

**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 within 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; and
 - (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

- (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.	Proposed Developments	Date of Consideration	Approval Reasons
A/NE-TKL/157	Proposed Temporary Open Storage of Building Materials for a Period of 3 Years	22.6.2001 (on review) (revoked on 22.3.2002)	A3, A7, A8, A11, A13, A15, A17 & A18
A/NE-TKL/219	Proposed Temporary Open Storage of Building Materials for a Period of 3 Years	11.10.2002 (revoked on 11.4.2003)	A4, A5, A8, A15 & A18
A/NE-TKL/241	Temporary Open Storage of Building Materials for a Period of 3 Years	19.9.2003	A4, A9, A15 & A18
A/NE-TKL/295	Temporary Open Storage of Building Materials for a Period of 3 Years	13.4.2007	A4, A10, A14, A15 & A16
A/NE-TKL/334	Renewal of Planning Approval for Temporary Open Storage of Building Materials for a Period of 3 Years	5.3.2010	A1, A4, A7, A8, A11, A13, A15, A16, A19 & A20
A/NE-TKL/460	Temporary Open Storage of Construction Materials for a Period of 3 Years	13.12.2013 (revoked on 13.6.2015)	A1, A2, A4, A6, A7, A8, A12, A15, A19, A20 & A21

Approval Conditions

- A1 No night time operation between 6:00 p.m. and 9:00 a.m. or between 7:00 p.m. and 7:00 a.m. was allowed
- A2 No operation on Sundays and public holidays was allowed
- A3 The re-paving of the application site and the painting of the peripheral fencing
- A4 The stacking height of the materials stored within five metres of the periphery of the site should not exceed the height of the boundary fence
- A5 The painting of the peripheral fencing
- A6 The peripheral fencing and paving of the site should be maintained

- A7 The submission of landscaping and/or tree preservation proposals
- A8 The implementation of landscaping and/or tree preservation proposals
- A9 The maintenance of all existing trees within the application site
- A10 All existing trees within the site should be properly maintained
- A11 The submission of drainage proposals
- A12 The submission of a condition record of the existing drainage facilities
- A13 The provision of drainage facilities or the implementation of drainage proposals
- A14 The existing drains within the site should be properly maintained
- A15 The revocation clause
- A16 The reinstatement clause
- A17 The submission of vehicular access and parking proposals
- A18 The provision of vehicular access and parking facilities
- A19 The submission of proposals on water supplies for fire fighting and fire service installations
- A20 The provision of water supplies for fire fighting and fire service installations
- A21 The provision of fire extinguisher(s)

Rejected Applications

Application No.	Proposed Developments	Date of Consideration	Rejection Reasons
A/DPA/NE-TKL/7	Metal and Plastic Factory	1.11.1991	R1, R2, R3, R4, R5 & R6
A/NE-TKL/20	Temporary Plastic Workshop for a Period of 12 Months	11.10.1996 (on review)	R7, R8, R9, R10 & R11

Rejection Reasons

- R1 The proposed factory contravened the planning intention for the area which was to promote agricultural development in the area
- R2 The proposed factory could be readily accommodated in conventional flatted factories
- R3 The proposed factory would cause noise pollution and no mitigation measures have been proposed in the application
- R4 No sewage treatment and disposal facilities had been proposed in the submission
- R5 No drainage impact assessment to demonstrate that the development would not aggravate flooding in the vicinity has been submitted in the application
- R6 Provision of vehicular access and parking spaces have not been proposed in the application
- R7 The plastic workshop under application was not in line with the planning intention of the "Agriculture" zoning which was to retain and safeguard agricultural land, farms and fish ponds within the Ta Kwu Ling area which had been one of the established agricultural bases in North East New Territories. There was no strong justification to merit a departure from such planning intention even on a temporary basis
- R8 The plastic workshop was not compatible with the surrounding land uses which were predominantly agricultural and rural in character
- R9 There was inadequate information to show that the plastic workshop could not be accommodated in flatted factories in planned industrial areas
- R10 The plastic workshop was located within the "flood fringe" of River Ganges and would obstruct the flood flow and reduce the flood storage capacity of the river
- R11 The approval of the application would set an undesirable precedent for other similar applications

**Similar S.16 Applications for Temporary Open Storage and/or Workshop Use(s)
within/partly within “Agriculture” Zone in the vicinity of the Application Site
in the Ping Che and Ta Kwu Ling Area**

Approved Applications

Application No.	Uses/Development	Date of Consideration	Approval Conditions
A/NE-TKL/307 [@]	Temporary Open Storage of Building Materials and Machinery with Ancillary Caretakers’ Office and Quarters for a Period of 3 Years	8.8.2008 (on review) (approved on a temporary basis for a period of 1 year) (revoked on 8.11.2008)	A1, A2, A3, A6, A7, A9, A10, A14, A18, A19, A25, A26, A30 & A31
A/NE-TKL/315*	Temporary Open Storage of Construction Equipment for a Period of 3 Years	8.5.2009 (revoked on 8.2.2010)	A1, A2, A3, A4, A6, A7, A9, A10, A13, A15, A25, A26, A30 & A31
A/NE-TKL/318	Temporary Open Storage of Construction Equipment for a Period of 3 Years	22.5.2009 (revoked on 22.2.2010)	A1, A2, A3, A4, A8, A9, A10, A16, A17, A25, A26 & A30
A/NE-TKL/342*	Temporary Open Storage of Construction Equipment for a Period of 3 Years	10.9.2010	A1, A2, A3, A4, A6, A7, A8, A9, A10, A13, A25, A26, A30 & A31
A/NE-TKL/390#	Temporary Open Storage and Storage of Goods (Aerial Working Platform and Elevating Platform) for a Period of 3 Years	21.9.2012 (revoked on 21.3.2013)	A1, A2, A6, A7, A9, A10, A25, A26, A27, A29 & A30
A/NE-TKL/443*	Temporary Open Storage of Construction Equipment for a Period of 3 Years	27.9.2013	A1, A2, A3, A4, A6, A7, A9, A10, A13, A25, A26, A27, A30 & A31
A/NE-TKL/454#	Proposed Temporary Open Storage of Construction Materials and Equipment with Ancillary Storage of Construction Equipment and Tools and Site Office for a Period of 3 Years	22.11.2013	A1, A2, A4, A6, A7, A9, A10, A25, A26, A27, A28 & A30

A/NE-TKL/553*	Temporary Open Storage of Construction Equipment and Materials for a Period of 3 Years	14.10.2016	A1, A2, A3, A4, A6, A7, A11, A12, A13, A25, A26, A27, A30 & A31
A/NE-TKL/555#	Temporary Open Storage of Construction Materials, Equipment and Machineries with Ancillary Storage of Construction Equipment, Machineries, Tools and Site Office for a Period of 3 Years	25.8.2017	A1, A2, A5, A6, A7, A9, A10, A20, A21, A25, A26, A27, A28, A30 & A31
A/NE-TKL/567	Proposed Temporary Curtain Wall Testing Centre, Ancillary Office and Open Storage of Materials for a Period of 3 Years	10.11.2017	A1, A2, A5, A6, A7, A9, A10, A22, A23, A24, A25, A26, A27, A30 & A31

Remarks

*: The site of application nos. A/NE-TKL/315, A/NE-TKL/342, A/NE-TKL/443 and A/NE-TKL/553 involve the same site.

@: The site of application no. A/NE-TKL/307 involves the same site with the rejected application no. A/NE-TKL/332 and includes the rejected application no. A/NE-TKL/354.

#: The site of application no. A/NE-TKL/555 includes the sites of the application no. A/NE-TKL/390 and A/NE-TKL/454.

Approval Conditions

- A1 No night-time operation between 6:00 p.m. and 8:00 a.m., or between 7:00 p.m. and 7:00 a.m., or between 8:00 p.m. and 7:00 a.m., or between 11:00 p.m. and 7:00 a.m. was allowed
- A2 No operation on Sundays and public holidays was allowed
- A3 The stacking height of the materials stored within five metres of the periphery of the site should not exceed the height of the boundary fence
- A4 The peripheral fencing and/or paving of the site should be maintained
- A5 The provision of boundary fencing on the site
- A6 The submission of landscape and/or tree preservation proposals
- A7 The implementation of landscape and/or tree preservation proposals
- A8 All existing trees on the site should be maintained
- A9 The submission of drainage proposals
- A10 The provision of drainage facilities or implementation of drainage proposals

- A11 The existing drainage facilities implemented under the previous application on-site should be maintained properly
- A12 The submission of a condition record of the existing drainage facilities
- A13 The setting back of the site boundary to avoid encroachment on the resumption boundary of Project PWP Item No. 119CD or on the project areas of the proposed Drainage Channel TKL05 under Drainage Improvement in Northern New Territories - Package C (Remaining Works) as and when required by the Drainage Services Department
- A14 No medium/heavy goods vehicles including container vehicles were allowed for transporting goods to/from the site
- A15 The submission of photographic records of the implemented of vehicular access, parking and loading/unloading spaces
- A16 The submission of car parking and loading/unloading proposals
- A17 The implementation of car parking and loading/unloading proposals
- A18 The submission of proposals for car parking, loading/unloading and vehicle manoeuvring spaces
- A19 The provision of car parking, loading/unloading and vehicle manoeuvring spaces
- A20 All vehicles entering and exiting the site shall be restricted to non-peak hours (i.e. from 10:00 a.m. to 4:00 p.m. on Mondays to Saturdays (excluding Sundays and Public Holidays))
- A21 The submission and the implementation of a run-in/out proposal
- A22 No container tractor/trailer was allowed to be parked/stored on or enter/exit the site
- A23 All vehicles entering and exiting the site shall be restricted to non-peak hours (i.e. from 10:00 a.m. to 4:00p.m. and 7:00p.m. to 8:00p.m.)
- A24 The implementation of the traffic mitigation measures
- A25 The submission of proposals on fire-fighting access and/or water supplies for firefighting and/or fire service installations
- A26 The provision or the implementation of proposals for firefighting access and/or water supplies for fire fighting and/or fire service installations
- A27 The provision of fire extinguisher(s)
- A28 No workshop activities should be carried out on the site
- A29 No dismantling and workshop activities should be carried out on the site
- A30 The revocation clause
- A31 The reinstatement clause

Rejected Applications

Application No.	Uses / Developments	Date of Consideration	Rejection Reasons
A/NE-TKL/304	Proposed Temporary Open Storage of Packaged Used Computer Parts and Ancillary Office for a Period of 3 Years	7.3.2008	R3 & R4
A/NE-TKL/306	Proposed Temporary Open Storage of Metal Goods and Equipment for a Period of 3 Years	28.11.2008 (on review)	R3 & R4
A/NE-TKL/308	Proposed Temporary Open Storage of Construction Materials and Equipment for a Period of 3 Years	6.6.2008	R3 & R4
A/NE-TKL/317*	Temporary Open Storage of Construction Machinery and Construction Materials for a Period of 3 Years	11.9.2009 (on review)	R1, R3 & R5
A/NE-TKL/330*	Temporary Open Storage of Construction Machinery and Construction Materials for a Period of 3 Years	18.12.2009	R1, R3 & R5
A/NE-TKL/332 [@]	Temporary Open Storage of Construction Equipment, Machinery and Materials with Ancillary Caretakers' Quarters for a Period of 3 Years	14.5.2010 (on review)	R1 & R6
A/NE-TKL/338	Temporary Open Storage of Recycled Electronic Appliances and Metal and Ancillary Workshop for a Period of 3 Years	3.12.2010 (on review)	R1 & R7
A/NE-TKL/346	Proposed Temporary Open Storage of Semi-products for a Period of 3 Years	28.1.2011	R1, R7 & R10
A/NE-TKL/354 [@]	Temporary Open Storage of Construction Equipment and Materials with Ancillary Office for a Period of 1 Year	4.3.2011	R1, R6 & R11
A/NE-TKL/480 [#]	Proposed Temporary Open Storage of Construction Materials and Equipment and Tools for a Period of 3 Years	26.9.2014	R1, R2 & R8
A/NE-TKL/514 [#]	Proposed Temporary Open Storage (Construction Materials and Equipments and Tools) for a Period of 3 Years	18.3.2016	R1, R2 & R8
A/NE-TKL/560	Proposed Temporary Open Storage of Construction Materials, and Metal Machineries and Materials, and Ancillary Office for a Period of 3 Years	26.5.2017	R1, R2 & R9

A/NE-TKL/574	Proposed Temporary Shop and Services (Car Beauty Services), Vehicle Repair Workshop for a Period of 3 Years	13.10.2017	R1, R2 & R12
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Remarks

- *: The site of application no. A/NE-TKL/330 includes the site of application no. A/NE-TKL/317.
- @: The site of application no. A/NE-TKL/332 involves the same site with the approved application no. A/NE-TKL/307 and includes the site of the rejected application no. A/NE-TKL/354.
- #: The site of application no. A/NE-TKL/480 and A/NE-TKL/514 involve the same site.

Rejection Reasons

- R1 The development was not in line with the planning intention of the “Agriculture” (“AGR”) zone, which was primarily 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 for cultivation and other agricultural purposes. There was no strong planning justification in the submission to merit a departure from such planning intention, even on a temporary basis.
- R2 Approval of the application would set an undesirable precedent for other 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.
- R3 The development 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 / local objection to the application.
- R4 Insufficient information had been submitted to demonstrate that the proposed use would not generate adverse environmental and/or drainage impacts and /or traffic and landscape impacts on the surrounding areas.
- R5 The proposed use would generate adverse environmental and landscape impacts on the surrounding areas.
- R6 The proposed use did not comply with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” in that the applicant had failed to demonstrate genuine efforts in compliance with approval conditions of the previous planning application and had failed to include in the fresh or the current application relevant technical assessments/proposal to demonstrate that the proposed use would not generate adverse landscaping and environmental impacts on the surrounding areas and there were adverse departmental comments and/or local objection against the application.
- R7 The proposed use did not comply with 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) in that no previous planning approval had been granted for the application site and/or there were adverse departmental comments and/or local objection against the application; and the applicant had failed to demonstrate that the proposed development would not generate adverse environmental impacts on the surrounding area.

- R8 The application did not comply with the Town Planning Board Ordinances No. 13E in that there were adverse departmental comments and local objections to the application, and the applicant had failed to demonstrate that the development under application would not have adverse landscape and/or traffic impacts on the surrounding area.
- R9 The application did not comply with the Town Planning Board PG-No. 13E in that there was no previous approval of open storage use granted for the Site and no exceptional circumstances to justify sympathetic consideration of the application; there were adverse departmental comments on the applications; and the applicant failed to demonstrate that the proposed development would not cause adverse traffic, environmental and landscape impacts on the surrounding areas.
- R10 There was no information in the submission regarding the nature and details of semi-products to be stored within the application site. It was not possible to assess whether the proposed open storage use would not cause adverse impacts on the surrounding areas.
- R11 The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the "Agriculture" zone. The cumulative effect of approving such application would result in adverse environmental, traffic and landscape impacts of the area.
- R12 The applicants failed to demonstrate in the submission that the development would not cause adverse traffic impact on the surrounding areas.

Recommended Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the Site;
- (b) shorter compliance periods are imposed in order to closely monitor the progress of compliance with approval conditions. Should the applicant fail to comply with any of the approval conditions again resulting in the revocation of planning permission, sympathetic consideration would not be given to any further application;
- (c) to note the comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD) on the following:
 - (i) unauthorised structures are found within the Site without prior approval of his office. The aforesaid structures are not acceptable under the Leases concerned. His office is taking lease enforcement action against the unauthorized structures; and
 - (ii) if the planning approval is granted, the owner of the lots concerned have to apply to his office for a Short Term Waiver (STW). The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. In addition, the application for STW will be processed by his office without prejudice to the aforesaid leases enforcement action. If the STW is approved, its commencement date will 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 fees as considered appropriate by his office;
- (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/Drainage Projects, Drainage Services Department that part of the Site falls within the project limit of "PWP Item 119CD – Drainage Improvement in Northern New Territories – Package C (Remaining Works)" (**Plan A-2**). The programme of the project is currently under review;
- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) on the following:
 - (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 Buildings Authority (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 on the following:
- (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 BD, 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 indicated on the layout plans; and
 - (iv) detailed fire safety requirements will be formulated upon receipt of formal submission of the aforesaid plans;
- (h) to note the comments of the Director of Agriculture, Fisheries and Conservation that the Site is closely located to Ping Yuen River, precautionary measures to avoid any disturbance and pollution to the river should be implemented; and
- (i) 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.