

**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.

**Previous S.16 Application**

<b>Application No.</b>	<b>Uses/ Development</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE-LYT/444	Temporary Private Vehicle Park for Coaches with Ancillary Staff Rest Room and Storage of Repair Equipment for Coaches and Miscellaneous Items for a Period of 3 Years	17.2.2012 (on review)	R1 & R2

**Rejection Reasons:**

- R1 The development was not in line with the planning intentions of the "Agriculture" and "Residential (Group C)" zones in the Lung Yeuk Tau and Kwan Tei South area which were primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes; and for low-rise, low-density residential developments respectively. There was no strong planning justification in the submission for a departure from such planning intentions, even on a temporary basis
- R2 The applicant had failed to demonstrate that the development would not generate adverse environmental and traffic impacts on the surrounding areas

**Similar S.16 Applications for Proposed Open Storage in the vicinity of the application site  
within / partly within the “Agriculture” zone or “Residential (Group C)” zone  
in the Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan**

**Rejected Applications**

<b>Application No.</b>	<b>Uses/ Development</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE-LYT/361	Temporary Open Storage of Water Pipes and Parts for a Period of 18 Months	11.1.2008 (on review)	R1
A/NE-LYT/387	Temporary Open Storage of Containers, Construction Materials and Machinery for a Period of 3 Years	23.1.2009	R2 – R4
A/NE-LYT/546	Proposed Temporary Open Storage of Construction Machinery and Construction Material for a Period of 3 Years	12.9.2014	R5 – R7

**Rejection Reasons:**

- R1        The development was not in line with Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13D) in that there was no previous approval given for the application site. There were adverse departmental comments and local concerns on the application. There was insufficient information in the submission to demonstrate that the use under application would not have adverse environmental impact on the surrounding areas.
- R2        The application did not comply with the Town Planning Board Guidelines for 'Application for Open Storage and Port Back-up Uses' in that no previous planning approval had been granted to the application site and there were adverse departmental comments and local objections against the application
- R3        There was insufficient information in the submission to demonstrate that the application would not have adverse environmental impact on the surrounding areas
- R4        The approval of the application would set an undesirable precedent for other similar applications. The cumulative impact of approving such similar applications would result in a general degradation to the environment of the area
- R5        The application was not in line with the planning intentions of the "Agriculture" ("AGR") and "Residential (Group C)" ("R(C)") zones, which were primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes and for low-rise, low-density residential developments respectively. There was no strong planning justification in the submission for a

departure from such planning intentions, even on a temporary basis

- R6 The application did not comply with the Town Planning Board Guidelines No. 13E in that the development was not compatible with the surrounding land uses which were predominantly rural in character; there were adverse departmental comments on and local objections to the application; and the applicant failed to demonstrate that the development would have no adverse environmental, traffic and landscape impacts on the surrounding area
- R7 Approval of the application would set an undesirable precedent for similar applications within the same "AGR" and "R(C)" zones. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area

**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 Lands Officer/North, Lands Department as follows:
  - (i) his office reserves rights to take appropriate enforcement actions against the irregularities on the Site; and
  - (ii) if the planning application is approved, the owner(s) of the lots concerned shall apply to this office for a Short Term Waiver (STW) to cover the proposed structures on the Site. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by this office;
- (c) to note the comments of the Commissioner for Transport as follows:
  - (i) carry out a traffic impact assessment of the application upon Sha Tau Kok Road and road network of Sheung Shui/Fanling area;
  - (ii) advise the number of car parking spaces and loading/unloading spaces to be provided and demonstrate the satisfactory manoeuvring of vehicles entering and exiting the Site, preferably using the swept path analysis; and
  - (iii) advise the traffic management plan to ensure traffic safety and to avoid possible traffic impact to the nearby area in view that the existing Hai Wing Road/Dao Yan Road connecting the Site and the public roads are not managed by his department; and
  - (iv) advise and justify the adequacy of parking spaces to be provided in the Site by advising the number of vehicles visiting the Site;
- (d) 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;
- (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 applicant may need to extend the 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;
- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) as follows:
  - (i) if the existing structures are erected on leased land without approval of the BD, they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;

- (ii) 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 Unauthorised Building Works (UBW). An Authorised 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 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;
  - (iv) the temporary converted containers for site office/ storage are considered as temporary buildings are subject to control under the Building (Planning) Regulations (B(P)Rs) Pt. VII;
  - (v) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of B(P)Rs respectively;
  - (vi) if the Site is not abutting on a specified street having a width not less than 4.5m, the development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage; and
  - (vii) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments under BO will be provided at building plan submission stage;
- (g) to note the comments of the Director of Fire Services as follows:
- (i) to address the condition on provision of fire extinguisher(s), the applicants should submit certificate(s) under Regulation 9(1) of the Fire Service (Installations and Equipment) Regulations (Chapter 95B) to his department for compliance of condition;
  - (ii) if covered structures (e.g. container-converted office, temporary warehouse and temporary shed used as workshop) are erected within the Site, fire service installations (FSIs) will need to be installed;
  - (iii) if no building plan will be circulated to his department via the Centralised Processing System of BD, the applicants are required to send the relevant layout plans to his department incorporated with the proposed FSIs for approval. In preparing the submission, the applicants are advised on the following points:
    - (a) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
    - (b) the locations of the proposed FSIs to be installed and the access for emergency vehicles should be clearly indicated on the layout plans;
  - (iv) detailed fire safety requirements will be formulated upon receipt of formal submission of the aforesaid plans; and

- (v) emergency vehicular access arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by BD; and
- (h) 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.