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Since 1968

The Conservancy Association

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6th October 2022

Town Planning Board
15/F North Point Government Offices
333 Java Road, North Point
Hong Kong

By e-mail: tpbpd@pland.gov.hk

Dear Sir/Madam,

Comments on the Section 12A Application Y/YL-NSW/6

The Conservancy Association (CA) OBJECTS to the captioned application.

1. Not in line with the planning intention and incompatibility with the surrounding environment

According to the Town Planning Board Guidelines For Application For Developments Within Deep Bay Area (TPB-PG No. 12C), the application site is located within Wetland Buffer Area (WBA). The planning intention of WBA is “*to protect the ecological integrity of the fish ponds and wetland within the WCA and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds*”.

By introducing 4,969 flats, such large development would potentially induce adverse off-site disturbance impacts on the ecological function and integrity of Deep Bay wetland ecosystems. We opine that this definitely not in line with the TPB-PG No. 12C and the planning intention of WBA.

2. Incompatible with the surrounding environment

According to the Explanatory Statement of the Approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8, “*to be in line with the rural setting which is mainly low-rise residential developments and village houses, to minimize visual impact and to take into account the capacities of local road network and infrastructure in this area, development or redevelopment shall not result in a total development or redevelopment intensity in excess of a total plot ratio of 0.4 and a maximum building*



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height of 6 storeys including car park”.

In 2004, amendments of Nam Sang Wai OZP were scheduled in Town Planning Board. Three of the proposed amendments were to rezone areas to the north-east of Shan Pui Chung Hau Tsuen (i.e. the proposed application site) from “Residential (Group D)” to “Comprehensive Development Area (1), “Comprehensive Development Area (2)” and “Comprehensive Development Area (3)” respectively. On 20 May 2005, members of TPB agreed to adopt the proposal on rezoning “Residential (Group D)” to “OU (CDWRA)” with a plot ratio of 0.4 and building height of 3 to 6 storeys, adopting a “stepped height” concept in the design. According to the minutes of 846th Meeting of TPB on 4 November 2005, Board members reached a consensus that “OU (CDWRA)” would be appropriate “with a view to achieving the overall conservation and environmental objectives, while allowing some compatible development at a reasonable scale comparable to other residential developments in the areas”.

Comparing the above planning intention of Nam Sang Wai OZP and TPB decision in 2005 with the current proposed application comprising 30 residential blocks with 18 to 41 storeys, and plot ratio up to 3.35, it would be a very large amendment to the past planning control on the subject site. According to our research, there are 9 planning applications¹ in total keep submitting their housing proposals with in WBA to TPB and Development Bruere. The plot ratios of those applications are up to 1.2 to 4.14, which is much higher density than before. If all application approved by TPB and Development Bruere, cumulative impact of around 31,579 unit with 84,422 population will be a concern. It is no doubt that this application is highly incompatible with the surrounding rural setting with low development density which is usually no more than 3 storeys high. It is also incompatible with The Parcville in the south of the proposed application site which is 13 to 15 storeys.

3. Adverse ecological impacts

Since the application site is situated in the vicinity of Wetland Conservation Area (WCA) with avifauna species of conservation concern, it serves important buffer function between developed area and ecologically sensitive wetland. As stated in the Explanatory Statement of the OZP, *“the applicant should also submit a wetland restoration and/or creation scheme, including its detailed design, wetland buffer*

¹ Another 9 planning applications: Y/YL-NSW/7; Y/YL-NSW/8; Y/YL-NSW/9; Y/YL-MP/6; Y/YL-MP/7; Y/YL-MP/8; Y/YL-LFS/13; Y/YL-ST/1; LSPS/2 (Land Sharing Pilot Scheme)



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proposals to mitigate the potential impact on the nearby existing wetland, a maintenance and management plan with implementation details, arrangement of funding and monitoring programme to ensure the long-term management of the restored wetland". However, the applicant claimed that they would only provide the detailed design and management scheme of the proposed Wetland Restoration Area at the design stage, which is after the approval of the application. Without sufficient information on mitigation measures or conservation plan for compensating the potential ecological impacts, the applicant has failed to justify how they could achieve the "no-net-loss in wetland" principle, including both loss in "area" and "function".

Additionally, it was noticed that the Ecological Impact Assessment (EcoIA) still failed to address the following:

- Impedance of flight lines: Section 6.3.10 did not demonstrate flight lines of wetland-dependent birds to justify that indirect impact due to impedance of flight lines would be low. Since local studies reported that the foraging distance for egrets and herons can range from 2 to 4 km², stating that the application site "is located very far away from the Tung Shing Lane Egretty (about 1.4km)" cannot ensure low impact on existing flight lines.
- Impact on endemic *Pteroptyx maipo*: we cannot see how effective the proposed mitigation measures in Section 6.3.13 and 6.3.14 can be. There were no attempts in modeling glare impact of both indoor and outdoor lighting after adopting mitigation measures. It also did not assess whether light intensity of the site has reached the tolerance threshold of this endemic firefly.
- Cumulative impact: the EcoIA gave no attempts in assessing cumulative impact in both construction and operation phase. As various applications for development projects (e.g. hotels, outlets and low-density development projects) within WBA have been approved, we are concerned that cumulative impacts would lead to increasing disturbance to adjacent recognized sites of conservation importance, such as Wetland Conservation Area, Conservation Area, roost site of Nam Sang Wai Great Cormorant and the egretty at Tung Shing Lane.

4. Undesirable precedent of "destroy first, build later"

The applicant stated that there were two existing ponds. From aerial photos, the application site used to have three ponds in February 2000 (Figure 1). However, since

² Wong, L.C., Lam, W.Y. and Ades, W.J. (2009). *Ecology of the birds in Hong Kong*. Hong Kong: Kadoorie Farm & Botanic Garden.



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November 2000, signs of pond filling and land filling could be spotted in the application site (Figure 2-5). One of the ponds connected to Kam Tin River was deliberately filled. Areas of the application site were involved in 15 cases of unauthorized use, including “Land/Pond Filling, Dumping & Site Formation”, “Car Park” and “Open Storage” (Case no.: E/YL-NSW/124, E/YL-NSW/129, E/YL-NSW/133, E/YL-NSW/135, E/YL-NSW/137, E/YL-NSW/171, E/YL-NSW/191, E/YL-NSW/192, E/YL-NSW/224, E/YL-NSW/228, E/YL-NSW/229, E/YL-NSW/230, E/YL-NSW/231, E/YL-NSW/233, E/YL-NSW/256). Enforcement notices were issued by the Planning Department in 2003, 2004, 2006, 2009, 2014, 2015, 2016 and 2019.

Therefore, it is suspected that this is a case of “destroy first, build later”. Such act should not be tolerated or it will set and undesirable precedent for similar applications in the area, increasing the development pressure of Nam Sang Wai and areas within WBA. Development would further encroach into lands with conservation and landscape values, decreasing overall quality of the environment.

Yours faithfully,
Chow Oi Chuen
Campaign Officer
The Conservancy Association

Figure 1 Comparison between the figure submitted by the applicant (left) and the aerial photo indicating the ponds within the application site in February 2000 (right) (Source: ARUP, Google Earth)



Figure 2-5 Pond filling and land filling since November 2000 (circled in red) (Source: Google Earth)





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