

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

**APPLICATION NO. A/YL-NTM/436**

<b><u>Applicant</u></b>	: Chow Tim Sing represented by Chow Kwok Shu
<b><u>Site</u></b>	: Lot 2158 RP in D.D.104, Sheung Chuk Yuen, Ngau Tam Mei, Yuen Long
<b><u>Site Area</u></b>	: About 693.1m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
<b><u>Zoning</u></b>	: “Village Type Development” (“V”)
<b><u>Application</u></b>	: Renewal of Planning Approval for Temporary Private Swimming Pool for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning approval to continue to use the application site (the Site) for temporary private swimming pool for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “V” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12. According to the Notes of OZP, temporary use or development of any land or building not exceeding a period of three 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 planning permission under application No. A/YL-NTM/384 valid until 19.3.2022.
- 1.2 The Site is the subject of 5 previously approved applications for the same use by the same applicant (**Plan A-1**). The last application (No. A/YL-NTM/384) submitted for renewal of planning approval for the same use and layout was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 8.3.2019 for a period of 3 years up to 19.3.2022. All approval conditions had been complied with.
- 1.3 The Site is accessible to San Tam Road via a local track. According to the applicant, the site area is about 693.1 m<sup>2</sup>. The swimming pool covering a pool area of 312.5 m<sup>2</sup> with dimensions of 25m (length) x 12.5m (width) x 1.5m (depth), will be accommodated on a raised platform paved with floor tiles. Filtration plant

and balance tank are at the north-western corner of the Site. The layout plan is at **Drawing A-1**. The current application is the same as the last approved application No. A/YL-NTM/384 in terms of applied use, site area/boundary, total floor area, number of structures and site layout.

- 1.4 In support of the application, the applicant has submitted the Application Form (**Appendix I**) which was received on 26.1.2022.
- 1.5 In light of the special work arrangement for government departments due to the COVID-19 pandemic, all fieldwork were suspended during the special work arrangement, some relevant background information of the application sites as well as comments from some relevant departments were not available. As such, the Board agreed to defer consideration of the application on 18.3.2022 (the previous planning permission was valid up to 19.3.2022). The application is now scheduled for consideration by the Committee at this meeting.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I**. They can be summarized as follows:

- (a) The validity of the previously approved application No. A/YL-NTM/384 is to be expired and all approval conditions have been complied with. As such, the applicant applies for a renewal permission for the temporary private swimming pool.
- (b) The swimming pool is an ancillary facility for his Small House at Lot 2306 S.C in D.D. 104 (**Drawing A-1**). The private swimming pool would be open for use by his relatives and neighbours free of charge. Short Term Waiver has been granted by the Lands Department (LandsD) for the swimming pool.
- (c) The swimming pool will not impose adverse traffic and environmental impacts on the surrounding areas. The applicant has provided landscape works on site and is willing to maintain the existing facilities and be responsible for future maintenance works.

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

The applicant is not a “current land owner” of the Site but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining an agreement from the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Renewal of Planning Approval and Extension of Time Limit for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No.34D) are relevant to this application. Relevant extract of the Guidelines is at **Appendix II**.

**5. Background**

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

**6. Previous Applications**

- 6.1 The Site is subject of 5 previous approved planning applications (Nos. A/YL-NTM/213, 246, 286, 332, and 384) submitted by the same applicant for the same use at the same site.
- 6.2 Application No. A/YL-NTM/213 was approved by the Committee on 13.7.2007 for a period of 3 years. It was revoked on 13.3.2010 due to non-compliance with conditions relating to implementation of landscape and drainage facilities as the construction works of the swimming pool had not yet commenced at that time.
- 6.3 Prior to the revocation of planning permission for No. A/YL-NTM/213, the applicant submitted an application No. A/YL-NTM/246 which was approved by the Committee on 19.3.2010 for a period of 3 years. The subsequent renewal applications (Nos. A/YL-NTM/286, 332, and 384) were approved on 15.3.2013, 4.3.2016, and 8.3.2019 respectively for a period of 3 years mainly on the considerations that the swimming pool was not incompatible with the surrounding land uses, and there were no adverse comments from departments. All approval conditions of these applications had been complied with.
- 6.4 Details of the applications are summarized at **Appendix III**. Their locations are shown on **Plan A-1**.

**7. Similar Application**

There is no similar application within the same “V” zone on the Ngau Tam Mei OZP.

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

8.1 The Site is:

- (a) located within Kadoorie Villas, and accessible via a local access leading from San Tam Road; and

- (b) currently used for the applied use with planning permission under approved application No. A/YL-NTM/384 valid until 19.3.2022.

8.2 The surrounding areas have the following characteristics:

- (a) to its north are residential dwellings and open storage yard of vehicles;
- (b) to its northwest are residential dwellings (Small Houses) (some are under construction) and grassland;
- (c) to its east, south and west are residential dwellings, vacant land and;
- (d) to its southwest are open storage yard of construction materials and residential dwellings; and
- (e) to its further west are San Tam Road and San Tin Highway.

## **9. Planning Intention**

The planning intention of the “V” zone is 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 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 8.2.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 1.3.2022, one objecting public comment was received (**Appendix VI**) raising concern that the swimming pool is not open to members of the public.

## **12. Planning Considerations and Assessment**

12.1 The application is for renewal of planning approval for temporary private swimming pool for a period of 3 years. The planning intention of the “V” zone is

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 infrastructures and services. Given the temporary nature of the proposed development, the long-term planning intention of the “V” zone would not be jeopardized. DLO/YL has no adverse comment on the proposed renewal of the planning permission in this regard and he advises that there is no small house application approved or under processing at the Site.

- 12.2 The swimming pool is not incompatible with the surrounding land uses which are predominately occupied by village type developments. The open-air swimming pool (312.5m<sup>2</sup>) would unlikely create significant adverse impacts on the existing landscape, traffic and infrastructural provisions on the surrounding environment. There are no adverse comments from the concerned government departments, including C for T, CE/MN of DSD, CE/C of WSD, DEP, DFEH and CTP/UD&L of PlanD on traffic, drainage, water services, environmental and landscape aspects. The technical requirements raised by CE/MN of DSD regarding the submission of a condition record of the existing drainage facilities could be addressed by approval conditions as recommended in paragraph 13.2 below.
- 12.3 The renewal application is in line with the TPB PG-No. 34D in that since the last approval, there has been no major change in planning circumstances; adverse planning implications arising from the renewal of the planning approval are not expected; concerned government departments have no objection to or no adverse comment on the application; and all the approval conditions under the previous approval have been complied with.
- 12.4 There are 5 previously approved applications for the same use at the same site. Approval of the subject application is in line with the previous decisions of the Committee.
- 12.5 One public comment was received during the statutory publication period objecting to the application as stated in paragraph 11 above. With respect to the concern that the swimming pool is not open to members of the public, the applicant indicates that the swimming pool is only an ancillary facility for his house.

### **13. Planning Department's Views**

- 13.1 Based on the assessments in paragraph 12 and having taken into account the public comment in paragraph 11, the Planning Department considers that the temporary private swimming pool could be tolerated for a further period of 3 years.
- 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 22.4.2022 to 22.4.2025. 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 on the Site should be maintained at all times during the planning approval period;
- (c) the submission of a condition record of the existing drainage facilities within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 22.7.2022;
- (d) 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
- (e) if the above planning condition (c) 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 approval conditions are similar to those under the last approved Application No. A/YL-NTM/384, except those on deletion of the condition on tree maintenance based on the latest comments of CTP/UD&L, 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' reference:

The renewal of the planning permission for the private swimming pool at the Site is not in line with the planning intention of the "Village Type Development" zone which is to designate both existing recognized villages and areas of land considered suitable for village expansion. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

**14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning application.
- 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**

<b>Appendix I</b>	Application form received on 26.1.2022
<b>Appendix II</b>	Relevant Extract of TPB PG-No.34D
<b>Appendix III</b>	Previous applications
<b>Appendix IV</b>	Government departments' general comments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendix VI</b>	Public comment
<b>Drawing A-1</b>	Layout plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4</b>	Site photos

**PLANNING DEPARTMENT  
APRIL 2022**