

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

By email only

12 March 2020

Dear Sir/Madam,

**Comments on the planning application to rezone the application 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" at Nam Sang Wai (Y/YL-NSW/6)**

Nam Sang Wai area, including parts of the nearby Kam Tin River and Shan Pui River, are of high ecological value and conservation importance and providing important habitats for birds, particularly wintering and migratory waterbirds and wetland dependent birds. The plantations in Nam Sang Wai (NSW) is the largest night roost of Great Cormorant (*Phalacrocorax carbo*) in Hong Kong, which is regarded as a regionally important roosting site for Great Cormorants, supporting at least half of the Deep Bay population. Nam Sang Wai is thus included in the "Inner Deep Bay and Shenzhen River catchment" Important Bird Area (IBA) recognized by the BirdLife International (Figure 1). Moreover, the mangrove at the confluence of Shan Pui River and Kam Tin River next to the application site was recorded with Bent-winged Firefly (*Pteroptyx maipo*) (HKES, 2011)<sup>1</sup> and is an important habitat for this endemic species. Given the ecological importance and sensitivity of Nam Sang Wai area, the Hong Kong Bird Watching Society (HKBWS) objects to the captioned planning application based on the following reasons:

---

<sup>1</sup> Hong Kong Entomological Society (HKES), 2011. Insect News Number 3 2011.

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

- 1.1 The application site is located within WBA under the Town Planning Board Planning Guideline No. 12C, where 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, it is immediately next to Wetland Conservation Area (WCA) which is intended *“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”*.
- 1.2 Referring to the approved Nam Sang Wai Outline Zoning Plan (No. S/YL-NSW/8)<sup>2</sup>, 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.”*<sup>3</sup>
- 1.3 The application site is located within “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” (WRA) zone, where is intended *“to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area”* and *“to phase out existing sporadic open storage and port back-up uses on degraded wetlands.”* Meanwhile, *“any new building should be located farthest away from Deep Bay.”*
- 1.4 Referring to the explanatory notes of the plan, it is also stated that *“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.”* For the WRA

---

<sup>2</sup> [https://www2.ozp.tpb.gov.hk/plan/ozp\\_plan\\_notes/en/S\\_YL-NSW\\_8\\_e.pdf](https://www2.ozp.tpb.gov.hk/plan/ozp_plan_notes/en/S_YL-NSW_8_e.pdf)

<sup>3</sup> 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](https://www2.ozp.tpb.gov.hk/plan/ozp_plan_notes/en/S_YL-NSW_8_e.pdf#nameddest=U)

zone to the north of Shan Pui Road, *“apart from the requirement for wetland restoration, a stepped height concept with building height ranging from 6 to 3 storeys from the landward side to the waterfront should be adopted in the design of future development on the site.”*

- 1.5 According to the aerial photograph extracted from Google Earth in October 2018, there are ponds and vegetated land within the application site (Figure 2). We are concerned the footprint of the development will lead to a direct loss of wetland and natural features. Besides, we consider the proposed high-rise residential development is incompatible with the surrounding rural environment and the fishponds further away. It is thus not in line with the above planning intention of WBA, as its high development intensity is likely to degrade the adjoining rural and wetland environment. We urge the Town Planning Board (Board) to reject this rezoning application.

## **2 It is unjustified to provide housing supply within ecological sensitive area**

- 2.1 In Section 4.2.5 of the Planning Statement, the applicant claimed that *‘this development intensity echoes with the Housing Department’s “Memorandum for the Hong Kong housing Authority – Enhancement of the Development Intensity of Public Housing Sites” (Memorandum) released in December 2018...in order to optimize provision of the much-needed subsidized housing units for society.’* In Section 4.2.6, the applicant stated *“this planning application is to propose an optimal development intensifying for the said residential development in responding to the latest policies to optimize land for housing supply.”*
- 2.2 And then in Section 6.2 of the Justifications, the applicant has *“identified a vacant and formed Government site to the southwestern corner of the Application Site, which is readily available for public housing development of about 640 public housing units in short term.”* A high-rise public housing development with a maximum plot ratio of 6.5 is proposed *“by making reference to Housing Department’s memorandum to optimize provision of public housing units to serve societal needs“* as stated again in Section 6.4.2
- 2.3 However, we consider the claim that the proposed rezoning is in line with

the government policy is invalid. According to the Memorandum for the Housing Authority, it is mentioned that *“as a refinement to the prevailing planning policy and considerations for determining the maximum domestic PRs (plot ratios) for sites located in the respective Density Zones of the Main Urban Areas and New Towns, the maximum domestic PR of the public housing sites will be allowed to increase beyond the current 20% cap by up to 10% points (i.e. maximum 30% in total) where their technical feasibility permits.”*<sup>4</sup> The government policy is to favour the increase of residential intensity only in urban area and new towns, while the suburban and rural areas are not being included in this context.

- 2.4 From the recent Policy Address released on 16 October 2019, Land Sharing Pilot Scheme (LSPS) was proposed to unleash development potential of private agricultural land in the New Territories. Meanwhile, the Development Bureau has explained clearly in the Legislative Council Paper that in order *“to strike a balance between development and conservation, private lots falling within country parks, six environmentally sensitive zonings...will not be eligible for LSPS.”* The six environmentally sensitive zonings refer to *“Conservation Area (CA), Coastal Protection Area (CPA), Other Specified Uses (OU) (Comprehensive Development to include Wetland Restoration Area), OU (Comprehensive Development and Wetland Enhancement Area), OU (Comprehensive Development and Wetland Protection Area) and Site of Special Scientific Interest (SSSI).”*
- 2.5 It is clear that under the current Government Policy, OU (Comprehensive Development to include Wetland Restoration Area) is identified as an environmentally sensitive zoning and a *“no-go”* area even if the development is intended to speed up short- to medium-term housing supply. Therefore, we consider it is unjustified to increase development intensity within environmentally sensitive areas in the current rezoning application.

---

<sup>4</sup> Memorandum for the Hong Kong housing Authority – Enhancement of the Development Intensity of Public Housing Sites. Available at: <https://www.housingauthority.gov.hk/en/common/pdf/about-us/housing-authority/ha-paper-library/HA35-18-EN.pdf>

### 3 Degradation of habitats of the endemic Bent-winged Firefly

- 3.1 Section 4.7.1 of the Ecological Impact Assessment (EcoIA) submitted by the applicant already recognized the Bent-winged Firefly is *“endemic to Hong Kong and restricted to intertidal habitats in the Deep Bay area, particular mangroves”*. The seasonally wet grassland within the Study Area was considered to be of “Moderate” ecological value due to the presence of Bent-winged Fireflies<sup>5</sup>. The semi-natural water (Kam Tin River) which is located next to the application site was even considered to be of “Moderate to High” ecological value due to “the provision of breeding ground for the endemic Bent-winged Firefly which is highly restricted to tidal habitats in the Deep Bay area”<sup>6</sup>.
- 3.2 Given the high conservation importance of the Bent-winged Firefly and the condition that Bent-winged Firefly would be negatively affected with increased light intensity<sup>7</sup>, the applicant claimed that *“a series of mitigation measures are proposed to minimize the indirect impacts”* including ground-level lighting and the night-time lighting from the residential buildings. First, the set-up of Wetland Restoration Area of about 25-50 meters width and tree planting along the edge of the proposed development are proposed to screen off the ground-level lighting towards Kam Tin River. Second, the applicant suggested that *“two school, which will not operate at night, will be located more closely to Kam Tin River”* in order to *“screen out night-time lighting generated from the flats on the lower floors, which are the major sources of light impact generated from the residential buildings.”*
- 3.3 However, referring to the building height of Site F and G (Figure 3), the residential buildings next to the Wetland Restoration Area and close to the Kam Tin River are already 18 to 23 storeys high. These towers would apparently become light façades during night time. Moreover, even for the cross section from the school to the residential buildings (Figure 4), it is still

---

<sup>5</sup> Section 5.2.8 and Table 13 of the Ecological Impact Assessment (EcoIA)

<sup>6</sup> Section 5.2.11 and Table 16 of the Ecological Impact Assessment (EcoIA)

<sup>7</sup> Yiu, V. 2012. Effect of artificial light on firefly flashing activity. *Insect News* (Hong Kong Entomological Society Newsletter) 4:5-9

clear that the 25-storey residential buildings immediately next to the 12-storey school are still highly visible due to the substantial increase in building height. As the Bent-winged Firefly were recorded "on the Nam Sang Wai side of the semi-natural watercourse...highest densities of the species were recorded from the seasonally wet grassland near the pier in Nam Sang Wai"<sup>8</sup>, we are concerned the adverse impacts on the endemic Bent-winged Firefly would not be adequately mitigated and the high-rise development would degrade the habitats for the endemic species.

#### **4 Adverse impacts on the Great Cormorant roosting site**

4.1 Great Cormorants gather to roost in the trees at night<sup>9</sup>, but some of them were also seen using the roosting sites during the day. In Section 4.3.3 of the EcolA, the applicant has compared "*the number of roosting cormorants in the Study Area to the entire wintering population in Nam Sang Wai*", and it is calculated that "*the peak count recorded in the Study Area (235 individuals) is about 6% of the average peak count from 2014/15 winter to 2016/17 winter (4223 individuals)*." The applicant has then identified the habitat of ponds as "*Moderate*" due to "*the presence of cormorant wintering roost and provision of foraging habitats for bird species of conservation significance*."

4.2 The above calculation only covers the cormorants roost within the Study Area, while neglecting those roost outside the Study Area but at the same batch of plantation. This may lead to an underestimation of the ecological impacts on the roosting sites in Nam Sang Wai. The Board should be reminded that Nam Sang Wai (NSW), including the colony falls within the Study Area of the current application, is the largest night roost of Great Cormorant (*Phalacrocorax carbo*) in Hong Kong, which is also regarded as a regionally important roosting site. For the winters in past six years from 2012/13 to 2018/19, the peak count ranged from 3,713 to 6,035

---

<sup>8</sup> Section 4.7.1 of the Ecological Impact Assessment (EcolA)

<sup>9</sup> Mai Po Marshes Nature Reserve, Nam Sang Wai and Lok Ma Chau Mitigation Wetland are the known evening roosting sites in the Deep Bay area. Evening counts are conducted to get a more accurate information on their wintering population.

individuals, accounting for at least **half** of the Deep Bay population. This also indicates the importance of the NSW roosting site to the regional population. Instead of only evaluating the ecological significance and assessing the impacts on roosting cormorants that fall within the Study Area, the applicant should take the whole roosting colony in Nam Sang Wai into account.

- 4.3 The night roosting site in Nam Sang Wai is located **just about 420m to 1.4km away** from the application site. The residential towers are highly visible due to their height (i.e. 18 to 41 storeys) would become light façades during night time and would affect the surrounding habitats. We are concerned the roosting site would be subject to light disturbances during the operation phase of the development and lead to the deterioration of habitat quality of this regionally important night roost arising from the development, which would lead to the abandonment of the roost. The cumulative adverse impacts of the nearby approved developments on the night roost are likely to further worsen the situation (please refer to section 8 below). However, there is **no information** in the submitted EcolA to evaluate and assess the potential impacts on Great Cormorant roosting site.

## **5 Adverse impacts on Tung Shing Lane Egretty**

- 5.1 Tung Shing Lane egretty is the second largest egretty in Deep Bay in 2018 and has been actively used by ardeids for about 20 years. In 2018, 84 nests were recorded, contributing to about 17% of the total ardeids' nests in the Deep Bay area. Therefore, the Tung Shing Lane egretty, which is within the application site, is an important egretty in Hong Kong and should be an adequately protected.
- 5.2 Two ardeid species, namely Little Egrets (*Egretta garzetta*) and Chinese Pond Herons (*Ardeola bacchus*), mainly nest and breed at the egretty in Tung Shing Lei, in which their nesting and roosting sites are regarded as of "Regional Concern" due to their restrictedness<sup>10</sup>. The potential impacts on

---

<sup>10</sup> Fellowes et al.: Fauna of Conservation Concern (2002)

the ecologically important egretty should not be overlooked.

- 5.3 The maximum foraging range of ardeids can be up to 2 to 4 km while the Tung Shing Lane egretty is located about 1.4 m away from the application site. With this distance, the environmental impacts including noise and light during the construction and operation phase of the proposed development would potentially deteriorate the habitat quality of the egretty and adversely affect the breeding birds and their breeding success.

## 6 Adverse impacts of the proposed high-rise residential development

- 6.1 The proposed development consists of 30 towers of residential buildings, with a height ranging from 63.25m to 125.25m excluding rooftop features. It is highly visible over a large area due to its building height - the maximum building height is much taller than the hill to the southeast (i.e. about +60m), the residential building at the south (i.e. 14-16 storeys) and the nearby village setting (i.e. less than 3-storey high). Taking reference from the photomontage submitted by the applicant (Figure 5), the current application of high-rise residential development is clearly incompatible with the surrounding rural environment.

**Table 1.** Comparison between the current requirement of the Comprehensive Development Area and the current application (Y/KTN/1)

	Requirement of OU(CDWRA)	Public Housing for the Current application (Increase)	Private Housing for the Current application (Increase)
Max. building height (storeys)	6	41 (7-fold)	38 (6-fold)
Max. plot ratio	0.4	6.5 (16-fold)	3.6 (9-fold)

- 6.2 Moreover, as the anticipated population is 13,417. This massive population caused by the proposed high-rise development would also lead to adverse ecological impacts (i.e. increase in disturbance due to light and noise pollution, etc.). Moreover, since the ferry crossing to Nam Sang Wai is just next to the current rezoning application site, we are concerned the

introduction of such a massive population of residents into the locality would bring more human disturbance to the wetlands in the Nam Sang Wai area and degrade the habitat quality for wildlife.

- 6.3 Furthermore, the approval of the proposed development with substantial increase in building high and development intensity 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.

## **7 The Town Planning Board should not encourage “destroy first, build later”**

The application site is associated with unauthorized developments. Nine Enforcement Notices (Case no. 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 and E/YL-NSW/256) for the unauthorized development of pond/land filling, dumping and site formation, car park and open storage was issued at the application site from 2009 to 2019. We consider that this is “destroy first, build later”. We are concerned the approval of the current application would further legitimize the current misuse of the WRA and WBA zone, leading to the promotion of “destroy first, develop later” attitudes among landowners in the locality. As the Board has suggested that *“the Board will not tolerate any deliberate action to destroy the rural and natural environment in the hope that the Board would give sympathetic consideration to subsequent development on the site concerned.”*<sup>11</sup> We urge the Board to reject this application.

## **8 Cumulative ecological impacts and undesirable precedent set in Deep Bay area**

- 8.1 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

---

<sup>11</sup> TPB Press Release. Available at: <http://www.info.gov.hk/gia/general/201107/04/P201107040255.htm>

proposed in close proximity of the application site.

- 8.2 The developments include application no. A/YL-NSW/241, A/YL-NSW/242, A/YL-NSW/267, Y/YL-NSW/3, Y/YL-NSW/4, A/YL-NSW/274 and A/YL-NSW/275, and an approved Environmental Impact Assessment for the upgrading works at the Yuen Long Effluent Polishing Plant (AEIAR-220/2019). **All of them are approximately within 1.5km from the application site (Figure 6), and are close to the breeding site and flight path of egretty in Tung Shing Lane, and/or the largest Great Cormorant night roost in Hong Kong at Nam Sang Wai.**
- 8.3 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.**
- 8.4 Moreover, the approval of this application will set an undesirable precedent to the future similar applications associated with “destroy first, build later” 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.

## **9 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 particular<sup>12</sup>. Given AFCD’s mission to conserve natural environment and safeguard the ecological integrity<sup>13</sup> and the proposed development is not in line with the planning

---

<sup>12</sup> AFCD Role of Department. Available at: [http://www.afcd.gov.hk/english/aboutus/abt\\_role/abt\\_role.html](http://www.afcd.gov.hk/english/aboutus/abt_role/abt_role.html)

<sup>13</sup> AFCD Vision and Mission. Available at:

intention of the statutory plan, 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,

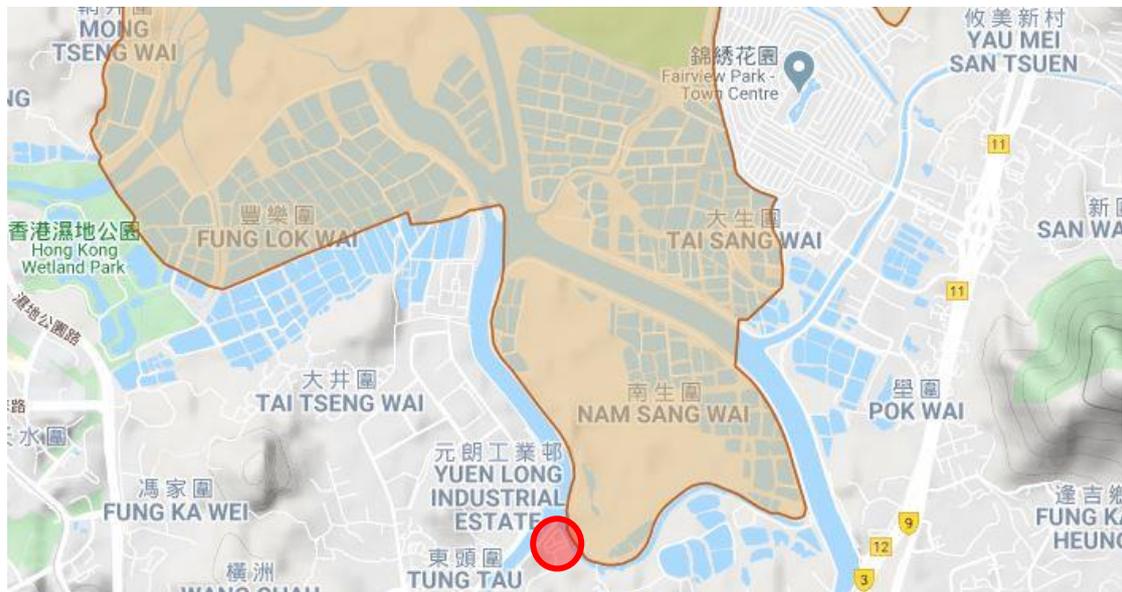


Wong Suet Mei  
Assistant Conservation Officer  
The Hong Kong Bird Watching Society

cc.

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

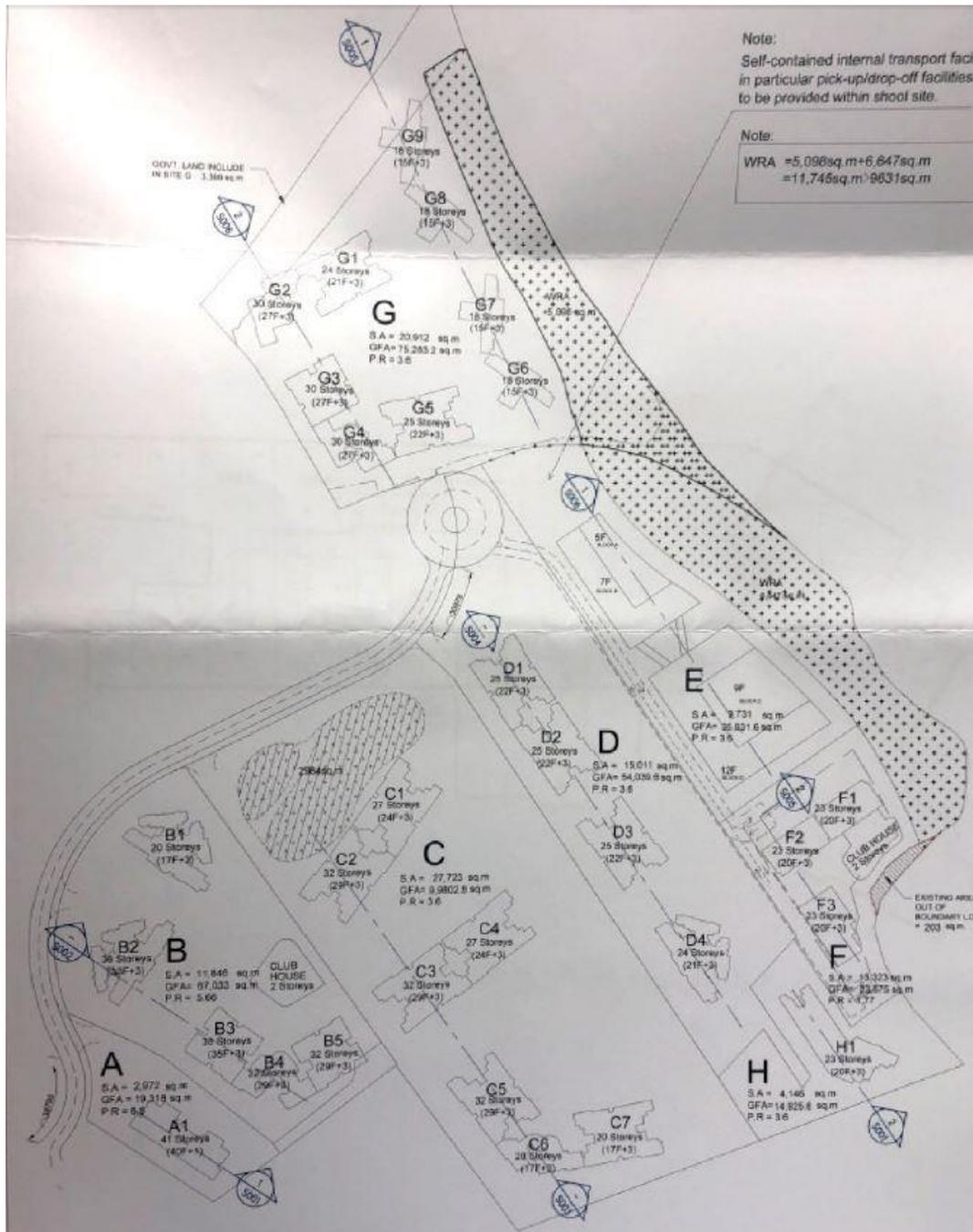
**Figure 1.** Nam Sang Wai is thus included in the “Inner Deep Bay and Shenzhen River catchment” Important Bird Area (IBA) recognized by the BirdLife International.



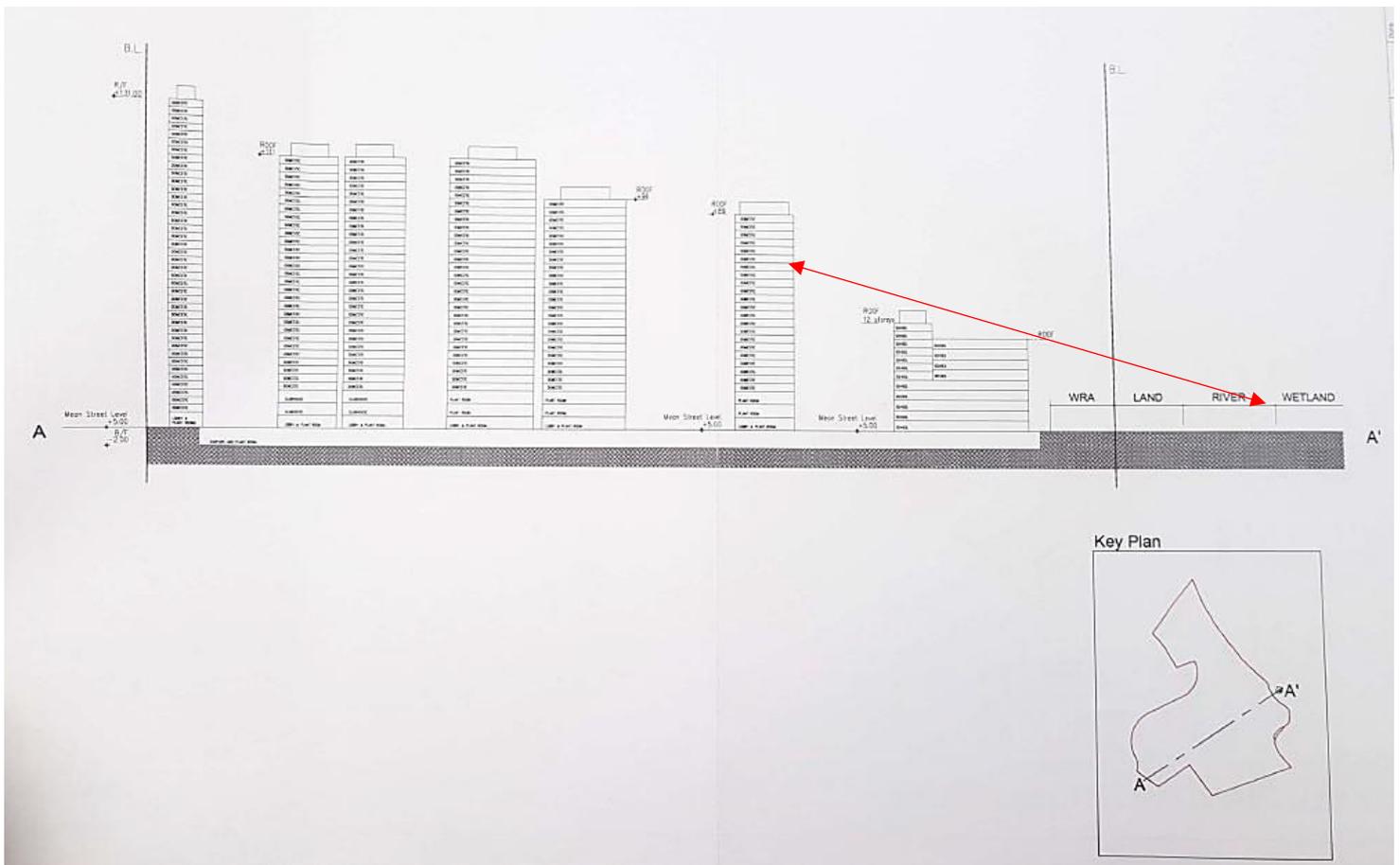
**Figure 2.** According to the aerial photograph extracted from Google Earth in October 2018, there are ponds and well vegetated land within the application site (marked with red line), while the unauthorized development of car park and site formation are found within the site. We are concerned the footprint of the development will lead to a direct loss in wetland and natural features. We consider the proposed high-rise residential development is incompatible with the surrounding rural environment and the fishponds further away. The approval of this application will set an undesirable precedent to the future similar applications associated with “destroy first, build later” in the Deep Bay area, and thus nullifying the statutory planning control mechanism.



**Figure 3.** Referring to the building height of Site G and F, the residential buildings next to the Wetland Restoration Area and close to the Kam Tin River are already 18 - 23 storeys high. These towers would apparently become light façades during night time.

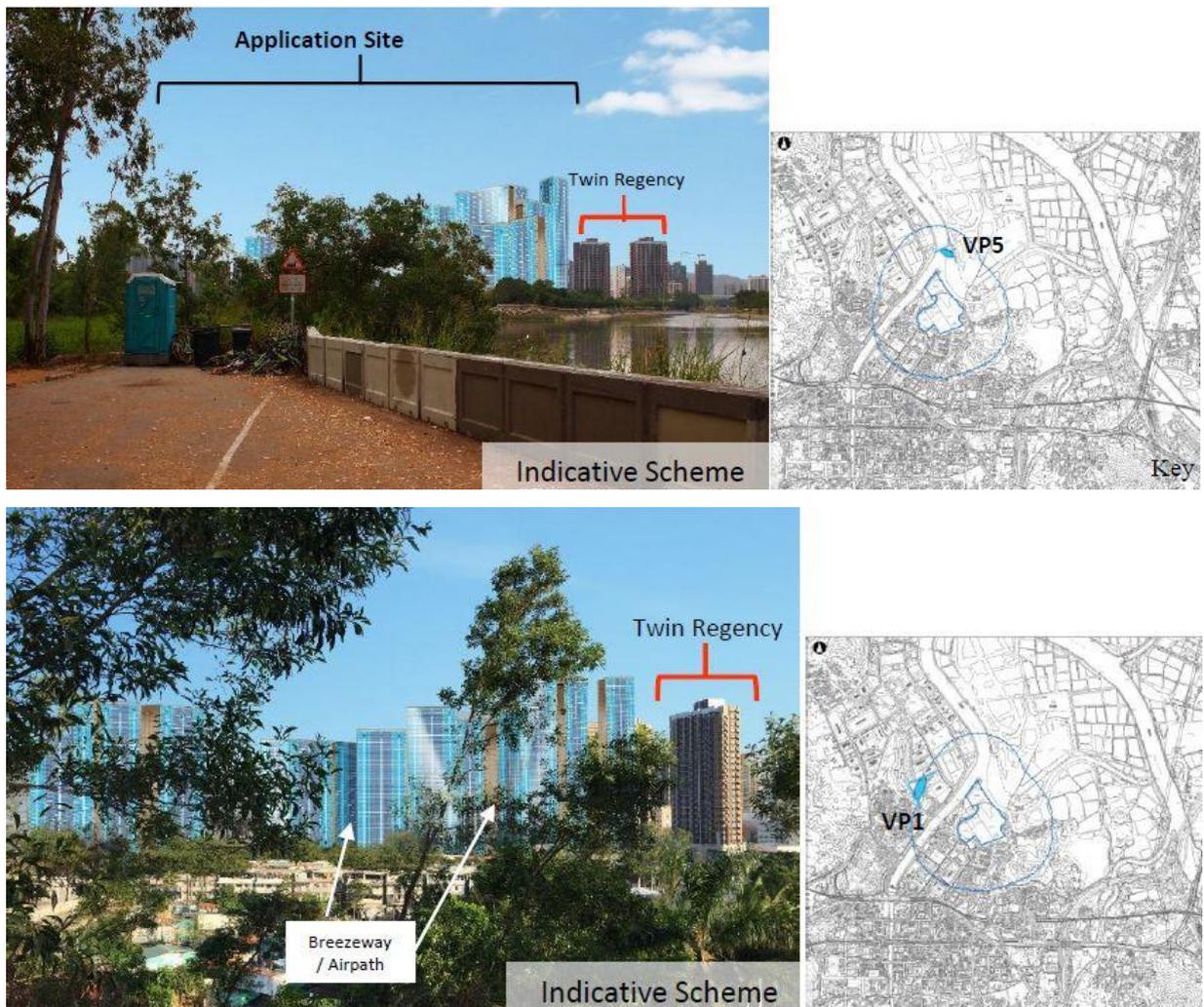


**Figure 4.** For the cross section from the school to the residential buildings, it is still clear that the 25-storey residential buildings immediately next to the 12-storey school are still highly visible due to the substantial increase in building height. As the Bent-winged Firefly were recorded *“on the Nam Sang Wai side of the semi-natural watercourse...highest densities of the species were recorded from the seasonally wet grassland near the pier in Nam Sang Wai”*<sup>14</sup>, we are concerned the impacts on the endemic Bent-winged Firefly would not be mitigated and the high-rise development would degrade the habitats for the endemic species.



<sup>14</sup> Section 4.7.1 of the Ecological Impact Assessment (EcoIA)

**Figure 5.** Taking reference from the photomontage submitted by the applicant, the current application of high-rise residential development is clearly incompatible with the surrounding rural environment.



**Figure 6.** The Google Earth aerial photo showing the developments (application no. A/YL-NSW/241, A/YL-NSW/242, A/YL-NSW/267, Y/YL-NSW/3, Y/YL-NSW/4, A/YL-NSW/274 and A/YL-NSW/275) and an approved Environmental Impact Assessment for the upgrading works at the Yuen Long Effluent Polishing Plant (AEIAR-220/2019) which all are approximately within 1.5km from the application site (marked with red line). All the above developments are close to the breeding site and flight path of egretty in Tung Shing Lane, and/or the largest Great Cormorant night roost in Hong Kong at Nam Sang Wai. 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.

