

APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NSW/313

- Applicant** : Rich Throw Limited represented by Mr. LI Fu Chuen
- Site** : Lots 3730 S.E (Part), 3733 (Part), 3734 S.A (Part), 3734 S.B ss.1, 3734 S.B RP (Part), 3734 RP (Part) and 3535 RP (Part) in D.D. 104, Pok Wai, Yuen Long
- Site Area** : About 320 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8
- Zoning** : “Village Type Development” (“V”)

[Restricted to maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary Private Swimming Pool and Garden Use for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary private swimming pool and garden use at the application site (the Site) for a period of 3 years (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for the applied use with valid planning permission under Application No. A/YL-NSW/277.
- 1.2 The Site is the subject of seven previous applications, all for the same temporary private swimming pool and garden use (**Plan A-1**). The last application No. A/YL-NSW/277 submitted by the current applicant was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 26.5.2020 for a period of 3 years until 26.5.2023. All approval conditions, including the submission of records of the existing drainage facilities, submission and

implementation of fire service installations (FSIs) works were complied with.

1.3 According to the applicant, the swimming pool and the ancillary plant room were built in 2007 and there has been no change in the building structures since then. The development parameters are identical to the last approved application with site area of 320m², a total floor area of 147.65m² (including 144.5m² for the swimming pool of 1.3m deep and 3.15m² for the 1-storey plant room of 1.5m in height), and the remaining area (172.35 m²) for garden use (**Drawing A-1, Plans A-2, A-4a and A-4b**).

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form received on 27.3.2023 (Appendix I)
- (b) Further Information (FI) received on 11.5.2023[#] (Appendix Ia)

[#] exempted from publication requirement

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia**. They are summarised as follows:

- (a) The applicant is the land owner of the Site and the ground and first floors of Lot 3730 S.E. adjoining the southwestern part of the Site. The pool is intended for leisure purposes, and for the use by his relatives and nearby neighbours free of charge. He will continue to take up the responsibility for the maintenance and repair of the swimming pool.
- (b) The swimming pool was the subject of seven previously approved applications and the approval conditions have all been complied with. The applicant is willing to continue to maintain the completed drainage, landscape and FSIs facilities.
- (c) The swimming pool and the ancillary plant room were built in 2007 and there has been no change in the building structures since then. Therefore, there will not be any impact on the surrounding areas.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

Town Planning Board Guidelines for “Application for Developments within Deep Bay Area” (TPB PG-No. 12C) and “Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development” (TPB

PG-No. 34D) are relevant to this application. The Site falls within the Wetland Buffer Area (WBA) of the TPB PG-No. 12C and relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

The Site is currently not subject to any active planning enforcement action.

6. Previous Applications

6.1 The Site is the subject of seven previous applications (No. A/YL-NSW/100, 151, 177, 206, 227, 253 and 277) for the same applied use (**Plan A-1**). All of them were approved by the Committee between 2001 and 2020 for periods of 3 years. Details of these applications are summarized at **Appendix III**. Their locations are shown on **Plan A-1**.

6.2 Applications No. A/YL-NSW/100, 151 and 177 were approved with conditions by the Committee between 2001 and 2007. The main considerations were that the proposed developments would not affect other villagers as they only involved a private swimming pool and garden for the beneficial use and enjoyment of the villagers, significant adverse impacts on the surrounding areas were not expected, and there was no shortage of land in the subject “V” zone in the near future. All the approval conditions had been complied with.

6.3 Applications No. A/YL-NSW/206, 227, 253 and 277 on a smaller site than the previous application sites (reduced from 335m² to 320m²) and with a plant room) were approved by the Committee between 2011 and 2017. The applications were approved based on similar considerations as the first three applications mentioned above. All approval conditions had been complied with.

7. Similar Applications

There is no similar application within the same “V” zone on the OZP in the past five years.

8. The Site and Its Surrounding Areas (Plans A-1 to A-4)

8.1 The Site is:

- (a) occupied by a swimming pool and a plant room with landscaped areas and fences;
- (b) accessible via a local road leading to Castle Peak Road-Tam Mi; and
- (c) within the WBA under the TPB PG-No. 12C.

8.2 The surrounding areas have the following characteristics:

- (a) to its north across the local track are residential dwellings, vacant land and grass land;
- (b) to its east is a petrol filling station;
- (c) to its south are residential dwellings; and
- (d) to its west are residential dwellings, pond and a site for proposed filling of land for permitted houses (New Territories Exempted Houses) with valid planning permission (No. A/YL-NSW/310).

9. Planning Intention

The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

All government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV** and **V** respectively.

11. Public Comments Received During Statutory Publication Period

On 4.4.2023, the application was published for public comments. During the first three weeks of the statutory publication period which ended on 25.4.2023, one public comment was received from an individual (**Appendix VI**) providing views that there is a need to streamline similar renewal applications.

12. Planning Considerations and Assessments

12.1 The application is for renewal of a planning approval under application No. A/YL-NSW/277 for a temporary private swimming pool and garden use for a further period of 3 years. The Site falls within the “V” zone which aims to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of small houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly

development pattern, efficient use of land and provision of infrastructure and services. Although the private swimming pool and garden are not in line with the planning intention of the “V” zone, according to DLO/YL, there is no committed Small House development or Small House application received at the Site. Given the temporary nature of the development, the long-term planning intention of the “V” zone would not be jeopardised.

- 12.2 The renewal application is in line with the TPB PG-No. 34D in that there has not been material change in planning circumstances since the previous approval was granted; there is no adverse planning implication arising from the renewal of the planning approval; and the applicant has complied with all approval conditions, including the submission/implementation of drainage and FSIs works, and maintenance of landscape planting under the previous approval.; and the 3-year approval period sought is not unreasonable.
- 12.3 According to the TPB PG-No. 12C, the Site falls within the WBA which is intended to protect the ecological integrity of the fish ponds and wetland within the WCA and prevent development that would have off-site disturbance impact on the ecological value of fish ponds. Since the applied use is only temporary in nature, the requirement of Ecological Impact Assessment submission can be exempted. The Director of Agriculture, Fisheries and Conservation (DAFC) has no comment on the renewal application.
- 12.4 The swimming pool and garden are not incompatible with the surrounding environment which is predominantly occupied by village type residential development. In view of the scale of the development (the swimming pool and garden use of about 320m²), it would unlikely create any significant adverse impacts on the existing traffic, environment, drainage and landscape on the surrounding areas. In this regard, there are no adverse comments from the concerned departments including Commissioner for Transport, Director of Environmental Protection, DAFC, Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD), Director of Fire Services (D of FS) and Chief Town Planner/Urban Design and Landscape, Planning Department. Should the application be approved, technical requirement of CE/MN, DSD and D of FS can be addressed by imposing approval conditions recommended in paragraph 13.2 below.
- 12.5 The Committee has approved seven previous applications for the same applied use as detailed in paragraph 6. Approval of the current renewal application is in line with the previous decisions of the Committee.
- 12.6 Regarding the public comment received during the statutory public inspection period of the application as detailed in paragraph 11, the current application and similar applications are/will be processed in accordance with the Town Planning Ordinance.

13. Planning Department's Views

- 13.1 Based on the assessment in paragraph 12 above, the Planning Department has no objection to the application.
- 13.2 Should the committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years, and be renewed from 27.5.2023 until 26.5.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the swimming pool should not be open to members of the public;
- (b) the drainage facilities implemented for the development on the Site should be maintained properly at all times during the planning approval period;
- (c) the submission of condition records of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of Director of Drainage Services or of the Town Planning Board by **27.8.2023**;
- (d) the submission of a fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **27.11.2023**;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services of the Town Planning Board by **27.2.2024**;
- (f) if any of the above planning conditions (a) or (b) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (g) if any of the above planning conditions (c), (d) or (e) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

[The above planning conditions are largely the same as those under the planning permission of previous Application No. A/YL-NSW/277, except the deletion of condition on landscape aspect based on the latest comments of CTP/UD&L of PlanD]

Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' consideration:

The continuous occupation of the Site for private swimming pool and garden use is not in line with the planning intention of the "Village Type Development" zone which is designated for both existing recognised villages and areas for village expansion.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 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.

15. Attachments

Appendix I	Application Form with attachments received on 27.3.2023
Appendix Ia	FI received on 11.5.2023
Appendix II	Extracts of TPB PG-Nos. 12C and 34D
Appendix III	Previous applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public Comment
Drawing A-1	Layout Plan
Plan A-1	Location Plan with previous applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2023**