

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

**APPLICATION NO. A/YL-MP/355**

- Applicant** : CLP Power Hong Kong Limited represented by Pacific Extend Limited
- Site** : Government Land in D.D. 101, Mai Po San Tsuen, Mai Po, Yuen Long
- Site Area** : About 23.9m<sup>2</sup>
- Land Status** : Government Land (GL)
- Plan** : Approved Mai Po & Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
- Zoning** : “Conservation Area” (“CA”)
- Application** : Proposed Public Utility Installation (Low Voltage Underground Cable) and Associated Excavation and Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed public utility installation (low voltage underground cable) and associated excavation and filling of land at the application site (the Site) which falls within an area zoned “CA” on the approved Mai Po & Fairview Park OZP No. S/YL-MP/6 (**Plan A-1**). According to the Notes of the OZP for the “CA” zone, ‘public utility installation’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). Filling and excavation of land in “CA” zone also requires planning permission from the Board. The Site is along an existing local track, mainly hard-paved with a few vegetation.
- 1.2 According to the applicant, the proposed installation is for providing electricity supply to an existing single-storey structure situated on the pond bund for fish farming activities, which is in relation to the conservation projects carried out by the Hong Kong Bird Watching Society (HKBWS). The proposal involves laying a cable of about 79.7m in length with associated land excavation of about 0.55m in depth and about 0.3m in width, involving a total excavation area of about 23.9m<sup>2</sup>. Upon installation of the proposed cable, the cable trench will be back-filled to ground level. The location plans and the section plan are at **Drawings A-1 to A-3**.
- 1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form with attachments received on 14.8.2023 (Appendix I)
- (b) Further Information (FI) received on 27.9.2023\* (Appendix Ia)
- (c) FI received on 15.12.2023\* (Appendix Ib)
- (d) FI received on 22.1.2024\* (Appendix Ic)

Remarks: \* accepted and exempted from publication and recounting requirements.

- 1.4 On 13.10.2023, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer making a decision on the application for two months to allow more time for the applicant to prepare FI in support of the application.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form with attachments and FIs at **Appendices I, Ia, Ib and Ic**, which can be summarised as follows:

- (a) The proposed installation is for providing electricity to support a single-storey structure, in which the owner is engaging in fish farming activities and cooperating with the HKBWS under the Fishpond Conservation Scheme in Ramsar Site (2023-2025) in conducting conservation projects on enhancing the ecological value of the adjacent fish ponds and conducting relevant research projects.
- (b) The proposed installation will not cause adverse ecological, environment, sewerage, drainage and water supply impacts on the surrounding habitats and adjacent ponds and water course. Mitigation measures and good site practice will be adopted during the construction and operation phases of the project based on the Practice Notes for Professional Persons on "Construction Site Drainage" and Water Pollution Control Ordinance in order to minimise the impacts of wastewater/runoff generated on site to the nearby water sensitive receivers.
- (c) According to the Ecological Assessment, the proposed works will be conducted in daytime hours only (i.e. 8:00 a.m. to 5:00 p.m.) in order to mitigate the potential ecological impacts. The cable laying work will be conducted by different sections along the proposed alignment and the construction period will be about 3 to 4 weeks outside the wintering season of migratory birds (to be completed in August 2024). No tree felling/pruning will be required. With the implementation of the proposed mitigation measures such as providing temporary fence at the boundary of works area to reduce disturbance to surrounding habitats and wildlife, residual ecological impacts of the proposed works would be of low/negligible significance and acceptable.

## **3. Compliance with the "Owner's Consent/Notification" Requirements**

As the Site involves GL only, 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) are not applicable.

#### **4. Town Planning Board Guidelines**

The Site falls within the Wetland Conservation Area (WCA) under the Town Planning Board Guidelines for 'Application for Development within Deep Bay Area under Section 16 of the Town Planning Ordinance' (TPB PG-No. 12C) (**Plan A-1**). Relevant extracts of the Guidelines are at **Appendix II**.

#### **5. Background**

The Site is not subject to active planning enforcement action.

#### **6. Previous Application**

There is no previous application covering the Site.

#### **7. Similar Applications**

7.1 During the past five years, there have been two similar applications (A/YL-MP/309 and 326) for public utility installations within the "CA" zone which were all approved by the Committee in 2021 and 2022 respectively mainly on the considerations that the proposed developments were in line with the planning intention of the "CA" zone; there were no adverse impacts; the proposed developments complied with TPB PG-No. 12C in that they would provide necessary utilities to support other developments that promoted conservation of the ecological value of wetland habitat; and the concerns of government departments could be addressed by imposing approval conditions.

7.2 Details of these similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) along an existing local track, mainly hard-paved with a few vegetation; and
- (b) located within the WCA of the Deep Bay Area.

8.2 The surrounding areas are predominantly fish ponds with some residential dwellings of Lin Barn Tsuen, Hop Shing Wai and Mai Po San Tsuen.

#### **9. Planning Intention**

The planning intention of the "CA" zone is to conserve the ecological value of wetland and fish ponds which form an integral part of the wetland ecosystem in the Deep Bay Area. The "no-net-loss in wetland" principle is adopted for any change in use within this zone. The primary intention is to discourage new development unless it is required to support the conservation of the ecological integrity of the wetland ecosystem or the

development is an essential infrastructure project with overriding public interest.

## **10. Comments from Relevant Government Departments**

- 10.1 Apart from the government departments as set out in paragraph 10.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.
- 10.2 The following government departments have the following comments on the application:

### **Nature Conservation**

- 10.2.1 Comment from the Project Manager, Countryside Conservation Office, Environment and Ecology Bureau (PM/CCO, EEB):

The fish ponds for the concerned fish farming activities mentioned in the subject application are involved in the Fishpond Conservation Scheme in Ramsar Site (2023-2025) which is funded under the Countryside Conservation Funding Scheme. Under the project, fishpond drain-down process is a key operation to provide feeding grounds for waterbirds so as to increase its abundance and diversity. The proposed laying of underground cable at the Site will ensure steady electricity supply for the drain-down process and relevant operations of the fish ponds concerned, which is essential for the project organisation (HKBWS) to accomplish the ecological conservation objectives of the project.

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

No comment on the submitted Ecological Impact Assessment, and it is considered that the proposed development would not result in unacceptable disturbance impact on the surrounding area.

### **Environment**

- 10.2.3 Comments from the Director of Environmental Protection (DEP):

- (a) No environmental complaint relating to the Site was recorded in the past three years;
- (b) the applicant advised that during construction phase, mitigation measures will be implemented to handle non-point source and point source. Also, the applicant will ensure compliance with relevant regulations, best practices and guidelines, such as Water Pollution Control Ordinance (WPCO), ProPECC PN 1/94 “Construction Site Drainage”, etc.; and the works area would be

reinstated and there would not be any discharge during operation phase. As such, he has no objection to the application; and

(c) advisory comments as detailed in **Appendix V**.

## **11. Public Comment Received During Statutory Publication Period**

On 22.8.2023, the application was published for public inspection. During the statutory publication period, one public comment was received from an individual objecting to the application that the proposed development would lead to degradation of the conservation area (**Appendix VI**).

## **12. Planning Considerations and Assessments**

12.1 The application is for proposed public utility installation (low voltage underground cable) and associated excavation and filling of land. The proposed underground cable has a total length, depth and width of about 79.7m, 0.55m and 0.3m respectively, with an excavation area of 23.9m<sup>2</sup>. The Site falls within the “CA” zone which is to conserve the ecological value of wetland and fish ponds forming an integral part of the wetland ecosystem in the Deep Bay Area. The “no-net-loss in wetland” principle is adopted for any change in use within this zone. The primary intention is to discourage new development unless it is required to support the conservation of the ecological integrity of the wetland ecosystem or the development is an essential infrastructure project with overriding public interest. According to the applicant, the proposed underground cable is to provide electricity supply to an existing single-storey structure, of which the owner is a fisherman carrying out fish farming activities and participating in the conservation projects organised by the HKBWS under the Fishpond Conservation Scheme in Ramsar Site (2023-2025) funded under the Countryside Conservation Funding Scheme. PM/CCO, EEB considers that the proposed laying of underground cable at the Site would be for a conservation project in that steady electricity supply could be ensured for the drain-down process and relevant operations of the fishponds involved. As a result, the ecological value of local fishpond could be conserved. The proposed public utility installation is therefore considered in line with the planning intention of the “CA” zone.

12.2 The Site falls within the WCA under TPB-PG No. 12C. The proposed public utility installation (low voltage underground cable) and associated excavation and filling of land complies with the intention of the WCA as the development is required to support fish farming activities for a conservation project under the HKBWS. It is noted that the conservations project aims to enhance the ecological value of the adjacent fish ponds. According to the applicant, in order to mitigate the potential ecological impacts, the installation works of the proposed underground cable will be conducted by different sections along the proposed alignment in daytime hours only (i.e. 8:00 a.m. to 5:00 p.m.). Besides, the construction period will be about 3 to 4 weeks only out of the wintering season of migratory birds. Mitigation measures and good site practices will also be adopted during the construction and operation phases of the project. With the implementation of the mitigation measures proposed in the Ecological

Assessment, DAFC considers that the proposed development would not result in unacceptable disturbance impact on the surrounding area. DEP also has no objection to the application given that appropriate pollution control measures will be implemented during construction.

- 12.3 The Site is located along an existing local track which is mainly hard-paved. The proposed excavation and filling of land would be temporary works. The Site will be back-filled and retained as a local track after completion of the installation of the proposed underground cable. The proposed development would unlikely cause significant adverse impacts on the area. According to the applicant, the proposed development only involves excavation of land with an area of about 23.9m<sup>2</sup> and a depth of 0.55m. Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and DEP have no objection to the proposed excavation and filling of land. Other concerned government departments, including Director of Electrical and Mechanical Services, Commissioner for Transport, Director of Fire Services and Chief Town Planner/Urban Design and Landscape, Planning Department have no objection to the application.
- 12.4 As detailed in paragraph 7, the Committee has approved two similar applications for public utility installation within the same “CA” zone in the past five years. Approval of the current application is in line with the previous decisions of the Committee.
- 12.5 Regarding the public comment objecting to the application as detailed in paragraph 11, the departmental comments and planning assessments above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12 and having taking into account the public comment mentioned in paragraph 11, the Planning Department has no objection to the application.
- 13.2 Should the committee decide to approve the application, it is suggested that the permission shall be valid until 26.1.2028, 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 condition of approval and advisory clauses are also suggested for Members’ reference:

#### Approval condition

no construction work is allowed at the Site during 5:00 p.m. to 8:00 a.m. daily;

#### 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 installation with associated excavation and filling of land is not in line with the planning intention of the “CA” zone which is to conserve the ecological value of wetland and fish ponds which form an integral part of the wetland ecosystem in the Deep Bay Area. The applicant fails to provide strong planning justification in the submission for a departure from the planning intention.

#### **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

#### **15. Attachments**

<b>Appendix I</b>	Application form with attachments received on 14.8.2023
<b>Appendix Ia</b>	FI received on 27.9.2023
<b>Appendix Ib</b>	FI received on 15.12.2023
<b>Appendix Ic</b>	FI received on 22.1.2024
<b>Appendix II</b>	Relevant Extracts of TPB PG-No. 12C
<b>Appendix III</b>	Similar applications
<b>Appendix IV</b>	Government departments’ general comments
<b>Appendix V</b>	Recommended advisory clauses
<b>Appendix VI</b>	Public comment
<b>Drawing A-1</b>	Alignment of proposed underground cable
<b>Drawing A-2</b>	Site Plan
<b>Drawing A-3</b>	Section Plans
<b>Plan A-1</b>	Location plan with similar applications
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos