

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

**APPLICATION NO. A/YL-NSW/204-1**

- 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 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 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), (ix), (x), (xii), (xiv), (xvi) and (xviii) in relation to the submission of updated Traffic Impact Assessment (TIA) report, revised Environmental Assessment (EA), revised Ecological Impact Assessment (EcoIA), revised Landscape Master Plan (LMP), revised Visual Impact Assessment (VIA), drainage proposal, emergency vehicular access (EVA), water supply for fire-fighting and fire services installations (FSIs) 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 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 I**). 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) respectively as below:
- (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), Health Authority (HA) and the Board;
  - (ix) the submission of a revised EA within 6 months to the satisfaction of the Director of Environmental Protection (DEP) or of the Board;
  - (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;
  - (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;
  - (xiv) the submission of a revised VIA within 6 months to the satisfaction of the D of Plan or of the Board;
  - (xvi) the submission of drainage proposal within 6 months to the satisfaction of the Director of Drainage Services (DDS) or of the Board; 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.
- 1.4. On 24.4.2018, the applicant submitted revised EA, drainage proposal and proposal for EVA, water supply for fire-fighting and FSIs in an attempt to comply with approval conditions (ix), (xvi) and (xviii) respectively. These submissions have been circulated for comments of concerned departments.

## **2. Application for Extension of Time**

- 2.1 On 27.4.2018, the applicant submitted the subject s.16A(2) application for Class B amendment (Category 19) for EOT for compliance with approval conditions (i),

(ix), (x), (xii), (xiv), (xvi) and (xviii) from 6 months to 12 months until 14.11.2018 (i.e. an additional 6 months from the original approval). The current application is the first EOT application received by the Board on the application.

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

- (a) Application form received on 27.4.2018 **(Appendix II)**
- (b) Supplementary information received on 2.5.2018 **(Appendix III)**

### **3. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application as detailed in **Appendices II and III** are summarized as follows:

- (a) Since the permission granted by the TPAB on 14.11.2017, the applicant has made positive progress by appointing Authorised Person and professional engineers to handle the complicated development.
- (b) On 24.4.2018, the applicant submitted revised EA, drainage proposal and proposal for EVA, water supply for fire fighting and FSIs for the consideration of DEP, DSD and D of FS to comply with approval conditions (ix), (xvi) and (xviii) respectively. The applicant is currently finalising the updated TIA report, revised EcoIA, revised LMP including tree preservation scheme, and revised VIA under approval conditions (i), (x), (xii) and (xiv) respectively. These documents would be submitted to the TPB within two weeks.
- (c) According to the applicant, an EOT for 6 months is required to allow adequate time for the applicant to address the comments from relevant departments and to allow the applicant to make amendments when necessary. In addition, the applicant is in the course of seeking clarification from the TPAB with regard to the interpretation of “all relevant government departments and parties affected” under approval condition (i) as it is related to the interpretation as to who shall be consulted on the TIA.

### **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/ Chief Executive of Hospital Authority (HA):

Their concern rests on whether Pok Oi Hospital/ Hospital Authority'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's traffic consultant had sought his advice in January 2018 on the assumptions on planned new development and major road network for TIA purpose. C for T provided reply on 15.1.2018.

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

He has no comment on the EOT application for extension for 6 months.

### **Fire Safety**

5.1.4 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection to the EOT application.
- (b) The applicant has submitted EVA, water supply for fire fighting and FSIs proposal for compliance with approval condition (xviii) for comment.

### **Environment**

5.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) He has no comment on the EOT application.
- (b) The applicant has submitted revised EA for compliance with approval condition (ix) for comment.

### **Landscape and Visual**

5.1.6 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 from landscape planning perspective.

#### Visual

- (b) He has no adverse comment on the application.
- (c) He has not received any VIA for compliance with condition (xiv) thus far. Nonetheless, since this is the first EOT application, the period of extension applied for is not unreasonable, and that adverse planning implication is not anticipated to arise from the EOT application.

### **Nature Conservation**

5.1.7 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

He has no comment on the EOT application.

### **Drainage**

5.1.8 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection to the EOT application.

- (b) The applicant has submitted the drainage proposal for compliance with approval condition (xvi) for comment.

### **District Officer's Comments**

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

It should be noted that the local community has strong objection to the proposed columbarium under 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<sup>(1)</sup>, 7 conditions require compliance within 6 months by 14.5.2018.
- 6.2 The current application is the first EOT application for compliance with approval conditions (i), (ix), (x), (xii), (xiv), (xvi) and (xviii) respectively in relation to 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 for an additional 6 months up to a total of 12 months until 14.11.2018.
- 6.3 According to the applicant, since the granting of planning permission by TPAB in November 2017, the applicant had made effort to comply with the conditions, and had sought advice from TD on the assumptions on planned new development and major road network for TIA purpose for complying with approval condition (i), and submitted revised EA, drainage proposal, and proposal for EVA, water supply for fire-fighting and FSIs to comply with approval conditions (ix), (xvi) and (xviii) respectively. The applicant also indicated in the application that they are in the course of seeking clarification from the TPAB with regard to the interpretation of "all relevant government departments and parties affected" under approval condition (i) as it is related to the interpretation as to who shall be consulted on the TIA, and target to submit the revised TIA, revised EcoIA, revised LMP and revised VIA within 2 weeks.
- 6.4 Concerned departments including FHB, TD, FSD, EPD, AFCD, DSD and CTP/UD&L, PlanD have no objection to the EOT application for compliance with the said conditions as stated in para. 6.2 above. Nevertheless, DO(YL) is of the view that the local community has strong objection to the proposed columbarium under application No. A/YL-NSW/204 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.

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

6.5 The application is in line with TPB PG-No. 34B. This is the first EOT sought, the applicant has made effort to comply with approval conditions, concerned departments have no objection to the EOT application, and more time is required by the applicant to address departments' comments on the technical assessments and to seek clarification with the TPAB with regard to the interpretation of the approval condition, it is considered that sympathetic consideration could be given to the application for extension of the time limit for a period of 6 months from the original 6 to 12 months until 14.11.2018 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), (ix), (x), (xii), (xiv), (xvi) and (xviii) 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), (ix), (x), (xii), (xiv), (xvi) and (xviii) be extended from the original 6 months to 12 months until 14.11.2018, 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), (ix), (x), (xii), (xiv), (xvi) and (xviii).

## **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 I** Extract of TPAB's decision dated 14.11.2017 (on Conclusion)

**Appendix II** Application Form received on 27.4.2018

**Appendix III** Supplementary Information received on 2.5.2018

**Plan AA-1** Location Plan

**PLANNING DEPARTMENT  
MAY 2018**