



長春社 Since 1968

The Conservancy Association

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3<sup>rd</sup> 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 So Lo Pun Outline Zoning Plan (No. S/NE-SLP/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 So Lo Pun 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. 10625 prepared for the draft So Lo Pun 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. 10625 made the explanation as below:



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*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/agricultural need are not protected in an appropriate way in the draft 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 judgment 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, 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*



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*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. 10625:

*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))

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 So Lo Pun 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 So Lo Pun.

*Item A – Rezoning of two areas to the north-east and south of the village clusters at So Lo Pun from V zone to Agriculture (AGR) zone*



### **Confining V zone within the existing village houses**

As said, a large size of V zone is not well-justified as we see no initiatives from any departments to evaluate the validity of 10-year forecast on Small House demand when the existing population is just zero. Besides, So Lo Pun currently lacks proper vehicular access and public sewerage system. Putting tremendous village population in such an isolated site would create disastrous impact to the environment. With diverse natural habitats supporting rare or uncommon flora and fauna, any activities, including Small House and agricultural development, need careful assessment and planning in So Lo Pun or it would destroy the natural system of So Lo Pun itself and the adjoining Plover Cove Country Park. While we see no urgent needs to reserve excessive land for Small House, all village development in future should be confined within the existing village houses.

### **Protecting agricultural land from development**

Before designating more AGR zone in So Lo Pun, we hope that the following objectives should be achieved:

- i. To preserve rural setting as well as natural environment of So Lo Pun
- ii. To protect good quality agricultural land and fallow arable land with good potential for agricultural rehabilitation
- iii. To secure genuine agricultural practice

Any permanent structures built on the agricultural land in So Lo Pun would go beyond the above objectives. A stringent control on agricultural land close to ecologically sensitive area, as mentioned above, is considered more appropriate. In this way, an AGR zone with restriction should focus on the point that agricultural land should be well-protected from permanent structure (Figure 1).

### **3. Our recommendation on the amendment would ensure proper conservation and protection of So Lo Pun**

To be more specific, we suggest that V zone should be confined within the existing village houses. For the proposed AGR zone, the below item should be removed from Column 2:

- House (New Territories Exempted House only, other than rebuilding of New Territories Exempted House or replacement of existing domestic building by New



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Territories Exempted House permitted under the covering Notes)

The below item should be added in Column 2 of the proposed AGR zone. This is to reflect and respect the development right of building lots in the agricultural land, if any:

- House (Redevelopment only)

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 Land condition of the proposed AGR zone in May 2020. An AGR zone with restriction should focus on the point that agricultural land should be well-protected from permanent structure**

