RNTPC Paper No. A/YL-KTN/886B For Consideration by the Rural and New Town Planning Committee on 13.10.2023

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

## **APPLICATION NO. A/YL-KTN/886**

**Applicant** : Future Electronics

Site : Lot 1471 S.B (Part) in D.D. 107, Shui Mei Tsuen, Yuen Long, New

**Territories** 

Site Area : About 1,430  $m^2$ 

<u>Lease</u>: Block Government Lease (demised for agricultural use)

Plan : Draft Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/10

**Zoning** : "Agriculture" ("AGR")

**Application**: Proposed Public Utility Installation (Solar Photovoltaic System) and

Filling of Land

#### 1. The Proposal

- 1.1 The applicant seeks planning permission for proposed public utility installation (solar photovoltaic (SPV) system) and filling of land at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned "AGR" on the Kam Tin North OZP. According to the Notes of the OZP, 'Public Utility Installation' ('PUI') is a Column 2 use within the "AGR" zone, which requires planning permission from the Town Planning Board (the Board). Filling of land within "AGR" zone also requires planning permission from the Board. The Site is currently mainly vacant, partly fenced and paved, and partly deposited with some construction materials and partly covered with weeds (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed SPV system is anticipated to be operated under the Feed-in Tariff (FiT) Scheme until end 2033. The total capacity of the proposed SPV system is about 125kW and all electricity generated will be sold to the CLP Power Hong Kong Limited (CLP) on commercial basis. The proposed development comprises not more than 300 SPV panels (2.278m (L) x 1.134m (W) each) which are separated in 3 groups and accommodated at Sites A, B and C (**Drawing A-1**). The SPV panels will be mounted atop 2 container structures at Site A in the southeast; on concrete plinths above ground at Site B in the north; and atop a storage shed at Site C in the southwest (**Drawing A-2**). The 2 container structures at Site A and the

storage shed at Site C, all in single-storey with height of not more than 3m and a total floor area of about 230.5m<sup>2</sup>, will accommodate ancillary E&M facilities and storage of equipment. The combined heights of SPV panels with supporting stands and plinths at Site B are about 1.5m while those of SPV panels with the structures at Sites A and C are not more than 5m. The proposal development also involves 2 H-poles mounted with transformers with heights of about 5m (**Drawing A-1**), which will be maintained by CLP for operation of the proposed SPV system. For the purpose of site formation of structures, filling of land for part of the Site (79.2m<sup>2</sup>/5.5%) at a depth of about 0.15m is proposed. The Site is accessible via a local access branching off from Shui Mei Road. 3 private car parking spaces and 1 heavy goods vehicle parking space will be provided. The major development parameters are summarised below:

Site Area	1,430m <sup>2</sup>	
Gross Floor Area (GFA)	230.5m <sup>2</sup>	
Total Height	Not more than 5m	
Number of SPV Panels	Not more than 300	
	Site A: 30	
	Site B: 214	
	Site C: 56	
Number of Structures	3	
Number of H-Poles	2	
Annual Generation	About 178,394kWh	
	(equivalent to about 54 domestic households'	
	annual consumption)	
Anticipated Completion Time	December 2023	

- 1.3 The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.4 In support of the application, the applicant has submitted the following documents:

(a)	Application Form and supplementary information received on 13.1.2023 and 26.1.2023 respectively	(Appendix I)
(b)	Further Information (FI) received on 5.5.2023*	(Appendix Ia)
(c)	FI received on 9.5.2023*	(Appendix Ib)
(d)	FI received on 14.6.2023*	(Appendix Ic)
(e)	FI received on 22.8.2023*	(Appendix Id)
(f)	FI received on 4.10.2023*	(Appendix Ie)
(g)	FI received on 6.10.2023*	(Appendix If)

<sup>\*</sup>exempted from publication and recounting requirements

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1.5 On 3.3.2023 and 23.6.2023, at the request of the applicant, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months respectively to allow time for the applicant to address departmental comments.

## 2. <u>Justifications from the Applicant</u>

The justifications put forth by the applicant in support of the application are detailed in the application form, supplementary planning statement and FIs at **Appendices I** to **If**, and are summarised as follows:

- (a) The proposed development is in line with the policy to promote development of renewable energy (RE) and enhance the proportion of clean energy usage in Hong Kong. The use of solar energy can enhance safety of electricity generation, promote green energy usage and reduce carbon emission. Application for participation in the CLP's FiT Scheme has been submitted and the Network Reinforcement Condition Letter from CLP has been obtained in February 2023 which demonstrates the preliminary technical feasibility of the proposed development and CLP's undertaking to carry out the necessary network reinforcement works at the implementation stage (**Appendix Ib**).
- (b) The proposed development would not affect the long-term planning intention of the "AGR" zone and its potential for future agricultural rehabilitation. The Site is largely covered by soil and filling of land is minimised to meet the operational needs.
- (c) The proposed development would not obstruct the existing landscaping view and is compatible with the surrounding area which is rural in nature. Low reflective SPV panels would be adopted to reduce the reflection.
- (d) Ground cover plantation would be incorporated to prevent potential soil erosion during operation of the proposed development. Landscape treatments of periphery planting at the Site would be introduced. The Site would retain potential for future agricultural use as the proposed SPV system is intended to be decommissioned if and when the Fit Scheme terminates after 2033 without extension and the Site would be reinstated for agricultural use.
- (e) The Site is currently abandoned agricultural land. The proposed development can enhance electricity generation efficiency and optimise land use by making use of the abandoned land for RE generation which contributes to environmental sustainbility.
- (f) Fencing of 2m in height with planting would be erected along the boundary of the proposed development. The proposed development would not cause adverse traffic, environmental, sewage, drainage, visual and landscape impacts on the surrounding area.

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## 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 section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by sending notice to the current land owner by registered mail. Detailed information would be deposited at the meeting for Members' inspection.

#### 4. Assessment Criteria for Considering Applications for SPV System

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 by the Board on 21.7.2020. The latest set of Assessment Criteria which was issued 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, who as customers of the relevant power company plan 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 as long as they have been connected to the latter's grid. To join the Scheme, an applicant 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 to install a smart meter in the applicant's premises to facilitate connecting the proposed RE system to the power grid. 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.

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#### 7. <u>Similar Application</u>

- 7.1 There is a similar application (No. A/YL-KTN/785) for proposed public utility installation (solar energy system) and filling of land within the same "AGR" zone which was approved with conditions by the Committee in March 2022 mainly on the considerations that there was strong policy support from the then Environment Bureau; the proposed development was not incompatible with the surrounding areas; relevant departments consulted in general had no objection to or no adverse comment on the application or their technical concerns could be addressed by relevant approval conditions; and the application site would be retained for future agricultural use upon termination of the FiT Scheme and then decommission of the proposed development.
- 7.2 Details of the similar application are summarised at **Appendix III** and the location is shown on **Plan A-1**.

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

- 8.1 The Site is:
  - (a) currently mainly vacant, partly fenced and deposited with some construction materials and partly covered with weeds; and
  - (b) accessible via a local track branching off from Shui Mei Road.
- 8.2 The surrounding areas have the following characteristics:
  - (a) to the north and northwest are vacant land, storage yards, residential structures/dwellings, farmland and plant nursery;
  - (b) to the east across a local track are vacant lands, farmlands and a hobby farm (with valid planning permission under application No. A/YL-KTN/782); and
  - (c) to the south are vacant lands, hobby farm, plant nursery and animal boarding establishment/dog training centre.

## 9. **Planning Intention**

- 9.1 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.
- 9.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

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## 10. Comments from Relevant Government Departments

10.1 The following government bureau / 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/Yuen Long, Lands Department (DLO/YL, LandsD):
  - (a) the Site comprises an 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; and
  - (b) the lot owner will need to apply to his office to permit the structure(s) to be erected or regularise any irregularities on site. If the proposed use is temporary in nature, the applicant has to apply for a short term waiver. If the proposed use is intended for permanent use, the applicant has to apply for a land exchange. Applications of any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including amongst others the payment of rent or fee or premium, as may be imposed by the LandsD.

#### **Traffic**

- 10.1.2 Comments of the Commissioner for Transport (C for T):
  - (a) no comment from traffic engineering perspective;
  - (b) the applicant should be reminded that sufficient manoeuvring space shall be provided within the Site. No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period; and
  - (c) the Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department. The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- 10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

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- (a) Shui Mei Road is and shall not be maintained by HyD;
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road Tam Mi; and
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

## **Environment**

- 10.1.4 Comments of the Secretary for the Environment and Ecology (SEE):
  - (a) strongly supports the development of RE systems, including systems such as the one proposed under the current application in the "AGR" zone in Yuen Long involving the installation of 300 solar panels for meeting the annual electricity demand of about 54 households. The application, if approved, could put vacant land to good use while achieving our carbon neutrality target;
  - (b) our 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, we and the power companies have introduced the Feed-in Tariff (FiT) Scheme, providing financial incentives which can encourage the private sector to invest in distributed RE. We have also introduced a series of measures to facilitate and support members of the public in developing RE; and
  - (c) The proposed minimisation of hard paving will also help to retain the potential for agricultural rehabilitation of the Site and preserve the long-term planning intention of the "AGR" zone, which is in line with the balanced approach adopted by the Committee when approving similar cases in the "AGR" zone earlier.
- 10.1.5 Comments of the Director of Environmental Protection (DEP):
  - (a) no objection to the application in view of the nature and scale of the proposed development; and
  - (b) the applicant is reminded to strictly comply with the relevant pollution control ordinances, including the Waste Disposal Ordinance and the Water Pollution Control Ordinance, and to implement appropriate pollution control measures to minimise any potential environmental impacts during construction of the project. Reference could be made to relevant publications/guidelines including the following:

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- Recommended Pollution Control Clauses for Construction Contracts; and
- Professional Persons Environmental Consultative Committee Practice Notes (ProPECCPN) 1/94 on Construction Site Drainage.

## **Agriculture Development and Nature Conservation**

- 10.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
  - (a) no adverse comment on the application from nature conservation perspective;
  - (b) according to the Assessment Criteria, planning application for stand-alone SPV system as 'PUI' use in the "AGR" zone is generally not supported except those on land with no active farming activities and low agricultural rehabilitation potential; and
  - (c) field inspection reveals that the Site is abandoned. 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. As the Site possesses potential for agricultural rehabilitation, the proposed development is not supported from agricultural perspective.

#### **Urban Design, Visual and Landscape**

- 10.1.7 Comments of the Chief Town Planner/Urban Design & Landscape, PlanD (CTP/UD&L, PlanD):
  - (a) the Site is situated in an area of rural inland plains landscape character comprising farmlands, vacant lands, temporary structures, village houses and scattered tree groups. Should the application be approved, there is concern that the landscape quality of the surrounding environment within the "AGR' zone would be degraded. The proposed use is not incompatible with the surrounding landscape setting;
  - (b) the Site is vacant and partly covered by wild grass. No significant landscape resources is observed within the Site. Significant adverse impact on landscape resources arising from the proposed use is not anticipated; and
  - (c) New fencing of 2m high with planting is proposed by the applicant as mitigation measure to soften the edge. With the proposed mitigation measure, no significant adverse visual impact is anticipated.

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## **Drainage**

- 10.1.8 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
  - (a) no objection in-principle to the proposed development from public drainage point of view; and
  - (b) should the application be approved, approval conditions requiring the submission of a drainage proposal and implementation of the drainage proposal(s) identified therein for the proposed development should be included.

## **Building Matters**

- 10.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
  - (a) as there is no record of approval granted by the Building Authority (BA) for the existing structure at the Site, he is not in a position to offer comment on the suitability for the proposed use:
  - (b) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively;
  - (c) if the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at building plan submission stage;
  - (d) before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on application site, prior approval and consent of the BA should be obtained, otherwise they are unauthorised building works (UBW) under the Buildings Ordinance (BO). An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
  - the erection of supporting structure(s) for a SPV system is building works subject to control under the BO. It may be carried out under the simplified requirements of the Minor Works (MW) Control System provided that the supporting structure is not higher than 1.5m (MW items 3.50 and 1.50). Otherwise, BD's prior approval of plans for such building works and consent for the commencement of such works are required;

- (f) for UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the application site under the BO; and
- (g) detailed comments under the BO will be provided at building plan submission stage.

## **Fire Safety**

- 10.1.10 Comments of the Director of Fire Services (D of FS):
  - (a) no objection in-principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction;
  - (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans; and
  - (c) the applicant is reminded that if the proposed structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

#### **District Officer's Comments**

- 10.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):
  - (a) his office has not received any comment from the locals upon close of consultation; and
  - (b) no particular comment on the application.
- 10.2 The following government departments have no objection to/no adverse comment on the application:
  - (a) Chief Engineer/Construction, Water Supplies Department;
  - (b) Commissioner of Police;
  - (c) Director of Electrical and Mechanical Services; and
  - (d) Project Manager (West), Civil Engineering and Development Department.

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## 11. Public Comment Received During Statutory Publication Period (Appendix IV)

The application was published for public inspection. During the statutory publication period, a public comment was received objecting to the application mainly on the grounds that the proposed SPV panels would induce adverse environment impact; the Site should be used for agricultural activities; and approving the application will set an undesirable precedent for spreading stand-alone SPV in the "AGR" zone.

#### 12. Planning Considerations and Assessments

- 12.1 The application is for proposed SPV system involving not more than 300 SPV panels at the Site zoned "AGR". The applicant states that the proposed development is for participation in the FiT Scheme jointly introduced by the Government and the two power companies for the private sector to invest in the RE, which will last until end 2033. The proposed use is not in line with the planning intention of the "AGR" zone, which is mainly 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 and DAFC does not support the application from agricultural perspective. Nevertheless, the proposed development, with the policy support of EEB, is in line with the Government's policy to promote the use of RE in Hong Kong, which forms part of the decarbonisation strategy in Hong Kong. SEE considers that approval of the application could put the vacant land to good use to generate RE which would help Hong Kong achieve the carbon neutrality target.
- 12.2 Part of the Site (79.2m²/5.5%) is proposed to be filled with concrete for site formation of structures. Filling of land within "AGR" zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, CE/MN of DSD and DEP have no objection to the application from drainage and environmental perspectives.
- 12.3 The Site is situated in an area of rural inland plains landscape character mainly comprising hobby farms, active farmlands, plant nurseries, farmlands and storage yards (**Plan A-2**). While there is concern that the landscape quality of the surrounding environment would be degraded, CTP/UD&L considers that the proposed development is not incompatible with the surrounding landscape character, and significant adverse impact on landscape resources arising from the proposed development is not anticipated. With the proposed planting on the peripheral fencing, no significant adverse landscape impact is anticipated.
- 12.4 According to the applicant, the electricity to be generated by the proposed SPV system will be sold to CLP via the FiT Scheme. The applicant has obtained the Network Reinforcement Condition Letter from CLP already (**Appendix Ib**) which demonstrates the technical feasibility of the proposed development and CLP's undertaking to carry out the necessary network reinforcement works at the implementation stage. DEMS and DEP have no objection to the application from electricity supply safety, RE and environmental aspects

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respectively.

- 12.5 Other relevant government departments consulted, including C for T, CE/MN of DSD and D of FS, have no objection to or no adverse comment on the application. Their technical requirements could be addressed by appropriate approval conditions as recommended in paragraph 13.2 below.
- 12.6 The Assessment Criteria (**Appendix II**) states that stand-alone SPV system as 'PUI' use in the "AGR" zone is generally not supported except those on land with no active farming activities and low agricultural rehabilitation potential. In this regard, the Site has been abandoned and left mainly vacant. SEE considers that the proposed minimisation of hard paving will help to retain the potential of agriculture rehabilitation of the Site. The applicant also proposes to retain the potential for future agricultural use at the Site by plantation on the ground to prevent potential soil erosion of the Site during operation of the proposed development, and the proposed development is intended to be decommissioned after the FiT Scheme terminates after 2033 and the Site could be reinstated upon termination of the FiT Scheme if the Scheme is not extended.
- 12.7 The proposed 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 confirmation letter to demonstrate the preliminary technical feasibility of the proposal; height of the proposed development is in keeping with the surrounding area and commensurate with the function it performs; relevant government departments consulted in general have no adverse comments on the application from the various technical perspectives; and the long-term planning intention of the "AGR" zone would not be jeopardised. Taking into account the policy support from EEB, sympathetic consideration may be given to the current application.
- 12.8 There is one approved similar application for proposed 'PUI' (solar energy system) within the same "AGR" zone as stated in paragraph 7.1 above. Approving the current application is in line with the Committee's previous decision.
- 12.9 Regarding the public comment objecting to the application, the departmental comments and planning assessments as stated 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 comment mentioned in paragraph 11 above, the Planning Department has <u>no objection</u> to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 13.10.2027, 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 following conditions of approval and advisory clauses are also suggested for

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#### Members' reference:

## **Approval Conditions**

- (a) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (b) the design and provision of water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

#### Advisory Clauses

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

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

the proposed development 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. 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 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 and supplementary information received

on 13.1.2023 and 26.1.2023 respectively

Appendix Ia FI received on 5.5.2023

**Appendix Ib** FI received on 9.5.2023

**Appendix Ic** FI received on 14.6.2023

**Appendix Id** FI received on 22.8.2023

**Appendix Ie** FI received on 4.10.2023

**Appendix If** FI received on 6.10.2023

**Appendix II** Assessment Criteria For Considering Applications For Solar

Photovoltaic System Made Under Section 16 of The Town

Planning Ordinance

**Appendix III** Similar application within the same "AGR" zone

Appendix IV Public comment

**Appendix V** Recommended advisory clauses

**Drawing A-1** Site layout plan

**Drawing A-2** Land filling plan

Plan A-1 Location plan with similar application

Plan A-2 Site plan

Plan A-3 Aerial photo

Plan A-4 Site photos

PLANNING DEPARTMENT OCTOBER 2023