

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

**APPLICATION NO. A/SLC/169**

<b><u>Applicant</u></b>	CLP Power Hong Kong Limited represented by CLPe Solutions Limited
<b><u>Site</u></b>	Government Land in D.D. 316 Lantau, Chi Ma Wan Road near Ham Tin San Tsuen, Lantau
<b><u>Site Area</u></b>	About 12.52m <sup>2</sup>
<b><u>Land Status</u></b>	Government Land
<b><u>Plan</u></b>	Approved South Lantau Coast Outline Zoning Plan No. S/SLC/21
<b><u>Zoning</u></b>	“Coastal Protection Area” (“CPA”)
<b><u>Application</u></b>	Proposed Public Utility Installation (Underground Power Cable and Pole) and Excavation and Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed public utility installation (underground power cable and pole) and associated excavation and filling of land at the application site (the Site) (Items 1 and 2 on **Drawing A-1**). The proposal includes placing a LV cable (38m (L) x 0.3m (W)) and a pole (0.7m (Diameter) x 9m (H)) (**Drawings A-2 and A-3**) with the associated excavation of land with an area of about 12.52m<sup>2</sup> and a depth of about 0.55m. The Site will be backfilled to the original ground level after the completion of cable laying and pole erection works. The proposed installation is to provide electricity to an agricultural use at nearby Lot No.1409. According to the applicant, the land owner of Lot No. 1409 is also the land owner of the adjacent lots (i.e. Lots No. 1400, 1401, 1405 and 1411) in D.D. 316 Lantau (the Lots). The electricity supply in Lot 1409 is to provide power to the adjacent lots for irrigation purpose (**Plans A-2 and A-4**). The Site falls within an area zoned “CPA” on the approved South Lantau Coast Outline Zoning Plan No. S/SLC/21 (the OZP) (**Plans A-1 and A-2**). According to the Notes of the OZP, ‘Public Utility Installation’ use and excavation and filling of land within “CPA” zone require planning permission from the Town Planning Board (the Board). The proposed pole and Lot No. 1409 will be connected by overhead line cable which does not form part of the subject application.
- 1.2 In support of the application, the applicant has submitted the following documents:

- (a) Application form received on 13.4.2021; (Appendix I)
- (b) Supplementary information received on 23.4.2021; (Appendix Ia)
- (c) Further information (FI) received on 14.5.2021(accepted and exempted); (Appendix Ib)
- (d) FI received on 27.5.2021 (accepted and exempted); and (Appendix Ic)
- (e) FI received on 3.6.2021 (accepted and exempted). (Appendix Id)

## **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 at **Appendix I** and supplementary information at **Appendix Ia**. They are summarised as follows:

- (a) Electricity supply is required for water irrigation purpose of agricultural use at the Lots. New underground cable and pole are required.
- (b) The Site will be backfilled to its original ground level after the completion of cable laying and pole erection 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. Previous Applications**

There is no previous application at the Site.

## **5. Similar Applications**

- 5.1 There are nine similar applications for proposed public utility installation at Pui O, Ham Tin, Cheung Sha and Tong Fuk which fall within the “CPA” zone on the OZP (i.e. applications No. A/SLC/87, 109, 141, 145, 154, 160, 162, 166 and 167). Among the nine similar applications, seven of them (i.e. application No. A/SLC/87, 109, 141, 145, 154, 160 and 166) were approved with/without condition(s) by the Committee between 2008 and 2021 while the remaining applications No. A/SLC/162 and No. A/SLC/167 were rejected by the Committee in 2020 and 2021 respectively.
- 5.2 For the seven approved applications No. A/SLC/87, 109, 141, 145, 154, 160 and 166, they were for the essential infrastructures to the area or the territory with overriding public interest. Application No. A/SLC/87 for proposed submarine telecommunication cable at Tong Fuk was approved with conditions by the Committee in 2008 mainly on

the considerations of meeting the future telecommunication requirement of the territory and no adverse impact on the landscape character and natural features in the surrounding areas. Applications No. A/SLC/109 and 141 both submitted by the Agriculture, Fisheries and Conservation Department (AFCD) for proposed irrigation pipeline with/without excavation of land at Pui O were approved by the Committee in 2010 and approved with conditions in 2015 respectively mainly for the reasons that the proposed facilities could support the permitted agricultural related activities in the area and were not incompatible with the planning intention of the “CPA” zone; and the proposed development was small in scale. Applications No. A/SLC/145 and 154 both submitted by Drainage Services Department covering much larger areas in Pui O for proposed public utility installation (sewage pumping station, underground sewers and/or underground effluent pipe) and excavation of land for underground sewers were approved with conditions by the Committee in 2017 and 2019 respectively. They were considered to be essential infrastructure project in the public interest and there would be no adverse ecological, environmental, noise, air, landscape and visual impacts to the surrounding areas. Application No. A/SLC/160 for proposed public utility pipeline (underground power cable) and filling and excavation of land at Cheung Sha Beach connecting the Integrated Waste Management Facilities (IWMF) in Shek Kwu Chau and the Cheung Sha Substation was approved by the Committee in 2020 mainly on the considerations that the proposed installation could enable the gainful use of the recovered energy by the IWMF which embraces the long term strategy of ‘Waste-to-Energy’; and no adverse impacts from ecological, environmental, landscape and visual impact perspectives. Application no. A/SLC/166 submitted by Water Supplies Department (WSD) for proposed excavation and filling of land for permitted waterworks implemented by Government at Pui O was approved by the Committee in 2021 mainly on the considerations that the proposed works were essential infrastructure works with overriding public interest and were small in scale; the site would be reinstated to its original condition after completion of works; and there would be no adverse ecological, landscape, environmental impacts.

5.3 As for the rejected applications No. A/SLC/162 and No. A/SLC/167, they were for proposed public utility installation (underground power cable) and filling and excavation of land. The proposed underground cables of the two applications were to provide electricity to a storages use and drying wet cloth respectively at private lots which were not permitted uses within the “CPA” zone. The applications were rejected by the Committee on 6.11.2020 and 22.1.2021 mainly for the reasons that the proposed installations were not in line with the planning intention of the “CPA” zone as the applicant failed to demonstrate that the proposed installations were to support the conservation of the existing natural landscape or scenic quality of the area or were essential infrastructure projects with overriding public interest; and setting an undesirable precedent for similar applications to provide utility installation for uses not permitted within the “CPA” zone.

5.4 Details of the similar applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

## **6. The Site and Its Surrounding Areas (Plans A-1 to A-3 and site photos on Plans A-4)**

6.1 The Site has the following characteristics:

- (a) is situated along Chi Ma Wan Road which connects between Pui O and Ham Tin;
- (b) is partly paved and used as footpath, and partly vacant roadside area.

6.2 The surrounding areas have the following characteristics:

- (a) the area is predominated rural in character with shrubs and short trees on both sides of Chi Ma Wan Road, fallow and active farmland/marshes to the further north;
- (b) a stream is located to the north;
- (c) the underground power cable and pole proposed under the application will provide electricity to the Lots which is located to the northeast of the Site and on the other side of the stream. It is observed that the Lots are now used for agricultural purpose with ancillary storage.
- (d) some temporary structures and open storages could be found along this section of Chi Ma Wan Road; and
- (e) Ham Tin San Tsuen is located about 140m to the east of the Site.

## **7. Planning Intention**

The “CPA” zone 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. It is also intended to safeguard the beaches and their immediate hinterland and to prevent haphazard ribbon development along the South Lantau Coast. 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. Comments from Relevant Government Departments**

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

### **Land Administration**

8.1.1 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 on unleased Government land. It is within the Pui O Site of Archaeological Interest AM78-0203 under the purview of Antiquities &

Monuments Office (“AMO”). AMO’s comment should be noted and observed;

- (c) an excavation permit for the proposed works had been approved by his office in September 2018 and was extended up to 11.12.2020. There is no subsistent excavation permit for the proposed works at the Site approved by his office;
- (d) should the s.16 application be approved by the Board, the applicant should apply to his office for approval for the proposed cable, pole and other structure(s). Please note that there is no guarantee that such application will be approved by his office;
- (e) Lot 1409 is demised for agricultural purpose under the Block Government Lease. Under the lease conditions, no structure(s) shall be erected on Lot 1409 without LandsD’s prior approval. If any structure(s) is/are to be erected, prior approval must be obtained from LandsD;
- (f) his office has not issued any “letter of approval” for erecting agricultural structure on Lot 1409; and
- (g) a warning letter against a single-storey structure on Lot 1409 was issued by his office on 8.8.2019. As the breach of lease condition had not been purged upon expiry of the warning letter, the warning letter was registered in the Land Registry on 15.10.2019 as an encumbrance against Lot 1409.

### **Lantau Development**

#### **8.1.2 Comments of the Head of Sustainable Lantau Office, Civil Engineering and Development Department (H(SLO), CEDD):**

- (a) it is noted that the applicant’s submission is made for the proposed public utility installation (underground cable and pole) and excavation and filling of land on the Government land, to provide electricity for water irrigation system for agricultural use at Lot 1409 in D.D. 316L;
- (b) Pui O is a valuable wetland and thus any development in Pui O wetland should not result in adverse impact on the wetland habitat. In this connection, cable laying for electricity supply involving excavation/filling of land in Pui O wetland should only be approved if it is for a permitted development/use. In mid-2019, they found that there were metal bollards and fences erected on Lot 1409 and its adjacent lots, without prior approval; and
- (c) given that non-conforming land uses or activities in South Lantau are not enforceable by the Planning Authority, and there are many environmental vandalism cases reported in South Lantau, in particular in Pui O wetland which has high ecological value, careful consideration should be given to avoid triggering further non-

conforming activities in the Pui O wetland. The potential cumulative impact of approving the application should also be considered.

### **Landscape**

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

- (a) according to aerial photo of 2020 and the site photos taken on 27.4.2021, the Site is partly a hard paved road/footpath and partly within a roadside planting area. The Site is situated in an area of a coastal landscape character predominated by secondary woodland, grassland and village houses. The proposed development is considered not incompatible with the landscape character of the surrounding environment;
- (b) with reference to the latest tree location plan and the site photos provided by the applicant, there is no existing tree within the Site and the existing trees in the proximity of the Site (i.e. T1 and T2 both are *Bauhinia variegata* which is a common species) (**Drawing A-4**) are not in direct conflict with proposed development. In view that significant adverse impact on the existing landscape resources arising by the proposed development is not envisaged, she has no objection to the planning application from landscape planning perspective;
- (c) noting that the proposed excavation works falls within the dripline of the existing trees T1 and T2, the applicant is advised to use appropriate handheld tools for excavation works and to avoid damaging the roots of the trees within the dripline as far as practicable; and
- (d) in consideration of the limited space with the Site and no significant landscape impact arising from the proposed development anticipated, it is considered not necessary to impose a landscape condition should the application be approved by the Board.

### **Environment**

#### **8.1.4 Comments of the Director of Environmental Protection (DEP):**

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

### **Nature Conservation**

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

- (a) he has no strong view on the application as no tree felling would be required;
- (b) the applicant should be reminded to avoid/minimize any potential

impacts to the existing vegetation nearby and properly reinstate the area after works completion; and

- (c) he has not received any application for Letter of Approval for erecting agricultural structures at Lot 1409 in D.D. 316 Lantau.

### **Fire Services**

8.1.6 Comment of the Director of Fire Services (D of FS):

- (a) he has no specific comment on the proposal subject to fire service installations and water supplies for firefighting being provided to the satisfaction of this Department; and
- (b) EVA arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by the Buildings Department.

### **Water Supplies**

8.1.7 Comment of the Chief Engineer/Construction, Water Supplies Department (CE/C of WSD):

- (a) he has no objection to the application; and
- (b) detailed comments are at **Appendix IV**.

### **Drainage**

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

- (a) she has no objection to the application; and
- (b) if the application is to be approved, the following approval condition should be added:

at least 300mm clearance should be provided from the outer face of existing drainage facilities to the proposed underground power cable and pole to the satisfaction of the Director of Drainage Services or of the Board.

### **Others**

8.1.9 Comments of the Executive Secretary (Antiquities & Monuments), Antiquities and Monuments Office (AMO):

- (a) based on the information submitted, the proposed public utility installation (underground power cable and pole) and excavation and filling of land will be carried out in Pui O Site of Archaeological Interest. Although AMO has no objection in principle for the applicant

to carry out the proposed work, it is required to let AMO know the work period and to facilitate AMO to conduct on-site monitoring on a need basis; and

- (b) the applicant is required to inform AMO and stop work immediately when any antiquities or supposed antiquities under the Antiquities and Monuments Ordinance (Cap. 53) are discovered in the course of works.

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

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

## **9. Public Comments Received During Statutory Publication Period**

On 27.4.2021, the application was published for public inspection. During the first three-week statutory public inspection period which was ended on 18.5.2021, 3 public comments were received objecting to or raising concern on the application (**Appendix III**). The main grounds of the objections and concerns include that the proposed installation undermines the overall stated objectives for South Lantau and the planning intention of “CPA” zone; encouraging “Destroy to Build” activities; lacking information on the purpose of the proposed works.

## **10. Planning Considerations and Assessment**

10.1 The applicant seeks planning permission for proposed public utility installation (underground power cable and pole) and excavation and filling of Land at the Site within the area zoned “CPA”. 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 is also intended to safeguard the beaches and their immediate hinterland and to prevent haphazard ribbon development along the South Lantau Coast. 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. According to the applicant, the proposed installation will provide electricity to a current agriculture use at Lot No. 1409 and its adjacent lots for water irrigation. According to the Notes of the OZP, ‘Agricultural Use (other than Plant



Nursery)' use is always permitted within the "CPA" zone. While the proposed installation and associated excavation and filling of land are not entirely in line with the planning intention of the "CPA" zone, they provide electricity supply to facilitate the operation of an always permitted agriculture use, sympathetic consideration could be given to the application.

- 10.2 Besides, part of the Site along Chi Ma Wan Road is paved and part of it is vacant roadside area. The proposed excavation and filling of land for placing the underground cable and an electricity pole has a total area of about 12.52m<sup>2</sup> with a depth of about 0.55m. The proposed works are considered small in scale. According to the applicant, the Site will be backfilled to the original ground level after the completion of the proposed installation. DAFC has no strong view on the application as no tree felling would be required. CTP/UD&L, PlanD advises that the proposed development is considered not incompatible with the landscape character of the surrounding environment. In view of the small scale of the proposed installation, no adverse environmental, geotechnical and traffic impacts on the surrounding areas are anticipated. Relevant government departments consulted have no objection to or no adverse comment on the application on technical aspects.
- 10.3 Regarding the objections and concerns raised in the public comments, the planning assessments in paragraph 10.1 to 10.2 above are relevant.

## **11. Planning Department's Views**

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until **11.6.2025**, 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 following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval condition

at least 300mm clearance should be provided from the outer face of existing drainage facilities to the proposed underground power cable and pole to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

### Advisory clauses

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

- 11.3 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 "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. It is also intended to safeguard the beaches and their immediate hinterland and to prevent haphazard ribbon development along the South Lantau Coast. There is a general presumption against development in this zone. There is no strong planning justification in the submission for a departure from the planning intention.

## **12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clauses, if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 12.3 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.

## **13. Attachments**

<b>Appendix I</b>	Application form received on 13.4.2021
<b>Appendix Ia</b>	Supplementary Information received on 23.4.2021
<b>Appendix Ib</b>	Further Information received on 14.5.2021
<b>Appendix Ic</b>	Further Information received on 27.5.2021
<b>Appendix Id</b>	Further Information received on 3.6.2021
<b>Appendix II</b>	Similar Applications
<b>Appendix III</b>	Public Comments received during the Statutory Publication Period
<b>Appendix IV</b>	Detailed Comments from Relevant Government Departments
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Section Plan for typical LV cable trench
<b>Drawing A-3</b>	Section Plan for Pole
<b>Drawing A-4</b>	Tree location Plan
<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