

**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 Application at the Application Site (the Site)

Approved Application

Application No.	Use(s) / Development(s)	Date of Consideration (RNTPC)
A/YL-SK/381	Proposed Temporary Open Storage of Vehicles and Vehicle Parts and Vehicle Repair Workshop for a Period of 3 Years and Associated Filling of Land	6.12.2024 (Revoked on 6.6.2026)

**Similar s.16 Applications within the same “AGR” 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/350	Proposed Temporary Open Storage of Electric Vehicles with Charging Facilities and Ancillary Site Office for a Period of 3 Years	12.1.2024 (Revoked on 12.1.2025)
A/YL-SK/369	Temporary Open Storage of Construction Machineries and Materials for a Period of 3 Years and Filling of Land	4.10.2024 (Revoked on 4.4.2026)
A/YL-SK/371	Proposed Temporary Open Storage of Construction Materials, Construction Machineries, Auto Parts and Vehicles with Ancillary Facilities for a Period of 3 Years and Associated Filling of Land and Pond	24.1.2025
A/YL-SK/384	Temporary Open Storage of Construction Materials with Ancillary Facilities for a Period of 3 Years and Associated Filling of Land	20.9.2024 (Revoked on 20.12.2025)
A/YL-SK/395	Proposed Temporary Open Storage of Construction Materials and Machineries for a Period of 3 Years and Associated Filling of Land	24.1.2025
A/YL-SK/426	Proposed Temporary Open Storage of Construction Materials and Vehicles and Associated Filling of Land for a Period of 3 Years	23.1.2026

Government Departments' General Comments

1. Lands Administration

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

- no adverse comment on the application;
- the application site (the Site) comprises Old Schedule Agricultural Lot 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; and
- advisory comments are in **Appendix V**.

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

- no 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 proposed uses from public drainage point of view and no adverse comment on the submitted drainage proposal provided that all existing drains/stream course should be maintained and the overland flow from adjacent lands should not be affected;
- the applicant should implement the drainage facilities on the Site in accordance with the agreed drainage proposal;
- should the application be approved, approval conditions should be stipulated requiring the implementation and maintenance of the agreed drainage proposal to the satisfaction of the Director of Drainage Services or the Town Planning Board; and
- advisory comments are in **Appendix V**.

4. **Environment**

Comments of the Director of Environmental Protection:

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

5. **Fire Safety**

Comments of the Director of Fire Services:

- no objection in principle to the application subject to the fire service installations and water supplies for firefighting being provided to his satisfaction;
- 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 was located in an area of miscellaneous rural fringe landscape character comprising warehouses, village houses, farmlands, temporary structures, vegetated areas and tree clusters. The applied uses are considered not entirely incompatible with the surrounding environment;
- with reference to the aerial photo (**Plan A-3**) and site photos (**Plan A-4**), the Site was fenced-off and formed. Some temporary structures were observed within the Site. No trees were found on it. As stated in the Application Form (**Appendix I**), no tree felling will be involved; and
- in view of the above, significant adverse landscape impact arising from the application is not anticipated.

7. **District Officer's Comments**

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

- no particular comment 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 or no adverse comment on the application and their advisory comments, if any, are in **Appendix V**:

- 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, 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) prior planning permission should have been obtained before commencing the applied uses at the application site (the Site);
- (b) to resolve any land issues relating to the applied uses with the concerned owner(s) and/or occupant(s);
- (c) should the applicant fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given by the Rural and New Town Planning Committee of the Town Planning Board to any further application;
- (d) failure to reinstate the Site as required under the relevant approval condition upon expiry of the planning permission might constitute an unauthorized development under the Town Planning Ordinance and be subject to enforcement and prosecution actions;
- (e) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that the lot owner(s) shall apply to his office for a Short Term Waiver (STW) to permit the structure(s) erected within the said private lot. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW, 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;
- (f) 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; and
 - (iii) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department (HyD) that:
 - (i) the proposed access arrangement of the Site should be commented and approved by TD;
 - (ii) HyD shall not be responsible for the maintenance of the proposed access connecting the Site and Kam Shui South Road; and
 - (iii) adequate drainage measures shall be provided to prevent surface water running from the Site to the nearby public roads and drains;

- (h) to note the comments of the Director of Environmental Protection (DEP) that:
 - (i) the applicant shall ensure that the repair activities are carried within the enclosed structure as proposed in the application;
 - (ii) the applicant shall ensure that the Site, in particular the area where repair activities would take place, is paved with concrete;
 - (iii) the applicant shall ensure that no paint-spraying, dismantling and material-breaking activities would be carried out at the Site;
 - (iv) the applicant shall follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites';
 - (v) the applicant shall follow the relevant guidelines and requirements in relevant Professional Persons Environmental Consultative Committee Practice Notes (ProPECC PNs), in particular the ProPECC PN 1/23 'Drainage Plans subject to Comment by the Environmental Protection Department';
 - (vi) the applicant shall provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater generated from the applied uses; and
 - (vii) the applicant shall observe the statutory requirements under relevant environmental legislation;
- (i) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (DSD) that:
 - (i) the applicant should implement the drainage facilities on the Site in accordance with the agreed drainage proposal;
 - (ii) the applicant is required to rectify the drainage system 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 a failure of the drainage system;
 - (iii) the applied uses should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas, etc.;
 - (iv) the applicant shall resolve any conflict/disagreement with relevant lot owner(s) and seek permission from DLO/YL, LandsD for laying new drains/channels and/or modifying/upgrading existing ones in other private lots or on Government Land, where required, outside the Site;
 - (v) the applicant should submit Form HBP1 ('Application for Technical Audit of Drainage/ Water Supply Connection Works carried out by a Member of the Public') to his office for application of technical audit for any proposed connection to DSD's drainage facilities; and

- (vi) 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 the public, the applicant is required to submit technical assessment(s) in other aspect(s) and seek comment from relevant departments as necessary;
- (j) to note the comments of the Director of Fire Services that:
 - (i) the detailed comments on the fire service installations (FSIs) proposal previously provided to the applicant shall be taken into account in the revised FSIs proposal; and
 - (ii) if the structures at the Site 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 Building Surveyor/New Territories West, Buildings Department (BD) that:
 - (i) it is noted that there is one structure and associated filling of land for the applied uses under 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 unauthorized building works (UBW) under the BO. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - (ii) 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 the Building (Planning) Regulations (B(P)R) respectively;
 - (iii) the Site does 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) 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;
 - (v) 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
 - (vi) detailed checking under the BO will be carried out at building plan submission stage;
- (l) to note the comments of the Director of Electrical and Mechanical Services that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable (and overhead line, where applicable) under the mentioned document should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. The applicant should also be reminded to observe the Electricity Supply Lines (Protection)

Regulation and the 'Code of Practice on Working near Electricity Supply Lines' established under the Regulation when carrying out works in the vicinity of the electricity supply lines; and

- (m) to note the comments of the Director of Food and Environmental Hygiene (DFEH) that:
 - (i) no Food and Environmental Hygiene Department's facilities shall be affected; and
 - (ii) for any waste generated from the such activity/operation, the applicant should arrange disposal properly at their own expenses. The work and operation shall not cause any environmental nuisance, pest infestation and obstruction to the surrounding. The applicant shall conduct, by all practical means, pest control measures to avoid infestation of pest including but not limited mosquitos and rodents at the Site and its surroundings. In accordance with the Public Cleansing and Prevention of Nuisances Regulation (Cap. 132BK), the applicant and/or occupier of any premises or part of any premises in which there is any trade waste which exceeds 100 litres in quantity shall, before any such waste is disposed of, inform DFEH without delay of any arrangement made by the applicant and/or occupier for the disposal of the waste.

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Dear TPB Members,

381 approved 6 Dec 2024, revoked 6 June 2026. So another waste of effort reapplicaition. Conditions are still at the proposal stage so obviously the applicant feels no pressure because the system guarantees further approvals without any risk to the operator for no complaince.

Mary Mulvihill

From: [REDACTED]
To: tpbpd <tpbpd@pland.gov.hk>
Date: Thursday, 25 July 2024 3:10 AM HKT
Subject: A/YL-SK/381 DD 106, Nr The ScenicWoods, Shek Kong

A/YL-SK/381

Lot 1069 S.A RP (Part) in D.D. 106, Nr The ScenicWoods, Shek Kong, Yuen Long

Site area: About 531sq.m

Zoning: "Agriculture"

Applied use: Vehicle Repair Workshop and Open Storage of Vehicles and Vehicle Parts / 7 Vehicle Parking / **Filling of Land**

Dear TPB Members,

The site has been filled in and used for brownfield for many years despite the fact that there has been no application/approval.

Members should ask if any enforcement action has been taken. Vehicle repair = severe contamination of the ground and impact on the drainage function of the land.

Mary Mulvihill