



香港地產建設商會

THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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Representations in Relation to the Amendments shown on the Draft Causeway Bay Outline Zoning Plan, Plan No. S/H6/15 -- The Real Estate Developers Association of Hong Kong ("REDA")

1. Representor

- 1.1 This Representation is lodged on behalf of The Real Estate Developers Association of Hong Kong (REDA). It addresses the principles which have been applied in relation to the building height restrictions, setback requirements and Non-building Areas (NBAs) and other associated matters included as amendments in the Draft Causeway Bay Outline Zoning Plan, Plan No. S/H6/15 (the OZP).

2. Representation in Opposition

- 2.1 This Representation relates to general matters applicable to a wide range of issues which arise because of the inclusion of the height limits, NBAs and other restrictions in the amendments shown on the OZP. In other words, this representation objects to Items A to E, shown on the Plan. The representation also objects to (a), (b), (c), (d) and (e) of the Amendments to the Notes of the Plan.
- 2.2 This submission is made in the broad interests of Hong Kong as a whole and in the interests of maintaining an efficient, fair and sustainable urban development system. It is in opposition to the amendments, supportive of the retention/reinstatement of the C/R zone and the deletion of the OU(MU) zone.

3 No Public Consultation

- 3.1 The building height restrictions, NBAs as well as setback requirements, have been imposed on the OZP without any prior public consultation. There has been no opportunity for the public, including the development industry, to be informed as to the justification for the need of the restrictions. There has also been no explanation given to the public as to the reasons why the particular height limits, NBAs, setback requirements imposed have been adopted. There has been no visual impact analysis made available to the public which indicates what the vision is for the long term development of the Planning Area.
- 3.2 It is strongly suggested that the Planning Department should carry out a planning study for the Planning Area as in the case of Wong Chuk Hang and Kowloon Bay Business Districts. The Planning Department should present the public with the visual impact assessment and diagrams for consultation, in



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order that owners, stakeholders and the public, can be informed of the implication of the height restrictions and other amendments, and could submit their comments as appropriate. Alternatives should be provided for discussion and a comprehensive urban design study should be part of this process. This should be done before the formal statutory processes are commenced, and before the restrictions are given legal effect.

- 3.3 Making the Metro Planning Committee Paper No. 21/10 available only after the amendments have been gazetted is not an effective means of informing the concerned public as to the reasons for the proposed amendments.

4. Basis for this Representation

The reasons for this Representation are provided in the following paragraphs.

4.1 Building Height Restrictions Set Too Low

Lack of Flexibility for Innovative and Quality Design

- 4.1.1 REDA as a general principle is opposed to the setting of building height restrictions at levels which are so low as to unnecessarily constrain the provision of good quality building development for the people of Hong Kong. This objective can only be achieved by providing flexibility for the design of developments which provide good internal space for people to live in and work in, with sufficient internal headroom. There also needs to be flexibility for changing requirements over time and scope to meet changing market expectations.
- 4.1.2 However, there is no clearly expressed concept of the objectives that are trying to be achieved through the establishment of the height limits and no discussion of alternative measures which may achieve the objectives. This is particularly relevant given the development history and pattern of the Causeway Bay Planning Area and its importance as a commercial and entertainment district. It would appear that the objective has been to limit new buildings to about 30-32 storeys which is considered too low given the character of Causeway Bay and the interesting mix of taller buildings that are already in existence.
- 4.1.3 The building height restrictions are generally set so low that they are predominantly related to the heights of existing older buildings and to limit building heights in this manner will further aggravate the impact on the urban environment. A general increase in the height bands by, say 10m to 20m to permit buildings of around 40 storeys, would better provide for good urban design, allow more space around buildings, allow for more permeable



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buildings at the lower levels, and achieve the height restriction objective of not allowing “excessively tall and out of context buildings”.

- 4.1.4 Height restrictions which are set too low will tend to result in all new developments built to the maximum allowable height resulting in a flat profile making downwashes insignificant and will result in larger and bulkier buildings in the areas where air ventilation improvement is considered desirable.

Visual Considerations

- 4.1.5 It is noted that visual consideration is one of the reasons for imposing building height restrictions. When viewed from the Hong Kong Cultural Centre in Kowloon, only a small number of buildings have already exceeded the 20% building-free zone of the ridgeline or breached the ridgeline. Also, given the inland location of the office node around Hennessey Road and Leighton Road, it is clear that buildings of around 200mPD can be accommodated within the ridge line. (Please see Plans 5A and 5B of the MPC Paper No. 21/10).

Need for Reasonable Building Height

- 4.1.6 In short, there is a need to ensure that buildings are not restricted to unreasonably low heights as they will result in bulky buildings forming walls of development which block air flows, light and views. Buildings which are taller and more slender provide these features by allowing the creation of space around the buildings near ground level and in the air. The recognized focal points of office development in Causeway Bay do not exceed the main ridge line criteria. The approach taken in establishing the BHRs should allow this urban form to be further consolidated around the existing buildings. The approach taken to set the height restrictions at such low levels is considered unnecessary if a more reasonable approach to urban design had been adopted.

4.2 Air Ventilation Assessment Inadequate

- 4.2.1 Air ventilation has been a major component of the re-assessment of the Causeway Bay OZP and has resulted in significant negative impacts on private rights of land ownership through the imposition of Building Height Restrictions, NBAs and Building Set Backs. However, the Expert Evaluation (EE) attached to MPC Paper 21/10 shows that the analysis is superficial and generalized. There is little data provided and the assessment is subjective and devoid of any analysis as to how effective, if at all, the proposed measures would be in improving air flows.



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- 4.2.2 In particular, the EE appears to have failed to take into account the large number of existing buildings which have site coverage exceeding 100% for up to 12-20 floors, and has assumed that any new podium development will only result in a worsening air ventilation situation. These existing developments in the vicinity of Paterson Street and Percival Street when redeveloped would have greater space around the buildings than at present, even if the podiums are at 100% site coverage. However, there are examples in the area where good building design has resulted in setbacks and variation of podium heights which facilitate good air ventilation. The ironical conclusion is that some of these private sector initiated quality designs have now been made into permanent requirements through the building height, NBA and building setbacks imposed on the OZP.
- 4.2.3 The EE has evidently not been conducted in an independent and professional manner. In Chapter 6 of the report entitled "Suggested Improvement Measures", it is clear that the author made three proposals as a result of the study and then included four additional measures in response to PlanD's comments. These four arbitrary measures have a significant additional negative impact on a wide number of private properties in different locations.
- 4.2.4 REDA is of the view that the EE carried out for the Causeway Bay OZP is unscientific, inadequate and arbitrary and should not be used as a basis for the imposition of the controls that are included in the "Suggested Improvement Measures".
- 4.3 Non-Building Area**
- 4.3.1 A number of NBAs are introduced to the OZP for air ventilation purposes under the proposed amendments. Sections 3 and 4 of the Town Planning Ordinance provide that:
- (a) the Town Planning Board (TPB), in the exercise of its duty to prepare draft plans for the "future lay-out" of such existing and potential urban areas as the Chief Executive may direct, may make provision only by way of those matters specifically mentioned in section 4(1); and
 - (b) the TPB may also prepare plans "for the types of building suitable for erection therein" pursuant to section 3(1).
- 4.3.2 NBAs do not appear to fall into either category. They are not included as the "lay-out" of an area in section 4(1). Nor can they fall into the "types of building" category in section 3(1) since by definition what is being provided



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for in NBAs is no building at all. It is therefore difficult to see what statutory basis there is for them.

4.3.3 The objective of ensuring "gaps" between buildings in appropriate places can be achieved within the existing framework of section 4(1) pursuant to which the TPB may make provision for (inter alia) open spaces, parks, and streets. It therefore appears to be no justification for an additional category of NBA.

4.3.4 Further, it is arguable that the term "NBA" is liable to cause uncertainty and confusion:

(a) as the same term is used with very specific meaning in the context of lease provisions; and

(b) the implication of "NBA" under the Buildings Ordinance, in particular on site coverage and plot ratio calculations, is unclear.

4.3.5 As mentioned above it is considered that there is inadequate justification in the AVA for the NBAs to be included on the OZP and their introduction significantly impinges on private development rights.

4.4 Building Gaps and Set-backs

4.4.1 REDA is opposed to the provision of requirements for set-backs on the Outline Zoning Plan as this is not appropriate for the scale and generality of what are intended to be broad brush plans determining types of buildings and permitted uses. We consider that the use of the Outline Zoning Plan for this purpose is going way beyond the intention of town planning, as provisions for road widening are covered by other ordinances such as the Buildings Ordinance and the Roads (Works Use and Compensation) Ordinance. These other ordinances provide means for compensating private land owners for the loss of their land for a public purpose. The use of the Outline Zoning Plan for these purposes is considered wrong and may be subject to legal challenge.

4.4.2 Furthermore, the Outline Zoning Plan does not justify the set backs and building gaps in terms of providing public passage, but in terms of providing "air paths" through these roads" (Explanatory Statement para. 7.7, 7.10, 7.11). There is no legal recognition of the provision of set-backs for "air paths" as being a public purpose for which private land could be taken. It is therefore considered inappropriate to provide Building Gaps and Set-Backs on the OZP and this may be subject to legal challenge.



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4.4.3 Furthermore, there is no provision in any zone in the Causeway Bay Outline Zoning Plan for any plot ratio restriction to be exceeded as defined in Building (Planning) Regulation 22(1) or (2) despite this being a standard provision in many OZPs. There is also no statement in the Notes or Explanatory Statement indicating that the private land taken for set-backs or air ventilation purposes is for public passage and that it may be considered by the Building Authority for bonus gross floor area in accordance with normal practice.

4.4.4 The combined effect of these set-back requirements is the taking away of private land without compensation or resumption and without adequate grounds for justifying them as a recognized public purpose. In these circumstances REDA requests that all set-back requirements be removed from the Outline Zoning Plan.

4.4.5 It is also clear that the approach is inconsistent in that the provision of some set-back areas has been provided along side footpaths which are adequate to meet the HKPSG's requirements for footpath widths and/or are adequate to accommodate pedestrian flows. There is also scope to use traffic management and pedestrian priority areas to make best use of the public street before applying a generalized and unjustified system of set-backs on a statutory plan in this way.

4.5 Spot Building Height Restrictions Inconsistent with the Town Planning Ordinance

4.5.1 REDA objects to the way in which the BHRs have been introduced to Causeway Bay OZP:

- (a) while broad height bands are a permissible form of planning control in appropriate situation, it is considered much more desirable to have a variety of building heights in places such as Causeway Bay in order to achieve an interesting urban-scape, accommodate different types of uses, and take into account the characteristics of the area;
- (b) the "spot" BHRs imposed on some sites are overly restrictive, preventing creativity or innovative building design and limiting the ability of the industry to respond to a changing market. They unreasonably confine the form of any future building to the form of the existing building forever.
- (c) excessively low building height restrictions will discourage the private sector's initiative to undertake any urban renewal projects in the area.



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4.5.2 REDA is of the view that "Spot" BHRs are not permitted under the TPO, for the following reasons -

- (a) Specific BHRs on individual sites constitutes a form of "spot zoning", which is not permitted by sections 3 and 4 of the Town Planning Ordinance which requires a "broad brush" approach, as is emphasized by the title "Outline Zoning Plan".
- (b) Sections 3 and 4 of the TPO as mentioned in paragraph 4.3.1 above limit the planning actions of the TPB to types of buildings and exclude detailed matters such as "Spot" building height restrictions.

4.5.3 A "broad-brush" approach may have been applied through the imposition of broad height bands in some parts of the Plan, but there are many sites where this approach has not been applied. Such "spot" building height restrictions are therefore inappropriate and unlawful, and should be withdrawn.

4.5.4 There is no indication that in formulating the building height restrictions, any consideration has been given to the economic impact of these restrictions and on the objective of maintaining Hong Kong as a major international financial centre.

4.5.5 The Explanatory Statement in paragraph 3.2 indicates that "The Plan is to illustrate the broad principles of development within the Area". The principle of establishing broad statutory controls with similar characteristics has not been consistently followed in relation to the OZP. The approach has been to be unnecessarily restrictive, and to impose height limits to some of the existing developments in a very restrictive manner.

4.5.6 This can be seen in Amendment Item A where different building height restrictions have been imposed on some sites to constrain development to the existing form of the building. This applies in the C and C(2) zones and in the G/IC zones.

4.6 The "Commercial/Residential" ("C/R") Zone

4.6.1 REDA objects in principle to the removal of the "C/R" zone which provides flexibility and a vibrant form of development, and has facilitated the redevelopment of Causeway Bay into an important commercial, entertainment and residential area. Many other cities are encouraging mixed use development and there is no real need for the C/R zone to be deleted. (Amendment Items B1, B2, B3, B4 and B5).



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- 4.6.2 With the proposed amendments, large areas of Causeway Bay have been zoned for either “C” or “R(A)” and the planning intention for these zones is dominated by the main permitted uses rather than for a mixture of uses. It is considered that these planning intentions are inappropriate for many of the areas over which they are now zoned. The retention of the C/R zoning would have been more appropriate.
- 4.6.3 REDA objects to the introduction of the “Other Specified Use” zone annotated “Mixed Use” ((OU(MU))). This zone has been introduced without any consultation with landowners or with the development industry. The OU(MU) zone does not provide adequate flexibility for development. There is no room for change and the definition of the application of the three Schedules and the uses is confusing and unclear. The zoning as drafted creates a lot of uncertainty and the extent of flexibility given by the new zoning is unclear. The sole purpose of OU(MU) appears to be the freezing of the existing use and preventing good future development.
- 4.6.4 The argument that the C/R zone is problematic in terms of the unknown potential loading associated with this zoning on the infrastructure is not proven or subject to any study in relation to the Plan. Planning Department should have the necessary planning for infrastructure based on the worst case scenario. The C/R zone has served Hong Kong well and there is no documented information to support the removal of this zoning. There is a need for flexibility so that within certain known parameters the market can decide the use, and the C/R zoning will provide the necessary flexibility. Too rigid zoning will only reduce the desirable flexibility. The retention of C/R zoning will also respect existing property rights.

5. Proposals to Meet the Representation

Building Height Restrictions

- 5.1 The Building Height Restrictions should be reviewed to encourage more innovative and more sustainable building design. They should also provide for a consolidation of the office nodes identified in Causeway Bay as important urban design features. A modest relaxation of the building heights by 10 – 20 metres would provide a significant degree of design flexibility while achieving the general objectives of stepped building heights and protection of important views. These relaxed height restrictions will also result in developments of varied heights which may facilitate better air ventilation and downwashes, and a more interesting skyline. More relaxed height limits should be considered, for example, for sites at or near transport nodes to free up more ground level space for pedestrians.



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Relaxation Scheme

- 5.2 A relaxation or incentive scheme should be introduced to encourage amalgamation of small sites for development/redevelopment of quality and well-designed commercial/office buildings at suitable locations so as to improve visual and air permeability, streetscape and pedestrian environment. A relaxation clause in respect of the building height restrictions should be incorporated into the Notes for the Commercial zones so that relaxation of building height restrictions may be considered by the Town Planning Board on application under Section 16 of the Town Planning Ordinance for sites with an area not less than 1,500 square metres on individual merits. The Relaxation Scheme adopted by the Board in relation to the Tsim Sha Tsui Outline Zoning Plan should also be applicable to the "C" zone and the "OU(MU)" in the Causeway Bay Outline Zoning Plan, so as to provide an incentive for innovative design and improvement to the general urban environment.

Provision for Dedication of Land

- 5.3 A standard clause allowing for permitted plot ratio to be exceeded as defined in Building (Planning) Regulation ("B(P)R") 22(1) or (2) which allows for additional GFA for the area dedicated for public passage, etc., should be included for all relevant development zones, as in most other Outline Zoning Plans.

Removal of Spot Building Height Restrictions

- 5.4 The Board should adopt a more rational and generalized approach to the imposition of Building Height Restrictions zoning by reviewing the relevant "Commercial" zones and G/IC zones, consolidating them into a small number of broader building height restrictions. A single height restriction should apply to one site and a neighbourhood.

Deletion of Non Building Areas

- 5.5 The legal basis for the imposition of the NBAs is questionable. The technical basis for the AVA carried out to justify the NBAs is also questionable. It is proposed that the requirement for NBAs be deleted and more suitable zoning such as "Open Space" be used to provide the desired gaps. The words "exceptional circumstances" should be removed from the relevant Notes to the "C", "G/IC" and zones should it be decided to retain the NBAs.



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Deletion of Set Backs

- 5.6 All set-backs should be deleted from the Outline Zoning Plan.

The Wording of the "Minor Relaxation" Clause should be Amended

- 5.7 Minor relaxation of all restrictions or requirements should be considered based on "individual merits" instead of "under exceptional circumstances". The wording should be amended accordingly.

The C/R Zone and the OU(MU) Zone

- 5.8 The C/R zone should be re-instated and the OU(MU) zone should be deleted or should be made more flexible and easier to understand.

6. Conclusion

- 6.1 The building height restrictions imposed on the OZP go way further than is necessary to achieve the stated objectives in the Explanatory Statement. Incentive should be provided to encourage good development design that benefits the public. The fundamentally broad zoning approach which is consistent with treating private property rights in a generalised, fair and consistent manner should be retained. The imposition of set-backs and non-building areas on private land without compensation is considered an improper use of the Town Planning Ordinance.
- 6.2 The proposed amendments to the Causeway Bay Outline Zoning Plan are considered an unreasonable restriction on the use and development of private land and should be seriously reconsidered. The proposed controls will not result in a long term, better form of urban development for Causeway Bay.