

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

**APPLICATION NO. A/YL-PN/60**

<b><u>Applicant</u></b>	:	Aidall Limited represented by Aikon Development Consultancy Limited
<b><u>Site</u></b>	:	Lot 10 (Part) in D.D. 135, Sheung Pak Nai, Yuen Long
<b><u>Site Area</u></b>	:	About 111.12m <sup>2</sup>
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Sheung Pak Nai & Ha Pak Nai Outline Zoning Plan (OZP) No. S/YL-PN/9
<b><u>Zoning</u></b>	:	“Coastal Protection Area” (“CPA”)
<b><u>Application</u></b>	:	Proposed Utility Installation for Private Project (Electricity Transformer Room) and Excavation of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed utility installation for private project (electricity transformer room) and excavation of land. The Site falls within an area zoned “CPA” on the OZP (**Plan A-1**). According to the Notes of the OZP for “CPA” zone, ‘Utility Installation for Private Project’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Remarks of the Notes for “CPA” zone also stipulates that any filling of land/pond or excavation of land requires planning permission from the Board. The Site is currently paved and vacant.
- 1.2 The proposed electricity transformer room, with a gross floor area (GFA) of about 66.67m<sup>2</sup> with a dimension of about 11.3m x 5.9m x 5m (L x W x H), would serve an aquaponics farm to be developed at the remaining portion of the subject lot. The proposed transformer room will involve excavation of land of about 1.2m depth for the foundation (**Drawing A-1**). The proposed aquaponics farm, which can be considered as an agriculture use, will be located on the remaining portion of the Site, which will consist of 22 structures with building height of 4.57m and total floor area of 1,664.8m<sup>2</sup> (**Drawing A-3**). According to the Notes for the “CPA” zone on the OZP, ‘Agriculture Use (Other than Plant Nursery)’ is a Column 1 use which is always permitted. The building structure of the proposed electricity transformer room will be constructed and operated by

the applicant while the equipment and fixed installation inside the proposed transformer room will be maintained by CLP Hong Kong Limited.

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

- (a) Application Form received on 25.2.2020 **(Appendix I)**
- (b) Supplementary Planning Statement including a location plan with vehicular access and an indicative layout plan **(Appendix Ia)**
- (c) Further Information (FI) received on 14.4.2020 providing clarification on the service catchment, the maintenance responsibility of the proposed development (*accepted and exempted from publication requirements*) **(Appendix Ib)**

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices Ia and Ib**. They can be summarised as follows:

- (a) The proposed use is an essential utility facility serving an aquaponics farm to be developed at the remaining portion of the lot. The growing of crops will require artificial lighting, air-conditioning and other ancillary facilities which require reliable supply of electricity. The aquaponics farm does not involve any filling of land/pond or excavation of land.
- (b) The proposed use is to support permitted agricultural use and therefore is considered not in conflict with the planning intention of the “CPA” zone.
- (c) The proposed use supports local agriculture and sustainable development.
- (d) The proposed use is not incompatible with the rural character of the surrounding areas, in terms of land use and built form.
- (e) The technology of electricity transformer is mature. No adverse health impact is anticipated.
- (f) The proposed use would not generate significant adverse drainage, environmental, visual or traffic impacts.

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

The applicant is the sole ‘current land owner’ of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

#### **4. Background**

The Site is currently not subject to planning enforcement action. Notwithstanding the above, filling of land on the Site would be subject to investigation. Should there be sufficient evidence to prove that the current operation on the Site constitutes an unauthorised development under the Town Planning Ordinance, enforcement action will be taken.

#### **5. Previous Application**

There is no previous planning application on the Site.

#### **6. Similar Application**

There is no similar application within the “CPA” zone on the OZP.

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

7.1 The Site is:

- (a) currently paved and vacant; and
- (b) accessible via a local track leading to Nim Wan Road.

7.2 The surrounding areas have the following characteristics (**Plans A-1 to A-3**):

- (a) to the immediate north and northeast is the remaining portion of the subject lot which is currently under construction; and to the further north and northeast are scattered residential dwellings, a vegetable collection point, an orchard, shrubland with graves, etc.;
- (b) to the northwest are fish ponds, a holiday camp (under Application No. A/YL-PN/59 to be considered at the same meeting) and an orchard;
- (c) to the southwest is a fishing ground with valid planning permission (Application No. A/YL-PN/50); and
- (d) to the south across Nim Wan Road are a pond, an open storage yard and some temporary structures.

#### **8. Planning Intention**

The “CPA” zone is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion. 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 the development is an essential infrastructure project with overriding public interest may be permitted.

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

9.1 The following Government departments have been consulted and their views on the application are summarised 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) Lot No. 10 in D.D. 135 is covered by Letter of Approval No. MT/LM45998 for agricultural purposes.
- (c) Should the planning approval be given to the application, the lot owner(s) of the lot(s) without Short Term Waiver (STW) will need to apply to his office for permitting the structures to be erected or to regularise any irregularities on site, if any. Application(s) for any of the above will be considered by LandsD acting in the capacity of 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 premium or fee, as may be imposed by LandsD.

### **Traffic**

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

He has no adverse comment on the application from traffic engineering point of view.

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

- (a) The proposed access arrangement should be commented by Transport Department (TD).
- (b) If the proposed access arrangement is agreed by TD, a proper run-in/out or road connection to Nim Wan Road should be constructed to the satisfaction of TD and HyD.

- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads and drains.
- (d) HyD shall not be responsible for the maintenance of any access connecting the Site and Nim Wan Road.

### **Environment**

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

- (a) He has no objection to the application. In view of the small scale and nature of the proposal, it is anticipated that the proposed use would unlikely cause any adverse environmental impact.
- (b) The applicant should be reminded to comply with all relevant environmental pollution control ordinance during construction and to implement appropriate mitigation measures/practices as set out in the Recommended Pollution Control Clauses for Construction Contracts which are available at: [https://www.epd.gov.hk/epd/english/environmentinhk/eia\\_planning/guide\\_ref/rpc\\_1.html](https://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc_1.html)

### **Urban Design and Landscape**

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

##### Urban Design

- (a) Given the scale of the proposed development, it should not generate adverse visual impact. Nonetheless, to respect the surrounding rural setting, the applicant is advised to provide good aesthetic design for the transformer room.

##### Landscape

- (b) He has no objection to the application from landscaping perspective.
- (c) The Site is vacant and without any existing vegetation. Some construction materials are observed within the Site. Existing trees are found along the northern and eastern boundaries outside the Site. The Site is situated in an area of rural coastal plain landscape character dominated by mangroves, fish ponds and cultivated land. Significant change to the landscape character arising from the application is not envisaged.

### **Drainage**

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

- (a) He has no objection to the application from drainage point of view.
- (b) Should the Board consider that the application is acceptable from planning point of view, he would suggest that a condition should be stipulated in the approval requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his department.

### **Buildings Matters**

9.1.7 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) are to be carried out on the Site, prior approval and consent of BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access (EVA) in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

### **Conservation**

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

- (a) According to his record, DAFC has received an application for Letter of Approval for erecting 22 greenhouses at Lot 10 in D.D.

135 in April 2020 by the tenant and the application is under processing.

- (b) On the basis of the available information, he is convinced that the proposed electricity transformer room is directly related to the operation of the farm and have no strong view against the application from agricultural point of view.

### **Fire Safety**

#### 9.1.9 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. In addition, the applicant should be advised that the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and 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 BO, detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

### **Health**

#### 9.1.10 Comments of the Director of Health (D of Health):

- (a) Since electrical installations and facilities are not under the purview of the Department of Health, she is not in a position to comment on site selection issues or issues related to the installation or operation of electrical facilities.
- (b) According to the World Health Organization (WHO), with compliance with the relevant International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines, exposure to extremely low frequency electromagnetic fields, such as those generated by electrical facilities would not pose any significant adverse effects to workers and the public. As such, the project proponent must ensure that the installation complies with the relevant ICNIRP guidelines or other established international standards. WHO also encourages effective and open communication with stakeholders in the planning of new electrical facilities.

**Others**

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

- (a) He has no comment on the application on electricity supply safety and reliability aspects.
- (b) For the design and operation of electricity package substation, CLP Power has to comply with the Electricity Ordinance and relevant statutory requirements. As the electricity package substation is to provide electricity supply to some future developments in the vicinity, the associated electricity demand should be provided by the nearby substation as far as possible.
- (c) The applicant and his contractors should observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

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

- (a) He has no in-principle geotechnical objection to the application.
- (b) The applicant should be reminded to submit building/excavation works to Buildings Department for approval as required under the provisions of Buildings Ordinance.

**District Officer’s Comments**

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

His office has not received any comment from the locals on the application.

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

- (a) Commissioner of Police (C of P);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD);
- (d) Director of Leisure and Cultural Services (DLCS);
- (e) Director of Food and Environmental Hygiene (DFEH);
- (f) Antiquities and Monuments Office, Development Bureau (AMO, DEVB);  
and
- (g) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).



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

On 3.3.2020, the application was published for public inspection. During the three weeks of statutory public inspection period, three public comments were received from the Hong Kong Bird Watching Society (HKBWS), World Wide Fund for Nature Hong Kong (WWF) and an individual objecting to the application (**Appendices II-1 to II-3**). The main objecting reasons are summarized below:

- (a) The Site is located within the “CPA” zone which is primarily not intended for development. This application is a ‘Destroy to Build’ case. Approval of the application will set an undesirable precedent for similar applications.
- (b) The application and the future aquaponics farm are likely associated with the adjacent holiday camp, which is an unauthorised use.
- (c) The application could be approved only if the development of the future aquaponics farm had obtained approval from the Board.

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

- 11.1 The application seeks planning permission for proposed utility installation for private project (electricity transformer room) and excavation of land of about 1.2m depth in the “CPA” zone, which is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built 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 essential infrastructure projects with overriding public interest may be permitted. According to the applicant, the proposed electricity transformer room will provide electricity to the future aquaponics farm at the remaining portion of the subject lot. While the application is not entirely in line with the planning intention of the “CPA” zone, the proposed electricity transformer room is required for the provision of the necessary electricity supply to support the future aquaponics farm, according to DAFC, which can be considered as an agriculture use always permitted within the “CPA” zone.
- 11.2 The proposed electricity transformer room is relatively small in scale (with a GFA of about 66.67m<sup>2</sup> and a building height of about 5m). The proposed electricity transformer room is considered not incompatible with the surrounding areas which is rural in character occupied by fish ponds and temporary structures.
- 11.3 Relevant Government departments, including DEP, DAFC, C for T, CE/MN of DSD and CTP/UD&L of PlanD have no adverse comment on the application. Significant adverse environmental, ecological, traffic, drainage, visual and landscape impacts on the surrounding areas are not expected. To address the technical requirements of the relevant Government departments, relevant

approval conditions are recommended in paragraph 12.2 below.

- 11.4 There were three public comments received objecting to the application mainly on the grounds stated in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.3 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, 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 until 24.4.2024, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following approval conditions and advisory clauses are suggested for Members' reference:

### Approval Conditions

- (a) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (b) the provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

### Advisory Clauses

The recommended advisory clauses are attached at **Appendix III**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference :

the proposed utility installation for private project (electricity transformer room) and excavation of land is not in line with the planning intention of the "CPA" zone which is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. There is a general presumption against development in this zone. There is no strong planning justification in the submission for a departure from such planning intention.

## 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 date when the validity of the permission should expire.
- 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 received on 25.2.2020
<b>Appendix Ia</b>	Supplementary Planning Statement including a location plan with vehicular access and an indicative layout plan
<b>Appendix Ib</b>	Further Information (FI) received on 14.4.2020 providing clarification on the service catchment and the maintenance responsibility of the proposed development
<b>Appendices II-1 to II-3</b>	Public Comments
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Location Plan with Vehicular Access
<b>Drawing A-2</b>	Building Plan, Section Plans and Elevation Plans
<b>Drawing A-3</b>	Indicative Layout of the Aquaponics Farm
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and 4b</b>	Site Photos

**PLANNING DEPARTMENT  
APRIL 2020**