

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/661

<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 Technopole Outline Zoning Plan (OZP) No. S/STT/2 (<i>currently in force</i>) Approved San Tin OZP No. S/YL-ST/8 (<i>at the time of submission</i>) [the zonings and development parameters of the application sites remain unchanged on the OZP No. S/STT/2]
<u>Zonings</u>	:	“Conservation Area” (“CA”) (about 45%) and “Green Belt” (“GB”) (about 55%)
<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 (five groups of pole and pole stay erection) and associated excavation and filling of land at the application sites (the Sites), which fall within an area partly zoned “CA” (about 19.3m² / 45%) and partly zoned “GB” (about 23.2m² / 55%) on the approved San Tin Technopole OZP (the OZP) (**Plan A-1**). 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 Sites of three groups of poles and pole stays (Groups B to D) are mainly paved, while the Sites of the remaining two groups (Groups A and E) are unpaved or covered with vegetation (**Drawings A-3a to A-3c and Plans A-3 and A-4**).
- 1.2 The Sites are accessible from Lok Ma Chau Road via a local access road (**Plan A-1**). According to the applicant, the proposed installation is intended to provide

electricity for the installations of a video surveillance system for security purpose and four sets of pumping devices for drainage and flood prevention at Lot 1808 in D.D. 96 (the Lot)¹ to the northeast of the Sites within the same “CA” zone (**Plan A-2**). The proposed installation comprises five groups at five respective locations at the verge of the paved track on either sides of the local access road (**Plan A-2**), and each group involves erection of one pole stand which will be supported by two pole stays for low voltage overhead line cable. The dimensions of the five poles are about 2m (L) x 2m (W) x 10m (H) each and that of the ten pole stays are about 1.5m (L) x 1.5m (W) x 5m (H) each (**Drawings A-1 and A-4**). The proposed installation will also involve associated excavation of land of about 42.5m² (1.5m to 2m in length and width) and about 1.5m to 1.8m in depth at each of the Sites (**Drawings A-2a to A-3c**). Upon erection of the proposed installation, the excavated pits will be backfilled and the Sites will be reinstated to their original conditions. The applicant also claimed that all the pole stay wires are located at the outer side of the road such that no pedestrian or traffic will be obstructed upon completion of the installation. According to the tree survey submitted by the applicant, no existing trees will be affected by the proposed installation and associated excavation and filling of land (the associated works).

- 1.3 The Sites are the subject of two previous applications (No. A/YL-ST/618 and A/YL-ST/653) submitted by the current applicant for the same installation with the same layout at the same Sites for providing electricity to the Lot to support the intended agricultural use of fish farming (No. A/YL-ST/618) and the installation of a video surveillance system and pumping devices for drainage and flood prevention (No. A/YL-ST/653). The current application is the same as the last ~~approved~~ **rejected** application No. A/YL-ST/653 in terms of the proposed use, major development parameters and end user of the installation. Both applications were rejected by the Rural and New Town Planning Committee (the Committee) of the Board in 2023 (details at paragraph 6 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 9.11.2023 and **(Appendix I)**
Supplementary Information (SI) received on 16.11.2023
 - (b) Further Information (FI) received on 20.2.2024[#] **(Appendix Ia)**
 - (c) FI received on 22.10.2024* **(Appendix Ib)**
- [#] *accepted but not exempted from publication and recounting requirements*
* *accepted and exempted from publication and recounting requirements*
- 1.5 On 22.12.2023, the Committee decided to defer a decision on the application for two months as requested by the applicant.
- 1.6 On 19.4.2024, the Committee agreed to defer a decision on the application as requested by the Planning Department (PlanD) until after the Chief Executive in Council (CE in C) has made a decision on the draft San Tin Technopole OZP No.

¹ The applicant did not provide information regarding the proposed use of the Lot, the land ownership of the existing ponds to the immediate north and northwest of the Lot (**Plan A-2**) and whether the proposed pumping devices at the Lot will serve these ponds.

S/STT/1 and the relevant adverse representation(s)². The draft OZP is subsequently approved by the CE in C on 17.9.2024 and the approved San Tin Technopole OZP No. S/STT/2 is gazetted on 20.9.2024.

- 1.7 On 4.10.2024, the Committee decided to defer a decision on the application for two months as requested by the applicant.

2. Justifications from the Applicant

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

- (a) The proposed installation and associated works are for the provision of electricity for security, drainage and flood prevention use at the Lot. According to the owner of the Lot, the installation of four sets of pumping devices at the Lot will require excavation of land for about 0.4m to 0.6m in depth and 0.6m to 0.7m in diameter, and a structure with a size of 3.8m x 2.5m will be erected with a height of not more than 3.6m to accommodate the pump equipment at the Lot³. With electricity supply to the said equipment, the drainage condition at the Lot will be 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 Sites for erection of the proposed installation will minimise the filling and excavation of land and slope maintenance required and avoid encroachment onto private land. The proposed installation and associated works will not cause adverse impacts on geotechnical safety, traffic, landscape, environment, sewerage, drainage and water supply. The applicant will 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 upon completion of the installation. 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.
- (d) The applicant submitted a tree survey which demonstrated that the proposed installation and associated works will not affect the existing trees nearby.

² On 8.3.2024, the draft San Tin Technopole OZP No. S/STT/1, which covers among others, area excised from the then San Tin OZP including the Site, was exhibited under section 5 of the Town Planning Ordinance for public inspection for two months until 8.5.2024. Upon expiry of the exhibition period, a total of 1,543 valid representations were received, including adverse representations covering the whole OZP. The hearings of the representations were held on 28.6.2024, 2.7.2024, 3.7.2024 and 4.7.2024. After giving consideration to the representations, the Board on 19.7.2024 decided not to uphold the representations and that no amendment should be made to the draft OZP to meet the representations.

³ Excavation of land within the “CA” zone, within where the Lot falls, requires planning permission from the Board. There is currently no valid planning permission for the said proposed excavation works at the Lot.

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. 31B) are not applicable.

4. Town Planning Board Guidelines

The Site is located in the Wetland Buffer Area (WBA) (**Plan A-1a**) in Deep Bay Area. 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

- 5.1 The Sites are currently not subject to active planning enforcement action.
- 5.2 The Lot, which the proposed installation is intended to serve, is located within the same “CA” zone to the northeast of the Sites (**Plans A-2 and Plan A-4b**). The Lot is located on the bund at the verge of an existing fish pond with metal frame of one to two storeys in height and grass cover. The Lot was the subject of an application (No. A/YL-ST/626) for proposed temporary field education centre with ancillary shop and services for a period of three years. The application was rejected by the Committee on 17.2.2023 and by the Board on review on 7.7.2023 mainly on the considerations that the proposed development was not in line with the planning intention of the “CA” zone; and the proposed development was not in line with TPB PG-No.12C in that the applicant failed to demonstrate how the proposed temporary use could facilitate the environmental education.

6. Previous Applications

- 6.1 The Sites are the subject of two previous applications (No. A/YL-ST/618 and 653) for the same installation with the same associated works submitted by the current applicant for the provision of electricity to support the intended agricultural use of fish farming (No. A/YL-ST/618) and the installation of a video surveillance system and pumping devices for drainage and flood prevention (No. A/YL-ST/653) at the Lot (**Plan A-2**). Both applications were rejected by the Committee on 3.2.2023 and on 28.7.2023 respectively mainly on the considerations that the proposed installation and associated works were not in line with the planning intention of the “CA” and “GB” zones; the applicant failed to demonstrate that the proposed installation and associated works were essential to support a permitted use within the “CA” zone and that there were exceptional circumstances and strong planning grounds for the proposed installation and associated works within the “GB” zone; and the proposed installation and associated works were not in line with the relevant TPB-PG No. 10 and TPB PG-

No. 12C.

- 6.2 Details of the previous applications are summarised at **Appendix III** and their location are shown on **Plan A-1**.

7. Similar Application

- 7.1 During the past five years, there is one similar application (No. A/YL-ST/612⁴) to the further southwest of the Site 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 the Loop. The application was approved by the Committee on 10.6.2022 mainly on the considerations that the proposal being an essential infrastructure with overriding public interest was in line with the planning intention of the “CA” zone; there was no other alternative location of the alignment outside the “CA” zone; the proposal complied with TPB PG-No. 12C; and there were no objection to or no adverse comments from relevant government departments.
- 7.2 Details of the similar application is summarised at **Appendix III** and its locations is shown on **Plan A-1**.

8. The Sites and Their Surrounding Areas (Plans A-1 to A-4b)

- 8.1 The Sites are:
- (a) located at the foothill of the woodland area at Tai Law Hau;
 - (b) composed of five groups (two groups entirely within the “CA” zone and three groups mainly within the “GB” zone with minor encroachment onto the “CA” 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 WBA in Deep Bay Area.
- 8.2 The surrounding areas are rural in character comprising scattered residential structures, fish ponds and woodland. The Lot, which the proposed installation is intended to serve, is situated on the bund at the verge of an existing fish pond with metal frame of one to two storeys in height and grass cover, that is located to the northeast of Group E of the Sites (**Plan A-2 and Plan A-4b**).

⁴ The similar application fell within “CA” zone and area shown as ‘Road’ on the then approved San Tin OZP No. S/YL-ST/8 at the time of consideration by the Committee.

9. Planning Intentions

- 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 stated in the Explanatory Statement (ES) of the OZP, as filling of land/pond and excavation of land may cause adverse drainage impacts on the areas and adverse impacts on the environment, and in view of the conservation value of the area within “CA” zone, permission from the Board within the “CA” and “GB” zones is required for such activities.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department 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 department has specific comments on the application:

Drainage

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

- (a) given that the application only involves laying of power cable, he has no objection in principle to the application from drainage operation and maintenance point of view;
- (b) his department received complaints on flooding in September 2023 near the Lot. The location is not a flooding blackspot in DSD’s record. The flooding is caused by the blockage of the drainage system nearby, which is not maintained by DSD;
- (c) as only minor excavation and utilities works are involved under the application, drainage impact assessment (DIA) and drainage proposal is considered not required. Nonetheless, the DIA and the drainage proposal submitted by the applicant is not acceptable from drainage perspective. The applicant should refer to DSD’s prevailing Design Standard and DSD

Advice Note No. 1 in the preparation of DIA. The drainage plan should demonstrate how the surface run-off are collected within the Site and through the proposed pumping system to discharge to an appropriate final discharge point; and

- (d) advisory comments are detailed in **Appendix V**.

11. Public Comments Received During Statutory Publication Periods

On 17.11.2023 and 5.3.2024, the application was published for public inspection. During the statutory inspection periods, four public comments were received, including two from the same individual raising objection on the grounds that the proposed installation, which will be facing the ancestral graves, will affect fung shui; and the remaining two from the same individual raising concerns that the proposed end user at the Lot is not compatible with the “CA” zone, the previous application was rejected and there was no justification for a further application (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed public utility installation (erection of five groups of poles and pole stays as detailed in paragraph 1.2 above) and the associated excavation and filling of land at the Sites (a total area of about 42.5m² as detailed in paragraph 1.2 above). The Sites are partly zoned “CA” (45%) and partly zoned “GB” (55%) on the OZP and are located at the verge of the existing local access where some are paved and some are unpaved or covered with vegetation (**Drawings A-3a to A-3c and Plans A-2, A-4a and A-4b**).

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, and 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.
- 12.3 According to the applicant, the proposed installation is for the provision of electricity to serve the installations of a video surveillance system and four sets of pumping devices to achieve security, drainage and flood prevention purposes at the Lot, which is located on the bund at the verge of an existing pond falling within the same “CA” zone (i.e. Lot 1808 in D.D. 96) (**Plans A-2 to A-4b**). It is also noted that installation of the pumping device itself requires excavation at the Lot. There is currently no valid planning permission for the said proposed excavation works at the Lot. On drainage and flooding aspects, CE/MN of DSD advises that complaint on flooding near the Lot was received in September 2023,

but the location of the complaint is not a flooding blackspot in DSD's record and the flooding reported was caused by the blockage of the drainage system nearby. In this regard, the applicant fails to demonstrate that the proposed installation with associated works, is an essential infrastructure project with overriding public interest or is to support the conservation of the ecological integrity of the wetland ecosystem. There are no strong planning justifications for the application to warrant a departure from the planning intentions of both "CA" and "GB" zones.

TPB PG-No. 10 and TPB PG-No. 12C

- 12.4 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. Regarding the TPB PG-No. 12C, it is specified that planning applications for some local and minor works, such as public utility installation (electricity mast, lamp pole, pipeline and telephone booth only) as per the current application, are exempted from the requirement of Ecological Impact Assessment. The Director of Agriculture, Fisheries and Conservation 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, the applicant fails to demonstrate that the proposed installation with associated works are essential, as mentioned in paragraph 12.2 above; there are exceptional circumstances with very strong planning justifications; and there are no alternative sites available for the proposed installation. Hence, the application is not in line with the relevant Town Planning Board Guidelines.

Land Use Compatibility

- 12.5 The proposed installation will be carried out at the verge of the existing local access where some are paved and some are unpaved or covered with vegetation. According to the applicant, no existing trees will be affected. The Chief Town Planner/Urban Design and Landscape of PlanD advises that significant adverse impact on existing landscape character and resources arising from the proposed installation at the Sites is not anticipated and has no objection to the application from landscape planning perspective.

Other Technical Considerations

- 12.6 For the associated works, excavation and filling of land within "GB" and "CA" zones require planning permission from the Board as it may cause adverse drainage impacts on the area and adverse impacts on the environment. CE/MN of DSD has no objection to the application from drainage maintenance point of view, while the Director of Environmental Protection also has no objection to the application. Other concerned government departments including the Director of Electrical and Mechanical Services, Commissioner for Transport, and Head of Geotechnical Engineering Office of the Civil and Engineering Development Department have no objection to or no adverse comment on the application.
- 12.7 The Sites are the subject of two previously rejected applications for the same

installation and associated works with the same layout submitted by the current applicant to support similar private purpose at the Lot of the same lot owner as detailed in paragraph 6 above. The justifications put forth in the current application are generally the same as the previously rejected applications. Rejection of the current application is in line with the Committee's previous decisions.

- 12.8 Regarding the public comments as stated in paragraph 11 above, the planning considerations and departmental comments above are relevant. As for the public comment on fung shui issue, it is not a relevant planning consideration.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments as mentioned in paragraph 11, PlanD does not support the application for the following reasons:

- (a) the proposed public utility installation and 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 the "Green Belt" ("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 public utility installation and associated excavation and filling of land are essential which warrant a departure from the planning intentions of both "CA" and "GB" zones; and
- (b) the proposed public utility installation and 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 with strong planning grounds for the proposed public utility installation and associated works in the Wetland Buffer Area/ the "GB" zone.

- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 20.12.2028, 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 9.11.2023 and SI received on 16.11.2023
Appendix Ia	FI received on 20.2.2024
Appendix Ib	FI received on 22.10.2024
Appendix II	Relevant extracts of TPB PG-No. 12C and TPB PG-No. 10
Appendix III	Previous applications 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
Drawings A-2a and A-2b	Sections of proposed pole and stay
Drawings A-3a to A-3c	Photos of proposed 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
Plans A-4a to A-4b	Site photos

**PLANNING DEPARTMENT
DECEMBER 2024**