



長春社 Since1968

The Conservancy Association

會址: 香港九龍大角咀道 38 號新九龍廣場 9 樓 910 室
Add.: Unit 910, 9/F, New Kowloon Plaza, 38 Tai Kok Tsui Road,
Kowloon, H.K.
網址 Website:www.cahk.org.hk

電話 Tel.:(852)2728 6781 傳真 Fax.:(852)2728 5538
電子郵件 E-mail:cahk@cahk.org.hk

13th March 2020

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,

Re: 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 (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*”. The application for rezoning the site from "Other Specified Uses" annotated "Comprehensive Development to include Wetland Restoration Area" to "Other Specified Uses" annotated "Comprehensive Development to include Wetland Restoration Area 1" involves construction of 30 high-rise buildings. The large-scale development would potentially induce adverse off-site disturbance impacts on the ecological function and integrity of Deep Bay wetland ecosystems.

In 2004, amendments of Nam Sang Wai Outline Zoning 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 from “Residential (Group D)” to “Comprehensive Development Area (1), “Comprehensive Development Area (2)” and “Comprehensive Development Area (3)” respectively. The area of the proposed



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CDAs is the same as the application site of Y/YL-NSW/6. CA and other concerned groups raised our objection towards the amendments. During the public hearing in 2005, CA reiterated that the area fell within WBA, serving as an important buffer area for the ecologically sensitive areas of Nam Sang Wai. Since the proposed amendments of rezoning as CDAs would result in high plot ratio ranging from 0.4 to 1.0, it would be inappropriate to phase out degraded areas at the expense of the sensitive environment and ecology. We then suggested that the existing zoning “Comprehensive Development (Wetland Restoration Area)” would be more appropriate than the proposed amendments and the plot ratio should be restricted to 0.4. 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”*.

According to the Explanatory Statement of the Approved Nam Sang Wai Outline Zoning Plan 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 height of 6 storeys including car park”*. Therefore, considering the planning history of the application site, the proposed development with a plot ratio up to 3.35 and building height of 41 storeys is not in line with the planning intention of “OU (CDWRA)”. The large-scale development is incompatible with the surrounding environment as well. Approving the captioned application is in contradiction to the Committee’s discussion and decision in the past.

2. Ecological concerns not addressed in full

Since the application site is situated in the vicinity of Wetland Conservation Area 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 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”.

Therefore, we disagree with the applicant that “the Proposed Amendments are in full compliance with TPB PG-No. 12C for development within WBA” and “the Proposed Amendments are fully feasible and acceptable and will not generate any adverse impact to the surrounds”.

Additionally, it was noticed that the ecological impact assessment still failed to address the following:

- i. Impedance of flight lines: Section 6.3.10 of the Ecological Impact Assessment (EcoIA) 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 km¹, 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.
- ii. 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.

¹ Wong, L.C., Lam, W.Y. and Ades, W.J. (2009). *Ecology of the birds in Hong Kong*. Hong Kong: Kadoorie Farm & Botanic Garden.



- iii. 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 active egretty at Tung Shing Lei.

3. Undesirable precedent of “destroy first, develop 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 November 2000, signs of pond filling and land filling could be spotted in the application site (Figure 2). 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,
Charlotte Chan
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. Signs of pond filling and land filling since November 2000 (circled in red) (Source: Google Earth)





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