



# 香港地產建設商會

## THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

香港中環德輔道中十九號環球大廈1403室  
Room 1403, World-Wide House, 19 Des Voeux Road Central, Hong Kong.  
Tel: 2826 0111 Fax: 2845 2521

7 March 2011

The Chairman and Members of the  
Town Planning Board  
15/F North Point Government Offices  
333 Java Road  
North Point  
Hong Kong

Dear Sirs

**Town Planning Board  
Call to Suspend Amendments to Outline Zoning Plans  
Pending Review of Impact of New BD and Joint Practice Notes**

**Background**

1. You will be aware that REDA has lodged Representations and Comments objecting to fundamental aspects of the draft amendments to various Outline Zoning Plans which have recently been exhibited for public inspection.
2. These objections have been lodged on the basis that, amongst other things, the Town Planning Board is exceeding its authority under the Town Planning Ordinance with respect to spot building height restrictions (“BHR”), imposition of non-building areas (“NBAs”), buildings gaps and building setback requirements along footpaths and road frontages (collectively referred to below as “OZP Development Controls”).
3. One of the points which has been made by REDA is that there are other more suitable means for implementing OZP Development Controls, such as through the Buildings Ordinance. The alternative means of achieving such measures should carefully be taken into account, as the Town Planning Ordinance limits the actions of the Board to broad zoning of a general and consistent manner over sites of similar planning characteristics.



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4. To date, no amendment has been made to meet any of REDA's points of objection to any of the draft Outline Zoning Plans.
5. REDA has also submitted that in many cases the BHRs have been set so low as to either adversely affect land owners property rights, or result in poor quality of new buildings. These views have also been ignored and no amendment has been made to meet these submissions.
6. REDA, and others, have called for prior consultation on the imposition of new OZP Development Controls on the Outline Zoning Plans but no such consultation has taken place. No details have been provided to REDA or other representers, nor apparently to Town Planning Board members, as to the detailed basis of establishing such restrictions. For example:
  - (a) no one is aware of the floor-to-floor height assumptions made in relation to the setting of BHRs;
  - (b) no reason has been given as to why an inconsistent approach is taken towards respecting some existing approved General Building Plans but ignoring others;
  - (c) no evidence has been provided in any instance to show how the Planning Department concluded that the existing development rights of land owners are not adversely affected.
7. A large number of Outline Zoning Plans have been gazetted with such OZP Development Controls and there are hundreds of outstanding Representations to be heard, many of which oppose the manner in which such restrictions have been imposed and their impact.

### **New BD and Joint Practice Notes on Sustainable Building Development**

8. As you are aware, new Practice Notes have recently been issued by the Buildings Department and jointly by the Planning, Lands and Buildings Departments in relation to Sustainable Building Design. These new Practice Notes introduce a completely new regime for building design in Hong Kong.



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These new restrictions, to a large degree, duplicate the OZP Development Controls being imposed by the Town Planning Board, particularly those relating to spot building heights, air ventilation requirements, building gaps and building set-backs along street frontages.

9. It is clear that the Town Planning Board and the Planning Department have not made any attempt to take account of the impact of these new Practice Note provisions when preparing the OZP Development Controls recently gazetted for various Outline Zoning Plans, and no attempt has been made to ascertain the extent to which the two regimes may interface with or duplicate each other, or what their combined impact might be on land owners' development rights.
10. It is also evident that any calculations previously made as to the achievement of existing development rights under an amended draft OZP are now no longer valid. All such restrictions imposed on Outline Zoning Plans should therefore be re-considered as a matter of urgency, with reference to the new Practice Notes.
11. REDA has consistently stated that the Outline Zoning Plans are not the appropriate mechanism for imposing detailed OZP Development Controls on building development. It can now be seen that the reasons given by the Town Planning Board for the imposition of such detailed OZP Development Controls, and the form that those OZP Development Controls take, are almost identical to the reasons for and form of the controls introduced through the Practice Notes. This shows clearly that the Buildings Ordinance is the more appropriate means for imposing such controls.
12. With the new Practice Notes taking effect on the 1 April 2011, the critical conflict that exists between these two systems of control needs to be urgently addressed. REDA therefore requests that the Town Planning Board immediately address this by the following :-
  - (a) Immediately suspend the preparation of any amendments to Outline Zoning Plans involving building set-backs, BHRs, building gaps, NBAs, spot zoning and spot building heights pending the completion of the further steps set out below.
  - (b) Undertake a detailed review and genuine consultation on the technical



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aspects of the two development control regimes, jointly with REDA and relevant professional institutes, with a view to formulating clear lines of demarcation between the two regimes, so that the stated objectives can be realistically met. In doing so, some consensus should be reached as to what are the desirable design criteria to be applied to address such issues such as “tall and out of context buildings”, protection of approved GBPs, assumptions for internal floor-to-floor heights and the relationship of such controls to the Practice Notes.

- (c) All existing Outline Zoning Plans for which Representations are yet to be heard should be reassessed based on an assumption that building setbacks, BHRs, building gaps, NBAs, spot zoning and spot building heights are no longer required because of the Practice Notes and removed from these Outline Zoning Plans.

### Managing of Town Planning Board hearings

13. REDA is also concerned that the manner in which the Town Planning Board is managing review hearings is contrary to the principle of providing the public with a full and fair hearing. Town Planning Board members sat for more than 12 hours continuously on the day when the Sai Ying Pun and Sheung Wan Outline Zoning Plan representations were heard. This does not give confidence that the representations were properly considered. This is not an isolated example. It is also considered unreasonable that Town Planning Board members who give their time generously should be expected to work in such conditions and to make very important decisions under such pressure of time. The Town Planning Ordinance provides the Board with the flexibility to form Hearing Committees, the power to defer hearing of representations where necessary, and the possibility of requesting a 6 month extension of time from the Chief Executive for submission of the draft OZP to the Chief Executive in Council, so as to allow for full and proper consideration of Representations that are often complex.

### Prior consultation

14. Finally, as REDA has often stated, prior consultation with the public and land owners before gazetting of Outline Zoning Plans would provide a means for



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obtaining a consensus on public aspirations and reduce the large number of representations in opposition to amendments subsequently made to Outline Zoning Plans.

15. We would respectfully request your urgent consideration of these matters.

Yours sincerely

Louis Loong  
Secretary General

c.c. Mr. Jimmy Leung, JP, Director of Planning

**城市規劃委員會**

香港北角渣華道三百三十三號  
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**TOWN PLANNING BOARD**

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來函檔號 Your Reference:

覆函請註明本會檔號  
In reply please quote this ref.: TPB/G/PUB/29

**BY FAX (2845 2521) AND POST**

9 May 2011

The Real Estate Developers Association of Hong Kong  
Room 1403, World Wide House  
19 Des Voeux Road Central  
Hong Kong  
(Attn: Mr. Louis Loong)

Dear Mr. Loong,

**Town Planning Board**  
**Call to Suspend Amendment to Outline Zoning Plans**  
**Pending Review of Impact of New BD and Joint Practice Notes**

Your letter dated 7.3.2011 to the Chairman and Members of the Town Planning Board (the Board) was submitted to the Board for consideration at its meeting held on 25.3.2011. The Board had asked the Secretary to reply on its behalf.

The Board, after considering your requests carefully, did not think it necessary to suspend immediately the preparation of any amendments to Outline Zoning Plans (OZPs) involving building setbacks, building height restrictions (BHRs), building gaps, non-building area (NBA) and spot zoning pending the completion of a detailed review and consultation on the technical aspects of the two development control regimes, namely Building Department's Practice Notes on Sustainable Building Design (SBD) and development restrictions under OZPs. The Board had also considered that there was no need to reassess all existing OZPs for which representations had yet to be heard. The main considerations of the Board are set out below:

*Duplication of Development Control*

- (i) The Board noted that the new measures on SBD Guidelines and the OZP development controls on building height (BH), NBA, building setback/gaps were under two separate regimes i.e. the building regime and the town planning regime. They were complementary, rather than duplicating with each other.
  
- (ii) The SBD Guidelines focused on the building design at a site level and were applicable to all building developments with no reference to specific district characteristics. Besides, the requirements under the SBD Guidelines were prerequisite for the granting of gross floor area (GFA) concession under the Buildings Ordinance on application to the project proponent. On the other hand, OZP development controls on BH, NBA and building setback were imposed at a district level to achieve certain urban design and planning objectives. They were often location-specific taking into account various factors such as the BH concept, topography, the local characteristics, compatibility with the surroundings, preserving green/view corridors/ ridgelines, air ventilation, traffic consideration and the need to strike a balance between public aspirations for a better living environment and development intensity permitted under the OZP.
  
- (iii) To cater for site specific circumstances, there was provision under the OZP for minor relaxation of the BHRs, NBA and building setback on application to the Board and each case would be considered based on its individual planning and design merits.

*Management of the Board's Hearings*

- (iv) As to your concern about the manner in which the Board managed the representation hearing, the Board was of the view that the length of the meetings should not be a concern. The crux of the matter was whether the representers / commenters had been given a reasonable opportunity to present their cases at the meeting and whether all the oral and written representations had been fully and fairly considered by the Board before it made a decision. The Board had all along ensured a fair hearing of representations and comments and had allowed sufficient time for the representers and commenters to present their cases. All relevant information and considerations had been taken into account by the Board in making a decision.

*Prior Consultation*

- (v) The Board had all along adopted the practice that proposed amendments involving plot ratio restrictions and BHR would not be released to the public prior to the gazetting of the OZPs. The exhibition and representation hearing process under the Ordinance itself was a statutory public consultation process for the Board to consider representations and comments on the OZPs.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Amy Wu', written in a cursive style.

( Ms. Amy Wu )

for Secretary, Town Planning Board