



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 Kennedy Town and Mount Davis Outline Zoning Plan, Plan No. S/H1/18 -- 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 and building gap requirements included as amendments in the Draft Kennedy Town and Mount Davis Outline Zoning Plan, Plan No. S/H1/18 ("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 building height limits and building gap requirements shown on the OZP. In other words, this representation objects to Items A, B1 to B5, C1, D1, E1, G1 to G4, J, and L shown on the Plan and Item (a) of 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 a fair, efficient and sustainable urban development system.

3. Basis for this Representation

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

3.1 Building Height Restrictions Set Too Low

Lack of Flexibility for Innovative and Quality Design

- 3.1.1 REDA as a general principle opposes to the setting of building height restrictions at levels which are so low as to unnecessarily constrain the provision of good quality 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 market expectations.



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Objectives for Height Limits

- 3.1.2 It appears from paragraph 7.1 of the Explanatory Statement that the reasons for the imposing building height limits are:
- to provide better control on development intensity and building height of development;
 - to prevent out-of-context tall buildings; and
 - to meet public aspirations for greater certainty and transparency in the statutory planning system.
- 3.1.3 No consideration has been given to building economics as well as the implications for the redevelopment of the area by the private sector. There also appears to be no consideration of the effect of the height controls on the form of new buildings. The imposition of low height limits has a direct negative impact on the provision of space around buildings, as it forces them to become lower and bulkier, with greater site coverage at lower levels than would be the case if the height limits were set at higher levels. The consequences include less permeability of the urban environment, lowering of property values and reducing air ventilation at street level.
- 3.1.4 Imposition of building height restrictions is not considered an inappropriate means of controlling development intensity, but when used in a reasonable manner can help guide the development of a compatible urban form, which still permits variety. It is also considered that most of the objectives for the building height restrictions can be achieved with height limits imposed at a level which generally permits a more reasonable form of development.

Control of out-of-context Tall Buildings

- 3.1.5 The recent public concern regarding “out-of-context tall buildings” appears to be basically about developments in the order of 60 storeys or taller in prominent positions. High-rise developments in the order of 40 storeys have been in place in various parts of Hong Kong for years and they are acceptable to the public.
- 3.1.6 The OZP generally allows for an absolute height of only about 95m to 110m for many of the residential sites. This is equivalent to about 30 to 35 storeys. It is considered that the height restrictions have been set unreasonably low, lower than what is necessary to address the public concern.



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- 3.1.7 The Planning Area is located outside the view fan of the 7 vantage points identified in the Urban Design Guidelines. This indicates that the Planning Area is not a visually sensitive area. Planning Department has adopted 2 local vantage points: ferry route in the western gateway to the Victoria Harbour and Harlech Road within the Lung Fu Shan Country Park. Photomontages¹ for the proposed building height restrictions has been prepared using the above local vantage points and has revealed that there would not be significant visual impacts. It can be seen that the taller existing and committed developments basically form the profile of the Planning Area. A general increase of 20m to most the development sites would not have adverse visual impact.

Building Height and Air Ventilation

- 3.1.8 A general misconception is that tall buildings block air ventilation. However, the focus for improved air ventilation at street level should be in identifying means for creating space around buildings at street level in critical locations. This would appear to be contrary to the imposition of low building height limits as this tends to force developments down into a solid mass of building rather than encouraging the creation of space around buildings at street level. The imposition of the height limit therefore tends to create a solid wall effect closer to ground level.

Need for Reasonable Building Height

- 3.1.9 The overall height profile of the Planning Area is formed mainly by the Residential zones with Open Space and G/IC zones as visual relief and breathing space. However, the height restriction stipulated for the Residential zones are generally too low.
- 3.1.10 Taking account of the building economics, technology for construction, visual considerations, air ventilation and public aspirations, the height bands for the development zones should be increased.
- 3.1.11 Imposition of unreasonably low building height limit restrains the building bulk, making incorporation of innovative architectural design and void feature impossible. This directly affects streetscape, air ventilation and the life quality of the users of the development.

¹ Photomontages shown in Plans 15A and 15B in MPC Paper No. 2/11 titled "Proposed Amendments of the Draft Kennedy Town and Mount Davis Outline Zoning Plan No. S/H1/17".



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More relaxed Building Height Restrictions required for Sustainable Building Design ("SBD")

- 3.1.12 The Building Department has issued new Practice Notes on SBD Guidelines in January 2011. The combined effect of the new Practice Notes and the very low building height restrictions imposed on the Kennedy Town and Mount Davis OZP in the following month has significant impact on property rights.
- 3.1.13 The SBD Guidelines have identified 3 key building design elements: building separation, building set back and site coverage of greenery. The objectives of putting forward the SBD Guidelines are to achieve better air ventilation, enhance the environmental quality of our living space, particularly at pedestrian level, and provide more greenery and mitigate the heat island effect. However, REDA considers that the building height restrictions imposed on the OZP are set so low that the SBD Guidelines cannot be reasonably implemented.
- 3.1.14 Under the Joint Practice Note (JPN) 1 regarding Green and Innovative Buildings, sky gardens and podium gardens are encouraged. However, the JPN requires that the provision of sky garden should be subject to there being no contravention to restrictions on building height on the OZP, otherwise S.16 application for minor relaxation for the height restriction is needed. In view of the generally very low height restrictions being set on the OZP, the restrictions in effect discourage such desirable green features which require a high headroom of not less than 4.5m.
- 3.1.15 It is considered that the height restrictions should be reviewed and relaxed so that a holistic consideration of the regulations and Practice Notes issued by relevant government departments are taken into account. The desirable SBD features should be encouraged and should be able to be accommodated within the height restrictions stipulated on the OZP without the need to submit S.16 application for minor relaxation.
- 3.1.16 There appears to be a contradiction between what the TPB is doing in these amendments and what the SBD Practice Notes are trying to achieve, yet both sets of measures appear to have the same or similar objectives. The TPB should take the view that it needs to facilitate the implementation of the SBD Guidelines as they are to achieve a better over-all urban environment.



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3.2 No Public Consultation

- 3.2.1 The building height restrictions and building gap requirements have been imposed on the OZP without any prior public consultation. There has been no opportunity for the public, including the development industry and concerned property owners, to be informed of 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 and building gap 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.
- 3.2.2 It is strongly suggested that the Planning Department should carry out planning study for the Planning Area as in the case of Wong Chuk Hang and Kowloon Bay Business Districts. The Department should present the public with the visual impact assessment and diagrams for consultation, in order that owners, stakeholders and the public, can be informed of the implication of the height restrictions and other amendments and submit their comments, as appropriate and before the restrictions become statutory.
- 3.2.3 Consultation should also have included a presentation of the assumptions that the Board has made in relation to fixing the height restrictions, especially the assumptions made in relation to building design, such as floor-to-floor height, allowances for non-accountable GFA, and allowances for innovative building design. An indication as to how the restrictions would relate to the SBD Practice Notes and the revised Joint Practice Notes should also have been provided in advance of the height restrictions being imposed.

3.3 Imposition of Building Gap Inconsistent with the Town Planning Ordinance

- 3.3.1 The Explanatory Statement in paragraph 3.2 indicates that "*The Plan is to illustrate the broad principles of development within the Planning Scheme Area*". However, the designation of building gap requirements in a number of sites within the OZP Planning Area as listed in Items G1 to G4 clearly violates the broad principles of planning.
- 3.3.2 REDA opposes to the provision of requirements for building gaps on the OZP 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. The approach is inconsistent with good town planning practice and could be considered as



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inconsistent with the Town Planning Ordinance in relation to the content and application of statutory plans. This may be subject to legal challenge.

- 3.3.3 The Expert Evaluation of the Air Ventilation Report for the Planning Area considers that air ventilation of the Area is generally satisfactory. Should the building gaps be required to be implemented for the air ventilation purpose, the land should be zoned Open Space or Road and the concerned owners suitably compensated.
- 3.3.4 The provision of Building Gaps has also been superceded by the introduction of the SBD Practice Notes which has a much more advanced and more flexible approach to providing space around and through buildings than the incorrect use of these on an Outline Zoning Plan.

4. Proposals to Meet the Representation

Relaxation of Building Height Restrictions

- 4.1 The Building Height Restrictions must be reviewed to make use of the air space to accommodate floor space and to free up the lower level space for better air ventilation and street environment. They must be reviewed in a holistic manner to take account of other Practice Notes issued by other government departments such as the SBD Guidelines. A general increase of 20m of the set height restrictions to many of the development zones are considered appropriate. In addition, more relaxed height limits should be considered, for example, for sites at or near future transport nodes to free up more ground level space for pedestrians.

Removal of Building Gaps

- 4.2 The imposition of building gap requirements together with the height restriction severely constrains the design of the future development of the affected sites. The building gaps are imposed on private properties for the public purpose of "air path" without any compensation. The imposition of building gaps also violates the broad principles of good town planning practice. It is requested that all building gap requirements be removed from the OZP.



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5. Conclusion

- 5.1 The building height restrictions imposed on the OZP go much 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 approach of imposing building gaps is considered to be fundamentally against the broad zoning approach which is consistent with treating private property rights in a generalised, fair and consistent manner.
- 5.2 The proposed amendments on the Kennedy Town and Mount Davis Outline Zoning Plan impose unreasonable restrictions 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 the Planning Area.