

**Appendix II of RNTPC
Paper No. A/YL-TYST/998A**

Similar Applications straddling/within the subject “R(D)” and “V” Zones on the OZP

Approved Applications

	<u>Application No.</u>	<u>Proposed Use(s) /Development(s)</u>	<u>Date of Consideration (RNTPC)</u>	<u>Approval Conditions</u>
1	A/YL-TYST/820*	Proposed Temporary Shop and Services (Retail Shop for Metal and Home Appliance) for a Period of 3 Years	23.12.2016	(1), (3), (6), (7), (8), (10), (11), (12), (13), (14)
2	A/YL-TYST/855	Temporary Public Vehicle Park for Private Car and Light Goods Vehicle and Shop and Services (Real Estate Agency) for a Period of 3 Years	22.9.2017	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12)
3	A/YL-TYST/912	Proposed Temporary Shop and Services (Motor-vehicle Showroom) for a Period of 3 Years	7.9.2018	(1), (3), (6), (7), (8), (9), (10), (11), (12), (13)
4	A/YL-TYST/974	Proposed Temporary Shop and Services (Convenience Stores) for a Period of 3 Years	16.8.2019	(3), (7), (8), (10), (11), (13)

* Straddling the adjacent “Residential (Group B)1” zone.

Approval Condition(s):

- (1) No night-time operation of the real estate agency during specific time limit is allowed on the site.
- (2) No vehicle without valid licences is allowed to be parked/stored on the site.
- (3) No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, is allowed to be parked/stored on or enter/exit the site.
- (4) A notice should be posted at a prominent location of the site at all times to indicate that only private car and light goods vehicle not exceeding 5.5 tonnes, is allowed to be parked on the site.
- (5) No open storage activity is allowed on the site.
- (6) No car beauty/car washing/repairing/dismantling/breaking/fixing/maintenance/cleansing/paint-spraying/recycling/packaging workshop activities are allowed on the site.
- (7) No vehicle is allowed to queue back to or reverse onto/from public road.
- (8) Maintenance of existing/implemented drainage facilities and/or submission of a record of the existing drainage facilities.
- (9) Submission and/or implementation of (accepted) landscape and/or tree preservation proposals.
- (10) Submission and implementation of fire service installations proposal.
- (11) Revocation of planning approval for non-compliance with conditions by a specified date/at any time during the approval period.
- (12) Reinstatement of the application site upon expiry of planning permission.
- (13) Submission of (revised) drainage proposals and/or provision/implementation of (accepted) drainage facilities/proposal.
- (14) Maintenance of existing trees.

Rejected Application

	Application No.	<u>Proposed Use/ Development</u>	Date of Consideration (TPB)	<u>Rejection Reasons</u>
1	A/YL-TYST/546	Temporary Shop and Services (Temporary Traffic Engineering Highway Sub-station and Sale Office of Traffic Engineering Equipment with Ancillary Display Area) for a Period of 3 Years	28.9.2012 (on review)	(1), (2), (3), (4)

Rejection Reasons

- (1) The proposed development, which was more akin to an open storage yard rather than a retail shop serving the surrounding residential neighbourhood, was not in line with the planning intention of the “R(D)” zone which was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification had been given in the submission to justify a departure from the planning intention, even on a temporary basis.
- (2) The application did not comply with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E) in that no previous planning approval had been granted for the use on the site and there were adverse departmental comments on and local objections to the application. The development was also not compatible with the current and planned residential use in the surrounding areas.
- (3) The applicant failed to demonstrate that the proposed development would not generate adverse environmental and drainage impacts on the surrounding areas.
- (4) As no approval for similar uses had been granted in the subject “R(D)” zone since 2002, approval of the application, even on a temporary basis, would set an undesirable precedent for similar uses to proliferate into the “R(D)” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

Advisory clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the application site (the Site);
- (b) to resolve any land issues relating to the development with the concerned owner(s) of the Site;
- (c) to note the comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD) that 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. No permission is given for occupation of government land (GL) (about 50m² subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed. With the implementation of the tightened arrangements for handling regularisation applications, her department will no longer accept application for regularisation of new or extension of unlawful occupation of GL or erection of new structures which is found commenced on or after 28.3.2017. The Site is accessible from Shan Ha Road via GL and private land. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way over the GL to the Site. The lot owner(s) will need to apply to her office for permitting the structures to be erected or regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. You shall either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Applications for any of the above will be considered by her department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by her department;
- (d) to note the comments of the Commissioner for Transport that the land status of the access road/path/track leading to the Site from Shan Ha Road should be checked with the lands authority. The management and maintenance responsibilities of the access road/path/track should be clarified and consulted with the relevant management and maintenance authorities accordingly. Sufficient space should be provided within the Site for manoeuvring of vehicles. No parking of vehicles on public road is allowed;
- (e) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains. His department shall not be responsible for the maintenance of any access connecting the Site and Shan Ha Road;
- (f) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the drainage facilities on site should be implemented in accordance with the agreed drainage proposal. The drainage system should be rectified if they are found to be inadequate or ineffective during operation. Furthermore, you shall be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by a failure of the drainage system. The development would neither obstruct overland

flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas. DLO/YL, LandsD should be consulted and consent from relevant lot owners should be sought for any works to be carried out outside your lot boundary before commencement of the drainage works;

- (g) to note the comments of the Director of Environmental Protection that the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” and the Professional Persons Environmental Consultative Committee Practice Note No. 5/93 (ProPECC PN 5/93) – “Drainage Plans Subject to Comment by the Environmental Protection Department” should be followed to minimise any potential environmental nuisances on the surrounding area. It is your obligation to comply with all relevant ordinances in Hong Kong;
- (h) to note the comments of the Director of Fire Services that in consideration of the design/nature of the proposal, fire service installations (FSIs) are anticipated to be required. Relevant layout plans incorporated with the proposed FSIs should be submitted to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should also be clearly marked on the layout plans. If the proposed structure(s) is required to comply with the Buildings Ordinance (BO)(Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans;
- (i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (BD) that before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorised building works (UBW) under the BO. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO. For UBW erected on leased land, enforcement action may be taken by the 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. 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. 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 the building plan submission stage; and
- (j) to note the comments of the Project Manager (West), Civil Engineering and Development Department that part of the Site falls within the boundary of Yuen Long South (YLS) development - Stage 2. The land resumption and clearance programme of the project is subject to Executive Council’s authorisation on land resumption and Finance Committee’s funding approval. Land clearance operation is tentatively targeted to commence in 2024. Extension of the planning permission may not be supported in future and no substantial works should be carried out in view of the planned YLS development - Stage 2.