

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

**APPLICATION NO. A/YL-NSW/204-5**

- 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 m<sup>2</sup> (about) (including about 615 m<sup>2</sup> 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 relating to the submission of an updated TIA and a revised LMP (approval letter at **Appendix Ic**). After approval of the second EOT on 2.11.2018, condition on submission of a revised LMP was complied with on 28.3.2019. On 3.5.2019 and 1.11.2019, the Committee granted the third and fourth EOT, each of an additional 6 months, as requested by the applicant, for compliance with the last time-limited condition on submission of an updated TIA (approval letters at **Appendices Id and Ie**).
- 1.4. For the last time-limited condition (i.e. condition (i)), the TPAB required 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. The compliance period has been extended four times to 30 months until 14.5.2020.

## **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 8.4.2020, 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 36 months until 14.11.2020 (i.e. an additional 6 months from the last approval). The current application is the fifth 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 8.4.2020 (**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 had a meeting with the Board of Directors of POH on 4.3.2019 and POH considered the updated TIA cannot meet their satisfaction. He had written to POH on 9.4.2019 and 17.6.2019 to obtain more information about the proposed extension proposal for assessment purposes but no information on the proposed extension had been received so far.
- (b) Comments from TD were received on 24.10.2019, the applicant is currently preparing responses to TD's comments.
- (c) Comments from HA, PlanD and TPB were received on 25.6.2019, 5.7.2019 and 6.9.2019 respectively. The applicant submitted the Response-to-Comments (R-to-C) to HA, PlanD and TPB respectively on 31.3.2020, and is awaiting their replies. Comments from C of P were pending at the date of the submission of the subject EOT application.
- (d) Since more time is required to obtain relevant information on the proposed POH Extension and relevant departments are processing the submissions made on 31.3.2020, an EOT for 6 months is sought.

### **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.

Town Planning Board 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):

They would defer to the Committee to consider the merits of the application for further EOT and the length of the extension (if granted). HA expressed that unimpeded access to the POH for patients requiring emergency care must be maintained at all times. POH has severe concern on the traffic impacts of the proposed columbarium development. Both HA and POH have provided comments in April and March 2020 respectively on applicant's R-to-C on the revised TIA. The applicant's responses to HA/POH's comments are 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 a R-to-C to C for T for comments on 19.6.2019 and 16.9.2019. C for T provided comments on 24.10.2019. The applicant's response to these comments is still pending.

- 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 made submission to C of P on 28.11.2018, and C of P provided comments on 17.4.2020.

### **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) is the 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 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 relating to the submission of an updated TIA and a revised LMP was extended from the original 6 months to a total of 18 months until 14.5.2019. The condition on submission of revised LMP was complied with by the applicant during the second EOT period. On 3.5.2019 and 1.11.2019, the Committee respectively approved the third and fourth EOT applications (No. A/YL-NSW/204-3 and 204-4), and the time limit for compliance of the remaining approval condition on the submission of an updated TIA was extended from the original 6 months to a total of 30 months until 14.5.2020.
- 6.2 Since the granting of the last EOT application (No. A/YL-NSW/204-4) on 1.11.2019, the applicant had provided R-to-C to HA, TPB and PlanD on 31.3.2020 in an attempt to address their comments for compliance with approval condition (i). Further to the applicant's submission on 31.3.2020, comments from TPB and PlanD were provided to the applicant on 17.4.2020 and 21.4.2020 respectively. According to the applicant, their traffic consultant is currently preparing the responses to TD's comments, and 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. A fifth EOT is therefore required to allow adequate time for the applicant to obtain relevant information on the proposed extension of POH and prepare responses to relevant departments' responses.
- 6.3 The current application is the fifth EOT application for compliance with approval condition on the submission of an updated TIA report for an additional 6 months up to a total of 36 months until 14.11.2020.
- 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. Nevertheless, despite there is no objection to the EOT application, POH has severe concern on the traffic impacts of the proposed columbarium development and HA expressed that unimpeded access to the POH for patients requiring emergency care must be maintained at all times. Besides, DO(YL) relays 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. Noting HA/POH's concern on the matter, the applicant should be advised to closely follow up with HA/POH in addressing their concerns, and to provide timely response to the comments of concerned departments/parties on the TIA. As regards local views, 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 not inconsistent with TPB PG-No. 34C in that the applicant has taken some actions to comply with approval condition (i), 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 extending the compliance period for the last time-limited condition for an additional period of 6 months, i.e. from the original 6 months to 36 months until 14.11.2020. The applicant will be advised that the Committee has allowed 36 months for compliance with approval condition, and no further extension would be granted unless under very special circumstances.
- 6.6 Given the slow and unsatisfactory progress of fulfilling approval condition (i) and hence delaying the commencement of the development, the applicant shall be reminded that the validity of the approval is up to 14.11.2021 and any application for extension of the time for commencement of development will be assessed having regard to the list of criteria laid down in the Town Planning Board Guidelines on Extension of Time for Commencement of Development (TPB PG-No. 35C). The criteria includes whether there has been material change in planning circumstances since the original permission was granted, whether there are any adverse planning implications, whether reasonable actions have been taken to comply with any approval condition or commence the development, whether there is a good prospect to commence the development, etc. The applicant should expedite action to fulfill the approval condition and commence the development. Otherwise, the planning permission may be revoked or lapse.

## **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 36 months until 14.11.2020, as proposed by the applicant.
- 7.3 The applicant should be advised to expedite action on fulfilling the approval condition and provide timely response to concerned departments/parties. The applicant will be advised that the Committee has allowed 36 months for compliance with the approval condition, and no further extension would be granted unless under very special circumstances. Besides, the applicant should be advised that the validity of the approval is up to 14.11.2021. The planning permission may be revoked or lapse if any of the approval conditions is not complied with or the development has not commenced accordingly.
- 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**

<b>Appendix Ia</b>	Extract of TPAB's Decision Dated 14.11.2017 (on Conclusion)
<b>Appendix Ib</b>	Approval Letter for Application No. A/YL-NSW/204-1
<b>Appendix Ic</b>	Approval Letter for Application No. A/YL-NSW/204-2
<b>Appendix Id</b>	Approval Letter for Application No. A/YL-NSW/204-3
<b>Appendix Ie</b>	Approval Letter for Application No. A/YL-NSW/204-4
<b>Appendix II</b>	Application Form
<b>Plan AA-1</b>	Location Plan

**PLANNING DEPARTMENT  
APRIL 2020**