

**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. 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: 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; 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.

Good Practice Guidelines for Open Storage Sites

		Internal Access for Fire Appliances	Lot Boundaries (Clear Width)	Distance between Storage Cluster and Temporary Structure	Cluster Size	Storage Height
1.	Open Storage of Containers		2m	4.5m		
2.	Open Storage of Non-Combustibles or Limited Combustibles	4.5m	2m	4.5m		
3.	Open Storage of Combustibles	4.5m	2m	4.5m	40m x 40m	3m

Remarks: Smoking and naked flame activities shall not be allowed within the open storage / recycling site.

Recommended Advisory Clauses

- (a) to note the following comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):
- (i) the lots under application are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access. The applicants should make their own arrangement for acquiring access and there is no guarantee that any adjoining Government land (GL) will be allowed for the access of the proposed use;
 - (ii) the existing structure on the Site, if any, is not acceptable under the Leases concerned. His office reserves the right to take enforcement actions against the aforesaid structures;
 - (iii) the GL adjoining the application lots is being illegally occupied by the applicants. The applicants should cease illegal occupation of the GL concerned. His office reserves the right to take enforcement actions against the unauthorized occupation of GL;
 - (iv) according to the development proposal, mobile toilets will be placed on the Site. The applicants should note that toilet facilities should meet current health requirements; and
 - (v) if the planning application is approved, the owners of the lots concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) covering all the actual occupation area. The application for STW and STT will be considered by Government in its landlord's and relevant capacities and there is no guarantee that they will be approved. If the STW and STT 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.
- (b) to note the comments of the Commissioner for Transport (C for T) that the vehicular access outside the Site is not managed by TD. The applicants should seek comment from the responsible party;
- (c) to note the comments of the Chief Highway Engineer/NT East, Highways Department (CHE/NTE, HyD) that the access road at the proposed site entrance location is not maintained by HyD;
- (d) to note the following comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
- (i) the Site is in the vicinity of an existing streamcourse. The applicants shall be required to place all the proposed works 3m away from the top of the bank of the streamcourse. All the proposed works in the vicinity of the streamcourse should not create any adverse drainage impacts, both during and after construction. Proposed flooding mitigation measures if necessary shall be provided at the resources of the applicants to his satisfaction;

- (ii) the applicants should be reminded to minimize the possible adverse environmental impacts on the existing streamcourse in his design and during construction. DEP and DAFC should be consulted on possible environmental and/or ecological impacts of the development in particular the potential of discharge of contaminated runoff to the nearby watercourse causing water pollution problem. Furthermore, as natural watercourses in village areas are within the jurisdiction of HAD under ETWB TCW No. 14/2004, comments from HAD should be sought; and
 - (iii) 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 drain, channels and watercourses on or in the vicinity of the subject site any time during or after the works.
- (e) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that for provision of water supply to the development, the applicants may need to extend his/her 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.
- (f) to note the following comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
- (i) before any new building works are to be carried out on the Site, prior approval and consent of Building Authority (BA) should be obtained unless they are exempted building works or commenced under the simplified requirement under the Minor Works Control System. 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 Buildings Ordinance (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) any temporary shelters or converted containers for storage or other uses are considered as temporary buildings are subject to the control of Pt. VII of the Building (Planning) Regulations (B(P)Rs)
 - (iv) the site shall be provided with means of obtaining access thereto from a street under Building (Planning) Regulations (B(P)Rs) 5 and emergency vehicular access shall be provided under B(P)Rs 41D;
 - (v) if the Site is not abutting on a specified street having a width not less than 4.5 m, the development intensity shall be determined by the BA under B(P)Rs 19(3) at the building plan submission stage; and
 - (vi) formal submission under the BO is required for any proposed new works, including

any temporary structures. Detailed comments under BO will be provided at the building plan submission stage.

- (g) to note the following comments of the Director of Fire Services (D of FS):
 - (i) the applicants 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; and
 - (ii) the applicants are reminded that if the proposed structure(s) is required to comply with the Building Ordinance (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;
- (h) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) that approval of the planning application does not imply approval of tree preservation clauses/ conditions under the Lease. The applicants should seek comments and approval from the relevant authorities for any proposed tree works; and
- (i) to follow the environmental mitigation measures as set out in the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site' issued by the Director of Environmental Protection (DEP) in order to minimize any possible environmental nuisances.