

TOWN PLANNING BOARD

**TPB PAPER NO. 10327
FOR CONSIDERATION BY
THE TOWN PLANNING BOARD ON 1.9.2017**

**CONSIDERATION OF REPRESENTATIONS AND COMMENTS IN RESPECT OF THE
DRAFT TAI PO KAU OUTLINE ZONING PLAN NO. S/NE- TPK /1**

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| Subject of Representation/ Representation Site | Representers (Total: 43) | Commenters (Total: 2) |
|---|---|--|
| Draft Tai Po Kau Outline Zoning Plan (OZP) No. S/NE-TPK/1, mainly on the general planning intention and “Conservation Area” (“CA”) zone | <p><u>Total: 11 (R1 to R11)</u></p> <p><u>Support</u> R1: World Wide Fund for Nature Hong Kong (WWF-HK) R2: Designing Hong Kong Limited (DHKL) R3: The Hong Kong Bird Watching Society (HKBWS) R5: Alliance for a Beautiful Hong Kong (ABHK) R6 to R11: Individuals</p> <p><u>Provide Comments</u> R4: Kadoorie Farm and Botanic Garden Corporation (KFBG)</p> | <p><u>Total: 1 (C2)</u></p> <p><u>Provide Comments on the Draft OZP (without specifying the representation(s) to which the comment relates)</u> C2: Individual (R10)</p> |
| Draft OZP and “CA” zone in the Site near Tai Po Mei | <p><u>Total: 32 (R12 to R43)</u></p> <p><u>Oppose</u> R12: Tai Po Rural Committee (TPRC) R13: Chairman of Tai Po Tsat Yeuk Rural Committee (TPTYRC) (大埔七約鄉公所) R14: First Vice-Chairman of TPTYRC (大埔七約鄉公所) R15: Indigenous Inhabitant Representative (IIR) of Tai Po Mei Village R16 to R43: Villagers/Individuals</p> | <p><u>Total: 1 (C1)</u></p> <p><u>Oppose the draft OZP (without specifying the representation(s) to which the comment relates)</u> C1: Tai Po District Council (TPDC) Member</p> |

Note: The representations and comments on representations as well as samples of standard letters/emails are attached at **Annexes I to II**. A CD-ROM containing names of all representers and commenters as well as their submissions is enclosed at **Annex III** (for TPB Members only). A set of hard copy is also deposited at the Secretariat of the TPB for Members’ inspection.

1. INTRODUCTION

- 1.1 On 10.2.2017, the draft Tai Po Kau Outline Zoning Plan No. S/NE-TPK/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 43 representations were

received. On 2.6.2017, the representations were published for three weeks for public comment and two comments on the representations were received.

- 1.2 On 21.7.2017, the Town Planning Board (the Board) decided to consider the representations and comments collectively in one group. This paper is to provide the Board with information for consideration of the representations and comments at **Annexes I, II and III**. A summary of representations and comments with Planning Department (PlanD)'s responses is attached at **Annex IV**. Relevant locations are shown on **Plans H-1 to H-3**.
- 1.3 The representers and commenters have been invited to attend the meeting in accordance with section 6B(3) of the Ordinance.

2. THE REPRESENTATIONS

- 2.1 Amongst the total 43 representations, 11 representations (**R1 to R11**) are submitted by green/concern groups, namely WWF-HK (**R1**), DHKL (**R2**), HKBWS (**R3**), KFBG (**R4**), ABHK (**R5**) and individuals (**R6 to R11**) generally supporting or providing comments on the draft OZP. The remaining 32 representations (**R12 to R43**) are submitted by TPRC (**R12**), Chairman (**R13**) and First Vice-chairman (**R14**) of TPTYRC, IIR of Tai Po Mei Village (**R15**) and villagers/individuals (**R16 to R43**) generally objecting to the draft OZP and the designation of the site near Tai Po Mei as "CA" zones.

GROUND AND PROPOSALS OF REPRESENTATIONS

- 2.2 The major grounds and proposals (**Plan H-2**) of the green/concern groups and individuals (**R1 to R11**) are summarized below:
 - (a) **R1 and R2** support the general planning intention of the draft OZP, **R1 to R3 and R5 to R11** support the designation of "CA" zones and **R4** provides comments on the draft OZP.

Ecological Importance of the Planning Scheme Area

- (b) Completely encircled by the Tai Po Kau Nature Reserve (TPKNR), the Planning Scheme Area (the Area) is of high ecological value and conservation importance and highly integrated with the TPKNR in terms of ecology and landscape (**R1 to R11**). It mainly comprises well-established woodlands and unpolluted natural streams (**R1 to R3 and R5 to R10**).
- (c) According to **R3**'s submission, over 200 bird species have been recorded in the TPKNR, which together with the Area form part of the greater "Tai Po Kau, Shing Mun and Tai Mo Shan Important Bird Area" recognized by the global authority in bird conservation. It supports many characteristic species of the Sino-Himalayan subtropical forest biome and is a representative site of the South China Mountains. **R3**'s internal records reveal that the composition of bird species within the Area is similar to the surrounding habitats of the TPKNR, demonstrating the strong ecological connectivity between them as well as the intact conditions of the wooded areas within the Area. **R11** also indicates that interesting bird species are recorded in a short survey.

Designation of “CA” Zones

Appropriate Designation of “CA” Zones

- (d) **R1 to R3** and **R5 to R11** support the designation of “CA” zones. **R1 and R3** consider that such designation is appropriate to protect the natural environment of the Area, **R2** opines that the “CA” zoning can reflect the ecological importance of natural habitats therein, and **R11** indicates that the most suitable use and planning intention for the Area are for conservation and passive recreation.

No Justifications for Development

- (e) There is no recognized village nor village ‘environs’ (‘VE’) and no or minimal need for conventional agriculture or housing in the Area (**R1, R3, R5 to R9 and R11**). The site near Ngau Wu Tok is only accessible by a restricted access and within the upper indirect water gathering ground (WGG) (**R1 and R3**). The access to the site near Tai Po Mei is long and extremely steep and most structures are derelict and no longer in use (**R3 and R11**). There is no existing or planned public sewerage and any development would introduce human disturbances and adversely affect the integrity of the TPKNR, provision of “Village Type Development” (‘V’) zone is therefore not necessary (**R3**).

More Stringent Planning Control for the “CA” Zones

- (f) Regarding the planning control of the “CA” zones, **R4** proposes to review the necessity of including ‘House (Redevelopment only)’ as a Column 2 use in this zone, and **R11** proposes to control agriculture such as nursery and any form of filling to avoid from being used as a pretence for works associated with house development to protect the wet or intermittently wet abandoned fields.

Proposals on the General Planning Intention and Enforcement

- (g) **R11** proposes to amend the general planning intention of the draft OZP to include: (i) contribution to the implementation of the Biodiversity Strategy and Action Plan of 2016 under the Convention on Biological Diversity; (ii) enhancement of the nature conservation including water quality, ecosystem, landscape and recreational values by the “CA” zoning; and (iii) planning conditions for conservation management of the enclaves by the Agriculture, Fisheries and Conservation Department (AFCD) as if they are part of the TPKNR protected under the Country Parks Ordinance for their eventual incorporation into the Special Area.
- (h) **R2** considers that close liaison among Government departments is necessary and Planning Department (PlanD) should be provided with adequate resources and legal powers to monitor and enforce the “CA” zoning.

Proposal of Recording Structures on the Plan

- (i) As there is no or minimal development need in the Area which is subject to accessibility constraints, **R11** suggests that the structures which are derelict and no longer in use are not existing uses and should be recorded and noted on the Plan to reduce abuse by claims to develop or rebuild later.

Incorporation of the Area into Country Park

- (j) **R1 to R11** propose to incorporate the Area into the TPKNR/Special Area or as an extension of the Tai Mo Shan/Shing Mun Country Park so as to fully protect the ecological and landscape value of the enclaves as well as the surrounding TPKNR, and/or ensure that the Area is managed under the Country Parks Ordinance.

Other Views

- (k) **R11** suggests that precautions against the increased risk of hill fires in particular from the graves on the very steep slope above Tai Po Mei bus stop need to be carried out and managed by the AFCD.

2.3 The major grounds and proposals (**Plan H-3**) of the villagers group (including the related organizations and villagers/individuals) (**R12 to R43**) are summarized below:

- (a) **R12** objects to the draft OZP and **R13 to R43** object to the designation of the site near Tai Po Mei as “CA” zones.

Objection to Designation of the Site near Tai Po Mei as “CA” Zones

Land Rights/Interests

- (b) According to **R12 to R43**, the site near Tai Po Mei belongs to the Tai Po Mei Village¹ and around one third of its area are agricultural lots owned by the villagers thereof, who have been engaging in agriculture there for several hundred years and built houses for living since a hundred years ago. **R12 to R43** object to the designation of the site near Tai Po Mei, in particular the private land, as “CA” zones without any compensation to the landowners/farmers, that would infringe their land rights/interests.

Restrictions of the “CA” Zone

- (c) **R12 to R43** are also concerned about that the “CA” zoning would restrict agricultural activities, maintenance or repair of graves and temporary structures/squatters as well as construction of road.

The Site near Tai Po Mei is not of High Ecological Value

- (d) **R12 to R43** consider that the “CA” zoning is not fully justified as the site near Tai Po Mei is not of high ecological value in that there should not be any woodland and protected plant species on the private land under agricultural use for a long time and there is no mentioning about any fauna species of conservation value in the stream.

Proposal of Rezoning the Private Land in the Site near Tai Po Mei to “Agriculture”

- (e) As there are crops and squatters on the private land in the site near Tai Po Mei, **R12** proposes to rezone the private land to “Agriculture” (“AGR”) (**Plan H-3**) in order to protect the private property rights/interests and realize agricultural use.

¹ The Tai Po Mei Village is a recognized village about 500m to the east of the site near Tai Po Mei.

Local Views

- (f) **R12** considers that the villagers' previous views on the draft OZP have been disregarded.

3. COMMENTS ON REPRESENTATIONS

- 3.1 **C1** is submitted by a TPDC Member objecting to the draft OZP and reiterating the opposing views of the villagers of Tai Po Mei Village on the designation of the private land in the site near Tai Po Mei as "CA" zones without any compensation to the villagers and on imposing the restrictions of the "CA" zoning on agricultural activities, maintenance or repair of graves and road. **C1** considers that the Government should withdraw the draft OZP, protect the private property, discuss with the villagers on compensation and respect the local views and needs.
- 3.2 **C2**, who is also **R10**, indicates that there is no justification for "V" zone in the Area and no overriding need for rezoning the site near Tai Po Mei to "AGR". **C2** opines that the infringement of the villagers' rights as claimed by some representers seems to refer to the opportunity for redevelopment rather than existing uses.

4. BACKGROUND

- 4.1 On 14.3.2016, under the power delegated by the Chief Executive, the Secretary for Development directed the Board, under section 3(1)(a) of the Ordinance, to prepare an OZP to cover the sites near Ngau Wu Tok and Tai Po Mei in the Tai Po Kau area to replace the Development Permission Area (DPA) Plan first published on 21.3.2014. On 23.9.2016, the Board gave preliminary consideration to the draft Tai Po Kau OZP No. S/NE-TPK/B and agreed that the draft OZP was suitable for submission to the Sha Tin District Council (STDC), Sha Tin Rural Committee (STRC), TPDC and TPRC for consultation.
- 4.2 The STDC was consulted on 3.11.2016 and in general had no comment on the draft OZP. A STDC Member supported the designation of "CA" zone and mainly raised concerns about the enforcement actions to be taken by the Government against any ecological destruction in the Area. There had been no comments received from STRC. The TPRC and TPDC were consulted on 2.11.2016 and 9.11.2016 respectively and a submission was received from the TPRC in November 2016. They both objected to the draft OZP mainly for the designation of the site near Tai Po Mei as "CA" zones without any compensation to the landowners/farmers, restrictions of the "CA" zoning, the site near Tai Po Mei is not of high ecological value and lack of local consultation on the draft OZP. They mainly proposed to zone the private land in the site near Tai Po Mei "AGR" and that the Government should provide compensation to the affected landowners and farmers.
- 4.3 Views were also received from green/concern groups namely HKBWS, KFBG, Hong Kong Wild Bird Conservation Concern Group (HKWBCCG) and an individual in October 2016. All of them supported the designation of the whole Area as "CA" zones mainly for the ecological importance of the Area and TPKNR and no development pressure in the Area, and HKBWS and the individual proposed to incorporate the Area into the TPKNR or Country Park.

- 4.4 On 20.1.2017, the Board gave further consideration to the draft OZP together with the views received from the STDC, TPDC, TPRC as well as the green/concern groups and the individual. After considering these views, the Board agreed that the draft Tai Po Kau OZP No. S/NE-TPK/B was suitable for exhibition for public inspection. On 10.2.2017, the draft Tai Po Kau OZP re-numbered as No. S/NE-TPK/1 was exhibited for public inspection under section 5 of the Ordinance.
- 4.5 STRC and STDC were consulted (**Annex V**) on the gazetted draft Tai Po Kau OZP No. S/NE-TPK/1 on 1.3.2017 and 2.3.2017 respectively. STRC objected to the draft OZP mainly considering that the designation of private land as “CA” zone would infringe landowners’ private land rights/interests, the “CA” zoning would restrict grave sweeping activities and the Government should provide compensation to the affected landowners. STDC in general had no comment on the draft OZP. A STDC Member mainly raised concerns about the enforcement actions to be taken by the Government against any ecological destruction in the Area.
- 4.6 TPDC was consulted on 8.3.2017 (**Annex VI**) and they indicated that the draft OZP was not amended to incorporate TPRC’s views, which together with those of local villagers, landowners and TPDC should be respected, and hence objected to the draft OZP. The Board received a letter dated 20.4.2017 from the Chairman of Environment, Housing and Works Committee (EHWC) of TPDC, primarily expressing the Committee’s objection to the draft OZP and another draft Cheung Sheung OZP No. S/NE-CS/1 and requesting the Board to defer consideration of representations and comments in respect of the draft OZPs. On 19.5.2017, the Board noted and considered that as consideration of the draft OZPs was subject to a statutory time limit under the Ordinance, the request for deferral could not be acceded to. On the same day, the Board Secretariat replied to the Chairman of EHWC of TPDC accordingly. TPRC has previously been consulted on the draft OZP No. S/NE-TPK/B as mentioned in paragraph 4.2 and no zoning amendment has been made to the draft OZP for gazettal. It therefore does not consider another consultation meeting necessary. Upon gazetting of the draft OZP No. S/NE-TPK/1 on 10.2.2017 and after receipt of the TPRC’s decision on the consultation meeting on 23.2.2017, PlanD informed the TPRC on 14.2.2017 and 27.2.2017 that the draft OZP had been published for public inspection, and any person may make representation to the Board in respect of the draft OZP on or before 10.4.2017.
- 4.7 Subsequently, out of those who have provided views in the course of preparation of the draft OZP, TPRC (**R12**) and the IIR of Tai Po Mei Village (**R15**) submitted representations opposing to the draft OZP/designation of the site near Tai Po Mei as “CA” zone, and the HKBWS (**R3**), KFBG (**R4**) and individual (**R11**) also submitted representations supporting the designation of “CA” zone/providing comments on the draft OZP.

5. PLANNING CONSIDERATIONS AND ASSESSMENT

THE REPRESENTATION SITES AND THEIR SURROUNDING AREAS (Plans H-1 to H-3)

- 5.1 The representation sites cover the whole OZP.

The Area (Plans H-4 to H-6)

- 5.2 The Area, which comprises two Country Park enclaves, namely a site near Ngau Wu Tok

(about 6.28 ha) and a site near Tai Po Mei (about 5.47 ha), covers a total land area of about 11.75 ha. It is encircled by the TPKNR nestled between Sha Tin and Tai Po. The TPKNR, covering a total land area of about 460 ha, was designated as a Special Area in 1977 primarily for conserving the native natural habitats therein, where a long-established forest by plantations with more than 100 different species of trees supporting diverse fauna and flora are found. The Area has high ecological and landscape value and forms an integral part of the wider natural environment of the Special Area. There are no recognized village and 'VE' in the Area.

The Site near Ngau Wu Tok

- 5.3 The area comprises well wooded hill slopes located at the southern fringe of the TPKNR and is within the upper indirect WGG. There is a natural stream running from northwest to southeast through the area. It could be reached by the Tai Po Kau Forest Track which is a restricted vehicular access connecting to Tsung Tsai Yuen along Tai Po Road.
- 5.4 The woodland in the site near Ngau Wu Tok is mature, dense and extensive. It is ecologically linked with the surrounding woodland of the TPKNR and has no sign of disturbance. The woodland in the area is dominated by native species with some patches of plantation with exotic species. Protected plant species including *Cibotium barometz* (金毛狗), *Pavetta hongkongensis* (香港大沙葉) and *Aquilaria sinensis* (土沉香) could be found. There is a natural stream running across the area where the Hong Kong Paradise Fish (*Macropodus hongkongensis* (香港鬥魚)), a freshwater fish of conservation concern and the Hong Kong Newt (*Paramesotriton hongkongensis* (香港瘰螈)), a protected animal species, are recorded.

The Site near Tai Po Mei

- 5.5 The site near Tai Po Mei is situated at the eastern fringe of the TPKNR. It is made up of two portions of land mainly comprising well wooded hill slopes contiguous with the surrounding TPKNR. Several natural streams flow through the major portion of the site largely from west to east. Among the woodland, a number of scattering temporary structures/squatters (some of these are covered by Government Land Licenses restricted to cultivation and temporary structures only) and parcels of active agricultural land could be found. The site could only be reached by a steep footpath branching off Tai Po Road.
- 5.6 The woodlands in the site near Tai Po Mei are mature with little sign of disturbance and ecologically linked with the surrounding woodland of TPKNR. Woodlands with native trees can be found near the temporary structures/squatters, whereas plantations dominated by exotic tree species are mainly located at the peripheral hilly area. A protected plant species, *Ailanthus fordii* (常綠臭椿), could be found in the woodlands. The small portion is covered by dense mature woodland contiguous with the surrounding TPKNR.

Planning Intention

- 5.7 The general planning intention of the Area is to protect its high conservation and landscape value which complements the overall naturalness and the landscape beauty of the surrounding Special Area.

Individual Zones (Annex IV)

- 5.8 All areas covered by the OZP are zoned “CA” which is intended to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of development. 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.
- 5.9 For the “CA” zone, any diversion of streams, filling of land/pond or excavation of land shall not be undertaken without the permission from the Board (including public works implemented or co-ordinated by Government).

RESPONSES TO GROUNDS AND PROPOSALS OF REPRESENTATIONS

- 5.10 The supportive views of **R1 and R2** on the general planning intention of the draft OZP and **R1 to R3 and R5 to R11** on the designation of “CA” zones are noted.

Ecological Importance of the Area

- 5.11 The green/concern groups and individuals (**R1 to R11**) indicate the ecological importance of the Area, whilst the villagers group (**R12 to R43**) considers that the site near Tai Po Mei is not of high ecological value.
- 5.12 The ecological information submitted/mentioned by **R1 to R11** is noted. The AFCD confirms that the Area forms part of the “Tai Po Kau, Shing Mun and Tai Mo Shan Important Bird Area” identified by BirdLife International, a global partnership of about 120 non-government organizations, the composition of bird species therein is similar to that of the TPKNR, and it is surrounded by and ecologically connected with the TPKNR.
- 5.13 In consultation with the AFCD, the ecological importance of the Area has been taken into account in the course of preparing the draft OZP. The Area is largely natural in character and has high ecological and landscape value and forms an integral part of the wider natural environment of the Special Area, which have been an important consideration in drawing up the draft OZP. Although there are some temporary structures/squatters and parcels of active agricultural land scattering amidst the woodlands near Tai Po Mei, they are small in scale and do not undermine the overall conservation and landscape value of the Area. In formulating the land use zonings of the draft OZP, special attention has been given to protect the ecological and landscape significance of the Area having regard to the wider natural environment of the Special Area.

Designation of “CA” Zones

- 5.14 On one hand, the green/concern groups and individuals largely support the designation of the whole Area as “CA” zones. On the other hand, the villagers group objects to the designation of the site near Tai Po Mei as “CA” zones.

Appropriate Designation of “CA” Zones

- 5.15 **R1 to R3 and R5 to R11** support the designation of “CA” zone for the whole Area. In consultation with the AFCD, the whole Area, forming an integral part of the wider natural

environment of the Special Area, is designated as “CA” zones in order to reflect the ecological importance of the natural habitats including the mature woodlands and natural streams. The “CA” zoning is considered appropriate with a view to conserving the natural environment of the Area and preserving the integrity of the TPKNR in the long run.

No Justifications for Development

- 5.16 **R1, R3, R5 to R9 and R11** consider that there are no justifications for development in the Area. As confirmed by District Lands Officer/Shu Tin (DLO/ST) and District Lands Officer/Tai Po (DLO/TP), Lands Department (LandsD), there is no recognized village and ‘VE’ in the Area, and no development zone including “V” zone is proposed on the draft OZP.

More Stringent Planning Control for the “CA” Zones

- 5.17 Regarding the planning control of the “CA” zone, **R4** proposes to review the necessity of including ‘House (Redevelopment only)’ as a Column 2 use in this zone, and **R11** proposes to control agriculture such as nursery and any form of filling to avoid from being used as a pretence for works associated with house development.
- 5.18 According to the draft OZP, in the “CA” zone, new residential development is not permitted, while ‘House (Redevelopment only)’ use, provision of plant nursery and any diversion of streams, filling of land/pond or excavation of land require planning permission from the Board. Any potential adverse impact from such applied uses or activities on the surrounding area would be assessed through the planning application system in consultation with departments concerned. Each application will be considered by the Board based on its individual merits taking into account the prevailing planning circumstances, relevant guidelines and relevant departments’ comments. The Notes of the “CA” zone primarily follows the Master Schedule of Notes endorsed by the Board, in which ‘Agricultural Use (other than Plant Nursery)’ is a Column 1 use that is always permitted, while ‘House (Redevelopment only)’ is a Column 2 use requiring planning permission from the Board, which will be considered based on individual merits. The planning control of the “CA” zone is in line with the planning intention for nature conservation balancing the rights for farming activities. There is no strong justification for excluding ‘House (Redevelopment only)’ from the Column 2 uses or imposing more stringent control on ‘Agricultural Use’ in the “CA” zone.

Restrictions of the “CA” Zone

- 5.19 **R12 to R43** raise concerns on the restrictions of the “CA” zone. According to the covering Notes of the draft OZP, maintenance or repair of graves and temporary structures/squatters, ‘On-Farm Domestic Structure’ as well as road works coordinated or implemented by Government are in general always permitted.
- 5.20 **R12 to R43** raise concerns on land rights/interests and **R12** proposes to rezone private land in the Site near Tai Po Mei to “AGR”. The private land in the Area is primarily demised for agricultural purpose under Block Government Lease, and ‘Agricultural Use (other than Plant Nursery)’ is in general always permitted in the “CA” zone on the draft OZP. As such, there are no deprivation of the landowners’ rights and no hindrance to farming activities even not designating the “AGR” zone. In view of the conservation value of the Area, any diversion of streams, filling of land/pond or excavation of land, which may cause adverse

impacts on the natural environment, require planning permission from the Board, and each application will be considered based on its individual merits.

- 5.21 There are scattered active agricultural land (occupying areas ranging from about 0.02 ha to 0.12 ha) amidst the woodlands in the site near Tai Po Mei, which is however, largely natural in character comprising mainly mature woodlands and natural streams with no recognized village and could only be reached by a steep footpath branching off Tai Po Road. In this context, the “CA” zoning is considered appropriate with a view to conserving the natural environment of the Area and preserving the integrity of the TPKNR in the long run. **R12**’s proposal to rezone the private land in the site near Tai Po Mei to “AGR” is not supported by the Chief Town Planner/Urban Design & Landscape, PlanD as it may alter/degrade the landscape value of the Area and the land ownership (i.e. whether it is Government land or private land) should not be the only factor for formulating the land use zone.

Proposals on the General Planning Intention and Enforcement

- 5.22 **R11** proposes amendments to the general planning intention of the draft OZP to include contribution to the implementation of the Hong Kong Biodiversity Strategy and Action Plan 2016-2021 (BSAP). The BSAP has a strategy and a framework of actions to step up biodiversity conservation and support sustainable development. Under the BSAP, biodiversity considerations are to be integrated in the territorial development strategy and Hong Kong Planning Standards and Guidelines. The ecological importance of the natural habitats in the Area, forming an integral part of the wider natural environment of the TPKNR with diverse fauna and flora, has been reflected by designation of “CA” zone; and the general planning intention of the Area to protect its high conservation and landscape value which complements the overall naturalness and the landscape beauty of the surrounding Special Area has already been specified in the Explanatory Statement of the draft OZP.
- 5.23 **R11** also proposes to amend the general planning intention of the draft OZP to include enhancement of nature conservation by the “CA” zoning and planning conditions for conservation management of the enclaves by the AFCD as if they are part of the TPKNR, while **R2** proposes to ensure effective monitoring and enforcement of the “CA” zoning. The Town Planning Ordinance provides the Planning Authority with enforcement power against unauthorized developments in areas covered by the DPA Plans or the replacement OZPs. The draft OZP, which was previously covered by the draft Tai Po Kau DPA Plan No. DPA/NE-TPK/1, is therefore subject to the statutory planning control and provisions on enforcement under the Ordinance. The Planning Authority investigates public complaints and referrals from other Government departments, and carries out regular patrols to identify possible unauthorized developments. AFCD also conducts regular patrol of the enclaves and would refer any suspected unauthorized development detected to the relevant departments such as LandsD and PlanD for follow up action. Once an unauthorized development is confirmed, statutory enforcement and prosecution actions will be taken as appropriate. AFCD will continue their efforts to conserve the natural environment and safeguard the ecological integrity under the department’s purview.

Proposal of Recording Structures on the Plan

- 5.24 Regarding **R11**’s proposal to record the derelict structures not in use on the Plan to reduce abuse by claims to develop or rebuild later, it should be noted that according to the draft OZP, in the “CA” zone, new residential development is not permitted and ‘House

(Redevelopment only)' use requires planning permission from the Board, which will be considered based on individual merits. Any development other than those in existence before the gazettal of the draft DPA Plan, permitted under the Plan or covered by valid planning permission may be subject to enforcement proceedings under the Town Planning Ordinance.

Local Views

- 5.25 **R12** considers that the villagers' previous views on the draft OZP have been disregarded. When formulating the draft OZP, public views, including those from the STDC, STRC, TPDC, TPRC, IIRs of the Tai Po Mei Village, villagers and other relevant stakeholders such as green/concern groups, had been sought and reported to the Board for preliminary and further considerations before gazetting the draft OZP. With the general planning intention of the Area in protecting its high conservation and landscape value, it is necessary to strike a balance between meeting local needs and enhancing nature conservation in drawing up the OZP. Upon gazettal of the draft OZP, the statutory plan-making process, which involves its exhibition for public inspection and hearing of representations and comments received, is itself a public consultation process under the Ordinance. The Board would take into account the relevant planning considerations and the representations and comments received before making a decision.

Incorporation of the Area into Country Park

- 5.26 Regarding **R1 to R11**'s proposal to incorporate the Area into Special Area/Country Park, designation of a Country Park or Special Area is under the jurisdiction of the Country and Marine Parks Authority governed by the Country Parks Ordinance (Cap. 208) which is outside the purview of the Board. Preparation of the statutory plan would not preclude any future designation of Country Park or Special Area.

Other Views

- 5.27 **R11**'s suggestion for precautions against hill fires by the AFCD is not directly related to the draft OZP, and should be relayed to relevant Government departments for consideration as appropriate.

RESPONSES TO GROUNDS OF COMMENTS

- 5.28 **C1**'s objection to the designation of the private land in the site near Tai Po Mei as "CA" zones, concerns about the restrictions of the "CA" zoning, protection of villagers' private property, provision of compensation to them as well as respect to the local views and needs are similar to those in the representations of the villagers group. The responses in paragraphs 5.14, 5.19 to 5.21 and 5.25 above are relevant.
- 5.29 Regarding **C1**'s request to withdraw the draft OZP, it should be noted that on 10.2.2017, the draft Tai Po Kau OZP No. S/NE-TPK/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance. According to the Ordinance, the Board shall submit a draft plan together with a schedule of the representations, comments and further representations (if any), and a schedule of the amendments (if any) made by the Board to the Chief Executive in Council before the expiration of a period of 9 months after the expiration of the period of 2 months. In other words, the draft OZP is a statutory plan already in force. There is no strong justification on planning grounds to withdraw the draft OZP.

5.30 C2's views of no justifications for development and no overriding need for rezoning the site near Tai Po Mei to "AGR" are similar to those in the representations of the green/concern groups and individuals. C2 also opines that the infringement of the villagers' rights seems to refer to the opportunity for redevelopment rather than existing uses. The responses in paragraphs 5.16, 5.20 and 5.21 above are relevant.

6. CONSULTATION

6.1 Relevant Government departments have been consulted and their comments have been incorporated in the above paragraphs where appropriate.

6.2 The following Government bureaux and departments have been consulted and they have no major comment on the representations:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Chief Building Surveyor/New Territories West, Buildings Department;
- (c) Chief Highway Engineer/New Territories East, Highways Department;
- (d) Antiquities and Monuments Office, Director of Leisure and Cultural Services;
- (e) Director of Environmental Protection;
- (f) Director of Leisure and Cultural Services (Sha Tin);
- (g) Director of Leisure and Cultural Services (Tai Po);
- (h) Director-General of Communications;
- (i) Government Property Administrator;
- (j) Project Manager/New Territories East, Civil Engineering and Development Department;
- (k) Director of Electrical and Mechanical Services;
- (l) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (m) Director of Fire Services;
- (n) Chief Engineer/Mainland North, Drainage Services Department;
- (o) Chief Engineer/Sewerage Projects, Drainage Services Department;
- (p) Chief Engineer/Drainage Projects, Drainage Services Department;
- (q) Chief Engineer/Project Management, Drainage Services Department;
- (r) Chief Engineer/Consultants Management, Drainage Services Department;
- (s) Chief Engineer/ Harbour Area Treatment Scheme, Drainage Services Department;
- (t) Commissioner for Transport;
- (u) Director of Food and Environmental Hygiene;
- (v) District Officer/Tai Po, Home Affairs Department;
- (w) District Officer/Shau Tin, Home Affairs Department;
- (x) Secretary for Education; and
- (y) Chief Town Planner/Central Enforcement and Prosecution, Planning Department.

7. PLANNING DEPARTMENT'S VIEWS

7.1 The supportive views of **R1 and R2** on the general planning intention of the draft OZP and **R1 to R3 and R5 to R11** on the designation of "CA" zone are noted.

- 7.2 Based on the assessments in Paragraph 5 above and for the following reasons, Planning Department does not support the representations **R4, R12 to R43 and the remaining part of R1 to R3 and R5 to R11** and considers that no amendment should be made to the draft OZP to meet these representations:

Ecological Importance of the Area (R1 to R43)

- (a) “Conservation Area” (“CA”) zones under which there is a general presumption against development, have been designated to cover areas having high conservation and landscape value to protect the natural environment of the Area and the ecologically linked Tai Po Kau Nature Reserve (TPKNR) under the statutory planning framework.

Designation of “CA” Zones

- (b) Forming an integral part of the wider natural environment of the Special Area, the whole Area is designated as “CA” zones in order to reflect the ecological importance of the natural habitats. The “CA” zoning is considered appropriate with a view to conserving the natural environment of the Area and preserving the integrity of the TPKNR in the long run (**R1 to R3 and R5 to R11**).
- (c) There are no recognized village and village ‘environs’ in the Area, and no development zone is proposed on the draft Outline Zoning Plan (OZP) (**R1, R3, R5 to R9 and R11**).
- (d) In the “CA” zone, ‘Agricultural Use (other than Plant Nursery)’ is in general always permitted, while new residential development is not permitted, and ‘House (Redevelopment only)’, provision of plant nursery and any filling of land require planning permission from the Board and each application will be considered by the Board based on its individual merits. The planning control of the “CA” zone is to strike a balance between enhancing nature conservation and respecting landowners’ rights. There is no strong justification for imposing more stringent control in the zone (**R4 and R11**).
- (e) Maintenance or repair of graves and temporary structures/squatters (which were in existence immediately before the first publication in the Gazette of the notice of the draft Development Permission Area Plan), ‘On-Farm Domestic Structure’ as well as road works coordinated or implemented by Government are in general always permitted in the draft OZP (**R12 to R43**).
- (f) The private land in the site near Tai Po Mei is primarily demised for agricultural purpose under Block Government Lease, and ‘Agricultural Use (other than Plant Nursery)’ is in general always permitted in the “CA” zone on the draft OZP, there are no deprivation of the landowners’ rights and no hindrance to farming activities even not designating the “Agriculture” (“AGR”) zone. The “CA” zoning on the draft OZP is considered appropriate and whether the concerned area is on Government land or private land should not be the only factor for formulating the land use zone (**R12 to R43**).

Proposals on the General Planning Intention and Enforcement (R2 and R11)

- (g) The general planning intention of the draft OZP is considered appropriate and has been specified in the Explanatory Statement of the draft OZP.
- (h) The Area is subject to the statutory planning control and provisions on enforcement under the Town Planning Ordinance. The Planning Authority investigates public complaints and referrals from other Government departments, and carries out regular patrols to identify possible unauthorized developments. Once an unauthorized development is confirmed, statutory enforcement and prosecution actions will be taken as appropriate.

Proposal of Recording Structures on the Plan (R11)

- (i) According to the draft OZP, in the “CA” zone, new residential development is not permitted and ‘House (Redevelopment only)’ use requires planning permission from the Board, which will be considered based on individual merits. Any development other than those in existence before the gazettal of the draft DPA Plan, permitted under the Plan or covered by valid planning permission may be subject to enforcement proceedings under the Town Planning Ordinance.

Local Views (R12)

- (j) The Board has considered the views of villagers and other stakeholders in formulating the draft OZP and would take into account the relevant planning considerations and the representations and comments received in respect of the draft OZP before making a decision.

Incorporation of the Area into Country Park (R1 to R11)

- (k) Designation of a Country Park or Special Area is under the jurisdiction of the Country and Marine Parks Authority governed by the Country Parks Ordinance (Cap. 208) which is outside the purview of the Board. Preparation of the statutory plan would not preclude any future designation of Country Park or Special Area.

8. DECISION SOUGHT

The Board is invited to give consideration to the representations and comments taking into consideration the points raised in the hearing session, and decide whether to partially uphold/not to uphold the representations.

9. ATTACHMENTS

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| Annex I | Submissions of Representations and Samples of Standard Representations |
| Annex II | Submissions of Comments |
| Annex III | CD-ROM containing Names of All Representers and Commenters as well as Their Submissions (for Members only) |
| Annex IV | Summary of Representations and Comments in respect of the Draft Tai Po Kau Outline Zoning Plan No. S/NE-TPK/1 and PlanD’s Responses |

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| Annex V | Extract of Minutes of Meeting of Development and Housing Committee of Sha Tin District Council held on 2.3.2017 |
| Annex VI | Extract of Minutes of Meeting of Environment, Housing and Works Committee of Tai Po District Council held on 8.3.2017 |
| Annex VII | Extract of the Notes of “CA” Zone of the Draft Tai Po Kau OZP No. S/NE-TPK/1 |
| Plan H-1 | Location Plan |
| Plan H-2 | Proposals of Representations R1 to R11 and Comment C2 |
| Plan H-3 | Proposals of Representations R12 to R43 and Comment C1 |
| Plan H-4 | Development Constraints – Tai Po Kau |
| Plan H-5 | Land Ownership and Village ‘Environs’ –Tai Po Kau |
| Plan H-6 | Aerial Photos –Tai Po Kau |

PLANNING DEPARTMENT
SEPTEMBER 2017