

Secretary, Town Planning Board
15/F, North Point Government Offices
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By email only

30 December 2016

香港觀鳥會
THE
HONG
KONG
BIRD
WATCHING
SOCIETY
Since 1957 成立

Dear Sir/Madam,

Comments on the planning application for proposed comprehensive development with wetland enhancement (including house, flat, wetland enhancement area, nature reserve, visitors centre, social welfare facility, shop and services, filling of land/pond and excavation of land) at Nam Sang Wai and Lut Chau, Yuen Long (A/YL-NSW/242)

In the latest supplementary information provided by the applicant, it seems that minor adjustments has been made to reduce some of the ecological impacts of the development. However, we would like to highlight the fact that **the development scale and intensity** (including the number of towers, the height of the towers, the planned population, etc.) **remains more or less the same**. We consider that the applicant **failed to address the major concerns** we have repeatedly mentioned in our previous submissions. The Hong Kong Bird Watching Society (HKBWS), therefore, would like to **maintain our objection** to the planning application A/YL-NSW/242 currently review under Section 17.



1. The application site is an integral part of the Deep Bay wetland ecosystem

Under the approved Nam Sang Wai Outline Zoning Plan, Nam Sang Wai (NSW) is zoned as "Other Specified Use (Comprehensive Development and Wetland Enhancement Area)" (OU(CDWEA)) while Lut Chau (LC) is zoned "Site of Special Scientific Interest (1)". Part of LC is within the Mai Po Inner Deep Bay Ramsar Site. Under the Town Planning Board Planning Guideline (TPB-PG) No.12C, the application site is within the Wetland Conservation Area (WCA). The proposed high-rise residential development would have direct impact on the reedbed in NSW, which is "the largest area of this habitat in Hong Kong"¹ and is of high ecological value². A significantly large area, reaching 10% of NSW, would be lost to the development³. The cormorant night roost in NSW adjacent to the proposed development is one of the two major cormorant roost in Hong Kong, which supports around 50% of the Deep

¹ Section 1.6.9 of the EcoIA submitted by the applicant in April 2016

² Table 23 of the EcoIA submitted by the applicant in April 2016

³ 11.6ha development footprint within 121.9ha in Nam Sang Wai, which covers over 9.5%

Bay population in 2015⁴. Therefore, the proposed development is actually **part of the core area for wetland conservation**.

2. Unacceptable development scale and intensity

Even though the applicant repeatedly mentioned the development footprint has reduced to 11.6 hectares, we consider that the development still involves a massive building cluster of 28 residential towers (20-26 storeys) and 140 houses (4 storeys) for a planned population of 6,500, which are clearly incompatible with the surrounding rural low-rise setting, conservation zonings and the wider Deep Bay area of conservation importance (Figure 1). Such development scale and intensity is similar to placing an 11.6-hectare “Residential (Group B)” zoning (e.g. residential towers like Emerald Green in Yuen Long)⁵ in the ecologically sensitive NSW. We are highly concerned the adverse ecological impacts and the human disturbances generated from the high-rise residential development and the influx of the large population. We consider that **development of such high intensity is unacceptable** and the management of wetlands **should not be an “excuse”** for the approval of the application.

3. Direct and secondary loss in wetland

3.1. The development would actually result in a **net loss of 10.4 ha of wetland** after mitigation. We share the same view as the Agriculture, Fisheries and Conservation Department (AFCD) that *“pond bunds form an integral part of the wetland ecosystem”*⁶ and pond bunds should be included in the calculation of wetland area.

3.2. **The proposed mitigation measures would actually lead to a secondary loss of wetland habitats.** Existing fishponds in NSW and LC were proposed to be converted to reedbed, tidal pond and lily pond habitats as for mitigation purposes, as such the rain-fed fishponds in NSW and LC would be reduced. We are concerned this would further reduce the area of fishpond habitat for enhancement to mitigate the habitat loss and disturbance caused by the proposed development during construction and operation phase. We are also concerned the creation of shallow tidal ponds and lily pond at LC would lead to fragmentation of the existing fishpond habitat in LC. Therefore, we have reservation in the effectiveness of such mitigation measures and consider the proposed development should be **rejected**.

⁴ According to the survey conducted in February 2015, around 4,000 Great Cormorant individuals were roosting in Nam Sang Wai.

⁵ Under the approved Yuen Long Outline Zoning Plan No. S/YL/23, “Residential (Group B)” zoning has a maximum site coverage of 50% and a maximum building height of 25 storeys, which is similar to the high-rise development in the current application.

⁶ AFCD’s response to the Executive Summary Para. 6 in the EcoIA submitted by applicant in October 2015

4. Inadequacies of the mitigation measures

- 4.1. In the latest amendment, single aspect buildings were proposed (for 7 residential towers⁷) such that there will be no lights on the façade facing the firefly habitats. However, the **light disturbance to the nearby wetland habitats and cormorant roosts were not identified and addressed**. The other residential towers would still become light façades during night time and would be visible due to their height (i.e. 20 to 26 storeys high). We are concerned the proposed development would have adverse impacts on the surrounding ecologically sensitive wetland habitats, wildlife and the cormorant night roost.
- 4.2. The applicant claimed that all residential towers are now relocated outside the 400-metre buffer zone of the cormorant night roost. **In the previous information submitted by the applicant, a more conservative approach was adopted** in delineating the 150-metre buffer zone of the cormorant night roost as the maximum extent of the roost from 2011 to 2015 was used (Figure 2). **However, the current 400-metre buffer zone is different, with only “the great majority of the roost trees”⁸ were taken into account**, such that only the eastern portion of the development site intersects with the “400-metre buffer zone” (Figure 3). In fact, the development boundary has not changed and there are still low-rise houses close to the cormorant night roost. We are concerned the proposed development would **still have adverse impact on the cormorant night roost**, which is one of the two major cormorant night roost in Hong Kong and supports around 50% of the Deep Bay population in 2015.

5. Intensify the conflict between human and nature

- 5.1. The current development would introduce a population of 6,500 into NSW. However, nature can sometimes become nuisance to residents, especially when the proposed **population density of the development is high**. The important Great Cormorant roosting site in NSW, which regularly accommodates 4,000 cormorants or more every winter, could be a source of noise problem (e.g. loud bird calls). As the prevailing wind (taking the wind rose at Lau Fau Shan as a reference⁹) is easterly to north-easterly, excretions of the cormorants at their roosts could be a source of unpleasant smell. Mosquitos at wetlands could also be a nuisance to residents. What are the adverse social impacts caused by placing a large population next to wetlands and cormorant night roosts? What if there is an avian flu and/or dengue fever incident or outbreak? By the time the residential development is already in operation, **we are concerned the health, safety and concerns of the 6,500 residents would necessary to become a priority over the conservation of cormorant roosting site and wetlands**, thus would

⁷ Figure 26 of the revised EcoIA submitted in November 2016

⁸ Section 1.8.25 of the revised EcoIA submitted in November 2016

⁹ http://www.weather.gov.hk/cis/region_climat/LFS/LFS_windrose_year_e.htm

in turn adversely affect these sites of conservation importance.

5.2. We consider that it is **inappropriate** to place such a large population within a core wetland conservation area, and the approval of this high intensity residential development would lead to adverse consequences and unnecessary conflicts. Therefore, we urge the Board to **seriously consider our concerns and reject this application.**

6. Cumulative impacts caused by the development

We are concerned the approval of the application would **set an undesirable precedent** for other planning applications and future developments in the area (particularly for the adjacent OU(CDWEA) zoning in NSW), **leading to more high-rise buildings in the WCA and further adverse impacts on the ecological integrity of the sensitive Deep Bay area which is already continuously threatened by the surrounding development pressure** (Figure 4).

7. Wise Use of Wetland

7.1. The wise use of wetland, under the Ramsar Convention, is defined and understood as ***“the conservation and sustainable use of wetlands and all the services they provide, for the benefit of people and nature”***¹⁰. In fish farmers’ traditional practice, when fishponds are drained for fish harvesting and maintenance, small fish and invertebrates of no economic value are left in the drained ponds, providing forging opportunities for waterbirds. Therefore, fishpond operation contributes to its ecological value and is considered as a wise use of wetland, where fish farmers can get income from the fish harvest while birds can forage in the drained ponds.

7.2. LC is within the “wise use zone” of Ramsar site, while Mai Po is within the “core zone” and “biodiversity management zone” of Ramsar site. We consider that the nature reserve type of conservation and management as proposed by the applicant is not suitable for LC according to the principle of “wise use of wetland”. The ecological value of LC and Mai Po also cannot be directly compared as the two areas have different conservation objectives. We are concerned if the proposed management scheme is put in place in LC, the ecological value might be maintained, but the local socio-economic settings and the engagement of the local community in fishpond operation will be lost. We consider that this is **not in line with the “wise use” principle of Ramsar site.**

¹⁰ <http://www.ramsar.org/about/the-wise-use-of-wetlands>

8. Landowners' duty of care

- 8.1. In section 1.2.7 of the Conservation Management Plan (CMP) submitted in April 2016, the consultant stated that activities which are harmful to the environment are occurring in LC and much of the human activity in the area is contributed by the fish farmers who operate there.
- 8.2. We would like to highlight the fact that **landowners, including the applicant, have a duty of care towards their land and are responsible to protect their land from unauthorized activities and eco-vandalisms**. They are obligated to observe the laws, guidelines and international convention related to their land and properties. The applicant (i.e. landowner) should control the activities of the fish farmers (i.e. their tenants) such that these ecologically damaging activities would not happen again. Any damaged sites should also be properly reinstated and restored. On the other hand, the Government should carry out effective enforcement actions according to the current ordinances to halt any dumping of C&D wastes or activities harmful to the environment.
- 8.3. From our observation, the dumping activities of construction and demolish (C&D) wastes as shown in the CMP were actually materials used by the fish farmers for pond bund maintenance in LC. We consider that such maintenance is necessary in fishpond operation, however, the materials used (i.e. C&D wastes) were inappropriate and ecologically unfriendly. The Government should provide a clear guideline and solid support and assistance to fishpond farmers (particularly those in the Deep Bay area) for carrying out eco-friendly fishpond management, including maintenance, that are harmless to the environment and ecology. It is **not necessary** to depend on the applicant's conservation and management scheme to enhance the current environmental situation.
- 8.4. Given the ecological sensitivity and the conservation importance of the area, it is clear that landowners have their responsibilities and there are existing mechanisms under the current legislation to carry out enforcement actions to halt unauthorized activities and improve the current undesirable environmental condition in LC. The eco-vandalism cases in LC should **not be an "excuse"** by the applicant to seek for the Town Planning Board's approval of the proposed development plan.

9. Public-private Partnership arrangement unclear

In exchange for the permission for development within the OU(CDWEA) zone, long term conservation and management of the remaining wetland is required to be carried out through the Public-private Partnership (PPP) scheme. A third party organization is required as an independent overlooking agent with expert knowledge to ensure the extensive area of managed wetlands meets the requirements of the

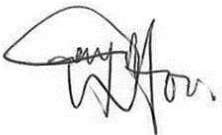
OZP and the “no-net-loss in wetland” as stated in TPB PG-No.12C through the means of active management. However, **the applicant has not yet identified and secured such a third party organization to carry out the PPP scheme.** Therefore, the current application should be rejected.

10. Consideration of alternatives

The Government and the Town Planning Board should actively seek for other conservation strategies. For instance the **non-*in-situ* exchange**, in this case which is the transfer of development rights of land owners to an area of low ecological value outside the Deep Bay area (i.e. *in-situ* conservation and *ex-situ* development). This allows the conservation of wetland and appropriate habitat management to be in place in NSW and LC, without sacrificing habitats of conservation importance for the development.

As clearly explained in the above paragraphs, we consider that the proposed development is **not in line with** the conservation intention of OU(CDWEA) zoning and the WCA, and **cannot fulfil** the “precautionary approach” and “no-net-loss in wetland” principle as required under the TPB-PG No.12C. Therefore, the HKBWS respectfully requests the Town Planning Board to **reject** the current application. Thank you very much for your consideration.

Yours faithfully,



Woo Ming Chuan
Conservation Officer
Hong Kong Bird Watching Society

cc.
Designing Hong Kong
Kadoorie Farm and Botanic Garden
WWF - Hong Kong

Figure 1. The photomontage of the proposed development provided by the applicant (Annex B.9 of the revised Visual Impact Assessment submitted in November 2016). The proposed development (approximate location indicated by the red arrow) is clearly incompatible with the rural and low-rise setting in NSW.



VP #5: View Towards Application Site from Shan Pin Tsuen Hill (Existing Condition)/ Not



VP #5: View Towards Application Site from Shan Pin Tsuen Hill with Proposed Develop

Figure 2. Previously, the 150-metre cormorant night roost buffer zone (shown in blue dotted boundary) was delineated using the maximum extent of the roost from 2011 to 2015 (Figure 5a in the revised EcolA submitted in October 2015).

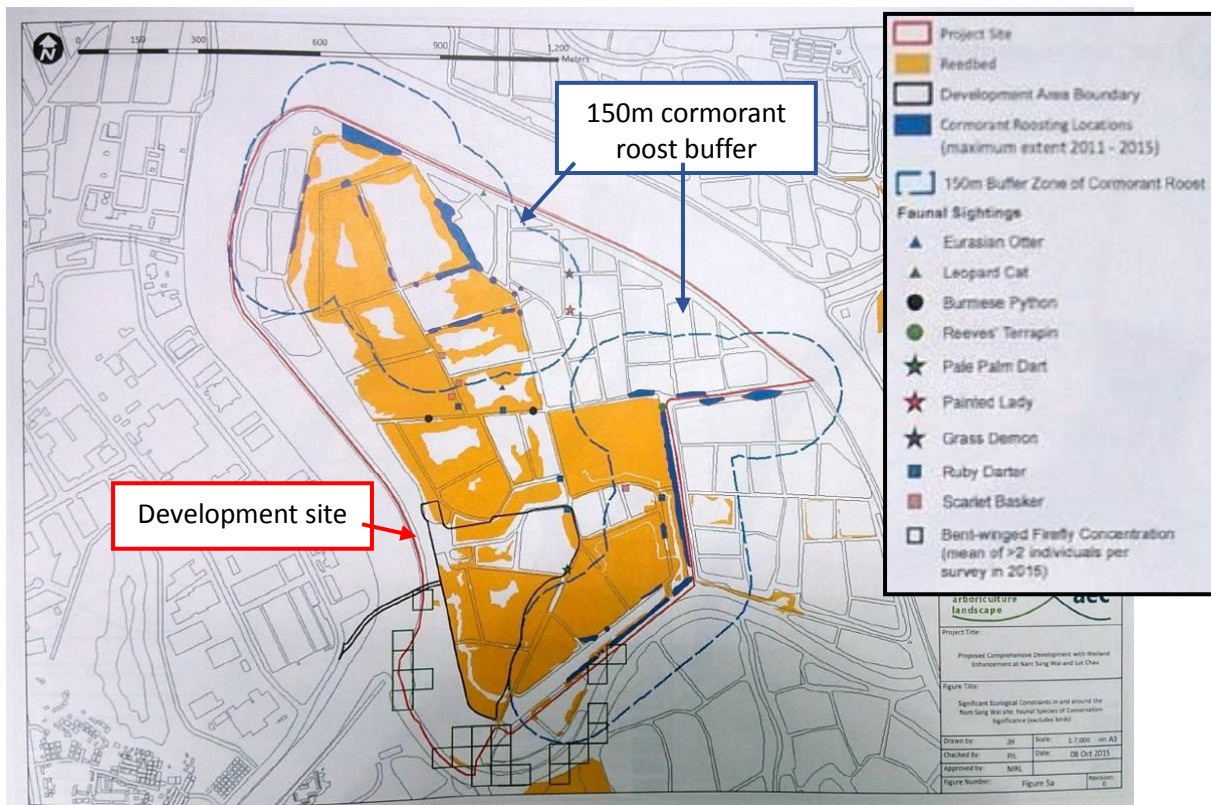


Figure 3. Currently, the cormorant buffer zone changed and only “the majority of roost trees” were taken into account (figure extracted from p.9 of the gist).

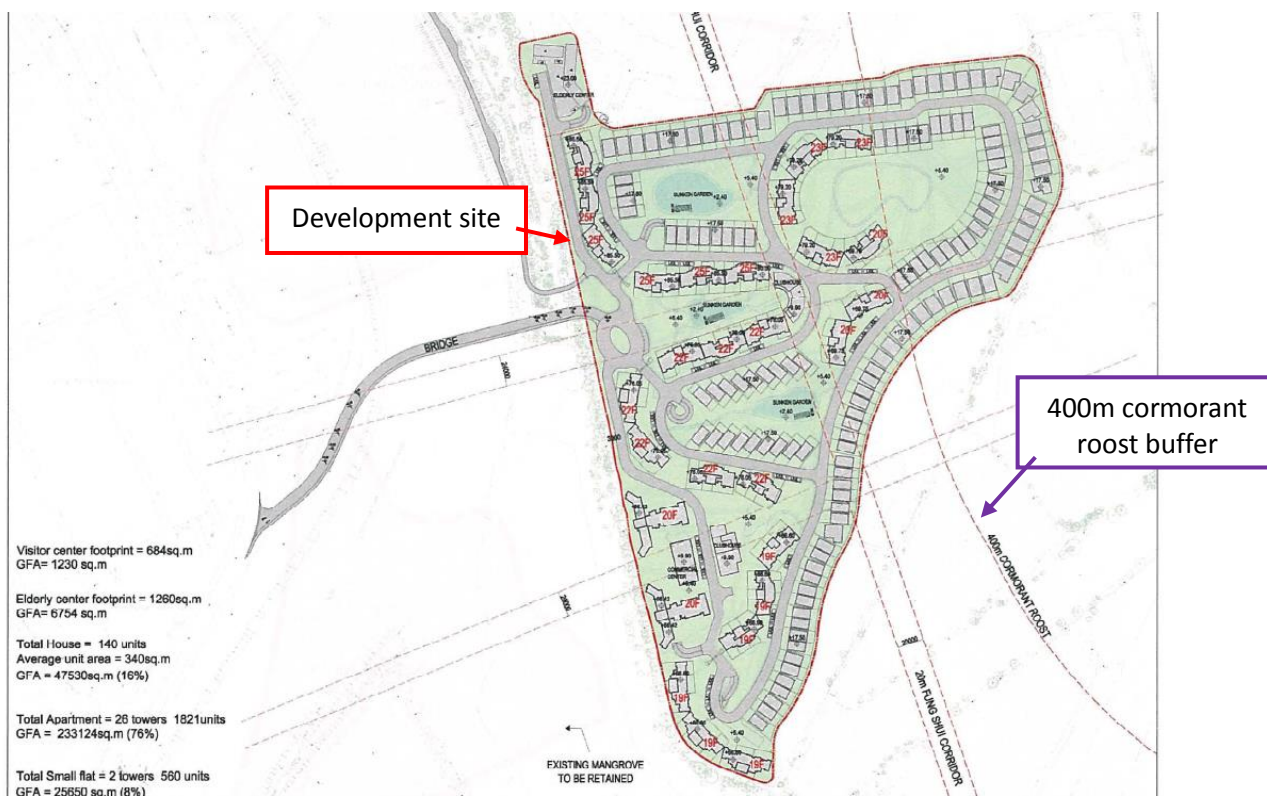


Figure 4. Proposed developments and the OU(CDWEA) zoning near the application site

