

**TPB PAPER NO. 10115  
FOR CONSIDERATION BY THE TOWN PLANNING BOARD  
ON 13.6.2016**

**城市規劃委員會文件第 10115 號  
考慮日期：2016 年 6 月 13 日**

**CONSIDERATION OF FURTHER REPRESENTATIONS  
NO. F1 TO F134, F154, F155 AND F159 TO F171 ON PROPOSED AMENDMENTS  
TO THE DRAFT PO TOI ISLANDS OUTLINE ZONING PLAN (OZP) NO. S/I-PTI/1  
ARISING FROM THE CONSIDERATION OF REPRESENTATIONS AND  
COMMENTS ON THE OZP**

早前考慮《蒲台群島分區計劃大綱草圖編號 S/I-PTI/1》  
的申述及意見後對該圖作出的建議修訂  
而考慮有關的進一步申述  
編號 F1 至 F134、F154、F155 及 F159 至 F171

**CONSIDERATION OF FURTHER REPRESENTATIONS  
F1 TO F134, F154, F155 AND F159 TO F171 ON PROPOSED AMENDMENTS TO  
THE DRAFT PO TOI ISLANDS OUTLINE ZONING PLAN (OZP) NO. S/I-PTI/1  
ARISING FROM CONSIDERATION OF REPRESENTATIONS AND COMMENTS  
ON THE DRAFT PO TOI ISLANDS OZP NO. S/I-PTI/1**

<b>Subject of Further Representations</b>	<b>Further Representers</b>
<b>Support</b> the proposed Amendment Items with additional comments/proposals on the draft Po Toi Islands Outline Zoning Plan (OZP)	Individuals ( <b>F1 to F134, F154, F155, F159 to F170</b> )
<b>Oppose</b> the proposed Amendment Items	Lamma Island (South) Rural Committee ( <b>F171</b> )

**1. INTRODUCTION**

- 1.1 On 27 February 2015, the draft Po Toi Islands OZP No. S/I-PTI/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 813 representations were received. On 19 May 2015, the representations were published for three weeks for public comments. Upon expiry of the publication period on 9 June 2015, a total of 1,462 comments were received.
- 1.2 After considering the representations and comments under section 6B(1) of the Ordinance on 5 November 2015, the Town Planning Board (the Board) decided to partially uphold some representations<sup>1</sup> by reducing the area of the “Residential (Group D)” (“R(D)”) zone taking into account in-situ physical features, conservation value of trees and vegetations, compatibility with the surrounding land uses as well as the planning intention for the area as appropriate. The relevant Town Planning Board Paper and minutes of meeting are at **Enclosures I** and **II** respectively.
- 1.3 On 11 December 2015, the proposed amendments to the draft OZP, which proposed to reduce the area of the “R(D)” zone and rezone it to “Coastal Protection Area” (“CPA”) (**Amendment Item A1**) and “Green Belt” (“GB”) (**Amendment Item A2**), were considered and agreed by the Board. The relevant Town Planning Board Paper and extract of the minutes of meeting are at **Enclosures III** and **IV** respectively. On 22 January 2016, the proposed amendments to the draft OZP were exhibited for public inspection under section

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<sup>1</sup> The representations that are partially upheld by the Board are R3(part), R4(part), R11 to R16, R18 to R38, R41, R42, R44 to R647, R649 to R707, R709 to R721, R727 and R757 to R789.

6C(2) of the Ordinance. A copy each of the Schedule of Proposed Amendments, Amendment Plan No. R/S/I-PTI/1-A1 and Proposed Amendments to the Explanatory Statement of the draft OZP is attached at **Enclosures Va to Vc**. Upon expiry of the three-week exhibition period which ended on 12 February 2016, a total of 172 further representations (FRs) were received.

- 1.4 On 11 December 2015, the Chief Executive, under section 8(2) of the Ordinance, agreed to extend the statutory time limit for the Board to submit the draft OZP to the Chief Executive in Council for approval for a period of six months from 27 January 2016 to 27 July 2016.
- 1.5 Among the 172 FRs, **F135 to F153 and F156 to F158** are representers or commenters that have made representations/comments relating to the proposed amendments; and **F172** is not related to the proposed amendments. On 15 April 2016, the Board decided that these 23 FRs are invalid and should be treated as not having been made under section 6D(1) of the Ordinance<sup>2</sup>. The Board also decided to hear the remaining FRs, i.e. **F1 to F134, F154, F155 and F159 to F171** (the valid FRs) collectively in one group as they are related to the proposed amendments. This Paper is to provide the Board with information for the consideration of the valid FRs. A summary of the valid FRs with the Planning Department (PlanD)'s responses is at **Enclosure VI** and samples of the submission of the valid FRs are at **Enclosure VII**. The location of the valid FRs is shown on **Plan FH-1**.
- 1.6 The original representers/commenters and the further representers **F1 to F134, F154, F155 and F159 to F171** are invited to the meeting.

## 2. **THE FURTHER REPRESENTATIONS**

- 2.1 Among the 149 valid FRs, 148 of them submitted by individuals (**F1 to F134, F154, F155 and F159 to F170**) support the proposed amendments with additional comments/proposals on the draft OZP. The remaining valid FR (**F171**) submitted by the Lamma Island (South) Rural Committee opposes the proposed amendments. Their grounds/proposals are summarised as follows:

### ***Supportive FRs***

#### **Support reducing the area of "R(D)" zone but concern about insufficient protection of the mature tree within the reduced "R(D)" zone**

- 2.2 **F1 to F135, F154, F155 and F159 to F170** support the reduction of the area of the "R(D)" zone and rezoning of the same to "CPA" and "GB" but express concerns on retaining a large tree, namely T2 (*Ficus microcarpa* 榕樹), within the "R(D)" zone (**Plan FH-2**). They consider that the tree crown and canopy of the tree interweave with other mature trees, providing an important habitat for

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<sup>2</sup> Pursuant to section 6D(1) of the Ordinance, any person, other than those who have 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.

birds at Po Toi. T2 is even eligible to be registered as an Old and Valuable Tree (OVT) as it has an estimated diameter of 3 metres wide (**F1 to F3**). Some FRs are concerned that the reduced “R(D)” zone would still give a false hope to the private landowner that the concerned area could be developed via lease modification/land exchange (**F2 and F3**). The inclusion of a tree preservation clause in the lease conditions should not be a means to justify development within the “R(D)” zone (**F134**).

- 2.3 The proposals made by the FRs to further protect the habitat, especially the mature trees in the area are summarised below:

Extension of conservation zonings

- (a) to extend the “Conservation Area” (“CA”) zone/conservation related zonings to include T2 and its canopy (**F1 to F134, F154, F155 and F160 to F166** only);
- (b) to extend the “CA” zone/conservation related zonings to all government land within the “R(D)” zone (**F1 to F134 and F159 to F166** only) ;

Revision to the Notes of the “R(D)” zone

- (c) to impose a clause in the Notes so that any building or rebuilding on the private lots is subject to planning control, and building should not be more than 2 storeys, be below the trees canopy and with provisions to prevent bird strike against glass windows (**F159** only);
- (d) to protect the tree which is partly on private land by imposing a clause in the Notes of the OZP to the effect that no works would be allowed within the drip line of the tree canopy (**F159** only); and

Proposals not related to the proposed amendments

- (e) to designate Po Toi as Country Park (**F132 and F133** only).

***Adverse FR***

Impact on Small House development and burial activities of indigenous villagers

- 2.4 **F171** opposes the proposed amendments to the draft OZP on the following grounds:

- (a) Amendment Item A1 – rezoning of the coastal area of the original “R(D)” zone to “CPA” would further reduce the already limited land at Po Toi for Small House development and in turn deprive the right of indigenous villagers; and
- (b) Amendment Item A2 – the area rezoned to “GB” is in close proximity to one of the burial grounds of indigenous villagers. The rezoning would have substantial implications to the burial activities of indigenous villagers.

### 3. **PLANNING CONSIDERATIONS AND ASSESSMENTS**

#### ***The Further Representation Sites and the Surrounding Areas (Plans FH-1 to FH-4)***

- 3.1 The reduced “R(D)” zone mainly covers private land to the southwest of Po Toi Village outside its ‘Village Environs’ (‘VE’). It is currently served by footpaths linking the area upslope and Po Toi Public Pier. There are existing one- to two-storey temporary structures, most of which are occupied while some are ruins. All the private lots within the reduced “R(D)” zone are with building entitlements.
- 3.2 The area under proposed Amendment Item A1 is located at the western side of the reduced “R(D)” zone and is mainly covered by mature trees. The area under proposed Amendment Item A2 is located at the eastern side of the reduced “R(D)” zone and is mainly covered by vegetated slopes with temporary structures scattered therein.
- 3.3 As advised by the Director of Agriculture, Fisheries and Conservation (DAFC), there are about 10 mature trees in the further representation sites, including five *Ficus microcarpa* (榕樹), one *Acacia confusa* (台灣相思), one *Dimocarpus longan* (龍眼), one *Mangifera indica* (芒果) and two *Melia azedarach* (楝). These trees are of common species situated among the village structures in a rural setting. However, they can serve as foraging/roosting grounds to various birds.

#### ***Planning Intentions***

- 3.4 The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.
- 3.5 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.
- 3.6 The planning intention of the “CPA” zone is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.

### ***Land Administration***

- 3.7 The further representation sites involve both government land and private lots (**Plan FH-2**). The reduced “R(D)” zone mainly comprises private land with building entitlements and adjoining government land. The proposed “CPA” zone under proposed Amendment Item A1 consists of mainly unleased government land covered with mature trees; while the proposed “GB” zone under proposed Amendment Item A2 are all government land with a few Government Land Licences (GLLs). A number of squatters and temporary structures permitted for domestic purpose held under the GLLs are scattered within this area.

### ***Responses to Grounds of Further Representations and Further Representers’ Proposals***

- 3.8 The supporting views of the supportive FRs (**F1 to F134, F154, F155 and F159 to F170**) are noted. The responses to the additional comments/proposals provided by the supportive FRs and to the grounds of adverse FR are set out in the following paragraphs.

#### **Insufficient protection of the mature tree within the reduced “R(D)” zone (**F1 to F134, F154, F155 and F159 to F170**)**

- 3.9 In considering the representations and comments concerning the designation of the original “R(D)” zone, the Board noted that it was designated to reflect the prevailing site characteristics including the existence of some private lots with building entitlements and a number of one to two-storey temporary structures. The boundary of the original “R(D)” zone was drawn up based on various considerations including land status, ecological value of the area, existing physical features such as the existing footpaths and the locations of existing domestic structures/squatters. While it was not uncommon to designate an area currently occupied by some temporary domestic structures as “R(D)” zone with a view to improving and upgrading those existing temporary structures so as to improve the living environment, there were concerns on the impact of new development/redevelopment within the “R(D)” zone on the mature trees situated therein which were considered as an important foraging/roosting grounds to various birds with high ecological value. Having considered the high ecological value of the concerned area and the need to respect the development and redevelopment right of some private lots with building entitlements within the original “R(D)” zone, the Board decided in the meeting on 5 November 2015 to partially uphold some representations<sup>1</sup> that the area of the original “R(D)” zone would be reduced and rezoned to appropriate conservation zonings taking into account on-site physical features, conservation value of trees and vegetations, compatibility with the surrounding land uses as well as the planning intention for the area, as appropriate.
- 3.10 In view of the above, the proposed amendments to the draft OZP to reduce the area of the original “R(D)” zone and rezone the remaining areas to “CPA” (**Amendment Item A1**) and “GB” (**Amendment Item A2**), which have struck a balance between development rights of private landowners and conservation,

were considered and agreed by the Board in its meeting on 11 December 2015. During the consideration of the proposed amendments, the Board noted that the private land with building entitlements would remain to be zoned as “R(D)” and most of the temporary structures falling within government land would be zoned as “GB”. Only one mature tree is found within the reduced “R(D)” zone and the preservation of it would be dealt with under the prevailing mechanisms, e.g. the Development Bureau Technical Circular (Works) No. 7/2015, “*Tree Preservation*” (DEVB TC(W) No. 7/2015) on Government land; as well as via land lease conditions and Lands Administration Office Practice Notes No. 7/2007, “*Tree Preservation and Tree Removal for Building Development in Private Projects*” (LAO PN No. 7/2007) on private land. Besides, new residential development within the “R(D)” zone would require planning permission from the Board and redevelopment of existing house would be subject to lease control and other government regulations. Both DAFC and the Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD consider the proposed amendments appropriate from nature conservation and landscape point of view respectively.

- 3.11 As advised by the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD), the lot within which T2 is located has an area of about 158.130m<sup>2</sup> with building entitlement of 0.02 ac (equivalent to about 80.94m<sup>2</sup>) (**Plan FH-2**). There should be sufficient space for the lot owner to develop/redevelop his domestic structure in accordance with the lease entitlement without affecting the tree.

#### Extension of conservation zonings

- 3.12 With regards to the proposals to extend conservation zonings to cover the mature tree, i.e. T2, it should be noted that there are existing mechanisms to control felling of trees as mentioned in paragraph 3.10 above. Concerned government departments consider them as effective for tree preservation purpose. Besides, LandsD would carry out ad hoc maintenance of natural vegetation falling within government land, regardless of the zoning (**F1 to F134, F154, F155 and F159 to F166** only).
- 3.13 As to the proposals to extend conservation zonings to government land within the reduced “R(D)” zone, during the deliberation of the representations and comments concerning the designation of the original “R(D)” zone and the proposed amendments to the draft OZP, the Board had considered reducing the area of the original “R(D)” zone to cover private lots only. However, it was noted that the zoning boundaries were usually drawn up with reference to the existing land use pattern or on-site physical features rather than simply following the private lot boundary. Having considered the above, the Board agreed the proposed amendments to the draft OZP and considered the revised zoning boundaries appropriate (**F1 to F134 and F159 to F166** only).

#### Revision to the Notes of the “R(D)” zone

- 3.14 As to the proposals to revise the Notes of the “R(D)” zone, the Notes of the “R(D)” zone as currently proposed are consistent with the Master Schedule of

Notes (MSN). Regarding the proposal to impose a clause in the Notes to prevent bird strike against glass windows, DAFC advises that such phenomena is in general not commonly observed in areas like the reduced “R(D)” zone which resembles a typical rural setting with trees scattered among village structures. Such proposal is also considered not appropriate as the Notes of the OZP is generally for control of the use and/or types of development within that zoning (**F159** only).

Impact on Small House development and burial activities of indigenous villagers (**F171**)

- 3.15 Under the prevailing Small House policy administrated by LandsD, land for building Small House is confined to areas within ‘VE’. As both the areas within the proposed “CPA” zone and the reduced “R(D)” zone are outside ‘VE’ of Po Toi Village which DLO/Is, LandsD advises that Small House development would not be considered, the proposed “CPA” zone and the reduced “R(D)” zone would not affect Small House development by indigenous villagers.
- 3.16 Burial activities such as provision of new graves within the permitted burial grounds are generally tolerated under the draft OZP. The area proposed to be zoned as “GB” is outside the permitted burial ground area and has no implication to the burial activities of the indigenous villagers currently allowed within the permitted burial grounds. Other ‘Burial Ground’ use outside these permitted burial grounds within the “GB” zone requires planning permission from the Board under the planning application system. Each application will be considered by the Board on its own merits.

Proposals not related to the proposed amendments

- 3.17 The designation of Country Park is under the jurisdiction of the Country and Marine Parks Authority governed by the Country Parks Ordinance (Cap. 208). Whether an area is suitable for designation as a Country Park should be assessed against the established principles and criteria, which include conservation value, landscape and aesthetic value, recreational potential, size, proximity to existing Country Park, land status and land use compatibility, as well as other relevant considerations. Preparation of statutory plan to cover the area would not preclude any future designation of Country Park (**F132 and F133** only).

Summary

- 3.18 There is neither strong planning justification nor change in planning circumstances for a departure from the Board’s previous decision in revising the boundary of the original “R(D)” zone. Taking into account all the relevant planning considerations, expert advice from concerned government departments and views from relevant stakeholders (including the indigenous villagers, green/concern groups and the general public), it is considered that the proposed amendments could strike a balance between enhancing the conservation of mature trees in the area and respecting the development rights of the private landowners and villagers.



#### 4. **CONSULTATION**

The following government departments have been consulted on the FRs and their comments have been taken into account in the above paragraphs, where appropriate:

- (a) Director of Agriculture, Fisheries and Conservation;
- (b) Chief Town Planner/Urban Design and Landscape Section, Planning Department; and
- (c) District Lands Officer/Islands, Lands Department.

#### 5. **PLANNING DEPARTMENT'S VIEWS**

5.1 The supporting views of **F1 to F134, F154, F155 and F159 to F170** to the proposed amendments are noted.

5.2 Based on the assessments in paragraph 3 above, PlanD does not support the remaining views of **F1 to F134, F154, F155 and F159 to F170** and the opposing views of **F171** and considers that the draft OZP should be amended by the proposed amendments for the following reasons:

*Insufficient protection of the mature tree within the “R(D)” zone and extension of conservation zonings*

- (a) the existing mechanisms to control felling of trees are considered effective for tree preservation purpose (**F1 to F134, F154, F155 and F159 to F170** only);
- (b) the boundary of the Residential (Group D) (“R(D)”) zone has been revised taking into account on-site physical features, conservation value of trees and vegetations, compatibility with the surrounding land uses, expert advice from concerned government departments, views from relevant stakeholders as well as the planning intention for the area as appropriate. The proposed amendments could strike a balance between enhancing the conservation of mature trees in the area and respecting the development rights of the private landowners (**F1 to F134, F154, F155 and F159 to F170** only);

*Revision to the Notes of the “R(D)” zone*

- (c) the Notes of the “R(D)” zone as currently proposed are consistent with that set out in the Master Schedule of Notes. It is not appropriate to incorporate a provision in the Notes of the OZP to prevent bird strike against glass windows as the Notes is generally for control of the use and/or types of development within a particular zoning;

*Impact on Small House development and burial activities of indigenous villagers*

- (d) under the prevailing Small House policy administrated by the Lands Department, land for building Small House is confined to areas within ‘Village Environs’(‘VE’). The proposed “CPA” zone and the reduced “R(D)”

zone would not affect Small House development by indigenous villagers as both areas are outside 'VE' of Po Toi Village (**F171**);

- (e) burial activities within the permitted burial grounds would not be affected by the proposed "Green Belt" ("GB") zoning as they are generally tolerated under the draft OZP. Other 'Burial Ground' use outside the permitted burial grounds would require planning permission from the Board (**F171**); and

*Proposals not related to the proposed amendments*

- (f) the designation of Country Park is under the jurisdiction of the Country and Marine Parks Authority governed by the Country Parks Ordinance (Cap. 208). Preparation of statutory plan covering the area would not preclude any future designation of Country Park (**F132 and F133** only).

## **6. DECISION SOUGHT**

The Board is invited to give consideration to the FRs taking into consideration the points raised in the hearing, and decide whether to amend the draft OZP by the proposed Amendment Items or by the proposed amendment(s) as further varied during the hearing.

## **7. FOLLOW-UP ACTION**

- 7.1 Should the Board decide to amend the draft OZP by the proposed amendments or the proposed amendment(s) as further varied, such amendment(s) shall form part of the draft Po Toi Islands OZP No. S/I-PTI/1. In accordance with section 6H of the Ordinance, the OZP shall thereafter be read as including the amendment(s). The amendment(s) shall be made available for public inspection until the Chief Executive in Council has made a decision in respect of the draft OZP 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 amendment(s).

## **8. ATTACHMENTS**

<b>Plan FH-1</b>	Location Plan of Further Representations
<b>Plan FH-2</b>	Site Plan and Land Status
<b>Plan FH-3</b>	Aerial Photo
<b>Plans FH-4a and 4b</b>	Site Photos

<b>Enclosure I</b>	TPB Paper No. 10017 for consideration of representations and comments made on the draft Po Toi Islands OZP No. S/I-PTI/1
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<b>Enclosure II</b>	Minutes of the TPB Meeting held on 5.11.2015
<b>Enclosure III</b>	TPB Paper No. 10057 for proposed amendment to the draft Po Toi Islands OZP No. S/I-PTI/1 arising from the consideration of representations and comments on the OZP No. S/I-PTI/1
<b>Enclosure IV</b>	Extract of the Minutes of the TPB Meeting held on 11.12.2015
<b>Enclosures Va to Vc</b>	Schedule of Proposed Amendment, Amendment Plan and proposed amendments to the Explanatory Statement of the Plan
<b>Enclosure VI</b>	Summary of valid further representations and PlanD's responses
<b>Enclosure VII</b>	Samples of submission of valid further representations

**PLANNING DEPARTMENT**  
**JUNE 2016**