

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

**APPLICATION NO. A/YL-ST/618**

<b><u>Applicant</u></b>	: CLP Power Hong Kong Limited represented by Kum Shing Engineering Company Limited
<b><u>Site</u></b>	: Government Land in D.D. 96, Lok Ma Chau Tsuen, San Tin, Yuen Long
<b><u>Site Area</u></b>	: About 42.5 m <sup>2</sup>
<b><u>Land Status</u></b>	: Government Land (GL)
<b><u>Plan</u></b>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<b><u>Zoning</u></b>	: “Conservation Area” (“CA”) (about 42% of the Site) “Green Belt” (“GB”) (about 58% of the Site)
<b><u>Application</u></b>	: Proposed Public Utility Installation (Pole and Pole Stay Erection) and associated Filling and Excavation of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed public utility installation (pole and pole stay erection) and associated excavation and filling of land at the application site (the Site) which falls within an area partly zoned “CA” (about 17.8m<sup>2</sup> / 42%) and partly zoned “GB” (about 24.7m<sup>2</sup> / 58%) on the approved San Tin OZP (**Plan A-1**). The application involves the installation of five groups of poles and pole stays on five respective locations which are at the verge of the paved track on both sides of the existing access road. According to the Notes of the OZP, ‘public utility installation’ and excavation and filling of land within the “CA” and “GB” zones require planning permission from the Town Planning Board (the Board). The area covering three groups of the poles and pole stays (Groups B to D) are mainly paved, while the others (Groups A and E) are unpaved or covered with vegetation (**Drawings A-3a to A-3d and Plan A-2**).
- 1.2 The Site is accessible from a local access connecting to Lok Ma Chau Road (**Plan A-1**). According to the applicant, the proposed installation is for providing electricity to support the intended agricultural use for fish farming at Lot 1808 in D.D. 96 (**Plan A-2**). The proposal involves erection of five poles

of dimension 2m (L) x 2m (W) x 10m (H)) and ten pole stays of dimension 1.5m (L) x 1.5m (W) x 5m (H) for low voltage overhead line (OHL) cable with associated excavation of about 42.5 m<sup>2</sup> (1.5m to 2m in length and width) and about 1.8m in depth. Each group of the installation set involves one pole stand which will be supported by two pole stays (**Drawings A-2a and A-2b and photos at Drawings A-3a to A-3d**). Upon erection of the OHL poles and pole stays, the pits will be backfilled and the ground will be reinstated to its original situation. All the pole stay wire are located at the outer side of the road such that no pedestrian or traffic will be obstructed after completion of the installation. The location plan and the section plan are at **Drawings A-1, A-2a and A-2b** and the vehicular access plan is at **Drawing A-4**. The installation works will be carried out one month after obtaining the planning permission for a period of 2 weeks and will be completed by Q4 2023. It will be carried out only from 8 a.m. to 5 p.m. daily.

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

- (a) Application Form received on 28.4.2022 and (**Appendix I**) supplementary information received on 16.5.2022
- (b) Further Information (FI) received on 18.8.2022 (**Appendix Ia**) providing a Geotechnical Planning Review Report (GPRR) <sup>#</sup>
- (c) FI received on 14.12.2022 providing responses to departmental comments, a revised GPRR and operational details <sup>#</sup>
- (d) FI received on 30.1.2023 providing clarifications of (**Appendix Ic**) the operational details \*

<sup>#</sup> *not exempted from publication requirement*

\* *exempted from publication requirement*

1.4 On 24.6.2022 and 14.10.2022, the Rural and New Town Planning Committee (the Committee) of the Board decided to defer a decision on the application as requested by the applicant to allow time for the applicant to address departmental comments.

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

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

- (a) The proposed cable laying works are for provision of electricity for lighting, water pumping and security in support of proposed agricultural use for the intended fish farming at Lot 1808 in D.D. 96, as well as for drainage and installation of solar panel facilities at the said lot. The owner of the said lot cannot pursue the intended permitted uses on his land because of the lack of electricity supply. Fish farming at the lot will be operated by way of installation of two canvas tanks (with size of 2 m (L) x 1 m (W) 0.6 m (H)) supported by wooden frame and a water recycling system via a network of water pumps, a water tank and two outlets for circulation of the incoming and outgoing water (**Appendix Ic**). Electricity supply is required for the water recycling system. No excavation and filling of land or site formation will be involved for the fish farming operation.
- (b) The location and disposition of the Site for erection of the OHL will minimise the filling and excavation of land and slope maintenance required for the proposed works and avoid encroachment onto private land. The proposed works will not cause adverse impacts on geotechnical safety, traffic, landscape, environment, sewerage, drainage and water supply. The applicant shall minimise the disturbance to the nearby vegetation during the land excavation/filling works.
- (c) The existing local road will not be obstructed. All vehicles are allowed to use the existing roads during construction period.

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

As the Site involves GL only, the “owner’s consent/notification” requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPG PG-No. 31A) are not applicable to the application.

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

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) and ‘Development within “GB” Zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) are relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

### **5. Background**

The Site is not subject to any active planning enforcement action.

### **6. Previous Application**

The Site is not the subject of any previous application.

## **7. Similar Application**

During the past five years, there is one similar application (No. A/YL-ST/612) further southwest of the Site (**Plan A-1**) submitted by the current applicant for public utility installation for underground cables with associated filling and excavation of land for new power supply for the development of the Hong Kong-Shenzhen Innovation and Technology Park at Lok Ma Chau Loop. The alignment of these proposed cables fall on land within the same “CA” zone and the adjoining area shown as ‘Road’. The application was approved by the Committee on 10.6.2022 mainly on the considerations that the development was in line with the planning intention of the “CA” zone being an essential infrastructure with overriding public interest, there was no other alternative for location of the alignment outside the “CA” zone, complied with TPB Guidelines No. 12C, and no objection to or no adverse comments from relevant government departments.

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

8.1 The Site is:

- (a) at the foothill of the wood land area at Tai Law Hau;
- (b) comprises five groups (two groups within the “CA” zone and three groups within the “GB” zone) at the verge of the local access, some of which are paved and some are unpaved or covered with vegetation;
- (c) accessible by the local access connecting to Lok Ma Chau Road; and
- (d) falls within the WBA of the Deep Bay Area.

8.2 The surrounding areas are rural in character comprising scattered residential dwellings, fish ponds and woodland:

- (a) Lot 1808 in D.D. 96, which seeks electricity supply under the current application, is to the northeast of Group E of the Site. The concerned lot is located on the bund at the verge of an existing fish pond with metal frame and grass cover;
- (b) the open area to its north and west are fish ponds, grass land and some residential dwellings; and
- (c) to its east, south, southeast and southwest are woodland and graves.

## **9. Planning Intention**

9.1 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.

- 9.2 The “GB” zone is intended primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.
- 9.3 As filling of land/pond and excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, and in view of the conservation value of the area, permission from the Board within the “CA” and “GB” zones is required for such activities.

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

All 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 III and IV** respectively.

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

The application and FIs were published for public comments on 10.5.2022, 26.8.2022 and 3.1.2023. During the statutory publication periods, a total of ten public comments were received from individuals. Except for one commenter who has no comment on the application, the other nine comments have raised objection and concerns on the application on the grounds that the applicant did not provide justification for the proposed installation, unauthorised activities are spotted in the concerned area, the construction works will adversely affect the surrounding environment and disturb the local residents and the birds roosting in the locality (**Appendix V**).

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

- 12.1 The application is to seek planning permission for proposed public utility installation (erection of poles and pole stays) and the associated excavation and back-filling of land at the Site partly zoned “CA” (41.8%) and partly zoned “GB” (58.2%). The proposed installation works (including the excavation and filling of land) involve erection of five poles of low voltage OHL cable with dimension of 2m (L) x 2m (W) x 10m (H)) and ten pole stays with dimension of 1.5m (L) x 1.5m (W) x 5m (H) with associated excavation of about 42.5 m<sup>2</sup> (1.5m to 2m in length and width) and about 1.8m in depth which will be carried out at the verge of the existing local access where some are on paved ground and some are unpaved or covered with vegetation. Upon erection of the OHL poles and pole stays, the pits will be backfilled and the ground will be reinstated to its original situation.

- 12.2 The planning intention of “CA” zone is to conserve the ecological value of wetland and fish ponds which form an integral part of the wetland ecosystem. 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. The “GB” zone is primarily intended for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development in both “CA” and “GB” zones unless under exceptional circumstances. The applicant advises that electricity supply is required for the proposed fish farming at the private lot located in the same “CA” zone (i.e. Lot 1808 in D.D. 96) (**Plans A-2 to A-4**) which is located on the bund of an existing pond. The fish farming will be conducted by installation of two canvas tanks. Although ‘Agricultural Use (Fish Pond Culture only)’ is permitted within the “CA” zone, ‘Fish Pond Culture’ excludes fish rearing facilities such as concrete pools or tanks according to the Definitions of Terms published by the Board. In other words, the intended fish farming purpose indicated by the applicant is not a use that is always permitted within the “CA” zone. Therefore, the applicant fails to provide strong planning justification that the proposed installation works are essential which warrants a departure from the planning intention of both “CA” and “GB” zones.
- 12.3 According to the TPB PG-No. 10, an application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. Also, applications for public utility installations must demonstrate that the proposed development is essential and that no alternative sites are available. However, as abovementioned, the applicant fails to provide strong justifications to support that the proposed installation works are essential. Regarding the TPB PG-12C, although the Site falls within the WBA, it is specified in TPB PG-No. 12C that planning applications for public utility installation (electricity mast, lamp pole, pipeline and telephone booth only) are exempted from the requirement of EcoIA. DAFC has no comment from nature conservation point of view considering that the construction time is short and no wetland habitat will be directly impacted and he has no strong view on the proposed fish farming facilities at the concerned lot. Having said that, the applicant is unable to justify that the proposed works are essential infrastructure projects as specified in the TPB PG-12C. As such, the proposed installation works are not in line with relevant Town Planning Board Guidelines.
- 12.4 Other relevant government departments have no objection to or no adverse comment on the application on technical aspects.
- 12.5 Regarding the public comments 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 assessment made in paragraph 12 and having taking into account the public comments in paragraph 11, the Planning Department does not support the application for the following reasons:

- (a) the proposed installation works and the associated excavation and filling of land are not in line with the planning intention of the "Conservation Area" ("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 and that of "GB" zone which is to define defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. The applicant fails to demonstrate that the proposed development is essential to support a permitted use within the "CA" zone, which warrants a departure from the planning intentions of both "CA" and "GB" zones; and
- (b) the proposed installation works and the associated excavation and filling of land are not in line with TPB-PG No. 10 and TPB-PG No. 12 in that the applicant fails to demonstrate that there are exceptional circumstances and strong planning grounds for the proposed development in the "GB" zone.

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 3.2.2027, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or permission is renewed. The recommended advisory clauses are attached at **Appendix IV**.

### 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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 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.

### 15. **Attachments**

<b>Appendix I</b>	Application Form received on 28.4.2022 and supplementary information received on 16.5.2022
<b>Appendix Ia</b>	FI received on 18.8.2022
<b>Appendix Ib</b>	FI received on 14.12.2022
<b>Appendix Ic</b>	FI received on 30.1.2023
<b>Appendix II</b>	Relevant extracts of TPB PG-No. 12C and TPB PG-10

<b>Appendix III</b>	Government departments' general comments
<b>Appendix IV</b>	Recommended advisory clauses
<b>Appendix V</b>	Public comments
<b>Drawing A-1</b>	Location of Proposed Pole and Stay
<b>Drawings A-2a and A-2b</b>	Sections of Pole and Stay
<b>Drawings A-3a to A-3d</b>	Photos of Pole and Stay
<b>Drawing A-4</b>	Vehicular Road Access
<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

**PLANNING DEPARTMENT  
FEBRUARY 2023**