

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

**APPLICATION NO. A/YL-PN/53**

<b><u>Applicant</u></b>	:	Sun Cheong Management Consultant Limited
<b><u>Site</u></b>	:	Lots 11 (Part), 14 (Part) and 15 in D.D. 135 and Adjoining Government Land, Sheung Pak Nai, Yuen Long, New Territories
<b><u>Site Area</u></b>	:	About 3,900m <sup>2</sup> (including government land of about 900m <sup>2</sup> )
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural purposes)
<b><u>Plan</u></b>	:	Approved Sheung Pak Nai and Ha Pak Nai Outline Zoning Plan No. S/YL-PN/9
<b><u>Zoning</u></b>	:	“Coastal Protection Area” (“CPA”)
<b><u>Application</u></b>	:	Proposed Temporary Place of Recreation, Sports or Culture (Fishing Ground) 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 place of recreation, sports or culture (fishing ground) for a period of 3 years. Majority of the Site is vacant, with some barbecue facilities.
- 1.2 According to the Notes for the “CPA” zone on the OZP, ‘Place of Recreation, Sports or Culture’ is neither a Column 1 nor Column 2 use within “CPA” zones on the OZP. However, 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 buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. Any filling of land/pond or excavation of land, including that to effect a change of use to any of those specified in Columns 1 and 2 or uses/developments always permitted under the covering Notes, requires planning permission from the Town Planning Board (the Board). The applicant currently seeks temporary permission for a period of 3 years.
- 1.3 The Site is related to two previous applications (Nos. A/YL-PN/47 (withdrawn) and 49) for different uses. The last Application No. A/YL-PN/49 involving a larger site for temporary place of recreation, sports or culture (hobby farm) for

a period of 3 years submitted by the same applicant was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 24.11.2017. Details of the previous applications are summarized at paragraph 5 below and at **Appendix II**.

1.4 The major development parameters of the application is as follows:

<b>Site Area (m<sup>2</sup>)</b>	About 3,900
<b>Total floor area (m<sup>2</sup>)</b>	399
<b>Fishing ground area (m<sup>2</sup>)</b>	Not exceeding 700m <sup>2</sup> (20m (W) x 35m (L) x 1.2m (D))
<b>No. of structures and maximum GFA</b>	5 <ul style="list-style-type: none"> <li>• 1 (site office) (15m<sup>2</sup> each)</li> <li>• 1 (mobile toilet) (4m<sup>2</sup>)</li> <li>• 1 (storage of fishing tools) (60m<sup>2</sup> each)</li> <li>• 2 (open sheds for rain shelter use) (160m<sup>2</sup> each)</li> </ul>
<b>Height of structures</b>	3m to 3.5m, 1 storey
<b>Vehicle parking spaces</b>	Nil
<b>Loading/unloading spaces</b>	Nil
<b>Operation hours</b>	9:00 a.m. to 7:30 p.m. daily (including Sundays and Public Holidays)

1.5 The layout plan, landscape plan, fire service installations proposal and proposed drainage plan submitted by the applicant are at **Drawings A-1 to A-4** respectively.

1.6 According to the applicant, neither land filling nor pond filling will be carried out at the Site. The depth of excavation for the fish pond will be about 1.2m only. No area is proposed to be hard paved. All the area of the Site is covered by grass. No operation will be carried out from 7:30 p.m. to 9:00 a.m. No public announcement system is allowed on the Site. No vehicle is allowed on the Site. The estimated number of visitors is about 20 per day. All visitors should take public transport or by foot to the Site.

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

- (a) Application form received on 20.3.2018 **(Appendix I)**
- (b) Supplementary planning statement with layout plan, landscape plan, fire service installations proposal and proposed drainage plan **(Appendix Ia)**
- (c) Letter dated 23.4.2018 providing responses to comments from the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD), Director of Agriculture, Fisheries and Conservation (DAFC) and the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) **(Appendix Ib)**

- (d) Letter dated 24.4.2018 providing responses to comments from the Director of Environmental Protection (DEP) (Appendix Ic)
- (e) Letter dated 2.5.2018 providing responses to comments from DEP (Appendix Id)
- (f) Letter dated 3.5.2018 clarifying the dimensions of the proposed fish pond (Appendix Ie)

## 2. **Justifications from the Applicant**

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

- (a) The proposed temporary development did not violate the long term planning intention of the zone as the proposed development and all structures are temporary in nature.
- (b) The proposed temporary fishing ground intends to cultivate the interest and knowledge of the participants in fishing hobbies and to provide an opportunity for the participants to experience fishing.
- (c) Except that it will be opened for public, the proposed development is similar to 'Agricultural Use' always permitted within "CPA" zone on the approved Sheung Pak Nai and Ha Pak Nai OZP No. S/YL-PN/9.
- (d) The proposed development supports the policy of the Food and Environmental Hygiene Department and the Agriculture, Fisheries and Conservation Department to encourage re-cultivation and to encourage landowners to use land for production and to make good use of land resources.
- (e) The proposed development supports the Labour Policy of the Labour Department in giving priority to employ persons with disabilities and provide job opportunities.
- (f) There are similar approved Application Nos. A/YL-PN/28, 36, 44 and 50 in the vicinity of the Site. Similar preferential treatment should be given to the current application.
- (g) The proposed development is not subject to any land transaction being proposed by the Land Authority for the conversion into low density residential use.
- (h) The proposed development is compatible with the surrounding land uses. No adverse drainage, traffic, environmental and visual impacts will be generated.
- (i) Since no area in the Site is proposed to be hard paved, no adverse off-site impact will be caused.
- (j) The applicant proposes to hydroseeding grass species of native shrub mix to reinstate the Site to an amenity area upon expiry of the planning permission.

- (k) The applicant undertakes that proper sewage treatments as precaution measures will be carried out, the pond water will be kept clean and safe and cleaning of pond will be carried out routinely.
- (l) All construction work will be carried out within the Site boundary. Barriers and silt reap will be installed at the perimeter of the Site boundary to avoid surface runoff affecting the nearby sensitive receivers. Drainage channel is also proposed for Drainage Services Department consent. River training and diversion will not be carried out.
- (m) The applicant has proposed measures on wastewater and sewage treatment to avoid adverse water quality impact on the nearby sensitive receivers. **(Appendix Id)**

### **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. 31A) by posting notice of the application outside the Site and sending notice to Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

- 4.1 Based on aerial photo taken on 3.1.2015 (**Plan A-3a**), the Site was covered by vegetation. Subsequently, vegetation clearance has taken place as revealed in aerial photo taken on 13.10.2016 (**Plan A-3b**). Majority of the Site was then hard paved as revealed in aerial photo taken on 4.4.2017 (**Plan A-3c**). The aerial photo taken on 3.1.2018 is shown on **Plan A-3d**.
- 4.2 The Site was subject to previous enforcement cases (Nos. E/YL-PN/27 and 32) for filling of land. Enforcement Notices of No. E/YL-PN/27 and 32 were issued on 7.11.2011 and 3.1.2013 respectively, and both EN were complied with on 30.9.2014 (**Plan A-2b**).
- 4.3 The Site is related to a public complaint of the suspected land filling and warning letter was issued on 10.8.2016. Subsequent site inspection by the Central Enforcement and Prosecution Section of the Planning Department (CEPS, PlanD) revealed that the filled materials were removed and partly covered with vegetation. Site inspection revealed that part of the Site was covered by vegetated land and part of it was paved with floor tiles. The floor tiles were subsequently removed.
- 4.4 It is noted that barbecue facilities were found at the eastern portion of the Site. Subject to the collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be taken in due course.

## 5. Previous Applications

- 5.1 The Site is involved in two previous applications (Nos. A/YL-PN/47 and 49). Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Application No. A/YL-PN/47 for temporary place of recreation, sports or culture (hobby farm) for a period of 3 years was submitted by the same applicant of the current application on 18.11.2016. The development proposal involved larger site area (i.e. 19,800m<sup>2</sup>), hard paving of about 2,415m<sup>2</sup> and structures for BBQ covered area. Before the scheduled date for consideration by the Committee on 12.5.2017, the applicant withdrew the application on 26.4.2017.
- 5.3 Application No. A/YL-PN/49 for temporary place of recreation, sports or culture (hobby farm) for a period of 3 years submitted by the same applicant of the current application was rejected by the Committee on 24.11.2017. The site was mostly hard paved at the time of application. It was rejected on grounds of not in line with the planning intention of the “CPA” zone, no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis and undesirable precedent.

## 6. Similar Applications

- 6.1 There are nine similar applications (Nos. A/YL-PN/7, 16, 22, 28, 36, 39, 44, 48 and 50) for temporary place of recreation, sports or culture for a period of 3 years. Amongst the nine similar applications, seven were approved and two were rejected. Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Application Nos. A/YL-PN/16, 22, 28, 36, 39, 44 and 50 involving two sites and the use of existing fish ponds for temporary fishing grounds were approved by the Committee with conditions for a period of 3 years on 4.7.2008, 23.1.2009, 2.9.2011, 1.6.2012, 22.8.2014, 20.11.2015 and 8.9.2017 respectively. The major considerations were that approval on a temporary basis would not jeopardise the planning intention of “CPA” zone given no significant change in character anticipated and no pond filling/excavation required; concerned Government departments had no objection to/no adverse comment on the application; and approval was in line with previous decisions of the Board.
- 6.3 Application No. A/YL-PN/7 for temporary fishing ground was rejected by the Committee on 27.2.2004 for the reasons that no information was provided to demonstrate that the proposed development would not have adverse traffic and hygiene impacts on the surrounding areas; and approval would set an undesirable precedent. Application No. A/YL-PN/48 for temporary fishing ground with ancillary vehicle park and office was rejected by the Committee on 28.7.2017 on grounds that the development was not in line with the planning intention; there was insufficient information to demonstrate no adverse environmental, landscape and traffic impacts; part of the application site had once been pond-filled illegally; and approval of the application could be misread as acquittal of the ‘destroy first’ actions.

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

7.1 The Site is:

- (a) mostly vacant with some barbecue facilities; and
- (b) accessible to Nim Wan Road via the vacant land to the south of the Site.

7.2 The surrounding areas have the following characteristics:

- (a) to the north and northeast are vacant land, a fishing ground covered by valid planning permission (No. A/YL-PN/44) and a pond;
- (b) to the immediate east and southeast are vacant land, storage yard, residential dwellings, unused land and a fishing ground covered by valid planning permission (No. A/YL-PN/50);
- (c) to the south and southwest are vacant land, unused land, storage yard, open storage of construction materials, a pond and cultivated agricultural land; and
- (d) to the west and northwest are fallow and cultivated agricultural land and a residential dwelling.

**8. 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 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.

**9. Comments from Relevant Government Departments**

9.1 The following government departments have been consulted and their views on the application and the public comment are summarized as follows:

**Land Administration**

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

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.

- (b) No permission is given for occupation of government land (GL) (about 900m<sup>2</sup> subject to verification) included in the Site. The act of occupation of GL without Government's prior approval is not allowed.
- (c) The Site is accessible to Nim Wan Road through both private lots and GL. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the lots owners will need to apply to his office to permit the structures to be erected or regularize any irregularities on Site. Furthermore, the applicant has to apply for a formal approval prior to the actual occupation of the GL portion. Such application(s) will be considered by LandsD acting in the capacity of the landlord at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) 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 LandsD.

### **Environment**

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

- (a) It is stated in the application that neither land filling nor pond filling will be carried out at the Site. No vehicle is allowed on Site at any time during the planning approval period, all visitors should take public transport or by foot to the Site.
- (b) The applicant has also supplemented on 24.4.2018 that manual excavation for the proposed fish pond to a depth of about 1.2m will be required. Moreover, drainage channel is proposed for the Drainage Services Department consent.
- (c) The applicant submitted the further information (FI) on 2.5.2018 providing the following supplementary information:
  - (i) Tracked excavator will be used for soil excavation to establish the fish pond.
  - (ii) The surplus excavated materials will be disposed of at government approved public filling reception facilities, and Trip Ticket System will be used to track dump truck delivering activities.
  - (iii) Mitigation measures are proposed to prevent untreated surface run-off flowing out of the Site during construction stage.
  - (iv) Mobile toilet will be provided to handle the sewage arising

from the construction and operation stage of the proposed development.

- (v) During the operational stage, routine cleaning will be carried out. Ponds will be routinely cleaned and treated.
- (d) The Site falls within “CPA” and the Deep Bay Water Control Zone with a Site of Special Scientific Interest (SSSI) and a number of fish ponds located in close proximity. Moreover, the Site is not served by public sewer. Therefore, if wastewater and sewage arising from the proposed fishing ground during the construction and operational stage is not properly handled, water pollutants may enter the above-mentioned sensitive receivers resulting in potential adverse water quality impact.
- (e) He notes from the FI as highlighted in paragraph (c)(v) above that ponds will be routinely cleaned and treated during the operational stage. However, there is no information on how the ponds will be cleaned and treated, in particular, whether chemicals will be used to maintain the fish pond water quality which may cause potential chemical spillage from the fish pond. Moreover, he understands that for typical fish pond management, regular dredging of bottom sediment and dewatering of pond will be carried out with potential effluent discharge. In this connection, the applicant has not provided sufficient information on how this will be handled. For example, how the drainage system of the fishpond will be designed to reduce the chance of flooding as the overflow of fishpond water may create adverse water quality impact.
- (f) In view of the above, the applicant has not provided adequate information to demonstrate that the operation of the proposed fishing ground at the Site will not result in adverse environmental impact, he is unable to support the application at this stage.
- (g) The applicant is advised that no effluent shall be discharged within 100m of the landward boundary of a SSSI as controlled by Water Pollution Control Ordinance.
- (h) Lastly, the applicant is reminded that the following two activities at the Site will constitute a designated project requiring an environmental permit for its construction and operation under the Environmental Impact Assessment Ordinance (Cap. 499):
  - (i) a dredging operation which is less than 500m from the CPA or SSSI;
  - (ii) a drainage channel which discharge into an area which is less than 300m from the CPA or SSSI.

- (i) In the past three years, there was one substantiated environmental complaint regarding illegal dumping of construction and demolition waste received in July 2016 pertaining to the Site.

### Nature Conservation

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

- (a) It is noted that the Site is zoned as “CPA” and not far away from the Pak Nai SSSI. Based on his record, the Site was involved in a previous case of suspected unauthorised landfilling activities in July 2016. His site inspection in December 2016 revealed that the Site was partially-paved at that time for the proposed uses in previous planning application. Another site visit has been conducted and it was found that some workers were erecting metal frames on the Site. It appears that the Site is once again being developed for the proposed applied uses before obtaining planning approval from the Board. Subject to the advice from CTP/CEP, PlanD, he trusts that PlanD would take into account the history of unauthorised activities/ development involved in the Site and the planning intention of “CPA” zone, if any, among others when considering the subject application, particularly if approving the subject application would result in any undesirable precedent effect on encouraging other similar unauthorised activities/ developments in the subject area in the future.
- (b) According to the Schedule of Uses of 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 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. Based on the layout plan (**Drawing A-1**) provided by the applicant, a total of 5 structures, including 2 converted containers, 2 open sheds and 1 mobile toilet, will be placed at the Site. He trusts PlanD would consider whether the proposed development is in line with the planning intention of “CPA” zone as suggested in the applicant’s justifications.
- (c) The Site is not far away from the coastal areas in Deep Bay and Pak Nai SSSI, and there are fish ponds nearby. He is concerned that there may be potential impacts/disturbance to these habitats and the activities of the adjacent pond, from

both ecological and fisheries point of view. He notes the applicant has responded in the further information a number of measures to avoid water pollution/surface runoff to the adjacent sensitive receivers, e.g. proper sewage treatment, installation of barriers during all construction works. The applicant has also claimed in the FI that the proposed development will not involve land/pond filling and tree felling. Provided that such measures are practicable and effective in avoiding potential impacts to adjacent habitats and fish ponds, he has no further comments.

- (d) Nevertheless, he has doubts whether the proposed development could meet the planning intention of “CPA” zone. Moreover, history of the site appeared to indicate some sort of unauthorized development there and approval of the application may set an undesirable precedent. His concerns in that aspect are still valid.

### **Landscape**

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

- (a) With reference to the site photos dated 27.3.2018 and aerial photo of 2018, it is observed that the Site is formed, partly hard paved, and partly as active farm. Some common fruit trees are observed at the southern portion of the Site. The Site is situated in an area of rural landscape character disturbed by open storage yard. Fish ponds are observed to the immediate east and south west of the Site, active farm and fish ponds is observed to the immediate north and further north of the Site. The proposed use is not entirely incompatible with the surrounding environment.
- (b) Having reviewed the further information, he has no further comments from the landscape planning perspective.

Should the TPB approve this application, in view of the above, he would recommend the following landscape condition to be included in the permission:

The implementation of the approved tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the TPB.

### **Other Advisory Comments**

- (i) The Applicant is advised that the approval of the landscape proposal under S.16 application does not imply approval of Tree Works such as pruning, transplanting and felling under lease. Tree Works applications should be submitted direct to DLO for approval.

- (ii) The Applicant should leave adequate spacing between the fence, structures and trees to promote a more sustainable growing environment for the trees. A minimum distance of 600mm between the fence and the tree planting should be provided.
- (iii) The Applicant is also advised that there should be a minimum soil provision of 1m (W) x 1m (L) x 1.2m (D) for each tree.
- (iv) The Applicant shall be reminded of the importance of general tree care as well as proper tree maintenance. Useful information on general tree maintenance is available for reference in 護養樹木的簡易圖解 ([http://www.greening.gov.hk/filemanager/content/pdf/tree\\_care/Pictorial\\_Guide\\_for\\_Tree\\_Maintenance.pdf](http://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf)) and the Handbook of Tree Management (Chinese Version: [https://www.greening.gov.hk/tc/tree\\_care/Handbook\\_on\\_Tree\\_Management.html](https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html)) published by the GLTM Section, DEVB.

### **Traffic**

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

- (a) On the basis of applicant's submitted documents which stated that neither vehicular parking nor vehicular access was proposed, he has no adverse comment on the application from traffic engineering point of view.
- (b) The applicant shall remind visitors to arrive the Site by using public transport.

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

- (a) He notes that no vehicular access is proposed or to be granted under the subject application. He has no comment from highways maintenance point of view.
- (b) It is understood from the application that there is and will be no vehicular access to/from the Site.

### **Drainage**

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

- (a) He has no objection in principle to the proposed application from a drainage point of view.

- (b) Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of this Division.
- (c) His detailed comments on the submitted drainage proposal are at **Appendix IV**.

### **Building Matters**

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorised building works (UBW) under the Buildings Ordinance (BO). An Authorised Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergence vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulation respectively.
- (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.

### **Fire Safety**

#### 9.1.9 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) The fire service installations proposal submitted by the applicant is considered acceptable to his Department. The applicant is advised that the installation/ maintenance/

modification/ repair work of FSIs shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on whole instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to the D of FS.

- (c) 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.

### **Water Supply**

9.1.10 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.

### **Others**

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

He has no particular comment on the application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

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

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

His Office has not received any locals' comment on the subject application.

9.2 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); and
- (f) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

## **10. Public Comments Received During Statutory Publication Period**

10.1 On 27.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 17.4.2018, four public comments were received.

10.2 The four objecting comments are submitted by WWF-Hong Kong, the Kadoorie Farm & Botanic Garden Corporation, the Designing Hong Kong and an individual (**Appendices V-1 to V-4**). They object to the application on grounds of failure to explain how a fish ground could be created at the Site; "destroy first, develop later"; not in line with planning intention of the "CPA" zone; the applied development not for supporting the conservation of the area; adverse ecological and environmental impacts arising from the waste and pollution generated; and undesirable precedent.

## **11. Planning Considerations and Assessments**

11.1 The applicant seeks planning permission to use the Site for proposed temporary place of recreation, sports or culture (fishing ground) for a period of 3 years. 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.

11.2 The proposed development involves construction of a fish pond and erection of five structures (roofed over area of 10.23% of the Site) for site office, mobile toilet, storage of fishing tools and open sheds for rain shelter uses. The applicant fails to demonstrate that the proposal is needed to support the

conservation of the existing natural landscape and scenic quality of the area or essential infrastructural project with overriding public interests. In this regard, DAFC has doubt as to whether the proposed development could meet the planning intention of “CPA” zone. The proposed development is considered not in line with the planning intention of the “CPA” zone. There is no strong planning justification for a departure from the planning intention, even on a temporary basis.

- 11.3 The proposed development is not entirely incompatible with the surrounding uses which are predominantly fishponds, vacant/unused land, fallow/cultivated agricultural land and residential dwellings.
- 11.4 DEP indicates that they are unable to support the application at this stage. He points out that the Site falls within “CPA” and the Deep Bay Water Control Zone with a SSSI and a number of fish ponds are located in close proximity to the Site. However, the Site is not served by public sewer. The FI submitted by the applicant still fails to satisfactorily demonstrate that the wastewater and sewage arising from the proposed fishing ground would not result in potential adverse water quality impact and the proposed excavation works and handling of the excavated materials would not lead to adverse environmental impacts. In particular, the applicant has not provided adequate information to demonstrate how the pond will be cleaned and treated; how potential effluent discharge produced by regular dredging of bottom sediment and dewatering of pond will be handled; and how the drainage system of the pond will be designed to reduce the chance of flooding as the overflow of fish pond water may create adverse water quality impact.
- 11.5 DAFC considers from an ecological point of view that the Site is not far away from the coastal areas in Deep Bay and Pak Nai SSSI, and there are fish ponds nearby. DAFC is concerned that there may be potential impacts/disturbance to these habitats and the activities of the adjacent pond, from both ecological and fisheries point of views.
- 11.6 There are nine similar applications, among which seven were approved and two were rejected. The approved applications involved the use of existing fish ponds for temporary fishing grounds. In this regard, the current application is different in nature as the Site is not an existing fish pond and excavation will be involved to form the fish pond. There was insufficient information to demonstrate no adverse environmental impacts to the surrounding areas from the construction and operation of the fish pond.
- 11.7 There are four public comments (**Appendices V-1 to V-4**) received objecting to the application mainly on grounds of failure to explain how a fish ground could be created at the Site, “destroy first, develop later”, not in line with planning intention of the “CPA” zone, adverse impacts generated and undesirable precedent. The planning considerations and assessments above are relevant.

## 12. Planning Department's Views

12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10.2 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; and
- (b) the applicant fails to demonstrate that the proposed development would not generate adverse environmental impacts on the surrounding areas.

12.2 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 **18.5.2021**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) no operation between 7:30 p.m. and 9:00 a.m. is allowed on the Site, as proposed by the applicant, during the planning approval period;
- (b) no barbecue activity is allowed on the Site at any time during the planning approval period;
- (c) no filling of pond or filling of land is allowed on the Site, as proposed by the applicant, during the planning approval period;
- (d) no public announcement system is allowed on the Site, as proposed by the applicant, at any time during the planning approval period;
- (e) no vehicle is allowed to enter/exit or to be parked/stored on the Site, as proposed by the applicant, at any time during the planning approval period;
- (f) the submission of a revised drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **18.11.2018**;
- (g) in relation to (f) above, the implementation of the revised drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **18.2.2019**;

- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the implementation of the accepted 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 **18.11.2018**;
- (j) the implementation of the accepted tree preservation and landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by **18.11.2018**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (l) if any of the above planning conditions (f), (g), (i) or (j) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.
- (m) upon 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 attached at **Appendix VI**.

**13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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.
- 13.3 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.

**14. Attachments**

<b>Appendix I</b>	Application form received on 20.3.2018
<b>Appendix Ia</b>	Supplementary planning statement with layout plan, landscape plan, fire service installations proposal and proposed drainage plan
<b>Appendix Ib</b>	Letter dated 23.4.2018 providing responses to comments from the AC for T/NT, TD, DAFC and CTP/UD&L, PlanD
<b>Appendix Ic</b>	Letter dated 24.4.2018 providing responses to comments from DEP
<b>Appendix Id</b>	Letter dated 2.5.2018 providing responses to comments from DEP
<b>Appendix Ie</b>	Letter dated 3.5.2018 clarifying the dimensions of the proposed fish pond
<b>Appendix II</b>	Previous application covering the application site
<b>Appendix III</b>	Similar applications within the same “CPA” zone on the approved Sheung Pak Nai and Ha Pak Nai OZP No. S/YL-PN/9
<b>Appendix IV</b>	Detailed comments of CE/MN, DSD
<b>Appendices V-1 to V-4</b>	Public comments received during statutory publication period
<b>Appendix VI</b>	Advisory clauses
<b>Drawing A-1</b>	Layout plan
<b>Drawing A-2</b>	Landscape plan
<b>Drawing A-3</b>	Fire service installations proposal
<b>Drawing A-4</b>	Proposed drainage plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2a</b>	Site plan
<b>Plan A-2b</b>	Previous planning enforcement cases
<b>Plan A-3a</b>	Aerial photo taken on 3.1.2015
<b>Plan A-3b</b>	Aerial photo taken on 13.10.2016
<b>Plan A-3c</b>	Aerial photo taken on 4.4.2017
<b>Plan A-3d</b>	Aerial photo taken on 3.1.2018
<b>Plan A-4</b>	Site Photos