

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NSW/298

- Applicant** : Somerest Group Limited represented by Allgain Land Administrators (Hong Kong) Limited
- Site** : Lot 3250 S.B ss.46 (Part) in D.D. 104, Nam Sang Wai, Yuen Long
- Site Area** : About 700 m²
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8
- Zoning** : “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” (“OU(CDWRA)”)

[Restricted to a maximum plot ratio of 0.4 and a maximum building height 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 to use the application site (the Site) for proposed temporary shop and services for a period of 3 years. The Site falls within an area zoned “OU(CDWRA)” on the approved Nam Sang Wai OZP No. S/YL-NSW/8 (**Plan A-1**). According to the Notes of the OZP for “OU(CDWRA)” zone, ‘Shop and Services’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently overgrown with vegetation and occupied by some construction materials.
- 1.2 The Site is accessible to Fairview Park Boulevard via a local track. The proposed development involves 9 one-storey container-converted structures with a total floor area of about 342 m² and building height of not more than 3m. The operation hours of the proposed use are between 9:00 a.m. and 8:00 p.m. daily (including public holidays). No parking space or loading/unloading space is provided within the Site. The layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following

documents:

- (a) Application form received on 28.4.2022 (Appendix I)
- (b) Further Information (FI) received on 17.6.2022 providing responses to departmental comments* (Appendix Ia)
- (c) Further Information (FI) received on 20.6.2022 providing responses to departmental comments* (Appendix Ib)

Remarks: * *accepted and exempted from publication and recounting requirements.*

2. Justifications from the Applicant

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

- (a) The proposed shop and services are to provide retail services (such as convenience store, groceries/food retail, pet parlour and clinic), serving the local neighbourhood. No dismantling, assembly repairing or workshop activities are allowed on the Site.
- (b) The proposed shop and services is not incompatible with the planning intention of the “OU(CDWRA)” zone. It is only temporary in nature and small in scale. The proposed development will not cause adverse impact to the surrounding environment.
- (c) The traffic impact generated by the proposed development is insignificant. There will be about 6-8 staff at the Site. The visitors can access to the Site on foot through Fairview Park Boulevard. Goods will be loaded/unloaded along Kam Pok Road and transferred to the Site by a trolley. Replenishment of goods will be carried out once a day only. The negligible increase in traffic would not aggravate the traffic condition of nearby road networks.
- (d) The proposed development would not generate adverse environmental, drainage, sewerage and fire safety impacts. No neon-light advertising sign, night lighting system and speakers will be installed. No noise and light nuisances will be resulted. The proposed development will be managed by staff and surveillance camera will be installed to ensure public safety.
- (e) The layout of the proposed development will not be in conflict with any existing trees at the Site. All existing trees at the Site will be retained and maintained by the applicant. No adverse landscape impacts will be resulted.
- (f) The applicant commits to reinstate the Site upon expiry of the planning permission.

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 under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C)

According to TPB PG-No. 12C, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarised as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

5. Background

The Site is not subject to any active planning enforcement action. Should there be sufficient evidence to form an opinion of unauthorised development under the Town Planning Ordinance at the Site, enforcement action would be instigated as appropriate.

6. Previous Application

The Site is involved in a previous application (no. A/YL-NSW/153) for temporary open storage of construction materials and ancillary site office for a period of 2 years covering a larger site area which was rejected by the Board on review in 2005 and is not relevant to the application (**Appendix II**).

7. Similar Application

There is a similar application (no. A/YL-NSW/284) for shop and services use within the subject “OU(CDWRA)” zone on the OZP (**Plan A-1**). Application No. A/YL-NSW/284 for temporary shop and services (convenience store) was approved by the Committee in 2021 on 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 development would unlikely generate any adverse impacts and there were no adverse departmental comments (**Appendix III**).

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

8.1 The Site is:

- (a) overgrown with vegetation and occupied by some construction materials;

- (b) accessible by a local track branching off from Fairview Park Boulevard (**Plans A-2 and A-3**); and
 - (c) within the WBA under the TPB PG-No. 12C.
- 8.2 The surrounding areas are predominantly occupied by residential dwellings intermixed with shops, vacant land, agricultural land, grassland, ponds, vehicle repair workshop and open storage yards:
- (a) to its north, northeast and northwest are low-rise residential developments at Royal Camellia and Kamease Garden. Further north is the Fairview Park Boulevard;
 - (b) to the east are agricultural land and open storage of vehicles; to the southeast are residential dwelling/storage and ponds;
 - (c) to the south are vacant land and ponds; and
 - (d) to the west are grassland.

9. Planning Intention

The “OU(CDWRA)” zone 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. 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. For application for uses developed individually and not forming part of a comprehensive development scheme, the requirement of the provision of wetland restoration proposal could be exempted.

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 6.5.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 27.5.2022, 3 public comments were received from the management office of Royal Camellia and individuals objecting to the application on the grounds that the proposed development would result in adverse environmental and hygiene impacts; it would affect the safety and living quality of the surrounding residents and villagers; and there is safety concern to the residents of Royal Camellia as the proposed development abuts the fence wall of Royal Camellia (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services for a period of 3 years at the Site which is at the fringe of the “OU(CDWRA)” zone. 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 to include wetland restoration area. It is also intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands. While the proposed temporary shop and services is not entirely in line with the planning intention of the “OU(CDWRA)” zone, it could serve the local neighbourhood. It is also considered not incompatible with the surrounding land uses which are predominantly residential developments (**Plan A-2**). There is also no known long-term development for the Site.
- 12.2 According to 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. The applied use is only temporary in nature and the requirement of EcoIA submission can be exempted. DAFC has no comment on the application.
- 12.3 In view of the nature and small-scale of the proposed shop and services, it would unlikely cause significant adverse traffic, environmental, drainage and landscape impacts on the area. There are no adverse comments from the concerned departments including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD. Approval conditions on traffic, drainage and fire safety requirements are recommended in paragraph 13.2 below as per the advice of these departments. 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” if the application is approved.
- 12.4 The Site is involved in a previous planning application for temporary open storage of construction materials and ancillary site office which was rejected by the Board in 2005 (**Plan A-1**). Its consideration is not relevant to the subject application which is proposed for temporary shop and services use. There is a similar application for temporary shop and services (convenience store) within the “OU(CDWRA)” zone in the vicinity of the Site approved by the Committee in 2021 (**Plan A-1**). The approval of the current application is in line with the Committee’s previous decision.
- 12.5 3 opposing public comments were received during the statutory public inspection period of the application as detailed in paragraph 11. With respect to the safety concerns raised by the management office of Royal Camellia, the applicant clarifies that he has already withdrawn his previous application (no. A/YL-NSW/295) and resubmitted this current application with the building height lowered from 2 storeys (6m) to one-storey (3m) to address the comment submitted by the management office of Royal Camellia received under application no. A/YL-NSW/295, and the applicant also clarifies that the proposed shop and services will be managed by staff and surveillance cameras will be installed to ensure public safety. The planning assessment and departmental comments above are also relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, 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 until 24.6.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 8:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no dismantling, assembly repairing or workshop activities, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the submission of 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 24.12.2022;
- (d) in relation to (c) above, the implementation of 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 24.3.2023;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of 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 24.12.2022;
- (g) in relation to (f) above, the implementation of 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 24.3.2023;
- (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 V**.

- 13.3 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, and to phase out existing sporadic open storage and port back-up uses on degraded wetlands. There is no strong justification 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.
- 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 received on 28.4.2022
Appendix Ia	FI received on 17.6.2022
Appendix Ib	FI received on 20.6.2022
Appendix II	Previous Application
Appendix III	Similar Application
Appendix IV	Government departments' general comments
Appendix V	Recommended Advisory Clauses
Appendix VI	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
JUNE 2022**