

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/628

<u>Applicant</u>	: Drainage Project Division, Drainage Services Department (DSD), HKSARG
<u>Site</u>	: Government Land along San Tin Eastern Main Channel in D.D. 99 and D.D. 102, San Tin, Yuen Long
<u>Site Area</u>	: About 164,700 m ²
<u>Land Status</u>	: Government Land (GL)
<u>Plan</u>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8 and Approved Ngau Tam Mei Outline Zoning Plan No. S/YL-NTM/12
<u>Zoning</u>	: “Conservation Area” (“CA”) (about 76% of the Site) “Other Specified Uses” annotated “Service Stations” (“OU(SS)”) (about 20.4% of the Site) “Open Storage” (“OS”) (about 3.6% of the Site)
<u>Application</u>	: Proposed Filling and Excavation of Land for Permitted Government Drainage Works (Floodwall and Embankment)

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed excavation and filling of land for permitted Government drainage works (floodwall and embankment) at the application site (the Site) which falls within an area partly zoned “CA” (about 125,450 m² / 70%)¹ and partly zoned “OU(SS)” (about 33,400 m² / 20.4%) on the approved San Tin OZP, as well as land zoned “OS” (about 5,850 m² / 3.6%) on the approved Ngau Tam Mei OZP (**Plan A-1a**). The drainage works (**Drawing A-1a**) involves filling and excavation of land for construction of floodwall and embankment for the existing San Tin Eastern Main Channel (STEMC) (**Drawing A-1b and Plan A-1a**) which straddles land on both San Tin OZP and Ngau Tam Mei OZP. According to the Notes of the OZPs, drainage works coordinated or implemented by Government is always permitted within the “CA”, “OU(SS)” and “OS” zones, whereas any works involving excavation and filling of land within the “CA” zone requires planning permission from the Town Planning Board (the Board).

¹ Including the area of the channel of the STEMC

Background

- 1.2 The STEMC², completed in 2012 is a flood control project carried out by DSD to alleviate the flooding risk in the San Tin recurrent flooding basin under “Main Drainage Channels and Poldered Village Protection Scheme for San Tin, North West New Territories” in the “Territorial Land Drainage and Flood Control Strategy Study, Phase 2” (TLDFCSS-2 Study) in 1993. The works for the STEMC is a Designated Project (DP) under the Environmental Impact Assessment Ordinance (EIAO) and the Environmental Permit (EP) for construction and operation of the DP was granted in 2007 and 2012 respectively.
- 1.3 In 2011, DSD completed the “Review of Drainage Master Plans in Yuen Long and North District – Feasibility Study” (the Review Study) to incorporate the new development scenarios and review the effectiveness of previous recommended drainage works. According to the Review Study, some areas in or at the periphery of North District, including STEMC, could not meet the required flood protection level according to the latest land use changes and future developments and drainage improvement works were required.
- 1.4 DSD then commissioned a consultancy study under “Agreement No. CE 78/2014 (DS) - Drainage Improvement Works at North District - Package B – Investigation” to investigate the required drainage improvement works, including those in the STEMC. The Study recommends the construction of floodwall with height from 1 m to 1.2 m to 1.5 m (except for the proposed floodwall in Ngau Tam Mei which is with a height from 0.7 m to 1.5 m) or enlargement of embankment so as to confine floodwater during rainstorm thereby preventing overflowing of STEMC to protect San Tin and Ngau Tam Mei area. An Environmental Review (ER) Report (Appendix D of **Appendix Ia**) was prepared for the application for Variation of EP (VEP) on original EP No. EP-270/2007 for the STEMC in which the VEP (No. EP-270/2007/A) was approved in 2019 (Appendix I of **Appendix Ia**).

Proposed Drainage Improvement Works to STEMC

- 1.5 The Site/STEMC, which runs in a northwest-southeast direction, is accessible from Tun Yu Road connecting to San Tin Tsuen Road and Castle Peak Road – San Tin, whereas the portion of the Site/STEMC within Ngau Tam Mei OZP is accessible from Kwu Tung Road off Castle Peak Road/San Tin Highway Roundabout (**Drawing A-1b**).
- 1.6 Majority of the proposed drainage improvement works, viz. construction of four portions of floodwall (Portions A, C, D and E) and an enhanced embankment (Portion B), falls within San Tin OZP with construction of a floodwall (Portion F) within Ngau Tam Mei OZP (**Drawing A-1c and Plan A-1a**). The proposed works (**Drawing A-1a**) comprises construction of a series of floodwall with top level of +6.0mPD along the eastern and western banks of STEMC and raising a portion of the embankment on the eastern bank of STEDM with top level of

² According to the ER Report for Proposed Improvement Works at San Tin Eastern Main Channel (Jan 2019) (Appendix D of **Appendix Ia**), the STEMC is approximately 2.2 km long and 45m wide with two river embankments at about 4.9mPD and channel bed ranging from 0.6mPD to 1.5mPD. The trapezoidal channel is about 30 m wide (river bed) and hold about 4.5m depth of water as per DSD’s Stormwater Drainage Manual.

+6.0mPD (**Drawing A-1c, A-2a to A-2i**). The portions of floodwall with 1.5 m in height are only located at the northern and southern parts of the channel along STEMC to suit the topography of the locality, whereas most of the floodwalls are only 1.2 m in height (**Drawing A-4a**). Section plans of a typical floodwall and embankment are attached at **Drawings A-3a to A-3c**. The landscape plan and sections are at **Drawings A-4b to A-4d**. To minimise the impact to the existing Tun Yu Road next to the western bank of STEMC, the improvement works involves replacement of the existing railing by the proposed floodwall, whereas for the eastern bank, embankment instead of floodwall is proposed as far as practicable. While the drainage improvement works near Castle Peak Road – Chau Tau and Kwu Tung Road falling within Ngau Tam Mei OZP does not constitute a DP, it has been included into the ER Report for assessment in the VEP application.

- 1.7 The series of floodwall will have a total length of approximately 3,200 m (with a width of 0.5 m and a height from 1.2 m to 1.5 m, except for the floodwall in Ngau Tam Mei which is of a height from 0.7 m to 1.5 m) and embankment with a total length of approximately 1,400 m (with a width of 10 m and a height of 1 m) with a top level of about +6.0mPD (see the schematic diagramme of the floodwall in **Drawing A-3a** and section plans of the embankment and floodwall in **Drawings A-3b and A-3c**). The proposed works will involve filling of about 13,100 m² of land (in which about 11,600 m² is within the “CA” zone) at a depth of 1 m and excavation of about 7,800 m² of land (in which about 4,300 m² is within the “CA” zone) at a depth of 1.5 m. No laying of pipe will be involved. Construction of the floodwall and enhanced embankment is to be carried out from 7:00 a.m. to 7:00 p.m. No construction will be carried out during birds’ peak overwintering season from November to March in accordance with the EP granted for the drainage improvement works (**Appendix Ia**). Subject to funding approval, the construction works is scheduled for commencement in 2023 tentatively.
- 1.8 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 1.9.2022 and (**Appendix I**) supplementary information received on 9.9.2022 and 13.9.2022
 - (b) Planning Application Report (**Appendix Ia**)
 - (c) Further Information (FI) received on 24.10.2022 (**Appendix Ib**) providing responses to department comments, landscape proposal and clarification of the proposed works with supplementary drawings [#]
 - (d) FI received on 25.10.2022 providing responses to (**Appendix Ic**) departmental comments

[#] *exempted from publication requirement*

2. Justifications from the Applicant

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

- (a) There have been flooding incidents along STEMC in San Tin and Ngau Tam Mei areas. Relevant drainage studies by DSD identified that some areas in North District could not meet the required flood protection level and 17 locations in North District have been recommended for drainage improvement works. The proposed drainage improvement works in the current application will help confine floodwater during rainstorm events to prevent overflowing of STEMC to protect the San Tin and Ngau Tam Mei areas.
- (b) A tree survey has been carried out for the proposed works. No old and valuable tree (OVT) is identified within the works limits. While some existing trees will need to be felled, compensatory planting at a ratio not less than 1:1 will be provided. The proposed works does not require substantial road opening at some high-volume carriageways and will not disturb the public transport network. During operation stage, only a few and infrequent maintenance vehicles will approach the floodwalls, therefore operation traffic impact is expected to be minimal.
- (c) Existing footpath along the STEMC will be re-provided if it is affected by the construction of floodwall and enhancement of embankment.
- (d) The major construction activities include excavation, floodwall construction and slope filling. These activities have been taken into consideration in the respective assessments in the ER Report which concluded that the proposed drainage improvement works for the STEMC will not result in adverse impacts in terms of air quality, noise impact, water quality, drainage, traffic, geotechnical, landscape and visual impact, water supply and sewerage considerations. All the drainage improvement works will be designed, constructed and operated in accordance with the information and mitigation measures in the ER Report and conditions imposed in the VEP during construction and operation stage, viz. restriction of construction period during birds' peak overwintering season from November to March and employing an Independent Environmental Checker (IEC) before commencement of construction works.

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) is relevant to the application. Relevant extract of the Guidelines are at **Appendix II**.

5. Background

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

6. Previous Application

- 6.1 The Site, in part, falls within the site boundary of 11 previous applications, 7 of them were approved by the Committee between 1993 and 2022 whereas the remaining 4 were rejected by the Committee or the Board on review with 2 of them dismissed on appeal between 2000 and 2002.
- 6.2 With the exception of Application No. A/YL-ST/612, the other 10 applications were for different uses submitted by different applicants, which are not relevant to the subject application. Details are summarised at **Appendix III**.
- 6.3 Application No. A/YL-ST/612 for proposed public utility installation for underground cables and associated filling and excavation of land was submitted by CLP Power Hong Kong Limited for new power supply for the development of the Hong Kong-Shenzhen Innovation and Technology Park at Lok Ma Chau Loop. Part of the alignment of these proposed cables fall on land within the same “CA” zone as the current application and the adjoining area shown as ‘Road’ which is further northeast of the Site (**Plan A-1b**). The application was approved by the Committee on 10.6.2022 mainly on the considerations that being an essential infrastructure with overriding public interest, the development was in line with the planning intention of the “CA” zone. 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.

7. Similar Application

The Site is not the subject of any similar application.

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

- 8.1 The Site is the existing channel of STEMC which is:
 - (a) running in northwest-southeast direction along the nullah lining from Kwu Tung Road in the southeast up to the outfall to Shenzhen River beneath Lok Ma Chau Road in the northwest;

- (b) approximately 2.2 km long and 45m wide with two river embankments under grass or vegetation cover;
- (c) is accessible from Tun Yu Road connecting to San Tin Tsuen Road and Castle Peak Road – San Tin, whereas the portion of STEMC within Ngau Tam Mei OZP is accessible from Kwu Tung Road off Castle Peak Road/San Tin Highway Roundabout; and
- (d) falls within both the Wetland Conservation Area (WCA) and Wetland Buffer Area (WBA) of the Deep Bay Area with its southeastern portion falling outside Deep Bay Area.

8.2 The surrounding areas are predominantly fish pond areas with government facilities, grassland, residential dwellings/village settlement and woodland:

- (a) along its western bank is Tun Yu Road and San Tin Tsuen Road and along its eastern bank is Sai Kwo Road (**Drawings A-2a to A-2g**) while the southern portion is separated by Castle Peak Road – San Tin (**Drawing A-2h**) and the portion within Ngau Tam Mei OZP adjoins the Castle Peak Road/San Tin Highway Roundabout (**Drawing A-2i**);
- (b) the open area to its west, north and northeast are fish ponds, scrub land, grass land, Shenzhen River and some residential dwellings;
- (c) to its east are Lok Ma Chau Control Point and MTR East Rail line, to its further northeast and east are woodland, ponds, village settlements within “V” zones and open storage and car park; and
- (d) to its southwest are vehicle park, storage and vehicle repair workshop and San Tin Community Isolation Facility within the “OU(SS)” zone and village settlement within the “V” zone.

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 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” zone is required for such activities.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government departments as set out in paragraph 10.2 below, other 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 been consulted and their views on the application are summarised as follows:

Environment

10.2.1 Comments of the Director of Environmental Protection (DEP):

- (a) The applicant submitted the ER Report as part of the application (Appendix D of **Appendix Ia**), which has addressed the environmental issues on air quality, noise, water quality and waste management. It is expected that with implementation of the appropriate mitigation measures as detailed in the ER Report, no adverse environmental impact is anticipated. Therefore, DEP has no objection to the application.
- (b) The proposed works is part of the STEMC, which is a DP under the EIAO and the VEP (No. EP-270/2007/A) was issued by DEP on 21.3.2019 for the proposed works.
- (c) No substantiated environmental complaint pertaining to the Site has been received over the past 3 years.

Landscaping and Urban Design

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

Landscape Planning Perspective

- (a) Having considered the applicant's submission including the FIs, she has no objection to the application from landscape planning perspective.
- (b) According to the aerial photos of 2019 and 2021, the Site is situated in an area of mixed landscape characters comprising rural fringe landscape (e.g. fish ponds, village type houses, temporary structures and scattered tree groups) and urban fringe landscape (e.g. major transportation corridor, boundary crossing facilities and open storages).

- (c) With reference to the site photos taken in September 2022, the Site comprises a drainage channel (i.e. STEMC) with carriageway, footway and trees/vegetation along the channel.
- (d) With reference to the Tree Survey Report and Tree Felling Application in Appendix C of **Appendix Ia**, it is noted that 2,812 nos. of trees were surveyed in September 2017. 226 trees of common and undesirable species were proposed to be felled and 5 trees were proposed to be transplanted. Neither OVT nor protected species were identified. A total of 226 nos. of compensatory trees were proposed.
- (e) According to Section 5.5 of the Planning Application Report (**Appendix Ia**) and the ER Report, residual landscape impact is not anticipated during construction and operation stages with implementation of the recommended mitigation measures including transplanting and compensatory planting.
- (f) Significant adverse impact on the existing landscape character and resources due to the proposed drainage improvement works is not anticipated.
- (g) Since significant adverse landscape arising from the proposed drainage improvement works is not envisaged and there are in-house Landscape Architects in DSD to oversee the provision and implementation of landscape treatments/mitigation measures, it is considered not necessary to impose any landscape-related condition should the application be approved by the Board.
- (h) Her advisory comments are at **Appendix V**.

Urban Design Perspective

- (i) As shown in Figure 1.1 of the ER Report and **Drawing A-1c**, the proposed construction of floodwall and enhancement in embankment along the eastern bank of the channel would be ranging from about 1 m to 1.5 m in height (i.e. Portions A, B and C) in San Tin with the floodwall ranging from 0.7 m to 1.5 m in height (i.e. Portion F) in Ngau Tam Mei, whilst from about 1 m to 1.5 m in height along the western bank of the channel (i.e. Portions D and E). In view of the fact that the scale of the proposed works is relatively small, it is unlikely to induce any significant visual impact from the proposed works.

11. Public Comments Received During Statutory Publication Period

The application was published for public comments on 16.9.2022. During the first three weeks of the statutory publication period, no public comment was received on the application.

12. Planning Considerations and Assessments

- 12.1 The application is to seek planning permission for proposed excavation and filling of land for permitted drainage improvement works for construction of floodwall and embankment by Government at the Site of the STEMC which is partly zoned “CA” (76%) and partly zoned “OU(SS)” (20.4%) on the approved San Tin OZP, as well as land zoned “OS” (about 5,850 m² / 3.6%) on the approved Ngau Tam Mei OZP. The proposed works comprises construction of a series of floodwall with a total length of approximately 3,200 m (with a width of 0.5 m and a height from 1.2 m to 1.5 m, except for the floodwall in Ngau Tam Mei which is with a height from 0.7 m to 1.5 m) with top level of +6.0mPD along the eastern and western banks of STEMC and raising a portion of the embankment on the eastern bank of STEMC with a total length of approximately 1,400 m (with a width of 10 m and a height of 1 m) with top level of +6.0mPD. The improvement works involves replacement of the existing railing with the proposed floodwall to minimise the impact on Tun Yu Road next to the western bank of STEMC and enhanced embankment on the eastern bank of STEMC instead of floodwall. Most of the floodwalls are only 1.2 m in height, except for two portions at the northern and southern parts of the channel along STEMC which is 1.5 m in height to suit the topography of the locality. The proposed works will involve filling of about 13,100 m² of land (in which about 11,600 m² is within the “CA” zone) at a depth of 1 m for construction of floodwall and excavation of about 7,800 m² of land (in which about 4,300 m² is within the “CA” zone) at a depth of 1.5 m for enhancing the embankment. No laying of pipe will be involved.

Planning Intention

- 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. According to the Notes of the OZPs, drainage works coordinated or implemented by Government is always permitted within the “CA”, “OU(SS)” and “OS” zones, whereas any works involving excavation and filling of land within the “CA” zone requires planning permission.
- 12.3 As explained by the applicant, the proposed drainage improvement works are to enhance the effectiveness of the STEMC that will help confine floodwater during rainstorm events, which will prevent overflowing of STEMC and protect the San Tin and Ngau Tam Mei areas. The drainage improvement works by Government is an essential infrastructure with overriding public interest. The proposed excavation and filling of land which is to facilitate the drainage improvement works is considered in line with the planning intention of the “CA” zone.

TPB PG-No. 12C

- 12.4 The Site is located at the fringe of the “CA” zone with fish ponds, government facilities, key transport infrastructure, grassland/wood land, scattered residential dwelling and village settlements in the vicinity. The proposed drainage improvement works is on the existing eastern and western banks of the STEMC with grasscrete or vegetation and no other land, pond or residential dwellings within the “CA” zone or other land uses within the “OU(SS)” and “OS” zones will be affected. Director of Agriculture, Fisheries and Conservation (DAFC) has no comment from nature conservation point of view.
- 12.5 The proposed works is a DP under EIA Ordinance and an EP was already issued. The major construction activities including excavation, floodwall construction and slope filling have been taken into consideration and assessment in the ER Report under the VEP application. DEP and DAFC has no objection to/no comment on the application. According to DSD, all the drainage improvement works will be designed, constructed and operated in accordance with the information and mitigation measures in the ER Report and conditions imposed in the VEP during construction and operation stage, viz. restriction of construction period during birds’ peak overwintering season from November to March and employing an IEC before commencement of construction works. The proposed works is confined to the existing channel of the STEMC and other areas within the WCA and WBA will not be affected. As such, the proposed works is considered not incompatible with the assessment criteria under TPB-PG No. 12C.

Other Technical Considerations

- 12.6 According to the applicant, while some existing trees will need to be felled, compensatory planting at a ratio not less than 1:1 will be provided. As such, CTP/UD&L of PlanD has no objection to the application as significant adverse landscape impact arising from the proposed drainage improvement works is not envisaged. Also, the applicant will liaise with Civil Engineering and Development Department (CEDD) to minimise the conflict of works and the potential interface with San Tin / Lok Ma Chau Development Node (ST/LMC DN). Other relevant government departments including Transport Department (TD) and CEDD have no objection to or no adverse comment on the application on technical aspects.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12, 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 28.10.2026, 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 following advisory clauses are suggested for Members’ consideration:

Advisory Clauses

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

13.3 There is no apparent reason to reject the application.

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

Appendix I	Application Form received on 1.9.2022 and supplementary information received on 9.9.2022 and 13.9.2022
Appendix Ia	Planning Application Report
Appendix Ib	FI received on 24.10.2022
Appendix Ic	FI received on 25.10.2022
Appendix II	Relevant extract of TPB PG-No. 12C
Appendix III	Previous applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Drawing A-1a	Works Limit of Drainage Improvement Works for San Tin Eastern Main Drainage Channel
Drawings A-1b and A-1c	Layout Plan of the Floodwall and Enhanced Embankment at STEMC under Environmental Permit
Drawings A-2a to A-2i	Layout Plans
Drawings A-3a to 3c	Schematic Diagramme and Sections
Drawings A-4a to 4d	Landscape Plans and Section
Plan A-1a	Location Plan
Plan A-1b	Previous Application
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2022**