

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

APPLICATION NO. A/YL-NSW/204-4

- Applicant** : Joyous Cheer Limited represented by Dudley Surveyors Limited
- Site** : Lots 879, 880 S.A ss.1, 880 S.B ss.1, 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 (OZP) 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 condition (i) in relation to the submission of updated Traffic Impact Assessment (TIA) report 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 Town Planning Appeal Board (TPAB) against the Board’s decision under section 17B(1) of the Town Planning Ordinance (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 for 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 (relevant extract of TPAB's decision at **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 Environmental Assessment (EA), revised Ecological Impact Assessment (EcoIA), revised Landscape Master Plan (LMP), revised Visual Impact Assessment (VIA), drainage proposal and emergency vehicular access (EVA), water supply for fire fighting and fire services installations (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 conditions mentioned above and the time limit was extended to 14.11.2018 (approval letter at **Appendix Ib**). 5 of the conditions (i.e. ix, x, xiv, xvi and xviii) were subsequently complied with by the applicant. On 2.11.2018, the Committee granted the second EOT of an additional 6 months, as requested by the applicant, for compliance with the remaining 2 time-limited approval conditions (approval letter at **Appendix Ic**). After approval of the second EOT on 2.11.2018, condition (xii) in relation to the submission of a revised LMP was complied with on 28.3.2019. On 3.5.2019, the Committee granted the third EOT of an additional 6 months, as requested by the applicant, for compliance with the last time-limited condition (i) (approval letter at **Appendix Id**):
- (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 three times to 24 months until 14.11.2019);
 - (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 two times to 18 months until 14.5.2019) – **complied with** on 28.3.2019;
 - (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) – **complied with** on 11.10.2018;
 - (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; and

(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 Condition (i)

2.1 According to Town Planning Board Guidelines for Class A and Class B Amendments to Approved Development Proposals (TPB PG-No. 36B), EOT for compliance with approval conditions is a class B amendment. On 4.10.2019, the applicant submitted the subject s.16A(2) application for Class B amendment (Category 19) for EOT for compliance with approval condition (i) from 6 months to 30 months until 14.5.2020 (i.e. an additional 6 months from the last approval). The current application is the fourth EOT application received by the Board on the application.

2.2 In support of the application, the applicant has submitted an application form received on 4.10.2019 (**Appendix II**).

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) On approval condition (i), the applicant has submitted a revised updated TIA to TD on 19.6.2019 and to the Police on 28.11.2018 for comments and their replies are awaited. Comments received from PlanD, HA and the Secretary of the Board between June and September 2019 were being considered and the traffic consultant is now preparing further information to address the comments received. The applicant has requested information from POH about the proposed POH Extension for assessment purpose, and is still awaiting POH's reply on his request. Comments from TD and the Police were pending as at the date of the submission of the subject EOT application.

(b) An EOT for 6 months is sought to allow adequate time for the applicant to obtain relevant information on the proposed POH Extension and to further revise the TIA in response to comments from concerned parties.

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. 34C)

4.1 The criteria for assessing this application for EOT 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 EOT 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 EOT 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 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 for Food and Health (SFH) / Chief Executive, Hospital Authority (CE/HA):

- (a) They would defer it to the Committee to consider the merits of the application for further EOT and the length of the extension (if granted); while Pok Oi Hospital has no comments on the EOT application.
- (b) On 13.3.2019, the applicant provided response to the comments of HA on the TIA submitted. HA provided comments on 25.6.2019 and the applicant's response to these comments is still pending.

Traffic

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

- (a) He has no adverse comment on the EOT application from traffic engineering perspective.
- (b) The applicant submitted an updated TIA to C for T for comments on 24.7.2018. C for T provided comments on 2.10.2018 and the applicant provided response to TD's comments on 24.10.2018. On 15.4.2019, C for T provided further comments to the applicant and

requested the applicant to submit a combined TIA. The applicant provided response on 19.6.2019 but not a combined TIA. On 24.10.2019, TD provided comments and asked again for the submission of a combined TIA.

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 submitted an updated TIA for compliance with approval condition (i) to C of P for comment on 24.7.2018. C of P provided comments on 5.10.2018. Subsequently, the applicant has submitted a revised updated TIA to C of P on 28.11.2018 and Police's comments will be provided to the applicant in due course.

District Officer's Comments

5.1.4 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 (including 22 approval conditions and 9 additional conditions), 7 conditions as set out in paragraph 1.3 above require compliance within 6 months by 14.5.2018. On 4.5.2018, the Committee approved the first EOT application (No. A/YL-NSW/204-1) and the time limit for compliance of the 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. 5 approval conditions were complied with by the applicant during the first EOT period. The Committee approved the second EOT application (No. A/YL-NSW/204-2) on 2.11.2018, and the time limit for compliance of approval conditions (i) and (xii) was extended from the original 6 months to a total of 18 months until 14.5.2019. The condition (xii) was complied with by the applicant during the second EOT period. On 3.5.2019, the Committee approved the third EOT application (No. A/YL-NSW/204-3), and the time limit for compliance of the remaining approval condition (i) was extended from the original 6 months to a total of 24 months until 14.11.2019.
- 6.2 Since the granting of the last EOT application (No. A/YL-NSW/204-3) on 3.5.2019, the applicant had made effort by providing responses to comments received to TD and PlanD in May and June 2019 in an attempt to address their comments for compliance with approval condition (i). According to the applicant, they have written to POH requesting for more information about the POH Extension, with a view to including the extension into the traffic assessment and updating the TIA report. Their traffic consultant is currently preparing further

information to address comments received from concerned departments/parties on the TIA, and a fourth EOT is therefore required.

- 6.3 The current application is the fourth EOT application for compliance with approval condition (i) in relation to the submission of updated TIA report for an additional 6 months up to a total of 30 months until 14.5.2020.
- 6.4 Concerned departments, including SFH, C for T and C of P have no objection to the EOT application for compliance with the said condition 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 Based on the above, the application is considered to be in line with TPB PG-No. 34C in that the applicant has demonstrated reasonable actions taken 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 TIA. 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, i.e. from the original 6 months to 30 months until 14.5.2020 for compliance with the approval condition. The applicant will be advised that the Committee has allowed 30 months for compliance with approval condition, and no further extension would be granted unless under very special circumstances.

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 condition (i) 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 condition (i) be extended from the original 6 months to 30 months until 14.5.2020, as proposed by the applicant.
- 7.3 The applicant should be advised to expedite action on fulfilling the approval condition. The applicant will be advised that the Committee has allowed 30 months for compliance with the approval condition, and no further extension would be granted unless under very special circumstances.
- 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 further extension of the time limit for compliance with the approval condition (i).

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 condition.
- 8.2 Should the Committee decide to approve the application, Members are invited to consider the period for extension of the time limit for compliance with approval condition (i).
- 8.3 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 for Application No. A/YL-NSW/204-1
Appendix Ic	Approval Letter for Application No. A/YL-NSW/204-2
Appendix Id	Approval Letter for Application No. A/YL-NSW/204-3
Appendix II	Application Form
Plan AA-1	Location Plan

**PLANNING DEPARTMENT
NOVEMBER 2019**