

**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 Proposed Temporary Open Storage
within/partly within the “Agriculture” zone in the vicinity of the Site
in the Lung Yeuk Tau and Kwan Tei South Area**

Rejected Application

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE-LYT/392	Proposed Public Vehicle Park for Private Cars and Lorries and Open Storage of Building Materials for a Period of 3 Years	5.6.2009	R1 – R4

Rejection Reasons:

- R1 The application site fell within an area mainly zoned “Green Belt” (“GB”) on the approved Outline Zoning Plan. The proposed development was not in line with the planning intentions of the “GB” zone which was to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within the “GB” zone. In addition, the proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone for the area which was 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 and other agricultural purposes. The submission was not justifiable for a departure from the planning intentions, even on a temporary basis.
- R2 The application did not comply with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ in that there was no exceptional circumstances in the submission to warrant approval of the application. There was no previous planning approval granted to the application site and there were adverse departmental comments and local objections against the application.
- R3 The proposed use would generate adverse environmental and landscape impacts on the surrounding areas.
- R4 The approval of the application would set an undesirable precedent for other similar applications within “GB” and “AGR” zones. The cumulative impact of approving such similar applications would result in adverse environmental and landscape impacts on the area.

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD) as follows:
- (i) the applicant should make his own arrangement for acquiring access. The Government shall accept no responsibility in such arrangement;
 - (ii) the existing structure on the Site was erected without approval from his office. The aforesaid structure is not acceptable under the Leases concerned. His office reserves rights to take appropriate enforcement actions against the irregularities on the Site; and
 - (iii) if the planning application is approved, the owner of the lot concerned shall apply to his office for a Short Term Waiver (STW) to regularise the illegal structure erected 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, its 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 and administrative fee as considered appropriate by his office;
- (b) to note the comment of the Commissioner for Transport that vehicular access between Sha Tau Kok Road and the Site is not managed by Transport Department. The applicant shall sought agreement/comment from the responsible party for the management and maintenance measures to be implemented for the vehicular access;
- (c) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department as follows:
- (i) the approval of the application does not imply approval of tree works such as pruning, transplanting and felling under the lease. Tree removal applications should be submitted direct to DLO/N, LandsD 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);

- (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 Director of Fire Services as follows:
- (i) to address the condition on provision of fire extinguisher(s), the applicant 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 the Building Department, the applicant is required to send the relevant layout plans to his department incorporated with the proposed FSIs for approval. In preparing the submission, the applicant is 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 marked on the layout plans; and
 - (iv) detailed fire safety requirements will be formulated upon receipt of formal submission of the aforesaid plans;
- (g) to note the comments of the Project Manager(North), Civil Engineering and Development Department as follows:
- (i) no drill holes and no wells shall be sunk within the Site prior approval of relevant authorities;
 - (ii) no piling works shall be carried out within the Site prior approval of relevant authorities; and
 - (iii) no undue loadings shall be imposed on the underground Lung Shan Tunnel structures prior approval of relevant authorities; 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.