

TOWN PLANNING BOARD

TPB Paper No. 10822

For Consideration by
the Town Planning Board on 6.6.2022

THE DRAFT SHA LO WAN AND SAN TAU OUTLINE ZONING PLAN NO. S/I-SLW/1

CONSIDERATION OF REPRESENTATIONS NO. TPB/R/S/I-SLW/1-R1 TO R52
AND COMMENTS NO. TPB/R/S/I-SLW/1-C1 TO C4

DRAFT SHA LO WAN AND SAN TAU OUTLINE ZONING PLAN NO. S/I-SLW/1

**CONSIDERATION OF REPRESENTATIONS NO. TPB/R/S/I-SLW/1-R1 TO R52
 AND COMMENTS NO. TPB/R/S/I-SLW/1-C1 TO C4**

Subject of Representation	Representers (No. TPB/R/S/I-SLW/1-) Total: 52	Commenters (No. TPB/R/S/I-SLW/1-) Total: 4
<i>Supportive Representations / Representations Providing Views</i>		
<p><u>Support</u> the planning intention and conservation approach of the draft Sha Lo Wan and San Tau Outline Zoning Plan (the OZP); and/or <u>provide views</u> regarding protection of habitats by conservation zonings</p>	<p><u>Total: 9</u> <u>Green/Concern Groups (7)</u> R1: Hong Kong Bird Watching Society R2: The Conservancy Association R3: Designing Hong Kong Limited R4: Green Power R5: Save Lantau Alliance R6: Kadoorie Farm and Botanic Garden R7: World Wide Fund for Nature Hong Kong <u>Individual (1)</u> R8</p>	<p><u>Total: 4</u> <u>Green/Concern Groups (2)</u> C1: Designing Hong Kong Limited (also R3) supports R1, R2 and R4 to R7 C2: The Conservancy Association (also R2) supports R1 and R3 to R7 <u>Individual (2)</u> C3 (also R8) reiterates the views C4 supports R1 to R5 and provides views on the exemption clause for conservation-related zones</p>
<p><u>Provide views</u> on general land uses</p>	<p><u>Individual (1)</u> R11</p>	
<i>Adverse Representations</i>		
<p><u>Oppose</u> the OZP mainly on grounds of insufficient “Village Type Development” (“V”) zone and inadequate provision of community facilities and infrastructures</p>	<p><u>Total: 43</u> <u>Islands District Council (IsDC) (1)</u> R9: 離島區議會主席余漢坤 <u>Local Residents’ Organisations (6)</u> R10: 大澳鄉事委員會 (Tai O Rural Committee (TORC)) R14: 沙螺灣洪聖寶誕值理</p>	

Subject of Representation	Representers (No. TPB/R/S/I-SLW/1-)	Commenters (No. TPB/R/S/I-SLW/1-)
	<p>會 R15: 沙螺灣活動發展委員會 會 R16: Sha Lo Wan Village Office (沙螺灣鄉公所) R17: Yi O Village R18: 大嶼山西北沿岸鄉區聯會</p> <p><i>Companies (5)</i> R47 and R49 to R52</p> <p><i>Individuals (31)</i> R12, R13, R19 to R46 and R48</p>	

Note: The names of all representers and commenters are attached at **Annex I**. Soft copy of their submissions is sent to the Town Planning Board (the Board) Members via electronic means; and is also available for public inspection at the Board's website at https://www.info.gov.hk/tpb/en/plan_making/S_I-SLW_1.html and the Planning Enquiry Counters of Planning Department (PlanD) in North Point and Sha Tin. A set of hard copy is deposited at the Board's Secretariat for Members' inspection.

1. Introduction

- 1.1. On 27.8.2021, the draft Sha Lo Wan and San Tau Outline Zoning Plan (OZP) No. S/I-SLW/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance) (**Plan H-1**).
- 1.2. During the two-month statutory exhibition period, 52 representations were received. On 3.12.2021, the representations were published for public comments. Upon expiry of the three-week publication period, four comments were received.
- 1.3. On 9.2.2022, the Town Planning Board (the Board) agreed to consider all the representations and comments collectively in one group.
- 1.4. This Paper is to provide the Board with information for consideration of the representations and comments. The representers and commenters have been invited to attend the meeting in accordance with section 6B(3) of the Ordinance.

2. Background

- 2.1. On 8.1.2021, the Sha Lo Wan and San Tau area (the Area) was designated as a Development Permission Area (DPA) and covered by the draft Sha Lo Wan and San Tau DPA Plan No. DPA/I-SLW/1 (the DPA Plan). The draft DPA Plan is to provide an interim planning control with a view to protecting the ecologically sensitive areas, maintaining the unique rural and natural character and preventing

the encroachment of unauthorized development and undesirable change of use within the Area.

- 2.2. During the exhibition of the draft DPA Plan, a total of 208 representations were received. Amongst them, 20 representations supported, 181 representations opposed and seven representations provided views on the draft DPA Plan. Zoning proposals were also suggested by some representers.
- 2.3. On 15.1.2021, the Board gave preliminary consideration to the draft Sha Lo Wan and San Tau OZP No. S/I-SLW/C (TPB Paper No. 10714) and agreed that the draft OZP was suitable for consultation with IsDC and TORC. The Board also advised PlanD to consider to review whether some of the boundaries of the “V” zones should be rationalised and to ensure a consistent approach be adopted in designating the various “V” zones, as well as be prepared to elaborate to the stakeholders how additional public facilities, such as piers and cycle paths, could be provided in the Area to enhance its environment for public enjoyment.
- 2.4. On 6.8.2021, the Board, having considered the views collected during consultations and the representations received during exhibition of the DPA Plan (TPB Paper No. 10752), agreed that the draft Sha Lo Wan and San Tau OZP No. S/I-SLW/E and its Notes were suitable for exhibition for public inspection under section 5 of the Ordinance. On 27.8.2021, the draft Sha Lo Wan and San Tau OZP No. S/I-SLW/1 was exhibited for public inspection under section 5 of the Ordinance.
- 2.5. The draft Sha Lo Wan and San Tau DPA Plan No. DPA/I-SLW/1 ceased to be effective on 27.8.2021 in accordance with the Ordinance as the land in respect of the DPA Plan was included in the draft OZP on that date. The plan-making process for the DPA Plan did not proceed further.

3. Public Consultation

- 3.1. Before the Board gave further consideration on the preliminary draft OZP No. S/I-SLW/E, TORC and IsDC were consulted at its meeting on 1.4.2021 and by circulation of paper on 30.6.2021 respectively. In response to the requests from the Indigenous Inhabitant Representatives (IIR) of San Tau and Sha Lo Wan, separate meetings were held on 24.2.2021 and 26.2.2021 to solicit their views and concerns on the draft OZP. On 17.3.2021 and 12.4.2021, two meetings were held with green/concern groups on the draft OZP. Designing Hong Kong Limited, Kadoorie Farm and Botanic Garden Corporation, World Wide Fund for Nature Hong Kong, Save Lantau Alliance, The Conservancy Association, Green Power, Hong Kong Bird Watching Society and Association for Geoconservation, Hong Kong attended the meeting on 17.3.2021, while Living Islands Movement, Save Lantau Alliance, Ark Eden and Support HK Environmental Petition Platform attended the meeting on 12.4.2021. Their views were reflected in the TPB Paper No. 10752 for the Board’s consideration.
- 3.2. Upon gazettal of the draft Sha Lo Wan and San Tau OZP No. S/I-SLW/1, an information paper (IsDC Paper No. IDC 82/2021) was circulated to the members of IsDC on 23.9.2021. On 29.9.2021, Mr Randy Yu, the Chairman of IsDC,

made a response to the above mentioned IsDC paper stating that the draft OZP could not fully address the comments raised by TORC during the previous consultation (**Annex II**).

4. **The Draft OZP (Plan H-1)**

4.1. **Planning Scheme Area**

- 4.1.1. The Area, covering a total area of about 155.92 ha, is located to the west of Tung Chung on the northwestern part of Lantau Island, fronting the Hong Kong-Zhuhai-Macao Bridge Hong Kong Link Road and Hong Kong International Airport. The Area consists of hilly terrains along foothills of Nei Lak Shan to the south. It is embraced by Lantau North (Extension) Country Park to the south and north and the sea channel to the north. The Area has no vehicular access and most parts of the Area are accessible only by footpaths.
- 4.1.2. The Area forms an extension of the natural woodlands system in the adjoining country parks with a wide spectrum of natural habitats supporting a high diversity of wild flora and fauna and is worth conserving. In particular, San Tau Beach, located to the east of San Tau at the eastern part of the Area, is designated as a Site of Special Scientific Interest (SSSI) for harbouring the largest seagrass bed of *Zostera japonica* (矮大葉藻) and *Halophila ovalis* (喜鹽草) on Lantau Island and the locally uncommon mangrove *Bruguiera gymnorhiza* (木欖).
- 4.1.3. There are several natural streams in the Area running from the uphill area within the Country Parks and Ngong Ping to Sha Lo Wan, Hau Hok Wan and Tung Chung Bay. The coastal area contains mangroves, mudflats, seagrass bed and various types of coastal plants. The myriad of terrestrial natural habitats, coupled with streams and natural coastal environment, offer desirable homes for a diverse community of animals of different kinds. Horseshoe Crabs could also be found along the western coast of Sha Lo Wan and northern coast of San Tau.
- 4.1.4. This area is characterised by a rural countryside ambience with the two recognized villages in the western and eastern parts of the Area respectively. Village houses are mainly one to three-storey in height. Sporadic domestic dwellings can also be found along the existing trail connecting Tung Chung and Tai O (commonly known as Tung O Ancient Trail) and the coast. Active and abandoned farmland and some vacant farmhouses are found in the villages and their vicinities. There is no significant economic activity in the Area. Major commercial activities include some local provision stores in Sha Lo Wan and San Tau that operate mainly during weekends.
- 4.1.5. The Area is a popular hiking area with scenic views, accessible either by Tung O Ancient Trail which connects Tung Chung and Tai O, by ferry via Sha Lo Wan Pier or by boat via local piers and jetties in the Area.

4.2. Planning Intention

- 4.2.1. The general planning intention for the Area is to conserve its landscape and ecological values in safeguarding the natural habitat and rural character of the Area, to preserve historical artifacts, local culture and traditions of the villages and to make provision for future Small House (SH) development for the indigenous villages of Sha Lo Wan and San Tau.
- 4.2.2. Due consideration should be given to the conservation of ecologically and environmentally sensitive areas when development in or near the Area is proposed. SH development in recognized villages will be consolidated at suitable locations to avoid sprawling and to preserve the rural character of the Area. In designation of various zones in the Area, consideration has been given to protect the natural habitats in the Area such as the woodland areas which form a continuous stretch of well-established vegetation with those located in the adjoining Lantau North and Lantau North (Extension) Country Parks and natural streams.

4.3. Individual Zones

- 4.3.1. The “V” zone (about 6.18 ha) is intended to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of SHs by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.
- 4.3.2. The “Government, Institution or Community” (“G/IC”) zone (about 0.55 ha) is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.
- 4.3.3. The “Open Space” (“O”) zone (about 0.19 ha) is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.
- 4.3.4. The “Other Specified Uses” annotated “Pier” zone (about 0.05 ha) is intended to designate land for pier and jetty to facilitate marine access to Sha Lo Wan and San Tau areas.
- 4.3.5. The “Agriculture” (“AGR”) zone (about 9.20 ha) is intended primarily to

retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

- 4.3.6. The “Green Belt” (“GB”) zone (about 128.80 ha) is intended primarily for defining the limits of development areas by natural features and to preserve the existing natural landscape as well as to provide passive recreational outlets. There is a general presumption against development within this zone.
- 4.3.7. The “Conservation Area” (“CA”) zone (about 2.31 ha) is intended to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as SSSI or Country Park from the adverse effects of development. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.
- 4.3.8. The “Coastal Protection Area” (“CPA”) zone (about 7.47 ha) is intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. It may also cover areas which serve as natural protection areas sheltering nearby developments against the effects of coastal erosion. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.
- 4.3.9. The “SSSI” zone (about 1.17 ha) is intended to conserve and protect the features of special scientific interest such as rare or particular species of fauna and flora and their habitats, corals, woodlands, marshes or areas of geological, ecological or botanical/biological interest which are designated as SSSI. It intends to deter human activities or developments within the SSSI. There is a general presumption against development in this zone. No developments are permitted unless they are needed to support the conservation of the features of special scientific interest in the SSSI, to maintain and protect the existing character of the SSSI, or for educational and research purposes.

5. The Representations and Comments on Representations (Plans H-2 and H-3)

5.1. Subject of Representations

- 5.1.1. During the two-month exhibition period, a total of 52 representations were received, including nine representations supporting the draft OZP

and/or providing views on conservation/development issues (**R1 to R8 and R11**) and 43 representations opposing the draft OZP (**R9, R10 and R12 to R52**).

- 5.1.2. Eight representations supporting the draft OZP and/or providing views are submitted by green/concern groups (**R1 to R7**) and an individual (**R8**). They generally support the draft OZP and its planning intention and conservation approach to enable planning control in the Area. They also provide views on promoting higher level of conservation for some habitats and preventing excessive village development. **R11** submitted by an individual provides views on general land uses.
- 5.1.3. Amongst the 43 adverse representations, seven are submitted by local representatives, including the Chairman of IsDC (**R9**), TORC (**R10**), Sha Lo Wan Village Office (**R16**) and other local residents' organisations (**R14, R15, R17 and R18**). The remaining 36 representations are submitted by five companies (**R47 and R49 to R52**) and individuals (**R12, R13, R19 to R46 and R48**). In general, they oppose the draft OZP and consider that the introduction of statutory planning control to the Area would affect their rights to use private land. The "V" zone is considered insufficient to meet the SH demand. Some are concerned about inadequate provision of community facilities and infrastructures while others object to the zonings of or propose rezoning for individual sites.
- 5.1.4. The major grounds of representations as well as their proposals, and PlanD's responses, in consultation with relevant government bureaux/departments (B/Ds), are at **Annex III** and summarised in paragraphs 5.2 and 5.3 below.

5.2. Major Grounds/Proposals of and Responses to Supportive Representations/Representations Providing Views

5.2.1. *Planning Intention*

Major Grounds	Rep. No.
(1) The general planning intention of the draft OZP to conserve the landscape and ecological values in safeguarding the natural habitat and rural character of the Area is supported. The draft OZP can ensure proper planning and development control and protect the rural and natural character with conservation value of the Area.	R1 to R5
Response	
(a) The supportive views are noted.	

5.2.2. *Conservation of Natural Environment and Habitats*

Major Grounds/Proposals	Rep. No.
(1) A wide variety of important habitats for species of high conservation value are found in the Area. They should be adequately protected from any development and potential pollution. Marshes, mangroves, woodlands, streams and 30m buffer area on both sides of rivers should be protected by more stringent zonings (such as “CA” zone). All natural coastal areas should be zoned “CPA”.	R1, R3 to R5, R7, R8
(2) The distribution of seagrasses at San Tau Beach SSSI may have expanded over time. A survey should be conducted to review the latest situation and the boundary of SSSI should be expanded to cover the entire seagrass bed.	R4
(3) “GB” zone is considered inadequate to protect the natural habitats against undesirable development as the Board approves the rezoning of “GB” for other purposes on a regular basis. Shrubland and grassland should be zoned “CA” or “GB(1)”, in which redevelopment of an existing house should be restricted to its existing bulk.	R1, R8
(4) More stringent planning control should be imposed on agricultural land near ecologically sensitive area. Existing agricultural land clusters should be zoned “GB(1)” or “AGR(2)” where no house development should be allowed. NTEH should be precluded from Column 1 and 2 uses in zones with good quality agricultural land or woodlands.	R1, R2, R4
(5) The septic tank and soakaway (STS) systems commonly used by villages would pollute the environment and pose health hazards to the villagers.	R1 to R4, R7
<u>Proposals</u>	
(6) The “SSSI” zone, which currently covers the landward portion of San Tau Beach SSSI only, should be extended to cover the entire SSSI including the seaward portion (Drawings H-1, H-3 and H-4 and Plans H-4a and H-4b).	R1 to R3, R5 to R7
(7) A piece of government land in Sha Lo Wan should be rezoned from “V” to “GB(1)” or “CA” (Drawing H-2, and Plans H-5a and H-5b).	R2
Responses	
(a) In response to (1) above, “SSSI”, “CA”, “CPA” and “GB” are all conservation-related zonings of different levels of control on land use and development. These zones have a general presumption against development. “SSSI” zone is to protect the features of San Tau Beach SSSI. “CPA” zone is for protecting the natural coastline with high	

landscape, scenic or ecological value. "CA" zone is used for covering Fung Shui woodlands which are of considerable ecological value. For other common natural and vegetated areas, "GB" zone is generally adopted. Areas that are suitable for agricultural purpose are zoned "AGR". In the Area, there are various natural habitats such as woodlands, shrublands, grasslands, vegetated slopes and streams. Human settlements and activities are observed. As such, the current designation of "GB" zone is considered appropriate. "CPA" zone is designated along the majority of the coastline. Only coastal areas with existing man-made features (e.g. footpath near the existing jetty in the north-western part of Sha Lo Wan) are excluded from the "CPA" zone and are designated with appropriate zonings. The Director of Agriculture, Fisheries and Conservation (DAFC) advises that by adopting the habitat mapping approach, it is considered appropriate to maintain the current conservation-oriented zonings to render protection of the common natural habitats and at the same time to reflect the existing site conditions in the Area. In this regard, the current zonings have provided sufficient planning control for the Area and are considered appropriate.

- (b) In response to (2) and (6) above, the Agriculture, Fisheries and Conservation Department (AFCD) conducts regular monitoring of the sea grasses at and in the vicinity of the San Tau Beach SSSI and will keep in view of any need to review the SSSI boundary in the register of AFCD as necessary. The "SSSI" zone has taken into account the boundary of the designated San Tau Beach SSSI, while a consistent approach has been adopted to delineate the Planning Scheme Area of the draft OZP with reference to the Planning Scheme Area of the draft DPA Plan, high water mark, boundaries of Country Parks, land status, etc. The "SSSI" zone aligns with the delineation of the same "SSSI" zone on the draft DPA Plan where any unauthorized developments would be subject to planning enforcement actions by the Planning Authority. The sea portion of the SSSI is under Government's control and any activities and/or developments not complying with existing provisions and regulations will also be subject to enforcement and prosecution actions by relevant authorities.
- (c) In response to (3) above, response (a) above is relevant. The planning intention of "GB" zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. Within "GB" zone, except agricultural use and some uses compatible with the natural environment and/or administered by the Government that are always permitted, most uses and developments require planning permission from the Board. The Board would have opportunities to scrutinise development proposals within "GB" zone on their individual merits in accordance with relevant guidelines of the Board. As for rezoning proposals, only those with strong planning justifications and no insurmountable problems will be approved by the Board.
- (d) In response to (4) above, majority of the existing and abandoned

agricultural land with potential for rehabilitation is zoned “AGR”, while some common natural habitats such as woodland and shrubland are zoned “GB”. ‘House (NTEH only)’ in “AGR” zone or ‘House’ in “GB” zone requires planning permission from the Board. Each application would be considered on its own individual merits in accordance with relevant guidelines of the Board. The current zonings have provided sufficient planning control. There is no strong justification for the proposed “GB(1)” or “AGR(2)” zones.

- (e) In response to (5) above, the design, construction and maintenance of on-site STS systems for village houses are required to comply with relevant standards and regulations, including the Environmental Protection Department’s (EPD) Practice Note for Professional Persons (ProPECC PN) 5/93 “Drainage Plans subject to Comment by the EPD” and the necessary clearance from the specified water bodies to ensure that the proposed septic tank and soakaway systems would not cause adverse impact to the environment. In this regard, the Director of Environment Protection considers that the draft OZP has already addressed the protection of water quality of the streams and sea in the Area.
- (f) In response to (7) above, response (a) above is relevant. The concerned area is partly cleared with allotments, sheds and sparse vegetation at the fringe of the village. In view of its close proximity to the village cluster and the existing site condition, the designation of the concerned area as “V” zone is considered appropriate.

5.2.3. Rural Developments and “V” Zone

Major Grounds/Proposals	Rep. No.
(1) An incremental approach should be adopted in designating the “V” zones based on genuine SH demand. The boundaries of villages should not be extended beyond the ‘VE’. “V” zone should be restricted to the existing village clusters only.	R1 to R5, R8
(2) SH Policy should be reviewed to restrict new built NTEH to be sold or let to non-indigenous villagers.	R8
(3) The existing agricultural land and house lots should be retained.	R11
(4) More land should be reserved for recreational and community facilities.	R11
(5) Sites of Archaeological Interest (SAIs) and cultural heritage should be protected.	R5
Responses	
(a) In response to (1) above, the boundaries of the “V” zones are drawn up having regard to the ‘VE’, local topography, existing village settlement	

pattern, outstanding SH applications and demand forecast. Areas of difficult terrain, potential natural terrain hazards, dense vegetation, conservation and ecological value are excluded. An incremental approach has been adopted for designation of “V” zone with an aim to consolidating SH development at suitable location in order to avoid undesirable disturbance to the natural environment and overtaxing the limited infrastructure in the Area.

- (b) In response to (2) above, according to the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD), there is alienation restriction clause stipulated in SH Grant and Free Building Licence. Assignment of a SH is only possible after the owner obtains an approval by LandsD and subject to the payment of premium. Nevertheless, this is a matter related to SH Policy but outside the purview of the Board.
- (c) In response to (3) above, regarding agricultural land, generally speaking, clusters of active and fallow agricultural land near villages have been retained and zoned “AGR” as far as practicable. Given the broad-brush nature of zoning, some agricultural land which is scattered and/or away from villages may be zoned “GB” together with its surrounding natural habitats. As ‘Agricultural Use’ is also always permitted within the “GB” zone, the designation of “GB” or “AGR” zone will not hinder agricultural development and rehabilitation. Regarding house lots, the draft OZP will not affect the land status of existing house lots. In general, the existing house lots have been suitably reflected in the “V” zones of the draft OZP. Besides, there is provision in the covering Notes of the OZP that rebuilding of NTEH and replacement of an existing domestic building by a NTEH is always permitted on land falling within the OZP except in “CA”, “CPA” and “SSSI” zones. In any case, no action is required to make the existing use of any land or building conform to the OZP.
- (d) In response to (4) above, in order to preserve the natural habitat and rural character of the Area, no major development and population growth are envisaged under the current OZP. That said, suitable sites are zoned “G/IC” and “O” for provision of GIC and recreational facilities respectively serving the needs of the local residents. For instance, there are two vacant school premises in Sha Lo Wan and San Tau which can be used for accommodating compatible community facilities to serve the local residents if needed; and a football pitch is located to the north of Sha Lo Wan. Relevant B/Ds would keep in view the need for community and recreational facilities in the Area.
- (e) In response to (5) above, there are three SAIs, i.e. Sha Lo Wan SAI, Sha Lo Wan (West) SAI and San Tau SAI, and a Grade 3 historic building namely Entrance Gate, Sha Lo Wan Tsuen in the Area. All the SAIs and the historic building are worth preserving. Besides, two temples, namely Ba Kong Temple (把港古廟) and Tin Hau Temple (天后宮), are located on the western coast of Sha Lo Wan. As stated in the Explanatory Statement of the OZP, prior consultation with the Antiquities and Monuments Office (AMO) of Development Bureau should be made if any works, developments, redevelopments or rezoning proposals may

affect the above SAIs, graded historic buildings/structures, new items pending grading assessment, any other historic structures identified and their immediate environs. Besides, if there are any buildings/structures both at grade level and underground which were built on or before 1969, AMO should be alerted.

5.2.4. *Unauthorized Development*

Major Grounds/Proposals	Rep. No.
(1) There were suspected unauthorized land excavation and vegetation clearance at Tung O Ancient Trail and Sha Lo Wan. Concerted efforts from relevant departments are required to stop such illegal activities and expedite enforcement and prosecution actions as appropriate.	R1, R5, R8
(2) It is concerned that unauthorized road widening and slope cutting would be regarded as existing uses. The definition of ‘existing use’ (‘EU’) under the OZP should be reviewed.	R3
Responses	
<p>(a) In response to (1) above, since the gazettal of the DPA Plan on 8.1.2021, the Area is subject to statutory planning control under the Ordinance. Should any unauthorized development be detected, enforcement and prosecution actions will be taken by relevant authorities as appropriate.</p> <p>(b) In response to (2) above, the definition of ‘EU’ as stipulated under the Ordinance in relation to a DPA, which is reflected in the covering Notes of the DPA Plan and the subsequent OZP, is to facilitate the Planning Authority to undertake enforcement action against unauthorized developments in the rural areas. Due to the rule against retroactivity in criminal law, existing land use not complying with the subsequent DPA Plan or OZP is not punishable as a matter of criminal law. Penalising someone for an action without any possible foreknowledge prior to enactment of the legislation is unjust and unfair. As such, existing non-conforming uses are tolerated and exempted from planning permission. In view of the above, the current definition of “EU” under the Ordinance in respect of carrying no retrospective effect is considered reasonable. Notwithstanding the above, prior to gazettal of the draft DPA Plan, the development control mainly rested with the Buildings Department, Lands Department and other licencing authorities.</p>	

5.3. Major Grounds/Proposals of and Responses to Adverse Representations

5.3.1. *Rural Development and “V” Zone*

Major Grounds/Proposals	Rep. No.
(1) The extent of “V” zone is insufficient to meet the SH demand. Area within ‘VE’ should not be zoned “AGR”. The “V” zone should be extended to cover the nearby “GB”	R9, R10, R12, R13, R15, R19 to

<p>zones to meet village development needs in the long term.</p> <p>(2) Some natural slopes should not be excluded from the “V” zone as there may be scope for SH development in the future.</p> <p>(3) Natural slopes and woodland zoned “V” are not suitable for development due to the difficulties in site formation, stabilisation and future maintenance. Levelled ground should be reserved for SH development instead.</p> <p>(4) SH applications submitted before the gazettal of the draft DPA plan should not be subject to the planning control of the OZP.</p> <p><u>Proposals</u></p> <p>(5) Rezone Lots No. 280, 282, 705S.A, 705S.B and 705RP in DD6TC and Lot No. 1479 in DD305L from “AGR” zone to “V” zone to facilitate NTEH developments or SH applications (Plans H-6a and H-6b).</p> <p>(6) Rezone Lots No. 212, 328, 771S.A, 771S.B and 771RP in DD6TC and Lots No. 2226 and 2227 in DD305L from “GB” zone to “V” zone to facilitate NTEH developments or SH applications (Plans H-6a and H-6b).</p>	<p>R25, R27, R28, R30, R31, R32, R35</p> <p>R9</p> <p>R13, R15, R25, R26, R30</p> <p>R46</p> <p>R37, R38, R39, R44, R49, R50</p> <p>R36, R40, R41, R42, R43, R48</p>
Responses	
<p>(a) In response to (1) above, response (a) under paragraph 5.2.3 regarding the designation of “V” zone is relevant.</p> <p>According to the latest information provided by DLO/Is, LandsD, the number of outstanding SH applications and the 10-year SH demand forecast for Sha Lo Wan are 35 and 394 respectively, and 27 and 120 for San Tau respectively. Based on PlanD’s preliminary estimate in Table 1 below, the available land of about 1.9 ha in Sha Wo Lan and about 1.2 ha in San Tau within “V” zones could meet the land requirement for outstanding SH applications, i.e. 0.87 ha and 0.68 ha respectively, in accordance with the incremental approach, further expansion of “V” zone is considered not necessary.</p>	

Table 1 – Available Land in the “V” Zone to meet the SH Demand

Recognized Villages	Area of “V” on draft OZP (ha)	Available land for SH development (ha) [No.]	Land required to meet outstanding SH (ha) [No.]	Land required to meet 10-year SH demand (ha) [No.]	Percentage of outstanding SH and 10-year demand met (%)
Sha Lo Wan	3.63	1.90 [76]	0.87 [35]	9.85 [394]	18%
San Tau	2.55	1.20 [48]	0.68 [27]	3.00 [120]	33%

Note: According to LandsD’s information, the 10-year SH demand forecast of Sha Lo Wan submitted by IIR in 2021 has increased from 230 to 394 as compared with that in 2017.

- (b) In response to (2) and (3) above, response (a) under paragraph 5.2.3 regarding the designation of “V” zone is relevant. Suitable land has been included in the “V” zones for village expansion.
- (c) In response to (4) above, the outstanding SH applications will be processed by LandsD according to the prevailing SH Policy. When PlanD is consulted on the relevant SH applications, planning comments will be made based on the prevailing OZP and the latest planning circumstances.
- (d) In response to (5) and (6) above, in general, existing and abandoned agricultural land with potential for rehabilitation are zoned “AGR”, while some common natural habitats such as woodland and shrubland are zoned “GB”. The concerned areas mentioned in (5) above are mainly covered by either active agricultural land or abandoned agricultural land forming part of a larger agricultural land cluster, whereas those mentioned in (6) above are mainly covered by vegetation including woodland and/or shrubland, or at the riparian area of natural streams. The designation of concerned areas as “AGR” and “GB” zones respectively is considered appropriate. Nevertheless, an application for ‘House (NTEH only)’ in the “AGR” zone or ‘House’ use in the “GB” zone can be submitted to the Board for consideration should SH development be pursued at the concerned lots. Regarding the six outstanding SH applications in Lots No. 212 (R36), 705S.A (R37), 705S.B (R38), 705RP (R39), 771S.B (R41) and 771RP (R42) in DD6TC, they are located outside the existing village clusters and generally covered by shrubland. The current designation of “GB” zoning for the concerned sites to reflect their existing conditions is considered appropriate. The applicants of the concerned outstanding SH applications could explore other suitable locations within the “V” zone for SH development.

5.3.2. *Planning Control on Private Land*

Major Grounds/Proposals	Rep. No.
(1) All private agricultural land should be rezoned to “AGR”.	R46
(2) Majority of the land in Sha Lo Wan is privately owned and should not be covered by the draft OZP. Private property rights should not be deprived. “GB” should not cover a large amount of private land. There was insufficient public consultation during plan formulation stage which resulted in inappropriate land use proposals which could not address the needs of villagers.	R9, R10, R15 to R17, R18, R21, R22, R25, R28 to R30
(3) Subjecting the land owned by indigenous inhabitants to the planning controls of the draft OZP contravenes Article 40 of the Basic Law (protection of the lawful traditional rights and interests of the indigenous inhabitants of the New Territories).	R13, R18, R23, R33, R34
(4) Imposition of land use zonings (i.e. “AGR”, “GB” and “CPA”) on private land contravenes Articles 6 and 105 of the Basic Law (protection of private property rights).	R50 to R52
Responses	
<p>(a) In response to (1) above, the draft OZP will not affect the land status of existing agricultural land. Generally speaking, clusters of active fallow agricultural land and agricultural land with potential for rehabilitation near villages have been retained and zoned “AGR” as far as practicable, while some common natural habitats such as woodland and shrubland are zoned “GB”. According to the Notes of the OZP, ‘Agricultural Use’ is always permitted within “AGR” and “GB” zones. Genuine agricultural activities would not be hindered. DAFC has no adverse comment on the current designation of “AGR” and “GB” zones.</p> <p>(b) In response to (2) above, the purpose of the draft OZP is to indicate the broad land use zonings for the area so that development and redevelopment within the area can be put under statutory planning control. The draft OZP endeavours to strike a balance between conservation and the suitable use of land. Land status is not the only planning consideration and the appropriate zonings would cover both government land and private land. Furthermore, provisions of Column 1 and 2 uses stipulated in the Notes of the draft OZP set out the uses which are always permitted or require planning permission from the Board. Application for amendment to OZP could also be made to the Board. Each application would be considered by the Board based on its own individual merits. As such, the draft OZP would not deprive private property rights.</p> <p>TORC was consulted at its meeting on 1.4.2021 and IsDC by circulation of paper on 30.6.2021. In response to the requests from the IIR of San Tau and Sha Lo Wan, separate meetings were held on 24.2.2021 and</p>	

26.2.2021 to solicit their views on the draft OZP. A site visit to Sha Lo Wan with local villagers was conducted on 11.3.2021. Their views, including those contained in the representations on the draft DPA Plan collected during the statutory consultation period, had been reflected in the TPB Paper No. 10752 for the Board’s consideration on 6.8.2021. Appropriate consultations with local stakeholders were conducted during the OZP formulation stage. Besides, the subsequent draft OZP exhibition and representation procedure are also parts of the consultation process. The Board would take into account the relevant planning considerations and the representations and comments received before making a decision.

- (c) In response to (3) above, “V” zone is intended to designate both existing recognized villages and areas of land considered suitable for village expansion. It is to concentrate village type development within this zone for a more orderly development pattern. Suitable land has been designated within “V” zone for village expansion of the recognized villages in the Area. Furthermore, according to the current SH Policy, the right to apply for or build a SH is a personal right enjoyed by the indigenous inhabitant himself, but not attached to the land that he owns. Planning controls on the use of land would not affect the indigenous inhabitant’s right to apply for or build a SH per se. On this basis, the imposition of planning controls of the OZP on one’s land would not engage Article 40 of the Basic Law.
- (d) In response to (4) above, the land use zonings designated on the OZP would unlikely constitute “deprivation” of property for the purpose of Article 105 of the Basic Law requiring payment of compensation. The draft OZP would not affect any land owner to transfer or assign his/her interest of land, nor would it leave the land concerned without any meaningful use or economically viable use. Besides, insofar as the zoning restrictions pursue the legitimate aim of conserving and protecting the existing natural landscape, ecological or topographical features of the area and the land concerned could be put to “always permitted uses” and uses that may be permitted with or without conditions on application to the Board, it does not appear inconsistent with the protection of property rights under Article 6 or Article 105 of the Basic Law.

5.3.3. Designation of “AGR” and “GB” Zones

Major Grounds/Proposals	Rep. No.
(1) The extent of “GB” zone is excessive. Designating agricultural land, areas near recognized villages and those with outstanding SH applications as “GB” zone would adversely affect the value of the land, and neglect indigenous inhabitants’ housing needs and their legitimate expectation on use of land.	R9, R10, R19, R36, R46
(2) The extent of “AGR” zone is substantially reduced. Some private agricultural land are zoned “GB” which is unreasonable.	R12

5.3.4. *Provision of Community Facilities and Infrastructures*

Major Grounds/Proposals	Rep. No.
(1) Tung O Ancient Trail should be re-routed or a new hiking trail away from the villages should be provided to avoid disturbance to local residents.	R10, R15 to R17
(2) Infrastructure in Sha Lo Wan should be improved. A vehicular road connecting to Chek Lap Kok Island or Tung Chung should be constructed to resolve transport issue in the Area. Public sewer, enlarged potable water supply, irrigation facilities for agricultural activities, seawater for flushing, fire-fighting and emergence rescue facilities, community hall, and large scale refuse collection point (RCP) should be provided in the Area.	R13 to R30, R33, R34
(3) Transportation statistics provided by the Commissioner for Transport (C for T) in Appendix IV of TPB Paper No. 10752 does not reflect the reality.	R16
(4) The existing permitted burial ground for indigenous inhabitants at the hillside of Sha Lo Wan is not reflected on the draft OZP.	R19
Responses	
<p>(a) In response to (1) above, the suggestion to re-route Tung O Ancient Trail has been referred to relevant departments (i.e. the District Office (Islands), Home Affairs Department and the Sustainable Lantau Office, Civil Engineering and Development Department) for consideration.</p> <p>(b) In response to (2) above, the concerns regarding facilities and infrastructure provision in the Area have been referred to relevant departments for consideration. As advised by C for T, the proposed coastal road between Tung Chung and Tai O, and the road connection between Sha Lo Wan and Chek Lap Kok Island should be subject to further review on technical feasibility by the works agent to be identified. Regarding facilities concerning environmental hygiene, the Director of Food and Environmental Hygiene advises that her department has no plan to establish new infrastructure facilities within the villages of Sha Lo Wan and San Tau, taking into account the current usage rate of public toilets (PTs) and the number of bin-site RCP provided. The PTs and RCPs would be subject to a host of factors including actual demand, further review on technical feasibility, as well as any proposed or planned infrastructure enhancement such as transport, sewage, water supply works within or relevant to the Area. The Director of Fire Services advises that his department has established deployment plans in case of fire and other emergency incidents in the Area. The Fire Services Department will deploy appropriate manpower and resources to the scene to provide emergency services in accordance with the established procedures. According to DAFC, should irrigation improvement be required, farmers</p>	

are advised to submit requests to AFCD.

Relevant departments would keep in view the need for infrastructure subject to detailed consideration and assessments on, inter alia, population, provision standards and resources availability. If concerned departments have plans to provide infrastructural facilities in the Area, flexibility has been provided in the covering Notes of the OZP that public works co-ordinated or implemented by Government which are always permitted on land falling within the OZP.

- (c) In response to (3) above, C for T advises that the Transport Department (TD) has been closely monitoring the service level of “Tuen Mun-Tung Chung-Sha Lo Wan-Tai O” licensed ferry service (Tai O Route). According to the recent monitoring surveys conducted, the service level can cater for the passenger demand. Nevertheless, the ferry operator of Tai O Route has planned to deploy an additional vessel by this year to enhance the service of the route. TD would closely liaise with the ferry operator on the implementation arrangement.
- (d) In response to (4) above, the concerned permitted burial ground at the hillside of Sha Lo Wan falls outside the subject draft OZP². However, there is a permitted burial ground located to the southeast of San Tau, which was in existence before the gazette of the draft DPA Plan and falls within an area zoned “GB” on the subject draft OZP. Although the permitted burial ground is not designated with a specific zoning on the OZP, it is stated in the Explanatory Statement of the OZP that to respect the local ritual and tradition. Burial activities in the permitted burial ground within the “GB” zone are generally tolerated. In this regard, the existing permitted burial ground would not be affected by the draft OZP.

5.3.5. *Development Proposal*

Major Grounds/Proposals	Rep. No.
<p>(1) Rezone two sites in Sha Lo Wan and San Tau from “AGR”, “GB” and “V” zones to “Other Specified Uses” annotated “Eco-lodge” (“OU(Eco-lodge)”) for eco-tourism related supporting facilities (Drawing H-5 and Plans H-7a and H-7b) with the following justifications:</p> <ul style="list-style-type: none"> - the proposal is in line with the overarching principle of ‘Development in the North, Conservation for the South’ in the Sustainable Lantau Blueprint to provide low-impact leisure and recreational uses; - promote eco-tourism in Lantau; and - ensure an appropriate planning control and a balance between sustainable development and environmental conservation. 	<p>R47</p>

² The concerned permitted burial ground falls within an area zoned “GB” on the adjoining draft Sham Wat and San Shek Wan OZP No S/I-SW/1. The treatment for existing permitted burial grounds on the two said OZPs is the same.

Responses
<p>(a) In response to (1) above, as advised by the Head of Sustainable Lantau Office, Civil Engineering and Development Department, according to the Sustainable Lantau Blueprint, the leisure and recreation proposals should be environmentally sustainable and compatible with the local context. The proposed “OU(Eco-lodge)” zone covers a sizeable area of natural vegetation. However, there is no impact assessment submitted to support the proposed zoning and its extent. Hence, the potential impact brought about by the rezoning proposal to the environment in terms of sustainability and compatibility is unknown.</p> <p>According to DAFC, both sites at Sha Lo Wan and San Tau are well wooded and extensive vegetation clearance is expected. Several natural streams are also found within or in the close vicinity of the proposed sites. In this regard, there is insufficient information to support a rezoning at this juncture. Taking into account the site context, the current “GB” zoning is considered appropriate. Notwithstanding the above, planning application with relevant supporting technical assessments could be submitted in accordance with s.16 or s.12A of the Ordinance for the Board’s consideration if necessary.</p>

5.4. Comments on Representations

5.4.1. Four comments are submitted by green/concern groups (**C1 and C2**) and individuals (**C3 and C4**). Commenters of **C1, C2** and **C3** are also representers of **R3, R2** and **R8** respectively.

5.4.2. **C1, C2** and **C4** generally support the views of representations submitted by the green/concern groups (i.e. **R1 to R7**) on the grounds that the area is rich in ecological and landscape values which should be protected by conservation zonings from developments and human disturbances. **C3** provided further views on her representation.

5.4.3. The grounds of the comments are similar to those raised in the representations. The major grounds of comments, and PlanD’s response, in consultation with the relevant B/Ds are at **Annex III**. The additional major grounds of the comments are summarised in paragraph 5.5 below:

5.5. Additional Major Grounds of and Responses to Comments

Major Grounds	Com. No.
(1) Unauthorized developments including removal of vegetation and slope cutting works should not be tolerated. Those areas should not be covered by any development-related zonings. No additional vehicular accesses should be provided in the Area to prevent any further unauthorized developments.	C1, C2
(2) Apart from “V” zone, SH development should not be included as a Column 2 use in other zones.	C3

<p>(3) Stringent resale conditions for SHs should be implemented given the environmental sensitive nature of the Area.</p> <p>(4) Further elaboration should be provided in the Notes of the draft OZP to clarify that unauthorized developments could not be regarded as ‘EU’.</p> <p>(5) The exemption clause for diversion of stream, filling of land/pond or excavation of land for public works co-ordinated or implemented by Government in “CA”, “CPA” and “SSSI” zones should be removed.</p>	<p>C3</p> <p>C3</p> <p>C4</p>
Responses	
<p>(a) In response to (1) above, upon the gazettal of the draft DPA Plan on 8.1.2021, the Planning Authority is empowered to instigate enforcement action against unauthorized developments undertaken in the Area. Any suspected unauthorized development including filling of land/pond and excavation of land will be closely monitored and enforcement action will be taken in liaison with relevant departments as appropriate. In designating various zonings for an area, relevant planning considerations, including the existing use of land, site conditions, topography, ‘VE’, village settlement pattern, conservation and ecological value, etc., have been considered. Land involved in the previously reported removal of vegetation and slope cutting works, which are generally covered by woodland and shrubland, are zoned “GB”.</p> <p>(b) In response to (2) above, Column 1 and 2 uses of each zone in the OZP generally follow the Master Schedule of Notes. Column 2 uses require planning permission from the Board. Applications are required to submit justifications and supporting technical assessments where necessary for the Board’s consideration. Each application will be considered by the Board on its individual merits.</p> <p>(c) In response to (3) above, according to DLO/Is, LandsD, there is alienation restriction clause stipulated in SH Grant and Free Building Licence. Assignment of a SH is only possible after the owner obtains an approval by LandsD and subject to the payment of premium. Nevertheless, this is not a planning issue.</p> <p>(d) In response to (4) above, the response (b) under paragraph 5.2.4 is relevant.</p> <p>(e) In response to (5) above, the incorporation of the ‘exemption clause’, i.e. exempting works involving diversion of streams, filling of land/pond or excavation of land pertaining to public works co-ordinated or implemented by Government from the requirement of planning application, in conservation-related zones of the subject OZP is in line with the latest revision of Master Schedule of Notes which was promulgated by the Board on 24.8.2021. The objective of including this exemption clause for conservation-related zones is to streamline the</p>	

planning application process/mechanism. Whilst such works are exempted from planning permission, they still have to conform to any other relevant legislations, the conditions of the government lease concerned, and other government requirements, as may be applicable.

6. Departmental Consultation

The following B/Ds have been consulted and their comments have been incorporated in the above paragraphs and **Annex III**, where appropriate:

- (a) DLO/Is, LandsD;
- (b) District Officer (Islands), Home Affairs Department;
- (c) Director of Environmental Protection;
- (d) Chief Planning Officer, Housing Department;
- (e) C for T;
- (f) Head (Sustainable Lantau Office), CEDD;
- (g) Head (Geotechnical Engineering Office), CEDD;
- (h) Chief Engineer/Port Works, CEDD;
- (i) Project Team Leader/Pier Improvement, CEDD;
- (j) Chief Engineer/Construction, Water Services Department (WSD);
- (k) Chief Engineer/Hong Kong, WSD;
- (l) Director of Electrical and Mechanical Services;
- (m) Director of Fire Services;
- (n) Director of Food and Environmental Hygiene;
- (o) Director of Leisure and Cultural Services;
- (p) Executive Secretary, Antiquities and Monument Office;
- (q) Chief Engineer/Hong Kong & Islands, Drainage Services Department (DSD);
- (r) Chief Engineer/Consultants Management, DSD;
- (s) DAFC;
- (t) Chief Highway Engineer/New Territories East, Highways Department;
- (u) Controller, Government Flying Service;
- (v) Director-General of Civil Aviation
- (w) Commissioner of Police;
- (x) Director of Marine;
- (y) Chief Building Surveyor/New Territories East (1) & Licensing, Buildings Department;
- (z) Director-General of Communications;
- (aa) Chief Town Planner/Central Enforcement & Prosecution, PlanD;
- (bb) Chief Town Planner/Urban Design & Landscape, PlanD; and
- (cc) Chief Engineer/Cross-boundary Infrastructure & Development, PlanD.

7. Planning Department's Views

- 7.1. The supportive views of **R1 (part) to R5 (part)** are noted.
- 7.2. Based on the assessments in paragraph 5 above, PlanD does not support R1 (part) to R5 (part) and R6 to R52 and considers that the OZP should not be amended to meet the representations for the following reasons:

Conservation of Natural Environment and Habitats

- (a) “CPA”, “CA” and “GB” are all conservation-related zonings of different levels of control on land use and development. The designation of the conservation zonings on the draft OZP is considered appropriate from nature conservation perspective, with “CPA” zone for protecting the natural coastline with high landscape, scenic or ecological value, “CA” zone to preserve the Fung Shui woodlands of high ecological value, and “GB” zone to render protection of the common natural habitats and at the same time to reflect the existing site conditions in the Area (**R1 to R5 and R7 to R10**);
- (b) “CPA” zone is designated along the majority of the coastline. Only coastal areas with existing man-made features are excluded from the “CPA” zone (**R1, R3, R4 and R8**);
- (c) the “SSSI” zone has taken into account the boundary of the designated San Tau Beach SSSI, while a consistent approach has been adopted to delineate the Planning Scheme Area of the draft OZP with reference to the Planning Scheme Area of the draft DPA Plan, high water mark, boundaries of Country Parks, land status, etc. The distribution of seagrasses at San Tau Beach SSSI will be closely monitored by AFCD (**R1 to R8**);
- (d) on-site STS systems for village houses are required to comply with relevant standards and regulations to ensure no adverse impact on the environment (**R1 to R4 and R7**);

Agricultural Land and Designation of “GB” and “AGR” Zones

- (e) majority of the existing and abandoned agricultural land with potential for rehabilitation is zoned “AGR”, while some common natural habitats such as woodland and shrubland are zoned “GB”. ‘Agricultural Use’ is always permitted within “AGR” and “GB” zones. Genuine agricultural activities would not be hindered (**R9 to R12, R19, R36 to R46 and R48 to R52**);
- (f) in general, existing land uses including agricultural land, house lots and permitted burial ground in the Area would not be affected by the statutory planning control imposed on the OZP. No action is required to make the existing use of any land or building conform to the OZP (**R11, R19 and R46**);

Designation of “V” Zone

- (g) the boundaries of the “V” zones are drawn up having regard to the ‘VE’,

local topography, existing settlement pattern, outstanding SH applications and demand forecast. Areas of difficult terrain, potential natural terrain hazards, dense vegetation, conservation and ecological value are excluded. An incremental approach has been adopted for designating the “V” zone with an aim to consolidating SH development at suitable location in order to avoid undesirable disturbance to the natural environment and overtaxing the limited infrastructure in the Area (**R1 to R5, R8 to R13, R15, R19 to R25, R27, R28, R30 to R32 and R35**);

Planning Control on Private Land

- (h) according to the current SH Policy, the right to apply for or build a SH is a personal right enjoyed by the indigenous inhabitant himself, but not attached to the land that he owns. Planning controls on the use of land would not affect the indigenous inhabitant’s right to apply for or build a SH per se. On this basis, the imposition of planning controls of the OZP on one’s land would not engage Article 40 of the Basic Law (**R13, R18, R23, R33 and R34**);
- (i) the draft OZP would not affect any landowner’s right to transfer or assign his/her interest in land, nor would it leave the land concerned without any meaningful use or economically viable use as the land can be put to ‘always permitted uses’ and other uses as long as planning approval is obtained. It does not appear inconsistent with the protection of property rights under Article 6 or Article 105 of the Basic Law (**R47 to R52**);

Provision of Community Facilities and Infrastructures

- (j) suitable sites are zoned “G/IC” for provision of GIC facilities serving the needs of the local residents in the Area. The provision of community facilities and infrastructures, including transport and irrigation facilities, will be subject to review by relevant B/Ds as and when necessary (**R13 to R30, R33 and R34**);

Unauthorized Development

- (k) upon the gazettal of the draft DPA Plan, the Planning Authority is empowered to instigate enforcement action against unauthorized developments in the Area. Any suspected unauthorized development including filling of land/pond and excavation of land will be closely monitored and enforcement action will be taken as appropriate. The current definition of ‘EU’ is consistent with the rule against retroactivity in criminal law (**R1, R3, R5 and R8**); and

Development Proposal

- (l) the rezoning proposal to facilitate proposed eco-lodge development by the representer is considered premature to be taken on board at this stage as no concrete proposal nor relevant technical assessments are submitted. The current zonings for the concerned sites have taken into account relevant planning considerations and are considered appropriate (**R47**).

8. Decision Sought

- 8.1. The Board is invited to give consideration to the representations and comments taking into consideration the points raised in the hearing session, and decide whether to propose/not to propose any amendment to the Plan to meet/partially meet the representations.
- 8.2. Should the Board decide that no amendment should be made to the Plan to meet the representations, Members are also invited to agree that the Plan, together with its Notes and updated Explanatory Statement, are suitable for submission under section 8 of the Ordinance to the Chief Executive in Council for approval.

9. Attachments

Annex I	List of Representers and Commenters
Annex II	Email from the Chairman of Islands District Council dated 29.9.2021
Annex III	Summary of Representations and Comments and the Planning Department's Responses
Drawings H-1 & H-2	Drawings provided by R2
Drawing H-3	Drawing provided by R6
Drawing H-4	Drawing provided by R7
Drawing H-5	Drawing provided by R47
Plan H-1	Draft Sha Lo Wan and San Tau Outline Zoning Plan No. S/I-SLW/1 (reduced size)
Plan H-2	Location Plan
Plan H-3	Aerial Photo
Plans H-4a & H-4b	Proposed "SSSI" Zone in San Tau (R1 to R3 and R5 to R7)
Plans H-5a & H-5b	Proposed "GB(1)" or "CA" Zones in Sha Lo Wan (R2)
Plans H-6a & H-6b	Proposed "V" or "AGR" Zones in Sha Lo Wan and San Tau (R36 to R45 and R48 to R50)
Plans H-7a & H-7b	Proposed "OU(Eco-lodge)" Zone in Sha Lo Wan and San Tau (R47)

**PLANNING DEPARTMENT
MAY 2022**