



Via electronic mail

November 29, 2017

Ms. Bernadette LINN

Chair

Town Planning Board

Email: pspl@devb.gov.hk

Members of the Town Planning Board

Email: tpbpd@pland.gov.hk

c.c. Mr. LEE Kai Wing, Raymond, JP

Director of Planning

Email: rkwlee@pland.gov.hk

Mr. CHAN Chung Ching, Thomas, JP

Director of Lands

Email: DLoffice@landsd.gov.hk

To reconsider the Draft Tai Ho Outline Zoning Plan S/I – TH/C following the High Court Judgement HCAL 28/2015 and to defer submission of the plan to the Chief Executive in Council

Dear Ms LINN and all,

We understand that the Town Planning Board (Board) in the 1157th meeting on 1 December 2017 will decide on the submission of the *Draft Tai Ho Outline Zoning Plan* to the Chief Executive in Council.

We urge the TPB to consider the High Court judgement in the case between Chan Ka Lam and the Chief Executive in Council and the Board (HCAL 28/2015).

The Judge made it clear that when a decision is made to set aside land for village type developments the Board (and Government) should consider justified genuine needs of indigenous villagers for development by indigenous villagers.

It was shown that the Board had relied on information provided by the village representative regarding the potential number of male descendants who might apply for building Small Houses (SH). The Judge decided that this information is not verified or verifiable and can't be relied on as proof of genuine needs of indigenous villagers.

We now refer to TPB papers No. 10349¹ and 10253² and the minutes of the 1154th meeting of the TPB³ regarding the Tai Ho Outline Zoning Plan.

The general planning intention for the Tai Ho Area is to conserve the Area's outstanding natural landscape with unique scientific and ecological values in safeguarding the natural habitat and natural system of the wider area and to preserve historical artifacts, local culture and traditions of the villages. Due consideration should be given to the conservation of the ecologically and environmentally sensitive areas, such as Tai Ho Stream SSSI, when development in or near the Area is proposed. Small House development in recognised villages will be consolidated at suitable locations to preserve the rural character of the Area.

¹ http://www.info.gov.hk/tpb/en/S_I-TH_1/TPB_Paper_10349_Eng.pdf

² http://www.info.gov.hk/tpb/en/papers/TPB/1136-tpb_10253.pdf

³ http://www.info.gov.hk/tpb/en/meetings/TPB/Minutes/m1154tpb_e.pdf

There is no general intention to expand the village areas, but to consolidate SH development. Land reserved for Village Type Development is primarily intended for development of Small Houses by indigenous villagers. The boundaries of the “V” zone are drawn up around existing clusters having regard to, among others, the outstanding SH demand forecast.

Significant doubts were raised by representors and commenters, and concerns were raised that these SH demand figures were highly speculative and could not prove or show the genuine needs of the indigenous villagers. Similarly to Hoi Ha, Pak Lap and So Lo Pun, this was particularly so as the number of past or pending SH applications for these areas had been nil or very small.

The representors submitted that the demand figures should and could not be treated as proof of the genuine needs of the indigenous villagers for SH, among others because almost all the land had long ago been sold by the indigenous villagers.

The paper 2.6: R1 doubts the genuineness of the 10-year forecast of SH demand of Pak Mong and Ngau Kwu Long as a number of indigenous inhabitants are living overseas according to the information provided by the Lands Department (LandsD). Given the absence of verification/proof, the way in which the SH demand is estimated is not well justified. There are concerns on the designation of “V” zone hinging on uninformed SH demand forecast. R1 further questions the significant increase in area of the “V” zone as compared to the Development Permission Area (DPA) Plan gazetted in 2014 and the latest 10-year forecast of SH demand. ⁴

The paper 2.7: Comparing to other OZPs for Country Park enclaves, a larger percentage of the total 10-year forecast of SH demand could be achieved in the Area. Hence, R1 questions whether the provision infringes the incremental approach that has currently been adopted by the Board for designation of “V” zone for SH development and the reason for the deviation from other OZPs. As a large portion of area within “V” zone is privately owned, the status of land ownership of the private lots within “V” zone should be provided for the Board’s information and consideration.⁵

Comparing the plan showing private lots and designated V zones, the representatives made further submissions during the TPB hearing.

⁴ http://www.info.gov.hk/tpb/en/S_I-TH_1/TPB_Paper_10349_Eng.pdf, p.5

⁵ http://www.info.gov.hk/tpb/en/S_I-TH_1/TPB_Paper_10349_Eng.pdf, p.5

R4: given that the Government planned to develop Tai Ho as a new town in the 1980s, the private land in the villages was sold to developers prior to the preparation of the draft OZP for the Area. As most of the land in the “V” zone was owned by developers, the extension of the “V” zone would not cater for the need of indigenous villagers. Since 2004, the Government had repeatedly dedicated the Area for conservation in various policy initiatives including NNCP, Hong Kong 2030+ and Lantau Concept Plan. He questioned why there was a sudden rush in SH applications after 2014, and even though there was a decrease in the total SH demand, the proposed “V” zone on the draft OZP was increased by 5.27 hectare as compared with that on the Development Permission Area (DPA) plan, which was in conflict with the conservation policy.⁶

In responding these challenges, the authority simply said, as quoted from the paper 6.43: As to the concern on the over-estimation (R1)/under-estimation (R10 to R1061) of the SH demand, it should be noted that SH demand forecast is only one of the various factors being considered in drawing up the “V” zone boundary. The forecast is provided by the IIRs to the LandsD and could be subject to changes over time for reasons like aspiration of indigenous villagers currently living outside the village, local and overseas, to move back to the Area in future. LandsD would verify the status of the SH applicant at the stage of SH grant application. For the difference in the percentage of meeting the total SH demand among different OZP, each Country Park enclave should be considered on the circumstances and characteristic of individual areas.⁷

As with Hoi Ha, Pak Lap and So Lo Pun, the TPB failed to properly inquire into the matters raised by the above representations as to whether the proposed V zoning was based on the genuine needs of the indigenous villagers. This puts into the question how “the current extent of “V” zones has struck a balance between natural conservation and respecting the rights of indigenous villagers for SH development” had been concluded on during the 1154th meeting? How did it come to such conclusion without a thorough analyses of the genuine need for small house development for and by the indigenous villagers?

We urge the Board to defer submission of the Tai Ho OZP to the CEIC; to re-open the hearings; to invite and consider representations; to seriously inquire into the genuine demand; to discover all relevant facts that may impact such demand including but not

⁶ http://www.info.gov.hk/tpb/en/meetings/TPB/Minutes/m1154tpb_e.pdf , p.42

⁷ http://www.info.gov.hk/tpb/en/S_I-TH_1/TPB_Paper_10349_Eng.pdf, p.23

limited to past applications and land transactions; to reduce the village type development zones; and to review of the boundaries of these zones for, among others, their proximity to the streams and tributaries, given the deep concerns over the risks these pose to the conservation of the ecologically and environmentally sensitive areas, such as Tai Ho Stream SSSI.

Yours sincerely,

Eddie Tse
Save Lantau Alliance

For and on behalf of
Association for Geoconservation, Hong Kong
Designing Hong Kong
Greeners Action
Green Power
Green Sense
Land Justice League
The Conservancy Association
The Hong Kong Bird Watching Society
Save Lantau Alliance
Save Our Country Parks Alliance
WWF-Hong Kong