

**Appendix II of  
RNTPC Paper No. A/YL-KTS/796**

**Previous Applications covering the Application Site**

**Approved Applications**

	<b><u>Application No.</u></b>	<b><u>Proposed Use</u></b>	<b><u>Date of Consideration (RNTPC)</u></b>	<b><u>Approval Conditions</u></b>
1	A/YL-KTS/394*	Proposed temporary public vehicle park for private car and van for a period of 3 years	7.6.2007 (revoked on 7.3.2009)	(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12)
2	A/YL-KTS/468*	Temporary public vehicle park for private car and van for a period of 3 years	7.8.2009	(1), (2), (3), (4), (5), (6), (8), (9), (10), (11), (12)
3	A/YL-KTS/571*	Temporary public vehicle park for private car and van for a period of 3 years	10.8.2012 (revoked on 10.11.2013)	(1), (2), (3), (4), (5), (6), (7), (8), (11), (12), (13), (14)
4	A/YL-KTS/642	Proposed temporary shop and services (grocery, pet salon and retail shop with staff pantry) for a period of 3 years	25.7.2014	(1), (2), (6), (8), (10), (11), (12), (13), (14)
5.	A/YL-KTS/745	Temporary Shop and Services (Real Estate Agency and Pet Product Retail Shop) for a Period of 3 Years	11.8.2017	(1), (2), (6), (8), (10), (11), (12), (13), (14)

\* The application sites straddled "V" and "AGR" zones.

**Approval Conditions:**

1. restriction on operation hours
2. no goods vehicles exceeding 5.5/3.3 tonnes, including container trailers/tractors was allowed to be parked/stored on the site
3. no vehicle without valid licences issued under the Traffic Regulations were allowed to be parked/stored on the site/a notice should be posted to indicate no medium or heavy good vehicles on site
4. no vehicle dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities should be carried out at the site
5. the provision/maintenance of boundary wall
6. submission and/or implementation of tree/landscape proposal/maintenance of existing

- planting on the site
7. submission and implementation of run-in proposal/ a proper vehicular access/run-in between the site and the public road should be maintained
  8. submission and/or implementation of drainage proposal/submission of existing drainage record/maintenance of existing drainage facilities
  9. provision of a 9-litre water type/3kg dry powder fire extinguisher in each of the container-converted site office
  10. if planning condition is not complied with at any time during planning approval, the approval shall cease to have effect and be revoked without further notice
  11. if planning condition is not complied with by a specific date, the approval shall cease to have effect and be revoked without further notice
  12. reinstatement of the site to an amenity area upon expiry of the planning permission
  13. no reversing of vehicles into or out from the site is allowed
  14. submission and/or provision of fire service installations proposal

### Rejected Applications

	<u>Application No.</u>	<u>Proposed Use</u>	<u>Date of Consideration (RNTPC)</u>	<u>Reasons for Rejection</u>
1	A/YL-KTS/178*	Proposed temporary open storage of scrap metal for 12 months	10.9.1999	(1), (2), (3)
2	A/YL-KTS/329*	Proposed open storage of vehicles for wrecking for 3 years	28.1.2005	(1), (3), (4), (5)
3	A/YL-KTS/349*	Proposed open storage of private vehicles and vans for 3 years	10.6.2005	(1), (3), (4), (5)

\* The application sites straddled "V" and "AGR" zones.

### Rejections Reasons:

1. the proposed development was not in line with the planning intention of the "V" zone. No justification for a departure from the planning intention, even on a temporary basis.
2. the proposed development was not compatible with the village settlements of Tin Sam San Tsuen to its east and the nearby village houses
3. approval would set an undesirable precedent for other similar applications. The cumulative effect would result in a general degradation of the environment
4. the application did not comply with the Town Planning Board Guidelines for Open Storage and Port Back-Up Uses in that no previous planning approval had been granted and residential dwellings located to its south would be susceptible to adverse environmental nuisances

5. there was insufficient information to demonstrate that the development would not have adverse drainage, visual and environmental impacts on the surrounding area

11

**Appendix III of  
RNTPC Paper No. A/YL-KTS/796**

**Similar Applications in the nearby “V” Zone on the  
Kam Tin South Outline Zoning Plan**

**Approved Applications**

	<b><u>Application No.</u></b>	<b><u>Proposed Use</u></b>	<b><u>Date of Consideration (RNTPC)</u></b>	<b><u>Approval Conditions</u></b>
1	A/YL-KTS/513*	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	10.12.2010	(1), (2), (3), (4), (5), (6)
2	A/YL-KTS/542	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	5.8.2011 (revoked on 5.5.2012)	(1), (2), (3), (4), (5), (6), (7), (8)
3	A/YL-KTS/546	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	2.9.2011	(1), (2), (3), (4), (5), (6)
4	A/YL-KTS/619*	Renewal of Planning Approval for Temporary ‘Shop and Services (Real Estate Agency)’	22.11.2013	(1), (2), (4), (5), (6), (9), (11), (12)
5	A/YL-KTS/650	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	17.10.2014	(1), (2), (4), (5), (6), (9), (10), (11), (12)
6	A/YL-KTS/651	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	16.1.2015 (revoked on 16.7.2016)	(1), (2), (3), (4), (5), (6), (10),
7	A/YL-KTS/742*	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	23.6.2017	(1), (2), (4), (5), (6), (9), (10), (11), (12)

\* The application sites straddled “V” and “AGR” zones.

**Approval Conditions**

- (1) restriction on operation hours
- (2) submission and/or implementation of landscape and/or tree preservation proposals
- (3) submission of drainage proposal and/or implementation of drainage facilities
- (4) submission of fire service installations (FSIs) proposal and/or provision of FSIs
- (5) revocation of the planning approval if the planning conditions are not complied with

during the planning approval period or by specified date

- (6) reinstatement of the application site after the expiry of the planning approval
- (7) no vehicular access abutting Kam Sheung Road from the site was allowed
- (8) no parking of vehicles was allowed on the site
- (9) no queue back/reversing of vehicles into or out from the application site is allowed
- (10) no medium or heavy goods vehicles exceeding 5.5 tonnes including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the site at any time during the planning approval period
- (11) maintenance existing drainage facilities within the site
- (12) submission of a record of the existing drainage facilities

**Detailed comment of CTP/UD&L, PlanD**

- (a) According to the layout plan and site inspection taken on 22.8.2018, structure A, B and D are considered too close to existing trees along the east boundary. For sustainable tree growth, the proposed tree should have a min. 3m distance from the structure and min. 600mm from the boundary fence. The applicant should consider to setback the temporary structures and provide adequate space for health tree growth.
- (b) Excessive tree pruning is noted at all trees along the eastern boundary during the inspection. The applicant should note that improper tree pruning is detrimental to the appearance and healthy growth of trees and may result in irrecoverable tree injury. Given the fact that malpractice tree works had already been done, the applicant is urged to seek expert advice from qualified arborist on future maintenance tree works within the Site. The applicant is requested to keep close monitoring the tree condition.
- (c) 5 nos. of weeding tree species leucaena leucocephala (銀合歡) are found along the western boundary which should be removed on Site.
- (d) Horticultural wastes are found at the planting area and should be removed on Site.
- (e) It is noted that the proposed parking space is right next to the existing trees along the western boundary. For trees along vehicular access within the Site, a fence/kerb/bollard at a min. distance of 1m from the tree trunk should be provided between the tree and vehicle to guard against potential physical damages to the trees arising from vehicular movement.

**Detailed comment of DFEH**

- (a) If any Food and Environmental Hygiene Department (FEHD)'s facility is affected by the development, FEHD's prior consent must be obtained. Reprovisioning of the affected facilities by the project proponent up to the satisfaction of FEHD may be required. Besides, the project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the reprovisioned facilities to FEHD;
- (b) Proper licence / permit issued by his Department is required if food business is involved:
  - (i) If the operator intends to operate a restaurant business in the territory, a general restaurant/light refreshment restaurant licence should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). The application for restaurant licence, if acceptable by

FEHD, will be referred to relevant government departments, such as BD, Fire Services Department (FSD), PlanD, LandsD (if necessary) 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. In accordance with Section 4 of Food Business Regulation, Cap. 132X, the expression "food business" means, any trade or business for the purpose of which any person engages in the handling of food or food is sold by means of a vending machine. But it does not include any canteen in work place (other than a factory canteen referred to in section 31) for the use exclusively of the persons employed in the work place. As such, a staff canteen that exclusively use by the staff members of that working place does not require a food business licence from his department. However, if the said canteen provided foods to the outsiders with payment, a food business licence is required. For the operation of other types of food business, relevant food licences should also be obtained from FEHD in accordance with Cap. 132. Under the Food Business Regulation, Cap. 132X, a Food Factory Licence must be obtained from his department for food business which involves the preparation of food for sale for human consumption off the premises before commencement of such business. Besides, a Fresh Provision Shop licence is required for any person who intends to sell fresh, chilled or frozen beef, mutton, pork, reptiles (including live snake), fish (including live fish) and poultry at any premises before commencement of such business. The application for Food Factory Licence / Fresh Provision Shop Licence, if acceptable by FEHD, will be referred to relevant government departments, such as Planning Department, Lands Department (if necessary) 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. His department will institute legal action against any person who operates a food business without a valid licence.

- (c) If the proposal involves any commercial/trading activities, the operation of any business should not cause any obstruction or environmental nuisance in the vicinity. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.



**Advisory Clauses**

- (a) prior planning permission should have been obtained before commencing the applied use at the site;
- (b) resolve any land issue relating to the development with the concerned owner(s) of the Site;
- (c) the permission is given to the development/use under application. It does not condone any other development/use which are not covered by the application;
- (d) note DLO/YL, LandsD's comments that the Site comprises an 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. The Site is accessible to Kam Sheung Road via Government Land (GL) and private land. His office provides no maintenance works for the GL involved and does not guarantee any right-of-way over the GL to the Site. The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA. The STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. Besides, give the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fees, as may be imposed by the LandsD;
- (e) note C for T's comments that the Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly;
- (f) note CHE/NTW, HyD's comments that his department does not and will not maintain any access connecting the Site and Kam Sheung road. The applicant should be responsible for his own access management. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (g) note DEP's comments that it is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures. Effluent discharges from the proposed use are subject to control under the Water Pollution Control Ordinance (WPCO). A discharge licence under the WPCO should be obtained before a new discharge is commenced. If septic tank and soakaway system is used, its design and construction should follow the requirements of Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subjects to Comment by the Environmental Protection Department". The applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the DEP;

- (h) note CTP/UD&L, PlanD's comments that according to the layout plan and site inspection taken on 22.8.2018, structure A, B and D are considered too close to existing trees along the east boundary. For sustainable tree growth, the proposed tree should have a min. 3m distance from the structure and min. 600mm from the boundary fence. The applicant should consider to setback the temporary structures and provide adequate space for health tree growth. Excessive tree pruning is noted at all trees along the eastern boundary during the inspection. The applicant should note that improper tree pruning is detrimental to the appearance and healthy growth of trees and may result in irrecoverable tree injury. Given the fact that malpractice tree works had already been done, the applicant is urged to seek expert advice from qualified arborist on future maintenance tree works within the Site. The applicant is requested to keep close monitoring the tree condition. 5 nos. of weeding tree species *leucaena leucocephala* (銀合歡) are found along the western boundary which should be removed on Site. Horticultural wastes are found at the planting area and should be removed on Site. It is noted that the proposed parking space is right next to the existing trees along the western boundary. For trees along vehicular access within the Site, a fence/kerb/bollard at a min. distance of 1m from the tree trunk should be provided between the tree and vehicle to guard against potential physical damages to the trees arising from vehicular movement;
- (i) note CBS/NTW, BD's comments that if the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application. For UBW erected on leased land, enforcement action may be taken by the 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 works or UBW on the Site under the BO. Before any new building works (including container/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with 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 respectively. If the proposed use under application is subject to issue of a licence, it should be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority. If the Site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage;
- (j) note D of FS's comments that in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs 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 be clearly marked on the layout plans. The applicant is reminded that 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; and

- (k) note DFEH's comment that if any FEHD's facility is affected by the development, FEHD's prior consent must be obtained. Re provisioning of the affected facilities by the project proponent up to the satisfaction of FEHD may be required. Besides, the project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the re provisioned facilities to FEHD. If the operator intends to operate a restaurant business in the territory, a general restaurant/light refreshment restaurant licence should be obtained from FEHD in accordance with the Public Health and Municipal Services Ordinance (Cap. 132). The application for restaurant licence, if acceptable by FEHD, will be referred to relevant government departments, such as BD, FSD, PlanD, LandsD (if necessary) 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. In accordance with Section 4 of Food Business Regulation, Cap. 132X, the expression "food business" means, any trade or business for the purpose of which any person engages in the handling of food or food is sold by means of a vending machine. But it does not include any canteen in work place (other than a factory canteen referred to in section 31) for the use exclusively of the persons employed in the work place. As such, a staff canteen that exclusively use by the staff members of that working place does not require a food business licence from his department. However, if the said canteen provided foods to the outsiders with payment, a food business licence is required. For the operation of other types of food business, relevant food licences should also be obtained from FEHD in accordance with Cap. 132. Under the Food Business Regulation, Cap. 132X, a Food Factory Licence must be obtained from his department for food business which involves the preparation of food for sale for human consumption off the premises before commencement of such business. Besides, a Fresh Provision Shop licence is required for any person who intends to sell fresh, chilled or frozen beef, mutton, pork, reptiles (including live snake), fish (including live fish) and poultry at any premises before commencement of such business. The application for Food Factory Licence / Fresh Provision Shop Licence, if acceptable by FEHD, will be referred to relevant government departments, such as PlanD, LandsD (if necessary) 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. His department will institute legal action against any person who operates a food business without a valid licence. If the proposal involves any commercial/trading activities, the operation of any business should not cause any obstruction or environmental nuisance in the vicinity. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

