

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTN/1009**

<b><u>Applicant</u></b>	: Maxtop Sky Limited represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	: Various Lots in D.D. 104 and adjoining Government Land (GL), Long Ha, Yuen Long, New Territories
<b><u>Site Area</u></b>	: About 3,963m <sup>2</sup> (including GL of about 245m <sup>2</sup> (about 6.2%))
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11
<b><u>Zoning</u></b>	: “Comprehensive Development Area” (“CDA”) [a maximum plot ratio of 0.4 and a maximum building height of 4 storeys]
<b><u>Application</u></b>	: Proposed Temporary Shop and Services (Vehicle Showroom) with Ancillary Facilities for a Period of Five Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (vehicle showroom) with ancillary facilities for a period of five years at the application site (the Site), which falls within an area zoned “CDA” on the approved Kam Tin North OZP No. S/YL-KTN/11 (**Plan A-1a**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “CDA” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently paved, fenced-off and vacant with structures erected (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed use involves six structures of one storey with a total floor area of about 1,197m<sup>2</sup> and building heights not exceeding 10m for vehicle showroom and ancillary reception, site office, and washroom (**Drawing A-1**). The proposed showroom would accommodate about 15 commercial vehicles comprising light goods vehicles (LGVs) and medium goods vehicles (MGVs) for display. A total of eleven parking spaces (including five for private cars, three for LGVs and three for MGVs) are also proposed on-site for test driving and for serving the visitors. The proposed operation hours are from 9:00 a.m. to 7:00 p.m. daily (including public holidays). The Site is accessible

from San Tam Road via a local access. The site 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 with supplementary information (Appendix I)  
received on 28.3.2024
- (b) Further Information (FI) received on 20.5.2024\* (Appendix Ia)  
*\* 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 the application form, supplementary information and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) The proposed use is intended to serve the fleet operators and delivery companies in the New Territories to meet the growing demand for commercial LVGs and MGVs.
- (b) The proposed use is temporary in nature. It would not jeopardise the long-term planning intention of the “CDA” zone, and is not incompatible with the surrounding land uses. There are similar applications approved in the vicinity of the Site within the same “CDA” zone.
- (c) Unlicensed vehicles for display would be driven to the Site by staff with trade licence plate and hence towing of vehicles is not required. Test driving of vehicles will be allowed, and advanced appointment will be required in order to keep the trips to be generated and attracted by the proposed use minimal. Some licensed commercial vehicles will be parked at the Site for test driving purpose.
- (d) The uncovered space is designated for parking and manoeuvring of vehicle and no open storage use will be carried out at the Site. There is sufficient space for manoeuvring of vehicles within the Site. No parking, queuing and reverse movement of vehicles on public road would be needed. Not more than 15 visitors to the Site per day is anticipated. It is expected that the traffic induced by the proposed use would be low and no significant adverse traffic impact is anticipated.
- (e) The unauthorised structures under lease would be demolished by the applicant after obtaining the planning approval. The applicant would then submit Short Term Waiver (STW) and Short Term Tenancy (STT) applications to the Lands Department (LandsD) to implement the proposed scheme.

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

The applicant is not a “current land owner” 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.31B) by posting notice on the Site and sending notification to the San Tin Rural Committee. Detailed information would be deposited at the meeting for

Member's inspection. For the GL portion, the "Owner's Consent / Notification" requirements are not applicable.

#### **4. Background**

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

#### **5. Previous Applications**

5.1 The Site is the subject of ten previous applications (No. A/YL-KTN/216, 233, 249, 291, 325, 385, 479, 533, 661 and 846). Applications No. A/YL-KTN/233 and 249, covering larger site areas for temporary sales of vehicles and parking of private cars, were approved with conditions by the Board on review and the Rural and New Town Planning Committee (the Committee) of the Board on 18.11.2005 and 7.4.2006 respectively, mainly on the considerations that there was no known implementation programme for the "CDA" zone; and the relevant departments in general had no objection and their concerns could be addressed by appropriate approval conditions. The planning permission under application No. A/YL-KTN/233 was subsequently revoked in February 2006 due to non-compliance with the approval condition. The remaining eight applications for temporary open storage and temporary private car park are not relevant to the current application.

5.2 Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1b**.

#### **6. Similar Applications**

6.1 There are three similar applications (No. A/YL-KTN/788, 832 and 874) for various temporary shop and services uses within the same "CDA" zone in the vicinity of the Site in the past five years. All these applications were approved with conditions by the Committee mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention of the "CDA" zone; the development was not incompatible with the surrounding land uses; and the relevant departments in general had no objection and their concerns could be addressed by appropriate approval conditions.

6.2 Details of the applications are summarised in **Appendix II** and the locations are shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) paved, fenced-off and vacant with structures erected; and
- (b) accessible from San Tam Road via a local track.

- 7.2 The surrounding areas are mainly rural in character intermixed with residential dwellings/structures (the nearest being 5m to the northeast), car services centre (without valid planning permission), farmland, grassland and a works site (with valid planning permission for temporary shop and services, wholesale trade and ancillary storage facilities under application No. A/YL-KTN/874). To the west across San Tam Road is San Tin Highway.

## **8. Planning Intention**

The “CDA” zone is intended primarily for comprehensive development/ redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

## **9. Comments from Relevant Government Departments**

- 9.1 Apart from the government departments as set out in paragraph 9.2 below, other 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 departments do not support/have adverse comments on the application:

### **Environment**

#### **9.2.1 Comments of the Director of Environmental Protection (DEP):**

- (a) according to the revised ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’, he does not support the application as sensitive receivers, i.e. residential dwellings/structures are found in the vicinity of the Site and the proposed use will cause traffic of heavy vehicles, thus environmental nuisance is expected; and
- (c) there was no environmental complaint was received concerning the Site in the past three years.

### **Land Administration**

#### **9.2.2 Comments of the District Lands Officer/Yuen Long (DLO/YL), LandsD:**

- (a) he has adverse comment on the application;

- (b) the Site comprises Old Schedule Agricultural Lot Nos. 3316RP, 3331RP, 3337RP, 3338RP, 3339, 3340RP, 3341RP, 3342, 3343, 3344, 3345, 3346, 3347, 3348, 3349RP, 3350, 3351, 3359RP, 3360RP in D.D.104 held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government and GL;
- (c) the private lot nos. 3342 and 3343 in D.D.104 is covered by STW No. 1184 for the purpose of “Furniture & Iron Workshop and Temporary Private Car Park (Private Cars)”. The GL within the Site is covered by a STT No. 2869 for the purposes of “Temporary Private Car Park”;
- (d) LandsD has reservation on the planning application since there is/are unauthorised structure(s) or uses on the Lot No. 3359RP in D.D.104 which is already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/regularize the lease breaches as demanded by LandsD; and
- (e) if the planning application is approved, the STT/STW holder(s) will need to apply to his office for modification of the STT/STW conditions where appropriate. The owner(s) of lots without STW shall apply to his office for STW(s) to permit the structure(s) to be erected or erected within the private lots, if any. The application(s) for STW/STT will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The application(s), if approved, will be subject to such terms and conditions including the payment of waiver fee/rent and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered.

## **10. Public Comment Received During Statutory Publication Period**

The application was published for public inspection. During the statutory publication period, no public comment was received.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary shop and services (vehicle showroom) with ancillary facilities for a period of five years at the Site zoned “CDA” (**Plan A-1a**). The proposed use is not in line with the planning intention of the “CDA” zone which is primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. Nevertheless, there is no known comprehensive development proposal for the “CDA” zone. According to the applicant, the proposed vehicle showroom is intended to meet the growing demand for commercial LVGs and MGVs. It is considered that approval of the application on a temporary basis would not jeopardise the long-term planning intention of the

“CDA” zone.

- 11.2 The development is considered not incompatible with the surrounding uses intermixed with car service centre, residential structures/dwellings and farmland. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers significant adverse landscape impact arising from the proposed use is not anticipated.
- 11.3 DEP does not support the application as the proposed use involves use of heavy vehicles and environmental nuisance is expected as there are sensitive receivers in the vicinity. To address DEP’s concerns, approval conditions restricting the operation hours and the types of vehicles on the Site are recommended in paragraph 12.2 below. The applicant is also advised to follow the revised “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites” issued by DEP to minimise potential environmental nuisance generated by the proposed use.
- 11.4 DLO/YL, LandsD has adverse comments on the application in view of the unauthorised structure(s) or uses on a concerned lot at the Site. In this regard, the applicant indicates that follow-up actions of demolishing the unauthorised structures and submitting STW and STT applications to LandsD would be taken should the Committee decide to approve the application. Besides, relevant advisory clause on need for application to LandsD for regularisation for unauthorised structures and uses is recommended.
- 11.5 Other relevant departments consulted including the Commissioner for Transport and the Director of Fire Services have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below.
- 11.6 There are two relevant previous applications for temporary sales of vehicles and three similar applications for temporary shop and services in the vicinity of the Site which were approved with conditions by the Committee or the Board on review as detailed in paragraphs 5.1 and 6.1. Approving the current application is in line with the previous decisions by the Committee and the Board.

## **12. Planning Department’s View**

- 12.1 Based on the assessments made in paragraph 11 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 five years until 24.5.2029. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### **Approval conditions:**

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the

applicant, is allowed on the site during the planning approval period;

- (b) no heavy goods vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the site at any time during the planning approval period;
- (c) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the submission of a condition record of the existing drainage facilities on the site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 24.8.2024;
- (e) 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 24.11.2024;
- (f) in relation to (e) 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 24.2.2025;
- (g) if any of the above planning condition (a), (b) or (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
- (h) if any of the above planning condition (d), (e) or (f) 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 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 use is not in line with the planning intention of the "CDA" zone which is primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. No strong planning justification has been given in the submission for a departure from the planning intentions, 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**

<b>Appendix I</b>	Application form with supplementary information received on 28.3.2024
<b>Appendix Ia</b>	FI received on 20.5.2024
<b>Appendix II</b>	Previous and similar applications
<b>Appendix III</b>	Government department's general comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Site layout plan
<b>Plan A-1a</b>	Location plan with similar applications
<b>Plan A-1b</b>	Location plan with previous applications
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
MAY 2024**