

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LYT/838

<u>Applicant</u>	:	Kee See Energy Management Limited represented by Euro Asia Construction Engineering Limited
<u>Site</u>	:	Lot 1582 in D.D. 76, Kan Tau Tsuen, Fanling, New Territories
<u>Site Area</u>	:	About 1,010m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Lung Yeuk Tau and Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/19
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Public Utility Installation (Solar Photovoltaic System) for a Period of Five Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary public utility installation (PUI) (solar photovoltaic (SPV) system) for a period of five years at the application site (the Site) falling within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Public Utility Installation’ is a Column 2 use within the “AGR” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and largely overgrown with weeds (**Plans A-2 and A-4b**).
- 1.2 The Site is accessible from Sha Tau Kok Road – Ma Mei Ha via a local access (**Plan A-1**). According to the applicant, the proposed SPV system will be connected to the existing electrical power network of CLP Power Hong Kong Limited (CLP Power) under the ‘Renewable Energy Feed-in Tariff Scheme’ (the FiT Scheme) with a generation capacity of 170kW. The proposal comprises a total of 309 solar panels (2.28m (L) x 1.13m (W) x 0.35m (H) each) mounted on metal supporting frames with height of about 2.1m (**Drawings A-1, A-3 and A-4**). Planters are proposed underneath the solar panels for cultivation purpose¹. Two H-poles (about 2m in height) for 11kV Switchgear and one container (about 2.62m

¹ According to the applicant, *Dendrobium nobile* (Dendrobium) (石斛) would be cultivated in the planters underneath the solar panels at the Site.

in height) with total floor area of about 15m² for control room are proposed on-site (**Drawing A-2**). No filling of land will be involved in the proposal. No parking and loading/unloading space is proposed within the Site. Upon the termination of the FiT Scheme, the applicant would reinstate the Site for agricultural use. The layout and section plans submitted by the applicant are in **Drawings A-1 to A-4**. The major development parameters are summarised below:

Major Development Parameters	Proposed Scheme
Site Area	About 1,010m ²
Gross Floor Area	About 815m ²
Building height	Not more than 2.62m (one storey)
Number of Solar Panels	309
Number of H-Poles	2
Annual Electricity Generation	170kW (equivalent to about 51 domestic households' annual demand)
Anticipated Completion Time	Q3 2026

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

- (a) Application Form with Attachments received on 25.11.2024 (Appendix I)
 - (b) Further Information (FI) received on 30.12.2024^ (Appendix Ia)
 - (c) FI received on 20.3.2025^ (Appendix Ib)
 - (d) FI received on 20.5.2025^ (Appendix Ic)
 - (e) FI received on 2.7.2025^ (Appendix Id)
- ^ accepted and exempted from the publication and recounting requirements

1.4 On 24.1.2025 and 20.5.2025, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application each for a period of two months as requested by the applicant.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Id**, as summarised below:

- (a) the proposed SPV system is in line with the government policy of promoting energy efficiency and use of renewable energy (RE);
- (b) the proposed installation is regarded as 'PUI', a Column 2 use within the "AGR" zone which may be permitted by the Board upon application. Besides, the proposal also comprises cultivation activities underneath the solar panels at the Site, which is generally in line with the planning intention of the "AGR" zone. Upon the termination of the Fit Scheme, the Site would be reinstated for agricultural use;
- (c) application for participation in the FiT Scheme was submitted and the Network Reinforcement Condition Letter was obtained from CLP Power, which approved the applicant's participation in the FiT Scheme; and

- (d) the proposed installation is not incompatible with the surrounding environment; and it would not induce adverse traffic, environmental, drainage and landscape impacts and fire safety issue on the surrounding areas.

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

The applicant is not a “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 obtaining consent of the two “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Assessment Criteria

The set of Assessment Criteria for Considering Applications for SPV System made under Section 16 of the Town Planning Ordinance (Assessment Criteria) was first promulgated on 21.7.2020. The latest set of Assessment Criteria which was promulgated on 7.10.2022 is at **Appendix II**.

5. Background

- 5.1 The Site is currently not subject to any active planning enforcement action.
- 5.2 The FiT Scheme is an initiative introduced by the Government under the post-2018 Scheme of Control Agreements with the two power companies for promoting the development of distributed RE. It aims to encourage the private sector to consider investing in RE as the power generated could be sold to the power companies at a rate higher than the normal electricity tariff to help recover the costs of investment in the RE systems and generation.
- 5.3 Any non-governmental bodies or individuals, as customers of the relevant power company planning to install distributed RE systems at their premises in the respective power company’s supply area, are eligible for prescribed FiT rates from that power company if they have been connected to the latter’s grid. An applicant for the Scheme may make submission direct to the relevant power company with the required documents including the preliminary layout diagram and other information of the proposed RE system. After meeting the requirements specified by the power company on technical assessment, system test and installation works, the power company will proceed with installing a smart meter in the applicant’s premises to facilitate connection the proposed RE system to the power grid. Successful applicant would be offered the FiT rate throughout the project life of the RE system until end 2033. The applicant shall ensure that the design, installation, operation and maintenance of the RE system comply with the applicable laws, guidelines and safety and technical guidelines.

6. Previous Application

There is no previous application at the Site.

7. Similar Application

There is no similar application for SPV within the same “AGR” zone in the vicinity in the past five years.

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

8.1 The Site is:

- (a) currently vacant and generally overgrown with weeds²; and
- (b) accessible from Sha Tau Kok Road – Ma Mei Ha via a local access.

8.2 The surrounding areas are of rural character mainly dominated by active/fallow farmlands, vacant land, unused land covered by tree groups or vegetation and village houses/domestic structures. To the north of the Site is the village proper of Kan Tau Tsuen, where clusters of village houses are founded. Tan Shan River is located to the south of the Site.

9. Planning Intention

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

10. Comments from Relevant Government Departments

10.1 Apart from the government bureau/department as set out in paragraphs 10.2 and 10.3 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and recommended advisory clauses are provided at **Appendices III and IV** respectively.

10.2 The following government bureau supports the application.

Policy Aspect

Comments of the Secretary for the Environment and Ecology (SEE):

- (a) the Government has set net-zero electricity generation as one of the major decarbonisation strategies in the Hong Kong’s Climate Action Plan 2050 promulgated in October 2021. To achieve the long-term carbon neutrality target before 2050, zero-carbon electricity supply through RE development are needed to be increased as far as possible. The policy is for the Government to take the lead in developing RE at various buildings and facilities where technically and financially feasible, and to create conditions

² According to the tree survey report submitted (**Appendix Ia**), ten trees in fair to poor conditions, predominantly invasive species, have been identified within the Site previously. Based on the site visit on 25.6.2025, all trees within the Site have been felled.

that are conducive to community participation. For the private sector, the Government and the power companies have introduced the FiT Scheme, providing financial incentives which can encourage the private sector to invest in distributed RE. The Government has also introduced a series of measures to facilitate and support members of the public in developing RE; and

- (b) he supports the development of RE systems, including systems such as the one proposed under the application in the subject “AGR” zone involving installation of 309 solar panels, with a capacity of approximately 170kW, which is sufficient to fulfil the annual electricity demand of about 51 households. The application, if approved, could make good use of the land to coexist agricultural use and solar energy generation while achieving the carbon neutrality target.

10.3 The following government department does not support the application:

Agriculture and Nature Conservation

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

- (a) he does not support for application for standalone SPV system development from agricultural perspective as the Site possesses potential for agricultural rehabilitation. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are available. The Site zoned “AGR”, which is partial vacant and abandoned, can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.; and
- (b) he has no comment on the application from nature conservation perspective.

11. Public Comments Received During Statutory Publication Period

On 3.12.2024, the application was published for public inspection. During the statutory public inspection period, four public comments were received (**Appendix V**). One comment from an individual objects to the application mainly on the grounds that the proposal involves tree felling; the intention of the FiT Scheme promoted by the CLP Power is unclear; and the FiT Scheme is unlikely to be extended beyond 2033. One comment from Kadoorie Farm & Botanic Garden Corporation expresses the view that the Board should consider whether approval of the application would conflict with the policy objective of putting quality land into active agricultural use, noting that the Site may fall within the area of the proposed Ma Mei Ha Agricultural Priority Areas. The two remaining comments from a member of North District Council and the Chairman of Area Committee (North) – Lung Shan indicate no comment on the application.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary PUI (SPV system) for a period of five years at the Site zoned “AGR” on the OZP (**Plan A-1**). The applicant advises that the electricity generated will be sold to CLP Power via the FiT Scheme, which is jointly introduced by the Government and the two power companies for the private sector to invest in the RE until end of 2033. Though the proposed

installation is not entirely in line with the planning intention of the “AGR” zone and DAFC does not support the application from agricultural perspective, the applicant proposes to propagate plants underneath the SPV panels at the Site without involving filling of land, and reinstate the Site for agricultural use upon expiry of the planning permission. In this regard, SEE supports the application for the temporary use of the Site for RE systems and considers that approval of the application could make good use of land to co-exist agricultural use and solar energy generation while achieving the carbon neutrality target. In view of the policy support from SEE and taking into account the planning assessments below, there is no objection to the proposed installation on a temporary basis of five years.

- 12.2 The Site, located to the south of the village proper of Kan Tau Tsuen, is currently vacant and generally overgrown with weeds. The proposal involving 309 solar panels mounted on metal frames with height of about 2.1m and other ancillary structures with height of not more than 2.62m is considered not incompatible with the surrounding areas which are of rural character mainly dominated by active/fallow farmlands, vacant land, unused land covered by tree groups or vegetation and village houses/domestic structures. The Chief Town Planner/Urban Design and Landscape, Planning Department has no adverse comment on the application from landscape planning perspective, while DAFC has no comment on the application from nature conservation perspective.
- 12.3 Other concerned government departments consulted, including the Director of Electrical and Mechanical Services, Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. Should the planning application be approved, the applicant will also be advised to follow the requirements of the revised ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimise possible environmental nuisance on the surroundings. As the Site is zoned “AGR”, an approval condition requiring the reinstatement of the Site upon expiry of the planning permission so as to uphold the planning intention of the “AGR” zone and restore the greenery of the area is recommended should the Committee decide to approve the application.
- 12.4 The proposed temporary use is generally in line with the Assessment Criteria (**Appendix II**) for considering applications for SPV system in that the applicant has obtained CLP’s network reinforcement condition letters to demonstrate the technical feasibility of the proposal; height of the proposed use (i.e. not more than 2.62m) is in keeping with the surrounding areas and commensurate with the function it performs; relevant departments consulted in general have no adverse comments on the application from various technical perspectives; and the long-term planning intention of the “AGR” zone would not be frustrated.
- 12.5 Regarding the public comments as detailed in paragraph 11 above, the government departments’ comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 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 five years until 18.7.2030. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of a 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 18.1.2026;
- (b) in relation to (a) above, the implementation of the 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 18.4.2026;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) 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 18.1.2026;
- (e) in relation to (d) 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 18.4.2026;
- (f) if the above planning condition (c) 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;
- (g) if any of the above planning condition (a), (b), (d) or (e) 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; and
- (h) upon expiry of the planning permission, the reinstatement of the Site, including grassing of the Site to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

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

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

the proposed installation is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with Attachments received on 25.11.2024
Appendix Ia	FI received on 30.12.2024
Appendix Ib	FI received on 20.3.2025
Appendix Ic	FI received on 20.5.2025
Appendix Id	FI received on 2.7.2025
Appendix II	Assessment Criteria For Considering Applications For Solar Photovoltaic System Made Under Section 16 of The Town Planning Ordinance
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Layout Plan
Drawings A-2 to A-4	Section Plans
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos