

APPLICATION FOR EXTENSION OF TIME
FOR COMPLIANCE WITH PLANNING CONDITIONS
UNDER SECTION 16A(2) OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NSW/204-2

- Applicant** : Joyous Cheer Limited represented by Dudley Surveyors Limited
- Site** : Lots 879, 880 S.A ss1, 880 S.B ss1, 881 to 885, 889 RP (Part), 891 (Part), 1318, 1326 and 1344 (Part) in D.D. 115 and adjoining Government Land (GL), Au Tau, Nam Sang Wai, Yuen Long
- Site Area** : 3,728 m² (about) (including about 615 m² of GL or 16.5%)
- Lease** : Lots 879, 880 S.A. ss.1, 880 S.B. ss.1, 881 to 885, 889 RP (Part) and 891 (Part) in D.D. 115 are under Block Government Lease (demised for building, garden and agricultural uses)
- Lots 1318, 1326 and 1344 (Part) in D.D. 115 are Tai Po New Grant Lots (demised for building, garden and agricultural uses)
- Plan** : Approved Nam Sang Wai Outline Zoning Plan No. S/YL-NSW/8
- Zoning** : “Undetermined” (“U”) (about 85 %)
“Government, Institution or Community” (“G/IC”) (about 15 %)
- Application** : Class B Amendment - Category 19
Extension of time (EOT) for compliance with conditions (i), (xii) and (xiv) in relation to the submission of updated Traffic Impact Assessment (TIA) report, revised Landscape Master Plan (LMP), and revised Visual Impact Assessment (VIA) for the approved columbarium under Application No. A/YL-NSW/204

1. Background

- 1.1. On 1.12.2010, the applicant sought planning permission for columbarium use at the application site (the Site) which falls within an area mainly zoned “U” and partly zoned “G/IC” on the approved Nam Sang Wai OZP No. S/YL-NSW/8 (**Plan AA-1**). On 15.6.2012 and 5.12.2014, the application was rejected by the Rural and New Town Planning Committee (the Committee) and on review by the Town Planning Board (the Board) respectively.
- 1.2. On 17.2.2015, the applicant lodged an appeal to the TPAB against the Board’s decision under section 17B(1) of the Ordinance. On 14.11.2017, the TPAB allowed the appeal and granted the planning permission sought by the applicant with conditions. According to TPAB’s decision, the planning permission should be

valid until 4 years from the date of the decision i.e. until 14.11.2021, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed.

1.3. The planning permission granted by the TPAB is subject to 22 approval conditions and 9 additional conditions (**Appendix Ia**). Amongst them, 7 approval conditions have stipulated time limit of 6 months (i.e. 14.5.2018) requiring the submission of updated TIA report, revised EA, revised EcoIA, revised LMP, revised VIA, drainage proposal and EVA, water supply for fire fighting and FSIs under approval conditions (i), (ix), (x), (xii), (xiv), (xvi) and (xviii). On 4.5.2018, the Committee granted an EOT of 6 months, as requested by the applicant, for compliance with the 7 time-limited approval conditions (approval letter at **Appendix Ib**):

- (i) the submission of an updated TIA report within 6 months to the satisfaction of all relevant government departments and parties affected, including but not limited to the Transport Department (TD), the Police, the Planning Department (PlanD), Pok Oi Hospital (POH), Hospital Authority (HA) and the Board (extended once to 12 months until 14.11.2018);
- (ix) the submission of a revised EA within 6 months to the satisfaction of the Director of Environmental Protection (DEP) or of the Board - (extended once to 12 months until 14.11.2018) – **complied with** on 25.6.2018;
- (x) the submission of a revised EcoIA within 6 months to the satisfaction of the Director of Agriculture, Fisheries and Conservation (DAFC) or of the Board - (extended once to 12 months until 14.11.2018) – **complied with** on 25.6.2018;
- (xii) the submission of a revised LMP including tree preservation scheme within 6 months to the satisfaction of the Director of Planning (D of Plan) or of the Board - (extended once to 12 months until 14.11.2018);
- (xiv) the submission of a revised VIA within 6 months to the satisfaction of the D of Plan or of the Board - (extended once to 12 months until 14.11.2018) – already **complied with** on 11.10.2018 after submission of current EOT;
- (xvi) the submission of drainage proposal within 6 months to the satisfaction of the Director of Drainage Services (DDS) or of the Board - (extended once to 12 months until 14.11.2018) – **complied with** on 25.6.2018;
- (xviii) the submission of EVA, water supply for fire fighting and FSIs within 6 months prior to the commencement of operation of the columbarium to the satisfaction of the Director of Fire Services (D of FS) or of the Board - (extended once to 12 months until 14.11.2018) – **complied with** on 23.8.2018.

2. **Application for EOT for Compliance with Approval Conditions (i), (xii), and (xiv)**

2.1 On 3.10.2018, the applicant submitted the subject s.16A(2) application for Class B amendment (Category 19) for EOT for compliance with approval conditions (i), (xii), and (xiv) from 6 months to 18 months until 14.5.2019 (i.e. an additional 6

months from the last approval). The current application is the second EOT application received by the Board on the application.

2.2 In support of the application, the applicant has submitted the following:

Application form and Supplementary information (Appendix II)
received on 3.10.2018 and 16.10.2018

2.3 Since approval condition (xiv) in relation to the submission of a revised VIA has been satisfactorily complied with subsequent to the submission of the subject EOT application, an EOT for compliance with approval condition (xiv) is not required.

3. Justifications from the Applicant

The justifications put forth by the applicant in support of the application as detailed in Appendix II are summarized as follows:

- (a) Since the last EOT approval, the applicant has been making great effort to comply with the outstanding approval conditions. The applicant submitted an updated TIA, a revised EA, revised EcoIA, revised LMP, revised VIA, drainage proposal and proposal for EVA, water supply for fire fighting and FSIs for compliance with approval conditions (i), (ix), (x), (xii), (xiv), (xvi) and (xviii) respectively.
- (b) Approval conditions (ix), (x) and (xviii) were complied with on 25.6.2018. Approval condition (xvi) was also complied with on 23.8.2018.
- (c) On approval condition (i), the applicant has submitted a revised TIA to TD, Police, HA and POH on 24.7.2018, and to PlanD on 31.8.2018 for consideration. Comments received were being considered and the traffic consultant is now preparing further information to address the comments.
- (d) On approval condition (xii), the applicant has submitted a revised LMP on 31.8.2018 for consideration of CTP/UD&L and their comments were received on 28.9.2018. The consultant is currently preparing further information to address the comments.
- (e) On approval condition (xiv), the applicant has submitted a revised VIA on 16.8.2018 for consideration of CTP/UD&L and their comments were received on 31.8.2018. The applicant further submitted the revised VIA on 28.9.2018, and comments from CTP/UD&L were pending as at the date of the submission of the subject EOT application.
- (f) According to the applicant, an EOT for 6 months is sought to allow adequate time for the applicant to address the concerns given by relevant parties and to make amendments where necessary.

4. Town Planning Board Guidelines

Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B)

- 4.1 The criteria for assessing this application for extension of time for compliance with planning conditions include:
- (a) whether the applicant has given full justifications on why the planning condition(s) could not be complied with within the prescribed time-limit;
 - (b) whether the applicant has demonstrated that reasonable action(s) have been taken to comply with all or the outstanding planning conditions;
 - (c) whether there are any adverse planning implications arising from the extension of time for compliance with planning conditions;
 - (d) whether the extension sought is reasonable; and
 - (e) any other relevant considerations.
- 4.2 Under no circumstances should the extension of time for compliance with planning conditions exceed the original validity period of the temporary approval.

TPB Guidelines for Class A and Class B Amendments to Approved Development Proposals (TPB PG-No. 36B)

- 4.3 According to Town Planning Board Guidelines for Class A and Class B Amendments to Approved Development Proposals (TPB PG-No. 36B), the Board has delegated its authority to the Director of Planning to consider applications for Class B amendments. However, an application which is unacceptable to the concerned government departments will have to be submitted to the Board for consideration.

5. Comments from Relevant Government Departments

- 5.1 The following government departments have been consulted and their views on the application are summarized as follows:

- 5.1.1 Comments of the Secretary of Food and Health (SFH) / Chief Executive of Hospital Authority (HA):

Their concern rests on whether POH/HA's concerns on the traffic impact could be satisfactorily addressed before the planning permission is granted. He would defer it to the Committee to consider the merits of the application for EOT and the length of the extension (if granted).

Traffic

- 5.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the EOT application from traffic engineering perspective.
- (b) The applicant has submitted an updated TIA for compliance with approval condition (i) and C for T provided comments on 2.10.2018.

5.1.3 Comments of Commissioner of Police (C of P):

- (a) He has no comment on the EOT application from a policing perspective.
- (b) The applicant has submitted an updated TIA for compliance with approval condition (i) to C of P for comment. C of P provided reply on 5.10.2018.

Landscape and Visual

5.1.4 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

Landscape

- (a) He has no objection to the EOT application. The applicant has submitted the revised LMP on 31.8.2018, and his comments were provided on 28.9.2018. The applicant is currently preparing further information to address his comments.

Visual

- (b) The applicant has submitted a revised VIA on 28.9.2018, he has no further comment on the submission and the revised VIA is considered acceptable from visual impact perspective.

District Officer's Comments

5.1.5 Comments of the District Officer (Yuen Long) (DO(YL)):

It should be noted that the local community has strong objection to the application No. A/YL-NSW/204 and the decision of the TPAB. Their view should be considered as appropriate and DO(YL) should be kept posted of the decision on the EOT and any updates.

6. Planning Considerations and Assessments

- 6.1 The proposed columbarium use at the Site (Application No. A/YL-NSW/204) was subject of an appeal with permission granted by the TPAB on 14.11.2017 with conditions. Amongst the 31 approval conditions⁽¹⁾, 7 conditions require compliance within 6 months by 14.5.2018. On 4.5.2018, the Board approved the first EOT application (No. A/YL-NSW/204-1) and the time compliance for approval conditions (i), (ix), (x), (xii), (xiv), (xvi) and (xviii) was extended from the original 6 months to a total of 12 months until 14.11.2018.
- 6.2 Since the granting of the last EOT application (No. A/YL-NSW/204-1) in 4.5.2018, the applicant had made effort to comply with approval conditions (ix), (x), (xiv),

⁽¹⁾ The 31 approval conditions imposed by the TPAB include 22 approval conditions and 9 additional conditions

(xvi) and (xviii), in relation to the submission of revised EA, revised EcoIA, revised VIA, revised drainage proposals and submission of EVA, water supply for fire fighting and FSIs proposal respectively, which have been complied with to the satisfaction of the relevant departments. The applicant had also submitted an updated TIA and revised LMP on 31.8.2018 in an attempt to comply with approval conditions (i) and (xii). The applicant is currently preparing further information to address further comments received from concerned departments/parties on the TIA and LMP.

- 6.3 The current application is the second EOT application for compliance with approval conditions (i), (xii) and (xiv) respectively in relation to the submission of updated TIA report, revised LMP, and revised VIA for an additional 12 months up to a total of 18 months until 14.5.2019. Since approval condition (xiv) has been satisfactorily complied with subsequent to the submission of the subject EOT application, an EOT for compliance with approval condition (xiv) is not required.
- 6.4 Concerned departments, including SFH, C for T, C of P, CTP/UD&L, PlanD, have no objection to the EOT application for compliance with the said conditions as stated in para. 6.3 above. Nevertheless, DO(YL) is of the view that the local community has strong objection to the proposed columbarium application and the decision of the TPAB, and their views should be considered where appropriate. In this regard, TPAB had taken into account local objection when considering the application, and had imposed an additional condition in the permission requiring the applicant to liaise with the local residents to address their concerns on the proposed development.
- 6.5 The application is in line with TPB PG-No. 34B that the applicant has demonstrated reasonable actions to comply with the approval conditions, concerned departments have no objection to the EOT application, and more time is required by the applicant to address departmental comments on the technical assessments. It is considered that sympathetic consideration could be given to the application for extension of the time limit for an additional period of 6 months from the original 6 to 18 months until 14.5.2019 for compliance with the approval conditions.

7. **Planning Department's Views**

- 7.1 Based on the assessment made in paragraph 6, the Planning Department has no objection to the application for EOT for compliance with approval conditions (i) and (xii) as imposed by the TPAB.
- 7.2 Should the Committee decide to approve the EOT application, it is suggested that the time limit for compliance with approval conditions (i) and (xii) be extended from the original 6 months to 18 months until 14.5.2019, as proposed by the applicant.
- 7.3 The applicant should be advised to expedite action on fulfilling the approval conditions.
- 7.4 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applicant fails to provide strong justifications for extension of the time limit for compliance with the approval conditions (i) and (xii).

8. Decision Sought

- 8.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the EOT for compliance with approval conditions.
- 8.2 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

9. Attachments

Appendix Ia	Extract of TPAB's decision dated 14.11.2017 (on Conclusion)
Appendix Ib	Approval Letter under Application No. A/YL-NSW/204-1
Appendix II	Application Form and Supplementary Information received on 3.10.2018 and 16.10.2018
Plan AA-1	Location Plan

**PLANNING DEPARTMENT
NOVEMBER 2018**