

TOWN PLANNING BOARD

TPB Paper No. 10294

**For Consideration by the
Town Planning Board on 7.7.2017**

**城市規劃委員會文件第 10294 號
考慮日期：2017 年 7 月 7 日**

**DRAFT CHUEN LUNG AND HA FA SHAN
OUTLINE ZONING PLAN NO. S/TW-CLHFS/1
CONSIDERATION OF REPRESENTATIONS NO.
R1 TO R253 AND COMMENTS NO. C1 TO C5**

**《川龍及下花山分區計劃大綱草圖編號 S/TW-CLHFS/1》
考慮申述編號 R1 至 R253 及意見編號 C1 至 C5**

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 OUTLINE ZONING PLAN NO. S/TW-CLHFS/1**

**CONSIDERATION OF REPRESENTATIONS NO.
 R1 TO R253 AND COMMENTS NO. C1 TO C5**

<u>Subject of Representation</u>	<u>Representers</u> (No. TPB/R/S/TW-CLHFS/1-1 to 253) (Total: 253)	<u>Commenters</u> (No. TPB/R/S/TW-CLHFS/1-C1 to C5) (Total : 5)
Designation of “Green Belt” (“GB”) zones surrounding Sai Chuk Lam Zen Monastery and Kai Yuen ¹ in Ha Fa Shan	<p><u>Oppose: 245</u> R1: Po Lam Tong² R2: Sik Yan Zhi R3 (Part): Hon Chan Han-pan, Legislative Council (LegCo) cum Tsuen Wan District Council (TWDC) member R4: The Hong Kong Buddhist Association R5: The Centre of Buddhist Studies, The University of Hong Kong R6: Mr. Lam Ka-fai, Sham Shui Po DC member R7: Lo Hon Monastery R8: Buddhist Man Sang Hall R194: Buddhist Fat Ho Memorial College R9 to R193, R195 to R242 and R244 to R246: Individuals</p> <p><u>Provide comments: 1</u> R243: Individual</p>	<p><u>Provide comments on R243</u> C1: Po Lam Tong (R1)</p> <p><u>No indication on which representation(s) providing comment on</u> C2: Heung Yee Kuk New Territories (HYK) C3: Chuen Lung Village Office (R250) C4: Village Representative (VR) of Ha Fa Shan C5: Individual</p>

¹ Named as “Kei Yuen” by R1.

² Po Lam Tong (R1) claims to be the land owner and management body of Sai Chuk Lam Zen Monastery and Kai Yuen. However, according to the Land Registry’s record, the registered land owners of the lots at the representation site in Kai Yuen are not ‘Po Lam Tong’.

<u>Subject of Representation</u>	<u>Representers</u> (No. TPB/R/S/TW-CLHFS/1-1 to 253) (Total: 253)	<u>Commenters</u> (No. TPB/R/S/TW-CLHFS/1-C1 to C5) (Total : 5)
Designation of “Agriculture” (“AGR”), “GB” and “Village Type Development” (“V”) zones for the Chuen Lung and Ha Fa Shan Outline Zoning Plan (OZP)	<u>Oppose: 6</u> <u>Green Groups</u> R247: World Wide Fund for Nature (WWF) Hong Kong R248: Kadoorie Farm and Botanic Garden Corporation (KFBG) R249: The Hong Kong Bird Watching Society (HKBWS) <u>Villagers and LegCo cum TWDC Member</u> R3 (Part): Hon Chan Han-pan R250: Chuen Lung Village Office R251: VR of Ha Fa Shan	
Designation of “GB” zone for the site at Route Twisk to the north of Hong Kong Gun Club	<u>Oppose: 1</u> R252: Upjet Limited	
Designation of “GB” zone for the site at Route Twisk near Ma Tong	<u>Oppose: 1</u> R253: Fortune Houses Development Limited	

Note: Representations submitted by the LegCo and DC members, Green Groups, land owners, religious/educational institutions and villagers (**R1 to R9 and R247 to R253**), and samples of two standard forms of representations are at **Appendices IIa and IIb** respectively. All comments on representation are at **Appendix III**. A CD-ROM containing names of all representers and commenters as well as their submissions is at **Appendix IV** (for Members only). The names of all representers and commenters can be found at the Town Planning Board (the Board)’s website at http://www.info.gov.hk/tpb/en/plan_making/S_TW-CLHFS_1.html

1. **Introduction**

- 1.1 On 9.12.2016, the draft Chuen Lung and Ha Fa Shan OZP No. S/TW-CLHFS/1 (**Appendix I**) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 253 valid representations were received. On 24.3.2017, the Board published the representations for public comment and within the three-week exhibition period, a total of 5 valid comments were received.

- 1.2 On 2.6.2017, the Board agreed to consider all representations (**R1 to R253**) and comments (**C1 to C5**) collectively in one group as the representations and comments are interrelated and related to the conservation and development of the Chuen Lung and Ha Fa Shan area (the Area).
- 1.3 This paper is to provide the Board with information for the consideration of the representations and comments. The representers and commenters have been invited to attend the meeting in accordance with section 6B(3) of the Ordinance.

2. Representations

2.1 The Representations

2.1.1 Among the 253 representations, 252 are adverse in nature, which include:

- (a) **R1 (Part), R2 (Part), R3 (Part), R4 to R242 and R244 to R246** submitted by Po Lam Tong, LegCo and DC members and religious/educational institutions and individuals object to the “GB” zones surrounding Sai Chuk Lam Zen Monastery (**Plan H-7a**).
- (b) **R1 (Part) and R2 (Part)** submitted by Po Lam Tong and an individual object to the “GB” zone for Kai Yuen (**Plan H-8a**).
- (c) **R247 to R249** submitted by Green Groups object to the “GB” and “AGR” zonings for the natural streams and riparian areas, woodland areas and agricultural land (**Plan H-9a**). They also express concerns on the new Small House development in the “V”, “AGR” and “GB” zones (**Plans H-9a and H-10a**).
- (d) **R3 (Part), R250 and R251** submitted by the villagers and a LegCo cum TWDC member object to the “V” and “GB” zones for Chuen Lung (**Plan H-10a**) and Ha Fa Shan (**Plan H-10e**), and express concerns that the proposed Chuen Lung Village Expansion Area (VEA) has not been implemented (**Plan H-10a**).
- (e) **R252 and R253** submitted by two land owners object to the “GB” zoning of their respective land at Route Twisk to the north of Hong Kong Gun Club (**Plan H-11a**) and near Ma Tong (**Plan H-12a**).

2.1.2 The remaining representation, **R243** submitted by an individual mainly provides comments on the Sai Chuk Lam Zen Monastery’s objection against the OZP.

2.1.3 The submission of the representations submitted by the LegCo and DC members, Green Groups, land owners, religious/educational institutions and villagers (**R1 to R9 and R247 to R253**), and samples of two standard forms of representations are at **Appendices IIa and IIb** respectively. A full set of the submissions are available in the CD-ROM at **Appendix IV** (Members only). A full set of hard copy is also deposited at the Secretariat of the Board for Members’ inspection. A

summary of the representations is at **Appendix V**.

2.2 Grounds of Representations and Representers' Proposals

Designation of “GB” Zones surrounding Sai Chuk Lam Zen Monastery and Kai Yuen (R1, R2, R3 (Part) and R4 to R246)

2.2.1 Major grounds of representations and proposals of Po Lam Tong (**R1**), and other parties providing similar comments (**R2 to R242 and R244 to R246**) are summarised below:

- (a) The existing “Government, Institution or Community (1)” (“G/IC(1)”) zone only covers the major operation area of Sai Chuk Lam Zen Monastery, which would affect the holistic planning of the monastery. The ancillary structures falling within the “GB” zone including a crematorium structure, an incense paper incinerator, living quarters, a meditation platform and farmland are permanent in nature and essential for the operation of religious use. The “GB” zoning affects the monastery’s daily operation and undermines the right for religious use.
- (b) The area within the “G/IC(1)” zone is insufficient to support the monastery’s daily operation (**R1, R4, R7, R8, R113, R135, R136, R149 and R170**). The “GB” zoning would affect the monastery’s plan to upgrade the existing meditation platform to a 2-storey meditation hall and dormitory, which would provide a weather-proof venue and help alleviate the over-capacitated monastery (**R1**).
- (c) Sai Chuk Lam Zen Monastery has existed for decades and is a well-established religious institution in Ha Fa Shan serving the public, followers and hikers. It has provided a place for purifying the spirit and has great contribution to the Buddhist community and society. It would be a loss to the society if the operation of the monastery is affected by the OZP.
- (d) Kai Yuen, which was built in 1934, has been a registered temple under the Chinese Temple Ordinance since 1979. It is currently/intended for temple use (**R1 and R2**).
- (e) The proposed “G/IC(1)” zoning would embody the monasteries’ spirit to preserve the natural environment. Religious use at the proposed “G/IC(1)” zones is compatible with the natural surroundings and would not create any adverse impact on the environment (**R1, R2, R21, R87, R97, R156, R157, R177 to R179, R182, R183, R189 to R191, R201, R202, R206 to R208 and R266**).
- (f) The monastery has legitimate expectation to use the surrounding areas for religious activities. The designation of “GB” zone will prohibit any religious activities and it would be against the Basic

Law on religion freedom (**R172, R174, R201, R202, R205, R207, R209 and R210**).

- (g) The “GB” zoning for private land prohibiting religious institution use deprives the property right of the monastery (**R2, R33, R36, R43, R44, R56, R86, R128, R136, R145, R169, R176, R186 and R222**).

Represents’ Proposals (Plan H-3)

- (h) The “GB” zones surrounding Sai Chuk Lam Zen Monastery should be rezoned to “G/IC(1)” or “Religious Use”.
- (i) The current “G/IC(1)” zone for Sai Chuk Lam Zen Monastery should be designated for “Religious Use” (**R212**).
- (j) The OZP boundary should be extended to cover the entire Kai Yuen, which should be rezoned as “G/IC(1)” (**R1 and R2**).

2.2.2 **R243** submitted by an individual mainly provides comments on the Sai Chuk Lam Zen Monastery’s objection against the OZP, which states that there has been illegal occupation of Government land by the monastery, and the religious activities can take place within the “G/IC(1)” zone.

Designation of “GB”, “AGR” and “V” Zones for the Chuen Lung and Ha Fa Shan OZP (R3 (Part) and R247 to R251)

2.2.3 Major grounds of representations and proposals of Green Groups (**R247 to R249**) are summarised below:

- (a) The general planning intention of the OZP to protect the natural environment and rural landscape is supported (**R249**).
- (b) Some species of conservation interest/importance and native orchids³ are recorded in/near the nature streams. The natural streams and riparian areas should be well protected against development through a “Conservation Area” (“CA”) or “GB(1)”⁴ zoning.
- (c) The woodland areas with some species of birds of local concern, raptors with conservation importance and woodland birds⁵

³ The submissions of **R247 and R248** list out the species of conservation interest/importance and native orchids found in the Area in their submissions. These include Big-headed Turtle (*Platysternon megacephalum*) and Hong Kong Cascade Frog (*Amolops hongkongensis*) classified as ‘Endangered’ in the IUCN Red List of Threatened Species, which have the highest rank of the risk of extinction among other species mentioned in their submissions. These two species are protected under the Wild Animals Protection Ordinance (Cap. 170).

⁴ There is a more stringent planning control under the “GB(1)” zone for the OZPs of some Country Park Enclaves where only redevelopment of house would be permitted subject to planning approval from the Board and no new Small House is permitted (**Appendix VIIc**).

⁵ The submission of **R249** lists out 12 bird species of local concern, raptor species of conservation importance and woodland bird species found in the Area in his submission. All species are classified as

recorded have similar condition to the woodland within the adjoining Country Parks, which should be better protected through a “CA” zoning (**R248 and R249**).

- (d) The agricultural land in Chuen Lung should be protected through a “GB(1)” zoning as the agricultural activities are still active while a rare butterfly species, Yellow Coster and its host plant ramie are recorded in the farmland (**R247**). Agricultural land should also be excised from the “V” zone (**R249**).
- (e) New Small House development may be allowed in the “GB” or “AGR” zones upon the Board’s approval. The wastewater discharged by the new Small House development including restaurant on the G/F in the “V”, “GB” and “AGR” zones will cause adverse impacts to the natural streams and water gathering ground (WGG). The proposed Chuen Lung VEA should be excised from the “V” zone (**R248**) whereas the “GB” and “AGR” zones should be rezoned to “CA” or “GB(1)” to prohibit any new Small House development (**R247 and R249**).

2.2.4 Major grounds of representations and proposals of the villagers and the LegCo cum TWDC member (**R3 (Part), R250 and R251**) are summarised below:

- (a) The “V” zone in Chuen Lung, with a total of 73 Small House sites, is inadequate to meet the Small House demand of 169. The provision within the OZP should be able to meet the Small House demand (**R3 (Part) and R250**).
- (b) The proposed Chuen Lung VEA, with a total of 50 Small House sites committed in 1994, has not been implemented (**R3 (Part) and R250**). The VEA policy should be reactivated (**R3 (Part)**).
- (c) Insufficient land for Small House development will adversely affect the traditional right and interest of indigenous inhabitants of New Territories that may contravene the Basic Law. The “GB” zoning for private land contravenes the Hong Kong Law on the protection of development right (**R250**).
- (d) The village of Ha Fa Shan has been established for over 200 years but was omitted in the List of New Territories Small House Policy Recognised Village adopted by Lands Department (LandsD). The “GB” zoning for Ha Fa Shan would deprive the villagers’ right of building Small House and affect their request to include the village in the list. Private land in Ha Fa Shan should be excised from the “GB” zone (**R3 (Part) and R251**).

Designation of “GB” Zone for the Site at Route Twisk to the North of Hong Kong Gun Club (R252)

2.2.5 Major grounds of representation and proposals of the land owner of the representation site (R252) are summarised below:

- (a) The “GB” zoning for private land has infringed upon their right of development, which contravenes the Basic Law.
- (b) The site is suitable for low-rise residential development. The “GB” zoning has not taken into account the Government policy to rezone suitable land in Hong Kong for residential use.
- (c) As there are tolerated structures at the site, a residential zoning, rather than “GB”, should be designated.

Representer’s Proposal (Plan H-3)

- (d) The site including the portion outside the OZP’s boundary should be rezoned to “Residential”.

Designation of “GB” Zone for the Site at Route Twisk near Ma Tong (R253)

2.2.6 Major grounds of representation and proposals of the land owner of the representation site (R253) are summarised below:

- (a) The “GB” zoning for private land deprives their right of development, which contravenes the Basic Law and Hong Kong Law. It also has not taken into account the Government’s need to identify developable land in Hong Kong.
- (b) The site is suitable for low-density residential development. The proposed residential development is in line with the overall planning intention of the OZP. As demonstrated in the planning application submitted by the representer⁶, the proposed residential development is compatible with the surrounding and will have visual and ecological improvements to the environment with no adverse visual, landscape, traffic, geotechnical, environmental and infrastructural impacts.

Representer’s Proposal (Plan H-3)

- (c) The site should be rezoned to “Residential (Group C)” (“R(C)”) ⁷.

⁶ It refers to Application No. A/DPA/TW-CLHFS/5 for proposed low-density residential development, land filling and excavation of land submitted by Fortune Houses Development Limited (R253) under section 16 of the Ordinance.

⁷ The proposed “R(C)” zone, with ‘Flat’ and ‘House’ as permitted uses, is subject to a maximum plot ratio of 0.4, a maximum site coverage of 20% and a maximum building height of 3 storeys (9.625m) (Appendix VIIId).

Public Consultation in Plan-making Process (R1 and R250)

2.2.7 Po Lam Tong (**R1**) and Chuen Lung Village Office (**R250**) comment that no consultation was made with the land owners, villagers and management body of Sai Chuk Lam Zen Monastery during the plan-making process. Chuen Lung Village Office (**R250**) suggests that the OZP should be suspended until reaching consensus with villagers.

3. Comments on the Representations

3.1 A total of 5 valid comments on the representation were received.

3.2 **C1** submitted by Po Lam Tong (**R1**) provides comments on **R243** that the majority of land related to the operation of Sai Chuk Lam Zen Monastery is privately owned and the existing facilities within the “G/IC(1)” zone are insufficient to support the monastery’s daily operation.

3.3 **C2 to C4** submitted by HYK, Chuen Lung Village Office (**R250**) and another VR of Ha Fa Shan respectively do not indicate which representation(s) they are providing comment on and their major comments on the OZP are summarised as follows:

- (a) For the “V” zones within the OZP, there is no implementation programme for the 50 Small House sites within the proposed Chuen Lung VEA while the rest Small House sites are on private land. Thus the current “V” zone is not adequate to meet the Small House demand, which contravenes the Basic Law (**C2 and C3**).
- (b) The VEA policy should be reactivated (**C4**). If the VEA policy will not be reactivated, the land within the VEA should be released for development. Besides, Chuen Lung Chun Ha, Ngong Tong and the land to the south of Chuen Lung should be rezoned from “AGR” to “V” for Small House development or used for public housing development (**C2**).
- (c) Before reaching a conclusion on the villagers’ request for inclusion of Ha Fa Shan into LandsD’s List of New Territories Small House Policy Recognised Village, Ha Fa Shan should not be zoned “GB” (**C2 and C4**).
- (d) The development right of private land should be respected and zoning them as “GB” without compensation contravenes the Basic Law. The “GB” zoning would also affect Sai Chuk Lam Zen Monastery and business expansion of the rural workshops in the Area (**C2**).
- (e) Stakeholders have not been fully consulted during the plan-making process and their comments have not been incorporated into the OZP (**C2**).

3.4 **C5** submitted by an individual objects to some representers’ proposal to rezone the land surrounding Sai Chuk Lam Zen Monastery and Kai Yuen from “GB” to “G/IC(1)” as it would entail destruction of natural resources and the

monastery/temple should be confined to their existing zonings; provides comments that the Small House development should be confined in suitable location to avoid undesirable disturbances to the natural environment; and objects to some representers' proposal to zone the sites at Route Twisk for residential use as land rights are not absolute and the interest of community should be proportionately more important.

- 3.5 The submissions of the comments are at **Appendix III** and available in the CD-ROM at **Appendix IV** (Members only). A summary of the comments is at **Appendix V**.

4. **Background**

- 4.1 On 12.1.2016, 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 Area to replace the Chuen Lung and Ha Fa Shan Development Permission Area (DPA) Plan first published on 20.12.2013. On 8.7.2016, the Board gave preliminary consideration to the draft Chuen Lung and Ha Fa Shan OZP No. S/TW-CLHFS/B⁸ and agreed that the draft OZP was suitable for submission to the TWDC and the Tsuen Wan Rural Committee (TWRC) for consultation.
- 4.2 The TWDC and its Community Building, Planning and Development Committee (CBPDC), and TWRC were consulted on the draft OZP on 26.7.2016 and 13.9.2016, and 8.8.2016 respectively. Subsequently, three meetings were held on 26.8.2016, 30.9.2016 and 6.10.2016 with two groups of stakeholders comprising TWDC members, VRs, representatives of Sai Chuk Lam Zen Monastery and locals, and Green Groups⁹. Written submissions from similar parties were also received¹⁰.
- 4.3 On 18.11.2016, the Board gave further consideration to the draft OZP No. S/TW-CLHFS/C¹¹ together with the views and submissions received. The Board agreed that the draft OZP was suitable for exhibition for public inspection. On 9.12.2016, the draft Chuen Lung and Ha Fa Shan OZP renumbered as No. S/TW-CLHFS/1 (**Appendix I**) was exhibited for public inspection under section 5 of the Ordinance.

⁸ The relevant Town Planning Board Paper No. 10133 is available at http://www.info.gov.hk/tpb/en/papers/TPB/1116-tpb_10133.pdf

⁹ Including WWF Hong Kong (**R247**), KFBG (**R248**), HKBWS (**R249**) and Green Power.

¹⁰ During the consultation, comments similar to those mentioned in paragraphs 2.11 (a) to (d) were received, including objection to the “GB” zones surrounding Sai Chuk Lam Zen Monastery and Kai Yuen submitted by Po Lam Tong (**R1**), objection to the “GB”, “AGR” and “V” zones for natural environment and the proposed Chuen Lung VEA submitted by Green/Concern Groups (including **R247 to R249**), objection to the “V” and “GB” zones for Chuen Lung and Ha Fa Shan submitted by villagers/locals (including **R250, R251 and C4**). These comments have been submitted to the Board during the further consideration of the preliminary draft OZP on 18.11.2016. After consideration, no amendment was made to the draft OZP by the Board.

¹¹ The relevant Town Planning Board Paper No. 10205 is available at http://www.info.gov.hk/tpb/en/papers/TPB/1128-tpb_10205.pdf

5. Consultation after Exhibition of the Draft OZP

- 5.1 During the exhibition period, CBPDC of TWDC and TWRC were consulted on the draft OZP No. S/TW-CLHFS/1. At the CBPDC meeting on 10.1.2017, while some members reiterated their concerns on the imposition of additional control over private land, insufficient land reserved for Small House development and the “GB” zoning for Ha Fa Shan as previously raised at the OZP preparation stage, some members further raised concerns on the implementation of the proposed Chuen Lung VEA and that the public comments have not been fully incorporated in the OZP. The meeting requested the Planning Department (PlanD) to meet the VRs/villagers for further discussion on the OZP. The extract of the minutes of the meeting is at **Appendix VI**.
- 5.2 At the meeting on 29.12.2016, TWRC raised objection to the OZP mainly due to insufficient land reserved for Small House development and the “GB” zoning of Ha Fa Shan. They requested to enlarge the “V” zone of Chuen Lung and inclusion of Ha Fa Shan as Recognised Village.

6. Planning Considerations and Assessment

6.1 The Area

- 6.1.1 The Area, with a total area of about 209.95 ha, is located at the northwestern fringe of the Tsuen Wan New Town. Bounded by Tai Mo Shan Country Park and Tai Lam Country Park to the north, east and west, the Area is mainly of rural and natural characters comprising woodland, shrubland, natural stream and active farmland (**Plan H-4**).
- 6.1.2 Mainly consisted of vegetated slopes and stream valleys, the Area has a rural and scenic setting. With a varied topography, the Area has a large diversity in landscape and elevations. While the hills and slopes around Ha Fa Shan are widely covered with woodland and shrubland, active agricultural activities could be found around Chuen Lung. Residential settlements primarily in the form of village-type housing or temporary domestic structures mainly concentrate in Chuen Lung particularly along Route Twisk (**Plan H-5**). Chuen Lung is the only recognised village in the Area.
- 6.1.3 The Area is entirely within WGG with caterwaters towards Shing Mun Reservoir and Tai Lam Chung Reservoir. Chuen Lung is accessible by vehicles via Route Twisk while Ha Fa Shan has no direct vehicular access and is only accessible by footpath from Route Twisk, Chai Wan Kok and Yuen Tsuen Ancient Trail (**Plan H-6**).

6.2 The Representation Sites and their Surrounding Areas

The “GB” Zones surrounding Sai Chuk Lam Zen Monastery (Representation Site of R1 (Part), R2 (Part), R3 (Part) and R4 to R246) (Plan H-7a)

- 6.2.1 The Sai Chuk Lam Zen Monastery at Ha Fa Shan is zoned “G/IC(1)” on

the OZP¹². The current “G/IC(1)” zone, partly on private land (58%) and partly on Government land (42%), covers the main building and ancillary buildings including ancestral hall, dining hall, ceremony hall, office and other facilities of the monastery built on a formed platform, its courtyard and a piece of agricultural land (**Plans H-7a to H-7c**). Except the western boundary facing the vegetated hill slope and woodland, the whole monastery is enclosed by concrete wall and chain link fence in the north, east and south directions.

- 6.2.2 The representation site surrounding the current “G/IC(1)” zone comprises two portions, namely an area to the immediate west of the “G/IC(1)” zone (i.e. Area A) and an area to the immediate east (i.e. Area B) (**Plan H-7a**) respectively within the large “GB” zone covering the Ha Fa Shan area.
- 6.2.3 Area A, entirely on Government land, covers structures including a water tank, a bell tower, a crematorium facility, a shrine, a toilet and a shed (**Plan H-7d**) along a footpath scattered on a natural vegetated hill slope to the immediate west of the “G/IC(1)” zone. It is completely enclosed by natural vegetated hill slopes and woodland in the “GB” zone and Tai Lam Country Park in the north, south and west directions (**Plan H-7b**).
- 6.2.4 Area B, partly on private land (87%) and partly on Government land (13%), is located to the immediate east and northeast of the “G/IC(1)” zone. All private lots are demised for agriculture purposes except one for building purpose¹³. On the date of the first publication in the Gazette of the notice of the draft DPA Plan in 2013, Area B was a piece of vacant vegetated land with two scattered roofed structures, one for domestic use and one vacant in the northern part, a green knoll with a pagoda on top of it in the eastern part, and a piece of agricultural land in the southern tip (**Plan H-7b**). However, in November 2016 before the exhibition of the OZP, sign of site preparation work was observed in the northern part previously covered by vegetation (**Plan H-7g**). Currently, the northern part of Area B has been fenced off and a turfed platform is constructed in the middle with a statue, a pagoda and other facilities placed around the turfed platform (**Plan H-7f**). The remaining part of Area B is under similar situation as at 2013 (**Plan H-7e**). Area B is mainly surrounded by woodland and natural vegetated slopes with some scattered roofed structures for domestic purposes. Natural streams running down from Tai Lam Country Park are located to the north and east (**Plan H-7b**).

¹² The “G/IC(1)” zone at Sai Chuk Lam Zen Monastery covers Lots 47 (Part), 72 (Part), 348 and 349 in D.D. 358, and adjoining Government land. Only Lot 348 in D.D. 358 is a building lot while others are demised for agriculture purposes.

¹³ It includes Lots 46, 47 (Part), 48, 71, 351 and 352 in D.D. 358, and adjoining Government land. Only Lot 352 in D.D. 358 is a building lot while other lots are demised for agriculture purposes.

The “GB” Zone surrounding Kai Yuen (Representation Site of R1 (Part) and R2 (Part)) (Plan H-8a)

- 6.2.5 The representation site covering Kai Yuen¹⁴ and its surrounding area is located at the upper hill of Ha Fa Shan immediately adjacent to the Tai Lam Country Park. It is completely enclosed by woodland, shrubland and natural vegetated hill slopes (**Plan H-8a**). Of the three private lots within the site, only the smallest lot in the middle is for building purpose whereas the other two larger lots are demised for agriculture purposes.
- 6.2.6 Kai Yuen, located in the middle of the representation site, comprises a two-storey main building¹⁵ for domestic use and a temporary structure (**Plan H-8b**). It is one of the roofed structures scattered around the Ha Fa Shan area, which is a vegetated hill widely covered with woodlands and shrublands within a large “GB” zone (**Plans H-10e and H-10f**). The remaining part of the representation site is natural vegetated hill slopes and vacant vegetated land (**Plans H-8a and H-8b**).

The “AGR”, “GB” and “V” Zones (Representation Sites of R3 (Part) and R247 to R251) (Plans H-9a and H-10a)

- 6.2.7 The representation sites of **R3 (Part) and R247 to R251** cover the “AGR”, “GB” and “V” zones in the entire Area.
- 6.2.8 The “AGR” zones in Chuen Lung, Chuen Lung Chun Ha, Wang Lung, Ngon Tong, Ma Tong and Kiu Tau (**Plan H-9a**) cover active farmland and adjoining fallow agricultural land with good potential for rehabilitation for cultivation and other agricultural purpose. The “GB” zones cover the natural vegetated areas, natural streams and land occupied by agricultural use in the Area while roofed structures scattered in the natural vegetated areas are also included in the “GB” zones (**Plan H-9a**). The two “V” zones in the Area cover the existing village area of Chuen Lung at Route Twisk within the village ‘environ’ (‘VE’) and the proposed Chuen Lung VEA in Wang Lung (**Plan H-10a**).

The “GB” Zone for the Site at Route Twisk to the North of Hong Kong Gun Club (Representation Site of R252) (Plan H-11a)

- 6.2.9 The representation site, comprising 10 private lots¹⁶ demised for agricultural purposes, is located to the north of Hong Kong Gun Club and abutting a service road branching off from Route Twisk. Located immediately adjacent to the Tai Lam Country Park, it is mainly surrounded by woodland, vegetated slopes and scattered rural workshops and domestic structures. Currently, it is mainly occupied by temporary roofed structures for vehicle repair workshop (**Plan H-11a**) while the northern part within Tai Lam Country Park is covered by tree and

¹⁴ It covers Lots 345 & Ext., 346 and 347 in D.D. 358, and adjoining Government land (**Plan H-8a**).

¹⁵ The main building of Kai Yuen is included in the List of the 1,444 Historic Buildings where Antiquities Advisory Board accorded a ‘Nil’ grade in 2010.

¹⁶ It covers Lots 119, 122, 124, 126, 127, 128, 129, 130, 131 and 133 in D.D. 360 where part of Lot 133 in D.D. 360 falls outside the OZP boundary.

vegetation.

The “GB” Zone for the Site at Route Twisk near Ma Tong (Representation Site of R253) (Plan H-12a)

6.2.10 The representation site, comprising 10 private lots¹⁷ demised for agricultural purposes and their adjoining Government land abutting Route Twisk, is located near Ma Tong adjacent to the Tai Lam Country Park. Surrounded by a natural stream, vegetated land and scattered rural workshops and domestic structures, it is currently partly used for open storage and partly a piece of vacant vegetated land (**Plan H-12a**).

6.3 General Planning Intention

6.3.1 The general planning intention for the Area is to protect the natural environment and the rural landscape, with a view to complementing the overall natural environment and the landscape characters of the surrounding Tai Lam Country Park and Tai Mo Shan Country Park. It is also the intention to make provision for future Small House development for the indigenous villagers of Chuen Lung and provide appropriate planning control over recreation and religious institution development within the area.

6.3.2 In the designation of various zones, considerations have been given to the protection of natural environment including the natural habitats, wooded areas and streams, physical landform, existing land use pattern, demand for Small Houses, availability of infrastructure and local development need. Active farmland is retained in view of their good potential for agricultural use. Development which would cause adverse impacts on the water quality and water resources of the WGG is not encouraged.

6.4 Planning Intentions of Individual Zonings

6.4.1 The “V” zone is to designate both existing recognised village 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 servicing the needs of the villagers and in support of the village development are always permitted on the G/F of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses in the zone may be permitted on application to the Board.

6.4.2 The “G/IC” zone is primarily for the provision of G/IC facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to

¹⁷ It covers Lots 385, 386 RP, 387, 388, 392, 394, 395, 396, 400 and 404 (Part) in D.D. 433 and adjoining Government land.

or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments. In particular, the “G/IC(1)” sub-zone is intended primarily for the provision of religious institutional uses.

6.4.3 The “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

6.4.4 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. Designation of the “GB” zones would protect the natural vegetated areas, streams and woodland, and conserve the natural and rural character of the area.

6.5 Responses to Grounds of Representations and Representers’ Proposals

6.5.1 Major responses to the grounds of representations and representers’ proposals are as follows. Detailed responses are at **Appendix V**.

Designation of “GB” Zones surrounding Sai Chuk Lam Zen Monastery and Kai Yuen (R1, R2, R3 (Part) and R4 to R246)

The “G/IC(1)” and “GB” Zones surrounding Sai Chuk Lam Zen Monastery

6.5.2 The Sai Chuk Lam Zen Monastery itself is currently zoned “G/IC(1)” on the OZP primarily intended for the provision of religious institutional uses. Given its natural surroundings and remote location without vehicular access, only selected G/IC uses are permitted to reflect the existing religious institution use and ensure that the development should be compatible with the natural surroundings.

6.5.3 On the date of the first publication in the Gazette of the notice of the draft DPA Plan in 2013, the land within the current “G/IC(1)” zone was occupied by Sai Chuk Lam Zen Monastery’s main building, ancillary buildings and other facilities built on a formed platform enclosed by concrete wall and chain link fence in the north, east and south directions (**Plan H-7c**). For Area A to the west of the “G/IC(1)” zone, there were only a number of structures scattering on a natural vegetated hill slope (**Plans H-7b and H7d**), whereas Area B was mainly a natural vegetated land/green knoll with scattered structures (**Plans H-7b and H7e**). The existing site condition remains largely the same, except the vegetated land in the northern part of Area B which has been replaced by a newly-constructed turfed platform (**Plan H-7f**).

6.5.4 To reflect the religious institutional use, a “G/IC(1)” zone has been designated on the OZP for Sai Chuk Lam Zen Monastery itself to cover most of the operation area including the main building and ancillary buildings enclosed by the fence wall. The boundary of the “G/IC(1)”

zone has been drawn up having regard to the existing site condition and its natural surroundings, together with relevant planning considerations. Taking into account the general planning intention of the Area to protect the natural environment and the rural landscape and not to cause adverse impact on the water quality and water resources of the WGG, and other relevant planning considerations including topography, existing land use, physical features and land status, Areas A and B, which are mainly of natural vegetated areas/green knoll, have not been included into the “G/IC(1)” zone, but zoned as “GB” in order to conserve their natural and rural character.

- 6.5.5 Regarding the representers’ proposal to rezone Areas A and B to “G/IC(1)” to allow for religious institutional use and facilitate the monastery’s future expansion plan, it should be noted that the current “G/IC(1)” zone has already covered most of the monastery’s existing operation area. For the scattered structures in Areas A and B, if they were in existence immediately before the first publication in the Gazette of the notice of the draft DPA Plan, their uses will continue to be allowed under the OZP. The designation of the “G/IC(1)” zoning for Sai Chuk Lam Zen Monastery have already struck a balance between the operational need of the religious institution and the protection of natural environment and rural landscape.
- 6.5.6 According to PlanD’s records, the northern part of Area B was mainly a piece of vacant vegetated land on the date of the first publication in the Gazette of the notice of the draft DPA Plan in 2013 (**Plan H-7b**), and the turfed platform was only constructed after the OZP exhibition in December 2016 (**Plans H-7f and H-7g**). Under the “GB” zoning, ‘Religious Institution’ may be permitted upon application to the Board based on individual merits. Should the representer (**R1**) wish to develop the area for meditation facilities, a planning application may be submitted to the Board for consideration.

The “GB” Zone surrounding Kai Yuen

- 6.5.7 The representation site covering Kai Yuen mainly comprises a main building for domestic purpose and a temporary structure, with the remaining area composed of natural vegetated hill slopes and vacant land (**Plan H-8a**). As confirmed by the Secretary for Home Affairs (SHA), Kai Yuen is not a registered temple under the Chinese Temples Ordinance (Cap. 153) according to the record of the Chinese Temples Committee. On the date of the first publication in the Gazette of the notice of the draft DPA Plan in 2013 and during the OZP preparation stage, the main building of Kai Yuen was being used for domestic purpose. Taking into account its existing site condition, natural surroundings and its proximity to the Tai Lam Country Park, it is considered more appropriate to include it in the “GB” zone for the Ha Fa Shan area to protect and conserve the natural and rural character.

- 6.5.8 Since there is no evidence to support that Kai Yuen is currently used for religious institution use, there is no strong justification to rezone it to “G/IC(1)”. Nevertheless, the existing domestic use, which was in existence immediately before the first publication in the Gazette of the notice of the draft DPA Plan in 2013 would not be affected by the “GB” zoning. Moreover, a planning application for religious institution may be submitted to the Board for consideration based on individual merits.

Technical Feasibility of the Rezoning Proposals

- 6.5.9 A number of Government departments consulted do not support/have reservation on the proposed rezoning of the representation sites from “GB” to “G/IC(1)”. Director of Environmental Protection (DEP) does not support the rezoning proposals as the sites are located in WGG and unsewered area and use of septic tank and soakaway system is not acceptable for new development in WGG. Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) advised that the rezoning proposals are not acceptable as there are high risks of pollution to WGG. Commissioner for Transport (C for T) has reservation on the rezoning proposals as there will have traffic impact arising from the proposed “G/IC(1)” zones. Moreover, Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) advised that the site is overlooked by steep natural terrain and may be affected by potential natural terrain hazards. It is therefore necessary to carry out a natural terrain hazard study for any future development at the proposed “G/IC(1)” zone that would result in significant increase in risk of natural terrain hazards compared with the existing development.

Freedom of Religion

- 6.5.10 Some representers (**R172, R174, R201, R202, R205, R207, R209 and R210**) concern that the “GB” zoning would prohibit the religious activities at Sai Chuk Lam Zen Monastery, which would be against the Basic Law on religion freedom. It should be noted that most of the existing religious facilities of Sai Chuk Lam Zen Monastery including the main building and ancillary buildings have already been covered in the “G/IC(1)” zone where ‘Religious Institution’ is a Column 1 permitted use (**Appendix VIIa**). Besides, for any use of land or building by the monastery for religious purposes which was in existence immediately before the first publication in the Gazette of the notice of the draft DPA Plan, such use will continue to be allowed under the OZP. Moreover, to the extent that temporary use or development of any land or building not exceeding a period of two months is required in a “GB” zone for the purpose of conducting any religious functions, such use is always permitted. The monastery could also submit an application for ‘Religious Institution’ to the Board which may be approved with or without conditions. Thus the “GB” zoning for area surrounding the monastery is considered not inconsistent with freedom of religion and would not result in any undue restriction of religious activities in the area.

Property Right

- 6.5.11 Some representers (**R2, R33, R36, R43, R44, R56, R86, R128, R136, R145, R169, R176, R186 and R222**) concern that the “GB” zoning will deprive Sai Chuk Lam Zen Monastery’s property right. It should be noted that the draft OZP would not take properties away from the owners nor would it leave the properties without any meaningful alternative use or economically viable use. Further, insofar as the zoning restrictions pursue the legitimate aim of protecting the natural environment and rural landscape, providing for future Small House development for indigenous villagers of Chuen Lung, and providing appropriate planning control over recreation and religious institution development within the Area, and the land concerned can be put to “always permitted uses” and uses that may be permitted with or without conditions on the application to the Board, it is not inconsistent with the protection of property rights under the Basic Law as it can reasonably be argued that the draft OZP is a rational and proportionate measure to pursue the above legitimate aims. Having taken into consideration all relevant facts and circumstances, the zoning restrictions have struck a reasonable balance between the societal benefits of the encroachment and the inroads made into the constitutionally protected rights of the individual and that the pursuit of the aforesaid societal interest and that the zoning restrictions do not result in an unacceptably harsh burden on the individual.

Unlawful Occupation of Government Land

- 6.5.12 On the comments provided by the individual (**R243**) that Sai Chuk Lam Zen Monastery has illegally occupied Government land, the Government will take appropriate land administration actions against any unlawful occupation of Government land. For his other comments, the assessments in paragraph 6.5.2 to 6.5.6 above are relevant.

Designation of “GB”, “AGR” and “V” Zones for the Chuen Lung and Ha Fa Shan OZP (R3 (Part) and R247 to R251)

Designation of “GB” and “AGR” Zones (R247 to R250)

- 6.5.13 The Area is natural and rural in character with ecological, landscape and scenic value. It consists of a variety of habitats including natural streams, marsh, woodlands, shrublands and agricultural land. The ecological importance of the Area has been duly considered in the course of OZP preparation.
- 6.5.14 Regarding the Green Groups’ (**R247 to R249**) opinion that the natural streams and riparian areas, and woodland areas with species of conservation interest/importance recorded (**Plans H-9a to H-9d**) should be protected through the “CA” or “GB(1)” zoning, it should be noted that conservation zoning has been adopted for the natural environment in consultation with the Agriculture, Fisheries and Conservation Department. Considering that the secondary woodlands are largely dominated with trees of common species, and the natural streams are

relatively natural and undisturbed but not identified as an Ecologically Important Stream, the “GB” zoning is considered appropriate to protect their natural characteristics. According to the Hong Kong Planning Standards and Guidelines, “GB” is a conservation zoning intended to primarily conserve the existing natural environment amid the built-up areas/at the urban fringe, to safeguard it from encroachment by urban type development, to define the limits of urban and sub-urban development areas by natural features, to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within the “GB” zone. There is no strong justification to rezone the natural streams and riparian areas, and woodland areas from “GB” to “CA” or “GB(1)” zone.

- 6.5.15 For the Green Group’s (**R247**) proposal to zone agricultural land as “GB(1)” to protect the existing agricultural activities and the rare butterfly species, active farmland and adjoining fallow agricultural land (**Plan H-9a**) with good potential for rehabilitation in the Area are mainly zoned “AGR” primarily to retain and safeguard good quality agricultural land/farm for agricultural purposes and retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The “AGR” zoning is considered an appropriate zoning to reflect such planning intention. On the Green Group’s suggestion (**R249**) to excise agricultural land from the “V” zone, except a small amount of the agricultural land within the proposed Chuen Lung VEA, no agricultural land is zoned “V” on the OZP.
- 6.5.16 Regarding the Green Groups’ (**R247 and R248**) concerns on possible adverse impacts to the natural streams and WGG from possible new Small House development including restaurant on the G/F in “GB” and “AGR” zones (**Plan H-9a**), new Small House developments within these two zones require planning permission from the Board. Each application will be considered by the Board based on its individual merits, taking into account the prevailing planning circumstance, relevant guidelines and planning considerations and departmental comments, ensuring that there will not be adverse impact on the environment and ecology. There is thus no strong justification to rezone the “AGR” and “GB” zones to “CA” or “GB(1)” zone.
- 6.5.17 For the Chuen Lung Village Office (**R250**)’s concerns that the “GB” zoning on private land contravenes the Hong Kong Law on the protection of development right, the assessments in paragraph 6.5.11 above are relevant.
- 6.5.18 Based on the above, the designation of the “AGR” and “GB” zoning is considered appropriate to allow sufficient and proper planning control for protection of natural environment.

Designation of “V” Zone (**R3 (part), R247, R248, R250 and R251**)

- 6.5.19 Chuen Lung is the only recognised village in the Area. The existing village area of Chuen Lung at Route Twisk within the ‘VE’ and the

proposed Chuen Lung VEA in Wang Lung are zoned “V” (**Plans H-10a to H-10c**) primarily intended for development of Small Houses by indigenous villagers.

6.5.20 Taking account of the natural environment, the conservation and landscape value, infrastructure and site constraints as well as the potential natural terrain landslide hazard and need to protection of WGG, an incremental, practical and balanced approach for designation of “V” zone has been adopted in the OZP. The intention is to confine the Small House development at suitable location to avoid undesirable disturbances to the natural environment. Taking into account the Small House demand forecast, the site conditions of the land within ‘VE’ and the proposed VEA, local topography, existing settlement pattern, site characteristics and constraints and the proposal of the VEA, land with a total area of 3.13 ha is zoned “V” on the OZP (**Plan H-10a**). Areas of difficult terrain, dense vegetation, active agricultural land and stream courses have been avoided where appropriate (**Plan H-10d**). During the preparation of OZP, views and comments from relevant stakeholders, including TWDC, TWRC, VRs, villagers and Green Groups, and Government bureau/departments have been taken into account in drawing up the boundary of the “V” zone.

6.5.21 According to the 10-year forecast for Small House demand estimated and provided by the Indigenous Inhabitant Representatives of Chuen Lung to the District Lands Officer/Tsuen Wan and Kwai Tsing, LandsD (DLO/TW&KT, LandsD) in January 2017, the Small House demand for Chuen Lung has been increased from 171 and 169 during the DPA Plan and OZP preparation stages to 223¹⁸. No Small House application has been processed in the past 5 years and there is no outstanding Small House application. Based on PlanD’s preliminary estimate, land required for meeting the 223 Small Houses amounts to about 5.58 ha (**Table 1**). The land available within the “V” zone with a total area of 3.13 ha will provide 73 Small House sites, which can meet 32.7% of the estimated Small House demand in terms of Small House sites.

Table 1: Small House demand forecast for Chuen Lung in 2013 and 2017

Small House Demand Figure in 2013 (During the preparation of DPA Plan)		Small House Demand Figure in 2017		‘VE’ Area (ha)	“V” Zone on OZP (ha)	Required Land to Meet New Demand (ha)	Available Land to Meet New Demand (ha)	Percentage of the New Demand Met by Available Land (%)
Outstanding Demand	10-year forecast (2013 – 2023)	Outstanding Demand	10-year forecast (2017 – 2027)					
0	171	0	223	4.95	3.13	5.58	1.91 ¹⁹	34.2%

¹⁸ The information has not been verified in any way by LandsD.

¹⁹ Including 0.57 ha within ‘VE’ and 1.34 ha within the Chuen Lung VEA, which are equivalent to about 23 and 50 Small House sites respectively.

- 6.5.22 With regard to the villagers' objection (**R3 (part) and R250**) that there is inadequate land within "V" zone to meet the Small House demand, as discussed above, an incremental, practical and balanced approach has been adopted in designation of the "V" zone and relevant planning considerations have been taken into account in drawing the "V" zone. The Small House demand forecast is only one of the considerations in drawing up the zoning boundary. There has been no Small House application processed in the past 5 years and no outstanding Small House application. The current "V" zone on the OZP has struck a balance between making provision for future Small House development and the protection of natural environment and rural landscape. Application for Small House development within the "GB" and "AGR" zones could be submitted for the Board's consideration based on individual merits.
- 6.5.23 On the Chuen Lung Village Office's (**R250**) concerns that there is insufficient land for Small House development, which would adversely affect the traditional right and interest of indigenous inhabitants of New Territories, insofar as Small House development was subject to statutory planning controls that may be imposed under the Ordinance before the Basic Law came into force, applying those controls to the Area concerned by way of the OZP is not inconsistent with the protection of lawful traditional rights and interest of indigenous inhabitants of New Territories under the Basic Law.
- 6.5.24 For the concerns of villagers and the LegCo cum TWDC member (**R3 (part) and R250**) that there is no implementation programme for the proposed Chuen Lung VEA (**Plan H-10a**), which was already committed in 1990s, the land has already been zoned "V" on the OZP while the implementation of the proposed VEA is subject to the Small House Policy Review.
- 6.5.25 On the Green Groups' (**R247 and R248**) concerns on possible environmental impact of new Small House development including restaurant on the G/F in the "V" zone, there is sufficient administration control to ensure that individual Small House development would not cause unacceptable impact on the surrounding environment. LandsD, in the processing of Small House application, will consult relevant Government departments to allow adequate opportunity for the departments to review and comment the application to avoid adverse impact. In particular, the Small House development in WGG should have demonstrably effective means to ensure that the effluent water quality is acceptable to concerned Government departments. In general, the use of septic tank and soakaway systems for Small House development is unacceptable in WGG. Moreover, there are relevant ordinances²⁰ to control wastewater discharge and protect natural streams and WGG.

²⁰ These may include Land (Miscellaneous Provisions) Ordinance (Cap. 28), Waterworks Ordinance (Cap. 102), Public Cleansing and Prevention of Nuisances Regulation (Cap. 132), Waste Disposal Ordinance (Cap. 354) and Water Pollution Control Ordinance (Cap. 358).

- 6.5.26 Regarding the VR and the LegCo cum TWDC member's (**R3 (Part) and R251**) concern on the "GB" zoning of Ha Fa Shan, it is noted that Ha Fa Shan (**Plans H-10e to H-10g**) is not included in the List of New Territories Small House Policy Recognised Village adopted by LandsD. Taking into account the site condition and natural surroundings, the existing buildings/roofed structures for domestic purposes and agricultural land scattered on the natural vegetated land/hill slopes have been included in the large "GB" zone covering the whole Ha Fa Shan area to protect and conserve the natural and rural character. For those uses already in existence immediately before the first publication in the Gazette of the notice of the draft DPA Plan, they will continue to be allowed under the OZP. Moreover, rebuilding of NTEH or replacement of an existing domestic building by a NTEH is always permitted on land falling within the OZP boundary while Small House development in "GB" zone may be allowed upon application to the Board based on individual merits.

Designation of "GB" Zone for the Site at Route Twisk to the North of Hong Kong Gun Club (**R252**)

- 6.5.27 The representation site is located immediately adjacent to the Tai Lam Country Park with its northern part falling within the boundary of the Tai Lam Country Park. Mainly surrounded by woodland and vegetated slopes, the southern part of the site is occupied by a vehicle repair workshop (**Plans H-11a and H-11b**). Taking into account its locality and the natural surroundings, the site has been zoned "GB" for protection and conservation of the natural and rural character.
- 6.5.28 For the land owner's (**R252**) proposal to rezone the site from "GB" to "Residential" for low-rise residential development, residential development at the site is considered not compatible with the natural surroundings and not in line with the general planning intention of the OZP to protect the natural environment and the rural landscape.
- 6.5.29 With regard to the representer's proposal, DEP is unable to support the rezoning proposal as there is no information to demonstrate that the sewage generated by residential developments can be properly discharged. C for T has reservation on the rezoning proposals as there will have traffic impact arising from the proposed "Residential" zone. H(GEO), CEDD advises that the site is overlooked by steep natural terrain and a natural terrain hazard study should be carried out. CE/C, WSD advised that the rezoning proposal is not acceptable as there is high risk of pollution to WGG and the material increase in pollution effect will cause irreversible damage, unacceptable risks or negative impacts on water environment and quality. There is no strong justification to support the proposed rezoning to "Residential" and the "GB" zoning is considered appropriate.

- 6.5.30 All private land within the site is demised for agricultural purpose under the Block Government Lease. On the representer's grounds related to infringement upon its development right, the assessments in paragraph 6.5.11 above are relevant.

Designation of "GB" Zone for the Site at Route Twisk near Ma Tong (R253)

- 6.5.31 The representation site is located near Ma Tong immediately adjacent to the Tai Lam Country Park surrounded by a natural stream, woodlands, vegetated land and scattered rural workshops/domestic structures. The site is partly formed for open storage use and partly vegetated (**Plans H-12a and H-12b**). Taking into account its locality and the natural surroundings, the site has been zoned "GB" for protection and conservation of the natural and rural character.
- 6.5.32 On the land owner's (**R253**) proposal to rezone the site from "GB" to "R(C)" for low-density residential development, residential development at the site is considered not compatible with the natural surroundings and not in line with the general planning intention of the OZP to protect the natural environment and the rural landscape.
- 6.5.33 A planning application has been submitted by the representer for a proposed low-density residential development comprising 11 detached houses at the same site (**Plans H-12c and H-12d**). The application is yet to be considered by the Board. To effect the development, the representer proposes to rezone the site from "GB" to "R(C)" (**Appendix VIIId**). Based on the submitted technical assessments, DEP and Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) are unable to support the development proposal as there are a number of technical deficiencies in the technical assessments. C for T has reservation on the rezoning proposals as there will have traffic impact arising from the proposed "R(C)" zone. Moreover, CE/C, WSD advised that the rezoning proposal is not acceptable as there is high risk of pollution to WGG and the material increase in pollution effect will cause irreversible damage, unacceptable risks or negative impacts on water environment and quality. The representer is yet to demonstrate that the proposed residential development is acceptable. There is therefore no strong justification to support the proposed rezoning to "R(C)" and the "GB" zoning is considered appropriate.

- 6.5.34 All private land within the site is demised for agricultural purpose under the Block Government Lease. On the representer's grounds related to depriving their development right, the assessments in paragraph 6.5.11 above are relevant.

Public Consultation in Plan-making Process (R1 and R250)

- 6.5.35 During the preparation of the OZP, PlanD has followed the established procedures to solicit views of major stakeholders including TWDC, TWRC, VRs, Sai Chuk Lam Zen Monastery, locals and Green Groups as mentioned in paragraph 4.2 above. Views and suggestions received

were duly considered by the Board. Moreover, exhibition of OZP for public inspection and provision of submission of representations and comments form part of statutory consultation process of plan-making under the Ordinance.

Extension of OZP Boundary (R1 (Part), R2 (part) and R252)

6.5.36 Regarding the suggestions to include the land at Kai Yuen and the representation site of **R252** which are outside the boundary of the OZP into the OZP, it is noted that the concerned areas which fall within the Tai Lam Country Park (**Plans H-8a and H-11a**) should be governed by the Country Parks Ordinance (Cap. 208). There is no strong justification to include these areas into the OZP boundary.

6.6 Responses to Comments

6.6.1 The comments provided in **C1 to C5** as highlighted in paragraphs 3.2 to 3.4 above are similar to the grounds of representations, the assessments in paragraphs 6.5.2 to 6.5.36 are relevant. Detailed responses are at **Appendix V**.

6.6.2 On the HYK (**C2**)’s proposal to rezone Chuen Lung Chun Ha, Ngong Tong and the land to the south of Chuen Lung (**Plan H-13**) from “AGR” to “V” for Small House development or public housing, these areas are mainly covered by farmland with active agricultural activities. Director of Agriculture, Fisheries and Conservation (DAFC) does not support from agriculture and conservation perspectives as the suggested areas are largely rural in character with active farmland and fallow agricultural land with rehabilitation potential scattered in between. Some areas also adjoin natural streams which support a variety of wildlife including some species of conservation interest.

6.6.3 On the HYK (**C2**)’s concerns over the OZP related to the business expansion of the existing rural workshops in the Area (**Plan H-13**), uses in existence immediately before the date of first publication in the Gazette of the notice of the DPA Plan is tolerated under the OZP. Expansion to the rural workshops in the “Other Specified Uses” annotated “Rural Use” zone is also permitted upon obtaining planning permission from the Board.

6.6.4 On the comments submitted by the individual (**C5**) that the land rights are not absolute and the interest of community should be proportionately more important, the restrictions imposed by the OZP would satisfy the proportionality analysis and consistent with the Basic Law based on the assessments in paragraph 6.5.11 above.

7. **Consultation**

7.1 The following Government bureaux/departments have been consulted and their comments have been incorporated in the above paragraphs where appropriate:

- (a) SHA;
- (b) Secretary for Development;
- (c) C for T;
- (d) CE/C, WSD;
- (e) CE/MS, DSD;
- (f) DAFC;
- (g) DEP;
- (h) DLO/TW&KT, LandsD; and
- (i) H(GEO), CEDD

7.2 The following Government departments have no comment on the representations and comments:

- (a) Chief Building Surveyor/New Territories West, Buildings Department;
- (b) Chief Highway Engineer/New Territories West, Highways Department;
- (c) Chief Town Planner/Central Enforcement and Prosecution, PlanD;
- (d) Chief Town Planner/Urban Design and Landscape, PlanD;
- (e) Commissioner of Police;
- (f) Director of Electrical and Mechanical Services;
- (g) Director of Fire Services;
- (h) Director of Food and Environmental Hygiene;
- (i) Director of Leisure and Cultural Services;
- (j) District Officer (Tsuen Wan), Home Affairs Department;
- (k) Executive Secretary (Antiquities and Monuments), Leisure and Cultural Services Department; and
- (l) Project Manager (New Territories West), CEDD.

8. **PlanD's Views**

Based on the assessments in paragraph 6 above and for the following reasons, PlanD does not support Representation No. **R1 to R253**, and considers that the OZP should not be amended to meet the representations:

Designation of "GB" Zones surrounding Sai Chuk Lam Zen Monastery and Kai Yuen (R1, R2, R3 (Part) and R4 to R246)

- (a) the boundary of the "Government, Institution or Community (1)" ("G/IC(1)") zone is drawn up having regard to the existing site condition and its natural surroundings, together with relevant planning considerations. The designation of "G/IC(1)" zone for Sai Chuk Lam Zen Monastery have already struck a balance between the operational need of the religious institution and the protection of natural environment and rural landscape. There is no strong justification to rezone the concerned areas to "G/IC(1)" (**R1 (Part), R2 (Part), R3 (Part), R4 to R242 and R244 to R246**);

- (b) there is no strong justification to rezone the representation site surrounding Kai Yuen to “G/IC(1)” for the provision of religious institutional uses (**R1 (Part) and R2 (Part)**);
- (c) the submission has not demonstrated that the proposed “G/IC(1)” zones would not have adverse impacts on environmental, traffic and infrastructural aspects (**R1, R2, R3 (Part), R4 to R242 and R244 to R246**);
- (d) the “GB” zoning for area surrounding Sai Chuk Lam Zen Monastery is considered not inconsistent with freedom of religion and would not result in any undue restriction of religious activities in the area (**R172, R174, R201, R202, R205, R207, R209 and R210**);
- (e) the zoning restrictions have taken into consideration all relevant facts and circumstances. It has struck a reasonable balance between the societal benefits of the encroachment and the inroads made into the constitutionally protected rights of the individual and that the pursuit of the aforesaid societal interest and the zoning restrictions do not result in an unacceptably harsh burden on the individual (**R2, R33, R36, R43, R44, R56, R86, R128, R136, R145, R169, R176, R186 and R222**);
- (f) the Government will take appropriate land administration actions against any unlawful occupation of Government land (**R243**);

Designation of “GB” and “AGR” Zones (R247 to R250)

- (g) the natural streams and riparian areas, woodlands areas and natural vegetated areas within the Chuen Lung and Ha Fa Shan (the Area) have been zoned “GB”, which is a conservation zoning with a general presumption against development. The “GB” zoning is considered appropriate in providing planning protection to the natural environment in the Area (**R247 to R249**);
- (h) the “Agriculture” (“AGR”) zone is considered appropriate for the active farmland and adjoining fallow agricultural land with good potential for rehabilitation, which is primarily to retain and safeguard good quality agricultural land/farm for agricultural purposes and retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes (**R247**);
- (i) new Small House developments within the “AGR” and “GB” zones requires planning permission from the Town Planning Board (the Board) and each application will be considered by the Board based on its individual merits ensuring no environmental impact. There is no strong justification to rezone the “AGR” and “GB” zones to “Conservation Area” or “GB(1)” zone (**R247 and R248**);
- (j) the zoning restrictions have taken into consideration all relevant facts and circumstances. It has struck a reasonable balance between the societal benefits of the encroachment and the inroads made into the constitutionally protected rights of the individual and that the pursuit of the aforesaid societal interest and the zoning restrictions do not result in an unacceptably harsh burden on the individual (**R250**);

Designation of “V” Zone (R3 (part), R247, R248, R250 and R251)

- (k) taking account of the natural environment, the conservation and landscape value, infrastructure and site constraints as well as the potential natural terrain landslide hazard and need to protection of water gathering ground, an incremental, practical and balanced approach for designation of the “V” zone has been adopted in the OZP. The boundary of the “V” zone has been drawn up having regard to the relevant planning considerations including the Small House demand forecast. The “V” zone has struck a balance between making provision for future Small House development and the protection of natural environment and rural landscape (**R3 (Part) and R250**);
- (l) applying the statutory planning controls to the Area by way of the OZP is not inconsistent with the protection of lawful traditional rights and interest of indigenous inhabitants of New Territories under the Basic Law (**R250**);
- (m) the land within the proposed Chuen Lung Village Expansion Area (VEA) has been zoned “V” (**R3 (Part) and R250**);
- (n) there is sufficient control in the administrative control to ensure that individual Small House development in the “V” zone would not cause unacceptable impacts on the surrounding environment (**R247 and R248**);
- (o) Ha Fa Shan is not included in the List of New Territories Small House Policy Recognised Village adopted by the Lands Department and the “GB” zoning is appropriate taking into account the site condition and natural surroundings (**R3 (Part) and R251**);

Designation of the “GB” Zones for the Two Sites at Route Twisk (R252 and R253)

- (p) the “GB” zonings for conservation of the natural and rural character are appropriate taking into account the locality and natural surroundings of the two representation sites;
- (q) the proposed residential developments are considered not compatible with the surrounding areas and not in line with the general planning intention of the OZP. The submissions have not demonstrated that the proposed residential development would not have adverse impacts on environmental, traffic, geotechnical and infrastructural aspects. There is no strong justification to support the proposed rezoning of the sites;
- (r) the zoning restrictions have taken into consideration all relevant facts and circumstances. It has struck a reasonable balance between the societal benefits of the encroachment and the inroads made into the constitutionally protected rights of the individual and that the pursuit of the aforesaid societal interest and the zoning restrictions do not result in an unacceptably harsh burden on the individual;

Public Consultation in Plan-making Process (R1 and R250)

- (s) the statutory and administrative procedures of public consultation in the plan-making process have been duly followed. Views and suggestions received were considered by the Board before making a decision; and

Extension of OZP Boundary (R1 (Part), R2 (Part) and R252)

- (t) the concerned areas outside the boundary of the OZP fall within the Tai Lam Country Park and there is no strong justification to include them into the OZP boundary.

9. Decision Sought

The Board is invited to give consideration to the representations and comments and decide whether to propose/not to propose any amendment to the OZP to meet/partially meet the representations.

10. Attachments

Appendix I	Draft Chuen Lung and Ha Fa Shan OZP No. S/TW-CLHFS/1 (reduced to A3 size)
Appendix IIa	Submission of representations submitted by the LegCo and DC members, Green Groups, land owners, religious/educational institutions and villagers
Appendix IIb	Samples of two standard forms of representations
Appendix III	Submission of the comments on representation
Appendix IV	CD-ROM containing names of all representers and commenters as well as their submission (Members only)
Appendix V	Summary of representations and comments and PlanD's responses
Appendix VI	Extract of minutes of the meeting of CBPDC of the TWDC
Appendix VIIa	Extract of Notes for the "G/IC(1)" zone
Appendix VIIb	Extract of Notes for the "GB" zone
Appendix VIIc	Extract of Notes for the "GB(1)" zone of the Country Park Enclave OZP
Appendix VIId	Extract of Notes for the proposed "R(C)" zone suggested in R253
Plan H-1	Location plan for representation sites
Plan H-2	Aerial photo
Plan H-3	Representers' proposals
Plan H-4	Physical features
Plan H-5	Existing land uses
Plan H-6	Development constraints
Plans H-7a to H-7g	Site plan, aerial photo and site photos of representation site of R1 (Part), R2 (Part), R3 (Part) and R4 to R246
Plans H-8a to H-8b	Site plan, aerial photos and site photos of representation site of R1 (Part) and R2 (Part)

Plans H-9a to H-9d	Site plan, aerial photos and site photos of representation sites of R247 to R250
Plans H-10a to H-10g	Site plan, aerial photos, site photos and existing land use of representation sites of R3 (Part), R247, R248, R250 and R251
Plans H-11a and H-11b	Site plan, aerial photo and site photo of representation site of R252
Plans H-12a to H-12d	Site plan, aerial photo, site photo of representation site of R253 and the representer's proposal
Plan H-13	Site plan and aerial photo of the sites of C2

**PLANNING DEPARTMENT
JULY 2017**