

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-HH/2

<u>Applicant</u>	The Swire Institute of Marine Science, The University of Hong Kong represented by Atha Editing & Consultancy
<u>Site</u>	Government Land covering Hoi Ha Lime Kilns in D.D. 283, Sai Kung, New Territories
<u>Site Area</u>	About 120 m ²
<u>Land Status</u>	Government Land
<u>Plan</u>	Draft Hoi Ha Outline Zoning Plan (OZP) No. S/NE-HH/1, incorporating the amendments as shown on Plan No. R/S/NE-HH/1-A2
<u>Zoning</u>	“Conservation Area” (“CA”)
<u>Application</u>	Proposed Temporary Excavation of Land (for Bioarchaeological Research) for a Period of 2 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for the proposed temporary excavation of land for bioarchaeological research for a period of 2 years at the application site (the Site). The Site falls within an area zoned “CA” on the draft Hoi Ha OZP No. S/NE-HH/1 incorporating the amendments as shown on Plan No. R/S/NE-HH/1-A2 (the OZP) (**Plan A-1**). According to the Notes of the OZP, excavation of land within the “CA” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 According to the applicant, the investigation will be conducted with two phases of sampling. Phase 1 involves excavation of a maximum of 3 auger drills (0.10m to 0.12m in diameter and maximum 1.5m in depth) and 1 test pit (0.5 m x 0.5m in diameter and maximum 0.75m in depth) (**Drawing A-1**). The Site will be fully reinstated after excavation and backfilling will be conducted within the same day for auger drills and within one working day for test pit. Upon the completion of the 3 auger tests, only with strong justification for further sampling and subject to approval of Antiquities and Monuments Office (AMO), the applicant may conduct further test pit in Phase 2 on the site of one of the two remaining auger tests. The fieldwork will involve only hand-digging using small hand-tools and the equipment will either be hand-carried or moved from the vehicular access to the Site using small hand-trolleys. The investigation work would be conducted during

weekdays only and public access will be maintained.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) application form and attachment received on 21.5.2018 (**Appendix I**);
 - (b) further information (FI) received on 5.12.2018 providing an Archaeological Impact Assessment (AIA) (*accepted but not exempted from publication and recounting requirements*) (**Appendix Ia**); and
 - (c) FI received on 19.12.2018 providing a clarification letter to Environmental Protection Department (EPD) (*accepted and exempted from publication and recounting requirements*) (**Appendix Ib**).
- 1.4 The application was originally scheduled for consideration by the Committee on 20.7.2018. On 20.7.2018 and 5.10.2018, the Committee agreed to defer decisions on the application as requested by the applicant to allow time for the applicant to prepare FI to address departmental comments. The applicant submitted FI on 5.12.2018 and the application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the attachment of application form and FI at **Appendix I** and **Ia**. The main points can be summarized as follows:

- (a) the juxtaposition of the Hoi Ha Wan Marine Park with its living coral assemblage and Hoi Ha Lime Kilns' assemblage of historically exploited corals provides a unique opportunity for research into the marine historical ecology of the area. The research aims to provide a baseline of coral biodiversity for the area and then evaluate changes over time using coral fragments and artefacts (pottery) recovered from excavation around the Hoi Ha Lime Kilns. A report for the research findings will be submitted to the Antiquities and Monument Office and other relevant authorities;
- (b) the AIA reviewed 11 pertinent historical lime kiln sites in Hong Kong and it is concluded that Hoi Ha Lime Kilns is the most promising candidate for research with great abundance of surface coral fragments present, close proximity to living corals, accessible surfaces around the kilns for testing and good physical accessibility; and
- (c) the applicant has undertaken to fully reinstate the Site after excavation.

3. Compliance with the "Owner's Consent/Notification" Requirements

As the Site involves Government land only, the "owner's consent/notification" 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 (the Ordinance) (TPB PG-No. 31A) are not applicable to the application.

4. Previous Application

There is no previous application covering the Site.

5. Similar Application

There is no similar application in the same “CA” zone on the OZP in the vicinity of the Site.

6. The Site and Its Surrounding Areas (Plans A-1, A-2, aerial photo on Plan A-3 and site photos on Plans A-4a to A-4b)

6.1 The Site:

- (a) is located to the northeast of Hoi Ha Village in a distance of about 70m;
- (b) is accessible via a paved footpath (a section thereof forms part of Tai Tan Country Trail) connecting to Hoi Ha Road; and
- (c) mainly covers the remnants of two lime kilns (which form a Site of Archaeological Interest), boulders and vacant land without vegetation at the foothill of vegetated slope.

6.2 The surrounding area is mainly natural in character comprising the hillside woodland in the immediate environs of the Site and Hoi Ha Wan Marine Park to the north. The existing village cluster is situated further to the southwest.

7. Planning Intention

The planning intention of the “CA” zone is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of development. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.

8. Comments from Relevant Government Departments

8.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

8.1.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) he has no objection to the application;

- (b) if and after planning approval has been given by the Board, the applicant shall submit an excavation permit application to his office. However, there is no guarantee at this stage that the application would be approved. If the application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD; and
- (c) the Site falls partly within the village 'environs' of Hoi Ha Village. There is no Small House application at the Site and its surrounding area.

Heritage

8.1.2 Comments of the Executive Secretary (Antiquities and Monuments) of Antiquities and Monuments Office (AMO):

- (a) the Site encroaches upon the Hoi Ha Lime Kilns Site of Archaeological Interest, which is of high archaeological interest as fragments of kiln furniture and fired clay of Qing dynasty were unearthed near the kilns;
- (b) AMO has no objection to the application providing that the following conditions listed in the AIA report submitted by the applicant will be complied with:
 - (i) the investigation being divided into two phases. In Phase 1, maximum of 3 auger tests would be firstly carried out and the actual locations should be agreed with AMO in advance;
 - (ii) upon the completion of the three auger tests, the archaeologist should assess the findings and the necessity of opening one test pit among the three auger test locations for the agreement of AMO. The archaeologist should then assess the findings of Phase I and decide whether Phase II investigation to open one more test pit is necessary. Full justification should be given to AMO for consideration and approval; and
 - (iii) the location of the second test pit should also fall within the remaining 2 auger tests.
- (c) the investigation (excavation) shall be carried out by a qualified archaeologist, he/ she shall obtain a 'Licence to Excavate and Search for Antiquities' from the Antiquities Authority under the provision of the Antiquities and Monuments Ordinance (Cap. 53) before the commencement of the archaeological work. In accordance with the requirement of the said ordinance, the applicant should submit a Licence application with an archaeological action plan including details of the proposed archaeological fieldwork such as the methodology, appropriate measures to ensure that the lime kilns would not be damaged and backfilling work afterwards etc. The archaeological report, archaeological finds and the other

archives shall be submitted to AMO in accordance with the conditions set out in the Licence; and

- (d) since the proposed site falls within the Hoi Ha Lime Kiln Site of Archaeological Interest, site monitoring by AMO in the course of investigation is required. AMO should be informed two weeks prior to the commencement of investigation so as to allow them to arrange site inspection.

Nature Conservation

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

- (a) the proposed locations of drills and pits are vacant. He has no comment on the application; and
- (b) the applicant should be reminded to minimise impacts to the vegetation and major roots of trees nearby.

Landscape

8.1.4 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) he has no objection to the application from the landscape planning perspective;
- (b) referring to the aerial photo dated 3.1.2018, the Site is situated in an area of rural landscape character comprising natural woodland and small houses. The proposed use is not incompatible with the surrounding environment;
- (c) with reference to his site visit on 5.6.2018, the Site is vacant and no vegetation is recorded therein. Adverse impact to significant landscape resources is not anticipated; and
- (d) should the Board approve the application, the standard condition for submission and implementation of a landscape proposal is not recommended in view of the nature of the proposed temporary use and the existing site conditions.

Environment

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

- (a) he has no objection to the application;

- (b) the applicant is advised to take adequate measures in order to prevent surface run-off to the nearby watercourse. In this regard, the applicant should refer to the relevant measures in the Environmental Protection Department (EPD)'s Practice Note ProPECC PN 1/94 "Construction Site Drainage" available on EPD's website; and
- (c) EPD would follow up with the applicant separately on any implication with the Environmental Impact Assessment Ordinance.

Geotechnical

8.1.6 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) he has no objection to the application; and
- (b) the proposed pit openings near the lime kilns may pose a threat to the latter if extreme care and control is not exercised in the planning, design, construction or supervision of the works. The applicant is advised to note the "Guide to Trench Excavations (Shoring Support and Drainage Measures)" ⁽¹⁾ jointly published by the Highways Department (HyD) and CEDD, which provides technical guidelines on trench excavation. Besides, the applicant is required to note the following particulars:
 - (i) excavation near the lime kilns should not be opened up during wet seasons unless unavoidable;
 - (ii) design of trench near the lime kilns should take into consideration of potential land flooding and performance of land drainage in the vicinity;
 - (iii) adequate trench drainage measures against water ingress should be provided (e.g. upstand, sandbags, protective aprons, pumps, etc.);
 - (iv) any voids/gaps/leakage areas surrounding the trench should be promptly rectified to avoid water ingress or leakage; and
 - (v) the trench support wall should be installed ahead of excavation if such excavation is critical to the stability of the lime kilns adjacent to the trench.

Drainage

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

- (a) he has no comment on the application from public drainage viewpoint;

⁽¹⁾ http://www.cedd.gov.hk/eng/publications/geo/trench_excavations.html

- (b) he advises that public stormwater drainage system and public sewerage system are not available in the vicinity of the concerned area. The applicant is requested to take appropriate measures to make sure that no muddy water discharged from the Site to the surrounding area/adjacent road; and
- (c) the applicant should take all precautionary measures to prevent any disturbance, damage and pollution to any parts of the existing drainage facilities in the vicinity of the area. In the event of any damage to the existing drainage facilities, the applicant would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom.

Water Supplies

8.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department:

- (a) he has no objection to the application; and
- (b) existing water mains may be affected. The applicant is required to observe the “Conditions of Working in the Vicinity of Waterworks Installations” and “Flow Chart on Procedures for Safe Working near Water Mains”.

Electrical and Mechanical Services

8.1.9 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) he has no particular comment on the application from electricity supply safety aspect;
- (b) in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site; and
- (c) they should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Line” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

8.2 The following Government departments have no objection to/ no comment on the application:

- (a) Director of Fire Services;
- (b) Commissioner for Transport;
- (c) Chief Highway Engineer/New Territories East, HyD;
- (d) Project Manager (North), CEDD; and
- (e) District Officer/Tai Po, Home Affairs Department.

9. Public Comments Received During Statutory Publication Period

On 29.5.2018 and 14.12.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received (**Appendix II**). A Tai Po District Councillor and an individual support the application. They also advise that due regard should be paid to the environmental issues of the excavation and further research is required to support the new AIA conducted by the applicant. Another comment is from an individual who opines that the application should be deferred until adequate information (such as the identity of applicant and purpose of proposed excavation) is provided for the general public to make an informed comment. This commenter also questions about no mentioning of application for a licence to conduct a detailed AIA under the Antiquities and Monuments Ordinance (Cap. 53) in the planning application.

10. Planning Considerations and Assessments

- 10.1 The applicant seeks planning permission for the proposed temporary excavation of land for bioarchaeological research for a period of two years at the Site which falls within an area zoned “CA” on the OZP. The planning intention of the “CA” zone is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of development. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted. The proposed excavation of land, involving maximum three auger drills and two test pits, is small in scale and temporary in nature, and hence would not jeopardize the planning intention of the “CA” zone.
- 10.2 The Site encroaches upon the Hoi Ha Lime Kilns Site of Archaeological Interest, which is of high archaeological interest. In view of the location of the Site, scope of excavation and the AIA conducted by the applicant, AMO has no objection to the application. Should the application be approved, the applicant will be advised to follow the conditions listed in the AIA report and obtain a ‘Licence to Excavate and Search for Antiquities’ under the Antiquities and Monuments Ordinance (Cap. 53) before the commencement of the excavation work.
- 10.3 As the Site falls within unleased Government land, the applicant is also required to apply for an excavation permit from the LandsD. The applicant would be required to comply with the conditions to be imposed under the permit, which would include the reinstatement of the Site to the satisfaction of DLO/TP.
- 10.4 Apart from the remnants of two lime kilns, the Site mainly covers boulders and vacant land without vegetation (**Drawing A-1 and Plans A-2 and A-4**). It is also

located away from the village cluster. The fieldwork will involve only hand-digging using small hand-tools and the equipment will either be hand-carried or moved from the vehicular access to the Site using small hand-trolleys. There will be no tree felling and the Site will be fully reinstated after excavation. It is unlikely that the proposed temporary excavation of land would cause any significant adverse impact on the surrounding areas. Other Government departments consulted (including DEP, H(GEO) of CEDD, CE/MN of DSD and C for T have no objection or adverse comment on the application.

- 10.5 Regarding the public comments with concerns on the environmental issues of the proposed excavation and those relating to the applicant's AIA, the Government departments' comments and planning assessments above are relevant. As for the public comment on inadequate information available to the public, it should be noted that the established statutory and administrative procedures on publication of planning applications have been duly followed. The applicant's submission have been made available for public inspection at the two Planning Enquiry Counters of PlanD and in addition, a gist of the application can be viewed on the Board's website.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9, the Planning Department has no objection to the application for a period of 2 years.
- 11.2 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 2 years until 1.2.2021.

Advisory Clauses

The recommended advisory clauses at **Appendix III** are suggested for Members' reference.

- 11.3 There is no strong reason to recommend rejection of the application.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 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 Attachment received on 21.5.2018
Appendix Ia	Further Information received on 5.12.2018
Appendix Ib	Further Information received on 19.12.2018
Appendix II	Public Comments
Appendix III	Recommended Advisory Clauses
Drawing A-1	Plan on Proposed Testing Locations
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2019**