

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

**APPLICATION NO. A/YL-TT/636**

**Applicant** : Hong Kong Solar Development Company Limited

**Site** : Lots 2060 (Part), 2061 (Part), 2062 (Part), 2064 (Part), 2067 (Part) in D.D. 119, Tai Tong, Yuen Long, New Territories

**Site Area** : 1,181m<sup>2</sup> (about)

**Lease** : Block Government Lease (demised for agricultural use)

**Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/20

**Zoning** : “Agriculture” (“AGR”)

**Application** : Proposed Public Utility Installation (Solar Photovoltaic System) with Ancillary Facilities

**1. The Proposal**

- 1.1 The applicant seeks planning permission for public utility installation (solar photovoltaic system) at the application site (the Site) (**Plan A-1**) zoned “AGR” on the OZP. According to the Notes of the OZP for the “AGR” zone, ‘Public Utility Installation’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by solar photovoltaic (SPV) panels mounted on converted containers/metal frames for the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Kiu Hing Road via a local track (**Plan A-3**). According to the layout plans submitted by the applicant (**Drawings A-1 and A-2**), the applied use comprises two main portions (i.e. Site A and Site B) with a total of 439 SPV panels including 36 SPV panels (1.765m (L) × 1.048m (W) each) installed atop two converted containers with a height of not more 4m at Site A and 403 SPV panels (2.094m (L) × 1.038m (W) each) mounted on metal frames with a height of not more than 1.5m at Site B. The two converted containers with a total floor area of about 68m<sup>2</sup> at Site A is to accommodate a control room and meter box while the total area covered by the SPV panels at Site B is about 876m<sup>2</sup>. The Site would be fenced off. To retain soil quality and prevent potential soil erosion, the applicant also proposes to plant low-light plants/crops underneath the SPV panels at Site B (**Appendix Ia**).

1.3 According to the applicant, the SPV system is connected to the existing electrical power network of CLP Power Hong Kong Limited (CLP Power) under the 'Renewable Energy Feed-in Tariff Scheme' (FiT Scheme). The total generation capacity of the system is 170kW and all the electricity generated will be sold to CLP Power. The applicant has obtained a letter from CLP Power which confirmed the preliminary technical feasibility of the proposal. The SPV system will be decommissioned when the FiT Scheme terminates after 2033 and the Site would be reinstated by the applicant for agriculture use.

1.4 The development parameters of the application are summarised as follows:

Site Area	1,181m <sup>2</sup>
Total Floor Area	944m <sup>2</sup> - Site A: About 68m <sup>2</sup> - Site B: About 876m <sup>2</sup>
Height	Site A: Not more than 4m (for converted containers) Site B: Not more than 1.5m (for metal frames)
Number of SPV Panels	439 - Site A: 36 - Site B: 403
Number of Structures	2 (for converted containers)
Estimated Annual Generation	About 217,175kWh (equivalent to about 57 households' annual consumption)

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

- (a) Application Form with attachments received on 2.2.2024 (Appendix I)
- (b) Further Information (FI) received on 10.5.2024 (Appendix Ia)  
*(accepted and exempted from publication and recounting requirements)*

1.6 On 15.3.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making 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 and FI at **Appendices I to Ia**. They can be summarised as follows:

- (a) the applied use echoes the promotion of renewable energies by the Government and power companies; and
- (b) the SPV system would produce energy of about 217,175kWh per year and help reduce carbon emission.

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

The applicant is not a “current land owner” but has complied with 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) by posting site notice and sending the notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Assessment Criteria for Considering Applications for Solar Photovoltaic System**

The ‘Assessment Criteria for Considering Applications for Solar Photovoltaic System made under Section 16 of the Town Planning Ordinance’ first promulgated on 21.7.2020 is relevant to the application. The latest set of Assessment Criteria which was promulgated on 7.10.2022 is at **Appendix II**.

### **5. Background**

#### *The FiT Scheme*

- 5.1 The FiT Scheme is an initiative introduced by the Government under post-2018 Scheme of Control Agreements with the two power companies for promoting the development of distributed renewable energy. It aims to encourage the private sector to consider investing in renewable energy as the power generated could be sold to the power companies at a rate higher than the normal electricity tariff to help recover the costs of investment in renewable energy systems and generation.
- 5.2 Any non-governmental bodies or individuals, who as customers of the relevant power company plan to install distributed renewable energy systems at their premises in the respective power company’s supply area, are eligible for prescribed FiT rates from that power company as long as they have been connected to the latter’s grid. To join the FiT Scheme, an applicant may make submission to the relevant power company directly with the required documents including the preliminary layout diagram and other information of the proposed renewable energy system. After meeting the requirements specified by the power company on technical assessment, system test and installation works, the power company will proceed to install a smart meter in the applicant’s premises to facilitate connecting the proposed renewable energy system to the power grid. The successful applicant would be offered the FiT rate throughout the project life of the renewable energy system until end-2033. The applicant shall ensure that the design, installation, operation and maintenance of the renewable energy system comply with the applicable laws, guidelines and safety and technical guidelines.

#### *Suspected unauthorized development*

- 5.3 The Site is the subject of a planning enforcement case (No. E/YL-TT/703) against an unauthorized development (UD) involving place for solar panels installation with Enforcement Notice (EN) issued on 28.11.2023 requiring the discontinuation of the UD by 28.2.2024. According to the latest site inspection in April 2024, the UD within the Site has not been discontinued. The Planning Authority will consider instigating prosecution action.

**6. Previous Application**

The Site is not involved in any previous application.

**7. Similar Application**

There is no similar application for SPV within the subject “AGR” zone.

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

8.1 The Site is:

- (a) fenced off and occupied by SPV panels mounted on converted containers/metal frames for the applied use; and
- (b) located at the fringe of Tiu Liu Tsuen and Muk Kiu Tau Tsuen; and accessible from Kiu Hing Road via a local track.

8.2 The surrounding areas are rural residential in character predominantly occupied by village houses intermixed with storage yards, parking of vehicles, farmland and unused land. The storage yards and parking of vehicles in the vicinity of the Site are suspected UD's subject to planning enforcement action.

**9. Planning Intention**

The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

**10. Comments from Relevant Government Bureau and Departments**

10.1 The following government bureau and departments have been consulted and their views on the application are summarised as follows:

**Policy Support**

10.1.1 Comments of the Secretary for Environment and Ecology (SEE):

- (a) The Government has set net-zero electricity generation as one of the major decarbonisation strategies in the Hong Kong's Climate Action Plan 2050 promulgated in October 2021. To achieve the long-term carbon neutrality target before 2050, the Government needs to increase zero-carbon electricity supply through renewable energy development as far as possible.
- (b) The policy is for the Government to take the lead in developing renewable energy at various buildings and facilities where technically

and financially feasible, and to create conditions that are conducive to community participation. For the private sector, the FiT Scheme is introduced to provide financial incentives which can encourage the private sector to invest in distributed renewable energy. A series of measures are also introduced to facilitate and support members of the public in developing renewable energy.

- (c) SEE strongly supports the development of renewable energy systems, including the applied system under this application within “AGR” zone in Yuen Long, involving the installation of 439 solar panels with a capacity of approximately 170kW which is sufficient to fulfill the annual electricity demand of about 57 households. Approval of the application could make good use of land to coexist agricultural use and solar energy generation while achieving the target of carbon neutrality.
- (d) The applicant should note his advisory comments in **Appendix III**.

#### **Land Administration**

##### 10.1.2 Comments of the District Land Officer/Yuen Long, LandsD (DLO/YL, LandsD):

- (a) He has reservation on the application.
- (b) The Site comprises Old Schedule Agricultural Lots 2060, 2061, 2062, 2064 and 2067 all in D.D. 119 held under the Block Government Lease which contains the restrictions that no structures are allowed to be erected without the prior approval of the Government.
- (c) There is/are unauthorized structure(s) and/or uses on Lot 2061 in D.D. 119 which is already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/apply for regularization on the lease breaches as demanded by LandsD.
- (d) Built-over-area (“BOA”) of the SPV panels, i.e. 944m<sup>2</sup> (**Drawing A-1**), would be counted as the covered area/BOA within the Site.
- (e) The applicant should note his advisory comments in **Appendix III**.

#### **Environment**

##### 10.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) No objection to the application in view of the nature and scale of the applied use.
- (b) There is no substantiated environmental complaint pertaining to the Site in the past three years.
- (c) The applicant should note his advisory comments in **Appendix III**.

### **Agriculture Development and Nature Conservation**

#### 10.1.4 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) The Site falls within the “AGR” zone and is occupied by structures. The agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the applied use is not supported from agricultural perspective.
- (b) No comment from nature conservation perspective.

### **Urban Design, Visual and Landscape**

#### 10.1.5 Comments of the Chief Town Planner/Urban Design & Landscape, Planning Department:

- (a) The Site is situated in an area of rural fringe landscape character predominantly occupied by village houses, parking of vehicles, temporary structures and scattered tree groups. The Site has been occupied by the SPV. Wild grass and bare ground underneath the structures within the Site were observed.
- (b) The landscape resources within the Site had been disturbed and the landscape character of the surrounding areas had been changed with the applied use and structures installed.

### **Traffic**

#### 10.1.6 Comments of the Commissioner for Transport (C for T):

- (a) No adverse comment from traffic engineering perspective.
- (b) The applicant should note her advisory comments in **Appendix III**.

#### 10.1.7 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) No adverse comment from traffic engineering perspective.
- (b) The applicant should note his advisory comments in **Appendix III**.

### **Drainage**

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

- (a) No in-principle objection to the applied use from public drainage point of view.

- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal and implementation of the drainage proposal identified therein for the applied use should be included.

#### **Building Matters**

10.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department:

- (a) No objection to the application.
- (b) The applicant should note his advisory comments in **Appendix III**.

#### **Fire Safety**

10.1.10 Comments of the Director of Fire Services (D of FS):

- (a) No in-principle objection to the proposal subject to fire service installations being provided to his satisfaction.
- (b) The applicant should note his advisory comments in **Appendix III**.

#### **Long-term Development**

10.1.11 Comments of the Project Manager (West) of Civil Engineering and Development Department:

- (a) No in-principle objection to the applied development.
- (b) The applicant should note his advisory comments in **Appendix III**.

#### **District Officer's Comments**

10.1.12 Comment of the District Officer (Yuen Long), Home Affairs Department:

His office has not received any comment from the village representatives in the vicinity.

10.2 The following government departments have no objection to/no adverse comment on the application:

- (a) the Director of Electrical and Mechanical Services (DEMS);
- (b) the Chief Engineer/Construction of Water Supplies Department; and
- (c) the Commissioner of Police.

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

On 9.2.2024, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting

to the application mainly on the grounds that there is no previous approval and there are active farming activities in the area (**Appendix IV**).

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

- 12.1 The application is for the applied SPV system involving 439 SPV panels at the Site zoned “AGR”. The applied use is not in line with the planning intention of “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural perspective in that the Site possesses potential for agricultural rehabilitation. Nevertheless, according to the applicant, the electricity generated will be sold to CLP Power via the FiT Scheme, which is jointly introduced by the Government and the two power companies until end of 2033. The SPV system has been completed, and a ‘Completion Letter’ has been issued by CLP Power which demonstrated the technical feasibility of the proposed system. The proposed system can meet the annual electricity demand of about 57 households. There is no land filling involved within the Site. To address the concern of DAFC, the applicant proposes to plant low-light plants/crops (**Appendix Ia**) underneath the SPV panels to retain soil quality and prevent potential soil erosion and reinstate the Site for agricultural use upon termination of the FiT Scheme. In this regard, SEE supports the application for development of renewable energy systems and considers that approval of the application could make good use of land to co-exist agricultural use and solar energy generation while achieving the carbon neutrality target. In view of the policy support from SEE and taking into account the planning assessments below, sympathetic consideration may be given to the current application.
- 12.2 The Site is located at the fringe of Tiu Liu Tsuen and Muk Kiu Tau Tsuen and the surrounding areas are rural residential in character predominantly occupied by village houses intermixed with storage yards, parking of vehicles, farmland and unused land (**Plan A-2**). The applied use involving 439 SPV panels mounted on converted containers and metal frames with a height of 4m and 1.5m respectively is considered not entirely incompatible with the surrounding environment.
- 12.3 Concerned departments, including DEMS, C for T, DEP, CE/MN of DSD and D of FS have no objection to or no comment on the applied use from electrical supply safety, traffic, environmental, drainage and fire safety perspectives respectively. The technical requirements of CE/MN of DSD and D of FS could be addressed by imposing approval conditions recommended in paragraph 13.2 below. Regarding DLO/YL of LandsD’s concerns on unauthorized structure(s), should the Committee approve the application, the applicant will be advised to regularise the lease breaches and the issue could be dealt separately under the land administration regime.
- 12.4 In view of the above, the application is generally in line with the Assessment Criteria (**Appendix II**) for considering applications for SPV system in that the applicant has obtained CLP Power’s confirmation letter on the preliminary technical feasibility of the proposal; the height of the applied use (i.e. not more than 4m) is in keeping with the surrounding area and commensurate with the function it performs; relevant government departments consulted in general have no adverse



comments on the application from various technical perspectives; and the long-term planning intention of the “AGR” zone would not be jeopardised.

- 12.5 Regarding the public comment objecting to the application on grounds as summarised in paragraph 11 above, the planning considerations and assessments in paragraphs 12.1 to 12.4 above are relevant.

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

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, no time clause for commencement for the development is proposed as the public utility installation (solar photovoltaic system) has already been completed/in operation. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval Conditions

- (a) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (b) the submission and implementation of a fire service installations proposal to the satisfaction of the Director of Fire Services or of the Town Planning Board.

#### Advisory Clauses

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

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member’s reference:

the applied use is not in line with the planning intention of “Agriculture” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no 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 2.2.2024
<b>Appendix Ia</b>	FI received on 10.5.2024
<b>Appendix II</b>	Assessment Criteria for Considering Applications for Solar Photovoltaic System made under Section 16 of the Town Planning Ordinance
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Appendix IV</b>	Public Comment
<b>Drawings A-1 to A-2</b>	Layout Plan and Sectional Drawing
<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  
JULY 2024**