

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-PK/288

<u>Applicant</u>	:	CLP Power Hong Kong Limited (CLP) represented by Kum Shing (K.F) Construction Company Limited
<u>Site</u>	:	Government Land (G.L.) in D.D. 219, Mang Kung Wo Road, Sai Kung, New Territories
<u>Site Area</u>	:	About 113m ²
<u>Land Status</u>	:	G.L.
<u>Plan</u>	:	Approved Pak Kong and Sha Kok Mei Outline Zoning Plan (OZP) No. S/SK-PK/11
<u>Zoning</u>	:	“Conservation Area” (“CA”)
<u>Application</u>	:	Proposed Public Utility Installation (Underground Cable) and Associated Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed public utility installation (underground cable) and associated excavation of land at the application site (the Site). The Site falls within an area zoned “CA” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Public Utility Installation’, which is a Column 2 use, and excavation of land within the “CA” zone require permission from the Town Planning Board (the Board).
- 1.2 The Site is located along Mang Kung Wo Road and on an existing footpath (**Plans A-4a** and **A-4b**). According to the applicant, the proposed installation is for provision of electricity supply to Lot 169 s.L in D.D. 219 for agricultural purpose (**Plan A-2**). The proposal includes excavation of land (about 113m² in area and 1.2m in depth) for the installation of one 380V underground cable (113m(L) x 1m(W) x 1.2m(D)). Upon completion of the proposed works, the Site will be backfilled to the original level. The layout plan and section plan submitted by the applicant are at **Drawings A-1** and **A-2**.

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

- (a) Application form received on 28.6.2023 (Appendix I)
- (b) Further information received on 18.8.2023 (Appendix Ia)
[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 **Appendices I and Ia** and summarised as follows:

- (a) the proposed installation is for provision of electricity supply to Lot 169 s.L in D.D. 219 near Mang Kung Wo Road for agricultural purpose;
- (b) to enhance the electricity supply network to Mang Kung Wo Road, the new underground cable is proposed to be laid to connect the existing underground cable inside the “CA” zone, and there is no other possible alternative for the proposed works but to lay underground cables within the “CA” zone; and
- (c) no visual impact would be incurred after the underground cable laying works. The proposal is considered to be the best method with the least environmental impact.

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

As the Site involves G.L. only, the “owner’s consent/notification” 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. 31A) are not applicable to the application.

4. Background

Lot 169 s.L in D.D. 219, which the proposed installation is intended to serve, is located to the east of the Site within the same “CA” zone. The said lot is currently fenced and covered with trees and vegetation (**Plans A-3 and A-4b**). It was the subject of application No. A/DPA/SK-PK/4 for proposed religious institution and columbarium, which was rejected by the Rural and New Town Planning Committee (the Committee) on 21.2.1992 mainly on the grounds that the proposed development was within the then “Green Belt” zone in which there was a presumption against development, no strong justification provided, and the proposed development would overload the substandard Mang Kung Wo Road and its junction with Hiram’s Highway.

5. Previous Application

There is no previous application at the Site.

6. **Similar Applications**

- 6.1 There are four similar applications (No. A/SK-PK/91, 275, 279 and 286) for proposed public utility installation/ utility installation for private project (electricity supply related) within the same “CA” zone. Among which, two applications (No. A/SK-PK/91 and 275) for proposed public utility installation were approved with/ without condition(s) by the Committee in 1999 and 2022 respectively mainly on the grounds that the proposed installations were for improving the reliability of electricity supply to the Sai Kung area, and supplying electricity to the nearby village houses, which could be considered as essential infrastructure projects.
- 6.2 Two similar applications (No. A/SK-PK/279 and 286) for utility installation for private project (meter room and underground cable for permitted agricultural use) and associated excavation of land, and public utility installation (underground cables) and associated excavation of land were rejected by the Committee on 13.1.2023 and 11.8.2023 respectively mainly for the reasons that the proposed installation with excavation of land were not in line with the planning intention of the “CA” zone, the applicant failed to demonstrate that the proposed installation was an essential infrastructure project with overriding public interest that warrants a departure from the planning intension of “CA” zone, and the proposal would not cause adverse landscape impacts on the application site and its surrounding areas.
- 6.3 Apart from the above processed similar applications, another additional similar application (No. A/SK-PK/287) for proposed public utility installation (poles and underground cables) and associated excavation of land within the same “CA” zone, which is intended to supply electricity to an adjacent site for agricultural purpose, is under processing.
- 6.4 Details of these applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

7. **The Site and Its Surrounding Areas** (Plans A-1 and A-2, aerial photo on **Plan A-3**, and site photos on **Plans A-4a** and **A-4b**)

- 7.1 The Site is:
 - (a) located along Mang Kung Wo Road and on an existing track;
 - (b) mostly hard paved with concrete; and
 - (c) within upper indirect water gathering grounds (WGGs).
- 7.2 The surrounding areas have the following characteristics:
 - (a) predominately surrounded by hillside mature woodland of Kei Pik Shan;
 - (b) to the east is Lot 169 s.L in D.D. 219, which the proposed utility installation is intended to serve for agricultural purpose and is currently covered by dense trees and vegetation;

- (c) to the north is a house; and
- (d) to the west is Kei Pik Shan Fresh Water Tank.

8. Planning Intention

- 8.1 The planning intention of the “CA” zone is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of 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 are essential infrastructure projects with overriding public interest may be permitted.
- 8.2 As stated in the Explanatory Statement of the OZP, excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views are summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) no objection to the application;
- (b) there is an excavation permit issued by his office to the applicant for the purpose of low voltage cable laying on 20.6.2022, under which the applicant is required to consult the Planning Department (PlanD) for the area within “CA” zone and consult the Water Supplies Department (WSD) for the area falling within WGGs before commencement of works. The excavation permit was extended on 15.5.2023 and is valid till 15.12.2023; and
- (c) the proposed utility installation has not encroached on any existing or planned emergency vehicular access.

Nature Conservation

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

no comment on the application in view that the proposed utility installation is along an existing road.

Landscape

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

- (a) no comment on the application from landscape planning perspective;
- (b) the Site is situated in an area of upland and hillsides landscape character predominated by woodland as observed from the aerial photo in 2022 (**Plan A-3**). The proposed use is considered not incompatible with the surrounding environment;
- (c) as the Site is located along an existing road and the applicant states that no tree felling will be required, significant landscape impact arising from the proposed use is not anticipated; and
- (d) other comments are included in the advisory clauses at **Appendix IV**.

Environment

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

- (a) no objection to the application;
- (b) the proposed development would involve the installation of a 380V underground cable and associated excavation of land of about 1.2m depth. In view of the scale and nature of the proposed works, no adverse environmental impact is anticipated; and
- (c) other comments are included in the advisory clauses at **Appendix IV**.

Traffic

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

no adverse comment on the application from traffic engineering viewpoint.

Water Supply

9.1.6 Comments of the Chief Engineer/Construction (CE/C), WSD:

- (a) no objection to the application;
- (b) existing water mains at the Site may be affected by the proposed installation. The grantee/applicant is required to protect the water mains found on site;
- (c) as the Site falls within upper indirect WGGs, should the application be approved, the applicant is required to observe the 'Conditions for Working within Gathering Grounds'; and

- (d) other comments are included in the advisory clauses at **Appendix IV**.

Electricity Supply Safety

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

- (a) no particular comment on the application as far as electricity supply safety and reliability are concerned; and
- (b) other comments are included in the advisory clauses at **Appendix IV**.

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

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (d) Director of Fire Services;
- (e) District Officer (Sai Kung), Home Affairs Department (HAD); and
- (f) Chief Engineer (Works), HAD.

10. Public Comment Received During Statutory Publication Period

On 7.7.2023, the application was published for public inspection. During the statutory publication period, one opposing comment was received from an individual mainly on the grounds of not in line with the planning intention of the “CA” zone, no information on the end use of the proposed installation, and that the lot which the proposed installation intends to serve is the subject of a previously rejected application for religious institution and columbarium use and it is suspected that the project will be revived (**Appendix III**).

11. Planning Considerations and Assessments

11.1 The application is for proposed public utility installation (underground cable) and associated excavation of land within the “CA” zone. The planning intention of the “CA” zone is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of 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 are essential infrastructure projects with overriding public interest may be permitted. Excavation of land may cause adverse drainage and environmental impacts on the surrounding areas. According to the applicant, the proposed underground cable installation is for provision of electricity supply to Lot 169 s.L in D.D. 219 for agricultural purpose within the same “CA” zone (**Plan A-2**). Although ‘Agriculture Use’ is always permitted within the “CA” zone, ‘Public

Utility Installation' and excavation of land within the "CA" zone require permission from the Board. The concerned lot is currently not in active agricultural use and is covered with trees and vegetation. The applicant has neither provided information on the nature and operation of the agriculture use nor any information demonstrating that the proposed utility installation is required and necessary for the agricultural purpose thereat. The applicant fails to demonstrate that the proposed installation with excavation of land is an essential infrastructure project with overriding public interest that warrants a departure from the planning intention of "CA" zone.

- 11.2 The Site is located along Mang Kung Wo Road and an existing track (**Plan A-3**). According to the applicant, no tree felling is required for the proposed installation and excavation of land. CTP/UD&L, PlanD considers that the proposed use is not incompatible with the surrounding environment and has no comment on the application from landscape planning perspective as significant landscape impact arising from the proposed use is not anticipated. DAFC also has no comment on the application from nature conservation perspective considering that the proposed utility installation is along an existing road.
- 11.3 The Committee has approved two similar applications (No. A/SK-PK/91 and 275) in 1999 and 2022 mainly on the grounds that the proposed installations could be considered as essential infrastructure projects. Two applications (No. A/SK-PK/279 and 286) were rejected by the Committee in 2023 for the reasons stated in paragraph 6.2 above. The circumstances of the current application are different from those of the approved similar applications but similar in nature with the rejected applications as the applicant has not provided sufficient information to demonstrate the necessity of the proposed utility installation. In view of the above, rejecting the current application is generally in line with the Committee's previous decisions.
- 11.4 Other concerned government departments including DEP, CE/MS, DSD, C for T, CHE/NTE, HyD, DEMS, CE/C, WSD have no objection to or no adverse comment on the application from environmental, drainage, traffic, public roads maintenance, electricity supply safety and water supply aspects respectively.
- 11.5 Regarding the public comment objecting to the application, the departmental comments in paragraph 9 and the planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, the Planning Department does not support the application for the following reason:

the proposed installation with excavation of land is not in line with the planning intention of the "Conservation Area" zone which is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes. There is a general presumption against development within this zone. The applicant fails to demonstrate that the proposed installation is an essential infrastructure project with overriding public

interest that warrants a departure from such planning intention.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **25.8.2027**, 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. 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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments

Appendix I	Application Form received on 28.6.2023
Appendix Ia	Further Information received on 18.8.2023
Appendix II	Similar Applications
Appendix III	Public Comment
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Section Plan (Low Voltage Cable Trench)
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2023**