

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

**APPLICATION NO. A/NE-SSH/164**

<b><u>Applicant</u></b>	: Instinct Investment Limited represented by Aikon Development Consultancy Limited
<b><u>Site</u></b>	: Lots 572 (Part), 576 (Part), 578 (Part), 579 (Part) and 580 (Part) in D.D. 209, Kei Ling Ha Lo Wai, Shap Sz Heung, Sai Kung, New Territories
<b><u>Site Area</u></b>	: About 92m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Shap Sz Heung Outline Zoning Plan (OZP) No. S/NE-SSH/11
<b><u>Zoning</u></b>	: “Coastal Protection Area” (“CPA”)
<b><u>Application</u></b>	: Proposed Excavation of Land (Installation of Underground Cable Trench) for Permitted Agricultural Use

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed excavation of land at the application site (the Site) for installation of underground cable trench for permitted agricultural use. The Site falls within an area zoned “CPA” on the OZP (**Plan A-1**). According to the Notes of the OZP, while ‘Agricultural Use’ is a permitted Column 1 use within “CPA”, the provision of underground electricity cable which is considered directly related and ancillary to the permitted agricultural use within the same zone is always permitted and no separate permission from the Town Planning Board (the Board) is required. Notwithstanding the above, excavation of land within “CPA” zone requires planning permission from the Board. The Site is currently vacant and covered by vegetation (**Plan A-4**).
- 1.2 The Site is accessible via a local track passing through Kei Ling Ha Lo Wai Village and leading to Sai Sha Road (**Plan A-1**). According to the applicant, the proposed excavation of land involves an area of about 92m<sup>2</sup> and a depth of not more than 1.2m to facilitate the installation of four underground cable ducts of about 58m in length and 150mm in diameter (**Drawings A-1** and **A-2**) for providing electricity supply to a proposed farm falling within “CPA” zone of the OZP (**Plan A-2**). The Site will be backfilled upon completion of excavation works. The layout plan and section plan are shown at **Drawings A-1** and **A-2** respectively.

- 1.3 The Site is part of the subject of a previous application (No. A/NE-SSH/146) for proposed excavation of land (installation of pole with switchgear) for permitted agricultural use submitted by the same applicant (**Plan A-2**), which was approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2023. Details of the previous application are set out in paragraph 5 below.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with Attachments received on 11.4.2025 and Supplementary Information (SI) received on 17.4.2025 (**Appendix I**)
  - (b) Further Information (FI) received on 15.5.2025\* (**Appendix Ia**)
  - (c) FI received on 29.5.2025\* (**Appendix Ib**)

*\*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, SI and FIs at **Appendices I to Ib**, as summarised below:

- (a) the proposed excavation of land is necessary for installing the proposed underground cable trench at the Site, together with proposed pole with switchgear under the planning permission No. A/NE-SSH/146 (**Drawing A-1**), in order to provide electricity supply to the proposed farm located within “CPA” zone in Kei Ling Ha Lo Wai, where a total of nine agricultural structures (**Drawing A-1**) were approved by Lands Department (LandsD);
- (b) the alignment of the proposed excavation of land is the most viable option with due consideration of technical viability to provide the underground cable trench confined within private lots;
- (c) given that the proposed excavation of land is small in scale, it would not result in adverse visual and environmental impacts. Mitigation measures would be implemented during construction phase to minimise the drainage and sewerage impacts on the Kei Ling Ha Mangal Site of Special Scientific Interest (SSSI);
- (d) the proposed excavation of land, including the proposed pole with switchgear under the planning permission No. A/NE-SSH/146, will be carried out in one go in order to enhance efficiency; and
- (e) the permitted agricultural structures (**Drawing A-1**) have not yet been constructed. The applicant will remove existing materials left by previous users of the farm. The applicant will strictly adhere to the approval conditions and relevant guidelines to utilise the Site for the approved/permitted use.

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

The applicant is one of the “current land owners” and 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 notifying another “current land owner”. 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 part of the subject of a previous application (No. A/NE-SSH/146) for proposed excavation of land (installation of pole with switch gear) for permitted agricultural use submitted by the same applicant as the current application. The application was approved by the Committee on 3.2.2023 mainly on the considerations that the excavation of land for the installation of the pole with switchgear was considered essential to enhancing power supply and support the permitted agricultural use; no adverse impact to the surrounding area was anticipated and relevant departments consulted have no objection to or no adverse comments on the application.

5.2 Details of the application are summarised at **Appendix II** and its location is shown on **Plan A-2**.

**6. Similar Application**

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

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

7.1 The Site is:

- (a) vacant and covered with vegetation;
- (b) located within a proposed farm (**Plan A-2**) where a total of nine agricultural structures will be erected; and
- (c) accessible via a local track connecting to Kei Ling Ha Lo Wai Village and Sai Sha Road.

7.2 The surrounding areas are predominantly rural in character and mainly covered with dense tree groups. To the south of the Site is the village proper of Kei Ling Ha Lo Wai zoned “Village Type Development” (“V”) on the OZP. To the east and north are the coastal area zoned “CPA” and the Kei Ling Ha Mangal SSSI.

## **8. Planning Intention**

- 8.1 The planning intention of the “CPA” zone 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. 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.
- 8.2 As excavation of land within “CPA” zone may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activity.

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

- 9.1 The following government departments have been consulted and their views on the application are summarised below:

### **Land Administration**

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

- (a) he has no objection to the application;
- (b) the Site consists of five private lots (i.e. Lots 572 (Part), 576 (Part), 578 (Part), 579 (Part) and 580 (Part) in D.D. 209). All the lots are Old Schedule Agricultural Lots (OSAL) held under the Block Government Lease demised for agricultural purpose which contains the restriction that no structures are allowed to be erected without the prior approval of the Government;
- (c) Letter of Approval (L of A) No. 6255 to permit erection of structures (within Lots 572, 576, 579 and 580 in D.D. 209) for agricultural purposes was issued on 25.10.2019 and still in effective. Certificates of Exemption is required for building works, site formation works and drainage works, but no application has yet been submitted by the applicant;
- (d) a Short Term Waiver (STW) No. 821 on private lots (i.e. Lots 578 and 580 in D.D. 209) would be affected while the purpose of the subject planning application is not in contravention of the waiver conditions;

- (e) a temporary structure not covered by Modification of Tenancy, L of A, STW and Squatter Control Surveyed Record straddling on Lots 576 and 579 in D.D. 209 (subject to survey) is detected. The Government reserves the right to take appropriate actions if the registered owner(s) of Lots 576 and 579 in D.D. 209 fail to compile the conditions of the land lease; and
- (f) his advisory comments are at **Appendix III**.

### **Nature Conservation**

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

in view that the proposed work is minor and the involved area is mainly covered with common plant species, he has no comment on the application from nature conservation perspective.

### **Environment**

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

- (a) he has no objection to the application from environmental planning perspective; and
- (b) the applicant is advised to follow the Recommended Pollution Control Clauses for Construction Contracts to minimise any potential environmental impacts during construction, in view that the Kei Ling Ha Mangal SSSI is located in close proximity to the Site.

### **Landscape**

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

- (a) she has no adverse comment on the application from landscape planning perspective;
- (b) based on the aerial photo of 2023, the Site is located in an area of settled valleys landscape character comprising agricultural land, vegetation, woodland, and village houses in the adjacent “V” zone. The proposed excavation of land is considered not entirely incompatible with its surrounding environment; and
- (c) based on the site photos taken on 22.4.2025, the Site is covered by self-seeded vegetation with no significant landscape resource observed. According to the Application Form (**Appendix I**), no tree felling is involved. Significant adverse impact on existing landscape resources within the Site arising from the proposed excavation of land is not anticipated.

### **Electricity**

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

he has no comment on the application from regulatory services perspective.

### **Drainage**

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

(a) given that the application only involves laying of underground cables, he has no in-principle objection to the application from drainage operation and maintenance viewpoint; and

(b) his advisory comments are at **Appendix III**.

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

- (a) Commissioner for Transport;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) Director of Fire Services;
- (d) Chief Engineer/Construction, Water Supplies Department;
- (e) Project Manager (North), Civil Engineering and Development (CEDD);
- (f) Head of Geotechnical Engineering Office, CEDD; and
- (g) District Officer (Tai Po), Home Affairs Department.

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

On 25.4.2025, the application was published for public inspection. During the statutory public inspection period, one comment from an individual (**Appendix VI**) objects to the application and questions whether the activity taking place on Site is genuinely for agricultural use.

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

11.1 The application is for proposed excavation of land (about 92m<sup>2</sup> in area) with a depth of not more than 1.2m to support the installation of underground cable trench at the Site falling within an area zoned “CPA” on the OZP (**Plan A-1**). 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. 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. According to the applicant, the proposed excavation of land is required for the installation of the underground cable trench, together with materialising the installation works of the pole with switch gear under planning permission No. A/NE-SSH/146, for the provision of electricity supply to the proposed farm falling within the same “CPA” zone. Thus, the proposed excavation of land is considered essential to support the permitted agricultural use.

- 11.2 In view that the proposed work is minor and the involved area is mainly covered with common plant species, DAFC has no comment on the application from nature conservation perspective. DEP has no objection to the application from environmental planning perspective, and advises the applicant to follow the Recommended Pollution Control Clauses for Construction Contracts to minimise any potential environmental impacts during construction. Other relevant departments consulted, including DEMS and CE/MN, DSD have no adverse comment on the application.
- 11.3 The Site is located to the north of the “V” zone of Kei Ling Ha Lo Wai and covered with vegetation. The proposed excavation works are small in scale and are not incompatible with the surrounding rural environment. CTP/UD&L, PlanD has no adverse comment on the application as significant adverse impact on existing landscape resources within the Site arising from the proposed excavation of land is not anticipated.
- 11.4 The Site is part of the subject of a previous application (No. A/NE-SSH/146) for proposed excavation of land (installation of pole with switch gear) for permitted agricultural use submitted by the same applicant as the current application. The application was approved by the Committee in 2023 mainly on the considerations as stated in paragraph 5.1 above. Approval of the current application is in line with the Committee’s previous decision.
- 11.5 Regarding the public comment as detailed in paragraph 10, the government departments’ comments and planning assessments above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and taking into account the public comment 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 until **6.6.2029**, 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 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 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 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. 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 with Attachments received on 11.4.2025 and Supplementary Information received on 17.4.2025
<b>Appendix Ia</b>	Further Information received on 15.5.2025
<b>Appendix Ib</b>	Further Information received on 29.5.2025
<b>Appendix II</b>	Previous Application
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Appendix IV</b>	Public Comment
<b>Drawing A-1</b>	Site Layout Plan submitted by the Applicant
<b>Drawing A-2</b>	Section Plan submitted by the Applicant
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2025**