

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/358

- Applicant** : N.I.C. (International) Holding Limited represented by R-riches Property Consultants Limited
- Site** : Lot 3250 S.B ss.45 in D.D. 104, Mai Po, Yuen Long
- Site Area** : About 743m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Mai Po and Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6 and Approved Nam Sang Wai OZP No. S/YL-NSW/8
- Zoning** : “Commercial/Residential” (“C/R”) (about 62% of the Site) on Mai Po and Fairview Park OZP
[*restricted to a maximum plot ratio (PR) of 0.4, a maximum site coverage of 20% and a maximum building height (BH) of 3 storeys (9m)*]

“Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” (“OU(CDWRA)”) (about 38% of the Site) on Nam Sang Wai OZP
[*restricted to a maximum PR of 0.4 and a maximum BH of 6 storeys including car park*]
- Application** : Proposed Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services with ancillary facilities for a period of three years at the application site (the Site) (**Plan A-1**) which partly falls within an area zoned “C/R” on the approved Mai Po and Fairview Park OZP No. S/YL-MP/6 and partly falls within an area zoned “OU(CDWRA)” on the approved Nam Sang Wai OZP No. S/YL-NSW/8. ‘Shop and Services’ is a Column 1 use under the “C/R” zone in the Mai Po and Fairview Park OZP which is always permitted; nonetheless, ‘Shop and Services’ is a Column 2 use under the “OU(CDWRA)” zone in the Nam Sang Wai OZP which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied with some temporary vacant structures and fenced off.

- 1.2 The proposed development involves three structures (one to two storeys, about 7m in height) with a total gross floor area (GFA) of about 524m² for shop and services use with ancillary office and a rain shelter for five private car parking spaces (**Drawing A-1**). There will be about 10 staff members working at the Site and it is estimated that there will be about 30 visitors per day. The operation hours of the proposed development will be between 7:00 a.m. to 10:00 p.m. daily, including public holidays. The Site is accessible from Fairview Park Boulevard through an ingress/egress (7.3m in width) located at its northern boundary (**Plan A-2**).
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form and Supplementary Statement received (**Appendix I**)
on 25.8.2023 and Supplementary Information (SI)
received on 31.8.2023
 - (b) Further Information (FI) received on 4.10.2023* (**Appendix Ia**)
- Remarks: * accepted and exempted from publication requirement

2. Justifications from the Applicant

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

- (a) The proposed temporary shop and services use, which is a Column 2 use in the “OU(CDWRA)” zone, would not jeopardise the long term planning intention of the zone, whereas such use is a Column 1 use in the “C/R” zone which is always permitted.
- (b) The proposed use is considered not incompatible with the surrounding land uses which comprise various residential and commercial uses and it would benefit the nearby residents and workers in meeting the local demand for daily necessities and shops and services in the area.
- (c) Similar application for temporary shop and services use in the vicinity of the Site in the “OU(CDWRA)” zone was approved by the Board. Approval of the current application is in line with the Board’s previous decision and it would not set an undesirable precedent.
- (d) No light, medium or heavy vehicles including container vehicles are allowed to be parked/stored or access the Site. Sufficient vehicle parking and manoeuvring spaces are provided within the Site to ensure no queuing and turning back outside the Site. The proposed temporary use is small in scale and mainly serves the local need. It is anticipated that minimal trips will be generated to/from the Site, and adverse traffic impact on the surrounding road network is not anticipated. Also, the applicant would follow relevant guidelines and practice notes issued by the Environmental Protection Department (EPD), hence the proposed temporary use would not create significant environmental impact to the surrounding area.

Adequate measures including the drainage and fire service installations proposals will be submitted upon approval of the application.

- (e) The applicant will submit Short Term Waiver (STW) application for erection of structures at the Site after planning approval has been granted by the Board.
- (f) The current application is to provide temporary retail facilities to the local residents. No workshop and no car testing activities will be carried out at the Site at any time during the planning approval period.

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

The applicant is not a “current land owner” of the private lots within 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 posting site notice and sending notice to San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

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

5. Previous Application

The Site is the subject of one previous application (No. A/YL-MP/308) submitted by a different applicant for proposed temporary car testing centre which was approved by the Rural and New Town Planning Committee (the Committee) in 2022. The proposed use is not relevant to the current application. Details of the previous application is summarised at **Appendix II**. The location is shown on **Plan A-1**.

6. Similar Application

- 6.1 During the past five years, there were three similar applications (No. A/YL-NSW/284, 298 and 308) for temporary shop and services within the same “OU(CDWRA)” zone on the Nam Sang Wai OZP. All the applications were approved by the Committee between 2020 and 2023 mainly on the considerations that the development would not frustrate the long term planning intention of the “OU(CDWRA)” zone and was not incompatible with the surrounding land uses; the proposed development could provide services to the local residents; and the development would unlikely generate any adverse impacts.
- 6.2 Details of the similar applications are summarised at **Appendix II**. Their location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) abutting and accessible from Fairview Park Boulevard from its north; and
- (b) currently vacant, paved and fenced off with two structures.

7.2 The surrounding area mainly comprises residential developments with a number of commercial, retail and vehicle servicing uses on both sides of Fairview Park Boulevard:

- (a) to its northeast, east and southeast, northwest, south and southwest are residential developments including Villa Camellia, Royal Camellia, Kamease Garden, Helene Terrace and Lake Park;
- (b) to the northwest of the Site are a number of vehicle servicing and repairing shops, shops, an animal welfare centre and a vehicle park; and
- (c) to the north across Fairview Park Boulevard are a vehicle repair workshop, a temporary car trading company approved under application No. A/YL-MP/334. The area further northwest are a shop, a pet clinic and a restaurant with its adjoining area approved for temporary eating place under application No. A/YL-MP/342.

8. Planning Intention

The planning intention of the “OU(CDWRA)” zone is to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development in include wetland restoration area. It is also intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands. Any new building should be located farthest away from Deep Bay.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 below, other 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 III and IV** respectively.

9.2 The following government department has the following comments on the application.

Land Administration

9.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) He has adverse comment on the application.
- (b) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contain the restriction that no structures are allowed to be erected without the prior approval of the government.
- (c) He has grave concern given that there are unauthorised building works and/or uses on the concerned lots which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD.
- (d) Should planning approval be given to the application, the lot owner(s) will need to immediately apply to LandsD to permit the structures to be erected or regularise any irregularity on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fees, as may be imposed by LandsD.

10. Public Comments Received During Statutory Publication Period

On 1.9.2023, the application was published for public comment. During the statutory publication period, three public comments were received from the property management office of the Royal Camellia and two individuals raising concerns on the application mainly on the grounds that the applicant should ensure that car parking and vehicle maneuvering at the Site should not affect road safety and traffic movement at Royal Camellia; the proposed use would create noise, traffic and drainage nuisances to the surrounding area; the proposed use is not compatible with the surrounding area; and the planning permission for the previous application at the Site was revoked due to non-compliance with approval conditions (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services with ancillary facilities for a period of three years within the “C/R” zone (about 62% of the Site) on the Mai Po and Fairview Park OZP and “OU(CDWRA)” zone (about 38% of the Site) on the Nam Sang Wai OZP. The proposed use is always permitted in the “C/R” zone. Although the proposed use is not entirely in line with the planning intention of the “OU(CDWRA)” zone which is intended to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area and to phase out existing sporadic open storage and port back-up uses on degraded wetlands, the Site is located at the fringe of the

“OU(CDWRA)” zone with no known long-term development proposal and has been surrounded by existing residential and commercial developments. Therefore, the approval of the application on a temporary basis for a period of three years would not frustrate the long term planning intention of the “OU(CDWRA)” zone.

- 11.2 The Site is located in a residential neighbourhood with commercial/retail activities and directly accessible to Fairview Park Boulevard. A number of commercial/retail uses and workshops could be found on both sides of Fairview Park Boulevard. The proposed use is therefore considered not incompatible with the surrounding area (**Plan A-2**).
- 11.3 In view of the nature and small-scale of the proposed use, it is unlikely to cause adverse traffic, environmental, drainage and landscape impacts on the area. Relevant government departments including Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North, Drainage Services Department, Director of Fire Services, Director of Agriculture, Fisheries and Conservation and Chief Town Planner/Urban Design and Landscape, Planning Department have no objection to or no adverse comment on the application. Technical requirements of the concerned departments are suggested to be imposed through approval conditions as recommended in paragraph 12.2 below. Besides, the applicant will be advised to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ to mitigate any potential environmental impacts on the surrounding areas. DLO/YL, LandsD has adverse comment on the application as there are UBW on-site which are subject to lease enforcement action. The applicant has advised that a STW application will be submitted to LandsD for erection of structures accordingly.
- 11.4 There are three similar applications for temporary shop and services within the same “OU(CDWRA)” zone as detailed in paragraph 6 above. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 Regarding the public comments received on the application as detailed in paragraph 10 above, the planning assessment and departmental comments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 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 until 13.10.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 10:00 p.m. and 7:00 a.m. including public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.4.2024;
- (d) in relation to (c) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 13.7.2024;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.4.2024;
- (g) in relation to (f) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 13.7.2024;
- (h) if any of the above planning **conditions** (a), (b) or (e) 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
- (i) if any of the above planning **conditions** (c), (d), (f) or (g) 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.

Advisory clauses

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

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

the proposed development is not in line with the planning intention of the "Other Specified Uses" annotated "Comprehensive Development to include Wetland Restoration Area" zone, which is intended to provide incentive for the restoration

of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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.
- 13.3 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.

14. Attachments

Appendix I	Application Form and SI received on 25.8.2023 and 31.8.2023
Appendix Ia	FI received on 4.10.2023
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Layout plan
Plan A-1	Location Plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
OCTOBER 2023**