

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/954

<u>Applicant</u>	: Machone Motors Limited represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lots 455 S.B (Part) and 475 (Part) in D.D. 106, Kam Sheung Road, Kam Tin, Yuen Long
<u>Site Area</u>	: About 1,430m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”) [maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m)]
<u>Application</u>	: Proposed Temporary Shop and Services and Vehicle Repair Workshop (Excluding Repair of Container Vehicle) 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 and vehicle repair workshop (excluding repair of container vehicle) for a period of 3 years. The Site falls within an area zoned “R(D)” on the Kam Tin South OZP. According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). The Site is paved and fenced, and used for parking of vehicles without planning permission (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the proposed development involves the erection of 6 one to two-storey structures with a total floor area of about 674m² and building height ranging from 3m to 8m for shop and services (for selling of car accessories), vehicle repair workshop, site office, meter room and store room uses, etc. The applicant states that no more than six staff members will station at the Site and all the vehicle repairing operation will be carried out

entirely within the enclosed structures. One private car parking space and one loading/unloading space for light goods vehicle are provided at Structure 1. The operation hours are between 9:00a.m. and 7:00p.m. on Mondays to Saturdays with no operation on Sundays and statutory holidays. The Site is accessible via a local track from Kam Sheung Road (**Plans A-1 and A-2**). The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of a previous application (No. A/YL-KTS/864) (details at paragraph 5 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information received on 13.2.2023 (**Appendix I**)
 - (b) Further information (FI) received on 13.3.2023 (**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, supplementary information and FI at **Appendices I and Ia** respectively, which can be summarized as follows:

- (a) The application is for facilitating relocation of the applicant's heavy goods vehicle repair business at Kung Um Road which is affected by the Yuen Long South Development. The applicant has undergone a site selection process in the territory for reprovisioning of its business. Four sites in Fu Tei Ha Tsuen of Tuen Mun, two sites in Ha Tsuen of Yuen Long and a site near Tsat Sing Kong of Kam Tin have been examined but none of them is considered suitable. Taking into account the suitable site area and high accessibility of the Site, this site at Kam Tin South is considered suitable for continuing the business of the applicant's business.
- (b) The application is temporary in nature and would not jeopardize the long-term planning intention of the "R(D)" zone. The proposed use is not incompatible with the surrounding land uses.
- (c) The business serves as important support to the local construction industry and can play a role in the upcoming major development projects in the future.
- (d) The proposed development will not create adverse traffic, environmental, landscape and drainage impacts on the surrounding areas. The applicant will comply with all the planning conditions to be stipulated by the Rural and New Town Planning Committee (the Committee).

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

The applicant is not a “current land owner” but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and notifying the Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

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

5. Previous Application

- 5.1 The Site is the subject of a previous application (No. A/YL-KTS/864) for temporary shop and services (for selling of car accessories) which was approved with conditions by the Committee on 26.3.2021 mainly on the grounds that approval of the application on a temporary basis would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; relevant departments consulted in general had no objection and/or their technical concerns could be addressed by appropriate approval conditions.
- 5.2 Details of the previous application are summarized at **Appendix II** and the location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are two similar applications (No. A/YL-KTS/804 and 907), involving the same site, for renewal of the planning permission granted (first granted in December 2015) by the Committee for temporary open storage of vehicles and modification workshop for vans and lorries within the same “R(D)” zone in the vicinity of the Site in the past 5 years. Both applications were approved with conditions by the Committee in November 2018 and November 2021 on the same grounds as stated in paragraph 5.1 above and the renewal applications were in line with the relevant Town Planning Board Guidelines for renewal of planning approval for temporary use or development.
- 6.2 Details of the applications are summarized at **Appendix II** and the locations are shown on **Plan A-1**.

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

- 7.1 The Site is:

- (a) paved, fenced and currently used for parking of vehicles without planning permission; and
- (b) accessible via a local track branching off from Kam Sheung Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its north and east are a vehicle testing centre, parking of vehicles, a storage yard, residential structures / dwellings (the nearest one about 10m to the east), and vacant land. To the further east is a transitional housing site (with valid planning permission under Application No. A/YL-KTS/847);
- (b) to its immediate south is parking of vehicles. To its further south in the adjacent “Agriculture” (“AGR”) zone are open storage yards, residential structures / dwellings and fallow agricultural land; and
- (c) to its west across Kam Sheung Road in the “Other Specified Use” annotated “Rural Use” (“OU(RU)”) zone are a service depot for drainage and sewerage works, open storage / storage yards (one of which with valid planning permission under Application No. A/YL-KTS/924), a warehouse, residential structures / dwellings and vegetated land.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

9.1 Apart from the government department 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.

Environment

9.2 Comments of the Director of Environmental Protection (DEP):

- (a) there is no environmental complaint at the Site received by DEP in the past three years;

- (b) according to the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Use and Open Storage Sites' (COP), he does not support the application as sensitive receivers, i.e. residential structures are found to the east (the nearest one at about 10m to the east) of the Site and the applied use involves traffic of heavy vehicles, environmental nuisance is expected; and
- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest 'COP' issued by DEP.

9.3 The following government bureau supports the application:

Policy Aspect

Comments of the Secretary for Development (SDEV):

The application is to facilitate relocation of a heavy-goods vehicle repairing workshop in Yuen Long, which will be displaced by the First Phase development of the Yuen Long South development (the project). According to the applicant, he has undergone a thorough site search with a view to identifying suitable site for re-establishment of his business elsewhere to pave way for the clearance under the project. However, site search has not been easy and five alternative sites (including the Site under application) had been identified but those other four sites were considered not suitable given different reasons including land use compatibility, site availability or other technical issues. The Site under the current application is the only one considered suitable and practicable after the above extensive site search. The proposed use is not incompatible with surrounding land use of the Site which is paved, fenced and currently used for vehicle park use and would not create insurmountable impacts in technical terms subject to imposition of appropriate approval conditions. To facilitate smooth clearance for the project and provide operating space for displaced brownfield operations still needed by the community, the application is supported from the perspective to facilitate smooth clearance of the government development project.

10. Public Comment Received During Statutory Publication Period

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

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for selling of car accessories and vehicle repair workshop (excluding repair of container vehicle) for a period of three years at the Site zoned "R(D)". The planning intention of the "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of

existing temporary structures into permanent buildings. It is also intended for low-rise, low density residential developments subject to planning permission from the Board. The proposed development is not in line with the planning intention of the “R(D)” zone. Nevertheless, the application is to facilitate relocation of the applicant’s business operation affected by the Yuen Long South Development project. SDEV noted that the proposed use is generally not incompatible with the surrounding rural land uses in the area and would not create insurmountable impacts in technical terms subject to imposition of appropriate approval conditions. The Site is the only one considered suitable and practicable after an extensive site search by the applicant. To facilitate smooth clearance for the development project and provide operating space for displaced brownfield operations still needed by the community, SDEV supports the application. Besides, there is no known proposal for long-term development at the Site. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone.

- 11.2 The proposed use is considered not incompatible with the surrounding land uses which are rural in character intermixed with storage / open storage yards (some with planning permission), parking of vehicles, vehicle testing centre, service depot for drainage and sewerage works, residential developments/dwellings and vacant land (**Plan A-2**).
- 11.3 Relevant departments consulted, including C for T, CE/MN of DSD and D of FS, have no adverse comment on the application, and there is no local objection against the application as conveyed by DO(YL). DEP does not support the application as there are residential dwellings / structures located to the east (about 10m away) and the proposed use involves traffic of heavy vehicles, thus environmental nuisance is expected. It is noted that the Site is directly accessible from Kam Sheung Road without passing by the adjacent residential dwellings / structures and the operation hours of the proposed development will be restricted to the period between 9:00a.m. and 7:00p.m. with no operation on Sundays and public holidays. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. In addition, 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’ issued by DEP.
- 11.4 The Site is the subject of a previous application (No. A/YL-KTS/864) approved for temporary shop and services (for selling of car accessories) in March 2021 for reasons as stated in paragraph 5.1 above. Besides, there are two similar approvals for similar temporary vehicle workshops granted to the same site in the past five years. Approval of the current application is in line with the Committee’s previous decisions.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the proposed use could be tolerated for a period of 3 years.
- 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 31.3.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and statutory holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out at the open area of the Site at any time during the planning approval period;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of records 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 30.6.2023;
- (f) the implementation of the accepted 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 30.9.2023;
- (g) if any of the above planning condition (a), (b), (c) or (d) 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 (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 development is not in line with the planning intention of the "R(D)" zone, which is for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low density residential developments subject to planning permission from the Board. No strong planning justification has been given 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 with supplementary information received on 13.2.2023
Appendix Ia	FI received on 13.3.2023
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Site layout plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a & A-4b	Site photos