

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

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 Applications covering the Application Site

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>
1	A/YL-TYST/197	Proposed Temporary Retail Shop for Hardware Groceries for a Period of 3 Years	25.4.2003	(4), (8), (13), (14), (15)
2	A/YL-TYST/311	Renewal of Planning Approval for Temporary Retail Shop for Hardware Groceries under Application No. A/YL-TYST/197 for a Period of 3 Years	7.4.2006 approved for 1 year [revoked on 7.7.2006]	(1), (3), (4), (6), (9), (13), (14), (15)
3	A/YL-TYST/371	Temporary Retail Shop for Hardware Groceries for a Period of 3 Years	4.1.2008 approved for 1 year [revoked on 4.10.2008]	(2), (3), (4), (5), (7), (9), (10), (13), (14), (15)
4	A/YL-TYST/449	Temporary Retail Shop for Hardware Groceries for a Period of 3 Years	18.12.2009 approved for 1 year	(2), (3), (4), (5), (7), (9), (10), (12), (13), (14), (15)
5	A/YL-TYST/496	Renewal of Planning Approval for Temporary "Retail Shop for Hardware Groceries" Use under Application No. A/YL-TYST/449 for a Period of 3 Years	12.11.2010 approved for 1 year	(2), (3), (4), (5), (7), (9), (10), (12), (14), (15)
6	A/YL-TYST/558	Renewal of Planning Approval for Temporary "Retail Shop for Hardware Groceries" Use under Application No. A/YL-TYST/496 for a Period of 3 Years	16.12.2011 approved for 1 year	(2), (3), (4), (5), (7), (9), (12), (14), (15)
7	A/YL-TYST/621	Renewal of Planning Approval for Temporary "Retail Shop for Hardware Groceries" Use under Application No. A/YL-TYST/558 for a Period of 3 Years	7.12.2012 approved for 1 year	(2), (3), (4), (5), (7), (9), (12), (13), (14), (15)
8	A/YL-TYST/653	Renewal of Planning Approval for Temporary "Retail Shop for Hardware Groceries" Use for a	13.12.2013 approved for 1 year	(2), (3), (4), (5), (7), (9), (10), (12), (13), (14),

		Period of 3 Years		(15)
9	A/YL-TYST/700	Renewal of Planning Approval for Temporary “Retail Shop for Hardware Groceries” Use for a Period of 3 Years	14.11.2014 approved for 1 year	(2), (3), (4), (5), (7), (9), (10), (12), (13), (14), (15)
10	A/YL-TYST/772	Temporary Retail Shop for Hardware Groceries for a Period of 3 Years	18.12.2015 until 18.12.2018	(2), (3), (4), (5), (7), (9), (10), (12), (13), (14), (15), (16)

Approval Condition(s):

- (1) No operation is allowed between 7:00 p.m. and 8:00 a.m.
- (2) No operation is allowed between 6:30 p.m. and 8:30 a.m.
- (3) No operation is allowed on Sunday and public holidays
- (4) No workshop/metal cutting activities are allowed to be carried out on the site
- (5) No vehicles over 5.5 tonnes are allowed for the operation of the site
- (6) No loading/unloading activity is allowed to be carried out on the site
- (7) No loading/unloading activity is allowed to be carried out at the northern site of the site or along Ma Fung Ling Road
- (8) Submission of drainage proposals and provision of drainage facilities
- (9) Maintenance of drainage facilities
- (10) Submission of a record of the existing drainage on the site
- (11) Provision of boundary fence on the site
- (12) Maintenance of boundary fence on the site
- (13) Submission and/or implementation of emergency vehicular access and/or fire services installations (FSIs) proposals/provision of FSIs
- (14) Revocation of planning approval if any of the conditions is not complied with at any time or by the specified date
- (15) Reinstatement of the site to an amenity area upon expiry of the planning permission
- (16) No vehicle is allowed to queue back to or reverse onto/from public road

Rejected Applications

	<u>Application No.</u>	<u>Proposed Use(s)/ Development(s)</u>	<u>Date of Consideration (RNTPC/TPB)</u>	<u>Rejection Reason(s)</u>
1	A/YL-TYST/226	Proposed Temporary Storage of Building and Landscaping Material for a Period of 3 Years	2.4.2004 on review	(1), (2), (3), (4), (5)
2	A/YL-TYST/289	Proposed Temporary Plant Nursery, Retail Shop and Domestic Use for a Period of 3 Years	24.6.2005	(2), (3)

Rejection Reason(s):

- (1) The proposed development is not in line with the planning intention of the “R(B)1” zone. No strong justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

- (2) The proposed development is not compatible with the surrounding residential uses.
- (3) Insufficient information in the submission to demonstrate that the proposed development would not generate adverse environmental and drainage impacts on the surrounding areas.
- (4) No information in the submission to demonstrate that a satisfactory vehicular access arrangement would be provided to the site and adequate spaces would be provided for manoeuvring of vehicles within the site.
- (5) Approval of the application would set an undesirable precedent for other similar applications to proliferate into the "R(B)1" zone. The cumulative effect of approving such applications would result in a general degradation of the environment in the area.

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/Yuen Long, Lands Department (DLO/YL, LandsD) that the Site comprises GL and Old Scheduled Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. Lot No. 1375 RP in D.D. 121 within the Site is covered by Short Term Waiver (STW) No. 3294 to permit structures erected thereon for the purpose of “temporary retail shop for hardware groceries”. The GL within the Site is covered by Short Term Tenancy (STT) No. 2589 for the purpose of “temporary retail shop for hardware groceries”. The Site is accessible from Tong Yan San Tsuen Road via GL. Her office does not provide maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site. The STW and STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate. Besides, given 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 by her department 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 fee, as may be imposed by her department;
- (c) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that the application is approved on the understanding that there is and will be no vehicular access to/from the Site;
- (d) to note the comments of the Director of Environmental Protection that to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department to minimize any potential environmental nuisances. In addition, it should be reminded that 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. It is the obligation of the applicant to meet all statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures;
- (e) to note the comments of the Director of Fire Services that the installation/ maintenance/ modification/ repair work of FSIs shall be undertaken by a Registered Fire Services 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 (FS 251) and forward a copy of the certificate to his department. However, if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans. In general, the operation of a retail shop for hardware groceries does not require the application for a Dangerous Goods Licence. Nevertheless, if the operator of the retail shop wishes to store any Dangerous Goods in excess of its exempted quantity, subject to section 6 of Dangerous Goods Ordinance (Cap. 295), a licence granted under this Ordinance is required; and
- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings

Department that if the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of his department, they are unauthorized building works (UBW) under the BO and should not be designated for any approved use under the application. For UBW erected on leased land, enforcement action may be taken by his department to effect their removal in accordance with his department'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) are to be carried out in the site, the prior approval and consent of his department should be obtained, otherwise they are UBW. An Authorized Person 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 (B(P)R) respectively. If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.