

RNTPC Paper No. A/YL-NSW/330
For Consideration by the
Rural and New Town
Planning Committee
on 2.8.2024

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NSW/330

<u>Applicant</u>	: All Channel Limited represented by Mr. Wong Chung Hang Warren
<u>Site</u>	: Lot 3719 S.I RP (Part) in D.D. 104, Nam Sang Wai, Yuen Long
<u>Site Area</u>	: About 1,379 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/9 (currently in force) Approved Nam Sang Wai Outline Zoning Plan No. S/YL-NSW/8 (at the time of submission)
<u>Zoning</u>	: “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” (“OU(CDWRA)”) <i>[Restricted to a maximum plot ratio of 0.4 and a maximum building height of 6 storeys including car park]</i> <i>[no change on the current OZP]</i>
<u>Application</u>	: Proposed Temporary Shop and Services (Motor-vehicle Showroom) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (motor-vehicle showroom) for a period of 3 years at the application site (the Site) zoned “OU(CDWRA)” under the OZP (**Plan A-1**). According to the Notes of the OZP for the “OU(CDWRA)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site also falls within the Wetland Buffer Area (WBA) according to the Town Planning Board Guidelines for “Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No. 12C). The Site is currently paved, fenced-off and vacant (**Plans A-2 and A-4**).

1.2 According to the applicant, the Site is accessible via Yau Pok Road leading from Fairview Park Boulevard (**Plans A-2 and A-3 and Drawing A-2**). According to the applicant, the proposed shop and service use is for a motor-vehicle showroom to serve the nearby residents. As shown on the proposed layout plan at **Drawing A-1**, five temporary structures (including a canopy) with a total floor area of about 372m² and building height of 1 storey (3m to 8m) for showroom, office, reception and storage rooms are proposed at the Site. 10 private car parking spaces (7 for showroom and 3 for visitors) and 1 loading/unloading bay for light goods vehicle (LGV) will be provided at the Site. The operation hours of the proposed shop and services use will be from 9:00 a.m. to 6:00 p.m. from Mondays to Sundays (excluding public holidays). No workshop activities will be carried out at the Site. Plans showing the site layout and vehicular access leading to the Site submitted by the applicant are at **Drawings A-1 and A-2** respectively.

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

(a) Application form and supplementary statement received on 12.6.2024 (**Appendix I**)

(b) Further Information (FI) received on 26.7.2024 (**Appendix Ia**)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form and supplementary statement at **Appendix I**. They can be summarised as follows:

- (a) the proposed shop and services use is temporary in nature and would not jeopardise the long-term planning intention of the “OU(CDWRA)” zone. The use could meet the local demand;
- (b) the proposed use is not incompatible with the surrounding environment which mainly comprising brownfield operations; and
- (c) the proposed use will not result in significant nuisance and traffic impact to the surrounding areas. Adequate mitigation measures identified by the drainage and fire service installations proposals to be submitted will mitigate any adverse impact.

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**

The Town Planning Board Guidelines for “Application for Developments within Deep Bay Area” (TPB PG-No. 12C) is relevant to this application. The Site falls within the Wetland Buffer Area (WBA) of the TPB PG-No. 12C and relevant extract of the Guidelines is attached at **Appendix II**.

5. **Background**

5.1 The Site was formed on the date of gazettal of the Nam Sang Wai Interim Development Permission Area Plan No. IDPA/YL-NSW/1 on 17.8.1990.

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

6. **Previous Application**

The Site is not involved in any previous application.

7. **Similar Application**

Three similar applications (No. A/YL-NSW/284, 298 and 308) involving two sites for temporary shop and services use within the same and the adjacent “OU(CDWRA)” zone on the OZP (**Plan A-1**) were considered by the Rural and New Town Planning Committee (the Committee) of the Board in the past 5 years. All the applications were approved with conditions by the Committee between February 2021 and May 2023 mainly on considerations that the proposed use could provide services to local residents; was not incompatible with surrounding land uses; would not frustrate the long term planning intention of the “OU(CDWRA)” zone; and would unlikely generate any adverse impacts. Details of the applications are summarised in **Appendix III** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) accessible via Yau Pok Road leading from Fairview Park Boulevard;
- (b) paved, fenced-off and vacant; and
- (c) within the WBA under the TPB PG-No. 12C.

8.2 The surrounding areas have the following characteristics:

comprise predominantly open storage/storage yard, warehouses and office (**Plans A-2 and A-3**). The Site is bounded by Yau Pok Road with a drainage channel to its immediate east.

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 21.6.2024, the application was published for public inspection. During the statutory public inspection period, three public comments were received (**Appendix VI**) from Fairview Park Property Management Ltd (FPPM) and two individuals. FPPM and an individual objected to the application mainly on the grounds of potential adverse traffic impact brought by the proposed development and the unfairness on the maintenance responsibility of the Fairview Park Boulevard. Another individual questioned if the Site was subject to enforcement action.

12. **Planning Considerations and Assessments**

12.1 The application is for proposed temporary shop and services (motor-vehicle showroom) for a period of 3 years at the Site zoned “OU(CDWRA)” (**Plan A-1**). 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. Whilst the proposed use is not entirely in line with the planning intention of the “OU(CDWRA)” zone, it could

serve the demand for shop and services in the area. There are also no known long-term development programme or proposal for the Site. As such, approval of the application on a temporary basis for a period of 3 years would not jeopardize the long-term planning intention of the “OU(CDWRA)” zone.

- 12.2 The Site is located at the fringe of the subject “OU(CDWRA)” zone and bounded by a drainage channel to its immediate east (**Plan A-1**). The surrounding areas comprise predominantly open storage/storage yards, warehouses and office (**Plan A-2**). The proposed use is generally not incompatible with the surrounding land uses.
- 12.3 Although the Site falls within the WBA of the TPB PG-No. 12C, planning applications for local and minor uses (including temporary uses) are exempted from the requirement of ecological impact assessment. In this regard, the Director of Agriculture, Fisheries and Conservation has no comment on the application from nature conservation point of view.
- 12.4 Concerned government departments, including Commissioner for Transport, Chief Engineer/Mainland North, Drainage Services Department, Director of Environmental Protection and Director of Fire Services have no objection to/no adverse comment on the application. The proposed use will unlikely create significant traffic, drainage, environmental and fire safety impacts on the surrounding areas. There was no environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below to address the technical requirements of concerned government departments. Should the planning application be approved, the applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental impact on the surrounding areas.
- 12.5 The Committee approved three similar applications within the subject “OU(CDWRA)” zone for similar shop and services use in the past five years, approval of the current application is generally in line with the Committee’s previous decisions.
- 12.6 Regarding the public comment received during the statutory public inspection period of the application as detailed in paragraph 11, the Site is not the subject of active planning enforcement action. Furthermore, the maintenance responsibility of the Fairview Park Boulevard is a land administration issue which should not be dealt under the statutory planning regime. The planning assessments and departmental comments above are also relevant.

13. **Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 and having taking into account the public comments 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 2.8.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) 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 2.2.2025;
- (b) in relation to (a) 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 2.5.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) the submission of a fire services 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 2.2.2025;
- (e) in relation to (d) above, the implementation of the fire services 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 2.5.2025;
- (f) if the above planning condition (c) 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 condition (a), (b), (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.

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.

Attachments

Appendix I	Application form and supplementary statement received on 12.6.2024
Appendix Ia	FI received on 26.7.2024
Appendix II	Extract of TPB PG-No. 12C
Appendix III	Similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
Drawing A-1	Layout plan
Drawing A-2	Vehicular access plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo

Plan A-4

Site photos

**PLANNING DEPARTMENT
AUGUST 2024**