

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/439

- Applicant** : 李榕盛
- Site** : Lots 764 S.B (Part), 764 S.C (Part) and 764 S.D (Part) in D.D.129 and Adjoining Government Land (GL), Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 93.68m² (including GL of about 0.71m² or 0.8%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/11
- Zoning** : “Coastal Protection Area” (“CPA”)
- Application** : Proposed Utility Installation for Private Project (Water Meter Cabinet, Underground Power Cables, Electricity Poles with Switchgears and Switch Room), and Excavation and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed utility installation for private project (water meter cabinet, underground power cables, electricity poles with switchgears and switch room) and associated excavation and filling of land. The Site falls within an area zoned “CPA” on the approved Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/11. According to the Notes for the “CPA” zone of the OZP, ‘Utility Installation for Private Project’ is a Column 2 development requiring planning permission from the Town Planning Board. Besides, excavation and filling of land within the “CPA” zone also requires planning permission from the Board. The Site is currently vacant (**Plans A-2 and A-4b**), and not involved in any previous application.
- 1.2 The Site directly abuts and is accessible from Deep Bay Road at its south. As shown on the layout plan at **Drawing A-1**, the proposal comprises installation of 1 water metre cabinet, 2 parallel 67.1m-long underground power cables, 4 underground cable drawpits, 2 electricity poles of about 10m in height with switchgears, and a switch room¹. According to the applicant, the proposed utility installations is for

¹ For the dimensions of the proposed installations, the water metre cabinet is of (0.7m (length (L)) × 0.3m (width (W)) × 0.5m (height (H))); the 2 underground power cables are each of 67.1m long with a diameter of 0.15m; 3

supply of electricity and/or water to the open storage use at Lot 764 S.B (part) in D.D.129, as well as the proposed agricultural use (goats rearing and cultivation) at Lot 764 S.C (part) in D.D.129 (**Drawings A-4 and A-5 and Plans A-2 and A-4a**).

- 1.3 Moreover, as shown on **Drawings A-2 and A-3**, the applicant would like to apply for excavation of land for an area of about 78.47m² with a depth of about 1m to 1.2m, which is for installation of the underground power cables, cable drawpits and electricity poles. The applicant also applies for filling of land for an area of about 71.9m² with a thickness of about 1m, which is for backfilling the excavated area with soil upon installation of underground cables and electricity poles.
- 1.4 Plans showing the alignment of the proposed installations, the land excavation and filling areas, and the proposed open storage and goats rearing/cultivation areas at **Drawings A-1 to A-5** respectively.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form received on 25.7.2022 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 1.8.2022 (**Appendix Ia**)
 - (c) SI received on 5.8.2022 (**Appendix Ib**)
 - (d) Further Information (FI) received on 18.8.2022* (**Appendix Ic**)
 - (e) FI received on 6.9.2022* (**Appendix Id**)

** accepted and exempted from publication requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I**. They can be summarised as follows:

- (a) The proposal is to provide electricity supply to the open storage area for illumination and video surveillance for security purpose.
- (b) The agricultural use also requires small-scale electric-powered machineries to enhance efficiency while be environmentally friendly, which in turn require electricity supply. The agricultural use also requires water supply.

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

The applicant is one of the “current land owners”. In respect of the other “current land owner”, the applicant has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/ Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent of the other current land owner. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under TPB PG-No. 31A are not applicable.

of the underground cable drawpits are of 1.2m (L) × 1.2m (W) × 1.2m (depth (D)) whilst 1 is of 1.5m (L) × 1.5m (W) × 1.5m (D); and the switch room is of 6m (L) × 2.5m (W) × 2.6m (H).

4. Background

The Site is currently not subject to any active planning enforcement action. However, the Site previously formed part of an unauthorised development (UD) involving storage use (including deposit of containers) and parking of vehicles (Case No. E/YL-LFS/508) (**Plan A-2**). Enforcement Notice (EN) was issued on 19.6.2020 requiring the discontinuance of the UD, and Reinstatement Notice (RN) was issued on 16.3.2021 requiring the reinstatement of the concerned land. As the concerned land had subsequently been reinstated, Compliance Notices for the RN was issued on 18.11.2021.

5. Previous Application

The Site is not involved in any previous planning application.

6. Similar Application

Within the same “CPA” zone, there is a similar application (No. A/YL-LFS/401) for proposed excavation of land for permitted agricultural use and proposed utility installation for private project with excavation and filling of land. It was rejected by the Rural and New Town Planning Committee (the Committee) on 23.7.2021 mainly on grounds that the applicant failed to demonstrate no other alternatives to carry out the proposed fish farming activities without affecting the sensitive coastal natural environment, and hence no strong planning justification for a departure from the planning intention; and setting undesirable precedent. Details of the similar application are summarised in **Appendix II** and its location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) vacant and partly covered with vegetation; and
- (b) abutting and directly accessible from Deep Bay Road at its south.

7.2 The surrounding areas of the Site have the following characteristics. Some of the uses are suspected UD's subject to enforcement action by the Planning Authority:

- (a) to the immediate north and northeast are an open storage yard for containers, construction materials and equipment, and a parcel of grassland which is vacant. To the further north are a goat shed, shrubland, residential dwellings, and the mangroves along the Deep Bay Coast;
- (b) to the immediate southwest is a parcel of shrubland. To the further west are cultivated agricultural land, warehouses, parking of vehicles and vacant land; and
- (c) to the south across Deep Bay Road is mainly shrubland intermixed with graves.

- 7.3 While not forming part of the Site under the application, the proposed open storage area currently forms part of an open storage yard for containers, construction materials and equipment, which may be subject to planning enforcement action; and the proposed goat rearing and cultivation area is partly vegetated and entirely vacant.

8. Planning Intention

- 8.1 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 may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion. 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 filling of land/pond or excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

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

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots (OSALs) and Government Land (GL). The OSALs are 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.
- (b) No permission is given for occupation of the GL included in the Site (about 0.71m² subject to verification). The act of occupation of GL without Government's prior approval is not allowed. Given that a water meter with an area of 0.21m² (about) only is proposed on the above GL and the remaining portion of GL (about 0.5m² subject to verification) is for the erection of underground cables only, his office will not consider any Short Term Tenancy application for the above GL and the applicant has to relocate the proposed water meter and the portion of underground cables from the GL to the subject private lot(s).
- (c) Should planning approval be given to the application, the lot owner(s) of the lots will need to immediately apply to his office for permitting the structures to be erected or to regularize any irregularities on site, if any. The applicant has to exclude the GL (about 0.21m²) from the Site.

Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by LandsD acting in the capacity of 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 among others the payment of rent or fee, as may be imposed by the LandsD.

- (d) No application for Letter of Approval for Agricultural Structures was received by his office for the area for agricultural use claimed by the applicant.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The applicant shall design and and construct a proper road connection to the satisfaction of Transport Department and HyD at his/her own expenses. Upon the completion of works, the applicant shall remove and reinstate the road connection to the satisfaction of TD and HyD at his/her own expenses.
- (b) Adequate drainage measures shall be provided to prevent surface water running from the Site to the nearby public roads and drains.
- (c) His office should not be responsible for maintaining the road connection formed between the Site and Deep Bay Road.

Nature Conservation and Agriculture

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

- (a) In view of the existing site condition, he has no particular comment from the nature conservation perspective.
- (b) Generally speaking, electricity supply for agricultural machinery such as water pumps and irrigation systems may facilitate the operation of a farm.
- (c) He has not received any application for Letter of Approval to erect agricultural structures on the Site.

- (d) On the licensing aspect, keeping of goats is regulated under the Public Health (Animals and Birds) (Keeping of Cattle, Sheep and Goats) Regulations (Cap. 139C). However, as stated in section 2(c) of Cap. 139C, goat keeping in the New Territories Districts of Hong Kong is exempted for licence and the relevant regulations. In other words, local goat rearing in the New Territories Districts is not legislated to be under the supervision of Agriculture, Fisheries and Conservation Department. Hence, the corresponding licensing and regulation requirements would not be applicable for the proposed goat keeping area, which is located in the New Territories.

Urban Design, Visual and Landscaping

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

Urban Design and Visual

- (a) Given its scale and site context, the proposed development will unlikely induce any significant adverse visual impact on the surrounding area.
- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

Landscaping

- (c) She has no comment from landscape planning perspective.
- (d) The Site is situated in area of rural coastal plain predominated by temporary structures, open vehicle parks, village houses, farmland, mangroves, scattered tree groups and woodland. The Site is covered by wild grass. No significant landscape resource is observed within the Site. The proposed development is considered not incompatible to the landscape character of the surrounding area. Further significant landscape impact on existing landscape resources is not anticipated.

Environment

- 9.1.6 Comments of the Director of Environmental Protection (DEP):

- (a) He has no objection to the application.
- (b) There is no substantiated environmental complaint pertaining to the Site received in the past 3 years.
- (c) The applicant should be reminded of the detailed comments at **Appendix IV**.

Drainage

9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the application from drainage point of view.
- (b) Should the Board consider that the application is acceptable from planning point of view, a condition should be stipulated requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his department.

Fire Safety

9.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has 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. The applicant shall submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The applicant should be reminded of the detailed comments at **Appendix IV**.

Geotechnical

9.1.9 Comments of Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He has no adverse geotechnical comment on the application
- (b) 2 man-made slope features No. 2SW-C/CR27 and 2SW-C/C57, which may affect or be affected by the proposed development, are found in the vicinity of the Site (**Plan A-2**). The applicant should be reminded of the detailed comments at **Appendix IV**.

Electricity Supply Safety

9.1.10 Comments of Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application at this stage.
- (b) The applicant should be reminded of the detailed comments at **Appendix IV**.

Building Matters

- 9.1.11 Comments of Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

The applicant should be reminded of the detailed comments at **Appendix IV**.

District Officer's Comments

- 9.1.12 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any feedback from locals.

- 9.2 The following government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Engineer/Land Works, CEDD (CE/LW, CEDD);
- (c) Project Manager (West), CEDD (PM(W), CEDD); and
- (d) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

On 12.8.2022, the application was published for public inspection. During the statutory public inspection period, 2 public comments were received from the Chairman of Ha Tsuen Rural Committee and an individual (**Appendices III-1 and III-2**) objecting to the application mainly on grounds that new development along Deep Bay Road would generate adverse traffic impact; and there is doubt on the purpose of the proposed installations, which may lead to the degradation of the sensitive coastal environment.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed utility installation for private project (water meter cabinet, underground power cables, electricity poles with switchgears and switch room), and excavation and filling of land at the Site. The Site falls within the “CPA” zone (**Plan A-1**), which 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 may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion. 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. Besides, excavation and filling of land within the “CPA” zone require planning permission from the Board as they may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment.

- 11.2 According to the applicant, the proposed installations are for supply of electricity and/or water to the proposed open storage and goat rearing/cultivation uses at Lots 764 S.B and 764 S.C in D.D.129, respectively, in the immediate vicinity of the Site (**Plan A-2**). However, the applicant has not provided any details on the proposed open storage, goat rearing and cultivation uses. More importantly, while agricultural use is always permitted within the “CPA” zone, open storage use is prohibited therein². In fact, the Site previously formed part of a UD involving, inter alia, storage use (including deposit of containers), which was the subject of a planning enforcement action by the Planning Authority between June 2020 and November 2021 (**Plan A-2**). The applicant fails to provide strong planning justification to demonstrate that the proposed installations and the associated excavation and filling of land, which are for open storage and agricultural uses, are in line with the planning intention of the “CPA” zone or warrant a departure from the planning intention. There is also no strong justification to demonstrate that the scale of the proposed installations, with 2 electricity poles of about 10m in height and a switch room of 6m (L) × 2.5m (W) × 2.6m (H), and the associated excavation and filling of land are not excessive in the “CPA” zone.
- 11.3 Concerned government departments have no objection to or no comment on the application from nature conservation and agriculture, visual, landscape planning, environmental, electricity supply safety, drainage, water supplies and fire safety aspects.
- 11.4 There is no previous planning application covering the Site. Nevertheless, the Committee has rejected a similar application (No. A/YL-LFS/401) mainly on grounds that there was no strong planning justification for a departure from the planning intention, and setting of undesirable precedent. The circumstances of the current application are similar to the rejected similar application. Approval of the current application would set an undesirable precedent and encourage proliferation of similar applications for proposed utility installations in support of suspected unauthorised developments within the same “CPA” zone, which would frustrate the planning intention. The cumulative effect of approving such similar applications would result in general degradation of the natural environment of the area. Rejecting the current application is in line with previous decision of the Committee.
- 11.5 Regarding the 2 public comments received objecting to the application as stated in paragraph 10 above, the planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department does not support the application for the following reasons:
- (a) the proposed installations with associated excavation and filling of land are 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 with a minimum of built development. There is a general

² There is no provision for planning application of open storage use under “CPA” zone on the OZP, even on temporary basis.

presumption against development in this zone. The applicant fails to demonstrate that the proposed installations are to support the conservation of the existing natural landscape or scenic quality of the area, or are essential infrastructure project with overriding public interest; and

- (b) approval of the application would set an undesirable precedent for similar applications within the “CPA” zone and the cumulative effect of approving such similar applications would result in a general degradation of the natural environment of the area.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **23.9.2026**, 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 Conditions

- (a) the design and implementation of road connection to Deep Bay Road before commencement of the proposed development to the satisfaction of the Director of Highways or of the Town Planning Board;
- (b) the removal of the road connection to Deep Bay Road upon completion of the proposed development to the satisfaction of the Director of Highways or of the Town Planning Board;
- (c) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (d) the provision of fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (e) if any of the above planning condition (a) or (b) is not complied with before commencement or upon completion of the proposed development, respectively, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

Advisory Clauses

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 planning 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 25.7.2022
Appendix Ia	Supplementary Information received on 1.8.2022
Appendix Ib	Supplementary Information received on 5.8.2022
Appendix Ic	Further Information received on 18.8.2022
Appendix Id	Further Information received on 6.9.2022
Appendix II	Similar Application
Appendices III-1 and III-2	Public Comments Received During Statutory Publication Period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan of the Proposed Installations
Drawing A-2	Land Excavation Plan
Drawing A-3	Land Filling Plan
Drawing A-4	Location Plan of the Proposed Open Storage Use
Drawing A-5	Location Plan of the Proposed Goat Rearing and Cultivation Uses
Plan A-1	Location Plan with Similar Application
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**