



# 香港地產建設商會

## THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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25 July 2017

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

Dear Sir,

**Representation in relation to  
Draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan No. S/HSK/1**

We refer to the Draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan gazetted on 26 May 2017, and submit Representation under Section 6(1) of the Town Planning Ordinance. The reasons for the Representation are included in the paper attached to this letter.

We retain the right to provide additional information in support of this Representation and to raise additional points, if necessary.

Yours sincerely

Louis Loong  
Secretary General

**Representation to  
Draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan No.S/HSK/1**

**Representor: The Real Estate Developers Association of Hong Kong**

**1. Introduction**

- 1.1 The Town Planning Board gazetted the Draft Hung Shui Kiu and Ha Tsuen Outline Zoning Plan No. S/HSK/1 (the Draft Plan) on 26 May 2017.
- 1.2 This Representation to the Draft Plan is made by The Real Estate Developers Association of Hong Kong (REDA) pursuant to Section 6 of the Town Planning Ordinance. It comments on some general planning principles adopted in the Draft Plan, and proposes some amendments to the zoning provisions and improvements to the implementation arrangements.

**2. The Representor**

- 2.1 REDA has made various submissions to the Government regarding the Hung Shui Kiu (HSK) New Development Area (NDA) Planning and Engineering Study, raising issues on some general planning principles, zoning provisions and implementation arrangements. Some of these issues have been addressed while others have been carried through to the Draft Plan.
- 2.2 This Representation relates to general matters and principles that REDA considers to be important in achieving a high quality form of development at HSK NDA. It is made in the broad interests of Hong Kong.

**3. The Representation**

- 3.1 REDA wishes to reiterate the issues previously raised and remained unresolved, and also to comment on additional matters which have arisen with specific reference to the Draft Plan, concerning some adopted general planning principles, zoning provisions and implementation arrangements, and proposes amendments for Town Planning Board's consideration.
- 3.2 This Representation is related to the broad interests of Hong Kong, seeking to maximise the use of the land resources available, and to help contribute to the housing supply and economic growth for the city. It also refers to the implementation arrangement, the need to respect private development rights and to capitalise on the costs of the project. Its objective is to maintain an efficient and sustainable urban development system.

#### **4. General Comments made during the HSK NDA Planning and Engineering Study**

4.1 REDA's general comments on the HSK NDA Planning and Engineering Study are relevant and restated below, so as to provide a context for the Representation to the Draft Plan which follows:-

- i. The proposed use of the land has not been forward-looking as to the regional role HSK should serve Hong Kong in the longer term in its relationship across the border, but has merely addressed existing transitional challenges.
- ii. The proposals do not make the best of Hong Kong's proven record of successful Transport Orientated Development.
- iii. There is generally an underutilisation of land by unnecessarily adopting lower plot ratios than appropriate, especially at the Regional Economic and Civic Node and District Commercial Node; this needs to be changed.
- iv. More flexible land use zoning should be applied to economic uses, so as to better allow the market to determine the appropriate use.
- v. Environmentally Friendly Transport System (EFTS) in the form of an expansion of the Light Rail Transit would facilitate connections throughout the whole region.
- vi. Increased flat production can be achieved beyond the 61,000 units currently planned, and the proportion of private units produced should be increased to take into account of the large number of public flats in Tin Shui Wai (TSW), and to result in an overall ratio of 40:60.
- vii. A coordinated development office should be established to implement the project, and the land exchange system should be streamlined.

#### **5. The Nature of and Reasons for the Representation**

The nature of and reasons for the Representation are set out below:

##### Support for the Comprehensive Planning Approach

5.1 REDA generally supports the approach to the comprehensive planning for HSK and Ha Tsuen to facilitate the development and redevelopment of the area. In general, the proposals on the Draft Plan provide the basis for a good mix of land for housing, open space for the future residents, and economic expansion with commercial land use and supporting facilities. They also provide the basis for the planning and provision of various forms of community facilities and public infrastructure.

##### Increase Residential Development Density for Flat Production

- 5.2 REDA has consistently been advocating for greater development density, to achieve the highest and best uses of the scarce land resources, to meet the continual need of Hong Kong in a sustainable manner.
- 5.3 The Long Term Housing Strategy Annual Progress Report 2016 identifies an annual housing supply target of 46,000 units for the coming 10 years. The Draft Plan will accommodate 218,000 people (the Revised Recommended Outline Development

Plan for the same population supplies 61,000 units) or only about 1.33 times the annual target. This is an unacceptably low number of new units. It fails to meet HSK's role as an important component in the overall development strategy to meet the medium to long term housing demand for Hong Kong, as advocated in the Explanatory Statement. Greater housing supply should be achieved to better address the ongoing population growth, increasing number of households and public aspirations for more housing supply.

- 5.4 The residential densities under the Draft Plan and Hong Kong Planning Standards and Guidelines (HKPSG) are compared in **Table 1**:

**Table 1.** Comparison of the residential densities under the Draft Plan and HKPSG.

<b>HKPSG residential plot ratio</b>	<b>Maximum overall plot ratio under the Draft Plan</b>	<b>Maximum domestic plot ratio under the Explanatory Statement to the Draft Plan</b>	<b>Residential plot ratio difference between HKPSG and the Draft Plan</b>
R1 for NDA: 6.5	Residential (Group A)1: 6.5	6 (in Planning Area 16B, 25, 27A, 27B, 34A and 52B for Public Rental Housing and Subsidised Sales Flat)	-0.5
	Residential (Group A)2: 6	5.5	-1
	Residential (Group A)3: 5.5	5 (except Planning Area 8)	-1.5
	Residential (Group A)4: 5	4.5 (in Planning Area 12)	-2
	Residential (Group A)5: 3.5	3	-3.5
R2: 6	-	Residential (Group B)1: 3.5	-2.5
	-	Residential (Group B)2: 2.5	-3.5
	-	Residential (Group B)3: 1.26	-4.74
R3: 3.6	-	Residential (Group C): 0.4	-3.2

- 5.5 The residential density in all "Residential" sub-groups, and especially in the lower end of the sub-groups is excessively low. Similarly the 7 plot ratio in "OU (Mixed use)" zone where the domestic plot ratio is restricted to 4.5, is also excessively low. The excessively low density is considered to be unnecessary in view of the following:-



- i. The Explanatory Statement to the Draft Plan does not identify any engineering constraints on the development capacity. REDA considers that improvement measures should be maximised at the outset of the planning for the NDA to enable the maximum development potential.
- ii. Paragraph 10.1.16 of the Explanatory Statement attributes urban design and building height profile in the plot ratio distribution. However, REDA considers that the preservation of the village zones and the proposed various “Residential” sub-groups will provide for the urban design. The proposed plot ratios have the potential to be increased correspondingly without adversely affecting the quality of the proposed urban development.
- iii. The domestic plot ratio in “Residential” and “OU (Mixed use)” zones are capped to ensure commercial floor space provision. These restrictions are contrary to the flexible mixed residential and commercial plot ratios provided in the Building (Planning) Regulations composite building formula. A greater degree of flexibility in design and in response to market forces should be provided, especially in addressing the imminent housing shortage.

#### Arbitrary Building Height Restrictions

- 5.6 REDA appreciates that the permissible building height in relation to plot ratio has become more generous when compared with that of Fanling North and Kwu Tung North NDAs. However, a summary in **Table 2** below reveals that the various building heights for land use and density remain arbitrary.

**Table 2.** Summary of building height restrictions for various land use and density.

Land use zonings	Maximum plot ratio	Maximum building height
Commercial (1)	9.5	200 mPD
Commercial (2)	8	200 mPD in Planning Area 32C and D 135-160 mPD in Planning Area 17A to C (135 mPD in Planning Area 17A as per existing planning approval)
OU (Mixed use)	7	180 mPD (subject to 60 mPD at portion of land or terrace frontage) 160 mPD (subject to 6 metres wide setback at Planning Area 19B)
Residential (Group A)1	6.5	180 mPD
Residential (Group A)2	6	120-180 mPD
Residential (Group A)3	5.5	120-160 mPD (120 mPD for rehousing)
Commercial (3)	5	140 mPD subject to a 7 metres wide utility reserve

<b>Land use zonings</b>	<b>Maximum plot ratio</b>	<b>Maximum building height</b>
Residential (Group A)4	5	100, 120 or 140 mPD (100 and 120 mPD in Area 59B and D with 5 metres setback)
OU(Logistics Facilities)	5	110 mPD
OU(Enterprise and Technology Park)	5	90 mPD
Residential (Group A)5	3.8	90 mPD
Residential (Group B)1	3.5	90 mPD
Commercial (4)	3	50mPD
Residential (Group B)2	2.5	60 and 90 mPD
Commercial (5)	1.5	40 mPD
Residential (Group B)3	1.26	6 storeys over single storey carpark
Residential (Group C)	0.4	3 storeys including carpark

5.7 It is appreciated that the variations in building height in each zoning are for urban design for the amenity of the future occupants and users. However, there are inadequate justifications for the imposition, for instance:

- i. 135 mPD in Planning Area 17A is reflecting an existing planning approval, rather than forward strategic planning.
- ii. 100 and 120 mPD of Area 59B and D are both subject to 5 metres setback.
- iii. 110 and 90 mPD of “OU(Logistics Facilities)” and “OU(Enterprise and Technology Park)” are both subject to 5 plot ratio.
- iv. “OU(Enterprise and Technology Park)” has the same building height restriction but greater plot ratio than “Residential (Group A)5 and (Group B)2” of 3.8 and 3.5 plot ratios.
- v. “Commercial (4)” of 3 plot ratio and 50mPD has greater plot ratio but more restricted building height than “Residential (Group B)2” of 2.5 plot ratio and 60 and 90 mPD.

REDA considers that the reservation of large areas of land for village houses and the proposed various land use sub-groups will provide for the urban design. The building height restrictions have the potential to be increased correspondingly without adversely affecting the quality of the proposed building height profile.

### Departure from Transport Oriented Development Concept

- 5.8 HKPSG stipulates that higher density residential developments should be located near rail stations and major public transport interchanges wherever possible to capitalise on the development opportunities and to reduce reliance on road-based vehicular travel. This Transport Oriented Development Concept promotes the highest and best uses in the 500 metres catchment of MTR stations. Hong Kong has a proven record of achieving internationally recognised Transport Oriented Development, making it a sustainable city.
- 5.9 The mix of uses and development densities around the HSK and TSW West Rail Stations are considered not to have maximised the use of the land resources at their strategic locations. They have the potential to redress the economic weakness at TSW or the future economic growth at Yuen Long South, to boost the vibrancy of local communities, and to provide support for each other and create synergy to contribute to the long term success of the region in the following manner:

#### HSK West Rail Station

- i. The development cluster around HSK West Rail Station is designated with regional economic and civic importance and as a gateway to the NDA. However, the access off Kong Sham Western Highway leads to G/IC uses, which are secondary uses when compared with the adjacent commercial use at Planning Area 32. Further, the 7 plot ratio at the “OU (Mixed use)” zone is secondary to 9.5 plot ratio at the CDA. These shortcomings are considered to detract from the designated regional significance.

#### TSW West Rail Station

- ii. The development cluster around TSW West Rail Station is designated as a District Commercial Node. To the east, there is TSW which is a predominantly residential district, and Yuen Long South where a planning study proposes employment belt and housing supply. The 7 plot ratio of the “OU (Mixed use)” zone is secondary to 9.5 plot ratio at the CDA. Further, the proposed Commercial (2) and (3) with 8 and 5 plot ratios have not maximised the use of the land resources to that of Commercial (1) and (2). The role of this node supplementary to the regional economic and civic node at HSK Station should not prevent sizeable commercial and mixed use development. Differentiated development height could help visually distinguish the two nodes without unnecessarily restricting their GFA supply.
- 5.10 The Open Space at Area 34C is in very close proximity to the Regional Plaza at HSK West Station. It is a duplication of use, diverging users from the Regional Plaza, not necessary in serving any urban design or real amenity. It is a waste of development opportunities at this prime location.

#### Need to Improve Proportion of Private Housing

- 5.11 Under the Draft Plan, the public and private housing in the NDA is at a ratio of around 51:49, or 69:31 when also taking account of TSW. The regional proportion is a departure from the Long Term Housing Strategy's 60:40 approach.
- 5.12 REDA has repeatedly been requesting to improve the proportion of private housing, which is essential for the following:
- i. Good social planning to facilitate interactions amongst socio-economic background groups.
  - ii. Variations in architectural design for visual interest.
  - iii. Expansion for private housing market, and thereby help address its costs and affordability.
  - iv. Diversity in housing types, where private housing supply will help meet public aspirations for home ownership and social mobility, especially for the middle income groups who are not eligible for public housing and who aspire for a better form of accommodation in moving up the housing ladder.

#### Increase Development Parameters for Commercial Uses

- 5.13 The development parameters for commercial uses are overly restrictive, considering the following:
- i. The building height restrictions force developers to forego good floor-to-ceiling height for Prime Office Premises, and Meetings, Incentives, Conventions and Exhibitions facilities (MICE) in order to preserve the permissible GFA. This falls behind expectations, and detracts from the proposed regional economic role of the NDA.
  - ii. The "Commercial" sub-zoning (3), (4) and (5) of 5, 3.5 and 1.5 plot ratios around TSW West Rail Station, Local Service Core at the north and Lau Fau Shan respectively, are very low when compared with those applied elsewhere. This is an underutilisation of commercial development opportunities, wasting potential office GFA, economic expansion and number of jobs.
- 5.14 As discussed in paragraph 5.4, since there are no engineering constraints on development capacity, improvement measures should be maximised at the outset of the planning for the NDA so as to capitalise on the maximum development potential. REDA considers that the large areas zoned for village houses and the proposed various land use subgroups will provide for urban design variation. The proposed commercial intensities have the potential to be increased correspondingly, without adversely affecting the quality of the urban development.

#### Optimise Economic Uses

- 5.15 The Logistics, Enterprise and Technology Quarter occupies about 72.53ha or 10.25% of the land area in the NDA. REDA has been requesting for justification in quantifying its future land requirement, floor space demand, and employment generation rate. While Logistics Facilities, Enterprise and Technology Park, and Port Back-up, Storage and Workshop uses are important contributors to the economy,

there is inadequate justification for the large land mass at the prime strategic location of HSK.

5.16 The “OU” sub-zonings for Logistics Facilities, Enterprise and Technology Park, and Port Back-up, Storage and Workshop uses are overly deterministic as to the differentiation in the uses which are always permissible, requiring applications to the Town Planning Board or prohibited. They are unnecessarily restrictive and will interfere with the market mechanism in responding to changing economic needs.

5.17 REDA considers the following:

- i. Creative industries, exhibition or convention hall, research design and development centre, wholesale trade, office, information technology and telecommunication industries, training centre, recyclable collection centre and the like, which are ancillary to Logistics, Enterprise and Technology Quarter should always be permitted.
- ii. Cargo handling and forwarding facility, container storage, repair yard, container vehicular park/ container vehicle repair yard, open storage (not elsewhere specified), vehicle repair workshop, vehicle stripping/ breaking yard, warehouse (excluding dangerous goods godown) and the like, should also be always permitted. The advancing environmental mitigations technology together with good urban design would unlikely have interface problems amongst the various economic activities in the same zone. Users in the zone are reasonably expected to be more resilient to the potential residual impact generated by these uses.
- iii. The potentially offensive uses will always require Section 16 application, such as asphalt plant/ concrete batching plant, dangerous goods godown, open storage of cement/ sand/ chemical products/ dangerous goods.
- iv. Rationalising all brownfield uses may not be functional, economical or convenient. Some unsuitable and uneconomic uses must be terminated rather than continued as part of a natural change to the economy.
- v. Library, place of entertainment, place of recreation, sports or culture, private club, public clinic, religious institution, school and the like, should not be permissible in the Logistics, Enterprise and Technology Quarter. These G/IC uses should be located in the more environmentally friendly area of the NDA, and prevent the sensitive uses in the Quarter. Further, they should not detract from the economic use of the prime land resources at the Quarter, which is an important economic and employment node of the whole territory with dominant provision of modern industries as advocated in the Explanatory Statement to the Draft Plan.

5.18 The 5 plot ratio for Logistics Facilities, and Enterprise and Technology Park sub-zonings is unnecessarily low when compared with the similar Port Back-up, Storage and Workshop uses of 7 plot ratio. It is restrictive on design, and wastes potential GFA, economic expansion and number of jobs. In relaxing the development parameters in the Logistics, Enterprise and Technology Quarter, some of the land on the periphery could be released for housing and other appropriate uses, which demand is more imminent.



- 5.19 The proposed “Industrial” zoning located on the western edge of the NDA is isolated by Kong Sham Western Highway. It is logical to cluster the industry use with the rest of the economic activities. Further, their 3 plot ratio is unnecessarily low when compared with the industrial zonings adopted in other parts of Hong Kong.

#### Pedestrian Walkway Network

- 5.20 Specific reference is made to the pedestrian walkway network around Planning Areas 58, 59 and 60. There is a major pedestrian walkway along the drainage channel on the eastern edge, a 5 metres setback on the western edge, and a pedestrian street and an open space traversing Planning Areas 58 and 59. It is appreciated that these pedestrian walkways serve to connect the open space to the north, and that between Planning Areas 59 and 60, and the regional park and sports ground. Nevertheless, it is considered to be excessive, diverting pedestrians to the various routes and preventing the network from achieving a sense of vibrancy.
- 5.21 The 5 metres setback along the western edge of Planning Areas 58, 59 and 6 are under the Explanatory Statement to the Draft Plan. It is not a designated Non Building Area, but subject to the general provision “to maintain a spacious corridor between the proposed development and existing villages”. There is uncertain level of expectation on the design or amenity.

#### Transportation Linkages

- 5.22 REDA supports EFTS. However, the Explanatory Statement to the Draft Plan merely states that further studies are yet to be carried out. There remains uncertainty as to what it would be, whether it would actually be implemented or when it would be implemented. It is essential that the EFTS be available concurrent to the population intake of the NDA. EFTS should serve the four public transport interchanges and the West Rail stations, and especially the northern part of the NDA remote from the West Rail stations.
- 5.23 EFTS should be in form of Light Rail Transit, so as to enable extension beyond HSK, and connection with the TSW, the future Yuen Long South and the rest of the existing networks. This is critical for passenger convenience by removing the need to change transport modes, encouraging cross district and intra-regional activity thereby resulting in a self-sustaining region.

#### Detailed Urban Design Studies

- 5.24 The Explanatory Statement to the Draft Plan provides that “detailed urban design studies” are to be conducted at the Regional Economic and Civic Hub, the District Commercial Node and the waterfront promenade. Future development interface, urban design arrangement and possible multi-level pedestrian linkages are to be controlled through Master Layout Plan submission under lease condition. However, it is unclear as to what these “detailed urban design studies” would be or when it would be implemented, resulting in uncertainties in the implementation programme for the three major nodes of the NDA.

### Infrastructure Capacity and Timing

- 5.25 The Explanatory Statement also states that connection to public sewer will be made when public sewer with adequate capacity is in place and connection to public sewer is required by the Director of Environmental Protection. Suitable and adequate Government Sewerage Treatment Plant, sewage pumping stations and sewer should be made available corresponding to the population intake of the NDA. Future development should be able to rely on Government infrastructure without the need to provide interim measures.

### Resumption and Clearance of Private Land

- 5.26 Paragraph 17.2 of the Explanatory Statement states that the Government will resume and clear the private land planned for public works projects, public and private development before disposal of land planned for private development in the market. About 64% of the HSK NDA is in private land holdings. Resumption of all land from existing owners and subsequent disposal in the market will have significant financial and social implications.
- 5.27 The Explanatory Statement states that flexibility will be provided for modification of lease including in-situ land exchange applications meeting a set of criteria by specified deadlines. REDA refers to Enhanced Conventional New Territories Approach (ECNTA) and General Criteria for Consideration of Lease Modification (including In-situ Land Exchange) Applications (the General Criteria) which has been identified as the mode of implementation for HSK. ECNTA and the General Criteria prohibit land applications from current land owners in many of the zones and land parcels. Our members find them overly stringent, stifling land applications and precluding involvement of the private sector, resulting in unwarranted extinguishment or limit of the existing private property owners' development right
- 5.28 The Court of Final Appeal (*Hysan v Town Planning Board*) has recently upheld the need to balance the imposition of controls for public benefit with the private property rights. ECNTA and the General Criteria must therefore be weighed in relation to the effect on private land, so as to avoid disproportionate and excessive burden on private property rights. REDA considers that similar development of land can be achieved without resumption. There should be respect for the developments rights of the existing property owners who can develop the site just like the bidders in the subsequent Government's disposal of land in the market. REDA raises major questions as to the validity of this approach as it adversely affects the land owner's rights which are protected under the Basic Law, which constitutional right has been confirmed by the Court of Final Appeal.
- 5.29 Long before the Government announced the NDA Plan, developers have been assembling land one piece at a time using their own resources. Had these private lands not been assembled and managed in a controlled manner, the situation would have been completely different and the Government would be faced with very difficult clearance and rehousing problems involving numerous individual owners, which would certainly cause long delay to the implementation of the NDA. The contribution of developers in the land assembly and development process should be



properly recognised. For the Government to reap the fruits of these site assembly efforts by the private sector in one stroke is neither fair nor equitable.

- 5.30 REDA considers opportunities for existing private property owners' participation and utilising existing private development resources to be a positive and practical form of public-private partnership in the implementation of the NDA. This approach will also save the Government from the following:
- i. Government's upfront outlay in the acquisition of land and possible delay in securing the necessary funding from the Finance Committee.
  - ii. Government's resources on valuation on resumption price and costs of proceedings in Lands Tribunal.
  - iii. Social disruption and upheaval to the existing private land owners, occupiers and business operators.
  - iv. Time delay implications arising from land resumption, clearance and subsequent site disposal by phases.
  - v. Government will not need to pay to occupants monetary ex-gratia compensation, which would be borne by land owners but is not premium-deductible.
- 5.31 By allowing greater participation of private owners in sites development, a lot of protracted yet necessary procedures associated with land resumption, including gazettal of resumption plan, site clearance, and compensation and resettlement by Government can be avoided. Clearance of land for Government projects have become a socially sensitive and problematic issue in recent years. The private sector is often more flexible in securing vacant possession of land for the development, thereby more capable of advancing the project completion date than through Government efforts.
- 5.32 The Government can continue setting a time line for land applications for existing land owners and subsequent resumption and tender should the existing owners do not make the land applications, in order to retain direct control on the implementation programme. However, the criteria for such land applications must be reasonable and should encourage private sector involvement.
- 5.33 Further, the Explanatory Statement refers to Government's implementation, including land formation and the provision of infrastructure; open space, schools, social welfare and other community facilities, public housing together with the supporting facilities. REDA has made various submissions to the Government concerning better Government coordination of the implementation of infrastructure and community facilities. REDA also advocates for a bigger role for the private sector in making available resources for better and faster development. Public-private partnership can supplement housing supply and economic expansion in appropriate locations. G/IC facilities, infrastructure such as public road, footbridge, and open space can be entrusted to private development. Stronger private participation also removes the need for unwarranted resumption of land, and thereby unnecessary upfront outlay by Government.

## 6. Proposed Amendments to the Plan to Meet the Representations

6.1 The proposals to meet the Representation consist of the following:-

### Notes to the Draft Plan

6.2 To meet the strategic planning context of the Draft Plan in providing housing supply and economic expansion, the development intensity should be maximised in the following manner:

### Residential Plot Ratio Increase

6.3 The residential plot ratios should closely follow HKPSG, as shown in **Table 3**.

**Table 3.** Proposed domestic plot ratio

	Plot Ratio	
	Currently planned overall	Proposed domestic
<b>R(A)1</b>	6.5	6.5
<b>R(A)2</b>	6	6
<b>R(A)3</b>	5.5	5.5
<b>R(A)4</b>	5	5
<b>R(A)5</b>	3.8	4.5
<b>R(B)1</b>	3.5	4
<b>R(B)2</b>	2.5	3.5
<b>R(B)3</b>	1.26	3
<b>R(C)</b>	0.4	2.5
<b>OU (Mixed Use)</b>	7	7

6.4 The maximum plot ratio alone should be adequate control, and the specified maximum domestic plot ratio currently provided in the Draft Plan should be removed. It should allow the flexible mixed domestic and non-domestic plot ratios in the Building (Planning) Regulations composite building formula to apply.

6.5 The commercial plot ratio in mixed use development should be additional to the residential plot ratio.

### Building Height Increase

6.6 The building height restrictions should be relaxed to enable good floor-to-ceiling height for Prime Office Premises, MICE, and various economic and industrial needs. Proposals are made to the following zonings in **Table 4**, with reference to that of the zonings of the same or lower plot ratio.

**Table 4.** Proposed building height restrictions for 5 plot ratio development.

	<b>Building height restrictions</b>	
	<b>Currently planned</b>	<b>Proposed</b>
OU(Logistics Facilities)	110 mPD	140 mPD
OU(Enterprise and Technology Park)	90 mPD	140 mPD
Commercial (4)	50 mPD	90 mPD

#### Specific Higher and Better Uses

- 6.7 There are obvious opportunities for higher and better uses to capitalise on the prime land resources in the NDA, as follow in **Table 5**:

**Table 5.** Proposed specific rezoning.

	<b>Currently Planned</b>	<b>Proposed</b>
Planning Area 17	Commercial (2)	Commercial (1)
Planning Area 16C	Commercial (3)	Commercial (2)
Area 34C	Open Space	Residential, Commercial or OU (Mixed Use)
Commercial (3)	5 plot ratio	6.5 plot ratio
Commercial (4)	3.5 plot ratio	5 plot ratio
Commercial (5)	1.5 plot ratio	3.5 plot ratio
OU (Logistics Facilities)	5 plot ratio	OU (Business) 7 plot ratio
OU (Enterprise and Technology Park)	5 plot ratio	OU (Business) 7 plot ratio
OU (Port Back-up uses)	7 plot ratio	OU (Business)
Industrial	3 plot ratio	7 plot ratio

#### Explanatory Statement to the Draft Plan

- 6.8 More of the Planning Areas for public housing should be re-designated for private housing, so as to result in a ratio of around 63:37, or 60:40 when also taking account of TSW.
- 6.9 The following work should be commissioned as soon as possible, to ensure timely commencement of construction work at the NDA, to serve its population intake:
- Detailed urban design studies at the Regional Economic and Civic Hub, the District Commercial Node and the waterfront promenade.
  - HSK West Rail Station.
  - EFTS.
  - STP, pumping station and sewer with suitable capacity.

- 6.10 The Explanatory Statement to the Draft Plan links directly to the implementation process. By reference to the General Criteria for the HSK NDA, a direct impact on land ownership rights have been established. REDA notes that the General Criteria for HSK NDA has been refined and made more restrictive. REDA would like to suggest improvements to some of the General Criteria, enclosed in **Appendix A**. More reasonable General Criteria encouraging lands applications is necessary to respect private development rights and to facilitate public-private partnerships for early and quality implementation of HSK NDA.
- 6.11 There are various Government departments involved in the implementation, with different levels of resources and priorities. It is considered that a special taskforce should be formed to drive departmental priorities and resources for a focused and fast tracked implementation. This will simplify and streamline planning, buildings and lands applications.
- 6.12 REDA notices that the lease modification and land exchange process has virtually come to halt in recent years. The following measures are suggested:
- i. Allocate more resources for the processing of lands applications.
  - ii. Monitor the progress of lands applications, including premium valuations and appeals, and the various approvals required under the lease.
  - iii. Assist to resolve conflicting views amongst Government departments and provide solutions, directives and resources to the concerned Government departments.
  - iv. Require strict conformity by Government departments to processing deadlines.

## **7. Conclusion**

- 7.1 The implementation of HSK NDA will incur large public expenses and disruption to existing communities. Optimisation of development potential is fundamental to the housing and economic development of HSK NDA and the regional success of the NDA. For timely and quality delivery of the development, the implementation arrangement needs to be improved by respecting the existing private development rights which will also reduce Government's upfront outlay at the same time.

**Implementation Arrangements for Hung Shui Kiu New Development Area  
Enhanced Conventional New Territories Approach and the General Criteria for  
Consideration of Lease Modification (including In-situ Land Exchange) Applications**

**Suggestions for Improvements**

1. REDA would like to suggest improvements to the following General Criteria.

- i. *(2) Confinement within the planned private development site for specific uses – only private lots lying within a planned private residential, mixed residential and commercial, or commercial development site in the ODP will be considered.*

Lands application for non-specified uses, other than private residential, mixed residential and commercial, or commercial, should be permitted. The objective of ECNTA relates to time programme, and there should not be discrimination on the basis of land use. See further discussion in the below paragraph.

- ii. *(continued) (2) Surrender of lots within the following sites in the ODP will not be accepted –*
  - a) *earmarked for “Other Specified Uses” (“OU”) annotated “Enterprise and Technology Park”, “Logistics Facility”, or “Port Back-up, Storage and Workshop Uses” in the ODP which is subject to further study on the implementation mechanism;*
  - b) *earmarked for “Industrial” use in the ODP, of which the sites will be disposed through open tender to provide an opportunity for existing industrial operators to bid the sites;*
  - c) *planned for public use such as road, Government, Institution or Community use, public facility within “OU” zones in the ODP, open space, public/subsidised housing, local rehousing, etc....*

“OU” uses

While the implementation mechanism for “OU” annotated “Enterprise and Technology Park”, “Logistics Facility”, or “Port Back-up, Storage and Workshop Uses” is subject to further study, lands application in these zones should always be permitted. Many of these sites are currently occupied by container storage operators and as aforementioned, site clearance by Government can be a thorny and protracted process due to resettlement negotiation with occupiers, whereas site clearance by private owners can be swiftly concluded by monetary and other arrangements. Private land designated for these uses can be ready to commence work, and can be developed like the private residential, mixed residential and commercial, and commercial uses specified for possible lands application. Enabling lands applications for “OU” uses avoid disproportionate burden on private property rights, especially when compared with the uses specified for possible lands applications. Should the Government consider other implementation mechanisms appropriate, they should be in addition to the normal lands application.

### Industrial sites

Compulsory resumption and subsequent open tender for “Industrial” sites is extinguishing the existing property owner’s development right outright. The existing property owners can be ready to commence work and develop the “Industrial” site like bidders in the subsequent open tender. Resumption and tender is unwarranted, or should only take place when the existing owners do not make lands application within a reasonable period. Lands applications at “Industrial” sites should be enabled to avoid deprivation of private property right.

### Government, Institution or Community facilities

With regards to sites designated for public use, the Explanatory Statement in the HSK Outline Zoning Plan for Government, Institution or Community (G/IC) zoning (excluding local community facilities in other zonings) do not mention private participations. Our members and Non Government Organisations have proven records of delivering timely and quality youth facility, hospital, school, arts venue, community facilities, clinic, elderly facilities and other social welfare facilities. Lands applications in G/IC zoning should be permitted as a form of public- private partnership in the implementation of the NDA. There should not be a presumption that G/IC facilities can only be provided by the Government.

Similarly, lands application for public spaces and community facilities should also be permitted. Public-private partnership can bring their harmonious integration with the private development.

Surrender of land for use such as road, public facility, public/ subsidised housing and local rehousing should be allowed, as part of the land exchange.

These restrictions are new additions to the earlier General Criteria adopted in Fanling North and Kwu Tung North. They prohibit land applications from current land owners in many of the zones on the OZP. This raises major questions as to the validity of the approach, as it adversely affects the land owner’s rights which are protected under the Basic Law. This constitutional right has been confirmed by the Court of Final Appeal. REDA requests to remove unnecessary restrictions in refusing to accept lands applications in the specified zones and involving the existing private property owners as far as possible, to avoid excessive burden on private property rights.

iii. **(3) Size** – *the proposed site to be surrendered (i.e. the Surrender Site) should have an area meeting the following criteria –*

a) *for site earmarked for “Commercial”, “OU” annotated “Commercial & Residential”, or “OU” annotated “Commercial cum Public Transport Interchange and Public Carpark” in the ODP – not less than the total area of the private land within the corresponding development site designated in the ODP, excluding land subject to minor adjustments of the development site boundary that will not adversely affect the development layout of the site*



- concerned. The planning intention is to pursue a single development for each of these development sites designated in the ODP. ....*
- b) for other – not less than 4000 m<sup>2</sup> (which is a reasonable size to achieve a decent residential development with supporting facilities).*

The general practice when making the ODP does not give consideration to land ownership pattern. The chances of a private property corresponding to an arbitrary development site boundary designated in the ODP is very slim, effectively preventing lands applications for “Commercial”, and “OU” annotated “Commercial & Residential” and “Commercial cum Public Transport Interchange and Public Carpark” uses.

We found it very difficult to accept the single development requirement in that the proposed site to be surrendered should have an area not less than the total area of the private land within the corresponding development site designated in the ODP, excluding land subject to minor adjustments of the development site boundary that will not adversely affect the development layout of the site concerned.

The requirement to acquire all private land within the commercial zones by a single owner or joint venture owners as the applicant is simply unrealistic, virtually impossible and unreasonable. It has ignored the fact that there are owners who are unwilling or unable or missing to sell their land for development. It has also ignored the fact that a lot of private lands in the Hung Shui Kiu and Ha Tsuen areas are owned by Tso/Tong, which makes full assembly of all private land virtually impossible.

The sizes of most of the “Commercial” and “OU” sites are too large for one single development. Due to their large sizes and the difficulty to assemble all land, it is not possible for owners, who own a reasonable size of land, to participate in the land exchange. The end result will be that all their land will be resumed by the Government. The stringent planning requirement to acquire all land will virtually rule out any participation by private land owners in the development of the NDA. All their past efforts in assembling land for NDA development will be obliterated and totally disregarded. This is totally unfair to land owners who have spent tremendous efforts in past years to acquire, manage and control their land against squatters.

There should not be an arbitrary minimum site area requirement. There is no reason why a small size development cannot fit into the development site of which it is part, by way of comprehensive and well-thought through planning layout under General Criteria (8)- No Adverse Implications. Owners of smaller parcels should not be barred from developing their land.

Removing the size requirement will encourage participation of more private owners and developers from a wider spectrum, resulting in greater variety in development suiting different market segments. It will also avoid disproportionate burden through loss of private property rights on the basis of an arbitrary land area.



- iv. **(5) Configuration** – *the application site should be reasonably regular in shape with no intervening private lots not owned by the applicant. Lots to be surrendered comprising the Surrender Site should be contiguous and fragmented lots will not be accepted.*

REDA requests the Government to accord greater flexibility and more pragmatic attitude in considering the configuration requirement:

- a) There is no reason why development at lesser regular shaped lot cannot fit into the development site of which it is part, insofar it meets General Criteria (8)- No Adverse Implications. We note that Government has been selling sites of irregular sites.
  - b) There are many good examples in past land exchanges that self-contained developments have been able to address access and third party development right in the remnant portion of the site.
  - c) The self-contained development would have to address access and third party development right in the remnant portion of the site, under General Criteria (8)- No Adverse Implications.
  - d) Considerations could be given to merits, such as attempts and plans to form joint venture or to acquire the remnant portion of the site, the size and configuration of the private land already under single ownership, and the likely prospect for implementation, instead of outright rejection of such lands application.
  - e) Many existing developments have been implemented in the existing new towns based on irregular site configurations.
- v. **(6) Access** – *the provision of proper vehicular access to the application site is feasible.*

Considerations could be given to merits, such as attempts and plans to acquire access, the size and configuration of the private land already under single ownership, and the likely prospect for implementation. Easement and acquisition of proper vehicular access subsequent to lands application should be considered as compliant with this General Criteria requirement. Lands applications without access, being the only outstanding issue, should not be rejected outright, but resolution of the problem encouraged. Permanent access serving the development sites is not required to be provided at the date of land grant and developers would have no difficulty in accepting a delayed provision of such permanent access near the completion stage subject to temporary access being available during the construction period.

- vi. **(7) Compliance with Outline Zoning Plan** – *proposed use and development parameters of the application site should comply with the relevant prevalent Outline Zoning Plan.*

Lands application for a site straddling land use zonings should be allowed. The zoning boundaries are arbitrary, adjustments to suit a feasible private development compliant with the General Criteria should be permitted.

- vii. ***(9) Unification, proof of land titles and vacant possession*** – application may be submitted by a single owner or joint venture with unified land title. Lots to be surrendered should be subject to vacant possession by a specified deadline and free from encumbrances before execution of the lease modification/land exchange if the application is approved.

For a contemporaneous land exchange, we do not see any need for vacant possession by a specified deadline, before execution of the lease modification/land exchange, which could be granted subject to an existing structure clause. It is quite common that Government is now selling sites with existing structures, which will only be demolished after the land sales.

- viii. ***(10) Comparable compensation package*** – the landowner(s) as the applicant should offer a compensation package to the occupants .... The compensation package offered by the landowner should be comparable to the prevailing monetary ex-gratia compensation (excluding rehousing entitlement) that would have been offered by the Government to eligible occupants had the private land been resumed by the Government under the Hung Shui Kiu New Development Area development. Compensation to occupants paid by the applicant in securing vacant possession is not a premium-deductible item. The offer and acceptance of such a comparable compensation package is a matter between the landowner and the occupants. The Government would deem the case as settled if the landowner is able to deliver vacant possession with documentary evidence indicating that this requirement for comparable compensation package has been met.

REDA considers that the compensation package to the occupants is a matter between the landowner and the occupants, and vacant possession with documentary evidence should suffice. As such, insofar vacant possession is by way of reasonable means within law under contract agreement, there is no need for comparison with Government's compensation, and which should be omitted from this General Criteria.

- ix. ***(11) Time limit*** – the lease modification/land exchange application (if approved) has to be concluded within a specified time period and in any event earlier than the government land resumption programme. In case there are any disputes between the occupants on site and the applicant, Lands Department may suspend the processing of the application until the disputes have been satisfactorily resolved. However, the specified time period will remain unless it is extended by the Government.

It is noted that the submission deadline for lands applications in Kwu Tung North and Fanling North NDAs have been extended three times. This gives rise to uncertainty for long term private investment, which is fundamental to achieving a high quality city. The specified time period for lands application should be a target not a deadline, set reasonably and practicably in relation to the approval of the first OZP and the completion of infrastructural facilities. Delays by Government in processing land applications must be taken into account.

- x. *(12) Government land – the re-grant site for a lease modification/land exchange application may include adjoining or intervening government land which is incapable of reasonable separate alienation or development. For avoidance of doubts, Government would not normally make available government land adjoining or intervening the private land within the development site to enable the re-grant site to conform to the development site layout as shown in the ODP if the government land is capable of reasonable separate alienation or development.*

REDA welcomes the inclusion of adjoining or intervening Government land which is incapable of reasonable separate alienation or development. This will allow effective and better utilisation of land resources. However, a flexible land exchange ratio should be allowed in the land exchange approval.

2. In summary, REDA considers General Criteria (8) to be the critical requirement in governing the land characteristics, concerning the feasibility of development of site qualifying for land applications. It reads:

*(8) No adverse implications – the proposed development at the application site should not cause insurmountable problems to the planning, layout and urban design of the surrounding area, and will not jeopardise or hamper the development potential or vehicular access of adjacent lands under different ownerships. For application not including all private land within the corresponding development site shown in the ODP1, submission of layout plan is required to demonstrate the feasibility of decent and practical development(s) fully utilising the land of the concerned development site as shown in the ODP, without resulting in any loss of the development potential as planned under the ODP.*

REDA requests to simplify the rest of the General Criteria, while reinforcing the intentions and having no significant impact on the operations of ECNTA. It seeks to provide Lands Department with greater discretion in the consideration of applications, with the objective to capitalise on the readily available private resources for implementation. Enabling as-of-right private participation opportunity also justifiably reduces the scale of land resumption, thereby respecting private development right and removing unwarranted Government's upfront outlay.

### **Conclusion**

3. 64% of HSK NDA is in private ownership where work in accordance with the ODP can readily commence by existing owners. Resumption of all land from existing owners and subsequent disposal in the market will have significant financial and social implications.
4. REDA requests the Government to accord the ECNTA and the General Criteria greater flexibility and to adopt a more pragmatic attitude in allowing the existing property owners to apply for land exchanges, rather than specifically excluding such applications within specified zones and land parcels. Much of the land is owned by developers with experience to produce quality and timely development like bidders in the subsequent Government's disposal of land in the market. This will also remove the need for unwarranted Government's resumption of land, and thereby unnecessary

Government's upfront outlay. Government's control on the implementation programme can continue to be achieved.

5. Stronger private participation is respecting the existing private property owner's right under the Basic Law that the constitutional right has been confirmed by the Court of Final Appeal (*Hysan v Town Planning Board*).