

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-WKS/21

- Applicant** : M&D Development (Hong Kong) Co., Ltd.
- Site** : Lot 543 in D.D. 79, Ta Kwu Ling, New Territories
- Site Area** : About 256.82m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Wo Keng Shan Outline Zoning Plan (OZP) No. S/NE-WKS/10
- Zoning** : “Agriculture” (“AGR”)
- Application** : 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 in the “AGR” zone, which requires planning permission from the Town Planning Board (the Board). The Site is fenced-off, mostly vacant with a minor structure and partly covered with vegetation.
- 1.2 The Site is served by a footpath leading to a local access connecting to Heung Yuen Wai Highway. According to the applicant, the proposal includes a total of 72 solar panels (about 2.382m (L) x 1.134m (W) x 0.3m (H) each) mounted on supporting frames of about 1.55m in height, as well as a one-storey meter room and store room with a floor area of about 1.5m² and a height of not more than 2.5m. The applicant has applied to take part in the ‘Renewable Energy Feed-in Tariff Scheme’ (the FiT Scheme) and an Acknowledgment Letter was received from CLP Power Hong Kong Limited (CLP). The SPV system at the Site will be connected to CLP’s existing network and the generation capacity of the proposed installation is 36kW. The applicant confirms that no site formation or excavation/filling of land is involved in the proposal. No parking space or loading/unloading bay will be provided within the Site. The layout plan submitted by the applicant is shown in **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 16.6.2025 (Appendix I)

(b) Further Information (FI) received on 24.7.2025[^]

(**Appendix Ia**)

(c) FI received on 7.8.2025[^]

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

- (a) the proposed SPV system is in line with the government policy of promoting the use of renewable energy (RE) and the Hong Kong Planning Standards and Guidelines. It will help achieve carbon neutrality in Hong Kong;
- (b) the proposed installation could supply clean electricity to the facilities in the vicinity and create green job opportunities;
- (c) the Site is suitable for the proposed installation considering the sunlight condition and the flat terrain without obstruction. The design capacity is commensurate with the site area;
- (d) the Site is currently covered by mud and artificial turf. As the proposed SPV only involves temporary and removable devices, agricultural activities can be resumed at the Site anytime and the potential of agricultural rehabilitation will not be affected. The proposed installation, which is a Column 2 use in the “AGR” zone, will not contravene or change the planning intention of the “AGR” zone; and
- (e) no adverse traffic, drainage or noise impacts are anticipated. The applicant commits to comply with the relevant requirements under the Buildings Ordinance and the ‘Guidance Notes for Solar Photovoltaic System Installation’ promulgated by the Electrical and Mechanical Services Department.

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

The applicant is not a “current land owner” but 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 posting site notice and sending notice to Ta Kwu Ling District Rural Committee. 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

The Site is not the subject of any previous application.

7 Similar Application

There is no similar application within the same "AGR" zone in the vicinity of the Site in the past five years.

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

8.1 The Site is:

- (a) fenced-off, mostly vacant with a minor structure in the west and partly covered with vegetation; and
- (b) served by a footpath leading to a local access connecting to Heung Yuen Wai Highway.

8.2 The surrounding areas are rural in character comprising mainly domestic structures, active/fallow agricultural land, storage use and vacant land. A "Green Belt" zone is located to the east. The "Village Type Development" zone of Nga Yiu Ha is located to the further northwest.

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 and departments as set out in paragraphs 10.2 and 10.3 respectively below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices III and IV** respectively.

10.2 The following government bureau supports the application:

Policy Aspect

10.2.1 Comments of the Secretary for 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, we need to increase zero-carbon electricity supply through RE development as far as possible;
- (b) his 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 that are conducive to community participation. For the private sector, he and the power companies have introduced the FiT Scheme, providing financial incentives which can encourage the private sector to invest in distributed RE. He has also introduced a series of measures to facilitate and support members of the public in developing RE;
- (c) should the Planning Department (PlanD) have no objection to the application, he supports the development of RE systems, including the proposed temporary PUI under the application in “AGR” zone in Ta Kwu Ling, involving the installation of 72 solar panels with a capacity of approximately 36kW, which is sufficient to fulfil the annual electricity demand of about 10 households. The application, if approved, could make good use of the land for solar energy generation while achieving his carbon neutrality target; and
- (d) his advisory comments are at **Appendix IV**.

- 10.3 The following government departments have adverse comment on/ do not support the application:

10.3.1 **Land Administration**

Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) he has adverse comment on the application;
- (b) the Site comprises 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. The proposed ingress/egress of the Site is required to pass through Government land (GL) but no right of access via GL is granted to the Site;
- (c) the following irregularity covered by the planning application has been detected by his office:

unauthorised structure within the said private lot covered by the planning application

there is unauthorised structure on the private lot concerned. The lot owner should immediately rectify the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (d) if the planning application is approved, the lot owner shall apply to his office for a Short Term Waiver (STW) to permit the structures erected/ to be erected within the said private lot. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be on the whole basis and subject to such terms and conditions including the payment of back-dated waiver fee from the first date when the unauthorised structure was erected and administrative fee as considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owner for any breach of the lease conditions, including the breach already in existence or to be detected at any point of time in future. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered; and
- (e) his advisory comments are at **Appendix IV**.

10.3.2 **Agriculture**

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

- (a) the application is not supported from the agricultural perspective; and

- (b) the Site falls within the “AGR” zone and is generally vacant with some sundries. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. The Site possesses potential for agricultural rehabilitation.

11 Public Comments Received During Statutory Publication Period

On 24.6.2025, the application was published for public inspection. During the statutory public inspection period, four public comments were received (**Appendix V**). Three comments from individuals (including a villager) object to the application mainly on the grounds that the Site is close to the residential area and will pose health risks to the residents; the proposed installation is considered an industrial facility which will affect the daily life of the residents who are mainly elderly people; it will emit operational sounds which disturb the tranquillity of the village environment and will adversely affect the cultural landscape; it will harm the local wildlife and disrupt biodiversity; and the application should be rejected to avoid affecting agricultural land which should be used for growing crops. The remaining comment from a member of the North District Council indicates 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. The applicant advises that the SPV system at the Site will be connected to the CLP network 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. The proposed installation is not in line with the planning intention of the “AGR” zone and DAFC does not support the application from agricultural perspective. Nevertheless, according to the applicant, the proposed SPV only involves temporary and removable devices, and the proposed installation does not require any site formation or excavation/filling of land, agricultural activities can be resumed at the Site anytime. SEE supports the RE system under the application. Given the electricity generated from the proposed SPV system is equivalent to about 10 domestic households’ annual energy demand, SEE considers that the proposed installation could make good use of land for 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 is fenced-off, mostly vacant with a minor structure and partly covered with vegetation. The proposal, involving 72 solar panels mounted on supporting frames with a height of about 1.55m and a meter room and store room with a height of not more than 2.5m, is considered not entirely incompatible with the surrounding land uses comprising mainly domestic structures, active/fallow agricultural land, storage use and vacant land. The Chief Town Planner/Urban Design and Landscape of PlanD has no adverse comment on the application and considers that significant adverse impact on the landscape character and existing landscape resources within the Site is not anticipated.
- 12.3 Other concerned government departments consulted, including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department, Chief Engineer/Construction of Water Supplies

Department, Director of Electrical and Mechanical Services, Director of Health and Director of Fire Services have no objection to/no adverse comment on the application. To address the technical requirements of the concerned government department, relevant approval conditions are recommended in paragraph 13.2 below. The applicant will also be advised to follow the requirements of the '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 installation is generally in line with the Assessment Criteria (**Appendix II**) for considering applications for SPV system in that the applicant has obtained CLP's Acknowledgement Letter; height of the proposed installation (i.e. not more than 2.5m) 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 assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, PlanD 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 15.8.2030. 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 15.2.2026;
- (b) in relation to (a) above, the provision of drainage facilities 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 15.5.2026;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) 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;
- (e) if any of the above planning condition (a) or (b) 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

- (f) 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 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, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. . There is no strong planning justification 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 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 16.6.2025
Appendix Ia	FI received on 24.7.2025
Appendix Ib	FI received on 7.8.2025
Appendix II	Assessment Criteria for Considering Applications for SPV 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
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2025**