

**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 m<sup>2</sup> for port back-up uses, and below 1,000 m<sup>2</sup> 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 Ping Che and Ta Kwu Ling Area**

**Approved Applications**

<b>Application No.</b>	<b>Uses/Development</b>	<b>Date of Consideration</b>	<b>Approval Conditions</b>
A/NE-TKL/322 <sup>1</sup>	Renewal of Permission for Temporary Open Storage of Metals and Tools and Containers (for Office and Storage of Tools) for a Period of 3 Years	18.9.2009 (revoked on 18.9.2010)	A1, A7, A11, A12, A15, A17, A21 & A23
A/NE-TKL/345 <sup>2</sup>	Temporary Furniture Repair Workshop, Covered and Open Storage of Metal and Steel Materials, Machine Accessories, Machinery and Equipment for Electronic Components with Ancillary Office, Electricity Transformer Room and Lavatory for a Period of 3 Years	1.4.2011 (revoked on 1.1.2012)	A4, A7, A14, A16, A21, A23
A/NE-TKL/376 <sup>2</sup>	Proposed Temporary Vehicle Repair Workshop for Lorry and Container Vehicle, Furniture Repair Workshop, Open Storage of Metal and Steel Materials, Machine Accessories, Machinery and Equipment for Electronic Components with Ancillary Office, Electricity Transformer Station and Lavatory for a Period of 3 Years	18.11.2011	A4, A7, A14, A15, A21, A23
A/NE-TKL/388 <sup>1</sup>	Temporary Open Storage of Metals and Tools and Containers (for Office and Storage of Tools) for a Period of 3 Years	7.9.2012	A2, A3, A7, A11, A13, A15, A18, A20, A22 & A23
A/NE-TKL/515 <sup>1</sup>	Renewal of Planning Permission for Temporary “Open Storage of Metals and Tools and Containers (for Office and Storage of Tools) ” for a Period of 3 Years	21.8.2015	A5, A9, A10, A11, A13, A15, A18, A20, A22 & A23
A/NE-TKL/595 <sup>1</sup>	Renewal of Planning Approval for Temporary "Open Storage of Metals and Tools and Containers (for Office and Storage of Tools)" for a Period of 3 Years	6.7.2018	A6, A8, A10 A11, A13, A15, A19, A20, A22 A23 & A24

## Remarks

\* Applications No<sup>1</sup>. A/NE-TKL/345 and 376 are the same site.

\* Applications No<sup>2</sup>. A/NE-TKL/322, 388, 515 and 595 are the same site.

## **Approval Conditions**

- A1 The submission and the implementation of tree preservation proposals including tree replacement planting
- A2 The submission of landscaping and tree preservation proposals
- A3 The implementation of landscaping proposals and/or tree preservation proposals
- A4 The submission and implementation of tree preservation and landscape proposals
- A5 The existing trees and landscape plantings implemented under application No. A/NE-TKL/388 on the site should be maintained
- A6 The existing trees on site shall be properly maintained
- A7 The submission and the implementation of drainage proposals
- A8 The existing drainage facilities shall be properly maintained
- A9 The existing drainage facilities implemented under application No. A/NE-TKL/388 on the site should be maintained
- A10 The submission of a condition record of the existing drainage facilities on the site
- A11 The peripheral fencing and paving of the site should be maintained
- A12 No night-time operation between 11:00 p.m. and 7:00 a.m. should be allowed
- A13 No operation between 5:00 p.m. and 9:00 a.m. should be allowed
- A14 No operation between 6:00 p.m. and 9:00 a.m. was allowed
- A15 No operation on Sundays and public holidays should be allowed
- A16 No operation on Saturdays, Sundays and public holidays was allowed
- A17 No medium/heavy goods vehicles should be allowed to access the application site
- A18 No medium and heavy goods vehicles exceeding 5.5 tonnes as defined in the Road Traffic Ordinance was allowed for the operation of the application site
- A19 No vehicles entering and exiting the site was allowed on the site
- A20 The provision of fire extinguisher(s)
- A21 The submission of proposals and the provision of water supplies for fire-fighting and fire service installations
- A22 The submission and implementation of proposals for water supplies for fire-fighting and fire service installations
- A23 Revocation clause
- A24 Reinstatement clause

### **Rejected Application**

<b>Application No.</b>	<b>Uses/Development</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE-TKL/478	Proposed Temporary Open Storage of Construction Materials and Equipment for a Period of 3 Years	26.9.2014	R1, R2 & R3

### **Rejection Reasons**

- R1 The proposed development was not in line with the planning intention of the “Agriculture” zone in the Ta Kwu Ling area which was primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes. It also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justifications had been provided in the submission for a departure from the planning intention, even on a temporary basis
- R2 The application did not comply with the Town Planning Board Guidelines No. 13E in that no previous planning approval has been granted to the site; there are adverse departmental comments on the application; and the applicant failed to demonstrate that the development would have no adverse environmental and landscape impacts on the surrounding area
- R3 Approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area

**Recommended Advisory Clauses**

- (a) to note the comments of the District Lands Officer/North, Lands Department that:
- (i) the Site comprises private lots which are Old Schedule lot held under the Block Government lease (demised for agricultural use) without any guarantee of right of access. The applicant should make its own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicle access of the proposed use;
  - (ii) there are some structures erected on Site without approval from his office. Part of the existing structures on Lot 359 extends to Lot 357 which is not included in this application. The applicant should demolish this unauthorised extension at its own cost. His office reserves the right to take enforcement actions against all these structures; and
  - (iii) should the application is approved, the owner(s) of the lots concerned shall apply to his office for a Short Term Waiver (STW) to cover all the actual occupation area. The applications will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the applications are approved, their commencement date will 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 that the vehicular access between the site and Ping Che Road are not managed by her office. The applicant should seek comment from the responsible party;
- (c) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that:
- (i) before any new building works are to be carried out on the Site, the prior approval and consent of the BA 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 Building Ordinance (BO);
  - (ii) any temporary shelters or converted containers for storage / washroom / first-aid room / site office are considered as temporary buildings which are subject to control under the Building (Planning) Regulations Pt. VII;
  - (iii) the Site shall be provided with means of obtaining access thereto from a street under the Building (Planning) Regulations 5 and emergency vehicular access shall be provided under the Building (Planning) Regulation 41D;
  - (iv) if the Site does not abut a specified street having a width not less than 4.5m wide, the development intensity shall be determined under the Building (Planning) Regulations

19(3) at the building plan submission stage; and

- (v) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments will be provided at building plan submission stage;
- (d) to note the comments of the Chief Engineer/Construction, Water Supplies Department that for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the connection, operation and maintenance of the inside services within the private lots to WSD's standards;
- (e) to note the comments of the Director of Fire Services that:
  - (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.
- (f) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the Site is in an area where no public sewerage connection is available;
- (g) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department as follows:
  - (i) as per the Tree Location Plan of this application, the applicant should review if "small leaves banyan tree" (*Ficus Microcarpa*), which is a tree species with aggressive root system that requires sufficient space for long term sustainable growth, is suitable for the Site;
  - (ii) it is advised that the approval of the Landscape Proposal does not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted direct to DLO for approval; and
  - (iii) useful information published by the Greening, Landscape and Tree Management Section, Development Bureau on general tree maintenance and tree risk management is available for reference in the following links:
    - Pictorial Guide for Tree Maintenance (護養樹木的簡易圖解):  
[http://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/Pictorial\\_Guide\\_for\\_](http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_)

Tree\_Maintenance.pdf

- Handbook on Tree Management (樹木管理手冊):  
[https://www.greening.gov.hk/tc/tree\\_care/Handbook\\_on\\_Tree\\_Management.html](https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html)
- Tree Risk Assessment and Management Arrangement (樹木風險評估及管理安排):  
[https://www.greening.gov.hk/tc/tree\\_care/tra\\_arrangements.html](https://www.greening.gov.hk/tc/tree_care/tra_arrangements.html)
- Minimising Tree Risk (護養樹木 保障安全):  
[http://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/Chinese\\_Leaflet\\_Big\\_font\\_size\\_v1\\_2012\\_03\\_29.pdf](http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Chinese_Leaflet_Big_font_size_v1_2012_03_29.pdf)
- Pictorial Guide for Tree Maintenance to Reduce Tree Risk (減低樹木風險的樹木護養簡易圖解):  
[http://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk\(eng\).pdf](http://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk(eng).pdf)

- (h) to note the comments of Director of Environmental Protection that the applicant is advised to follow the relevant mitigation measures and requirements as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP in order to minimize any possible environmental nuisances and observe the Water Pollution Control Ordinance to avoid any pollution to the existing watercourse to the immediate east of the Site.