

**Relevant Extracts of Town Planning Board Guidelines on
Application for Open Storage and Port Back-up Uses
(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: considered suitable for open storage and port-backup uses. 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: planning permission could be granted on a temporary basis up to a maximum period of 3 years, 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. 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;
 - (c) Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. 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. Planning permission could be granted on a temporary basis up to a maximum period of 3 years, 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; and
 - (d) Category 4 areas: applications 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 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. 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 merit.

2. In assessing applications for open storage and port back-up uses, the other major relevant assessment criteria are also summarized as follows:
 - (a) The use of sites less than 1,000m² for open storage uses and 2,000m² for port back-up uses in rural areas, is generally not encouraged, 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, minimizing sprawl over countryside areas and reducing travel trips;
 - (b) 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;
 - (c) 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;
 - (d) adequate screening of the sites through landscaping and/or fencing should be provided where sites are located adjacent to public roads or are visible from surrounding residential areas;
 - (e) there is a general presumption against conversion of agricultural land and fish ponds to other uses on an ad-hoc basis, 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, planning permission may be refused, or a shorter compliance period for the approval conditions may be imposed, notwithstanding other criteria set out in the Guidelines are complied with.

**Previous Application covering the Application Site
on Ting Kok Outline Zoning Plan**

Approved Application

Application No.	Zoning	Proposed Development	Date of Consideration	Approval Conditions
A/NE-TK/628	“AGR”	Temporary Barbecue Site for a Period of 3 Years	18.5.2018	A1-A7

Approval Conditions

- A1. No night-time operation between 11:00 p.m. and 8:00 a.m
- A2. The maintenance of the existing drainage facilities on the application site at all times
- A3. The maintenance of the existing trees and vegetation on the application site at all times
- A4. The submission and implementation of fire service installations and water supplies for firefighting proposal/facilities
- A5. The submission of sewerage impact assessment (SIA) and implementation of sewerage facilities identified in the SIA
- A6. The provision of precautionary/protective measures to ensure no adverse impacts on the nearby “Coastal Protection Area” zone and Ting Kok Site of Special Scientific Interest
- A7. Upon the expiry of the planning permission, the reinstatement of the application site to an amenity area

Recommended Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the application site (the Site);
- (b) to note the comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) that:
 - (i) no structure shall be erected on the private lots without prior approval from LandsD. As regard the Government land, neither occupation nor works of any kind thereon is allowed without the prior approval from LandsD;
 - (ii) the applicant is required to clear any existing structures on the Site immediately unless they are covered by valid approval. Otherwise, appropriate lease enforcement action and land control action will be taken in due course;
 - (iii) no direct grant of Short Term Tenancy in respect of the Government land concerned will be considered and the applicant is required to exclude such Government land in this planning application;
 - (iv) the lots owners are required to submit applications for Short Term Waiver (STW) to LandsD should they wish to erect any structure on the private lots. However, there is no guarantee at this stage that the STW applications would be approved. If the STW applications are approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD including the payment of waiver fee and administrative fee as considered appropriate; and
 - (v) there is no guarantee to the grant of right of way to the Site or approval of Emergency Vehicular Access thereto;
- (c) to note the comments of the Commissioner for Transport (C for T) that loading/unloading spaces should be provided within the Site and the vehicular access between Ting Kok Road and the Site is not managed by Transport Department. The applicant shall seek agreement/comment from the responsible party for the management and maintenance measures to be implemented for the vehicular access;
- (d) to note the comments of the Director of Environmental Protection (DEP) that the relevant mitigation measures and requirements in the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' should be followed;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
 - (i) there is no existing DSD maintained public drain available for connection in the area. The applicant should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the

boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The applicant should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage systems properly and rectify the 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 failure of the system;

- (ii) public sewerage are not available near the Site; and
 - (iii) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought;
- (f) to note the comments of the Director of Fire Services (D of FS) that the applicant should submit relevant layout plans incorporated with the proposed fire services installations (FSIs) for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the locations of the proposed FSIs to be installed should be clearly marked on the layout plans. To address the additional approval condition regarding provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS 251) for his approval. Good practice guidelines for open storage sites as follows should be adhered to. If the proposed structure(s) is required to comply with the Buildings Ordinance (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;

		Internal access for fire appliances	Lot boundaries (Clear width)	Distance between storage cluster and temporary structure	Cluster size	Storage height
1.	Open Storage of Containers		2m	4.5m		
2.	Open Storage of non-combustibles or limited combustibles	4.5m	2m	4.5m		
3.	Open Storage of combustibles	4.5m	2m	4.5m	40m x 40m	3m

Remarks : Smoking and naked flame activities shall not be allowed within the open storage /recycling site.

- (g) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) that the 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/TP for approval; and
- (h) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that:

- (i) before any new building works (including containers as temporary buildings) are to be carried out on the Site, the prior approval and consent of the Building Authority (BA) should be obtained unless they are exempted building works or commenced under the simplified requirement under the Minor Works Control System. 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 of converted containers for storage or other uses are considered as temporary buildings are subject to the control of Part VII of the Building (Planning) Regulations;
- (iv) the Site shall be provided with means of obtaining access thereto from a street under the Building (Planning) Regulation 5 and emergency vehicular access shall be provided under the Building (Planning) Regulation 41D;
- (v) if the Site is not abutting on a specified street having a width not less than 4.5m, the development intensity shall be determined by the Building Authority under Building (Planning) Regulation 19(3) at building plan submission stage; and
- (vi) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments will be provided at building plan submission stage.