

**APPLICATION FOR AMENDMENT OF PLAN**  
**UNDER SECTION 12A OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. Y/SK-CWBS/5**

<b><u>Applicant</u></b>	: Townland Consultants Limited
<b><u>Site</u></b>	: Government land at and adjoining Hiu Po Path (Part), Sheung Sze Wan, Clear Water Bay, Sai Kung, New Territories
<b><u>Site Area</u></b>	: About 1,390m <sup>2</sup>
<b><u>Land Status</u></b>	: Government Land
<b><u>Plans</u></b>	: Approved Clear Water Bay Peninsular South Outline Zoning Plan (OZP) No. S/SK-CWBS/2
<b><u>Zoning</u></b>	: “Village Type Development” (“V”)
<b><u>Proposed Amendment</u></b>	: To rezone the application site from “V” to “Coastal Protection Area” (“CPA”)

**1. The Proposal**

- 1.1 The applicant proposes to rezone the application site (the Site) (**Plan Z-1**) from “V” to “CPA” on the approved Clear Water Bay Peninsula South OZP No. S/SK-CWBS/2 (the OZP) on behalf of some residents of Sheung Sze Wan (SSW). According to the applicant, the intention of the proposed rezoning is to enable statutory planning protection for the ecologically important SSW Bay, where has been subject to proliferation of unmanaged and unregulated commercial activities such as kayaking and other water-based recreation, resulting in environmental and ecological degradation. The applicant also intends to curtail the worsening environmental damage and reinstate the overall natural integrity of SSW Bay in the long run.
- 1.2 The Site is formed and hard-paved and mainly occupied by an existing access road (i.e. Hiu Po Path) (**Plan Z-2**).
- 1.3 To support the proposed rezoning, the applicant has submitted an Ecological Appraisal Report (EcoAR) to demonstrate the ecological value and conservation importance of the SSW Bay by literature review and field surveys.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supporting planning statement (**Appendix I**) received on 4.1.2022
  - (b) Further Information (FI) received on 7.3.2022 (**Appendix Ia**)
- 1.5 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 1.4.2022 for consideration of the application has been rescheduled, and the Town Planning Board (the Board) has agreed to adjourn consideration of the application. The application is now scheduled for consideration by the Rural and New Town Planning Committee (the Committee) at this meeting.

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the supporting planning statement and the FI (**Appendices I and Ia**). They are summarised as follows:

### *Preservation of Coastal Environment*

- (a) there is a need to preserve the flora, fauna and natural character of the coastal environment. As identified in the EcoAR, SSW Bay is a rare habitat in both local and regional contexts as two rare seagrass species were recorded in SSW Bay in the field survey. By stipulating statutory control consistently on the coastline and establishing a general presumption against development under the proposed “CPA” zone, the rezoning application will help protect the sensitive natural ecology of SSW Bay. The proposal is in line with the protection of seagrass sites and the adjoining intertidal habitats in Hong Kong via designation of “CPA” zoning;
- (b) the existing “CPA” zone in SSW is broken into four separated sections interrupted by three areas zoned “V” including the Site (**Drawing Z-1**). The rezoning proposal will provide a continuous and comprehensive coastal protection for the area to echo with the planning intention of the “CPA” zones around SSW to give protection to the inter-tidal sands below the High Water Mark (HWM<sup>1</sup>) in the area, which is a territory-wide important habitat for seagrass and other species worthy of preservation;
- (c) portion of the Site was used to be part of the “CPA” zone on the former Adopted Clear Water Bay Peninsula North Outline Development Plan No. D/SK-CWBN/1A prior to 2002, demonstrating that the area indeed had significant conservation value. However, the Site was rezoned to “V” on the Development Permission Area (DPA) Plan No. DPA/SK-CWBS/1 in 2002 despite objections from some residents on grounds of environmental destruction. The concerns of the residents have become a reality due to the lack of planning protection under the existing “V” zoning;

---

<sup>1</sup> HWM, which is defined as 2.3m above Hong Kong Principal Datum, is an indication of land area generally not covered by seawater. It does not imply that seawater would not reach beyond HWM.

*“V” Zoning is Inappropriate*

- (d) the Site is not suitable for village development as it is a narrow coastal strip within the HWM<sup>2</sup> and a substantial portion of the Site is outside the ‘village environ’ (‘VE’) (**Plan Z-2**). The Site is unlikely to meet the building and servicing requirements of village house. However, the current “V” zone has encouraged non-compliant businesses, dumping of building materials and unauthorized works in the absence of statutory approval. This has threatened the HWM and inter-tidal sands of SSW Bay and expedited the propensity of landforms along the coastal areas to erode, resulting in cumulative and irreversible impacts on the intertidal and subtidal habitat complex of SSW Bay which is of moderate to high ecological value. The existing “V” zone is inadequate to safeguard the protection of seagrass and the inter-tidal habitat in SSW Bay;

*A Natural Buffer is Required*

- (e) there is a need for a natural buffer between the HWM, inter-tidal sands and village development. A protection-oriented and conservation-led continuous buffer along the SSW waterfront will be able to help protecting the HWM and inter-tidal sands from encroachment and further deterioration. Cumulative erosion of the “CPA” zones in SSW could be avoided. It is clear that the existing protection measure in a form of incomplete “CPA” zones interrupted by a “V” zone fails to protect the natural coastline but has rather encouraged activities causing adverse impacts on the area;

*Meeting the Principles of the “CPA” Zone*

- (f) the “CPA” zoning should not only cover natural coastlines if the zone can help protect sensitive coastal natural environment. The proposed “CPA” zone at the Site can help reinstate and preserve the ecological attributes of SSW by recognising its overall natural integrity and providing protection against damaging uses. The seagrasses can recover and survive very well if the human disturbances in SSW and its vicinity could be avoided and/or controlled. Rezoning of the Site to “CPA”, coupled with the existing “CPA” zones in the area, can offer better protection for the seagrasses and the intertidal habitat in SSW Bay. While the proposed “CPA” zone cannot be an entire solution to the existing problems, it can be taken as one of the necessary actions to regulate unauthorized uses and to promote coastal protection in the area; and

*Consistent with the Government’s Environmental Policies*

- (g) the Government has taken a proactive stance in environmental and ecological protection. One of the guiding principles of the Hong Kong 2030+: Towards a Planning Vision and Strategy Transcending 2030 is the proactive management of selected area of high ecological value. Chapter 10 of the Hong Kong Planning Standards and Guidelines (HKPSG) emphasises the importance of conservation of natural landscape and habitats to preserve the key components of biodiversity and maintain the associated ecosystem services. The Hong Kong Biodiversity Strategy and Action Plan also highlights that land use planning controls should be deployed

---

<sup>2</sup> The Site is mainly located to the immediate west of HWM as shown on **Plan Z-2**.

to protect ecologically important habitats from being adversely impacted by incompatible development. SSW, which is predominantly surrounded by a number of conservation and country park areas, is a protected area in Hong Kong.

### **3. Compliance with the “Owner’s Consent/Notification” Requirements**

The Site falls within government land only. The “owner’s consent/notification” requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) are not applicable to the application.

### **4. Background**

#### *Zoning Background of the Site*

- 4.1 The Site was first incorporated and designated as “CPA” on the Clear Water Bay Peninsula North Outline Development Plan (ODP) No. D/SK-CWBN/1A adopted on 9.6.1987. Subsequently, a review on the ODP boundary was conducted and the Clear Water Bay Peninsula North ODP No. D/SK-CWBN/1A (the obsolete ODP) was superseded by the Clear Water Bay Peninsula North ODP No. D/SK-CWBN/2 and the Clear Water Bay Peninsula South ODP No. D/SK-CWBS/1 adopted on 22.4.2002 and 16.8.2002 respectively. The Site fell within the Clear Water Bay Peninsula South ODP No. D/SK-CWBS/1. At the same time, the draft Clear Water Bay Peninsula South Development Permission Area Plan No. DPA/SK-CWBS/1 (the draft DPA Plan) was prepared and gazetted on 26.7.2002. According to the freezing survey on the land use conducted in 2002 and the aerial photo of 2002 (**Plan Z-3a**), the Site was formed and used as a village access. The Site was then designated as “V” zone on both the draft DPA Plan and the Clear Water Bay Peninsula South ODP No. D/SK-CWBS/1.
- 4.2 During the two-month exhibition period of the draft DPA Plan, objections against the “V” zone at an area covering the Site and its adjoining area (the objection site) were received. The objectors proposed to rezone the objection site from “V” to “CPA” (**Plan Z-3a**). The objections were considered by the Objection Hearing Committee (OHC) of the Board on 15.11.2002 and 17.2.2003 but the OHC did not propose any amendment to meet the objections and the reasons were:
- (a) the objection site formed part of the “V” zone for SSW village. It comprised mainly Hiu Po Path which served as a village access, some village houses and private gardens. The “V” zoning of the objection site was appropriate to reflect the present uses on the site;
  - (b) the objection site had been developed. There was no natural and unspoiled coastal feature or habitat within it to warrant protection by the “CPA” zoning. There was no strong justification for the proposed rezoning to “CPA”; and
  - (c) no significant additional development was envisaged on the objection site and the existing Hiu Po Path could define the limit of development and

provide a buffer from the HWM and inter-tidal sands. There was no strong justification to rezone the objection site to “CPA”.

Details of the grounds of objections and the responses to the objections are summarised in **Appendix II**.

- 4.3 In the preparation of OZP to replace the DPA Plan, the Site was zoned “V” on the first draft Clear Water Bay Peninsula South OZP No. S/SK-CWBS/1 which was gazetted on 22.7.2005. No objection relating to the Site was received during the public inspection period. The “V” zoning and physical condition of the Site have remained unchanged since then.

#### *Kayak Rental and Water-based Recreation Activities in SSW*

- 4.4 There has been an increase in kayak rental and water-based recreation activities in areas falling within the “V” and “CPA” zones in SSW in recent years. This has aroused grave concerns about the growing conflicts between the increasing activities and the living of other residents in the neighbourhood, and the potential impact which these activities may have created on the local environment. In August 2021, a number of complaints were received by government departments. Since then, a joint-departmental effort has been made to closely monitor the situation.
- 4.5 Enforcement actions against unauthorized developments and erection of unauthorized structures had been taken by relevant government departments. The Planning Authority issued Enforcement Notices (ENs) and Reinstatement Notices (RNs) in 2016, 2020 and 2021 requiring the discontinuance of some unauthorized developments on private lots near the Site, including filling of land (E/SK-CWBS/3 & 8), uses for eating place and/or shop and services (E/SK-CWBS/9 & 13), and storage (E/SK-CWBS/14) (**Plan Z-2**). Unauthorized developments have been discontinued and/or the sites concerned have been reinstated with Compliance Notices issued in 2017, 2021 and 2022. The Lands Department (LandsD) had also taken lease enforcement against erection of unauthorized structures near the Site in 2020 and 2021, including removal and demolition works for two concrete ramps on government land and issuance of a warning letter requiring the owner of Lot No. 124 to demolish unauthorized structures (**Plan Z-2**). The structures were subsequently demolished.

#### *Land Available within the “V” Zone*

- 4.6 Based on the latest estimate by the Planning Department, about 2.12 ha of land (equivalent to 84 Small House sites) are available within the “V” zones in SSW village. Since no Small House development would be allowed within the buffer area between the existing Small House developments and the HWM, the Site has not been included in the land availability estimation.

## **5. Previous Application**

There is no previous s.12A nor s.16 planning application at the Site.

**6. Similar Rezoning Application**

There is no similar application within the OZP.

**7. The Site and Its Surrounding Areas (Plans Z-1, Z-2, aerial photo on Plan Z-3b and site photos on Plans Z-4a and Z-4b)**

7.1 The Site is:

- (a) located at the eastern fringe of SSW;
- (b) formed and hard-paved and partly within the 'VE' of SSW village (44%); and
- (c) mainly used as access road in SSW village, forming part of Hiu Po Path connecting to SSW Road. A small portion of the Site overlaps with areas covered with Short Term Tenancy (STT) for private gardens.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate northeast and south along the coastline of SSW Bay are areas zoned "CPA";
- (b) to its immediate east is the sea area of SSW Bay; and
- (c) to its north and west are the village cluster of SSW. To its further south is the village cluster of Siu Hang Hau.

**8. Planning Intention**

- 8.1 The planning intention of the "V" zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses 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. Other commercial, community and recreational uses maybe permitted on application to the Board.
- 8.2 According to the ES of the OZP for the "V" zone, in order to protect the natural coastline along the "V" zone in SSW, special attention should be paid in the planning and allocation of Small Houses to ensure that adequate buffer would be preserved between the Small House developments and the HWM. No Small House development should be allowed within the buffer area.

- 8.3 The planning intention of the “CPA” zone 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 “CPA” 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.

## **9. Comments from Relevant Government Departments**

- 9.1 The following government departments have been consulted and their views on the application are summarised as follows:

### **Land Administration**

- 9.1.1 Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) no comment on the application;

#### **Land Status**

- (b) the Site is mainly located on unallocated and unleased government land with a small portion overlapping with STT SX4265 which was for private garden including vehicle parking purposes and STT SX 5200 for private garden excluding vehicle parking purposes;

#### **‘VE’**

- (c) the Site falls partly within the ‘VE’ of SSW Clear Water Bay, which is a recognised village under the New Territories Small House Policy;

#### **Small House Demand**

- (d) the Indigenous Inhabitant Representative (IIR) of SSW had been requested to provide a 10-year forecast for Small House demand at SSW for 2022 onwards, but no response was received. As last advised by the IIR of SSW as at 19.12.2016, the 10-year Small House demand forecast for the village was 105. The figure has not been verified by his office;
- (e) the number of outstanding Small House applications in SSW is 24 (including six applications on private land and 18 applications on government land);

- (f) the numbers of Small Houses executed in SSW and Siu Hang Hau Villages from 2002 to 2020 are 28 and 63 respectively;

Buffer Distance for Small House Development from HWM

- (g) according to Appendix D of Environmental Protection Department Practice Note for Professional Persons (ProPECC Practice Note) No. 5/93 for Small House development with proposed septic tank and soakaway design, the minimum clearance requirements for the soakaway system should be at least 30 metres away from HWM of beach; and

Lease Enforcement Actions

- (h) his office had taken lease enforcement against the erection of unauthorized structures, including removal and demolition works for two concrete ramps on government land in 2021 and issuance of a warning letter to the registered owners of Lot No. 124 in D.D. 230 near the Site in December 2020 requiring for demolition of unauthorized structures (**Plan Z-2**). The structures were subsequently demolished in early August 2021.

Nature Conservation

9.1.2 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) the EcoAR submitted by the applicant intends to highlight the ecological importance of the intertidal habitats of SSW particularly the seagrasses to justify the proposed rezoning;
- (b) it is noted from the EcoAR that direct ecological impact is anticipated due to the kayaking activities (i.e. placing of kayaks). Nevertheless, the concerned activities are mainly located in an area which falls outside the boundary of the approved Clear Water Bay Peninsula South OZP. The Site is currently an existing road for accessibility without covering the concerned area. It is unclear how the rezoning of the Site could contribute to reduction of human disturbance and conservation to the intertidal habitat in SSW;
- (c) according to the EcoAR, two species of seagrass have been recorded in the intertidal zone of SSW. As seagrass is uncommon/rare in Hong Kong, the ecological value of the intertidal zone of SSW is moderate. As the Site is an existing road adjoining some village developments, the ecological value is low;
- (d) the Hong Kong Biodiversity Strategy and Action Plan provides a



broad framework for the conservation of biodiversity from different perspectives, including the planning perspective. However, each planning application should be considered on its own merit;

- (e) according to Appendix A, Annex 16 of the Environmental Impact Assessment Ordinance (EIAO)-Technical Memorandum, ecological assessment should be required for designated projects that encroach or affect important habitats such as seagrass beds. However, whether the commercial businesses and works in SSW constitute designated projects under the EIAO would depend on the nature and scope of individual projects; and
- (f) the proposed rezoning of a land area to “CPA” is under the purview of the Town Planning Ordinance. The proposal has no implication relating to the Marine Parks and Marine Reserves Regulation (Cap. 476A).

### **Environment**

#### 9.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) no adverse comment on the rezoning application from environmental planning perspective;
- (b) pursuant to Schedule 2 of EIAO, certain projects, such as reclamation works, dredging operation, drainage channel, river training and diversion works, etc., located close to coastal protection area are classified as Designated Projects requiring environmental permits for the construction and operation. It is noted that the Site is adjacent to other existing coastal protection areas; and
- (c) the Site was not the subject of any substantiated environmental complaint in the past three years.

### **Traffic**

#### 9.1.4 Comments of the Commissioner for Transport (C for T):

- (a) SSW Road and Hiu Po Path are classified as Feeder Roads under Rural Road Types in accordance with relevant design guidelines;
- (b) from road characteristics perspective, the first 600m of SSW Road connecting to Clear Water Bay Road is a single two-lane carriageway (**Plan Z-1**). The remaining portions of SSW Road and Hiu Po Path are primarily single track access roads (**Plan Z-2**). As a local village access, the single track access road generally allows low vehicular and pedestrian flow. With adequate passing places, the 2-way flows of these roads could achieve 100 vehicles per hour. However, the capacity is not

prescriptive and depends on the actual road configuration; and

- (c) while the description of SSW Road and Hiu Po Path in paragraphs 3.4.1 to 3.4.5 of the planning statement is generally in order, the trip generation due to additional Small Houses and visitors are not estimated based on relevant design guidelines. Therefore, he has reservation on the anticipated trip numbers stated by the applicant due to the lack of a traffic survey.

9.1.5 Comments of the Commissioner of Police (C of P):

the area has seen a proliferation of unregulated recreational activities in recent years, principally water-based ones, notably kayaking, which has attracted a very significant increase in the number of visitors to the village. This in turn has resulted in a substantial increase in the number of vehicles driving to SSW, resulting in complaints from residents of illegal parking, obstruction and dangers to pedestrians. There was a dramatic increase in traffic complaints and enforcement actions taken by the Police at the village in 2021 when compared with previous years. The possibility that emergency vehicles having access to the village being obstructed by illegally parked vehicles also cannot be discounted, in addition to the other traffic-related problems caused by the large increase in the number of visitors. C of P therefore strongly supports the rezoning application.

**Water Supply**

9.1.6 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD):

- (a) no objection to the application; and
- (b) there are existing water mains in close proximity to the Site. Should the water mains be affected, the applicant is required to either divert or protect the water mains as appropriate.

**District Officer's Comments**

9.1.7 Comments of the District Officer (Sai Kung), Home Affairs Department (DO(SK), HAD):

- (a) no comment on the application;
- (b) the Sai Kung District Office (SKDO) is aware that there have been growing conflicts between the increasing kayak rental activities and the living of other residents in the neighbourhood of SSW;
- (c) since the COVID-19 pandemic, more kayak rental activities are taking place in the villages in SSW and reportedly created impacts on the local environment. In 2021, his office received

about 20 complaints from the general public on various issues including suspected illegally established commercial entities, unauthorized developments, environmental pollution, traffic concerns, care for marine ecology, refuse collection, sea safety concerns and crime reports; and

- (d) while the regulation of kayak rental business is not under the purview of SKDO nor HAD, SKDO has referred the complaints to relevant government bureaux/departments (B/Ds) including the Hong Kong Police Force, Marine Department, Transport Department, Food and Environmental Hygiene Department, Planning Department, LandsD, Agriculture, Fisheries and Conservation Department, Drainage Services Department, Environmental Protection Department and WSD. SKDO has also coordinated joint-departmental efforts and understood that appropriate enforcement actions such as land control actions, site surveys and inspection and traffic enforcement have already been taken. In addition, SKDO has engaged different stakeholders to enhance mutual communication with a view to resolving the local conflicts that may arise from time to time. His office stands ready to continue working closely with relevant B/Ds and coordinate joint-departmental efforts as and when needed to address issues that remain ongoing.

9.2 The following government departments have no objection to or no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Chief Engineer (Works), HAD;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (d) Chief Building Surveyor/New Territories East (1) & Licensing, Buildings Department;
- (e) Chief Engineer/Mainland South, Drainage Services Department;
- (f) Director of Fire Services;
- (g) Director of Food and Environmental Hygiene;
- (h) Director of Leisure and Cultural Services;
- (i) Director of Marine; and
- (j) Hong Kong Police Force (Marine East Division).

## **10. Public Comments Received During Statutory Publication Period**

10.1 During the statutory public inspection period, a total of 117 comments, including 70 supporting and 47 opposing comments were received (**Appendix III**).

10.2 The 70 supporting comments were submitted by individuals. The major supporting views are summarised as follows:

- (a) the growth of unregulated commercial activities (most notably the kayak rental businesses) in the area have caused a variety of problems, including

waste, sewage, traffic congestion, illegal parking, nuisance to nearby residents and safety risks associated with kayaking activities;

- (b) the rezoning proposal will enable a continuous “CPA” zone to protect the natural coastline and rare seagrass species from human disturbances. It is a timely response to the environmental damages caused by the unregulated commercial activities and uncoordinated works in the area; and
- (c) the proposed “CPA” zone will provide a clearer buffer between the existing village houses and the inter-tidal sands, thereby protecting the nearby developments from storm surge.

10.3 The 47 opposing comments (including two petitions signed by 38 individuals and 34 Village Representatives of villages in Hang Hau respectively, as well as eight standard letters in two formats) were submitted by four Legislative Council Members, the Hang Hau Rural Committee, SSW Village Affairs Committee and individuals. The major objection grounds are summarised as follows:

- (a) the Site is zoned “V” on the OZP after due consideration and consultation by the Board;
- (b) the coastal area in SSW has been used by nearby villagers for fishing, docking of fishing boats, swimming and other recreational activities, all of which can be traced back to the indigenous inhabitants’ way of life with a history of over 300 years. Furthermore, the Site is used by local villagers for daily access, car parking as well as transportation and storage of construction materials for village house renovation. If the Site is rezoned to “CPA”, all aquatic and coastal recreational activities (except permitted scientific research activities) in the area will be prohibited under the Marine Parks and Marine Reserves Regulation, and the existing public facilities and transport services may also be abolished. Such changes will greatly disturb the daily life of the local residents, force the villagers to relocate, and affect the traditional rights and interests of the indigenous inhabitants which are protected under the Basic Law;
- (c) the rezoning proposal is contrary to the Government’s efforts to increase land supply for development; and
- (d) the rezoning proposal will not achieve its intended effects since the unregulated commercial activities will persist even if the rezoning application is approved. Instead, a coordinated effort from the Government is required to tackle the suspected unauthorized activities in the area.

## **11. Planning Considerations and Assessments**

### ***The Proposal***

11.1 The application is to rezone the Site from “V” to “CPA” with an intention to enable statutory planning protection for the ecologically important SSW Bay to address the environmental and ecological degradation due to non-compliant businesses and

unauthorized works. The Site is formed and hard-paved and mainly served as an existing access road (i.e. Hiu Po Path) to the coastal area of SSW.

Planning Intention

- 11.2 The planning intention of the “V” zone is primarily to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. For the concerned “V” zone, in considering the planning and allocation of Small Houses, adequate buffer would be preserved from the HWM and no Small House development should be allowed within the buffer area.
- 11.3 On the other hand, the planning intention of the “CPA” zone is 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.
- 11.4 The Site, which has been formed since the 1990s, forms part of the existing village type developments of the recognised village of SSW. The majority of the Site has all along been used as an access road supporting the SSW village area and served as a communal area in SSW waterfront.
- 11.5 Although the Site was once zoned “CPA” on the obsolete ODP, it has subsequently been rezoned to “V” on the draft DPA Plan and the Clear Water Bay Peninsula South ODP No. D/SK-CWBS/1 in 2002 taking into consideration that the Site was formed and used as a village access which formed part and parcel of the village area (**Plan Z-3a**). The issue of whether the Site and its adjoining area should be rezoned to “CPA” was thoroughly discussed in the consideration of the objections in respect of the draft DPA Plan in 2002 and 2003. The OHC of the Board did not propose any amendment to meet the objections proposing to rezone the Site from “V” to “CPA” on the grounds that the objection site formed part of the “V” zone for SSW village and it was appropriate to reflect the present uses; the objection site had been developed and there was no natural coastal feature or habitat to warrant protection by the “CPA” zoning; and no additional development was envisaged on the objection site and Hiu Po Path could define the limit of development and provide a buffer from the HWM and inter-tidal sands. Besides, to address the concern of the objectors, it was incorporated in the ES of the DPA Plan that in order to protect the natural coastline along the “V” zone in SSW, special attention should be paid in the planning and allocation of Small Houses in the “V” zone to ensure that adequate buffer would be preserved between the Small House developments and the HWM. No Small House development should be allowed within the buffer area (i.e. including the Site). This intention as stated in the ES of the OZP for the concerned “V” zone is still valid.
- 11.6 Besides, DLO/SK advises that according to ProPECC Practice Note No. 5/93 for Small House development, the proposed soakaway system for septic tank should be at least 30 metres away from the HWM of the beach. As the Site falls entirely within government land, there is sufficient control to prohibit development that would adversely affect the natural coastline of SSW. Given that there has been no major change in the condition and use of the Site since the decision of the OHC of the Board in 2003 (**Plans Z-3a and Z-3b**), there is no strong justification to change

the “V” zoning of the Site. The existing “V” zone is considered appropriate to reflect the present uses at the Site.

Ecological Aspect

- 11.7 The applicant has submitted an EcoAR in support of the application. DAFC advises that while two species of seagrass have been recorded in the intertidal zone of SSW according to the EcoAR and the ecological value of the intertidal zone of SSW is moderate, the ecological value of the Site is low given that it is an existing road adjoining some village developments. As the concerned kayaking activities are mainly located in an area falling outside the boundary of the OZP, it is unclear how the proposed rezoning of the Site can effectively contribute to the reduction of human disturbance and conservation of the intertidal habitat in SSW. As such, the applicant fails to provide strong justifications on the need to rezone the Site from “V” to “CPA”.

Commercial/Recreation Activities

- 11.8 The applicant indicates that there are non-compliant businesses and unauthorized works recorded in SSW, and the existing “V” zone at the Site is inadequate to safeguard the protection for the seagrass and the inter-tidal habitat in SSW. Regarding the kayak rental activities and the unauthorized works taking place in SSW, the Planning Authority had issued ENs and RNs requiring the discontinuance of some unauthorized developments and filling of land and/or reinstatement works on the concerned land lots near the Site. LandsD had also taken lease enforcement against erection of unauthorized structures on both government land and private lots. The situation of the area will be closely monitored by relevant government departments and further enforcement actions will be taken where appropriate. Given that there are existing mechanisms to control the non-compliant businesses and unauthorized works, rezoning of the Site to “CPA” is considered not justified.
- 11.9 With respect to the applicant’s concerns on the increase in traffic flow, illegal parking and other environmental nuisances caused by the unregulated recreation activities, as well as C of P’s support for the application due to similar traffic concerns, it should be noted that these issues could not be addressed by the rezoning proposal. There are established mechanisms to tackle unregulated activities, illegal parking and environmental pollution by relevant government departments as appropriate. Enforcement actions against such activities in the SSW area, if any, shall be taken continuously according to the relevant regulations and established practices. Approval of the rezoning application would not be an appropriate and effective way to regulate the concerned activities.
- 11.10 Other concerned departments have no objection to or no comment on the application.

Public Views

- 11.11 Regarding the public comments received, the departmental comments in paragraph 9 above and the planning assessments in paragraphs 11.1 to 11.9 above are relevant.

**12. Planning Department's Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department does not support the application for the following reason:

the applicant fails to provide strong justifications in the submission to support the rezoning proposal. The current "Village Type Development" zone for the application site is considered appropriate and should be retained.

- 12.2 Alternatively, should the Committee decide to agree/partially agree to the application, Planning Department would work out the proposed amendments to the OZP for the Committee's agreement prior to gazetting under the Town Planning Ordinance.

**13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to agree, partially agree, or not to agree to the application.
- 13.2 Should the Committee decide not to agree to the application, Members are invited to advise what reason(s) for the decision should be given to the applicant.

**14. Attachments**

<b>Appendix I</b>	Application form with supplementary information received on 4.1.2022
<b>Appendix Ia</b>	Further Information received on 7.3.2022
<b>Appendix II</b>	Details of the Objections and Responses to the Objections regarding the Draft Clear Water Bay Peninsula South Development Permission Area Plan No. DPA/SK-CWBS/1
<b>Appendix III</b>	Public Comments
<b>Drawing Z-1</b>	Location Plan submitted by the applicant
<b>Plan Z-1</b>	Location Plan
<b>Plan Z-2</b>	Site Plan
<b>Plans Z-3a and 3b</b>	Aerial Photos
<b>Plans Z-4a and Z-4b</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2022**