

**Relevant Extracts 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.13G)**

1. On 14.4.2023, 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. 13G) were promulgated, which set out the following criteria for the various categories of areas:
 - (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: 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 (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant). Sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous planning applications and/or relevant technical assessments/proposals have been included in the fresh applications, 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 (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant), and subject to no adverse departmental comments and local objections, sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous planning applications and/or relevant technical assessments/proposals have been included in the fresh application, 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 3 years may be allowed for an applicant to identify suitable sites for relocation. Application for renewal of approval will be assessed on its individual merits.

2. In assessing applications for open storage and port back-up uses, the other major relevant assessment criteria are also summarized 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) 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;
 - (c) adequate screening of the sites through landscaping and/or fencing should be considered where sites are located adjacent to public roads or are visible from surrounding residential areas;
 - (d) there is a general presumption against conversion of active or good quality agricultural land and fish ponds to other uses on an ad hoc basis. For flood prone areas or sites which would obstruct natural drainage channels and overland flow, advice from the Drainage Services Department should be sought on this aspect if in doubt;
 - (e) 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, notwithstanding other criteria set out in the Guidelines are complied with; and
 - (f) having considered that the open storage and port back-up uses have a role to play in Hong Kong's economy and provide considerable employment opportunities, and the operators/uses affected by resumption and clearance operations of the Government to make way for developments may face difficulties in finding a replacement site, sympathetic consideration could be given to such type of applications, except those involving land in Category 4 area (only minor encroachment may be allowed), if the following criteria are met:
 - (i) policy support is given by the relevant bureau(x) to the application for relocation of the affected uses/operations to the concerned sites; and
 - (ii) no adverse departmental comments and local objections, or the concerns could be addressed by approval conditions.

Previous s.16 Applications at the Application Site (the Site)

Approved Applications

Application No.	Use(s)/Development(s)	Date of Consideration (RNTPC)
A/YL-SK/71	Temporary Open Storage of Building Materials for 12 Months	5.2.1999
A/YL-SK/239	Temporary Logistics Centre for a Period of 3 Years	17.8.2018 (Revoked on 17.7.2020)
A/YL-SK/246	Proposed Temporary Logistics Centre for a Period of 3 Years	22.3.2019 (Revoked on 22.9.2020)
A/YL-SK/279	Temporary Logistics Centre and Workshop for a Period of 3 Years	10.7.2020 (Revoked on 10.2.2023)

**Similar s.16 Applications within the same “Industrial (Group D)” Zone
on the OZP in the Vicinity of the Site in the Past 5 Years**

Approved Applications

Application No.	Use(s)/Development(s)	Date of Consideration (RNTPC)
A/YL-SK/340	Proposed Temporary Logistics Centre for a Period of 3 Years	31.3.2023 (Revoked on 24.1.2025)
A/YL-SK/386	Proposed Temporary Logistics Centre for a Period of 3 Years	24.1.2025

Government Departments' General Comments

1. Land Administration

Comments of the District Lands Officer/Yuen Long, Lands Department (LandsD):

- no adverse comment on the application;
- the application site (the Site) comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government; and
- advisory comments are in **Appendix V**.

2. Traffic

Comments of the Commissioner for Transport:

- no adverse comment on the application from traffic engineering perspective;
- there is a temporary concrete batching plant being implemented in the vicinity of the Site (under application No. A/YL-SK/410) (**Plan A-2**). The application involves widening of the local road and may affect the operation of the applied uses under the application; and
- advisory comments are in **Appendix V**.

Comments of the Chief Highway Engineer/New Territories West, Highways Department (HyD):

- no in principle objection to the application from highways maintenance point of view; and
- advisory comments are in **Appendix V**.

3. Drainage

Comments of the Chief Engineer/Mainland North, Drainage Services Department:

- no objection in principle to the application;
- noted that the applicant would maintain the drainage facilities as those implemented under the previous application No. A/YL-SK/279;
- should the application be approved, conditions should be stipulated requiring the applicant to maintain the drainage facilities implemented under the application No. A/YL-SK/279 and submit an updated record of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- advisory comments are in **Appendix V**.

4. **Fire Safety**

Comments of the Director of Fire Services:

- no objection in principle to the application subject to the fire service installations (FSIs) and water supplies for firefighting being provided to his satisfaction;
- the submitted FSIs proposal is considered acceptable; and
- advisory comments are in **Appendix V**.

5. **Environment**

Comments of the Director of Environmental Protection:

- no objection to the application from environmental planning perspective;
- based on the applicant's submission, the applied uses would not generate traffic of heavy vehicles or involve dusty operation (**Appendix I**). According to his review, there are residential dwellings located within 100m from the boundary of the Site;
- there was no substantial environmental complaint received against the Site in the past three years; and
- advisory comments are in **Appendix V**.

6. **Landscape**

Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department:

- no adverse comments on the application from landscape planning perspective;
- based on the aerial photo (**Plan A-3**), the Site is located in an area of rural inland plains landscape character comprising warehouses, temporary structures, vegetated areas and tree clusters. The proposed uses are considered not entirely incompatible with the surrounding environment;
- with reference to the site photos (**Plans A-4a and A-4b**), the majority of the Site is occupied by temporary structures. According to the Application Form (**Appendix I**), tree felling is not involved.
- in view of the above, significant adverse landscape impact arising from the application is not anticipated; and
- advisory comments are in **Appendix V**.

7. **District Officer's Comments**

Comments of the District Officer (Yuen Long), Home Affairs Department:

- no particular comments on the application; and
- his office has not received any comments from the locals upon close of consultation.

8. **Other Departments**

The following government departments have no objection to/no adverse comment on the application and their advisory comments, if any, are at **Appendix V**:

- Director of Agricultural, Fisheries and Conservation;
- Chief Engineer/Railway Development 1-1, Railway Development Office, HyD;
- Chief Engineer/Construction, Water Supplies Department;
- Project Manager (West), Civil Engineering and Development Department (CEDD);
- Head of Geotechnical Engineering Office, CEDD;
- Chief Building Surveyor/New Territories West, Buildings Department;
- Director of Food and Environmental Hygiene;
- Director of Electrical and Mechanical Services; and
- Commissioner of Police.

Recommended Advisory Clauses

- (a) the permission is given to the use and/or structures under application. It does not condone any other use(s) and/or structure(s) which currently occur on the application site (the Site) but not covered by the application. Immediate action should be taken to discontinue such use(s) and/or remove such structure(s) not covered by the permission;
- (b) should the applicant fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would not be given by the Rural and New Town Planning Committee/Town Planning Board to any further application;
- (c) to resolve any land issues relating to the applied development with the concerned owner(s) of the Site;
- (d) to note the comments of the District Lands Officer/Yuen Long, Lands Department (LandsD) that the lot owner(s) shall apply to his office for Short Term Waiver(s) (STW(s)) to permit the structure(s) erected within the said private lots. The application for STWs will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW(s), if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate by LandsD. Besides, given the applied uses are temporary in nature, only erection of temporary structures(s) will be considered;
- (e) to note the comments of the Commissioner for Transport that:
 - (i) the Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department (TD). The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
 - (ii) sufficient manoeuvring space shall be provided within the Site;
 - (iii) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period; and
 - (iv) there is a temporary concrete batching plant under application No. A/YL-SK/410 being implemented in the vicinity of the Site (**Plan A-2**), which involves widening of the local road and may affect the operation of the applied uses under this application;
- (f) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (HyD) that:
 - (i) the access arrangement of the Site should be commented and approved by TD;
 - (ii) HyD shall not be responsible for the maintenance of the access connecting the Site and Kam Tin Road, including the local track; and
 - (iii) adequate drainage measures shall be provided to prevent surface water running from the Site to the nearby public roads and drains;

- (g) to note the comments of the Director of Environmental Protection (DEP) that:
 - (i) the applicant shall follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites';
 - (ii) the applicant shall follow the relevant guidelines and requirements in relevant Professional Persons Environmental Consultative Committee Practice Notes (ProPECCPNs), in particular the ProPECC PN 1/23 "Drainage Plans subject to Comment by the Environmental Protection Department";
 - (iii) the applicant shall provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater generated from the applied use; and
 - (iv) the applicant shall meet the statutory requirements under relevant environmental legislation;
- (h) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that for any change of existing ground level and associated works proposed by the applicant that could affect adjacent land and cause other impacts and/or other issues to public, the applicant may be required to submit technical assessment(s) in other aspect(s) and seek comment from relevant departments as necessary;
- (i) to note the comments of the Chief Engineer/Construction, Water Supplies Department (WSD) that:
 - (i) existing water mains will be affected (**Plan A-2**). The cost of any necessary diversion shall be borne by the applicant;
 - (ii) in case it is not feasible to divert the affected water mains, a waterworks reserve (WWR) within 1.5m from the center line of the water mains shall be provided to WSD. No structure shall be built or materials stored within this WWR. Free access shall be made available at all time for staff of the Director of Water Supplies or WSD's contractor to carry out construction, inspection, operation, maintenance and repair works;
 - (iii) no trees or shrubs with penetrating roots may be planted within the WWR or in the vicinity of the water mains; and
 - (iv) the Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site;
- (j) to note the comments of the Director of Fire Services (D of FS) that:
 - (i) the applicant shall submit a full set of F.S. 251, incorporating all proposed fire service installations (FSIs), for his arrangement of the FSIs acceptance inspection;
 - (ii) the installation/maintenance/modification/repair work of FSIs shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/maintenance/modification/repair work issue to the

person on whose instruction the work was undertaken a certificate (F.S. 251) and forward a copy of the certificate to D of FS; and

- (iii) if the proposed structures are required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire services requirements will be formulated upon receipt of formal submission of general building plans;
- (k) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (PlanD) that the approval of the application does not imply approval of tree works, if any, such as pruning, transplanting and felling. The applicant is reminded to seek approval for any proposed tree works from relevant departments prior to the commencement of the works; and
- (l) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that:
 - (i) it is noted that six structures are proposed in the application. Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorised building works (UBW) under the Building Ordinance (BO). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - (ii) the Site is considered as two separate sites and each of them shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively;
 - (iii) both of the two sites do not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at building plan submission stage;
 - (iv) if the existing structures are erected on leased land without the approval from BA, they are UBW under the BO and should not be designated for any applied use under the application;
 - (v) for UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing 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;
 - (vi) any temporary shelters or converted containers for office, storage, washroom or other uses are considered as temporary buildings are subject to the control of Part VII of the B(P)R; and
 - (vii) detailed checking under the BO will be carried out at building plan submission stage; and

- (m) to note the comments of the Director of Food and Environmental Hygiene that:
- (i) no Food and Environmental Hygiene Department's (FEHD's) facilities shall be affected;
 - (ii) proper licence/permit issued by FEHD is required if there is any food business/catering service/activities regulated by DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public;
 - (iii) under the Food Business Regulation (Cap. 132X), a food business licence is required for the operation of the relevant type of food business listed in the Regulation. For any premises intended to be used for food business (e.g. a restaurant, a food factory, a fresh provision shop), a food business licence from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132) shall be obtained. The application for licence, if acceptable by FEHD, will be referred to relevant government departments such as BD, FSD and PlanD for comment. If there is no objection from the departments concerned, a letter of requirements will be issued to the applicant for compliance and the licence will be issued upon compliance of all the requirements;
 - (iv) depending on the mode of operation, generally there are several types of food business licence/permits that the operator may apply for under the Food Business Regulation:
 - (i) if food is sold to customers for consumption on the premises, a restaurant licence should be obtained;
 - (ii) if food is only prepared for sale for consumption off the premises, a food factory licence should be obtained;
 - (iii) if fresh, chilled or frozen beef, mutton, pork, reptiles (including live snake), fish (including live fish) and poultry is sold, a fresh provision shop licence should be obtained;
 - (iv) if restricted foods like milk, frozen confections, non-bottled drinks, cut fruit etc. are to be sold, relevant individual restricted food permit(s) or a composite restricted foods permit should be obtained;
 - (v) if the food business which involves the storage of articles of food under refrigeration in any warehouse in the territory, a cold store licence should be obtained;
 - (v) the applicant must ensure that the operation of food business at the subject premises is in compliance with the requirements imposed under the legislation administered by FEHD, other government departments and the relevant authorities. Applicants are strongly advised to check well in advance the following documents: (a) the Government Lease, (b) the Occupation Permit of the building, and (c) the statutory plan. No part of a food premises shall be located in, under or over any structures built without the approval and consent of the BA;
 - (vi) proper licence issued by FEHD is required if related place of entertainment is involved. Any person who desires to keep or use any place of public entertainment (PPE) for example a theatre and cinema or a place, building, erection or structure, whether temporary or permanent, on one occasion or more, capable of accommodating the public presenting or carrying on public entertainment within Places of Public Entertainment Ordinance (Cap. 172) and its subsidiary legislation, such as a concert, opera, ballet, stage performance or other musical, dramatic or theatrical entertainment, cinematograph or laser projection display, or an amusement ride and mechanical device which is designed for amusement, a PPE Licence (or

Temporary PPE Licence) should be obtained from FEHD whatever the general public is admitted with or without payment; and

- (vii) there should be no encroachment on the public place and no environmental nuisance should be generated to the surroundings. Its state should not be a nuisance or injurious or dangerous to health and surrounding environment. Also, for any waste generated from such activities/operation, the applicant should arrange disposal properly at their own expenses.