

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-21 星期五 16:11:31
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Cc: [REDACTED]
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22 - No.F3 Reply Slip
Attachment: 20250221 - Annex II (Reply Slip) to TPB_Signed.pdf

Dear Town Planning Board Secretariat,

Enclosed, please find Further Representation No. F3's completed reply slip, including a written response to the departmental comments on the further representations.

Kind regards,

Heather Yuen

Masterplan Limited
[REDACTED]

----- Original Message -----

From: tpbpd/PLAND
To: [REDACTED]
Sent: Fri, 14 Feb 2025 08:26:37 +0000
Subject: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

城市規劃委員會
香港北角渣華道三百三十三號
北角政府合署十五樓

傳 真 Fax: 2877 0245 / 2522 8426
電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

TPB/R/S/H10/22-F3

In reply please quote this ref.:

TOWN PLANNING BOARD

15/F, North Point Government Offices

333 Java Road, North Point,

By Email

14 February 2025

Masterplan Limited

(Attn.: Yuen Sik Kiu Heather)

(Representing The Ebenezer School and Home for the Visually Impaired Limited)

Dear Sir/Madam,

Further Representations in respect of the Proposed Amendments to the

Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

(Further Representation No. F3)

I refer to your further representation which was received by the Town Planning Board (TPB) on 02.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on "Submission and Processing of Representations and Further Representations under the Town Planning Ordinance" (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB's website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB's website after the meeting. After confirmation of the minutes of TPB's deliberation, the further representers will be notified of the TPB's decision in writing. The confirmed minutes will also be available at TPB's website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Urgent Return receipt Expand Group Restricted Prevent Copy

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

To: Town Planning Board Secretariat

Email: tpbpd@pland.gov.hk

Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

Please see the attached statement letter.

SIGNATURE

Name of further representer (as shown on the further representation):

The Ebenezer School and Home for the Visually Impaired Limited

Further Representation No.: F3

Full Name: YUK Tak Fun (identical with the name shown on HKID Card/Passport)

Signature:  Date: 20/2/2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
- (b) The personal data provided by the further representers in this form may also be disclosed to other persons for the purposes mentioned in paragraph (a) above.
- (c) Further representers have a right of access and correction with respect to their personal data as provided under the Personal Data (Privacy) Ordinance (Cap. 486). Request for personal data access and correction should be addressed to the Town Planning Board Secretariat at 15/F., North Point, Government Offices, 333 Java Road, North Point, Hong Kong.

MASTERPLAN LIMITED

Planning and Development Advisors

領賢規劃顧問有限公司

21 February 2025
By Email

The Secretary
Town Planning Board
15 Floor, North Point Government
Offices, 333 Java Road
North Point, Hong Kong

Further Representer No. F3:

The Ebenezer School and Home for the Visually Impaired Limited

Response to Town Planning Board's Email of the 14 February 2025 Departmental Comments in Relation to Further Representations

We refer to your email dated 14 February 2025 (the email) with regards to the Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22 (Draft OZP). The email included two attachments: **Annex I**, a summary of Further Representations (FRs) and the Planning Department's (PlanD's) Detailed Responses; and **Annex II**, a reply slip for Further Representers to either maintain their further representation as previously submitted, withdraw their further representation, or to provide written responses to the departmental comments.

The following is Further Representer No. F3's (The Ebenezer School and Home for the Visually Impaired Limited) response to the email and attachments. It should be noted that at the same time, Ebenezer maintains its further representation as previously submitted.

1. Circulation is Fundamentally Flawed

- 1.1 There is no provision in the Town Planning Ordinance Section 6D for the canvassing of additional comments on the FRs, as is being done in this case. There is no provision for the TPB to provide any written comments on the FRs to the Further Representers at any time. The actual preparation and circulation of the email and attachments may therefore be *ultravires*, and should not have been made.
- 1.2 The FRs have been made in relation to the Proposed Amendments relating to Item A gazetted on the OZP on the 13 December 2024. The FRs could only be valid if related to Amendment Item A.
- 1.3 There were 1,861 FRs submitted and accepted by the TPB. These are all related to Amendment Item A and the related amendments to Notes and Explanatory Statement of the OZP. All of the FRs therefore relate to the

amendment gazetted after the TPB resolved to amend the OZP at its meeting on the 29 November 2024.

- 1.4 In the FRs submitted there are proposals which could legally only be made in relation to Proposed Amendment Item A, and not before. Some of the proposals, such as those submitted by F3, are new proposals which have not been seen or considered by the TPB at the time the email was circulated.
- 1.5 In the email it is stated that the "relevant B/Ds have made no new comments on the FRs". It is inconceivable that all responsible B/Ds had no comments on any of the FRs. This is especially so as all of the FR's were new submissions related to Amendment Item A and should have been considered as such.

2. Response to Annex I Summary of FRs and PlanD's Detailed Responses

Responses to FRs are Outdated, Inaccurate and Misleading

- 2.1 Annex I summarises the grounds and views of 1,861 (FRs), and corresponding responses from PlanD and relevant B/Ds into a single table. As stated in TPB's email and noted in Annex I, relevant B/Ds have made no new comment on the FRs, and their comments on the FRs are recapitulated from TPB Paper No. 10987 and relevant minutes of the meeting for consideration of the representations (TPB Meeting).
- 2.2 Recapitulation from the previous TPB Paper and Meeting is irrational and illogical as the FRs including Ebenezer's F3, were made after the TPB meeting and relate to the Proposed Amendment Item A. The FRs are different from the representations, particularly given that the proposed amendments relating to the "U" zone were not previously part of the Draft OZP. The responses provided by PlanD and B/Ds are therefore outdated and do not adequately address the FRs.

Alternative FR proposals not even Considered

- 2.3 Under heading 'B. The "U" zoning' of the summary table in Annex I, Item FB4 and FB5 refer to the proposals made in Ebenezer's FR. Namely, as stated in FB4, to revert the "Undetermined" ("U") zone back to its original "Green Belt" ("GB") and "Residential Group C (6)" ("R(C)6") zones; and as outlined in FB5, Ebenezer alternatively proposed to revert only a portion of the "U" zone that is directly adjoining and in front of the Ebenezer and Ebenezer New Hope School sites, to "GB" zone. This was proposed as a balanced, compromised solution should TPB decide that the Global Innovation Centre development should remain in this part of Pok Fu Lam.

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- 2.4 Ebenezer also proposed alternative wording to the Explanatory Statement (ES) relating to the "U" zone. These proposals, particularly the alternative rezoning proposal and alternative wordings to the ES, were made in the FR that was submitted after the TPB meeting for the consideration of the representations, and after Proposed Amendment Item A was gazetted.

PlanD's response is Irrelevant and Irrational

- 2.5 However, PlanD's response to these proposals, states that "*the grounds and views regarding the designation of "U" zoning at the Site were raised, responded to, and considered during the consideration of representations by the Board.*" It then proceeds to respond with extracts of the TPB Paper and minutes of the TPB meetings. This is incorrect, and it is impossible that the Board had considered Ebenezer's proposals when these were only submitted after TPB's gazetting of the Proposed Amendment Item A. PlanD's response is therefore outdated, inadequate, irrelevant and disregards a significant part of Ebenezer's FR.

Alternative Explanatory Statement Wording Correctly Reflecting TPB Decision

- 2.6 In addition, in PlanD's response relating to the ES (see page 9 of Annex I), it explained with extracts from the minutes of the TPB meeting the actions that HKU should take for its review of the development proposal, including to '*consider alternative sites in Pok Fu Lam and other areas*'. PlanD then concludes that '*the ES for the "U" zone already reflects the above intention and situation*'. This is incorrect as the ES does not mention anywhere regarding the consideration of alternative sites. However, this has been included and reflected in Ebenezer's proposed wording for the ES.

All Further Representations Should be Considered in Full

- 2.7 The summary in Annex I does not capture all the views, concerns and suggestions raised in the FRs. For instance, Ebenezer proposed alternative wording of the ES, because Ebenezer was of the view that the ES did not adequately reflect the views and considerations made by the TPB during the hearings and the deliberation session of the TPB Meeting (please refer to Ebenezer's FR for details). It is also subject to direct copying of irrelevant information without proper consideration and therefore potentially subject to legal challenge.
- 2.8 However, the proposed alternative ES was only briefly referred to in Annex I under Item FB5 and as demonstrated in paragraphs above, PlanD's response with regards to the ES is inaccurate, disregards Ebenezer's alternative

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proposal, and the problems of copying. The summary in Annex I therefore greatly diminishes the content of Ebenezer's FR and the proposals included within, potentially leading TPB Members to overlook them.

- 2.9 Whilst it is acknowledged that Annex I is only a summary, TPB Members should consider all valid Further Representations in full. Their consideration should not be misled by the summary in Annex I and the outdated responses provided by PlanD and quotations from previous papers and minutes. TPB Members should consider the FRs from a fresh perspective, without distractions of TPB's previous considerations as referenced in the PlanD's responses.

Annex 1 should be Withdrawn and Not Submitted to the TPB

- 2.10 Annex 1 in its current form should be withdrawn as it is not related to the 1,861 FR's submitted. In particular:-

- (a) Column 1 is not an accurate and full summary of the content of the FR's that the TPB must consider;
- (b) In processing the FR submissions, they should be clearly identified as being made in relation to Proposed Amendment Item A gazetted on the 13 December 2024. They should not be confused with the Representations considered prior to the gazettal date.
- (c) It is stated in the email that there were no new comments made by relevant B/D's. The heading for Column 2 should therefore be revised and for each item in the table the wording should be "No comment from relevant B/D's".
- (d) All references in Column 2 to previous TPB meeting minutes and to TPB Paper No. 10987 should be deleted and only information directly relevant to the FR be included in the response.

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3 Comments on Annex II Reply Slip

No Legal Basis to Seek Further Representer's Withdrawal of FR

- 3.1 The reply slip in Annex II provided to Further Representers includes an option to withdraw their further representation under section 6E(2) of the Town Planning Ordinance (TPO). However, there is no legal provision for actively seeking the withdrawal of representations from Further Representers. In particular the information provided in Annex I is misleading, inadequate and irrational and should not have been provided to the Further Representers.
- 3.2 Section 6E(2) of the TPO states that "*The person may, by written notice to the Board, withdraw the representation or further representation (as the case requires).*" The withdrawal should be done on the Further Representer's own account. TPB's initiation in providing a reply slip with the option to withdraw a FR in this context is misleading and suggestive.
- 3.3 To confirm, Further Representer No. F3 (Ebenezer) maintains the Further Representation as previously submitted.

4 Conclusion

- 4.1 In light of all the above, we kindly request TPB to consider all valid FRs in full, including Ebenezer's FR. As relevant B/Ds have made no new comment on the FRs, most of the responses provided by PlanD in Annex I are outdated, irrelevant and misleading. We therefore ask TPB Members to consider the FRs from a fresh perspective, and not rely on the responses provided by PlanD that only recapitulate TPB's previous comments and considerations.

Yours faithfully,



Ian Brownlee
For and On Behalf of
Masterplan Limited

MASTERPLAN LIMITED

Room 3516B, 35/F, China Merchants Tower, Shun Tak Centre, 200 Connaught Road Central, Hong Kong.
Tel: (852) 2418 2880 Fax: (852) 2587 7068 Email: info@masterplan.com.hk

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-20 星期四 12:15:47
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Cc: [REDACTED]
Subject: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22 - No.F5
Attachment: F5 Reply Slip.pdf; F5 RtoC.docx.pdf

Dear Leticia,

Please find attached the reply slip for Further Representation No.F5 and the table referred to in the response. Thank you.

Regards,

Cynthia

Masterplan Limited

----- Original Message -----

From: tpbpd/PLAND
To: [REDACTED]
Sent: Fri, 14 Feb 2025 08:26:41 +0000
Subject: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

城市規劃委員會

香港北角渣華道三百三十三號

北角政府合署十五樓

傳真 Fax: 2877 0245 / 2522 8426

電話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

TPB/R/S/H10/22-F5

In reply please quote this ref.:

TOWN PLANNING BOARD

15/F, North Point Government Offices

333 Java Road, North Point,

By Email

14 February 2025

Masterplan Limited

(Attn.: Chan Mou Yin Cynthia)

(Representing Goreway Limited)

Dear Sir/Madam,

Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
(Further Representation No. F5)

I refer to your further representation which was received by the Town Planning Board (TPB) on 02.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

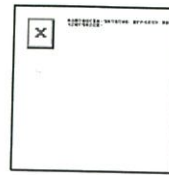
All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on "Submission and Processing of Representations and Further Representations under the Town Planning Ordinance" (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB's website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB's website after the meeting. After confirmation of the minutes of TPB's deliberation, the further representers will be notified of the TPB's decision in writing. The confirmed minutes will also be available at TPB's website.

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For future correspondence, please quote the above further representation number.

Urgent Return receipt Expand Group Restricted Prevent Copy

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

To: **Town Planning Board Secretariat**
 Email: tpbpd@pland.gov.hk
 Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

*(Please put a tick in **one** of the boxes provided below)*

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

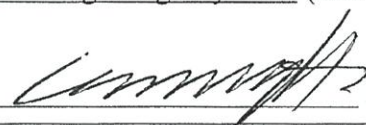
Please refer to the table enclosed

SIGNATURE

Name of further representer (as shown on the further representation): Goreway Limited

Further Representation No.: F5

Full Name: HU Liang Ming Raymond (identical with the name shown on HKID Card/Passport)

Signature:  Date: 20 February 2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
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Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
 Further Representer's views/ responses (No. F5)

	Planning Department's responses in consultation with Government bureaux/ departments concerned, in Annex I FR Summary Table	Response of Further Representer No. F5
A. Strategic Planning, Site Selection and Alternative Locations		
1	<p>"..... it would be incumbent upon HKU as the project proponent to resolve all technical issues to the satisfaction of relevant government departments. The Board, as a statutory body, would exercise its independent judgement to consider the amendments to the OZP and the representations in the interest of society as a whole. (P.4)</p> <p>"The crux of the matter was whether the development proposal was acceptable. HKU should provide strong justifications for choosing the preferred site and conduct adequate technical assessments on the revised development proposal to address local concerns (P.5)</p>	<p>Overall, as evident in the conclusion para. 33 of the minutes of the Town Planning Board ("TPB") meeting held on 29 November 2024 ("meeting minutes"), the University of Hong Kong ("HKU") will have to make significant range and extent of revisions to the original scheme and submit a revised scheme for the consideration of the Government Bureaux/ Departments ("B/Ds") and TPB and consult the local stakeholders. There is no guarantee that a revised scheme practicable for a Global Innovation Centre of the HKU would also be acceptable to the B/Ds, TPB and the interest of society as a whole. Also, there is no indication of what the revised scheme would be like and the future development at the site is unclear. The proposed "Undetermined" ("U") zoning permitting the use of the Site and the possible development of a Global Innovation Centre of the HKU by way of Section 16 application is irresponsibility and failure of the TPB to properly resolve the issues under the ambit of town planning in the making of Outline Zoning Plans ("OZPs").</p>
2	<p>"Majority of TPB Members shared similar views regarding site selection for the Centre. (e) HKU should consider whether the Site or other sites in Pok Fu Lam, including but not limited to the adjoining undeveloped "R(C)6" site, were more suitable for achieving HKU's objective while minimising impacts on neighbouring communities. From the planning perspective, it was desirable for HKU to integrate the Site with the adjoining "R(C)6" site to offer greater design flexibility, accommodate setbacks for road improvement/ widening to improve traffic flow, and allow room for future expansion. This could reduce the site area and building</p>	<p>It should be emphasised that the HKU should consider whether the Site or other sites in Pok Fu Lam, including but not limited to the adjoining undeveloped "Residential (Group C)6" ("R(C)6") site.</p> <p>It should be highlighted that two TPB Members had reservations on developing the Global Innovation Centre at the "R(C)6" site. They pointed out that the development at the "R(C)6" site might also have adverse visual impact on the surrounding area, where a relaxation of the current building height restriction to meet the design and space requirements of the Centre might attract public objections. Relocating the Centre to another location in</p>

Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
 Further Representer's views/ responses (No. F5)

	Response of Further Representer No. F5
<p>Planning Department's responses in consultation with Government bureaux/ departments concerned, in Annex I FR Summary Table</p> <p><i>bulk at the Site, particularly when viewed from Victoria Road, and provide opportunity for more compensatory planting. While developing the Centre at the "R(C)6" site with a building height (BH) restriction of 137mPD might be less controversial, it was still crucial to strictly control the plot ratio and BH to avoid adverse impacts on the surrounding area." (P.5-6, with emphasis bolded)</i></p>	<p>Pok Fu Lam would only shift the problem and local objections would likely arise. (Para 10 and 11 of the meeting minutes)</p>
<p>B. The "U" zoning</p>	
<p>3</p>	<p>While the TPB may have considered the Site to be suitable for deep technology research of the HKU, the proposed "U" pre-empt the findings of the HKU's site search for alternative location that is required by the TPB to address the concerns of most representers relating to site selection.</p> <p>Furthermore, in view of the numerous planning issues to be resolved, the feasibility of a practicable scheme at the Site is unknown and the magnitude of revisions to the scheme required to suitably address the concerns of the representers is unclear, as also discussed in item 1 above. The proposed "U" is considered premature in the absence of a revised scheme.</p>
<p>"TPB Members acknowledged during the meetings that most representers supported the development of the Centre by HKU to consolidate Hong Kong's leading position in deep technology research, while their objections/ concerns were mainly related to site selection and hence land use compatibility, development intensity, impacts on traffic, visual, landscape, ecological, environmental, geotechnical, public health and safety aspects, as well as the lack of proper consultation. HKU has committed in its press release and at the hearings to consulting relevant stakeholders in strategically reviewing and amending its development plan to address their opinions as much as practicable. HKU would also explore the possibility of identifying alternative sites for the development of the Centre." (P.7)</p> <p>"PlanD supplemented that pending HKU's review and further consultation, it was premature for the Board at this juncture to decide to adopt other zonings or impose any specific planning restrictions in the absence of a revised scheme." (P.7-8)</p>	

Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
 Further Representer's views/ responses (No. F5)

	<p>Planning Department's responses in consultation with Government bureaux/ departments concerned, in Annex I FR Summary Table</p>	<p>Response of Further Representer No. F5</p>
<p>4</p>	<p><i>"It was not the first time for the Board to adopt "U" zone as an interim zoning. Designating a site as "U" zone on OZPs was not uncommon when the planning intention for a site was uncertain or while awaiting completion of a study or infrastructure facilities. It was considered prudent to rezone the Site to "U" in the interim period, allowing time for HKU to review its development plan and make amendments based on stakeholders' feedback." (P.8)</i></p>	<p>Each site should be assessed based on their individual planning merits. It is likely that other "U" zones have different background and circumstance such as necessary introduction of a land use zoning for the first time, unlike this Site which has already been zoned "Green Belt ("GB") and which can remain as it is until such time the HKU submit a revised scheme acceptable to the B/Ds, TPB and the interest of society as a whole in the future.</p> <p>Without the sufficient information on the HKU's revised scheme and without any time implications in the town planning procedure to enable the development of a HKU's revised scheme at the Site, it is considered prudent and more reasonable to revert the Site to "GB" which would also allow time for HKU to review its development plan and make amendments based on stakeholders' feedback.</p> <p>The OZP can be amended to the appropriate zoning with specified planning restrictions to address the concerns of the TPB members and the representers in the future upon the HKU submitting a revised scheme acceptable to the B/Ds, TPB and the interest of society as a whole. This is in fact following the genuine planning intention for "U" stipulated in the Explanatory Statement (ES) of the OZP that an OZP amendment should be a pre-condition for a development of the Site, without the effect of the covering Notes of the OZP. The proposed "U" zoning in the interim is not necessary, and the possible development permission by way of Section 16 application under the covering Notes of the OZP is not a suitable planning control for reasons discussed in item 6 below.</p>

Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
 Further Representer's views/ responses (No. F5)

	<p>Planning Department's responses in consultation with Government bureaux/ departments concerned, in Annex I FR Summary Table</p>	<p>Response of Further Representer No. F5</p>
<p>5</p>	<p><i>"The proposal of some representers to revert the Site to "GB" and "R(C)6" was not a viable solution as such an arrangement would only shift the problem elsewhere. The "U" zoning would provide an opportunity for HKU to strategically review the development proposal including exploring the feasibility of integrating the Site with the adjoining "R(C)6" site and retaining some areas within the original "GB" site." (P.8)</i></p>	<p>This statement is contradictory to the TPB's requirement for the HKU to consider an alternative siting elsewhere in and outside Pok Fu Lam.</p> <p>There is no reason not to revert the Site to "GB" now and rezone the Site appropriately in the future, for reasons discussed in item 4 above.</p>
<p>6</p>	<p><i>"Regarding the planning control under the "U" zone, TPB Members expressed that there would be adequate planning control under the "U" zoning any development would be require planning permission from the Board."(P.8)</i></p>	<p>The covering Notes of the OZP enabling all uses and development upon planning permission under Section 16 application in "U" is considered a side step of the TPB to properly respond to the concerns raised in the Representations/ Further Representations in the plan making procedure, for the following reasons:</p> <ol style="list-style-type: none"> i. The development parameters in the ES are based on the HKU's original scheme that has been considered unacceptable by the TPB. ii. While the ES discusses reduction in the building density and bulk on the basis of the HKU's decision to review and amend the scheme, there is no specification on the magnitude of the reduction in order to be deemed suitable for approval under Section 16 application. The mere reference of amendments to address stakeholders' opinions as much as practicable is inadequate, without specification of what could be expected in a future scheme to suitably address the concerns of the representers. iii. The ES when read in conjunction with the covering Notes is inadequate to guide the future development at the Site, such that it is unclear, creating uncertainty for the local stakeholders. iv. Section 16 application (and its Further Information where appropriate) is subject to 3 weeks publication period for the public to comment in writing only. This is in place of the 2 months publication period for the public to write to and present in front of the TPB in response to the

Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
 Further Representer's views/ responses (No. F5)

	Planning Department's responses in consultation with Government bureaux/ departments concerned, in Annex I FR Summary Table	Response of Further Representer No. F5
		<p>gazetial of OZP amendment. This is a completely different town planning procedure with a significantly reduced level of public participation.</p> <p>v. Section 16 application is for the consideration of the Metro Planning Committee, who has previously considered the HKU's original scheme to be acceptable and suitable for gazetial of OZP amendment; is likely to be less stringent in assessing the HKU's revised scheme to ensure it would satisfactorily address the concerns of the TPB and the representers.</p>
7	<p><u>Visual Impact</u></p> <p><i>"The grounds regarding visual impact of the Centre were raised, responded to, and considered during the consideration of representations by the Board. Detailed responses to these issues have been recorded in the minutes of the Board's meetings, which are extracted below:</i></p> <p><i>HKU should enhance the design including reducing building density and bulk, lowering BH and providing building gaps from neighbouring buildings.</i></p> <p><i>Given the elongated configuration and steep terrain of the Site, HKU should take into account the topographical context to protect the natural environment and minimise adverse visual impacts in the revised proposal. The revised design should take into consideration public views from PFLR towards the sea as indicated by a representer (R260).</i></p>	<p>This shows that the potential visual impact of the HKU's development proposal is problematic, and this problem remains under the proposed "U" permitting Section 16 application for development of the Site, for the following reasons:</p> <ol style="list-style-type: none"> i. The ES referencing the original scheme at 158mPD, which has been considered to be problematic ii. While the ES discusses reduction in the building density and bulk on the basis of the HKU's decision to review and amend the scheme, there is no mention of building height or specify the magnitude of reduction in the building height of the future development. iii. The protection of the public views from Pok Fu Lam Road towards the sea as result of the future development under the ES cannot be guaranteed, when the HKU's supporting assessment, the relevant Government departmental comment and the Metro Planning Committee's consideration have previously omitted this provision of the ES and considered the original scheme to be acceptable.

Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
 Further Representer's views/ responses (No. F5)

	<p>Planning Department's responses in consultation with Government bureaux/ departments concerned, in Annex I FR Summary Table</p>	<p>Response of Further Representer No. F5</p>
	<p><i>As there would be substantial building bulk when viewed from Victoria Road, considerations should be given to reducing the building bulk along the Victoria Road frontage to avoid adverse visual impacts on the surrounding developments. Besides, the revised scheme should minimise the adverse impacts on the Ebenezer.</i></p> <p><i>HKU should enhance the design of the Centre, including reducing density and bulk, lowering BH and increasing setback from neighbouring buildings." (P13-14)</i></p>	<p>Therefore, the concerns of Representation (R260) and the Further Representation (F5) have not been properly responded to under the proposed "U" zoning.</p>

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-21 星期五 19:22:01
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Cc: [REDACTED]
Subject: RE: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Further Representer Views and Responses 21 Feb.docx;
Response to Further Representations.pdf

Dear Ms Leung,

Herewith attached, please find my completed Annex II

I have also attached my response to the departmental comments set out in your Annex 1.

However, please note that your Annex 1 is a summary and NOT an accurate, nor complete representation of the proceedings.

For the sake of clarity, I also herewith include my response in the body of this email as below:

“

Further Representer No F7

Response to the Departmental Comments in response to TPB's e-mail of 14 February 2025

1. The summary of “Further Representations (FRs) and the Planning Department's (PlanD's) Detailed Responses”, given as Annex I to the Town Planning Board's (Board) e-mail of 14 February is indeed just that: A summary. It omits numerous valid and pertinent points while skimming over or neutralising many others.

2. These omissions and neutralising language effectively remove the ability of the members of the Board to make a fully informed decision.

3. Examples of the above are as follows:

3.1 The board could not approve a proposal from the Planning Department (PD) because the PD did not make any representation before the due date of 22 May 2024.

The TPO subsection 6B(8)(a) clearly only provides the Board authority to propose an amendment to the plan proposed in the representation. PD's proposal was not in a representation.

The TPO subsection 6B(8)(b) clearly only gives the Board authority to propose an amendment to the plan that will meet the representation. There was no representation that proposed a “U” zone, no such amendment could be made to meet a non-existent representation.

3.2 In Paragraph 38 of the minutes of the meeting on 29 November, it is stated that: “The Board decided to partially meet” a number of representations.

The Board’s authority under TPO section 6B(8) only gives them authority to propose an amendment “that will meet a representation”, not to only “partially” meet a representation. Had this been the intention, the wording of section 6B(8) would have stated as such.

The Board has a statutory obligation to only consider the absolute legal and factual considerations regarding the zoning for Item A. Not considerations of perceived support or facilitation.

3.3 Leading on from this, under the subheading “No Legal Basis” an incomplete summary is given of FR 114 and FR 1490. This incomplete summary does not include the reasons why the TPB’s decision to zone Item A as Undetermined has no legal basis, as explained in the further representations.

The PD response fails to address the question of whether it was possible for the Board to approve the “U” zone proposed by PD and not by any of the representers.

There is a very strong indication that the Planning Officer did not access thorough, impartial and competent legal advice when she had proposed the Undetermined “U” zoning. By doing so, she may have incorrectly offered the Board a proposal that led to a decision that is contrary to the Town Planning Ordinance (TPO) section 6B(8).

4. Given that HKU has undertaken to review and revise its proposals for the GIC, including examining alternative locations, it is argued that there is no logic or purpose to support an interim zoning for Item A as opposed to maintaining the current zoning until HKU has completed the review of its proposals.

5. Pursuing an “Undetermined” zoning is both premature and open to legal challenge.

6. To date, no reasons nor advantages nor justifications have been provided by either the Chairperson or PD, for an interim zoning. This issue is not addressed, even in part, in any of the documentation provided.

7. Should any alternative site be ultimately considered more suitable, the interim zoning will have been abortive resulting in additional procedures to restore the

“

Kind regards,

Gregory DE ‘EB

Urgent Return receipt Expand Group Restricted Prevent Copy

From: tpbpd/PLAND <tpbpd@pland.gov.hk>

Sent: Friday, February 14, 2025 4:27 PM

To: [REDACTED]

Subject: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

傳 真 Fax: 2877 0245 / 2522 8426

By Email

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號
In reply please quote this ref.: TPB/R/S/H10/22-F7

14 February 2025

[REDACTED]
Gregory Laurence DE EB

Dear Sir/Madam,

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
(Further Representation No. F7)**

I refer to your further representation which was received by the Town Planning Board (TPB) on 02.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

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Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

NOTICE: This privileged and confidential message (and any attachment) is intended only for the use of the individual to whom it is addressed. If the reader of this message is not the intended recipient, please delete this message. Retention, dissemination, distribution, or copying of this communication may be interpreted as a violation of the law.

Further Representer No F7

Response to the Departmental Comments in response to TPB's e-mail of 14 February 2025

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4. Given that HKU has undertaken to review and revise its proposals for the GIC, including examining alternative locations, it is argued that there is no logic or purpose to support an interim zoning for Item A as opposed to maintaining the current zoning until HKU has completed the review of its proposals.

Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

5. Pursuing an “Undetermined” zoning is both premature and open to legal challenge.
6. To date, no reasons nor advantages nor justifications have been provided by either the Chairperson or PD, for an interim zoning. This issue is not addressed, even in part, in any of the documentation provided.
7. Should any alternative site be ultimately considered more suitable, the interim zoning will have been abortive resulting in additional procedures to restore the current zoning.

To: Town Planning Board Secretariat

Email: tpbpd@pland.gov.hk

Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

Please find my response in the attachment and in the body of my reply email.

SIGNATURE

Name of further representer (as shown on the further representation): Gregory Laurence DE'ER

Further Representation No.: F7

Full Name: Gregory Laurence DE'ER (identical with the name shown on HKID Card/Passport)

Signature: [Handwritten Signature] Date: 21/02/2025

STATEMENT ON COLLECTION OF PERSONAL DATA

(a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.

(b) The personal data provided by the further representers in this form may also be disclosed to other persons for the purposes mentioned in paragraph (a) above.

(c) Further representers have a right of access and correction with respect to their personal data as provided under the Personal Data (Privacy) Ordinance (Cap. 486). Request for personal data access and correction should be addressed to the Town Planning Board Secretariat at 15/F., North Point, Government Offices, 333 Java Road, North Point, Hong Kong.

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-23 星期日 23:47:39
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: 2025-02-23 23-31.pdf; Legal Report.pdf

Dear Sir/ Madam,

Further Representation in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22 Further Representation No. F8

Attached please find my duly completed Annex II for objection to the proposed rezoning of the Pok Fu Lam Green Belt to "undetermined". The reason for my objection can be found in the attached report prepared by Mr. Terry Wong.

Yours faithfully,
Wong Teck Sun

On Fri, 14 Feb 2025 at 16:26, tpbpd/PLAND <tpbpd@pland.gov.hk> wrote:

城市規劃委員會

香港北角渣華道三百三十三號

北角政府合署十五樓

傳真 Fax: 2877 0245 / 2522 8426

電話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

TPB/R/S/H10/22-F8

In reply please quote this ref.:

TOWN PLANNING BOARD

15/F, North Point Government Offices

333 Java Road, North Point,

Hong Kong

By Email

14 February 2025

[REDACTED]
Wong Teck Sun

Dear Sir/Madam,

Further Representations in respect of the Proposed Amendments to the

Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

(Further Representation No. F8)

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For future correspondence, please quote the above further representation number.

Yours faithfully,



(Leticia LEUNG)

Urgent Return receipt Expand Group Restricted Prevent Copy

for Secretary, Town Planning Board

with encl.

--

Alexander T.S. Wong



To: **Town Planning Board Secretariat**
 Email: tpbpd@pland.gov.hk
 Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

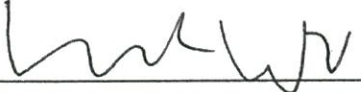
Strong objection to Rezoning of Pok Fu Lam Green Belt to "Undetermined" under Pok Fu Lam OZP No. S/H10/22. Please see attached report by Mr. Terry Wong.

SIGNATURE

Name of further representer (as shown on the further representation): WONG TECK SUN

Further Representation No.: F8

Full Name: WONG TECK SUN (identical with the name shown on HKID Card/Passport)

Signature:  Date: 23 February 2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
- (b) The personal data provided by the further representers in this form may also be disclosed to other persons for the purposes mentioned in paragraph (a) above.
- (c) Further representers have a right of access and correction with respect to their personal data as provided under the Personal Data (Privacy) Ordinance (Cap. 486). Request for personal data access and correction should be addressed to the Town Planning Board Secretariat at 15/F., North Point, Government Offices, 333 Java Road, North Point, Hong Kong.

Detailed Report Opposing the Rezoning of Pok Fu Lam Green Belt to “Undetermined” under Pok Fu Lam OZP No. S/H10/22

February 18, 2025

To: The Chairperson and Members, Town Planning Board

Cc: The Chief Executive of the Hong Kong Special Administrative Region

Subject: Detailed Report Opposing the Rezoning of Pok Fu Lam Green Belt to “Undetermined” under Pok Fu Lam OZP No. S/H10/22

Dear Chairperson and Members of the Town Planning Board,

I refer to my recent representation/further representation submissions and formal presentation before the Town Planning Board (TPB) during recent hearing(s). In response to your email dated February 14, 2025, which requested my responses/comments on the government departmental responses as per Annex I of the email, I hereby formally submit this report.

I wish to reiterate my unequivocal and comprehensive objection to the proposed rezoning of the Pok Fu Lam Green Belt (“GB”) to an “Undetermined” (“U”) designation under Pok Fu Lam OZP No. S/H10/22. I am very concerned that the proposal is fraught with legal, environmental, strategic, and procedural deficiencies; and that in effect, it deviates from established statutory mandates, disrupts the integrity of the planning process, and contravenes the national ecological imperatives enshrined by President Xi Jinping’s doctrine that “lucid waters and lush mountains are invaluable assets.” This doctrine is not a mere slogan but a fundamental principle underpinning our nation’s commitment to sustainable development and environmental stewardship.

This report, together with the accompanying appendices that present extensively detailed legal counterarguments, offers a compelling and robust basis for opposing the proposed rezoning. I trust that the Board will give due consideration to these points and uphold the integrity of Hong Kong’s planning process by rejecting the amendment in question.

Yours truly,

Terry Wong

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- 1. Contravention of National Ecological Mandates**
- 2. Legal and Procedural Overreach**
- 3. Inconsistency with Strategic Development Objectives**
- 4. Environmental Impact and Climate Commitments**
- 5. Traffic and Infrastructure Deficiencies**
- 6. Deficient Public Consultation and Stakeholder Engagement**
- 7. Fiscal and Economic Considerations**
- 8. Conclusion and Recommendations**

Appendix 1: Legal and Procedural Analysis of the Rezoning Proposal

1. Legal and Procedural Overreach
2. Inconsistency with the Northern Metropolis Strategy
3. Environmental Impact
4. Traffic and Infrastructure
5. Public Consultation
6. Economic and Financial Viability

Appendix 2: Detailed Legal Counterarguments to the 29 Grounds and Government Responses

- A. Strategic Planning, Site Selection, and Alternative Locations (FA1–FA5)
 - FA1 – Misalignment with Planning Principles
 - FA2 – Undue Influence of Policy on Statutory Functions
 - FA3 – Questioning the Necessity of Proximity to HKU’s Campus
 - FA4 – Insufficient Evaluation of Alternative Sites
 - FA5 – Lack of Comprehensive Technical Justification
- B. The “U” Zoning (FB1–FB6)

- FB1 – Lack of Legal Basis for “U” Zoning
- FB2 – Inadequate Development Control
- FB3 – Dangerous Precedent and Reduced Public Participation
- FB4 – Proposal to Revert to Original “GB” and “R(C)6” Zoning
- FB5 – Insufficient Definition of Planning Parameters
- FB6 – Bypassing Established Rezoning Procedures

C. Land Use Compatibility, Development Intensity, Visual Impact, and Interface with Nearby Schools (FC1–FC3)

- FC1 – Incompatibility with Low-Density, Green Residential Character
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D. Tree Preservation, Landscape, and Ecology (FD1–FD2)

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- FD2 – Inadequate Compensation

E. Traffic and Transport (FE1–FE4)

- FE1 – Exacerbation of Local Traffic Congestion
- FE2 – Over-Optimistic TIA Assumptions
- FE3 – Violation of the Pok Fu Lam Moratorium (PFLM)
- FE4 – Delayed Public Transport Infrastructure (SIL(W))

F. Environmental and Safety Concerns (FF1–FF2)

- FF1 – Contradiction with Climate Strategy
- FF2 – Public Health Risks from Biosafety Facilities

G. Drainage and Utility (FG1)

- FG1 – Risk of Slope Failure and Flooding

H. Geotechnical and Development Costs (FH1–FH3)

- FH1 – Geotechnical Risks and Slope Stability

- FH2 – Fiscal Irresponsibility
- FH3 – Doubts over Financial Viability

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- FI1 – Potential Property Devaluation and Quality of Life Impacts
- FI2 – Unclear Tangible Community Benefits

J. Public Consultation (FJ1)

- FJ1 – Inadequate Public Consultation

Appendix 3: Strategic Justifications for a Northern Metropolis Innovation Hub – A Counter-Analysis of PlanD’s Consultation Responses

A. Strategic Planning, Site Selection and Alternative Locations

B. The “U” Zoning

C. Land Use Compatibility, Development Intensity, Visual Impact and Interface with Nearby Schools

D. Tree Preservation, Landscape and Ecology

E. Traffic and Transport

F. Environmental and Safety Concerns

G. Drainage and Utility

H. Geotechnical and Development Costs

I. Other Matters (Property Devaluation and Community Benefits)

J. Public Consultation

Appendix 4: Counterarguments and Rebuttal to HKU President’s Further Representation Letter dated January 3, 2025 on Pok Fu Lam Rezoning

Appendix 5: Counterarguments to HKU’s Claim on Upstream Deep Technology Research Suitability

Appendix 6: Case Law and Judicial Precedent Analysis

Appendix 7: Legal Opinion Paper on the Interim “U” Zoning

Appendix 8: Judicial Analysis and Reasoning Framework

Disclaimer and Caveats

1. Factual Basis:

This report is based on the facts and information available at the time of its preparation. Should any additional or materially different facts emerge, the conclusions herein may require re-evaluation.

2. Legal Verification:

The opinions expressed herein are subject to further legal verification and are provided based on our current understanding of the relevant statutory provisions and case law. They do not constitute final or definitive legal advice.

3. Jurisdictional Limitations:

This submission is tailored to the statutory framework as it applies under the Town Planning Ordinance and relevant Hong Kong law. It does not address potential variations or interpretations in other jurisdictions.

4. Evolving Law:

The legal landscape is subject to change. Future legislative amendments, judicial interpretations, or regulatory changes may alter the legal context, and this report's conclusions may not be applicable under any such changes.

5. Independent Legal Advice:

The preparation and submission of this report do not constitute binding legal advice or create any formal legal representation, retainer, fiduciary, or professional relationship between the parties. Recipients are advised to seek independent legal advice before relying on the opinions expressed herein.

6. Purpose and Scope:

This report is prepared solely for the purpose of responding to the Government Departmental comments and for submission to the Town Planning Board and the Chief Executive. It is not intended for any other purpose and should not be relied upon in any unrelated matters.

7. Reliance on Secondary Sources:

The analysis contained herein relies, in part, on secondary sources and legal materials that are believed to be accurate at the time of publication. However, no representation is made as to the accuracy or completeness of such sources.

8. Subject to Revision:

The conclusions and recommendations contained in this report are based on the current state of affairs and may be subject to revision upon receipt of additional factual or legal clarification.

Executive Summary

This report provides an in-depth legal analysis demonstrating that the proposed rezoning:

- Violates the statutory framework established by the Town Planning Ordinance (TPO), notably section 6B(8).
- Is inconsistent with national and regional strategic objectives, including those encapsulated in the Northern Metropolis Strategy, thereby jeopardizing the coherence of Hong Kong's long-term planning framework.
- Falls short on essential environmental, traffic, fiscal, and public consultation standards, each of which is legally binding under Hong Kong planning and environmental law.
- Exposes the decision to judicial review, as reaffirmed by recent case law such as the Fanling Golf Course ruling, which underscores the need for strict procedural adherence.

I respectfully urge the Board to reject the rezoning proposal, maintain the Green Belt designation, and require that any future planning decisions adhere strictly to the statutory framework, robust environmental safeguards, and effective public consultation mechanisms.

1. Contravention of National Ecological Mandates

1.1. National Duty and Environmental Legacy

- President Xi Jinping's repeated pronouncements on ecological civilization impose an unequivocal national duty to preserve our natural heritage.
- The proposition to remove over 2,250 mature trees and disrupt a critical green belt does not simply represent an environmental cost—it represents an irreversible depletion of Hong Kong's ecological capital.
- Under Hong Kong's Climate Action Plan 2050, the preservation of biodiversity and carbon sequestration capacity is paramount.

1.2. Legal and Policy Conflicts

- Permitting development that effectively erodes these environmental assets is not only contrary to our long-term public interest but also stands in stark legal conflict with statutory environmental obligations and higher-level national policy directives.
- This decision, therefore, is both environmentally unsound and legally indefensible, as it disregards mandatory principles of sustainable development and fails to secure a vital public asset for future generations.

2. Legal and Procedural Overreach

2.1 Statutory Mandates and Decision-Making

- Section 6B(8) of the TPO explicitly requires that “after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.” In effect, there is no statutory provision permitting a “partial” acceptance.
- This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment.
- Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance.
- In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that fully addresses the representation.
- Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc “U” designation when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance.

2.2 Judicial Precedent and Procedural Fairness

- The High Court’s ruling in the Fanling Golf Course case stands as a powerful judicial rebuke of any planning authority that deviates from the established procedures.
- When the Board elects to “partially meet” representations by creating an entirely new and ill-defined category, it not only oversteps its statutory authority but also invites judicial intervention on the grounds of arbitrariness and abuse of discretion.
- The absence of an immediate, clear, and legally supported basis for such a category jeopardizes the integrity of the decision-making process and erodes public confidence in the rule of law. By creating a “U” zone without representation basis, the decision violates principles of procedural fairness.

3. Inconsistency with Strategic Development Objectives

3.1 Strategic Rationale and Site Selection

- The government has sought to justify the Pok Fu Lam site's selection on the basis that it is essential for Hong Kong's innovation and technology (I&T) development.
- However, this rationale is in stark conflict with the clearly delineated Northern Metropolis Strategy, which earmarks specific locations—such as the San Tin Technopole and the Science Park—as the designated hubs for I&T development.
- Diverting development to Pok Fu Lam—a site burdened with significant environmental and infrastructural constraints—fragments Hong Kong's strategic planning framework and erodes the intended economic synergy of a centralized I&T hub.

3.2 Procedural and Analytical Deficiencies

- Legally, planning decisions must not only mirror broad policy objectives but must also be supported by a detailed, site-specific comparative analysis that validates the chosen location.
- The absence of a rigorous, site-specific comparative analysis renders the decision arbitrary.
- The failure to rigorously consider and compare viable alternatives exposes it to potential legal challenge on grounds of procedural unfairness and irrationality.

4. Environmental Impact and Climate Commitments

4.1 Inadequate Environmental Safeguards

- The proposed development hinges on a compensation mechanism that permits the removal of mature trees with a replacement ratio of only 1:0.48.
- This figure is significantly below the internationally accepted standard of 1:1 and fails to account for the multifaceted ecological functions provided by mature trees, including long-term carbon sequestration, soil stabilization, and habitat provision for local fauna.
- The removal of these trees represents an irreversible loss of ecological capital that cannot be remedied by the planting of new saplings, which require decades to mature and achieve comparable functionality.
- Moreover, the proposal does not appear to incorporate a robust mitigation strategy for erosion and landslide risks associated with developing on steep slopes.

4.2 Climate Action and Legal Compliance

- The proposed development is in direct conflict with Hong Kong's Climate Action Plan 2050, which prioritises biodiversity preservation and carbon sequestration.
- Under both statutory environmental law and the guiding principles of the Climate Action Plan 2050, any development that precipitates such degradation is legally indefensible.
- The proposed environmental trade-offs are excessive and will likely be declared unlawful by any court that scrutinizes the adequacy of environmental safeguards in planning decisions.
- The inadequate mitigation measures expose the proposal to potential legal challenges on environmental grounds.

5. Traffic and Infrastructure Deficiencies

5.1 Flawed Traffic Impact Assessment (TIA)

- The Traffic Impact Assessment (TIA) accompanying the rezoning proposal is critically flawed.
- It relies on optimistic assumptions that do not adequately account for the severe congestion expected during peak hours, the substantial influx of heavy construction vehicles, or the long-term operational constraints given that the South Island Line (West) will not be operational until at least 2034.
- The delayed operation of critical transport infrastructure such as the South Usland Line West further exacerbates these concerns.

5.2 Public Safety and Urban Mobility Risks

- The failure to incorporate comprehensive worst-case scenario modeling violates the Board's statutory duty to ensure that any development will not unduly compromise public safety and urban mobility.
- When infrastructure is stressed beyond its designed capacity, the resulting deterioration in emergency response, air quality, and overall public safety can have severe, long-lasting consequences for the community.
- Consequently, the TIA, as presently drafted, fails to meet the statutory requirements for a safe and efficient transport network and is thus legally vulnerable to challenge.

6. Deficient Public Consultation and Stakeholder Engagement

6.1 Inadequate Engagement Process

- Effective public consultation is the cornerstone of Hong Kong's planning process and is a fundamental statutory requirement.
- The rezoning proposal has been met with overwhelming opposition—1,859 out of 1,861 representations oppose the change—and key stakeholders, notably the Ebenezer School for the Visually Impaired, have been excluded and/or inadequately consulted from the consultation process.

6.2 Procedural Fairness and Legal Implications

- This exclusion represents a serious breach of procedural fairness, as it denies affected parties the opportunity to participate meaningfully in decisions that will have profound impacts on their community.
- The legal standard demands that planning decisions be made only after robust, two-way public engagement has been achieved.
- The absence of such engagement renders the decision not only procedurally flawed but also susceptible to judicial invalidation on the basis that it fails to secure a social license from the community.
- This deficiency undermines the legitimacy of the rezoning decision and strongly exposes it to judicial review.

7. Fiscal and Economic Considerations

7.1 Economic Analysis and Public Resource Allocation

- The proposal involves significant infrastructure expenditures without a transparent, rigorous cost-benefit analysis.
- At a time when Hong Kong is grappling with a structural budget deficit exceeding HK\$100 billion, the economic rationale behind the proposed development is deeply problematic.
- The rezoning proposal envisages enormous infrastructure expenditures for slope stabilization, environmental remediation, and other associated costs without a transparent, rigorous cost-benefit analysis.
- Relying on projections of private funding and future research grants does not meet the statutory requirement for prudent public resource allocation.

7.2 Fiscal Responsibility and Legal Defensibility

- Legally, planning decisions must be underpinned by robust financial analysis that ensures economic viability and protects scarce public funds from unnecessary diversion.
- The lack of detailed financial documentation and enforceable economic safeguards renders the proposal economically unsustainable.
- The absence of such an analysis renders the proposal not only fiscally irresponsible but also legally indefensible.
- This shortfall is set to strongly expose the decision to potential legal challenges for fiscal irresponsibility.

8. Conclusion and Recommendations

8.1 Summary of Key Findings

- The proposed rezoning violates statutory mandates by introducing an “Undetermined” zoning category contrary to Section 6B(8) of the TPO.
- It conflicts with national and regional strategic objectives and undermines environmental, traffic, and public consultation standards.

8.2 Recommendations for the Board

In light of the foregoing legal, environmental, strategic, and fiscal concerns, I respectfully urge the Board to:

- **Reject the Rezoning Proposal:** Uphold the Green Belt designation to safeguard Hong Kong’s environmental integrity and honor the national ecological vision as mandated by President Xi Jinping’s doctrine.
- **Realign Site Selection with Strategic Plans:** Redirect proposals for I&T development to the designated areas outlined in the Northern Metropolis Strategy or the Science Park, where a detailed, site-specific analysis supports the decision.
- **Enhance Public Consultation:** Institute a rigorous, transparent public consultation process that fully engages all relevant stakeholders from the outset, thereby satisfying statutory requirements for procedural fairness.
- **Ensure Legal and Environmental Compliance:** Adhere strictly to the statutory provisions of the TPO—including the explicit mandates of section 6B(8)—and undertake comprehensive, enforceable environmental and traffic assessments to preclude future legal challenges.

8.3 Concluding Remarks

- It is imperative that the Town Planning Board exercise its statutory discretion with utmost legal rigor and procedural fairness, ensuring that all decisions reflect both the public interest and the national commitment to ecological sustainability.
- I trust that this detailed report, together with the appended legal analyses, will inform your deliberations and lead to a decision that upholds the rule of law and the principles of sustainable development.

Appendix 1: Legal and Procedural Analysis of the Rezoning Proposal

1. Legal and Procedural Overreach

- **Flaw:** The unilateral introduction of an “Undetermined” zoning category, which was not proposed by any representer, is a clear deviation from the statutory decision-making framework mandated by section 6B(8) of the TPO.

- **Comment:** The established legal framework requires that the Board either fully accept or completely reject any representation, without resorting to a half-measure that attempts to “partially meet” the expressed views. By introducing a “U” zone—an option never provided on the table by section 6B(8) of the TPO—the Board effectively circumvents the clear statutory process and usurps its discretionary authority. This circumvention not only contravenes the letter and spirit of the TPO but also undermines the fundamental principle of legal certainty that underpins administrative law. The High Court’s decision in the Fanling Golf Course case reinforces that any deviation from prescribed procedures exposes a decision to judicial review, as it constitutes an arbitrary exercise of power. This arbitrary action, which lacks a rigorous, statutory justification, renders the rezoning proposal indefensible under the rule of law. In essence, the Board’s failure to adhere strictly to the procedural mandates constitutes a breach of administrative fairness and opens the door to subsequent legal challenges, thereby jeopardizing the legitimacy of the entire rezoning process.

2. Inconsistency with the Northern Metropolis Strategy

- **Flaw:** Diverting I&T development to Pok Fu Lam is in direct conflict with the strategic priorities of the Northern Metropolis Strategy, which clearly designates alternative hubs for such activities.

- **Comment:** Strategic planning in Hong Kong is governed not only by broad policy pronouncements but also by detailed, site-specific assessments that ensure coherence and rational allocation of resources. By ignoring the explicit guidance of the Northern Metropolis Strategy, the decision to develop in Pok Fu Lam undermines the very framework that is intended to foster economic synergy and efficient urban development. Legally, the Board’s failure to conduct a rigorous comparative analysis of alternative sites constitutes an arbitrary decision-making process. The statutory obligation to act in a rational manner requires that all viable options be carefully weighed, and the selection process be fully documented. Without such a meticulous evaluation, the decision appears capricious and open to judicial scrutiny. The divergence from established strategic priorities not only dilutes the effectiveness of regional planning but also exposes the decision to legal challenges on the grounds of procedural unfairness and lack of rationality.

3. Environmental Impact

- **Flaw:** The proposal’s reliance on a compensatory planting ratio of 1:0.48 for mature trees is grossly inadequate and fails to account for the multifaceted ecological functions of these trees.

- **Comment:** Mature trees perform a range of essential ecological functions that young saplings cannot replicate for decades, including significant roles in carbon sequestration, soil stabilization, and the maintenance of local biodiversity. The internationally accepted standard for compensatory planting is 1:1, and any deviation from this standard is tantamount to an admission that the loss of mature trees is being undervalued. Legally, such a shortfall in compensation not only violates statutory environmental standards but also undermines the principles enshrined in the Climate Action Plan 2050. The irreversible nature of mature tree loss, combined with the inadequate replacement ratio, means that the ecological damage is both immediate and irreparable. This failure to meet an enforceable environmental standard renders the proposal legally indefensible, as it does not provide sufficient protection for the public asset that these trees represent. The statutory duty to preserve natural habitats demands that any loss be fully and equivalently compensated, a requirement that is clearly not met by the current proposal.

4. Traffic and Infrastructure

- **Flaw:** The Traffic Impact Assessment (TIA) fails to account for realistic, worst-case scenarios, particularly regarding peak-hour congestion and the influx of construction-related traffic.

- **Comment:** The TIA is a critical document that must provide a robust analysis of the potential impacts of any development on local traffic conditions. In this case, the assumptions underlying the TIA are overly optimistic and do not reflect the true scale of the challenge, especially in a densely populated area like Pok Fu Lam. Statutory obligations require that the TIA be based on worst-case scenario modeling and include enforceable measures to mitigate any negative impacts. The failure to incorporate these elements means that the TIA does not meet the necessary legal standards for protecting public safety and ensuring efficient urban mobility. Moreover, any reliance on future improvements, such as deferred upgrades to road junctions or the anticipated operation of the South Island Line (West) beyond 2034, does not absolve the Board of its current duty to provide immediate, enforceable safeguards. This shortfall in the TIA exposes the decision to legal challenge on the grounds that it does not adequately protect the public interest, thereby rendering the proposal legally unsustainable.

5. Public Consultation

- **Flaw:** The consultation process was fundamentally deficient, as evidenced by the overwhelming opposition and the exclusion of key stakeholders such as the Ebenezer School for the Visually Impaired.

- **Comment:** Procedural fairness in administrative decision-making mandates robust and inclusive public consultation. The statutory framework requires that affected parties are provided with a meaningful opportunity to voice their concerns and contribute to the decision-making process. In this instance, the near-unanimous opposition—1,859 out of 1,861 representations—coupled with the exclusion of significant community stakeholders, demonstrates a profound failure to adhere to these principles. Legally, such a failure undermines the legitimacy of the decision and violates the duty to secure a social license for development. The lack of genuine, two-way communication not only breaches the procedural requirements but also creates an environment of arbitrariness and bias. This, in turn, renders the decision susceptible to judicial invalidation on the grounds that it fails to uphold the

principles of transparency, accountability, and fairness that are fundamental to Hong Kong's planning process.

6. Economic and Financial Viability

- **Flaw:** The proposal lacks a rigorous, transparent cost-benefit analysis and relies on uncertain projections of private funding and future grants.

- **Comment:** In an environment where public resources are extremely limited—as evidenced by Hong Kong's structural budget deficit exceeding HK\$100 billion—the statutory obligation for prudent fiscal management is paramount. Any large-scale development must be supported by a detailed, verifiable cost-benefit analysis that clearly demonstrates its economic viability and justifies the diversion of scarce public funds. The current proposal, by failing to provide such an analysis, exposes itself to legal challenge on the grounds of fiscal irresponsibility. Reliance on projections of private funding and future research grants is inherently speculative and does not meet the standard of certainty required by law. This lack of financial rigor not only jeopardizes the project's sustainability but also risks imposing an undue burden on the public purse. Legally, decisions that do not meet the strict standards of fiscal prudence are vulnerable to being overturned, as they fail to protect the public interest in a time of economic constraint.

Appendix 2: Detailed Legal Counterarguments to the 29 Grounds and Government Responses

This appendix provides an exhaustive summary of the 29 distinct grounds—organized into 10 categories—raised by further representations against the proposed amendments to the Draft Pok Fu Lam OZP No. S/H10/22, along with the government’s responses and robust legal counterarguments for each category. Each counterargument serves to ensure that all legal deficiencies are fully articulated and supported by relevant statutory and case law principles.

A. Strategic Planning, Site Selection, and Alternative Locations (FA1–FA5)

• FA1 – Misalignment with Planning Principles:

- **Objection:** The proposed development is fundamentally inconsistent with the overarching national, regional, and territorial planning goals.

- **Government Response:** The justification relies on the 2021 Policy Address and the I&T Blueprint to support the site selection.

- **Legal Counterargument:** It is not sufficient for a planning decision to simply align with high-level policy pronouncements; the decision must be supported by a meticulous, site-specific analysis that rigorously evaluates all viable alternatives. The absence of such an analysis renders the decision arbitrary and capricious, thereby failing the rationality test under administrative law. The statutory requirement for rational decision-making demands that the decision-maker fully consider and document the comparative merits of all potential sites. In this instance, the failure to do so constitutes a breach of procedural fairness and exposes the decision to judicial scrutiny. The lack of a comprehensive evaluation undermines the integrity of the planning process and ultimately renders the rezoning legally indefensible.

• FA2 – Undue Influence of Policy on Statutory Functions:

- **Objection:** The directive from the 2021 Policy Address has unduly preempted the Board’s independent statutory duty to evaluate site suitability on its merits.

- **Government Response:** The Board asserts that it has exercised independent and professional judgment in its review.

- **Legal Counterargument:** While high-level policy guidance is relevant, it cannot override the statutory obligation to conduct an unbiased, objective evaluation of all relevant factors. The reliance on the 2021 Policy Address to justify the decision without a thorough, independent analysis of the site-specific issues amounts to an abdication of the Board’s statutory responsibilities. This over-reliance on policy directives undermines the requirement for a balanced consideration of all material facts, thus constituting an abuse of discretion. Such a failure to independently verify and assess the suitability of the site renders the decision procedurally flawed and legally vulnerable to challenge on the grounds of partiality and arbitrariness.

• **FA3 – Questioning the Necessity of Proximity to HKU’s Campus:**

• **Objection:** The argument that proximity to HKU’s campus is a decisive factor does not justify the neglect of alternative sites that may better serve the public interest.

• **Government Response:** The government contends that clustering research facilities yields tangible benefits through synergistic effects.

• **Legal Counterargument:** The concept of synergy must be supported by quantitative and qualitative evidence that demonstrates a measurable enhancement in research output or economic efficiency. Vague assertions of “synergy” without such evidence fail to satisfy the statutory standard for altering established land-use patterns. The decision to prioritize proximity to HKU’s campus, without a rigorous comparative analysis of alternative sites, undermines the fundamental principles of rational planning and fairness. This lack of a robust evidentiary basis not only renders the decision arbitrary but also exposes it to legal challenge as it fails to meet the stringent requirements of statutory justification.

• **FA4 – Insufficient Evaluation of Alternative Sites:**

• **Objection:** The evaluation of potential alternative locations, such as the San Tin Technopole and the “R(C)6” site, is superficial and inadequate.

• **Government Response:** The justification is based on an in-principle acceptance under the 2021 Policy Address, with only cursory consideration of alternatives.

• **Legal Counterargument:** Statutory and administrative law mandates a comprehensive, comparative assessment of all viable alternatives before arriving at a decision that significantly alters land use. The failure to conduct such an analysis represents a serious procedural deficiency that renders the decision arbitrary and capricious. Without a detailed examination of each alternative’s merits, risks, and public benefits, the decision lacks the necessary evidentiary foundation required by law. This oversight is a fundamental breach of the duty to act rationally and impartially, and it substantially weakens the legal defensibility of the rezoning proposal.

• **FA5 – Lack of Comprehensive Technical Justification:**

• **Objection:** The proposal does not provide robust technical justifications for selecting the Pok Fu Lam site over other potential alternatives.

• **Government Response:** HKU has committed to future reviews and amendments based on stakeholder feedback.

• **Legal Counterargument:** Promises of future technical reviews cannot substitute for the immediate statutory obligation to base planning decisions on comprehensive and contemporaneous technical evidence. The Board is required to provide a fully documented rationale at the time of decision-making, demonstrating that all technical aspects have been rigorously analyzed. Relying on deferred evaluations undermines the credibility of the decision and violates the principles of administrative accountability and transparency. Such a failure to

provide immediate, detailed technical justification constitutes an abuse of discretion and leaves the decision open to legal challenge for its lack of proper evidentiary support.

B. The “U” Zoning (FB1–FB6)

• FB1 – Lack of Legal Basis for “U” Zoning:

- Objection: No representation has proposed the adoption of a “U” (Undetermined) zone; therefore, its imposition lacks a statutory basis under section 6B(8) of the TPO.

- Government Response: The Board asserts its discretion to “partially meet” representations.

- Legal Counterargument: Section 6B(8) of the TPO explicitly requires that “after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.” In effect, there is no statutory provision permitting a “partial” acceptance. This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment. Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that addresses the representation. Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc “U” designation (which does not meet any representation) when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance. Given no statutory provision for intermediary solution to partially satisfy the representation, introducing a “U” zone in the absence of any representational basis not only breaches this explicit statutory requirement but also undermines the principle of legal certainty. Such a maneuver is tantamount to an overreach of discretionary power, as it circumvents the necessary statutory decision process that ensures administrative decisions are both transparent and accountable. This deviation from established statutory procedure is likely to be deemed an abuse of power and arbitrary by any court tasked with reviewing the decision, thereby rendering the rezoning legally indefensible.

• FB2 – Inadequate Development Control:

- Objection: The “U” zone fails to establish clear and enforceable development parameters, thus undermining effective planning control.

- **Government Response:** It is contended that future planning permission, required under section 16, will provide the necessary control measures.

- **Legal Counterargument:** Relying on future regulatory mechanisms to impose controls does not absolve the immediate statutory obligation to establish definite development parameters within the zoning designation itself. The law requires that any interim measure must itself be clear, precise, and enforceable, thereby providing certainty for both developers and the public. Without such enforceability, the “U” zone becomes a legal vacuum where arbitrary development could occur, effectively nullifying the protective function of the existing zoning system. This lack of immediate, binding controls constitutes a serious breach of statutory planning standards and exposes the decision to judicial invalidation for its failure to protect public interests.

- **FB3 – Dangerous Precedent and Reduced Public Participation:**

- **Objection:** The adoption of “U” zoning sets a dangerous precedent by signaling that green spaces can be rezoned arbitrarily, thereby undermining public participation in planning decisions.

- **Government Response:** The measure is defended as a temporary stopgap to allow further consultation and review.

- **Legal Counterargument:** Even as a temporary measure, the introduction of a “U” zone must comply with the highest standards of legal and procedural integrity. The precedent set by such a decision could lead to a systematic erosion of established planning safeguards, as it implies that public representations can be effectively ignored. The statutory requirement for robust public consultation is not suspended simply because the measure is temporary; it remains an essential component of a legitimate planning process. By bypassing comprehensive public engagement, the decision not only fails to secure the requisite social license but also becomes susceptible to judicial review on grounds of arbitrariness and lack of transparency. This sets a pernicious precedent that undermines the statutory protections afforded to environmentally sensitive areas.

- **FB4 – Proposal to Revert to Original “GB” and “R(C)6” Zoning:**

- **Objection:** Many representers insist that the site should retain its original “GB” and “R(C)6” designations, which more accurately reflect the site’s current use and community expectations.

- **Government Response:** The interim “U” zone is justified pending a comprehensive review by HKU.

- **Legal Counterargument:** Deferring the decision through the introduction of an interim “U” zone does not fulfill the Board’s statutory obligation to provide a clear and legally sound zoning determination at the time of decision-making. The failure to immediately adopt the original zoning, despite overwhelming public opinion, renders the decision arbitrary and procedurally flawed. Statutory planning mandates require that any temporary measures must be accompanied by a rigorous justification that addresses all public and environmental concerns. Without such justification, the interim designation functions merely as a placeholder, exposing

the decision to legal challenge on grounds of procedural impropriety and non-compliance with established planning protocols.

• **FB5 – Insufficient Definition of Planning Parameters:**

• **Objection:** The explanatory statement for “U” zoning is vague and fails to clearly define the scope of permissible development, leaving excessive discretionary power for future reinterpretation.

• **Government Response:** It is argued that additional technical assessments and stakeholder consultations will be used to refine the parameters.

• **Legal Counterargument:** Statutory planning law demands that any decision affecting land use must be precise and predictable. The lack of clear, enforceable planning parameters creates uncertainty and undermines the legal certainty that is central to administrative decision-making. Future promises of refinement cannot substitute for the immediate need for definitive criteria that protect both public interests and the integrity of the land-use system. The absence of such clarity is likely to be deemed legally insufficient, as it fails to provide a solid foundation upon which enforceable planning controls can be built, thus exposing the decision to judicial invalidation for its vagueness.

• **FB6 – Bypassing Established Rezoning Procedures:**

• **Objection:** The introduction of “U” zoning circumvents the established statutory decision-making process prescribed by the TPO, thereby weakening statutory planning safeguards.

• **Government Response:** The Board asserts its independent statutory authority to amend the plan as it deems fit.

• **Legal Counterargument:** While the Board is granted a degree of discretionary authority, this power is circumscribed by strict statutory limits that mandate adherence to established procedures. Deviating from such without compelling and well-documented reasons may be deemed to constitute an abuse of power. Such a circumvention undermines the legal predictability and procedural fairness that are essential to administrative law. The decision to bypass established procedures risks not only compromising the integrity of the planning process but also setting a dangerous precedent that may erode public trust in statutory safeguards. This conduct is legally indefensible as it breaches both the letter and the spirit of the TPO.

C. Land Use Compatibility, Development Intensity, Visual Impact, and Interface with Nearby Schools (FC1–FC3)

• **FC1 – Incompatibility with Low-Density, Green Residential Character:**

• **Objection:** The development of a high-density Centre in a predominantly low-density, green residential area is inherently incompatible with the character of Pok Fu Lam.

- **Government Response:** The Board contends that appropriate design modifications can mitigate the incompatibility.

- **Legal Counterargument:** The statutory presumption against significant development in “GB” zones is well-established, and any proposal to contravene this presumption must be supported by incontrovertible evidence that the development is compatible with the existing land use. Generic promises to adjust building density or bulk are insufficient unless they are accompanied by detailed, enforceable design criteria. The failure to provide such criteria renders the decision arbitrary and exposes it to judicial review on the grounds of incompatibility with the established residential character. In effect, without a rigorous demonstration that the proposed modifications will maintain the intrinsic qualities of the area, the rezoning decision is legally indefensible.

- **FC2 – Adverse Visual Impacts:**

- **Objection:** The proposed building bulk and configuration will significantly impair critical public vistas and degrade the aesthetic quality of the area.

- **Government Response:** HKU is directed to adopt specific design enhancements, including reduced building heights and increased setbacks, to mitigate visual impacts.

- **Legal Counterargument:** The statutory duty to protect public views is not met by vague commitments to “enhance” design; rather, it requires the imposition of clear, measurable, and enforceable standards. The absence of such standards means that affected parties have no effective remedy should the visual impacts materialize. Legally, this uncertainty constitutes a breach of the planning process’s obligation to secure public amenity, thereby rendering the decision arbitrary and subject to judicial invalidation for failing to meet the necessary criteria for protecting the visual environment.

- **FC3 – Negative Impact on the Ebenezer School:**

- **Objection:** The proximity of the proposed Centre—being less than 15 meters from the Ebenezer School—poses significant risks of noise, vibration, and other adverse impacts on vulnerable students.

- **Government Response:** HKU is required to engage with the school and institute mitigation measures to protect the educational environment.

- **Legal Counterargument:** The potential for irreversible harm to a sensitive institution such as the Ebenezer School demands immediate and binding protective measures, not merely promises of future engagement. Statutory obligations require that any development in close proximity to vulnerable groups must incorporate enforceable safeguards that ensure their safety and well-being. The failure to include such concrete measures renders the decision procedurally and substantively flawed, leaving it open to challenge on the grounds that it fails to protect the rights and interests of a particularly vulnerable segment of the community.

D. Tree Preservation, Landscape, and Ecology (FD1–FD2)

• FD1 – Irreversible Loss of Mature Trees:

- **Objection:** The removal of over 2,250 mature trees will cause irreversible ecological damage that cannot be offset by the proposed compensatory planting.

- **Government Response:** HKU proposes to mitigate the impact through the planting of heavy-standard trees arranged in clusters.

- **Legal Counterargument:** Mature trees provide complex ecological functions—ranging from carbon sequestration to biodiversity support—that young saplings cannot replicate for decades. The internationally accepted standard is a 1:1 replacement ratio, and any deviation from this standard constitutes a failure to adequately compensate for the loss. Legally, the irreversible loss of mature trees amounts to a permanent degradation of a public asset, and statutory environmental protection standards require that any such loss be fully and equivalently compensated. The proposed ratio of 1:0.48 is demonstrably insufficient and legally indefensible because it undermines the fundamental environmental objectives that underpin both local and national legislation. Such a shortfall in compensation represents a clear breach of statutory duties to preserve natural heritage.

• FD2 – Inadequate Compensation:

- **Objection:** The promise to improve compensatory measures in the future does not address the immediate and irreversible loss of ecological functions provided by mature trees.

- **Government Response:** HKU commits to further reviewing and enhancing its compensation strategy.

- **Legal Counterargument:** Statutory environmental law requires that any compensatory measure be both immediate and equivalent in ecological value to the loss incurred. Future promises or tentative commitments cannot substitute for enforceable standards that protect the environment at the time of decision-making. The failure to secure an immediate, legally binding compensation measure that meets a 1:1 standard renders the proposal irreconcilable with statutory requirements. This inadequacy not only violates established environmental protection principles but also opens the decision to legal challenge for failing to safeguard a critical public resource.

E. Traffic and Transport (FE1–FE4)

• FE1 – Exacerbation of Local Traffic Congestion:

- **Objection:** The additional traffic generated by the Centre would exacerbate congestion in an area that is already overburdened, negatively impacting public safety and quality of life.

- **Government Response:** The TIA contends that targeted junction improvements will alleviate the increased traffic burden.

- **Legal Counterargument:** Traffic impact assessments must be grounded in conservative, worst-case scenario projections that reflect the true potential for congestion. Optimistic assumptions that do not incorporate the full impact of peak-hour traffic or the significant disruption caused by heavy construction vehicles fall short of the statutory standard for protecting public safety. Without immediate, enforceable remedial measures, the TIA is legally inadequate because it fails to provide a comprehensive strategy for mitigating foreseeable traffic problems. This deficiency exposes the decision to legal challenge on the grounds that it does not ensure the safe and efficient operation of the local transport network.

- **FE2 – Over-Optimistic TIA Assumptions:**

- **Objection:** The TIA does not adequately factor in the severe impact of construction traffic and peak-period congestion.

- **Government Response:** HKU promises to update the TIA in subsequent design stages.

- **Legal Counterargument:** Deferring critical assessments to future stages is insufficient to meet the immediate statutory obligation to base the decision on a complete and realistic appraisal of traffic impacts. The Board must ensure that the present TIA accurately reflects worst-case scenarios and incorporates binding measures to mitigate these impacts. The reliance on deferred updates undermines the legal requirement for a thorough, contemporaneous analysis, leaving the decision exposed to challenge for its failure to provide immediate public safety assurances.

- **FE3 – Violation of the Pok Fu Lam Moratorium (PFLM):**

- **Objection:** The proposed high plot ratio and inclusion of residential components are in clear violation of the objectives of the Pok Fu Lam Moratorium, which is designed to protect the area from excessive development.

- **Government Response:** Revised development parameters are asserted to bring the proposal within permissible limits.

- **Legal Counterargument:** Any relaxation of the moratorium standards must be supported by rigorous, evidence-based justification that clearly demonstrates the public benefits outweigh the risks. In this instance, the failure to provide such evidence renders the decision legally indefensible. The statutory objective of the PFLM is to preserve the character and functionality of the area, and any departure from this objective without compelling justification is arbitrary. This violation of established planning policy exposes the decision to legal challenge on grounds of inconsistency and procedural unfairness.

- **FE4 – Delayed Public Transport Infrastructure (SIL(W)):**

- **Objection:** The projected delay in the operational commencement of the South Island Line (West) means that the long-term traffic impacts will not be mitigated in a timely manner.

- **Government Response:** Future traffic reviews and planned junction improvements are offered as remedial measures.

- **Legal Counterargument:** Relying on future infrastructure improvements does not absolve the Board of its present statutory duty to ensure that the local transport network is capable of handling the additional load imposed by the development. The absence of immediate, enforceable measures to address the anticipated congestion constitutes a breach of the statutory requirement to protect public safety. This reliance on deferred improvements creates an unacceptable risk of long-term traffic bottlenecks, rendering the decision legally vulnerable for failing to provide a complete and adequate mitigation strategy.

F. Environmental and Safety Concerns (FF1–FF2)

• FF1 – Contradiction with Climate Strategy:

- **Objection:** Development on Green Belt land will accelerate deforestation and increase carbon emissions, which is in direct contradiction with Hong Kong’s goal of achieving carbon neutrality by 2050.

- **Government Response:** HKU commits to ensuring a minimum of 30% overall greenery and 12,000m² of communal open space.

- **Legal Counterargument:** The statutory and environmental mandates require that any development impacting the natural environment produce measurable, enforceable outcomes that directly align with climate action goals. The commitment to percentage targets without a detailed implementation plan fails to meet the rigorous standards set by the Climate Action Plan 2050. The legal framework demands not only aspirational targets but also concrete, binding measures that guarantee the preservation of ecological functions. In the absence of such detailed safeguards, the proposal is legally indefensible, as it compromises the statutory objective of reducing carbon emissions and protecting natural habitats.

• FF2 – Public Health Risks from Biosafety Facilities:

- **Objection:** The presence of a Biosafety Level 3 laboratory near residential areas poses significant public health risks that are unacceptable under any circumstances.

- **Government Response:** HKU argues that similar facilities have operated safely under stringent regulatory regimes elsewhere.

- **Legal Counterargument:** Reliance on the safe operation of analogous facilities in different contexts does not substitute for a rigorous, site-specific risk assessment. The statutory obligation is to ensure that any high-risk facility, especially one located in close proximity to residential areas, is accompanied by immediate and enforceable safety measures tailored to the unique risks of the site. The failure to implement such measures renders the decision legally indefensible, as it violates the public’s right to safety and health. The Board must require detailed, binding safeguards that address the specific risks associated with the proposed laboratory before any rezoning can be justified.

G. Drainage and Utility (FG1)

• FG1 – Risk of Slope Failure and Flooding:

- **Objection:** Extensive excavation and removal of vegetation may destabilize slopes, thereby significantly increasing the risk of flooding along Pok Fu Lam Road.

- **Government Response:** A Drainage Impact Assessment (DIA) concludes that the existing infrastructure is adequate.

- **Legal Counterargument:** Given the scale of the proposed works and the critical importance of maintaining slope stability, the adequacy of the drainage infrastructure must be independently verified and accompanied by comprehensive contingency planning. Reliance on a single DIA without robust, enforceable backup measures does not meet the statutory requirement for protecting public safety and environmental integrity. The potential for catastrophic failure, in the absence of immediately enforceable safeguards, renders the decision legally indefensible.

H. Geotechnical and Development Costs (FH1–FH3)

• FH1 – Geotechnical Risks and Slope Stability:

- **Objection:** Construction on steep slopes presents significant risks of landslides and destabilization, which could have severe repercussions for neighboring properties and public safety.

- **Government Response:** A Geotechnical Planning Review Report deems the project feasible provided that appropriate remedial measures are implemented.

- **Legal Counterargument:** Feasibility studies, while important, are insufficient unless accompanied by binding, enforceable controls that guarantee the long-term stability of the slopes. Statutory obligations require that all geotechnical risks be addressed through concrete, precautionary measures that are incorporated into the planning approval. The absence of such enforceable controls means that the potential for catastrophic failure remains, thereby exposing the project to legal challenge on the grounds that it fails to meet the necessary public safety standards.

• FH2 – Fiscal Irresponsibility:

- **Objection:** Pursuing an extravagant project in an area ill-suited for such development is fiscally irresponsible, particularly given Hong Kong's substantial budget deficit.

- **Government Response:** HKU asserts that the Centre is self-financing, relying on private funding and research grants.

- **Legal Counterargument:** Uncertain and speculative funding arrangements cannot substitute for a rigorous, transparent cost-benefit analysis that is required under statutory planning standards. The Board is legally obligated to ensure that public resources are allocated

prudently, especially in a time of fiscal constraint. The absence of detailed financial projections and binding assurances regarding funding sources renders the proposal economically unsustainable and legally indefensible. The decision, therefore, violates the statutory duty of fiscal prudence by failing to adequately justify the diversion of scarce public funds.

• **FH3 – Doubts over Financial Viability:**

• **Objection:** The proposal lacks detailed financial documentation and transparent cost projections, raising serious doubts about the overall economic viability of the project.

• **Government Response:** HKU provides general assurances of diversified funding sources.

• **Legal Counterargument:** Legally, the Board must be presented with a comprehensive, meticulously detailed cost-benefit analysis that clearly demonstrates the economic feasibility of the project. General assurances or vague promises of future funding do not satisfy this requirement. In the absence of such rigorous financial documentation, the proposal fails to meet the statutory standard for responsible resource allocation. This financial opacity renders the decision legally indefensible, as it imposes an undue risk on public finances and fails to ensure economic sustainability.

I. Other Matters (FI1–FI2)

• **FI1 – Potential Property Devaluation and Quality of Life Impacts:**

• **Objection:** The development may lead to significant property devaluation and a deterioration in the overall quality of life, owing to increased noise, congestion, and environmental degradation.

• **Government Response:** It is argued that property values are not a primary statutory planning consideration.

• **Legal Counterargument:** While property prices are not the sole determinant of a planning decision, quality of life and environmental amenity are fundamental considerations under statutory planning criteria. Ignoring these factors results in an incomplete assessment of the public interest. The legal framework requires that all adverse impacts on the community's living standards be thoroughly assessed and mitigated. The failure to do so constitutes a breach of the statutory duty to ensure that the planning decision promotes the public good, thereby rendering the proposal legally indefensible.

• **FI2 – Unclear Tangible Community Benefits:**

• **Objection:** The benefits promised to the local community are vague and largely appear to serve HKU's institutional interests rather than generating clear, measurable public gains.

• **Government Response:** HKU asserts that the Centre will provide public facilities and improved connectivity that will benefit the community.

- **Legal Counterargument:** Statutory planning requirements demand that any proposed development yield demonstrable, quantifiable benefits to the community. Vague projections or aspirational statements are insufficient to meet this threshold. The absence of specific, enforceable benchmarks for public benefit renders the decision arbitrary and legally susceptible to challenge on the grounds that it fails to secure a true social license. Without clear, measurable outcomes that benefit the public, the justification for rezoning remains legally unpersuasive.

J. Public Consultation (FJ1)

• FJ1 – Inadequate Public Consultation:

- **Objection:** The record of public engagement is severely deficient, and the consultation process has not met the required statutory standards for meaningful stakeholder involvement.

- **Government Response:** HKU points to previous engagement efforts and commits to enhanced future consultation.

- **Legal Counterargument:** The statutory obligation for robust, contemporaneous public consultation cannot be remedied by future promises. The failure to engage affected parties in a substantive manner at the time of the decision constitutes a serious breach of procedural fairness. This lack of immediate, effective public consultation not only undermines the legitimacy of the decision but also violates the legal principle that all stakeholders must have a genuine opportunity to participate in decisions that impact their environment and quality of life. Consequently, the decision is legally unsound and subject to judicial challenge on the basis of inadequate public participation.

In summary, the government's responses—predicated largely on deferred reviews, design modifications, and promises of future assessments—do not meet the immediate, detailed statutory justification required under Hong Kong's planning and environmental law. Each category of objection, from procedural overreach to fiscal irresponsibility, reveals fundamental legal vulnerabilities in the rezoning proposal. Absent immediate, enforceable measures that address these deficiencies, the proposal remains exposed to successful legal challenges on grounds of arbitrariness, procedural unfairness, and non-compliance with established statutory obligations.

Appendix 3: Strategic Justifications for a Northern Metropolis Innovation Hub – A Counter-Analysis of PlanD’s Consultation Responses

Below is a comprehensive set of responses that clearly outline our disagreements with each of PlanD’s responses (in consultation with the Government Bureaux/Departments). Each point is supported by strong strategic, environmental, economic, and community justifications for rejecting the proposals that favour a development in Pok Fu Lam:

A. Strategic Planning, Site Selection and Alternative Locations

- **Response from PlanD:** They argue that HKU’s proposal in Pok Fu Lam complies with the 2021 Policy Address and related strategies; that alternative sites (such as San Tin Technopole) are available; and that situating the Centre near HKU, QMH, and Cyberport creates synergies.
- **Disagreement:** Concentrating deep technology research in a fragmented, built-up area like Pok Fu Lam undermines our long-term vision. We require a purpose-built, integrated innovation hub that can leverage ample new land and modern infrastructure.
- **Justifications:**
 - The Northern Metropolis has been designed from the ground up to achieve economies of scale and foster a critical mass of I&T activities.
 - Its strategic location and planned connectivity with the Greater Bay Area ensure closer alignment with national and regional development priorities, making it the logical choice for a future-proof innovation ecosystem.

B. The “U” Zoning

- **Response from PlanD:** They defend an interim “U” zoning for the Pok Fu Lam site—asserting that it provides a flexible, stopgap measure allowing HKU to review and adjust its development plan based on stakeholder feedback.
- **Disagreement:** Employing a temporary “U” zoning in an area inherently unsuitable for high-intensity innovation facilities merely delays the inevitable mismatch between land use and our strategic goals.
- **Justifications:**
 - Interim zoning in Pok Fu Lam only perpetuates a suboptimal development framework, whereas the Northern Metropolis can be zoned definitively to accommodate high-density, high-value innovation infrastructure from the outset.

– This approach ensures that our urban planning aligns with long-term sustainability and competitiveness rather than relying on temporary fixes.

C. Land Use Compatibility, Development Intensity, Visual Impact and Interface with Nearby Schools

- **Response from PlanD:** They contend that with design adjustments—such as reducing bulk, increasing setbacks, and integrating green spaces—the proposed Centre in Pok Fu Lam can be made compatible with its surroundings.

- **Disagreement:** The established low-density, green, and community-oriented character of Pok Fu Lam is fundamentally at odds with a large-scale, high-density innovation hub.

- **Justifications:**

- Transforming Pok Fu Lam would irreversibly alter its unique residential and environmental character.

- In contrast, the Northern Metropolis is envisioned as a dynamic urban district that can seamlessly integrate high-density development with modern green infrastructure and advanced planning controls.

D. Tree Preservation, Landscape and Ecology

- **Response from PlanD:** They suggest that compensatory planting and improved landscaping can mitigate the removal of mature trees in Pok Fu Lam.

- **Disagreement:** The loss of over 2,250 mature trees would cause irreversible ecological damage and permanently diminish the urban green legacy of Pok Fu Lam.

- **Justifications:**

- Mature trees and established green corridors in a historic area cannot be replaced by mere compensatory measures.

- The Northern Metropolis, being a blank slate, allows us to integrate robust environmental planning and green design from day one, ensuring that ecological quality is maintained without sacrificing strategic development.

E. Traffic and Transport

- **Response from PlanD:** They claim that traffic impacts in Pok Fu Lam can be managed with junction improvements, revised Traffic Impact Assessments, and design modifications.

- **Disagreement:** The existing narrow road network and chronic congestion issues in Pok Fu Lam render it unsuitable for accommodating the additional traffic generated by a mega innovation hub.

- **Justifications:**

- The Northern Metropolis is built around a modern, expansive transport network—with planned enhancements, wider roadways, and new public transport links—specifically designed to handle increased mobility demands.

- Locating the Centre in a purpose-built new district avoids exacerbating existing congestion and delivers long-term traffic resilience.

F. Environmental and Safety Concerns

- **Response from PlanD:** They argue that HKU’s design—including a commitment to 30% greenery and adherence to safety standards for laboratory facilities—will manage environmental and public health risks in Pok Fu Lam.

- **Disagreement:** Even with these mitigations, the environmental risks—such as deforestation, increased carbon emissions, and the challenges of operating high-risk facilities near dense residential areas—remain unacceptably high in Pok Fu Lam.

- **Justifications:**

- The Northern Metropolis enables us to incorporate cutting-edge sustainable technologies and stringent safety measures from inception, fully aligning with our carbon neutrality goals and ensuring a safe environment for all stakeholders.

- This proactive approach is far superior to retrofitting an unsuitable urban area.

G. Drainage and Utility

- **Response from PlanD:** They maintain that the existing drainage infrastructure in Pok Fu Lam is adequate, as evidenced by the Drainage Impact Assessment.

- **Disagreement:** The challenges inherent in retrofitting an older, densely built area elevate the risk of drainage failures and slope instability—risks that can be more effectively managed in a new development area.

- **Justifications:**

- The Northern Metropolis allows us to design modern, resilient drainage and utility systems from scratch, minimizing risks of flooding or environmental failure under extreme weather conditions.

– This forward-thinking approach ensures that infrastructure supports future growth without compromising safety.

H. Geotechnical and Development Costs

- **Response from PlanD:** They argue that geotechnical challenges in Pok Fu Lam are manageable and that the project's self-financing nature justifies its location there.

- **Disagreement:** Developing in a mature, built-up area like Pok Fu Lam entails higher construction costs, complex engineering retrofits, and long-term operational risks that are financially inefficient.

- **Justifications:**

- The Northern Metropolis, as a blank canvas, offers cost-efficient construction with lower maintenance and retrofit costs, ensuring that public funds are deployed optimally.

- Given Hong Kong's fiscal constraints, a new, purpose-built district better supports sustainable, long-term economic growth.

I. Other Matters (Property Devaluation and Community Benefits)

- **Response from PlanD:** They downplay concerns about property devaluation and emphasize that property prices are not a planning metric, insisting that the Centre will bring planning gains to the community.

- **Disagreement:** The introduction of a high-density, disruptive development in Pok Fu Lam risks significant property devaluation and undermines the quality of life for long-established residents.

- **Justifications:**

- The tangible benefits of a world-class innovation hub are better realized in the Northern Metropolis, where new development can be integrated into a comprehensive urban renewal strategy that delivers broad economic and social benefits without eroding existing community assets.

- Concentrating such transformative projects in a designated area avoids fragmenting the urban fabric of established residential communities.

J. Public Consultation

- **Response from PlanD:** They assert that HKU's public consultation efforts—via briefing sessions and online platforms—are adequate and that further consultations will address any remaining concerns.
- **Disagreement:** Past consultation exercises in Pok Fu Lam have not adequately addressed the deep-rooted concerns of local residents and stakeholders.
- **Justifications:**
 - The Northern Metropolis represents a fresh start where comprehensive, proactive, and genuine stakeholder engagement can be implemented from the outset.
 - By avoiding the entrenched conflicts in Pok Fu Lam, we can ensure that the public consultation process is truly two-way and integrated into a forward-looking urban planning framework.

In summary, while PlanD's responses attempt to justify the development of the Global Innovation Centre in Pok Fu Lam, our strategic, environmental, economic, and community imperatives compel us to reject this approach. The Northern Metropolis offers a modern, flexible, and sustainable platform that is fully aligned with Hong Kong's long-term vision for an internationally competitive I&T hub.

Appendix 4: Counterarguments and Rebuttal to HKU President's Further Representation Letter dated January 3, 2025 on Pok Fu Lam Rezoning

Below is a detailed set of counterarguments, organized by key thematic areas, in response to the letter dated January 3, 2025 from the President of HKU:

1. Location and Strategic Alignment

- **HKU's Claim:** The letter asserts that locating the Global Innovation Centre (GIC) in Pok Fu Lam is optimal because of its proximity to HKU's campus and the resulting synergies with institutions like Queen Mary Hospital and Cyberport.
- **Counterargument:** Although local proximity offers short-term benefits, it neglects the broader strategic vision embodied in the Northern Metropolis Strategy. Concentrating high-value, innovative research facilities in a purpose-built hub—with ample new land, modern infrastructure, and enhanced connectivity with the Greater Bay Area—ensures economies of scale and a critical mass that is not achievable in a congested, historically residential area like Pok Fu Lam.

2. Technical and Environmental Feasibility

- **HKU's Claim:** HKU maintains that technical assessments reveal no insurmountable obstacles and that proposed mitigation measures (e.g., compensatory planting and design modifications) will address environmental issues.
- **Counterargument:** The letter downplays significant environmental risks. The irreversible removal of over 2,250 mature trees, even with a compensatory ratio of 1:0.48 (which falls short of the internationally accepted 1:1 standard), compromises critical ecological functions such as carbon sequestration, soil stabilization, and biodiversity support. Moreover, retrofitting an area with steep slopes and an aged infrastructure introduces risks (e.g., landslides and drainage failures) that are better managed in a new development area designed with state-of-the-art environmental safeguards.

3. Traffic and Infrastructure

- **HKU's Claim:** The submission suggests that traffic impacts will be manageable through junction improvements, phased construction, and updated Traffic Impact Assessments (TIA).
- **Counterargument:** Pok Fu Lam's narrow, already congested road network is ill-suited for the heavy traffic associated with both construction and long-term operation of a mega innovation hub. The assumptions in the TIA are overly optimistic, especially given the delayed

operation of key transport infrastructure (such as the South Island Line [West]). This raises serious public safety and urban mobility concerns that cannot be adequately mitigated in the current location.

4. Public Consultation and Stakeholder Engagement

- **HKU's Claim:** The letter notes that HKU has received feedback during prior consultations and promises further engagement with stakeholders.
- **Counterargument:** Despite these assurances, overwhelming opposition from local residents, environmental groups, and key institutions (e.g., the Ebenezer School for the Visually Impaired) indicates that genuine two-way consultation has been insufficient. The entrenched community sentiment in Pok Fu Lam strongly favors preserving the area's green character—a factor that cannot be remedied by vague future promises of engagement.

5. Fiscal and Economic Considerations

- **HKU's Claim:** The letter argues that the project is self-financing and that the economic benefits justify the rezoning in Pok Fu Lam.
- **Counterargument:** The financial model presented is based on speculative projections, including uncertain private funding and future research grants. Given Hong Kong's significant budget deficit, allocating scarce public resources to retrofit an older urban area like Pok Fu Lam—replete with hidden costs for infrastructure upgrades and environmental remediation—is fiscally imprudent. In contrast, the Northern Metropolis offers a cost-efficient development environment that better supports long-term economic growth.

6. Alternative Sites and Future Growth

- **HKU's Claim:** HKU emphasizes that Pok Fu Lam is “most suitable” for the GIC due to existing institutional ties.
- **Counterargument:** The letter does not sufficiently address viable alternatives. The Northern Metropolis, with its designated zones (e.g., San Tin Technopole and the Science Park), provides a blank canvas that is designed for high-density, future-proof innovation development. This centralized approach not only aligns with national strategies but also promotes broader economic synergies that are unattainable in a fragmented urban setting.

7. Overall Strategic Vision and Policy Consistency

- **HKU's Claim:** The letter posits that the proposed rezoning is consistent with Hong Kong's innovation and technology development goals.

- **Counterargument:** There is a clear policy inconsistency: while HKU's proposal emphasizes local convenience, it conflicts with the Government's long-term Northern Metropolis Strategy, which is aimed at creating an integrated I&T ecosystem in a new, purpose-built area. This misalignment risks fragmenting Hong Kong's strategic vision and diluting the potential for a centralized innovation hub that can drive sustainable, high-impact growth.

Overall Position:

While HKU's letter emphasizes the immediate benefits of proximity and local synergies in Pok Fu Lam, these arguments fail to address the broader environmental, infrastructural, fiscal, and strategic imperatives essential for Hong Kong's sustainable future. Prioritizing development in the Northern Metropolis offers a future-proof, integrated approach that better aligns with national directives, minimizes ecological damage, and optimizes long-term economic and infrastructural outcomes.

Appendix 5: Counterarguments to HKU's Claim on Upstream Deep Technology Research Suitability

1. Integrated Research Ecosystem

- **HKU's Claim:** Upstream deep technology research must be conducted in close proximity to the HKU campus to benefit from established academic infrastructure and pre-existing research clusters.
- **Counterargument:** Innovation today thrives on an integrated ecosystem that spans the entire value chain—upstream, midstream, and downstream. A dedicated innovation hub in the Northern Metropolis can be designed from the ground up to create a comprehensive, interdisciplinary ecosystem that not only supports deep technology research but also accelerates its translation into applied technologies and market-ready solutions. This integrated environment fosters cross-disciplinary collaboration and enables breakthroughs that isolated campus settings cannot match.

2. State-of-the-Art Facilities and Scalability

- **HKU's Claim:** Existing campus facilities in Pok Fu Lam are uniquely tailored to support upstream research, implying that they cannot be replicated or enhanced elsewhere.
- **Counterargument:** The Northern Metropolis innovation hub is envisioned as a purpose-built facility that can incorporate state-of-the-art laboratories and research centers designed to meet the rigorous demands of deep technology research. Starting with a blank slate allows for scalability and the incorporation of modern technologies (e.g., advanced cleanrooms, high-performance computing clusters, and flexible lab spaces) that can be optimized for deep research. In contrast, retrofitting older facilities in Pok Fu Lam may impose physical and operational limitations that hinder growth and innovation.

3. Attraction of Global Talent and Enhanced Collaboration

- **HKU's Claim:** Proximity to the existing HKU campus attracts top-tier local talent, which is crucial for upstream research.
- **Counterargument:** A modern, integrated hub in the Northern Metropolis is designed to attract not only local experts but also global talent by offering cutting-edge facilities, a vibrant ecosystem, and substantial support from both government and industry. The new hub's vision includes creating a magnet for innovation that spans all research stages. The synergy derived from a large-scale, purpose-built environment can enhance collaboration across academia, industry, and government—an advantage that extends well beyond the localized benefits of proximity.

4. Infrastructure, Economic Efficiency, and Future-Proofing

- **HKU's Claim:** The legacy environment in Pok Fu Lam is ideally suited for the specialized requirements of deep technology research.

- **Counterargument:** In a rapidly evolving technological landscape, future-proofing research capabilities is essential. The Northern Metropolis offers an opportunity to build modern infrastructure tailored to the evolving needs of advanced research, including flexible lab designs, digital connectivity, and sustainable construction. Economies of scale and a forward-looking design approach in the Northern Metropolis will result in lower long-term operational costs, greater adaptability, and enhanced capacity to support large-scale, high-impact research initiatives—all of which are difficult to achieve in a constrained, older urban area like Pok Fu Lam.

5. Policy Alignment and Strategic Vision

- **HKU's Claim:** The focus on upstream deep technology research justifies the continued use of Pok Fu Lam, where a long history of research exists.

- **Counterargument:** While a historical legacy can be valuable, strategic planning must also consider future national and regional priorities. The Northern Metropolis Strategy explicitly aims to create an integrated innovation ecosystem that supports the full spectrum of research—from fundamental to applied. This comprehensive approach ensures that deep technology research is embedded within a larger, dynamic framework that enhances commercialization and industrial collaboration. By aligning with long-term strategic goals, the Northern Metropolis hub positions Hong Kong as a globally competitive center for innovation rather than confining research to a legacy urban setting.

6. Enhanced Cross-Disciplinary Synergies

- **HKU's Claim:** Proximity to the HKU campus fosters a strong research culture for upstream deep technology initiatives.

- **Counterargument:** While proximity can be beneficial, true innovation emerges from dynamic, cross-disciplinary interactions that are not limited to a single institution. The Northern Metropolis innovation hub is being designed as a convergence platform where experts from various disciplines—ranging from pure research to practical applications—collaborate seamlessly. This multi-faceted environment creates a broader network for knowledge sharing and joint problem-solving, which can ultimately drive breakthroughs in deep technology research beyond what an isolated campus setting can offer.

Overall Position:

The assertion that upstream deep technology research is exclusively suited to the legacy environment of Pok Fu Lam overlooks the transformative potential of a purpose-built, integrated innovation hub in the Northern Metropolis. With its state-of-the-art facilities, scalable infrastructure, and strategic alignment with broader national objectives, the Northern Metropolis is not only capable of supporting deep technology research but can also enhance it by creating a dynamic, interdisciplinary ecosystem. This approach is more future-proof, cost-efficient, and strategically aligned with Hong Kong's long-term vision for global competitiveness.

Appendix 6: Case Law and Judicial Precedent Analysis

This appendix further substantiates this report’s legal arguments by analyzing key judicial decision that reinforces the strict statutory framework governing planning and environmental assessments. In particular, the recent decision in *Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279* (commonly referred to as the Fanling Golf Course case) is instructive in demonstrating the consequences of departing from clear statutory mandates.

A. Statutory Mandate and the Imperative of Certainty

The Town Planning Ordinance (TPO) and the Environmental Impact Assessment Ordinance (Cap. 499) require that administrative decisions be both clear and unambiguous.

Section 6B(8) of the TPO explicitly requires that “after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.” In effect, there is no statutory provision permitting a “partial” acceptance. This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment. Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that addresses the representation. Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc “U” designation (which does not meet any representation) when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance. Given no statutory provision for intermediary solution to partially satisfy the representation, introducing a “U” zone in the absence of any representational basis not only breaches this explicit statutory requirement but also undermines the principle of legal certainty. Such a maneuver is tantamount to an overreach of discretionary power, as it circumvents the necessary statutory decision process that ensures administrative decisions are both transparent and accountable. This deviation from established statutory procedure is likely to be deemed an abuse of power and arbitrary by any court tasked with reviewing the decision, thereby rendering the rezoning legally indefensible.

Similarly, the Technical Memorandum and the Study Brief issued under the EIA Ordinance impose precise requirements on environmental assessments. The Fanling Golf Course case reinforces that any deviation from these statutory frameworks undermines legal certainty and jeopardizes public trust in the administrative process.

B. Detailed Findings in the Fanling Golf Course Case

In *Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279*, delivered on 03 December 2024, the High Court quashed the environmental impact assessment (EIA) report for a proposed public housing project over part of the ‘Old Course’ at Fanling. Key findings included:

- **Flawed Environmental Assessments:** Coleman J’s 229-page judgment found that the EIA report inadequately assessed critical environmental impacts—specifically concerning the preservation of old and valuable trees, appropriate tree compensation, the hydrological impact on critically endangered Chinese Swamp Cypress trees, cultural heritage implications, as well as effects on bats, moths, and waste management. The report failed to meet the detailed requirements of the Technical Memorandum and the Study Brief.
- **Procedural Unfairness:** The Court held that the Director of Environmental Protection erred by not undertaking public consultation on additional information provided by the Civil Engineering and Development Department after the statutory consultation period. Moreover, the Director failed to consider the Hong Kong Golf Club’s responses to that additional information.
- **Unlawful Conditions:** The Court ruled that the conditions imposed on accepting the EIA report were unlawful and undermined the Director’s approval. While challenges relating to assessments of sewage, noise, land contamination, shading, and air quality were rejected, the judgment unequivocally highlighted the necessity of strict adherence to statutory procedures.

C. Implications for Planning and Environmental Decision-Making

The Fanling Golf Course decision underscores several enduring principles relevant to the report’s critique of the current rezoning proposal:

- **Mandatory Statutory Decision-Making:** The case illustrates that any attempt to introduce an indeterminate or intermediary outcome—analogue to the “Undetermined” zoning category (that does not meet or address any representation in entirety)—is beyond the statutory powers granted to planning authorities. This parallels the Court’s rejection of a flawed EIA process that did not comply with established legal standards.
- **Strict Compliance with Procedural Requirements:** Just as the EIA report was quashed for failing to incorporate mandatory public consultation and for not considering all relevant evidence, the current proposal’s deviation from a clear statutory mandate (i.e., the statutory decision framework of the TPO) is equally indefensible.

- **Judicial Oversight and the Rule of Law:** The decision reinforces the judiciary’s role in ensuring that administrative bodies do not exceed their statutory discretion. Departures from the mandated processes, whether in environmental assessments or planning decisions, are subject to judicial scrutiny and potential invalidation.

D. Conclusion

The detailed analysis of *Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279* provides a robust legal foundation for this report’s critique of the current rezoning proposal. The Fanling Golf Course decision unequivocally demonstrates that:

- Planning authorities must adhere strictly to statutory decision-making process as required by the TPO.
- Environmental and procedural assessments must meet the detailed statutory requirements, including robust public consultation.
- Any attempt to introduce an intermediary “Undetermined” category that do not address or meet any representation—deviating from statutory mandates—is legally indefensible and strongly exposes the decision to judicial overturn.

Consequently, the report’s position—that the rezoning proposal is procedurally flawed and legally indefensible—is strongly validated by prevailing judicial reasoning and case law. This reinforces the imperative that administrative decisions must operate within the confines of clear statutory authority to maintain legal certainty and public confidence in the planning process.

Appendix 7: Legal Opinion Paper on the Interim “U” Zoning

I. Introduction

This paper critically examines the legal validity of designating the Site under an interim “U” zoning by the Board. It questions whether such a decision meets the statutory obligations imposed by Section 6B(8) of the Town Planning Ordinance (TPO) and whether it appropriately reflects the stakeholder representations. The analysis contends that by adopting an interim zoning that was not directly proposed by any representer without valid planning grounds,, the Board departs from the strict statutory decision-making requirement of the TPO. The recent Fanling Golf Course case (Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279) provides a pivotal precedent underscoring that any deviation from the statutory framework may be judicially overturned.

II. Background

Stakeholders affected by the proposed development have raised concerns primarily relating to land use compatibility, environmental impacts, and technical issues. Importantly, no representer explicitly called for the Site to be designated as “U” zoning. Despite this, the Board has unilaterally imposed an interim “U” zoning as a temporary measure pending further technical assessments, community consultations, and a strategic review of HKU’s development plan. The rationale provided by the Board emphasizes that the interim zoning serves as a stopgap arrangement until HKU can refine its proposal. However, this approach raises critical questions about whether the decision truly “meets” the representations as required by the statute.

III. Statutory Framework and Interpretation of Section 6B(8)

A. Clear Mandate for Decision-Making

Section 6B(8) of the TPO:

“After considering any representation under this section, the Board must decide whether or not—

- (a) to propose amendment to the plan in the manner proposed in the representation; or
- (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.”

This explicitly requires that planning authorities, after considering stakeholder representations, must make a decision: either to propose an amendment in the precise manner suggested by the

representers or to propose an alternative amendment that fully meets the representation. There is no statutory provision for an intermediate or partial outcome or response that serves to partially satisfy the representation. This clear framework ensures that public input is directly and transparently reflected in any planning amendment. (Notes: *Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, following due consideration of any representation, the Board is obliged to either propose an amendment to the plan in the precise manner set forth in the representation or, alternatively, to propose an amendment that, in its view, adequately meets the representation. In effect, the Ordinance mandates that a representation be accepted in its entirety or rejected in its entirety—the so-called “binary approach.” Any deviation from this binary requirement, such as the imposition of an ad hoc “U” designation, would thus fail to satisfy the statutory criteria and would amount to a breach of the Ordinance.*)

B. Limits on Discretion

Although the TPO provides the Board with some discretion by allowing an alternative amendment (as per clause (b)), that discretion is strictly limited. The alternative measure must demonstrably “meet the representation” in the sense that it directly responds to the issues and concerns raised by the stakeholders. Adopting an interim “U” zoning—when no representation has suggested such a measure—fails to satisfy this requirement, rendering the decision potentially arbitrary and contrary to the legislative intent.

C. Implications for Legal Certainty and Public Trust

A clear statutory requirement is essential for maintaining legal certainty and public confidence. Stakeholders expect that their representations will be directly considered and reflected in any planning amendment and/or the final decision. Any deviation from this expectation, such as adopting a measure not directly proposed by any representation—especially when no representation has specifically suggested such a measure—falls short of this requirement. It thereby risks being classified as arbitrary and inconsistent with the statutory mandate. This undermines the integrity of the planning process and may invite judicial challenges.

IV. Analysis of the Interim “U” Zoning Decision

A. Procedural Integrity and Direct Representation

1. Failure to Directly Address Representations:

The statutory process under Section 6B(8) is designed to ensure that planning decisions are grounded in the representations of affected parties. In this instance, no representer proposed that the Site be rezoned as “U.” By imposing an interim “U” zoning not proposed by any representer, the Board has not met the statutory requirement. This gap raises serious questions regarding procedural fairness and the proper execution of the statutory mandate.

2. Risk of Procedural Delay:

An interim measure that does not align the stakeholder submissions may be perceived as a means to postpone a final decision rather than to genuinely address the underlying issues. Such postponement can result in prolonged uncertainty and undermine the timely incorporation of environmental and technical safeguards.

B. Environmental and Technical Safeguards

1. Regulatory Gaps in Safeguard Implementation:

The statutory framework requires that any planning amendment incorporate comprehensive measures to mitigate environmental and public health impacts. An interim “U” zoning that is not directly supported by the detailed stakeholder representations risks creating a regulatory gap, delaying the activation of essential safeguards until further assessments/studies are conducted.

2. Risk of Inadequate Mitigation:

Without a direct link to stakeholder representations, subsequent development under the interim zoning may not adequately address the environmental and technical issues that were raised. This failure could lead to adverse impacts that the statutory process is designed to prevent.

C. Exercise of Discretion and Transparency

1. Overextension of Discretion:

While the Board has the statutory discretion to propose an amendment in an alternative manner, such discretion is strictly circumscribed by the need to meet the representations. Adopting an interim zoning that was not raised and/or supported by any submission represents an overextension of that discretion, departing from the intended binary requirement/approach.

2. Erosion of Accountability and Public Trust:

Transparent decision-making is critical for public confidence in the planning system. Bypassing explicit stakeholder input not only undermines the statutory scheme but also strongly exposes the Board’s decision to judicial challenge for being arbitrary.

V. Case Law: The Fanling Golf Course Decision

Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279

In this case the High Court quashed the conditional approval for 12,000 public housing units on part of Fanling Golf Course. Key elements from this decision include:

- **Statutory Decision-Making Mandate:**

The Court underscored that the statutory framework requires planning decisions to be clear and unambiguous. There is no provision for an “intermediate” outcome. (Notes: *In accordance with Section 6B(8) of the Ordinance, following due consideration of any representation, the TPB is obliged to either propose an amendment to the plan in the precise manner set forth in the representation or, alternatively, to propose an amendment that, in its view, adequately meets the representation. In effect, the Ordinance mandates that a representation be accepted in its entirety or rejected in its entirety—the so-called “binary approach.” Any deviation from this binary requirement, such as the imposition of an ad hoc “U” designation, would thus fail to satisfy the statutory criteria and would amount to a breach of the Ordinance.*)

- **Procedural Fairness and Re-Consultation:**

The judgment found that the environmental impact assessment was flawed due to inadequate public consultation. It mandated that additional information must be subject to renewed consultation, thereby reinforcing the necessity for administrative decisions to directly incorporate stakeholder feedback.

- **Implications for Administrative Practice:**

The Fanling Golf Course decision serves as a strong precedent that any deviation from the statutory framework—such as adopting an interim measure that does not directly and/or adequately meet stakeholder representations—may be considered arbitrary and subject to judicial overturn.

VI. Response to the Government Departmental Views

It has been argued that:

- The views and representations were duly considered, and under Section 6B(8) the Board has the discretion to adopt an amendment “in any other manner” that it believes will meet the representation.
- Since no representer explicitly proposed a “U” zoning, the Board contends there is no representation that mandates a different amendment, thereby justifying the interim “U” zoning as a stopgap measure pending further review and consultation.

- Interim zoning, including the “U” designation, is a common practice when planning intentions are uncertain and it allows HKU time to refine its development plan and engage with stakeholders.

Counterarguments:

1. Inadequate Meeting of the Statutory Mandate:

The TPO’s statutory requirement leaves no room for a partial or interim measure that does not directly mirror the representation. Even if the Board considers alternative amendments acceptable, any proposed alternative must fully address the issues raised. Since no stakeholder suggested “U” zoning, adopting it does not meet the statutory test of “meeting” the representation. This is not merely a matter of process but of adhering to the clear legislative intent.

2. Interim Measure Does Not Equal a Full Resolution:

While it is argued that interim zoning is common practice when a project is under review, such a measure is intended to maintain administrative control until a definitive decision is reached. However, if the interim measure is not directly derived from or supported by the representations, it effectively delays addressing the fundamental concerns—particularly those relating to land use compatibility and environmental impacts. This delay risks undermining the very purpose of the statutory representation process.

3. Independent Judgment Cannot Circumvent Statutory Requirements:

The Board’s reliance on its independent judgment to adopt a zoning measure that was never advocated by any representer is problematic. The statutory framework is designed to ensure that planning decisions are grounded in the specific inputs of affected parties. Using independent judgment to impose an interim “U” zoning is an overreach that departs from the requirement to directly “meet” the representations, thereby exposing the decision to judicial review for arbitrariness.

4. Precedential Implications:

The Fanling Golf Course case clearly demonstrates that any administrative decision that deviates from the statutory mandate—particularly regarding the scope of public consultation and the statutory nature of decision-making—can be subject to judicial invalidation. The Board’s views, while highlighting procedural considerations and the need for flexibility in interim measures, do not override the strict requirements imposed by the TPO.

VII. Conclusion and Recommendations

A. Conclusion

Based on a strict interpretation of Section 6B(8) and the precedent set by the Fanling Golf Course case, the Board's interim "U" zoning decision is legally questionable. By failing to directly address stakeholder representations and by adopting a measure not explicitly supported by any representation, the Board deviates from the statutory decision-making process mandated by the TPO. This not only creates regulatory gaps in environmental and technical safeguards but also undermines public trust and legal certainty.

B. Recommendations

To align future decisions with statutory mandates and uphold the integrity of the planning process, the following steps are recommended:

1. Enhanced Public Consultation:

The Board should initiate further, robust consultations to secure explicit, direct guidance from all stakeholders. This ensures that any proposed amendment is unequivocally supported by the representations received and that any zoning amendment fully "meets" the representation.

2. Deferral of Interim Zoning:

Rather than imposing an interim zoning that does not directly meet stakeholder input and lacks support, the Board should postpone the decision until a comprehensive review of the stakeholder's concerns/representations is fully completed. This would allow for a more deliberate and representative final amendment.

3. Integration of Robust Environmental Safeguards:

Any future zoning amendment must incorporate enforceable environmental and technical safeguards that address the specific concerns raised by stakeholders. This integration is essential to mitigate potential adverse impacts from subsequent development.

4. Transparent Documentation of Decision-Making:

The Board must ensure that its exercise of discretion and its rationale for any decision are fully transparent and rigorously documented. Clear articulation of how the chosen amendment meets—or fails to meet—the stakeholder representations is crucial for defending the decision against judicial review.

C. Final Remarks

The interim "U" zoning decision, as it stands, fails to satisfy the statutory requirements of Section 6B(8) because it does not directly "meet" the representations submitted by affected

parties. The precise wording of the statute mandates a statutory choice that this decision does not fulfill. The Fanling Golf Course case underscores that any deviation from this framework—especially one that disregards explicit stakeholder input—is legally indefensible and likely subject to judicial invalidation. It is imperative that the Board reconsider its approach, ensuring that future planning decisions are fully responsive to public input, transparent in their rationale, and consistent with the statutory mandates.

This legal opinion paper addresses both the legal deficiencies of the interim zoning decision and directly responds to the government departmental views, offering a persuasive argument for re-evaluating the decision in light of statutory mandates and judicial precedent(s).

Appendix 8: Judicial Analysis and Reasoning Framework

The following serves to illustrate potential judicial reasoning in support of the report's objections to the rezoning proposal.

Introduction

This analysis examines the rezoning proposal affecting the Pok Fu Lam Green Belt by evaluating its compliance with statutory mandates, procedural fairness, environmental protection, infrastructure planning, and fiscal responsibility. The reasoning herein is structured in descending order of importance, illustrating how a court might assess the legal deficiencies of the proposal.

I. VIOLATION OF STATUTORY MANDATES

The core issue is the introduction of an interim "Undetermined" zoning category, which directly contravenes section 6B(8) of the Town Planning Ordinance (TPO).

– Section 6B(8) of the TPO explicitly requires that "after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation." In effect, there is no statutory provision permitting a "partial" acceptance. This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment. Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that addresses the representation. Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc "U" designation (which does not meet any representation) when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance. Given no statutory provision for intermediary solution to partially satisfy the representation, introducing a "U" zone in the

absence of any representational basis not only breaches this explicit statutory requirement but also undermines the principle of legal certainty. Such a maneuver is tantamount to an overreach of discretionary power, as it circumvents the necessary statutory decision process that ensures administrative decisions are both transparent and accountable. This deviation from established statutory procedure is likely to be deemed an abuse of power and arbitrary by any court tasked with reviewing the decision, thereby rendering the rezoning legally indefensible.

– The statutory language is unequivocal and requires strict adherence in order to preserve legal certainty—a fundamental principle in administrative law. Any deviation from this prescribed statutory requirement introduces ambiguity and undermines the predictability and fairness that the statute is designed to ensure.

– Legal precedents, such as the Fanling Golf Course decision, have established that any measure not expressly provided for by the statute, such as an interim “Undetermined” category, is ultra vires (beyond the authority granted by law). This ensures that the court would likely uphold this finding, thereby invalidating any decision that departs from the clear statutory mandate.

II. BREACH OF PROCEDURAL FAIRNESS AND DEFICIENT PUBLIC CONSULTATION

The decision-making process is significantly flawed due to inadequate public consultation.

– Affected stakeholders, including community groups and key institutions, were not provided with a meaningful opportunity to participate in the process.

– The overwhelming opposition evidenced by the representations indicates that the consultation process fell far short of the standards of transparency and fairness required by law.

– This procedural defect undermines the legitimacy of the rezoning decision and justifies its review.

III. INADEQUATE ENVIRONMENTAL SAFEGUARDS

The proposal fails to meet statutory environmental obligations.

– It contemplates the removal of over 2,250 mature trees, with a compensatory planting ratio of 1:0.48, which is well below the internationally accepted 1:1 standard.

– The irreversible loss of these trees compromises essential ecological functions such as carbon sequestration, soil stabilization, and biodiversity support.

– This environmental shortfall directly contradicts statutory requirements and sustainable development goals, rendering the rezoning legally indefensible on environmental grounds.

IV. FLAWED TRAFFIC AND INFRASTRUCTURE ASSESSMENTS

The Traffic Impact Assessment (TIA) accompanying the proposal is critically deficient.

- It relies on overly optimistic assumptions regarding future infrastructural improvements and does not adequately address peak-hour congestion or construction impacts.
- This inadequacy jeopardizes public safety and urban mobility, breaching statutory obligations aimed at protecting the community's interests.

V. FISCAL AND STRATEGIC INADEQUACIES

The proposal is further undermined by fiscal imprudence and strategic misalignment.

- It relies on speculative future funding, dependent on uncertain private investments and research grants, without a rigorous cost-benefit analysis.
- Additionally, the proposal conflicts with the broader strategic planning framework, notably the Northern Metropolis Strategy, which designates alternative sites more suited for high-density innovation development.
- This misalignment further erodes the legal defensibility of the rezoning decision.

VI. ABSENCE OF CLEAR DEVELOPMENT CONTROLS

The interim “Undetermined” zoning designation fails to provide clear, enforceable guidelines for future development.

- The lack of defined planning parameters creates regulatory uncertainty for both developers and the community.
- This ambiguity invites arbitrary reinterpretation and further weakens the integrity of the planning process.

VII. RELIANCE ON JUDICIAL PRECEDENTS

Established judicial precedents, notably the Fanling Golf Course decision, reinforce that any deviation from the mandated statutory decision-making process is impermissible.

- Such precedents affirm that failure to adhere to statutory procedures not only breaches administrative fairness but also warrants judicial intervention.

VIII. EROSION OF PUBLIC TRUST AND ACCOUNTABILITY

The cumulative effect of the identified statutory, procedural, environmental, and fiscal failures is a significant erosion of public trust in the planning process.

- The lack of transparency and accountability undermines both the legitimacy of the decision and the broader principles of good governance.
- Restoring public confidence requires that the rezoning decision be invalidated and reconsidered in strict compliance with statutory mandates.

Conclusion

Based on the foregoing analysis, judicial reasoning would support the conclusion that the rezoning proposal is legally flawed on multiple substantive and procedural grounds. It is therefore advisable that the decision to introduce an interim “Undetermined” zoning category be set aside, and that the matter be remitted to the appropriate planning authority for reconsideration. Any future decision must strictly adhere to statutory mandates, ensure comprehensive public consultation, and incorporate robust environmental, traffic, fiscal, and strategic assessments.

Note: This appendix is provided to demonstrate grounds for invalidating the rezoning proposal.

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-18 星期二 03:06:11
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Jackson Reply Annex II (Reply Slip)_e.docx

Dear Planning Board,

I would maintain my further representation as previously submitted

Thanks,
Jackson

On Fri, Feb 14, 2025 at 4:30 PM tpbpd/PLAND <tpbpd@pland.gov.hk> wrote:

城市規劃委員會

香港北角渣華道三百三十三號

北角政府合署十五樓

傳真 Fax: 2877 0245 / 2522 8426

電話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

TPB/R/S/H10/22-F279

In reply please quote this ref.:

TOWN PLANNING BOARD

15/F, North Point Government Offices

333 Java Road, North Point,

Hong Kong

By Email

14 February 2025

[REDACTED]
Poon Jackson J S

Dear Sir/Madam,

Further Representations in respect of the Proposed Amendments to the

Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

(Further Representation No. F279)

Urgent Return receipt Expand Group Restricted Prevent Copy

I refer to your further representation which was received by the Town Planning Board (TPB) on 02.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on “Submission and Processing of Representations and Further Representations under the Town Planning Ordinance” (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB’s website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB’s website after the meeting. After confirmation of the minutes of TPB’s deliberation, the further representers will be notified of the TPB’s decision in writing. The confirmed minutes will also be available at TPB’s website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

To: **Town Planning Board Secretariat**

Email: tpbpd@pland.gov.hk

Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER’S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

*(Please put a tick in **one** of the boxes provided below)*

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SIGNATURE

Name of further representer (as shown on the further representation): _____

Further Representation No.: _____

Full Name: Poon Jackson J S (identical with the name shown on HKID Card/Passport)

Signature: Jackson Date: 18 February 2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
- (b) The personal data provided by the further representers in this form may also be disclosed to other persons for the purposes mentioned in paragraph (a) above.
- (c) Further representers have a right of access and correction with respect to their personal data as provided under the Personal Data (Privacy) Ordinance (Cap. 486). Request for personal data access and correction should be addressed to the Town Planning Board Secretariat at 15/F., North Point, Government Offices, 333 Java Road, North Point, Hong Kong.

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-21 星期五 14:45:38
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: RE: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Annex II - TPB-R-S-H10-22-F502.pdf

Dear Sir,

Please find attached herewith a copy of the Annex II on the subject matter for your attention. Thank you.

With kind regards.

Li Pik Yi

From: tpbpd/PLAND <tpbpd@pland.gov.hk>
Sent: Friday, February 14, 2025 4:32 PM
To: [REDACTED]
Subject: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號
In reply please quote this ref.: TPB/R/S/H10/22-F502

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

By Email

14 February 2025

[REDACTED]
Li Pik Yi

Dear Sir/Madam,

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
(Further Representation No. F502)**

I refer to your further representation which was received by the Town Planning Board (TPB) on 02.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No.

Urgent Return receipt Expand Group Restricted Prevent Copy

S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on “Submission and Processing of Representations and Further Representations under the Town Planning Ordinance” (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB’s website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB’s website after the meeting. After confirmation of the minutes of TPB’s deliberation, the further representers will be notified of the TPB’s decision in writing. The confirmed minutes will also be available at TPB’s website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

To: **Town Planning Board Secretariat**

Email: tpbpd@pland.gov.hk

Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SIGNATURE

Name of further representer (as shown on the further representation): LI Pik Yi

Further Representation No.: TPB/R/S/H10/22-F502

Full Name: LI Pik Yi (identical with the name shown on HKID Card/Passport)

Signature: LiRkyi Date: 21 FEB 2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
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Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-21 星期五 14:47:40
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: RE: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Annex II - TPB-R-S-H10-22-F656.pdf

Dear Sir,

Please find attached herewith a copy of the Annex II on the subject matter for your attention. Thank you.

With kind regards.

Mak Wah Chi

From: tpbpd/PLAND <tpbpd@pland.gov.hk>
Sent: Friday, February 14, 2025 4:32 PM
To: [REDACTED]
Subject: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號
In reply please quote this ref.: TPB/R/S/H10/22-F656

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

By Email

14 February 2025

[REDACTED]
Mak Wah Chi

Dear Sir/Madam,

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
(Further Representation No. F656)**

I refer to your further representation which was received by the Town Planning Board (TPB) on 02.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No.

Urgent Return receipt Expand Group Restricted Prevent Copy

S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

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For future correspondence, please quote the above further representation number.

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

To: **Town Planning Board Secretariat**

Email: tpbpd@pland.gov.hk

Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
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FURTHER REPRESENTER'S VIEWS/RESPONSES

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(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SIGNATURE

Name of further representer (as shown on the further representation): MAK Wah Chi

Further Representation No.: TPB/R/S/H10/22-F656

Full Name: MAK Wah Chi (identical with the name shown on HKID Card/Passport)

Signature:  Date: 21 FEB 2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
- (b) The personal data provided by the further representers in this form may also be disclosed to other persons for the purposes mentioned in paragraph (a) above.
- (c) Further representers have a right of access and correction with respect to their personal data as provided under the Personal Data (Privacy) Ordinance (Cap. 486). Request for personal data access and correction should be addressed to the Town Planning Board Secretariat at 15/F., North Point, Government Offices, 333 Java Road, North Point, Hong Kong.

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-22 星期六 15:09:56
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Cc: [REDACTED]
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Scan22022025.pdf; Legal Report.pdf

Dear Sir/Madam,

Please see attached for: (1) duly signed Annex II; and (2) 54-page report dated February 18, 2025, divided into eight appendices, which constitute our legally valid responses under the relevant statutory provisions.

This report provides rigorous legal analysis demonstrating that the proposed rezoning breaches the statutory framework of the Town Planning Ordinance and fully addresses the Government Departmental comments.

Thank you/With kindest regards,

So Suet Lai
[REDACTED]

(Further Representation No: F784)

To: Town Planning Board Secretariat
Email: tpbpd@pland.gov.hk
Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

*(Please put a tick in **one** of the boxes provided below)*

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

Please refer to the attached 54-page report dated February 18, 2025, divided into eight appendices, which constitute our legally valid responses under the relevant statutory provisions. This report provides rigorous legal analysis demonstrating that the proposed rezoning breaches the statutory framework of the Town Planning Ordinance and fully addresses the Government Departmental comments.

SIGNATURE

Name of further representer (as shown on the further representation): SO SUET LAI

Further Representation No.: F784

Full Name: SO SUET LAI (identical with the name shown on HKID Card/Passport)

Signature:  Date: 18/2/2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
- (b) The personal data provided by the further representers in this form may also be disclosed to other persons for the purposes mentioned in paragraph (a) above.
- (c) Further representers have a right of access and correction with respect to their personal data as provided under the Personal Data (Privacy) Ordinance (Cap. 486). Request for personal data access and correction should be addressed to the Town Planning Board Secretariat at 15/F., North Point, Government Offices, 333 Java Road, North Point, Hong Kong.

Detailed Report Opposing the Rezoning of Pok Fu Lam Green Belt to “Undetermined” under Pok Fu Lam OZP No. S/H10/22

February 18, 2025

To: The Chairperson and Members, Town Planning Board

Cc: The Chief Executive of the Hong Kong Special Administrative Region

Subject: Detailed Report Opposing the Rezoning of Pok Fu Lam Green Belt to “Undetermined” under Pok Fu Lam OZP No. S/H10/22

Dear Chairperson and Members of the Town Planning Board,

I refer to my recent representation/further representation submissions and formal presentation before the Town Planning Board (TPB) during recent hearing(s). In response to your email dated February 14, 2025, which requested my responses/comments on the government departmental responses as per Annex I of the email, I hereby formally submit this report.

I wish to reiterate my unequivocal and comprehensive objection to the proposed rezoning of the Pok Fu Lam Green Belt (“GB”) to an “Undetermined” (“U”) designation under Pok Fu Lam OZP No. S/H10/22. I am very concerned that the proposal is fraught with legal, environmental, strategic, and procedural deficiencies; and that in effect, it deviates from established statutory mandates, disrupts the integrity of the planning process, and contravenes the national ecological imperatives enshrined by President Xi Jinping’s doctrine that “lucid waters and lush mountains are invaluable assets.” This doctrine is not a mere slogan but a fundamental principle underpinning our nation’s commitment to sustainable development and environmental stewardship.

This report, together with the accompanying appendices that present extensively detailed legal counterarguments, offers a compelling and robust basis for opposing the proposed rezoning. I trust that the Board will give due consideration to these points and uphold the integrity of Hong Kong’s planning process by rejecting the amendment in question.

Yours truly,

Terry Wong

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Disclaimer and Caveats

1. Factual Basis:

This report is based on the facts and information available at the time of its preparation. Should any additional or materially different facts emerge, the conclusions herein may require re-evaluation.

2. Legal Verification:

The opinions expressed herein are subject to further legal verification and are provided based on our current understanding of the relevant statutory provisions and case law. They do not constitute final or definitive legal advice.

3. Jurisdictional Limitations:

This submission is tailored to the statutory framework as it applies under the Town Planning Ordinance and relevant Hong Kong law. It does not address potential variations or interpretations in other jurisdictions.

4. Evolving Law:

The legal landscape is subject to change. Future legislative amendments, judicial interpretations, or regulatory changes may alter the legal context, and this report's conclusions may not be applicable under any such changes.

5. Independent Legal Advice:

The preparation and submission of this report do not constitute binding legal advice or create any formal legal representation, retainer, fiduciary, or professional relationship between the parties. Recipients are advised to seek independent legal advice before relying on the opinions expressed herein.

6. Purpose and Scope:

This report is prepared solely for the purpose of responding to the Government Departmental comments and for submission to the Town Planning Board and the Chief Executive. It is not intended for any other purpose and should not be relied upon in any unrelated matters.

7. Reliance on Secondary Sources:

The analysis contained herein relies, in part, on secondary sources and legal materials that are believed to be accurate at the time of publication. However, no representation is made as to the accuracy or completeness of such sources.

8. Subject to Revision:

The conclusions and recommendations contained in this report are based on the current state of affairs and may be subject to revision upon receipt of additional factual or legal clarification.

Executive Summary

This report provides an in-depth legal analysis demonstrating that the proposed rezoning:

- Violates the statutory framework established by the Town Planning Ordinance (TPO), notably section 6B(8).
- Is inconsistent with national and regional strategic objectives, including those encapsulated in the Northern Metropolis Strategy, thereby jeopardizing the coherence of Hong Kong's long-term planning framework.
- Falls short on essential environmental, traffic, fiscal, and public consultation standards, each of which is legally binding under Hong Kong planning and environmental law.
- Exposes the decision to judicial review, as reaffirmed by recent case law such as the Fanling Golf Course ruling, which underscores the need for strict procedural adherence.

I respectfully urge the Board to reject the rezoning proposal, maintain the Green Belt designation, and require that any future planning decisions adhere strictly to the statutory framework, robust environmental safeguards, and effective public consultation mechanisms.

1. Contravention of National Ecological Mandates

1.1. National Duty and Environmental Legacy

- President Xi Jinping's repeated pronouncements on ecological civilization impose an unequivocal national duty to preserve our natural heritage.
- The proposition to remove over 2,250 mature trees and disrupt a critical green belt does not simply represent an environmental cost—it represents an irreversible depletion of Hong Kong's ecological capital.
- Under Hong Kong's Climate Action Plan 2050, the preservation of biodiversity and carbon sequestration capacity is paramount.

1.2. Legal and Policy Conflicts

- Permitting development that effectively erodes these environmental assets is not only contrary to our long-term public interest but also stands in stark legal conflict with statutory environmental obligations and higher-level national policy directives.
- This decision, therefore, is both environmentally unsound and legally indefensible, as it disregards mandatory principles of sustainable development and fails to secure a vital public asset for future generations.

2. Legal and Procedural Overreach

2.1 Statutory Mandates and Decision-Making

- Section 6B(8) of the TPO explicitly requires that “after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.” In effect, there is no statutory provision permitting a “partial” acceptance.

- This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment.

- Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance.

- In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that fully addresses the representation.

- Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc “U” designation when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance.

2.2 Judicial Precedent and Procedural Fairness

- The High Court’s ruling in the Fanling Golf Course case stands as a powerful judicial rebuke of any planning authority that deviates from the established procedures.

- When the Board elects to “partially meet” representations by creating an entirely new and ill-defined category, it not only oversteps its statutory authority but also invites judicial intervention on the grounds of arbitrariness and abuse of discretion.

- The absence of an immediate, clear, and legally supported basis for such a category jeopardizes the integrity of the decision-making process and erodes public confidence in the rule of law. By creating a “U” zone without representation basis, the decision violates principles of procedural fairness.

3. Inconsistency with Strategic Development Objectives

3.1 Strategic Rationale and Site Selection

- The government has sought to justify the Pok Fu Lam site's selection on the basis that it is essential for Hong Kong's innovation and technology (I&T) development.
- However, this rationale is in stark conflict with the clearly delineated Northern Metropolis Strategy, which earmarks specific locations—such as the San Tin Technopole and the Science Park—as the designated hubs for I&T development.
- Diverting development to Pok Fu Lam—a site burdened with significant environmental and infrastructural constraints—fragments Hong Kong's strategic planning framework and erodes the intended economic synergy of a centralized I&T hub.

3.2 Procedural and Analytical Deficiencies

- Legally, planning decisions must not only mirror broad policy objectives but must also be supported by a detailed, site-specific comparative analysis that validates the chosen location.
- The absence of a rigorous, site-specific comparative analysis renders the decision arbitrary.
- The failure to rigorously consider and compare viable alternatives exposes it to potential legal challenge on grounds of procedural unfairness and irrationality.

4. Environmental Impact and Climate Commitments

4.1 Inadequate Environmental Safeguards

- The proposed development hinges on a compensation mechanism that permits the removal of mature trees with a replacement ratio of only 1:0.48.
 - This figure is significantly below the internationally accepted standard of 1:1 and fails to account for the multifaceted ecological functions provided by mature trees, including long-term carbon sequestration, soil stabilization, and habitat provision for local fauna.
 - The removal of these trees represents an irreversible loss of ecological capital that cannot be remedied by the planting of new saplings, which require decades to mature and achieve comparable functionality.
-
- Moreover, the proposal does not appear to incorporate a robust mitigation strategy for erosion and landslide risks associated with developing on steep slopes.

4.2 Climate Action and Legal Compliance

- The proposed development is in direct conflict with Hong Kong's Climate Action Plan 2050, which prioritises biodiversity preservation and carbon sequestration.
- Under both statutory environmental law and the guiding principles of the Climate Action Plan 2050, any development that precipitates such degradation is legally indefensible.
- The proposed environmental trade-offs are excessive and will likely be declared unlawful by any court that scrutinizes the adequacy of environmental safeguards in planning decisions.
- The inadequate mitigation measures expose the proposal to potential legal challenges on environmental grounds.

5. Traffic and Infrastructure Deficiencies

5.1 Flawed Traffic Impact Assessment (TIA)

- The Traffic Impact Assessment (TIA) accompanying the rezoning proposal is critically flawed.
- It relies on optimistic assumptions that do not adequately account for the severe congestion expected during peak hours, the substantial influx of heavy construction vehicles, or the long-term operational constraints given that the South Island Line (West) will not be operational until at least 2034.
- The delayed operation of critical transport infrastructure such as the South Usland Line West further exacerbates these concerns.

5.2 Public Safety and Urban Mobility Risks

- The failure to incorporate comprehensive worst-case scenario modeling violates the Board's statutory duty to ensure that any development will not unduly compromise public safety and urban mobility.
- When infrastructure is stressed beyond its designed capacity, the resulting deterioration in emergency response, air quality, and overall public safety can have severe, long-lasting consequences for the community.
- Consequently, the TIA, as presently drafted, fails to meet the statutory requirements for a safe and efficient transport network and is thus legally vulnerable to challenge.

6. Deficient Public Consultation and Stakeholder Engagement

6.1 Inadequate Engagement Process

- Effective public consultation is the cornerstone of Hong Kong's planning process and is a fundamental statutory requirement.
 - The rezoning proposal has been met with overwhelming opposition—1,859 out of 1,861 representations oppose the change—and key stakeholders, notably the Ebenezer School for the Visually Impaired, have been excluded and/or inadequately consulted from the consultation process.
-

6.2 Procedural Fairness and Legal Implications

- This exclusion represents a serious breach of procedural fairness, as it denies affected parties the opportunity to participate meaningfully in decisions that will have profound impacts on their community.
- The legal standard demands that planning decisions be made only after robust, two-way public engagement has been achieved.
- The absence of such engagement renders the decision not only procedurally flawed but also susceptible to judicial invalidation on the basis that it fails to secure a social license from the community.
- This deficiency undermines the legitimacy of the rezoning decision and strongly exposes it to judicial review.

7. Fiscal and Economic Considerations

7.1 Economic Analysis and Public Resource Allocation

- The proposal involves significant infrastructure expenditures without a transparent, rigorous cost-benefit analysis.
- At a time when Hong Kong is grappling with a structural budget deficit exceeding HK\$100 billion, the economic rationale behind the proposed development is deeply problematic.
- The rezoning proposal envisages enormous infrastructure expenditures for slope stabilization, environmental remediation, and other associated costs without a transparent, rigorous cost-benefit analysis.
- Relying on projections of private funding and future research grants does not meet the statutory requirement for prudent public resource allocation.

7.2 Fiscal Responsibility and Legal Defensibility

- Legally, planning decisions must be underpinned by robust financial analysis that ensures economic viability and protects scarce public funds from unnecessary diversion.
- The lack of detailed financial documentation and enforceable economic safeguards renders the proposal economically unsustainable.
- The absence of such an analysis renders the proposal not only fiscally irresponsible but also legally indefensible.
- This shortfall is set to strongly expose the decision to potential legal challenges for fiscal irresponsibility.

8. Conclusion and Recommendations

8.1 Summary of Key Findings

- The proposed rezoning violates statutory mandates by introducing an “Undetermined” zoning category contrary to Section 6B(8) of the TPO.
- It conflicts with national and regional strategic objectives and undermines environmental, traffic, and public consultation standards.

8.2 Recommendations for the Board

In light of the foregoing legal, environmental, strategic, and fiscal concerns, I respectfully urge the Board to:

- **Reject the Rezoning Proposal:** Uphold the Green Belt designation to safeguard Hong Kong’s environmental integrity and honor the national ecological vision as mandated by President Xi Jinping’s doctrine.
- **Realign Site Selection with Strategic Plans:** Redirect proposals for I&T development to the designated areas outlined in the Northern Metropolis Strategy or the Science Park, where a detailed, site-specific analysis supports the decision.
- **Enhance Public Consultation:** Institute a rigorous, transparent public consultation process that fully engages all relevant stakeholders from the outset, thereby satisfying statutory requirements for procedural fairness.
- **Ensure Legal and Environmental Compliance:** Adhere strictly to the statutory provisions of the TPO—including the explicit mandates of section 6B(8)—and undertake comprehensive, enforceable environmental and traffic assessments to preclude future legal challenges.

8.3 Concluding Remarks

- It is imperative that the Town Planning Board exercise its statutory discretion with utmost legal rigor and procedural fairness, ensuring that all decisions reflect both the public interest and the national commitment to ecological sustainability.
- I trust that this detailed report, together with the appended legal analyses, will inform your deliberations and lead to a decision that upholds the rule of law and the principles of sustainable development.

Appendix 1: Legal and Procedural Analysis of the Rezoning Proposal

1. Legal and Procedural Overreach

- **Flaw:** The unilateral introduction of an “Undetermined” zoning category, which was not proposed by any representer, is a clear deviation from the statutory decision-making framework mandated by section 6B(8) of the TPO.

- **Comment:** The established legal framework requires that the Board either fully accept or completely reject any representation, without resorting to a half-measure that attempts to “partially meet” the expressed views. By introducing a “U” zone—an option never provided on the table by section 6B(8) of the TPO—the Board effectively circumvents the clear statutory process and usurps its discretionary authority. This circumvention not only contravenes the letter and spirit of the TPO but also undermines the fundamental principle of legal certainty that underpins administrative law. The High Court’s decision in the Fanling Golf Course case reinforces that any deviation from prescribed procedures exposes a decision to judicial review, as it constitutes an arbitrary exercise of power. This arbitrary action, which lacks a rigorous, statutory justification, renders the rezoning proposal indefensible under the rule of law. In essence, the Board’s failure to adhere strictly to the procedural mandates constitutes a breach of administrative fairness and opens the door to subsequent legal challenges, thereby jeopardizing the legitimacy of the entire rezoning process.

2. Inconsistency with the Northern Metropolis Strategy

- **Flaw:** Diverting I&T development to Pok Fu Lam is in direct conflict with the strategic priorities of the Northern Metropolis Strategy, which clearly designates alternative hubs for such activities.

- **Comment:** Strategic planning in Hong Kong is governed not only by broad policy pronouncements but also by detailed, site-specific assessments that ensure coherence and rational allocation of resources. By ignoring the explicit guidance of the Northern Metropolis Strategy, the decision to develop in Pok Fu Lam undermines the very framework that is intended to foster economic synergy and efficient urban development. Legally, the Board’s failure to conduct a rigorous comparative analysis of alternative sites constitutes an arbitrary decision-making process. The statutory obligation to act in a rational manner requires that all viable options be carefully weighed, and the selection process be fully documented. Without such a meticulous evaluation, the decision appears capricious and open to judicial scrutiny. The divergence from established strategic priorities not only dilutes the effectiveness of regional planning but also exposes the decision to legal challenges on the grounds of procedural unfairness and lack of rationality.

3. Environmental Impact

- **Flaw:** The proposal’s reliance on a compensatory planting ratio of 1:0.48 for mature trees is grossly inadequate and fails to account for the multifaceted ecological functions of these trees.

- **Comment:** Mature trees perform a range of essential ecological functions that young saplings cannot replicate for decades, including significant roles in carbon sequestration, soil stabilization, and the maintenance of local biodiversity. The internationally accepted standard for compensatory planting is 1:1, and any deviation from this standard is tantamount to an admission that the loss of mature trees is being undervalued. Legally, such a shortfall in compensation not only violates statutory environmental standards but also undermines the principles enshrined in the Climate Action Plan 2050. The irreversible nature of mature tree loss, combined with the inadequate replacement ratio, means that the ecological damage is both immediate and irreparable. This failure to meet an enforceable environmental standard renders the proposal legally indefensible, as it does not provide sufficient protection for the public asset that these trees represent. The statutory duty to preserve natural habitats demands that any loss be fully and equivalently compensated, a requirement that is clearly not met by the current proposal.

4. Traffic and Infrastructure

- **Flaw:** The Traffic Impact Assessment (TIA) fails to account for realistic, worst-case scenarios, particularly regarding peak-hour congestion and the influx of construction-related traffic.

- **Comment:** The TIA is a critical document that must provide a robust analysis of the potential impacts of any development on local traffic conditions. In this case, the assumptions underlying the TIA are overly optimistic and do not reflect the true scale of the challenge, especially in a densely populated area like Pok Fu Lam. Statutory obligations require that the TIA be based on worst-case scenario modeling and include enforceable measures to mitigate any negative impacts. The failure to incorporate these elements means that the TIA does not meet the necessary legal standards for protecting public safety and ensuring efficient urban mobility. Moreover, any reliance on future improvements, such as deferred upgrades to road junctions or the anticipated operation of the South Island Line (West) beyond 2034, does not absolve the Board of its current duty to provide immediate, enforceable safeguards. This shortfall in the TIA exposes the decision to legal challenge on the grounds that it does not adequately protect the public interest, thereby rendering the proposal legally unsustainable.

5. Public Consultation

- **Flaw:** The consultation process was fundamentally deficient, as evidenced by the overwhelming opposition and the exclusion of key stakeholders such as the Ebenezer School for the Visually Impaired.

- **Comment:** Procedural fairness in administrative decision-making mandates robust and inclusive public consultation. The statutory framework requires that affected parties are provided with a meaningful opportunity to voice their concerns and contribute to the decision-making process. In this instance, the near-unanimous opposition—1,859 out of 1,861 representations—coupled with the exclusion of significant community stakeholders, demonstrates a profound failure to adhere to these principles. Legally, such a failure undermines the legitimacy of the decision and violates the duty to secure a social license for development. The lack of genuine, two-way communication not only breaches the procedural requirements but also creates an environment of arbitrariness and bias. This, in turn, renders the decision susceptible to judicial invalidation on the grounds that it fails to uphold the

principles of transparency, accountability, and fairness that are fundamental to Hong Kong's planning process.

6. Economic and Financial Viability

- **Flaw:** The proposal lacks a rigorous, transparent cost-benefit analysis and relies on uncertain projections of private funding and future grants.

- **Comment:** In an environment where public resources are extremely limited—as evidenced by Hong Kong's structural budget deficit exceeding HK\$100 billion—the statutory obligation for prudent fiscal management is paramount. Any large-scale development must be supported by a detailed, verifiable cost-benefit analysis that clearly demonstrates its economic viability and justifies the diversion of scarce public funds. The current proposal, by failing to provide such an analysis, exposes itself to legal challenge on the grounds of fiscal irresponsibility. Reliance on projections of private funding and future research grants is inherently speculative and does not meet the standard of certainty required by law. This lack of financial rigor not only jeopardizes the project's sustainability but also risks imposing an undue burden on the public purse. Legally, decisions that do not meet the strict standards of fiscal prudence are vulnerable to being overturned, as they fail to protect the public interest in a time of economic constraint.

Appendix 2: Detailed Legal Counterarguments to the 29 Grounds and Government Responses

This appendix provides an exhaustive summary of the 29 distinct grounds—organized into 10 categories—raised by further representations against the proposed amendments to the Draft Pok Fu Lam OZP No. S/H10/22, along with the government’s responses and robust legal counterarguments for each category. Each counterargument serves to ensure that all legal deficiencies are fully articulated and supported by relevant statutory and case law principles.

A. Strategic Planning, Site Selection, and Alternative Locations (FA1–FA5)

• FA1 – Misalignment with Planning Principles:

• **Objection:** The proposed development is fundamentally inconsistent with the overarching national, regional, and territorial planning goals.

• **Government Response:** The justification relies on the 2021 Policy Address and the I&T Blueprint to support the site selection.

• **Legal Counterargument:** It is not sufficient for a planning decision to simply align with high-level policy pronouncements; the decision must be supported by a meticulous, site-specific analysis that rigorously evaluates all viable alternatives. The absence of such an analysis renders the decision arbitrary and capricious, thereby failing the rationality test under administrative law. The statutory requirement for rational decision-making demands that the decision-maker fully consider and document the comparative merits of all potential sites. In this instance, the failure to do so constitutes a breach of procedural fairness and exposes the decision to judicial scrutiny. The lack of a comprehensive evaluation undermines the integrity of the planning process and ultimately renders the rezoning legally indefensible.

• FA2 – Undue Influence of Policy on Statutory Functions:

• **Objection:** The directive from the 2021 Policy Address has unduly preempted the Board’s independent statutory duty to evaluate site suitability on its merits.

• **Government Response:** The Board asserts that it has exercised independent and professional judgment in its review.

• **Legal Counterargument:** While high-level policy guidance is relevant, it cannot override the statutory obligation to conduct an unbiased, objective evaluation of all relevant factors. The reliance on the 2021 Policy Address to justify the decision without a thorough, independent analysis of the site-specific issues amounts to an abdication of the Board’s statutory responsibilities. This over-reliance on policy directives undermines the requirement for a balanced consideration of all material facts, thus constituting an abuse of discretion. Such a failure to independently verify and assess the suitability of the site renders the decision procedurally flawed and legally vulnerable to challenge on the grounds of partiality and arbitrariness.

• **FA3 – Questioning the Necessity of Proximity to HKU’s Campus:**

• **Objection:** The argument that proximity to HKU’s campus is a decisive factor does not justify the neglect of alternative sites that may better serve the public interest.

• **Government Response:** The government contends that clustering research facilities yields tangible benefits through synergistic effects.

• **Legal Counterargument:** The concept of synergy must be supported by quantitative and qualitative evidence that demonstrates a measurable enhancement in research output or economic efficiency. Vague assertions of “synergy” without such evidence fail to satisfy the statutory standard for altering established land-use patterns. The decision to prioritize proximity to HKU’s campus, without a rigorous comparative analysis of alternative sites, undermines the fundamental principles of rational planning and fairness. This lack of a robust evidentiary basis not only renders the decision arbitrary but also exposes it to legal challenge as it fails to meet the stringent requirements of statutory justification.

• **FA4 – Insufficient Evaluation of Alternative Sites:**

• **Objection:** The evaluation of potential alternative locations, such as the San Tin Technopole and the “R(C)6” site, is superficial and inadequate.

• **Government Response:** The justification is based on an in-principle acceptance under the 2021 Policy Address, with only cursory consideration of alternatives.

• **Legal Counterargument:** Statutory and administrative law mandates a comprehensive, comparative assessment of all viable alternatives before arriving at a decision that significantly alters land use. The failure to conduct such an analysis represents a serious procedural deficiency that renders the decision arbitrary and capricious. Without a detailed examination of each alternative’s merits, risks, and public benefits, the decision lacks the necessary evidentiary foundation required by law. This oversight is a fundamental breach of the duty to act rationally and impartially, and it substantially weakens the legal defensibility of the rezoning proposal.

• **FA5 – Lack of Comprehensive Technical Justification:**

• **Objection:** The proposal does not provide robust technical justifications for selecting the Pok Fu Lam site over other potential alternatives.

• **Government Response:** HKU has committed to future reviews and amendments based on stakeholder feedback.

• **Legal Counterargument:** Promises of future technical reviews cannot substitute for the immediate statutory obligation to base planning decisions on comprehensive and contemporaneous technical evidence. The Board is required to provide a fully documented rationale at the time of decision-making, demonstrating that all technical aspects have been rigorously analyzed. Relying on deferred evaluations undermines the credibility of the decision and violates the principles of administrative accountability and transparency. Such a failure to

provide immediate, detailed technical justification constitutes an abuse of discretion and leaves the decision open to legal challenge for its lack of proper evidentiary support.

B. The “U” Zoning (FB1–FB6)

• FB1 – Lack of Legal Basis for “U” Zoning:

- **Objection:** No representation has proposed the adoption of a “U” (Undetermined) zone; therefore, its imposition lacks a statutory basis under section 6B(8) of the TPO.

- **Government Response:** The Board asserts its discretion to “partially meet” representations.

- **Legal Counterargument:** Section 6B(8) of the TPO explicitly requires that “after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.” In effect, there is no statutory provision permitting a “partial” acceptance. This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment. Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that addresses the representation. Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc “U” designation (which does not meet any representation) when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance. Given no statutory provision for intermediary solution to partially satisfy the representation, introducing a “U” zone in the absence of any representational basis not only breaches this explicit statutory requirement but also undermines the principle of legal certainty. Such a maneuver is tantamount to an overreach of discretionary power, as it circumvents the necessary statutory decision process that ensures administrative decisions are both transparent and accountable. This deviation from established statutory procedure is likely to be deemed an abuse of power and arbitrary by any court tasked with reviewing the decision, thereby rendering the rezoning legally indefensible.

• FB2 – Inadequate Development Control:

- **Objection:** The “U” zone fails to establish clear and enforceable development parameters, thus undermining effective planning control.

- **Government Response:** It is contended that future planning permission, required under section 16, will provide the necessary control measures.

- **Legal Counterargument:** Relying on future regulatory mechanisms to impose controls does not absolve the immediate statutory obligation to establish definite development parameters within the zoning designation itself. The law requires that any interim measure must itself be clear, precise, and enforceable, thereby providing certainty for both developers and the public. Without such enforceability, the “U” zone becomes a legal vacuum where arbitrary development could occur, effectively nullifying the protective function of the existing zoning system. This lack of immediate, binding controls constitutes a serious breach of statutory planning standards and exposes the decision to judicial invalidation for its failure to protect public interests.

- **FB3 – Dangerous Precedent and Reduced Public Participation:**

- **Objection:** The adoption of “U” zoning sets a dangerous precedent by signaling that green spaces can be rezoned arbitrarily, thereby undermining public participation in planning decisions.

- **Government Response:** The measure is defended as a temporary stopgap to allow further consultation and review.

- **Legal Counterargument:** Even as a temporary measure, the introduction of a “U” zone must comply with the highest standards of legal and procedural integrity. The precedent set by such a decision could lead to a systematic erosion of established planning safeguards, as it implies that public representations can be effectively ignored. The statutory requirement for robust public consultation is not suspended simply because the measure is temporary; it remains an essential component of a legitimate planning process. By bypassing comprehensive public engagement, the decision not only fails to secure the requisite social license but also becomes susceptible to judicial review on grounds of arbitrariness and lack of transparency. This sets a pernicious precedent that undermines the statutory protections afforded to environmentally sensitive areas.

- **FB4 – Proposal to Revert to Original “GB” and “R(C)6” Zoning:**

- **Objection:** Many representers insist that the site should retain its original “GB” and “R(C)6” designations, which more accurately reflect the site’s current use and community expectations.

- **Government Response:** The interim “U” zone is justified pending a comprehensive review by HKU.

- **Legal Counterargument:** Deferring the decision through the introduction of an interim “U” zone does not fulfill the Board’s statutory obligation to provide a clear and legally sound zoning determination at the time of decision-making. The failure to immediately adopt the original zoning, despite overwhelming public opinion, renders the decision arbitrary and procedurally flawed. Statutory planning mandates require that any temporary measures must be accompanied by a rigorous justification that addresses all public and environmental concerns. Without such justification, the interim designation functions merely as a placeholder, exposing

the decision to legal challenge on grounds of procedural impropriety and non-compliance with established planning protocols.

• **FB5 – Insufficient Definition of Planning Parameters:**

• **Objection:** The explanatory statement for “U” zoning is vague and fails to clearly define the scope of permissible development, leaving excessive discretionary power for future reinterpretation.

• **Government Response:** It is argued that additional technical assessments and stakeholder consultations will be used to refine the parameters.

• **Legal Counterargument:** Statutory planning law demands that any decision affecting land use must be precise and predictable. The lack of clear, enforceable planning parameters creates uncertainty and undermines the legal certainty that is central to administrative decision-making. Future promises of refinement cannot substitute for the immediate need for definitive criteria that protect both public interests and the integrity of the land-use system. The absence of such clarity is likely to be deemed legally insufficient, as it fails to provide a solid foundation upon which enforceable planning controls can be built, thus exposing the decision to judicial invalidation for its vagueness.

• **FB6 – Bypassing Established Rezoning Procedures:**

• **Objection:** The introduction of “U” zoning circumvents the established statutory decision-making process prescribed by the TPO, thereby weakening statutory planning safeguards.

• **Government Response:** The Board asserts its independent statutory authority to amend the plan as it deems fit.

• **Legal Counterargument:** While the Board is granted a degree of discretionary authority, this power is circumscribed by strict statutory limits that mandate adherence to established procedures. Deviating from such without compelling and well-documented reasons may be deemed to constitute an abuse of power. Such a circumvention undermines the legal predictability and procedural fairness that are essential to administrative law. The decision to bypass established procedures risks not only compromising the integrity of the planning process but also setting a dangerous precedent that may erode public trust in statutory safeguards. This conduct is legally indefensible as it breaches both the letter and the spirit of the TPO.

C. Land Use Compatibility, Development Intensity, Visual Impact, and Interface with Nearby Schools (FC1–FC3)

• **FC1 – Incompatibility with Low-Density, Green Residential Character:**

• **Objection:** The development of a high-density Centre in a predominantly low-density, green residential area is inherently incompatible with the character of Pok Fu Lam.

- **Government Response:** The Board contends that appropriate design modifications can mitigate the incompatibility.

- **Legal Counterargument:** The statutory presumption against significant development in “GB” zones is well-established, and any proposal to contravene this presumption must be supported by incontrovertible evidence that the development is compatible with the existing land use. Generic promises to adjust building density or bulk are insufficient unless they are accompanied by detailed, enforceable design criteria. The failure to provide such criteria renders the decision arbitrary and exposes it to judicial review on the grounds of incompatibility with the established residential character. In effect, without a rigorous demonstration that the proposed modifications will maintain the intrinsic qualities of the area, the rezoning decision is legally indefensible.

- **FC2 – Adverse Visual Impacts:**

- **Objection:** The proposed building bulk and configuration will significantly impair critical public vistas and degrade the aesthetic quality of the area.

- **Government Response:** HKU is directed to adopt specific design enhancements, including reduced building heights and increased setbacks, to mitigate visual impacts.

- **Legal Counterargument:** The statutory duty to protect public views is not met by vague commitments to “enhance” design; rather, it requires the imposition of clear, measurable, and enforceable standards. The absence of such standards means that affected parties have no effective remedy should the visual impacts materialize. Legally, this uncertainty constitutes a breach of the planning process’s obligation to secure public amenity, thereby rendering the decision arbitrary and subject to judicial invalidation for failing to meet the necessary criteria for protecting the visual environment.

- **FC3 – Negative Impact on the Ebenezer School:**

- **Objection:** The proximity of the proposed Centre—being less than 15 meters from the Ebenezer School—poses significant risks of noise, vibration, and other adverse impacts on vulnerable students.

- **Government Response:** HKU is required to engage with the school and institute mitigation measures to protect the educational environment.

- **Legal Counterargument:** The potential for irreversible harm to a sensitive institution such as the Ebenezer School demands immediate and binding protective measures, not merely promises of future engagement. Statutory obligations require that any development in close proximity to vulnerable groups must incorporate enforceable safeguards that ensure their safety and well-being. The failure to include such concrete measures renders the decision procedurally and substantively flawed, leaving it open to challenge on the grounds that it fails to protect the rights and interests of a particularly vulnerable segment of the community.

D. Tree Preservation, Landscape, and Ecology (FD1–FD2)

• FD1 – Irreversible Loss of Mature Trees:

- **Objection:** The removal of over 2,250 mature trees will cause irreversible ecological damage that cannot be offset by the proposed compensatory planting.

- **Government Response:** HKU proposes to mitigate the impact through the planting of heavy-standard trees arranged in clusters.

- **Legal Counterargument:** Mature trees provide complex ecological functions—ranging from carbon sequestration to biodiversity support—that young saplings cannot replicate for decades. The internationally accepted standard is a 1:1 replacement ratio, and any deviation from this standard constitutes a failure to adequately compensate for the loss. Legally, the irreversible loss of mature trees amounts to a permanent degradation of a public asset, and statutory environmental protection standards require that any such loss be fully and equivalently compensated. The proposed ratio of 1:0.48 is demonstrably insufficient and legally indefensible because it undermines the fundamental environmental objectives that underpin both local and national legislation. Such a shortfall in compensation represents a clear breach of statutory duties to preserve natural heritage.

• FD2 – Inadequate Compensation:

- **Objection:** The promise to improve compensatory measures in the future does not address the immediate and irreversible loss of ecological functions provided by mature trees.

- **Government Response:** HKU commits to further reviewing and enhancing its compensation strategy.

- **Legal Counterargument:** Statutory environmental law requires that any compensatory measure be both immediate and equivalent in ecological value to the loss incurred. Future promises or tentative commitments cannot substitute for enforceable standards that protect the environment at the time of decision-making. The failure to secure an immediate, legally binding compensation measure that meets a 1:1 standard renders the proposal irreconcilable with statutory requirements. This inadequacy not only violates established environmental protection principles but also opens the decision to legal challenge for failing to safeguard a critical public resource.

E. Traffic and Transport (FE1–FE4)

• FE1 – Exacerbation of Local Traffic Congestion:

- **Objection:** The additional traffic generated by the Centre would exacerbate congestion in an area that is already overburdened, negatively impacting public safety and quality of life.

- **Government Response:** The TIA contends that targeted junction improvements will alleviate the increased traffic burden.

- **Legal Counterargument:** Traffic impact assessments must be grounded in conservative, worst-case scenario projections that reflect the true potential for congestion. Optimistic assumptions that do not incorporate the full impact of peak-hour traffic or the significant disruption caused by heavy construction vehicles fall short of the statutory standard for protecting public safety. Without immediate, enforceable remedial measures, the TIA is legally inadequate because it fails to provide a comprehensive strategy for mitigating foreseeable traffic problems. This deficiency exposes the decision to legal challenge on the grounds that it does not ensure the safe and efficient operation of the local transport network.

- **FE2 – Over-Optimistic TIA Assumptions:**

- **Objection:** The TIA does not adequately factor in the severe impact of construction traffic and peak-period congestion.

- **Government Response:** HKU promises to update the TIA in subsequent design stages.

- **Legal Counterargument:** Deferring critical assessments to future stages is insufficient to meet the immediate statutory obligation to base the decision on a complete and realistic appraisal of traffic impacts. The Board must ensure that the present TIA accurately reflects worst-case scenarios and incorporates binding measures to mitigate these impacts. The reliance on deferred updates undermines the legal requirement for a thorough, contemporaneous analysis, leaving the decision exposed to challenge for its failure to provide immediate public safety assurances.

- **FE3 – Violation of the Pok Fu Lam Moratorium (PFLM):**

- **Objection:** The proposed high plot ratio and inclusion of residential components are in clear violation of the objectives of the Pok Fu Lam Moratorium, which is designed to protect the area from excessive development.

- **Government Response:** Revised development parameters are asserted to bring the proposal within permissible limits.

- **Legal Counterargument:** Any relaxation of the moratorium standards must be supported by rigorous, evidence-based justification that clearly demonstrates the public benefits outweigh the risks. In this instance, the failure to provide such evidence renders the decision legally indefensible. The statutory objective of the PFLM is to preserve the character and functionality of the area, and any departure from this objective without compelling justification is arbitrary. This violation of established planning policy exposes the decision to legal challenge on grounds of inconsistency and procedural unfairness.

- **FE4 – Delayed Public Transport Infrastructure (SIL(W)):**

- **Objection:** The projected delay in the operational commencement of the South Island Line (West) means that the long-term traffic impacts will not be mitigated in a timely manner.

- **Government Response:** Future traffic reviews and planned junction improvements are offered as remedial measures.

- **Legal Counterargument:** Relying on future infrastructure improvements does not absolve the Board of its present statutory duty to ensure that the local transport network is capable of handling the additional load imposed by the development. The absence of immediate, enforceable measures to address the anticipated congestion constitutes a breach of the statutory requirement to protect public safety. This reliance on deferred improvements creates an unacceptable risk of long-term traffic bottlenecks, rendering the decision legally vulnerable for failing to provide a complete and adequate mitigation strategy.

F. Environmental and Safety Concerns (FF1–FF2)

• FF1 – Contradiction with Climate Strategy:

- **Objection:** Development on Green Belt land will accelerate deforestation and increase carbon emissions, which is in direct contradiction with Hong Kong’s goal of achieving carbon neutrality by 2050.

- **Government Response:** HKU commits to ensuring a minimum of 30% overall greenery and 12,000m² of communal open space.

- **Legal Counterargument:** The statutory and environmental mandates require that any development impacting the natural environment produce measurable, enforceable outcomes that directly align with climate action goals. The commitment to percentage targets without a detailed implementation plan fails to meet the rigorous standards set by the Climate Action Plan 2050. The legal framework demands not only aspirational targets but also concrete, binding measures that guarantee the preservation of ecological functions. In the absence of such detailed safeguards, the proposal is legally indefensible, as it compromises the statutory objective of reducing carbon emissions and protecting natural habitats.

• FF2 – Public Health Risks from Biosafety Facilities:

- **Objection:** The presence of a Biosafety Level 3 laboratory near residential areas poses significant public health risks that are unacceptable under any circumstances.

- **Government Response:** HKU argues that similar facilities have operated safely under stringent regulatory regimes elsewhere.

- **Legal Counterargument:** Reliance on the safe operation of analogous facilities in different contexts does not substitute for a rigorous, site-specific risk assessment. The statutory obligation is to ensure that any high-risk facility, especially one located in close proximity to residential areas, is accompanied by immediate and enforceable safety measures tailored to the unique risks of the site. The failure to implement such measures renders the decision legally indefensible, as it violates the public’s right to safety and health. The Board must require detailed, binding safeguards that address the specific risks associated with the proposed laboratory before any rezoning can be justified.

G. Drainage and Utility (FG1)

• FG1 – Risk of Slope Failure and Flooding:

- **Objection:** Extensive excavation and removal of vegetation may destabilize slopes, thereby significantly increasing the risk of flooding along Pok Fu Lam Road.

- **Government Response:** A Drainage Impact Assessment (DIA) concludes that the existing infrastructure is adequate.

- **Legal Counterargument:** Given the scale of the proposed works and the critical importance of maintaining slope stability, the adequacy of the drainage infrastructure must be independently verified and accompanied by comprehensive contingency planning. Reliance on a single DIA without robust, enforceable backup measures does not meet the statutory requirement for protecting public safety and environmental integrity. The potential for catastrophic failure, in the absence of immediately enforceable safeguards, renders the decision legally indefensible.

H. Geotechnical and Development Costs (FH1–FH3)

• FH1 – Geotechnical Risks and Slope Stability:

- **Objection:** Construction on steep slopes presents significant risks of landslides and destabilization, which could have severe repercussions for neighboring properties and public safety.

- **Government Response:** A Geotechnical Planning Review Report deems the project feasible provided that appropriate remedial measures are implemented.

- **Legal Counterargument:** Feasibility studies, while important, are insufficient unless accompanied by binding, enforceable controls that guarantee the long-term stability of the slopes. Statutory obligations require that all geotechnical risks be addressed through concrete, precautionary measures that are incorporated into the planning approval. The absence of such enforceable controls means that the potential for catastrophic failure remains, thereby exposing the project to legal challenge on the grounds that it fails to meet the necessary public safety standards.

• FH2 – Fiscal Irresponsibility:

- **Objection:** Pursuing an extravagant project in an area ill-suited for such development is fiscally irresponsible, particularly given Hong Kong's substantial budget deficit.

- **Government Response:** HKU asserts that the Centre is self-financing, relying on private funding and research grants.

- **Legal Counterargument:** Uncertain and speculative funding arrangements cannot substitute for a rigorous, transparent cost-benefit analysis that is required under statutory planning standards. The Board is legally obligated to ensure that public resources are allocated

prudently, especially in a time of fiscal constraint. The absence of detailed financial projections and binding assurances regarding funding sources renders the proposal economically unsustainable and legally indefensible. The decision, therefore, violates the statutory duty of fiscal prudence by failing to adequately justify the diversion of scarce public funds.

• **FH3 – Doubts over Financial Viability:**

• **Objection:** The proposal lacks detailed financial documentation and transparent cost projections, raising serious doubts about the overall economic viability of the project.

• **Government Response:** HKU provides general assurances of diversified funding sources.

• **Legal Counterargument:** Legally, the Board must be presented with a comprehensive, meticulously detailed cost-benefit analysis that clearly demonstrates the economic feasibility of the project. General assurances or vague promises of future funding do not satisfy this requirement. In the absence of such rigorous financial documentation, the proposal fails to meet the statutory standard for responsible resource allocation. This financial opacity renders the decision legally indefensible, as it imposes an undue risk on public finances and fails to ensure economic sustainability.

I. Other Matters (FI1–FI2)

• **FI1 – Potential Property Devaluation and Quality of Life Impacts:**

• **Objection:** The development may lead to significant property devaluation and a deterioration in the overall quality of life, owing to increased noise, congestion, and environmental degradation.

• **Government Response:** It is argued that property values are not a primary statutory planning consideration.

• **Legal Counterargument:** While property prices are not the sole determinant of a planning decision, quality of life and environmental amenity are fundamental considerations under statutory planning criteria. Ignoring these factors results in an incomplete assessment of the public interest. The legal framework requires that all adverse impacts on the community's living standards be thoroughly assessed and mitigated. The failure to do so constitutes a breach of the statutory duty to ensure that the planning decision promotes the public good, thereby rendering the proposal legally indefensible.

• **FI2 – Unclear Tangible Community Benefits:**

• **Objection:** The benefits promised to the local community are vague and largely appear to serve HKU's institutional interests rather than generating clear, measurable public gains.

• **Government Response:** HKU asserts that the Centre will provide public facilities and improved connectivity that will benefit the community.

- **Legal Counterargument:** Statutory planning requirements demand that any proposed development yield demonstrable, quantifiable benefits to the community. Vague projections or aspirational statements are insufficient to meet this threshold. The absence of specific, enforceable benchmarks for public benefit renders the decision arbitrary and legally susceptible to challenge on the grounds that it fails to secure a true social license. Without clear, measurable outcomes that benefit the public, the justification for rezoning remains legally unpersuasive.

J. Public Consultation (FJ1)

• FJ1 – Inadequate Public Consultation:

- **Objection:** The record of public engagement is severely deficient, and the consultation process has not met the required statutory standards for meaningful stakeholder involvement.

- **Government Response:** HKU points to previous engagement efforts and commits to enhanced future consultation.

- **Legal Counterargument:** The statutory obligation for robust, contemporaneous public consultation cannot be remedied by future promises. The failure to engage affected parties in a substantive manner at the time of the decision constitutes a serious breach of procedural fairness. This lack of immediate, effective public consultation not only undermines the legitimacy of the decision but also violates the legal principle that all stakeholders must have a genuine opportunity to participate in decisions that impact their environment and quality of life. Consequently, the decision is legally unsound and subject to judicial challenge on the basis of inadequate public participation.

In summary, the government's responses—predicated largely on deferred reviews, design modifications, and promises of future assessments—do not meet the immediate, detailed statutory justification required under Hong Kong's planning and environmental law. Each category of objection, from procedural overreach to fiscal irresponsibility, reveals fundamental legal vulnerabilities in the rezoning proposal. Absent immediate, enforceable measures that address these deficiencies, the proposal remains exposed to successful legal challenges on grounds of arbitrariness, procedural unfairness, and non-compliance with established statutory obligations.

Appendix 3: Strategic Justifications for a Northern Metropolis Innovation Hub – A Counter-Analysis of PlanD’s Consultation Responses

Below is a comprehensive set of responses that clearly outline our disagreements with each of PlanD’s responses (in consultation with the Government Bureaux/Departments). Each point is supported by strong strategic, environmental, economic, and community justifications for rejecting the proposals that favour a development in Pok Fu Lam:

A. Strategic Planning, Site Selection and Alternative Locations

- **Response from PlanD:** They argue that HKU’s proposal in Pok Fu Lam complies with the 2021 Policy Address and related strategies; that alternative sites (such as San Tin Technopole) are available; and that situating the Centre near HKU, QMH, and Cyberport creates synergies.

- **Disagreement:** Concentrating deep technology research in a fragmented, built-up area like Pok Fu Lam undermines our long-term vision. We require a purpose-built, integrated innovation hub that can leverage ample new land and modern infrastructure.

- **Justifications:**

- The Northern Metropolis has been designed from the ground up to achieve economies of scale and foster a critical mass of I&T activities.

- Its strategic location and planned connectivity with the Greater Bay Area ensure closer alignment with national and regional development priorities, making it the logical choice for a future-proof innovation ecosystem.

B. The “U” Zoning

- **Response from PlanD:** They defend an interim “U” zoning for the Pok Fu Lam site—asserting that it provides a flexible, stopgap measure allowing HKU to review and adjust its development plan based on stakeholder feedback.

- **Disagreement:** Employing a temporary “U” zoning in an area inherently unsuitable for high-intensity innovation facilities merely delays the inevitable mismatch between land use and our strategic goals.

- **Justifications:**

- Interim zoning in Pok Fu Lam only perpetuates a suboptimal development framework, whereas the Northern Metropolis can be zoned definitively to accommodate high-density, high-value innovation infrastructure from the outset.

– This approach ensures that our urban planning aligns with long-term sustainability and competitiveness rather than relying on temporary fixes.

C. Land Use Compatibility, Development Intensity, Visual Impact and Interface with Nearby Schools

- **Response from PlanD:** They contend that with design adjustments—such as reducing bulk, increasing setbacks, and integrating green spaces—the proposed Centre in Pok Fu Lam can be made compatible with its surroundings.

- **Disagreement:** The established low-density, green, and community-oriented character of Pok Fu Lam is fundamentally at odds with a large-scale, high-density innovation hub.

- **Justifications:**

- Transforming Pok Fu Lam would irreversibly alter its unique residential and environmental character.

- In contrast, the Northern Metropolis is envisioned as a dynamic urban district that can seamlessly integrate high-density development with modern green infrastructure and advanced planning controls.

D. Tree Preservation, Landscape and Ecology

- **Response from PlanD:** They suggest that compensatory planting and improved landscaping can mitigate the removal of mature trees in Pok Fu Lam.

- **Disagreement:** The loss of over 2,250 mature trees would cause irreversible ecological damage and permanently diminish the urban green legacy of Pok Fu Lam.

- **Justifications:**

- Mature trees and established green corridors in a historic area cannot be replaced by mere compensatory measures.

- The Northern Metropolis, being a blank slate, allows us to integrate robust environmental planning and green design from day one, ensuring that ecological quality is maintained without sacrificing strategic development.

E. Traffic and Transport

- **Response from PlanD:** They claim that traffic impacts in Pok Fu Lam can be managed with junction improvements, revised Traffic Impact Assessments, and design modifications.

- **Disagreement:** The existing narrow road network and chronic congestion issues in Pok Fu Lam render it unsuitable for accommodating the additional traffic generated by a mega innovation hub.

- **Justifications:**

- The Northern Metropolis is built around a modern, expansive transport network—with planned enhancements, wider roadways, and new public transport links—specifically designed to handle increased mobility demands.

- Locating the Centre in a purpose-built new district avoids exacerbating existing congestion and delivers long-term traffic resilience.

F. Environmental and Safety Concerns

- **Response from PlanD:** They argue that HKU’s design—including a commitment to 30% greenery and adherence to safety standards for laboratory facilities—will manage environmental and public health risks in Pok Fu Lam.

- **Disagreement:** Even with these mitigations, the environmental risks—such as deforestation, increased carbon emissions, and the challenges of operating high-risk facilities near dense residential areas—remain unacceptably high in Pok Fu Lam.

- **Justifications:**

- The Northern Metropolis enables us to incorporate cutting-edge sustainable technologies and stringent safety measures from inception, fully aligning with our carbon neutrality goals and ensuring a safe environment for all stakeholders.

- This proactive approach is far superior to retrofitting an unsuitable urban area.

G. Drainage and Utility

- **Response from PlanD:** They maintain that the existing drainage infrastructure in Pok Fu Lam is adequate, as evidenced by the Drainage Impact Assessment.

- **Disagreement:** The challenges inherent in retrofitting an older, densely built area elevate the risk of drainage failures and slope instability—risks that can be more effectively managed in a new development area.

- **Justifications:**

- The Northern Metropolis allows us to design modern, resilient drainage and utility systems from scratch, minimizing risks of flooding or environmental failure under extreme weather conditions.

– This forward-thinking approach ensures that infrastructure supports future growth without compromising safety.

H. Geotechnical and Development Costs

- **Response from PlanD:** They argue that geotechnical challenges in Pok Fu Lam are manageable and that the project’s self-financing nature justifies its location there.
- **Disagreement:** Developing in a mature, built-up area like Pok Fu Lam entails higher construction costs, complex engineering retrofits, and long-term operational risks that are financially inefficient.
- **Justifications:**
 - The Northern Metropolis, as a blank canvas, offers cost-efficient construction with lower maintenance and retrofit costs, ensuring that public funds are deployed optimally.
 - Given Hong Kong’s fiscal constraints, a new, purpose-built district better supports sustainable, long-term economic growth.

I. Other Matters (Property Devaluation and Community Benefits)

- **Response from PlanD:** They downplay concerns about property devaluation and emphasize that property prices are not a planning metric, insisting that the Centre will bring planning gains to the community.
- **Disagreement:** The introduction of a high-density, disruptive development in Pok Fu Lam risks significant property devaluation and undermines the quality of life for long-established residents.
- **Justifications:**
 - The tangible benefits of a world-class innovation hub are better realized in the Northern Metropolis, where new development can be integrated into a comprehensive urban renewal strategy that delivers broad economic and social benefits without eroding existing community assets.
 - Concentrating such transformative projects in a designated area avoids fragmenting the urban fabric of established residential communities.

J. Public Consultation

- **Response from PlanD:** They assert that HKU's public consultation efforts—via briefing sessions and online platforms—are adequate and that further consultations will address any remaining concerns.
 - **Disagreement:** Past consultation exercises in Pok Fu Lam have not adequately addressed the deep-rooted concerns of local residents and stakeholders.
 - **Justifications:**
 - The Northern Metropolis represents a fresh start where comprehensive, proactive, and genuine stakeholder engagement can be implemented from the outset.
 - By avoiding the entrenched conflicts in Pok Fu Lam, we can ensure that the public consultation process is truly two-way and integrated into a forward-looking urban planning framework.
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In summary, while PlanD's responses attempt to justify the development of the Global Innovation Centre in Pok Fu Lam, our strategic, environmental, economic, and community imperatives compel us to reject this approach. The Northern Metropolis offers a modern, flexible, and sustainable platform that is fully aligned with Hong Kong's long-term vision for an internationally competitive I&T hub.

Appendix 4: Counterarguments and Rebuttal to HKU President's Further Representation Letter dated January 3, 2025 on Pok Fu Lam Rezoning

Below is a detailed set of counterarguments, organized by key thematic areas, in response to the letter dated January 3, 2025 from the President of HKU:

1. Location and Strategic Alignment

- **HKU's Claim:** The letter asserts that locating the Global Innovation Centre (GIC) in Pok Fu Lam is optimal because of its proximity to HKU's campus and the resulting synergies with institutions like Queen Mary Hospital and Cyberport.
- **Counterargument:** Although local proximity offers short-term benefits, it neglects the broader strategic vision embodied in the Northern Metropolis Strategy. Concentrating high-value, innovative research facilities in a purpose-built hub—with ample new land, modern infrastructure, and enhanced connectivity with the Greater Bay Area—ensures economies of scale and a critical mass that is not achievable in a congested, historically residential area like Pok Fu Lam.

2. Technical and Environmental Feasibility

- **HKU's Claim:** HKU maintains that technical assessments reveal no insurmountable obstacles and that proposed mitigation measures (e.g., compensatory planting and design modifications) will address environmental issues.
- **Counterargument:** The letter downplays significant environmental risks. The irreversible removal of over 2,250 mature trees, even with a compensatory ratio of 1:0.48 (which falls short of the internationally accepted 1:1 standard), compromises critical ecological functions such as carbon sequestration, soil stabilization, and biodiversity support. Moreover, retrofitting an area with steep slopes and an aged infrastructure introduces risks (e.g., landslides and drainage failures) that are better managed in a new development area designed with state-of-the-art environmental safeguards.

3. Traffic and Infrastructure

- **HKU's Claim:** The submission suggests that traffic impacts will be manageable through junction improvements, phased construction, and updated Traffic Impact Assessments (TIA).
- **Counterargument:** Pok Fu Lam's narrow, already congested road network is ill-suited for the heavy traffic associated with both construction and long-term operation of a mega innovation hub. The assumptions in the TIA are overly optimistic, especially given the delayed

operation of key transport infrastructure (such as the South Island Line [West]). This raises serious public safety and urban mobility concerns that cannot be adequately mitigated in the current location.

4. Public Consultation and Stakeholder Engagement

- **HKU's Claim:** The letter notes that HKU has received feedback during prior consultations and promises further engagement with stakeholders.
 - **Counterargument:** Despite these assurances, overwhelming opposition from local residents, environmental groups, and key institutions (e.g., the Ebenezer School for the Visually Impaired) indicates that genuine two-way consultation has been insufficient. The entrenched community sentiment in Pok Fu Lam strongly favors preserving the area's green character—a factor that cannot be remedied by vague future promises of engagement.
-

5. Fiscal and Economic Considerations

- **HKU's Claim:** The letter argues that the project is self-financing and that the economic benefits justify the rezoning in Pok Fu Lam.
- **Counterargument:** The financial model presented is based on speculative projections, including uncertain private funding and future research grants. Given Hong Kong's significant budget deficit, allocating scarce public resources to retrofit an older urban area like Pok Fu Lam—replete with hidden costs for infrastructure upgrades and environmental remediation—is fiscally imprudent. In contrast, the Northern Metropolis offers a cost-efficient development environment that better supports long-term economic growth.

6. Alternative Sites and Future Growth

- **HKU's Claim:** HKU emphasizes that Pok Fu Lam is “most suitable” for the GIC due to existing institutional ties.
- **Counterargument:** The letter does not sufficiently address viable alternatives. The Northern Metropolis, with its designated zones (e.g., San Tin Technopole and the Science Park), provides a blank canvas that is designed for high-density, future-proof innovation development. This centralized approach not only aligns with national strategies but also promotes broader economic synergies that are unattainable in a fragmented urban setting.

7. Overall Strategic Vision and Policy Consistency

- **HKU's Claim:** The letter posits that the proposed rezoning is consistent with Hong Kong's innovation and technology development goals.

- **Counterargument:** There is a clear policy inconsistency: while HKU's proposal emphasizes local convenience, it conflicts with the Government's long-term Northern Metropolis Strategy, which is aimed at creating an integrated I&T ecosystem in a new, purpose-built area. This misalignment risks fragmenting Hong Kong's strategic vision and diluting the potential for a centralized innovation hub that can drive sustainable, high-impact growth.

Overall Position:

While HKU's letter emphasizes the immediate benefits of proximity and local synergies in Pok Fu Lam, these arguments fail to address the broader environmental, infrastructural, fiscal, and strategic imperatives essential for Hong Kong's sustainable future. Prioritizing development in the Northern Metropolis offers a future-proof, integrated approach that better aligns with national directives, minimizes ecological damage, and optimizes long-term economic and infrastructural outcomes.

Appendix 5: Counterarguments to HKU's Claim on Upstream Deep Technology Research Suitability

1. Integrated Research Ecosystem

- **HKU's Claim:** Upstream deep technology research must be conducted in close proximity to the HKU campus to benefit from established academic infrastructure and pre-existing research clusters.

- **Counterargument:** Innovation today thrives on an integrated ecosystem that spans the entire value chain—upstream, midstream, and downstream. A dedicated innovation hub in the Northern Metropolis can be designed from the ground up to create a comprehensive, interdisciplinary ecosystem that not only supports deep technology research but also accelerates its translation into applied technologies and market-ready solutions. This integrated environment fosters cross-disciplinary collaboration and enables breakthroughs that isolated campus settings cannot match.

2. State-of-the-Art Facilities and Scalability

- **HKU's Claim:** Existing campus facilities in Pok Fu Lam are uniquely tailored to support upstream research, implying that they cannot be replicated or enhanced elsewhere.

- **Counterargument:** The Northern Metropolis innovation hub is envisioned as a purpose-built facility that can incorporate state-of-the-art laboratories and research centers designed to meet the rigorous demands of deep technology research. Starting with a blank slate allows for scalability and the incorporation of modern technologies (e.g., advanced cleanrooms, high-performance computing clusters, and flexible lab spaces) that can be optimized for deep research. In contrast, retrofitting older facilities in Pok Fu Lam may impose physical and operational limitations that hinder growth and innovation.

3. Attraction of Global Talent and Enhanced Collaboration

- **HKU's Claim:** Proximity to the existing HKU campus attracts top-tier local talent, which is crucial for upstream research.

- **Counterargument:** A modern, integrated hub in the Northern Metropolis is designed to attract not only local experts but also global talent by offering cutting-edge facilities, a vibrant ecosystem, and substantial support from both government and industry. The new hub's vision includes creating a magnet for innovation that spans all research stages. The synergy derived from a large-scale, purpose-built environment can enhance collaboration across academia, industry, and government—an advantage that extends well beyond the localized benefits of proximity.

4. Infrastructure, Economic Efficiency, and Future-Proofing

- **HKU's Claim:** The legacy environment in Pok Fu Lam is ideally suited for the specialized requirements of deep technology research.

- **Counterargument:** In a rapidly evolving technological landscape, future-proofing research capabilities is essential. The Northern Metropolis offers an opportunity to build modern infrastructure tailored to the evolving needs of advanced research, including flexible lab designs, digital connectivity, and sustainable construction. Economies of scale and a forward-looking design approach in the Northern Metropolis will result in lower long-term operational costs, greater adaptability, and enhanced capacity to support large-scale, high-impact research initiatives—all of which are difficult to achieve in a constrained, older urban area like Pok Fu Lam.

5. Policy Alignment and Strategic Vision

- **HKU's Claim:** The focus on upstream deep technology research justifies the continued use of Pok Fu Lam, where a long history of research exists.

- **Counterargument:** While a historical legacy can be valuable, strategic planning must also consider future national and regional priorities. The Northern Metropolis Strategy explicitly aims to create an integrated innovation ecosystem that supports the full spectrum of research—from fundamental to applied. This comprehensive approach ensures that deep technology research is embedded within a larger, dynamic framework that enhances commercialization and industrial collaboration. By aligning with long-term strategic goals, the Northern Metropolis hub positions Hong Kong as a globally competitive center for innovation rather than confining research to a legacy urban setting.

6. Enhanced Cross-Disciplinary Synergies

- **HKU's Claim:** Proximity to the HKU campus fosters a strong research culture for upstream deep technology initiatives.

- **Counterargument:** While proximity can be beneficial, true innovation emerges from dynamic, cross-disciplinary interactions that are not limited to a single institution. The Northern Metropolis innovation hub is being designed as a convergence platform where experts from various disciplines—ranging from pure research to practical applications—collaborate seamlessly. This multi-faceted environment creates a broader network for knowledge sharing and joint problem-solving, which can ultimately drive breakthroughs in deep technology research beyond what an isolated campus setting can offer.

Overall Position:

The assertion that upstream deep technology research is exclusively suited to the legacy environment of Pok Fu Lam overlooks the transformative potential of a purpose-built, integrated innovation hub in the Northern Metropolis. With its state-of-the-art facilities, scalable infrastructure, and strategic alignment with broader national objectives, the Northern Metropolis is not only capable of supporting deep technology research but can also enhance it by creating a dynamic, interdisciplinary ecosystem. This approach is more future-proof, cost-efficient, and strategically aligned with Hong Kong's long-term vision for global competitiveness.

Appendix 6: Case Law and Judicial Precedent Analysis

This appendix further substantiates this report’s legal arguments by analyzing key judicial decision that reinforces the strict statutory framework governing planning and environmental assessments. In particular, the recent decision in *Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279* (commonly referred to as the Fanling Golf Course case) is instructive in demonstrating the consequences of departing from clear statutory mandates.

A. Statutory Mandate and the Imperative of Certainty

The Town Planning Ordinance (TPO) and the Environmental Impact Assessment Ordinance (Cap. 499) require that administrative decisions be both clear and unambiguous.

Section 6B(8) of the TPO explicitly requires that “after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.” In effect, there is no statutory provision permitting a “partial” acceptance. This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment. Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that addresses the representation. Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc “U” designation (which does not meet any representation) when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance. Given no statutory provision for intermediary solution to partially satisfy the representation, introducing a “U” zone in the absence of any representational basis not only breaches this explicit statutory requirement but also undermines the principle of legal certainty. Such a maneuver is tantamount to an overreach of discretionary power, as it circumvents the necessary statutory decision process that ensures administrative decisions are both transparent and accountable. This deviation from established statutory procedure is likely to be deemed an abuse of power and arbitrary by any court tasked with reviewing the decision, thereby rendering the rezoning legally indefensible.

Similarly, the Technical Memorandum and the Study Brief issued under the EIA Ordinance impose precise requirements on environmental assessments. The Fanling Golf Course case reinforces that any deviation from these statutory frameworks undermines legal certainty and jeopardizes public trust in the administrative process.

B. Detailed Findings in the Fanling Golf Course Case

In *Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279*, delivered on 03 December 2024, the High Court quashed the environmental impact assessment (EIA) report for a proposed public housing project over part of the ‘Old Course’ at Fanling. Key findings included:

- **Flawed Environmental Assessments:** Coleman J’s 229-page judgment found that the EIA report inadequately assessed critical environmental impacts—specifically concerning the preservation of old and valuable trees, appropriate tree compensation, the hydrological impact on critically endangered Chinese Swamp Cypress trees, cultural heritage implications, as well as effects on bats, moths, and waste management. The report failed to meet the detailed requirements of the Technical Memorandum and the Study Brief.
- **Procedural Unfairness:** The Court held that the Director of Environmental Protection erred by not undertaking public consultation on additional information provided by the Civil Engineering and Development Department after the statutory consultation period. Moreover, the Director failed to consider the Hong Kong Golf Club’s responses to that additional information.
- **Unlawful Conditions:** The Court ruled that the conditions imposed on accepting the EIA report were unlawful and undermined the Director’s approval. While challenges relating to assessments of sewage, noise, land contamination, shading, and air quality were rejected, the judgment unequivocally highlighted the necessity of strict adherence to statutory procedures.

C. Implications for Planning and Environmental Decision-Making

The Fanling Golf Course decision underscores several enduring principles relevant to the report’s critique of the current rezoning proposal:

- **Mandatory Statutory Decision-Making:** The case illustrates that any attempt to introduce an indeterminate or intermediary outcome—analogue to the “Undetermined” zoning category (that does not meet or address any representation in entirety)—is beyond the statutory powers granted to planning authorities. This parallels the Court’s rejection of a flawed EIA process that did not comply with established legal standards.
- **Strict Compliance with Procedural Requirements:** Just as the EIA report was quashed for failing to incorporate mandatory public consultation and for not considering all relevant evidence, the current proposal’s deviation from a clear statutory mandate (i.e., the statutory decision framework of the TPO) is equally indefensible.

- **Judicial Oversight and the Rule of Law:** The decision reinforces the judiciary’s role in ensuring that administrative bodies do not exceed their statutory discretion. Departures from the mandated processes, whether in environmental assessments or planning decisions, are subject to judicial scrutiny and potential invalidation.

D. Conclusion

The detailed analysis of *Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279* provides a robust legal foundation for this report’s critique of the current rezoning proposal. The Fanling Golf Course decision unequivocally demonstrates that:

- Planning authorities must adhere strictly to statutory decision-making process as required by the TPO.
- Environmental and procedural assessments must meet the detailed statutory requirements, including robust public consultation.
- Any attempt to introduce an intermediary “Undetermined” category that do not address or meet any representation—deviating from statutory mandates—is legally indefensible and strongly exposes the decision to judicial overturn.

Consequently, the report’s position—that the rezoning proposal is procedurally flawed and legally indefensible—is strongly validated by prevailing judicial reasoning and case law. This reinforces the imperative that administrative decisions must operate within the confines of clear statutory authority to maintain legal certainty and public confidence in the planning process.

Appendix 7: Legal Opinion Paper on the Interim “U” Zoning

I. Introduction

This paper critically examines the legal validity of designating the Site under an interim “U” zoning by the Board. It questions whether such a decision meets the statutory obligations imposed by Section 6B(8) of the Town Planning Ordinance (TPO) and whether it appropriately reflects the stakeholder representations. The analysis contends that by adopting an interim zoning that was not directly proposed by any representer without valid planning grounds, the Board departs from the strict statutory decision-making requirement of the TPO. The recent Fanling Golf Course case (Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279) provides a pivotal precedent underscoring that any deviation from the statutory framework may be judicially overturned.

II. Background

Stakeholders affected by the proposed development have raised concerns primarily relating to land use compatibility, environmental impacts, and technical issues. Importantly, no representer explicitly called for the Site to be designated as “U” zoning. Despite this, the Board has unilaterally imposed an interim “U” zoning as a temporary measure pending further technical assessments, community consultations, and a strategic review of HKU’s development plan. The rationale provided by the Board emphasizes that the interim zoning serves as a stopgap arrangement until HKU can refine its proposal. However, this approach raises critical questions about whether the decision truly “meets” the representations as required by the statute.

III. Statutory Framework and Interpretation of Section 6B(8)

A. Clear Mandate for Decision-Making

Section 6B(8) of the TPO:

“After considering any representation under this section, the Board must decide whether or not—

- (a) to propose amendment to the plan in the manner proposed in the representation; or
- (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.”

This explicitly requires that planning authorities, after considering stakeholder representations, must make a decision: either to propose an amendment in the precise manner suggested by the

representers or to propose an alternative amendment that fully meets the representation. There is no statutory provision for an intermediate or partial outcome or response that serves to partially satisfy the representation. This clear framework ensures that public input is directly and transparently reflected in any planning amendment. (Notes: *Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, following due consideration of any representation, the Board is obliged to either propose an amendment to the plan in the precise manner set forth in the representation or, alternatively, to propose an amendment that, in its view, adequately meets the representation. In effect, the Ordinance mandates that a representation be accepted in its entirety or rejected in its entirety—the so-called “binary approach.” Any deviation from this binary requirement, such as the imposition of an ad hoc “U” designation, would thus fail to satisfy the statutory criteria and would amount to a breach of the Ordinance.*)

B. Limits on Discretion

Although the TPO provides the Board with some discretion by allowing an alternative amendment (as per clause (b)), that discretion is strictly limited. The alternative measure must demonstrably “meet the representation” in the sense that it directly responds to the issues and concerns raised by the stakeholders. Adopting an interim “U” zoning—when no representation has suggested such a measure—fails to satisfy this requirement, rendering the decision potentially arbitrary and contrary to the legislative intent.

C. Implications for Legal Certainty and Public Trust

A clear statutory requirement is essential for maintaining legal certainty and public confidence. Stakeholders expect that their representations will be directly considered and reflected in any planning amendment and/or the final decision. Any deviation from this expectation, such as adopting a measure not directly proposed by any representation—especially when no representation has specifically suggested such a measure—falls short of this requirement. It thereby risks being classified as arbitrary and inconsistent with the statutory mandate. This undermines the integrity of the planning process and may invite judicial challenges.

IV. Analysis of the Interim “U” Zoning Decision

A. Procedural Integrity and Direct Representation

1. Failure to Directly Address Representations:

The statutory process under Section 6B(8) is designed to ensure that planning decisions are grounded in the representations of affected parties. In this instance, no representer proposed that the Site be rezoned as “U.” By imposing an interim “U” zoning not proposed by any representer, the Board has not met the statutory requirement. This gap raises serious questions regarding procedural fairness and the proper execution of the statutory mandate.

2. Risk of Procedural Delay:

An interim measure that does not align the stakeholder submissions may be perceived as a means to postpone a final decision rather than to genuinely address the underlying issues. Such postponement can result in prolonged uncertainty and undermine the timely incorporation of environmental and technical safeguards.

B. Environmental and Technical Safeguards

1. Regulatory Gaps in Safeguard Implementation:

The statutory framework requires that any planning amendment incorporate comprehensive measures to mitigate environmental and public health impacts. An interim “U” zoning that is not directly supported by the detailed stakeholder representations risks creating a regulatory gap, delaying the activation of essential safeguards until further assessments/studies are conducted.

2. Risk of Inadequate Mitigation:

Without a direct link to stakeholder representations, subsequent development under the interim zoning may not adequately address the environmental and technical issues that were raised. This failure could lead to adverse impacts that the statutory process is designed to prevent.

C. Exercise of Discretion and Transparency

1. Overextension of Discretion:

While the Board has the statutory discretion to propose an amendment in an alternative manner, such discretion is strictly circumscribed by the need to meet the representations. Adopting an interim zoning that was not raised and/or supported by any submission represents an overextension of that discretion, departing from the intended binary requirement/approach.

2. Erosion of Accountability and Public Trust:

Transparent decision-making is critical for public confidence in the planning system. Bypassing explicit stakeholder input not only undermines the statutory scheme but also strongly exposes the Board’s decision to judicial challenge for being arbitrary.

V. Case Law: The Fanling Golf Course Decision

Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279

In this case the High Court quashed the conditional approval for 12,000 public housing units on part of Fanling Golf Course. Key elements from this decision include:

• Statutory Decision-Making Mandate:

The Court underscored that the statutory framework requires planning decisions to be clear and unambiguous. There is no provision for an “intermediate” outcome. (Notes: *In accordance with Section 6B(8) of the Ordinance, following due consideration of any representation, the TPB is obliged to either propose an amendment to the plan in the precise manner set forth in the representation or, alternatively, to propose an amendment that, in its view, adequately meets the representation. In effect, the Ordinance mandates that a representation be accepted in its entirety or rejected in its entirety—the so-called “binary approach.” Any deviation from this binary requirement, such as the imposition of an ad hoc “U” designation, would thus fail to satisfy the statutory criteria and would amount to a breach of the Ordinance.*)

• Procedural Fairness and Re-Consultation:

The judgment found that the environmental impact assessment was flawed due to inadequate public consultation. It mandated that additional information must be subject to renewed consultation, thereby reinforcing the necessity for administrative decisions to directly incorporate stakeholder feedback.

• Implications for Administrative Practice:

The Fanling Golf Course decision serves as a strong precedent that any deviation from the statutory framework—such as adopting an interim measure that does not directly and/or adequately meet stakeholder representations—may be considered arbitrary and subject to judicial overturn.

VI. Response to the Government Departmental Views

It has been argued that:

- The views and representations were duly considered, and under Section 6B(8) the Board has the discretion to adopt an amendment “in any other manner” that it believes will meet the representation.
- Since no representer explicitly proposed a “U” zoning, the Board contends there is no representation that mandates a different amendment, thereby justifying the interim “U” zoning as a stopgap measure pending further review and consultation.

- Interim zoning, including the “U” designation, is a common practice when planning intentions are uncertain and it allows HKU time to refine its development plan and engage with stakeholders.

Counterarguments:

1. Inadequate Meeting of the Statutory Mandate:

The TPO’s statutory requirement leaves no room for a partial or interim measure that does not directly mirror the representation. Even if the Board considers alternative amendments acceptable, any proposed alternative must fully address the issues raised. Since no stakeholder suggested “U” zoning, adopting it does not meet the statutory test of “meeting” the representation. This is not merely a matter of process but of adhering to the clear legislative intent.

2. Interim Measure Does Not Equal a Full Resolution:

While it is argued that interim zoning is common practice when a project is under review, such a measure is intended to maintain administrative control until a definitive decision is reached. However, if the interim measure is not directly derived from or supported by the representations, it effectively delays addressing the fundamental concerns—particularly those relating to land use compatibility and environmental impacts. This delay risks undermining the very purpose of the statutory representation process.

3. Independent Judgment Cannot Circumvent Statutory Requirements:

The Board’s reliance on its independent judgment to adopt a zoning measure that was never advocated by any representer is problematic. The statutory framework is designed to ensure that planning decisions are grounded in the specific inputs of affected parties. Using independent judgment to impose an interim “U” zoning is an overreach that departs from the requirement to directly “meet” the representations, thereby exposing the decision to judicial review for arbitrariness.

4. Precedential Implications:

The Fanling Golf Course case clearly demonstrates that any administrative decision that deviates from the statutory mandate—particularly regarding the scope of public consultation and the statutory nature of decision-making—can be subject to judicial invalidation. The Board’s views, while highlighting procedural considerations and the need for flexibility in interim measures, do not override the strict requirements imposed by the TPO.

VII. Conclusion and Recommendations

A. Conclusion

Based on a strict interpretation of Section 6B(8) and the precedent set by the Fanling Golf Course case, the Board's interim "U" zoning decision is legally questionable. By failing to directly address stakeholder representations and by adopting a measure not explicitly supported by any representation, the Board deviates from the statutory decision-making process mandated by the TPO. This not only creates regulatory gaps in environmental and technical safeguards but also undermines public trust and legal certainty.

B. Recommendations

To align future decisions with statutory mandates and uphold the integrity of the planning process, the following steps are recommended:

1. Enhanced Public Consultation:

The Board should initiate further, robust consultations to secure explicit, direct guidance from all stakeholders. This ensures that any proposed amendment is unequivocally supported by the representations received and that any zoning amendment fully "meets" the representation.

2. Deferral of Interim Zoning:

Rather than imposing an interim zoning that does not directly meet stakeholder input and lacks support, the Board should postpone the decision until a comprehensive review of the stakeholder's concerns/representations is fully completed. This would allow for a more deliberate and representative final amendment.

3. Integration of Robust Environmental Safeguards:

Any future zoning amendment must incorporate enforceable environmental and technical safeguards that address the specific concerns raised by stakeholders. This integration is essential to mitigate potential adverse impacts from subsequent development.

4. Transparent Documentation of Decision-Making:

The Board must ensure that its exercise of discretion and its rationale for any decision are fully transparent and rigorously documented. Clear articulation of how the chosen amendment meets—or fails to meet—the stakeholder representations is crucial for defending the decision against judicial review.

C. Final Remarks

The interim "U" zoning decision, as it stands, fails to satisfy the statutory requirements of Section 6B(8) because it does not directly "meet" the representations submitted by affected

parties. The precise wording of the statute mandates a statutory choice that this decision does not fulfill. The Fanling Golf Course case underscores that any deviation from this framework—especially one that disregards explicit stakeholder input—is legally indefensible and likely subject to judicial invalidation. It is imperative that the Board reconsider its approach, ensuring that future planning decisions are fully responsive to public input, transparent in their rationale, and consistent with the statutory mandates.

This legal opinion paper addresses both the legal deficiencies of the interim zoning decision and directly responds to the government departmental views, offering a persuasive argument for re-evaluating the decision in light of statutory mandates and judicial precedent(s).

Appendix 8: Judicial Analysis and Reasoning Framework

The following serves to illustrate potential judicial reasoning in support of the report's objections to the rezoning proposal.

Introduction

This analysis examines the rezoning proposal affecting the Pok Fu Lam Green Belt by evaluating its compliance with statutory mandates, procedural fairness, environmental protection, infrastructure planning, and fiscal responsibility. The reasoning herein is structured in descending order of importance, illustrating how a court might assess the legal deficiencies of the proposal.

I. VIOLATION OF STATUTORY MANDATES

The core issue is the introduction of an interim "Undetermined" zoning category, which directly contravenes section 6B(8) of the Town Planning Ordinance (TPO).

– Section 6B(8) of the TPO explicitly requires that "after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation." In effect, there is no statutory provision permitting a "partial" acceptance. This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment. Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that addresses the representation. Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc "U" designation (which does not meet any representation) when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance. Given no statutory provision for intermediary solution to partially satisfy the representation, introducing a "U" zone in the

absence of any representational basis not only breaches this explicit statutory requirement but also undermines the principle of legal certainty. Such a maneuver is tantamount to an overreach of discretionary power, as it circumvents the necessary statutory decision process that ensures administrative decisions are both transparent and accountable. This deviation from established statutory procedure is likely to be deemed an abuse of power and arbitrary by any court tasked with reviewing the decision, thereby rendering the rezoning legally indefensible.

– The statutory language is unequivocal and requires strict adherence in order to preserve legal certainty—a fundamental principle in administrative law. Any deviation from this prescribed statutory requirement introduces ambiguity and undermines the predictability and fairness that the statute is designed to ensure.

– Legal precedents, such as the Fanling Golf Course decision, have established that any measure not expressly provided for by the statute, such as an interim “Undetermined” category, is *ultra vires* (beyond the authority granted by law). This ensures that the court would likely uphold this finding, thereby invalidating any decision that departs from the clear statutory mandate.

II. BREACH OF PROCEDURAL FAIRNESS AND DEFICIENT PUBLIC CONSULTATION

The decision-making process is significantly flawed due to inadequate public consultation.

– Affected stakeholders, including community groups and key institutions, were not provided with a meaningful opportunity to participate in the process.

– The overwhelming opposition evidenced by the representations indicates that the consultation process fell far short of the standards of transparency and fairness required by law.

– This procedural defect undermines the legitimacy of the rezoning decision and justifies its review.

III. INADEQUATE ENVIRONMENTAL SAFEGUARDS

The proposal fails to meet statutory environmental obligations.

– It contemplates the removal of over 2,250 mature trees, with a compensatory planting ratio of 1:0.48, which is well below the internationally accepted 1:1 standard.

– The irreversible loss of these trees compromises essential ecological functions such as carbon sequestration, soil stabilization, and biodiversity support.

– This environmental shortfall directly contradicts statutory requirements and sustainable development goals, rendering the rezoning legally indefensible on environmental grounds.

IV. FLAWED TRAFFIC AND INFRASTRUCTURE ASSESSMENTS

The Traffic Impact Assessment (TIA) accompanying the proposal is critically deficient.

- It relies on overly optimistic assumptions regarding future infrastructural improvements and does not adequately address peak-hour congestion or construction impacts.
- This inadequacy jeopardizes public safety and urban mobility, breaching statutory obligations aimed at protecting the community's interests.

V. FISCAL AND STRATEGIC INADEQUACIES

The proposal is further undermined by fiscal imprudence and strategic misalignment.

- It relies on speculative future funding, dependent on uncertain private investments and research grants, without a rigorous cost-benefit analysis.
- Additionally, the proposal conflicts with the broader strategic planning framework, notably the Northern Metropolis Strategy, which designates alternative sites more suited for high-density innovation development.
- This misalignment further erodes the legal defensibility of the rezoning decision.

VI. ABSENCE OF CLEAR DEVELOPMENT CONTROLS

The interim “Undetermined” zoning designation fails to provide clear, enforceable guidelines for future development.

- The lack of defined planning parameters creates regulatory uncertainty for both developers and the community.
- This ambiguity invites arbitrary reinterpretation and further weakens the integrity of the planning process.

VII. RELIANCE ON JUDICIAL PRECEDENTS

Established judicial precedents, notably the Fanling Golf Course decision, reinforce that any deviation from the mandated statutory decision-making process is impermissible.

- Such precedents affirm that failure to adhere to statutory procedures not only breaches administrative fairness but also warrants judicial intervention.

VIII. EROSION OF PUBLIC TRUST AND ACCOUNTABILITY

The cumulative effect of the identified statutory, procedural, environmental, and fiscal failures is a significant erosion of public trust in the planning process.

- The lack of transparency and accountability undermines both the legitimacy of the decision and the broader principles of good governance.
- Restoring public confidence requires that the rezoning decision be invalidated and reconsidered in strict compliance with statutory mandates.

Conclusion

Based on the foregoing analysis, judicial reasoning would support the conclusion that the rezoning proposal is legally flawed on multiple substantive and procedural grounds. It is therefore advisable that the decision to introduce an interim “Undetermined” zoning category be set aside, and that the matter be remitted to the appropriate planning authority for reconsideration. Any future decision must strictly adhere to statutory mandates, ensure comprehensive public consultation, and incorporate robust environmental, traffic, fiscal, and strategic assessments.

Note: This appendix is provided to demonstrate grounds for invalidating the rezoning proposal.

Urgent Return receipt Expand Group Restricted Prevent Copy Confide

From: [REDACTED]
Sent: 2025-02-14 星期五 17:20:34
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Annex II (Reply Slip)_e-elly[72].docx

To Whom It May Concern:

Attached is my reply slip. Thanks.

Elly Ngan.

From: tpbpd/PLAND <tpbpd@pland.gov.hk>
Date: Friday, 14 February 2025 at 4:35 PM
To: [REDACTED]
Subject: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號
In reply please quote this ref.: TPB/R/S/H10/22-F1022

By Email

14 February 2025

[REDACTED]
Ngan Sau Wai Elly

Dear Sir/Madam,

Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22 (Further Representation No. F1022)

I refer to your further representation which was received by the Town Planning Board (TPB) on 03.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

Urgent Return receipt Expand Group Restricted Prevent Copy Confidential

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on “Submission and Processing of Representations and Further Representations under the Town Planning Ordinance” (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB’s website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB’s website after the meeting. After confirmation of the minutes of TPB’s deliberation, the further representers will be notified of the TPB’s decision in writing. The confirmed minutes will also be available at TPB’s website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

To: **Town Planning Board Secretariat**

Email: tpbpd@pland.gov.hk

Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in **one** of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SIGNATURE

Name of further representer (as shown on the further representation): **The Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

Further Representation No.: F1022

Full Name: Ngan Sau Wai Elly (identical with the name shown on HKID Card/Passport)

Signature:  Date: 14-Feb-2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
- (b) The personal data provided by the further representers in this form may also be disclosed to other persons for the purposes mentioned in paragraph (a) above.
- (c) Further representers have a right of access and correction with respect to their personal data as provided under the Personal Data (Privacy) Ordinance (Cap. 486). Request for personal data access and correction should be addressed to the Town Planning Board Secretariat at 15/F., North Point, Government Offices, 333 Java Road, North Point, Hong Kong.

Urgent Return receipt Expand Group Restricted Prevent Copy

Further Representation Number
TPB/R/S/H10/22-F1651

From: [REDACTED]
Sent: 2025-02-21 星期五 11:18:22
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: 就《薄扶林分區計劃大綱草圖編號 S/H10/22》的建議修訂作出的進一步申述
Attachment: 附件 1.pdf; Annex I (FR Summary Table)_c.pdf; Annex II (Reply Slip)_c.doc

從我的 iPhone 傳送

Ng Jar Fai Pamela [REDACTED] 2025年2月17日 14:12 寫道：

從我的 iPhone 傳送

以下為轉寄郵件：

寄件人: tpbpd/PLAND <tpbpd@pland.gov.hk>
日期: 2025年2月14日 GMT+8 17:13:53 [GMT+8]
收件人: [REDACTED]
標題: 就《薄扶林分區計劃大綱草圖編號 S/H10/22》的建議修訂作出的進一步申述

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F, North Point Government Of
333 Java Road, North Point,
Hong Kong

傳 真 Fax: 2877 0245 / 2522 8426

電郵

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/R/S/H10/22-F1651

[REDACTED]
Ng Kar Fai Pamela

先生／女士：

就《薄扶林分區計劃大綱草圖編號 S/H10/22》的建議修訂
作出的進一步申述
(進一步申述編號：F1651)

城市規劃委員會(下稱「城規會」)於 2025 年 01 月 02 日收到你就《薄扶林分區計劃大綱草圖編號 S/H10/22》的建議修訂作出的進一步申述。所有有效的進一步申述(包括你的進一步申述)已送交相關政府政策局/部門以徵求意見。相關政策局/部門並未就進一步申述提出新意見，而其對進一步申述的意見摘錄自城規會文件編號 10987 及相關會議紀錄並載於附件一。

所有有效的進一步申述(包括你的進一步申述)，連同上述部門意見以及你就上述部門意見的回應(如有的話)會一併呈交給城規會考慮。正如城市規劃委員會規劃指引編號 29C「根據《城市規劃條例》提交及處理申述及進一步申述」的第 2.5 段所述，城規會不會舉行聆聽會議以審議進一步申述。會議詳情包括會議日期和城規會文件將於稍後在城規會網站的專用連結(https://www.tpb.gov.hk/tc/plan_making/S_H10_22.html)公佈，而有關的決定摘要亦會於會議後在城規會網站公佈。在城規會商議的會議紀錄通過後，進一步申述人將會收到有關城規會決定的書面通知。獲通過的會議紀錄亦可於城規會網站瀏覽。

請填妥夾附的表格(附件二)，並於二零二五年二月二十三日或之前以郵寄或電郵方式交回城規會秘書處。如你未有於上述日期或之前交回夾附表格，則視作你對部門意見沒有回應論，城規會會接着安排考慮進一步申述。

請於日後來函中註明上述進一步申述編號。

城市規劃委員會秘書

(梁靜思

代行)

二零二五年二月十四日

連附件



致： 城市規劃委員會秘書處

電郵： tpbpd@pland.gov.hk

地址： 香港北角渣華道 333 號北角政府合署 15 樓

**就《薄扶林分區計劃大綱草圖編號 S/H10/22》的建議修訂
作出的進一步申述**

進一步申述人的回應

本人已收到城規會於二零二五年二月十四日發出的信函，轉達相關部門就本人進一步申述的意見，本人現提交回應如下：

(請在下列適當的方格內加上剔號 ☑)

- 本人維持早前提交的進一步申述內容。
- 本人根據城市規劃條例第 6E(2)條，撤回本人的進一步申述。
- 本人對部門意見的回應如下(如適用)：

簽署

進一步申述人姓名(如進一步申述書所示)： NG KAR FAI PAMELA

進一步申述編號： F 1651

全名(須與香港身份證／護照所示姓名相同)： NG KAR FAI PAMELA

簽署： Pamela Ng 日期： 21 Feb 2025

收集個人資料聲明

- (a) 城市規劃委員會秘書處就這份表格所收集到的個人資料會用以處理有關的進一步申述、核實進一步申述人的身分，以及方便進一步申述人與城市規劃委員會秘書處聯絡。倘個人資料不須再用於其被收集的目的，資料便會被刪除。
- (b) 進一步申述人就這份表格提供的個人資料，可能亦會向其他人士披露，以作上述(a)段提及的用途。
- (c) 根據《個人資料(私隱)條例》(第 486 章)的規定，進一步申述人有權查閱及更正其個人資料。如欲查閱及更正個人資料，應向城市規劃委員會秘書處提出有關要求，秘書處地址為香港北角渣華道 333 號北角政府合署 15 樓。

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-21 星期五 12:06:08
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: 就《薄扶林分區計劃大綱草圖編號 S/H10/22》的建議修訂作出的進一步申述
Attachment: processed-D2F91448-0AB6-467E-9142-13A8EEA2D862.jpeg

取得 iOS 版 Outlook

寄件者 [REDACTED]
寄件日期: Monday, February 17, 2025 2:12:32 PM
收件者 [REDACTED]
主旨: Fwd: 就《薄扶林分區計劃大綱草圖編號 S/H10/22》的建議修訂作出的進一步申述

從我的 iPhone 傳送

以下為轉寄郵件：

寄件人: tpbpd/PLAND <tpbpd@pland.gov.hk>
日期: 2025年2月14日 GMT+8 17:13:53 [GMT+8]
收件人: [REDACTED]
標題: 就《薄扶林分區計劃大綱草圖編號 S/H10/22》的建議修訂作出的進一步申述

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號
In reply please quote this ref.: TPB/R/S/H10/22-F1651

[REDACTED]
Ng Kar Fai Pamela

先生／女士：

就《薄扶林分區計劃大綱草圖編號 S/H10/22》的建議修訂

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

電郵函件

作出的進一步申述
(進一步申述編號：F1651)

城市規劃委員會(下稱「城規會」)於 2025 年 01 月 02 日收到你就《薄扶林分區計劃大綱草圖編號 S/H10/22》的建議修訂作出的進一步申述。所有有效的進一步申述(包括你的進一步申述)已送交相關政府政策局/部門以徵求意見。相關政策局/部門並未就進一步申述提出新意見，而其對進一步申述的意見摘錄自城規會文件編號 10987 及相關會議紀錄並載於附件一。

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請填妥夾附的表格(附件二)，並於二零二五年二月二十三日或之前以郵寄或電郵方式交回城規會秘書處。如你未有於上述日期或之前交回夾附表格，則視作你對部門意見沒有回應論，城規會會接着安排考慮進一步申述。

請於日後來函中註明上述進一步申述編號。

城市規劃委員會秘書
(梁靜思)



代行)

二零二五年二月十四日

連附件

致： 城市規劃委員會秘書處

電郵：tpbpd@pland.gov.hk

地址：香港北角渣華道 333 號北角政府合署 15 樓

**就《薄扶林分區計劃大綱草圖編號 S/H10/22》的建議修訂
作出的進一步申述**

進一步申述人的回應

本人已收到城規會於二零二五年二月十四日發出的信函，轉達相關部門就本人進一步申述的意見，本人現提交回應如下：

(請在下列適當的方格內加上剔號 ☑)

- 本人維持早前提交的進一步申述內容。
- 本人根據城市規劃條例第 6E(2)條，撤回本人的進一步申述。
- 本人對部門意見的回應如下(如適用)：

簽署

進一步申述人姓名(如進一步申述書所示): LEUNG CHUNG YIN

進一步申述編號: F1652

全名(須與香港身份證/護照所示姓名相同): LEUNG CHUNG YIN

簽署: [Signature] 日期: 21/2/2025

收集個人資料聲明

- (a) 城市規劃委員會秘書處就這份表格所收集到的個人資料會用以處理有關的進一步申述、核實進一步申述人的身分，以及方便進一步申述人與城市規劃委員會秘書處聯絡。倘個人資料不須再用於其被收集的目的，資料便會被刪除。
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Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-22 星期六 14:09:51
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Further Representations in respect of the Proposed
Amendments to the Draft Pok Fu Lam Outline Zoning Plan No.
S/H10/22
Attachment: ANNEX II TPB - Page1.pdf; ANNEX II TPB - Page 2.pdf

Dear TPB,

Enclosed please find my response to your email below.

Best regards,

Guenther Rittner

To: **Town Planning Board Secretariat**

Email: tpbpd@pland.gov.hk

Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

In addition to my previous submission, I would like to note:

1. With reference to your FR Summary table I identified reference made to GB between developed areas as being different and lesser than GB that buffers undeveloped land. This seems not logical.
2. The idea that U (undetermined) is produced, when it wasn't asked for in a representation and was brought up long after the representation period was over, puts the decision on legal thin ice.
3. It was noted that the communication after the TPB meetings included word for word parts of the HKU announcement that it would strategically rethink its approach. They said this was evidence that the TPB didn't deliberate and come to its own conclusions but just approved what was put before it (not what it is supposed to do).
4. Based on the TPB's decision the GIC Item A land would go to the CE to be reclassified as U, no longer GB (Green Belt).
5. If HKU comes back with another location (what at this point seems not likely) there would need to be more work done to amend the plan to revert it to GB.
6. Also, since October HKU hasn't really stepped up on communicating progress with the community.

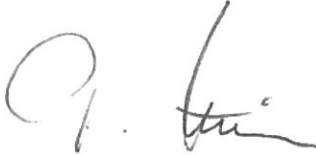
SIGNATURE

Name of further representer (as shown on the further representation):

GUNTHER RITTNER

Further Representation No.: F1803

Full Name: GUNTHER RITTNER (identical with the name shown on HKID Card/Passport)



Signature: _____ Date: 22.02.2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
- (b) The personal data provided by the further representers in this form may also be disclosed to other persons for the purposes mentioned in paragraph (a) above.
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Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-21 星期五 22:14:28
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Pokfulam HKU Site Further Representaion - CKL - 2025-02-21.tif

Dear Sir,

Attached is the signed Annex II for your attention.

Yours faithfully,

LAM Chi Kuen

From: tpbpd/PLAND <tpbpd@pland.gov.hk>

Sent: Friday, February 14, 2025 8:37 AM

To: [REDACTED]

Subject: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

傳 真 Fax: 2877 0245 / 2522 8426

By Email

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號
In reply please quote this ref.: TPB/R/S/H10/22-F1820

14 February 2025

[REDACTED]
Lam Chi Kuen

Dear Sir/Madam,

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
(Further Representation No. F1820)**

I refer to your further representation which was received by the Town Planning Board (TPB) on 03.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

Urgent Return receipt Expand Group Restricted Prevent Copy

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on “Submission and Processing of Representations and Further Representations under the Town Planning Ordinance” (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB’s website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB’s website after the meeting. After confirmation of the minutes of TPB’s deliberation, the further representers will be notified of the TPB’s decision in writing. The confirmed minutes will also be available at TPB’s website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

To: **Town Planning Board Secretariat**

Email: tpbpd@pland.gov.hk

Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in **one** of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SIGNATURE

Name of further representer (as shown on the further representation): LAM CHI KUEN

Further Representation No.: F1820

Full Name: LAM CHI KUEN (identical with the name shown on HKID Card/Passport)

Signature: [Handwritten Signature] Date: 21 Feb. 2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
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Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-21 星期五 22:09:40
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Pokfulam HKU Site Further Representaion - VC - 2025-02-21.tif

Dear Sir,

Enclosed is my duly completed Annex II for your consideration.

Regards,

Vivian Chan

From: tpbpd/PLAND <tpbpd@pland.gov.hk>

Sent: Friday, February 14, 2025 8:37 AM

To: [REDACTED]

Subject: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.:

TPB/R/S/H10/22-F1821

14 February 2025

By Email

[REDACTED]
Chan Cheuk Yu Vivian

Dear Sir/Madam,

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
(Further Representation No. F1821)**

I refer to your further representation which was received by the Town Planning Board (TPB) on 03.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

Urgent Return receipt Expand Group Restricted Prevent Copy

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on “Submission and Processing of Representations and Further Representations under the Town Planning Ordinance” (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB’s website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB’s website after the meeting. After confirmation of the minutes of TPB’s deliberation, the further representers will be notified of the TPB’s decision in writing. The confirmed minutes will also be available at TPB’s website.

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For future correspondence, please quote the above further representation number.

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

To: **Town Planning Board Secretariat**
 Email: tpbpd@pland.gov.hk
 Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

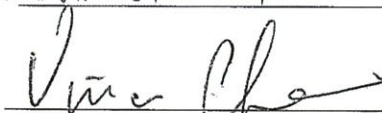
- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SIGNATURE

Name of further representer (as shown on the further representation): CHAN CHEUK YU VIVIAN

Further Representation No.: F1821

Full Name: CHAN CHEUK YU VIVIAN (identical with the name shown on HKID Card/Passport)

Signature:  Date: 21 Feb. 2025

STATEMENT ON COLLECTION OF PERSONAL DATA

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Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-23 星期日 17:39:24
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Annex II (Reply Slip)_e.pdf

Dear Sir/Madam.

Attached please find my reply slip.

Regards
Lau Yuen Chong

tpbpd/PLAND (<tpbpd@pland.gov.hk>) 在 2025 年 2 月 14 日星期五 下午 04:38:23 [GMT+8] 寫道 :

城市規劃委員會

香港北角渣華道三百三十三號

北角政府合署十五樓

傳真 Fax: 2877 0245 / 2522 8426

電話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

TPB/R/S/H10/22-F1827

In reply please quote this ref.:

TOWN PLANNING BOARD
15/F, North Point Government Offices

333 Java Road, North Point,

Hong Kong

By Email

14 February 2025

[REDACTED]
Lau Yuen Chong Patricia

Dear Sir/Madam,

Further Representations in respect of the Proposed Amendments to the

Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

(Further Representation No. F1827)

I refer to your further representation which was received by the Town Planning Board (TPB) on 02.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further

Urgent Return receipt Expand Group Restricted Prevent Copy

representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on "Submission and Processing of Representations and Further Representations under the Town Planning Ordinance" (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB's website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB's website after the meeting. After confirmation of the minutes of TPB's deliberation, the further representers will be notified of the TPB's decision in writing. The confirmed minutes will also be available at TPB's website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail on or before 23 February 2025. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

To: **Town Planning Board Secretariat**

Email: tpbpd@pland.gov.hk

Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

*(Please put a tick in **one** of the boxes provided below)*

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SIGNATURE

Name of further representer (as shown on the further representation): Lau Yuen Chong Patricia

Further Representation No.: F 1827

Full Name: Lau Yuen Chong Patricia (identical with the name shown on HKID Card/Passport)

Signature:  Date: 23-02-2023

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
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Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-23 星期日 22:28:39
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: F1831_Annex II (Reply Slip).pdf

Dear Leticia,

Thank you for your email. Please find attached my reply slip in response to your email.

I trust the reply slip is in order, and if there are any issues, please let me know.

Thanks and regards,

Loke Han Pin

(Further Representation No. F1831)

On Fri, 14 Feb 2025 at 16:38, tpbpd/PLAND <tpbpd@pland.gov.hk> wrote:

城市規劃委員會

香港北角渣華道三百三十三號

北角政府合署十五樓

傳真 Fax: 2877 0245 / 2522 8426

電話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

TPB/R/S/H10/22-F1831

In reply please quote this ref.:

TOWN PLANNING BOARD

15/F, North Point Government Offices

333 Java Road, North Point,

Hong Kong

By Email

14 February 2025

[REDACTED]
Loke Han Pin

Dear Sir/Madam,

Further Representations in respect of the Proposed Amendments to the

Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

(Further Representation No. F1831)

I refer to your further representation which was received by the Town Planning Board (TPB) on 16.12.2024 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

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For future correspondence, please quote the above further representation number.

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

To: **Town Planning Board Secretariat**
 Email: tpbpd@pland.gov.hk
 Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

Please refer to Appendix F1831-1 on the next page for my responses.

SIGNATURE

Name of further representer (as shown on the further representation): Loke Han Pin

Further Representation No.: F1831

Full Name: Loke Han Pin (identical with the name shown on HKID Card/Passport)

Signature:  Date: 21-Feb-2025

STATEMENT ON COLLECTION OF PERSONAL DATA

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Appendix F1831-1

Response to comments on FB1, FB3 and FJ1.

Thank you for the detailed comments. Having read the comments in detail, I still disagree with the board's action to assert its discretion to "partially meet" representations. No representation has proposed the adoption of a "U" (Undetermined) zone, hence the board's action to come up with this new proposal puts the impartiality of the review process into question. The comments about this rezoning being temporary to allow further consultation and review is hard to comprehend as further consultation and review can happen even when the zone is a "GB" zone. Since "TPB Members generally considered that there was room for improvement in HKU's public consultation and community engagement efforts", then I see no reason why TPB has to persist with rezoning the said site to "U", and how that helps improve public consultation initiatives by HKU. If anything, this rezoning is seen by many in the public as confusing, unnecessary, and raises questions on impartiality of the whole process.

I would like to reiterate my strong belief that rezoning the said site to "U" sends the wrong message that the process is favourable to HKU, and not impartial, thereby reducing the encouragement for HKU to better perform the stakeholder and public consultation. This is not the type of broken foundation on which the GIC project should be built upon.

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-23 星期日 21:19:28
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: F1835.pdf; Legal ReportPeg.pdf

Pls find attached my completed Annex II form and legal report on further representation as requested.

Thankyou,

Yan Oi Wah Peggy (F1835)

On 14 Feb 2025, at 4:38 PM, tpbpd/PLAND <tpbpd@pland.gov.hk> wrote:

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

傳真 Fax: 2877 0245 / 2522 8426

電話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號 TPB/R/S/H10/22-F1835
In reply please quote this ref.:

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

By Email

14 February 2025

[REDACTED]
Yan Oi Wah Peggy

Dear Sir/Madam,

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
(Further Representation No. F1835)**

I refer to your further representation which was received by the Town Planning Board (TPB) on 31.12.2024 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental

Urgent Return receipt Expand Group Restricted Prevent Copy

comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on “Submission and Processing of Representations and Further Representations under the Town Planning Ordinance” (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB’s website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB’s website after the meeting. After confirmation of the minutes of TPB’s deliberation, the further representers will be notified of the TPB’s decision in writing. The confirmed minutes will also be available at TPB’s website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Yours faithfully,
<image001.png>
(Leticia LEUNG)
for Secretary, Town Planning
Board

with encl.

<Annex I (FR Summary Table)_e.pdf><Annex II (Reply Slip)_e.docx>

To: Town Planning Board Secretariat

Email: tpbpd@pland.gov.hk

Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.

***My responses to the departmental comments set out below (if applicable):

Pls see following message and attached report

SIGNATURE

Name of further representer (as shown on the further representation): Yan Oi Wah Peggy

Further Representation No.: F1835

Full Name: Yan, Oi Wah Peggy (identical with the name shown on HKID Card/Passport)

Signature:  Date: February 23, 2025

STATEMENT ON COLLECTION OF PERSONAL DATA

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To: Town Planning Board Secretariat (Annex II)

Date: February 23, 2025

Further Representations in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22 (Further representation no. F1835)

Dear Sir,

I refer to my recent representation/further representation submissions and formal presentation before the Town Planning Board during recent hearings. In response to your email dated February 14, 2025, which requested my responses/comments on the government departmental responses as per Annex I of the email, I hereby formally submit this further presentation, which was also submitted by my other GIC group member (F1841), which I concur with my further representation to TPB here.

I wish to reiterate my objection to the proposed rezoning of the Pok Fu Lam Green Belt (GB) to an 'Undetermined (U) designation under Pok Fu Lam OZP No. S/H10/22. I am very concerned that the proposal is fraught with legal, environment, strategic, and procedural deficiencies, and that in effect, it deviates from established statutory mandates, disrupts the integrity of the planning process and contravenes the national ecological imperatives enshrined by President Xi Jinping's doctrine that 'lucid water and such mountains are invaluable assets. This doctrine is not a mere slogan but a fundamental principle underpinning our nation's commitment to sustainable development and environmental stewardship. Isn't it also our HKCE's commitment too on improving our liveability and sustainability in HK?

This report, together with the accompanying appendices that present extensively detailed legal counter arguments, offers a compelling and robust basis for opposing the proposed rezoning. I trust the Board will give due consideration to these points and uphold the integrity of HK's planning process by rejecting the amendment in questions.

I again like to reiterate GIC can exist as a successful entity without having to be in one single plot of land. Why not locate GIC (or part of it) at Northern Metropolis for much bigger potential expansion in the future? Putting a jewel of upstream research (GIC) there would act as a catalyst and generate more investors' interest of Northern Metropolis, helping HK's mission to become a real global tech city. More than half of the research in the GIC is dry labs which are much easier than wet lab facilities. Why not put GIC on floors in the new Queen Mary Hospital Building? Why not put GIC at HKU's own Tech Landmark Development Building finishing soon? The public needs TPB full support in hearing the public's voices, open investigation of all possibilities to safeguard our limited remaining green belt and minimise all hassles to local community and public services in Pok Fu Lam.

Thankyou,

Yan, Oi Wah Peggy
(Further representation no. F1835)

Attachment: legal report

Table of Contents

Executive Summary

- 1. Contravention of National Ecological Mandates**
- 2. Legal and Procedural Overreach**
- 3. Inconsistency with Strategic Development Objectives**
- 4. Environmental Impact and Climate Commitments**
- 5. Traffic and Infrastructure Deficiencies**
- 6. Deficient Public Consultation and Stakeholder Engagement**
- 7. Fiscal and Economic Considerations**
- 8. Conclusion and Recommendations**

Appendix 1: Legal and Procedural Analysis of the Rezoning Proposal

1. Legal and Procedural Overreach
2. Inconsistency with the Northern Metropolis Strategy
3. Environmental Impact
4. Traffic and Infrastructure
5. Public Consultation
6. Economic and Financial Viability

Appendix 2: Detailed Legal Counterarguments to the 29 Grounds and Government Responses

- A. Strategic Planning, Site Selection, and Alternative Locations (FA1–FA5)
 - FA1 – Misalignment with Planning Principles
 - FA2 – Undue Influence of Policy on Statutory Functions
 - FA3 – Questioning the Necessity of Proximity to HKU’s Campus
 - FA4 – Insufficient Evaluation of Alternative Sites
 - FA5 – Lack of Comprehensive Technical Justification
- B. The “U” Zoning (FB1–FB6)

- FB1 – Lack of Legal Basis for “U” Zoning
- FB2 – Inadequate Development Control
- FB3 – Dangerous Precedent and Reduced Public Participation
- FB4 – Proposal to Revert to Original “GB” and “R(C)6” Zoning
- FB5 – Insufficient Definition of Planning Parameters
- FB6 – Bypassing Established Rezoning Procedures

C. Land Use Compatibility, Development Intensity, Visual Impact, and Interface with Nearby Schools (FC1–FC3)

- FC1 – Incompatibility with Low-Density, Green Residential Character
- FC2 – Adverse Visual Impacts
- FC3 – Negative Impact on the Ebenezer School

D. Tree Preservation, Landscape, and Ecology (FD1–FD2)

- FD1 – Irreversible Loss of Mature Trees
- FD2 – Inadequate Compensation

E. Traffic and Transport (FE1–FE4)

- FE1 – Exacerbation of Local Traffic Congestion
- FE2 – Over-Optimistic TIA Assumptions
- FE3 – Violation of the Pok Fu Lam Moratorium (PFLM)
- FE4 – Delayed Public Transport Infrastructure (SIL(W))

F. Environmental and Safety Concerns (FF1–FF2)

- FF1 – Contradiction with Climate Strategy
- FF2 – Public Health Risks from Biosafety Facilities

G. Drainage and Utility (FG1)

- FG1 – Risk of Slope Failure and Flooding

H. Geotechnical and Development Costs (FH1–FH3)

- FH1 – Geotechnical Risks and Slope Stability

- FH2 – Fiscal Irresponsibility
- FH3 – Doubts over Financial Viability

I. Other Matters (FI1–FI2)

- FI1 – Potential Property Devaluation and Quality of Life Impacts
- FI2 – Unclear Tangible Community Benefits

J. Public Consultation (FJ1)

- FJ1 – Inadequate Public Consultation

Appendix 3: Strategic Justifications for a Northern Metropolis Innovation Hub – A Counter-Analysis of PlanD’s Consultation Responses

A. Strategic Planning, Site Selection and Alternative Locations

B. The “U” Zoning

C. Land Use Compatibility, Development Intensity, Visual Impact and Interface with Nearby Schools

D. Tree Preservation, Landscape and Ecology

E. Traffic and Transport

F. Environmental and Safety Concerns

G. Drainage and Utility

H. Geotechnical and Development Costs

I. Other Matters (Property Devaluation and Community Benefits)

J. Public Consultation

Appendix 4: Counterarguments and Rebuttal to HKU President’s Further Representation Letter dated January 3, 2025 on Pok Fu Lam Rezoning

Appendix 5: Counterarguments to HKU’s Claim on Upstream Deep Technology Research Suitability

Appendix 6: Case Law and Judicial Precedent Analysis

Appendix 7: Legal Opinion Paper on the Interim “U” Zoning

Appendix 8: Judicial Analysis and Reasoning Framework

Disclaimer and Caveats

1. Factual Basis:

This report is based on the facts and information available at the time of its preparation. Should any additional or materially different facts emerge, the conclusions herein may require re-evaluation.

2. Legal Verification:

The opinions expressed herein are subject to further legal verification and are provided based on our current understanding of the relevant statutory provisions and case law. They do not constitute final or definitive legal advice.

3. Jurisdictional Limitations:

This submission is tailored to the statutory framework as it applies under the Town Planning Ordinance and relevant Hong Kong law. It does not address potential variations or interpretations in other jurisdictions.

4. Evolving Law:

The legal landscape is subject to change. Future legislative amendments, judicial interpretations, or regulatory changes may alter the legal context, and this report's conclusions may not be applicable under any such changes.

5. Independent Legal Advice:

The preparation and submission of this report do not constitute binding legal advice or create any formal legal representation, retainer, fiduciary, or professional relationship between the parties. Recipients are advised to seek independent legal advice before relying on the opinions expressed herein.

6. Purpose and Scope:

This report is prepared solely for the purpose of responding to the Government Departmental comments and for submission to the Town Planning Board and the Chief Executive. It is not intended for any other purpose and should not be relied upon in any unrelated matters.

7. Reliance on Secondary Sources:

The analysis contained herein relies, in part, on secondary sources and legal materials that are believed to be accurate at the time of publication. However, no representation is made as to the accuracy or completeness of such sources.

8. Subject to Revision:

The conclusions and recommendations contained in this report are based on the current state of affairs and may be subject to revision upon receipt of additional factual or legal clarification.

Executive Summary

This report provides an in-depth legal analysis demonstrating that the proposed rezoning:

- Violates the statutory framework established by the Town Planning Ordinance (TPO), notably section 6B(8).
- Is inconsistent with national and regional strategic objectives, including those encapsulated in the Northern Metropolis Strategy, thereby jeopardizing the coherence of Hong Kong's long-term planning framework.
- Falls short on essential environmental, traffic, fiscal, and public consultation standards, each of which is legally binding under Hong Kong planning and environmental law.
- Exposes the decision to judicial review, as reaffirmed by recent case law such as the Fanling Golf Course ruling, which underscores the need for strict procedural adherence.

I respectfully urge the Board to reject the rezoning proposal, maintain the Green Belt designation, and require that any future planning decisions adhere strictly to the statutory framework, robust environmental safeguards, and effective public consultation mechanisms.

1. Contravention of National Ecological Mandates

1.1. National Duty and Environmental Legacy

- President Xi Jinping's repeated pronouncements on ecological civilization impose an unequivocal national duty to preserve our natural heritage.
- The proposition to remove over 2,250 mature trees and disrupt a critical green belt does not simply represent an environmental cost—it represents an irreversible depletion of Hong Kong's ecological capital.
- Under Hong Kong's Climate Action Plan 2050, the preservation of biodiversity and carbon sequestration capacity is paramount.

1.2. Legal and Policy Conflicts

- Permitting development that effectively erodes these environmental assets is not only contrary to our long-term public interest but also stands in stark legal conflict with statutory environmental obligations and higher-level national policy directives.
- This decision, therefore, is both environmentally unsound and legally indefensible, as it disregards mandatory principles of sustainable development and fails to secure a vital public asset for future generations.

2. Legal and Procedural Overreach

2.1 Statutory Mandates and Decision-Making

- Section 6B(8) of the TPO explicitly requires that “after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.” In effect, there is no statutory provision permitting a “partial” acceptance.

- This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment.

- Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance.

- In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that fully addresses the representation.

- Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc “U” designation when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance.

2.2 Judicial Precedent and Procedural Fairness

- The High Court’s ruling in the Fanling Golf Course case stands as a powerful judicial rebuke of any planning authority that deviates from the established procedures.

- When the Board elects to “partially meet” representations by creating an entirely new and ill-defined category, it not only oversteps its statutory authority but also invites judicial intervention on the grounds of arbitrariness and abuse of discretion.

- The absence of an immediate, clear, and legally supported basis for such a category jeopardizes the integrity of the decision-making process and erodes public confidence in the rule of law. By creating a “U” zone without representation basis, the decision violates principles of procedural fairness.

3. Inconsistency with Strategic Development Objectives

3.1 Strategic Rationale and Site Selection

- The government has sought to justify the Pok Fu Lam site's selection on the basis that it is essential for Hong Kong's innovation and technology (I&T) development.
- However, this rationale is in stark conflict with the clearly delineated Northern Metropolis Strategy, which earmarks specific locations—such as the San Tin Technopole and the Science Park—as the designated hubs for I&T development.
- Diverting development to Pok Fu Lam—a site burdened with significant environmental and infrastructural constraints—fragments Hong Kong's strategic planning framework and erodes the intended economic synergy of a centralized I&T hub.

3.2 Procedural and Analytical Deficiencies

- Legally, planning decisions must not only mirror broad policy objectives but must also be supported by a detailed, site-specific comparative analysis that validates the chosen location.
- The absence of a rigorous, site-specific comparative analysis renders the decision arbitrary.
- The failure to rigorously consider and compare viable alternatives exposes it to potential legal challenge on grounds of procedural unfairness and irrationality.

4. Environmental Impact and Climate Commitments

4.1 Inadequate Environmental Safeguards

- The proposed development hinges on a compensation mechanism that permits the removal of mature trees with a replacement ratio of only 1:0.48.
- This figure is significantly below the internationally accepted standard of 1:1 and fails to account for the multifaceted ecological functions provided by mature trees, including long-term carbon sequestration, soil stabilization, and habitat provision for local fauna.
- The removal of these trees represents an irreversible loss of ecological capital that cannot be remedied by the planting of new saplings, which require decades to mature and achieve comparable functionality.
- Moreover, the proposal does not appear to incorporate a robust mitigation strategy for erosion and landslide risks associated with developing on steep slopes.

4.2 Climate Action and Legal Compliance

- The proposed development is in direct conflict with Hong Kong's Climate Action Plan 2050, which prioritises biodiversity preservation and carbon sequestration.
- Under both statutory environmental law and the guiding principles of the Climate Action Plan 2050, any development that precipitates such degradation is legally indefensible.
- The proposed environmental trade-offs are excessive and will likely be declared unlawful by any court that scrutinizes the adequacy of environmental safeguards in planning decisions.
- The inadequate mitigation measures expose the proposal to potential legal challenges on environmental grounds.

5. Traffic and Infrastructure Deficiencies

5.1 Flawed Traffic Impact Assessment (TIA)

- The Traffic Impact Assessment (TIA) accompanying the rezoning proposal is critically flawed.
- It relies on optimistic assumptions that do not adequately account for the severe congestion expected during peak hours, the substantial influx of heavy construction vehicles, or the long-term operational constraints given that the South Island Line (West) will not be operational until at least 2034.
- The delayed operation of critical transport infrastructure such as the South Usland Line West further exacerbates these concerns.

5.2 Public Safety and Urban Mobility Risks

- The failure to incorporate comprehensive worst-case scenario modeling violates the Board's statutory duty to ensure that any development will not unduly compromise public safety and urban mobility.
- When infrastructure is stressed beyond its designed capacity, the resulting deterioration in emergency response, air quality, and overall public safety can have severe, long-lasting consequences for the community.
- Consequently, the TIA, as presently drafted, fails to meet the statutory requirements for a safe and efficient transport network and is thus legally vulnerable to challenge.

6. Deficient Public Consultation and Stakeholder Engagement

6.1 Inadequate Engagement Process

- Effective public consultation is the cornerstone of Hong Kong's planning process and is a fundamental statutory requirement.
- The rezoning proposal has been met with overwhelming opposition—1,859 out of 1,861 representations oppose the change—and key stakeholders, notably the Ebenezer School for the Visually Impaired, have been excluded and/or inadequately consulted from the consultation process.

6.2 Procedural Fairness and Legal Implications

- This exclusion represents a serious breach of procedural fairness, as it denies affected parties the opportunity to participate meaningfully in decisions that will have profound impacts on their community.
- The legal standard demands that planning decisions be made only after robust, two-way public engagement has been achieved.
- The absence of such engagement renders the decision not only procedurally flawed but also susceptible to judicial invalidation on the basis that it fails to secure a social license from the community.
- This deficiency undermines the legitimacy of the rezoning decision and strongly exposes it to judicial review.

7. Fiscal and Economic Considerations

7.1 Economic Analysis and Public Resource Allocation

- The proposal involves significant infrastructure expenditures without a transparent, rigorous cost-benefit analysis.
- At a time when Hong Kong is grappling with a structural budget deficit exceeding HK\$100 billion, the economic rationale behind the proposed development is deeply problematic.
- The rezoning proposal envisages enormous infrastructure expenditures for slope stabilization, environmental remediation, and other associated costs without a transparent, rigorous cost-benefit analysis.
- Relying on projections of private funding and future research grants does not meet the statutory requirement for prudent public resource allocation.

7.2 Fiscal Responsibility and Legal Defensibility

- Legally, planning decisions must be underpinned by robust financial analysis that ensures economic viability and protects scarce public funds from unnecessary diversion.
- The lack of detailed financial documentation and enforceable economic safeguards renders the proposal economically unsustainable.
- The absence of such an analysis renders the proposal not only fiscally irresponsible but also legally indefensible.
- This shortfall is set to strongly expose the decision to potential legal challenges for fiscal irresponsibility.

8. Conclusion and Recommendations

8.1 Summary of Key Findings

- The proposed rezoning violates statutory mandates by introducing an “Undetermined” zoning category contrary to Section 6B(8) of the TPO.
- It conflicts with national and regional strategic objectives and undermines environmental, traffic, and public consultation standards.

8.2 Recommendations for the Board

In light of the foregoing legal, environmental, strategic, and fiscal concerns, I respectfully urge the Board to:

- **Reject the Rezoning Proposal:** Uphold the Green Belt designation to safeguard Hong Kong’s environmental integrity and honor the national ecological vision as mandated by President Xi Jinping’s doctrine.
- **Realign Site Selection with Strategic Plans:** Redirect proposals for I&T development to the designated areas outlined in the Northern Metropolis Strategy or the Science Park, where a detailed, site-specific analysis supports the decision.
- **Enhance Public Consultation:** Institute a rigorous, transparent public consultation process that fully engages all relevant stakeholders from the outset, thereby satisfying statutory requirements for procedural fairness.
- **Ensure Legal and Environmental Compliance:** Adhere strictly to the statutory provisions of the TPO—including the explicit mandates of section 6B(8)—and undertake comprehensive, enforceable environmental and traffic assessments to preclude future legal challenges.

8.3 Concluding Remarks

- It is imperative that the Town Planning Board exercise its statutory discretion with utmost legal rigor and procedural fairness, ensuring that all decisions reflect both the public interest and the national commitment to ecological sustainability.
- I trust that this detailed report, together with the appended legal analyses, will inform your deliberations and lead to a decision that upholds the rule of law and the principles of sustainable development.

Appendix 1: Legal and Procedural Analysis of the Rezoning Proposal

1. Legal and Procedural Overreach

- **Flaw:** The unilateral introduction of an “Undetermined” zoning category, which was not proposed by any representer, is a clear deviation from the statutory decision-making framework mandated by section 6B(8) of the TPO.

- **Comment:** The established legal framework requires that the Board either fully accept or completely reject any representation, without resorting to a half-measure that attempts to “partially meet” the expressed views. By introducing a “U” zone—an option never provided on the table by section 6B(8) of the TPO—the Board effectively circumvents the clear statutory process and usurps its discretionary authority. This circumvention not only contravenes the letter and spirit of the TPO but also undermines the fundamental principle of legal certainty that underpins administrative law. The High Court’s decision in the Fanling Golf Course case reinforces that any deviation from prescribed procedures exposes a decision to judicial review, as it constitutes an arbitrary exercise of power. This arbitrary action, which lacks a rigorous, statutory justification, renders the rezoning proposal indefensible under the rule of law. In essence, the Board’s failure to adhere strictly to the procedural mandates constitutes a breach of administrative fairness and opens the door to subsequent legal challenges, thereby jeopardizing the legitimacy of the entire rezoning process.

2. Inconsistency with the Northern Metropolis Strategy

- **Flaw:** Diverting I&T development to Pok Fu Lam is in direct conflict with the strategic priorities of the Northern Metropolis Strategy, which clearly designates alternative hubs for such activities.

- **Comment:** Strategic planning in Hong Kong is governed not only by broad policy pronouncements but also by detailed, site-specific assessments that ensure coherence and rational allocation of resources. By ignoring the explicit guidance of the Northern Metropolis Strategy, the decision to develop in Pok Fu Lam undermines the very framework that is intended to foster economic synergy and efficient urban development. Legally, the Board’s failure to conduct a rigorous comparative analysis of alternative sites constitutes an arbitrary decision-making process. The statutory obligation to act in a rational manner requires that all viable options be carefully weighed, and the selection process be fully documented. Without such a meticulous evaluation, the decision appears capricious and open to judicial scrutiny. The divergence from established strategic priorities not only dilutes the effectiveness of regional planning but also exposes the decision to legal challenges on the grounds of procedural unfairness and lack of rationality.

3. Environmental Impact

- **Flaw:** The proposal’s reliance on a compensatory planting ratio of 1:0.48 for mature trees is grossly inadequate and fails to account for the multifaceted ecological functions of these trees.

- **Comment:** Mature trees perform a range of essential ecological functions that young saplings cannot replicate for decades, including significant roles in carbon sequestration, soil stabilization, and the maintenance of local biodiversity. The internationally accepted standard for compensatory planting is 1:1, and any deviation from this standard is tantamount to an admission that the loss of mature trees is being undervalued. Legally, such a shortfall in compensation not only violates statutory environmental standards but also undermines the principles enshrined in the Climate Action Plan 2050. The irreversible nature of mature tree loss, combined with the inadequate replacement ratio, means that the ecological damage is both immediate and irreparable. This failure to meet an enforceable environmental standard renders the proposal legally indefensible, as it does not provide sufficient protection for the public asset that these trees represent. The statutory duty to preserve natural habitats demands that any loss be fully and equivalently compensated, a requirement that is clearly not met by the current proposal.

4. Traffic and Infrastructure

- **Flaw:** The Traffic Impact Assessment (TIA) fails to account for realistic, worst-case scenarios, particularly regarding peak-hour congestion and the influx of construction-related traffic.

- **Comment:** The TIA is a critical document that must provide a robust analysis of the potential impacts of any development on local traffic conditions. In this case, the assumptions underlying the TIA are overly optimistic and do not reflect the true scale of the challenge, especially in a densely populated area like Pok Fu Lam. Statutory obligations require that the TIA be based on worst-case scenario modeling and include enforceable measures to mitigate any negative impacts. The failure to incorporate these elements means that the TIA does not meet the necessary legal standards for protecting public safety and ensuring efficient urban mobility. Moreover, any reliance on future improvements, such as deferred upgrades to road junctions or the anticipated operation of the South Island Line (West) beyond 2034, does not absolve the Board of its current duty to provide immediate, enforceable safeguards. This shortfall in the TIA exposes the decision to legal challenge on the grounds that it does not adequately protect the public interest, thereby rendering the proposal legally unsustainable.

5. Public Consultation

- **Flaw:** The consultation process was fundamentally deficient, as evidenced by the overwhelming opposition and the exclusion of key stakeholders such as the Ebenezer School for the Visually Impaired.

- **Comment:** Procedural fairness in administrative decision-making mandates robust and inclusive public consultation. The statutory framework requires that affected parties are provided with a meaningful opportunity to voice their concerns and contribute to the decision-making process. In this instance, the near-unanimous opposition—1,859 out of 1,861 representations—coupled with the exclusion of significant community stakeholders, demonstrates a profound failure to adhere to these principles. Legally, such a failure undermines the legitimacy of the decision and violates the duty to secure a social license for development. The lack of genuine, two-way communication not only breaches the procedural requirements but also creates an environment of arbitrariness and bias. This, in turn, renders the decision susceptible to judicial invalidation on the grounds that it fails to uphold the

principles of transparency, accountability, and fairness that are fundamental to Hong Kong's planning process.

6. Economic and Financial Viability

- **Flaw:** The proposal lacks a rigorous, transparent cost-benefit analysis and relies on uncertain projections of private funding and future grants.

- **Comment:** In an environment where public resources are extremely limited—as evidenced by Hong Kong's structural budget deficit exceeding HK\$100 billion—the statutory obligation for prudent fiscal management is paramount. Any large-scale development must be supported by a detailed, verifiable cost-benefit analysis that clearly demonstrates its economic viability and justifies the diversion of scarce public funds. The current proposal, by failing to provide such an analysis, exposes itself to legal challenge on the grounds of fiscal irresponsibility. Reliance on projections of private funding and future research grants is inherently speculative and does not meet the standard of certainty required by law. This lack of financial rigor not only jeopardizes the project's sustainability but also risks imposing an undue burden on the public purse. Legally, decisions that do not meet the strict standards of fiscal prudence are vulnerable to being overturned, as they fail to protect the public interest in a time of economic constraint.

Appendix 2: Detailed Legal Counterarguments to the 29 Grounds and Government Responses

This appendix provides an exhaustive summary of the 29 distinct grounds—organized into 10 categories—raised by further representations against the proposed amendments to the Draft Pok Fu Lam OZP No. S/H10/22, along with the government’s responses and robust legal counterarguments for each category. Each counterargument serves to ensure that all legal deficiencies are fully articulated and supported by relevant statutory and case law principles.

A. Strategic Planning, Site Selection, and Alternative Locations (FA1–FA5)

• FA1 – Misalignment with Planning Principles:

- **Objection:** The proposed development is fundamentally inconsistent with the overarching national, regional, and territorial planning goals.

- **Government Response:** The justification relies on the 2021 Policy Address and the I&T Blueprint to support the site selection.

- **Legal Counterargument:** It is not sufficient for a planning decision to simply align with high-level policy pronouncements; the decision must be supported by a meticulous, site-specific analysis that rigorously evaluates all viable alternatives. The absence of such an analysis renders the decision arbitrary and capricious, thereby failing the rationality test under administrative law. The statutory requirement for rational decision-making demands that the decision-maker fully consider and document the comparative merits of all potential sites. In this instance, the failure to do so constitutes a breach of procedural fairness and exposes the decision to judicial scrutiny. The lack of a comprehensive evaluation undermines the integrity of the planning process and ultimately renders the rezoning legally indefensible.

• FA2 – Undue Influence of Policy on Statutory Functions:

- **Objection:** The directive from the 2021 Policy Address has unduly preempted the Board’s independent statutory duty to evaluate site suitability on its merits.

- **Government Response:** The Board asserts that it has exercised independent and professional judgment in its review.

- **Legal Counterargument:** While high-level policy guidance is relevant, it cannot override the statutory obligation to conduct an unbiased, objective evaluation of all relevant factors. The reliance on the 2021 Policy Address to justify the decision without a thorough, independent analysis of the site-specific issues amounts to an abdication of the Board’s statutory responsibilities. This over-reliance on policy directives undermines the requirement for a balanced consideration of all material facts, thus constituting an abuse of discretion. Such a failure to independently verify and assess the suitability of the site renders the decision procedurally flawed and legally vulnerable to challenge on the grounds of partiality and arbitrariness.

• **FA3 – Questioning the Necessity of Proximity to HKU’s Campus:**

• **Objection:** The argument that proximity to HKU’s campus is a decisive factor does not justify the neglect of alternative sites that may better serve the public interest.

• **Government Response:** The government contends that clustering research facilities yields tangible benefits through synergistic effects.

• **Legal Counterargument:** The concept of synergy must be supported by quantitative and qualitative evidence that demonstrates a measurable enhancement in research output or economic efficiency. Vague assertions of “synergy” without such evidence fail to satisfy the statutory standard for altering established land-use patterns. The decision to prioritize proximity to HKU’s campus, without a rigorous comparative analysis of alternative sites, undermines the fundamental principles of rational planning and fairness. This lack of a robust evidentiary basis not only renders the decision arbitrary but also exposes it to legal challenge as it fails to meet the stringent requirements of statutory justification.

• **FA4 – Insufficient Evaluation of Alternative Sites:**

• **Objection:** The evaluation of potential alternative locations, such as the San Tin Technopole and the “R(C)6” site, is superficial and inadequate.

• **Government Response:** The justification is based on an in-principle acceptance under the 2021 Policy Address, with only cursory consideration of alternatives.

• **Legal Counterargument:** Statutory and administrative law mandates a comprehensive, comparative assessment of all viable alternatives before arriving at a decision that significantly alters land use. The failure to conduct such an analysis represents a serious procedural deficiency that renders the decision arbitrary and capricious. Without a detailed examination of each alternative’s merits, risks, and public benefits, the decision lacks the necessary evidentiary foundation required by law. This oversight is a fundamental breach of the duty to act rationally and impartially, and it substantially weakens the legal defensibility of the rezoning proposal.

• **FA5 – Lack of Comprehensive Technical Justification:**

• **Objection:** The proposal does not provide robust technical justifications for selecting the Pok Fu Lam site over other potential alternatives.

• **Government Response:** HKU has committed to future reviews and amendments based on stakeholder feedback.

• **Legal Counterargument:** Promises of future technical reviews cannot substitute for the immediate statutory obligation to base planning decisions on comprehensive and contemporaneous technical evidence. The Board is required to provide a fully documented rationale at the time of decision-making, demonstrating that all technical aspects have been rigorously analyzed. Relying on deferred evaluations undermines the credibility of the decision and violates the principles of administrative accountability and transparency. Such a failure to

provide immediate, detailed technical justification constitutes an abuse of discretion and leaves the decision open to legal challenge for its lack of proper evidentiary support.

B. The “U” Zoning (FB1–FB6)

• FB1 – Lack of Legal Basis for “U” Zoning:

- Objection: No representation has proposed the adoption of a “U” (Undetermined) zone; therefore, its imposition lacks a statutory basis under section 6B(8) of the TPO.

- Government Response: The Board asserts its discretion to “partially meet” representations.

- Legal Counterargument: Section 6B(8) of the TPO explicitly requires that **“after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.”** In effect, there is no statutory provision permitting a “partial” acceptance. This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment. Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that addresses the representation. Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc “U” designation (which does not meet any representation) when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance. Given no statutory provision for intermediary solution to partially satisfy the representation, introducing a “U” zone in the absence of any representational basis not only breaches this explicit statutory requirement but also undermines the principle of legal certainty. Such a maneuver is tantamount to an overreach of discretionary power, as it circumvents the necessary statutory decision process that ensures administrative decisions are both transparent and accountable. This deviation from established statutory procedure is likely to be deemed an abuse of power and arbitrary by any court tasked with reviewing the decision, thereby rendering the rezoning legally indefensible.

• FB2 – Inadequate Development Control:

- Objection: The “U” zone fails to establish clear and enforceable development parameters, thus undermining effective planning control.

- **Government Response:** It is contended that future planning permission, required under section 16, will provide the necessary control measures.

- **Legal Counterargument:** Relying on future regulatory mechanisms to impose controls does not absolve the immediate statutory obligation to establish definite development parameters within the zoning designation itself. The law requires that any interim measure must itself be clear, precise, and enforceable, thereby providing certainty for both developers and the public. Without such enforceability, the “U” zone becomes a legal vacuum where arbitrary development could occur, effectively nullifying the protective function of the existing zoning system. This lack of immediate, binding controls constitutes a serious breach of statutory planning standards and exposes the decision to judicial invalidation for its failure to protect public interests.

- **FB3 – Dangerous Precedent and Reduced Public Participation:**

- **Objection:** The adoption of “U” zoning sets a dangerous precedent by signaling that green spaces can be rezoned arbitrarily, thereby undermining public participation in planning decisions.

- **Government Response:** The measure is defended as a temporary stopgap to allow further consultation and review.

- **Legal Counterargument:** Even as a temporary measure, the introduction of a “U” zone must comply with the highest standards of legal and procedural integrity. The precedent set by such a decision could lead to a systematic erosion of established planning safeguards, as it implies that public representations can be effectively ignored. The statutory requirement for robust public consultation is not suspended simply because the measure is temporary; it remains an essential component of a legitimate planning process. By bypassing comprehensive public engagement, the decision not only fails to secure the requisite social license but also becomes susceptible to judicial review on grounds of arbitrariness and lack of transparency. This sets a pernicious precedent that undermines the statutory protections afforded to environmentally sensitive areas.

- **FB4 – Proposal to Revert to Original “GB” and “R(C)6” Zoning:**

- **Objection:** Many representers insist that the site should retain its original “GB” and “R(C)6” designations, which more accurately reflect the site’s current use and community expectations.

- **Government Response:** The interim “U” zone is justified pending a comprehensive review by HKU.

- **Legal Counterargument:** Deferring the decision through the introduction of an interim “U” zone does not fulfill the Board’s statutory obligation to provide a clear and legally sound zoning determination at the time of decision-making. The failure to immediately adopt the original zoning, despite overwhelming public opinion, renders the decision arbitrary and procedurally flawed. Statutory planning mandates require that any temporary measures must be accompanied by a rigorous justification that addresses all public and environmental concerns. Without such justification, the interim designation functions merely as a placeholder, exposing

the decision to legal challenge on grounds of procedural impropriety and non-compliance with established planning protocols.

• **FB5 – Insufficient Definition of Planning Parameters:**

• **Objection:** The explanatory statement for “U” zoning is vague and fails to clearly define the scope of permissible development, leaving excessive discretionary power for future reinterpretation.

• **Government Response:** It is argued that additional technical assessments and stakeholder consultations will be used to refine the parameters.

• **Legal Counterargument:** Statutory planning law demands that any decision affecting land use must be precise and predictable. The lack of clear, enforceable planning parameters creates uncertainty and undermines the legal certainty that is central to administrative decision-making. Future promises of refinement cannot substitute for the immediate need for definitive criteria that protect both public interests and the integrity of the land-use system. The absence of such clarity is likely to be deemed legally insufficient, as it fails to provide a solid foundation upon which enforceable planning controls can be built, thus exposing the decision to judicial invalidation for its vagueness.

• **FB6 – Bypassing Established Rezoning Procedures:**

• **Objection:** The introduction of “U” zoning circumvents the established statutory decision-making process prescribed by the TPO, thereby weakening statutory planning safeguards.

• **Government Response:** The Board asserts its independent statutory authority to amend the plan as it deems fit.

• **Legal Counterargument:** While the Board is granted a degree of discretionary authority, this power is circumscribed by strict statutory limits that mandate adherence to established procedures. Deviating from such without compelling and well-documented reasons may be deemed to constitute an abuse of power. Such a circumvention undermines the legal predictability and procedural fairness that are essential to administrative law. The decision to bypass established procedures risks not only compromising the integrity of the planning process but also setting a dangerous precedent that may erode public trust in statutory safeguards. This conduct is legally indefensible as it breaches both the letter and the spirit of the TPO.

C. Land Use Compatibility, Development Intensity, Visual Impact, and Interface with Nearby Schools (FC1–FC3)

• **FC1 – Incompatibility with Low-Density, Green Residential Character:**

• **Objection:** The development of a high-density Centre in a predominantly low-density, green residential area is inherently incompatible with the character of Pok Fu Lam.

- **Government Response:** The Board contends that appropriate design modifications can mitigate the incompatibility.

- **Legal Counterargument:** The statutory presumption against significant development in “GB” zones is well-established, and any proposal to contravene this presumption must be supported by incontrovertible evidence that the development is compatible with the existing land use. Generic promises to adjust building density or bulk are insufficient unless they are accompanied by detailed, enforceable design criteria. The failure to provide such criteria renders the decision arbitrary and exposes it to judicial review on the grounds of incompatibility with the established residential character. In effect, without a rigorous demonstration that the proposed modifications will maintain the intrinsic qualities of the area, the rezoning decision is legally indefensible.

- **FC2 – Adverse Visual Impacts:**

- **Objection:** The proposed building bulk and configuration will significantly impair critical public vistas and degrade the aesthetic quality of the area.

- **Government Response:** HKU is directed to adopt specific design enhancements, including reduced building heights and increased setbacks, to mitigate visual impacts.

- **Legal Counterargument:** The statutory duty to protect public views is not met by vague commitments to “enhance” design; rather, it requires the imposition of clear, measurable, and enforceable standards. The absence of such standards means that affected parties have no effective remedy should the visual impacts materialize. Legally, this uncertainty constitutes a breach of the planning process’s obligation to secure public amenity, thereby rendering the decision arbitrary and subject to judicial invalidation for failing to meet the necessary criteria for protecting the visual environment.

- **FC3 – Negative Impact on the Ebenezer School:**

- **Objection:** The proximity of the proposed Centre—being less than 15 meters from the Ebenezer School—poses significant risks of noise, vibration, and other adverse impacts on vulnerable students.

- **Government Response:** HKU is required to engage with the school and institute mitigation measures to protect the educational environment.

- **Legal Counterargument:** The potential for irreversible harm to a sensitive institution such as the Ebenezer School demands immediate and binding protective measures, not merely promises of future engagement. Statutory obligations require that any development in close proximity to vulnerable groups must incorporate enforceable safeguards that ensure their safety and well-being. The failure to include such concrete measures renders the decision procedurally and substantively flawed, leaving it open to challenge on the grounds that it fails to protect the rights and interests of a particularly vulnerable segment of the community.

D. Tree Preservation, Landscape, and Ecology (FD1–FD2)

• FD1 – Irreversible Loss of Mature Trees:

- **Objection:** The removal of over 2,250 mature trees will cause irreversible ecological damage that cannot be offset by the proposed compensatory planting.

- **Government Response:** HKU proposes to mitigate the impact through the planting of heavy-standard trees arranged in clusters.

- **Legal Counterargument:** Mature trees provide complex ecological functions—ranging from carbon sequestration to biodiversity support—that young saplings cannot replicate for decades. The internationally accepted standard is a 1:1 replacement ratio, and any deviation from this standard constitutes a failure to adequately compensate for the loss. Legally, the irreversible loss of mature trees amounts to a permanent degradation of a public asset, and statutory environmental protection standards require that any such loss be fully and equivalently compensated. The proposed ratio of 1:0.48 is demonstrably insufficient and legally indefensible because it undermines the fundamental environmental objectives that underpin both local and national legislation. Such a shortfall in compensation represents a clear breach of statutory duties to preserve natural heritage.

• FD2 – Inadequate Compensation:

- **Objection:** The promise to improve compensatory measures in the future does not address the immediate and irreversible loss of ecological functions provided by mature trees.

- **Government Response:** HKU commits to further reviewing and enhancing its compensation strategy.

- **Legal Counterargument:** Statutory environmental law requires that any compensatory measure be both immediate and equivalent in ecological value to the loss incurred. Future promises or tentative commitments cannot substitute for enforceable standards that protect the environment at the time of decision-making. The failure to secure an immediate, legally binding compensation measure that meets a 1:1 standard renders the proposal irreconcilable with statutory requirements. This inadequacy not only violates established environmental protection principles but also opens the decision to legal challenge for failing to safeguard a critical public resource.

E. Traffic and Transport (FE1–FE4)

• FE1 – Exacerbation of Local Traffic Congestion:

- **Objection:** The additional traffic generated by the Centre would exacerbate congestion in an area that is already overburdened, negatively impacting public safety and quality of life.

- **Government Response:** The TIA contends that targeted junction improvements will alleviate the increased traffic burden.

- **Legal Counterargument:** Traffic impact assessments must be grounded in conservative, worst-case scenario projections that reflect the true potential for congestion. Optimistic assumptions that do not incorporate the full impact of peak-hour traffic or the significant disruption caused by heavy construction vehicles fall short of the statutory standard for protecting public safety. Without immediate, enforceable remedial measures, the TIA is legally inadequate because it fails to provide a comprehensive strategy for mitigating foreseeable traffic problems. This deficiency exposes the decision to legal challenge on the grounds that it does not ensure the safe and efficient operation of the local transport network.

- **FE2 – Over-Optimistic TIA Assumptions:**

- **Objection:** The TIA does not adequately factor in the severe impact of construction traffic and peak-period congestion.

- **Government Response:** HKU promises to update the TIA in subsequent design stages.

- **Legal Counterargument:** Deferring critical assessments to future stages is insufficient to meet the immediate statutory obligation to base the decision on a complete and realistic appraisal of traffic impacts. The Board must ensure that the present TIA accurately reflects worst-case scenarios and incorporates binding measures to mitigate these impacts. The reliance on deferred updates undermines the legal requirement for a thorough, contemporaneous analysis, leaving the decision exposed to challenge for its failure to provide immediate public safety assurances.

- **FE3 – Violation of the Pok Fu Lam Moratorium (PFLM):**

- **Objection:** The proposed high plot ratio and inclusion of residential components are in clear violation of the objectives of the Pok Fu Lam Moratorium, which is designed to protect the area from excessive development.

- **Government Response:** Revised development parameters are asserted to bring the proposal within permissible limits.

- **Legal Counterargument:** Any relaxation of the moratorium standards must be supported by rigorous, evidence-based justification that clearly demonstrates the public benefits outweigh the risks. In this instance, the failure to provide such evidence renders the decision legally indefensible. The statutory objective of the PFLM is to preserve the character and functionality of the area, and any departure from this objective without compelling justification is arbitrary. This violation of established planning policy exposes the decision to legal challenge on grounds of inconsistency and procedural unfairness.

- **FE4 – Delayed Public Transport Infrastructure (SIL(W)):**

- **Objection:** The projected delay in the operational commencement of the South Island Line (West) means that the long-term traffic impacts will not be mitigated in a timely manner.

- **Government Response:** Future traffic reviews and planned junction improvements are offered as remedial measures.

- **Legal Counterargument:** Relying on future infrastructure improvements does not absolve the Board of its present statutory duty to ensure that the local transport network is capable of handling the additional load imposed by the development. The absence of immediate, enforceable measures to address the anticipated congestion constitutes a breach of the statutory requirement to protect public safety. This reliance on deferred improvements creates an unacceptable risk of long-term traffic bottlenecks, rendering the decision legally vulnerable for failing to provide a complete and adequate mitigation strategy.

F. Environmental and Safety Concerns (FF1–FF2)

• FF1 – Contradiction with Climate Strategy:

- **Objection:** Development on Green Belt land will accelerate deforestation and increase carbon emissions, which is in direct contradiction with Hong Kong’s goal of achieving carbon neutrality by 2050.

- **Government Response:** HKU commits to ensuring a minimum of 30% overall greenery and 12,000m² of communal open space.

- **Legal Counterargument:** The statutory and environmental mandates require that any development impacting the natural environment produce measurable, enforceable outcomes that directly align with climate action goals. The commitment to percentage targets without a detailed implementation plan fails to meet the rigorous standards set by the Climate Action Plan 2050. The legal framework demands not only aspirational targets but also concrete, binding measures that guarantee the preservation of ecological functions. In the absence of such detailed safeguards, the proposal is legally indefensible, as it compromises the statutory objective of reducing carbon emissions and protecting natural habitats.

• FF2 – Public Health Risks from Biosafety Facilities:

- **Objection:** The presence of a Biosafety Level 3 laboratory near residential areas poses significant public health risks that are unacceptable under any circumstances.

- **Government Response:** HKU argues that similar facilities have operated safely under stringent regulatory regimes elsewhere.

- **Legal Counterargument:** Reliance on the safe operation of analogous facilities in different contexts does not substitute for a rigorous, site-specific risk assessment. The statutory obligation is to ensure that any high-risk facility, especially one located in close proximity to residential areas, is accompanied by immediate and enforceable safety measures tailored to the unique risks of the site. The failure to implement such measures renders the decision legally indefensible, as it violates the public’s right to safety and health. The Board must require detailed, binding safeguards that address the specific risks associated with the proposed laboratory before any rezoning can be justified.

G. Drainage and Utility (FG1)

• FG1 – Risk of Slope Failure and Flooding:

- **Objection:** Extensive excavation and removal of vegetation may destabilize slopes, thereby significantly increasing the risk of flooding along Pok Fu Lam Road.

- **Government Response:** A Drainage Impact Assessment (DIA) concludes that the existing infrastructure is adequate.

- **Legal Counterargument:** Given the scale of the proposed works and the critical importance of maintaining slope stability, the adequacy of the drainage infrastructure must be independently verified and accompanied by comprehensive contingency planning. Reliance on a single DIA without robust, enforceable backup measures does not meet the statutory requirement for protecting public safety and environmental integrity. The potential for catastrophic failure, in the absence of immediately enforceable safeguards, renders the decision legally indefensible.

H. Geotechnical and Development Costs (FH1–FH3)

• FH1 – Geotechnical Risks and Slope Stability:

- **Objection:** Construction on steep slopes presents significant risks of landslides and destabilization, which could have severe repercussions for neighboring properties and public safety.

- **Government Response:** A Geotechnical Planning Review Report deems the project feasible provided that appropriate remedial measures are implemented.

- **Legal Counterargument:** Feasibility studies, while important, are insufficient unless accompanied by binding, enforceable controls that guarantee the long-term stability of the slopes. Statutory obligations require that all geotechnical risks be addressed through concrete, precautionary measures that are incorporated into the planning approval. The absence of such enforceable controls means that the potential for catastrophic failure remains, thereby exposing the project to legal challenge on the grounds that it fails to meet the necessary public safety standards.

• FH2 – Fiscal Irresponsibility:

- **Objection:** Pursuing an extravagant project in an area ill-suited for such development is fiscally irresponsible, particularly given Hong Kong's substantial budget deficit.

- **Government Response:** HKU asserts that the Centre is self-financing, relying on private funding and research grants.

- **Legal Counterargument:** Uncertain and speculative funding arrangements cannot substitute for a rigorous, transparent cost-benefit analysis that is required under statutory planning standards. The Board is legally obligated to ensure that public resources are allocated

prudently, especially in a time of fiscal constraint. The absence of detailed financial projections and binding assurances regarding funding sources renders the proposal economically unsustainable and legally indefensible. The decision, therefore, violates the statutory duty of fiscal prudence by failing to adequately justify the diversion of scarce public funds.

• **FH3 – Doubts over Financial Viability:**

• **Objection:** The proposal lacks detailed financial documentation and transparent cost projections, raising serious doubts about the overall economic viability of the project.

• **Government Response:** HKU provides general assurances of diversified funding sources.

• **Legal Counterargument:** Legally, the Board must be presented with a comprehensive, meticulously detailed cost-benefit analysis that clearly demonstrates the economic feasibility of the project. General assurances or vague promises of future funding do not satisfy this requirement. In the absence of such rigorous financial documentation, the proposal fails to meet the statutory standard for responsible resource allocation. This financial opacity renders the decision legally indefensible, as it imposes an undue risk on public finances and fails to ensure economic sustainability.

I. Other Matters (FI1–FI2)

• **FI1 – Potential Property Devaluation and Quality of Life Impacts:**

• **Objection:** The development may lead to significant property devaluation and a deterioration in the overall quality of life, owing to increased noise, congestion, and environmental degradation.

• **Government Response:** It is argued that property values are not a primary statutory planning consideration.

• **Legal Counterargument:** While property prices are not the sole determinant of a planning decision, quality of life and environmental amenity are fundamental considerations under statutory planning criteria. Ignoring these factors results in an incomplete assessment of the public interest. The legal framework requires that all adverse impacts on the community's living standards be thoroughly assessed and mitigated. The failure to do so constitutes a breach of the statutory duty to ensure that the planning decision promotes the public good, thereby rendering the proposal legally indefensible.

• **FI2 – Unclear Tangible Community Benefits:**

• **Objection:** The benefits promised to the local community are vague and largely appear to serve HKU's institutional interests rather than generating clear, measurable public gains.

• **Government Response:** HKU asserts that the Centre will provide public facilities and improved connectivity that will benefit the community.

- **Legal Counterargument:** Statutory planning requirements demand that any proposed development yield demonstrable, quantifiable benefits to the community. Vague projections or aspirational statements are insufficient to meet this threshold. The absence of specific, enforceable benchmarks for public benefit renders the decision arbitrary and legally susceptible to challenge on the grounds that it fails to secure a true social license. Without clear, measurable outcomes that benefit the public, the justification for rezoning remains legally unpersuasive.

J. Public Consultation (FJ1)

• FJ1 – Inadequate Public Consultation:

- **Objection:** The record of public engagement is severely deficient, and the consultation process has not met the required statutory standards for meaningful stakeholder involvement.

- **Government Response:** HKU points to previous engagement efforts and commits to enhanced future consultation.

- **Legal Counterargument:** The statutory obligation for robust, contemporaneous public consultation cannot be remedied by future promises. The failure to engage affected parties in a substantive manner at the time of the decision constitutes a serious breach of procedural fairness. This lack of immediate, effective public consultation not only undermines the legitimacy of the decision but also violates the legal principle that all stakeholders must have a genuine opportunity to participate in decisions that impact their environment and quality of life. Consequently, the decision is legally unsound and subject to judicial challenge on the basis of inadequate public participation.

In summary, the government's responses—predicated largely on deferred reviews, design modifications, and promises of future assessments—do not meet the immediate, detailed statutory justification required under Hong Kong's planning and environmental law. Each category of objection, from procedural overreach to fiscal irresponsibility, reveals fundamental legal vulnerabilities in the rezoning proposal. Absent immediate, enforceable measures that address these deficiencies, the proposal remains exposed to successful legal challenges on grounds of arbitrariness, procedural unfairness, and non-compliance with established statutory obligations.

Appendix 3: Strategic Justifications for a Northern Metropolis Innovation Hub – A Counter-Analysis of PlanD’s Consultation Responses

Below is a comprehensive set of responses that clearly outline our disagreements with each of PlanD’s responses (in consultation with the Government Bureaux/Departments). Each point is supported by strong strategic, environmental, economic, and community justifications for rejecting the proposals that favour a development in Pok Fu Lam:

A. Strategic Planning, Site Selection and Alternative Locations

- **Response from PlanD:** They argue that HKU’s proposal in Pok Fu Lam complies with the 2021 Policy Address and related strategies; that alternative sites (such as San Tin Technopole) are available; and that situating the Centre near HKU, QMH, and Cyberport creates synergies.

- **Disagreement:** Concentrating deep technology research in a fragmented, built-up area like Pok Fu Lam undermines our long-term vision. We require a purpose-built, integrated innovation hub that can leverage ample new land and modern infrastructure.

- **Justifications:**

- The Northern Metropolis has been designed from the ground up to achieve economies of scale and foster a critical mass of I&T activities.

- Its strategic location and planned connectivity with the Greater Bay Area ensure closer alignment with national and regional development priorities, making it the logical choice for a future-proof innovation ecosystem.

B. The “U” Zoning

- **Response from PlanD:** They defend an interim “U” zoning for the Pok Fu Lam site—asserting that it provides a flexible, stopgap measure allowing HKU to review and adjust its development plan based on stakeholder feedback.

- **Disagreement:** Employing a temporary “U” zoning in an area inherently unsuitable for high-intensity innovation facilities merely delays the inevitable mismatch between land use and our strategic goals.

- **Justifications:**

- Interim zoning in Pok Fu Lam only perpetuates a suboptimal development framework, whereas the Northern Metropolis can be zoned definitively to accommodate high-density, high-value innovation infrastructure from the outset.

– This approach ensures that our urban planning aligns with long-term sustainability and competitiveness rather than relying on temporary fixes.

C. Land Use Compatibility, Development Intensity, Visual Impact and Interface with Nearby Schools

- **Response from PlanD:** They contend that with design adjustments—such as reducing bulk, increasing setbacks, and integrating green spaces—the proposed Centre in Pok Fu Lam can be made compatible with its surroundings.

- **Disagreement:** The established low-density, green, and community-oriented character of Pok Fu Lam is fundamentally at odds with a large-scale, high-density innovation hub.

- **Justifications:**

- Transforming Pok Fu Lam would irreversibly alter its unique residential and environmental character.

- In contrast, the Northern Metropolis is envisioned as a dynamic urban district that can seamlessly integrate high-density development with modern green infrastructure and advanced planning controls.

D. Tree Preservation, Landscape and Ecology

- **Response from PlanD:** They suggest that compensatory planting and improved landscaping can mitigate the removal of mature trees in Pok Fu Lam.

- **Disagreement:** The loss of over 2,250 mature trees would cause irreversible ecological damage and permanently diminish the urban green legacy of Pok Fu Lam.

- **Justifications:**

- Mature trees and established green corridors in a historic area cannot be replaced by mere compensatory measures.

- The Northern Metropolis, being a blank slate, allows us to integrate robust environmental planning and green design from day one, ensuring that ecological quality is maintained without sacrificing strategic development.

E. Traffic and Transport

- **Response from PlanD:** They claim that traffic impacts in Pok Fu Lam can be managed with junction improvements, revised Traffic Impact Assessments, and design modifications.

- **Disagreement:** The existing narrow road network and chronic congestion issues in Pok Fu Lam render it unsuitable for accommodating the additional traffic generated by a mega innovation hub.

- **Justifications:**

- The Northern Metropolis is built around a modern, expansive transport network—with planned enhancements, wider roadways, and new public transport links—specifically designed to handle increased mobility demands.

- Locating the Centre in a purpose-built new district avoids exacerbating existing congestion and delivers long-term traffic resilience.

F. Environmental and Safety Concerns

- **Response from PlanD:** They argue that HKU’s design—including a commitment to 30% greenery and adherence to safety standards for laboratory facilities—will manage environmental and public health risks in Pok Fu Lam.

- **Disagreement:** Even with these mitigations, the environmental risks—such as deforestation, increased carbon emissions, and the challenges of operating high-risk facilities near dense residential areas—remain unacceptably high in Pok Fu Lam.

- **Justifications:**

- The Northern Metropolis enables us to incorporate cutting-edge sustainable technologies and stringent safety measures from inception, fully aligning with our carbon neutrality goals and ensuring a safe environment for all stakeholders.

- This proactive approach is far superior to retrofitting an unsuitable urban area.

G. Drainage and Utility

- **Response from PlanD:** They maintain that the existing drainage infrastructure in Pok Fu Lam is adequate, as evidenced by the Drainage Impact Assessment.

- **Disagreement:** The challenges inherent in retrofitting an older, densely built area elevate the risk of drainage failures and slope instability—risks that can be more effectively managed in a new development area.

- **Justifications:**

- The Northern Metropolis allows us to design modern, resilient drainage and utility systems from scratch, minimizing risks of flooding or environmental failure under extreme weather conditions.

– This forward-thinking approach ensures that infrastructure supports future growth without compromising safety.

H. Geotechnical and Development Costs

- **Response from PlanD:** They argue that geotechnical challenges in Pok Fu Lam are manageable and that the project's self-financing nature justifies its location there.

- **Disagreement:** Developing in a mature, built-up area like Pok Fu Lam entails higher construction costs, complex engineering retrofits, and long-term operational risks that are financially inefficient.

- **Justifications:**

- The Northern Metropolis, as a blank canvas, offers cost-efficient construction with lower maintenance and retrofit costs, ensuring that public funds are deployed optimally.

- Given Hong Kong's fiscal constraints, a new, purpose-built district better supports sustainable, long-term economic growth.

I. Other Matters (Property Devaluation and Community Benefits)

- **Response from PlanD:** They downplay concerns about property devaluation and emphasize that property prices are not a planning metric, insisting that the Centre will bring planning gains to the community.

- **Disagreement:** The introduction of a high-density, disruptive development in Pok Fu Lam risks significant property devaluation and undermines the quality of life for long-established residents.

- **Justifications:**

- The tangible benefits of a world-class innovation hub are better realized in the Northern Metropolis, where new development can be integrated into a comprehensive urban renewal strategy that delivers broad economic and social benefits without eroding existing community assets.

- Concentrating such transformative projects in a designated area avoids fragmenting the urban fabric of established residential communities.

J. Public Consultation

- **Response from PlanD:** They assert that HKU's public consultation efforts—via briefing sessions and online platforms—are adequate and that further consultations will address any remaining concerns.
- **Disagreement:** Past consultation exercises in Pok Fu Lam have not adequately addressed the deep-rooted concerns of local residents and stakeholders.
- **Justifications:**
 - The Northern Metropolis represents a fresh start where comprehensive, proactive, and genuine stakeholder engagement can be implemented from the outset.
 - By avoiding the entrenched conflicts in Pok Fu Lam, we can ensure that the public consultation process is truly two-way and integrated into a forward-looking urban planning framework.

In summary, while PlanD's responses attempt to justify the development of the Global Innovation Centre in Pok Fu Lam, our strategic, environmental, economic, and community imperatives compel us to reject this approach. The Northern Metropolis offers a modern, flexible, and sustainable platform that is fully aligned with Hong Kong's long-term vision for an internationally competitive I&T hub.

Appendix 4: Counterarguments and Rebuttal to HKU President's Further Representation Letter dated January 3, 2025 on Pok Fu Lam Rezoning

Below is a detailed set of counterarguments, organized by key thematic areas, in response to the letter dated January 3, 2025 from the President of HKU:

1. Location and Strategic Alignment

- **HKU's Claim:** The letter asserts that locating the Global Innovation Centre (GIC) in Pok Fu Lam is optimal because of its proximity to HKU's campus and the resulting synergies with institutions like Queen Mary Hospital and Cyberport.
- **Counterargument:** Although local proximity offers short-term benefits, it neglects the broader strategic vision embodied in the Northern Metropolis Strategy. Concentrating high-value, innovative research facilities in a purpose-built hub—with ample new land, modern infrastructure, and enhanced connectivity with the Greater Bay Area—ensures economies of scale and a critical mass that is not achievable in a congested, historically residential area like Pok Fu Lam.

2. Technical and Environmental Feasibility

- **HKU's Claim:** HKU maintains that technical assessments reveal no insurmountable obstacles and that proposed mitigation measures (e.g., compensatory planting and design modifications) will address environmental issues.
- **Counterargument:** The letter downplays significant environmental risks. The irreversible removal of over 2,250 mature trees, even with a compensatory ratio of 1:0.48 (which falls short of the internationally accepted 1:1 standard), compromises critical ecological functions such as carbon sequestration, soil stabilization, and biodiversity support. Moreover, retrofitting an area with steep slopes and an aged infrastructure introduces risks (e.g., landslides and drainage failures) that are better managed in a new development area designed with state-of-the-art environmental safeguards.

3. Traffic and Infrastructure

- **HKU's Claim:** The submission suggests that traffic impacts will be manageable through junction improvements, phased construction, and updated Traffic Impact Assessments (TIA).
- **Counterargument:** Pok Fu Lam's narrow, already congested road network is ill-suited for the heavy traffic associated with both construction and long-term operation of a mega innovation hub. The assumptions in the TIA are overly optimistic, especially given the delayed

operation of key transport infrastructure (such as the South Island Line [West]). This raises serious public safety and urban mobility concerns that cannot be adequately mitigated in the current location.

4. Public Consultation and Stakeholder Engagement

- **HKU's Claim:** The letter notes that HKU has received feedback during prior consultations and promises further engagement with stakeholders.
- **Counterargument:** Despite these assurances, overwhelming opposition from local residents, environmental groups, and key institutions (e.g., the Ebenezer School for the Visually Impaired) indicates that genuine two-way consultation has been insufficient. The entrenched community sentiment in Pok Fu Lam strongly favors preserving the area's green character—a factor that cannot be remedied by vague future promises of engagement.

5. Fiscal and Economic Considerations

- **HKU's Claim:** The letter argues that the project is self-financing and that the economic benefits justify the rezoning in Pok Fu Lam.
- **Counterargument:** The financial model presented is based on speculative projections, including uncertain private funding and future research grants. Given Hong Kong's significant budget deficit, allocating scarce public resources to retrofit an older urban area like Pok Fu Lam—replete with hidden costs for infrastructure upgrades and environmental remediation—is fiscally imprudent. In contrast, the Northern Metropolis offers a cost-efficient development environment that better supports long-term economic growth.

6. Alternative Sites and Future Growth

- **HKU's Claim:** HKU emphasizes that Pok Fu Lam is “most suitable” for the GIC due to existing institutional ties.
- **Counterargument:** The letter does not sufficiently address viable alternatives. The Northern Metropolis, with its designated zones (e.g., San Tin Technopole and the Science Park), provides a blank canvas that is designed for high-density, future-proof innovation development. This centralized approach not only aligns with national strategies but also promotes broader economic synergies that are unattainable in a fragmented urban setting.

7. Overall Strategic Vision and Policy Consistency

- **HKU's Claim:** The letter posits that the proposed rezoning is consistent with Hong Kong's innovation and technology development goals.

• **Counterargument:** There is a clear policy inconsistency: while HKU's proposal emphasizes local convenience, it conflicts with the Government's long-term Northern Metropolis Strategy, which is aimed at creating an integrated I&T ecosystem in a new, purpose-built area. This misalignment risks fragmenting Hong Kong's strategic vision and diluting the potential for a centralized innovation hub that can drive sustainable, high-impact growth.

Overall Position:

While HKU's letter emphasizes the immediate benefits of proximity and local synergies in Pok Fu Lam, these arguments fail to address the broader environmental, infrastructural, fiscal, and strategic imperatives essential for Hong Kong's sustainable future. Prioritizing development in the Northern Metropolis offers a future-proof, integrated approach that better aligns with national directives, minimizes ecological damage, and optimizes long-term economic and infrastructural outcomes.

Appendix 5: Counterarguments to HKU's Claim on Upstream Deep Technology Research Suitability

1. Integrated Research Ecosystem

- **HKU's Claim:** Upstream deep technology research must be conducted in close proximity to the HKU campus to benefit from established academic infrastructure and pre-existing research clusters.

- **Counterargument:** Innovation today thrives on an integrated ecosystem that spans the entire value chain—upstream, midstream, and downstream. A dedicated innovation hub in the Northern Metropolis can be designed from the ground up to create a comprehensive, interdisciplinary ecosystem that not only supports deep technology research but also accelerates its translation into applied technologies and market-ready solutions. This integrated environment fosters cross-disciplinary collaboration and enables breakthroughs that isolated campus settings cannot match.

2. State-of-the-Art Facilities and Scalability

- **HKU's Claim:** Existing campus facilities in Pok Fu Lam are uniquely tailored to support upstream research, implying that they cannot be replicated or enhanced elsewhere.

- **Counterargument:** The Northern Metropolis innovation hub is envisioned as a purpose-built facility that can incorporate state-of-the-art laboratories and research centers designed to meet the rigorous demands of deep technology research. Starting with a blank slate allows for scalability and the incorporation of modern technologies (e.g., advanced cleanrooms, high-performance computing clusters, and flexible lab spaces) that can be optimized for deep research. In contrast, retrofitting older facilities in Pok Fu Lam may impose physical and operational limitations that hinder growth and innovation.

3. Attraction of Global Talent and Enhanced Collaboration

- **HKU's Claim:** Proximity to the existing HKU campus attracts top-tier local talent, which is crucial for upstream research.

- **Counterargument:** A modern, integrated hub in the Northern Metropolis is designed to attract not only local experts but also global talent by offering cutting-edge facilities, a vibrant ecosystem, and substantial support from both government and industry. The new hub's vision includes creating a magnet for innovation that spans all research stages. The synergy derived from a large-scale, purpose-built environment can enhance collaboration across academia, industry, and government—an advantage that extends well beyond the localized benefits of proximity.

4. Infrastructure, Economic Efficiency, and Future-Proofing

- **HKU's Claim:** The legacy environment in Pok Fu Lam is ideally suited for the specialized requirements of deep technology research.

- **Counterargument:** In a rapidly evolving technological landscape, future-proofing research capabilities is essential. The Northern Metropolis offers an opportunity to build modern infrastructure tailored to the evolving needs of advanced research, including flexible lab designs, digital connectivity, and sustainable construction. Economies of scale and a forward-looking design approach in the Northern Metropolis will result in lower long-term operational costs, greater adaptability, and enhanced capacity to support large-scale, high-impact research initiatives—all of which are difficult to achieve in a constrained, older urban area like Pok Fu Lam.

5. Policy Alignment and Strategic Vision

- **HKU's Claim:** The focus on upstream deep technology research justifies the continued use of Pok Fu Lam, where a long history of research exists.

- **Counterargument:** While a historical legacy can be valuable, strategic planning must also consider future national and regional priorities. The Northern Metropolis Strategy explicitly aims to create an integrated innovation ecosystem that supports the full spectrum of research—from fundamental to applied. This comprehensive approach ensures that deep technology research is embedded within a larger, dynamic framework that enhances commercialization and industrial collaboration. By aligning with long-term strategic goals, the Northern Metropolis hub positions Hong Kong as a globally competitive center for innovation rather than confining research to a legacy urban setting.

6. Enhanced Cross-Disciplinary Synergies

- **HKU's Claim:** Proximity to the HKU campus fosters a strong research culture for upstream deep technology initiatives.

- **Counterargument:** While proximity can be beneficial, true innovation emerges from dynamic, cross-disciplinary interactions that are not limited to a single institution. The Northern Metropolis innovation hub is being designed as a convergence platform where experts from various disciplines—ranging from pure research to practical applications—collaborate seamlessly. This multi-faceted environment creates a broader network for knowledge sharing and joint problem-solving, which can ultimately drive breakthroughs in deep technology research beyond what an isolated campus setting can offer.

Overall Position:

The assertion that upstream deep technology research is exclusively suited to the legacy environment of Pok Fu Lam overlooks the transformative potential of a purpose-built, integrated innovation hub in the Northern Metropolis. With its state-of-the-art facilities, scalable infrastructure, and strategic alignment with broader national objectives, the Northern Metropolis is not only capable of supporting deep technology research but can also enhance it by creating a dynamic, interdisciplinary ecosystem. This approach is more future-proof, cost-efficient, and strategically aligned with Hong Kong's long-term vision for global competitiveness.

Appendix 6: Case Law and Judicial Precedent Analysis

This appendix further substantiates this report's legal arguments by analyzing key judicial decision that reinforces the strict statutory framework governing planning and environmental assessments. In particular, the recent decision in *Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279* (commonly referred to as the Fanling Golf Course case) is instructive in demonstrating the consequences of departing from clear statutory mandates.

A. Statutory Mandate and the Imperative of Certainty

The Town Planning Ordinance (TPO) and the Environmental Impact Assessment Ordinance (Cap. 499) require that administrative decisions be both clear and unambiguous.

Section 6B(8) of the TPO explicitly requires that “after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.” In effect, there is no statutory provision permitting a “partial” acceptance. This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment. Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that addresses the representation. Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc “U” designation (which does not meet any representation) when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance. Given no statutory provision for intermediary solution to partially satisfy the representation, introducing a “U” zone in the absence of any representational basis not only breaches this explicit statutory requirement but also undermines the principle of legal certainty. Such a maneuver is tantamount to an overreach of discretionary power, as it circumvents the necessary statutory decision process that ensures administrative decisions are both transparent and accountable. This deviation from established statutory procedure is likely to be deemed an abuse of power and arbitrary by any court tasked with reviewing the decision, thereby rendering the rezoning legally indefensible.

Similarly, the Technical Memorandum and the Study Brief issued under the EIA Ordinance impose precise requirements on environmental assessments. The Fanling Golf Course case reinforces that any deviation from these statutory frameworks undermines legal certainty and jeopardizes public trust in the administrative process.

B. Detailed Findings in the Fanling Golf Course Case

In *Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279*, delivered on 03 December 2024, the High Court quashed the environmental impact assessment (EIA) report for a proposed public housing project over part of the ‘Old Course’ at Fanling. Key findings included:

- **Flawed Environmental Assessments:** Coleman J’s 229-page judgment found that the EIA report inadequately assessed critical environmental impacts—specifically concerning the preservation of old and valuable trees, appropriate tree compensation, the hydrological impact on critically endangered Chinese Swamp Cypress trees, cultural heritage implications, as well as effects on bats, moths, and waste management. The report failed to meet the detailed requirements of the Technical Memorandum and the Study Brief.
- **Procedural Unfairness:** The Court held that the Director of Environmental Protection erred by not undertaking public consultation on additional information provided by the Civil Engineering and Development Department after the statutory consultation period. Moreover, the Director failed to consider the Hong Kong Golf Club’s responses to that additional information.
- **Unlawful Conditions:** The Court ruled that the conditions imposed on accepting the EIA report were unlawful and undermined the Director’s approval. While challenges relating to assessments of sewage, noise, land contamination, shading, and air quality were rejected, the judgment unequivocally highlighted the necessity of strict adherence to statutory procedures.

C. Implications for Planning and Environmental Decision-Making

The Fanling Golf Course decision underscores several enduring principles relevant to the report’s critique of the current rezoning proposal:

- **Mandatory Statutory Decision-Making:** The case illustrates that any attempt to introduce an indeterminate or intermediary outcome—analogueous to the “Undetermined” zoning category (that does not meet or address any representation in entirety)—is beyond the statutory powers granted to planning authorities. This parallels the Court’s rejection of a flawed EIA process that did not comply with established legal standards.
- **Strict Compliance with Procedural Requirements:** Just as the EIA report was quashed for failing to incorporate mandatory public consultation and for not considering all relevant evidence, the current proposal’s deviation from a clear statutory mandate (i.e., the statutory decision framework of the TPO) is equally indefensible.

- **Judicial Oversight and the Rule of Law:** The decision reinforces the judiciary’s role in ensuring that administrative bodies do not exceed their statutory discretion. Departures from the mandated processes, whether in environmental assessments or planning decisions, are subject to judicial scrutiny and potential invalidation.

D. Conclusion

The detailed analysis of *Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279* provides a robust legal foundation for this report’s critique of the current rezoning proposal. The Fanling Golf Course decision unequivocally demonstrates that:

- Planning authorities must adhere strictly to statutory decision-making process as required by the TPO.
- Environmental and procedural assessments must meet the detailed statutory requirements, including robust public consultation.
- Any attempt to introduce an intermediary “Undetermined” category that do not address or meet any representation—deviating from statutory mandates—is legally indefensible and strongly exposes the decision to judicial overturn.

Consequently, the report’s position—that the rezoning proposal is procedurally flawed and legally indefensible—is strongly validated by prevailing judicial reasoning and case law. This reinforces the imperative that administrative decisions must operate within the confines of clear statutory authority to maintain legal certainty and public confidence in the planning process.

Appendix 7: Legal Opinion Paper on the Interim “U” Zoning

I. Introduction

This paper critically examines the legal validity of designating the Site under an interim “U” zoning by the Board. It questions whether such a decision meets the statutory obligations imposed by Section 6B(8) of the Town Planning Ordinance (TPO) and whether it appropriately reflects the stakeholder representations. The analysis contends that by adopting an interim zoning that was not directly proposed by any representer without valid planning grounds,, the Board departs from the strict statutory decision-making requirement of the TPO. The recent Fanling Golf Course case (Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279) provides a pivotal precedent underscoring that any deviation from the statutory framework may be judicially overturned.

II. Background

Stakeholders affected by the proposed development have raised concerns primarily relating to land use compatibility, environmental impacts, and technical issues. Importantly, no representer explicitly called for the Site to be designated as “U” zoning. Despite this, the Board has unilaterally imposed an interim “U” zoning as a temporary measure pending further technical assessments, community consultations, and a strategic review of HKU’s development plan. The rationale provided by the Board emphasizes that the interim zoning serves as a stopgap arrangement until HKU can refine its proposal. However, this approach raises critical questions about whether the decision truly “meets” the representations as required by the statute.

III. Statutory Framework and Interpretation of Section 6B(8)

A. Clear Mandate for Decision-Making

Section 6B(8) of the TPO:

“After considering any representation under this section, the Board must decide whether or not—

- (a) to propose amendment to the plan in the manner proposed in the representation; or
- (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.”

This explicitly requires that planning authorities, after considering stakeholder representations, must make a decision: either to propose an amendment in the precise manner suggested by the

representers or to propose an alternative amendment that fully meets the representation. There is no statutory provision for an intermediate or partial outcome or response that serves to partially satisfy the representation. This clear framework ensures that public input is directly and transparently reflected in any planning amendment. (Notes: *Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, following due consideration of any representation, the Board is obliged to either propose an amendment to the plan in the precise manner set forth in the representation or, alternatively, to propose an amendment that, in its view, adequately meets the representation. In effect, the Ordinance mandates that a representation be accepted in its entirety or rejected in its entirety—the so-called “binary approach.” Any deviation from this binary requirement, such as the imposition of an ad hoc “U” designation, would thus fail to satisfy the statutory criteria and would amount to a breach of the Ordinance.*)

B. Limits on Discretion

Although the TPO provides the Board with some discretion by allowing an alternative amendment (as per clause (b)), that discretion is strictly limited. The alternative measure must demonstrably “meet the representation” in the sense that it directly responds to the issues and concerns raised by the stakeholders. Adopting an interim “U” zoning—when no representation has suggested such a measure—fails to satisfy this requirement, rendering the decision potentially arbitrary and contrary to the legislative intent.

C. Implications for Legal Certainty and Public Trust

A clear statutory requirement is essential for maintaining legal certainty and public confidence. Stakeholders expect that their representations will be directly considered and reflected in any planning amendment and/or the final decision. Any deviation from this expectation, such as adopting a measure not directly proposed by any representation—especially when no representation has specifically suggested such a measure—falls short of this requirement. It thereby risks being classified as arbitrary and inconsistent with the statutory mandate. This undermines the integrity of the planning process and may invite judicial challenges.

IV. Analysis of the Interim “U” Zoning Decision

A. Procedural Integrity and Direct Representation

1. Failure to Directly Address Representations:

The statutory process under Section 6B(8) is designed to ensure that planning decisions are grounded in the representations of affected parties. In this instance, no representer proposed that the Site be rezoned as “U.” By imposing an interim “U” zoning not proposed by any representer, the Board has not met the statutory requirement. This gap raises serious questions regarding procedural fairness and the proper execution of the statutory mandate.

2. Risk of Procedural Delay:

An interim measure that does not align the stakeholder submissions may be perceived as a means to postpone a final decision rather than to genuinely address the underlying issues. Such postponement can result in prolonged uncertainty and undermine the timely incorporation of environmental and technical safeguards.

B. Environmental and Technical Safeguards

1. Regulatory Gaps in Safeguard Implementation:

The statutory framework requires that any planning amendment incorporate comprehensive measures to mitigate environmental and public health impacts. An interim “U” zoning that is not directly supported by the detailed stakeholder representations risks creating a regulatory gap, delaying the activation of essential safeguards until further assessments/studies are conducted.

2. Risk of Inadequate Mitigation:

Without a direct link to stakeholder representations, subsequent development under the interim zoning may not adequately address the environmental and technical issues that were raised. This failure could lead to adverse impacts that the statutory process is designed to prevent.

C. Exercise of Discretion and Transparency

1. Overextension of Discretion:

While the Board has the statutory discretion to propose an amendment in an alternative manner, such discretion is strictly circumscribed by the need to meet the representations. Adopting an interim zoning that was not raised and/or supported by any submission represents an overextension of that discretion, departing from the intended binary requirement/approach.

2. Erosion of Accountability and Public Trust:

Transparent decision-making is critical for public confidence in the planning system. Bypassing explicit stakeholder input not only undermines the statutory scheme but also strongly exposes the Board’s decision to judicial challenge for being arbitrary.

V. Case Law: The Fanling Golf Course Decision

Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279

In this case the High Court quashed the conditional approval for 12,000 public housing units on part of Fanling Golf Course. Key elements from this decision include:

- **Statutory Decision-Making Mandate:**

The Court underscored that the statutory framework requires planning decisions to be clear and unambiguous. There is no provision for an “intermediate” outcome. (Notes: *In accordance with Section 6B(8) of the Ordinance, following due consideration of any representation, the TPB is obliged to either propose an amendment to the plan in the precise manner set forth in the representation or, alternatively, to propose an amendment that, in its view, adequately meets the representation. In effect, the Ordinance mandates that a representation be accepted in its entirety or rejected in its entirety—the so-called “binary approach.” Any deviation from this binary requirement, such as the imposition of an ad hoc “U” designation, would thus fail to satisfy the statutory criteria and would amount to a breach of the Ordinance.*)

- **Procedural Fairness and Re-Consultation:**

The judgment found that the environmental impact assessment was flawed due to inadequate public consultation. It mandated that additional information must be subject to renewed consultation, thereby reinforcing the necessity for administrative decisions to directly incorporate stakeholder feedback.

- **Implications for Administrative Practice:**

The Fanling Golf Course decision serves as a strong precedent that any deviation from the statutory framework—such as adopting an interim measure that does not directly and/or adequately meet stakeholder representations—may be considered arbitrary and subject to judicial overturn.

VI. Response to the Government Departmental Views

It has been argued that:

- The views and representations were duly considered, and under Section 6B(8) the Board has the discretion to adopt an amendment “in any other manner” that it believes will meet the representation.
- Since no representer explicitly proposed a “U” zoning, the Board contends there is no representation that mandates a different amendment, thereby justifying the interim “U” zoning as a stopgap measure pending further review and consultation.

- Interim zoning, including the “U” designation, is a common practice when planning intentions are uncertain and it allows HKU time to refine its development plan and engage with stakeholders.

Counterarguments:

1. Inadequate Meeting of the Statutory Mandate:

The TPO’s statutory requirement leaves no room for a partial or interim measure that does not directly mirror the representation. Even if the Board considers alternative amendments acceptable, any proposed alternative must fully address the issues raised. Since no stakeholder suggested “U” zoning, adopting it does not meet the statutory test of “meeting” the representation. This is not merely a matter of process but of adhering to the clear legislative intent.

2. Interim Measure Does Not Equal a Full Resolution:

While it is argued that interim zoning is common practice when a project is under review, such a measure is intended to maintain administrative control until a definitive decision is reached. However, if the interim measure is not directly derived from or supported by the representations, it effectively delays addressing the fundamental concerns—particularly those relating to land use compatibility and environmental impacts. This delay risks undermining the very purpose of the statutory representation process.

3. Independent Judgment Cannot Circumvent Statutory Requirements:

The Board’s reliance on its independent judgment to adopt a zoning measure that was never advocated by any representer is problematic. The statutory framework is designed to ensure that planning decisions are grounded in the specific inputs of affected parties. Using independent judgment to impose an interim “U” zoning is an overreach that departs from the requirement to directly “meet” the representations, thereby exposing the decision to judicial review for arbitrariness.

4. Precedential Implications:

The Fanling Golf Course case clearly demonstrates that any administrative decision that deviates from the statutory mandate—particularly regarding the scope of public consultation and the statutory nature of decision-making—can be subject to judicial invalidation. The Board’s views, while highlighting procedural considerations and the need for flexibility in interim measures, do not override the strict requirements imposed by the TPO.

VII. Conclusion and Recommendations

A. Conclusion

Based on a strict interpretation of Section 6B(8) and the precedent set by the Fanling Golf Course case, the Board's interim "U" zoning decision is legally questionable. By failing to directly address stakeholder representations and by adopting a measure not explicitly supported by any representation, the Board deviates from the statutory decision-making process mandated by the TPO. This not only creates regulatory gaps in environmental and technical safeguards but also undermines public trust and legal certainty.

B. Recommendations

To align future decisions with statutory mandates and uphold the integrity of the planning process, the following steps are recommended:

1. Enhanced Public Consultation:

The Board should initiate further, robust consultations to secure explicit, direct guidance from all stakeholders. This ensures that any proposed amendment is unequivocally supported by the representations received and that any zoning amendment fully "meets" the representation.

2. Deferral of Interim Zoning:

Rather than imposing an interim zoning that does not directly meet stakeholder input and lacks support, the Board should postpone the decision until a comprehensive review of the stakeholder's concerns/representations is fully completed. This would allow for a more deliberate and representative final amendment.

3. Integration of Robust Environmental Safeguards:

Any future zoning amendment must incorporate enforceable environmental and technical safeguards that address the specific concerns raised by stakeholders. This integration is essential to mitigate potential adverse impacts from subsequent development.

4. Transparent Documentation of Decision-Making:

The Board must ensure that its exercise of discretion and its rationale for any decision are fully transparent and rigorously documented. Clear articulation of how the chosen amendment meets—or fails to meet—the stakeholder representations is crucial for defending the decision against judicial review.

C. Final Remarks

The interim "U" zoning decision, as it stands, fails to satisfy the statutory requirements of Section 6B(8) because it does not directly "meet" the representations submitted by affected

parties. The precise wording of the statute mandates a statutory choice that this decision does not fulfill. The Fanling Golf Course case underscores that any deviation from this framework—especially one that disregards explicit stakeholder input—is legally indefensible and likely subject to judicial invalidation. It is imperative that the Board reconsider its approach, ensuring that future planning decisions are fully responsive to public input, transparent in their rationale, and consistent with the statutory mandates.

This legal opinion paper addresses both the legal deficiencies of the interim zoning decision and directly responds to the government departmental views, offering a persuasive argument for re-evaluating the decision in light of statutory mandates and judicial precedent(s).

Appendix 8: Judicial Analysis and Reasoning Framework

The following serves to illustrate potential judicial reasoning in support of the report's objections to the rezoning proposal.

Introduction

This analysis examines the rezoning proposal affecting the Pok Fu Lam Green Belt by evaluating its compliance with statutory mandates, procedural fairness, environmental protection, infrastructure planning, and fiscal responsibility. The reasoning herein is structured in descending order of importance, illustrating how a court might assess the legal deficiencies of the proposal.

I. VIOLATION OF STATUTORY MANDATES

The core issue is the introduction of an interim "Undetermined" zoning category, which directly contravenes section 6B(8) of the Town Planning Ordinance (TPO).

– Section 6B(8) of the TPO explicitly requires that "after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation." In effect, there is no statutory provision permitting a "partial" acceptance. This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment. Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that addresses the representation. Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc "U" designation (which does not meet any representation) when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance. Given no statutory provision for intermediary solution to partially satisfy the representation, introducing a "U" zone in the

absence of any representational basis not only breaches this explicit statutory requirement but also undermines the principle of legal certainty. Such a maneuver is tantamount to an overreach of discretionary power, as it circumvents the necessary statutory decision process that ensures administrative decisions are both transparent and accountable. This deviation from established statutory procedure is likely to be deemed an abuse of power and arbitrary by any court tasked with reviewing the decision, thereby rendering the rezoning legally indefensible.

– The statutory language is unequivocal and requires strict adherence in order to preserve legal certainty—a fundamental principle in administrative law. Any deviation from this prescribed statutory requirement introduces ambiguity and undermines the predictability and fairness that the statute is designed to ensure.

– Legal precedents, such as the Fanling Golf Course decision, have established that any measure not expressly provided for by the statute, such as an interim “Undetermined” category, is ultra vires (beyond the authority granted by law). This ensures that the court would likely uphold this finding, thereby invalidating any decision that departs from the clear statutory mandate.

II. BREACH OF PROCEDURAL FAIRNESS AND DEFICIENT PUBLIC CONSULTATION

The decision-making process is significantly flawed due to inadequate public consultation.

– Affected stakeholders, including community groups and key institutions, were not provided with a meaningful opportunity to participate in the process.

– The overwhelming opposition evidenced by the representations indicates that the consultation process fell far short of the standards of transparency and fairness required by law.

– This procedural defect undermines the legitimacy of the rezoning decision and justifies its review.

III. INADEQUATE ENVIRONMENTAL SAFEGUARDS

The proposal fails to meet statutory environmental obligations.

– It contemplates the removal of over 2,250 mature trees, with a compensatory planting ratio of 1:0.48, which is well below the internationally accepted 1:1 standard.

– The irreversible loss of these trees compromises essential ecological functions such as carbon sequestration, soil stabilization, and biodiversity support.

– This environmental shortfall directly contradicts statutory requirements and sustainable development goals, rendering the rezoning legally indefensible on environmental grounds.

IV. FLAWED TRAFFIC AND INFRASTRUCTURE ASSESSMENTS

The Traffic Impact Assessment (TIA) accompanying the proposal is critically deficient.

- It relies on overly optimistic assumptions regarding future infrastructural improvements and does not adequately address peak-hour congestion or construction impacts.
- This inadequacy jeopardizes public safety and urban mobility, breaching statutory obligations aimed at protecting the community's interests.

V. FISCAL AND STRATEGIC INADEQUACIES

The proposal is further undermined by fiscal imprudence and strategic misalignment.

- It relies on speculative future funding, dependent on uncertain private investments and research grants, without a rigorous cost-benefit analysis.
- Additionally, the proposal conflicts with the broader strategic planning framework, notably the Northern Metropolis Strategy, which designates alternative sites more suited for high-density innovation development.
- This misalignment further erodes the legal defensibility of the rezoning decision.

VI. ABSENCE OF CLEAR DEVELOPMENT CONTROLS

The interim "Undetermined" zoning designation fails to provide clear, enforceable guidelines for future development.

- The lack of defined planning parameters creates regulatory uncertainty for both developers and the community.
- This ambiguity invites arbitrary reinterpretation and further weakens the integrity of the planning process.

VII. RELIANCE ON JUDICIAL PRECEDENTS

Established judicial precedents, notably the Fanling Golf Course decision, reinforce that any deviation from the mandated statutory decision-making process is impermissible.

- Such precedents affirm that failure to adhere to statutory procedures not only breaches administrative fairness but also warrants judicial intervention.

VIII. EROSION OF PUBLIC TRUST AND ACCOUNTABILITY

The cumulative effect of the identified statutory, procedural, environmental, and fiscal failures is a significant erosion of public trust in the planning process.

- The lack of transparency and accountability undermines both the legitimacy of the decision and the broader principles of good governance.
- Restoring public confidence requires that the rezoning decision be invalidated and reconsidered in strict compliance with statutory mandates.

Conclusion

Based on the foregoing analysis, judicial reasoning would support the conclusion that the rezoning proposal is legally flawed on multiple substantive and procedural grounds. It is therefore advisable that the decision to introduce an interim “Undetermined” zoning category be set aside, and that the matter be remitted to the appropriate planning authority for reconsideration. Any future decision must strictly adhere to statutory mandates, ensure comprehensive public consultation, and incorporate robust environmental, traffic, fiscal, and strategic assessments.

Note: This appendix is provided to demonstrate grounds for invalidating the rezoning proposal.

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-21 星期五 21:31:39
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: RE: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: image001.png; Further Representer 1490 Views and Responses.pdf; Further Representer 1490 Views and Responses 21 Feb 2025..pdf

In response to your e-mail of 14 February, I hereby attach my completed Annex II and my Views/Responses in response to TPB's e-mail of 14 February 2025.

Yours faithfully

Ronald Duxbury TAYLOR

From: tpbpd/PLAND <tpbpd@pland.gov.hk>
Sent: 14 February 2025 16:39
To: [REDACTED]
Subject: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號
In reply please quote this ref.: TPB/R/S/H10/22-F1836

By Email

14 February 2025

[REDACTED]
Ronald Duxbury Taylor

Dear Sir/Madam,

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
(Further Representation No. F1836)**

Urgent Return receipt Expand Group Restricted Prevent Copy

I refer to your further representation which was received by the Town Planning Board (TPB) on 02.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on "Submission and Processing of Representations and Further Representations under the Town Planning Ordinance" (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB's website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB's website after the meeting. After confirmation of the minutes of TPB's deliberation, the further representers will be notified of the TPB's decision in writing. The confirmed minutes will also be available at TPB's website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

To: **Town Planning Board Secretariat**

Email: tpbpd@pland.gov.hk

Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in **one** of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SIGNATURE

Name of further representer (as shown on the further representation): Ronald Duxbury

TAYLOR

Further Representation No.: 1490

Full Name: TAYLOR RONALD DUXBURY (identical with the name shown on HKID Card/Passport)

Signature: RD Taylor Date: 21 Feb 2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
- (b) The personal data provided by the further representers in this form may also be disclosed to other persons for the purposes mentioned in paragraph (a) above.
- (c) Further representers have a right of access and correction with respect to their personal data as provided under the Personal Data (Privacy) Ordinance (Cap. 486). Request for personal data access and correction should be addressed to the Town Planning Board Secretariat at 15/F., North Point, Government Offices, 333 Java Road, North Point, Hong Kong.

Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

Further Representer's Views/Responses in response to TPB's e-mail of 14 February 2025

1. Introduction

- 1.1. The summary of "Further Representations (FRs) and the Planning Department's (PlanD's) Detailed Responses", given as Annex I to the Town Planning Board's (Board) e-mail of 14 February is only a summary of items selected by the Board's Secretariat. It omits a number of Grounds and Views expressed in the Further Representations, some of which are very relevant to the validity of the decision taken by the Board on 29 November.
- 1.2. For members of the Board to be able to give due and proper consideration to the submitted Further Representations, they should be asked to confirm that they have read **all** of the submitted further representations (excepting those which have been confirmed to be identical to another).

2. Grounds and Views of Further Representations in Annex I

- 2.1. Under the subheading "No Legal Basis" an incomplete summary is given of FR 114 and FR 1490. This incomplete summary does not include the reasons why the TPB's decision to zone Item A as Undetermined has no legal basis, as explained in the further representations.
- 2.2. The PlanD response merely quotes the minutes of the meeting on 5 November which failed to address the question that the Member had raised at the meeting; namely "whether it was possible for the Board to approve the "U" zone proposed by PlanD instead of the representers".
- 2.3. The Board should have appreciated that impartial and competent legal advice was not within the authority of the Planning Officer, especially as she had proposed the Undetermined "U" zoning. She thus had an interest in the Board making a decision favouring her proposal which, as had been explained by the representer, would be contrary to the Town Planning Ordinance (TPO) section 6B(8).
- 2.4. The following explains why it is not possible, legally under the TPO, for the Board to approve the "U" zone proposed by PlanD.

3. Relevant section of the Town Planning Ordinance

- 3.1. As a reminder section 6B(8), which covers the relevant decision making of the Board, is:
"After considering any representation under this section, the Board must decide whether or not—
(a) to propose amendment to the plan in the manner proposed in the representation; or
(b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation".
- 3.2. A representation is the "representation" made in respect of the amendment to the OZP under consideration, namely in this case one made by 22 May 2024. Section 6(3) of the TPO is clear that where a representation is made to the Board after the expiration of the period of 2 months referred to in subsection (1), in this case 22 May 2024, it shall be treated as not having been made.
- 3.3. The person or body making a "representation" has a right to attend a relevant meeting of the Board and be heard, but no right or opportunity to change his representation other than to withdraw it under TPO section 6E. For the TPO to have included such a provision would potentially make the Board's consideration of representations unworkable.

Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

4. Could the Board approve a proposal from PlanD?

- 4.1. Plan D did not make a representation by the due date of 22 May 2024 and any representation made after that date shall be treated as not having been made; TPO section 6C(3).
- 4.2. TPO subsection 6B(8)(a) only gives the Board authority to propose an amendment to the plan proposed in the representation. As PlanD's proposal was not in a representation, the Board CANNOT approve the "U" zone proposed by PlanD.
- 4.3. TPO subsection 6B(8)(b) gives the Board authority to propose an amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation. If the Board wished to use this authority, it would be necessary for the Board to identify which representation would be met by the "U" zone. The minutes of the meeting on 29 November are silent on this matter, which is appropriate, as no representation would be met by the "U" zone. Had the Board considered, in their view, that a representation would have been met by this zoning, the minutes would have made due reference to this fact.
- 4.4. As the Board is not able to propose an amendment under either subsection 6B(8)(a) or 6B(8)(b), the Board has no option under section 6B(8) to approve an amendment. Their only option is NOT to approve an amendment to the plan.

5. Partially Meeting a Representation

- 5.1. Paragraph 38 of the minutes of the meeting on 29 November notes that "The Board decided to partially meet" a number of representations.
- 5.2. The Board are reminded that their authority under TPO section 6B(8) only gives them authority to propose an amendment "that will meet a representation". Neither under section 6B(8) nor any other section is the Board given authority to propose an amendment to the plan that, in the opinion of the Board, will only "partially" meet a representation.
- 5.3. Had this been the intention, the wording of section 6B(8) would have been different to allow such partial meeting of a representation.
- 5.4. The minutes of the meeting do not give any indication as to how the Board considered that the representation could have been "partially met". One gains the impression that this was not discussed by the Board and paragraph 38 of the minutes was inserted, subsequent to the meeting, by the minute writers.
- 5.5. The "partially" meeting suggests a confusion in the support that HKU develop a Global Innovation Centre as a partial support for the zoning of Item A as "U". In which case the Board has confused its statutory duty in that the Board should not be concerned about support for a Global Innovation Centre (to be provided elsewhere, namely other than on Item A).
- 5.6. The Board should have concerned themselves solely on the zoning for Item A. The Board should have recognised that no representations, including those stated in the minutes of 29 November as being partially met, were either met wholly or in part by their decision. Even if those stated in the minutes of 29 November could have been partially met, the Board had no authority to propose an amendment to the plan solely on a partial meeting of a representation.

Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

6. Conclusion

- 6.1. The proposal by PlanD was not a representation under the TPO.
- 6.2. The Board only has authority to propose an amendment to the plan in respect of a representation.
- 6.3. A representation must be met, not only partially met, to enable the Board to propose an amendment to the plan.
- 6.4. The Board confused support for HKU to develop a Global Innovation Centre (elsewhere than at Item A) as a partial support for the zoning of Item A as "U".
- 6.5. No representation was met by the "U" zoning of Item A, hence the Board did not have the authority to propose that item "A" be zoned as "U".
- 6.6. The Board must therefore amend its decision under TPO section 6F.

7. Next Steps

- 7.1. HKU has undertaken to review and revise its proposals for the GIC, including examining alternative locations. One such location is on the west side of Mount Davis which offers all the advantages that were stated by HKU for the use of the Pok Fu Lam site and does not suffer from the key disadvantages of the Pok Fu Lam site; construction would also be quicker and cheaper.
- 7.2. Representers at the hearings queried the logic and purpose of an interim zoning for Item A as opposed to maintaining the current zoning until HKU had completed the review of its proposals. Neither the Chair nor PlanD gave any reasons or advantages for an interim zoning; the minutes of the hearings and the responses from PlanD in Annex I do not address this issue.
- 7.3. Approval of an amendment to the appropriate OZP will be required for any selected site and hence an interim zoning of "U" for Item A offers no advantages to achieving an acceptable outcome for the GIC. If the Mount Davis site, or any other alternative site, is adopted the interim zoning will have been abortive resulting in additional procedures to restore the current zoning.
- 7.4. There are thus no advantages of an interim zoning for Item A which, in any event, cannot be achieved under the provisions of the Town Planning Ordinance.

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-23 星期日 19:00:05
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: 2025-02-23 Annex II DEK.pdf

Donald Edward Knapp

TPB/R/S/H10/22-F1837

Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

Further Representer's Views/Responses in response to TPB's e-mail of 14 February 2025

1. The Town Planning Board (TPB) should be given the complete detail of the reasoning for objections to the use of Undetermined provided in the submitted Further Representations (minus any duplication).

According to the Town Planning Ordinance (TPO) the TPB must consider collected representations and propose amendments either provided in the proposed representation or that in any other way meet the representation.

No representation was made by the close of the representation collection period May 22nd that advocated for Undetermined.

Had the arrangements Planning and HKU announced in early October happened before May 22nd they could have been incorporated into a representation and Undetermined could be considered.

Having no method to go back in time, the proposal should have been withdrawn for strategic review with the understanding a new proposal would be forthcoming from HKU.

No one was waiting to seize the opportunity to build on this Green Belt while HKU conducted its strategic review.

It is clear that HKU will come back with a new proposal at some point and when it does the new plan will go through the planning process again. If that plan calls for the land that is within Item A, then it can be rezoned from GB at that point.

In the meantime, zoning it anything but GB is overstepping the bounds of the planning ordinance and partially satisfies no representation submitted by May 22nd.

2. The statement from **(Annex I: FR Summary Table)** Response to FB1 No Legal Basis:

"The proposal of some representers to revert the Site to "GB" and "R(C)6" was not a viable solution as such an arrangement would only shift the problem elsewhere "

provides no explanation of what shifting the problem elsewhere means.

It is clear from the substantial number of further representations that the community calls for returning the land to Green Belt as the proper course of action.

There is nothing further than "shift that problem elsewhere" that explains the downside of this approach.

Given the outpouring of support to zone the land in Item A GB, the TPB should better explain itself.

3. From *Further Representations in respect of the Proposed Amendments to the Draft Pok Fu La Outline Zoning Plan No. S/H10/22* email, I am unable to identify the requested step associated with Annex II

*Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.*

as part of the Town Planning Ordinance or TPB PG-NO. 29C.

This step has no basis to be part of the process.

An explanation of why this is required now and what makes this a requirement of further representations yet not the original representations submitted for S/H10/22 should be provided.

4. I express disfavor with the timing of the publication of the Chinese versions of the meeting documents associated with the November meetings of the TPB. The publication occurred just days before the deadline for submitting Further Representations. This disadvantaged portions of the community who wished to participate in the process and are not proficient in English.

On Fri, Feb 14, 2025 at 4:38 PM tpbpd/PLAND <tpbpd@pland.gov.hk> wrote:

城市規劃委員會

香港北角渣華道三百三十三號

北角政府合署十五樓

傳真 Fax: 2877 0245 / 2522 8426

電話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

TPB/R/S/H10/22-F1837

In reply please quote this ref.:

TOWN PLANNING BOARD

15/F, North Point Government Offices

333 Java Road, North Point,

Hong Kong

By Email

14 February 2025

Donald Edward Knapp

Dear Sir/Madam,

Further Representations in respect of the Proposed Amendments to the

Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

(Further Representation No. F1837)

I refer to your further representation which was received by the Town Planning Board (TPB) on 03.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on “Submission and Processing of Representations and Further Representations under the Town Planning Ordinance” (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB’s website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB’s website after the meeting. After confirmation of the minutes of TPB’s deliberation, the further representers will be notified of the TPB’s decision in writing. The confirmed minutes will also be available at TPB’s website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Urgent Return receipt Expand Group Restricted Prevent Copy

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

--
Donald Knapp

To: **Town Planning Board Secretariat**
Email: **tpbpd@pland.gov.hk**
Address: **15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong**

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

*(Please put a tick in **one** of the boxes provided below)*

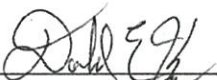
- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SIGNATURE

Name of further representer (as shown on the further representation): Donald Edward Knapp

Further Representation No.: F1837

Full Name: KNAPP Donald Edward (identical with the name shown on HKID Card/Passport)

Signature:  Date: 23/Feb/25

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
- (b) The personal data provided by the further representers in this form may also be disclosed to other persons for the purposes mentioned in paragraph (a) above.
- (c) Further representers have a right of access and correction with respect to their personal data as provided under the Personal Data (Privacy) Ordinance (Cap. 486). Request for personal data access and correction should be addressed to the Town Planning Board Secretariat at 15/F., North Point, Government Offices, 333 Java Road, North Point, Hong Kong.

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-19 星期三 07:57:14
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Further Representer's Responses
Attachment: Further comments.jpeg

Dear Sir/Madam,
Please find attached my Further Representer's views and responses in respect of Draft Pokfulam OZP Plan No. S/H10/22.
Yours faithfully,
Roger Nissim

To: **Town Planning Board Secretariat**
 Email: tpbpd@pland.gov.hk
 Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

Given the linear nature of the site being 534m wide, i.e. over half a kilometre long; its verticality of 60-80m, and the need for 35.32m depth of rock excavation with a volume of 574,584 cubic metres it is going to be virtually impossible to retain any of the existing mature trees during site formation. Any development would therefore have a huge visual impact on the neighbourhood as all the natural existing 'GB' buffer will be destroyed and replaced by concrete structures with some cosmetic sapling planting! The responses have completely underplayed this impact which needs to be much more carefully thought through and planned.

SIGNATURE

Name of further representer (as shown on the further representation): Roger Anthony NISSIM

Further Representation No.: F 1838

Full Name: NISSIM, Roger Anthony (identical with the name shown on HKID Card/Passport)

Signature: RA Nissim Date: 20/02/2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
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Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-23 星期日 23:02:49
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: RE: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Annex II (Reply Slip)_e - Mila.pdf

Dear Leticia,

(Further Representation No. F1840)

Please find attached my reply.

Regards,
Mila

From: tpbpd/PLAND <tpbpd@pland.gov.hk>

Sent: Friday, 14 February 2025 4:39 PM

To: [REDACTED]

Subject: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號
In reply please quote this ref.: TPB/R/S/H10/22-F1840

14 February 2025

By Email

[REDACTED]
Mila Rance Ramos

Dear Sir/Madam,

Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
(Further Representation No. F1840)

I refer to your further representation which was received by the Town Planning Board (TPB) on 27.12.2024 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No.

Urgent Return receipt Expand Group Restricted Prevent Copy

S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on "Submission and Processing of Representations and Further Representations under the Town Planning Ordinance" (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB's website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB's website after the meeting. After confirmation of the minutes of TPB's deliberation, the further representers will be notified of the TPB's decision in writing. The confirmed minutes will also be available at TPB's website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

To: Town Planning Board Secretariat
Email: tpbpd@pland.gov.hk
Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER’S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

*(Please put a tick in **one** of the boxes provided below)*

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SIGNATURE

Name of further representer (as shown on the further representation): Mila Rance Ramos

Further Representation No.: F1840

Full Name: Mila Rance Ramos (identical with the name shown on HKID Card/Passport)

Signature:  Date: 21-Feb-2025

<p>STATEMENT ON COLLECTION OF PERSONAL DATA</p> <p>(a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.</p> <p>(b) The personal data provided by the further representers in this form may also be disclosed to other persons for the purposes mentioned in paragraph (a) above.</p> <p>(c) Further representers have a right of access and correction with respect to their personal data as provided under the Personal Data (Privacy) Ordinance (Cap. 486). Request for personal data access and correction should be addressed to the Town Planning Board Secretariat at 15/F., North Point, Government Offices, 333 Java Road, North Point, Hong Kong.</p>

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-18 星期二 17:09:37
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Cc: [REDACTED]
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Scan18022025.pdf; Legal Report.pdf

Dear Sir/Madam,

Please see attached for: (1) duly signed Annex II; and (2) 54-page report dated February 18, 2025, divided into eight appendices, which constitute our legally valid responses under the relevant statutory provisions.

This report provides rigorous legal analysis demonstrating that the proposed rezoning breaches the statutory framework of the Town Planning Ordinance and fully addresses the Government Departmental comments.

Thank you/With kindest regards,

Wong Tak Lee (Mr)
[REDACTED]

On 14 Feb 2025, at 4:38 PM, tpbpd/PLAND <tpbpd@pland.gov.hk> wrote:

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.:

TPB/R/S/H10/22-F1841

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

By Email

14 February 2025

[REDACTED]
Wong Tak Lee

Dear Sir/Madam,

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
(Further Representation No. F1841)**

I refer to your further representation which was received by the Town Planning Board (TPB) on 27.12.2024 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on "Submission and Processing of Representations and Further Representations under the Town Planning Ordinance" (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB's website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB's website after the meeting. After confirmation of the minutes of TPB's deliberation, the further representers will be notified of the TPB's decision in writing. The confirmed minutes will also be available at TPB's website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Yours faithfully,
(Leticia LEUNG)
for Secretary, Town Planning
Board

with encl.



To: **Town Planning Board Secretariat**
 Email: tpbpd@pland.gov.hk
 Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in **one** of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):


Please refer to the attached 54-page report dated February 18, 2025, divided into eight appendices, which constitute our legally valid responses under the relevant statutory provisions. This report provides rigorous legal analysis demonstrating that the proposed rezoning breaches the statutory framework of the Town Planning Ordinance and fully addresses the Government Departmental comments.

SIGNATURE

Name of further representer (as shown on the further representation): WONG TAK LEE

Further Representation No.: F 1841

Full Name: WONG TAK LEE (identical with the name shown on HKID Card/Passport)

Signature:  Date: 18/2/2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
- (b) The personal data provided by the further representers in this form may also be disclosed to other persons for the purposes mentioned in paragraph (a) above.
- (c) Further representers have a right of access and correction with respect to their personal data as provided under the Personal Data (Privacy) Ordinance (Cap. 486). Request for personal data access and correction should be addressed to the Town Planning Board Secretariat at 15/F., North Point, Government Offices, 333 Java Road, North Point, Hong Kong.

Detailed Report Opposing the Rezoning of Pok Fu Lam Green Belt to “Undetermined” under Pok Fu Lam OZP No. S/H10/22

February 18, 2025

To: The Chairperson and Members, Town Planning Board

Cc: The Chief Executive of the Hong Kong Special Administrative Region

Subject: Detailed Report Opposing the Rezoning of Pok Fu Lam Green Belt to “Undetermined” under Pok Fu Lam OZP No. S/H10/22

Dear Chairperson and Members of the Town Planning Board,

I refer to my recent representation/further representation submissions and formal presentation before the Town Planning Board (TPB) during recent hearing(s). In response to your email dated February 14, 2025, which requested my responses/comments on the government departmental responses as per Annex I of the email, I hereby formally submit this report.

I wish to reiterate my unequivocal and comprehensive objection to the proposed rezoning of the Pok Fu Lam Green Belt (“GB”) to an “Undetermined” (“U”) designation under Pok Fu Lam OZP No. S/H10/22. I am very concerned that the proposal is fraught with legal, environmental, strategic, and procedural deficiencies; and that in effect, it deviates from established statutory mandates, disrupts the integrity of the planning process, and contravenes the national ecological imperatives enshrined by President Xi Jinping’s doctrine that “lucid waters and lush mountains are invaluable assets.” This doctrine is not a mere slogan but a fundamental principle underpinning our nation’s commitment to sustainable development and environmental stewardship.

This report, together with the accompanying appendices that present extensively detailed legal counterarguments, offers a compelling and robust basis for opposing the proposed rezoning. I trust that the Board will give due consideration to these points and uphold the integrity of Hong Kong’s planning process by rejecting the amendment in question.

Yours truly,

Terry Wong

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Executive Summary

- 1. Contravention of National Ecological Mandates**
- 2. Legal and Procedural Overreach**
- 3. Inconsistency with Strategic Development Objectives**
- 4. Environmental Impact and Climate Commitments**
- 5. Traffic and Infrastructure Deficiencies**
- 6. Deficient Public Consultation and Stakeholder Engagement**
- 7. Fiscal and Economic Considerations**
- 8. Conclusion and Recommendations**

Appendix 1: Legal and Procedural Analysis of the Rezoning Proposal

1. Legal and Procedural Overreach
2. Inconsistency with the Northern Metropolis Strategy
3. Environmental Impact
4. Traffic and Infrastructure
5. Public Consultation
6. Economic and Financial Viability

Appendix 2: Detailed Legal Counterarguments to the 29 Grounds and Government Responses

- A. Strategic Planning, Site Selection, and Alternative Locations (FA1–FA5)
 - FA1 – Misalignment with Planning Principles
 - FA2 – Undue Influence of Policy on Statutory Functions
 - FA3 – Questioning the Necessity of Proximity to HKU’s Campus
 - FA4 – Insufficient Evaluation of Alternative Sites
 - FA5 – Lack of Comprehensive Technical Justification
- B. The “U” Zoning (FB1–FB6)

- FB1 – Lack of Legal Basis for “U” Zoning
- FB2 – Inadequate Development Control
- FB3 – Dangerous Precedent and Reduced Public Participation
- FB4 – Proposal to Revert to Original “GB” and “R(C)6” Zoning
- FB5 – Insufficient Definition of Planning Parameters
- FB6 – Bypassing Established Rezoning Procedures

C. Land Use Compatibility, Development Intensity, Visual Impact, and Interface with Nearby Schools (FC1–FC3)

- FC1 – Incompatibility with Low-Density, Green Residential Character
- FC2 – Adverse Visual Impacts
- FC3 – Negative Impact on the Ebenezer School

D. Tree Preservation, Landscape, and Ecology (FD1–FD2)

- FD1 – Irreversible Loss of Mature Trees
- FD2 – Inadequate Compensation

E. Traffic and Transport (FE1–FE4)

- FE1 – Exacerbation of Local Traffic Congestion
- FE2 – Over-Optimistic TIA Assumptions
- FE3 – Violation of the Pok Fu Lam Moratorium (PFLM)
- FE4 – Delayed Public Transport Infrastructure (SIL(W))

F. Environmental and Safety Concerns (FF1–FF2)

- FF1 – Contradiction with Climate Strategy
- FF2 – Public Health Risks from Biosafety Facilities

G. Drainage and Utility (FG1)

- FG1 – Risk of Slope Failure and Flooding

H. Geotechnical and Development Costs (FH1–FH3)

- FH1 – Geotechnical Risks and Slope Stability

- FH2 – Fiscal Irresponsibility
 - FH3 – Doubts over Financial Viability
- I. Other Matters (FI1–FI2)
- FI1 – Potential Property Devaluation and Quality of Life Impacts
 - FI2 – Unclear Tangible Community Benefits
- J. Public Consultation (FJ1)
- FJ1 – Inadequate Public Consultation

Appendix 3: Strategic Justifications for a Northern Metropolis Innovation Hub – A Counter-Analysis of PlanD’s Consultation Responses

- A. Strategic Planning, Site Selection and Alternative Locations
- B. The “U” Zoning
- C. Land Use Compatibility, Development Intensity, Visual Impact and Interface with Nearby Schools
- D. Tree Preservation, Landscape and Ecology
- E. Traffic and Transport
- F. Environmental and Safety Concerns
- G. Drainage and Utility
- H. Geotechnical and Development Costs
- I. Other Matters (Property Devaluation and Community Benefits)
- J. Public Consultation

Appendix 4: Counterarguments and Rebuttal to HKU President’s Further Representation Letter dated January 3, 2025 on Pok Fu Lam Rezoning

Appendix 5: Counterarguments to HKU’s Claim on Upstream Deep Technology Research Suitability

Appendix 6: Case Law and Judicial Precedent Analysis

Appendix 7: Legal Opinion Paper on the Interim “U” Zoning

Appendix 8: Judicial Analysis and Reasoning Framework

Disclaimer and Caveats

1. Factual Basis:

This report is based on the facts and information available at the time of its preparation. Should any additional or materially different facts emerge, the conclusions herein may require re-evaluation.

2. Legal Verification:

The opinions expressed herein are subject to further legal verification and are provided based on our current understanding of the relevant statutory provisions and case law. They do not constitute final or definitive legal advice.

3. Jurisdictional Limitations:

This submission is tailored to the statutory framework as it applies under the Town Planning Ordinance and relevant Hong Kong law. It does not address potential variations or interpretations in other jurisdictions.

4. Evolving Law:

The legal landscape is subject to change. Future legislative amendments, judicial interpretations, or regulatory changes may alter the legal context, and this report's conclusions may not be applicable under any such changes.

5. Independent Legal Advice:

The preparation and submission of this report do not constitute binding legal advice or create any formal legal representation, retainer, fiduciary, or professional relationship between the parties. Recipients are advised to seek independent legal advice before relying on the opinions expressed herein.

6. Purpose and Scope:

This report is prepared solely for the purpose of responding to the Government Departmental comments and for submission to the Town Planning Board and the Chief Executive. It is not intended for any other purpose and should not be relied upon in any unrelated matters.

7. Reliance on Secondary Sources:

The analysis contained herein relies, in part, on secondary sources and legal materials that are believed to be accurate at the time of publication. However, no representation is made as to the accuracy or completeness of such sources.

8. Subject to Revision:

The conclusions and recommendations contained in this report are based on the current state of affairs and may be subject to revision upon receipt of additional factual or legal clarification.

Executive Summary

This report provides an in-depth legal analysis demonstrating that the proposed rezoning:

- Violates the statutory framework established by the Town Planning Ordinance (TPO), notably section 6B(8).
- Is inconsistent with national and regional strategic objectives, including those encapsulated in the Northern Metropolis Strategy, thereby jeopardizing the coherence of Hong Kong's long-term planning framework.
- Falls short on essential environmental, traffic, fiscal, and public consultation standards, each of which is legally binding under Hong Kong planning and environmental law.
- Exposes the decision to judicial review, as reaffirmed by recent case law such as the Fanling Golf Course ruling, which underscores the need for strict procedural adherence.

I respectfully urge the Board to reject the rezoning proposal, maintain the Green Belt designation, and require that any future planning decisions adhere strictly to the statutory framework, robust environmental safeguards, and effective public consultation mechanisms.

1. Contravention of National Ecological Mandates

1.1. National Duty and Environmental Legacy

- President Xi Jinping's repeated pronouncements on ecological civilization impose an unequivocal national duty to preserve our natural heritage.
- The proposition to remove over 2,250 mature trees and disrupt a critical green belt does not simply represent an environmental cost—it represents an irreversible depletion of Hong Kong's ecological capital.
- Under Hong Kong's Climate Action Plan 2050, the preservation of biodiversity and carbon sequestration capacity is paramount.

1.2. Legal and Policy Conflicts

- Permitting development that effectively erodes these environmental assets is not only contrary to our long-term public interest but also stands in stark legal conflict with statutory environmental obligations and higher-level national policy directives.
- This decision, therefore, is both environmentally unsound and legally indefensible, as it disregards mandatory principles of sustainable development and fails to secure a vital public asset for future generations.

2. Legal and Procedural Overreach

2.1 Statutory Mandates and Decision-Making

- Section 6B(8) of the TPO explicitly requires that “after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.” In effect, there is no statutory provision permitting a “partial” acceptance.
- This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment.
- Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance.
- In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that fully addresses the representation.
- Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc “U” designation when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance.

2.2 Judicial Precedent and Procedural Fairness

- The High Court’s ruling in the Fanling Golf Course case stands as a powerful judicial rebuke of any planning authority that deviates from the established procedures.
- When the Board elects to “partially meet” representations by creating an entirely new and ill-defined category, it not only oversteps its statutory authority but also invites judicial intervention on the grounds of arbitrariness and abuse of discretion.
- The absence of an immediate, clear, and legally supported basis for such a category jeopardizes the integrity of the decision-making process and erodes public confidence in the rule of law. By creating a “U” zone without representation basis, the decision violates principles of procedural fairness.

3. Inconsistency with Strategic Development Objectives

3.1 Strategic Rationale and Site Selection

- The government has sought to justify the Pok Fu Lam site's selection on the basis that it is essential for Hong Kong's innovation and technology (I&T) development.
- However, this rationale is in stark conflict with the clearly delineated Northern Metropolis Strategy, which earmarks specific locations—such as the San Tin Technopole and the Science Park—as the designated hubs for I&T development.
- Diverting development to Pok Fu Lam—a site burdened with significant environmental and infrastructural constraints—fragments Hong Kong's strategic planning framework and erodes the intended economic synergy of a centralized I&T hub.

3.2 Procedural and Analytical Deficiencies

- Legally, planning decisions must not only mirror broad policy objectives but must also be supported by a detailed, site-specific comparative analysis that validates the chosen location.
- The absence of a rigorous, site-specific comparative analysis renders the decision arbitrary.
- The failure to rigorously consider and compare viable alternatives exposes it to potential legal challenge on grounds of procedural unfairness and irrationality.

4. Environmental Impact and Climate Commitments

4.1 Inadequate Environmental Safeguards

- The proposed development hinges on a compensation mechanism that permits the removal of mature trees with a replacement ratio of only 1:0.48.
- This figure is significantly below the internationally accepted standard of 1:1 and fails to account for the multifaceted ecological functions provided by mature trees, including long-term carbon sequestration, soil stabilization, and habitat provision for local fauna.
- The removal of these trees represents an irreversible loss of ecological capital that cannot be remedied by the planting of new saplings, which require decades to mature and achieve comparable functionality.
- Moreover, the proposal does not appear to incorporate a robust mitigation strategy for erosion and landslide risks associated with developing on steep slopes.

4.2 Climate Action and Legal Compliance

- The proposed development is in direct conflict with Hong Kong's Climate Action Plan 2050, which prioritises biodiversity preservation and carbon sequestration.
- Under both statutory environmental law and the guiding principles of the Climate Action Plan 2050, any development that precipitates such degradation is legally indefensible.
- The proposed environmental trade-offs are excessive and will likely be declared unlawful by any court that scrutinizes the adequacy of environmental safeguards in planning decisions.
- The inadequate mitigation measures expose the proposal to potential legal challenges on environmental grounds.

5. Traffic and Infrastructure Deficiencies

5.1 Flawed Traffic Impact Assessment (TIA)

- The Traffic Impact Assessment (TIA) accompanying the rezoning proposal is critically flawed.
- It relies on optimistic assumptions that do not adequately account for the severe congestion expected during peak hours, the substantial influx of heavy construction vehicles, or the long-term operational constraints given that the South Island Line (West) will not be operational until at least 2034.
- The delayed operation of critical transport infrastructure such as the South Usland Line West further exacerbates these concerns.

5.2 Public Safety and Urban Mobility Risks

- The failure to incorporate comprehensive worst-case scenario modeling violates the Board's statutory duty to ensure that any development will not unduly compromise public safety and urban mobility.
- When infrastructure is stressed beyond its designed capacity, the resulting deterioration in emergency response, air quality, and overall public safety can have severe, long-lasting consequences for the community.
- Consequently, the TIA, as presently drafted, fails to meet the statutory requirements for a safe and efficient transport network and is thus legally vulnerable to challenge.

6. Deficient Public Consultation and Stakeholder Engagement

6.1 Inadequate Engagement Process

- Effective public consultation is the cornerstone of Hong Kong's planning process and is a fundamental statutory requirement.
- The rezoning proposal has been met with overwhelming opposition—1,859 out of 1,861 representations oppose the change—and key stakeholders, notably the Ebenezer School for the Visually Impaired, have been excluded and/or inadequately consulted from the consultation process.

6.2 Procedural Fairness and Legal Implications

- This exclusion represents a serious breach of procedural fairness, as it denies affected parties the opportunity to participate meaningfully in decisions that will have profound impacts on their community.
- The legal standard demands that planning decisions be made only after robust, two-way public engagement has been achieved.
- The absence of such engagement renders the decision not only procedurally flawed but also susceptible to judicial invalidation on the basis that it fails to secure a social license from the community.
- This deficiency undermines the legitimacy of the rezoning decision and strongly exposes it to judicial review.

7. Fiscal and Economic Considerations

7.1 Economic Analysis and Public Resource Allocation

- The proposal involves significant infrastructure expenditures without a transparent, rigorous cost-benefit analysis.
- At a time when Hong Kong is grappling with a structural budget deficit exceeding HK\$100 billion, the economic rationale behind the proposed development is deeply problematic.
- The rezoning proposal envisages enormous infrastructure expenditures for slope stabilization, environmental remediation, and other associated costs without a transparent, rigorous cost-benefit analysis.
- Relying on projections of private funding and future research grants does not meet the statutory requirement for prudent public resource allocation.

7.2 Fiscal Responsibility and Legal Defensibility

- Legally, planning decisions must be underpinned by robust financial analysis that ensures economic viability and protects scarce public funds from unnecessary diversion.
- The lack of detailed financial documentation and enforceable economic safeguards renders the proposal economically unsustainable.
- The absence of such an analysis renders the proposal not only fiscally irresponsible but also legally indefensible.
- This shortfall is set to strongly expose the decision to potential legal challenges for fiscal irresponsibility.

8. Conclusion and Recommendations

8.1 Summary of Key Findings

- The proposed rezoning violates statutory mandates by introducing an “Undetermined” zoning category contrary to Section 6B(8) of the TPO.
- It conflicts with national and regional strategic objectives and undermines environmental, traffic, and public consultation standards.

8.2 Recommendations for the Board

In light of the foregoing legal, environmental, strategic, and fiscal concerns, I respectfully urge the Board to:

- **Reject the Rezoning Proposal:** Uphold the Green Belt designation to safeguard Hong Kong’s environmental integrity and honor the national ecological vision as mandated by President Xi Jinping’s doctrine.
- **Realign Site Selection with Strategic Plans:** Redirect proposals for I&T development to the designated areas outlined in the Northern Metropolis Strategy or the Science Park, where a detailed, site-specific analysis supports the decision.
- **Enhance Public Consultation:** Institute a rigorous, transparent public consultation process that fully engages all relevant stakeholders from the outset, thereby satisfying statutory requirements for procedural fairness.
- **Ensure Legal and Environmental Compliance:** Adhere strictly to the statutory provisions of the TPO—including the explicit mandates of section 6B(8)—and undertake comprehensive, enforceable environmental and traffic assessments to preclude future legal challenges.

8.3 Concluding Remarks

- It is imperative that the Town Planning Board exercise its statutory discretion with utmost legal rigor and procedural fairness, ensuring that all decisions reflect both the public interest and the national commitment to ecological sustainability.
- I trust that this detailed report, together with the appended legal analyses, will inform your deliberations and lead to a decision that upholds the rule of law and the principles of sustainable development.

Appendix 1: Legal and Procedural Analysis of the Rezoning Proposal

1. Legal and Procedural Overreach

- **Flaw:** The unilateral introduction of an “Undetermined” zoning category, which was not proposed by any representer, is a clear deviation from the statutory decision-making framework mandated by section 6B(8) of the TPO.

- **Comment:** The established legal framework requires that the Board either fully accept or completely reject any representation, without resorting to a half-measure that attempts to “partially meet” the expressed views. By introducing a “U” zone—an option never provided on the table by section 6B(8) of the TPO—the Board effectively circumvents the clear statutory process and usurps its discretionary authority. This circumvention not only contravenes the letter and spirit of the TPO but also undermines the fundamental principle of legal certainty that underpins administrative law. The High Court’s decision in the Fanling Golf Course case reinforces that any deviation from prescribed procedures exposes a decision to judicial review, as it constitutes an arbitrary exercise of power. This arbitrary action, which lacks a rigorous, statutory justification, renders the rezoning proposal indefensible under the rule of law. In essence, the Board’s failure to adhere strictly to the procedural mandates constitutes a breach of administrative fairness and opens the door to subsequent legal challenges, thereby jeopardizing the legitimacy of the entire rezoning process.

2. Inconsistency with the Northern Metropolis Strategy

- **Flaw:** Diverting I&T development to Pok Fu Lam is in direct conflict with the strategic priorities of the Northern Metropolis Strategy, which clearly designates alternative hubs for such activities.

- **Comment:** Strategic planning in Hong Kong is governed not only by broad policy pronouncements but also by detailed, site-specific assessments that ensure coherence and rational allocation of resources. By ignoring the explicit guidance of the Northern Metropolis Strategy, the decision to develop in Pok Fu Lam undermines the very framework that is intended to foster economic synergy and efficient urban development. Legally, the Board’s failure to conduct a rigorous comparative analysis of alternative sites constitutes an arbitrary decision-making process. The statutory obligation to act in a rational manner requires that all viable options be carefully weighed, and the selection process be fully documented. Without such a meticulous evaluation, the decision appears capricious and open to judicial scrutiny. The divergence from established strategic priorities not only dilutes the effectiveness of regional planning but also exposes the decision to legal challenges on the grounds of procedural unfairness and lack of rationality.

3. Environmental Impact

- **Flaw:** The proposal’s reliance on a compensatory planting ratio of 1:0.48 for mature trees is grossly inadequate and fails to account for the multifaceted ecological functions of these trees.

- **Comment:** Mature trees perform a range of essential ecological functions that young saplings cannot replicate for decades, including significant roles in carbon sequestration, soil stabilization, and the maintenance of local biodiversity. The internationally accepted standard for compensatory planting is 1:1, and any deviation from this standard is tantamount to an admission that the loss of mature trees is being undervalued. Legally, such a shortfall in compensation not only violates statutory environmental standards but also undermines the principles enshrined in the Climate Action Plan 2050. The irreversible nature of mature tree loss, combined with the inadequate replacement ratio, means that the ecological damage is both immediate and irreparable. This failure to meet an enforceable environmental standard renders the proposal legally indefensible, as it does not provide sufficient protection for the public asset that these trees represent. The statutory duty to preserve natural habitats demands that any loss be fully and equivalently compensated, a requirement that is clearly not met by the current proposal.

4. Traffic and Infrastructure

- **Flaw:** The Traffic Impact Assessment (TIA) fails to account for realistic, worst-case scenarios, particularly regarding peak-hour congestion and the influx of construction-related traffic.

- **Comment:** The TIA is a critical document that must provide a robust analysis of the potential impacts of any development on local traffic conditions. In this case, the assumptions underlying the TIA are overly optimistic and do not reflect the true scale of the challenge, especially in a densely populated area like Pok Fu Lam. Statutory obligations require that the TIA be based on worst-case scenario modeling and include enforceable measures to mitigate any negative impacts. The failure to incorporate these elements means that the TIA does not meet the necessary legal standards for protecting public safety and ensuring efficient urban mobility. Moreover, any reliance on future improvements, such as deferred upgrades to road junctions or the anticipated operation of the South Island Line (West) beyond 2034, does not absolve the Board of its current duty to provide immediate, enforceable safeguards. This shortfall in the TIA exposes the decision to legal challenge on the grounds that it does not adequately protect the public interest, thereby rendering the proposal legally unsustainable.

5. Public Consultation

- **Flaw:** The consultation process was fundamentally deficient, as evidenced by the overwhelming opposition and the exclusion of key stakeholders such as the Ebenezer School for the Visually Impaired.

- **Comment:** Procedural fairness in administrative decision-making mandates robust and inclusive public consultation. The statutory framework requires that affected parties are provided with a meaningful opportunity to voice their concerns and contribute to the decision-making process. In this instance, the near-unanimous opposition—1,859 out of 1,861 representations—coupled with the exclusion of significant community stakeholders, demonstrates a profound failure to adhere to these principles. Legally, such a failure undermines the legitimacy of the decision and violates the duty to secure a social license for development. The lack of genuine, two-way communication not only breaches the procedural requirements but also creates an environment of arbitrariness and bias. This, in turn, renders the decision susceptible to judicial invalidation on the grounds that it fails to uphold the

principles of transparency, accountability, and fairness that are fundamental to Hong Kong's planning process.

6. Economic and Financial Viability

- **Flaw:** The proposal lacks a rigorous, transparent cost-benefit analysis and relies on uncertain projections of private funding and future grants.

- **Comment:** In an environment where public resources are extremely limited—as evidenced by Hong Kong's structural budget deficit exceeding HK\$100 billion—the statutory obligation for prudent fiscal management is paramount. Any large-scale development must be supported by a detailed, verifiable cost-benefit analysis that clearly demonstrates its economic viability and justifies the diversion of scarce public funds. The current proposal, by failing to provide such an analysis, exposes itself to legal challenge on the grounds of fiscal irresponsibility. Reliance on projections of private funding and future research grants is inherently speculative and does not meet the standard of certainty required by law. This lack of financial rigor not only jeopardizes the project's sustainability but also risks imposing an undue burden on the public purse. Legally, decisions that do not meet the strict standards of fiscal prudence are vulnerable to being overturned, as they fail to protect the public interest in a time of economic constraint.

Appendix 2: Detailed Legal Counterarguments to the 29 Grounds and Government Responses

This appendix provides an exhaustive summary of the 29 distinct grounds—organized into 10 categories—raised by further representations against the proposed amendments to the Draft Pok Fu Lam OZP No. S/H10/22, along with the government’s responses and robust legal counterarguments for each category. Each counterargument serves to ensure that all legal deficiencies are fully articulated and supported by relevant statutory and case law principles.

A. Strategic Planning, Site Selection, and Alternative Locations (FA1–FA5)

• FA1 – Misalignment with Planning Principles:

- **Objection:** The proposed development is fundamentally inconsistent with the overarching national, regional, and territorial planning goals.

- **Government Response:** The justification relies on the 2021 Policy Address and the I&T Blueprint to support the site selection.

- **Legal Counterargument:** It is not sufficient for a planning decision to simply align with high-level policy pronouncements; the decision must be supported by a meticulous, site-specific analysis that rigorously evaluates all viable alternatives. The absence of such an analysis renders the decision arbitrary and capricious, thereby failing the rationality test under administrative law. The statutory requirement for rational decision-making demands that the decision-maker fully consider and document the comparative merits of all potential sites. In this instance, the failure to do so constitutes a breach of procedural fairness and exposes the decision to judicial scrutiny. The lack of a comprehensive evaluation undermines the integrity of the planning process and ultimately renders the rezoning legally indefensible.

• FA2 – Undue Influence of Policy on Statutory Functions:

- **Objection:** The directive from the 2021 Policy Address has unduly preempted the Board’s independent statutory duty to evaluate site suitability on its merits.

- **Government Response:** The Board asserts that it has exercised independent and professional judgment in its review.

- **Legal Counterargument:** While high-level policy guidance is relevant, it cannot override the statutory obligation to conduct an unbiased, objective evaluation of all relevant factors. The reliance on the 2021 Policy Address to justify the decision without a thorough, independent analysis of the site-specific issues amounts to an abdication of the Board’s statutory responsibilities. This over-reliance on policy directives undermines the requirement for a balanced consideration of all material facts, thus constituting an abuse of discretion. Such a failure to independently verify and assess the suitability of the site renders the decision procedurally flawed and legally vulnerable to challenge on the grounds of partiality and arbitrariness.

• **FA3 – Questioning the Necessity of Proximity to HKU’s Campus:**

• **Objection:** The argument that proximity to HKU’s campus is a decisive factor does not justify the neglect of alternative sites that may better serve the public interest.

• **Government Response:** The government contends that clustering research facilities yields tangible benefits through synergistic effects.

• **Legal Counterargument:** The concept of synergy must be supported by quantitative and qualitative evidence that demonstrates a measurable enhancement in research output or economic efficiency. Vague assertions of “synergy” without such evidence fail to satisfy the statutory standard for altering established land-use patterns. The decision to prioritize proximity to HKU’s campus, without a rigorous comparative analysis of alternative sites, undermines the fundamental principles of rational planning and fairness. This lack of a robust evidentiary basis not only renders the decision arbitrary but also exposes it to legal challenge as it fails to meet the stringent requirements of statutory justification.

• **FA4 – Insufficient Evaluation of Alternative Sites:**

• **Objection:** The evaluation of potential alternative locations, such as the San Tin Technopole and the “R(C)6” site, is superficial and inadequate.

• **Government Response:** The justification is based on an in-principle acceptance under the 2021 Policy Address, with only cursory consideration of alternatives.

• **Legal Counterargument:** Statutory and administrative law mandates a comprehensive, comparative assessment of all viable alternatives before arriving at a decision that significantly alters land use. The failure to conduct such an analysis represents a serious procedural deficiency that renders the decision arbitrary and capricious. Without a detailed examination of each alternative’s merits, risks, and public benefits, the decision lacks the necessary evidentiary foundation required by law. This oversight is a fundamental breach of the duty to act rationally and impartially, and it substantially weakens the legal defensibility of the rezoning proposal.

• **FA5 – Lack of Comprehensive Technical Justification:**

• **Objection:** The proposal does not provide robust technical justifications for selecting the Pok Fu Lam site over other potential alternatives.

• **Government Response:** HKU has committed to future reviews and amendments based on stakeholder feedback.

• **Legal Counterargument:** Promises of future technical reviews cannot substitute for the immediate statutory obligation to base planning decisions on comprehensive and contemporaneous technical evidence. The Board is required to provide a fully documented rationale at the time of decision-making, demonstrating that all technical aspects have been rigorously analyzed. Relying on deferred evaluations undermines the credibility of the decision and violates the principles of administrative accountability and transparency. Such a failure to

provide immediate, detailed technical justification constitutes an abuse of discretion and leaves the decision open to legal challenge for its lack of proper evidentiary support.

B. The “U” Zoning (FB1–FB6)

• FB1 – Lack of Legal Basis for “U” Zoning:

- Objection: No representation has proposed the adoption of a “U” (Undetermined) zone; therefore, its imposition lacks a statutory basis under section 6B(8) of the TPO.

- Government Response: The Board asserts its discretion to “partially meet” representations.

- Legal Counterargument: Section 6B(8) of the TPO explicitly requires that “after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.” In effect, there is no statutory provision permitting a “partial” acceptance. This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment. Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that addresses the representation. Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc “U” designation (which does not meet any representation) when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance. Given no statutory provision for intermediary solution to partially satisfy the representation, introducing a “U” zone in the absence of any representational basis not only breaches this explicit statutory requirement but also undermines the principle of legal certainty. Such a maneuver is tantamount to an overreach of discretionary power, as it circumvents the necessary statutory decision process that ensures administrative decisions are both transparent and accountable. This deviation from established statutory procedure is likely to be deemed an abuse of power and arbitrary by any court tasked with reviewing the decision, thereby rendering the rezoning legally indefensible.

• FB2 – Inadequate Development Control:

- Objection: The “U” zone fails to establish clear and enforceable development parameters, thus undermining effective planning control.

- **Government Response:** It is contended that future planning permission, required under section 16, will provide the necessary control measures.

- **Legal Counterargument:** Relying on future regulatory mechanisms to impose controls does not absolve the immediate statutory obligation to establish definite development parameters within the zoning designation itself. The law requires that any interim measure must itself be clear, precise, and enforceable, thereby providing certainty for both developers and the public. Without such enforceability, the “U” zone becomes a legal vacuum where arbitrary development could occur, effectively nullifying the protective function of the existing zoning system. This lack of immediate, binding controls constitutes a serious breach of statutory planning standards and exposes the decision to judicial invalidation for its failure to protect public interests.

- **FB3 – Dangerous Precedent and Reduced Public Participation:**

- **Objection:** The adoption of “U” zoning sets a dangerous precedent by signaling that green spaces can be rezoned arbitrarily, thereby undermining public participation in planning decisions.

- **Government Response:** The measure is defended as a temporary stopgap to allow further consultation and review.

- **Legal Counterargument:** Even as a temporary measure, the introduction of a “U” zone must comply with the highest standards of legal and procedural integrity. The precedent set by such a decision could lead to a systematic erosion of established planning safeguards, as it implies that public representations can be effectively ignored. The statutory requirement for robust public consultation is not suspended simply because the measure is temporary; it remains an essential component of a legitimate planning process. By bypassing comprehensive public engagement, the decision not only fails to secure the requisite social license but also becomes susceptible to judicial review on grounds of arbitrariness and lack of transparency. This sets a pernicious precedent that undermines the statutory protections afforded to environmentally sensitive areas.

- **FB4 – Proposal to Revert to Original “GB” and “R(C)6” Zoning:**

- **Objection:** Many representers insist that the site should retain its original “GB” and “R(C)6” designations, which more accurately reflect the site’s current use and community expectations.

- **Government Response:** The interim “U” zone is justified pending a comprehensive review by HKU.

- **Legal Counterargument:** Deferring the decision through the introduction of an interim “U” zone does not fulfill the Board’s statutory obligation to provide a clear and legally sound zoning determination at the time of decision-making. The failure to immediately adopt the original zoning, despite overwhelming public opinion, renders the decision arbitrary and procedurally flawed. Statutory planning mandates require that any temporary measures must be accompanied by a rigorous justification that addresses all public and environmental concerns. Without such justification, the interim designation functions merely as a placeholder, exposing

the decision to legal challenge on grounds of procedural impropriety and non-compliance with established planning protocols.

• **FB5 – Insufficient Definition of Planning Parameters:**

• **Objection:** The explanatory statement for “U” zoning is vague and fails to clearly define the scope of permissible development, leaving excessive discretionary power for future reinterpretation.

• **Government Response:** It is argued that additional technical assessments and stakeholder consultations will be used to refine the parameters.

• **Legal Counterargument:** Statutory planning law demands that any decision affecting land use must be precise and predictable. The lack of clear, enforceable planning parameters creates uncertainty and undermines the legal certainty that is central to administrative decision-making. Future promises of refinement cannot substitute for the immediate need for definitive criteria that protect both public interests and the integrity of the land-use system. The absence of such clarity is likely to be deemed legally insufficient, as it fails to provide a solid foundation upon which enforceable planning controls can be built, thus exposing the decision to judicial invalidation for its vagueness.

• **FB6 – Bypassing Established Rezoning Procedures:**

• **Objection:** The introduction of “U” zoning circumvents the established statutory decision-making process prescribed by the TPO, thereby weakening statutory planning safeguards.

• **Government Response:** The Board asserts its independent statutory authority to amend the plan as it deems fit.

• **Legal Counterargument:** While the Board is granted a degree of discretionary authority, this power is circumscribed by strict statutory limits that mandate adherence to established procedures. Deviating from such without compelling and well-documented reasons may be deemed to constitute an abuse of power. Such a circumvention undermines the legal predictability and procedural fairness that are essential to administrative law. The decision to bypass established procedures risks not only compromising the integrity of the planning process but also setting a dangerous precedent that may erode public trust in statutory safeguards. This conduct is legally indefensible as it breaches both the letter and the spirit of the TPO.

C. Land Use Compatibility, Development Intensity, Visual Impact, and Interface with Nearby Schools (FC1–FC3)

• **FC1 – Incompatibility with Low-Density, Green Residential Character:**

• **Objection:** The development of a high-density Centre in a predominantly low-density, green residential area is inherently incompatible with the character of Pok Fu Lam.

- **Government Response:** The Board contends that appropriate design modifications can mitigate the incompatibility.

- **Legal Counterargument:** The statutory presumption against significant development in “GB” zones is well-established, and any proposal to contravene this presumption must be supported by incontrovertible evidence that the development is compatible with the existing land use. Generic promises to adjust building density or bulk are insufficient unless they are accompanied by detailed, enforceable design criteria. The failure to provide such criteria renders the decision arbitrary and exposes it to judicial review on the grounds of incompatibility with the established residential character. In effect, without a rigorous demonstration that the proposed modifications will maintain the intrinsic qualities of the area, the rezoning decision is legally indefensible.

- **FC2 – Adverse Visual Impacts:**

- **Objection:** The proposed building bulk and configuration will significantly impair critical public vistas and degrade the aesthetic quality of the area.

- **Government Response:** HKU is directed to adopt specific design enhancements, including reduced building heights and increased setbacks, to mitigate visual impacts.

- **Legal Counterargument:** The statutory duty to protect public views is not met by vague commitments to “enhance” design; rather, it requires the imposition of clear, measurable, and enforceable standards. The absence of such standards means that affected parties have no effective remedy should the visual impacts materialize. Legally, this uncertainty constitutes a breach of the planning process’s obligation to secure public amenity, thereby rendering the decision arbitrary and subject to judicial invalidation for failing to meet the necessary criteria for protecting the visual environment.

- **FC3 – Negative Impact on the Ebenezer School:**

- **Objection:** The proximity of the proposed Centre—being less than 15 meters from the Ebenezer School—poses significant risks of noise, vibration, and other adverse impacts on vulnerable students.

- **Government Response:** HKU is required to engage with the school and institute mitigation measures to protect the educational environment.

- **Legal Counterargument:** The potential for irreversible harm to a sensitive institution such as the Ebenezer School demands immediate and binding protective measures, not merely promises of future engagement. Statutory obligations require that any development in close proximity to vulnerable groups must incorporate enforceable safeguards that ensure their safety and well-being. The failure to include such concrete measures renders the decision procedurally and substantively flawed, leaving it open to challenge on the grounds that it fails to protect the rights and interests of a particularly vulnerable segment of the community.

D. Tree Preservation, Landscape, and Ecology (FD1–FD2)

• FD1 – Irreversible Loss of Mature Trees:

- **Objection:** The removal of over 2,250 mature trees will cause irreversible ecological damage that cannot be offset by the proposed compensatory planting.

- **Government Response:** HKU proposes to mitigate the impact through the planting of heavy-standard trees arranged in clusters.

- **Legal Counterargument:** Mature trees provide complex ecological functions—ranging from carbon sequestration to biodiversity support—that young saplings cannot replicate for decades. The internationally accepted standard is a 1:1 replacement ratio, and any deviation from this standard constitutes a failure to adequately compensate for the loss. Legally, the irreversible loss of mature trees amounts to a permanent degradation of a public asset, and statutory environmental protection standards require that any such loss be fully and equivalently compensated. The proposed ratio of 1:0.48 is demonstrably insufficient and legally indefensible because it undermines the fundamental environmental objectives that underpin both local and national legislation. Such a shortfall in compensation represents a clear breach of statutory duties to preserve natural heritage.

• FD2 – Inadequate Compensation:

- **Objection:** The promise to improve compensatory measures in the future does not address the immediate and irreversible loss of ecological functions provided by mature trees.

- **Government Response:** HKU commits to further reviewing and enhancing its compensation strategy.

- **Legal Counterargument:** Statutory environmental law requires that any compensatory measure be both immediate and equivalent in ecological value to the loss incurred. Future promises or tentative commitments cannot substitute for enforceable standards that protect the environment at the time of decision-making. The failure to secure an immediate, legally binding compensation measure that meets a 1:1 standard renders the proposal irreconcilable with statutory requirements. This inadequacy not only violates established environmental protection principles but also opens the decision to legal challenge for failing to safeguard a critical public resource.

E. Traffic and Transport (FE1–FE4)

• FE1 – Exacerbation of Local Traffic Congestion:

- **Objection:** The additional traffic generated by the Centre would exacerbate congestion in an area that is already overburdened, negatively impacting public safety and quality of life.

- **Government Response:** The TIA contends that targeted junction improvements will alleviate the increased traffic burden.

- **Legal Counterargument:** Traffic impact assessments must be grounded in conservative, worst-case scenario projections that reflect the true potential for congestion. Optimistic assumptions that do not incorporate the full impact of peak-hour traffic or the significant disruption caused by heavy construction vehicles fall short of the statutory standard for protecting public safety. Without immediate, enforceable remedial measures, the TIA is legally inadequate because it fails to provide a comprehensive strategy for mitigating foreseeable traffic problems. This deficiency exposes the decision to legal challenge on the grounds that it does not ensure the safe and efficient operation of the local transport network.

- **FE2 – Over-Optimistic TIA Assumptions:**

- **Objection:** The TIA does not adequately factor in the severe impact of construction traffic and peak-period congestion.

- **Government Response:** HKU promises to update the TIA in subsequent design stages.

- **Legal Counterargument:** Deferring critical assessments to future stages is insufficient to meet the immediate statutory obligation to base the decision on a complete and realistic appraisal of traffic impacts. The Board must ensure that the present TIA accurately reflects worst-case scenarios and incorporates binding measures to mitigate these impacts. The reliance on deferred updates undermines the legal requirement for a thorough, contemporaneous analysis, leaving the decision exposed to challenge for its failure to provide immediate public safety assurances.

- **FE3 – Violation of the Pok Fu Lam Moratorium (PFLM):**

- **Objection:** The proposed high plot ratio and inclusion of residential components are in clear violation of the objectives of the Pok Fu Lam Moratorium, which is designed to protect the area from excessive development.

- **Government Response:** Revised development parameters are asserted to bring the proposal within permissible limits.

- **Legal Counterargument:** Any relaxation of the moratorium standards must be supported by rigorous, evidence-based justification that clearly demonstrates the public benefits outweigh the risks. In this instance, the failure to provide such evidence renders the decision legally indefensible. The statutory objective of the PFLM is to preserve the character and functionality of the area, and any departure from this objective without compelling justification is arbitrary. This violation of established planning policy exposes the decision to legal challenge on grounds of inconsistency and procedural unfairness.

- **FE4 – Delayed Public Transport Infrastructure (SIL(W)):**

- **Objection:** The projected delay in the operational commencement of the South Island Line (West) means that the long-term traffic impacts will not be mitigated in a timely manner.

- **Government Response:** Future traffic reviews and planned junction improvements are offered as remedial measures.

- **Legal Counterargument:** Relying on future infrastructure improvements does not absolve the Board of its present statutory duty to ensure that the local transport network is capable of handling the additional load imposed by the development. The absence of immediate, enforceable measures to address the anticipated congestion constitutes a breach of the statutory requirement to protect public safety. This reliance on deferred improvements creates an unacceptable risk of long-term traffic bottlenecks, rendering the decision legally vulnerable for failing to provide a complete and adequate mitigation strategy.

F. Environmental and Safety Concerns (FF1–FF2)

• FF1 – Contradiction with Climate Strategy:

- **Objection:** Development on Green Belt land will accelerate deforestation and increase carbon emissions, which is in direct contradiction with Hong Kong’s goal of achieving carbon neutrality by 2050.

- **Government Response:** HKU commits to ensuring a minimum of 30% overall greenery and 12,000m² of communal open space.

- **Legal Counterargument:** The statutory and environmental mandates require that any development impacting the natural environment produce measurable, enforceable outcomes that directly align with climate action goals. The commitment to percentage targets without a detailed implementation plan fails to meet the rigorous standards set by the Climate Action Plan 2050. The legal framework demands not only aspirational targets but also concrete, binding measures that guarantee the preservation of ecological functions. In the absence of such detailed safeguards, the proposal is legally indefensible, as it compromises the statutory objective of reducing carbon emissions and protecting natural habitats.

• FF2 – Public Health Risks from Biosafety Facilities:

- **Objection:** The presence of a Biosafety Level 3 laboratory near residential areas poses significant public health risks that are unacceptable under any circumstances.

- **Government Response:** HKU argues that similar facilities have operated safely under stringent regulatory regimes elsewhere.

- **Legal Counterargument:** Reliance on the safe operation of analogous facilities in different contexts does not substitute for a rigorous, site-specific risk assessment. The statutory obligation is to ensure that any high-risk facility, especially one located in close proximity to residential areas, is accompanied by immediate and enforceable safety measures tailored to the unique risks of the site. The failure to implement such measures renders the decision legally indefensible, as it violates the public’s right to safety and health. The Board must require detailed, binding safeguards that address the specific risks associated with the proposed laboratory before any rezoning can be justified.

G. Drainage and Utility (FG1)

• FG1 – Risk of Slope Failure and Flooding:

- **Objection:** Extensive excavation and removal of vegetation may destabilize slopes, thereby significantly increasing the risk of flooding along Pok Fu Lam Road.

- **Government Response:** A Drainage Impact Assessment (DIA) concludes that the existing infrastructure is adequate.

- **Legal Counterargument:** Given the scale of the proposed works and the critical importance of maintaining slope stability, the adequacy of the drainage infrastructure must be independently verified and accompanied by comprehensive contingency planning. Reliance on a single DIA without robust, enforceable backup measures does not meet the statutory requirement for protecting public safety and environmental integrity. The potential for catastrophic failure, in the absence of immediately enforceable safeguards, renders the decision legally indefensible.

H. Geotechnical and Development Costs (FH1–FH3)

• FH1 – Geotechnical Risks and Slope Stability:

- **Objection:** Construction on steep slopes presents significant risks of landslides and destabilization, which could have severe repercussions for neighboring properties and public safety.

- **Government Response:** A Geotechnical Planning Review Report deems the project feasible provided that appropriate remedial measures are implemented.

- **Legal Counterargument:** Feasibility studies, while important, are insufficient unless accompanied by binding, enforceable controls that guarantee the long-term stability of the slopes. Statutory obligations require that all geotechnical risks be addressed through concrete, precautionary measures that are incorporated into the planning approval. The absence of such enforceable controls means that the potential for catastrophic failure remains, thereby exposing the project to legal challenge on the grounds that it fails to meet the necessary public safety standards.

• FH2 – Fiscal Irresponsibility:

- **Objection:** Pursuing an extravagant project in an area ill-suited for such development is fiscally irresponsible, particularly given Hong Kong's substantial budget deficit.

- **Government Response:** HKU asserts that the Centre is self-financing, relying on private funding and research grants.

- **Legal Counterargument:** Uncertain and speculative funding arrangements cannot substitute for a rigorous, transparent cost-benefit analysis that is required under statutory planning standards. The Board is legally obligated to ensure that public resources are allocated

prudently, especially in a time of fiscal constraint. The absence of detailed financial projections and binding assurances regarding funding sources renders the proposal economically unsustainable and legally indefensible. The decision, therefore, violates the statutory duty of fiscal prudence by failing to adequately justify the diversion of scarce public funds.

• **FH3 – Doubts over Financial Viability:**

• **Objection:** The proposal lacks detailed financial documentation and transparent cost projections, raising serious doubts about the overall economic viability of the project.

• **Government Response:** HKU provides general assurances of diversified funding sources.

• **Legal Counterargument:** Legally, the Board must be presented with a comprehensive, meticulously detailed cost-benefit analysis that clearly demonstrates the economic feasibility of the project. General assurances or vague promises of future funding do not satisfy this requirement. In the absence of such rigorous financial documentation, the proposal fails to meet the statutory standard for responsible resource allocation. This financial opacity renders the decision legally indefensible, as it imposes an undue risk on public finances and fails to ensure economic sustainability.

I. Other Matters (FI1–FI2)

• **FI1 – Potential Property Devaluation and Quality of Life Impacts:**

• **Objection:** The development may lead to significant property devaluation and a deterioration in the overall quality of life, owing to increased noise, congestion, and environmental degradation.

• **Government Response:** It is argued that property values are not a primary statutory planning consideration.

• **Legal Counterargument:** While property prices are not the sole determinant of a planning decision, quality of life and environmental amenity are fundamental considerations under statutory planning criteria. Ignoring these factors results in an incomplete assessment of the public interest. The legal framework requires that all adverse impacts on the community's living standards be thoroughly assessed and mitigated. The failure to do so constitutes a breach of the statutory duty to ensure that the planning decision promotes the public good, thereby rendering the proposal legally indefensible.

• **FI2 – Unclear Tangible Community Benefits:**

• **Objection:** The benefits promised to the local community are vague and largely appear to serve HKU's institutional interests rather than generating clear, measurable public gains.

• **Government Response:** HKU asserts that the Centre will provide public facilities and improved connectivity that will benefit the community.

- **Legal Counterargument:** Statutory planning requirements demand that any proposed development yield demonstrable, quantifiable benefits to the community. Vague projections or aspirational statements are insufficient to meet this threshold. The absence of specific, enforceable benchmarks for public benefit renders the decision arbitrary and legally susceptible to challenge on the grounds that it fails to secure a true social license. Without clear, measurable outcomes that benefit the public, the justification for rezoning remains legally unpersuasive.

J. Public Consultation (FJ1)

• FJ1 – Inadequate Public Consultation:

- **Objection:** The record of public engagement is severely deficient, and the consultation process has not met the required statutory standards for meaningful stakeholder involvement.

- **Government Response:** HKU points to previous engagement efforts and commits to enhanced future consultation.

- **Legal Counterargument:** The statutory obligation for robust, contemporaneous public consultation cannot be remedied by future promises. The failure to engage affected parties in a substantive manner at the time of the decision constitutes a serious breach of procedural fairness. This lack of immediate, effective public consultation not only undermines the legitimacy of the decision but also violates the legal principle that all stakeholders must have a genuine opportunity to participate in decisions that impact their environment and quality of life. Consequently, the decision is legally unsound and subject to judicial challenge on the basis of inadequate public participation.

In summary, the government's responses—predicated largely on deferred reviews, design modifications, and promises of future assessments—do not meet the immediate, detailed statutory justification required under Hong Kong's planning and environmental law. Each category of objection, from procedural overreach to fiscal irresponsibility, reveals fundamental legal vulnerabilities in the rezoning proposal. Absent immediate, enforceable measures that address these deficiencies, the proposal remains exposed to successful legal challenges on grounds of arbitrariness, procedural unfairness, and non-compliance with established statutory obligations.

Appendix 3: Strategic Justifications for a Northern Metropolis Innovation Hub – A Counter-Analysis of PlanD’s Consultation Responses

Below is a comprehensive set of responses that clearly outline our disagreements with each of PlanD’s responses (in consultation with the Government Bureaux/Departments). Each point is supported by strong strategic, environmental, economic, and community justifications for rejecting the proposals that favour a development in Pok Fu Lam:

A. Strategic Planning, Site Selection and Alternative Locations

- **Response from PlanD:** They argue that HKU’s proposal in Pok Fu Lam complies with the 2021 Policy Address and related strategies; that alternative sites (such as San Tin Technopole) are available; and that situating the Centre near HKU, QMH, and Cyberport creates synergies.

- **Disagreement:** Concentrating deep technology research in a fragmented, built-up area like Pok Fu Lam undermines our long-term vision. We require a purpose-built, integrated innovation hub that can leverage ample new land and modern infrastructure.

- **Justifications:**

- The Northern Metropolis has been designed from the ground up to achieve economies of scale and foster a critical mass of I&T activities.

- Its strategic location and planned connectivity with the Greater Bay Area ensure closer alignment with national and regional development priorities, making it the logical choice for a future-proof innovation ecosystem.

B. The “U” Zoning

- **Response from PlanD:** They defend an interim “U” zoning for the Pok Fu Lam site—asserting that it provides a flexible, stopgap measure allowing HKU to review and adjust its development plan based on stakeholder feedback.

- **Disagreement:** Employing a temporary “U” zoning in an area inherently unsuitable for high-intensity innovation facilities merely delays the inevitable mismatch between land use and our strategic goals.

- **Justifications:**

- Interim zoning in Pok Fu Lam only perpetuates a suboptimal development framework, whereas the Northern Metropolis can be zoned definitively to accommodate high-density, high-value innovation infrastructure from the outset.

– This approach ensures that our urban planning aligns with long-term sustainability and competitiveness rather than relying on temporary fixes.

C. Land Use Compatibility, Development Intensity, Visual Impact and Interface with Nearby Schools

- **Response from PlanD:** They contend that with design adjustments—such as reducing bulk, increasing setbacks, and integrating green spaces—the proposed Centre in Pok Fu Lam can be made compatible with its surroundings.

- **Disagreement:** The established low-density, green, and community-oriented character of Pok Fu Lam is fundamentally at odds with a large-scale, high-density innovation hub.

- **Justifications:**

- Transforming Pok Fu Lam would irreversibly alter its unique residential and environmental character.

- In contrast, the Northern Metropolis is envisioned as a dynamic urban district that can seamlessly integrate high-density development with modern green infrastructure and advanced planning controls.

D. Tree Preservation, Landscape and Ecology

- **Response from PlanD:** They suggest that compensatory planting and improved landscaping can mitigate the removal of mature trees in Pok Fu Lam.

- **Disagreement:** The loss of over 2,250 mature trees would cause irreversible ecological damage and permanently diminish the urban green legacy of Pok Fu Lam.

- **Justifications:**

- Mature trees and established green corridors in a historic area cannot be replaced by mere compensatory measures.

- The Northern Metropolis, being a blank slate, allows us to integrate robust environmental planning and green design from day one, ensuring that ecological quality is maintained without sacrificing strategic development.

E. Traffic and Transport

- **Response from PlanD:** They claim that traffic impacts in Pok Fu Lam can be managed with junction improvements, revised Traffic Impact Assessments, and design modifications.

- **Disagreement:** The existing narrow road network and chronic congestion issues in Pok Fu Lam render it unsuitable for accommodating the additional traffic generated by a mega innovation hub.

- **Justifications:**

- The Northern Metropolis is built around a modern, expansive transport network—with planned enhancements, wider roadways, and new public transport links—specifically designed to handle increased mobility demands.

- Locating the Centre in a purpose-built new district avoids exacerbating existing congestion and delivers long-term traffic resilience.

F. Environmental and Safety Concerns

- **Response from PlanD:** They argue that HKU’s design—including a commitment to 30% greenery and adherence to safety standards for laboratory facilities—will manage environmental and public health risks in Pok Fu Lam.

- **Disagreement:** Even with these mitigations, the environmental risks—such as deforestation, increased carbon emissions, and the challenges of operating high-risk facilities near dense residential areas—remain unacceptably high in Pok Fu Lam.

- **Justifications:**

- The Northern Metropolis enables us to incorporate cutting-edge sustainable technologies and stringent safety measures from inception, fully aligning with our carbon neutrality goals and ensuring a safe environment for all stakeholders.

- This proactive approach is far superior to retrofitting an unsuitable urban area.

G. Drainage and Utility

- **Response from PlanD:** They maintain that the existing drainage infrastructure in Pok Fu Lam is adequate, as evidenced by the Drainage Impact Assessment.

- **Disagreement:** The challenges inherent in retrofitting an older, densely built area elevate the risk of drainage failures and slope instability—risks that can be more effectively managed in a new development area.

- **Justifications:**

- The Northern Metropolis allows us to design modern, resilient drainage and utility systems from scratch, minimizing risks of flooding or environmental failure under extreme weather conditions.

– This forward-thinking approach ensures that infrastructure supports future growth without compromising safety.

H. Geotechnical and Development Costs

- **Response from PlanD:** They argue that geotechnical challenges in Pok Fu Lam are manageable and that the project's self-financing nature justifies its location there.

- **Disagreement:** Developing in a mature, built-up area like Pok Fu Lam entails higher construction costs, complex engineering retrofits, and long-term operational risks that are financially inefficient.

- **Justifications:**

- The Northern Metropolis, as a blank canvas, offers cost-efficient construction with lower maintenance and retrofit costs, ensuring that public funds are deployed optimally.

- Given Hong Kong's fiscal constraints, a new, purpose-built district better supports sustainable, long-term economic growth.

I. Other Matters (Property Devaluation and Community Benefits)

- **Response from PlanD:** They downplay concerns about property devaluation and emphasize that property prices are not a planning metric, insisting that the Centre will bring planning gains to the community.

- **Disagreement:** The introduction of a high-density, disruptive development in Pok Fu Lam risks significant property devaluation and undermines the quality of life for long-established residents.

- **Justifications:**

- The tangible benefits of a world-class innovation hub are better realized in the Northern Metropolis, where new development can be integrated into a comprehensive urban renewal strategy that delivers broad economic and social benefits without eroding existing community assets.

- Concentrating such transformative projects in a designated area avoids fragmenting the urban fabric of established residential communities.

J. Public Consultation

- **Response from PlanD:** They assert that HKU's public consultation efforts—via briefing sessions and online platforms—are adequate and that further consultations will address any remaining concerns.
- **Disagreement:** Past consultation exercises in Pok Fu Lam have not adequately addressed the deep-rooted concerns of local residents and stakeholders.
- **Justifications:**
 - The Northern Metropolis represents a fresh start where comprehensive, proactive, and genuine stakeholder engagement can be implemented from the outset.
 - By avoiding the entrenched conflicts in Pok Fu Lam, we can ensure that the public consultation process is truly two-way and integrated into a forward-looking urban planning framework.

In summary, while PlanD's responses attempt to justify the development of the Global Innovation Centre in Pok Fu Lam, our strategic, environmental, economic, and community imperatives compel us to reject this approach. The Northern Metropolis offers a modern, flexible, and sustainable platform that is fully aligned with Hong Kong's long-term vision for an internationally competitive I&T hub.

Appendix 4: Counterarguments and Rebuttal to HKU President's Further Representation Letter dated January 3, 2025 on Pok Fu Lam Rezoning

Below is a detailed set of counterarguments, organized by key thematic areas, in response to the letter dated January 3, 2025 from the President of HKU:

1. Location and Strategic Alignment

- **HKU's Claim:** The letter asserts that locating the Global Innovation Centre (GIC) in Pok Fu Lam is optimal because of its proximity to HKU's campus and the resulting synergies with institutions like Queen Mary Hospital and Cyberport.
- **Counterargument:** Although local proximity offers short-term benefits, it neglects the broader strategic vision embodied in the Northern Metropolis Strategy. Concentrating high-value, innovative research facilities in a purpose-built hub—with ample new land, modern infrastructure, and enhanced connectivity with the Greater Bay Area—ensures economies of scale and a critical mass that is not achievable in a congested, historically residential area like Pok Fu Lam.

2. Technical and Environmental Feasibility

- **HKU's Claim:** HKU maintains that technical assessments reveal no insurmountable obstacles and that proposed mitigation measures (e.g., compensatory planting and design modifications) will address environmental issues.
- **Counterargument:** The letter downplays significant environmental risks. The irreversible removal of over 2,250 mature trees, even with a compensatory ratio of 1:0.48 (which falls short of the internationally accepted 1:1 standard), compromises critical ecological functions such as carbon sequestration, soil stabilization, and biodiversity support. Moreover, retrofitting an area with steep slopes and an aged infrastructure introduces risks (e.g., landslides and drainage failures) that are better managed in a new development area designed with state-of-the-art environmental safeguards.

3. Traffic and Infrastructure

- **HKU's Claim:** The submission suggests that traffic impacts will be manageable through junction improvements, phased construction, and updated Traffic Impact Assessments (TIA).
- **Counterargument:** Pok Fu Lam's narrow, already congested road network is ill-suited for the heavy traffic associated with both construction and long-term operation of a mega innovation hub. The assumptions in the TIA are overly optimistic, especially given the delayed

operation of key transport infrastructure (such as the South Island Line [West]). This raises serious public safety and urban mobility concerns that cannot be adequately mitigated in the current location.

4. Public Consultation and Stakeholder Engagement

- **HKU's Claim:** The letter notes that HKU has received feedback during prior consultations and promises further engagement with stakeholders.
- **Counterargument:** Despite these assurances, overwhelming opposition from local residents, environmental groups, and key institutions (e.g., the Ebenezer School for the Visually Impaired) indicates that genuine two-way consultation has been insufficient. The entrenched community sentiment in Pok Fu Lam strongly favors preserving the area's green character—a factor that cannot be remedied by vague future promises of engagement.

5. Fiscal and Economic Considerations

- **HKU's Claim:** The letter argues that the project is self-financing and that the economic benefits justify the rezoning in Pok Fu Lam.
- **Counterargument:** The financial model presented is based on speculative projections, including uncertain private funding and future research grants. Given Hong Kong's significant budget deficit, allocating scarce public resources to retrofit an older urban area like Pok Fu Lam—replete with hidden costs for infrastructure upgrades and environmental remediation—is fiscally imprudent. In contrast, the Northern Metropolis offers a cost-efficient development environment that better supports long-term economic growth.

6. Alternative Sites and Future Growth

- **HKU's Claim:** HKU emphasizes that Pok Fu Lam is “most suitable” for the GIC due to existing institutional ties.
- **Counterargument:** The letter does not sufficiently address viable alternatives. The Northern Metropolis, with its designated zones (e.g., San Tin Technopole and the Science Park), provides a blank canvas that is designed for high-density, future-proof innovation development. This centralized approach not only aligns with national strategies but also promotes broader economic synergies that are unattainable in a fragmented urban setting.

7. Overall Strategic Vision and Policy Consistency

- **HKU's Claim:** The letter posits that the proposed rezoning is consistent with Hong Kong's innovation and technology development goals.

- **Counterargument:** There is a clear policy inconsistency: while HKU's proposal emphasizes local convenience, it conflicts with the Government's long-term Northern Metropolis Strategy, which is aimed at creating an integrated I&T ecosystem in a new, purpose-built area. This misalignment risks fragmenting Hong Kong's strategic vision and diluting the potential for a centralized innovation hub that can drive sustainable, high-impact growth.

Overall Position:

While HKU's letter emphasizes the immediate benefits of proximity and local synergies in Pok Fu Lam, these arguments fail to address the broader environmental, infrastructural, fiscal, and strategic imperatives essential for Hong Kong's sustainable future. Prioritizing development in the Northern Metropolis offers a future-proof, integrated approach that better aligns with national directives, minimizes ecological damage, and optimizes long-term economic and infrastructural outcomes.

Appendix 5: Counterarguments to HKU's Claim on Upstream Deep Technology Research Suitability

1. Integrated Research Ecosystem

- **HKU's Claim:** Upstream deep technology research must be conducted in close proximity to the HKU campus to benefit from established academic infrastructure and pre-existing research clusters.
- **Counterargument:** Innovation today thrives on an integrated ecosystem that spans the entire value chain—upstream, midstream, and downstream. A dedicated innovation hub in the Northern Metropolis can be designed from the ground up to create a comprehensive, interdisciplinary ecosystem that not only supports deep technology research but also accelerates its translation into applied technologies and market-ready solutions. This integrated environment fosters cross-disciplinary collaboration and enables breakthroughs that isolated campus settings cannot match.

2. State-of-the-Art Facilities and Scalability

- **HKU's Claim:** Existing campus facilities in Pok Fu Lam are uniquely tailored to support upstream research, implying that they cannot be replicated or enhanced elsewhere.
- **Counterargument:** The Northern Metropolis innovation hub is envisioned as a purpose-built facility that can incorporate state-of-the-art laboratories and research centers designed to meet the rigorous demands of deep technology research. Starting with a blank slate allows for scalability and the incorporation of modern technologies (e.g., advanced cleanrooms, high-performance computing clusters, and flexible lab spaces) that can be optimized for deep research. In contrast, retrofitting older facilities in Pok Fu Lam may impose physical and operational limitations that hinder growth and innovation.

3. Attraction of Global Talent and Enhanced Collaboration

- **HKU's Claim:** Proximity to the existing HKU campus attracts top-tier local talent, which is crucial for upstream research.
- **Counterargument:** A modern, integrated hub in the Northern Metropolis is designed to attract not only local experts but also global talent by offering cutting-edge facilities, a vibrant ecosystem, and substantial support from both government and industry. The new hub's vision includes creating a magnet for innovation that spans all research stages. The synergy derived from a large-scale, purpose-built environment can enhance collaboration across academia, industry, and government—an advantage that extends well beyond the localized benefits of proximity.

4. Infrastructure, Economic Efficiency, and Future-Proofing

- **HKU's Claim:** The legacy environment in Pok Fu Lam is ideally suited for the specialized requirements of deep technology research.
- **Counterargument:** In a rapidly evolving technological landscape, future-proofing research capabilities is essential. The Northern Metropolis offers an opportunity to build modern infrastructure tailored to the evolving needs of advanced research, including flexible lab designs, digital connectivity, and sustainable construction. Economies of scale and a forward-looking design approach in the Northern Metropolis will result in lower long-term operational costs, greater adaptability, and enhanced capacity to support large-scale, high-impact research initiatives—all of which are difficult to achieve in a constrained, older urban area like Pok Fu Lam.

5. Policy Alignment and Strategic Vision

- **HKU's Claim:** The focus on upstream deep technology research justifies the continued use of Pok Fu Lam, where a long history of research exists.
- **Counterargument:** While a historical legacy can be valuable, strategic planning must also consider future national and regional priorities. The Northern Metropolis Strategy explicitly aims to create an integrated innovation ecosystem that supports the full spectrum of research—from fundamental to applied. This comprehensive approach ensures that deep technology research is embedded within a larger, dynamic framework that enhances commercialization and industrial collaboration. By aligning with long-term strategic goals, the Northern Metropolis hub positions Hong Kong as a globally competitive center for innovation rather than confining research to a legacy urban setting.

6. Enhanced Cross-Disciplinary Synergies

- **HKU's Claim:** Proximity to the HKU campus fosters a strong research culture for upstream deep technology initiatives.
- **Counterargument:** While proximity can be beneficial, true innovation emerges from dynamic, cross-disciplinary interactions that are not limited to a single institution. The Northern Metropolis innovation hub is being designed as a convergence platform where experts from various disciplines—ranging from pure research to practical applications—collaborate seamlessly. This multi-faceted environment creates a broader network for knowledge sharing and joint problem-solving, which can ultimately drive breakthroughs in deep technology research beyond what an isolated campus setting can offer.

Overall Position:

The assertion that upstream deep technology research is exclusively suited to the legacy environment of Pok Fu Lam overlooks the transformative potential of a purpose-built, integrated innovation hub in the Northern Metropolis. With its state-of-the-art facilities, scalable infrastructure, and strategic alignment with broader national objectives, the Northern Metropolis is not only capable of supporting deep technology research but can also enhance it by creating a dynamic, interdisciplinary ecosystem. This approach is more future-proof, cost-efficient, and strategically aligned with Hong Kong's long-term vision for global competitiveness.

Appendix 6: Case Law and Judicial Precedent Analysis

This appendix further substantiates this report’s legal arguments by analyzing key judicial decision that reinforces the strict statutory framework governing planning and environmental assessments. In particular, the recent decision in *Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279* (commonly referred to as the Fanling Golf Course case) is instructive in demonstrating the consequences of departing from clear statutory mandates.

A. Statutory Mandate and the Imperative of Certainty

The Town Planning Ordinance (TPO) and the Environmental Impact Assessment Ordinance (Cap. 499) require that administrative decisions be both clear and unambiguous.

Section 6B(8) of the TPO explicitly requires that “after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.” In effect, there is no statutory provision permitting a “partial” acceptance. This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment. Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that addresses the representation. Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc “U” designation (which does not meet any representation) when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance. Given no statutory provision for intermediary solution to partially satisfy the representation, introducing a “U” zone in the absence of any representational basis not only breaches this explicit statutory requirement but also undermines the principle of legal certainty. Such a maneuver is tantamount to an overreach of discretionary power, as it circumvents the necessary statutory decision process that ensures administrative decisions are both transparent and accountable. This deviation from established statutory procedure is likely to be deemed an abuse of power and arbitrary by any court tasked with reviewing the decision, thereby rendering the rezoning legally indefensible.

Similarly, the Technical Memorandum and the Study Brief issued under the EIA Ordinance impose precise requirements on environmental assessments. The Fanling Golf Course case reinforces that any deviation from these statutory frameworks undermines legal certainty and jeopardizes public trust in the administrative process.

B. Detailed Findings in the Fanling Golf Course Case

In *Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279*, delivered on 03 December 2024, the High Court quashed the environmental impact assessment (EIA) report for a proposed public housing project over part of the ‘Old Course’ at Fanling. Key findings included:

- **Flawed Environmental Assessments:** Coleman J’s 229-page judgment found that the EIA report inadequately assessed critical environmental impacts—specifically concerning the preservation of old and valuable trees, appropriate tree compensation, the hydrological impact on critically endangered Chinese Swamp Cypress trees, cultural heritage implications, as well as effects on bats, moths, and waste management. The report failed to meet the detailed requirements of the Technical Memorandum and the Study Brief.
- **Procedural Unfairness:** The Court held that the Director of Environmental Protection erred by not undertaking public consultation on additional information provided by the Civil Engineering and Development Department after the statutory consultation period. Moreover, the Director failed to consider the Hong Kong Golf Club’s responses to that additional information.
- **Unlawful Conditions:** The Court ruled that the conditions imposed on accepting the EIA report were unlawful and undermined the Director’s approval. While challenges relating to assessments of sewage, noise, land contamination, shading, and air quality were rejected, the judgment unequivocally highlighted the necessity of strict adherence to statutory procedures.

C. Implications for Planning and Environmental Decision-Making

The Fanling Golf Course decision underscores several enduring principles relevant to the report’s critique of the current rezoning proposal:

- **Mandatory Statutory Decision-Making:** The case illustrates that any attempt to introduce an indeterminate or intermediary outcome—analogue to the “Undetermined” zoning category (that does not meet or address any representation in entirety)—is beyond the statutory powers granted to planning authorities. This parallels the Court’s rejection of a flawed EIA process that did not comply with established legal standards.
- **Strict Compliance with Procedural Requirements:** Just as the EIA report was quashed for failing to incorporate mandatory public consultation and for not considering all relevant evidence, the current proposal’s deviation from a clear statutory mandate (i.e., the statutory decision framework of the TPO) is equally indefensible.

- **Judicial Oversight and the Rule of Law:** The decision reinforces the judiciary’s role in ensuring that administrative bodies do not exceed their statutory discretion. Departures from the mandated processes, whether in environmental assessments or planning decisions, are subject to judicial scrutiny and potential invalidation.

D. Conclusion

The detailed analysis of *Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279* provides a robust legal foundation for this report’s critique of the current rezoning proposal. The Fanling Golf Course decision unequivocally demonstrates that:

- Planning authorities must adhere strictly to statutory decision-making process as required by the TPO.
- Environmental and procedural assessments must meet the detailed statutory requirements, including robust public consultation.
- Any attempt to introduce an intermediary “Undetermined” category that do not address or meet any representation—deviating from statutory mandates—is legally indefensible and strongly exposes the decision to judicial overturn.

Consequently, the report’s position—that the rezoning proposal is procedurally flawed and legally indefensible—is strongly validated by prevailing judicial reasoning and case law. This reinforces the imperative that administrative decisions must operate within the confines of clear statutory authority to maintain legal certainty and public confidence in the planning process.

Appendix 7: Legal Opinion Paper on the Interim “U” Zoning

I. Introduction

This paper critically examines the legal validity of designating the Site under an interim “U” zoning by the Board. It questions whether such a decision meets the statutory obligations imposed by Section 6B(8) of the Town Planning Ordinance (TPO) and whether it appropriately reflects the stakeholder representations. The analysis contends that by adopting an interim zoning that was not directly proposed by any representer without valid planning grounds, the Board departs from the strict statutory decision-making requirement of the TPO. The recent Fanling Golf Course case (Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279) provides a pivotal precedent underscoring that any deviation from the statutory framework may be judicially overturned.

II. Background

Stakeholders affected by the proposed development have raised concerns primarily relating to land use compatibility, environmental impacts, and technical issues. Importantly, no representer explicitly called for the Site to be designated as “U” zoning. Despite this, the Board has unilaterally imposed an interim “U” zoning as a temporary measure pending further technical assessments, community consultations, and a strategic review of HKU’s development plan. The rationale provided by the Board emphasizes that the interim zoning serves as a stopgap arrangement until HKU can refine its proposal. However, this approach raises critical questions about whether the decision truly “meets” the representations as required by the statute.

III. Statutory Framework and Interpretation of Section 6B(8)

A. Clear Mandate for Decision-Making

Section 6B(8) of the TPO:

“After considering any representation under this section, the Board must decide whether or not—

- (a) to propose amendment to the plan in the manner proposed in the representation; or
- (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation.”

This explicitly requires that planning authorities, after considering stakeholder representations, must make a decision: either to propose an amendment in the precise manner suggested by the

representers or to propose an alternative amendment that fully meets the representation. There is no statutory provision for an intermediate or partial outcome or response that serves to partially satisfy the representation. This clear framework ensures that public input is directly and transparently reflected in any planning amendment. (Notes: *Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, following due consideration of any representation, the Board is obliged to either propose an amendment to the plan in the precise manner set forth in the representation or, alternatively, to propose an amendment that, in its view, adequately meets the representation. In effect, the Ordinance mandates that a representation be accepted in its entirety or rejected in its entirety—the so-called “binary approach.” Any deviation from this binary requirement, such as the imposition of an ad hoc “U” designation, would thus fail to satisfy the statutory criteria and would amount to a breach of the Ordinance.*)

B. Limits on Discretion

Although the TPO provides the Board with some discretion by allowing an alternative amendment (as per clause (b)), that discretion is strictly limited. The alternative measure must demonstrably “meet the representation” in the sense that it directly responds to the issues and concerns raised by the stakeholders. Adopting an interim “U” zoning—when no representation has suggested such a measure—fails to satisfy this requirement, rendering the decision potentially arbitrary and contrary to the legislative intent.

C. Implications for Legal Certainty and Public Trust

A clear statutory requirement is essential for maintaining legal certainty and public confidence. Stakeholders expect that their representations will be directly considered and reflected in any planning amendment and/or the final decision. Any deviation from this expectation, such as adopting a measure not directly proposed by any representation—especially when no representation has specifically suggested such a measure—falls short of this requirement. It thereby risks being classified as arbitrary and inconsistent with the statutory mandate. This undermines the integrity of the planning process and may invite judicial challenges.

IV. Analysis of the Interim “U” Zoning Decision

A. Procedural Integrity and Direct Representation

1. Failure to Directly Address Representations:

The statutory process under Section 6B(8) is designed to ensure that planning decisions are grounded in the representations of affected parties. In this instance, no representer proposed that the Site be rezoned as “U.” By imposing an interim “U” zoning not proposed by any representer, the Board has not met the statutory requirement. This gap raises serious questions regarding procedural fairness and the proper execution of the statutory mandate.

2. Risk of Procedural Delay:

An interim measure that does not align the stakeholder submissions may be perceived as a means to postpone a final decision rather than to genuinely address the underlying issues. Such postponement can result in prolonged uncertainty and undermine the timely incorporation of environmental and technical safeguards.

B. Environmental and Technical Safeguards

1. Regulatory Gaps in Safeguard Implementation:

The statutory framework requires that any planning amendment incorporate comprehensive measures to mitigate environmental and public health impacts. An interim “U” zoning that is not directly supported by the detailed stakeholder representations risks creating a regulatory gap, delaying the activation of essential safeguards until further assessments/studies are conducted.

2. Risk of Inadequate Mitigation:

Without a direct link to stakeholder representations, subsequent development under the interim zoning may not adequately address the environmental and technical issues that were raised. This failure could lead to adverse impacts that the statutory process is designed to prevent.

C. Exercise of Discretion and Transparency

1. Overextension of Discretion:

While the Board has the statutory discretion to propose an amendment in an alternative manner, such discretion is strictly circumscribed by the need to meet the representations. Adopting an interim zoning that was not raised and/or supported by any submission represents an overextension of that discretion, departing from the intended binary requirement/approach.

2. Erosion of Accountability and Public Trust:

Transparent decision-making is critical for public confidence in the planning system. Bypassing explicit stakeholder input not only undermines the statutory scheme but also strongly exposes the Board’s decision to judicial challenge for being arbitrary.

V. Case Law: The Fanling Golf Course Decision

Hong Kong Golf Club v Director of Environmental Protection & Anor [2024] HKCFI 1279

In this case the High Court quashed the conditional approval for 12,000 public housing units on part of Fanling Golf Course. Key elements from this decision include:

- **Statutory Decision-Making Mandate:**

The Court underscored that the statutory framework requires planning decisions to be clear and unambiguous. There is no provision for an “intermediate” outcome. (Notes: *In accordance with Section 6B(8) of the Ordinance, following due consideration of any representation, the TPB is obliged to either propose an amendment to the plan in the precise manner set forth in the representation or, alternatively, to propose an amendment that, in its view, adequately meets the representation. In effect, the Ordinance mandates that a representation be accepted in its entirety or rejected in its entirety—the so-called “binary approach.” Any deviation from this binary requirement, such as the imposition of an ad hoc “U” designation, would thus fail to satisfy the statutory criteria and would amount to a breach of the Ordinance.*)

- **Procedural Fairness and Re-Consultation:**

The judgment found that the environmental impact assessment was flawed due to inadequate public consultation. It mandated that additional information must be subject to renewed consultation, thereby reinforcing the necessity for administrative decisions to directly incorporate stakeholder feedback.

- **Implications for Administrative Practice:**

The Fanling Golf Course decision serves as a strong precedent that any deviation from the statutory framework—such as adopting an interim measure that does not directly and/or adequately meet stakeholder representations—may be considered arbitrary and subject to judicial overturn.

VI. Response to the Government Departmental Views

It has been argued that:

- The views and representations were duly considered, and under Section 6B(8) the Board has the discretion to adopt an amendment “in any other manner” that it believes will meet the representation.
- Since no representer explicitly proposed a “U” zoning, the Board contends there is no representation that mandates a different amendment, thereby justifying the interim “U” zoning as a stopgap measure pending further review and consultation.

- Interim zoning, including the “U” designation, is a common practice when planning intentions are uncertain and it allows HKU time to refine its development plan and engage with stakeholders.

Counterarguments:

1. Inadequate Meeting of the Statutory Mandate:

The TPO’s statutory requirement leaves no room for a partial or interim measure that does not directly mirror the representation. Even if the Board considers alternative amendments acceptable, any proposed alternative must fully address the issues raised. Since no stakeholder suggested “U” zoning, adopting it does not meet the statutory test of “meeting” the representation. This is not merely a matter of process but of adhering to the clear legislative intent.

2. Interim Measure Does Not Equal a Full Resolution:

While it is argued that interim zoning is common practice when a project is under review, such a measure is intended to maintain administrative control until a definitive decision is reached. However, if the interim measure is not directly derived from or supported by the representations, it effectively delays addressing the fundamental concerns—particularly those relating to land use compatibility and environmental impacts. This delay risks undermining the very purpose of the statutory representation process.

3. Independent Judgment Cannot Circumvent Statutory Requirements:

The Board’s reliance on its independent judgment to adopt a zoning measure that was never advocated by any representer is problematic. The statutory framework is designed to ensure that planning decisions are grounded in the specific inputs of affected parties. Using independent judgment to impose an interim “U” zoning is an overreach that departs from the requirement to directly “meet” the representations, thereby exposing the decision to judicial review for arbitrariness.

4. Precedential Implications:

The Fanling Golf Course case clearly demonstrates that any administrative decision that deviates from the statutory mandate—particularly regarding the scope of public consultation and the statutory nature of decision-making—can be subject to judicial invalidation. The Board’s views, while highlighting procedural considerations and the need for flexibility in interim measures, do not override the strict requirements imposed by the TPO.

VII. Conclusion and Recommendations

A. Conclusion

Based on a strict interpretation of Section 6B(8) and the precedent set by the Fanling Golf Course case, the Board's interim "U" zoning decision is legally questionable. By failing to directly address stakeholder representations and by adopting a measure not explicitly supported by any representation, the Board deviates from the statutory decision-making process mandated by the TPO. This not only creates regulatory gaps in environmental and technical safeguards but also undermines public trust and legal certainty.

B. Recommendations

To align future decisions with statutory mandates and uphold the integrity of the planning process, the following steps are recommended:

1. Enhanced Public Consultation:

The Board should initiate further, robust consultations to secure explicit, direct guidance from all stakeholders. This ensures that any proposed amendment is unequivocally supported by the representations received and that any zoning amendment fully "meets" the representation.

2. Deferral of Interim Zoning:

Rather than imposing an interim zoning that does not directly meet stakeholder input and lacks support, the Board should postpone the decision until a comprehensive review of the stakeholder's concerns/representations is fully completed. This would allow for a more deliberate and representative final amendment.

3. Integration of Robust Environmental Safeguards:

Any future zoning amendment must incorporate enforceable environmental and technical safeguards that address the specific concerns raised by stakeholders. This integration is essential to mitigate potential adverse impacts from subsequent development.

4. Transparent Documentation of Decision-Making:

The Board must ensure that its exercise of discretion and its rationale for any decision are fully transparent and rigorously documented. Clear articulation of how the chosen amendment meets—or fails to meet—the stakeholder representations is crucial for defending the decision against judicial review.

C. Final Remarks

The interim "U" zoning decision, as it stands, fails to satisfy the statutory requirements of Section 6B(8) because it does not directly "meet" the representations submitted by affected

parties. The precise wording of the statute mandates a statutory choice that this decision does not fulfill. The Fanling Golf Course case underscores that any deviation from this framework—especially one that disregards explicit stakeholder input—is legally indefensible and likely subject to judicial invalidation. It is imperative that the Board reconsider its approach, ensuring that future planning decisions are fully responsive to public input, transparent in their rationale, and consistent with the statutory mandates.

This legal opinion paper addresses both the legal deficiencies of the interim zoning decision and directly responds to the government departmental views, offering a persuasive argument for re-evaluating the decision in light of statutory mandates and judicial precedent(s).

Appendix 8: Judicial Analysis and Reasoning Framework

The following serves to illustrate potential judicial reasoning in support of the report's objections to the rezoning proposal.

Introduction

This analysis examines the rezoning proposal affecting the Pok Fu Lam Green Belt by evaluating its compliance with statutory mandates, procedural fairness, environmental protection, infrastructure planning, and fiscal responsibility. The reasoning herein is structured in descending order of importance, illustrating how a court might assess the legal deficiencies of the proposal.

I. VIOLATION OF STATUTORY MANDATES

The core issue is the introduction of an interim "Undetermined" zoning category, which directly contravenes section 6B(8) of the Town Planning Ordinance (TPO).

– Section 6B(8) of the TPO explicitly requires that "after considering any representation under this section, the Board must decide whether or not – (a) to propose amendment to the plan in the manner proposed in the representation; or (b) to propose amendment to the plan in any other manner that, in the opinion of the Board, will meet the representation." In effect, there is no statutory provision permitting a "partial" acceptance. This explicitly requires the Board, after considering stakeholder representations, must make a decision whether or not to propose an amendment in the precise manner suggested by the representers or to propose an alternative amendment that can meet the representation. Given that there is no statutory provision for an intermediate, partial outcome or acceptance that serves to partially meet the representation, this clear framework ensures that public input is directly and transparently reflected in any planning amendment. Subject to further legal verification and in the absence of any overriding statutory exceptions or compelling planning considerations—such as robust traffic and environmental assessments—it is submitted that the proposed rezoning contravenes the statutory framework established by the Town Planning Ordinance. In accordance with Section 6B(8) of the Ordinance, upon due consideration of any representation, the Board is required to decide whether to propose an amendment to the plan in the precise manner set forth in the representation or to propose an alternative amendment that, in its view, meets the representation. In effect, the Ordinance mandates that each representation be either accepted in its entirety or rejected in its entirety, thereby obliging the Board to propose an amendment that addresses the representation. Any deviation from this statutory requirement—such as the unilateral imposition of an ad hoc "U" designation (which does not meet any representation) when no representer has proposed such an option—undoubtedly fails to satisfy the statutory criteria and amounts to a breach of the Ordinance. Given no statutory provision for intermediary solution to partially satisfy the representation, introducing a "U" zone in the

absence of any representational basis not only breaches this explicit statutory requirement but also undermines the principle of legal certainty. Such a maneuver is tantamount to an overreach of discretionary power, as it circumvents the necessary statutory decision process that ensures administrative decisions are both transparent and accountable. This deviation from established statutory procedure is likely to be deemed an abuse of power and arbitrary by any court tasked with reviewing the decision, thereby rendering the rezoning legally indefensible.

– The statutory language is unequivocal and requires strict adherence in order to preserve legal certainty—a fundamental principle in administrative law. Any deviation from this prescribed statutory requirement introduces ambiguity and undermines the predictability and fairness that the statute is designed to ensure.

– Legal precedents, such as the Fanling Golf Course decision, have established that any measure not expressly provided for by the statute, such as an interim “Undetermined” category, is ultra vires (beyond the authority granted by law). This ensures that the court would likely uphold this finding, thereby invalidating any decision that departs from the clear statutory mandate.

II. BREACH OF PROCEDURAL FAIRNESS AND DEFICIENT PUBLIC CONSULTATION

The decision-making process is significantly flawed due to inadequate public consultation.

– Affected stakeholders, including community groups and key institutions, were not provided with a meaningful opportunity to participate in the process.

– The overwhelming opposition evidenced by the representations indicates that the consultation process fell far short of the standards of transparency and fairness required by law.

– This procedural defect undermines the legitimacy of the rezoning decision and justifies its review.

III. INADEQUATE ENVIRONMENTAL SAFEGUARDS

The proposal fails to meet statutory environmental obligations.

– It contemplates the removal of over 2,250 mature trees, with a compensatory planting ratio of 1:0.48, which is well below the internationally accepted 1:1 standard.

– The irreversible loss of these trees compromises essential ecological functions such as carbon sequestration, soil stabilization, and biodiversity support.

– This environmental shortfall directly contradicts statutory requirements and sustainable development goals, rendering the rezoning legally indefensible on environmental grounds.

IV. FLAWED TRAFFIC AND INFRASTRUCTURE ASSESSMENTS

The Traffic Impact Assessment (TIA) accompanying the proposal is critically deficient.

- It relies on overly optimistic assumptions regarding future infrastructural improvements and does not adequately address peak-hour congestion or construction impacts.
- This inadequacy jeopardizes public safety and urban mobility, breaching statutory obligations aimed at protecting the community's interests.

V. FISCAL AND STRATEGIC INADEQUACIES

The proposal is further undermined by fiscal imprudence and strategic misalignment.

- It relies on speculative future funding, dependent on uncertain private investments and research grants, without a rigorous cost-benefit analysis.
- Additionally, the proposal conflicts with the broader strategic planning framework, notably the Northern Metropolis Strategy, which designates alternative sites more suited for high-density innovation development.
- This misalignment further erodes the legal defensibility of the rezoning decision.

VI. ABSENCE OF CLEAR DEVELOPMENT CONTROLS

The interim “Undetermined” zoning designation fails to provide clear, enforceable guidelines for future development.

- The lack of defined planning parameters creates regulatory uncertainty for both developers and the community.
- This ambiguity invites arbitrary reinterpretation and further weakens the integrity of the planning process.

VII. RELIANCE ON JUDICIAL PRECEDENTS

Established judicial precedents, notably the Fanling Golf Course decision, reinforce that any deviation from the mandated statutory decision-making process is impermissible.

- Such precedents affirm that failure to adhere to statutory procedures not only breaches administrative fairness but also warrants judicial intervention.

VIII. EROSION OF PUBLIC TRUST AND ACCOUNTABILITY

The cumulative effect of the identified statutory, procedural, environmental, and fiscal failures is a significant erosion of public trust in the planning process.

- The lack of transparency and accountability undermines both the legitimacy of the decision and the broader principles of good governance.
- Restoring public confidence requires that the rezoning decision be invalidated and reconsidered in strict compliance with statutory mandates.

Conclusion

Based on the foregoing analysis, judicial reasoning would support the conclusion that the rezoning proposal is legally flawed on multiple substantive and procedural grounds. It is therefore advisable that the decision to introduce an interim “Undetermined” zoning category be set aside, and that the matter be remitted to the appropriate planning authority for reconsideration. Any future decision must strictly adhere to statutory mandates, ensure comprehensive public consultation, and incorporate robust environmental, traffic, fiscal, and strategic assessments.

Note: This appendix is provided to demonstrate grounds for invalidating the rezoning proposal.

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-20 星期四 21:21:36
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: TPB/R/S/H10/22-F1842
Attachment: Scan.pdf

Dear Sirs

Please refer to the attachment for my reply.

Best regards
Lam Chi Shing

致： 城市規劃委員會秘書處

電郵： tpbpd@pland.gov.hk

地址： 香港北角渣華道 333 號北角政府合署 15 樓

**就《薄扶林分區計劃大綱草圖編號 S/H10/22》的建議修訂
作出的進一步申述**

進一步申述人的回應

本人已收到城規會於二零二五年二月十四日發出的信函，轉達相關部門就本人進一步申述的意見，本人現提交回應如下：

(請在下列適當的方格內加上剔號)

- 本人維持早前提交的進一步申述內容。
- 本人根據城市規劃條例第 6E(2)條，撤回本人的進一步申述。
- 本人對部門意見的回應如下(如適用)：

簽署

進一步申述人姓名(如進一步申述書所示)： 林志誠

進一步申述編號： F1842

全名(須與香港身份證／護照所示姓名相同)： 林志誠

簽署：  日期： 20-2-2025

收集個人資料聲明

- (a) 城市規劃委員會秘書處就這份表格所收集到的個人資料會用以處理有關的進一步申述、核實進一步申述人的身分，以及方便進一步申述人與城市規劃委員會秘書處聯絡。倘個人資料不須再用於其被收集的目的，資料便會被刪除。
- (b) 進一步申述人就這份表格提供的個人資料，可能亦會向其他人士披露，以作上述(a)段提及的用途。
- (c) 根據《個人資料(私隱)條例》(第 486 章)的規定，進一步申述人有權查閱及更正其個人資料。如欲查閱及更正個人資料，應向城市規劃委員會秘書處提出有關要求，秘書處地址為香港北角渣華道 333 號北角政府合署 15 樓。

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-23 星期日 21:45:54
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: F1843.pdf

Please find attached the form Annex II as requested.

Rudy Chan

On 14 Feb 2025, at 16:39, tpbpd/PLAND <tpbpd@pland.gov.hk> wrote:

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號
In reply please quote this ref.: TPB/R/S/H10/22-F1843

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

By Email

14 February 2025

[REDACTED]

Chan Kai Yu Rudy

Dear Sir/Madam,

Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22 (Further Representation No. F1843)

I refer to your further representation which was received by the Town Planning Board (TPB) on 31.12.2024 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental

comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on “Submission and Processing of Representations and Further Representations under the Town Planning Ordinance” (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB’s website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB’s website after the meeting. After confirmation of the minutes of TPB’s deliberation, the further representers will be notified of the TPB’s decision in writing. The confirmed minutes will also be available at TPB’s website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

<image001.png>

Yours faithfully,

(Leticia LEUNG)
for Secretary, Town Planning
Board

with encl.

<Annex I (FR Summary Table)_e.pdf>

<Annex II (Reply Slip)_e.docx>

To: **Town Planning Board Secretariat**
 Email: tpbpd@pland.gov.hk
 Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):


I object to the proposed rezoning of the Pok Fu Lam Greenbelt (LFB) to an "Undetermined (U) designation.

SIGNATURE

Name of further representer (as shown on the further representation): CHAN KAI YU RUDY

Further Representation No.: F1843

Full Name: CHAN KAI YU RUDY (identical with the name shown on HKID Card/Passport)

Signature:  Date: Feb 23, 2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
- (b) The personal data provided by the further representers in this form may also be disclosed to other persons for the purposes mentioned in paragraph (a) above.
- (c) Further representers have a right of access and correction with respect to their personal data as provided under the Personal Data (Privacy) Ordinance (Cap. 486). Request for personal data access and correction should be addressed to the Town Planning Board Secretariat at 15/F., North Point, Government Offices, 333 Java Road, North Point, Hong Kong.

Urgent Return receipt Expand Group Restricted Prevent Copy Confidential

From: [REDACTED]
Sent: 2025-02-19 星期三 10:40:38
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: tp board secretariat 19.2.2025-S.pdf

Dear Sir or Madam,
 Attached please find my reply slip (Annex II) in respect to the subject for your reference and record.
 Best regards.
 So Ho Yee Sirina

From: tpbpd/PLAND <tpbpd@pland.gov.hk>
Date: 14 February 2025 at 4:39:58 PM HKT
To: [REDACTED]
Subject: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

城市規劃委員會

香港北角渣華道三百三十三號
 北角政府合署十五樓

TOWN PLANNING BOARD

15/F, North Point Government Offices
 333 Java Road, North Point,
 Hong Kong

傳真 Fax: 2877 0245 / 2522 8426
 電話 Tel: 2231 4810
 來函檔號 Your Reference:

By Email

覆函請註明本會檔號
 In reply please quote this ref.:

TPB/R/S/H10/22-F1845

14 February 2025

[REDACTED]
 So Ho Yee Sirina

Dear Sir/Madam,

Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22 (Further Representation No. F1845)

I refer to your further representation which was received by the Town Planning Board (TPB) on 02.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph

Urgent Return receipt Expand Group Restricted Prevent Copy Confidential

2.5 of the Town Planning Board Guidelines No. 29C on “Submission and Processing of Representations and Further Representations under the Town Planning Ordinance” (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB’s website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB’s website after the meeting. After confirmation of the minutes of TPB’s deliberation, the further representers will be notified of the TPB’s decision in writing. The confirmed minutes will also be available at TPB’s website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Yours faithfully,
(Leticia LEUNG)
for Secretary, Town Planning Board

with encl.

To: Town Planning Board Secretariat
 Email: tpbpd@pland.gov.hk
 Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SIGNATURE

Name of further representer (as shown on the further representation): So Ho Yee Sirina

Further Representation No.: F1845

Full Name: So Ho Yee Sirina (identical with the name shown on HKID Card/Passport)

Signature:  Date: 19 Feb 2025

STATEMENT ON COLLECTION OF PERSONAL DATA

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Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-22 星期六 12:48:23
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Annex II (Reply Slip)_e.pdf

Dear Town Planning Board Committee,

enclosed please find my response to your below email dd 14.02.2025 with further representations.

I am looking forward to hearing from you.
Kind regards
Silvia Carius

On Fri, Feb 14, 2025 at 4:39 PM tpbpd/PLAND <tpbpd@pland.gov.hk> wrote:

城市規劃委員會

香港北角渣華道三百三十三號

北角政府合署十五樓

傳真 Fax: 2877 0245 / 2522 8426

電話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

TPB/R/S/H10/22-F1848

In reply please quote this ref.:

TOWN PLANNING BOARD

15/F, North Point Government Offices

333 Java Road, North Point,

Hong Kong

By Email

14 February 2025

[REDACTED]
Silvia Carius

Dear Sir/Madam,

Further Representations in respect of the Proposed Amendments to the

Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

(Further Representation No. F1848)

I refer to your further representation which was received by the Town Planning Board (TPB) on 02.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on "Submission and Processing of Representations and Further Representations under the Town Planning Ordinance" (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB's website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB's website after the meeting. After confirmation of the minutes of TPB's deliberation, the further representers will be notified of the TPB's decision in writing. The confirmed minutes will also be available at TPB's website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

To: **Town Planning Board Secretariat**
Email: tpbpd@pland.gov.hk
Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

In addition to my previous submission, I would like to note:

1. With reference to your FR Summary table I identified reference made to GB between developed areas as being different and lesser than GB that buffers undeveloped land. This seems not logical.
2. The idea that U (undetermined) is produced, when it wasn't asked for in a representation and was brought up long after the representation period was over, puts the decision on legal thin ice.
3. It was noted that the communication after the TPB meetings included word for word parts of the HKU announcement that it would strategically rethink its approach. They said this was evidence that the TPB didn't deliberate and come to its own conclusions but just approved what was put before it (not what it is supposed to do).
4. Based on the TPB's decision the GIC Item A land would go to the CE to be reclassified as U, no longer GB (Green Belt).
5. If HKU comes back with another location (what at this point seems not likely) there would need to be more work done to amend the plan to revert it to GB.
6. Also, since October HKU hasn't really stepped up on communicating progress with the community.

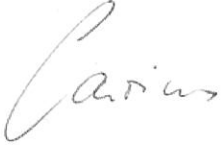
SIGNATURE

Name of further representer (as shown on the further representation):

SILVIA CARIUS

Further Representation No.: F1848

Full Name: SILVIA CARIUS (identical with the name shown on HKID Card/Passport)

Signature:  Date: 22.02.2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
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Urgent Return receipt Expand Group Restricted Prevent Copy Confidenti

From: [REDACTED]
Sent: 2025-02-19 星期三 09:46:37
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: 回覆: Further Representations F1849 in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Annex II - further representation F1849.pdf

Dear Sir/Madam,

Please see my attached filled & signed Annex II form for Further Representation No.: F1849.

Thank you for your attention.

Kind regards,
YIP Sze Chung

寄件者: tpbpd/PLAND <tpbpd@pland.gov.hk>

寄件日期: 2025 年 2 月 14 日 16:39

收件者: [REDACTED]

主旨: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

傳 真 Fax: 2877 0245 / 2522 8426

By Email

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號
In reply please quote this ref.: TPB/R/S/H10/22-F1849

14 February 2025

[REDACTED]
Yip Sze Chung

Dear Sir/Madam,

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
(Further Representation No. F1849)**

I refer to your further representation which was received by the Town Planning Board (TPB) on 02.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on “Submission and Processing of Representations and Further Representations under the Town Planning Ordinance” (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB’s website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB’s website after the meeting. After confirmation of the minutes of TPB’s deliberation, the further representers will be notified of the TPB’s decision in writing. The confirmed minutes will also be available at TPB’s website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Yours faithfully,



(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

To: **Town Planning Board Secretariat**

Email: tpbpd@pland.gov.hk

Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SIGNATURE

Name of further representer (as shown on the further representation): YIP SZE CHUNG

Further Representation No.: F1849

Full Name: YIP SZE CHUNG (identical with the name shown on HKID Card/Passport)

Signature: Johanny Yip [Signature] Date: 18.2.2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
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Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-23 星期日 21:32:37
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: F 1854 Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Pok Fu Lam Further Respresentations.docx;
 20250223170721.pdf

Please find attached the signed form and comments on the responses to the Further Representations.

Question the need for a signed form. Many citizens do not have a foto copier at their disposal. Presumably the intention is to deter participation.

Mary Mulvihill

[REDACTED]
 F 1854

From: tpbpd <tpbpd@pland.gov.hk>
To: [REDACTED]
Date: Friday, 14 February 2025 4:39 PM HKT
Subject: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

城市規劃委員會

香港北角渣華道三百三十三號

北角政府合署十五樓

傳真 Fax: 2877 0245 / 2522 8426

電話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

TPB/R/S/H10/22-F1854

In reply please quote this ref.:

TOWN PLANNING BOARD

15/F, North Point Government Offices

333 Java Road, North Point,

Hong Kong

By Email

14 February 2025

[REDACTED]
 Mary Mulvihill

Dear Sir/Madam,

Further Representations in respect of the Proposed Amendments to the

Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22

(Further Representation No. F1854)

I refer to your further representation which was received by the Town Planning Board (TPB) on 02.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

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For future correspondence, please quote the above further representation number.

Yours faithfully,



Urgent Return receipt Expand Group Restricted Prevent Copy

(Leticia LEUNG)

for Secretary, Town Planning Board

with encl.

POK FU LAM OZP FURTHER REPRESENTATIONS

Re: The grounds and views of the 1,859 opposing further representations (FRs) and the responses.

*PlanD recommended amending the draft OZP by rezoning the Item A Site from "OU(Global Innovation Centre)" to "U" to **partially meet some adverse representations***

NOTE ONLY 2 SUPPORTING. THEREFORE, NO JUSTIFICATION FOR REZONING TO 'U'

not all representers who raised objections were against the Item A Site or the development of the Centre in Pok Fu Lam

WHAT PERCENTAGE, I DO NOT REMEMBER ANY SUCH ENTHUSIASM EXPRESSED AT THE MEETING I ATTENDED

*HKU has received valuable feedback on the Centre's development from various stakeholders during the Town Planning Board's (the Board) hearing in November 2024 and has taken note of concerns regarding environmental impact or other technical aspects of the project. **HKU is currently assessing the feasibility of the suggestions and proposals received** and will step up efforts to engage with stakeholders. **The proposed scheme will be strategically amended, such as reducing the density of the development, increasing the setback area from neighbouring buildings, designating more green space, etc.,** to minimise adverse impacts on the surroundings and the community. Technical assessments will be conducted again as necessary. Additionally, HKU will pay special attention to construction planning to further minimise impacts on the neighbourhood.*

*Support rezoning of the Site to an "Undetermined" ("U") zone, which **could allow time for HKU to review the development plan** and consider the comments and suggestions made by TPB Members and the public*

*According to HKU, while the Site was considered the most suitable location, **it would still consider alternative locations such as San Tin Technopole and the adjacent "R(C)6" site.** Besides, HKU would review the necessity and floorspace requirements of various components of the Centre and explore the potential for shared facilities*

SO HKU ADMITS THAT THE PROPOSED DEVELOPMENT IS NOT ACCEPTABLE AND THIS UNDERLINES WHY THE OZP SHOULD HAVE BEEN REJECTED

*The Board, as a statutory body, would exercise its independent judgement to consider the amendments to the OZP and the representations **in the interest of society as a whole.***

INDEED, CONSIDER THE OVERWHELMING PUBLIC OPPOSITION

If HKU concluded after review that the Centre should be in Pok Fu Lam, **it should provide more justifications for why other locations were not ideal for the development of the Centre;** (d) **further clarification from HKU was required regarding the idea of establishing a self-contained facility** while also promoting a synergy effect with the surrounding developments; (e) **HKU should consider whether the Site or other sites in Pok Fu Lam, including but not limited to the adjoining undeveloped "R(C)6" site, were more suitable** for achieving HKU's objective while minimising impacts on neighbouring communities.

ALL STRONG REASON WHY THE OZP SHOULD BE REJECTED

PlanD supplemented that pending HKU's review and further consultation, it was premature for the Board at this juncture to decide to adopt other zonings

BUT THERE WAS NO QUESTION OF ADOPTING OTHER ZONINGS. RETAINING THE ORIGINAL 'GB' IS MERELY REJECTING 'THE PROPOSED AMENDMENT'. PLAND CONVENIENTLY AVOIDS THE TEMPORARY NATURE OF THE AMENDMENT. AN OZP IS OFICIALLY AMENDED ONLY WHEN IT HAS GONE THROUGH DUE PROCESS

the "U" zone was intended to serve as a stopgap arrangement pending HKU's completion of the review. If the Government accepted HKU's revised proposal, another round of statutory planning procedures would be required to rezone the site to an appropriate zoning;

SO THE 'U' ZONING RESOLVES NOTHING AS THE OZP WOULD REQUIRE FURTHER AMENDMENT, NO DIFFERENT TO REJECTION OF OZP AND SUBMISSION OF A FRESH OZP. AS THERE IS NO TIME SAVED ONE HAS TO QUESTION WHY THE ADMINISTRATION IS SO ADAMENT THAT THE REZONING GO THROUGH?

Should the revised proposal be found acceptable by the Government, PlanD would propose appropriate zoning amendment(s) to the OZP. Subject to the Board's agreement, the rezoning would then undergo another round of statutory planning procedures in accordance with the Ordinance

SO WHAT IF THE REVISED PROPOSAL IS NOT ACCEPTABLE? IT IS UNFAIR TO THE COMMUNITY TO RESERVE SUCH A LARGE TRACT OF PUBLIC LAND INDEFINITELY FOR AN INSTITUTION WHEN THERE ARE MANY SOCIETAL NEEDS TO BE ADDRESSED

HKU should critically review the necessity and floorspace requirements for various components of the Centre, including **accommodation and conference facilities**. Consideration should also be given to **optimising the utilisation of the HKU's existing premises/facilities to meet such needs**. Noting the availability of vacant residential premises managed by HKU in Pok Fu Lam, the need for the accommodation component in the Centre should be justified.

if HKU inclined to explore other locations, the Government would be prepared to consider the option with HKU

THIS CLEARLY DEMONSTRATES THAT "ANY DEVELOPMENT WITHIN THE 'GB' ZONE.... JUSTIFIED IN MEETING THE NEEDS OF SOCIETY" IS NOT SUPPORTED AS THERE ARE ALTERNATIVE SITES ALREADY DEVELOPED THAT CAN PROVIDE GFA FOR MANY OF THE PROPOSED USES

A proactive approach would also be adopted to engage local residents and stakeholders in the community with a view to addressing their needs and concerns. HKU would also strengthen liaison with the SDC and explore options to establish direct contact with local residents. HKU would endeavour to enhance engagement with the community, including not only neighbourhood stakeholders but also green groups, through a comprehensive public engagement exercise so as to improve the development proposal for the Centre.

according to HKU, representers' suggestions on minimising tree felling and increasing tree compensation would be explored. HKU would also continue consulting experts and conducting research in ecological conservation in the upcoming review of the development proposal;

THESE STATEMENTS PROVE THAT INSUFFICIENT CONSULTATION WAS CARRIED OUT AND THAT THIS ESSENTIAL CONDITION OF ANY REZONING PROPOSAL WAS NOT MET

*Members generally supported the development of the Centre and noted that most representers supported HKU's proposed development to consolidate Hong Kong's leading position in deep technology research. **The representers' objections/concerns were mainly related to site selection and hence land use compatibility, development intensity, impacts on traffic, visual, landscape, ecological, environmental, geotechnical, public health and safety aspects, as well as the lack of proper consultation***

IN OTHER WORDS, THERE ARE ISSUES WITH EVERY FACET OF THE PLAN

Two Members had reservation on developing the Centre at the "R(C)6" site and opined that the site should be retained for disposal through land sale for generating revenue to the Government

JUDGING BY THE RESPONSE TO RECENT LAND SALES AND URA TENDERS, THIS ISSUE IS NOT RELEVANT. MOREOVER, CONSIDERATIONS OF FISCAL IMPACT ARE OUTSIDE THE PURVIEW OF THE BOARD, AND AS HAS BEEN RECORDED IN MULTIPLE OZP HEARINGS, SHOULD NOT BE CONSIDERED THIS IN LINE WITH THE EXCLUSION OF COMPENSATION ISSUES FROM THE PROCEEDINGS. THE ADMINISTRATION CANNOT BE EXEMPTED FROM GUIDELINES APPLICABLE TO OTHER STAKEHOLDERS.

THAT ANOTHER MEMBER REMARKED LATER ON THAT FINANCIAL VIABILITY WAS NOT A PLANNING CONSIDERATION OF THE BOARD UNDERLINES THE FACT THAT SOME MEMBERS WERE TRYING TO FOCUS ON ANY ISSUE THAT WOULD JSUPPORT THE REZONING

IT IS VERY OBVIOUS FROM READING THE RESPONSES AND THE MINUTES THAT MANY TPB MEMBERS HAD ISSUES WITH THE PROPOSED AMENDMENT. EVEN THE VICE-CHAIR AND CHAIR QUESTIONED BOTH THE LOCATION AND THE NEED FOR SUCH A LARGE FACILITY WHEN OTHER OPTIONS WERE NOT CONSIDERED

The Chair also expressed views that the "R(C)6" site presented a number of advantages that had not been explored by HKU.

IN VIEW OF STRONG OPPOSITION FROM THE COMMUNITY, THE MANY ISSUES THAT WERE NOT ADDRESSED, FAILURE TO PROVE URGENT NEED OF SUCH A LARGE SITE AT A LOCATION PROTECTED FROM DEVELOPMENT AND THE CLEAR INDICATION THAT A NUMBER OF MEMBERS WERE NOT SATISFIED WITH THE PROPOSED AMENDMENT, THE ONLY CONCLUSION ONE CAN REACH IS THAT

- THE ADMINISTRATION REFUSES TO LISTEN TO THE COMMUNITY AND ITS MY WAY OR THE HIGHWAY. EVEN WHEN A PLAN HAS SIGNIFICANT ISSUES RATHER THAN LOSE FACE A COMPROMISE INTERIM REZONING IS PROPOSED AT THE LAST MINUTE

OR THERE IS A HIDDEN AGENDA TO SURREPTITIOUSLY REZONE ALL GB WITH DEVELOPMENT POTENTIAL WHILE AT THE SAME TIME BOASTING OF THE GOVERNMENT'S COMMITMENT TO PREPARING HONG KONG FOR CLIMATE CHANGE.

Mary Mulvihill

FR 1854

To: Town Planning Board Secretariat

Email: tpbpd@pland.gov.hk

Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SEE ATTACHED

SIGNATURE

Name of further representer (as shown on the further representation): MARY MULVHILL

Further Representation No.: F-1854

Full Name: MARY MULVHILL (identical with the name shown on HKID Card/Passport)

Signature:  Date: 23/2/25

STATEMENT ON COLLECTION OF PERSONAL DATA

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Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-21 星期五 21:56:48
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: Further Representations in respect of the Proposed
Amendments to the Draft Pok Fu Lam Outline Zoning Plan No.
S/H10/22

Dear Madam,
Here with attached please find the completed annex II as requested.
Kind regards,

Urgent Return receipt Expand Group Restricted Prevent Copy

Isabella DE

'EB

To: Town Planning Board Secretariat
 Email: tpbpd@pland.gov.hk
 Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H110/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SIGNATURE

Name of further representer (as shown on the further representation): Isabella Juliette Jacqueline DE'EB

Further Representation No.: F1857

Full Name: Isabella Juliette Jacqueline DE'EB (identical with the name shown on HKID Card/Passport)

Signature:  Date: 21/02/2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
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To: **Town Planning Board Secretariat**

Email: **tpbpd@pland.gov.hk**

Address: **15/F, North Point Government Offices, 333 Java Road,**

**Further Representations in respect of the Pro
Draft Pok Fu Lam Outline Zoning P**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 20
comments on my further representation, and I hereby provide

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previous
- I would like to withdraw my further representation under Ordinance.
- My responses to the departmental comments set out below

SIGNATURE

Name of further representer (as shown on the further representation)

Further Representation No.: F1857

Town Planning Board Secretariat DE'EB

On 14 Feb 2025, at 4:39 PM, tpbpd/PLAND <tpbpd@pland.gov.hk> wrote:

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

傳真 Fax: 2877 0245 / 2522 8426

電話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/R/S/H10/22-F1857

By Email

14 February 2025


Isabella Juliette Jacqueline DE EB

Dear Sir/Madam,

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
(Further Representation No. F1857)**

I refer to your further representation which was received by the Town Planning Board (TPB) on 03.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on "Submission and Processing of Representations and Further Representations under the Town Planning Ordinance" (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB's website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB's website after the meeting. After confirmation of the minutes of TPB's deliberation, the further representers will be notified of the TPB's decision in writing. The confirmed minutes will also be available at TPB's website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

Urgent Return receipt Expand Group Restricted Prevent Copy

For future correspondence, please quote the above further representation number.

Yours faithfully,
<image001.png>
(Leticia LEUNG)
for Secretary, Town Planning
Board

with encl.

<Annex I (FR Summary Table)_e.pdf><Annex II (Reply Slip)_e.docx>

Urgent Return receipt Expand Group Restricted Prevent Copy

From: [REDACTED]
Sent: 2025-02-21 星期五 22:29:34
To: tpbpd/PLAND <tpbpd@pland.gov.hk>
Subject: Re: Further Representations in respect of the Proposed Amendments to the Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
Attachment: Townplanning Annex2.pdf

Dear Sir/Madam,

Please find attached the filled out and signed form of Annex II.

Many thanks,
Cecilia

On 14 Feb 2025, at 4:39 PM, tpbpd/PLAND <tpbpd@pland.gov.hk> wrote:

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F, North Point Government Offices
333 Java Road, North Point,
Hong Kong

傳真 Fax: 2877 0245 / 2522 8426

電話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號
In reply please quote this ref.: TPB/R/S/H10/22-F1858

By Email

14 February 2025

[REDACTED]
Cecilia Xiu Ying The

Dear Sir/Madam,

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22
(Further Representation No. F1858)**

I refer to your further representation which was received by the Town Planning Board (TPB) on 03.01.2025 in respect of the proposed amendments to the draft Pok Fu Lam Outline Zoning Plan No. S/H10/22. All valid further representations, including yours, had been circulated to the relevant government bureaux/departments (B/Ds) for comment. Relevant B/Ds have made no new comment on the further representations, and their comments on the further representations are recapitulated from TPB Paper No. 10987 and relevant minutes of meeting as set out in **Annex I**.

All valid further representations, including yours, together with the abovementioned departmental comments and your responses to the departmental

comments, if any, will be submitted to the TPB for consideration. There will be no hearing for further representations as stated in paragraph 2.5 of the Town Planning Board Guidelines No. 29C on “Submission and Processing of Representations and Further Representations under the Town Planning Ordinance” (the Guidelines). The details of the meeting including the meeting date and the TPB Paper will be made available on TPB’s website at a dedicated link (https://www.tpb.gov.hk/en/plan_making/S_H10_22.html). A Gist of Decision will be uploaded to TPB’s website after the meeting. After confirmation of the minutes of TPB’s deliberation, the further representers will be notified of the TPB’s decision in writing. The confirmed minutes will also be available at TPB’s website.

Please complete and return the attached form (**Annex II**) to us by post or e-mail **on or before 23 February 2025**. If you do not return the attached form by the aforesaid date, the TPB will proceed to consider the further representations on the basis that you have no further responses on the captioned matter.

For future correspondence, please quote the above further representation number.

Yours faithfully,
<image001.png>
(Leticia LEUNG)
for Secretary, Town Planning
Board

with encl.

<Annex I (FR Summary Table)_e.pdf><Annex II (Reply Slip)_e.docx>

To: Town Planning Board Secretariat

Email: tpbpd@pland.gov.hk

Address: 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong

**Further Representations in respect of the Proposed Amendments to the
Draft Pok Fu Lam Outline Zoning Plan No. S/H10/22**

FURTHER REPRESENTER'S VIEWS/RESPONSES

I have received the letter from the TPB dated 14 February 2025 conveying the relevant departmental comments on my further representation, and I hereby provide my latest responses as follows:

(Please put a tick in one of the boxes provided below)

- I would maintain my further representation as previously submitted.
- I would like to withdraw my further representation under section 6E(2) of the Town Planning Ordinance.
- My responses to the departmental comments set out below (if applicable):

SIGNATURE

Name of further representer (as shown on the further representation): Cecilia Xiu Ying The

Further Representation No.: F1858

Full Name: THE, Cecilia Xiu Ying (identical with the name shown on HKID Card/Passport)

Signature:  Date: 21 Feb. 2025

STATEMENT ON COLLECTION OF PERSONAL DATA

- (a) The personal data made in this form will be used by the Secretariat of the Town Planning Board for the purposes of processing the further representation, verifying the identity of the further representers and facilitating communication between the further representers and the Secretariat of the Town Planning Board. Personal data that is no longer required to fulfill the purpose for which it was collected will be erased.
- (b) The personal data provided by the further representers in this form may also be disclosed to other persons for the purposes mentioned in paragraph (a) above.
- (c) Further representers have a right of access and correction with respect to their personal data as provided under the Personal Data (Privacy) Ordinance (Cap. 486). Request for personal data access and correction should be addressed to the Town Planning Board Secretariat at 15/F., North Point, Government Offices, 333 Java Road, North Point, Hong Kong.