

**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.

Previous S.16 Applications

Approved Applications

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-FTA/29	Container Trailer Park	5.11.1999	A1 - A4
A/NE-FTA/44	Minor Amendment to Approved Scheme for Container Trailer Park (Approved by DPO)	22.5.2002 (Approved by DPO)	A1 - A4
A/NE-FTA/80	Temporary Container Trailer Park for a Period of 3 Years	5.1.2007	A1, A5 - A7
A/NE-FTA/99	Temporary Container Trailer Park for a Period of 3 Years	9.4.2010 (Revoked on 9.1.2011)	A7 - A13
A/NE-FTA/108	Temporary Container Trailer Park for a Period of 3 Years	4.11.2011 (Revoked on 4.2.2012)	A6 - A9, A13, A14 & A22
A/NE-FTA/113	Temporary Goods Distribution and Storage Use for a Period of 3 Years	20.7.2012	A6 - A9, A13, A15 - A17
A/NE-FTA/154	Temporary Goods Distribution and Storage Use for a Period of 3 Years	9.10.2015 (Revoked on 9.1.2018)	A7, A9, A18 - A23
A/NE-FTA/167	Temporary Goods Distribution and Storage Use for a Period of 3 Years	6.4.2018 (Revoked on 6.7.2018)	A7, A9, A19, A22, A24 - A27

Approval Conditions:

- A1 The provision of drainage facilities
- A2 The provision of peripheral fencing and paving of the site
- A3 The submission and implementation of landscaping proposals
- A4 The commencement clause
- A5 The submission of drainage proposal

- A6 The submission and implementation of tree preservation and landscaping proposals
- A7 The revocation clause
- A8 No night time operation between 11:00 p.m. and 7:00 a.m. was allowed
- A9 No operation on Sundays and public holidays was allowed
- A10 The existing trees on the application site should be properly maintained
- A11 The submission of proposals for fire service installations
- A12 The provision of fire service installations
- A13 The submission and implementation of drainage proposals
- A14 No vehicle repairing activities should be carried out on the application site
- A15 No medium and heavy goods vehicles exceeding 5.5 tonnes including container trailers and tractors, as defined in the Road Traffic Ordinance was allowed for the operation of the application site
- A16 The provision of fire extinguisher(s)
- A17 The submission and implementation of the proposal for fire service installations and water supplies for fire-fighting
- A18 No operation between 11:00 p.m. and 7:00 a.m. on Mondays to Saturdays was allowed
- A19 No medium and heavy goods vehicles exceeding 5.5 tonnes, as defined in the Road Traffic Ordinance, was allowed for the operation of the site
- A20 The existing drainage facilities implemented under Application No. A/NE-FTA/113 on the site should be maintained at all times and those inadequate/ineffective facilities should be rectified
- A21 The submission of a condition record of the existing drainage facilities implemented under Application No. A/NE-FTA/113 on the site
- A22 The submission of proposals and the provision of fire service installations and water supplies for fire-fighting
- A23 The existing trees and landscape plantings implemented under Application No. A/NE-FTA/113 on the site should be maintained
- A24 No operation between 4:00 p.m. and 10:00 a.m. was allowed
- A25 The maintenance of all existing trees and landscape plantings
- A26 The maintenance of the existing drainage facilities
- A27 The submission of a condition record of the existing drainage facilities

**Similar S.16 Application for Cargo Handling and Forwarding Facility within/partly within
the “Other Specified Uses (Port Back-up Uses)” zone in the vicinity of the Site
in the Fu Tei Au and Sha Ling Area**

Approved Application

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-FTA/189	Proposed Temporary Logistics Warehouse for a Period of 3 Years	17.5.2019	A1 – A11

Approval Conditions:

- A1 The revocation clause
- A2 No operation on Sundays and public holidays was allowed
- A3 The submission and implementation of proposals for fire service installations and water supplies for fire-fighting
- A4 The provision of fire extinguisher(s)
- A5 No operation between 8:00 p.m. and 8:00 a.m. was allowed
- A6 No car washing, vehicle repair, dismantling, paint spraying or other workshop activities was allowed
- A7 All vehicles entering and exiting the site shall be restricted to non-peak hours (i.e. 10:00 a.m. to 12:00 p.m. and 2:00 p.m. to 4:00 p.m.)
- A8 The maintenance of all existing trees within the site
- A9 The provision of boundary fencing on the site
- A10 The submission of drainage proposal
- A11 The provision of drainage facilities

Recommended Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the Site;
- (b) 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. 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) the application lots are covered by a valid Short Term Waiver (STW) No. 1292 for the purpose of “container trailer park and ancillary office and storage” uses;
 - (iii) according to the conditions of STW Letter No. 1292, the permitted site coverage should not exceed 37.16m² and the height of the structures should not exceed 4.8m. However, the total site coverage and height of the existing structures erected in the application lots exceed the permitted ones. Warning letter requiring the waivee to perform rectification works had been issued on 2.7.2019, but the waivee failed to perform any rectification works as STW required. His office reserves the right to take any termination and lease enforcement actions in this regard;
 - (iv) one of the existing structures on the application lots was erected for toilet use. The applicant should note that any proposed septic tank and soakage pit system should meet current health requirements, and has to apply for Certificate of Exemption (Drainage Works) from his office before any works starts; and
 - (v) should planning approval be granted, the waivee of STW No. 1292 should apply to his office for modification of the terms and conditions of STW No. 1292 so as to cover all the existing structures on the application lots. The application will be considered by Government in its landlord’s and relevant capacities and there is no guarantee that it will be approved. If the modification of STW is approved, it will be subject to such terms and conditions to be imposed payment of waiver fee for the additional site coverage and administrative fee as considered appropriate by his office. Further, the commencement date will be backdated to the first date of discovery;
- (c) to note the comments of the Commissioner for Transport (C for T) that the local village track located between the Site and Man Kam To Road is not under Transport Department’s management. In this regard, the land status of the access leading to the Site should be checked with the relevant lands authority. The management and maintenance responsibilities of the access should also be clarified with the relevant lands and maintenance authorities accordingly;
- (d) to note the comments of the Chief Highway Engineer/NT East, Highways Department (CHE/NTE, HyD) that the vehicular access leading from Man Kam To Road to the Site is

not under HyD's maintenance purview;

- (e) to note the following comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) on the submitted drainage proposal:
- (i) the "existing catchpit" to which the applicant proposed to discharge the storm water from the Site is not maintained by his office. The applicant should identify the owner of the "existing catchpit" to which the proposed connection will be made and obtain consent from the owner prior to commencement of proposed works. In the case that it is a local village drains, DO/N should be consulted;
 - (ii) the applicant is required to construct and maintain the proposed drainage works properly and rectify the drainage 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 a failure of the systems. For works undertaken outside the lot boundary, prior consent and agreement from DLO/N and/or relevant private lot owners should be sought;
 - (iii) 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 subject site any time during or after the works;
 - (iv) the lot owner / developer shall take all precautionary measures to prevent any disturbance, damage and pollution from the development 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 developer shall be held responsible for the cost of all necessary repair works, compensation and any other consequences arising there from; and
 - (v) the applicant shall allow all time free access for the Government and its agent to conduct site inspection on his completed drainage works, if necessary.
- (f) to note the following comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):
- (i) 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 construction, operation and maintenance of the inside services within the private lots to WSD's standards; and
 - (ii) part of the lots concerned is within the waterworks reserve of WSD's 2000mm diameter water mains. No structure or support for any structure, except boundary fences, shall be placed or erected and no motor vehicles is allowed to park or remain for any purposes including for display within the waterworks reserve. Free access shall be made available at all times for staff of the WSD or his authorized contractor to carry out construction, operation, maintenance and repair works to the water mains within the waterworks reserve;

- (g) 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, the prior approval and consent of Building Authority (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 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 washroom or workshop 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; and
 - (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;
- (h) to note the following comments of the Director of Fire Services (D of FS):
- (i) 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; and
 - (ii) the applicant is 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;
- (i) to note the following comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
- (i) approval of the application 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
 - (ii) to refer to the following materials published by the Development Bureau for general tree maintenance and tree risk management:
 - Pictorial Guide for Tree Maintenance:
http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf;

- Handbook on tree Management:
http://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html;
- Tree Risk Assessment and Management Arrangement:
http://www.greening.gov.hk/tc/tree_care/tra_arrangements.html;
- Minimising Tree Risks:
http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Chinese_leaflet_Big_font_size_v1_2012_03_29.pdf; and
- Pictorial Guide for Tree Maintenance to Reduce Tree Risks:
[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);

- (j) to note the comments of the Director of Agriculture, Fisheries and Conservation (DAFC) that the Site is located just to the north of an abandoned meander currently maintained by her department for ecological purposes under the “Main Drainage Channel for Fanling, Sheung Shui and Hinterland project”. The applicant should adopt good site practices and implement necessary environmental measures, including but not limited to provision of screen planting/hoarding and control of surface runoff to avoid disturbance to the abandoned meander; and
- (k) 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.