

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/905

<u>Applicant</u>	: Asia Elite Inc Ltd. represented by M&D Planning and Surveyors Consultant Ltd.
<u>Site</u>	: Lot 102 in D.D. 108 and Adjoining Government Land, Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	: About 1,865.26 m ² (including Government land of about 71.82m ² (about 4%))
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Pat Heung Outline Zoning Plan No. S/YL-PH/11
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”) [Maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
<u>Application</u>	: Proposed Temporary Recycling Materials Collection Centre (Vehicle Parts) and Workshop with Ancillary Office 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 recycling materials collection centre (vehicle parts) and workshop with ancillary office for a period of 3 years (**Plan A-1**). According to the Notes of the OZP, ‘Recyclable Collection Centre’ is a Column 2 use in the “R(D)” zone. Besides, the plot ratio (PR), i.e. about 0.3, of the proposed development exceeds the development restriction for the “R(D)” zone. Nevertheless, according to the covering Notes of the OZP, temporary use or development not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is formed, paved

and used for open storage of vehicle parts without planning permission (**Plans A-2 to A-4**).

- 1.2 According to the applicant, the proposed development involves the erection of four 1-storey structures with building height ranging from about 2.6m to 5m and total floor area of about 461.51m² for storage, workshop and ancillary office, toilets and traffic warden's booth. The applicant states that material dismantling activities will be carried out in the enclosed Structure A with provision of mechanical ventilation system and air filtration system, and Structure B which is a covered area will be used for storage of vehicle parts. Two private car/light goods vehicle parking spaces will be provided at the Site. No goods vehicles exceeding 5.5 tonnes will allow to be parked/stored on or enter/exit the Site. The operation hours for the proposed development will be between 9:00 a.m. and 6:00 p.m. Mondays to Saturdays, not including Sundays and public holidays. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 A small part of the Site is involved in a previous application (No. A/YL-PH/524) for temporary lorry park and fixing of lorry company name on lorries for a period of 3 years which was rejected by the Rural and New Town Planning Committee (the Committee) in April 2006 for reasons detailed in paragraph 5 below.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information (b) **(Appendix I)**
received on 22.12.2021
 - (b) Further Information (FI) received on 15.2.2022 in (b) **(Appendix Ia)**
response to departmental comments
[exempted from publication requirement]

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 summarized as follows:

- (a) The proposed development is temporary in nature and will not jeopardize the long-term planning intention of the "R(D)" zone.
- (b) The Site is surrounded by developments including recycling collection centre, vehicle park and construction machinery repair workshop. The proposed development is considered not incompatible with the surrounding environment. Approval of the application will not set an undesirable precedent.

- (c) The proposed development will have insignificant traffic, environmental drainage, visual and fire safety impacts.

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. For the Government land portion, the “Owner’s Consent/Notification” requirements are not applicable.

4. **Background**

The Site is part of an active enforcement case No. E/YL-PH/871 involving unauthorized storage use (**Plan A-2**). Enforcement Notice was issued on 12.10.2021. The Site is under monitoring and further actions may be considered.

5. **Previous Application**

A small part of the Site is the subject of a previous application (No. A/YL-KTS/524) for temporary lorry park and fixing of lorry company name on lorries, which was rejected by the Committee in April 2006. The rejection reasons include that the proposed development was not in line with the planning intention of the “R(D)” zone; and there was insufficient information in the submission to demonstrate that the development would not have adverse environmental, drainage and landscape impacts on the surrounding areas. Details of the 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-PH/806 and 882) for temporary recycling collection centre within the same “R(D)” zone in the vicinity of the Site approved between 2017 and 2021. Details of these applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Both applications were approved with conditions by the Committee for a period of 3 years mainly for the reasons that approval of the applications on a temporary basis would not jeopardize the long-term planning intention of the “R(D)” zone; the developments were not incompatible with the surrounding land uses; relevant departments had no adverse comment; and their technical concerns could be addressed by relevant approval conditions.

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

7.1 The Site is:

- (a) formed, paved and currently used for open storage of vehicle parts without planning permission; and
- (b) accessible via a local track branching off from Fan Kam Road.

7.2 The surrounding areas are rural in character intermixed with residential dwelling/structures, open storage / storage yards, vehicle repair workshops, parking of vehicles, warehouses and vacant land / woodland:

- (a) to its north, east and west are open storage / storage yards, vehicle repair workshops, warehouses, parking of vehicles, residential dwellings/structures (the nearest being less than 10m), vacant land, woodland, and sites with construction works in progress, one of which was approved for temporary recyclable materials recycling centre (under Application No. A/YL-PH/882)(**Plan A-2**); and
- (b) to the immediate south is a stream course and across the stream is woodland within an area zoned “Conservation Area”.

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 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot 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.

- (b) No permission is given for occupation of GL (about 71.8m² subject to verification) included in the Site. Any occupation without Government's prior approval is not allowed.
- (c) Should planning approval be given to the application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Furthermore, the applicant has to either exclude the GL from the Site or obtain a formal approval prior to the actual occupation of the GL. Applications for any of the above will be considered by LandsD acting in the capacity as 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 fee, as may be imposed by the LandsD.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from the traffic engineering perspective.
- (b) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly. Sufficient manoeuvring space shall be provided within the Site. No vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Fan Kam Road.

- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no substantiated environmental complaint concerning the Site received by DEP in the past 3 years.
- (b) Provided that the facilities will be properly designed and maintained to minimize any potential environmental nuisance, he has no objection to the application subject to the following approval conditions: (i) no material breaking, burning, melting, washing and cleaning activities are allowed in the Site, as proposed by the applicant, during the planning approval period; and (ii) all material dismantling activities will be carried out in the enclosed Structure A on the Site, as proposed by the applicant, during the planning approval period.
- (c) Moreover, the applicant is advised: (a) that the proposed Structure A for material dismantling activities should be enclosed with provision of mechanical ventilation system and air filtration system, as proposed by the applicant; (b) that all outdoor material sorting activities will be conducted with provision of movable noise barriers, as proposed by the applicant; (c) to follow the requirements stipulated in “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site”; (d) to provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater generated from the proposed use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of EPD's Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” including completion of percolation test and certification by Authorized Person; and (e) that it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances.

Nature Conservation

9.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) He has no strong view against the planning application from nature conservation perspective.
- (b) The Site is currently used as private storage and there is a natural stream along the south-eastern boundary of the Site. The applicant clarified in the FI (**Appendix Ia**) that no further processing of recycling materials will be conducted on site and solid fencing will be installed in particular along the south-eastern boundary of the Site in order to minimise the disturbance to the natural stream during operation.

Drainage

9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in-principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a revised drainage proposal, the implementation and maintenance of the revised drainage proposal for the proposed development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.
- (c) His detailed comments are at **Appendix V**.

Fire Safety

9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in-principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.

The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.

- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the BO. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) His detailed comments on UBW, provision of access, temporary or licenced structures are at **Appendix V**.
- (c) Detailed checking under the BO will be carried out at building plan submission stage.

District Officer's Comments

9.1.9 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received any locals' comments on the application and has no comment from departmental point of view.

9.2 The following government departments have no comment on / no objection to the application:

- (a) Project Manager (West), Civil Engineering and Development Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Chief Engineer/Construction, Water Supplies Department; and
- (d) Commissioner of Police.

10. Public Comment Received During Statutory Publication Period

On 4.1.2022, the application was published for public inspection. During the three-week statutory publication period, two public comments from individuals were received (**Appendix IV**) objecting to the application mainly on the grounds that the proposed development would cause adverse impacts on traffic, environment and fire safety and the well-being of the villagers; and given the Site's proximity to the nearby "CA" zone and Sheung Yue River, the proposed development will cause adverse environmental and drainage impacts to the surrounding areas.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary recycling materials collection centre (vehicle parts) and workshop with ancillary office for a period of 3 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. Whilst the proposed use is not in line with the planning intention of the "R(D)" zone, there is no known programme for long-term development of the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term planning intention of the Site.
- 11.2 The Site falls within an area which is rural in character intermixed with open storage/storage yards, vehicle repair workshops, warehouses, parking of vehicles, residential dwellings/structures (the nearest about 10m to the north), vacant land and sites with construction works in progress. The proposed use is considered not incompatible with the surrounding areas. Whilst the proposed development involves storage of recycling of materials and some workshop activities, the applicant states that the workshop activities will be undertaken indoor within the enclosed Structure A at the Site, and boundary fence will be provided in particular along south-eastern boundary of the Site. There will also be no dismantling in the open-air portion of the Site, thus minimising any possible environmental impacts and pollution risk on the surrounding areas, including the nearby residents and stream course. DEP and DAFC have no objection to the application.
- 11.3 Other relevant departments consulted including C for T, CE/MN of DSD and D of FS have no adverse comment on the application. The proposed use is anticipated not to cause significant adverse traffic, environmental and drainage impacts to the surrounding areas. To minimise any potential environmental nuisances and to address the technical concerns of relevant 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 be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the possible environmental impacts on the surrounding areas.

- 11.4 The Committee approved two similar applications (No. A/YL-PH/806 and 882) for proposed temporary recycling materials centre in 2019 and 2021 in the same “R(D)” zone. Approval of the current application is in line with the Committee’s previous decisions.
- 11.5 Two public comments were received during the statutory publication period objecting to the application as stated in paragraph 10 above. In this regard, the departmental comments and planning considerations and assessments 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 18.2.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no material breaking, burning, melting, washing and cleaning activities are allowed in the Site, as proposed by the applicant, during the planning approval period;
- (b) all material dismantling activities will be carried out in the enclosed Structure A on the Site, as proposed by the applicant, during the planning approval period;
- (c) the submission of a revised 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 18.8.2022;
- (d) in relation to (c) above, the implementation of the revised 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 18.11.2022;

- (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 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 18.8.2022;
- (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 18.11.2022;
- (h) if any of the above planning condition (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 condition (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 at **Appendix V**.

- 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 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. There is no strong planning justification in the submission for a departure from such 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 22.12.2021
Appendix Ia	FI received on 15.2.2022
Appendix II	Previous Application
Appendix III	Similar Applications
Appendix IV	Public Comments
Appendix V	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
Plan A-4	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2022**