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**Representation in respect of the Proposed Amendments in the Draft Tuen Mun  
Outline Zoning Plan No. S/TM/38**  
20/12/2023 14:54

**Submission Number:**  
**TPB/R/S/TM/38-S003**

From: "Michelle Li" [REDACTED]  
To: <tpbpd@pland.gov.hk>  
Cc: [REDACTED]

**Representation Number:**  
**TPB/R/S/TM/38-R3**

Sent by: tpbpd@pland.gov.hk  
File Ref:

Dear Sir/Madam,

We are authorized by the Representer, Join Smart Limited, to make a Representation to the Draft Tuen Mun OZP No. S/TM/38 pursuant to Section 6(1) of the Town Planning Ordinance.

4 hardcopies will be delivered to the Town Planning Board today.

Please find attached the soft copy of the submission, it is also available in this link:

[REDACTED]

*70 pages*

Yours faithfully,

Kind regards,  
Michelle Li

Masterplan Limited

[REDACTED]

# MASTERPLAN LIMITED

*Planning and Development Advisors*

領賢規劃顧問有限公司

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

Date: 20 December 2023  
(By Email and Hand)

Dear Sir/Madam,

**Representation in respect of the Proposed Amendments in the  
Draft Tuen Mun OZP No. S/TM /38**

I refer to the "Draft Tuen Mun OZP No. S/TM38" (the "Draft Plan) gazetted on 20 October 2023, that is currently inviting representations.

We are authorized by the Representer, Join Smart Limited, to make a Representation to the Draft Plan pursuant to Section 6(1) of the Town Planning Ordinance. This representation is made in relation to the Representation Site that contains private lots owned by the Representer, and is to object to the proposed amendments in the Draft Plan.

Please find enclosed the following in support of this Representation:

- (a) Representation Statement (4 hardcopies and 1 softcopy);
- (b) Authorization letter of the Representer to appoint Masterplan Limited as its agent; and
- (c) The Application Form No. S6.

Yours faithfully,



Kira Whitman  
(Director)

For and on behalf of  
Masterplan Limited

Encl.

c.c. Client and Consultant Team (By Email)



## Join Smart Limited

Our Ref: PM-458/B-35

13<sup>th</sup> December, 2023

Masterplan Limited

Attn : Mr. Ian Brownlee

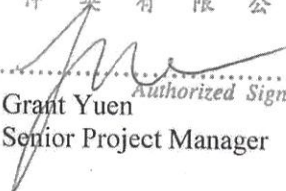
Dear Sir,

Re: Letter of Authorization  
Representation in respect of the Proposed Amendments to the  
Approved Tuen Mun OZP No. S/TM/37

We hereby confirm that we, Joint Smart Limited, representer and registered owner of the private lots in DD 130, including 212 RP, 232, 233, 234, 235, 236 RP, 237, 238, 239, 243, 244, 246 RP, 246 s.A, 246 s.B, 247, 365 RP, 367 and 368 RP has authorized Masterplan Limited to act on our behalf, in submitting this representation and making presentations to the Town Planning Board under Section 6(1) of the Town Planning Ordinance, and to conduct any other planning related matters.

Yours faithfully,  
for and on behalf of  
JOIN SMART LIMITED

For and on behalf of  
JOIN SMART LIMITED  
仲 萊 有 限 公 司

  
.....  
Authorized Signature(s)  
Grant Yuen  
Senior Project Manager

GY/ph

For Official Use Only 請勿填寫此欄	Reference No. 檔案編號	
	Date Received 收到日期	

- The representation should be made to the Town Planning Board (the Board) before the expiry of the specified plan exhibition period. The completed form and supporting documents (if any) should be sent to the Secretary, Town Planning Board, 15/F, North Point Government Offices, 333 Java Road, North Point, Hong Kong.  
申述必須於指定的圖則展示期限屆滿前向城市規劃委員會(下稱「委員會」)提出, 填妥的表格及支持有關申述的文件(倘有), 必須送交香港北角渣華道 333 號北角政府合署 15 樓城市規劃委員會秘書收。
- Please read the "Town Planning Board Guidelines on Submission and Processing of Representations and Further Representations" before you fill in this form. The Guidelines can be obtained from the Secretariat of the Board (15/F., North Point Government Offices, 333 Java Road, North Point, Hong Kong – Tel.: 2231 4810 or 2231 4835) and the Planning Enquiry Counters (PECs) of the Planning Department (Hotline: 2231 5000) (17/F., North Point Government Offices, 333 Java Road, North Point, Hong Kong and 14/F., Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin, New Territories), or downloaded from the Board's website at <http://www.tpb.gov.hk/>.  
填寫此表格之前, 請先細閱有關「根據城市規劃條例提交及處理申述及進一步申述」的城市規劃委員會規劃指引。這份指引可向委員會秘書處(香港北角渣華道 333 號北角政府合署 15 樓 - 電話: 2231 4810 或 2231 4835 及規劃署的規劃資料查詢處(熱線: 2231 5000)(香港北角渣華道 333 號北角政府合署 17 樓及新界沙田上禾輦路 1 號沙田政府合署 14 樓)索取, 亦可從委員會的網頁下載(網址: <http://www.tpb.gov.hk/>)。
- This form can be downloaded from the Board's website, and obtained from the Secretariat of the Board and the PECs of the Planning Department. The form should be typed or completed in block letters, preferably in both English and Chinese. The representation may be treated as not having been made if the required information is not provided.  
此表格可從委員會的網頁下載, 亦可向委員會秘書處及規劃署的規劃資料查詢處索取。提出申述的人士須以打印方式或以正楷填寫表格, 填寫的資料宜中英文兼備。倘若未能提供所需資料, 則委員會可把有關申述視為不曾提出論。
- In accordance with the Town Planning Ordinance (the Ordinance), the Board will make available all representations received for public inspection as soon as reasonably practicable at the Board's website and the PECs. The representations will be available for public inspection until the Chief Executive in Council has made a decision on the plan in question under section 9 of the Ordinance.  
根據《城市規劃條例》(下稱「條例」), 委員會會在合理地切實可行的情況下, 盡快將所有收到的申述上載至委員會的網頁及存放於規劃資料查詢處供公眾查閱, 直至行政長官會同行政會議根據條例第 9 條就有關圖則作出決定為止。

<b>1. Person Making this Representation (known as "Representer" hereafter)</b> <b>提出此宗申述的人士 (下稱「申述人」)</b>
Full Name 姓名 / 名稱 ( <del>Mr./Ms./</del> Company/Organization* 先生/女士/公司/機構*) Join Smart Limited
(Note: for submission by person, full name shown on Hong Kong Identity card/Passport must be provided) (注意: 若個人提交, 須填上與香港身份證/護照所載的全名)

<b>2. Authorized Agent (if applicable) 獲授權代理人(如適用)</b>
Full Name 姓名 / 名稱 ( <del>Mr./Ms./</del> Company/Organization* 先生/女士/公司/機構*) Masterplan Limited
(Note: for submission by person, full name shown on Hong Kong Identity card/Passport must be provided) (注意: 若個人提交, 須填上與香港身份證/護照所載的全名)

\* Delete as appropriate 請刪去不適用者  
Please fill in "NA" for not applicable item 請在不適用的項目填寫「不適用」

<b>3. Details of the Representation (use separate sheet if necessary)#</b> <b>申述詳情(如有需要, 請另頁說明)#</b>		
The plan to which the representation relates (please specify the name and number of the plan) 與申述相關的圖則 (請註明圖則名稱及編號)	Draft Tuen Mun OZP No. S/TM/38	
<b>Nature of and reasons for the representation 申述的性質及理由</b>		
Subject matters 有關事項@	Are you supporting or opposing the subject matter? 你支持還是反對有關事項?	Reasons 理由^
Proposed Amendment Item A2	<input type="checkbox"/> support 支持 <input checked="" type="checkbox"/> oppose 反對	Please refer to the accompanying Representation Statement.
Revised Explanatory Statement para. 9.3.2	<input type="checkbox"/> support 支持 <input checked="" type="checkbox"/> oppose 反對	Please refer to the accompanying Representation Statement.
	<input type="checkbox"/> support 支持 <input type="checkbox"/> oppose 反對	
Any proposed amendments to the plan? If yes, please specify the details. 對圖則是否有任何擬議修訂? 如有的話, 請註明詳情。 Please refer to the accompanying Representation Statement.		

# If the representation contains more than 20 pages, or any page larger than A4 size, 4 hard copies and 1 soft copy are required to be provided for the submission. Provision of email address is also required.  
若申述超過 20 頁或有任何一頁大小超過 A4, 則須提交硬複本一式四份和一份軟複本。另須提供電郵地址。

@ Please describe the particular matter in the plan to which the representation relates. Where the representation relates to an amendment to a plan, please specify the amendment item number provided in the Schedule of Proposed Amendments. 請形容圖則內與申述有關的指定事項, 如申述與圖則的修訂有關, 請註明在修訂項目附表內的修訂項目編號。

^ Please also note that section 6(3A) of the Ordinance provides that any representation received under section 6(1) **may be treated as not having been made** if, in the opinion of the Board that, the reason for the representation is a reason concerning compensation or assistance relating to, or arising from resumption/acquisition/clearance/obtaining vacant possession of any land by the Government. The above matters should be dealt with in accordance with the relevant statutory provisions on compensation and/or promulgated policy on compensation. Should you have any views on compensation or assistance matters, you may separately raise your views to the Director of Lands or the relevant authority. 請注意, 條例第 6(3A)條訂明, 如委員會認為根據第 6(1)條收到的任何申述所提出的理由是與政府收回/徵用/清理/取得任何土地的空置管有權而引起的補償或援助有關, 則有關申述可被視為不曾提出。上述事項應該按照相關補償的法律條文和/或已公布的補償政策處理。如對補償或援助事宜有意見, 可另行向地政總署署長或有關當局提出。

Please fill "NA" for not applicable item 請在不適用的項目填寫「不適用」

at the appropriate box 請在適當的方格內加上  號

**Representation Statement**

**Representation in respect of the Proposed Amendments in  
the Draft Tuen Mun Outline Zoning Plan No. S/TM/38**

**Representer: Join Smart Limited**

**December 2023**

## Executive Summary

### Introduction

- S1. This representation is made in the broad interests of Hong Kong, to uphold private property development rights that are delayed or stopped short of implementation, in face of a Government Study or only a development concept in the area. This representation follows a series of submissions since 2014, made to the Government to allow private housing development at the Representer's Development Site, which includes the current Representation Site (**Figure S1 below**); however, even though there have been approved planning applications, the right to proceed to implement has been deprived and blockaded, due to the Government studies and EIAO process to build a public housing development covering the Development Site (including the Representation Site).
- S2. The submissions made by the Representer to the Government, includes two Judicial Review processes to appeal to the unfair decisions made at the rezoning application for private housing, and the inappropriate EIA approval process of the public housing development. These two proceedings will be heard by the Court of Appeal in the Q3 of 2024.
- S3. As a private land owner, the Representer's purpose of this long line of submissions is to find a fair and balanced solution that would respect the development rights of private land owners and facilitate the supply of much needed private housing. This is preferred, rather than just bulldozing all private housing proposals, merely because there is a Government Study (or only a concept) for public housing in place. A line must be drawn to ensure that there is a fair, efficient, and sustainable development system for both private and public housing development in Hong Kong.

### Representation Site

- S4. This representation is to object to the proposed amendments Item A2 and Revised Explanatory Statement, paragraph 9.3.2 in the TM OZP 38 on land that overlap with the Representation Site. (**Figure S1 below**)

### Planning Justifications

- S5. **Overdominance of Public Housing in the Surroundings of the Representation Site:** The surroundings of the Representation Site are now predominantly public housing, which is not in any way desirable in planning and social terms. It would be beneficial to have a mix of forms of private and public housing to provide a diverse choice of housing options for the community and create variety in the urban form. The proposed private housing scheme can create a better social mix of housing and contribute to the sustainability and vibrancy of the community.
- S6. **Acute Demand for Private Housing:** There is a need to allow design and land use flexibility for private housing developments in the Development Site (including the Representation Site). This is because the Proposed Private Housing Scheme is in line with the recent Policy Addresses which stressed that the housing supply in Hong Kong is the most critical of all livelihood issues, where both public and private housing are important components. The Government has been tasked to increase the housing supply for both the private and public sectors. Particularly in response to
-

recent societal debate, the CE highlighted that the government aims to release brownfield sites to optimize land resources for housing supply.

- S7. **The Proposed Private Housing Scheme allows Immediate Implementation of Private Housing:** The proposed private housing scheme in the Development Site (including Representation Site) does not require the resumption of land and the site is ready to commence development. There have been approved Section 16 Planning Applications and approved GBP schemes. As for the public housing development, the site formation works are planned for commencement in 2025, as such it would take another (about) 5 years from that point to finish construction by 2030.
- S8. **The Recently Published Public Housing Scheme Demonstrates Flexibility to Accommodate Private Housing:** In the latest public housing scheme presented by Government in the Tuen Mun District Council meeting in September 2023, the number of flats has decreased by 1,200 and three school sites have been removed. It also lacks justification for a sizeable area of the soccer pitch. The Representer has proposed an alternative layout plan which shows that the proposed private housing scheme can then be integrated into the layout plan, creating a combined scheme that has the benefit of retaining the latest number of public flats and providing additional private flats.
- S9. **Unfair deprivation of Private Property Rights:** The Amendment Item A2 has imposed a land-use zoning that favors public housing development on private land at the Representation Site (forms part of the Development Site), which is underpinned by the following circumstances: (i) there has been a Government study or development concept in place for public housing; (ii) the implementation for approved private housing schemes have been blockaded; and (iii) no consideration has been made to an alternative scheme and the benefits for private housing development for comparison. Therefore, these circumstances would be a deprivation of private property rights, as the Representer has been deprived of the right to implement any form of private housing development on the Development Site (including the Representation Site).

#### **Proposed Amendments to Meet this Representation**

- S10. The proposed amendments to meet this Representation are to amend the Explanatory Statement paragraph 9.3.2, by adding the new term “and private” in order to allow flexibility for the site to be developed for private housing developments. Please see our proposed amendments underlined to the paragraph below:

“..., as well as two sites zoned “R(A)28” at San Hing Road and Hong Po Road are intended for public and private housing developments.”

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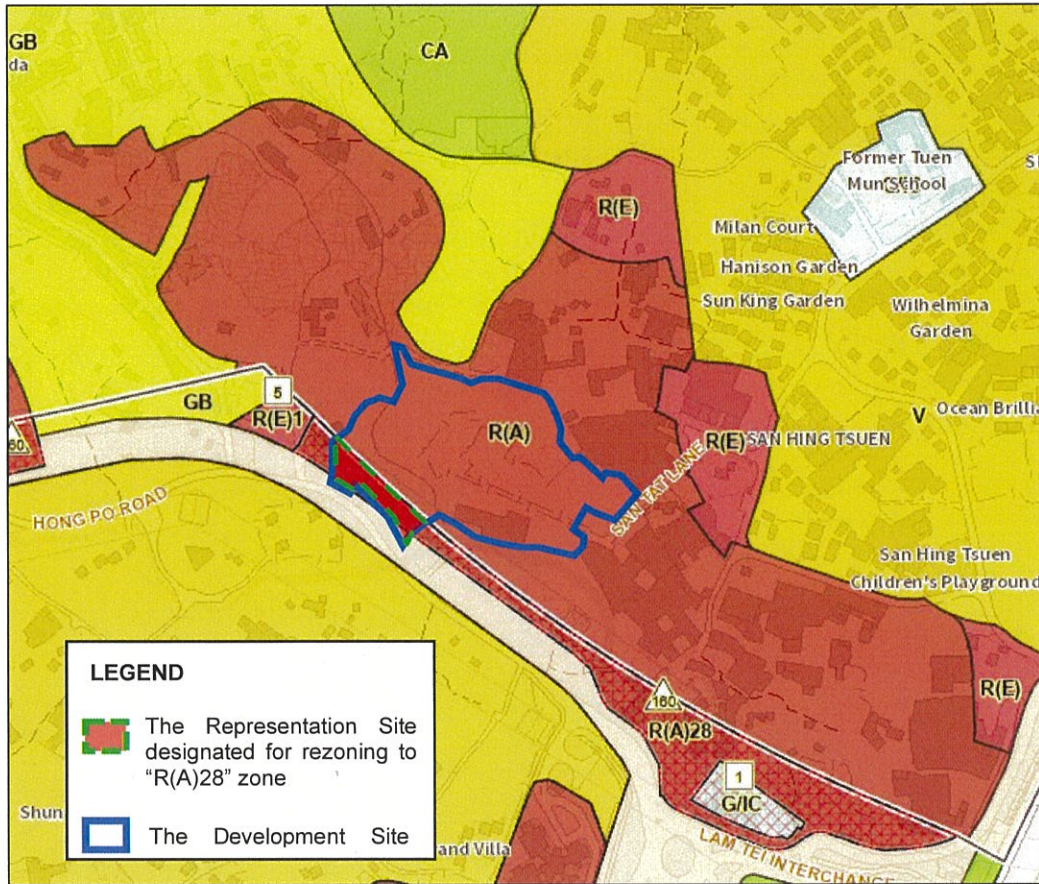


Figure S1: The Representation Site that makes up the southern portion of the Development Site

## 行政摘要 (以英文版本為準)

### 引言

- S1. 本申述為香港廣泛的利益，維護因政府研究或僅是該地區的發展概念被延遲或停止實施的私有產權。自 2014 年，申述人多次向政府申請於發展地盤（包括此申述地盤）內發展私營房屋（圖 S1）。雖然規劃申請已獲得城規會的核准，實施發展的權利卻因為政府研究和公營房屋發展的環評程序而被剝奪和阻止。
- S2. 申述人向政府提交的申請包括兩項司法覆核程序，包括為私營發展項目提交修訂圖則申請時獲得不公平的決定，以及公營房屋發展的環評審批程序不當提出上訴。上訴法院將於 2024 年第三季審理這兩項訴訟。
- S3. 作為私人土地擁有人，申述人提交這一連串申請的目的旨在尋求一個公平和平衡的解決方案，祈求私人土地擁有人的發展權獲得尊重，並為急切的私營房屋供應提供支援。申述人的目的是可取的，而不是僅僅因為有一項關於公營房屋的政府研究（或只是一個概念）而推倒所有私營房屋提案。申述人認為必須劃定一條界限，確保香港的私營和公營房屋發展有一個公平、高效率 and 可持續的發展系統。

### 申述地盤

- S4. 本申述旨在反對圖則 S/TM/38 中與申述地盤重疊的土地上的修訂項目 A2 以及圖則說明書第 9.3.2 段的修訂（圖 S1）。

### 規劃理由

- S5. **毗鄰申述地盤的公共房屋比例過多**：現時，申述地盤周圍的絕大部份是公營房屋，這在規劃和社會層面上都是不可取的。多元的私營和公營房屋能為社區帶來更多好處，不單能提供不同的房屋選擇，並創造城市形態的多樣性。擬議的私營房屋計劃可以創造更好的社會房屋組合，提升社區的可持續性和活力。
- S6. **對私人住房的迫切需求**：發展地盤（包括申述地盤）需有設計和土地使用的靈活性以容納私營房屋。擬議私營房屋計劃與近年的《施政報告》目標一致，強調香港的房屋供應是所有民生問題中最關鍵的，公營房屋和私營房屋都是重要組成部分。政
-

府的任務是增加私營和公營房屋的供應。特別是針對最近的社會爭論，行政長官強調，政府的目標是釋放棕地，優化土地資源用於房屋供應。

- S7. **擬議私營房屋計劃可立即實施：**發展地盤（包括申述地盤）的擬議私營房屋計劃不需要收回土地，申述地盤已準備好展開發展，其第 16 條規劃申請和建築圖則已獲得批准。相比起申述人的私營房屋發展，公營房屋的工地平整工程預計於 2025 年動工，距離 2030 年完成施工還需要（約）5 年時間。
- S8. **最近公佈的公營房屋計劃展現了可容納私人房屋的彈性：**政府在 2023 年 9 月的屯門區議會會議上提出了最新的公營房屋計劃，當中減少了 1,200 個單位，移除了三個學校用地。其足球場的面積也缺乏足夠的理由。申述人提出了替代發展藍圖，顯示私營房屋計劃可以納入發展藍圖，形成一個綜合方案，保留最新的公營單位數目並提供額外的私人單位。
- S9. **剝奪私人產權：**修訂項目 A2 在申述地盤（發展地盤的一部份）落實土地用途，讓修訂有利於在私人土地上發展公營房屋，建基於以下情況：(i)政府已在進行有關公營房屋的研究或開發概念；(ii) 已批准的私人房屋計劃的實施受到阻礙；(iii) 並無考慮替代方案及以私營房屋發展的效益作比較。因此，這些情況將構成對私人財產權的剝奪，申述人被剝奪了在發展地盤（包括申述地盤）上進任何形式的私營房屋開發的權利。

#### 此申述的擬議修訂項目

- S10. 此申述的擬議修訂項目是在修訂的說明書第 9.3.2 段中，加入字眼「及私人」使該地盤有容納私營房屋發展的彈性。擬議修訂如下：

「.....以及位於新慶路和康寶路劃為「住宅(甲類)28」地帶的兩塊用地，均擬作公共及私人房屋發展。」

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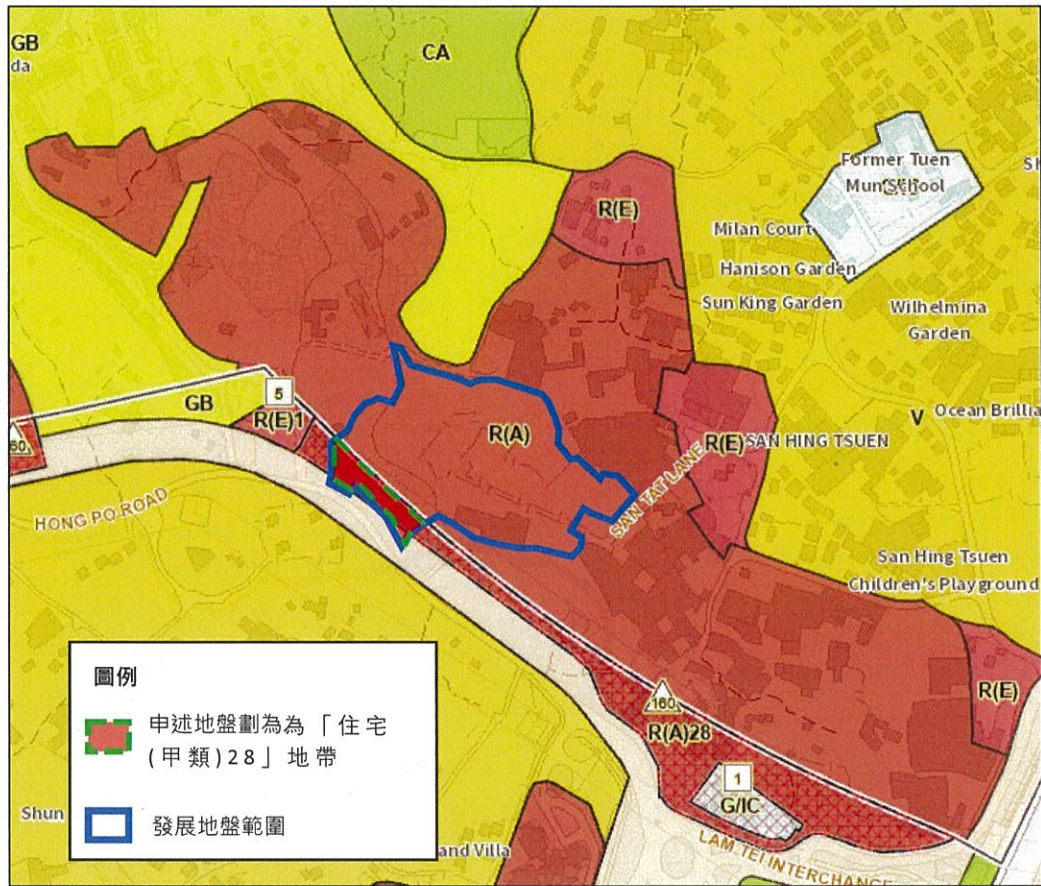


圖 S1: 申述地盤被納入發展地盤的南部

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## 1. Introduction

- 1.1 This representation is made in the broad interests of Hong Kong, to uphold private property development rights that are delayed or stopped short of implementation, in face of a Government Study or only a development concept in the area. This representation follows a series of submissions since 2014, made to the Government to allow private housing development at the Representer's Development Site, which includes the current Representation Site (**Figure 1**); however, even though there have been approved planning applications, the right to proceed to implement has been deprived and blockaded, due to the Government studies and EIAO process to build a public housing development covering the Development Site (including the Representation Site).
- 1.2 The submissions made by the Representer to the Government, includes two Judicial Review processes to appeal to the unfair decisions made at the rezoning application for private housing, and the inappropriate EIA approval process of the public housing development. These two proceedings will be heard by the Court of Appeal in the Q3 of 2024.
- 1.3 As a private land owner, the Representer's purpose of this long line of submissions is to find a fair and balanced solution that would respect the development rights of private land owners and facilitate the supply of much needed private housing. This is preferred, rather than just bulldozing all private housing proposals, merely because there is a Government Study (or only a concept) for public housing in place. ***A line must be drawn to ensure that there is a fair, efficient, and sustainable development system for both private and public housing development in Hong Kong.***
- 1.4 **Proposed Amendments**
- 1.4.1 On 9 September 2023, the Planning Department presented the proposed amendments, as outlined in the "RNTPC Paper No. 7/23" (the Paper), to the "Approved Tuen Mun Outline Zoning Plan No. S/TM/37" (the TM OZP 37) for the consideration of the Rural and New Town Planning Committee (RNTPC). The proposed amendments involve revisions to the plan, Notes of the plan, and the Explanatory Statement. The amendments were agreed and endorsed by the RNTPC at the meeting.
- 1.4.2 The "Draft Tuen Mun Outline Zoning Plan No. S/TM/38" (the TM OZP 38"), containing the proposed amendments, was exhibited under section 5 of the Town Planning Ordinance (the Ordinance) for public inspection for a period of two months from 20 October 2023 to 20 December 2023. In accordance with section 6(1) of the Ordinance, any person may make representation to the Board in respect of the amendments.
- 1.4.3 This representation is made in relation to the Representation Site that contains private lots owned by Join Smart Limited, and is directly affected by the amendments within the TM OZP 38. (**Figure 1**) The submissions in relation to the Development Site (that is outside of the Representation Site) and is located in the "Approved Lam Tei and Yick Yuen OZP No. S/TM-

LTY/12" (the LTY OZP), is for explanation and to provide a holistic understanding of the originally proposed private housing development.

1.4.4 This representation is to object to the following proposed amendments in the TM OZP 38 on land that overlap with the Representation Site (**Figure 1**):

- Item A2 – Rezoning of a site at the junction of Hong Po Road/Tsing Lun Road and Ng Lau Road from 'Residential (Group E)1' ('R(E)1') and an area shown as 'Road' to 'R(A)28' with stipulation of building height restriction.
- Revised Explanatory Statement, paragraph 9.3.2 that limits the sites to public housing only, which states: *"...as well as two sites zoned "R(A)28" at San Hing Road and Hong Po Road are intended for public housing developments."*



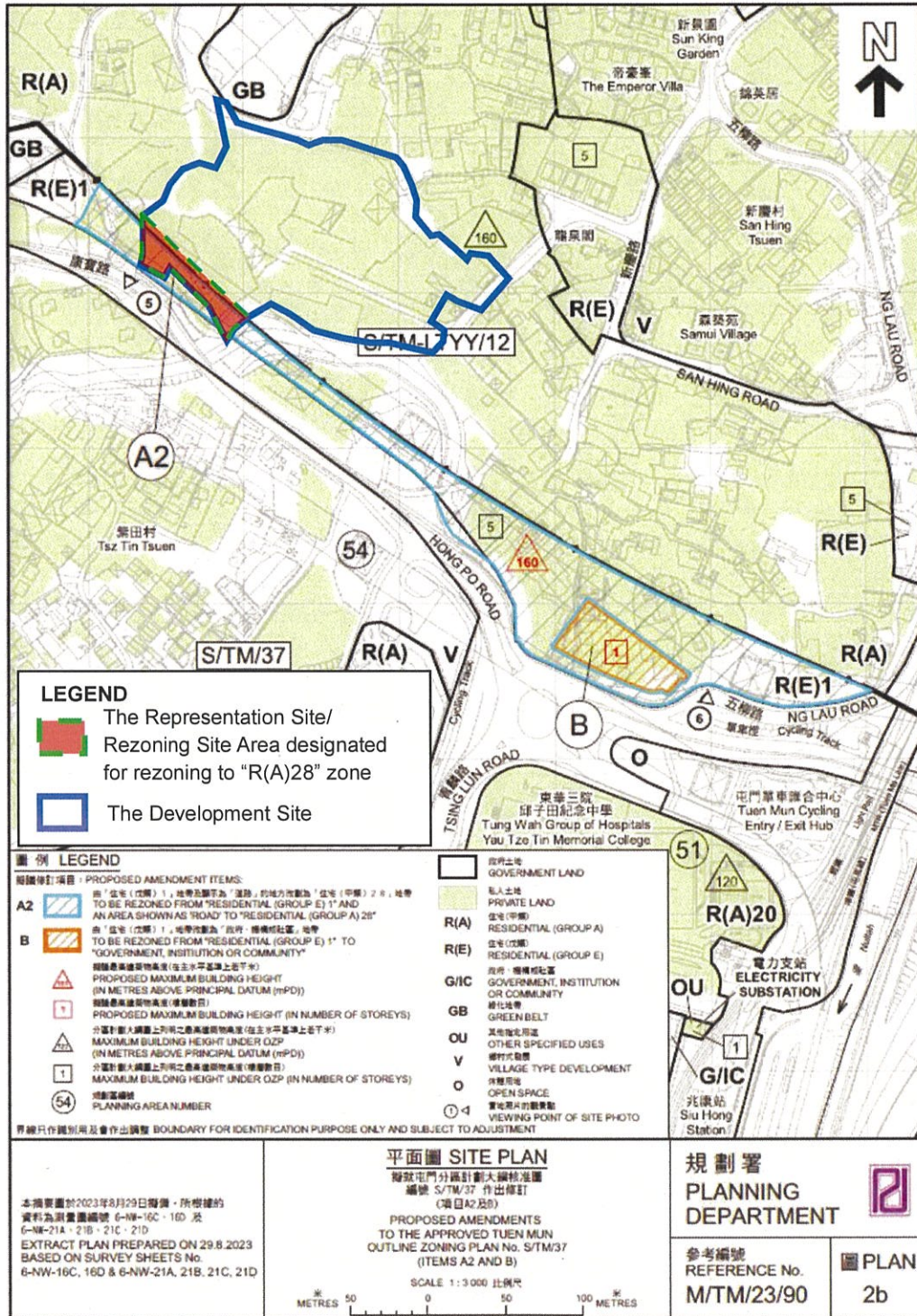


Figure 1: The Location of the Representation Site that Overlaps with the Proposed Amendment Item A2 on the Tuen Mun OZP No. S/TM/38

## 2. The Representation Site and the Development Site Areas

### 2.1 The Representation Site Area

- 2.1.1 The Representation Site makes up the southern portion of the Development Site that is within the OZP amendment item A2.
- 2.1.2 The Representation Site was originally made up of the “Residential (Group E)1” (“R(E)1”) and “Road” zone in the TM OZP 37. The current proposed amendment has designated the site for rezoning to “Residential (Group A)28” zone in the TM OZP 38, and is made up of a rezoning site area of about 1.68ha. (Figure 2 and Figure 3)

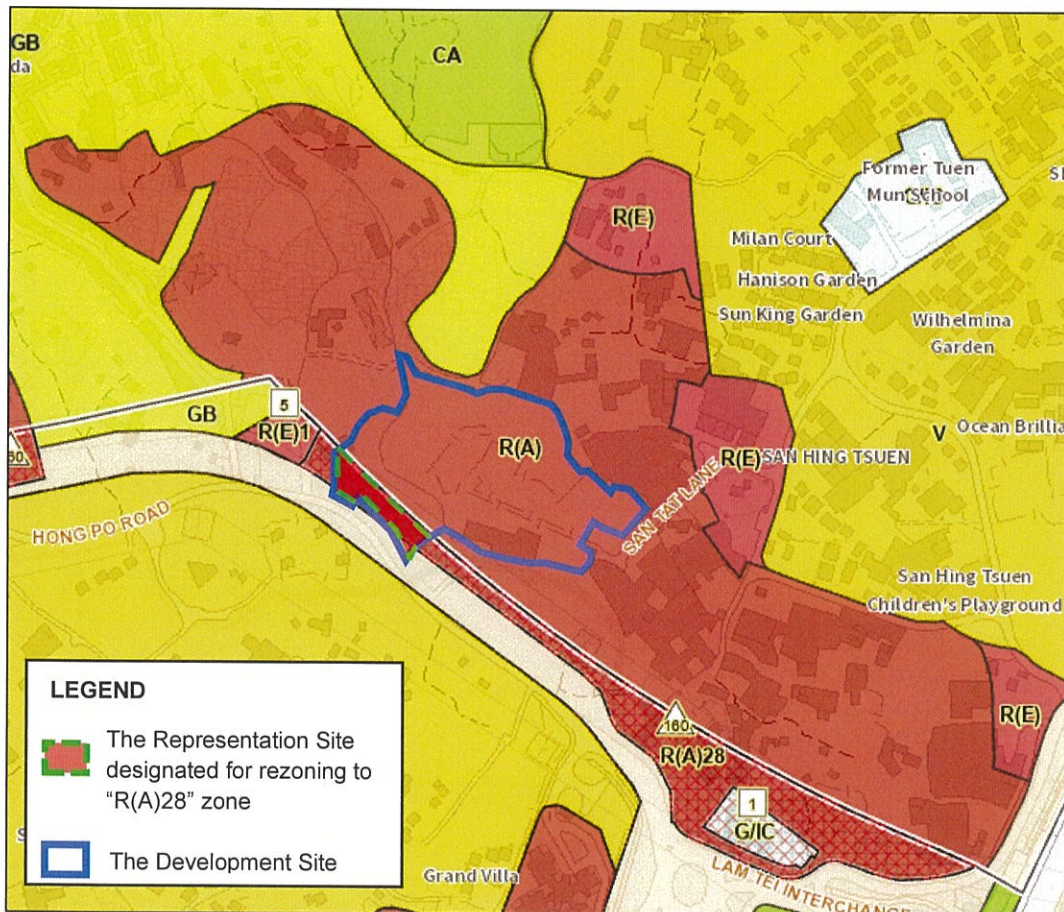
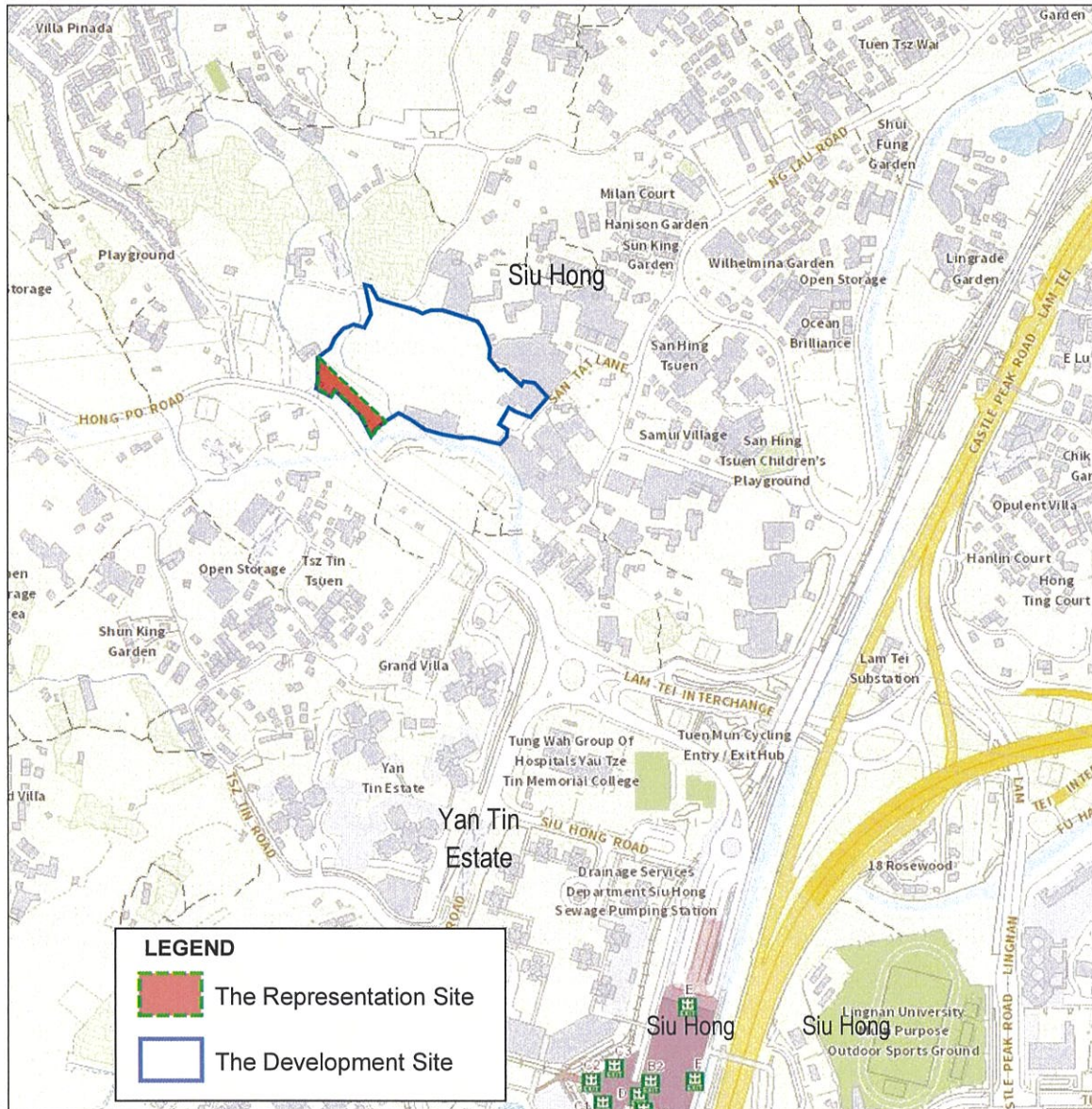


Figure 2: The Representation Site that makes up the southern portion of the Development Site



**Figure 3:** The Approximate Location of the Development Site (including the Representation Site) at the north of Tuen Mun New Town

## 2.2 The Development Site Area

2.2.1 The Development Site is located at various private lots in D.D. 130 and adjoining Government land, at Siu Hong, Tuen Mun. It is situated at a peripheral urban area to the north of the Tuen Mun New Town, which is undergoing transformation into a high-density public housing area. (Figure 3) The Development Site refers to the entire private lots that make up the proposed private residential development.

2.2.2 The Development Site Area is based on the actual site area that the Representer has planned for a high-density private housing development, and it was accepted by the Town Planning Board (TPB) in a previous rezoning application Hong No. Y/TM-LTY/8. It is comprised of all the

private lots and some Government land that form the entirety of the planned private housing scheme.

- 2.2.3 The Development Site Area is about 21,333 sqm, and is comprised of the Representation Site area of about 1,891 sqm in the TM OZP 38, and about 19,442 sqm of land area in the “LTYO OZP”. As part of the Government’s public housing plan, on 8 November 2022, the Development Site Area within the LTYO OZP has been rezoned as Residential (Group A) (“R(A)”) zone, and the Explanatory Statement states:

*“Two sites to the north of Tuen Mun New Town are intended for public housing developments. Government, institution or community (GIC) facilities including school(s) and social welfare facilities as well as public transport termini will be provided within these sites. These sites are subject to a maximum plot ratio of 6.5 and a maximum building height of 160mPD.”*

### **2.3 Existing Site Conditions**

- 2.3.1 The Representation Site is bounded by Hong Po Road and Ng Lau Road to the south, and Light Rail tracks and viaduct of the Tuen Ma Line to the east respectively. It is made up of mostly shrubs and vegetation, some temporary structures, open storage sites and internal roads.
- 2.3.2 The Development Site has two existing road accesses via Hong Po Road at the south-western boundary, and via San Tat Lane at the eastern boundary. It is largely vacant with some derelict temporary structures, and partly used for open storage. The site is generally formed and paved over and is readily available for development. The general topography of the Representation Site is flat in nature. There are sparse shrubs and vegetation throughout the Site. To the south and west of the site are pylons and overhead transmission lines.

### **2.4 The Immediate Surrounding Land Uses**

- 2.4.1 The immediate surroundings of the Development Site are made up of a mix of low-rise and high-rise residential. To its east and south are some recognized villages, such as San Hing Tsuen, Tuen Tsz Wai, and Tsz Tin Tsuen, consisting of predominately village houses of 1- to 3-storays in building height. Intermingled between village houses are industrial workshops and open storage sites.

### 3. The Development Context

#### 3.1 The Predominantly Public Housing Context

- 3.1.1 The surroundings of the Development Site/ Representation Site are predominantly public housing, which reflects the Government's intention to accommodate the town centre and relatively high-density residential developments in Tuen Mun New Town.
- 3.1.2 With reference to the BEAM Plus Neighbourhood Design Manual, the assessment area of a neighbourhood should be an area within 500m distance from the Development Site/ Representation Site. However, the Planning Department does not consider the local neighbourhood context when it comes to the flat mix ratio. In the RNTPC 645<sup>th</sup> Meeting Minutes, para.14 states that "...the ratio between public and private housing in Tuen Mun New Town was approximately 53:47... the public and private housing ratio was usually formulated based on a wider district of a scale similar to a new town..."
- 3.1.3 Reference is also made to Tin Shui Wai New Town Study. In 2000, Ms. Carrie Lam, the former Chief Executive of Hong Kong, described Tin Shui Wai as a 'City of Sadness' in a radio programme when she held the office of the director of the Social Welfare Department. The term was later extensively used by the media. In June 2008, the Planning Department commissioned The University of Hong Kong to conduct a study on Tin Shui Wai New Town to make recommendations on lessons learnt for the future planning and development of new towns.<sup>1</sup> The study suggested that there was a lack of private sector interest in Tin Shui Wai development, which resulted in an agglomeration of a large percentage of low-income groups and vulnerable groups in Tin Shui Wai, leading to social and economic problems in the area. It suggested that a balanced community mix by types of housing, especially for a distanced new town like Tuen Mun, is the most important lesson learnt from the study.
- 3.1.4 Therefore, **Figure 4** and **Table 1** below are set out to illustrate the public and private flat ratio in the neighbourhood of the Development Site (including the Representation Site). Based on a 500m radius from the Development Site, the public to private housing mix of the planned and existing housing was about 98:2. If the proposed private housing development was included, the ratio would slightly improve to about 95:5. Compared to using the district scale as the basis, this assessment method is considered a more effective way to address the societal impacts.
- 3.1.5 The ratio of public to private flats in the neighbourhood of the Development Site shows that the area has excessive public housing and fails to achieve a balanced community mix. The ratio is also significantly higher than the government's suggestion, i.e., 70:30. A balanced housing mix in Tuen Mun is necessary to avoid creating another 'City of Sadness', similar to Tin Shui Wai.

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<sup>1</sup> Department of Social Work and Administration, The University of Hong Kong. (2009). A Study on Tin Shui Wai New Town. Final Report. [Accessed on 5 December 2023] Available at: <https://www.nentnda.gov.hk/eng/r3.pdf>

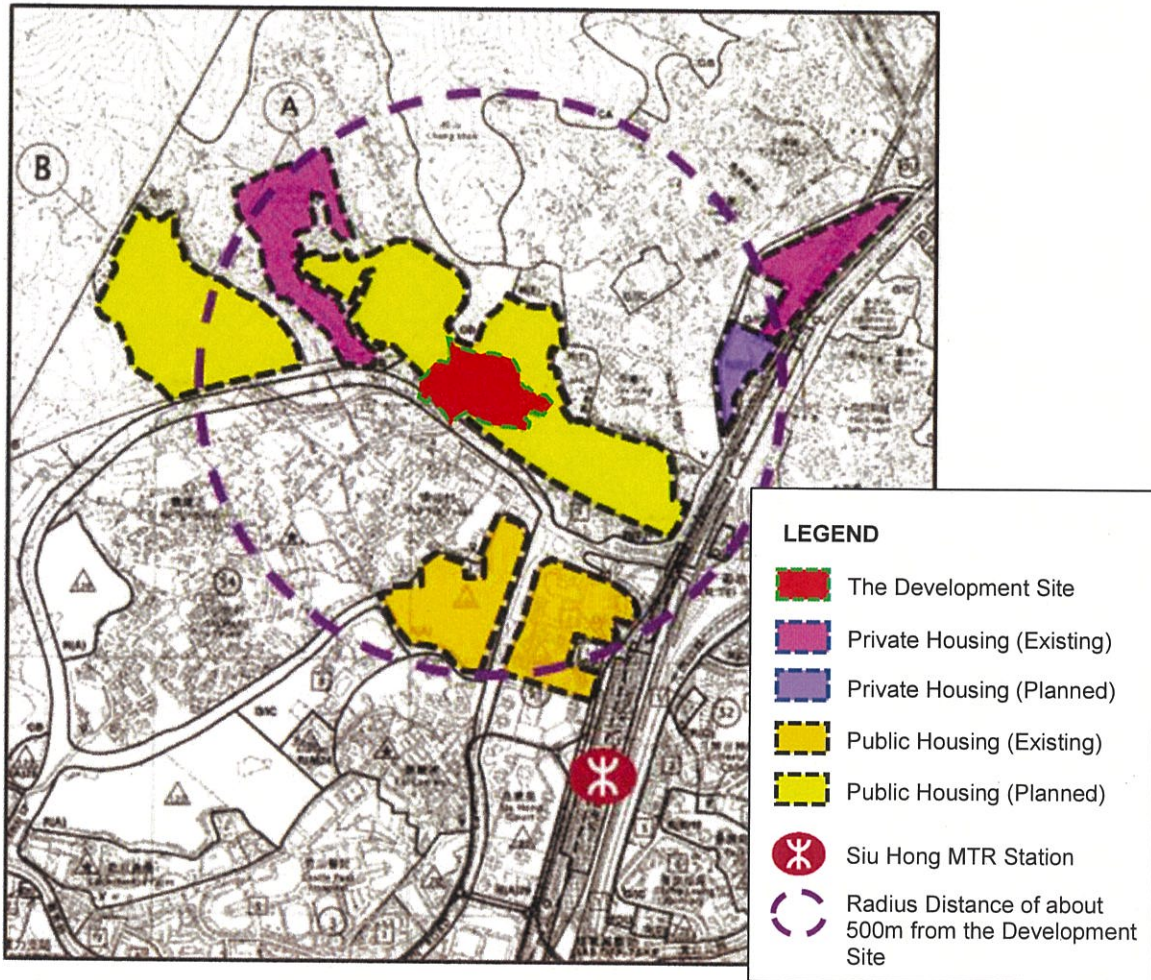


Figure 4: Public and Private Housing Within 500m Radius from the Development Site

Table 1: Flat Ratio Within 500m Radius from the Development Site

	Within 500m Radius from the Development Site			
	(Draft OZP) All Public Housing + Private Housing  (without Proposed Private Flats)	Flat Ratio (%)	(OZP with Representation) All Public Housing + Private Housing  (with Proposed Private Flats)	Flat Ratio (%)
No. of Public Flats	27,200	97.5%	27,200	95.2%
No. of Private Flats	670	2.5%	2,668	4.8%

### 3.2 Land Ownership

- 3.2.1 The land ownership plan of the Development Site Area (including the Representation Site) is shown in **Figure 5**. Most of the private lots within the Representation Site are owned by the Representer, while there are two private lots owned by Tso/Tong. The rest of the Site is Government land.
- 3.2.2 According to Policy Address 2021, one of the directives by the CE to speed up land supply is by unlocking Tso/Tong lands in the New Territories. It has become one of the Policy Measures in Policy Address 2022, on page 42 it states that “Continue the review on the management of Tso/Tong in the New Territories together with the Heung Yee Kuk New Territories, the Development Bureau and other relevant departments with a view to unlocking the development potential of Tso/Tong lands.”

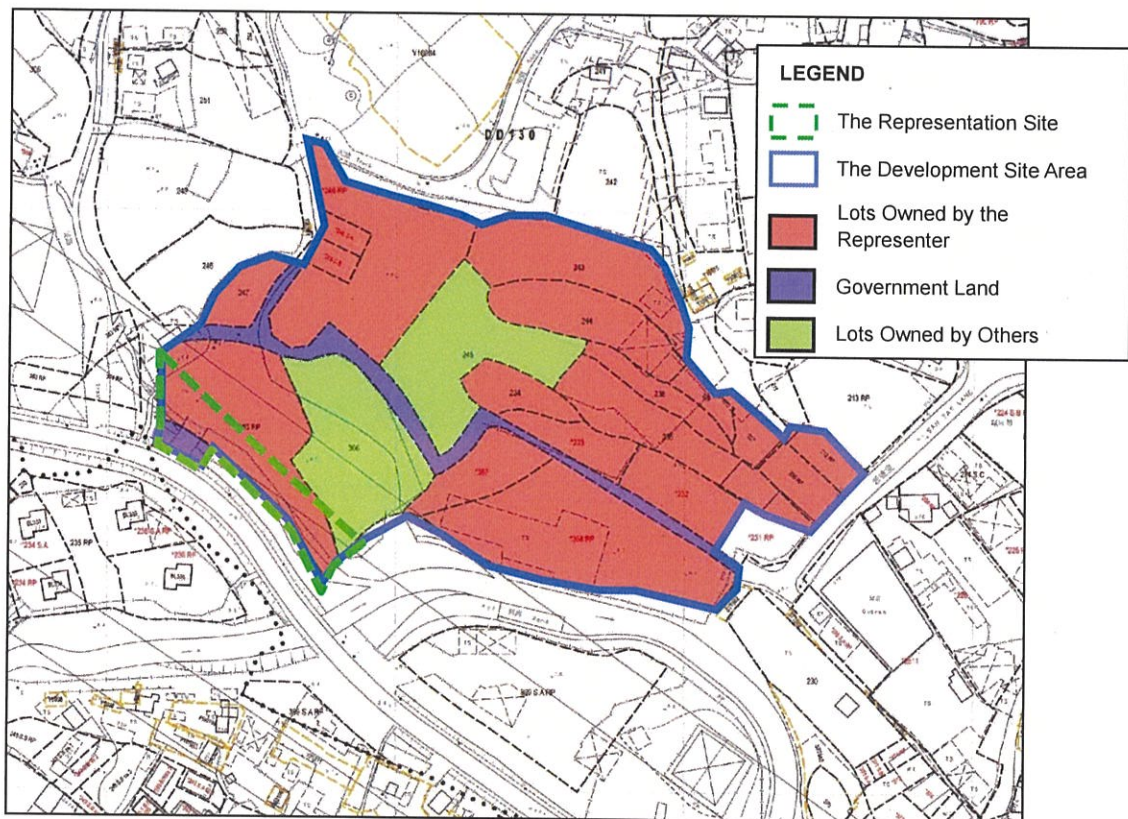


Figure 5: Land Ownership Plan of the Development Site Area

### 3.3 Policy Addresses

3.3.1 The Chief Executive has emphasized the acute shortage of housing supply in both the public and private sectors in the Policy Addresses. In the recent Policy Address 2023, speedy and efficient land and housing supply continues to be the top priority. It states that:

- *“Sufficient supply of land and housing is the key to making Hong Kong a better place for living and working...”*
- *“According to the LTHS, the supply target for private housing in the next decade is projected to be 132 000 units. The Government will make available sufficient land in the next five years to provide about 80 000 units”*

3.3.2 The previous Policy Addresses emphasized the need to encourage public-private partnership in a concerted effort to tackle the housing supply crisis, this was repeated in them:

3.3.3 In the Policy Address (2020), the Chief Executive stated:

- *“The HKHA, HKHS, URA and private developers have the capability and capacity to build more flats. The only thing we need to do is to work together and support the Government’s multi-pronged land creation strategy and the various short-, medium- and long-term initiatives to increase land supply.”*
- *“Privately-owned land has always been an important source of housing supply.”*

3.3.4 In the Policy Address (2021), the Chief Executive stated:

- *“Providing decent accommodation for all is the primary goal of my housing policy...”*
- *“...The Land Sharing Pilot Scheme, which aims to use the planning resources of the private sector to unleash the development potential of private land in the New Territories primarily for public housing developments, is another measure to consolidate and develop land in the New Territories.”*

3.3.5 In the Policy Address (2022), the Chief Executive stated:

- *“Solving the housing problem tops the agenda of the current-term Government...”*
- *“We must overcome constraints to create supply and address short-term public housing shortage, and ensure a steady private housing supply at the same time...”*
- *“...deliver sufficient land for private housing development in the next five years to meet the projected demand in the LTHS and stabilise supply for private housing.”*
- *“...make use of market forces by enhancing public private partnership. A pilot scheme will be introduced to encourage the participation of private developers in building subsidized sale flats...”*



### **3.4 Analysis by Our Hong Kong Foundation (OHKF)**

- 3.4.1 The OHKF has published the latest land and housing policy research report “10-Year Housing Supply Forecast 2023” in April 2023. It found that completions of private housing beyond the next five years are expected to decline, as spade-ready land supply fell after 2017/18. In 2018, the Government revised the public to private housing ratio in the LTHS housing supply target, changing it from 60:40 to 70:30, hence spade-ready land supply nosedived since 2018/19.<sup>2</sup>
- 3.4.2 Despite an improved predicted average annual completion figure of private housing units in 2023-2027 and the Government’s policy of streamlining statutory and administrative procedures, based on currently known projects, the OHKF suggested that completions in 2028-2032 could tail off and reach only 13,900 units. While the Northern Metropolis holds the key to long-term housing supply, there is a lack of supporting infrastructure facilities and this would hinder housing supply.

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<sup>2</sup> Our Hong Kong Foundation. (2023). 10-Year Housing Supply Forecast 2023. [Accessed on 2 November 2023] Available at: [https://ourhkfoundation.org.hk/sites/default/files/media/pdf/OHKF\\_2023\\_Land&Housing\\_Report\\_fullset\\_EN.pdf](https://ourhkfoundation.org.hk/sites/default/files/media/pdf/OHKF_2023_Land&Housing_Report_fullset_EN.pdf).

## 4. The Public Housing Site

### 4.1 The EIAO Approved Scheme

4.1.1 To address the need for housing supply, in 2014, the Government had studied and identified potential public housing sites in the Tuen Mun Area 54, including land along the north of San Hing Road and Hong Po Road that overlap with the Representation Site. (Figure 6)

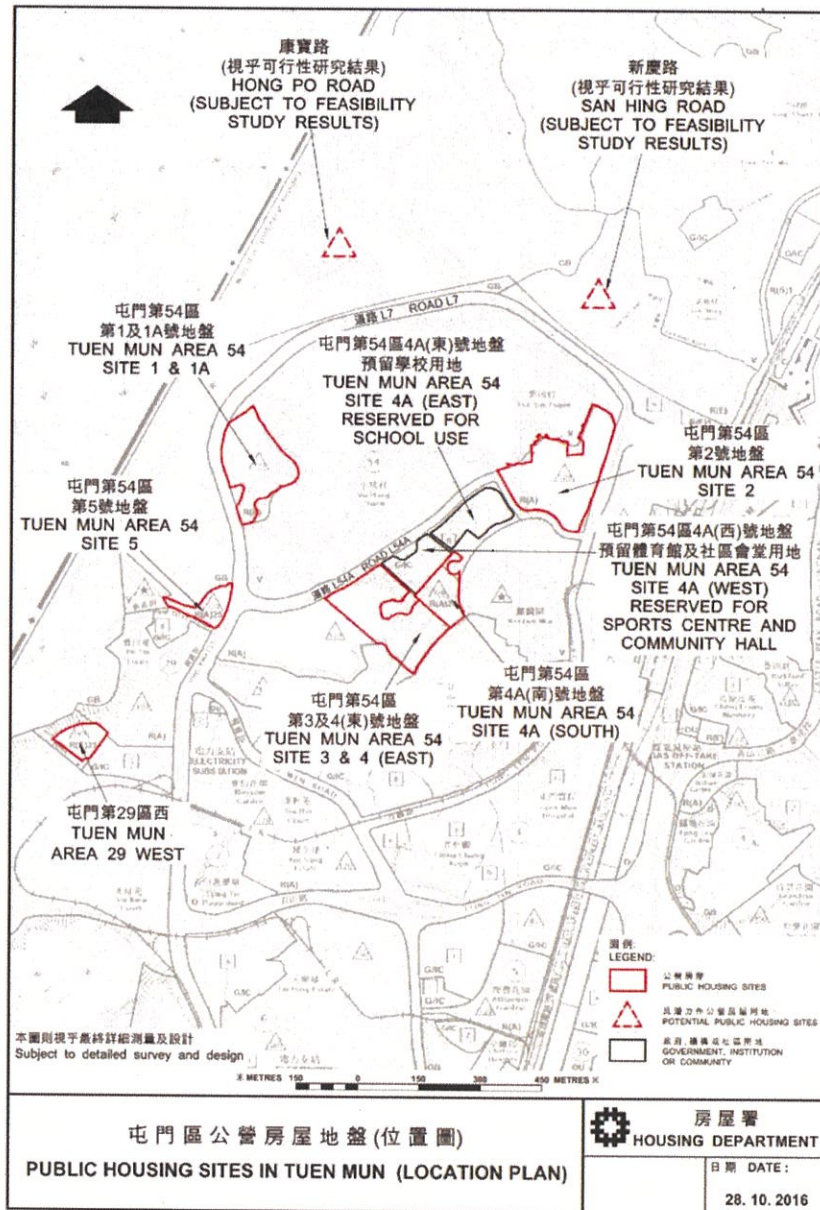


Figure 6: Potential public housing sites identified in Tuen Mun<sup>3</sup>

<sup>3</sup> Tun Mun District Council Paper No. 32/2016, Annex 1 (Plan 1).

4.1.2 In 2014, the Government published conceptual layout for the potential public housing site to the north of Hong Po Road and San Hing Road, which encompassed the Representation Site (Figure 6). The Government presented the conceptual layout plan to the then Tuen Mun District Council (TMDC), however, there was no support from the TMDC due to inadequate public consultation and information available. (Figure 7) Afterwards the Government's concept scheme was shelved.

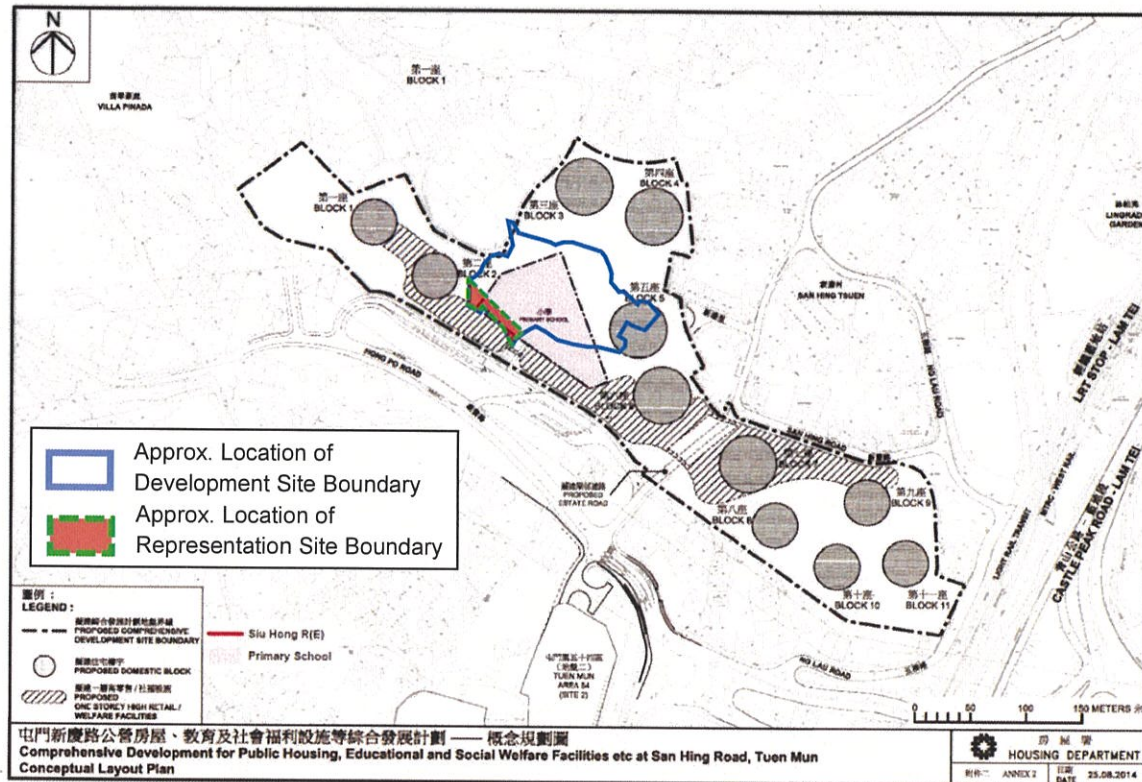


Figure 7: The Conceptual Plan of the public housing development in 2014, encompassing the Representation Site<sup>4</sup>

4.1.3 In 2017, the Civil Engineering and Development Department (CEDD) re-initiated the previous study on the concept plan and commenced an Engineering Feasibility Study (EFS). The site was enlarged with increased development intensity for public housing development with supporting GIC and infrastructure facilities. (Figure 8). As a result, the Environmental Impact Assessment Ordinance (EIAO) process was required. In June 2017, the CEDD submitted a project profile for the Public Housing Site. In August 2017, the Environmental Protection Department released an EIA Study Brief for CEDD to prepare an EIA Report. On 6 Oct 2020, the CEDD produced an EIA Report and was considered suitable by EPD for public inspection.

<sup>4</sup> Tuen Mun District Council Meeting Paper No. 25/2014

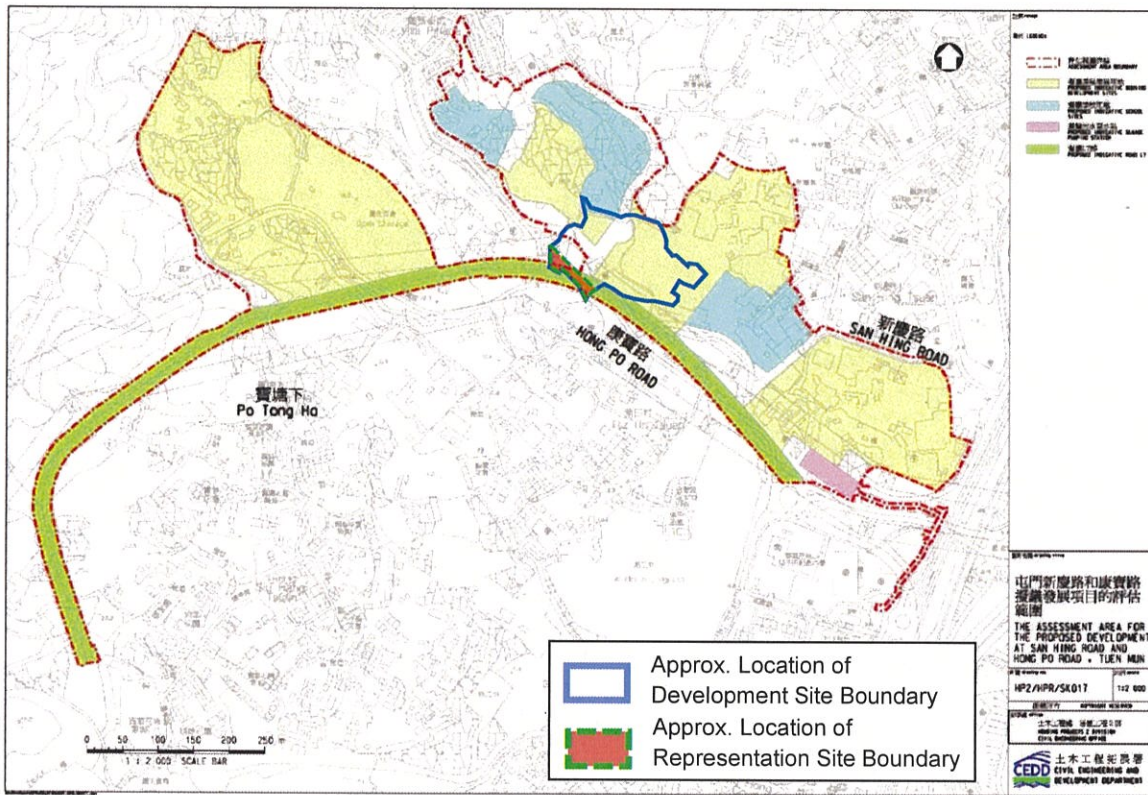


Figure 8: The planned public housing development in 2017 that encompasses the Representation Site<sup>5</sup>

#### 4.2 Recent Scheme Presented to the TMDC

4.2.1 On 22 September 2023, the CEDD and the Planning Department explained the latest public housing scheme in relation to the proposed amendments to the Tuen Mun OZP to the TMDC. The TMDC members had concerns on traffic impact and supported replacing the school sites with sports facilities. The TMDC also requested that more information and a program for the sports ground should be provided.

<sup>5</sup> Environmental Impact Assessment Ordinance, Development at San Hing Road and Hong Po Road, Tuen Mun (2017). Available: [https://www.epd.gov.hk/eia/english/alpha/aspd\\_718.html](https://www.epd.gov.hk/eia/english/alpha/aspd_718.html)

### 4.3 Comparison of previous and current schemes

#### 4.3.1 The Original Layout Plan in the EIA Report is shown in Figure 9 below.

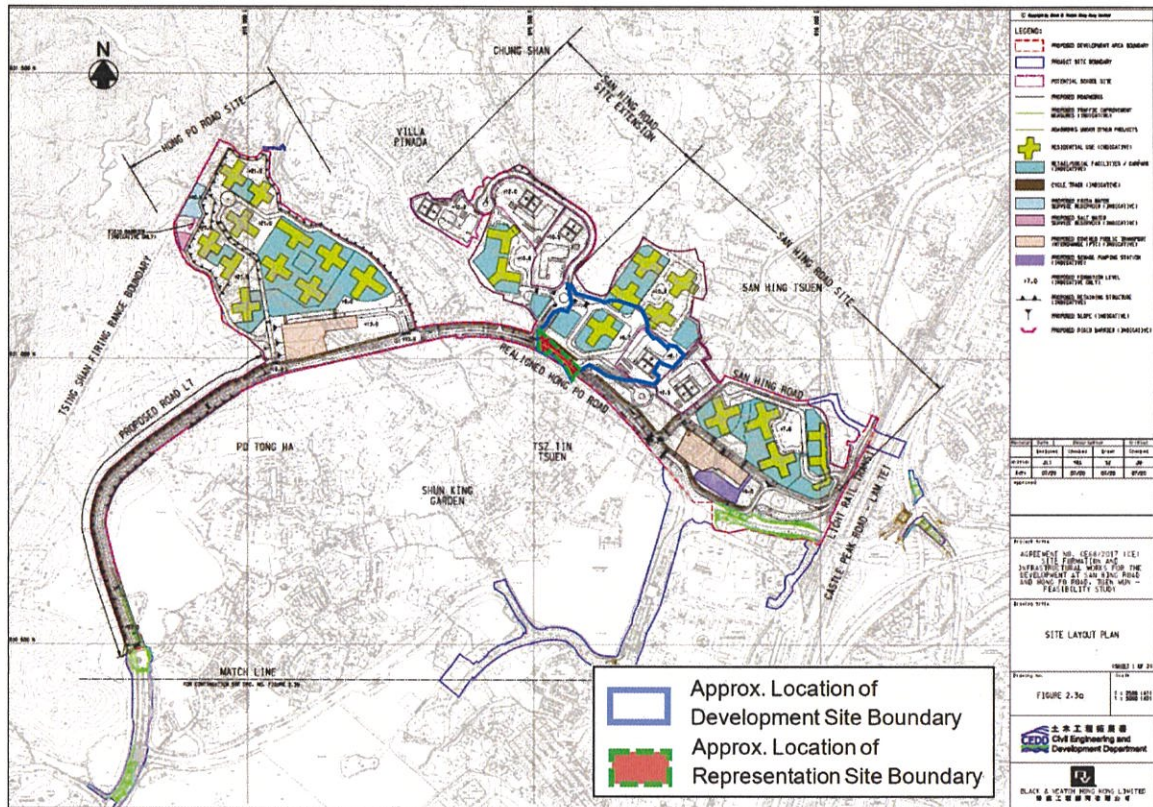
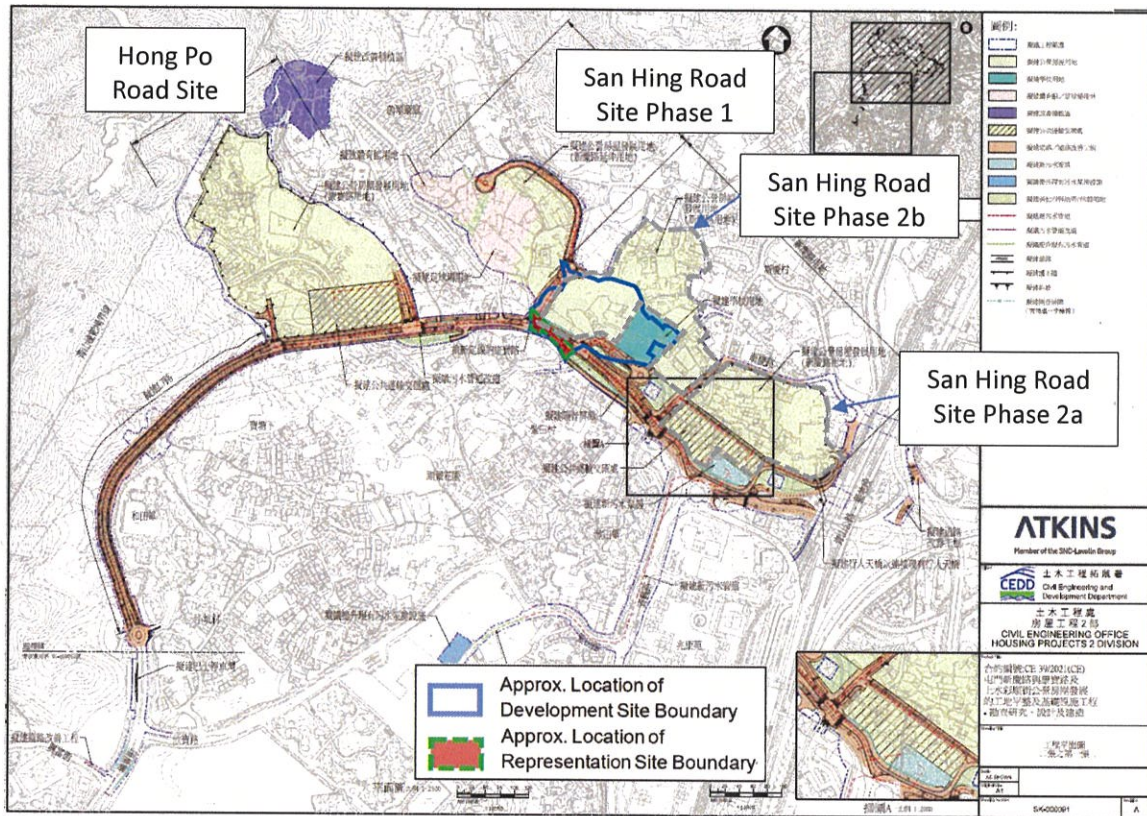
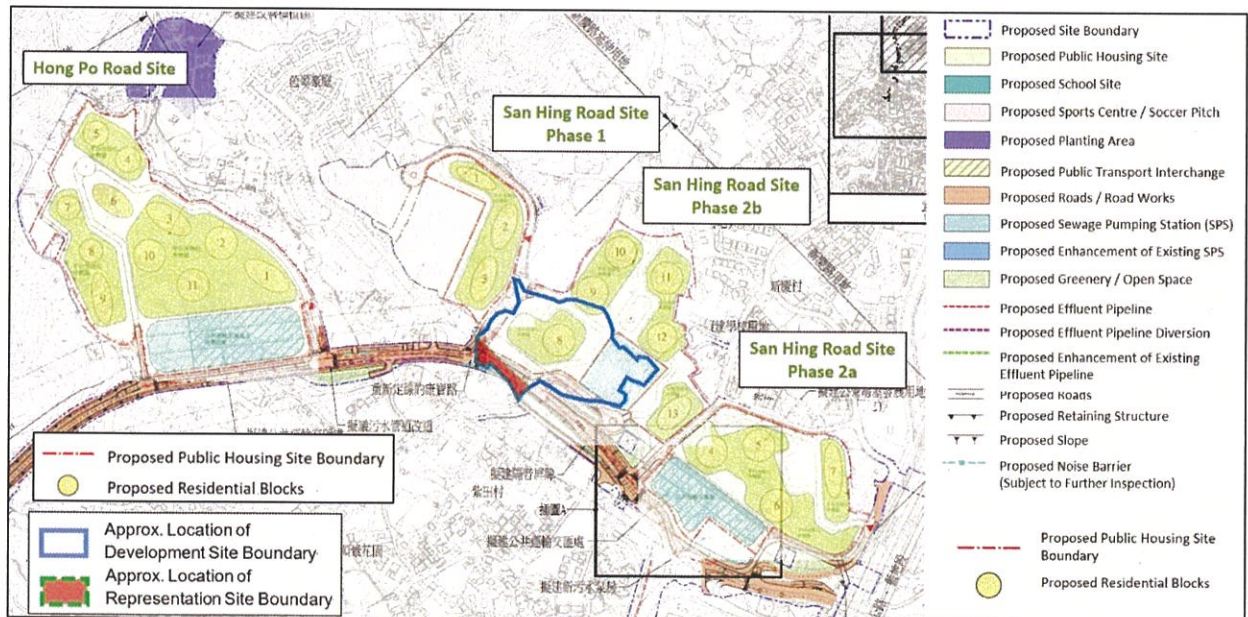


Figure 9: The Original Layout Plan in the EIA Report of the Public Housing Site that encompasses the Representation Site

4.3.2 The latest scheme presented in the TMDC meeting in September 2023 is shown in **Figure 10** **Figure 11** below.



**Figure 10:** The Latest Public Housing Scheme Presented to the TMDC in September 2023



**Figure 11:** The various phases of the Latest Public Housing Scheme

4.3.3 Figure 12, Figure 13, Figure 14 and Figure 15 show the comparison of layout plans between the EIAO approved public housing scheme and the latest scheme.

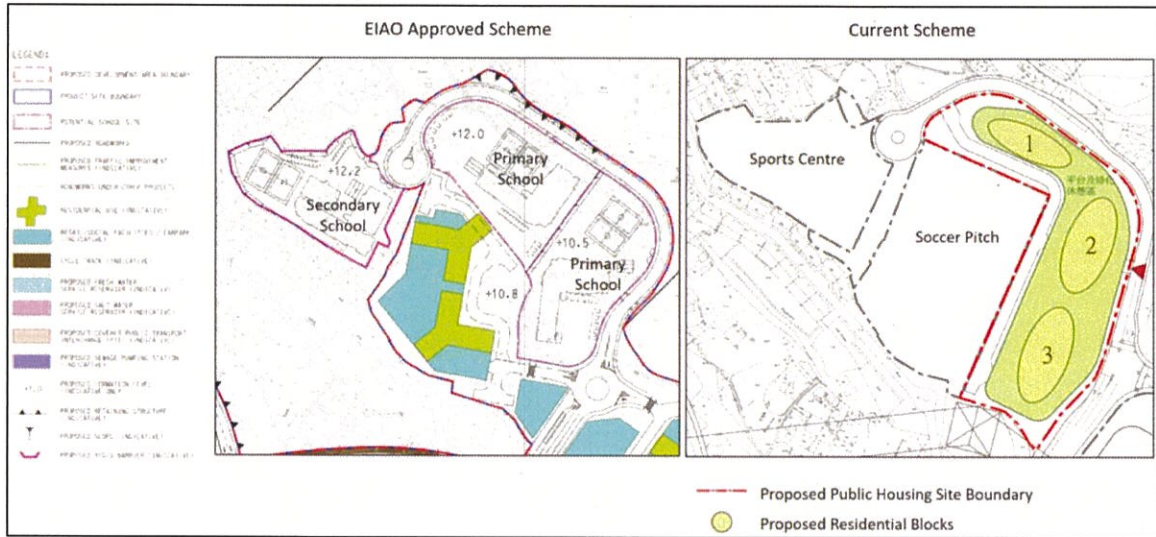


Figure 12: Comparison of the EIA Approved Scheme and the Latest Public Housing Scheme – San Hing Road Phase 1

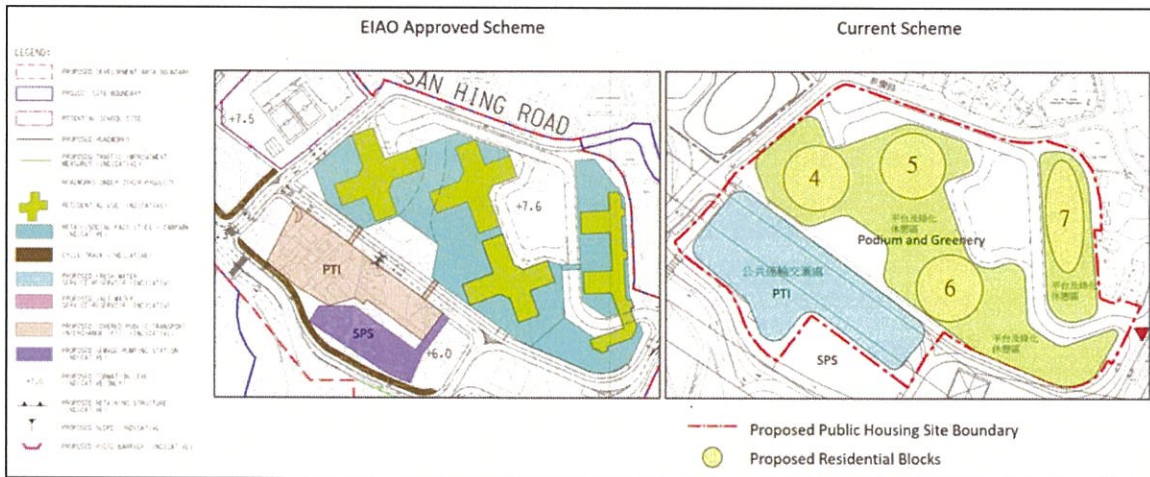


Figure 13: Comparison of the EIA Approved Scheme and the Latest Public Housing Scheme – San Hing Road Phase 2A

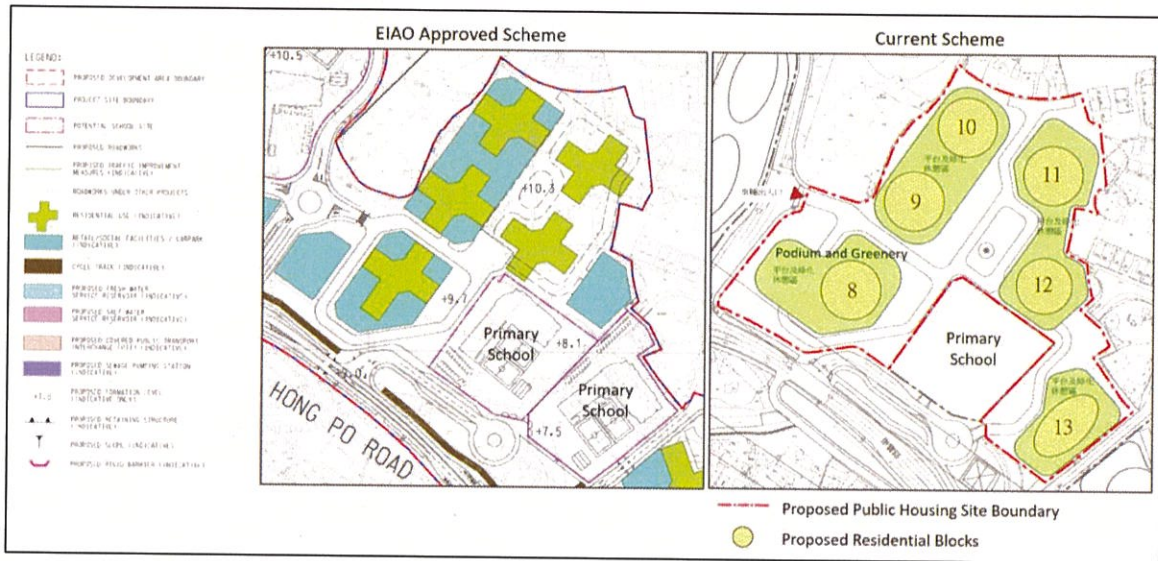


Figure 14: Comparison of the EIA Approved Scheme and the Latest Public Housing Scheme – San Hing Road Phase 2B

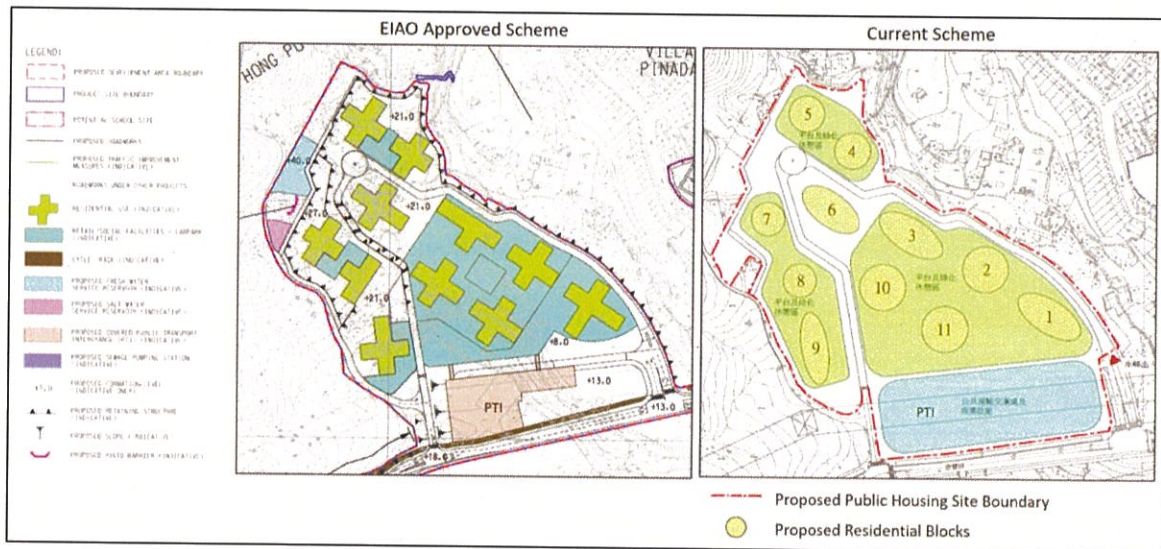


Figure 15: Comparison of the EIA Approved Scheme and the Latest Public Housing Scheme – Hong Po Road Site



4.3.4 The comparison of the development parameters of the two public housing schemes is shown in **Table 2** below.

**Table 2: Comparison of the Development Parameters between EIAO Approved Public Housing Scheme and Current Scheme**

	EIAO Approved Scheme (2020 Dec) [B]	Current Scheme (2023 Sept) [A]	Changes [A - B]	
Total Site Area (ha)	29.7	29.7	Nil	
Total Plot Ratio (PR)	6.5	6.5	Nil	
Domestic PR	6.0	6.0	Nil	
Non-domestic PR	0.5	0.5	Nil	
No. of Flats	21,600	20,400	<b>-1,200</b>	
Population	61,000	57,120	<b>-3,880</b>	
No. of Blocks	22	24	<b>+2 (Phase 1 and Phase 2B)</b>	
No. of Storeys	32-46	43-46	<b>+11 (lower range)</b>	
Max. Building Height (mPD)	160	160	Nil	
Target Population Intake Year	2023-2033	2030-2033	Nil	
Major Supporting Facilities Phase 1 San Hing Road Site Extension	2x Primary Schools 1 x Secondary School	1 x Sports Centre 1 x Soccer Pitch (11-a-side)	<b>Removed:</b> 2 x Primary Schools 1 x Secondary School	<b>Added:</b> 1 x Sports Centre 1 x Soccer Pitch
Major Supporting Facilities Phase 2A & 2B San Hing Road Site	2 x Primary Schools 1x Public Transport Interchange (PTI) 1 x Sewage Pumping Station	1 x Primary School 1 x PTI 1 x Sewage Pumping Station	<b>Removed:</b> 1 x Primary School	
Major Supporting Facilities Hong Po Road Site	1 x PTI	1 x PTI	Nil	

4.3.5 In the latest public housing scheme, the number of flats has decreased by 1,200 and four school sites have been removed, with only one primary school remaining. While a soccer pitch has been added to the latest layout plan, it lacks justification for a sizeable area of the soccer pitch. This has also been questioned by the TMDC members. There is therefore flexibility and room to accommodate the proposed private housing scheme, by reviewing the actual area needed for the accompanying facilities and re-arranging the housing blocks without causing any delay to the implementation program or requiring substantial review of the relevant technical assessments.

## 5. Previous Application History

5.1 The previous application history which shows the Applicant's process and the Government's process is shown in **Table 3** below.

**Table 3:** Timeline Showing Previous Application History and Government Process

Timeline	Application Process by Representer	Government Process for Public Housing Development
2014	<b>Approved</b> Section 16 Planning Application No. A/TM-LTY/273 (PR 1.0 Scheme in R(E) zone)	-
2020 May	<b>Approved</b> Section 16 Planning Application No. A/TM-LTY/381 (PR 1.0 Scheme in R(E) zone)	-
2020 December	-	EIA Report Approved by EPD
2021 March	<b>Approved</b> Section 17 Review No. A/TM-LTY/273-1	-
2021 August	-	LTY OZP Amendments Gazetted
2021 November	<b>Approved</b> General Building Plan for PR1.0 Scheme in R(E) zone (S.16 No. A/TM-LTY/381)	-
2022 March	Commencement of Development via Planning Department's Letter (S.16 No. A/TM-LTY/381)	-
2022 May	<b>Rejected</b> Rezoning Application (No. Y/YM-LTY/8) for high-density private residential scheme with PR 6.5	-
2022 July	<b>Approved</b> General Building Plan for PR6.5 Scheme Compliant with R(A) zone	-
2022 August	<b>Rejected</b> Representation (R4) for PR1.0 and PR6.5 Schemes to the LTY OZP Amendments	-
2022 November	-	CE in C Approved LTY OZP 13

## **6. The Proposed Private Housing Scheme**

### **6.1 Speedy Implementation of High-Quality Private Housing Scheme**

- 6.1.1 The Representer aspires to create a vibrant and high-quality private housing scheme at the Development Site (including the Representation Site). It would help contribute to housing supply for private flats, balance the housing mix of the neighbourhood that is and will be predominantly public housing and optimize the scarce land resources.
- 6.1.2 The Proposed Private Housing Scheme also allows immediate implementation of private housing as it does not require resumption of land and the site is ready to commence development. There has been approved Section 16 Planning Applications and approved GBP schemes. The only delaying factor has been the refusal by Lands Department to process the land exchange.

### **6.2 Indicative Development Parameters**

- 6.2.1 The Proposed Private Housing Scheme in the Development Site (including the Representation Site), has a total plot ratio of about 6.2 and a total GFA of not more than 131,498 sqm. It will consist of a domestic GFA of 127,998 sqm, and non-domestic GFA of not more than 3,500sqm. The non-domestic GFA consists of community facilities at the 1/F with a GFA of about 1,500 sqm, and retail facilities at the G/F with a GFA of about 2,000 sqm. It is comprised of 6 blocks at a building height of (not more than) 45 domestic storeys and (not more than) 160mPD, with supporting club house facilities at the 2/F for residents' recreational needs. The blocks are arranged in a stepped building height profile, with the two towers in the central location at 160mPD, then the towers to the side descends to 157mPD and 151mPD. (Figure 16, and Figure 17) It will provide 1,998 residential flats and accommodate a design population of 5,395. Please refer to Table 4 below for the indicative development parameters.

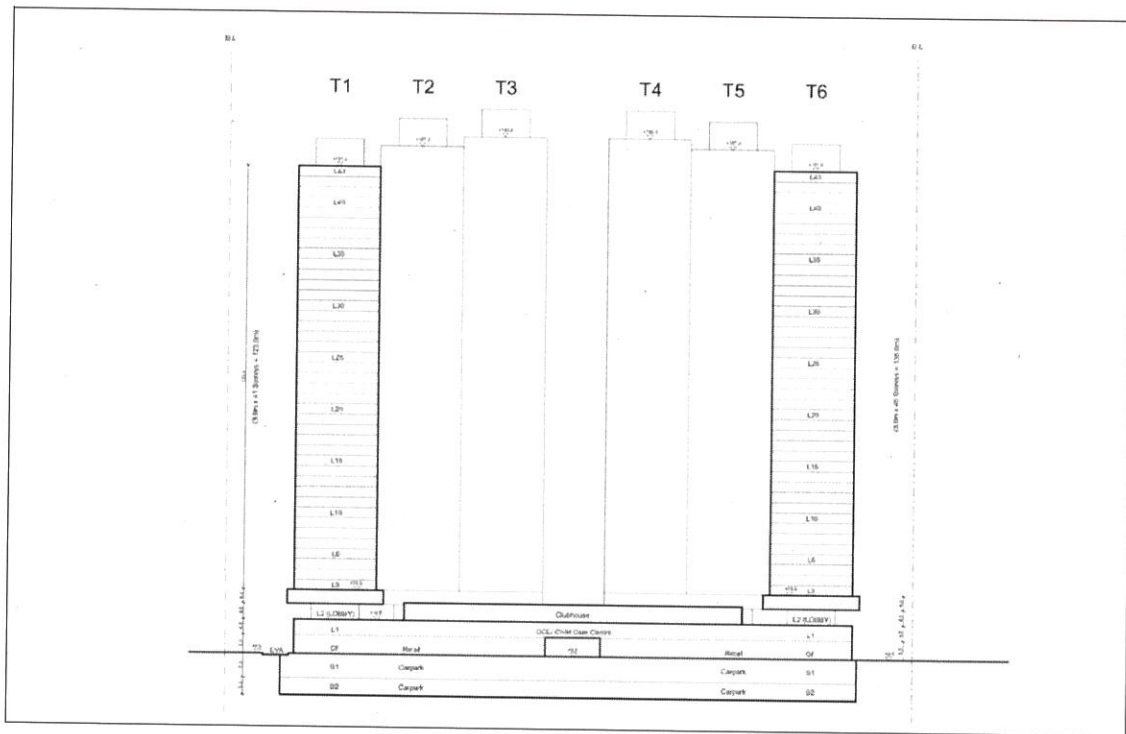


Figure 16: Section A-A of the Proposed Private Housing Scheme

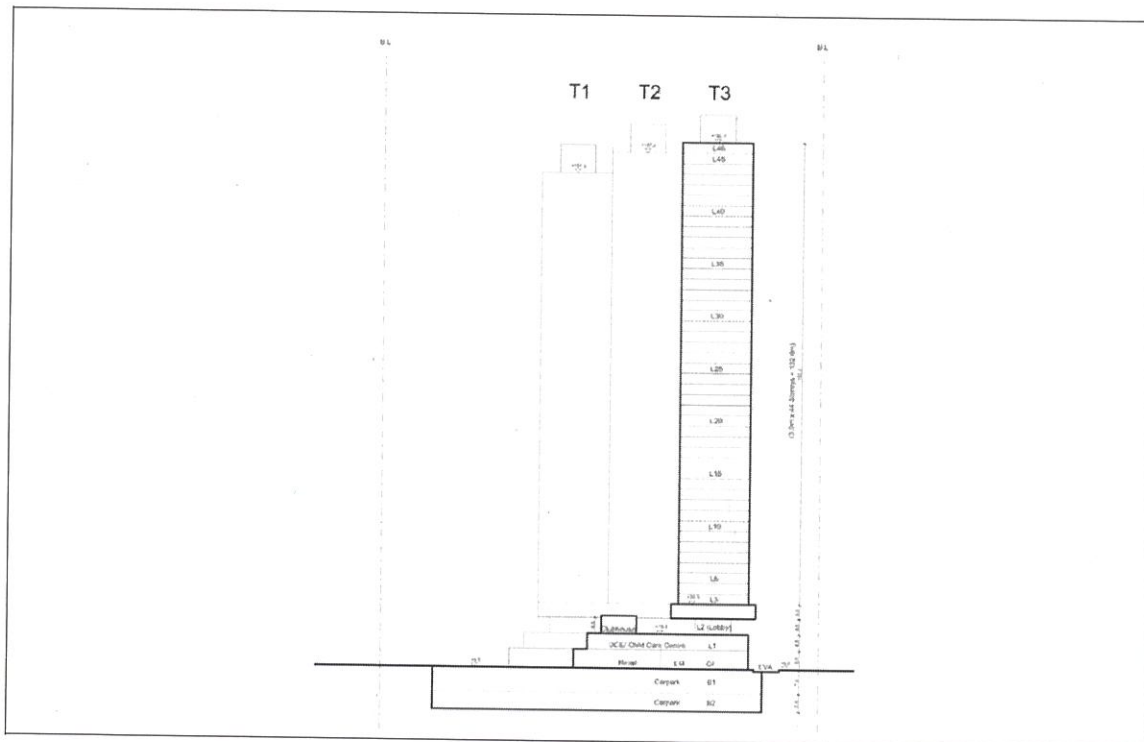


Figure 17: Section B-B of the Proposed Private Housing Scheme

**Table 4: Indicative Development Parameters of the Proposed Private Housing Scheme**

Representation Site Area	1,891 (about)
Development Site Area (incl. Representation Site) (used for Plot Ratio and GFA calculation)	21,333 sqm (about)
Total Plot Ratio	6.2 (not more than)
Domestic Plot Ratio	6.0 (not more than)
Non-domestic Plot Ratio	0.2 (not more than)
Total GFA	131,498 sqm (not more than)
Domestic GFA	127,998 sqm (not more than)
Non-domestic GFA	3,500 sqm (not more than)
Day Care Centre for Elderly (DCE)	500 sqm
Child Care Centre (CCC)	1,000 sqm
Retail	2,000 sqm
Maximum Site Coverage	40% (not more than)
Building Height in mPD above ground	160mPD (not more than)
No. of Private Flats	1,998
No. of Storeys	48 (not more than) (excluding 2 levels of basement carpark)
No. of Domestic Storeys	45 (not more than)
No. Blocks Domestic	6
Average Flat Size	64 sqm
Design Population <sup>(1)</sup>	5,395
Private Open Space	5,395 sqm (not less than)
Residential Parking Spaces	313
Visitor Parking Spaces	45
Disabled Parking Spaces	Included within residential parking spaces
Motorcycle	20
Bicycle	100
L/UL for Residential	6

**Remarks:**

<sup>(1)</sup> Assuming a Person-Per-Flat ratio of 2.7, based on the average domestic household size in Tuen Mun District in 2016 released by Census and Statistics Department.

### **6.3 Urban Design Integration with Surrounding Public Housing Development**

- 6.3.1 The Development Site (including the Representation Site) is situated at a roadside location and is envisaged to adopt a landmark gateway design. When viewed from the top, the disposition of the residential blocks has a crescent formation. A gap of about 20m wide is provided at the middle portion of the crescent shape, between two groups of towers. This is to provide a visual and air corridor in a north-east direction, which merges with the one at the public housing block disposition to the north. () At the ground level, this visual and air corridor alignment becomes a pedestrian passageway that enhances connectivity with the surrounding public housing developments. The pedestrian passageway that falls within the Representation Site will link up to the retail street with open-air retail facilities at the G/F podium frontage. This would enhance the vibrancy and encourage social and commercial activities at this location.
- 6.3.2 The focal point of the Development Site is at the Central Plaza, which would become a multi-functional open space for public enjoyment. (Figure 18) The Central Plaza is an activity and social space for holding festivities and local community events. It is wrapped around at the northern side by the podium that follows the crescent shape, forming an open-air retail frontage at the G/F. This retail frontage could possibly have alfresco dining, food and beverage, and retail facilities to enliven and attract residents and visitors to frequent the space. It would be open to the residents of both the public and private housing developments.
- 6.3.3 The buildings have been designed to comply with the sustainable building design guidelines, and there will be sufficient space between the residential blocks to allow views to the surroundings. A set of pylons and overhead transmission lines is located to the south-west boundary of the Representation Site, and a 25m buffer distance of all the building structures within the Site has been provided away from the pylon system.

### **6.4 An Alternative Retail Experience**

- 6.4.1 The Proposed Private Housing Scheme would offer an alternative retail experience for visitors. It would differentiate in terms of quality of design and retail mix, compared to the standard retail facilities in public housing developments. Current trends point to an evolved retail experience in private developments, where it is about creating a lifestyle hub, connecting visitors to open-air spaces that are fused with the retail components. These spaces would have landscape amenities to enable visitors to socialize and shop in a comfortable environment, and meet up as a community. In turn, place-making strategies can be adopted to activate the retail spaces and create innovative destinations.

## 6.5 Supporting Community Facilities

6.5.1 As indicated in the RNTPC Paper No.7/23, there is a shortfall of Day Care Centre for Elderly (DCE) and Child Care Centre (CCC) facilities in the future planned provision of the area. The Proposed Private Housing Scheme therefore has included a 40-place DCE with a 500 sqm GFA, and a 100-place CCC with a 1,000 sqm GFA. These facilities are proposed to be placed at the 1/F podium (Figure 16 and Figure 18), and comply with the design requirements in the HKPSG.

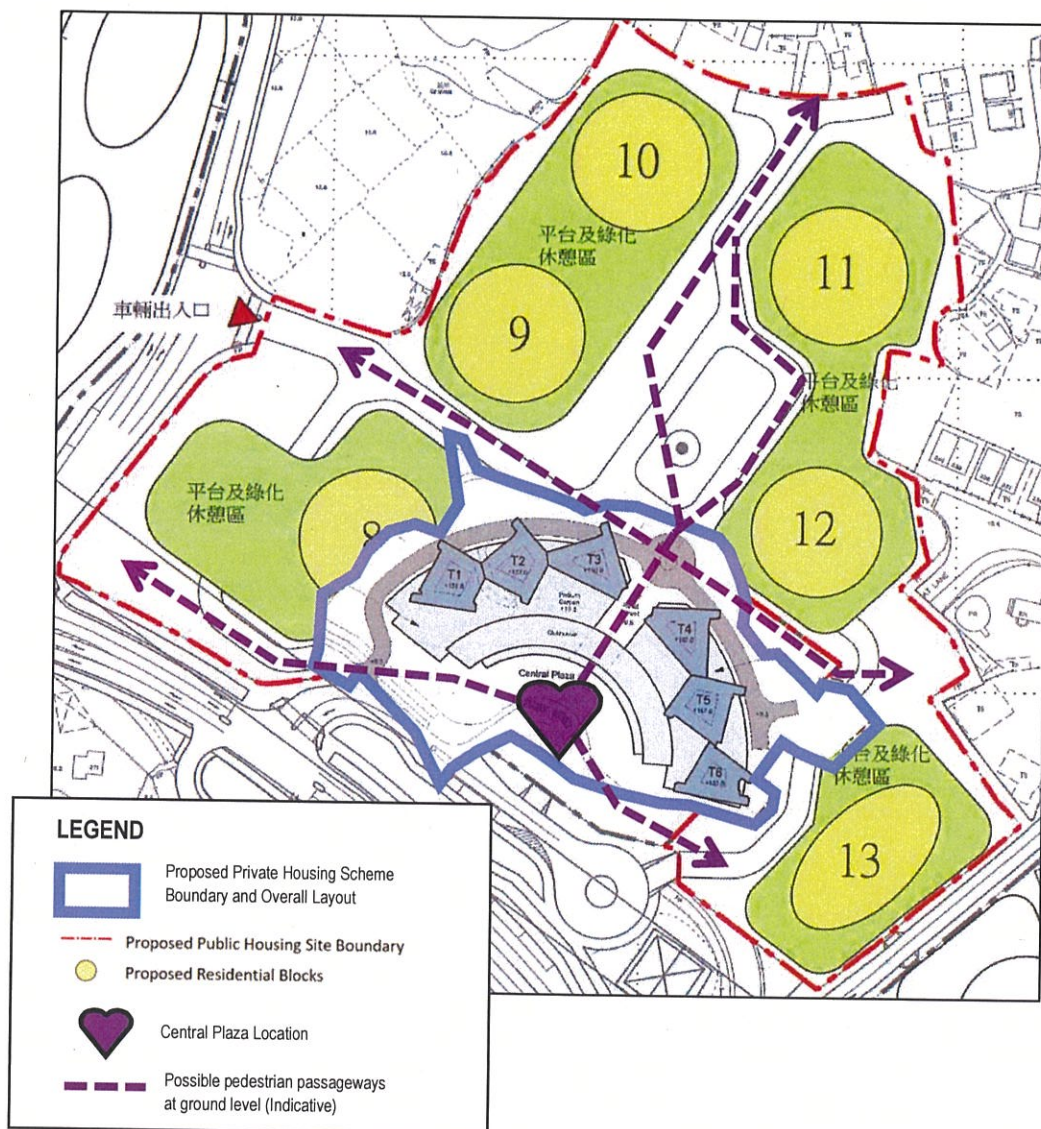


Figure 18: Urban Design Integration with the Surrounding Public Housing Developments

## 7. Proposed Amendments to Meet this Representation

- 7.1 The proposed amendments to meet this Representation are to amend the Explanatory Statement paragraph 9.3.2, by adding “***and private***” in order to allow flexibility for the site to be developed for private housing developments. Please see our proposed amendments to the paragraph below:

*“..., as well as two sites zoned “R(A)28” at San Hing Road and Hong Po Road are intended for public **and private** housing developments.”*



## **8. Grounds for Objection to the Proposed Amendments**

### **8.1 Acute Demand for Private Housing**

- 8.1.1 There is a need to allow design and land use flexibility for private housing developments in the Development Site (including the Representation Site). This is because the Proposed Private Housing Scheme is in line with the recent Policy Addresses which stressed that the housing supply in Hong Kong is the most critical of all livelihood issues, where both public and private housing are important components. The Government has been tasked to increase the housing supply for both the private and public sectors. Particularly in response to recent societal debate, the CE highlighted that the government aims to release brownfield sites to optimize land resources for housing supply.
- 8.1.2 This is also supported by the report published by the OHKF which found that the private housing supply in the coming decade would tail off. Therefore, the Proposed Private Housing Scheme would provide a total of 1,998 flats to offer an alternative private housing supply to help alleviate the over-inflated property prices and assist middle-class families in purchasing their own flats.

### **8.2 Problems Associated with the Over-Dominance of Public Housing in a Neighbourhood**

- 8.2.1 As mentioned in Section 3.1 above, the Tin Shui Wai Study has already demonstrated that an imbalanced housing mix is one of the major issues leading to a 'City of Sadness'. The over-concentration and pre-dominance of public housing in the locality are not in any way desirable in planning and social terms.
- 8.2.2 A prime issue to the form of public housing in Hong Kong is the tendency of developing monolithic sites, with large concentrations of high-rise buildings of a similar form, and of the same type of designed use. It would be desirable to have a mix of forms of private and public housing to provide a diverse choice of housing options for the community and create variety in the urban form. In addition, there is a benefit to have a social mix within an area, so that the future community living in the neighbourhood are of different social backgrounds and characteristics. The rezoning of the Representation Site to permit private housing on the Site will ensure that this mix of housing types, development forms and social mix would be achieved. A balanced housing mix will contribute to the sustainability and vibrancy of the community.

### **8.3 The Merits of the Proposed Private Housing Scheme at the Development Site**

- 8.3.1 The proposed private housing development will be in juxtaposition to the planned public housing in Tuen Mun Area 54. From an urban design and planning perspective, the proposed private residential development offers a better mix of housing types and a better social dynamic to the area. The private housing scheme also creates a focal point for the vicinity and

provides a multi-functional open space for public enjoyment. The buildings have been designed to comply with the sustainable building design guidelines and building gaps allow a high visual permeability.

- 8.3.2 The latest changes made to the Public Housing Scheme included and the total number of flats was 1,200 short of their original target in the EIA Report. This demonstrates that the overall layout and spatial configuration could have accommodated a private housing development in the study area, without causing delay to the implementation program or require substantial review to the technical assessments.
- 8.3.3 In addition, the Proposed Private Housing Scheme also allows immediate implementation of private housing as it does not require resumption of land and the site is ready to commence development. There have been approved Section 16 Planning Applications and approved GBP schemes. Based on the current progress, the site formation works are planned for commencement in 2025, as such it would take another (about) 5 years from that point to finish construction of the public housing development by 2030. In comparison, the public housing scheme would need to go through the OZP amendment and consolidation of land ownership, after which the construction period would take 3 years. Therefore, the Proposed Private Housing Scheme is able to deliver housing in a much shorter period.
- 8.3.4 As the EIAO process determined the technical feasibility of having high-density public housing in the project area, as well as the land covering our Development Site; therefore, it can be rationally inferred that the Proposed Private Housing Scheme, having similar development intensity as the planned public housing blocks, would be technically feasible and can be integrated with the planned infrastructure and surrounding public housing development.

#### **8.4 The Recently Published Public Housing Scheme Demonstrates Flexibility to Accommodate Private Housing**

- 8.4.1 In the latest public housing scheme presented in the TMDC meeting in September 2023, the number of flats has decreased by 1,200 and four school sites have been removed, with only one primary school remaining. While a soccer pitch has been added to the latest layout plan, it lacks justification for a sizeable area of the soccer pitch. This has also been questioned by the TMDC members. There is therefore flexibility and room to accommodate the Proposed Private Housing Scheme, by reviewing the actual area needed for the accompanying facilities and re-arranging the housing blocks.
- 8.4.2 The proposals under the Rezoning Application No. Y/TM-LTY/8 provided an alternative housing type and land-use configuration in the Representation Site, which should have been considered in the layout plan option for assessment by the Government. However, no alternative scheme to include private housing was ever explored by the Government.
- 8.4.3 The Representer has proposed an alternative layout plan to the scheme presented to TMDC in September 2023, proposing relocating the public housing in the Development Site to

elsewhere in the Public Housing Site. The private housing scheme can then be integrated into the layout plan, creating a combined scheme that has the benefit of retaining the latest number of public flats (i.e. 20,400) and providing additional private flats (i.e. 1,998), making up a total provision of about 22,398 flats.

## **8.5 Unfair Deprivation of Private Property Rights**

- 8.5.1 According to *Hysan Development Co Ltd and Others v Town Planning Board* (FACV 21/2015), the Court of Final Appeal has decided that Government imposed restrictions on building developments would engage in Articles 6 and 105 of the Basic Law. In this respect, a proportionality test is carried out to determine, at the 4<sup>th</sup> step (if the previous 3 step test is met by the TPB), whether a reasonable balance has been struck between the social benefits of the encroachment and the private property rights of an individual; in particular, whether pursuit of the societal interest resulted in an unacceptably or excessive harsh burden on the individual.
- 8.5.2 Basic Law Article 6, states: *“The Hong Kong Special Administrative Region shall protect the right of private ownership of property in accordance with law.”*
- 8.5.3 Basic Law Article 105, states: *“The Hong Kong Special Administrative Region shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property.”*
- 8.5.4 The Amendment Item A2 has imposed a land-use zoning that favors public housing development on private land at the Representation Site (forms part of the Development Site), which is underpinned by the following circumstances: (i) there has been a Government study or only a development concept in place for public housing; (ii) the implementation for approved private housing schemes has been blockaded; and (iii) no consideration has been made to an alternative scheme and the benefits for private housing development for comparison. Therefore, these circumstances would be a deprivation of private property rights, as the Representer has been deprived of the right to implement any form of private housing development on the Development Site (including the Representation Site).

## **9. Conclusion**

- 9.1** The proposed high-density private housing at the Development Site (including the Representation Site) is suitable, compatible and technically feasible at its location and to the future planning context. It will ensure that a mix of housing types, development forms and social groupings would be achieved. A balanced housing mix will contribute to the long-term sustainability and vibrancy of the community. It will also enable the private sector to take an active part in the provision of housing to meet the existing shortfall. Provision of only public housing on this site will unnecessarily limit the housing types that are produced and unnecessarily result in a massive concentration of public housing. Diversity and a multi-faceted approach to meeting the different housing needs is a planning objective which should be pursued in this OZP amendment process.
- 9.2** Therefore, the Board is invited to reject the proposed amendment Item A2 with revised explanatory statement para. 9.3.2 for only public housing development. The TM OZP 38 should allow private housing at the Representation Site to uphold private property development rights.