CONSIDERATION OF FURTHER REPRESENTATIONS ON PROPOSED AMENDMENTS TO THE DRAFT HOI HA OUTLINE ZONING PLAN NO. S/NE-HH/1 ARISING FROM CONSIDERATION OF REPRESENTATIONS AND COMMENTS ON THE DRAFT HOI HA OUTLINE ZONING PLAN NO. S/NE-HH/1

Subject of Further Representations	Further Representers
Support/ partly support and partly oppose the proposed amendments of rezoning the area to the west of the existing village cluster from "Village Type Development" ("V") (proposed Amendment Item A) and "Green Belt" ("GB") (proposed Amendment Item B) to "Green Belt(1)" ("GB(1)") with additional comments on/ proposed amendments to the draft Hoi Ha Outline Zoning Plan (OZP)	Individuals (F1 to F20 and F42)
Oppose the proposed amendments with additional comments on/ proposed amendments to the draft Hoi Ha OZP	Individuals (F33 to F35, F38 to F41 and F43 to F45)
Provide additional comments on/ proposed amendments to the draft OZP	Individuals (F47 to F51)

1. <u>INTRODUCTION</u>

- 1.1 On 27.9.2013, the draft Hoi Ha OZP No. S/NE-HH/1 (the Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 10,824 valid representations were received. On 24.1.2014, the Town Planning Board (the Board) published the representations for three weeks for public comment. Upon expiry of the publication period on 14.2.2014, 3,671 comments were received.
- 1.2 After consideration of the representations and comments under section 6B(1) of the Ordinance from April to June 2014¹, the Board on 4.6.2014 decided to partially uphold **9,995** representations² by rezoning an area to the west of the existing village cluster from "V" and "GB" to "GB(1)". The relevant Town Planning Board Paper and minutes of meeting are at **Enclosures I and II** respectively.

¹ The hearing dates were on 28.4.2014, 8.5.2014, 12.5.2014 and 19.5.2014, and the deliberation dates were 20.5.2014 and 4.6.2014.

² Representations No. R799 to R10554, R10556 to R10562, R10564, R10566 to R10569, R10571, R10574, R10576 to R10580, R10582 to R10730, R10732 to R10734, R10750 to R10910, R10922 to R10931 and R10933 (excluding the withdrawn/not having been made representations).

- 1.3 On 4.7.2014, the proposed amendments to the draft Hoi Ha OZP No. S/NE-HH/1 were considered and agreed by the Board. The relevant Town Planning Board Paper and minutes of meeting are at **Enclosures III and IV** respectively. On 25.7.2014, the proposed amendments to the draft OZP were exhibited for public inspection under section 6C(2) of the Ordinance. A copy each of the Gazette Notice, the Schedule of Proposed Amendments, the Amendment Plan No. R/S/NE-HH/1-A1 and proposed amendments to the Explanatory Statement of the Plan is attached at **Enclosure V**. Upon expiry of the three-week exhibition period, a total of 54 further representations were received.
- 1.4 On 29.7.2014, the Chief Executive, under section 8(2) of the Ordinance, agreed to extend the statutory time limit for the Board to submit the Plan to the Chief Executive in Council for approval for a period of six months from 27.8.2014 to 27.2.2015.
- 1.5 Of the 54 further representations, 33 (**F1 to F32 and F42**) were submitted by individuals, who support/ partly support and partly oppose the proposed amendments, while 13 (**F33 to F41 and F43 to F46**) were submitted by Sai Kung North Rural Committee (SKNRC), village representative (VR) (翁煌發) of Hoi Ha and individuals, who oppose the proposed amendments. The remaining further representations (**F47 to F54**) have not indicated clearly whether they support or oppose the proposed amendments.
- 1.6 On 24.10.2014, the Board decided that **F21 to F32, F36, F37, F46 and F52 to F54**, who were the original representers or commenters, were invalid and should be treated as not having been made under section 6D(1) of the Ordinance.³ The Board also decided to hear the valid further representations collectively in one group as they are related to the proposed amendments and/ or make additional comments/ proposed amendments to the Plan. This Paper is to provide the Board with information for the consideration of the 36 valid further representations (**F1 to F20, F33 to F35, F38 to F45, and F47 to F51**).
- 1.7 In accordance with section 6F(3) of the Ordinance, all the concerned representers, related commenter and further representers (F1 to F20, F33 to F35, F38 to F45, and F47 to F51) have been invited to attend the meeting.

2. FURTHER REPRESENTATIONS

2.1 The 36 valid further representations are submitted by individuals. Twenty-one further representations (**F1 to F20 and F42**) support, partly support and partly oppose the proposed amendments, 10 further representations (**F33 to F35, F38 to F41 and F43 to F45**) oppose the proposed amendments while the remaining five further representations (**F47 to F51**) have not indicated clearly whether they support or oppose the proposed amendments. The submissions of the valid further representations are at **Enclosure VII** and the location of the valid further representations is shown on **Plan FH-1**. A summary of the valid further representations with the Planning Department (PlanD)'s responses is at **Enclosure VI**.

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³ Pursuant to section 6D(1) of the Ordinance, any person, other than that who has made any representation or comment after the consideration of which the proposed amendments are proposed, may make further representation to the Board in respect of the proposed amendments.

<u>Further representations opposing to excessive "V" zone and/ or expressing concerns on the environmental issues of the area</u>

- 2.2 **F1 and F2** support the proposed amendments or the reduction of "V" zone. Thirty further representations (**F3 to F20, F38 to F45, F47, F48, F50 and F51**) partly support, oppose the proposed amendments and/ or express concerns on the environmental issues of the area. Their main grounds of further representations are summarised as follows:
 - (a) It is not clear that the size of the "V" zone under the proposed Amendment Item A is based on proven genuine need for Small Houses. The Small House demand figures are unjustified and the size of "V" zone should commensurate with the actual need of indigenous villagers (F4, F7 to F20 and F38 to F43).
 - (b) The planning intention of the Tai Long Wan OZP to primarily conserve the scenic and unspoiled natural environment (in that only the existing village areas are covered under the "V" zones) is applicable to area. Thus the strict planning control of the former should also be adopted (F4, F5 and F38 to F41).
 - (c) The current sewage treatment arrangements in villages would not be able to protect the water bodies in and surrounding the area from man-made pollution. In particular, the septic tanks and soakaway (STS) systems of Small House developments would have adverse water quality impact on Hoi Ha Wan Marine Park (HHWMP) (F4, F5, F7 to F20, F39 to F41, F44 and F48).
 - (d) There is a lack of assessment on the cumulative impacts (such as ecology, landscape, water pollution, etc.) of Small House development on the Country Park Enclave (**F4 and F38**) and consideration of its carrying capacity (**F4**).
 - (e) The "GB(1)" zone is inadequate to protect the local habitats. The majority of the "GB(1)" zone consists of private land owned by property developers. Farming activities, which are always permitted within the "GB(1)" zone, may be designed to destroy anything of ecological interest with an attempt to get favourable consideration for subsequent building development, i.e. 'destroy first, build later'. Besides, fertilisers and pesticides from farming activities may pollute Hoi Ha Wan (HHW) to the immediate north (F7 to F20, F38 and F42 to F44).

Proposals

To further confine "V" zone

2.3 Various further representations (**F3 to F5, F7 to F20, F38 to F41 and F45**) propose to substantially reduce the "V" zone or further confine the "V" zone to the existing settlement and rezone the remaining "V" zone to "GB" or "GB(1)" mainly on environmental grounds. The extent of area to be rezoned from "V" to "GB" as proposed by **F39 to F41** is shown on **Drawing FH-1 and Plan FH-6**.

<u>To rezone "GB(1)" to "Coastal Protection Area" ("CPA") or "Conservation Area" ("CA")</u> (**Plan FH-6**)

2.4 **F38, F42 and F47** propose to rezone "GB(1)" to "CPA" or "CA" to enhance protection of the natural environment.

<u>To amend the boundary of "GB(1)" zone to provide buffer zones for habitats</u> (**Plan FH-6**)

2.5 **F38** proposes to amend the boundary of the "GB(1)" zone by providing buffer zones in which no Small House and septic tank is allowed with a view to protecting the habitats (at least 30m on both sides of the main streams).

To amend the Notes of "GB(1)" zone

2.6 Various further representations (**F4, F7 to F20, F38, F45 and F47**) propose to transfer 'Agricultural Use' from Column 1 to Column 2 under the "GB(1)" zone with a view mainly to preventing "destroy first, build later" activities or adverse environmental impacts.

Further representations opposing to insufficient "V" zone

- 2.7 **F33 to F35** oppose the proposed Amendment Item A (i.e. the rezoning of the western part of the "V" zone to "GB(1)") or the reduction of "V" zone mainly on the following grounds:
 - (a) The reduced "V" zone is inadequate to meet the Small House demand.
 - (b) The reduction of "V" zone is not the right way of balancing conservation and development.

To expand "V" zone

2.8 **F35** proposes to expand the "V" zone in order to reserve sufficient land for Small House development.

Other views not directly related to the proposed amendments

2.9 There are other views in various further representations (**F3**, **F4**, **F6** to **F20**, **F38** to **F45** and **F47** to **F51**) not directly related to the proposed amendments, including removing 'Eating Place' and other polluting uses from Column 1 under the "V" zone; amending the boundaries of "V" and "CPA" zones to widen the buffer zone from the current Spring High Tide; avoiding further Small House developments and provision of septic tanks at the north of the old village houses; re-opening the debate of the Plan or revising the Plan due to inaccurate or misleading information presented to the Board in particular survey map, High Water Mark (HWM) and boundary of the HHWMP; failures in the hearing process/ procedure of the representations and comments in respect of the three draft OZPs⁴; incorporating the area into the Country Park; and offering general comments on environmental conservation of the area, etc.

⁴ These views refer to the draft Hoi Ha OZP No. S/NE-HH/1, draft So Lo Pun OZP No. S/NE-SLP/1 and draft Pak Lap OZP No. S/SK-PL/1, such as the deliberation process has deprived original representers of the opportunity to rebut the new arguments of Government representatives or the Board.

3. PLANNING CONSIDERATIONS AND ASSESSMENTS

The Subject Site and Its Surrounding Areas (Plans FH-1 to FH-4)

3.1 The further representation site (i.e. proposed Amendment Items A and B) is located to the west of the village cluster of Hoi Ha. It is bounded by the beach and HHWMP in the north and the rocky stream of Sai Kung West Country Park in the west. The site is mainly occupied by patches of wetland and some young woodland developed from abandoned agricultural land. A plant species of conservation concern (*Hong Kong Pavetta* 香港大沙葉) and a considerable number of large trees, including Chinese Banyan, could be found in the area.

Planning Intention

- 3.2 The planning intention of the "V" zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Town Planning Board.
- 3.3 The "GB(1)" zone in which the further representation site falls is intended primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl. There is a general presumption against development within this zone. In general, only developments that are needed to support the conservation of the existing natural landscape, ecological features or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.

Land Administration

3.4 The further representation site involves both government land and private lots (**Plan FH-5**).

Responses to Grounds of Further Representations and Further Representers' Proposals

<u>Designation of "V" and "GB(1)" zones</u> (F3 to F5, F7 to F20, F33 to F35, F38 to F45 and F47)

- 3.5 The supporting views of **F1 to F20 and F42** on the proposed amendments or the reduction of "V" zone are noted. There are two divergent views over the designation of "V" and "GB" or "GB(1)" zones, i.e. opposing excessive "V" zone and opposing insufficient "V" zone, which were also the main subject of the original representations and comments and hence have been considered by the Board. Responses to the two divergent views over the designation of "V" and "GB(1)" zones are set out below.
- 3.6 In the course of deliberating the representations and comments concerning the designation of "V" zone, the Board noted that the boundaries of the "V" zone for Hoi Ha have been drawn up having regard to the village 'environs' ('VE'), local topography, settlement pattern, Small House demand forecast, areas of ecological importance, as well as other site-specific characteristics. The Small House demand forecast is only one of the factors in drawing up the proposed "V" zone and the forecast is subject to variations over time, whilst the respective District Lands Office would verify the status of the Small House applicant at the stage of Small House grant application. Regarding the application of the strict planning control of the Tai Long Wan OZP into the area, Members of the Board agreed that each Country Park Enclave should be considered on the circumstances and characteristics of individual areas.
- 3.7 The area to the west of the existing village cluster, which is zoned "V" and "GB" on the Plan (i.e. proposed Amendment Items A and B), is bounded by the beach and HHWMP in the north and the rocky stream of the Sai Kung West Country Park in the west. A plant species of conservation concern (*Hong Kong Pavetta* 香港大沙葉) and a considerable number of large trees, including Chinese Banyan, could be found in the area. According to the Agriculture, Fisheries and Conservation Department (AFCD), as compared with the woodlands to the east, south and western end of Hoi Ha, which are mature and contiguous with those inside the Country Park area, the woodland zoned "V" is relatively young and disturbed to a certain extent due to its proximity to the existing village.
- 3.8 In order to minimise the adverse impacts on the natural environment, in particular HHWMP, the Board considered that an incremental approach for designating the "V" zone for Small House development should be adopted with an aim to confining Small House development at suitable locations. Based on an incremental approach and in view of the lack of infrastructural facilities, the Board decided to rezone the area to the west of the existing village cluster from "V" and "GB" to "GB(1)" (proposed Amendment Items A and B) to give added protection to the existing natural environment including the woodland, wetland, stream and HHW (**Plan FH-1**). Should there be a genuine need for more Small House development, flexibility had been provided under the rezoning application system to expand the "V" zone. Each application would be considered by the Board based on its individual merits taking into account the prevailing planning circumstances.

- 3.9 On the views of various further representations on the inadequacy of the "GB(1)" to conserve the environment, it should be noted that the "GB(1)" zone is intended to provide a higher degree of protection to the concerned woodland and wet agricultural land but at the same time allow flexibility for some necessary uses to cater for the needs of local villagers (e.g. 'Burial Ground' and 'Rural Committee/Village Office'). Only developments that are needed to support the conservation of the existing natural landscape, ecological features or scenic quality of the area or essential infrastructure projects with overriding public interest may be permitted. Whist rebuilding of New Territories Exempted House (NTEH) and replacement of an existing domestic structure by a NETH are permitted, no new Small Houses are permitted in this zone. AFCD considers that the proposed "GB(1)" zone for the woodland and wetland is appropriate from nature conservation perspective.
- 3.10 On the proposals of various further representations to rezone "GB(1)" to "CPA" or "CA", AFCD comments that the area mainly comprises patches of wetland and some young woodland developed from abandoned agricultural land. The proposed rezoning of the area to "CA" or "CPA" is considered inappropriate.
- 3.11 Subsequent to the proposed amendments, the remaining "V" zone has an area of about 1.95 ha, with about 1.02 ha of land available for Small House development (40 Small Houses), meeting about 40% of the Small House demand⁵.
- 3.12 Taking into account all the relevant planning considerations, it is considered that the proposed amendments could strike a balance between enhancing nature conservation of the Area and meeting the needs of villagers for Small House development.

Adverse impacts of Small House development on surrounding environment (F4, F5, F7 to F20, F38 to F41, F44 and F48)

3.13 The concerns on current sewage treatment arrangements and water quality impact of Small Houses were also raised by many original representations and comments. The Board, in considering these representations and comments, noted that the LandsD, when processing Small House grant applications, will consult concerned Government departments including the Environmental Protection Department (EPD), AFCD and PlanD to ensure that all relevant departments would have adequate opportunity to review and comment on the applications. The design and construction of on-site STS systems for any development proposals/submissions need to comply with relevant standards and regulations, such as EPD's Practice Note for Professional Person (ProPECC PN) 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department". Members of the Board were of the view that there was sufficient control in the current administrative system to ensure that individual Small House development and STS system within the "V" zone would not entail unacceptable impacts on the surrounding environment.

⁵ According to the latest information provided by the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD), for Hoi Ha, the outstanding Small House demand and 10-year Small House demand forecast are 15 (excluding the one with proposed application site falling outside the Plan) and 92 respectively. Amongst the 15 outstanding Small House demand, five are the subject of approved planning applications.

- 3.14 In response to the further representations, EPD advises that provided that the STS system is built at suitable location in accordance with the prescribed standards and regulations, the attenuation effect should be able to offer adequate protection to the nearby environment.
- 3.15 Regarding the quest for cumulative impact assessment of Small House development, when considering the draft Hoi Ha OZP, the Board has already taken into account all relevant planning considerations, including the expert advice of the relevant Government departments and public views. The relevant Government departments including AFCD, Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&L of PlanD), EPD, Drainage Services Department (DSD), Water Supplies Department (WSD), etc. had no objection to the "V" zone on the Plan.

Notes of "GB(1)" zone (F4, F7 to F20, F38, F45 and F47)

3.16 AFCD has reservation on transferring 'Agricultural Use' from Colum 1 to Column 2 under the "GB(1)" zone from agricultural development point of view as it would impose restrictions on agriculture and discourage agricultural development in the long run. On the concern over the run-off of agricultural chemicals into water bodies, AFCD comments that all pesticides registered under the Pesticides Ordinance Cap.133 are safe to use if applied according to the label directions. Moreover, permission from the Board is required for any works relating to diversion of streams, filling of land/ pond or excavation of land, which may cause adverse impacts on the natural environment. Taking into account the above factors, the AFCD agrees that there is no strong justification for imposing more stringent control on 'Agricultural Use' within the "GB(1)" zone.

Other views not directly related to the proposed amendments (F3, F4, F6 to F20, F38 to F45, F47 to F51)

3.17 These views are not directly related to the proposed amendments and are similar to those views made in the original representations/ comments, which have already been considered by the Board during the hearing and deliberation of the original representations and comments. The view on the failures in the representation hearing process/ procedure is not relevant to the proposed amendments.

4. CONSULTATION

- 4.1 Relevant government departments have been consulted on the further representations and their comments have been taken into account in the above paragraphs, where appropriate:
 - (a) Director of Agriculture, Fisheries and Conservation;
 - (b) Director of Environmental Protection; and
 - (c) District Lands Officer/Tai Po, Lands Department.
- 4.2 The following government bureaux and departments have no major comment on the further representations:
 - (a) Secretary for Education;
 - (b) Antiquities and Monuments Office, Leisure and Cultural Services Department;

- (c) Chief Building Surveyor/New Territories West, Buildings Department;
- (d) Chief Engineer/Development(2), Water Supplies Department;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Chief Highway Engineer/New Territories East, Highways Department;
- (g) Commissioner of Transport;
- (h) Director of Electrical and Mechanical Services;
- (i) Director of Fire Services;
- (j) Director of Food and Environmental Hygiene;
- (k) Director of Leisure and Cultural Services;
- (1) Director of Marine
- (m) Director-General of Communications;
- (n) District Officer/Tai Po, Home Affairs Department;
- (o) District Survey Office/Tai Po, Lands Department;
- (p) Government Property Administrator;
- (q) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (r) Project Manager/New Territories East, Civil Engineering and Development Department; and
- (s) Chief Town Planner/Urban Design and Landscape, Planning Department.

5. PLANNING DEPARTMENT'S VIEWS

- 5.1 The supportive views of **F1 to F20 and F42** on the proposed amendments are noted.
- Based on the assessments in paragraph 3 above, PlanD does not support F33 to F35, F38 to F41, F43 to F45, F47 to F51, and the remaining part of F3 to F20 and F42 and considers that the Plan should be amended by the proposed amendments for the following reasons:

<u>Designation of "V" and "GB(1)" zones</u> (F3 to F5, F7 to F20, F33 to F35, F38 to F45 and F47)

- (a) In order to minimise the adverse impacts on the natural environment, an incremental approach for designating the "V" zone for Small House development should be adopted with an aim to confining Small House development at suitable locations. Based on an incremental approach, the lack of infrastructural facilities in Hoi Ha and the need to designate "V" zone at suitable locations to meet Small House demand of indigenous villagers, the rezoning of the area to the west of the existing village cluster from "V" and "GB" to "GB(1)" is considered appropriate.
- (b) The "GB(1)" zone in which the representation site falls is intended to provide a higher degree of protection to the concerned woodland and wet agricultural land but at the same time allow flexibility for some necessary uses to cater for the needs of local villagers. Only developments that are needed to support the conservation of the existing natural landscape, ecological features or scenic quality of the area or essential infrastructure projects with overriding public interest may be permitted. Whist rebuilding of NTEH and replacement of an existing domestic structure by a NETH are permitted, no new Small Houses are permitted in this zone. The "GB(1)" zone is considered appropriate.

- (c) The area mainly comprises patches of wetland and some young woodland developed from abandoned agricultural land. The proposed rezoning of the area to "CA" or "CPA" is considered inappropriate.
- (d) Taking into account all the relevant planning considerations, it is considered that the proposed amendments could strike a balance between enhancing nature conservation of the Area and meeting the needs of villagers for Small House development.

Adverse impacts of Small House development on surrounding environment (F4, F5, F7 to F20, F38 to F41, F44 and F48)

(e) The LandsD, when processing Small House grant applications, will consult concerned Government departments to ensure that all relevant departments would have adequate opportunity to review and comment on the applications. There is sufficient control in the current administrative system to ensure that individual Small House development within the "V" zone would not entail unacceptable impacts on the surrounding environment.

Notes of "GB(1)" zone (F4, F7 to F20, F38, F45 and F47)

(f) Permission from the Board is required for any works relating to diversion of streams, filling of land/ pond or excavation of land, which may cause adverse impacts on the natural environment. There is no strong justification for imposing more stringent control on 'Agricultural Use' within the "GB(1)" zone.

Other views not directly related to the proposed amendments (F3, F4, F6 to F20, F38 to F45, F47 to F51)

(g) These views are not directly related to the proposed amendments and are similar to those views made in the original representations/ comments, which have already been considered by the Board. The view on the failures in the representation hearing process/ procedure is not relevant to the proposed amendments.

6. <u>DECISION SOUGHT</u>

The Board is invited to give consideration to the further representations taking into consideration the points raised in the hearing, and decide whether to amend the Plan by the proposed amendments or by the proposed amendments as further varied during the hearing.

7. FOLLOW-UP ACTION

- 7.1 Should the Board decide to amend the Plan by the proposed amendments or the proposed amendments as further varied, such amendments shall form part of the draft Hoi Ha OZP No. S/NE-HH/1. In accordance with section 6H of the Ordinance, the Plan shall thereafter be read as including the amendments. The amendments shall be made available for public inspection until the Chief Executive in Council has made a decision in respect of the draft plan in question under section 9 of the Ordinance.
- 7.2 Administratively, the Building Authority and relevant Government departments will be informed of the decision of the Board and will be provided with a copy/copies of the amendments.

8. ATTACHMENTS

Enclosure I TPB Paper No. 9644 for consideration of representations

and comments in respect of the draft Hoi Ha OZP No.

S/NE-HH/1

Enclosure II Extract of the minutes of the TPB meeting held on

28.4.2014, 8.5.2014, 12.5.2014, 19.5.2014, 20.5.2014 and

4.6.2014

Enclosure III TPB Paper No. 9679 for proposed amendments to the

draft Hoi Ha OZP No. S/NE-HH/1 arising from the consideration of representations and comment on OZP

No. S/NE-HH/1

Enclosure IV Extract of the minutes of the TPB meeting held on

4.7.2014

Enclosure V Gazette Notice, Schedule of Proposed Amendments,

Amendment Plan, Proposed Amendments to the Notes

and Explanatory Statement of the Plan

Enclosure VI Summary of valid further representations **Enclosure VII** Submissions of valid further representations

Drawing FH-1 Rezoning proposal submitted by **F39 to F41**

Plan FH-1 Location plan Plan FH-2 Aerial photo Site photo

Plan FH-4 Existing physical features

Plan FH-5 Land status plan

Plan FH-6 Proposals of further representations

PLANNING DEPARTMENT NOVEMBER 2014