564 involve the same site.
- ²: The application nos. A/NE-TKL/342, A/NE-TKL/443, A/NE-TKL/553 & A/NE-TKL/622 involve the same site.
- ³: The site of application no. A/NE-TKL/555 includes the sites of application nos. A/NE-TKL/390 and A/NE-TKL/454.

Approval Conditions

- A1 The submission of landscape and/or tree preservation proposals
- A2 The implementation of landscape and/or tree preservation proposals
- A3 The existing trees on the application site should be maintained
- A4 The submission of drainage proposals
- A5 The provision of drainage facilities or the implementation of drainage proposals
- A6 The submission of a condition record of the existing drainage facilities
- A7 The existing drainage facilities implemented under Application No. A/NE-TKL/443 on-site should be maintained properly
- A8 The setting back of the site boundary to avoid encroachment on the resumption boundary of Project PWP Item No. 119CD - Drainage Improvement in Northern New Territories - Package C (Remaining Works) as and when required by the Drainage Services Department
- A9 The setting back of the application site boundary to avoid encroachment on the project areas of the proposed Drainage Channel TKL05 under "Drainage Improvement in Northern New Territories (NT) - Package C (Remaining Works)" as and when required by the Drainage Services Department
- A10 The implementation of the traffic mitigation measures
- A11 The peripheral fencing and/or paving of the site should be maintained

- A12 The stacking height of the materials stored within five metres of the periphery of the site should not exceed the height of the boundary fence
- A13 The provision of boundary fencing
- A14 Revocation clause
- A15 Reinstatement clause
- A16 No night-time operation between 6:00 p.m. and 8:00 a.m. was allowed
- A17 No night-time operation between 6:30 p.m. and 8:00 a.m. was allowed
- A18 No night-time operation between 6:00 p.m. and 9:00 a.m. was allowed
- A19 No night-time operation between 7:00 p.m. and 7:00 a.m. was allowed
- A20 No operation between 8:00 p.m. and 7:00 a.m. was allowed
- A21 No night-time operation between 11:00 p.m. and 7:00 a.m. was allowed
- A22 No operation on Sundays and public holidays was allowed
- A23 All vehicles entering and exiting the site during the planning approval period should be restricted to non-peak hours (i.e. from 10:00 a.m. to 4:00 p.m. on Mondays to Saturdays (excluding Sundays and Public Holidays))
- A24 All vehicles entering and exiting the site during the planning approval period should be restricted to non-peak hours (i.e. from 10:00a.m. to 4:00p.m.)
- A25 No container tractor/trailer was allowed to be parked/stored on or enter/exit the site
- A26 The submission of proposals on water supplies for fire-fighting and fire service installations
- A27 The provision of water supplies for fire-fighting and fire service installations
- A28 The provision of fire extinguisher(s)
- A29 No dismantling and workshop activities should be carried out on the site
- A30 No workshop activities should be carried out on the site
- A31 The submission and the implementation of the run-in/out proposal
- A32 All vehicles entering and exiting the site during the planning approval period should be restricted to non-peak hours (i.e. from 10:00a.m. to 4:00p.m. and 7:00p.m. to 8:00p.m.)
- A33 The existing drainage facilities implemented under Application No. A/NE-TKL/553 on-site should be maintained properly

Rejected Applications

Application No.	Uses/Developments	Date of Consideration	Rejection Reasons
A/NE-TKL/330	Temporary Open Storage of Construction Machinery and Construction Materials for a Period of 3 Years	18.12.2009	R1, R3 & R8
A/NE-TKL/332 ¹	Temporary Open Storage of Construction Equipment, Machinery and Materials with Ancillary Caretakers' Quarters for a Period of 3 Years	14.5.2010 (on review)	R1 & R4
A/NE-TKL/338	Temporary Open Storage of Recycled Electronic Appliances and Metal and Ancillary Workshop for a Period of 3 Years	3.12.2010 (on review)	R1 & R5
A/NE-TKL/346	Proposed Temporary Open Storage of Semi-products for a Period of 3 Years	28.1.2011	R1, R5 & R9
A/NE-TKL/354 ¹	Temporary Open Storage of Construction Equipment and Materials with Ancillary Office for a Period of 1 Year	4.3.2011	R1, R2 & R4
A/NE-TKL/480 ²	Proposed Temporary Open Storage of Construction Materials and Equipment and Tools for a Period of 3 Years	26.9.2014	R1, R2 & R6
A/NE-TKL/514 ²	Proposed Temporary Open Storage (Construction Materials and Equipments and Tools) for a Period of 3 Years	18.3.2016	R1, R2 & R6
A/NE-TKL/560	Proposed Temporary Open Storage of Construction Materials, and Metal Machineries and Materials, and Ancillary Office for a Period of 3 Years	26.5.2017	R1, R2 & R7

Remarks

- ¹: The site of application no. A/NE-TKL/332 includes the site of application no. A/NE-TKL/354.
- ²: The site of application no. A/NE-TKL/480 and A/NE-TKL/514 involves the same site.

Rejection Reasons

- R1 The development 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 to merit a departure from such planning intention, even on a temporary basis.
- R2 Approval of the application would set an undesirable precedent for other similar applications within the “Agriculture” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment or adverse environment, traffic and landscape impacts of the area.
- R3 The development did not comply with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” in the no previous planning approval had been granted to the application site and there were adverse departmental comments / local objection to the application.
- R4 The proposed use did not comply with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” in that the applicant had failed to demonstrate genuine efforts in compliance with approval conditions of the previous planning application and had failed to include in the fresh application relevant technical assessments/proposal to demonstrate that the proposed use would not generate adverse landscaping and environmental impacts on the surrounding areas and there were adverse departmental comments and/or local objection against the application.
- R5 The proposed use 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 no previous planning approval had been granted for the application site and/or there were adverse departmental comments and/or local objection against the application; and the applicant had failed to demonstrate that the proposed development would not have adverse environmental and/or landscape and/or traffic impacts on the surrounding areas.
- R6 The application does not comply with the Town Planning Board Guidelines No. 13E in that there were adverse departmental comments and local objections to the application; and the applicant failed to demonstrate that the development would have no adverse traffic and landscape impacts on the surrounding area.
- R7 The application did not comply with the Town Planning Board PG-No. 13E in that there was no previous approval of open storage use granted for the Site and no exceptional circumstances to justify sympathetic consideration of the application; there were adverse departmental comments on the applications; and the applicant failed to demonstrate that the proposed development would not cause adverse traffic, environmental and landscape impacts on the surrounding areas.
- R8 The proposed use would generate adverse environmental and landscape impacts on the surrounding areas.
- R9 There was no information in the submission regarding the nature and details of semi-products to be stored within the application site. It was not possible to access whether the proposed open storage use would not cause adverse impacts on the surrounding areas.

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/North, Lands Department as follows:
- (i) the Site comprises private lots which are Old Schedule lot held under the Block Government lease without any guaranteed right of access. The applicant should make its own arrangement for acquiring access, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the proposed use;
 - (ii) the actual occupation area does not tally with the one under application (**Plan A-3**);
 - (iii) the existing structures on the Site were erected without approval from her office. The aforesaid structures are not acceptable under the lease concerned. Her office reserves the right to take enforcement actions against the aforesaid structures;
 - (iv) the Government land adjoining to the application lots is occupied by the applicant without approval from her office. Further, the existing structures on the Government land were erected without approval from this office. The aforesaid structures are not acceptable. The applicant should stop occupying the Governmental Land concerned and remove the aforesaid structures at his/her own cost. Her office reserves the right to take necessary land control actions against the irregularities;
 - (v) the occupation boundary of the Site encroaches onto Lot 114 S.A in D.D. 64 (**Plan A-2**); and
 - (vi) should the application be approved, the applicant shall apply to her office for Short Term Wavier (STW) and a Short Term Tenancy (STT) to cover 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 it will be approved. If the STW and STT are approved, their 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/rent and administrative fees as considered appropriate by her office.
- (b) to note the comments of the Commissioner for Transport as follows:
- (i) the applicant shall justify the adequacy of the parking spaces and loading/unloading spaces so provided by relating to the number of vehicles visiting the Site;
 - (ii) the applicant should advise the width of the vehicular access;
 - (iii) the vehicular access should be no less than 7.3 wide;
 - (iv) the applicant should demonstrate the satisfactory manoeuvring of vehicles entering to and exiting from the Site, manoeuvring within the Site and into/out of the parking and loading/unloading spaces, preferably using the swept path analysis;

the applicant shall advise the management/control measures to be implemented for the proposed parking spaces to ensure no queuing of vehicles outside the Site;
 - (v) the applicant shall advise the provision and management of pedestrian facilities to ensure pedestrian safety; and

- (vi) adequate traffic signs should be provided to alert the public that there will be vehicles entering to and exiting from the Site;
- (c) to note the comments of the Chief Highway Engineer/New Territories East, Highways Department that the access road adjacent to the Site is not maintained by his office;
- (d) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department as follows:
- (i) the Site is in an area where no public sewer connection is available;
 - (ii) surface channel with grating covers would be provided along the site boundary;
 - (iii) the cover levels of proposed channels should be flush with the existing adjoining ground level;
 - (iv) the details of the catchpit with cover shall be provided;
 - (v) catchpits with sand trap shall be provided at the outlets of the proposed drainage system. The details of the catchpit with sand trap shall be provided;
 - (vi) 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 captioned lot. He should also ensure that the flow from this Site will not overload the existing drainage system;
 - (vii) 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, 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) if the existing drainage facilities to which the applicant proposed to discharge the storm water from the Site not maintained by this office, the applicant 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 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 any time during or after the works;
 - (x) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the applicant at his/her own expense;
 - (xi) for works to be undertaken outside the lot boundary, the applicant should obtain prior consent and agreement from DLO/N and/or relevant private lot owners;
 - (xii) the applicant should make good all the adjacent affected areas upon the completion of the drainage works;
 - (xiii) 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

- (xiv) photos should be submitted clearly showing the current conditions of the areas around the Site and along the routing of all proposed drainage from the Site to the existing downstream drainage;
- (e) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department as follows:
- (i) there is no record of submission of the proposed temporary buildings / structures to the BD for approval;
 - (ii) before any new building works (including containers/open sheds/shelters 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 unauthorised building works (UBW). An Authorised 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) the Site shall be provided with means of obtaining access thereto from a street under the Building (Planning) Regulation 5 and emergency vehicular access shall be provided under the 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 BD under Building (Planning) Regulation 19(3) at building plan submission stage;
 - (vi) 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); and
 - (vii) detailed comments will be formulated at building plan submission stage;
- (f) to note the comments of the Director of Fire Services as follows:
- (i) in consideration of the design/ nature of the proposed use, the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations (FSIs) to his satisfaction;
 - (ii) the applicant should be advised that 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) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans; and
 - (iv) to address the approval condition regarding the provision of fire extinguisher, the applicant is advised to submit a valid fire certificate (FS 251) to his office for approval; and

- (g) 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.