

Secretary, Town Planning Board
15/F, North Point Government Offices
333 Java Road, North Point, Hong Kong
(E-mail: tpbpd@pland.gov.hk)



By email only

20 May 2016

香港觀鳥會
THE
HONG
KONG
BIRD
WATCHING
SOCIETY

Since 1957 成立

Dear Sir/Madam,

Objection to 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)

The Hong Kong Bird Watching Society (HKBWS) would like to maintain our objection to the planning application A/YL-NSW/242 currently review under Section 17 and our objection reasons and views as said in our previous submissions are summarized below.



國際鳥盟成員

- 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 is zoned as “Other Specified Use (Comprehensive Development and Wetland Enhancement Area)” (OU(CDWEA)) while Lut Chau is “Site of Special Scientific Interest (1)” zone. Part of Lut Chau 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). Therefore, the application site is actually **part of the core area for wetland conservation**.
- Unacceptable adverse impacts on habitats and areas of high conservation importance**
The proposed high-rise residential development would have direct impact on the reedbed in Nam Sang Wai, 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 Nam Sang Wai, would be lost to the development³. The development would introduce a population of 6,500 into the Nam Sang Wai area. The proposed connecting road bridge linking Yuen Long Town and Nam Sang Wai over Shan Pui River would increase the traffic volume and visitors in Nam Sang Wai. We consider that the direct and indirect impacts brought about by the development are **unacceptable**. The massive

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%

building cluster of 29 residential towers (19-25 storeys) and 140 houses (3 storeys) are clearly incompatible with the surrounding rural low-rise setting, conservation zonings and the wider Deep Bay area of conservation importance (Figure 1).

3. Inadequacy of the mitigation measures

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*”⁴ and pond bunds should be included in the calculation of wetland area. We also consider that the mitigation measures proposed (e.g. the like-for-like habitat compensation by creating new reedbeds in fishpond and increasing fishpond water area by removal of pond bunds, 150-metre buffer zone for Great Cormorant night roost, 10-metre buffer zone bordering the residential development, the operation and maintenance of louvres on windows of the high-rise residential towers, etc.) cannot effectively reduce the impacts of the development on wildlife and the sensitive habitats in Nam Sang Wai.

4. Cumulative impacts caused by the development

We are concerned the approval of the application would **set an undesirable precedent** for other planning applications (Figure 2) and future developments in the area, leading to further adverse impacts on the ecological integrity of the sensitive Deep Bay area.

5. Neglect existing guidelines and regulations

Based on the aforementioned adverse impacts caused, we consider that the proposed development is **not in line with** 1) the planning intention of OU(CDWEA) zoning, 2) the planning intention of the WCA, 3) the “precautionary approach” and “no-net-loss in wetland” principle as required under the TPB-PG No.12C. Therefore, the application should be **rejected**.

6. Consideration of alternatives

The Government 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).

⁴ AFCD’s response to the Executive Summary Para. 6 in the EcoIA submitted by applicant in October 2015

For the details of our comments regarding the application, please refer to our previous submission made in July 2015 (Attachment 1). We consider that our concerns still remain **valid**. Apart from the above comments, we would also like to further elaborate on two points regarding the fishponds in Lut Chau.

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”***⁵. 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, thus provides 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. Lut Chau 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 Lut Chau according to the principle of “wise use of wetland”. The ecological value of Lut Chau 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 Lut Chau, the ecological value might be maintained, but the local socio-economic circumstances 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.

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 Lut Chau 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 and the Government, 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.

⁵ <http://www.ramsar.org/about/the-wise-use-of-wetlands>

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 Lut Chau. 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 Lut Chau. The eco-vandalism cases in Lut Chau should **not be an "excuse"** by the applicant to seek for the Town Planning Board's approval of the proposed development plan.

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

Figure 1. The photomontage of the proposed development provided by the applicant (extracted from p.20 of the first gist for the application A/YL-NSW/242). The proposed development (approximate location indicated by the red arrow) is clearly incompatible with the rural and low-rise setting in Nam Sang Wai.

A/YL-NSW/242
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applicant's submitted documents.



VP #5: View Towards Application Site from Shan Pin Tsuen Hill (Existing Condition)

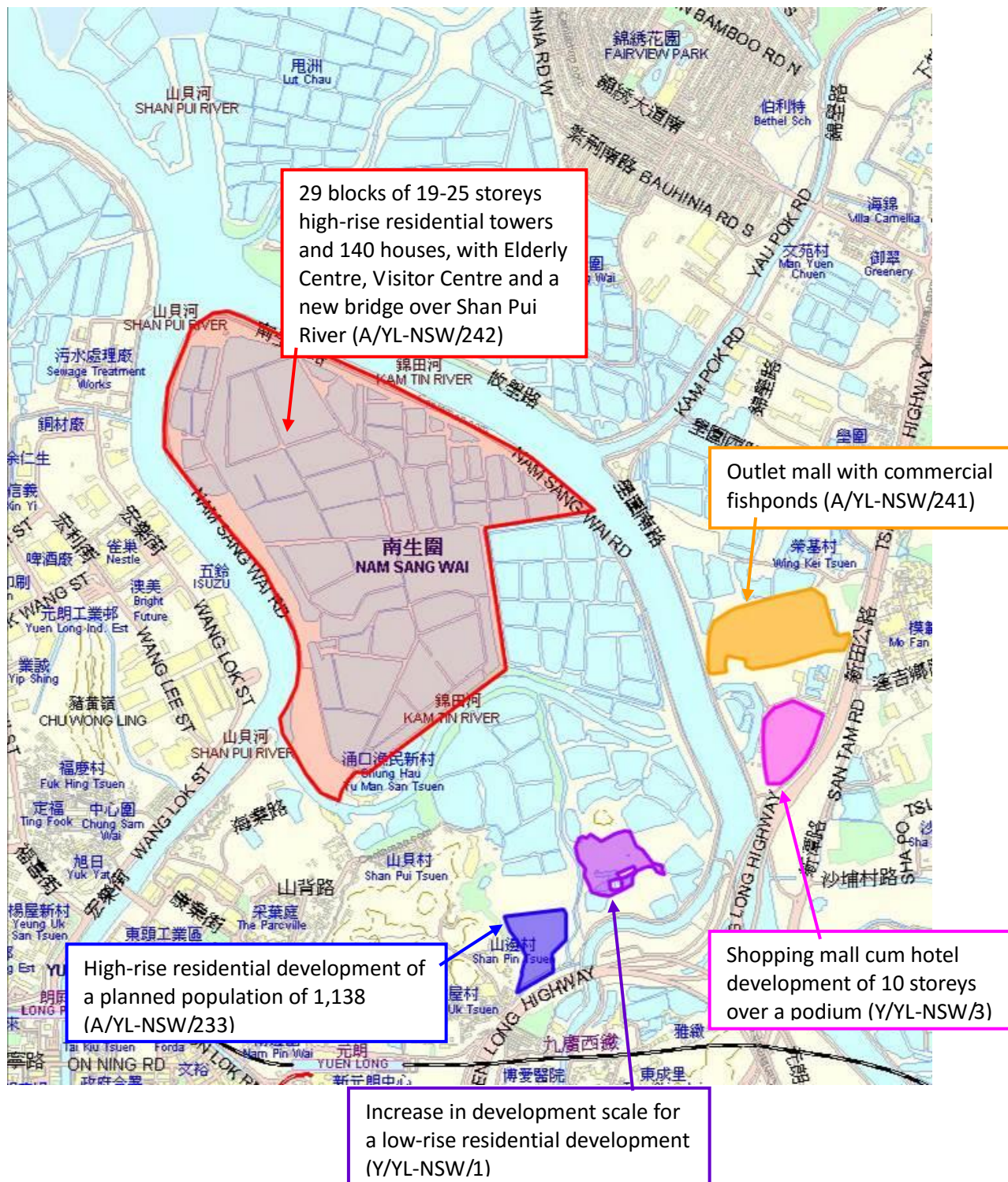


VP #5: View Towards Application Site from Shan Pin Tsuen Hill with Proposed Development

TITLE: **PHOTOMONTAGE - VIEW POINT #5 (VSR REC1) FROM SHAN PIN TS**

PROJECT: PROPOSED COMPREHENSIVE DEVELOPMENT WITH WETLAND ENHANCEMENT (CDWE) AT NAM SANG WAI AN

Figure 2. Proposed developments near the Nam Sang Wai application site



Attachment 1

Secretary, Town Planning Board
15/F, North Point Government Offices
333 Java Road, North Point, Hong Kong
(E-mail: tpbpd@pland.gov.hk)



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24 July 2015

香港觀鳥會
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Dear Sir/Madam,

Objection to 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)

The Hong Kong Bird Watching Society (HKBWS) would like to raise an objection on the planning application A/YL-NSW/242 under Section 16. Our concerns regarding the captioned application are:



1. A net loss in wetland is resulted
2. Not in line with the planning intention of the "Other Specified Uses" zoning annotated "Comprehensive Development and Wetland Enhancement Area"
3. Not in line with the Town Planning Board Guideline TPB PG-No. 12C
4. Significant human disturbances introduced in core conservation area
5. Direct impacts on reedbeds of high conservation value
6. Diverse habitat composition and biodiversity in Nam Sang Wai
7. Inadequacy of the proposed mitigation measures
8. Adverse impacts on Great Cormorant
9. Adverse impacts on Tung Shing Lane egret
10. The bridge over Shan Pui River was not identified as part of the application site and its adverse impacts were not adequately addressed
11. Adverse cumulative ecological impacts on Nam Sang Wai and the Deep Bay area
12. Public-private Partnership arrangement unclear
13. Convention on Biological Diversity should be followed

The HKBWS, therefore, respectfully requests the Town Planning Board to take our comments into consideration and **reject** the current application. Our detailed comments and concerns are explained in the following sections.



1. A net loss in wetland is resulted

The applicants repeated claimed that there is no net loss in wetland, and even a 0.3 ha gain in water area, for the proposed development. However, their calculation omits the area of pond bunds, which are an ecological component of the wetland habitats. Therefore, the proposed development would actually lead to a loss of 10.4 ha of wetlands and their associated pond bunds.

In the Town Planning Board meeting reviewing the previous application (A/YL-NSW/218), the Director of Agriculture, Fisheries and Conservation Department already stated that he *“could not accept the applicants’ approach of excluding the pond bunds in the calculation of wetland areas as the bunds has wetland ecological function and such omission would underestimate the area of wetland loss”*¹. The applicants also admitted that *“there will be a net reduction in gross wetland area (i.e. areas which are currently permanently or seasonally wet, together with functionally linked pond bunds) of 10.4 ha as a consequence of the project”*².

The numbers and tables presented in the Planning Statement and the Ecological Impact Assessment (EcolA) report have created an illusion of a net gain of 0.3 ha in wetland area (i.e. areas covered by water). Considering pond bund as a functional component of the wetland ecosystem, there is no net gain in wetland (i.e. because more water areas are created by removing pond bunds), but a net loss of 10.4 ha of wetland is resulted from the proposed development. The HKBWS considers that a wetland loss in the ecologically sensitive Deep Bay area is **unacceptable**.

2. Not in line with the planning intention of the “Other Specified Uses” zoning annotated “Comprehensive Development and Wetland Enhancement Area” (OU(CDWEA))

The proposed development is within the OU(CDWEA) zone. Under the Approved Nam Sang Wai (NSW) Outline Zoning Plan (OZP) No. S/YL-NSW/8, the planning intention of the OU(CDWEA) zone is *“for conservation and enhancement of ecological value and functions of the existing fish ponds or wetland”*, and in such zoning *“the ‘precautionary approach’ and ‘no-net-loss in wetland’ principle shall apply”*³. Given that the proposed development would lead to a loss of wetland and increase in the disturbance to the wetland habitats in NSW, the application is not in line with the planning intention of the OU(CDWEA) zoning and thus should **not be approved**.

¹ Section 7(f)(iv) of the 1051st Town Planning Board meeting held on 14 Feb 2014.

² Section 1.8.22 of the EcolA submitted by the applicants in June 2015.

³ Section 9.7.1 of the Explanatory Statement of the Draft Nam Sang Wai OZP No. S/YL-NSW/8

3. Not in line with the Town Planning Board Guideline TPB PG-No. 12C

The application site is entirely within the Wetland Conservation Area (WCA) under the Town Planning Board Guideline TPB PG-No. 12C, where the planning intention is *“to conserve the ecological value of the fish ponds which form an integral part of the wetland ecosystem in the Deep Bay Area”*⁴ and *“land uses in WCA should be devoted to conservation management of the wetland areas such that the integrity of the habitat should be maintained to avoid disturbance and/or fragmentation”*⁵. It is also stated that *“‘no-net-loss in wetland’ can refer to both loss in area and function”*⁶. The proposed development would fragment the continuous reedbed in NSW and would cause a direct loss of sensitive wetland habitats (i.e. reedbeds and wet grasslands). We consider that the application does not meet the above requirements nor does it fulfil the precautionary and “no-net-loss in wetland” principles as stated in the TPB PG-No.12C; therefore, the application should be **rejected**.

4. Significant human disturbances introduced in core conservation area

Even though the development footprint reduced by 70% when compared to the previous application (A/YL-NSW/218), the Gross Floor Area (GFA) remains the same, leading to a development with greater density and building heights. The number of storeys and blocks of apartment buildings increased by 3-folds, while the total number of residential units increased by 1.6-folds. This scale of development would introduce a population of 6,500 residents to the NSW area, which is 45% more than the planned population of the previous application A/YL-NSW/218. The change in the development parameters of the current and previous applications are shown in Table 1.

The introduction of a large population within the core conservation area (i.e. WCA) is unacceptable. 6,500 residents, together with residents and staff of the Elderly Centre, over-night visitors at the Visitor Centre, and day-time visitors to NSW, would create adverse impacts and disturbances on the ecology and ecosystem in the area, including habitats in NSW, Kam Tin River and Shan Pui River. The construction and operation of the proposed houses and high-rise residential towers would cause adverse ecological impacts on the surrounding wetland habitats and irreversible landscape impacts on the Nam Sang Wai area.

⁴ Section 6.1 of the Town Planning Board Guideline TPB PG-NO.12C.

⁵ Section 6.2.1 of the Town Planning Board Guideline TPB PG-NO.12C.

⁶ Section 5 of the Town Planning Board Guideline TPB PG-NO.12C.

Table 1. Comparison between different development parameters of the previous (A/YL-NSW/218) and current (A/YL-NSW/242) applications in Nam Sang Wai

Development Parameters	Previous rejected application (A/YL-NSW/218)	Current application (A/YL-NSW/242)	Change/ Increase
NSW development site area (ha)	40	11.6	(71% decrease)
Domestic GFA (m ²)	306,581	306,581	(Same)
Total number of units	1,600	2,531	1.6-fold
Apartment			
Number of storeys	7 – 9	19 – 25	2.7-fold
Main roof level (mPD)	+29.4 – 35.4	+66.6 – 82.35	2.3-fold
Number of blocks	10	29	3-fold
Average flat size (m ²)	55.7	108.3	2-fold
Planned population	4,480	6,500	1.5-fold

5. Direct impacts on reedbeds of high conservation value

The reedbeds in NSW were established as a result of natural succession in abandoned fishponds in the past few decades. The ecological value, conservation important and uniqueness of the reedbeds at NSW are well-recognized in the EcolA. Section 1.6.9 of the EcolA stated that the reedbed habitat “*is generally rare in Hong Kong, being largely restricted to the Deep Bay area...the total area of reedbed at Nam Sang Wai, including reedbed present in Wetland Habitat Mosaic ponds is 49.5 ha, and hence comprises the largest area of this habitat in Hong Kong*”. Reedbed associated bird species, including Purple Heron (*Ardea purpurea*), Yellow Bittern (*Ixobrychus sinensis*), Eurasian Bittern (*Botaurus stellaris*), Eastern Marsh Harrier (*Circus spilonotus*) and Chinese Penduline Tit (*Remiz consobrinus*), were recorded in NSW⁷. The proposed development would lead to a direct loss of reedbed, and off-site ecological impact on surrounding habitat would be caused by the development during both construction and operational phase, thus leading to further loss in both area and function of wetlands. Therefore, an area of such significant ecological and conservation value should not be selected for development in the very first place.

6. Diverse habitat composition and biodiversity in NSW

At present, the application site at NSW comprises of permanently or seasonally wet reedbeds and grasslands, and active and abandoned fish ponds. This mosaic of

⁷ Section 1.6.12 of the EcolA submitted by the applicants in June 2015.

wetland habitats, together with some plantation at the pond bunds, supports a diverse bird species in the area.

The extensive reedbed in NSW supports a range of reedbed associated birds of conservation importance, including Yellow Bittern (*Ixobrychus sinensis*) of Local Concern and Chinese Penduline Tit (*Remiz consobrinus*) of Regional Concern⁸. Bird species recorded roosting in the NSW reedbeds include Crested Myna (*Acridotheres cristatellus*), White-cheeked Starling (*Spodiopsar cineraceus*), Red-billed Starling (*Spodiopsar sericeus*), White-shouldered Starling (*Sturnia sinensis*), Eastern Yellow Wagtail (*Motacilla tschutschensis*) and Barn Swallow (*Hirundo rustica*)⁹.

Active fishponds attracts large fish-eating waterbirds, such as cormorants, egrets and herons. Under a drain-down management regime, the drained fishpond can attract large number of small waders, shorebirds and other wetland-dependent birds for foraging. In January 2011, 90 individuals of the Globally Endangered Black-faced Spoonbill (*Platalea minor*) were recorded in a drained pond at NSW¹⁰.

Abandoned fishponds, which has more extensive bund side vegetation, can provide nesting or feeding site for various waterbirds, such as Little Grebe (*Tachybaptus ruficollis*), Yellow Bittern (*Ixobrychus sinensis*), Purple Heron (*Ardea purpurea*), Intermediate Egret (*Egretta intermedia*) and some duck species. Ducks were found in lower numbers but twice the number of species in abandoned ponds than in active ponds in the NSW area¹¹. The abandoned fishponds in NSW is also likely to provide roosting sites for waterbirds which forages in the nearby area (e.g. the exposed mudflat at Kam Tin River and Shan Pui River).

The plantation in NSW is a regionally important roosting site for Great Cormorants (*Phalacrocorax carbo*) and supports 30-60% of the Deep Bay population¹². In January 2013, the HKBWS recorded 6035 individuals of Great Cormorants at NSW

⁸ Fellowes, J.R., Lau, M.W.N., Dudgeon, D., Reels, G.T., Ades, G.W.J., Carey, G.J., Chan, B.P.L., Kendrick, R.C., Lee, K.S., Leven, M.R., Wilson, K.D.P. and Yu, Y.T. (2002). Wild animals to watch: Terrestrial and freshwater fauna of conservation concern in Hong Kong. *Memoirs of the Hong Kong Natural History Society* No. 25, 123-160.

⁹ Section 1.5.35 of the EcoIA submitted by the applicants in June 2015.

¹⁰ Section 1.5.17 of the EcoIA submitted by the applicants in June 2015.

¹¹ Wong, L.C., Lam, V.W.Y. and Ades, G.W.J. Eds. 2009. *Ecology of the Birds of Hong Kong*. Kadoorie Farm and Botanical Garden, Hong Kong.

¹² According to January counts of roosting Great Cormorant 2005-2013. The number of roosting Great Cormorants in Nam Sang Wai ranges from 3030 to 6035 while the Deep Bay population ranges from 8736 to 11144.

which was about 6% of the regional population¹³.

As said in the EcolA, “*Mai Po Nature Reserve contains a complex mosaic of wetland and some non-wetland habitats...evaluation of these components individually would provide a misleading picture of the overall value of the habitat mosaic”.*

Such assessment and concept can also be applied in the NSW area, and we can consider that NSW is a “single habitat” of a wetland mosaic with high ecological and conservation value; therefore, the area should not be utilized for any development.

7. Inadequacy of the proposed mitigation measures

In order to compensate the direct loss of wetland caused by the proposed development, it was proposed to convert the ponds in the northeast of NSW to reedbeds and wet grasslands. Even though the area of reedbeds and wet grasslands were compensated, a net loss of fishpond area is still resulted from this mitigation measure. This was said to be compensated in the fishponds in Lut Chau (LC), by removing several pond bunds to meet the loss in water area. This is considered as unacceptable because pond bunds, which have wetland ecological functions, are not included in the calculation of loss in wetland. Given the uniqueness of the habitat mosaic in NSW as illustrated in the previous section, we consider the ecological value and function of the fishponds in NSW is different from that in LC, thus cannot be replaced.

Furthermore, due to the mitigation measures, the composition of habitats in NSW would be altered, with a lower proportion of fishpond habitats. This is likely to affect the Globally Near Threatened Eurasian Otter (*Lutra lutra*) which was recorded in NSW. The occurrence of this mammal of conservation concern is associated with pond/bank side vegetation and the presence of its main diet – fish¹⁴. The reduction in fishpond area in NSW would have an adverse impact on the food source of the Eurasian Otter. The increase in disturbance caused by the proposed development may also displace the night roosts of Great Cormorant northwards towards the fishponds, which may in turn causes the otter to compete with Great Cormorant for food and deterioration of habitat quality for the otter due to water pollution by the birds’ droppings.

¹³ Anon 2013. Winter 2012-2013 Report on Waterbird Monitoring at the Mai Po Inner Deep Bay Ramsar Site. Report by Hong Kong Bird Watching Society to the Agriculture, Fisheries and Conservation Department, Hong Kong SAR.

¹⁴ Roos, A., Loy, A., de Silva, P., Hajkova, P. & Zemanová, B. 2015. *Lutra lutra*. The IUCN Red List of Threatened Species. Version 2015.2. <www.iucnredlist.org>.

8. Adverse impacts on Great Cormorant

8.1 The number of Great Cormorant was misleading

The fire incidents at the NSW application site during late 2010 and early 2011 was not mentioned in the EcolA¹⁵. This is likely to be the reason for the lower counts of Great Cormorant recorded at the NSW night roosts in January, February and March 2011¹⁶; however, this was not discussed in the EcolA and these datasets were still used without any remarks.

8.2 Light disturbance caused by the high-rise residential towers was neglected

The light impact of the proposed development during operational phase (i.e. household lights from units of the high-rise residential towers at night) was not identified and addressed. The residential towers would become light façades during night time and would affect the surrounding habitats, in particular the night roosts of Great Cormorant in NSW which supports 30-60% of the Deep Bay population. Even though a 150-metre “no development” buffer zone was created for the Great Cormorant night roosts, the residential towers are still visible due to their height (i.e. 19 to 25 storeys high). Cumulative light disturbance from each household would cause disturbance to the Great Cormorants at night and may even lead to the displacement of night roosts.

9. Adverse impacts on Tung Shing Lane egretty

The Tung Shing Lane egretty is the third largest egretty in Hong Kong which supports 8.5% of the total number of nests recorded in Hong Kong and is located approximately 1.5 km south of the development site¹⁷. Fishponds in NSW are one of the foraging areas for the breeding egrets and herons. The loss of these wetlands in NSW could cause the birds to fly further to LC for food and use up more energy. The HKBWS is concerned that the development could lead to reduction in breeding success for the birds at the Tung Shing Lane egretty.

10. The bridge over Shan Pui River was not identified as part of the application site and its adverse impacts were not adequately addressed

A bridge across Shan Pui River was proposed to link the application site to the Yuen Long Town Centre via Yuen Long Industrial Estate, and to avoid the heavy use of the Nam Sang Wai Road which would cause more disturbance to the habitats in NSW,

¹⁵ <http://hk.apple.nextmedia.com/news/art/20110101/14824137>

¹⁶ Table 4 and Table 11 of the EcolA submitted by the applicants in June 2015.

¹⁷ Anon 2014. Summer 2014 Report: Egretty Counts in Hong Kong with particular reference to the Mai Po Inner Deep Bay Ramsar Site. Report by Hong Kong Bird Watching Society to the Agriculture, Fisheries and Conservation Department, Hong Kong SAR.

Kam Tin River and Shan Pui River. Besides the residents of the proposed development, the proposed bridge would also serve the general public in assessing the NSW area, providing minibus services, cycling tracks, pedestrian footpaths and a standard two-way vehicular access¹⁸. However, such an important component of the proposed development was not identified and included with the current application site (Figure 1); therefore, the applicants do not have the duty to fully assess the ecological impacts brought about by the proposed bridge within the current application. From our bird survey records in the Shan Pui River for the past five years, approximately 45 bird species were recorded, ranging from ardeids, waders, shorebirds, lowland terrestrial birds to raptors. The Globally Endangered Black-faced Spoonbill was also recorded in the Shan Pui River. We are concerned the construction and operation of this bridge would cause significant impact and disturbances to the birds utilising the Shan Pui River under different tidal levels. We consider that the omission of this bridge in the current application is unacceptable and the application should be rejected.

11. Adverse cumulative ecological impacts on NSW and the Deep Bay area

Cumulative ecological impacts to the fishponds/wetlands of Deep Bay area need to be properly and conservatively assessed given that a number of other residential and commercial developments have already been proposed in close proximity of the application site. These include a high-rise residential development of a planned population of 1,138 (A/YL-NSW/233), an increase in development scale for a low-rise residential development (Y/YL-NSW/1), a shopping mall cum hotel development of 10 storeys over a podium (Y/YL-NSW/3) and an outlet mall with commercial fishponds (A/YL-NSW/241), all of which are approximately 500 metres from the application site (Figure 2). The HKBWS is concerned that these developments, together with the current application, would cumulatively create a barrier for the flight lines of birds (in particular for the Tung Shing Lane egret) and would have significant adverse impacts on the ecological integrity of the sensitive Deep Bay area.

12. 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. Currently, the applicant has not identify a third party organization to carry out the PPP scheme. The HKBWS would like to highlight the importance of the role of this third part organization as an independent overlooking agent with expert knowledge to ensure

¹⁸ Section 6.6 of the Planning Statement submitted by the applicants in June 2015.

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.

13. Convention on Biological Diversity (CBD) should be followed

CBD has extended to Hong Kong in 2011 and the Government has been preparing the city-level Biodiversity Strategy and Action Plan since 2013 under the obligation of this international treaty. Referring to the preamble of the CBD, it stated that “... *the fundamental requirement for the conservation of biological diversity is the in-situ conservation of ecosystems and natural habitats*”. So as to achieve the spirit of the Convention, the NSW and LC area should be protected and any development within these areas should be avoided. Besides considering the development proposal prepared by the developer, the Government should also 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 can protect the sensitive habitats in the area while the land owners’ development rights is respected. A nature conservation trust can also be established for the long term management of the habitats in the NSW and LC area. The HKBWS considers that it is high time for the Government to consider these alternative proposals for the NSW and LC area in compliance with the Convention and its Strategic Plan for Biodiversity 2011-2020.

14. Justifications for the decision and comments made by Government departments

According to the Hong Kong Planning Standards and Guidelines (HKPSG), Chapter 10, Section 2.1 (ii), the TBP has the responsibility to, “*restrict uses within conservation zones to those which sustain particular landscapes, ecological and geological attributes and heritage features*”¹⁹. We note that all other Government bureaux/departments are also bound to the HKPSG, and the Agriculture, Fisheries and Conservation Department (AFCD) has the responsibility to advise the TPB on the ecological aspects in particular²⁰. Given AFCD’s mission to conserve natural environment and safeguard the ecological integrity²¹, HKBWS would also expect AFCD to object this application. Should AFCD feels otherwise, we urge that the appropriate justifications are provided.

¹⁹ Hong Kong Town Planning Standards and Guidelines – Chapter 10 Conservation, Section 2.1 (ii).

²⁰ AFCD Role of Department. Available at: http://www.afcd.gov.hk/english/aboutus/abt_role/abt_role.html

²¹ AFCD Vision and Mission. Available at: http://www.afcd.gov.hk/english/aboutus/vision_mission/abt_vision_mission.html

The HKBWS respectfully requests the Town Planning Board to take our comments into consideration and **reject** the current application. Thank you for your kind attention.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Woo Ming Chuan', with a large, sweeping initial stroke.

Woo Ming Chuan
Conservation Officer
Hong Kong Bird Watching Society

cc.

Agriculture, Fisheries and Conservation Department
Conservancy Association
Designing Hong Kong
Kadoorie Farm and Botanic Garden
WWF – Hong Kong

Figure 1. The comparison of the boundary of the proposed development site and that of the current Town Planning Board application.

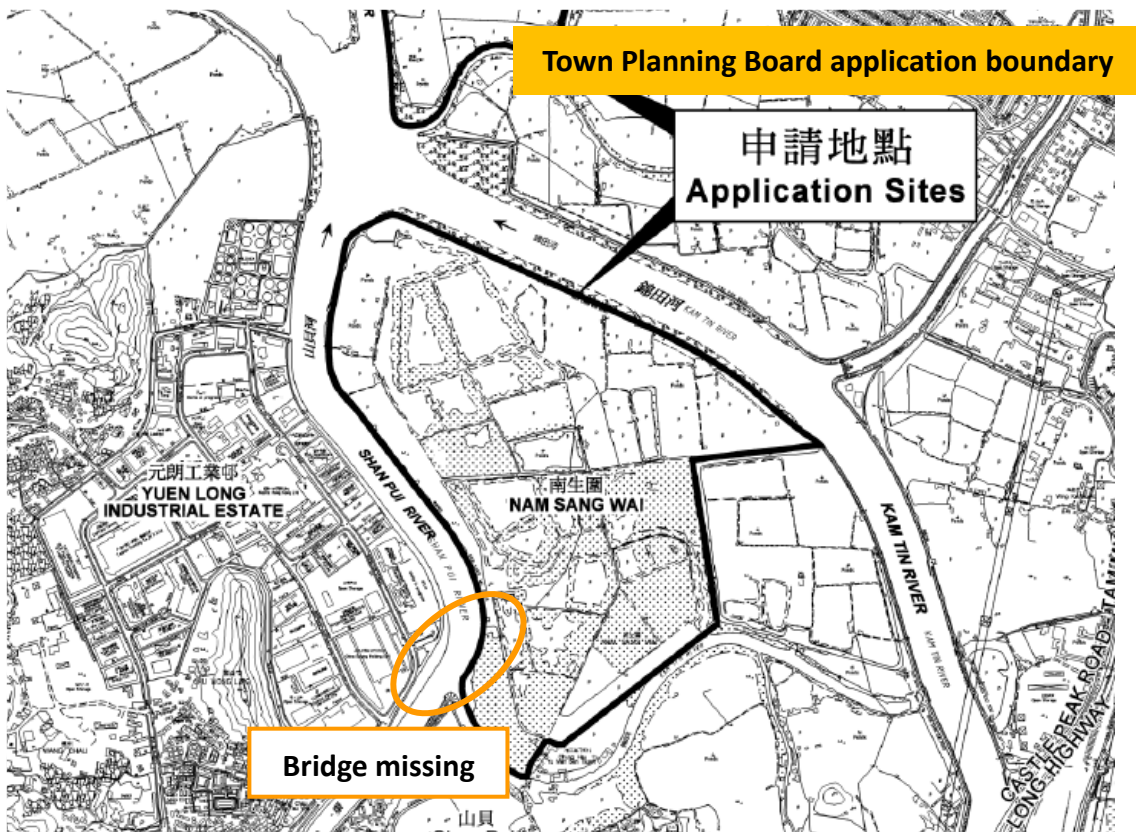
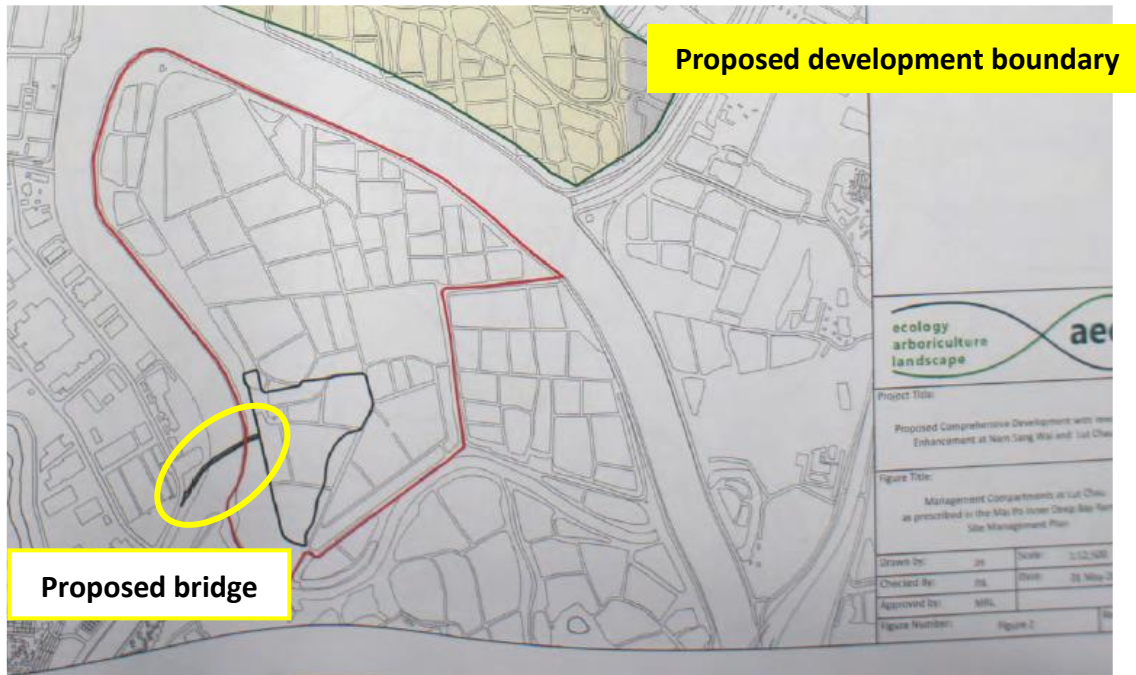


Figure 2. Proposed developments near the Nam Sang Wai application site

