

Legislative Council Brief

Safeguarding National Security Ordinance

(6 of 2024)

SAFEGUARDING NATIONAL SECURITY (OFFICE FOR SAFEGUARDING NATIONAL SECURITY OF THE CENTRAL PEOPLE’S GOVERNMENT IN THE HONG KONG SPECIAL ADMINISTRATIVE REGION) REGULATION

SAFEGUARDING NATIONAL SECURITY (DECLARATION OF PROHIBITED PLACES) ORDER

Introduction

The Central Authorities have enacted The Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (HKNSL), have established the Office for Safeguarding National Security of the Central People’s Government in the Hong Kong Special Administrative Region (OSNS), and have stipulated OSNS’s mandate in Chapter V of the HKNSL. According to Article 61 of the HKNSL, the relevant departments of the Government of the Hong Kong Special Administrative Region (HKSAR Government) shall provide necessary facilitation and support to the OSNS in performing its mandate in accordance with the HKNSL, and shall stop any act obstructing the performance of such mandate and hold those who commit such act liable in accordance with the law. Section 110 of the Safeguarding National Security Ordinance (6 of 2024)) (SNSO) empowers the Chief Executive in Council to make subsidiary legislation for the needs of safeguarding national security and the better carrying into effect of the HKNSL, including the provisions in Chapter V concerning the mandate of the OSNS. The Hong Kong Special Administrative Region (HKSAR) has the responsibility for enacting local legislation to provide for the specific details of the relevant requirements under the

HKNSL, in order to further improve the legal system and enforcement mechanisms for safeguarding national security.

2. At the meeting on 13 May 2025, the Executive Council recommended and the Acting Chief Executive ordered that the Acting Chief Executive in Council should make the Safeguarding National Security (Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region) Regulation (the Regulation) (**Annex A**) under section 110 of the SNSO and the Acting Chief Executive should make the Safeguarding National Security (Declaration of Prohibited Places) Order (the Order) (**Annex B**) under section 42 of the SNSO.

A

B

Justifications

3. With the commencement of the SNSO on 23 March 2024, the HKSAR has fulfilled its constitutional responsibility and historic mission of legislating for Article 23 of the Basic Law. While the HKNSL, the SNSO and other law of the HKSAR on safeguarding national security have ensured the effective protection of national security in the HKSAR, according to the Decision of the National People's Congress on Establishing and Improving the Legal System and Enforcement Mechanisms for the Hong Kong Special Administrative Region to Safeguard National Security (5.28 Decision) and the HKNSL¹, the HKSAR still has the constitutional responsibility to continue to improve the legal system and enforcement mechanisms for safeguarding national

¹ Article 3 of the 5.28 Decision provides that it is the HKSAR's constitutional responsibilities to safeguard national sovereignty, unity and territorial integrity. The HKSAR must complete the national security legislation stipulated in the Basic Law of the HKSAR at an earlier date. The HKSAR's administrative, legislative and judicial organs must, in accordance with relevant laws and regulations, effectively prevent, stop and punish acts and activities endangering national security; Article 4 provides that the HKSAR shall establish and improve the institutions and enforcement mechanisms for safeguarding national security, strengthen the enforcement forces for safeguarding national security, and step up enforcement to safeguard national security. Article 3 of the HKNSL provides that the Central People's Government has an overarching responsibility for national security affairs relating to the HKSAR. It is the duty of the HKSAR under the Constitution to safeguard national security and the HKSAR shall perform the duty accordingly. The executive authorities, legislature and judiciary of the HKSAR shall effectively prevent, suppress and impose punishment for any act or activity endangering national security in accordance with the HKNSL and other relevant laws; Article 7 requires that the HKSAR shall complete, as early as possible, legislation for safeguarding national security as stipulated in the Basic Law and shall refine relevant laws.

security so as to continue to prevent, suppress and punish acts and activities endangering national security effectively.

4. Comprehensive measures to safeguard national security require the empowerment of the executive authorities to formulate implementation details and administrative matters. Moreover, national security risks can emerge all of a sudden and cannot be predicted. As such, section 110 of the SNSO empowers the Chief Executive in Council to make subsidiary legislation to provide for the specific implementation details of the requirements under the HKNSL, the Interpretation by the Standing Committee of the National People's Congress of Article 14 and Article 47 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (NPCSC's Interpretation) and the SNSO, so that the mechanisms for safeguarding national security can be implemented more effectively, and national security risks can be prevented and addressed in a timely manner.

5. Safeguarding national security is within the purview of the Central Authorities. The Central Authorities have an overarching responsibility for national security affairs relating to the HKSAR, and possess complete legislative, executive and judicial powers in respect of such matters. This is in line with the common practice of countries around the world on safeguarding national security. However, having regard to the special nature of "one country, two systems" and the actual situation of the HKSAR, the Central Authorities authorise, through the HKNSL, the HKSAR to assume primary responsibility for safeguarding national security in the HKSAR, while the Central Authorities bear the ultimate responsibility of the last resort for dealing with issues that are difficult to be resolved at the HKSAR level. The HKNSL has innovatively provided for enforcement mechanisms for safeguarding national security at two levels, i.e. the Central Authorities level and the HKSAR level.

6. At the Central Authorities level, Article 48 of the HKNSL provides that the Central People's Government shall establish in the HKSAR the OSNS, which shall perform its mandate for safeguarding

national security in accordance with the law. Chapter V of the HKNSL provides for the mandate of the OSNS, including overseeing, guiding, coordinating with, and providing support to the HKSAR in the performance of its duties for safeguarding national security. Also, the OSNS may directly exercise jurisdiction over a case concerning offence endangering national security under the HKNSL in a circumstance specified in Article 55 of the HKNSL. The OSNS's exercise of jurisdiction pursuant to Article 55 of the HKNSL targets a very small number of cases that are of a serious and egregious nature and involve a significant impact. At the HKSAR level, a holistic system for safeguarding national security is established, including the establishment of the Committee for Safeguarding National Security of the HKSAR (CSNS) to handle specific matters pertaining to safeguarding national security in accordance with the law. In general, the HKSAR has jurisdiction over most of the cases concerning offences endangering national security under the HKNSL. The two enforcement mechanisms are clearly delineated in terms of division of duties and jurisdiction over cases, and at the same time form a complementary, collaborative and coordinated relationship, jointly constituting a comprehensive system and mechanism for safeguarding national security in the HKSAR. This has fully demonstrated not only the fact that national security is a matter under the purview of the Central Authorities but also the Central Authorities' high degree of trust in and respect for the HKSAR.

7. Chapter V of the HKNSL sets out the mandate of the OSNS. According to Article 49 of the HKNSL, the OSNS shall perform the following mandate:

- (1) analysing and assessing developments in relation to safeguarding national security in the HKSAR, and providing opinions and making proposals on major strategies and important policies for safeguarding national security;

- (2) overseeing, guiding, coordinating with, and providing support to the HKSAR in the performance of its duties for safeguarding national security;
- (3) collecting and analysing intelligence and information concerning national security;
- (4) handling cases concerning offence endangering national security in accordance with the law.

8. Article 61 of the HKNSL provides that the relevant departments of the HKSAR Government shall provide necessary facilitation and support to the OSNS in performing its mandate in accordance with the HKNSL, and shall stop any act obstructing the performance of such mandate and hold those who commit such act liable in accordance with the law. Section 111 of the SNSO provides that the Chief Executive may issue an administrative instruction to any department or agency of the HKSAR Government or any public servant to give directions in relation to the provision of rights, exemptions, facilitation and support that are necessary for the OSNS in performing its mandate under Chapter V of the HKNSL in accordance with the law. Section 114(2) of the SNSO further provides that a public servant must provide any department or agency that is responsible for the work on safeguarding national security, and its personnel (i.e. including the OSNS and its staff), in the HKSAR, with all reasonable facilitation, support, backing and protection in a timely manner.

9. The HKSAR Government has the responsibility for enacting local legislation for the better carrying into effect of the provisions in Chapter V of the HKNSL concerning the mandate of the OSNS, in order to further improve the legal system and enforcement mechanisms for safeguarding national security. It is evident from the above provisions of the HKNSL and of the SNSO that it shall be the duty of the HKSAR Government to provide, for the OSNS's performance of its mandate under the HKNSL, all necessary and reasonable assistance, facilitation,

support, backing and protection. As such, the HKSAR Government considers that it is necessary to make subsidiary legislation under section 110 of the SNSO to provide for specific details of the relevant requirements at the local law level and to declare, under section 42 of the SNSO, the premises where the OSNS performs its mandate as prohibited places. The making of subsidiary legislation can provide the OSNS with better support and protection in performing effectively and in accordance with the law its mandate to safeguard national security.

10. On 12 May 2025, the HKSAR Government briefed the Legislative Council Panel on Security and Panel on Administration of Justice and Legal Services at their joint special meeting and heard the views of the Members on the proposed making of subsidiary legislation under sections 110 and 42 of the SNSO. The relevant discussion paper is at **Annex C**.

C

Contents of the Regulation

11. The Regulation is divided into the following four parts:
- (a) Preliminary;
 - (b) General provisions in respect of the OSNS's overseeing and guiding the HKSAR in performance of the HKSAR's duties for safeguarding national security;
 - (c) Matters in respect of the OSNS's handling cases concerning offences endangering national security;
 - (d) Protections in respect of the OSNS's performance of its mandate.

The main provisions of the Regulation are set out in the ensuing paragraphs.

Preliminary (Part 1)

12. Section 1 of the Regulation contains definitions, including “OSNS”, “legal instrument”, “information” and “conveyance”, for the interpretation of the Regulation. [*Section 1 of the Regulation*]

General provisions in respect of OSNS’s overseeing and guiding HKSAR in performance of HKSAR’s duties for safeguarding national security (Part 2)

13. According to Article 49 of the HKNSL, the mandate of the OSNS includes overseeing and guiding the HKSAR in the performance of its duties for safeguarding national security. Article 53 of the HKNSL provides that the OSNS shall establish a mechanism of coordination with the CSNS to oversee and provide guidance on the work of the HKSAR for safeguarding national security. According to section 112 of the SNSO, if the law of the HKSAR confers any function on a person, any person, in making any decision in the performance of the function, must respect, and implement in accordance with the law, the judgements and decisions of the CSNS.

14. The OSNS oversees and guides the HKSAR in the performance of its duties for safeguarding national security, and the CSNS makes decisions on giving effect to the opinions of the OSNS on the OSNS’s oversight and guidance, demonstrating the overarching responsibility of the Central Authorities for national security affairs relating to the HKSAR and the constitutional duty of the HKSAR to safeguard national security. In order to make clearer the CSNS’s role in making an overall plan of, and coordinating, the implementation of the OSNS’s oversight and guidance among relevant agencies and organisations for the better carrying into effect of the above provisions in the HKNSL, it is proposed that the subsidiary legislation should include provisions on the role of the CSNS and its secretariat in giving effect to the opinions provided by the OSNS on the OSNS’s oversight and guidance. [*Section 2 of the Regulation*]

Matters in respect of OSNS's Handling Cases concerning Offences Endangering National Security (Part 3)

15. Article 40 of the HKNSL provides that the HKSAR shall have jurisdiction over cases concerning offences under the HKNSL, except under the circumstances specified in Article 55. According to Article 55 of the HKNSL, the OSNS shall, upon approval by the Central People's Government of a request made by the HKSAR Government or by the OSNS itself, exercise jurisdiction over a case concerning offence endangering national security under the HKNSL if any of the three special circumstances set out in that Article exists. The three special circumstances are:

- (1) the case is complex due to the involvement of a foreign country or external elements, thus making it difficult for the HKSAR to exercise jurisdiction over the case;
- (2) a serious situation occurs where the HKSAR Government is unable to effectively enforce the HKNSL;
- (3) a major and imminent threat to national security has occurred.

16. The OSNS's exercise of jurisdiction pursuant to Article 55 of the HKNSL targets a very small number of cases that are of a serious and egregious nature and involve a significant impact, and will be in strict accordance with statutory procedures. Although the possibility of the OSNS exercising jurisdiction pursuant to Article 55 of the HKNSL is quite low, the HKSAR Government must plan ahead and establish a mechanism at the local law level to enable the OSNS to effectively perform its mandate under Article 55 of the HKNSL as and when necessary, thereby improving the mechanism for safeguarding national security effectively.

17. The decision to activate the mechanism under Article 55 of the HKNSL must be made in accordance with the strict procedures under that

Article and after careful and rigorous consideration. Article 57 of the HKNSL provides that the Criminal Procedure Law of the People's Republic of China and other related national laws shall apply to procedural matters, including those related to criminal investigation, examination and prosecution, trial, and execution of penalty, in respect of cases over which jurisdiction is exercised pursuant to Article 55 of the HKNSL. When exercising jurisdiction over cases pursuant to Article 55 of the HKNSL, the OSNS shall exercise powers in accordance with the law. The legal documents issued by the OSNS on its decisions to take mandatory and investigation measures shall have legal force in the HKSAR. The institutions, organisations and individuals concerned must comply with measures taken by the OSNS in accordance with the law.

18. For the better carrying into effect of the above provisions in the HKNSL and for making explicit the relevant responsibilities of the HKSAR Government and its personnel, the HKSAR Government proposes providing in the subsidiary legislation that if the OSNS takes certain measures for ascertaining whether a circumstance mentioned in Article 55 of the HKNSL exists, or if the OSNS, in exercising jurisdiction pursuant to Article 55 of the HKNSL, decides to take certain measures in accordance with the law or executes a legal document, any department or agency of the HKSAR Government and any public servant must, on request of the OSNS, provide all necessary and reasonable assistance, facilitation, support, backing and protection in accordance with the law and in a timely manner. [*Sections 3 and 4 of the Regulation*]

19. Legal documents issued by the OSNS under Article 57 of the HKNSL shall have legal force in the HKSAR and must be complied with by the institutions, organisations and individuals concerned. Refusal or failure to enforce such legal documents by the institutions, organisations and individuals concerned will seriously affect the handling of cases concerning offences endangering national security by the OSNS pursuant to Article 55 of the HKNSL and will lead to very severe consequences. To enhance the enforceability of the legal documents of the OSNS in the HKSAR and to ensure that the documents concerned are to be properly

enforced, the HKSAR Government proposes providing in the subsidiary legislation that a person commits an offence if the person, without reasonable excuse, fails to comply with a legal document issued by the OSNS under Article 57 of the HKNSL and served on the person. [*Section 5 of the Regulation*] The defence of “reasonable excuse” only imposes an “evidential burden” on the defendant, i.e. there is sufficient evidence to raise an issue with respect to the defendant’s reasonable excuse and the contrary is not proved by the prosecution beyond reasonable doubt. Besides, it is proposed to provide for proof of matters such as the date of issue and the date of service of a legal document. [*Section 9 of the Regulation*] Similar evidentiary provisions are common in local legislation (e.g. section 48 of the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598), section 51 of the Fire Safety (Industrial Buildings) Ordinance (Cap. 636), etc.).

20. To ensure that the relevant institutions, organisations and individuals acting in good faith in compliance with the legal documents issued by the OSNS, or in cooperation with the OSNS in performing its mandate have no need for concern regarding the risk of incurring civil liability, the HKSAR Government proposes providing for immunity from civil liability in the subsidiary legislation. [*Section 6 of the Regulation*] Similar provisions providing for immunity from civil liability, which are in line with Article 35 of the Basic Law on the right of Hong Kong residents to access to the courts, are common in local legislation (e.g. section 199 of the Financial Institutions (Resolution) Ordinance (Cap. 628), section 380 of the Securities and Futures Ordinance (Cap. 571)).

21. Article 59 of the HKNSL provides that in a case over which jurisdiction is exercised by the OSNS pursuant to Article 55 of the HKNSL, any person who has information pertaining to an offence endangering national security under the HKNSL is obliged to testify truthfully. To prevent a witness who assists with an investigation of the OSNS from providing false or misleading information to the OSNS, the HKSAR Government proposes providing for an offence in the subsidiary legislation to prohibit a person from, in purported compliance with a legal

document issued by the OSNS under Article 57 of the HKNSL, giving any testimony or making any statement or providing any information or document that is false or misleading in a material particular, while knowing that, or being reckless as to whether, the testimony, statement, information or document is false or misleading in a material particular. Taking into account the possible scenarios where a Hong Kong witness testifies in the Mainland on request under a legal document of the OSNS but is only found to have provided false or misleading information upon his return to Hong Kong, it is proposed that extra-territorial effect be provided for the above offence. [*Section 7 of the Regulation*] Offences of providing false or misleading information to law enforcement agencies in the course of investigation are common in local legislation (e.g. section 3(14) of the Organised and Serious Crimes Ordinance (Cap. 455), section 184(2) of the Securities and Futures Ordinance (Cap. 571), sections 10(3) and 13(3) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615)).

22. Paragraph 3 of Article 63 of the HKNSL provides that the relevant institutions, organisations and individuals who assist with the handling of a case shall keep confidential any information pertaining to the case. The OSNS's exercise of jurisdiction pursuant to Article 55 of the HKNSL targets a very small number of cases that are of a serious and egregious nature and involve a significant impact. Unauthorised disclosure of information on the OSNS's handling of cases (including the measures taken to ascertain whether there is a circumstance as specified in Article 55 of the HKNSL) will impair the investigation of the OSNS and cause serious consequences endangering national security. To ensure that circumstances of the OSNS's handling of cases are kept in strict confidence, the HKSAR Government proposes to provide for an offence in the subsidiary legislation to prohibit a person who knows or suspects that the OSNS is handling a case from disclosing to any other person any information relating to that investigation without reasonable excuse or lawful authority. [*Section 8 of the Regulation*]

23. Offences of making a disclosure that prejudices an investigation of a law enforcement agency are common in local legislation (e.g. section 88 of the SNSO, section 7 of the Organized and Serious Crimes Ordinance (Cap. 455)). In respect of the non-compliance with a legal document (section 5 of the Regulation), providing false or misleading information or document (section 7 of the Regulation), and disclosing the measures being taken, or an investigation being conducted, by the OSNS (section 8 of the Regulation), the OSNS exercises jurisdiction pursuant to Article 55 of the HKNSL in circumstances where a very serious national security threat that is difficult to be dealt with at the HKSAR level is involved, and in such circumstances, failing to comply with a legal document issued by the OSNS, misleading the OSNS, or disclosing information on the OSNS's handling of cases will impair the OSNS's handling of cases concerning offences endangering national security in accordance with the law and cause serious consequences endangering national security. As such, it is necessary to set a higher penalty to reflect the seriousness of the offences and to achieve deterrent effect. It is proposed that the maximum penalty should be set at the one that can be prescribed by the subsidiary legislation under section 110 of the SNSO, i.e. a fine of \$500,000 and imprisonment for 7 years. In accordance with the general principles on sentencing, the court may impose appropriate penalties having regard to the actual circumstances of each case.

Protections in respect of OSNS's Performance of Its Mandate (Part 4)

24. For the better carrying into effect of Article 61 of the HKNSL and section 114 of the SNSO, the HKSAR Government proposes providing in the subsidiary legislation that, in the course of the OSNS's performance of its mandate under the HKNSL, any department or agency of the HKSAR Government or any public servant must, on request of the OSNS, provide all necessary and reasonable assistance, facilitation, support, backing and protection in accordance with the law and in a timely manner, including entry into and departure from Hong Kong, entry into any place of which the HKSAR Government is in charge or any other place the entry to which requires a relevant permit or pass, or use of any

premises of which the HKSAR Government is in charge. [*section 10 of the Regulation*]

25. Article 60 of the HKNSL provides that the acts performed in the course of duty by the OSNS and its staff in accordance with the HKNSL shall not be subject to the jurisdiction of the HKSAR; in the course of performing duty, a holder of an identification document or a document of certification issued by the OSNS and the articles including vehicles used by the holder shall not be subject to inspection, search or detention by law enforcement officers of the HKSAR; and the OSNS and its staff shall enjoy other rights and immunities provided by laws of the HKSAR. For the better carrying into effect of Article 60 of the HKNSL, it is proposed to stipulate that an identification document or a document of certification created or issued by the OSNS has the effect of proving facts such as the identity of a staff member of the OSNS, the fact of owning or possessing a conveyance or the fact of an act done for performing a duty. [*section 11 of the Regulation*] This evidentiary provision is made with reference to the provisions in Article 25 of the Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region (Garrison Law)².

26. Article 61 of the HKNSL clearly stipulates that the HKSAR Government shall stop any act obstructing the OSNS's performance of its mandate in accordance with the law and hold those who commit such act liable in accordance with the law. The local legislation in Hong Kong provide for offences of resisting or obstructing a public officer (e.g. section 23 of the Summary Offences Ordinance (Cap. 228), section 36 of the Offences against the Person Ordinance (Cap. 212), section 63 of the Police Force Ordinance (Cap. 232) and section 50A of the Public Order Ordinance (Cap. 245)), and some of the offences cover acts of assaulting a public officer who is performing a duty, and acts of resisting or

² Article 25 of the Garrison Law stipulates: "Certificates issued by the Hong Kong Garrison regarding facts such as identity of membership of the Hong Kong Garrison and acts in performance of official duties shall be valid evidence in proceedings in the courts of the Hong Kong Special Administrative Region, unless the contrary is proved."

obstructing any other person assisting a public officer in the performance of a duty. With reference to provisions in relevant local legislation, it is suggested to create offences relating to wilfully resisting or obstructing the OSNS or a staff member of the OSNS in the performance of a duty in accordance with the HKNSL, wilfully resisting or obstructing any other person in assisting the OSNS in performing a duty, and wilfully assaulting a staff member of the OSNS or a person who is assisting. *[section 12 of the Regulation]*

27. According to section 36 of the existing Offences against the Person Ordinance (Cap. 212), any person who assaults, resists, or wilfully obstructs any police officer in the due execution of his duty or any person acting in aid of such officer shall be liable to a maximum penalty of imprisonment for two years. The OSNS is a dedicated institution for safeguarding national security set up by the Central People's Government in the HKSAR. Resisting or obstructing a staff member of the OSNS in the performance of a duty or assaulting such a member is more serious in nature than assaulting, resisting or obstructing a police officer in general. Hence, the maximum penalty is proposed to be imprisonment for three years, and the maximum fine should be adjusted to \$200,000 accordingly.

28. The acts of impersonating a staff member of the OSNS and forging a seal, legal instrument, identification document or any other relevant document of the OSNS may lead to serious consequences. Section 22 of the Summary Offences Ordinance (Cap. 228) provides for the offence of "falsely pretending to be or be able to influence a public officer", and Part IX of the Crimes Ordinance (Cap. 200) provides for forgery and related offences. Considering the serious consequences that may arise from the acts of falsely pretending to be a staff member of the OSNS and forging documents of the OSNS, and in order to protect the OSNS in the performance of its mandate in accordance with the law as well as the lawful rights and interests of Hong Kong residents, the HKSAR Government is of the view that the subsidiary legislation should provide for offences in this regard to impose criminal liability to deter

such acts, regardless of the intentions of the offenders. [*sections 13 and 14 of the Regulation*]

29. The maximum penalty for the offence of “falsely pretending to be or be able to influence a public officer” under section 22 of the Summary Offences Ordinance is imprisonment for 6 months. Taking into account the important functions of the OSNS and its staff in safeguarding national security, it is necessary to impose a higher penalty to deter the acts of impersonating the staff of the OSNS so as to protect the OSNS and the lawful rights and interests of Hong Kong residents. It is therefore proposed that the maximum penalty is imprisonment for 3 years and the maximum fine be correspondingly adjusted to \$200,000. As for the offence of forging a document of the OSNS, considering the seriousness of the offence, it is necessary to set a higher penalty to reflect the gravity of the offence and to achieve a deterrent effect. The maximum penalty for similar offences under the Crimes Ordinance (Cap. 200) is imprisonment for 14 years. It is proposed that the maximum penalty for the offence of forging a document of the OSNS should be set at the one that can be prescribed by the subsidiary legislation under section 110 of the SNSO, i.e. a fine of \$500,000 and imprisonment for 7 years.

30. Some work-related information may be generated in the course of the OSNS’s performance of its mandate. The disclosure of such information may prejudice the OSNS’s performance of its mandate or adversely affect national security and the public interest. With reference to Article 14 of the HKNSL regarding information relating to the work of the CSNS is not subject to disclosure, it is proposed that a provision be included in the subsidiary legislation to stipulate clearly as a matter of principle the obligation to keep confidential the work-related information in connection with the OSNS. It is also proposed to provide that a person must not obtain, possess or disclose the information unless the OSNS has made public the information or given lawful authority to the person. [*section 15 of the Regulation*]

Contents of the Order

31. Division 2 of Part 4 of the SNSO provides for offences in connection with espionage, including offences in connection with prohibited places, and provides for the definition of prohibited place, the authorisation of guards and the powers that may be exercised in relation to a prohibited place. Under section 42 of SNSO, the Chief Executive may, by order published in the Gazette, declare a place situated in the HKSAR as a prohibited place if, having regard to the matters specified in subsection (2) of that section³, the Chief Executive reasonably considers that it is necessary for safeguarding national security to declare the place as a prohibited place.

32. If spies or other individuals endangering national security approach, inspect, cross from above or below, enter or access the premises where the OSNS performs its mandate, serious risks to national security will be posed. Such premises should undoubtedly be accorded appropriate protection in accordance with the law against unauthorised acts to approach or enter such premises in order to minimise national security risks. In this connection, the Acting Chief Executive declared, by publishing the Order in the Gazette, the following places occupied by the OSNS as prohibited places: the OSNS's existing temporary headquarters in Causeway Bay, the OSNS's three temporary offices in North Point, Sai Ying Pun and Hung Hom, and the construction site in Tai Kok Tsui where the OSNS's permanent office is being built and the associated temporary construction office. With reference to the Protected Places Order (Cap. 260A) and the Military Installations Closed Areas Order (Cap. 245B), to the Order delineates the boundaries of the above prohibited places by using the "location + coordinates" approach. The location maps of the aforementioned places that are declared prohibited places are at **Annex D**.

D

33. The above areas designated as prohibited places are all premises solely occupied by the OSNS to perform its mandate. They do not involve private residence, and the declaration will not cause any

³ The matters are—

- (a) the use of the place;
- (b) the owner or occupier of the place;
- (c) the nature of any information kept, stored or processed in the place; and
- (d) the nature of any technology, equipment or material situated at the place.

unreasonable impact on the surrounding community. In terms of practical arrangements, the HKSAR Government will maintain close communication with the OSNS and put up appropriate notices at the prohibited places to ensure that members of the public are aware of the prohibited places.

Other Options

34. The above proposals must be implemented by way of subsidiary legislation. There is no other option.

Legislative Timetable

35. The legislative timetable will be as follows : —

Publication in the Gazette and commencement of the Regulation and the Order	13 May 2025
Tabling of the Regulation and the Order at the Legislative Council	14 May 2025

Implications of the Regulation and Order

36. The Regulation and Order are in conformity with the Basic Law, including the provisions concerning human rights. The HKNSL sets out stringent requirements with respect to the mandate and powers of the OSNS. The subsidiary legislation provides for specific details of the relevant requirements at the local law level, thereby bettering carrying into effect the provisions in Chapter V of the HKNSL concerning the mandate of the OSNS, will not grant any new power to the OSNS. The subsidiary legislation provides in detail under what circumstances must the HKSAR Government or public servants provide for the OSNS assistance, facilitation, support, backing and protection. The subsidiary

legislation also clearly provides that the HKSAR Government or public servants must, apart from acting “in accordance with the law”, satisfy the principles of “necessity” and “reasonableness”, thereby according adequate protection for the lawful rights and interests of individuals and organizations. The offences under the Regulation are stipulated with references to common offences which already exist in the laws of Hong Kong. The subsidiary legislation clearly defines each element of the offences and provides appropriate exceptions or defences (e.g. some of the offences provide for a defence of “reasonable excuse” or “lawful authority”). People will not contravene the law inadvertently. The Regulation and Order will not affect the lives of the general public and the normal operation of organisations and institutions.

37. The proposals have no productivity, environmental or family implications, and no material implication on sustainability.

38. The current teams of the Police, the Department of Justice and the Security Bureau will be responsible for the enforcement of the Regulation and the Order, the provision of legal advice, and the formulation and implementation of policies concerning the subsidiary legislation. If necessary, the relevant bureaux and departments will seek additional resources through the special fund mechanism under Article 19 of the HKNSL if necessary.

39. The making of the Regulation and the Order to provide the OSNS with assistance, facilitation, support, backing and protection for the effective performance of its mandate in accordance with the law will further improve and reinforce the legal system and enforcement mechanisms of the HKSAR for safeguarding national security, and provide better protection for Hong Kong’s business environment.

40. The Regulation and the Order are subsidiary legislation made under section 110 and section 42 of the SNSO respectively, and do not affect the current binding effect of the SNSO.

Publicity

41. The HKSAR Government introduced the proposals of making subsidiary legislation to the joint special meeting of the Legislative Council Panel on Security and Panel on Administration of Justice and Legal Services on 12 May 2025. Members expressed support for the proposals in principle, and expect the scrutiny of the subsidiary legislation through the negative vetting procedure to be conducted as soon as possible.

42. Having experienced the Hong Kong version of “colour revolution” and “black-clad violence” in 2019, the community understands the importance of national security and the national security risks faced by Hong Kong.

43. The HKSAR Government will continue to explain to the public the necessity and the urgency of making the subsidiary legislation so that members of the public will understand that the Regulation and the Order can better implement the mechanisms for safeguarding national security to prevent and tackle national security risks that may arise unexpectedly in a timely manner. The subsidiary legislation only aims to provide for specific details on the provisions in Chapter V of the HKNSL concerning the mandate of the OSNS at the local law level. The subsidiary legislation will not grant the OSNS new powers, nor will it affect the lives of the general public and the normal operation of any institution and organisation.

44. In face of smearing remarks, the HKSAR Government will take the initiative to clarify. We will closely monitor the reactions of individual sectors, and respond in a targeted manner and enhance communication if necessary.

Enquiry

45. In case of enquiries, please contact Mr. Benjamin Mok, Deputy Secretary for Security, on 2810 2060.

Security Bureau

Department of Justice

Safeguarding National Security (Office for Safeguarding National Security of the
Central People's Government in the Hong Kong Special Administrative Region)
Regulation

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**Safeguarding National Security (Office for
Safeguarding National Security of the Central People's
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Safeguarding National Security (Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region) Regulation

(Made by the Chief Executive in Council under section 110 of the Safeguarding National Security Ordinance (6 of 2024))

Part 1

Preliminary

1. Interpretation

In this Regulation—

conveyance (運輸工具) includes a vehicle, vessel, aircraft and hovercraft;

information (資料) includes—

- (a) information stored by electronic means; and
- (b) message or intelligence that is not stored on any medium;

legal instrument (法律文書) means a legal document issued by the OSNS under Article 57 of the HK National Security Law;

OSNS (公署) means the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region.

Part 2

General Provisions in respect of OSNS's Overseeing and Guiding HKSAR in Performance of HKSAR's Duties for Safeguarding National Security

2. National Security Committee to give effect to opinion provided by OSNS on overseeing or guiding HKSAR in performance of HKSAR's duties for safeguarding national security

- (1) The HKSAR is subject to the OSNS's oversight and guidance under Article 49 of the HK National Security Law in the performance of the HKSAR's duties for safeguarding national security.
- (2) Under Article 53 of the HK National Security Law, the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region (*National Security Committee*) is to establish a mechanism of coordination with the OSNS to study and deliberate on matters relating to the HKSAR's performance of the HKSAR's duties for safeguarding national security.
- (3) The National Security Committee is to make an overall plan for, and coordinate, the implementation of an opinion provided by the OSNS on overseeing or guiding the HKSAR in the performance of the HKSAR's duties for safeguarding national security, and is to settle the manner in which such an opinion is to be given effect as the particular circumstances require.
- (4) The secretariat of the National Security Committee is to convey, and assist in the follow-up of and the giving of effect to, a decision made by the National Security Committee, or any

other measure taken by the National Security Committee, on giving effect to an opinion of the OSNS.

- (5) If the National Security Committee makes a decision on giving effect to an opinion of the OSNS, a person in the HKSAR who has a duty for safeguarding national security must respect, and implement in accordance with the law, the decision.

Part 3

Matters in respect of OSNS's Handling Cases concerning Offences Endangering National Security

3. Government to provide assistance etc. for OSNS to ascertain whether circumstances mentioned in Article 55 of HK National Security Law exist

If the Director or any Deputy Director of the OSNS approves the OSNS to take certain measures for ascertaining whether a circumstance mentioned in Article 55 of the HK National Security Law exists, any department or agency of the Government or any public servant must, on request of the OSNS, provide, for the OSNS's taking the measures, all necessary and reasonable assistance, facilitation, support, backing and protection in accordance with the law and in a timely manner.

4. Government to provide assistance etc. for OSNS to exercise jurisdiction pursuant to Article 55 of HK National Security Law

If the OSNS, in exercising jurisdiction pursuant to Article 55 of the HK National Security Law—

- (a) decides to take certain measures in accordance with the law; or
- (b) executes a legal instrument,

any department or agency of the Government or any public servant must, on request of the OSNS, provide, for the OSNS's taking the measures or the OSNS's executing the instrument, all necessary and reasonable assistance, facilitation, support, backing and protection in accordance with the law and in a timely manner.

5. Offence of failing to comply with legal instrument

- (1) A person who fails to comply with a legal instrument served on the person commits an offence and is liable on conviction on indictment to a fine of \$500,000 and to imprisonment for 7 years.
- (2) It is a defence for a person charged with an offence under subsection (1) to establish that, at the time of the alleged offence, the person had a reasonable excuse for failing to comply with the legal instrument.
- (3) A person is taken to have established a matter that needs to be established for a defence under subsection (2) if—
 - (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

6. Immunity from civil liability

- (1) A person is not civilly liable for an act done or omitted to be done by the person in good faith in complying with, or purportedly complying with, a legal instrument.
- (2) A public servant is not civilly liable for an act done or omitted to be done by the public servant in good faith in acting, or purportedly acting, under section 3 or 4.
- (3) Subsections (1) and (2) do not affect any liability of the Government for the act or omission of a public servant.

7. Offence of providing false or misleading information or document etc.

- (1) If a person, in purported compliance with a legal instrument, gives any testimony, or makes any statement, or provides or produces any information or document, and the person—
- (a) knows that the testimony, statement, information or document is false or misleading in a material particular; or
 - (b) is reckless as to whether the testimony, statement, information or document is false or misleading in a material particular,
- the person commits an offence and is liable on conviction on indictment to a fine of \$500,000 and to imprisonment for 7 years.
- (2) If a person does any act outside the HKSAR, and the act would have constituted an offence under subsection (1) had it been done in the HKSAR, the person commits the offence.

8. Offence of disclosing measures being taken, or investigation being conducted, by OSNS

- (1) If a person—
- (a) knows or suspects that the OSNS—
 - (i) is taking certain measures for ascertaining whether a circumstance mentioned in Article 55 of the HK National Security Law exists; or
 - (ii) is exercising jurisdiction pursuant to Article 55 of the HK National Security Law and conducting an investigation; and

- (b) without reasonable excuse or lawful authority, discloses to any other person any information relating to the measures or investigation,
the person commits an offence and is liable on conviction on indictment to a fine of \$500,000 and to imprisonment for 7 years.
- (2) However, if, at the time of the disclosure, the OSNS has made public the information, subsection (1) does not apply to the information.

9. Evidentiary provisions relating to legal instruments

- (1) If a document purports to be a legal instrument or purports to be a copy of a legal instrument certified by the OSNS or a staff member of the OSNS, then, in any proceedings, the document is admissible in evidence without further proof on its production.
- (2) Unless the contrary is proved, the document—
- (a) is presumed to be a legal instrument or a copy of a legal instrument certified by the OSNS or a staff member of the OSNS; and
 - (b) is evidence of any of the following facts (if applicable)—
 - (i) the date of issue or certification of the document;
 - (ii) the date of service of the document on the person concerned.

Part 4

Protections in respect of OSNS's Performance of its Mandate

10. Government to provide assistance etc. for OSNS's performance of its mandate

Subject to Part 3, in the course of the OSNS's performance of its mandate in accordance with the HK National Security Law, any department or agency of the Government or any public servant must, on request of the OSNS, provide, in accordance with the law and in a timely manner, all necessary and reasonable assistance, facilitation, support, backing and protection, including—

- (a) according to the staff and conveyances of the OSNS priority in respect of entry into and departure from the HKSAR;
- (b) allowing the staff and conveyances of the OSNS to enter any place of which the department, agency or public servant is in charge or any other place the entry to which requires a relevant permit or pass under the law or any other requirement; and
- (c) allowing the staff and conveyances of the OSNS to use any premises of which the department, agency or public servant is in charge.

11. Evidentiary provisions relating to identification documents etc. created or issued by OSNS

- (1) If a document (*the document*) purports to be an identification document or a document of certification created or issued by

the OSNS in respect of any of the following matters, then, in any proceedings, the document is admissible in evidence without further proof on its production—

- (a) the identity of a staff member of the OSNS;
- (b) the fact that the OSNS owns or possesses a conveyance;
- (c) the fact that the OSNS or a staff member of the OSNS does an act for performing a duty in accordance with the HK National Security Law.

(2) Unless the contrary is proved, the document—

- (a) is presumed to be created or issued by the OSNS; and
- (b) is evidence of a matter mentioned in subsection (1)(a), (b) or (c) (as applicable).

12. Offence of resisting or obstructing OSNS or staff member of OSNS in performance of duty etc.

If a person (*the person*)—

- (a) wilfully resists or obstructs the OSNS or a staff member of the OSNS in the performance of a duty in accordance with the HK National Security Law, or wilfully assaults a staff member of the OSNS who is so performing a duty; or
- (b) wilfully resists or obstructs any other person in assisting the OSNS or a staff member of the OSNS in so performing a duty, or wilfully assaults a person who is providing such assistance,

the person commits an offence and is liable on conviction on indictment to a fine of \$200,000 and to imprisonment for 3 years.

13. Offence of falsely pretending to be or be able to influence staff member of OSNS

- (1) If a person, by an act or omission and whether or not with intent to procure any valuable thing, falsely pretends that the person is a staff member of the OSNS or is able to procure a staff member of the OSNS to do or refrain from doing an act relating to a duty of the staff member, the person commits an offence and is liable on conviction on indictment to a fine of \$200,000 and to imprisonment for 3 years.
- (2) In any proceedings for an offence under subsection (1), it is presumed, unless the contrary is proved, that the defendant was not a staff member of the OSNS at the material time.

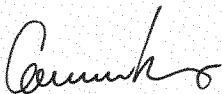
14. Offence of forging document etc. of OSNS

- (1) A person who—
 - (a) forges or falsifies a document or any other thing specified in subsection (2);
 - (b) knowingly uses a document or any other thing specified in subsection (2) that is forged or falsified; or
 - (c) knowingly possesses a document or any other thing specified in subsection (2) that is forged or falsified,commits an offence and is liable on conviction on indictment to a fine of \$500,000 and to imprisonment for 7 years.
- (2) The documents and other things specified for the purposes of subsection (1) are—
 - (a) a seal, or signature, of the OSNS or a staff member of the OSNS;
 - (b) a legal instrument;

- (c) an identification document or a document of certification created or issued by the OSNS in respect of a matter mentioned in section 11(1)(a), (b) or (c);
 - (d) any other document or thing that is certified, created or issued in the name of the OSNS; and
 - (e) a copy or reproduction of a document or thing mentioned in paragraph (a), (b), (c) or (d).
- (3) It is a defence for a person charged with an offence under subsection (1)(c) to establish that, at the time of the alleged offence, the person had a reasonable excuse for possessing the document or other thing mentioned in that subsection.
- (4) A person is taken to have established a matter that needs to be established for a defence under subsection (3) if—
 - (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

15. Obligation of confidentiality

- (1) A person who knows of or receives any work-related information in connection with the OSNS is obliged to ensure that the information is kept confidential.
- (2) A person must not obtain, possess or disclose the information unless the OSNS has made public the information or given lawful authority to the person.


Clerk to the Executive Council

COUNCIL CHAMBER

13 May 2025

Explanatory Note

The main object of this Regulation is to provide for—

- (a) matters in respect of the oversight of and guidance to the HKSAR, by the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region (*OSNS*), in the performance of the HKSAR's duties for safeguarding national security;
- (b) matters in respect of the OSNS's handling cases concerning offences endangering national security; and
- (c) protections in respect of the OSNS's performance of its mandate.

2. The Regulation is divided into 4 parts.

Part 1—Preliminary

3. Section 1 contains definitions for the interpretation of the Regulation.

Part 2—General Provisions in respect of OSNS's Overseeing and Guiding HKSAR in Performance of HKSAR's Duties for Safeguarding National Security

4. Section 2 provides for the mechanism for the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region to give effect to an opinion provided by the OSNS on overseeing or guiding the HKSAR in the performance of the HKSAR's duties for safeguarding national security.

**Part 3—Matters in respect of OSNS's Handling Cases concerning
Offences Endangering National Security**

5. Article 55 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (a translation of “《中華人民共和國香港特別行政區維護國家安全法》”), as applied in the HKSAR under the Promulgation of National Law 2020 (L.N. 136 of 2020) (*HK National Security Law*), provides that the OSNS is to, upon approval by the Central People's Government of a request made by the HKSAR Government or by the OSNS itself, exercise jurisdiction over a case concerning offence endangering national security under the HK National Security Law if a circumstance mentioned in that Article exists.
6. Sections 3 and 4 require any department or agency of the HKSAR Government or any public servant to provide all necessary and reasonable assistance etc. for the OSNS to ascertain whether a circumstance mentioned in Article 55 of the HK National Security Law exists and for the OSNS to exercise jurisdiction pursuant to Article 55 of the HK National Security Law.
7. Section 5 provides for the offence of failing to comply with a legal document issued by the OSNS under Article 57 of the HK National Security Law (*legal instrument*).
8. Section 6 provides that a person is not civilly liable for an act done or omitted to be done by the person in good faith in complying with a legal instrument, and a public servant is not civilly liable for an act done or omitted to be done by the public servant in good faith in acting under section 3 or 4.
9. Section 7 provides that a person commits an offence if the person, in purported compliance with a legal instrument, provides any information or document etc. that is false or misleading.

10. Section 8 provides for the offence of disclosing the measures being taken, or an investigation being conducted, by the OSNS.
11. Section 9 provides for evidentiary provisions relating to legal instruments.

Part 4—Protections in respect of OSNS's Performance of its Mandate

12. Section 10 requires any department or agency of the HKSAR Government or any public servant to provide all necessary and reasonable assistance etc. for the OSNS's performance of its mandate.
13. Section 11 provides for evidentiary provisions relating to the identification documents or documents of certification created or issued by the OSNS.
14. Section 12 provides for the offence of resisting or obstructing the OSNS or a staff member of the OSNS in the performance of a duty etc.
15. Section 13 provides for the offence of falsely pretending to be or be able to influence a staff member of the OSNS.
16. Section 14 provides for the offence of forging a document etc. of the OSNS.
17. Section 15 provides that a person who knows of or receives any work-related information in connection with the OSNS is obliged to ensure that the information is kept confidential.

Safeguarding National Security (Declaration of Prohibited Places) Order

(Made by the Chief Executive under section 42 of the Safeguarding National Security Ordinance (6 of 2024) after consultation with the Executive Council)

1.

Interpretation

In this Order—
OSNS (公署) means the Office for Safeguarding National Security of the Central People’s Government in the Hong Kong Special Administrative Region.
2.

Declaration of prohibited places

A place specified in the Schedule is declared as a prohibited place for the purposes of paragraph (g) of the definition of *prohibited place* in section 41(1) of the Ordinance.

Schedule

[s. 2]

Prohibited Places

Column 1 Item	Column 2 Place	Column 3 Remarks
1.	The place situated at 148 Tung Lo Wan Road, Hong Kong and occupied by the OSNS	Namely, the area enclosed by the following points— KK1065466668:KK1067966670: KK1067966640:KK1065666632: KK1065466668
2.	The place situated at 9 City Garden Road, Hong Kong and occupied by the OSNS	Namely, the area enclosed by the following points— KK1088767612:KK1087567611: KK1085767627:KK1086167633: KK1086667639:KK1086767643: KK1086467646:KK1089467681: KK1092467655:KK1088767612

Safeguarding National Security (Declaration of Prohibited Places) Order
Schedule

3

Column 1 Item	Column 2 Place	Column 3 Remarks
3.	The place situated at 152 Connaught Road West, Hong Kong and occupied by the OSNS	Namely, the area enclosed by the following points— KK0555067543:KK0556967542: KK0556767513:KK0556467510: KK0556367493:KK0554767494: KK0555067543
4.	The place situated at 1 Cheong Tung Road, Kowloon and occupied by the OSNS	Namely, the area enclosed by the following points— KK0973769275:KK0975469299: KK0980469264:KK0978769240: KK0973769275
5.	The place situated at the junction of Hoi Fai Road and Sham Mong Road, Kowloon and occupied by the OSNS	Namely, the area enclosed by the following points— KK0722571403:KK0726571451: KK0730871414:KK0732771382: KK0732871353:KK0731571325: KK0722571403

Safeguarding National Security (Declaration of Prohibited Places) Order
Schedule

4

Column 1 Item	Column 2 Place	Column 3 Remarks
6.	The place situated at Hoi Fan Road, Kowloon and occupied by the OSNS	Namely— (a) the area enclosed by the following points— KK0699771406:KK0700071406: KK0702071378:KK0703471361: KK0705171333:KK0705771323: KK0705371321:KK0706271306: KK0701371279:KK0700571292: KK0695671382:KK0697671391: KK0699771406; (b) the area enclosed by the following points— KK0691071358:KK0689971341: KK0689471321:KK0689271301: KK0689571281:KK0690371262: KK0691571241:KK0686271213: KK0684671241:KK0684571241: KK0683371264:KK0683271268: KK0691071358

Note—

The grid system adopted by the coordinates referred to in column 3 of this Schedule is the Universal Transverse Mercator (UTM) Grid System, and the geodetic datum is WGS 84.

13 May 2025

Erica
Acting Chief Executive

Explanatory Note

Section 42 of the Safeguarding National Security Ordinance (6 of 2024) empowers the Chief Executive to, by order, declare a place situated in the HKSAR as a prohibited place.

2. This Order declares places situated in the HKSAR that are occupied by the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region as prohibited places.

**For discussion
on 12 May 2025**

**Legislative Council Panel on Security and
Panel on Administration of Justice and Legal Services**

**Making of
Subsidiary Legislation for Safeguarding National Security**

Purpose

This paper aims to brief Members on the proposal of the Government of the Hong Kong Special Administrative Region (HKSAR) to make subsidiary legislation under section 110 of the Safeguarding National Security Ordinance (SNSO) for the needs of safeguarding national security and the better carrying into effect of the provisions in Chapter V of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (HKNSL) concerning the mandate of the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region (OSNS), and to declare certain premises of the OSNS as prohibited places under section 42 of the SNSO.

Introduction

Mechanism for making subsidiary legislation for safeguarding national security under the SNSO

2. With the commencement of the SNSO on 23 March 2024, the HKSAR has fulfilled its constitutional responsibility and historic mission of legislating for Article 23 of the Basic Law. While the HKNSL, the SNSO and other law of the HKSAR on safeguarding national security have ensured the effective protection of national security in the HKSAR, according to the Decision of the National People's Congress on Establishing and Improving the Legal System and Enforcement Mechanisms for the Hong Kong Special

Administrative Region to Safeguard National Security (5.28 Decision) and the HKNSL¹, the HKSAR still has the constitutional duty to continue to improve the legal system and enforcement mechanisms for safeguarding national security so as to continue to prevent, suppress and punish acts and activities endangering national security effectively.

3. Comprehensive measures to safeguard national security require the empowerment of the executive authorities to formulate implementation details and administrative matters. Moreover, national security risks can emerge all of a sudden and cannot be predicted. As such, section 110 of the SNSO empowers the Chief Executive in Council to make subsidiary legislation to provide for the specific implementation details of the requirements under the HKNSL, the Interpretation by the Standing Committee of the National People's Congress of Article 14 and Article 47 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (NPCSC's Interpretation) and the SNSO, so that the mechanisms for safeguarding national security can be implemented more effectively, and national security risks can be prevented and addressed

¹ Article 3 of the 5.28 Decision provides that it is the HKSAR's constitutional responsibilities to safeguard national sovereignty, unity and territorial integrity. The HKSAR must complete the national security legislation stipulated in the Basic Law of the HKSAR at an earlier date. The HKSAR's administrative, legislative and judicial organs must, in accordance with relevant laws and regulations, effectively prevent, stop and punish acts and activities endangering national security; Article 4 provides that the HKSAR shall establish and improve the institutions and enforcement mechanisms for safeguarding national security, strengthen the enforcement forces for safeguarding national security, and step up enforcement to safeguard national security. Article 3 of the HKNSL provides that the Central People's Government has an overarching responsibility for national security affairs relating to the HKSAR. It is the duty of the HKSAR under the Constitution to safeguard national security and the HKSAR shall perform the duty accordingly. The executive authorities, legislature and judiciary of the HKSAR shall effectively prevent, suppress and impose punishment for any act or activity endangering national security in accordance with the HKNSL and other relevant laws; Article 7 requires that the HKSAR shall complete, as early as possible, legislation for safeguarding national security as stipulated in the Basic Law and shall refine relevant laws.

in a timely manner.

4. Any subsidiary legislation made under section 110 of the SNSO may provide that a contravention of the subsidiary legislation is an indictable offence and may prescribe penalties for it of a fine not exceeding \$500,000 and imprisonment not exceeding 7 years.

HKSAR's responsibility to further improve the legal system and enforcement mechanisms for safeguarding national security

5. Safeguarding national security is within the purview of the Central Authorities. The Central Authorities have an overarching responsibility for national security affairs relating to the HKSAR, and possess comprehensive legislative, executive and judicial powers in respect of such matters. This is in line with the common practice of countries around the world on safeguarding national security. However, having regard to the special nature of “one country, two systems” and the actual situation of the HKSAR, the Central Authorities authorise, through the HKNSL, the HKSAR to assume primary responsibility for safeguarding national security in the HKSAR, while the Central Authorities bear the ultimate responsibility of the last resort for dealing with issues that are difficult to be resolved at the HKSAR level. The HKNSL has innovatively provided for enforcement mechanisms for safeguarding national security at two levels, i.e. the Central Authorities level and the HKSAR level.

6. At the Central Authorities level, Article 48 of the HKNSL provides that the Central People's Government shall establish in the HKSAR the OSNS, which shall perform its mandate for safeguarding national security in accordance with the law. Chapter V of the HKNSL provides for the mandate of the OSNS, including overseeing, guiding, coordinating with, and providing support to the HKSAR in the performance of its duties for safeguarding

national security. Also, the OSNS may directly exercise jurisdiction over a case concerning offence endangering national security under the HKNSL in a circumstance specified in Article 55 of the HKNSL. The OSNS's exercise of jurisdiction pursuant to Article 55 of the HKNSL targets a very small number of cases that are of a serious and egregious nature and involve a significant impact. At the HKSAR level, a holistic system for safeguarding national security is established, including the establishment of the Committee for Safeguarding National Security of the HKSAR (CSNS) to handle specific matters pertaining to safeguarding national security in accordance with the law. In general, the HKSAR has jurisdiction over most of the cases concerning offences endangering national security under the HKNSL. The two enforcement mechanisms are clearly delineated in terms of division of duties and jurisdiction over cases, and at the same time form a complementary, collaborative and coordinated relationship, jointly constituting a comprehensive system and mechanism for safeguarding national security in the HKSAR. This has fully demonstrated not only the fact that national security is a matter under the purview of the Central Authorities but also the Central Authorities' high degree of trust in and respect for the HKSAR.

7. Chapter V of the HKNSL sets out the mandate of the OSNS. According to Article 49 of the HKNSL, the OSNS shall perform the following mandate:

- (a) analysing and assessing developments in relation to safeguarding national security in the HKSAR, and providing opinions and making proposals on major strategies and important policies for safeguarding national security;
- (b) overseeing, guiding, coordinating with, and providing support to the HKSAR in the performance of its duties for safeguarding national security;

- (c) collecting and analysing intelligence and information concerning national security;
- (d) handling cases concerning offence endangering national security in accordance with the law.

8. Article 61 of the HKNSL provides that the relevant departments of the HKSAR Government shall provide necessary facilitation and support to the OSNS in performing its mandate in accordance with the HKNSL, and shall stop any act obstructing the performance of such mandate and hold those who commit such act liable in accordance with the law. Section 111 of the SNSO provides that the Chief Executive may issue an administrative instruction to any department or agency of the HKSAR Government or any public servant to give directions in relation to the provision of rights, exemptions, facilitation and support that are necessary for the OSNS in performing its mandate under Chapter V of the HKNSL in accordance with the law. Section 114(2) of the SNSO further provides that a public servant must provide any department or agency that is responsible for the work on safeguarding national security, and its personnel (i.e. including the OSNS and its staff), in the HKSAR, with all reasonable facilitation, support, backing and protection in a timely manner.

9. It is evident from the above provisions of the HKNSL and of the SNSO that it shall be the duty of the HKSAR Government to provide, for the OSNS's performance of its mandate under the HKNSL, all necessary and reasonable assistance, facilitation, support, backing and protection. The HKSAR Government shall fulfil its constitutional duty for enacting local legislation to provide for specific details of the provisions in Chapter V of the HKNSL concerning the mandate of the OSNS, in order to further improve the legal system and enforcement mechanisms for safeguarding national security. As such, the HKSAR Government considers that it is necessary to make subsidiary legislation under section 110 of the SNSO and to declare, under section 42 of the SNSO, certain premises of the OSNS as prohibited places,

thereby better carrying into effect the abovementioned requirements under the HKNSL. The making of subsidiary legislation can provide the OSNS with better support and protection in performing effectively and in accordance with the law its mandate to safeguard national security.

Proposal of making subsidiary legislation for safeguarding national security

10. According to the proposal of the HKSAR Government, the subsidiary legislation for safeguarding national security will mainly cover the following aspects:

(A) The OSNS's overseeing and guiding the HKSAR in the performance of the HKSAR's duties for safeguarding national security

11. According to Article 49 of the HKNSL, the mandate of the OSNS includes overseeing and guiding the HKSAR in the performance of its duties for safeguarding national security. Article 53 of the HKNSL provides that the OSNS shall establish a mechanism of coordination with the CSNS to oversee and provide guidance on the work of the HKSAR for safeguarding national security. The NPCSC's Interpretation elucidates that the CSNS assumes statutory duties and functions for safeguarding national security in the HKSAR and has the power to make judgements and decisions on the question whether national security is involved; information relating to its work is not subject to disclosure; decisions made by the CSNS are not amenable to judicial review and have enforceable legal effect; no institution, organisation or individual in the HKSAR shall interfere with the work of the CSNS; they shall all respect and implement the decisions of the CSNS. According to section 112 of the SNSO, if the law of the HKSAR confers any function on a person, any person, in making any decision in the performance of the function, must respect, and implement in accordance with the law, the judgements and

decisions of the CSNS. Nearly five years having passed since the implementation of the HKNSL, our society has gained a certain degree of understanding of the power of the CSNS to make judgements and decisions on issues concerning national security and the binding effect of such judgements and decisions. The OSNS oversees and guides the HKSAR in the performance of its duties for safeguarding national security, and the CSNS makes decisions on giving effect to the opinions of the OSNS on the OSNS's oversight and guidance, demonstrating the overarching responsibility of the Central Authorities for national security affairs relating to the HKSAR and the constitutional duty of the HKSAR to safeguard national security.

12. In order to make clearer the CSNS's role in making an overall plan of, and coordinating, the implementation of the OSNS's oversight and guidance among relevant agencies and organisations, the HKSAR Government considers that the subsidiary legislation should include provisions on the role of the CSNS and its secretariat in giving effect to the opinions provided by the OSNS on overseeing and guiding the HKSAR's work on safeguarding national security.

(B) Matters in respect of the OSNS's handling of cases concerning offences endangering national security

13. Article 40 of the HKNSL provides that the HKSAR shall have jurisdiction over cases concerning offences under the HKNSL, except under the circumstances specified in Article 55 of the HKNSL. According to Article 55 of the HKNSL, the OSNS shall, upon approval by the Central People's Government of a request made by the HKSAR Government or by the OSNS itself, exercise jurisdiction over a case concerning offence endangering national security under the HKNSL, if any of the three special circumstances

² set out in that Article exists. The OSNS's exercise of jurisdiction pursuant to Article 55 of the HKNSL targets a very small number of cases that are of a serious and egregious nature and involve a significant impact, and would be in strict accordance with statutory procedures. Although the possibility of the OSNS exercising jurisdiction pursuant to Article 55 of the HKNSL is quite low, the HKSAR Government must plan ahead and establish a mechanism at the local law level to enable the OSNS to effectively perform its mandate under Article 55 of the HKNSL as and when necessary, thereby improving the mechanism for safeguarding national security effectively.

14. The decision to activate the mechanism under Article 55 of the HKNSL must be made in accordance with the strict procedures under that Article and after careful and rigorous consideration. Article 57 of the HKNSL provides that the Criminal Procedure Law of the People's Republic of China and other related national laws shall apply to procedural matters, including those related to criminal investigation, examination and prosecution, trial, and execution of penalty, in respect of cases over which jurisdiction is exercised pursuant to Article 55 of the HKNSL. When exercising jurisdiction over cases pursuant to Article 55 of the HKNSL, the OSNS shall exercise powers in accordance with the law. The legal documents issued by the OSNS on its decisions to take mandatory and investigation measures shall

² The three special circumstances set out in Article 55 of the HKNSL are:

- (a) the case is complex due to the involvement of a foreign country or external elements, thus making it difficult for the HKSAR to exercise jurisdiction over the case;
- (b) a serious situation occurs where the HKSAR Government is unable to effectively enforce the HKNSL;
- (c) a major and imminent threat to national security has occurred.

have legal force in the HKSAR. The institutions, organisations and individuals concerned must comply with measures taken by the OSNS in accordance with the law.

15. For the better carrying into effect of the above provisions in the HKNSL and for making explicit the relevant responsibilities of the HKSAR Government and its personnel, the HKSAR Government proposes providing in the subsidiary legislation that any department or agency of the HKSAR Government or any public servant must, on request of the OSNS, provide, for the OSNS's effective performance of its mandate of exercising jurisdiction over a case in a circumstance specified in Article 55 of the HKNSL, all necessary and reasonable assistance, facilitation, support, backing and protection in accordance with the law and in a timely manner.

16. Legal documents issued by the OSNS under Article 57 of the HKNSL shall have legal force in the HKSAR and must be complied with by the institutions, organisations and individuals concerned. Refusal or failure to enforce such legal documents by the institutions, organisations and individuals concerned would seriously affect the handling of cases concerning offences endangering national security by the OSNS pursuant to Article 55 of the HKNSL and would lead to very severe consequences. To enhance the enforceability of the legal documents of the OSNS in the HKSAR and to ensure that the documents concerned are to be properly enforced, the HKSAR Government proposes providing in the subsidiary legislation that a person commits an offence if the person, without reasonable excuse, fails to comply with a legal document issued by the OSNS under Article 57 of the HKNSL and served on the person.

17. To ensure that the relevant institutions, organisations and individuals acting in good faith in compliance with the legal documents issued by the OSNS, or in co-operation with the OSNS in performing its mandate, have no

need for concern regarding the risk of incurring civil liability, the HKSAR Government proposes providing for immunity from civil liability in the subsidiary legislation. Similar provisions providing for immunity from civil liability are common in local legislation (e.g. section 199 of the Financial Institutions (Resolution) Ordinance (Cap. 628), section 380 of the Securities and Futures Ordinance (Cap. 571)).

18. Article 59 of the HKNSL provides that in a case over which jurisdiction is exercised by the OSNS pursuant to Article 55 of the HKNSL, any person who has information pertaining to an offence endangering national security under the HKNSL is obliged to testify truthfully. To prevent a witness who assists with an investigation of the OSNS from providing false or misleading information to the OSNS, the HKSAR Government proposes providing for an offence in the subsidiary legislation to prohibit a person from, in purported compliance with a legal document issued by the OSNS under Article 57 of the HKNSL, giving any testimony or making any statement or providing any information or document that is false or misleading in a material particular while knowing that, or being reckless as to whether, the testimony, statement, information or document is false or misleading in a material particular. Offences of providing false or misleading information to law enforcement agencies in the course of investigation are common in local legislation (e.g. section 3(14) of the Organized and Serious Crimes Ordinance (Cap. 455), section 184(2) of the Securities and Futures Ordinance (Cap. 571), sections 10(3) and 13(3) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615)).

19. Paragraph 3 of Article 63 of the HKNSL provides that the relevant institutions, organisations and individuals who assist with the handling of a case shall keep confidential any information pertaining to the case. The OSNS's exercise of jurisdiction pursuant to Article 55 of the HKNSL targets a very small number of cases that are of a serious and egregious nature and

involve a significant impact. Unauthorised disclosure of information on the OSNS's handling of cases will impair the investigation of the OSNS and cause serious consequences endangering national security. To ensure that circumstances of the OSNS's handling of cases are kept in strict confidence, the HKSAR Government proposes to provide for an offence in the subsidiary legislation to prohibit a person who knows or suspects that the OSNS is handling a case from disclosing to any other person any information relating to that investigation without reasonable excuse or lawful authority.

(C) Protections for the OSNO in the performance of its mandate

20. For the better carrying into effect of Article 61 of the HKNSL and section 114 of the SNSO, the HKSAR Government proposes providing in the subsidiary legislation that, in the course of the OSNS's performance of its mandate under the HKNSL, any department or agency of the HKSAR Government or any public servant must, on request of the OSNS, provide all necessary and reasonable assistance, facilitation, support, backing and protection in accordance with the law and in a timely manner.

21. Article 60 of the HKNSL provides that the acts performed in the course of duty by the OSNS and its staff in accordance with the HKNSL shall not be subject to the jurisdiction of the HKSAR; in the course of performing duty, a holder of an identification document or a document of certification issued by the OSNS and the articles including vehicles used by the holder shall not be subject to inspection, search or detention by law enforcement officers of the HKSAR; and the OSNS and its staff shall enjoy other rights and immunities provided by laws of the HKSAR. For the better carrying into effect of Article 60 of the HKNSL, the HKSAR Government proposes including in the subsidiary legislation provisions to make clear that an identification document or a document of certification created or issued by the OSNS has the effect of proving facts such as the identity of a staff member of

the OSNS and certain acts are performed in the course of duty.

22. Article 61 of the HKNSL clearly stipulates that the HKSAR Government shall stop any act obstructing the OSNS's performance of its mandate in accordance with the HKNSL and hold those who commit such act liable in accordance with the law. The existing legislation in Hong Kong provides for offences of resisting or obstructing a public officer (e.g. section 23 of the Summary Offences Ordinance (Cap. 228), section 36 of the Offences against the Person Ordinance (Cap. 212), section 63 of the Police Force Ordinance (Cap. 232), section 50A of the Public Order Ordinance (Cap. 245)), and some of those offences also cover acts of obstructing others in assisting a public officer in the performance of a public duty. With reference to provisions in relevant local legislation, the HKSAR Government proposes creating offences of wilfully resisting or obstructing the OSNS in the performance of a duty, and wilfully resisting or obstructing others in assisting the OSNS in the performance of a duty.

23. The acts of impersonating a staff member of the OSNS and forging documents of the OSNS (such as legal documents and identification documents) may lead to serious consequences, and will undermine the public's willingness to support the OSNS in the performance of duty in accordance with the law. Section 22 of the Summary Offences Ordinance (Cap. 228) provides for the offence of "falsely pretending to be or be able to influence a public officer", and Part IX of the Crimes Ordinance (Cap. 200) provides for forgery and related offences. Considering the serious consequences that may arise from the acts of impersonating a staff member of the OSNS and forging documents of the OSNS, and in order to protect the OSNS in the performance of its mandate in accordance with the law as well as the lawful rights and interests of Hong Kong residents, the HKSAR Government is of the view that the subsidiary legislation should provide for offences in this regard to impose criminal liability to deter such acts,

regardless of the intentions of the offenders.

24. Some work-related information may be generated in the course of the OSNS's performance of its mandate. The disclosure of such information may prejudice the OSNS's performance of its mandate or adversely affect national security and the public interest. The HKSAR Government proposes including in the subsidiary legislation a provision to stipulate clearly as a matter of principle the obligation to keep confidential the work-related information in connection with the OSNS. It is also proposed to provide that a person must not obtain, possess or disclose the information unless the OSNS has made public the information or given lawful authority to the person.

(D) Declaration of prohibited places

25. Division 2 of Part 4 of the SNSO provides for offences in connection with espionage, including offences in connection with prohibited places, and provides for the definition of prohibited place, the authorisation of guards and the powers that may be exercised in relation to a prohibited place. Under section 42 of SNSO, the Chief Executive may, by order published in the Gazette, declare a place situated in the HKSAR as a prohibited place if, having regard to the matters specified in subsection (2) of that section ³, the Chief Executive reasonably considers that it is necessary for safeguarding national security to declare the place as a prohibited place.

³ The matters are—

- (a) the use of the place;
- (b) the owner or occupier of the place;
- (c) the nature of any information kept, stored or processed in the place; and
- (d) the nature of any technology, equipment or material situated at the place.

26. The premises where the OSNS performs its mandate should undoubtedly be accorded appropriate protection in accordance with the law against unauthorised acts to approach or enter such premises in order to minimise national security risks, in particular risks associated with acts of espionage. In this regard, the HKSAR Government proposes that the Chief Executive declares, by order published in the Gazette, premises where the OSNS performs its mandate as prohibited places. The areas to be designated as prohibited places do not involve private residence, and the declaration will not cause any unreasonable impact on the surrounding community.

Legislative Timetable

27. Amid the present complicated geopolitical situation, national security risks still exist. The OSNS's effective performance of its mandate in accordance with the law is an integral part of the legal system and enforcement mechanism of the HKSAR for safeguarding national security. It is the duty of the HKSAR to complete the making of the subsidiary legislation as early as possible in order to safeguard national security effectively – the earlier the better. Upon receiving the views of the Members, the HKSAR Government will finalise the subsidiary legislation to be made under section 110 of the SNSO and the order for declaration of prohibited places to be made under section 42 of the SNSO as soon as possible. The Government will publish the two pieces of subsidiary legislation in the Gazette and table them at the LegCo for negative vetting as soon as possible. Considering the necessity of making the two pieces of subsidiary legislation for safeguarding national security effectively, the HKSAR Government proposes that they should come into operation on the date of gazettal.

Advice Sought

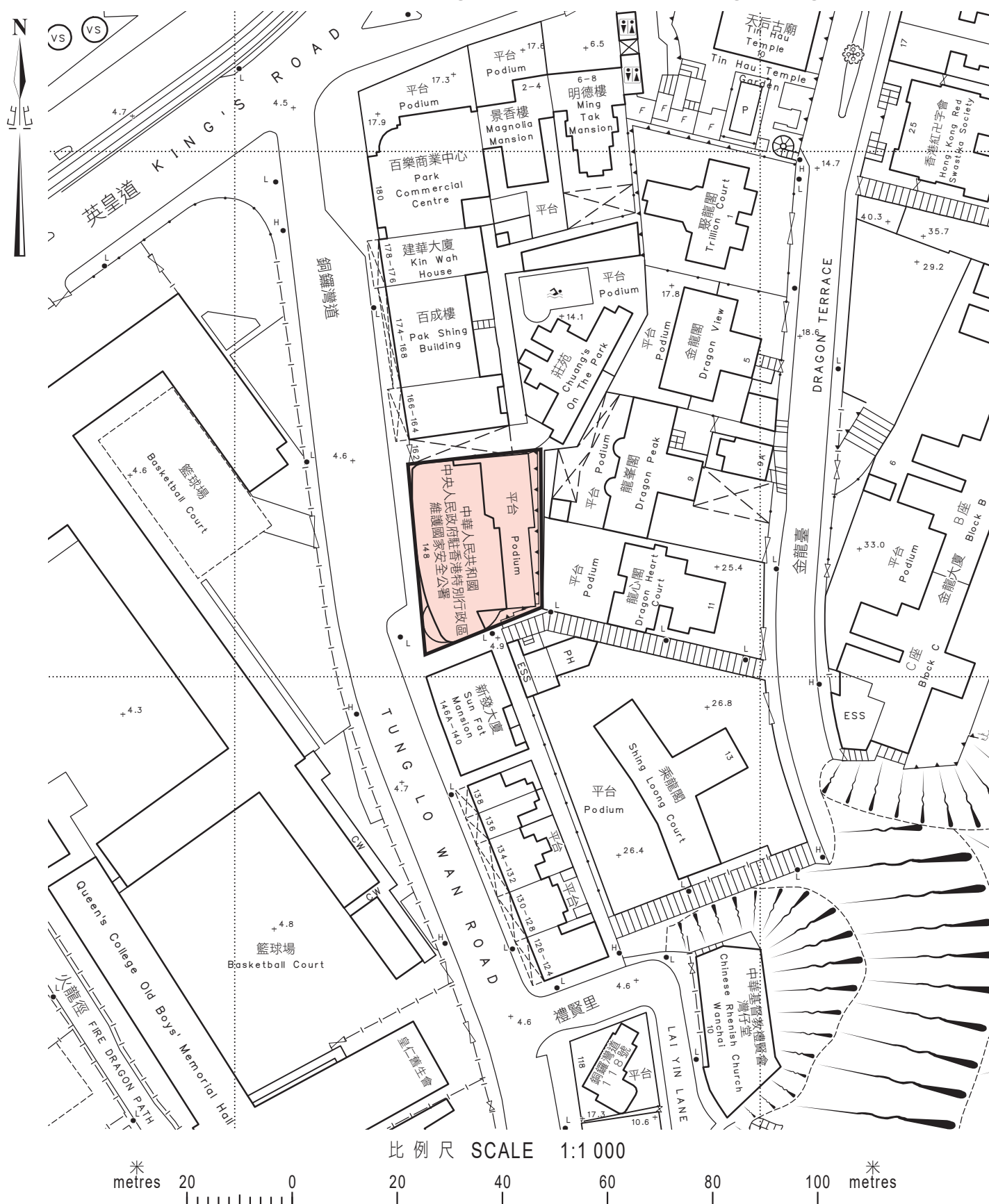
28. The making of the subsidiary legislation under section 110 of the

SNSO and the declaration of prohibited places under section 42 of the SNSO are for the better carrying into effect of the provisions in Chapter V of the HKNSL concerning the mandate of the OSNS, and the fulfilment of the constitutional duty of the HKSAR. The subsidiary legislation seeks to provide for specific details of the relevant requirements at the local law level, thereby better carrying into effect the provisions in Chapter V of the HKNSL concerning the mandate of the OSNS. The subsidiary legislation will not confer any new powers on the OSNS, nor will it affect the lives of the general public and the normal operation of any institution and organisation. The HKSAR Government will ensure the effective delivery of explanatory work so that members of the public will understand the importance of the subsidiary legislation in safeguarding national security. Members are invited to comment on the above proposal of making subsidiary legislation for safeguarding national security.

Security Bureau
Department of Justice
May 2025

香港銅鑼灣道148 號位置圖

Site Plan of 148 Tung Lo Wan Road, Hong Kong



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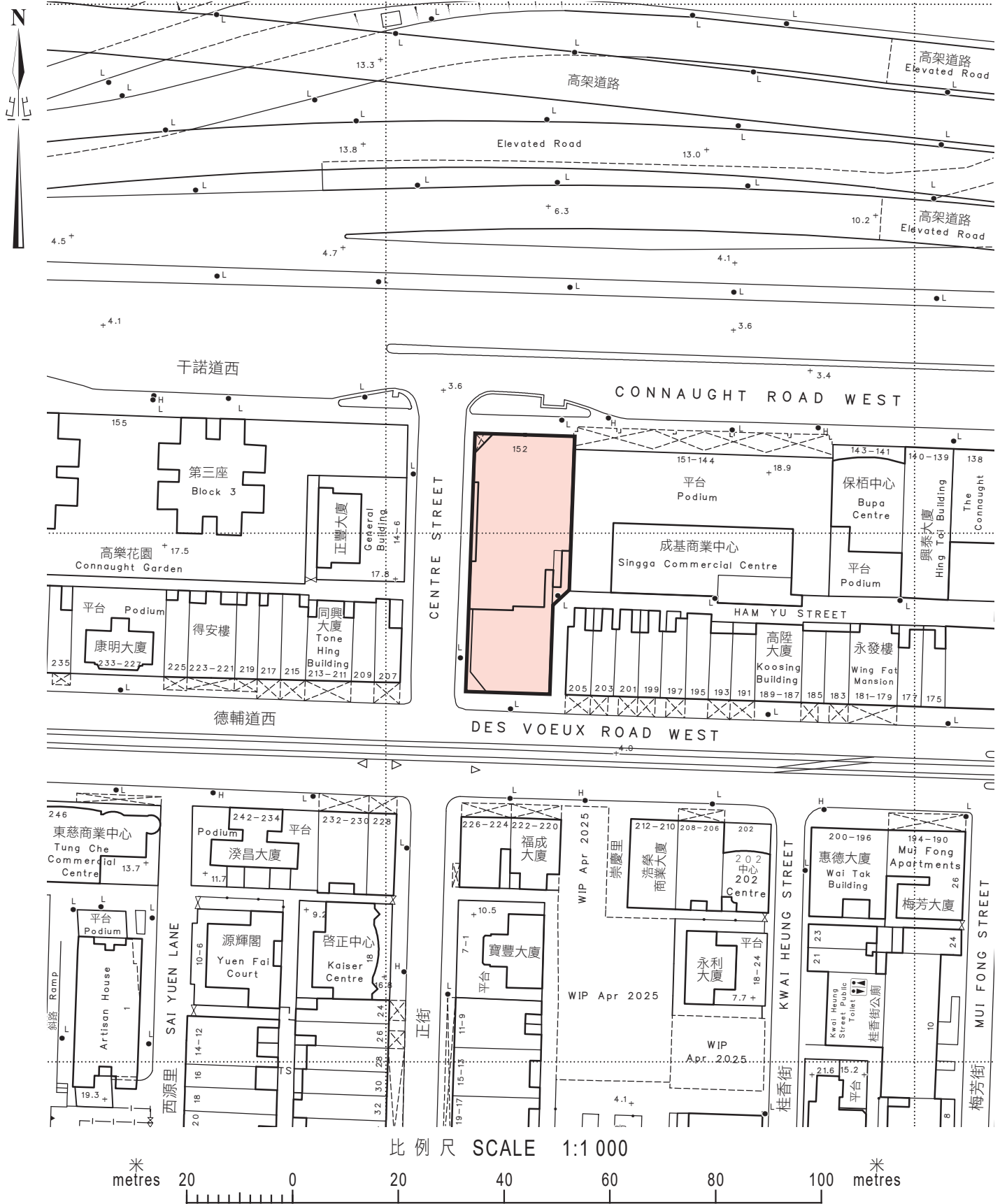
發展藍圖編號 Layout Plan No. S/H8/28

參考圖編號 Reference Plan No. ---

圖則編號 PLAN No. LIC-MIS-2050



香港干諾道西152 號位置圖 Site Plan of 152 Connaught Road West, Hong Kong



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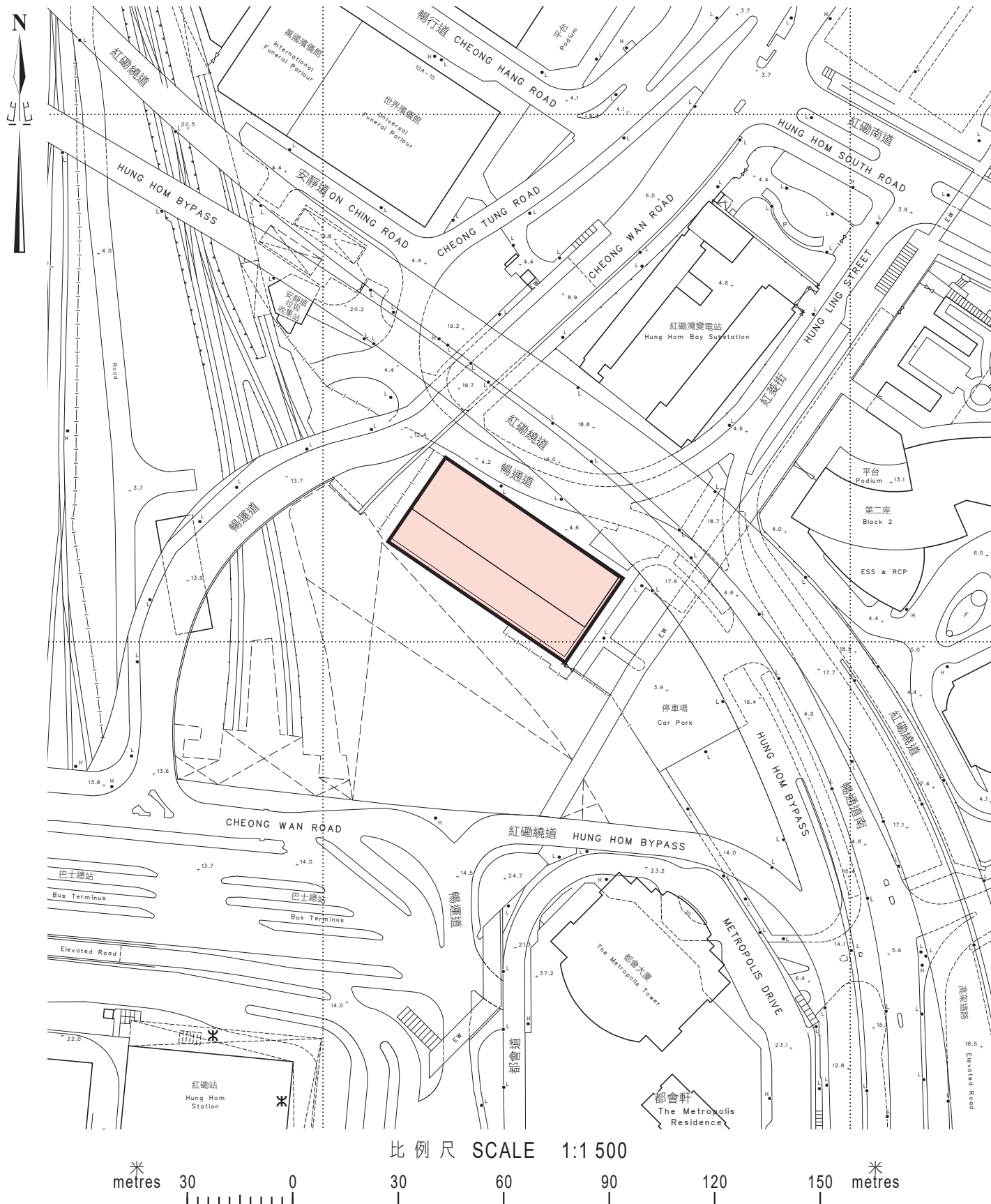
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參考圖編號 Reference Plan No. ---

圖則編號 PLAN No. LIC-MIS-2052

九龍暢通道1 號位置圖 Site Plan of 1 Cheong Tung Road, Kowloon



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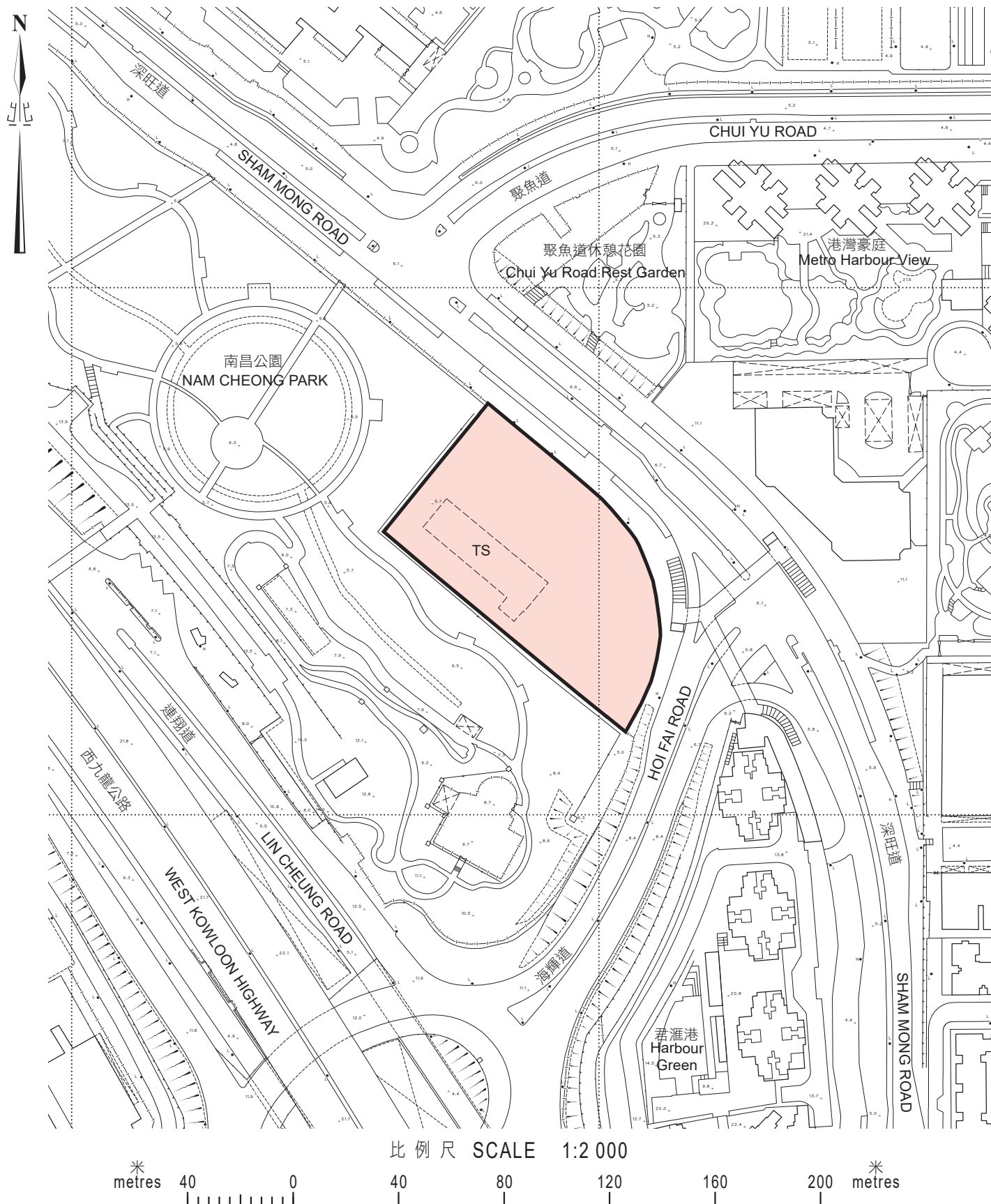
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參考圖編號 Reference Plan No. ---

圖則編號 PLAN No. LIC-MIS-2053

九龍海輝道與深旺道交界位置圖

Site Plan of Junction of Hoi Fai Road and Sham Mong Road, Kowloon



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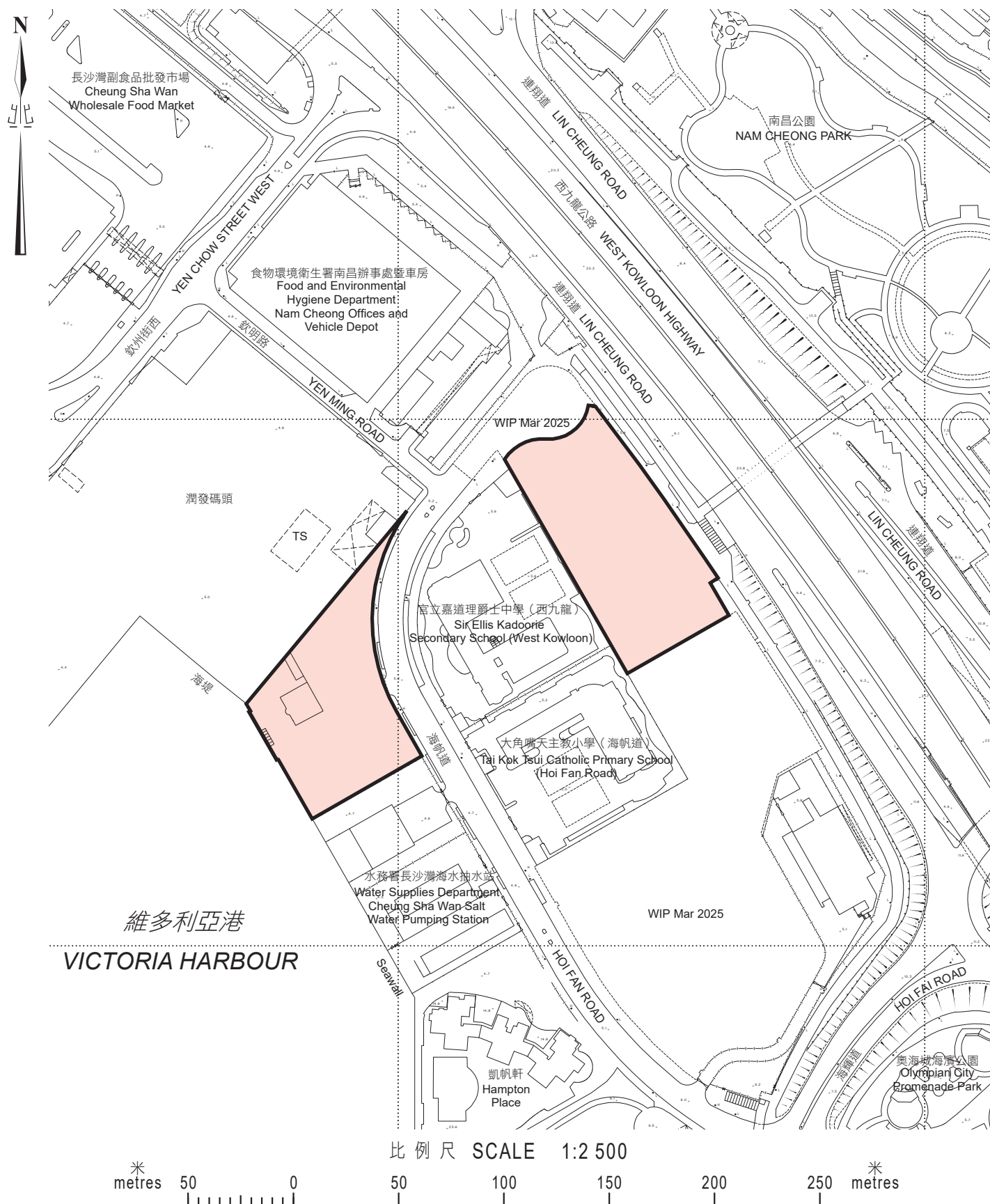
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參考圖編號 Reference Plan No. ---

圖則編號 PLAN No. LIC-MIS-2054

九龍海帆道位置圖

Site Plan of Hoi Fan Road, Kowloon



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圖則編號 PLAN No. LIC-MIS-2055