

**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 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.

**Extract of Town Planning Board Guidelines for
Renewal of Planning Approval and Extension of Time for Compliance
with Planning Conditions for Temporary Use or Development
(TPB PG-No. 34B)**

1. The criteria for assessing applications for renewal of planning approval include:
 - (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
 - (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
 - (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
 - (d) whether the approval period sought is reasonable; and
 - (e) any other relevant considerations.

2. Under normal circumstances, the approval period for renewal should not be longer than the original validity period of the temporary approval. In general, the Board is unlikely to grant an approval period exceeding three years unless there are strong justifications and the period is allowed for under the relevant statutory plans. Depending on the circumstances of each case, the Board could determine the appropriate approval period, which may be shorter than the time under request.

Previous S.16 Applications

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-TKL/212	Temporary Open Storage of Generators for a Period of Three Years	23.8.2002 (revoked on 23.5.2003)	A1, A2, A6, A16, A21 & A25
A/NE-TKL/243	Temporary Open Storage of Generators for a Period of 3 Years	7.11.2003	A3, A9, A16, A18, A25 & A26
A/NE-TKL/291	Temporary Open Storage of Metals, Tools and Containers (for Office and Storage of Tools) for a Period of 3 Years	1.12.2006	A1, A2, A12, A13, A17, A19, A25 & A26
A/NE-TKL/322	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)	A4, A7, A8, A12, A13, A15, A19, A23 & A25
A/NE-TKL/388	Temporary Open Storage of Metals and Tools and Containers (for Office and Storage of Tools) for a Period of 3 Years	7.9.2012	A1, A2, A7, A8, A12, A14, A15, A20, A22, A24 & A25
A/NE-TKL/515	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, A10, A11, A12, A14, A15, A20, A22, A24 & A25

Approval Conditions

- A1 The submission of landscaping and tree preservation proposals
- A2 The implementation of landscaping proposals and/or tree preservation proposals
- A3 The implementation of the accepted landscaping proposals
- A4 The submission and the implementation of tree preservation proposals including tree replacement planting
- A5 The existing trees and landscape plantings implemented under application No. A/NE-TKL/388 on the site should be maintained

- A6 The provision of drainage facilities
- A7 The submission of drainage proposals
- A8 The implementation of drainage proposals
- A9 The implementation of the accepted drainage proposals
- A10 The existing drainage facilities implemented under application No. A/NE-TKL/388 on the site should be maintained
- A11 The submission of a condition record of the existing drainage facilities on the site
- A12 The peripheral fencing and paving of the site should be maintained
- A13 No night-time operation between 11:00 p.m. and 7:00 a.m. should be allowed
- A14 No operation between 5:00 p.m. and 9:00 a.m. should be allowed
- A15 No operation on Sundays and public holidays should be allowed
- A16 The submission of vehicular access proposal and the provision of vehicular access
- A17 The submission and implementation of proposals for access, car parking and loading/unloading spaces
- A18 Only light goods vehicles should be allowed for transportation of generators
- A19 No medium/heavy goods vehicles should be allowed to access the application site
- A20 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
- A21 The setting back of the application site from encroachment onto Government land
- A22 The provision of fire extinguisher(s)
- A23 The submission of proposals and the provision of water supplies for fire-fighting and fire service installations
- A24 The submission and implementation of proposals for water supplies for fire-fighting and fire service installations
- A25 Revocation clause
- A26 Reinstatement clause

Rejected Application

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/NE-TKL/184	Temporary Open Storage of Generators for a Period of 3 Years	22.3.2002 (on review)	R1 & R2

Rejection Reasons

- R1 The subject site fell within an area zoned "Agriculture" ("AGR"). The planning intention of the "AGR" zone was to retain and safeguard agricultural land for agricultural purposes and to retain fallow arable land with potential for rehabilitation. No strong justifications had been provided for a departure from the planning intention, even on a temporary basis
- R2 No technical assessments/proposals had been provided in the submission to demonstrate that the use under application would not generate adverse drainage, environmental and traffic impacts on the surrounding areas

**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

Application No.	Uses/Development	Date of Consideration	Approval Conditions
A/NE-TKL/345*	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)	A1, A2, A4, A5, A6 & A7
A/NE-TKL/376*	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	A1, A3, A4, A5, A6 & A7

Remarks

*: Application no. A/NE-TKL/345 and A/NE-TKL/376 are at the same location

Approval Conditions

- A1 No operation between 6:00 p.m. and 9:00 a.m. was allowed
- A2 No operation on Saturdays, Sundays and public holidays was allowed
- A3 No operation on Sundays and public holidays was allowed
- A4 The submission and the implementation of drainage proposals
- A5 The submission and implementation of tree preservation and landscape proposals
- A6 The submission of proposals and the provision of water supplies for fire fighting and fire service installations
- A7 Revocation clause

Rejected Applications

Application No.	Uses/Development	Date of Consideration	Rejection Reasons
A/NE-TKL/310 [#]	Temporary Open Storage of Construction Materials and Equipment for a Period of 3 Years	20.6.2008	R1, R2 & R6
A/NE-TKL/328	Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years	26.3.2010 (on review)	R1, R3 & R7
A/NE-TKL/386	Temporary Open Storage and Storage of Recycled Materials (Plastic Waste and Disused Pinball Machines) for a Period of 3 Years	20.7.2012	R1, R4 & R8
A/NE-TKL/478 [#]	Proposed Temporary Open Storage of Construction Materials and Equipment for a Period of 3 Years	26.9.2014	R1, R5 & R8

Remarks

#: The site of application no. A/NE-TKL/310 includes most part of the application site (No. A/NE-TKL/478)

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 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 objection to the application
- R3 The proposed use did not comply with the Town Planning Board Guidelines No. 13E 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
- R4 The development was not in line with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses in that there were adverse departmental comments and local objection on the application and the applicant had failed to demonstrate that the development would not generate adverse environmental impacts on the surrounding areas

- R5 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
- R6 There was insufficient information in the submission to demonstrate that the proposed use would not generate adverse environmental, drainage and landscape impacts on the surrounding areas
- R7 The proposed use would generate adverse environmental, landscape and traffic impacts on the surrounding areas
- R8 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 on the following:
- (i) the actual occupation area is larger than the Site. The adjoining Lot has also been occupied. Moreover, the unauthorized structures erected on the lot under application without prior approval of his office; and
 - (ii) if the Short Term Waiver for the Site 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 comments of the Chief Town Planner/Urban Design and Landscape, Planning Department on the following:
- (i) the applicant should refrain from tree topping and over pruning of tree branches as these are arboricultural mal-practices. Improper tree pruning is detrimental to the appearance and healthy growth of trees and may result in irrecoverable tree injury. Advice from qualified arborist on tree works should be sought as necessary;
 - (ii) water shoots at the lower tree trunks and wild climbers smothering over trees should be removed; and
 - (iii) more information on tree care can be obtained at https://www.greening.gov.hk/en/tree_care/info_private.html;
- (c) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department on the following:
- (i) the condition record should include site photos clearly showing the current conditions of the existing drainage facilities and those downstream of the Site; and
 - (ii) the Site is in an area where no public sewerage connection is available;
- (d) 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 lease land without approval of the BD (not being a New Territories Exempted House), 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 (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD 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 BO;

- (iii) for UBW erected on leased land, enforcement action may be taken by BD 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 and 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 does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage; and
 - (vii) detailed comments under the BO will be provided at building plan submission stage;
- (e) 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;
- (f) to note the comments of the Chief Engineer/Construction, Water Supplies Department (WSD) on the following:
- (i) there is an existing fresh water main in close vicinity of the Site (**Plan A-2**). The cost of any necessary diversion shall be borne by the applicant. If diversion is not required, the applicant is required to protect the water main and no structure or

material shall be allowed to be placed within 3 m from the centreline on top of the water main; and

- (ii) 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 standard; and
- (g) 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.