



長春社 Since 1968

The Conservancy Association

會址：香港九龍大角咀道 38 號新九龍廣場 9 樓 910 室
Add.: Unit 910, 9/F, New Kowloon Plaza, 38 Tai Kok Tsui Road,
Kowloon, H.K.
網址 Website: www.cahk.org.hk

電話 Tel.: (852) 2728 6781 傳真 Fax.: (852) 2728 5538
電子郵件 E-mail: cahk@cahk.org.hk

3rd June 2020

Town Planning Board
15/F North Point Government Offices
333 Java Road
North Point
Hong Kong

By e-mail: tpbpd@pland.gov.hk

Dear Sir/Madam,

Re: Comments on the draft Hoi Ha Outline Zoning Plan (No. S/NE-HH/3)

Since the preparation of Development Permission Area Plan (DPA Plan), then replaced by Outline Zoning Plan (OZP) after 3 years, for country park enclaves (CPEs), The Conservancy Association (CA) always emphasizes that the ultimate goal should be to protect natural and rural character of both CPEs and the surrounding Country Parks. Although the proposed amendments under the draft Hoi Ha OZP attempt in reaching such goal, they are still not sufficient.

1. Genuine need for Small House development is still not properly treated

The proposed amendments on the draft Hoi Ha OZP, So Lo Pun OZP and Pak Lap OZP were to respond to the Judicial Review (JR) judgment dated 24 November 2017 that Town Planning Board (TPB) failed to carry out its duty to inquire:

- i. the genuine need for Small House development
- ii. the accuracy of the base map for Hoi Ha OZP

From the TPB Paper No. 10626 prepared for the draft Hoi Ha OZP in March 2020, we noted that a review was undertaken with reference to the 2 aspects:

- i. the principles for designating the V zone
- ii. information for assessing the Small House need of indigenous villagers

For the principles for designating V zone, the TPB Paper No. 10626 made the explanation as below:



長春社 Since 1968

The Conservancy Association

會址：香港九龍大角咀道 38 號新九龍廣場 9 樓 910 室
Add.: Unit 910, 9/F, New Kowloon Plaza, 38 Tai Kok Tsui Road,
Kowloon, H.K.
網址 Website: www.cahk.org.hk

電話 Tel.: (852) 2728 6781 傳真 Fax.: (852) 2728 5538
電子郵件 E-mail: cahk@cahk.org.hk

In drawing up the land use proposals, a conservation-oriented approach was adopted as a starting point. All the important habitats, with information obtained from Agriculture, Fisheries and Conservation Department (AFCD), were protected by conservation zonings... Since CPEs mostly cover existing indigenous villages, consideration would also be given to designation V zone on the OZP to reflect the existing village clusters and identify suitable land for village expansion if necessary. In this regard, the areas within and outside the village “environs” were carefully analyzed in terms of suitability for Small House development taking account of a host of planning factors including but not limited to local topography, settlement pattern, outstanding Small House applications, Small House demand forecast, availability of road access and infrastructure, areas of ecological and landscape importance as well as site specific characteristics. (Section 4.3)

In order to minimize the adverse impacts on the natural environment, an incremental approach should be adopted by first confining the V zone to the existing village settlements and adjoining suitable land and then expanding outwards upon due consideration of all relevant planning considerations. (Section 4.4)

However, what we can observe now is that some areas of conservation need are not zoned as conservation zonings in the draft Hoi Ha OZP. Some V zone land, even located near the existing village settlement, are not considered as “suitable” when we refer to some other planning factors, particularly outstanding Small House applications, Small House demand forecast and areas of ecological importance.

Meanwhile, when we refer to the information for assessing the Small House need of indigenous villagers stated in the TPB papers, it is important to note the JR judgment¹ which confirmed that TPB failed to make proper inquiry on the genuine need issue:

In the present context, the core question raised by the representors’ extensive representations as summarised above is whether, by way of the forecast figures,

¹ See HCAL 28/2015
https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=112400&QS=%2B&TP=JU



長春社 Since 1968

The Conservancy Association

會址：香港九龍大角咀道 38 號新九龍廣場 9 樓 910 室
Add.: Unit 910, 9/F, New Kowloon Plaza, 38 Tai Kok Tsui Road,
Kowloon, H.K.
網址 Website: www.cahk.org.hk

電話 Tel.: (852) 2728 6781 傳真 Fax.: (852) 2728 5538
電子郵件 E-mail: cahk@cahk.org.hk

there were proven genuine needs of the indigenous villagers to build Small Houses within the existing villages in these enclaves. (Section 72)

In the premises, in proper discharge of the duty of inquiry, the TPB should ask itself the above question and properly answer it. However, as seen from the reasons above, the TPB had not explained even in a broad brush manner on what basis it had treated the forecast demand figures to provide support for showing the needs to support the V zoning. The TPB had not in any way explained whether and why it had accepted or rejected the validity of those (or any of those) extensive representations made under this question and how they had affected its view on planning the size of the V zones. In light of the lack of any explanations, the court cannot be satisfied that the TPB had asked itself the right question in relation to the relevant contentions raised in the representations, and answered it properly. (Section 75)

However, we are disappointed with such responses stated in the TPB Paper No. 10626:

DLO/SK, LandsD advises that the forecast was provided solely by the IIRs and could not be easily verified based on the information currently available. DLO/SK, LandsD would verify the status of an applicant for Small House development at the stage of Small House grant application. (Section 4.9.2(c))

there is no practical means available for determining the genuine need for Small House development at the planning stage. (Section 4.9.2(d))

All applicants are indigenous villagers of Hoi Ha Village of Sai Kung North Heung as confirmed by the respective IIR. However their eligibility of Small House grant has yet to be ascertained. (Section 4.9.1 (b) of TPB Paper No. 10626)

The responses in the TPB paper continued to accept that Small House forecast is unverifiable in nature in the planning stage, even currently the size of V zone in the draft Hoi Ha OZP has been reduced. Since the genuine need for Small House development was still not proved when designating the size of V zone, we opine that TPB still did not make proper inquiry into the genuine need issue.



2. Zonings on specific areas are still not appropriate to protect the environment

Apart from reviewing the genuine need issue, we note that Planning Department has also reviewed the land use zonings on the draft OZP taking into account of the latest circumstances. Despite reviews based on the above 2 aspects, the proposed amendments cannot reflect the intention to protect some of the areas in Hoi Ha.

Item A – Rezoning of an area to the west of the village cluster at Hoi Ha from V zone to Green Belt(1) (GB(1)) zone

We DO NOT SUPPORT the proposed amendment of Item A as the GB(1) zone should be further expanded.

Ecological concern on secondary and modified woodland

According to the Notes and Explanatory Statement of Hoi Ha OZP, GB(1) zone is regarded as below:

“The planning intention of this zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl. There is a general presumption against development within this zone”.

“The “GB(1)” zone would serve as an ecological buffer between village development and the stream, and would help to protect the landscape resource of this area”.

In 2012, an ecological assessment² has been conducted in Hoi Ha to identify habitats and provide qualitative assessment of the ecological importance of the site. By referring to that habitat map and the proposed V zone (after amendment), part of the V zone next to the GB(1) zone is covered by secondary and modified woodland (Figure 1). The assessment report states that secondary woodland can provide “*suitable habitat for a high diversity of butterfly species, and the data on this faunal group support this*”, while modified woodland is “*an area of open woodland that is disturbed and anthropogenically modified via the planting of fruit tree, pruning or previous clearance. Consequently, it lacks the ecological value of the secondary woodland, but is linked to it, as well as providing a link between the woodland and the developed village area*”.

² AEC (2012). Ecological Survey Appraisal Report for DPA Area Hoi Ha, Sai Kung.



長春社 Since 1968

The Conservancy Association

會址：香港九龍大角咀道 38 號新九龍廣場 9 樓 910 室
Add.: Unit 910, 9/F, New Kowloon Plaza, 38 Tai Kok Tsui Road,
Kowloon, H.K.
網址 Website: www.cahk.org.hk

電話 Tel.: (852) 2728 6781 傳真 Fax.: (852) 2728 5538
電子郵件 E-mail: cahk@cahk.org.hk

We would say both secondary woodland and modified woodland in the proposed V zone still contain ecological value and provide buffer function. This is in line with the details of GB(1) zone in the Notes and Explanatory Statement of Hoi Ha OZP.

Concern on a natural stream within the V zone

Meanwhile, from the map base for current Hoi Ha OZP, we can also identify a natural stream flowing within the V zone and downstream to Hoi Ha Wan (HHW) Marine Park (Figure 2-5). Any village development close to this natural stream would pose adverse environmental impacts on HHW Marine Park.

Despite provision of septic tank and soakaway (STS) system, Guidance Notes on Discharges from Village Houses by Environmental Protection Department (EPD) have already stated that such system is not feasible in areas prone to flooding during storms or with groundwater table³. We are in grave concern that any STS system built in V zone close to this natural stream would result in overflow of septic materials to this natural stream and its adjacent areas. It is also evident that reliance on so-called standards such as EPD's Practice Note for Professional Persons (ProPECC PN) 5/93 – "Drainage Plans subject to Comment by the Environmental Protection Department" is not effective in dealing with adverse sewerage and effluent impacts with reference to many existing villages in the New Territories.

Even in the TPB meeting dated 20 May 2014, EPD also advised to avoid STS system should prevent areas close to rivers, streams and coastal areas.

"Moreover, STS would not be allowed at locations in close proximity to rivers, streams and coastal areas to avoid possible pollution of the concerned water-bodies." (Section 27, Minutes of 1057th TPB meeting dated 20 May 2014)

We have to highlight in drawing up the land use proposal in CPEs including Hoi Ha, a conservation-oriented approach has been adopted. Under this principle, habitats mentioned above should deserve proper protection, such as GB(1) zone, but not V zone.

³ See Section 24 of Guidance Notes on Discharges from Village Houses by Environmental Protection Department
https://www.epd.gov.hk/epd/sites/default/files/epd/english/environmentinhk/water/guide_ref/files/wpcdv_2.pdf



長春社 Since 1968

The Conservancy Association

會址：香港九龍大角咀道 38 號新九龍廣場 9 樓 910 室
Add.: Unit 910, 9/F, New Kowloon Plaza, 38 Tai Kok Tsui Road,
Kowloon, H.K.
網址 Website: www.cahk.org.hk

電話 Tel.: (852) 2728 6781 傳真 Fax.: (852) 2728 5538
電子郵件 E-mail: cahk@cahk.org.hk

Review in outstanding Small House applications

Within the southwestern part of V zone currently covered by secondary and modified woodland, there are 4 outstanding Small House applications. Records from The Land Registry show that developers have already acquired the 3 land lots in the year between 2008 and 2014. Land lots were further subdivided and transferred to individuals surnamed Yung (Figure 6-8).

The above is similar to the common practice of transferring the beneficial rights to the “dings” to a developer who constructs Small Houses for profit-making purposes rather than for the use by the indigenous villagers. We do not agree that the proposed V zone is designated to satisfy genuine need, and therefore the amended GB(1) should be further expanded.

Item B – Rezoning of an area to the east of the village cluster at Hoi Ha from V zone to Coastal Protection Area (CPA) zone

We SUPPORT the proposed amendment of Item B.

3. Our recommendation on the amendments would ensure proper conservation and protection of Hoi Ha

We would reiterate that we DO NOT SUPPORT the proposed amendment of Item A as the GB(1) zone should be further expanded so that GB(1) can cover more secondary and modified woodland (Figure 9). We SUPPORT the proposed amendment of Item B. We hope that Planning Department and TPB would consider our suggestions.

Thank you for your attention.

Yours faithfully,

Ng Hei Man

Campaign Manager

The Conservancy Association

Figure 1 By referring to that habitat map⁴ and the proposed V zone (marked in red), part of the V zone (circled in black) is covered by secondary and modified woodland

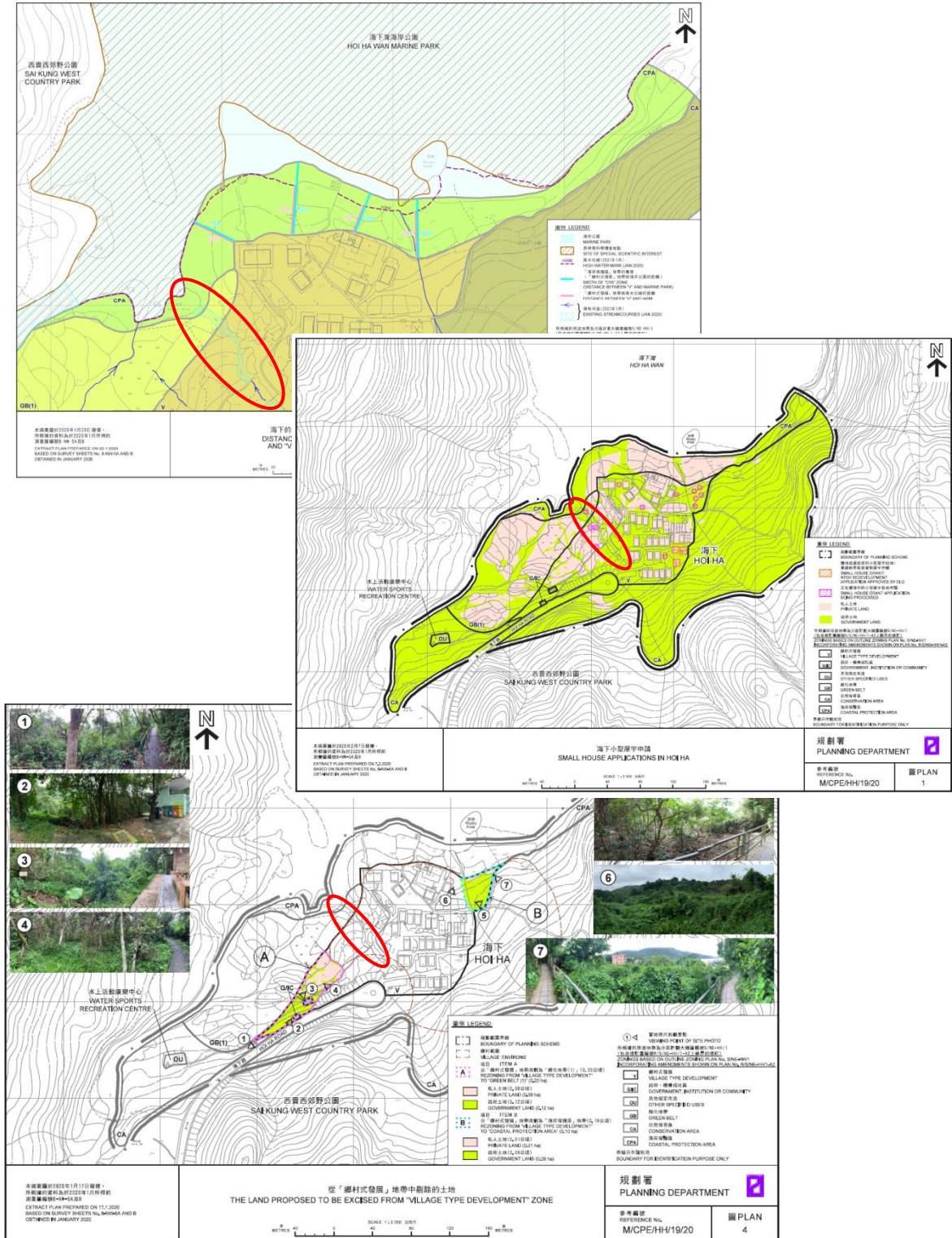


⁴ AEC (2012). Ecological Survey Appraisal Report for DPA Area Hoi Ha, Sai Kung.

Figure 2 A natural stream was identified flowing within the V zone and downstream to HHW Marine Park



Figure 3-5 That natural stream (circled in red) is also clearly indicated in the maps of the TPB Paper No. 10626





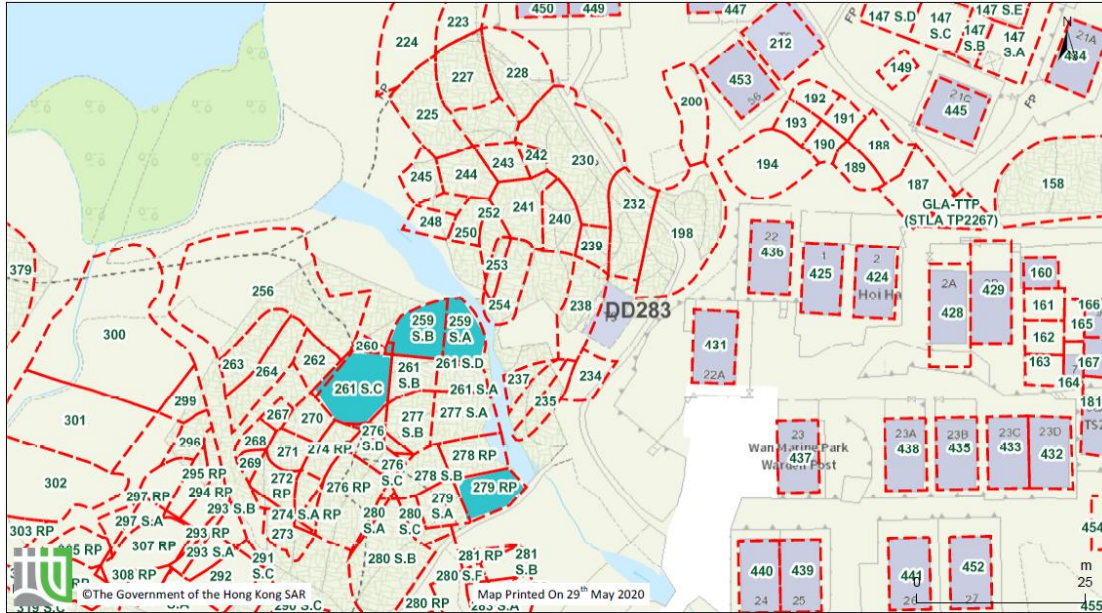
長春社 Since 1968

The Conservancy Association

會址：香港九龍大角咀道 38 號新九龍廣場 9 樓 910 室
Add.: Unit 910, 9/F, New Kowloon Plaza, 38 Tai Kok Tsui Road,
Kowloon, H.K.
網址 Website: www.cahk.org.hk

電話 Tel.: (852) 2728 6781 傳真 Fax.: (852) 2728 5538
電子郵件 E-mail: cahk@cahk.org.hk

Figure 6 Outstanding Small House applications are within 4 subdivided land lots (marked in blue)





長春社 Since 1968

The Conservancy Association

會址: 香港九龍大角咀道 38 號新九龍廣場 9 樓 910 室
Add.: Unit 910, 9/F, New Kowloon Plaza, 38 Tai Kok Tsui Road,
Kowloon, H.K.
網址 Website: www.cahk.org.hk

電話 Tel.: (852)2728 6781 傳真 Fax.: (852)2728 5538
電子郵件 E-mail: cahk@cahk.org.hk

Figure 7 For DD 283 Lot 259, it was once acquired by Developer X on 19 September 2014. It was then subdivided through a deed poll on 18 May 2015. Those lots (DD283 Lot 259 SA & SB) were sold to individuals surnamed Yung on 20/7/2015

土地註冊處 THE LAND REGISTRY
土地登記冊 LAND REGISTER

印製編號 PRINT CONTROL: ESN200601005702

業主資料
OWNER PARTICULARS

業主姓名 NAME OF OWNER	身分 (如非唯一擁有人) CAPACITY (IF NOT SOLE OWNER)	註冊摘要編號 MEMORIAL NO.	文書日期 DATE OF INSTRUMENT	註冊日期 DATE OF REGISTRATION	代價 CONSIDERATION
[REDACTED]	[REDACTED]	[REDACTED]	19/09/2014	07/10/2014	[REDACTED]

備註 REMARKS: RE LOT NOS. 259, 260, 262, 264, 277 AND R.P. OF S.A OF LOT NO. 276 IN DD283

註冊摘要編號 MEMORIAL NO.	文書日期 DATE OF INSTRUMENT	註冊日期 DATE OF REGISTRATION	文書性質 NATURE	受惠各方 IN FAVOUR OF	代價 CONSIDERATION
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

備註 REMARKS: RE S.A, S.B AND R.P.

DD 283 Lot 259 SA

業主姓名 NAME OF OWNER	身分 (如非唯一擁有人) CAPACITY (IF NOT SOLE OWNER)	註冊摘要編號 MEMORIAL NO.	文書日期 DATE OF INSTRUMENT	註冊日期 DATE OF REGISTRATION	代價 CONSIDERATION
YUNG [REDACTED]	[REDACTED]	[REDACTED]	20/07/2015	14/08/2015	[REDACTED]

DD 283 Lot 259 SB

業主姓名 NAME OF OWNER	身分 (如非唯一擁有人) CAPACITY (IF NOT SOLE OWNER)	註冊摘要編號 MEMORIAL NO.	文書日期 DATE OF INSTRUMENT	註冊日期 DATE OF REGISTRATION	代價 CONSIDERATION
YUNG [REDACTED]	[REDACTED]	[REDACTED]	20/07/2015	14/08/2015	[REDACTED]



長春社 Since1968

The Conservancy Association

會址: 香港九龍大角咀道 38 號新九龍廣場 9 樓 910 室
Add.: Unit 910, 9/F, New Kowloon Plaza, 38 Tai Kok Tsui Road,
Kowloon, H.K.
網址 Website: www.cahk.org.hk

電話 Tel.: (852)2728 6781 傳真 Fax.: (852)2728 5538
電子郵件 E-mail: cahk@cahk.org.hk

Figure 8 For DD 283 Lot 261, it was once acquired by Developer X on 3 December 2010. It was sold to an individual surnamed Yung on 21 May 2011. The lot was then subdivided through a deed poll on 18 May 2015. The subdivided lot (DD 283 Lot 261 SC) was still owned by the same individual

土地註冊處 THE LAND REGISTRY
土地登記冊 LAND REGISTER

印製編號 PRINT CONTROL: ESN200601003956

業主資料
OWNER PARTICULARS

業主姓名 NAME OF OWNER	身分 (如非唯一擁有人) CAPACITY (IF NOT SOLE OWNER)	註冊摘要編號 MEMORIAL NO.	文書日期 DATE OF INSTRUMENT	註冊日期 DATE OF REGISTRATION	代價 CONSIDERATION
[REDACTED] 公司	[REDACTED]	[REDACTED]	03/12/2010	24/12/2010	[REDACTED]
YUNG [REDACTED]	[REDACTED]	[REDACTED]	21/05/2011	23/06/2011	[REDACTED]

註冊摘要編號 MEMORIAL NO.	文書日期 DATE OF INSTRUMENT	註冊日期 DATE OF REGISTRATION	文書性質 NATURE	受惠各方 IN FAVOUR OF	代價 CONSIDERATION
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

15061200170055 18/05/2015 12/06/2015 DEED POLL WITH PLAN -

備註 REMARKS: RE S.A, S.B, S.C, S.D AND R.P.

Figure 9 Our proposed amendment on Item A in the draft Hoi Ha OZP (base map extracted from TPB Paper No. 10626)

