

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/653

<u>Applicant</u>	: CLP Power Hong Kong Limited represented by Kum Shing Engineering Company Limited
<u>Site</u>	: Government Land in D.D. 96, Lok Ma Chau Tsuen, San Tin, Yuen Long
<u>Site Area</u>	: About 42.5 m ²
<u>Land Status</u>	: Government Land (GL)
<u>Plan</u>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<u>Zoning</u>	: “Conservation Area” (“CA”) (about 42% of the Site) “Green Belt” (“GB”) (about 58% of the Site)
<u>Application</u>	: 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 17.8m² / 42%) and partly zoned “GB” (about 24.7m² / 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-3c and Plan A-2**).
- 1.2 The Site is the subject of one previous application (No. A/YL-ST/618) submitted by the current applicant for the same use of public utility installation with the same layout for the proposed pole and pole stay erection for providing electricity

to Lot 1808 in D.D. 96 to support the intended agriculture use for fish farming. The application was rejected by the Committee on 3.2.2023.

- 1.3 As shown on **Plan A-1**, the Site is accessible from Lok Ma Chau Road via a local access. 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 m² (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-3c**). 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 plans 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 after obtaining the planning permission for a period of one month and will be completed by Q4 2023. It will be carried out only from 8:30 a.m. to 5:30 p.m. daily.
- 1.4 According to the applicant, the proposed poles and pole stays are to provide electricity for the installation of a video surveillance system for security and the installation of four sets of pumping devices for drainage and flood prevention at Lot 1808 in D.D. 96 (**Drawing A-5**) as opposed to the intended agricultural use for fish farming claimed in the previous application. Lot 1808 in D.D. 96 was the subject of an application (No. A/YL-ST/626) submitted by the same lot owner for proposed temporary field education centre with ancillary shop and services for a period of three years. The application was rejected by the TPB upon review on 7.7.2023.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form including justification from the lot owner of Lot 1808 in D.D. 96 and a Geotechnical Planning Review Report received on 7.6.2023 with Supplementary Information (SI) received on 15.6.2023
 - (b) Further Information (FI) received on 24.7.2023 and 25.7.2023* (**Appendix Ia**)

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

2. **Justifications from the Applicant**

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

- (a) The proposed cable laying works are for provision of electricity for security, drainage and flood prevention use at Lot 1808 in D.D. 96. According to the said lot owner, the installation works for the four sets of pumping devices at the lot required excavation of about 0.4 m to 0.6 m in depth and 0.6 m to 0.7 m in diameter. A structure with a size of 3.8 m x 2.5 m will be erected with a height of not more than 3.6 m to accommodate the pump equipment. With electricity supply to the said equipment, the drainage condition at the lot will be promptly improved which can help reduce flood risk, protect the adjacent slope and prevent pollution to the nearby fish ponds, thus improving the wetland habitat.
- (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) All the pole stay wires are located at the outer side of the road such that no pedestrian or vehicular traffic will be obstructed after the completion of works. During the construction period, the installation works for one pole would require less than 10 minutes. The crane lorry used for the works will be parked at the passing place on the road to reduce obstruction of road traffic and staff will be assigned to direct the traffic.

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 Town Planning Board Guidelines for ‘Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 12C) and ‘Application for Development within Green Belt 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 currently not subject to active planning enforcement action.

6. Previous Application

The Site is the subject of a previous application (No. A/YL-ST/618) for the same public

utility installation (pole and pole stay erection) use and associated filling and excavation of land (**Plan A-1**) submitted by the current applicant for provision of electricity to support fish farming at Lot 1808 in D.D. 96 (**Plan A-2**). The application was rejected by the Committee on 3.2.2023 for the reasons that the proposed installation works and associated excavation and filling of land were not in line with the planning intention of the “CA” and “GB” zones; the applicant failed to demonstrate that the proposed development was essential to support a permitted use within the “CA” zone and there were exceptional circumstances and strong planning grounds for the proposed development in the “GB” zone; and the proposed uses were not in line with the relevant TPB-PG No. 10 and TPB-PG No. 12C.

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-4b)

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 a local access connecting to Lok Ma Chau Road; and
- (d) located within the Wetland Buffer Area (WBA) of 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. It is also the subject of Application No. A/YL-ST/626 for proposed temporary field education centre with ancillary shop and services

for a period of three years which was rejected by the Committee on 17.2.2023 and by the Board on review on 7.7.2023 for the reasons as stated in paragraph 6.

- (b) the open area to its north and west are fish ponds 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 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.

11. Public Comments Received During Statutory Publication Period

On 16.6.2023, the application was published for public comments. During the statutory publication period, four public comments were received from a green group and individuals raising objection to the application for the reasons that the proposed development is not in line with the planning intentions of the “CA” and “GB” zones, the approval of the application would set an undesirable precedent to similar application within the WBA and “CA” zones, and the proposed installation is on GL which is only to serve a private lot (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is 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 m² (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 states that electricity supply is required for installing devices to achieve security, drainage and flood prevention purposes 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. Installation of the pumping device itself requires excavation at the private lot. There is no information to demonstrate the need of such works as DSD advises that there is no flooding complaint relating to the lot. As such, the proposed public utility installation is therefore not 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 applicant fails to provide strong planning justification that the proposed installation works are essential which warrants a departure from the planning intentions 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. The applicant fails to demonstrate that the proposed installation works are essential and that no alternative sites are available. Regarding the TPB PG-No. 12C, it is specified that planning applications for public utility installation (electricity mast, lamp pole, pipeline and telephone booth only) are exempted from the requirement of Ecological Impact Assessment. DAFC has no strong view on the application from nature conservation point of view considering that the construction time is short and no wetland habitat will be directly impacted. However, there is no information to demonstrate the need of such works. 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 The Site is the subject of a previous rejected application (No. A/YL-ST/618) for the same use submitted by the current applicant with the same layout to support similar private purpose at the nearby private lot owned by the same lot owner. Rejection of the current application is in line with the previous decision of the Committee.
- 12.6 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 assessments made in paragraph 12 and having taking into account the public comments mentioned 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 intentions 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 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. 12C and TPB-PG No. 10 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 28.7.2027, 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 V**.

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

Appendix I	Application Form with attachments received on 7.6.2023 and SI received on 15.6.2023
Appendix Ia	FI received on 24.7.2023 and 25.7.2023
Appendix II	Relevant Extracts of TPB PG-No. 12C and TPB PG-No. 10
Appendix III	Previous application and similar application
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
Drawing A-1	Layout plan of proposed pole and stay
Drawing A-2a and A-2b	Sections of pole and stay
Drawing A-3a to A-3c	Photos of pole and stay
Drawing A-4	Vehicular access plan
Drawing A-5	Layout plan of proposed water pumps
Plan A-1	Location Plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
JULY 2023**