

TOWN PLANNING BOARD

TPB Paper No. 10823

**For Consideration by
the Town Planning Board on 6.6.2022**

THE DRAFT SHAM WAT AND SAN SHEK WAN OUTLINE ZONING PLAN NO. S/I-SW/1

**CONSIDERATION OF REPRESENTATIONS NO. TPB/R/S/I-SW/1-R1 TO R17
AND COMMENTS NO. TPB/R/S/I-SW/1-C1 TO C4**

DRAFT SHAM WAT AND SAN SHEK WAN OUTLINE ZONING PLAN NO. S/I-SW/1

**CONSIDERATION OF REPRESENTATIONS NO. TPB/R/S/I-SW/1-R1 TO R17
AND COMMENTS NO. TPB/R/S/I-SW/1-C1 TO C4**

Subject of Representation	Representers (No. TPB/R/S/I-SW/1-) Total: 17	Commenters (No. TPB/R/S/I-SW/1-) Total: 4
<i>Supportive Representations / Representations Providing Views</i>		
<p><u>Support</u> the planning intention and conservation approach of the draft Sham Wat and San Shek Wan Outline Zoning Plan (the OZP); and/or <u>provide views</u> regarding protection of habitats by conservation zonings</p>	<p><u>Total: 9</u></p> <p><i>Green/Concern Groups (6)</i> R1: Hong Kong Bird Watching Society R2: The Conservancy Association R3: Designing Hong Kong Limited R4: Green Power R5: Kadoorie Farm and Botanic Garden R6: World Wide Fund for Nature Hong Kong</p> <p><i>Individual (1)</i> R7</p>	<p><u>Total: 4</u></p> <p><i>Green/Concern Groups (2)</i> C1: Designing Hong Kong Limited (also R3) supports R1, R2, R4 and R6</p> <p>C2: The Conservancy Association (also R2) supports R1 and R3 to R6</p> <p><i>Individual (2)</i> C3 (also R7) provides further comments C4 supports R1 to R4 and provides views on the exemption clause for conservation-related zones</p>
<p><u>Provide views</u> on general land uses and provision of local facilities</p>	<p><i>Individuals (2)</i> R10 and R15</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: 8</u></p> <p><i>Islands District Council (IsDC) (1)</i> R8: 離島區議會主席余漢坤</p> <p><i>Rural Committee/ Local Residents’ Organisation (2)</i> R9: 大澳鄉事委員會 (Tai O Rural Committee</p>	

Subject of Representation	Representers (No. TPB/R/S/I-SW/1-)	Commenters (No. TPB/R/S/I-SW/1-)
	(TORC)) R11: Sham Shek Resident Representative <u>Individuals (3)</u> R12 to R14 <u>Companies (2)</u> R16 and R17	

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-SW_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 Sham Wat and San Shek Wan Outline Zoning Plan (OZP) No. S/I-SW/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, 17 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 of the Plan 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 Sham Wat and San Shek Wan area (the Area) was designated as a Development Permission Area (DPA) and covered by the draft Sham Wat and San Shek Wan DPA Plan No. DPA/I-SW/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 168 representations were received. Amongst them, 12 representations supported, 40 representations opposed and 116 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 Sham Wat and San Shek Wan OZP No. S/I-SW/C (TPB Paper No. 10715) and agreed that the draft OZP was suitable for consultation with IsDC and TORC.
- 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. 10753), agreed that the draft Sham Wat and San Shek Wan OZP No. S/I-SW/E and its Notes were suitable for exhibition for public inspection under section 5 of the Ordinance. On 27.8.2021, the draft Sham Wat and San Shek Wan OZP No. S/I-SW/1 was exhibited for public inspection under section 5 of the Ordinance.
- 2.5 The draft Sham Wat and San Shek Wan DPA Plan No. DPA/I-SW/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-SW/E, TORC and IsDC was consulted at its meeting on 1.4.2021 and by circulation of paper on 30.6.2021 respectively. In response to the request from Resident Representative of Sham Shek, separate meeting was held on 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. 10753 for the Board's consideration.
- 3.2 Upon gazettal of the draft Sham Wat and San Shek Wan OZP No. S/I-SW/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, including two small pieces of land to the west of San Chau along the coastline and covering a total area of about 179.59 ha, is located on the north-western part of Lantau Island, fronting the Hong Kong-

Zhuhai-Macao Bridge Hong Kong Link Road. The Area consists of hilly terrains along foothills of Nei Lak Shan to the east and Cheung Shan to the southwest. It is embraced by Lantau North and Lantau North (Extension) Country Parks to its south and the sea to the north. Only Sham Wat is accessible by vehicles via Sham Wat Road leading from Keung Shan Road, South Lantau Road and Tung Chung Road, while most parts of the Area are accessible only by footpaths.

- 4.1.2 The Area forms an integral part of the natural woodlands system in the adjoining country parks with a wide spectrum of natural habitats supporting a high diversity of wild fauna and flora and are worth conserving. In particular, San Chau Site of Special Scientific Interest (SSSI) designated in 1999 harbours the largest known population of *Rhododendron championiae* (毛葉杜鵑) in Hong Kong, in which the species is considered as one of the rarest native rhododendrons in Hong Kong.
- 4.1.3 Ngong Sham Stream, a portion of which is an Ecologically Important Stream (EIS), is characterised by its high diversity of freshwater and brackish fish and herpetofauna. 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. The coastal area, in particular Sham Wat Wan, contains marshes, mangroves, mudflats, seagrass bed and various types of coastal plants. Horseshoe Crab could be found in Sham Wat Wan and along the coast near San Chau.
- 4.1.4 The Area is characterised by a rural countryside ambience with village settlements located mainly in Sham Wat, Nam Tin, Sham Shek Tsuen and San Shek Wan, which are currently occupied by a few villagers. There are two recognized villages within the Area, namely Sham Wat and San Shek Wan sited along the footpath. 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. There are two religious institutions including Sam Shan Kwok Wong Temple (三山國王廟) in San Shek Wan and Shing Kok Ha Yuen (勝覺下苑) near Sham Shek Tsuen. Active and abandoned farmland and some vacant farmhouses are found in Sham Wat, Sham Shek Tsuen and San Shek Wan. Sham Wat is accessible by vehicles via Sham Wat Road while there is no vehicular access to San Shek Wan. There is no significant economic activity in the Area. Major commercial activities include some local provision stores in Sham Wat 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, or by boat via the local pier in San Shek Wan and the jetty in Sham Wat.

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 Sham Wat and Shan Shek Wan.

- 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 0.62 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 0.08 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, organizations providing social services to meet community needs, and other institutional establishments.
- 4.3.3 The “Other Specified Uses” annotated “Pier” zone (about 0.03 ha) is intended to designate land for pier and jetty to facilitate marine access to Sham Wat and San Shek Wan areas.
- 4.3.4 The “Agriculture” (“AGR”) zone (about 4.17 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.
- 4.3.5 The “Green Belt” (“GB”) zone (about 142.16 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.

- 4.3.6 The “Conservation Area” (“CA”) zone (about 19.85 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 EIS 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.
- 4.3.7 The “Coastal Protection Area” (“CPA”) zone (about 5.24 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.
- 4.3.8 The “SSSI” zone (about 6.52 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 17 representations were received, including nine representations supporting the draft OZP and/or providing views on conservation/development issues (**R1 to R7, R10 and R15**) and eight representations opposing the draft OZP (**R8, R9, R11 to R14, R16 and R17**).
- 5.1.2 Seven representations supporting the draft OZP and/or providing views are submitted by green/concern groups (**R1 to R6**) and an individual (**R7**). They generally support the draft OZP and its planning intention and conservation approach to enable planning control in the Area. They also provides views on promoting higher level of conservation for some

habitats and preventing excessive village development.

5.1.3 Two representations providing views are submitted by individuals (**R10 and R15**). **R10** provides views on general land uses, while **R15** expresses view on provision of road access.

5.1.4 Amongst the eight adverse representations, three are submitted by the Chairman of IsDC (**R8**), TORC (**R9**) and Resident Representative of Sham Shek (**R11**) mainly opposing the insufficient extent of “V” zone for meeting the SH demand and designation of private agricultural land with “GB” zone. Three individuals (**R12 to R14**) oppose the draft OZP mainly on grounds of insufficient transport facilities and infrastructure in the Area. Two companies (**R16 and R17**) oppose the current zonings of two areas in San Shek Wan with rezoning proposals.

5.1.5 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 to 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 R4
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 to R4, R6, R7
(2) “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	R1, R7

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.	
(3) 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 is allowed. NTEH should be precluded as Column 1 or 2 uses in zones with good quality agricultural land or woodlands.	R1, R4
(4) Inter-tidal zones of Sham Wat should be covered by the draft OZP and zoned “CPA”.	R3
(5) The septic tank and soakaway (STS) systems commonly used by villages would pollute the environment and pose health hazards to the villagers.	R1, R4, R6
(6) Closed Road System should be maintained with strict vehicular access control to Sham Wat in accordance with the “Development in the North; Conservation for the South” strategy for Lantau.	R4
(7) No further changes to the draft OZP that would potentially cause adverse environmental effects should be made.	R5
<u>Proposal</u>	
(8) The coastline near lamp pole VA5080 at San Shek Wan should be zoned “CPA” (Drawing H-1, and Plans H-4a and H-4b).	R2
Responses	
(a) In response to (1) above, “SSSI”, “CPA”, “CA” 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 San Chau SSSI. “CPA” zone is for protecting the natural coastline with high landscape, scenic or ecological value. “CA” zone is used for covering the EIS portion of Ngong Sham Stream and its riparian area. For other common natural habitats 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. In Sham Wat, a portion of Ngong Sham Stream is an EIS (known as Sham Wat EIS). “CPA” zone is designated along the majority of the coastline with a view to conserving, protecting and retaining the natural coastline and the sensitive coastal natural environment. Only coastal areas with existing man-made features such as the pier at San Shek Wan, the jetty at Sham Wat as well as the concrete platform with	

vegetation cover near Sai Tso Wan are excluded from the “CPA” zone and designated with the 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) 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 administrated 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.
- (c) In response to (3) 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.
- (d) In response to (4) above, a consistent approach has been adopted to delineate the Planning Scheme Area of the draft OZP with reference to Planning Scheme Area of the draft DPA Plan, high water mark, boundaries of Country Parks, land status, etc. Certain portions of inter-tidal zones of Sham Wat within the high water mark have been included within the boundary of the OZP. The portion beyond the OZP boundary is under Government’s control and any activities and/or developments not complying with existing provisions and regulations will be subject to enforcement and prosecution by relevant authorities as appropriate.
- (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 STS 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 (6) above, as advised by the Commissioner for Transport (C for T), given the Government's designation of South Lantau as a nature conservation area, the roads on South Lantau have been designated as 24-hour closed roads in order to control the number of vehicles entering South Lantau since the 1970s. All along, the Transport Department (TD) approves and issues Lantau Closed Road Permits (LCRPs) having regard to the genuine needs of the applicants to enter the closed roads and in accordance with the established policy. To uphold the principle of approving LCRP applications based on the genuine needs of applicants, TD has implemented the revised arrangements for the issuance of LCRPs with effect from 1.1.2022. In addition to the tightening measures on new applications of long-term LCRP and the cancellation of renewal arrangement of temporary LCRP, an additional condition would be imposed on LCRP to restrict/specify the routing of construction vehicles on South Lantau as appropriate to tighten the control of construction vehicles. TD will continue to closely monitor the situation after the implementation of tightening measures for issuance of LCRPs.
- (g) In response to (7) above, no further amendment to the draft OZP is proposed for the Board's consideration.
- (h) In response to (8) above, response (a) above regarding the designation of "CPA" zone is relevant. Since the concerned area comprises mainly a footpath with sparse vegetation and vacant building(s), the designation of "GB" zone covering this area together with the adjoining woodland 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 "V" zones based on genuine SH demand. "V" zones should be restricted to the existing village clusters only.	R1, R4, R7
(2) The existing agricultural land and house lots should be retained.	R10
(3) More land should be reserved for recreational and community facilities.	R10
(4) Road safety of the single-lane Sham Wat Road is concerned. In view of the increased traffic and the existing steep and winding design, Sham Wat Road should be widened to a double-lane road and further extended to Sha Lo Wan.	R15

Responses	
<p>(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 overtaking the limited infrastructure in the Area.</p> <p>(b) In response to (2) 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.</p> <p>(c) In response to (3) above, in order to preserve the natural habitat and rural character of the Area, no major development and substantial population growth are envisaged under the current OZP. That said, suitable land is zoned “Government, Institution or Community” (“G/IC”) intended for the provision of GIC facilities serving the needs of the local residents. For instance, two “G/IC” sites have been reserved for planned refuse collection points by the Food and Environmental Hygiene Department which is intended to meet the needs of local residents. Relevant B/Ds would keep in view the need for community and recreational facilities in the Area.</p> <p>(d) In response to (4) above, as advised by C for T, the proposed widening of Sham Wat Road is subject to further review on technical feasibility. Response (c) above is also relevant.</p>	

5.2.4 *Unauthorized Development*

Major Grounds/Proposals	Rep. No.
(1) Road widening, slope cutting works and vegetation clearance were spotted along Tung O Ancient Trail. The current enforcement and prosecution against illegal development take years to go through the process and	R2, R7

cannot protect the environment and ecology in time.	R3
(2) It is concerned that unauthorized road widening and slope cutting undertaken before the gazettal of the DPA Plan would be regarded as existing uses. The definition of ‘existing use’ (‘EU’) should be reviewed.	
Responses	
(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.	
(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.	

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. The "V" zones should be extended to cover the nearby "GB" zones to meet village development needs in the long term. The extent of "GB" zone is excessive. Designating agricultural land, areas near recognized villages and those with outstanding SH application as "GB" zone neglects indigenous inhabitants' housing needs and adversely affects agricultural rehabilitation.	R8, R9, R11, R12
(2) "GB" zone should not cover a large amount of private land.	R8, R9
(3) "AGR" zone should be enlarged or all agricultural land should be retained to facilitate agricultural rehabilitation.	R8, R9, R11, R12

Responses					
(a) In response to (1) above, response (a) under paragraph 5.2.3 is relevant.					
<p>According to the latest information as advised by the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD), there are no outstanding SH applications for both Sham Wat and Shan Shek Wan, and the 10-year SH demand forecasts for both areas are also 0. The “V” zones mainly cover existing village clusters and their immediate surroundings. Based on PlanD’s preliminary estimate in Table 1 below, the available land of about 0.09 ha in Sham Wat and about 0.07 ha in Shan Shek Wan within the “V” zones can meet the SH demand. In accordance with the incremental approach, further expansion of the “V” zone is considered not necessary.</p>					
<p style="text-align: center;"><u>Table 1 – Available Land in the “V” Zone to meet the SH Demand</u></p>					
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 (%)
Sham Wat	0.38	0.09 [3]	0 [0]	0 [0]	-
Shan Shek Wan	0.24	0.07 [3]	0 [0]	0 [0]	-
<p>The planning intention of “GB” zone is 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. General natural areas such as woodland, shrubland and streams would be zoned “GB”. According to the covering Notes of the OZP, rebuilding of a NTEH, and replacement of an existing domestic building by a NTEH is always permitted in “GB” zone. ‘House’ use is a Column 2 use in “GB” zone which may be permitted with or without conditions on application to the Board. The Board will consider each application based on its individual merits, taking account of the prevailing planning circumstances. It is therefore considered appropriate to designate suitable areas as “GB”.</p>					
(b) In response to (2) and (3) above, response (a) under paragraph 5.2.2 is relevant. According to the Notes of the OZP, ‘Agricultural Use’ is always permitted within “AGR” and “GB” zones. Genuine agricultural activities would not be affected. DAFC also has no adverse comment on the current extent of “AGR” zone. Land status is not the only planning consideration and the appropriate zonings would cover both government land and private land.					

5.3.2 *Provision of Transport Facilities and Infrastructures*

Major Grounds/Proposals	Rep. No.
(1) Transport facilities (both road and water transport) and local facilities in the Area are lacking and should be improved. Enhancement of transport facilities is required to facilitate access/provision of emergency services and community/recreational facilities. The existing trail between San Shek Wan and Sha Lo Wan should be repaved and widened as a vehicular road. Sham Wat Road should be widened.	R11 to R14
(2) Irrigation facilities for agricultural activities should be provided.	R12
Responses	
<p>(a) In response to (1) above, the concerns regarding provision of transport facilities and infrastructures in the Area have been referred to relevant departments for consideration. On the proposed widening of Sham Wat Road, response (d) under paragraph 5.2.3 is relevant. On the proposed enhancement to Tung O Ancient Trail including the section between San Shek Wan and Sha Lo Wan, the suggestion 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 (CEDD)) for consideration. In respect of fire safety and emergency services, the Director of Fire Services advises that his department has established its deployment plans in case of fire and other emergency incidents in the Area.</p> <p>Relevant departments would keep in view the need for transport facilities and infrastructures in the Area subject to detailed consideration and assessments on, inter alia, population, provision standards and resources availability. If concerned departments have plans to provide such 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.</p> <p>(b) In response to (2) above, as advised by DAFC, there is an existing irrigation pipeline serving Sham Wat and San Shek Wan. Should irrigation improvement be required, farmers are advised to submit request to AFCD for consideration.</p>	

5.3.3 *Development Proposals*

Major Grounds/Proposals	Rep. No.
(1) Rezone a site near San Shek Wan from “GB” to “Recreation” for recreational development (Drawings H-2 and H-3, and Plans H-5a and H-5b) with the following justifications:	R16

<ul style="list-style-type: none"> - the site is located in close proximity to Tung O Ancient Trail. The planning intention of “GB” zone will limit the development potential of the site; - there is a shortage of recreational facilities in Hong Kong. The provision of recreational facility at the site would provide a picturesque leisure spot for both passive and active recreation; - the provision of recreational facilities such as holiday camp could help to enhance awareness in natural conservation; and - the proposed development will not cause adverse impact on the natural environment while utilising land resources of the Area. <p>(2) Rezone a site near San Shek Wan from “AGR”, “GB” and “CPA” zones to “Other Specified Uses” annotated “Eco-lodge” (“OU(Eco-lodge)”) (Drawing H-4, and Plans H-6a and H-6b) 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. 	R17
Responses	
<p>(a) In response to (1) and (2) above, as advised by the Head of Sustainable Lantau Office, CEDD, according to the Sustainable Lantau Blueprint, the leisure and recreation proposals should be environmentally sustainable and compatible with the local context. The proposed developments cover a sizeable area of natural vegetation. However, there is no impact assessment in the representation submission to support the proposed zoning and its extent. Hence, the potential impact brought about by the proposed zoning to the environment in terms of sustainability and compatibility is unknown.</p> <p>According to DAFC, both sites 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 applications 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 **R7** respectively.
- 5.4.2 **C1**, **C2** and **C4** generally support the views of representations submitted by the green/concern groups (i.e. **R1 to R6**) 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** reiterates her views made in the 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/Proposals	Com. No.
(1) Unauthorized developments including removal of vegetation and slope cutting works should be prohibited. Those areas should not be covered by any development-related zonings.	C1
(2) 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.	C4
Responses	
(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".	
(b) In response to (2) 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, for conservation-related zones in 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 is to streamline the 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 R4 (part)** are noted.
- 7.2 Based on the assessments in paragraph 5 above, PlanD does not support **R1 (part) to R4 (part)** and **R5 to R17** 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 to land use and development. The designation of the conservation zonings on the draft OZP is considered appropriate from nature conservation perspective, “CPA” zone for protecting the natural coastline with high landscape, scenic or ecological value, “CA” zone to preserve the EIS portion of Ngong Sham Stream and its riparian area, 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 R9**);
- (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 and are designated with appropriate zonings (**R1 to R4, R6 and R7**);
- (c) 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, R4 and R6**);

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

- (d) 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 (**R8 to R12**);
- (e) in general, existing agricultural land and house lots 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 (**R10**);

Designation of “V” Zone

- (f) 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, R4 and R7 to R9**);

Provision of Community Facilities and Infrastructures

- (g) 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 (**R10 to R15**);

Unauthorized Development

- (h) 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 (**R2, R3 and R7**); and

Development Proposals

- (i) the rezoning proposals to facilitate various proposed developments by the representers are 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 (**R16 and R17**).

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
Drawing H-1	Drawing provided by R2

Drawings H-2 & H-3	Drawings provided by R16
Drawing H-4	Drawing provided by R17
Plan H-1	Draft Sham Wat and San Shek Wan Outline Zoning Plan No. S/I-SW/1 (reduced size)
Plan H-2	Location Plan
Plan H-3	Aerial Photo
Plans H-4a & H-4b	Proposed “CPA” Zone in San Shek Wan (R2)
Plans H-5a & H-5b	Proposed “Recreation” Zone in San Shek Wan (R16)
Plans H-6a & H-6b	Proposed “OU(Eco-lodge)” Zone in San Shek Wan (R17)

**PLANNING DEPARTMENT
MAY 2022**