

**Relevant extract of the Town Planning Board Guidelines for
Renewal of Planning Approval and Extension of Time for Compliance
with Planning Conditions for Temporary Use or Development
(TPB PG-No. 34C)**

1. The criteria for assessing applications for renewal of planning approval include:
 - (a) whether there has been any material change in planning circumstance since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
 - (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
 - (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
 - (d) whether the approval period sought is reasonable; and
 - (e) any other relevant considerations.

2. Under normal circumstances, the approval period for renewal should not be longer than the original validity period of the temporary approval. In general, the Board is unlikely to grant an approval period exceeding three years unless there are strong justifications and the period is allowed for under the relevant statutory plans. Depending on the circumstances of each case, the Board could determine the appropriate approval period, which may be shorter than the time under request.

Previous s.16 Applications Covering the Application Sites

Approved Applications

<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
A/TM-LTY Y/264	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	8.11.2013	(1) to (7)
A/TM-LTY Y/321	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	9.12.2016	(1) to (7)

Approval conditions

- (1) No night time operation
- (2) No vehicular access to the site
- (3) Submission and implementation of drainage proposal
- (4) Submission and implementation of fire service installations proposal
- (5) Submission and implementation of landscape proposal
- (6) Revocation clauses
- (7) Reinstatement clause

**Similar s.16 Applications within the same “V” zone
on the Approved Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTY Y/10**

Approved Applications

<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Approval Condition(s)</u>
A/TM-LTY Y/210	Temporary Shop and Services (Real Estate Agency) For a Period of 3 Years	4.3.2011 [Revoked 4.6.2013]	(5) to (9)
A/TM-LTY Y/245	Proposed Temporary Shop and Services (Convenience Store and Real Estate Agency) for a Period of 3 Years	21.12.2012 [Revoked 21.3.2015]	(5) to (9)
A/TM-LTY Y/268	Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	20.6.2014 TPB	(1), (3) to (5), (8) to (9)
A/TM-LTY Y/296	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 years	5.6.2015	(1) to (5), (8) to (9)
A/TM-LTY Y/345	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	16.3.2018	(1), (3), (5) to (7),(9) and (10)

Approval conditions

- (1) No night time operation
- (2) No operation on Sundays and public holidays
- (3) No vehicular access to/from and no parking on the site at any time
- (4) Maintenance of existing trees and shrubs within the site at all times
- (5) Submission and implementation of drainage proposal
- (6) Submission and implementation of FSIs proposal
- (7) Submission and implementation of landscape and/or tree preservation proposals
- (8) Revocation Clauses
- (9) Reinstatement Clause
- (10) Fencing Clause

Advisory Clauses

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site (the Site);
- (b) to note the comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) that the Site falls within Lot No. 2995 RP (Part) in DD. 124 (“the Lot”) and adjoining government land. The Lot is Old Schedule 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. Site inspection revealed that there is an existing structure within the Site. A Short Term Waiver (STW) and Short Term Tenancy (STT) have been granted to permit the erection of the structure with the Lot and the government land concerned for the use as Shop and Services (Real Estate Agency). The Site is accessible via a strip of track leading from the Castle Peak Road – Hung Shui Kiu. His office does not carry out maintenance works for the said track nor guarantee that right-of-way will be given to the Site. Notwithstanding the above, his office reserves the right to take enforcement actions as considered appropriate against any unauthorized erection/extensions/alterations of structures on the site or any unauthorized occupation of government land at any time and irrespective of whether planning permission will be given or not;
- (c) to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP to minimise any potential environmental nuisances;
- (d) to note the comments of the Chief Engineer/New Territories West, Highways Department (CHE/NTW, HyD) that adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that the applicant should refer to the guidelines as specified in “Technical Note to prepare a Drainage Submission” which is available at DSD’s website (https://www.dsd.gov.hk/EN/Technical_Documents/DSD_Guidelines/index.html). The applicant should be reminded to review the current condition of the drainage works and submit the drainage proposal with updates, if any, for his review and retention. The proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their own expense. For any works to be carried out outside his lot boundary, the applicant should consult DLO/TM and seek consent from relevant lot owners before commencement of the drainage works. The applicant should implement the drainage facilities on site in accordance with the drainage proposal. 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. The proposed works should neither obstruct overland flow nor adversely affect any existing natural streams, village drains, ditches and the adjacent areas;
- (f) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) that the approval of the section 16 application by the Town Planning Board does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. Applicant is reminded to approach relevant authority/government department(s) direct to obtain the necessary

approval on tree works. There shall be no storage or stacking of materials within 1m of any tree. The applicant is reminded of the importance of undertaking proper tree care for existing trees within the site. Useful information published by the GLTM Section, DEVB on general tree maintenance and tree risk management is available for reference in the following links: 護養樹木的簡易圖解 (http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf), 樹木管理手冊 (https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html), 樹木風險評估及管理安排 (https://www.greening.gov.hk/tc/tree_care/tra_arrangements.html), 護養樹木 保障安全 (http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Chinese_Leaflet_Big_font_size_v1_2012_03_29.pdf), 減低樹木風險及樹木護養簡易圖解 ([http://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk\(eng\).pdf](http://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk(eng).pdf)). In event any tree requiring replacement, the applicant may wish to consider other tree Species with small mature size in lieu of *Ficus microcarpa* which has the characteristics of vigorous root system and large tree canopy in mature size; and

- (g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that if the existing structures are erected on leased land without approval of the BA (not being a New Territories Exempted House (NTEH)), they are unauthorised under the BO and should not be designated for any approved use under the application. Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO. For UBW erected on lease 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. 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.