

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

25 October 2019

Dear Sir/Madam,

Comments on the planning application for the proposed Residential (Flat) and Community Hub (Shop and Services, Eating Place, School, Place of Recreation, Sports or Culture and Public Transport Terminus) Development at Tung Shing Lei, Yuen Long (A/YL-NSW/274)

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The Hong Kong Bird Watching Society (HKBWS) objects to the planning application based on the following reasons.

1 Not in line with the planning intention of the Wetland Buffer Area (WBA) under the Town Planning Board Planning Guideline No. 12C

1.1 WBA is *"to protect the ecological integrity of the fish ponds and wetland within the WCA (Wetland Conservation Area) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds."* Moreover, *"As a substantial amount of the fish ponds within the WBA have already been lost over time through filling and certain areas have been degraded by the presence of open storage use, these degraded areas may be considered as target areas to allow an appropriate level of residential/recreational development so as to provide an incentive to remove the open storage use and/or to restore some of the fish ponds lost."*¹

1.2 Referring to the approved Nam Sang Wai Outline Zoning Plan (No. S/YL-NSW/8), the general planning intention of the plan is to *"conserve the ecological value of the fish ponds which form an integral part of the wetland ecosystem in the Deep Bay Area... The planning intention of the area further away from the fish ponds is to protect the ecological integrity of the wetland ecosystem, and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds."*²

¹ Section 6.4 of the Town Planning Board Planning Guideline No. 12C. Available at: https://www.info.gov.hk/tpb/en/forms/Guidelines/pg12c_e.pdf

² Section 8.3 of Explanatory Notes of the Approved Nam Sang Wai Outline Zoning Plan. Available at: https://www2.ozp.tpb.gov.hk/plan/ozp_plan_notes/en/S_YL-NSW_8_e.pdf#nameddest=U



- 1.3 Moreover, the application site is located within “Undetermined” zone, where *“has to be comprehensively planned as piecemeal development or redevelopment would have the effect of degrading the environment and thus jeopardizing the long-term planning intention of the areas.”*
- 1.4 However, the proposed high-rise residential development is not in line with the above planning intention of WBA as there is no wetland be restored while the rural environment would probably be degraded. We urge the Town Planning Board (Board) to reject this application.

2 Ecological surveys failed to meet the requirement of the Town Planning Board (TPB) Planning Guideline No. 12C (PG-No. 12C)

- 2.1 According to Section 8.6 of this guideline, *“field investigation normally covering a period of not less than 12 months should be included to provide baseline information of, and to study effects on, existing wildlife habitats, flora and fauna, and their seasonal changes”.*
- 2.2 An ecological verification survey on avifauna for the present application was conducted between July and August 2018, which covers only over-summering birds (May to September) while the visiting period of spring passage migratory birds (March to May) is still being neglected even when the previous surveys are valid. We consider the bird records during the migratory months are important as Hong Kong is located on the East Asian-Australasian Flyway and provides an important stop-over point for migrant species to refuel and rest. As such, the current avifauna list provided in the EcoIA only represents a portion of the seasonal variation of birds during a year at the application site and study area, which **cannot be considered as representative.**

Month	2013						2014				2015	2018
	May	Jun	Sep	Oct	Nov	Dec	Jan	Feb	Sep	Dec	Jan	Jul-Aug
Habitat Mapping					X		X	X				X
Botanical Survey					X		X	X				X
Birds			X	X	X	X	X	X		X	X	X
Birds: flight lines			X	X	X	X				X	X	
Birds: egret flight lines	X	X										X
Dragonflies and Butterflies			X	X	X	X	X	X	X	X	X	X
Other terrestrial fauna			X	X	X	X	X	X	X	X	X	X

- 2.3 The verification survey and the previous surveys do not fully cover the active periods of amphibians, reptiles, butterflies and odonates (April to October) as recommended in the Environmental Impact Assessment Ordinance Guidance Note No. 7/2010³. As there are marsh, ponds, mitigation wetland, watercourse, secondary woodland and agricultural land found within the 500m Study Area according to the habitat map, and these habitat types are suitable for various amphibian, reptile, butterfly and odonate species, we are concerned the insufficient coverage of wet season of the surveys would lead to an underrepresented species composition of these faunal groups.
- 2.4 The survey period of the ecological impact assessment (EcolA) for this application failed to meet the requirements of the TPB PG-No. 12C, and therefore the current ecological data provided by the applicant cannot be considered as representative. We are concerned the impacts on the above species have not been adequately assessed. We consider more comprehensive surveys of more than 12 months should be conducted for the current application.

3 Misleading habitat map

According to the Google Earth aerial photograph in July 2016, the meander, which is adjacent to the application site, is running from the eastern side of the site to the north. The aerial photograph extracted from the Hong Kong Map Service 2.0 in January 2018 shows that the meander is shortened during dry season but is still adjacent to the site. However, the updated habitat map provided by the applicant after the verification survey (Figure 1) illustrates that the meander is running from the north eastern side of the site to the north, while a portion of the meander at the east is identified as “wasteland”. We are concerned the habitat map surveys done by the applicant has not adequately identified the habitat types, and the direct and indirect impacts on the habitat could not be properly assessed.

4 Clarification methodology of verification survey

- 4.1 There is no information showing the survey transect and the flight line observation points for the verification survey. We are concerned the representativeness of the data collected. The applicant should clarify the locations of transects and observation points, and if they are the same as that in the previous surveys (Figure 2).

³ EIAO Guidance Note No. 7/2010: Ecological Baseline Survey for Ecological Assessment.

5 Adverse ecological impacts on Great Cormorant Night Roost

- 5.1 Nam Sang Wai (NSW) is the **largest night roost of Great Cormorant in Hong Kong**, which is regarded as a regionally important roosting site. For the winters in past six years from 2012/13 to 2017/18, the peak count ranged from 3,713 to 6,035 individuals, **accounting for a least half of the Deep Bay population**⁴. This indicates the importance of the NSW roosting site to the regional population.
- 5.2 The proposed high-rise residential development is clearly visible to this Great Cormorant night roost in NSW. It would be subject to light disturbances during the construction and operation phase of the development. We are concerned about the deterioration of habitat quality of this regionally important night roost arising from the development, which may lead to the **abandonment of the roost**.

6 Potential adverse impacts to the Tung Shing Lane Egretty

- 6.1 Tung Shing Lane egretty is the second largest egretty in Deep Bay and has been actively used by Little Egrets (*Egretta garzetta*) and Chinese Pond Herons (*Ardeola bacchus*) for over ten years. In 2018, 84 nests were recorded, contributing to over 16.6% of the total ardeids' nests in the Deep Bay area⁵.
- 6.2 Most birds flew less than 2km from their nests, but some can reach a distance as far as 4km due to the surrounding topography of the egretty. In order to safeguard these breeding egrets and herons, the nesting locations together with feeding grounds and flight paths of the birds should all be protected. WBA serves as a flight path/corridor such that the breeding egrets and herons can access their foraging grounds and wetlands in the WCA.
- 6.3 Despite of the limitation of the flight line survey, the result submitted by the applicant reveals that a portion of breeding egrets would fly through the northeastern part of the site. **Direct impacts of obstructing flight path is anticipated**.
- 6.4 Apart from the potential impacts on the flight paths of the egretty, the intensified visual, noise and human disturbances impact during the construction and operation phase of the proposed residential development would deteriorate the habitat quality of the egretty and its surroundings, hence may **reduce the breeding success of the breeding birds**.

⁴ Data were extracted from the Monthly Waterbird Monitoring Biannual Reports (October to March, from 2012 to 2018) for the Mai Po Inner Deep Bay Ramsar Site Waterbird Monitoring Programmes 2012-18, reported by the Hong Kong Bird Watching Society to the Agriculture, Fisheries and Conservation Department, Hong Kong Special Administrative Region Government.

⁵ Anon, 2018. Summer 2018 Report: Egretty Counts in Hong Kong with particular reference to the Mai Po Inner Deep Bay Ramsar Site. Report by The Hong Kong Bird Watching Society to the Agriculture, Fisheries and Conservation Department, Hong Kong Special Administrative Region Government.

7 Adverse ecological impacts on the globally endangered Black-faced Spoonbill and the habitat quality near the application site

- 7.1 Black-faced Spoonbill (*Platalea minor*) was recorded in the surroundings of the application site. It is listed as “Endangered” under the IUCN Red List, “Endangered” in the China Red Data Book, of “Potential Global Concern” in Fellowes *et al.* (2002), and is protected under the Wild Animals Protection Ordinance Cap. 170.
- 7.2 According to the survey results prepared for the application no. A/YL-NSW/233, a maximum of 20 individuals was recorded in the ponds of the Assessment Area during the period of September 2013 to February 2014⁶. Comparing with the total number of Black-faced Spoonbill recorded in Hong Kong (i.e., 222 individuals) in January 2014⁷, the number of individuals recorded in the Assessment Area can be of importance. From December 2014 to January 2015, a maximum of 7 individuals was recorded in Ponds 38/39⁸, which is just approximately 130 metres from the application site. Black-faced spoonbills were also recorded in the flight lines which pass close to the eastern and southeastern boundaries of the application site⁹. All of the above illustrate that the application site and its surroundings have suitable habitats for the Black-faced Spoonbill and are actively utilized by this globally endangered species.
- 7.3 We are concerned that off-site ecological impacts of the proposed residential development (e.g., light and human disturbances caused by the construction and operation of high-rise residential buildings) are still likely to adversely affect the avifauna (including the globally endangered Black-faced Spoonbill) which utilize the habitats close to the application site. This would **degrade the habitat quality in the locality and may affect the ecological integrity of the ecologically sensitive Deep Bay area.**

8 Adverse ecological impacts of the proposed high-rise residential development

- 8.1 The proposed development consists of 8 blocks of 6-storey to 29-storey domestic towers and 3 blocks of 1-storey to 2-storey composite buildings. Comparing with the previously approved application (A/YL-NSW/233) in 2016, there is a substantial increase in the scale and density of the proposed residential development (Table 1).

⁶ Table 2 of Annex D2 of the EcoIA prepared for the application no. A/YL-NSW/233

⁷ Yu, Y.T, Chan, K.T., Fong, H.H.N. and Tse, I.W.L. 2014. International Black-faced Spoonbill Census 2014. Black-faced Spoonbill Research Group, The Hong Kong Bird Watching Society. Hong Kong.

⁸ Table D4 of the EcoIA prepared for the application no. A/YL-NSW/233

⁹ Section 3.5.5 and 3.5.6 of the EcoIA prepared for the application no. A/YL-NSW/233

Table 1. The changes between different development parameters of the proposed residential development (application no. A/YL-NSW/274) and that of the previously approved applications (application no. A/YL-NSW/233, A/YL-NSW/224 and A/YL-NSW/172)

	A/YL-NSW/172 (2007)	A/YL-NSW/224 (2014)	A/YL-NSW/233 (2016)	A/YL-NSW/274 (2019)	Percentage of change between 2016 and 2019
Max. building height (storeys)	3	3	10	29	+190%
Max. building height (mPD)	-	-	+45.2	+103.2	+128%
Domestic plot ratio	0.38	0.37	0.74	2.68	+262%
Proposed population	368	240	1,138	4,888	+330%

- 8.2 The proposed development is highly visible over a large area due to the building height. The maximum building height (i.e. +103mPD, excluding rooftop features) is much taller than the hill to the west (i.e. about +60mPD). This is clearly incompatible with the nearby rural and village setting, in which the general development intensity is of a maximum plot ratio of 0.4 and not more than 3-storey high.
- 8.3 The high-rise development will significantly affect the flight path of birds, especially for the breeding egrets in Tung Shing Lei, hence threatening their survival and their population.
- 8.4 Furthermore, the applicant stated in Section 6.4.9 of the Ecological Impact Assessment Report that *“the surroundings of the Application Site is rather developed and that there are existing lightings near the Application Site. The Application Site and the surrounding areas are already inhabited by species tolerant of artificial lighting. The impacts of increased light glare will be insignificant.”* We do not agree with this conclusion as the nearby rural and village environment immediate to the west are just 3-storey high, the impacts of light glare during night time would apparently be smaller than that created by the proposed high-rise residential towers which would become well-lit façades (created by lightings from each household).
- 8.5 Moreover, as the anticipated population is 1,138 to 4,888, this massive population caused by the proposed high-rise development would also lead to adverse ecological impacts (i.e. increase in disturbance to surrounding habitats and wildlife due to human activities, construction work, light and noise pollution, etc.).

8.6 We are concerned the proposed development would have adverse impacts on the habitat quality and wildlife immediately adjacent to the application site and in the Deep Bay wetlands. Furthermore, the approval of this application for the high-rise development would set undesirable precedent to the similar applications in both Nam Sang Wai area and Deep Bay area. As such, we object to the proposed high-rise residential development.

9 Cumulative ecological impacts and undesirable precedent set on Deep Bay area

9.1 As stated in the Nam Sang Wai OZP, “development within the areas has to be comprehensively planned as piecemeal development or redevelopment would have the effect of degrading the environment and thus jeopardizing the long-term planning intention of the areas”. Cumulative ecological impacts to the fishponds of Deep Bay area need to be carefully assessed given that a number of other residential developments have already been proposed and approved in close proximity of the application site.

9.2 The developments includes application no. A/YL-NSW/241, A/YL-NSW/242, A/YL-NSW/267, Y/YL-NSW/3 and Y/YL-NSW/4, all of which are approximately less than 1km from the application site (Figure 3). All the above developments are close to the Great Cormorant night roost of significant size, and also the breeding site and flight path of egret in Tung Shing Lei. We are concerned that the disturbances arising from all of these residential and commercial developments would cumulatively create a significant amount of disturbances resulting in the abandonment of these egrets’ breeding site and Great Cormorant night roosts.

9.3 Moreover, the approval of this application will set an undesirable precedent to the future similar applications in the Deep Bay area, and thus nullifying the statutory planning control mechanism. We urge the Board to reject this application in order to protect WCA and WBA from any development threats.

10 Justifications for the decision and comments made by Government departments and the Board

According to the Hong Kong Planning Standards and Guidelines (HKPSG), Chapter 10, Section 2.1 (iii), the Board has the responsibility to “*control adjoining uses to minimise adverse impacts on conservation zones and optimise their conservation value*”. We note that all other Government bureaux/departments are also bound to the HKPSG, the Agriculture, Fisheries and Conservation Department (AFCD) and the Planning Department (PlanD) has the responsibility to advise the Board on the

ecological and planning aspects in particular¹⁰. Given AFCD's mission to conserve natural environment and safeguard the ecological integrity¹¹ and the proposed development is not in line with the planning intention of the statutory zoning, HKBWS would also expect AFCD and PlanD to object this application. Should AFCD, PlanD or the Board feels otherwise, we urge that the appropriate justifications are provided.

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

Yours faithfully,



Wong Suet Mei
Assistant Conservation Officer
The Hong Kong Bird Watching Society

cc.
The Conservancy Association
Designing Hong Kong
Kadoorie Farm and Botanic Garden
WWF – Hong Kong
TrailWatch

¹⁰ AFCD Role of Department. Available at:
http://www.afcd.gov.hk/english/aboutus/abt_role/abt_role.html

¹¹ AFCD Vision and Mission. Available at:
http://www.afcd.gov.hk/english/aboutus/vision_mission/abt_vision_mission.html

Figure 1. The Google Earth aerial photograph in July 2016 (upper-left corner) shows that the meander, which is adjacent to the application site (marked with red line), is running from the eastern side of the site to the north. The aerial photograph extracted from the Hong Kong Map Service 2.0 in January 2018 (upper-right corner) shows that the meander is shortened during dry season but is still adjacent to the site. However, the updated habitat map provided by the applicant after the verification survey (Bottom) illustrates that the meander is running from the north eastern side of the site to the north, while a portion of the meander at the east is identified as “wasteland”. We are concerned the habitat map surveys done by the applicant has not adequately identified the habitat types, and the direct and indirect impacts on the habitat could not be properly assessed.

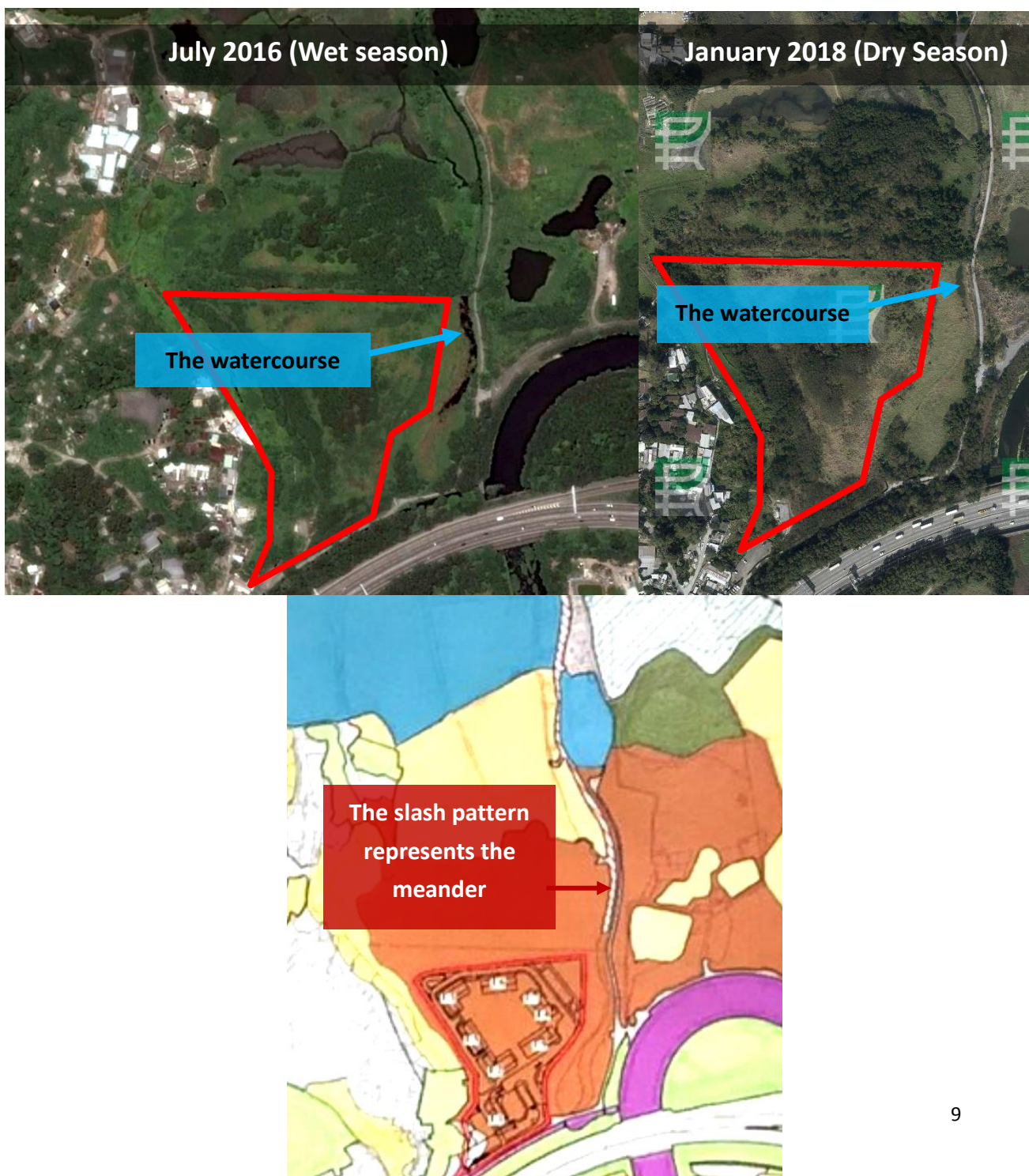


Figure 2. There is no information showing the survey transect and the flight line observation points for the verification survey. We are concerned the representativeness of the data collected. The applicant should clarify the locations of transects and observation points, and if they are the same as that in the previous surveys.

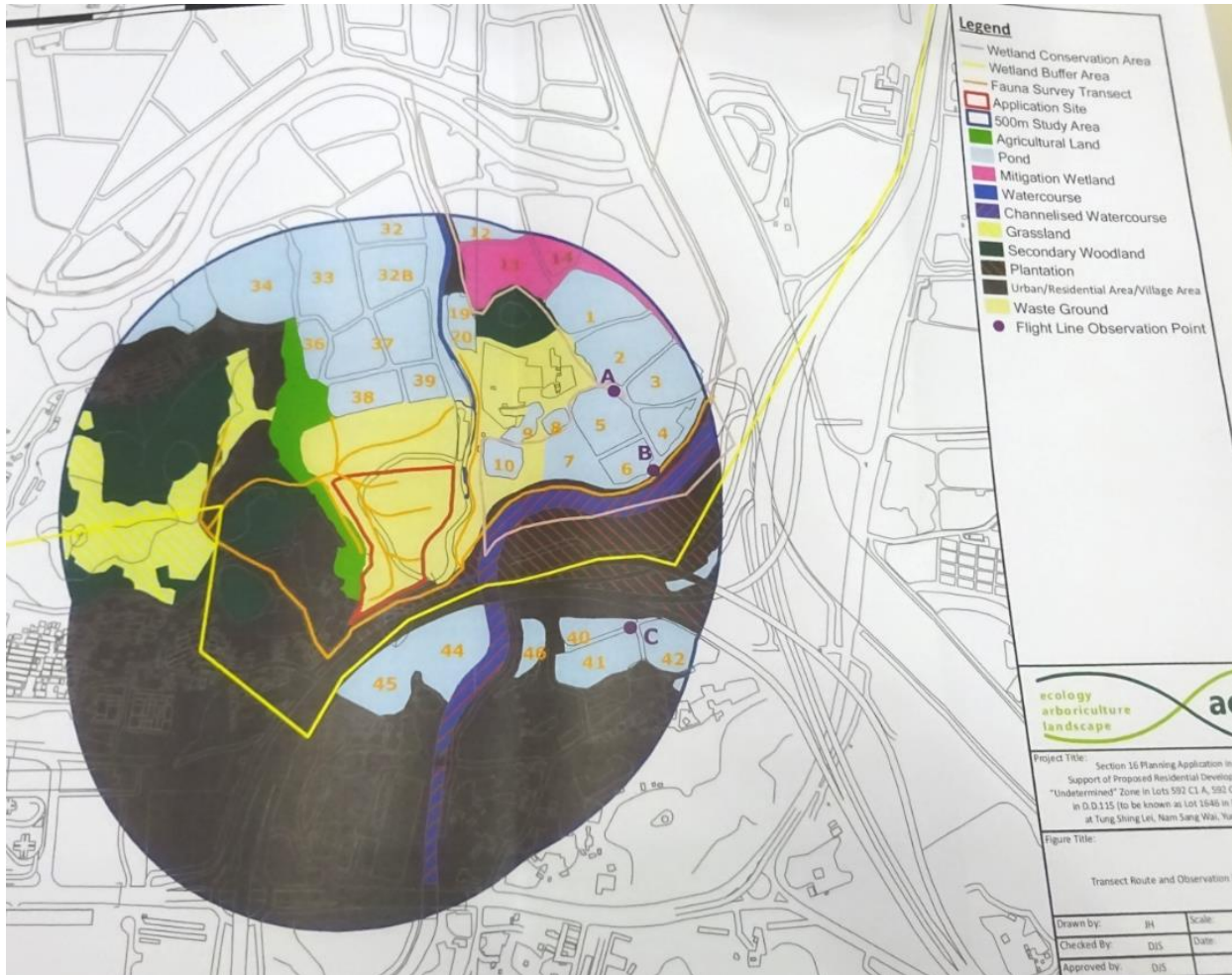


Figure 3. The Google Earth aerial photo shows the developments includes application no. A/YL-NSW/241, A/YL-NSW/242, A/YL-NSW/267, Y/YL-NSW/3 and Y/YL-NSW/4, all of which are approximately less than 1km from the application site. All the above developments are close to the Great Cormorant nigh roost of significant size, and also the breeding site and flight path of egretry in Tung Shing Lei. We are concerned that the disturbances arising from all of these residential and commercial developments would cumulatively create a significant amount of disturbances resulting in the abandonment of these egrets' breeding site and Great Cormorant night roosts.

