

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PN/83

<u>Applicant</u>	: Ha Pak Nai Education Center Limited represented by by FiBi International Project Consultancy Co. Limited
<u>Site</u>	: Lots 68 (Part), 69 (Part), 70 (Part) and 71 (Part) in D.D. 135, Pak Nai, Yuen Long, New Territories
<u>Site Area</u>	: About 3,570m ²
<u>Lease</u>	: Old Scheduled Agricultural Lots held under Block Government Lease
<u>Plan</u>	: Approved Sheung Pak Nai & Ha Pak Nai Outline Zoning Plan No. S/YL-PN/9
<u>Zoning</u>	: “Coastal Protection Area” (“CPA”)
<u>Application</u>	: Temporary Field Study, Education and Visitor Centre for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary field study, education and visitor centre for a period of three years in an area zoned “CPA” on the OZP. According to the Notes of the OZP, ‘Field Study/ Education/ Visitor Centre’ in “CPA” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently partly paved¹ and partly covered by grass, and occupied by the applied use with an eating place without valid planning permission (**Plans A-2 and A-4a to A-4e**).
- 1.2 As shown on the vehicular access plan at **Drawing A-2**, the Site is accessible via a local track leading from Nim Wan Road, with the ingress/egress located at the southern end of the Site (**Plan A-2**). As shown on the layout plan at **Drawing A-1**, six single-storey structures (not more than 7m in height), four of which are

¹The Site has been partially paved without planning permission. The applicant has not applied for planning permission for land filling in the current application.

open sheds with a total floor area of about 631.7m² are proposed for education, car parking, storage and restroom purposes. An outdoor activity area is also proposed. The operation hours would be between 7 a.m. to 4 p.m. daily including Sundays and public holidays. A maximum of 80 visitors could be accommodated at the Site at any one time. According to the applicant's submission, the existing eating place at the Site will cease operation upon approval of the current application. Four parking spaces for private cars and one loading/unloading space for coach bus would be provided. However, there is no detailed information in the submission on the activities/programmes which will be provided at the Site that are needed to support the conservation of the existing natural landscape or scenic quality of the area.

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

- (a) Application Form with attachments received on 20.12.2024 (Appendix I)
- (b) Supplementary Information (SI) received on 26.12.2024 (Appendix Ia)
- (c) SI received on 30.12.2024 (Appendix Ib)
- (d) Further Information (FI) received on 6.1.2025* (Appendix Ic)
- (e) FI received on 17.1.2025* (Appendix Id)
- (f) FI received on 23.1.2025* (Appendix Ie)
- (g) FI received on 6.2.2025* (Appendix If)

** accepted and exempted from publication and recounting requirements*

2. **Justifications from the Applicant**

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

- (a) the applicant is a registered charitable institution;
- (b) the applied use is temporary in nature for a period of three years and will not jeopardise the long-term planning intention;
- (c) the Site is mainly used for teaching and visiting purposes. Many villagers, schools, relevant departments and groups support the applied development;
- (d) the applicant will comply with the approval conditions imposed by the Board;
- (e) the applicant works with the University of Hong Kong to clean up aquacultural waste and marine debris, promote sustainable behaviour and raise public awareness of coastal protection through public lectures, educational visits, university ambassador training, and establishment of educational groups;

- (f) the applicant also carries out active conservation management work such as revitalizing abandoned oyster farms, piloting oyster reef restoration, promoting sustainable tourism practices and raising public awareness of oyster reefs;
- (g) the applicant has been working with the City University and Ocean Park for many years to carry out scientific researches on topics related to horseshoe crab; and
- (h) the applicant also works with environmental groups and volunteers to clean up abandoned fishing nets and cages to reduce overfishing.

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

The applicant is not the ‘current land owner’ but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No.31B) by posting site notice at the Site and sending notification letter to the Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

- 4.1 As shown on the time-series aerial photos taken in June 2013, May 2014, April 2017 and February 2023 (**Plans A-3a to A-3d**), the Site has been formed/hard-paved and converted from a vegetated area to the applied use with an eating place without planning permission.
- 4.2 The Site is currently not subject to any active planning enforcement action. Should there be sufficient evidence to form an opinion that there is unauthorised development at the Site, planning enforcement action would be undertaken.

5. **Previous Application**

The Site is not involved in any previous application.

6. **Similar Application**

There is one similar application (No. A/YL-PN/59) within the “CPA” zone on the OZP for temporary education/holiday camp for a period of three years, which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 24.4.2020 on the grounds that the applied use was not in line with the planning intention; the applicant failed to demonstrate that the applied use would not generate adverse ecological and environmental impacts; and approval of the application would set an undesirable precedent for similar applications. Details of the similar application are summarised at **Appendix II** and its location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) partly paved and partly covered by grass and used for the applied use with an eating place without valid planning permission;
- (b) accessible via a local track leading from Nim Wan Road; and
- (c) currently occupied by an eating place/hobby farm without planning permission.

7.2 The surrounding areas are predominated by unused land, farmland and ponds intermixed with residential dwellings, temporary structures and a temple. The mangroves in Ha Pak Nai is located to the further west (**Plan A-2**).

8. **Planning Intention**

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 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 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

9.2 The following government departments have reservation/adverse comments on the application:

Land Administration

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

- (a) LandsD has reservation on the planning application since there are unauthorised structure(s) on the private Lots 68, 69,

70 and 71 in D.D.135 which are already subject to lease enforcement actions according to case priority. The lot owner should apply for regularisation on the lease breaches as demanded by LandsD;

- (b) the Government Land (GL) adjoining Lot 71 in D.D.135 (not covered by the planning application) has been unlawfully occupied with unauthorised structure(s) without permission. The GL being illegally occupied is not included in the application. The applicant should clarify the extent of the Site. Any occupation of GL without Government's prior approval is an offence under Cap.28. His office reserves the rights to take necessary land control action against the unlawful occupation of GL without further notice; and
- (c) unless and until the unauthorised structure(s) and the unlawful occupation of GL are duly rectified by the lot owner(s)/applicant or entirely included in the subject planning application, his office objects to the application which must be brought to the attention of the Board when it considers the application.

Landscaping

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

- (a) according to the aerial photo of 2023, the Site is situated in area of rural coastal landscape predominated by unused land, farmland and ponds intermixed with residential dwellings, temporary structures and a temple. The mangroves in Ha Pak Nai is located to the further west. From site photos taken on 31.12.2024, the northern and western portions of the Site were already hard-paved with concrete and occupied by temporary structures. Existing lawn with vegetation at the eastern portion of the Site was found; and
- (b) noting the six temporary structures shown in the layout plan within the Site and the tree groups and ponds located in close proximity to the Site, she has concern about the applied use in "CPA" zone would further degrade the landscape resources and quality of the "CPA" zone. The applied use is considered incompatible with the surrounding landscape resources (active fishing ponds and mangroves) and landscape character (coastal landscape) from the landscape planning perspective.

10. Public Comments Received During Statutory Publication Period

On 31.12.2024, the application was published for public inspection. During the statutory public inspection period, two public comments from the Kadoorie Farm &

Botanic Garden Corporation and an individual were received (**Appendices V-1 & V-2**) commenting/objecting to the application mainly on grounds that the proposal is a commercial development which is not in line with the planning intention and there is a watercourse close to the Site; and adequate impact assessment should be provided to demonstrate that the applied use would not cause adverse environmental impacts.

11. Planning Considerations and Assessments

- 11.1 The applicant seeks planning permission to use the Site for temporary field study, education and visitor centre for a period of three years in an area zoned “CPA” on the OZP. 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. 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 project with overriding public interest may be permitted.
- 11.2 As claimed by the applicant (**Appendix Id**), it has conducted various educational programmes and environmental protection activities with universities, schools, environmental groups, villagers and volunteers. However, there is no detailed information in the submission on the activities/programmes which will be provided at the Site that are needed to support the conservation of the existing natural landscape or scenic quality of the area nor the applied use is an essential infrastructure project with overriding public interest that warrants a departure from the planning intention of the “CPA” zone, even on a temporary basis.
- 11.3 The Site is currently partly paved, partly covered by grass and occupied by the applied use with an eating place without planning permission. Although the nature of a temporary field study, education and visitor centre may not be entirely incompatible with the surrounding areas which are predominated by unused land, farmland and ponds intermixed with residential dwellings, temporary structures and a temple. The mangroves in Ha Pak Nai is located to the further west. The Site was involved in land filling works without planning permission but no application is made to regulate the land filling works that had already been carried out at the Site. By comparing the aerial photos taken from 2013 to 2023 (**Plans A-3a to A-3d**), vegetation at the Site had been removed and the Site, which formed part of a larger “CPA” zone, had been transformed from vegetated area to formed land. In this regard, CTP/UD&L, PlanD has reservation on the application as she notes that the northern and western portions of the Site were already hard-paved with concrete and occupied by temporary structures, and tree groups and ponds are located in close proximity to the Site. She has concern that the applied use in “CPA” zone would further degrade the landscape resources and quality of the “CPA” zone. In this regard, the applied use is considered incompatible with the surrounding landscape

resources (active fishing ponds and mangroves) and landscape character (coastal landscape) from the landscape planning perspective.

- 11.4 LandsD has reservation on the application since there are unauthorised structure(s) at the Site which are already subject to lease enforcement actions and pointed out that the nearby GL (outside the Site) has been unlawfully occupied. Other concerned government departments including the Commissioner for Transport, Director of Environmental Protection, Director of Agriculture, Fisheries and Conservation, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no adverse comment on the application from traffic, environmental, nature conservation, drainage and fire safety perspectives respectively.
- 11.5 No previous or similar application in this “CPA” zone has been approved by the Committee. Approval of the application would set an undesirable precedent for similar applications within the “CPA” zone, and the cumulative impact of which would result in a general degradation of the environment and landscape quality of the area.
- 11.6 Regarding the public comments objecting to/commenting on the application as summarised in paragraphs 10 above, the planning consideration and assessment in paragraphs 11.1 to 11.5 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, the Planning Department does not support the application for the following reasons:
 - (a) the application is not in line with the planning intention of the “CPA” zone which is primarily 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 within this 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 applied use would not have significant adverse landscape impact 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 three years until **14.2.2028**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the submission of a 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 **14.8.2025**;
- (b) in relation to (a) above, the implementation of the 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 **14.11.2025**;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times 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 **14.8.2025**;
- (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 **14.11.2025**;
- (f) if the above planning condition (c) 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;
- (g) if any of the above planning condition (a), (b), (d) or (e) 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; and
- (h) 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 IV**.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

- 13.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

14. Attachments

Appendix I	Application Form with attachments received on 20.12.2024
Appendix Ia	SI received 26.12.2024
Appendix Ib	SI received on 30.12.2024
Appendix Ic	FI received on 6.1.2025
Appendix Id	FI received on 17.1.2025
Appendix Ie	FI received on 23.1.2025
Appendix If	FI received on 6.2.2025
Appendix II	Similar Application
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 and V-2	Public Comment Received During Statutory Publication Period
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Drainage Plan
Plan A-1	Location Plan with Similar Application
Plan A-2	Site Plan
Plans A-3a to 3d	Time-series Aerial Photos taken in 2013, 2014, 2017 and 2023
Plans A-4a to 4e	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2025**