



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

Representations in Relation to the Amendments shown on the Approved Wan Chai Outline Zoning Plan, Plan No. S/H5/26 -- 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, gross floor area (GFA) restrictions setback requirements and Non-building Areas (NBAs) and other associated matters included as amendments in the Draft Wan Chai Outline Zoning Plan, No. S/H5/26 (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 ALL items, except for Items N, Q, R, S and V, shown on the Plan. The representation also objects to (a), (c), (d), (e), (f) and (h) 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 an efficient, fair 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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Development History and Pattern

- 3.1.2 However, there is no clearly expressed concept of the objectives targeted to be achieved through the establishment of the height limits and no discussion of alternative measures which may achieve the same objectives. This is particularly relevant given the development history and pattern of Wan Chai (including Wan Chai North Planning Area). It would appear that the objective has been to limit new buildings to about 30-32 storeys which is considered too low given the present character of Wan Chai.
- 3.1.3 The original coastal line of Wan Chai was in the vicinity of Queen's Road East and Wan Chai Road. Over the century, Wan Chai has undergone several stages of reclamation. To the south of Queen's Road East, the topography is generally steep, while to the north of the road, the land is generally flat. The general development pattern is the newer and taller buildings being located near the Victoria Harbour and smaller older buildings in the inland area, though in the last two decades some of these older buildings have been redeveloped, thereby kick-starting a gradual transformation of the inland area.
- 3.1.4 In the Wan Chai North Planning Area, many buildings are in the range of 170mPD to 200mPD, the tallest one being over 290mPD. The development pattern and the topography have generally made the Wan Chai Planning Area a canyon. The current building height restrictions proposed in Plan No. S/H5/26 considered so low that they will further impact on the urban environment, particularly the area on both sides of Queen's Road East. A general increase in the height bands by, say 10m to 20m to permit buildings of around 40 storeys, would provide for better urban design and achieve the height restriction objectives.

Dense Urban Area with Severe Open Space Deficit

- 3.1.5 Wan Chai Planning Area is a densely developed urban area, with a planned population of about 83,540. Yet, the land zoned "Open Space" is only 3.95 ha¹, among which many are very small land parcels. The amount is substantially less than 16.7 ha, the requirement based on Hong Kong Planning Standards and Guidelines (HKPSG) which is 2sqm open space per person.

Good Design of Tall Developments helps Address the Severe Open Space Deficit

¹ Even including the public space of about 0.63ha provided within the commercial and residential zones, the total open space provision is only 4.58ha.



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- 3.1.6 Three Pacific Place (177.8mPD), Times Square (173.6/198.2mPD) and Hopewell Centre (220mPD) are the relatively taller buildings within the Planning Area. These developments provide substantial ground floor public open space/ landscaped area². These tall buildings accommodate the floor area up in the air space thereby providing significant quality ground floor space for pedestrians. They help ease the severe open space deficit in the area.

Different Building Heights make Little Difference to Air Ventilation

- 3.1.7 The Expert Evaluation Report for Air Ventilation Assessment³ (EE Report) for the Wan Chai Area states the air ventilation principles. The first principle (Para. 6.1.4 of the EE Report) is quoted below:

"Firstly, given Hong Kong's tall building urban morphology, beyond a certain absolute building height (as related to the building height to street ratio (H/W), or in the order of say 80m+high even a street width of say 25m), the heights of building cease to be the key consideration factor for air ventilation at pedestrian level. There is small material difference between building heights of 110mPD and 130mPD from air ventilation point of view, taking into consideration the width of the same street."

Except for the G/IC sites, most of the development zones have been imposed with a height restriction which allows a building height taller than 80m. As development rights need to be protected, it is not possible to lower the building height below 80m to accommodate the permitted GFA. Therefore, the building height restrictions fail to achieve air ventilation purpose to a reasonable extent.

Gaps, Air Paths, Open spaces and Green Areas are More Important

- 3.1.8 The second principle of air ventilation reiterates that building height is not a key consideration, but gaps are. In Para 6.15 the EE Report states:

"Secondly, given that buildings are tall, the street canyons are deep, changing building heights a little bit one way or another would not matter air ventilation that much. ... the most effective way to improve air ventilation is to introduce building gaps. In addition, designing air ventilation not from above the buildings, but from the sides is a useful

² Three Pacific Place and Times Square contribute 1,650sqm and 3,017sqm public open space respectively; while Hopewell Centre provides 870sqm public landscaped area.

³ The EE Report is attached as Attachment VII of the MPC Paper No. 17/10 which discusses the Proposed Amendments to the Approved Wan Chai Outline Zoning Plan No. S/H5/25.



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strategy. The provision of connected air paths, open spaces, green areas, non-building area, building setbacks and so on are far more effective to improve air ventilation at the pedestrian levels."

- 3.1.9 However, it is clear that without a reasonable building height to accommodate the GFA, the sides cannot be freed up for gaps, nor the ground floor be used as open space or green area.

Violation of Principles laid down by the Air Ventilation Report

- 3.1.10 The imposition of the building height restrictions violates the advice of the EE Report. Firstly, the different building heights do not matter much for Wan Chai from the air ventilation perspective. The restrictions will in effect push floor space down, thereby reducing the opportunities for providing gaps as suggested by the second principle. Thirdly, the restrictions impose low and uniform heights over large areas. This violates the third principle of the Report which states that (Para 6.16 of the EE Report)

"Thirdly, as a principle, for air ventilation, a variation of building heights in close proximity is preferred as it can create pressure differences and they can also encourage some downwashes, diffusions and mixing of air. ..."

- 3.1.11 The very likely effect of height restrictions which are set too low is that all developments will be built to the maximum allowable height, resulting in a flat profile, making downwashes impossible.

Strategic advice of the EE Report

- 3.1.12 The fourth principle of the EE Report provides strategic advice which is worth noting (Para 6.1.7 of the EE Report):

"Fourthly, given that there are tall developments of a certain density and building volume, for air ventilation, it is strategically advisable:

- (a) to allow as much air space as possible for the development to maneuver flexibly. ...*
- (b) to designate non-building areas parallel to the incoming prevailing winds, thus forming air paths. ...*
- (c) to perforate the building towers and the podium, especially at the lower level (say around to 30m), so that useful AV could be optimized at the pedestrian level; and*
- (d) to maximize greeneries."*



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Visual Considerations

- 3.1.13 It is noted that visual consideration is one of the reasons for imposing building height restrictions. When viewed from Kowloon, a number of buildings in Wan Chai North Planning Area have already exceeded the 20% building-free zone of the ridgeline or even breached the ridgeline. Also, given the inland location of the Wan Chai Planning Area and the tall buildings near the Harbour, both Three Pacific Place and Times Square are of reasonable heights when viewed from the key vantage points of the Hong Kong Cultural Centre and the West Kowloon Cultural District (Please see Plans 3A and 3B of the MPC Paper No. 17/10).
- 3.1.14 When viewed from the higher vantage points on the Hong Kong Island, these two buildings are both of reasonable scale viewed from the Lion Pavilion, the Peak and the Stubbs Road Lookout. (Please see Plans 3C and 3D of the MPC Paper No. 17/10).
- 3.1.15 Taking into account the significant benefits of providing pedestrian comfort in the dense urban area and the acceptable visual effects viewed from the identified key vantage points, it is considered that both buildings are exemplary developments which show that taller buildings with proper design can open up the dense urban area and help improve the microclimate.

Need for Reasonable Building Height

- 3.1.16 In short, there is a need to ensure that buildings are not restricted to unreasonably low heights, as these 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 at ground level and in the air. The approach taken to set the height restrictions at such low levels is unnecessary if a more reasonable approach to urban design had been adopted.

3.2 Little attempt to address the Severe Open Space Deficit

- 3.2.1 The proposed amendments have not attempted to address the severe open space shortfall in the Planning Area. As the Planning Area is fully developed, opportunities for adding open space to the area rely heavily on unused government sites. The demolition of the Wan Chai Police Married Quarters is a good chance to convert the site into a public open space to address the shortfall and add greeneries to the densely packed area. Yet, a commercial zone is proposed for the site.



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- 3.2.2 As a principle, REDA considers that the Board should retain any public land in intensely developed areas for open space and G/IC use so as to avoid the need to provide such uses in private land or through resumption of private land. A long term view of sustainable development should be applied and provision of open space on public land should be given a high priority.

3.3 No Public Consultation

- 3.3.1 The building height and GFA 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 and/or GFA restrictions 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.

- 3.3.2 It is strongly suggested that the PlanD should carry out planning study for the Planning Area as in the case of Wong Chuk Hang and Kowloon Bay Business Districts. PlanD 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.

3.4 Non-Building Area

- 3.4.1 A number of NBAs are introduced to "Residential (Group A)" ("R(A)"), "Commercial", "Government, Institution or Community" ("G/IC") and "Other Specified Uses" ("OU") zones 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).



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

3.4.3 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.

3.4.4 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.

3.5 Spot Zoning Approach Inconsistent with the Town Planning Ordinance

3.5.1 REDA objects to the way in which the BHRs have been introduced to Wan Chai OZP:

(a) while broad height bands are a permissible form of planning control in appropriate situation, it is much more desirable to have a variety of building heights in places such as Wan Chai, to achieve a more interesting urban-scape and to 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 limits 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 private sector initiative to undertake urban renewal projects in the area.

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



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- (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 3.4.1 above limit the planning actions of the TPB to types of buildings and exclude detailed matters such as "Spot" building height restrictions.
- 3.5.3 A "broad-brush" approach may have been applied through the imposition of broad height bands in some parts of the Plan, but there are sites where this approach has not been applied. Such "spot" building height restrictions are therefore inappropriate and unlawful, and should be withdrawn.
- 3.5.4 There is no indication that in formulation 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.
- 3.5.5 The Explanatory Statement in paragraph 3 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.
- 3.5.6 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.
- 3.5.7 The Explanatory Statement in paragraph 3 indicates that "The Plan is to illustrate the broad principles of development within the Area". The principle of establishing broad statutory zones with similar characteristics has been largely abandoned in relation to the OZP. The approach has been to be unnecessarily restrictive, and to impose height and GFA limits to the existing development in a very restrictive manner.
- 3.5.8 This can be seen in Amendment Items D, E, G, H, J2, M, P T1 and U2 etc., where an enormous number of sub-areas with their own individual restrictions have been proposed. The designation of NBAs and setback requirements in a number of sites as listed in Items U1, U3 and (e) also violates the broad principles of planning and could be considered to be a form of "Spot Zoning".



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- 3.5.9 The approach is inconsistent with good town planning practice and could be considered inconsistent with the Town Planning Ordinance in relation to the content and application of statutory plans.

3.6 Building Gaps and Set-backs

- 3.6.1 REDA is opposed to the provision of requirements for set-backs on the Outline Zoning Plans as this runs contrary to the scale and generality of what are intended to be broad brush plans determining types of buildings and permitted uses. REDA considers 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.
- 3.6.2 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. 7.12). 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 and may be subject to legal challenge.
- 3.6.3 Furthermore, there is no provision in the Wan Chai 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 Outline Zoning Plans. There is also no statement in the Notes or Explanatory Statement indicating that the private land taken for set-backs is for public passage and that it may be considered by the Building Authority for bonus gross floor area in accordance with normal practice.
- 3.6.4 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.

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

- 3.7.1 REDA objects in principle to the removal of the "C/R" zone which provides flexibility and vibrant form of development, and has facilitated the



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redevelopment of Wan Chai into an important extension of the Central Business District. 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, and B3).

- 3.7.2 With the proposed amendments, large areas of Wan Chai 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 and the Board is requested to reinstate it.
- 3.7.3 The argument that the C/R zone is problematic in terms of the unknown potential loading associated with this zoning on infrastructure is not proven or subject to any study in relation to the Plan. Government should undertake 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.
- 3.7.4 REDA also 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 appears to not adequately provide flexibility of development. There appears to be little room for change and the application of the three Schedules in the Notes 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.
- 3.7.5 However, should the Board decide not to reinstate the C/R zoning, and should it be demonstrated that this new zone has the desired flexibility and that the controls facilitate this flexibility, it is suggested that more extensive use be made of the new "Other Specified Uses" annotated "Mixed Use" (OU(MU)) zone. For example, this zoning could be applied to such areas as the R(A) zone along the western site of Morrison Hill Road and the southern side of Wan Chai Road. It may also be appropriate for the area between Stewart Road and Percival Street. These mixed use areas form part of the character of Wan Chai.



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4. Proposals to Meet the Representation

Building Height Restrictions

- 4.1 The Building Height Restrictions must be reviewed to take into account the strategic advice of the EE Report listed in Para. 3.1.12 above to make use of the air space as much as possible. Yet, to balance the visual concerns, generally 130mPD and 150mPD restrictions could be applied to area north and south of Hennessy Road respectively, except for the taller existing and committed developments and G/IC sites. These relaxed height restrictions will result in developments of varying heights to allow for 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.

Relaxation Scheme

- 4.2 A relaxation or incentive scheme should be considered to encourage amalgamation of small sites for development/redevelopment of quality and well-designed commercial/office buildings at suitable locations to improve visual and air permeability, streetscape and pedestrian environment to have more relaxed heights. **Such scheme can be applicable to large sites, say not less than 1,500sqm, in Commercial zones.** 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 1,500sqm 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 Wan Chai Outline Zoning Plan so as to provide an incentive for innovative design and improvement to the general urban environment.

Provision for Dedication of Land

- 4.3 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 also be included for all relevant development zones, as in most other Outline Zoning Plans.



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Rezoning Public Land for Open Space

- 4.4 The Wan Chai Police Married Quarters should be zoned "Open Space" to help address the severe open space deficit in the Planning Area.

Removal of Spot Zoning

- 4.5 The Board should adopt a more rational and generalized approach to the zoning by reviewing the numerous 'sub-areas' included in the "R(A)" and "Commercial" zones and consolidating them into a small number of broader zones with similar controls on building height and development potential.

Deletion of Non Building Areas

- 4.6 The legal basis for the imposition of the NBA is 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 OU(Historical Building Preserved for Hotel, Commercial, Community and/or Cultural Uses)" zones should it be decided to retain NBA.

Deletion of Set Backs

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

The Wording of the Minor Relaxation Clause should be Amended

- 4.8 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.

5. Conclusion

- 5.1 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 approach to the zoning by the introduction of numerous "sub-areas" 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. Unused government sites should be converted into public open space to address the severe deficit in the Planning Area. The imposition of set-backs and non-building areas on private land



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without compensation is considered an improper use of the Town Planning Ordinance.

- 5.2 The proposed amendments on the Wan Chai Outline Zoning Plan are 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 Wan Chai.