

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SLC/167

<u>Applicant</u>	CLP Power Hong Kong Limited represented by CLPe Solutions Limited
<u>Site</u>	Government Land in Ham Tin Kau Tsuen, Lantau
<u>Site Area</u>	About 15.6m ²
<u>Land Status</u>	Government Land
<u>Plan</u>	Approved South Lantau Coast (SLC) Outline Zoning Plan No. S/SLC/21
<u>Zoning</u>	“Coastal Protection Area” (“CPA”)
<u>Application</u>	Proposed Public Utility Installation (Underground Power Cable) and Excavation and Filling of Land

1. The Proposal

1.1 The applicant seeks planning permission for proposed public utility installation (underground power cable) and associated excavation and filling of land at the application site (the Site). The proposal includes placing two sets of LV aluminium cables with the associated excavation of land with an area of about 15.6m² (52m x 0.3m) and a depth of about 0.55m (Items 3 and 4 on **Drawing A-1**¹). The cable trench will be backfilled to its original ground level. The proposed installation is to connect to the meter boxes by the applicant’s client at Lots No. 2574 and 2576 in D.D. 316L, Ham Tin Kau Tsuen, Lantau (the Lots) for provision of electricity to the containers at the Lots for drying wet cloth (**Drawings A-3a and 3b**). The Site falls within an area zoned “CPA” on the approved South Lantau Coast Outline Zoning Plan No. S/SLC/21 (the OZP) (**Plans A-1 and A-2**). According to the Notes of the OZP, ‘Public Utility Installation’ use and excavation and filling of land within “CPA” zone require planning permission from the Town Planning Board (the Board).

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

- (a) application form received on 25.11.2020; **(Appendix I)**

¹ Items 1 and 2 have been cancelled by the applicant as indicated on the plan reference No. WELT2017-0098-02 attached in **Appendix I**. The applicant has further supplemented a revised drawing excluding Items 1 and 2 in **Appendix Ia** for clarification.

- (b) supplementary information received on 1.12.2020 (**Appendix Ia**) clarifying that the application is to provide electricity to the containers at the Lots for drying wet cloth and the Site will be backfilled to the original ground level after completion of laying out; and
- (c) supplementary information received on 3.12.2020 (**Appendix Ib**) clarifying the area of filling and excavation of land and the dimension of the proposed installation.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the application form at **Appendix I** and supplementary information at **Appendix Ia**. They are summarised as follows:

- (a) electricity supply is required for the containers at the Lots for drying wet cloth (**Drawing A-1**). The new underground cable will be laid to connect to the meter boxes at the Lots by the client of the applicant (**Drawings A-3a and A-3b**). The proposed installation is anticipated to be completed by February 2021; and
- (b) the Site will be backfilled to the original ground level after the completion of cable laying works.

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

As the Site only involves Government land, the ‘Owner’s consent/notification’ requirements as set out in the TPB PG-No. 31A are not applicable to the application.

4. **Previous Applications**

4.1 The Site is part of two previous applications No. A/SLC/145 and 154 both submitted by the Drainage Services Department (DSD) covering much larger areas in Pui O for proposed public utility installation and excavation of land which were approved with conditions by the Rural and New Town Planning Committee of the Board (the Committee) in 2017 and 2019 respectively. Application No. A/SLC/145 is for proposed public utility installation (sewage pumping station and underground sewers) and excavation of land. Application No. A/SLC/154 for proposed public utility installation (sewage pumping station, underground sewers and underground effluent pipe) and excavation of land for underground sewers is the revised scheme of application No. A/SLC/145 under the “Outlying Islands Sewerage Stage 2 – South Lantau Sewerage Works” commissioned by DSD. DSD will implement the project based on the revised scheme under the latest approved application No. A/SLC/154. The proposed utilities under both applications serve a wide catchments of South Lantau and to provide sewage treatment facilities to the area. Both applications were approved mainly on the considerations that the proposed works would resolve the water pollution problem in the area and were considered to be in the public interest; the proposed development was considered compatible with the surrounding rural character; and there would be no

adverse ecological, environmental, noise, air, landscape and visual impacts to the surrounding areas.

- 4.2 Details of the previous applications are summarized at **Appendix II** and their locations are shown on **Plans A-1 and A-2**.

5. Similar Applications

- 5.1 There are five similar applications for proposed public utility installation at Pui O, Cheung Sha and Tong Fuk which falls within the “CPA” zone on the OZP (i.e. applications No. A/SLC/87, 109, 141, 160 and 162). Among the five similar applications, four of them (i.e. application No. A/SLC/87, 109, 141 and 160) were approved with/without condition(s) by the Committee between 2008 and 2020 while the remaining application No. A/SLC/162 was rejected by the Committee in 2020.
- 5.2 For the four approved applications No. A/SLC/87, 109, 141 and 160, they were for the essential infrastructures to the area or the territory with overriding public interest. Application No. A/SLC/87 for proposed submarine telecommunication cable at Tong Fuk was approved with conditions by the Committee in 2008 mainly on the considerations of meeting the future telecommunication requirement of the territory and no adverse impact on the landscape character and natural features in the surrounding areas. Applications No. A/SLC/109 and 141 both submitted by the Agriculture, Fisheries and Conservation Department (AFCD) for proposed irrigation pipeline with/without excavation of land at Pui O were approved by the Committee in 2010 and approved with conditions in 2015 respectively mainly for the reasons that the proposed facilities could support the permitted agricultural related activities in the area and were not incompatible with the planning intention of the “CPA” zone; and the proposed development was small in scale. Application No. A/SLC/160 for proposed public utility pipeline (underground power cable) and filling and excavation of land at Cheung Sha Beach connecting the Integrated Waste Management Facilities (IWMF) in Shek Kwu Chau and the Cheung Sha Substation was approved by the Committee in 2020 mainly on the considerations that the proposed installation could enable the gainful use of the recovered energy by the IWMF which embraces the long term strategy of ‘Waste-to-Energy’; and no adverse impacts from ecological, environmental, landscape and visual impact perspectives.
- 5.3 As for the rejected application No. A/SLC/162 for proposed public utility installation (underground cable) and filling and excavation of land, the proposed underground cable was to provide electricity to a storage use at a private lot which was not a permitted use within the “CPA” zone. The application was rejected by the Committee on 6.11.2020 mainly for the reasons that the proposed installation was not in line with the planning intention of the “CPA” zone as the applicant failed to demonstrate that the proposed installation was to support the conservation of the existing natural landscape or scenic quality of the area or was an essential infrastructure project with overriding public interest; and setting an undesirable precedent for similar applications to provide utility installation for uses not permitted within the “CPA” zone.
- 5.4 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

6. The Site and Its Surrounding Areas (Plans A-1 to A-3 and site photos on Plans A-4 and A-5)

6.1 The Site has the following characteristics:

- (a) is situated along Chi Ma Wan Road which connects between Pui O and Shap Long;
- (b) is currently paved and used as road; and
- (c) is located to the west of Ham Tin Kau Tsuen.

6.2 The surrounding areas have the following characteristics:

- (a) the Site is situated in an area of a coastal landscape character predominated by wetland, village houses and vegetated areas;
- (b) the Pui O Ecologically Important Stream is located about 25m to the west of the Site;
- (c) the underground power cable proposed under the application will provide electricity to the Lots which are located to the east of the Site. There are three modified containers for storage and carports with shelters at Lot No. 2574. Lot No. 2576 is currently partly paved and partly vacant with a modified containers for storage placed at the northern end of the lot. Meter boxes are found attached to one of the containers at Lot No. 2574 and the container at Lot No. 2576. The Board has not received any planning application at these Lots; and
- (d) there are some temporary structures (including storage for construction materials and containers and car park) and sign of filling of land near the Site along Chi Ma Wan Road. The Board has not received any planning application in relation to these sites.

7. Planning Intention

The “CPA” zone is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It is also intended to safeguard the beaches and their immediate hinterland and to prevent haphazard ribbon development along the South Lantau Coast. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted. These scenic and ecologically sensitive coastal areas should also be protected against land filling, land excavation or stream diversion and encroachment by developments.

8. Comments from Relevant Government Departments

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

Land Administration

8.1.1 Comments of District Lands Officer/Islands, Lands Department (DLO/Is, LandsD):

- (a) he does not have particular comment on the application from land administration point of view;
- (b) the Site is on unleased Government land. The Lots (i.e. Lots 2574 and 2576) are demised for agricultural purposes under the Block Government Lease. Under the lease conditions, no structure(s) shall be erected on the Lots without LandsD's prior approval;
- (c) some containers were placed on Lot No. 2574 in D.D. 316L but this was not in breach of the lease condition. A warning letter against Lot No. 2574 in D.D. 316L was issued on 31.7.2017 as some carports had been erected on site without LandsD's approval. As the breach of lease had not been purged, the warning letter was registered in the Land Registry on 20.6.2019 as an encumbrance of Lot No. 2574 in D.D. 316L;
- (d) one container was placed on Lot No. 2576 in D.D. 316L but this was not in breach of the lease condition; and
- (e) an excavation permit for the proposed installation was approved by his office in April 2019. It was subsequently extended up to 26.10.2020. There is an application for further extension, which is now being considered by his office. Apart from application for excavation permit, should the s.16 application be approved by the Board, the applicant should apply to his office for approval for the proposed underground power cable or other structure(s) to be installed on Government land. Please note that there is no guarantee that such application will be approved by his office.

Lantau Development

8.1.2 Comments of the Head of Sustainable Lantau Office, Civil Engineering and Development Department (H(SLO), CEDD):

- (a) from the applicant's information, the proposed underground cable is to provide electricity for containers for drying wet cloth at the Lots, and there is a proposed electricity box each for the Lots (**Drawings A-3a and A-3b**). Based on his record, Lot 2574 is a subject of environmental vandalism case in which his office found in February, May and September 2020 that this lot was already formed with a carpark thereon covered by two shelters and adjoined by two containers, whereas Lot 2576 is mostly vacant and formed as well. Consideration may be made on whether the existing and proposed developments at the two Lots are allowed for under the OZP. Moreover, given that any filling or excavation of land even for those permitted uses/development (except maintenance or repair works) requires permission from the Board according to the remarks of the

“CPA” zone, it is unsure whether the land filling/ site formation works involved in the formed land of the Lots are permissible;

- (b) if the existing/proposed developments at the Lots do not fulfil the requirements of the OZP, the subject application for cable laying to provide electricity to support unlawful developments could hardly be justified; and
- (c) it should be carefully considered whether the approval of the subject application would encourage the practice of ‘Destroy First, Develop Later’, taking into account that non-conforming land uses or activities in South Lantau are not enforceable by the Planning Authority, and there are many environmental vandalism cases reported in South Lantau, in particular Pui O which has been proposed for conservation under the Sustainable Lantau Blueprint promulgated by the Government in 2017. The potential cumulative impact should also be considered.

Landscape

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

- (a) she has reservation on the application from landscape planning perspective;
- (b) the Site (about 15.6 m²) is located near Ham Tin Tsuen along Chi Ma Wan Road in Lantau. The applicant seeks planning permission for proposed public utility installation (underground power cable) and excavation and filling of land at the Site, which falls within an area zoned “CPA” on the OZP;
- (c) according to the aerial photo of 2019, the Site is hard paved and currently used as road/footpath. The Site is situated in an area of a coastal landscape character predominated by wetland, village houses and vegetated areas. The proposed installation is considered not incompatible with the surrounding environment. Nevertheless, there is an existing tree located in close proximity to the Site. The applicant should avoid excavation within the dripline of the existing tree and undertake appropriate tree protection measures during the construction stage to avoid causing any damage to the tree roots; and
- (d) in view of the limited site area, a landscape condition is considered not required should the application be approved by the Board.

Environment

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

- (a) he has no comment on the application; and

- (b) no environmental complaint concerning the Site and the adjacent Lots No. 2574 and 2576 was received in the past three years.

Nature Conservation

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

it is noted from aerial photo (**Plan A-3**) that the proposed underground power cable would be installed in an existing road/footpath. According to Part 9 of the application form at **Appendix I**, no tree felling would be involved. Nevertheless, it is noted in the legend of the attached map from the applicant that proposed tree trimming / cutting might be involved. It is noted that the Site is in close proximity to an existing tree. Should tree trimming / cutting be involved for the proposed installation, the applicant should seek prior approval from relevant department(s) and undertake appropriate tree protection measures during the construction stage to avoid causing any damage to the existing tree.

Drainage

8.1.6 Comments of the Chief Engineer/Hong Kong & Islands, DSD (CE/HK&I, DSD):

- (a) he has no comment on the application based on the proposed implementation programme and information that the anticipated completion time of the proposed installation is in February 2021, and the applicant would backfill the Site to original ground level after completion of cable laying works; and
- (b) the proposed alignment of the proposed installation conflicts with his proposed sewers to be laid under the project with Consultancy Agreement No. 17/2012(DS) – “Outlying Islands Sewerage Stage 2 – South Lantau Sewerage Works and Other Works – Design and Construction”. The applicant should seek his comments if there is any change to the anticipated programme.

District Office’s Comment

8.1.7 Comments of the District Officer/Islands, Home Affairs Department (DO/Is of HAD):

he has no specific comment on the proposed installation from local works angle as it will not affect the current or impending works of his office in the vicinity.

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

- (a) Chief Highway Engineer/NT East, Highways Department (CHE/NTE, HyD);
- (b) Commissioner for Transport (C for T);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C of WSD);
- (d) Director of Electrical and Mechanical Services (DEMS)
- (e) Director of Fire Services (D of FS); and

- (f) Head of the Geotechnical Engineering, Civil Engineering and Development Department (H(GEO), CEDD).

9. Public Comments Received During Statutory Publication Period

On 8.12.2020, the application was published for public inspection. During the first three-week statutory public inspection period which was ended on 29.12.2020, 3 public comments from World Wild Fund Hong Kong, Designing Hong Kong Limited and an individual were received raising objection to and/or concern on the application (**Appendix IV**). The main grounds of objections and concerns include that the proposed installation is to provide electricity to containers falling within the “CPA”, which would legitimize suspected unauthorized development; setting undesirable precedent; encouraging “Destroy First, Development Later” practice.

10. Planning Considerations and Assessment

10.1 The applicant seeks planning permission for proposed public utility installation (underground cable) and excavation and filling of land at the Site within the area zoned “CPA”. The planning intention of the “CPA” zone is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It is also intended to safeguard the beaches and their immediate hinterland and to prevent haphazard ribbon development along the South Lantau Coast. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or the development is an essential infrastructure project with overriding public interest may be permitted. These scenic and ecologically sensitive coastal areas should also be protected against land filling, land excavation or stream diversion and encroachment by developments. According to the applicant, the proposed installation will provide electricity to the containers at the adjacent Lots No. 2574 and 2576 for drying wet cloth. However, the applicant has not provided any details on the use of the Lots. The said drying of cloth, if operated as laundering or dry cleaning, maybe regarded as service trade or industrial use, depending on the scale of operation. Both uses are not permitted within the “CPA” zone. Currently, there are three modified containers and carports with shelters at Lot No. 2574 while Lot No. 2576 is partly vacant with a modified container placed at the northern end of the lot. The Lots have already been partly paved. According to the Notes of the OZP, any filling or excavation of land within the “CPA” zone shall not be undertaken or continued on or after the date of the publication in the Gazette of the notice of the draft South Lantau Coast OZP No. S/SLC/13 without the permission from the Board. The Board has not received any planning application regarding the use and filling/excavation of land at the Lots. The applicant fails to justify the proposed installation is to support the conservation of the existing natural landscape or scenic quality of the area or is essential infrastructure project with overriding public interest.

10.2 The Site is paved and forms part of Chi Ma Wan Road connecting between Pui O and Shap Long (**Plan A-4**). According to the applicant, the Site will be backfilled to the original ground level after the completion of the proposed installation. CTP/UD&L of PlanD has reservation on the application from landscape planning perspective as

there is an existing tree located in close proximity to the Site. DAFC also advises that appropriate tree protection measures should be undertaken during the construction stage to avoid causing any damage to the existing tree. In view of the small scale of the proposed installation, no adverse environmental, geotechnical and traffic impacts on the surrounding areas are anticipated. Relevant government departments have no objection to or no adverse comment on the application on technical aspects.

- 10.3 The Site was part of the subject of two previous applications No. A/SLC/145 and 154 submitted by DSD for proposed public utility installation (sewage pumping station, underground sewers and/or underground effluent pipe) and excavation of land for underground sewers which were approved with conditions by the Committee in 2017 and 2019 respectively, the works were considered to be essential infrastructure project in the public interest and there would be no adverse ecological, environmental, noise, air, landscape and visual impacts to the surrounding areas. The two applications were part of the sewerage project commissioned by DSD. While the alignment of the proposed underground power cable would have interface issue with the underground sewers proposed under the project by DSD, CE/HK&I, DSD has no comment on the application based on the proposed implementation programme and information that the anticipated completion time of the proposed installation is in February 2021, and the applicant would backfill the Site to original ground level after completion of cable laying works.
- 10.4 There are five similar applications (No. A/SLC/87, 109, 141, 160 and 162) for public utility installation considered by the Committee between 2008 and 2020. Except application No. A/SLC/162, the other four applications were approved with/without conditions by the Committee mainly on the considerations that the proposed developments were the essential infrastructures to the area with overriding public interest; and there would be no adverse impacts to the surrounding areas.
- 10.5 For Application No. A/SLC/162, it was for underground power cable to provide electricity to a storage use at a private lot which was not a permitted use in the “CPZ” zone. It was rejected by the Committee mainly for the reasons of being not in line with the planning intention of the “CPA” zone as the applicant failed to demonstrate that the proposed installation is to support the conservation of the existing natural landscape or scenic quality of the area or was essential infrastructure project with overriding public interest; and setting the undesirable precedent for similar applications to provide utility installation for uses not permitted within the “CPA” zone. Rejecting the subject application which the applicant fails to justify the proposed installation is to support the conservation of the existing natural landscape or scenic quality of the area or is essential infrastructure project with overriding public interest, is in line with the Committee’s previous decision on the similar application No. A/SLC/162. Granting of approval to the application would set an undesirable precedent for similar applications to provide utility installation for uses not permitted within the “CPA” zone the cumulative effect of approving such applications would result in a general degradation of the natural environment and landscape of the area.
- 10.6 Regarding the objections / concerns raised in the public comments, the planning assessments in paragraph 10.1 to 10.5 above are relevant.

11. Planning Department's Views

11.1 Based on the assessment made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9, the Planning Department does not support the application for the following reasons:

- (a) the proposed installation is not in line with the planning intention of the “CPA” zone which is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It is also intended to safeguard the beaches and their immediate hinterland and to prevent haphazard ribbon development along the South Lantau Coast. There is a general presumption against development in this zone. The proposed installation is to provide electricity for drying wet cloth at Lots 2574 and 2576 in D.D. 316L which is not a permitted use within the “CPA” zone. The applicant fails to demonstrate that the proposed installation is to support the conservation of the existing natural landscape or scenic quality of the area or is essential infrastructure project with overriding public interest; and
- (b) approval of the application would set an undesirable precedent for similar applications to provide utility installation for uses not permitted within the “CPA” zone and the cumulative effect of approving such applications would result in a general degradation of the natural environment and landscape of the area.

11.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 22.1.2025, and after the said date, the permission shall cease to have effect unless before the said date the development permitted is commenced or the permission is renewed. The advisory clauses at **Appendix V** are also suggested for Members' reference.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.
- 12.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clauses, if any, to be attached to the permission, and the date when the validity of the permission should expire.

13. Attachments

Appendix I	Application form received on 25.11.2020
Appendix Ia	Supplementary Information received on 1.12.2020
Appendix Ib	Supplementary Information received on 3.12.2020
Appendix II	Previous Applications

Appendix III
Appendix IV
Appendix V

Similar Applications
Public Comments received during the Statutory Publication Period
Advisory Clauses

Drawing A-1
Drawing A-2
Drawings A-3a and A-3b
Plan A-1
Plan A-2
Plan A-3
Plan A-4 and A-5

Layout Plan
Section Plan for typical LV cable trench
Floor Plans of the proposed meter box at the Lots
Location Plan
Site Plan
Aerial Photo
Site Photos

PLANNING DEPARTMENT
JANUARY 2021