

RNTPC Paper No. A/YL-PN/51
For Consideration by
the Rural and New Town
Planning Committee
on 16.3.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PN/51

- Applicant** : Solarever Holdings Limited
- Site** : Government Land in D.D. 135, Ha Pak Nai, Yuen Long, New Territories
- Site Area** : About 29.73m²
- Lease** : Unleased and Unallocated Government Land
- Plan** : Approved Sheung Pak Nai & Ha Pak Nai Outline Zoning Plan No. S/YL-PN/9
- Zoning** : “Coastal Protection Area” (“CPA”)
- Application** : Proposed Temporary Staff Common Room and Store Room for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary staff common room and store room (two containers) for a solar power project in Deep Bay area for a period of 3 years (**Plan A-1**). The Site is currently vacant.
- 1.2 According to the covering Notes of the OZP, except temporary uses for open storage and port back-up purposes which are prohibited in areas zoned “CPA”, temporary use or development of any land or building not exceeding a period of three years requires permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for in terms of the OZP.
- 1.3 The major development parameters of the application is as follows:

Site area	About 29.73m ²
Total floor area	About 29.73m ²
No. of structures and maximum GFA	2 containers • Staff Common Room: (6.096m x 2.438m) 14.86m ² • Store Room: (6.096m x 2.438m) 14.86m ²
Height of structures	2.62m, 1 storey

Vehicle parking spaces	Nil
Operation hours	9:00 a.m. to 6:00 p.m. from Mondays to Saturdays

- 1.4 The access route plan and layout plan are at **Drawings A-1** and **A-2** respectively.
- 1.5 According to the applicant, the Site is accessible via a local track which connects to Nim Wan Road. Unloading of materials will only be carried out at the vacant land near the beach. Vehicles will not enter the beach area. All disposals will be taken away by staff every day after work. The assembling process will not involve machinery. No land excavation and hard-paving will be involved in the current application. The operation hours are from 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays.
- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 22.1.2018 **(Appendix I)**
 - (b) Project profile of the solar power project in Deep Bay area attached to the application form with replacement page of the project profile received on 26.2.2018 incorporated **(Appendix Ia)**
 - (c) Email of 2.3.2018 providing justifications for the site location and the applied use and clarifying that no excavation or hard-paving will be involved at the Site **(Appendix Ib)**

2. Justifications from the Applicant

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

- (a) The demand for electricity is escalating in Hong Kong. The traditional way of electricity generation would disturb the ecological environment of Hong Kong.
- (b) The applicant is conducting scientific research to explore innovative ways of electricity generation in order to make more efficient use of natural resources, protect the natural environment and thus benefitting Hong Kong.
- (c) The project involves fabricating and fixing of solar panels which requires a period of time to complete. To facilitate conducting the research, two containers are proposed to be set up at the Site. One of the containers is proposed to be a staff common room for accommodating 10 staff, safeguarding their job safety and providing shade. The other container is proposed to be a store room for storing equipment related to the research such as the 1280 pieces of solar panels, buoys, drill and screw. The store room can prevent the solar panels and other equipment from being damaged and stolen.
- (d) The Site near the Deep Bay area, which is flat with fewer trees and grass, is considered suitable for placing the containers.
- (e) No excavation or hard-paving will be involved at the Site.

- (f) The applicant will protect the environment. The staff will use the toilet located at the nearby fishing ground. The two containers will be kept at a distance from the mangrove. Upon completion of the project, the two containers will be handled properly from the Site.

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

As the Site involves Government land 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) is not applicable to the application.

4. Previous Application

There is no previous application covering the Site.

5. Similar Application

There is no similar application for temporary staff common room and store room within the same “CPA” zone on the OZP.

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

6.1 The Site is:

- (a) currently vacant; and
- (b) accessed via a local track which connects to Nim Wan Road.

6.2 The surrounding areas have the following characteristics:

- (a) to the immediate north, south and east are open storage of anchor, solar panels, buoys, containers and vacant land;
- (b) to the northeast are unused land, wetland and a fishing ground covered by valid planning permission (No. A/YL-PN/42);
- (c) to the southeast is a pond (reed bed);
- (d) to the further south is cultivated agricultural land; and
- (e) to the west is Deep Bay (Shenzhen Wan).

7. Planning Intention

The planning intention of 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 may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion. 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.

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 the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site situates on Government Land (GL) (about 29.729m² subject to verification) and no permission is given for occupation of GL included in the Site. The act of occupation of GL without Government's prior approval is not allowed.
- (b) The Site is accessible to Nim Wan Road through a local track on both private lot and GL. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given to the subject planning application, the applicant has to apply for a formal approval prior to the actual occupation of the GL. Such application will be considered by the LandsD acting in the capacity of the landlord at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.
- (e) With reference to the site photos provided by the Planning Department dated 26.2.2018, the suspected illegal occupation on Government land near the beach is noted. Action will be taken as appropriate.

Nature Conservation

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

- (a) It is noted that the application site falls within "CPA" zone on the approved Sheung Pak Nai and Ha Pak Nai Outline Zoning Plan No. S/YL-PN/9. The proposed use seems incompatible with the planning intention of that area, which is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment including area of high ecological value (such as the mudflat nearby), and 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, while these are not quite relevant to this application.

- (b) A site inspection was conducted on 26.1.2018 to the Site. It was found that there is a reed bed located in close adjacency to the proposed location for placing the two containers. There may be adverse impacts on the reed bed and the surrounding natural environment while transporting and placing the containers as it appears that there is no proper vehicular access to the Site.
- (c) From fisheries point of view, he has no particular comments on the application for placing two containers at the location shown in the applicant's proposal. However, the proposed offshore project area where the solar panels will be located may overlap with the oyster culture area at Lau Fau Shan in Deep Bay. The applicant should approach relevant oyster farmers before the implementation of the project.
- (d) As the approval of the solar power project is yet to be obtained from relevant authority, he considers it premature for the applicant to propose the two containers at the Site. Given that the Site falls within "CPA", he has reservation on the application.
- (e) On the proposal to install solar panels in Deep Bay, a letter from DAFC dated 8.2.2018 to the applicant is attached for reference (**Appendix II**).

Environment

8.1.3 Comment of the Director of Environmental Protection (DEP):

- (a) It is noted that the applicant is seeking planning permission for temporary use of a piece of government land (about 30 m²) in D.D. 135, Ha Pak Nai, Yuen Long, N.T. for placing two containers using for staff common room and store room in connection with a solar energy project.
- (b) The applicant has stated in the planning application that only manpower installation will be carried out, no mechanical plant will be used and no excavation/dredging activities will be involved. Moreover, no toilet will be provided on site and the workers will use the existing toilet near the Site.
- (c) Based on the above information, the proposed temporary use of the land area for placing two containers using for staff common room and store room is not anticipated to have adverse environmental implications and thus he has no objection to the planning application.
- (d) Nevertheless, he notes that the subject planning application is in

connection with a solar energy project for placing floating solar panels near the shoreline of the Pak Nai. In this connection, the applicant should be advised that, as the majority of the coastline area of Pak Nai is zoned as “CPA”, depending on the details of a project, dredging/drainage channel works in close proximity to a “CPA” could be a Designated Project (DP) under the EIAO, and an Environmental Permit would be required for the construction and operation of a DP. Moreover, the requirements under other pollution control ordinances may also be applicable.

Landscape

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

- (a) With reference to the site photo dated 2.2.2018 and aerial photo of 2017, the site is observed to be a vegetated area adjoining a dirt track. Solar panels and other objects are observed in the vicinity of the Site. The Site is close to existing mangroves situated in an area of rural coastal plain landscape character in the Deep Bay area. With reference to the Landscape Value Mapping of Hong Kong, the area is of high landscape value within Sheung Pak Nai Coastal Plain with mangroves and intertidal coast.
- (b) The proposed locations of the 2 containers (for staff common room and store room) are at the far end of the track and hence in close proximity to the intertidal shoreline of Deep Bay. The applied use is incompatible with the surrounding landscape character. Moreover, there is a general presumption against development in this zone.
- (c) Approval of the application may set an undesirable precedent, likely encouraging other incompatible uses to proliferate in the “CPA” zone. The cumulative impact of which (including temporary uses) would be the general degradation of the rural coastal plain landscape character. Hence he has strong reservations to the application from the landscape planning point of view.
- (d) Given the proposed 100% site coverage it is impractical to impose a landscape condition.

Energy Policy Aspect

8.1.5 Comments of the Environment Bureau (ENB):

From the renewable energy promotion angle, he has no adverse comment on the application. He defers to relevant bureau/departments’ comments on the suitability of the location given that it falls within the “Coastal Protection Area”, and to Electrical and Mechanical Services Department’s comments on whether the proposed location and size for the proposed supporting facilities (i.e. the staff common room and store room) are justifiable.

8.1.6 Comments of the Director of Electrical and Mechanical Services (DEMS):

He has no objection on the application from the renewable energy study perspective. He understands that other departments may have concerns on the related regulations and ordinances as the Site falls within an area zoned "CPA".

Traffic

8.1.7 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

He has no adverse comment to the application from traffic engineering point of view.

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

(a) He has no comment subject that the access arrangement is acceptable to TD.

(b) He advises that the access between the Site and Nim Wan Road is not and will not be maintained by HyD.

Drainage

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

The area involved in the subject application is insignificant (i.e. about 30m²) and thus drainage impact is not envisaged. He has no objection to the application from drainage viewpoint. The applicant is reminded to provide his own drainage facilities to collect the runoff generated from the Site or passing through the Site, and discharge the runoff collected to a proper discharge point. The development should not obstruct overland flow or cause any adverse drainage impact to the adjacent areas and existing drainage facilities.

Water Supply

8.1.10 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

(a) He has no objection to the application.

(b) For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

- (c) Water mains in the vicinity of the Site cannot provide standard pedestal hydrant.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

8.1.12 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

Noting that the proposed temporary staff common room and store room is located on Government land, he is not in a position to comment the application.

District Officer's Comments

8.1.13 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any comment from locals upon the end of consultation period.

8.2 The following Government departments have no comment on the application:

- (a) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD);
- (b) Chief Engineer/Special Tasks, Civil Engineering and Development Department (CE/ST, CEDD);
- (c) Commissioner of Police (C of P);
- (d) Director of Food and Environmental Hygiene (DFEH);
- (e) Director of Leisure and Cultural Services (DLCS);

- (f) Director of Marine (D of M); and
- (g) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

9. Public Comments Received During Statutory Publication Period

- 9.1 On 2.2.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 23.2.2018, five public comments were received all objecting to the application (**Appendices III-1 to III-5**).
- 9.2 The five objecting comments are submitted by Kadoorie Farm and Botanic Garden Corporation, the Hong Kong Bird Watching Society, Designing Hong Kong Limited, WWF-Hong Kong and an individual. They object to the application on grounds of not in line with the planning intention of the “CPA” zone, cumulative impact of approving the application, approval/grants of the solar power project should have been obtained, adverse ecological impacts on the birds, other intertidal/benthic/marine wildlife and oyster beds arising from the solar panel installation project, risk of improper disposal of construction or electronic materials and waste, potential environmental and ecological risks in case of accidents and undesirable precedent.

10. Planning Considerations and Assessments

- 10.1 The current application is for a proposed temporary staff common room and a store room, which are in relation to a proposed solar power project, on the Site which is zoned “CPA” on the OZP. 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. 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. The proposed development is considered not in line with the planning intention of the “CPA” zone. Although the applicant indicates that the common room is for job safety and providing shade and the store room is to protect his equipment, he fails to demonstrate that the proposed development is needed to support the aforesaid conservation purposes. In this regard, there is no strong justification for a departure from the planning intention even on a temporary basis.
- 10.2 DAFC considers that the proposed use is incompatible with the planning intention of the area. He also considers that the current application is not relevant to 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. The Site and the informal track leading to the Site are also flanked by wetland and reed bed. DAFC raises concerns on the adverse impacts on the reed bed and the surrounding natural environment when transporting and placing the containers, given the reed bed is located in close proximity to the Site and there is no proper vehicular access to the Site. As the approval of the solar power project is yet to be obtained from

relevant authority, he considers it premature for the applicant to propose the two containers at the Site. Given that the Site falls within “CPA”, he has reservation on the application.

- 10.3 CTP/UD&L of PlanD has strong reservations on the application from landscape planning point of view. The Site is a vegetated area located in an area of high landscape value within Sheung Pak Nai Coastal Plain in the Deep Bay area with existing mangroves and intertidal coast in close proximity to the Site. The two proposed containers adjacent to the intertidal shoreline of Deep Bay is considered incompatible with the surrounding landscape character. Approval of the application would encourage similar applications and set an undesirable precedent in the “CPA” zone. The cumulative effect of approving similar applications, even on a temporary basis, would result in a general degradation of the environment of the area.
- 10.4 There are five public comments received during the statutory publication period objecting to the application on grounds of land use planning, adverse ecological and environmental impacts, risk of improper disposal of materials and undesirable precedent as summarised in paragraph 9.2 above. The planning considerations and assessments 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 above, the Planning Department does not support the application for the following reasons:
- (a) the “CPA” zoning 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. There is a general presumption against development in this zone. The proposed development is not in line with the planning intention of the “CPA” zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
 - (b) the Site is located in an area of high landscape value with mangroves and intertidal shorelines. The proposed development is incompatible with the surrounding landscape character; and
 - (c) approval of the application would set an undesirable precedent for similar applications in the “CPA” zone. The cumulative effect of approving such applications would result in a general degradation of the natural environment and landscape quality in the area.
- 11.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until **16.3.2021**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no machinery is allowed on the Site, as proposed by the applicant, at any time during the planning approval period;
- (c) no excavation is allowed on the Site, as proposed by the applicant, at any time during the planning approval period;
- (d) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **16.9.2018**;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **16.12.2018**;
- (f) if any of the above planning conditions (a), (b) or (c) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (g) if any of the above planning conditions (d) or (e) is not complied with by the above specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (h) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

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 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 period of which the permission should be valid on a temporary basis.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

13. Attachments

Appendix I	Application form received on 22.1.2018
Appendix Ia	Project profile of the solar power project in Deep Bay area attached to the application form with replacement page of the project profile received on 26.2.2018 incorporated
Appendix Ib	Email of 2.3.2018 providing justifications for the site location and the applied use and clarifying that no excavation or hard-paving will be involved at the Site
Appendix II	Letter of 8.2.2018 from the DAFC to the applicant
Appendices III-1 to III-5	Public comments received during statutory publication period
Appendix IV	Advisory Clauses
Drawing A-1	Access Route Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2018**