

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/I-LWKS/4

<u>Applicant</u>	CLP Power Hong Kong Limited represented by CLPe Solutions Limited
<u>Site</u>	Government Land near Sham Wat Road, Luk Wu, Tai O, Lantau
<u>Site Area</u>	About 27.6m ²
<u>Land Status</u>	Government Land
<u>Plan</u>	Approved Luk Wu and Keung Shan Outline Zoning Plan No. S/I-LWKS/2
<u>Zoning</u>	“Green Belt” (“GB”)
<u>Application</u>	Proposed Excavation and Filling of Land for Permitted Public Utility Pipeline (Underground Power Cable)

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed excavation and filling of land for permitted public utility pipeline (underground power cable) at the application site (the Site) zoned “GB” on the approved Luk Wu and Keung Shan Outline Zoning Plan No. S/I-LWKS/2 (the OZP) (**Plans A-1 and A-2**). According to the Notes of the OZP, while provision of public utility pipeline within the “GB” zone is always permitted, excavation and filling of land within the “GB” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The proposal is for a new underground power cable laying project connecting from Sham Wat Road to an existing columbarium (**Drawings A-1**)¹. The proposed excavation of land involves a length of 92m, a width of 0.3m and a depth of 0.55m for laying the permitted underground power cable. The Site will be backfilled to the original ground level after the completion of cable laying. According to the applicant, the proposed underground power cable is to provide electricity to an existing columbarium (**Plan A-2**).

¹ For the section of the proposed cable within the existing columbarium (dotted blue line on **Plans A-2, A-3 and A-5**), it falls within an area zoned “Government, Institution or Community (1)” (“G/IC(1)”) on the OZP where planning permission is not required for provision of public utility pipeline and excavation and filling of land.

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

- (a) Application form received on 13.8.2021; and (Appendix I)
- (b) Further information (FI) received on 13.9.2021. (Appendix Ia)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the application form and the FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) the existing columbarium (i.e. 樂生助念蓮社四眾普同塔) was built in the 1950s as an ancillary facility of Lok Sang Lin Shea (樂生蓮社) (**Plan A-1**) for storing ashes of monks and nuns and their followers. The Site was granted a Government Land Licence (GLL) for Buddhist Tower. Such columbarium has been continued since the 1950s. New underground cable to provide power supply is required for the provisioning of fire service installations (including the emergency lighting and illuminated exit signs) at the existing columbarium as required by the Fire Services Department (FSD) in the specified instruments (SI) applications under the Private Columbaria Ordinance; and
- (b) a *Melaleuca leucadendra* (白千層) is located near the Site. Hand dig method will be used for excavation within the area of 1.5m from the tree trunk in order to avoid damage to the tree roots. The Site will be backfilled to its original ground level after the completion of cable laying works.

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

As the Site only involves government land, the ‘Owner’s consent/notification’ requirements as set out in the TPB PG-No. 31A are not applicable to the application.

4. **Background**

- 4.1 The existing columbarium (i.e. 樂生助念蓮社四眾普同塔) falls within an area zoned “G/IC(1)” on the OZP. According to the information by the applicant, the existing columbarium (i.e. 樂生助念蓮社四眾普同塔) was built in the 1950s as an ancillary facility of Lok Sang Lin Shea (樂生蓮社) for storing ashes of monks and nuns and their followers. The columbarium concerned is situated at the area covered by GLL No. C12815 which was granted for Buddhist Tower purpose, which is a pagoda for storing ashes of the Buddhist disciples’ cremated bodies. The GLL was commenced on 1.1.1978.
- 4.2 The first publication in the Gazette of the notice of the draft Luk Wu and Keung Shan Development Permission Area Plan No. DPA/I-LWKS/1 was on 2.9.2011. As the concerned columbarium was in existence immediately before the first publication in the Gazette of the notice of the draft development permission area plan and according to the record from the Planning Department, there has been no material change in the use of land and building of the existing columbarium since the land use survey

conducted on 2.9.2011, it could be regarded as an 'existing use' under the Town Planning Ordinance.

- 4.3 One set of Specific Instrument (SI) applications (viz. an exemption and temporary suspension of liability) in respect of a pre-cut-off columbarium for the current columbarium (樂生助念蓮社四眾普同塔) was received by the Private Columbaria Licensing Board (PCLB) which is being processed by Food and Environmental Hygiene Department (FEHD). According to the Private Columbaria Ordinance (PCO), a private columbarium issued with an exemption is required to comply with the land-related, building-related, fire safety-related requirements and requirements prescribed in the PCO or specified by the Private Columbaria Licensing Board (PCLB).

5. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 10 for 'Application for Development within "GB" zone' (TPB PG-No. 10) is relevant to this application. The relevant assessment criteria are attached at **Appendix II** and are summarised below:

- (a) there is a general presumption against development (other than redevelopment) in the "GB" zone;
- (b) applications for new development in "GB" zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas;
- (c) applications for government, institution or community (G/IC) uses and public utility installations must demonstrate that the proposed development is essential and that no alternative sites are available. The plot ratio of the development site may exceed 0.4 so as to minimize the land to be allocated for G/IC uses;
- (d) the design and layout of any proposed development should be compatible with the surrounding areas. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment;
- (e) the vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features. Tree preservation and landscape proposals should be provided;
- (f) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (g) the proposed development must comply with the development controls and restriction of areas designated as water gathering grounds;

- (h) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution; and
- (i) any proposed development on a slope or hillside should not adversely affect slope stability.

6. Previous Application

There is no previous application at the Site.

7. Similar Application

There is no similar application for the same use within the same “GB” zone.

8. The Site and Its Surrounding Areas (Plans A-1 to A-3 and site photos on Plans A-4 to A-5)

8.1 The Site is:

- (a) situated along Sham Wat Road and the stairway / footpath heading to an existing columbarium (i.e. Buddhist Tower), which falls within an area zoned “G/IC(1)” on the OZP;
- (b) mostly paved with north-eastern end on vacant roadside area of Sham Wat Road covered by grass; and
- (c) within the water gathering ground of the Shek Pik Reservoir.

8.2 The surrounding areas have the following characteristics:

- (a) a tranquil environment surrounded by woodland to its immediate proximity;
- (b) a columbarium ‘樂生助念蓮社四眾普同塔’ is located at the immediate southwest of the Site;
- (c) a single-storey pump house and header tank by Water Supplies Department (WSD) is located to the southeast of the Site; and
- (d) Lautau North Country Park is located to the east of the Site across Sham Wat Road.

9. Planning Intention

The planning intention of the “GB” zone is primarily for defining the limits of development areas by natural features and to preserve the existing natural landscape as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

10. Comments from Relevant Government Departments

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

Land Administration

10.1.1 Comments of the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD):

- (a) from land administration point of view, he has no adverse comment on the subject s.16 application;
- (b) the Site is within unleased and unallocated Government land ('UUGL'). Excavation in UUGL shall not be carried out without an excavation permit issued by his office;
- (c) the columbarium concerned is situated at the area covered by GLL No. C12815 granted for Buddhist Tower purpose, which is a pagoda for storing ashes of the Buddhist disciples' cremated bodies. The GLL was commenced on 1.1.1978;
- (d) An application for Exemption and an application for Temporary Suspension of Liability under the Private Columbaria Ordinance (Cap. 630) in respect of a pre-cut-off columbarium at the GLL site are under processing by the Private Columbaria Affairs Office of Food and Environmental Hygiene Department; and
- (e) the applicant (i.e. CLP) has submitted to his office an application for excavation permit in respect of the Site. The application will be further processed by his office after the applicant has obtained planning permission in respect of the excavation within the "GB" zone.

Landscape

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

- (a) no objection to application from landscape planning perspective;
- (b) according to the aerial photo of 2020 and the site photos (**Plans A-4 and A-5**), the Site is primarily a hard paved footpath with a small portion of planting area next to Sham Wat Road. The Site is situated in an area of settled valleys landscape character surrounded by woodlands. Having regard that the proposed excavation and filling of land will be a pipeline at underground level, it is considered not affecting the landscape character of the surrounding environment;
- (c) having reviewed the FI, it is noted the proposed alignment of the proposed works is not in direct conflict with the existing *Melaleuca leucadendra* (白千層). Hand dig method is proposed to be used to

excavate the trench within the area of 1.5m from the tree trunk to avoid damage to the tree. Significant adverse landscape impact on the existing landscape resources due to the proposed development is not anticipated; and

- (d) approval of the s.16 application by the Board does not imply approval of the trees works such as pruning, transplanting and/or felling on government land. The applicant is reminded to approach relevant authority/ government department(s) direct to obtain necessary approval on tree works.

Environment

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

- (a) no comment on the application; and
- (b) no environmental complaint concerning the Site was received in the past three years.

Nature Conservation

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

no comment on the application from nature conservation perspective as the proposed excavation work for the permitted underground power cable would be located along an existing footpath and the Site would be reinstated after the completion of the proposed works.

Water Supplies

10.1.5 Comment of the Chief Engineer/Construction (CE/C), WSD:

- (a) no objection to the application subject to the compliance of the working conditions within Water Gathering Grounds; and
- (b) the comments on the application shall not be construed as any approval / support on the land use of the columbarium concerned which should be dealt with under separate planning submission.

Drainage

10.1.6 Comments of the Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK&I, DSD):

- (a) no comment on the application; and
- (b) no current / planned DSD projects nor DSD facilities would be affected by the application based on the latest record of his department.

Others

10.1.7 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) with regard to the private columbarium named as 'Lok Sang Lin Shea Buddhist Tower' (i.e. 樂生助念蓮社四眾普同塔) at G/F, Sham Wat Road, Upper Keung Hill, Luk Wu, Lantau Island, Islands (D.D.310) (i.e. 離島大嶼山鹿湖上羗山深屈道地下(丈量約份第310約)), one set of the SI application (viz. an exemption and temporary suspension of liability) in respect of a pre-cut-off columbarium was received by the PCLB and the applications are being processed; and
- (b) under the PCO, any private columbarium which applies for an exemption must comply with the land-related, building-related, fire safety-related requirements and requirements prescribed in the PCO or specified by the PCLB.

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

- (a) Chief Building Surveyor/New Territories East(1) & Licence, Buildings Department (CBS/NTE1&L, BD);
- (b) Chief Building Surveyor/A (CBS/A), Existing Building Division, BD;
- (c) Chief Highway Engineer/NT East, Highways Department (CHE/NTE, HyD);
- (d) Commissioner for Transport (C for T);
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Fire Services (D of FS);
- (g) District Officer/Islands, Home Affairs Department (DO/Is of HAD);
- (h) Head of the Geotechnical Engineering, Civil Engineering and Development Department (H(GEO), CEDD); and
- (i) Head of Sustainable Lantau Office (H(SLO)), CEDD.

11. Public Comment Received During Statutory Publication Period

On 20.8.2021, the application was published for public inspection. During the first three-week statutory public inspection period which was ended on 10.9.2021, one public comment from an individual was received raising objection to the application mainly on the grounds that the proposed power cable is not justified as it is for suspected extension of the columbarium.

12. Planning Considerations and Assessments

- 12.1 The applicant seeks planning permission for proposed excavation and filling of land for permitted public utility pipeline (underground power cable) at the Site within the area zoned "GB". The planning intention of the "GB" zone is for defining the limits of development areas by natural features and to preserve the existing natural landscape as well as to provide passive recreational outlets. There is a general presumption against development within this zone. According to the applicant, the proposed

excavation of land with a depth of 0.55m is for laying the permitted underground power cable to provide electricity to an existing columbarium. According to the information provided by the applicant, the concerned columbarium has been existed since the 1950s for storing the ashes of monks and nuns and their followers. DLO/Is of LandsD advises that the relevant GLL covering the columbarium was granted for Buddhist Tower purpose on 1.1.1978 which is a pagoda for storing ashes of the Buddhist disciples' cremated bodies. As the concerned columbarium was in existence immediately before the first publication in the Gazette of the notice of the draft development permission area plan (i.e. 2.9.2011) and such use has continued since it came into existence, it could be regarded as an 'existing use' under the Town Planning Ordinance. The proposed electricity supply is required for the provisioning of fire service installations at the columbarium as required by FSD in the SI applications under the PCO. While the proposed excavation and filling of land are not entirely in line with the planning intention of the "GB" zone, the proposed development is to provide electricity supply to facilitate the operation of an existing columbarium use and to fulfil FSD's requirements on the provision of fire service installations. Sympathetic consideration could be given to the application.

- 12.2 Majority of the Site along stairway is paved and part of it is vacant roadside area of Sham Wat Road. The proposed excavation and filling of land for placing the underground cable at the Site has a total area of about 27.6m² with a depth of about 0.55m. According to the applicant, hand dig method will be used for excavation within the area of 1.5m from a nearby tree in order to avoid damage to the tree roots and the Site will be backfilled to the original ground level after the completion of the proposed works. The proposed development meets the assessments criteria of the TPB PG-No. 10 in that the proposed development is essential for providing power supply to an existing columbarium and the layout of the proposed development along existing stairway / footpath would not involve extensive clearance of existing natural vegetation. The proposed development is small in scale and would not have any adverse impacts on visual and landscape, sewerage and drainage, road, water supply and geotechnical aspects. CE/C of WSD has no objection to the application subject to the compliance of the working conditions within Water Gathering Grounds. Other relevant government departments consulted, including DAFC, have no objection to / adverse comment on the application.
- 12.3 Regarding the objection raised in the public comment, the planning assessments in paragraph 12.1 to 12.2 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 comment mentioned in paragraph 11, 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 until **24.9.2025**, 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 IV**.

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

the proposed works are not in line with the planning intention of the "GB" zone which is for defining the limits of development areas by natural features and to preserve the existing natural landscape as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention.

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 date when the validity of the permission should expire.
- 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 received on 13.8.2021
Appendix Ia	Further Information received on 13.9.2021
Appendix II	Town Planning Board Guidelines No. 10
Appendix III	Public Comment received during the Statutory Publication Period
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Section Plan for typical LV cable trench
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4 to A-5	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**