



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
Yau Ma Tei Outline Zoning Plan, Plan No. S/K2/21
-- The Real Estate Developers Association of Hong Kong ("REDA")**

1. Representor

- 1.1 This Representation is lodged by The Real Estate Developers Association of Hong Kong (REDA). It addresses the principles which have been applied in relation to the building height restrictions (BHRs) for various development zones, designation of Non-building Area (NBA) and building setback requirements, and other associated matters included as amendments in the Draft Yau Ma Tei Outline Zoning Plan, Plan No. S/K2/21 (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 BHRs, NBA and other restrictions in the amendments shown on the OZP. In other words, this representation objects to Items A, B1, B2, D, E1, E2 and F1 to F3 shown on the Plan. The representation also objects to (a), (b) and (d) 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.

3. No Public Consultation

- 3.1 The BHRs, NBA as well as building 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 BHRs, NBA and setback requirements imposed have been adopted. There has been no visual impact analysis made available to the public prior to the gazette of the new OZP 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 detailed planning study for the Yau Ma Tei Planning Area including the historical and planning context of the district, the existing and projected



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population of the district, the livelihood and working environment of the residents and workers, the connectivity and linkages with the adjacent Planning Areas, the commuting/traveling pattern of residents, workers and visitors, the characteristics and potential of the local economy, as well as the pros and cons of impositions of BHRs, NBA and building setbacks, and what the impacts are, etc., instead of focusing mainly on the building height and air ventilation considerations.

- 3.3 As a matter of principle, in relation to preparing significant changes to any OZP the Department should present to the public through consultation a more comprehensive study and necessary information, in order that owners, stakeholders and the public, can be informed of the implications of the height restrictions and other amendments prior to the gazette of the new plan. The public could then submit their comments during the plan preparation stage. This should be done before the formal statutory processes are commenced, and before the restrictions are given legal effect.
- 3.4 In this particular case, consultation with the Yau Tsim Mong District Council and the public after the amendments have been gazetted is not a genuine consultation and is not an effective means of informing the concerned public as to the reasons for the proposed amendments.
- 3.5 Such consultation should present alternatives in relation to achieving objectives. It is clear that no alternatives have been presented to the Metro Planning Committee when approving the amendments to the OZP. For example, in terms of the BHRs, the only option presented where the proposed BHRs and a situation with no BHRs. No analysis of an alternative system of BHRs has been prepared for consultation with the public, nor for consideration by MPC Members

4. Land Use Review Should be Undertaken

- 4.1 The Yau Ma Tei Planning Area is located between two major commercial/retail nodes, Mong Kok and Tsim Sha Tsui. The OZP mainly comprises of “Residential Group (A)” and “Commercial” zones with a mixture of commercial/residential uses and activities with large number of visitors / shoppers, especially along Nathan Road. The pedestrian environment is most of the time congested.
- 4.2 Even though the provision of open space within the Planning Area appears quite abundant, its distribution is a problem. Most of the land zoned open



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space is located to the east of Nathan Road, making the western part of the Planning Area quite fully built. Opportunity should be sought to increase the open space serving the needs of local residents and the general public. Taller buildings with smaller footprints would allow for more ground level space and better air ventilation at lower levels. Contrary to the urban renewal efforts of improving the local environment and increasing open space, the BHRs imposed are too low to improve air penetration and visual permeability upon redevelopment. The BHRs will bring unnecessary constraints to the Planning Area, a major portion of which is, however, in urgent need of redevelopment and urban renewal.

- 4.3 In the land use review, opportunity should be taken to integrate and enhance the accessibility between Yau Ma Tei's old hinterland area and West Kowloon new development area/the waterfront with an aim to enhance people's accessibility to the waterfront, the two regions which are currently separated by transport infrastructure such as West Kowloon Corridor and West Kowloon Highway. In addition, more direct visual and physical linkages should also be explored to facilitate people living in the western part of the Planning Area to use the open spaces located in the eastern part of the Area.

5. Basis for this Representation

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

5.1 Building Height Restrictions Set Too Low

Height Limits set too Low Threaten Improvement through Redevelopment

- 5.1.1 Yau Ma Tei is one of the oldest urban areas in the Kowloon with predominately low to medium-rise residential buildings, many of which were built in the immediate post-war period. The Ground Floor and some lower level units have been mixed with retail uses. Mong Kok and Tsim Sha Tsui are two vibrant commercial/retail nodes which lie adjacent to Yau Ma Tei. The spill-over effect from shoppers and visitors from these two nodes has also made Yau Ma Tei a vibrant and congested area filled with various kinds of retail activities.
- 5.1.2 Yau Ma Tei is well served by public transport, with two MTR stations (Yau Ma Tei and Jordan) and with numerous bus routes serving along Nathan Road and Shanghai Street. The good accessibility as well as the large amount of old low-rise tenement buildings provides great redevelopment incentives thereby



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enhancing the physical built environment of the Planning Area. However, such incentives are under threat due to the proposed amendments made to the OZP.

- 5.1.3 While the importance of the commercial spine of Nathan Road has been recognized in the OZP, the setting of the BHRs at only 100mPD is considered extremely low for the function it has to perform and the type of commercial buildings to be built within the “C” zone. As a result of setting this highest BHR of the flat portion of the Planning Area too low, the stepping-down approach across the whole area results in an unnecessarily restrictive BHR pattern across the whole area, mainly at 80mPD.

Lack of Flexibility for Innovative and Quality Design

- 5.1.4 REDA as a general principle oppose the setting of BHRs 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.
- 5.1.5 There are numerous successful examples of tall development providing abundant quality low level public spaces in the territory, such as The Center, Times Square, Three Pacific Place, 8 Waterloo Road and Langham Place, etc. The adoption of building height restrictions of only 80mPD and 100mPD over most of the area is considered very restrictive and will eliminate any chance of innovative building design. This will also adversely affect the redevelopment and urban renewal process being undertaken by the private sector.
- 5.1.6 It is considered that there is no clearly expressed concept, or statement of the objectives that are trying to be achieved through the establishment of the BHRs, and no discussion of alternative measures which may achieve the objectives. There is also no indication as to what assumptions have been made in relation to the internal floor-to-floor heights for commercial and residential buildings, and these should be stated, as they determine the quality of the buildings to be built. This is an important factor and should not be ignored, but clearly stated and accepted by the industry and the public.
- 5.1.7 Overall, the BHRs are generally set too low and limit nearly all buildings to about 20 - 25 storeys. Limiting building heights in this manner will impact



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negatively on the urban environment. A general increase in the height bands by, say 20m to 40m to permit buildings of around 40 storeys, would provide for better urban design, allow more space around buildings, allow for more permeable buildings at the lower levels, and achieve the height restriction objective of not allowing “excessively tall and out of context buildings”.

Air Ventilation Considerations

- 5.1.8 The Air Ventilation Assessment (AVA) Report attached to MPC Paper No. 24/101 has clearly pointed out some urban design and air ventilation problems:

“The building height limit along the entire Nathan Road is 100mPD and may form a monotonously high and apparently continuous wall structure obstructing easterly and westerly wind” (Para 4.2.1 of the AVA).

Also in paragraph 4.3.2 of the “Recommendations” in the AVA report is stated that:-

“According to the HKPSG, gradation of building heights would help wind deflection and avoid air stagnation. Some variation of BH limits along Nathan Road (up to 120mPD) has been recommended to create or amplify down wash effect in Mong Kok OZP. It is considered not essential to provide further building height relaxation as it does in the Mong Kok OZP.”

- 5.1.9 While it may not have been essential, the possible benefits in AVA terms of a 120mPD BHR, at least, along Nathan Road have not been considered, and they should have been. A consistent approach to building heights along Nathan Road should have been considered not only in AVA terms but also in urban design terms and development rights.
- 5.1.10 A BHR of at least 120mPD should be applied to the “C” zone along Nathan Road to address the problems identified in the AVA. Provision should also been made to allow for taller development to be considered by the Town Planning Board on application under Section 16 of the Town Planning Ordinance. Favourable considerations could be given to development with

¹ MPC Paper No. 24/10 discusses the Proposed Amendments to the Approved Yau Ma Tei Outline Zoning Plan No. S/K2/20.



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desirable urban design and air ventilation/sustainable elements such as perforated features.

- 5.1.11 The AVA Report also reflects that taller buildings provide the opportunity for open areas which is good for air ventilation:

“The highest development 8 Waterloo Road comprising 2 towers with building height to 132.1mPD. ... Temple Street to the south stops at this development. However, as there exists an open area to the south of the towers which connect Temple Street and Portland Street, southerly wind along Temple Street is expected to flow along Portland Street to further downwind area then.” (Para 3.4.7 of the AVA).

- 5.1.12 It is clear that if the development was built to 80mPD, the open area would not be available and the air path along Temple Street would be blocked by the development.

- 5.1.13 Furthermore, the BHRs 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. The BHRs will result in larger and bulkier buildings in the areas where air ventilation improvement is considered desirable.

Need for Reasonable Building Height

- 5.1.14 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 near ground level and in the air. The approach taken in establishing the BHRs should allow various urban and built forms to be further consolidated along the designated maximum permissible building heights. The approach taken to set the height restrictions at such low levels is considered unnecessary if a reasonable approach to urban design had been adopted.

5.2 Non-Building Areas

- 5.2.1 A NBA is introduced to the OZP for air ventilation purposes, under the proposed amendments. Sections 3 and 4 of the Town Planning Ordinance provide that:



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(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).

5.2.2 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.

5.2.3 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.

5.2.4 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.

5.2.5 It is considered that the land presently designated as NBA can be more appropriately zoned "Open Space" to reflect its actual use and to avoid the uncertainty and confusion as mentioned above.

5.3 Spot Zoning Approach Inconsistent with the Town Planning Ordinance

5.3.1 The Explanatory Statement in paragraph 3.2 indicates that "*The Plan is to illustrate the broad principles of development*". 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 BHRs and setback requirements to the existing development in a very restrictive manner. This can be seen in Amendment Items A, B1, and



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(d) etc. The designation of NBA as indicated in Item B2 also violates the broad principles of planning. Also the approach taken to the rezoning and BHR and NBAs on 8 Waterloo Road is an example of 'spot' BHRs.

5.3.2 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. In fact, the combined effect of the very low BHRs, NBAs and set-back requirements impose undue constraints to building design. REDA request that all NBAs be removed from the OZP.

5.4 Two Tier Approach to BHRs in R(A) Zone

5.4.1 The provision in the amendments for different building height restrictions to apply to different sites in the same zone could also be considered a form of "spot zoning". In the R(A) zone a greater height is permitted for sites with an area of 400 square metres or more, while a lower height is permitted on smaller sites. In terms of the reasons given for having building height restrictions, this differentiation is both unnecessary and inequitable. Should the general area justify a certain building height restriction of say 100mPD, then a lower height restriction should not apply to smaller sites.

5.4.2 The purpose of the two-tiered approach is also questionable, as it seems to arise mainly from the perception that on-site parking is more important than other aspects. There are no intrinsically negative features of "pencil-like" buildings that should deprive the property owners of the same building height which is permitted on slightly bigger sites. There is also scope for developers of different sizes to develop small sites while adding to the choice of housing types available to residents.

5.4.3 The small lots and "pencil buildings" are actually part of the character of the Yau Ma Tei area, and the encouragement of more parking in an area which is well served by public transport seems unnecessary. Also amalgamation does take place naturally if the BHRs are set at a consistently encouraging height rather than a restrictive and repressive BHR such as the 80mPD which is applied to the R(A) zone.

5.4.4 This approach to the provision of parking is also in conflict with the new draft Practice Notes issued in relation to sustainable building matters. REDA have been urging the government to refrain from imposing car parking requirements in areas where it is not appropriate. The approach adopted towards the two-tier BHR is ultimately working against a quality urban environment by



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encouraging car ownership in Yau Ma Tei and this will significantly increase traffic problems and negatively affect the character of the area.

5.5 Not Respecting Property Rights

5.5.1 The Town Planning Board has indicated that the building height restrictions have been set at a height to respect existing development rights. However, under the Notes to the Outline Zoning Plan the approach taken is that, for commercial development as an example, the maximum development is restricted to a plot ratio of 12 or the existing plot ratio, whichever is the greater.

5.5.2 There are many buildings within the Yau Ma Tei area where the existing plot ratio is greater than 12. It would appear as if the building height restrictions have been set so low that they would not allow for the existing GFA to be achieved in a new building complying with the Buildings Ordinance. By taking this approach the new building height restrictions are effectively acting as a “down-zoning” and are depriving existing land owners of their redevelopment potential. The R(A)2 zone (Man Wah Sun Chuen) with a BHR of 80mPD is an example.

5.5.3 This is a matter of serious concern and the building height restrictions must be raised to ensure that existing development rights can be achieved under the Building Ordinance controls.

5.6 Set-backs

5.6.1 REDA are opposed to the provision of requirements for set-backs on the Outline Zoning Plans 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. REDA consider that the use of the Outline Zoning Plan for this purpose is going way beyond the intention of town planning. The use of the Outline Zoning Plan for these purposes is considered wrong and may be subject to legal challenge.

5.6.2 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 paragraph 7.7). 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 or constrained. 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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- 5.6.3 The combined effect of these set-back requirements is compromising the use of private land without compensation and without adequate justification as being for a recognized public purpose. In these circumstances REDA request that all set-back requirements be removed from the Outline Zoning Plan.

6. Proposals to Meet the Representation

Forward Planning Approach

- 6.1 There are numerous successful examples of redevelopment serving to bring in new economic/commercial activities into old urban area. A few higher buildings would not be visually incompatible and out of context instead they will become focal point and add visual interest to the cityscape. Planning should adopt new ideas to facilitate innovative and attractive developments that trigger off local economic improvements and improve the image of the district rather than creating a monotonous and dull cityscape. A comprehensive land use review with a forward looking approach is thus necessary.

Building Height Restrictions

- 6.2 The BHRs should be reviewed to encourage more innovative and more sustainable building design. A modest increase of the building heights by 20 to 40 metres would provide a significant degree of design flexibility while achieving the general objectives of stepped building heights and protection of important views. Height restrictions set at these levels will also result in developments of varied heights which may facilitate better air ventilation and downwashes.
- 6.3 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. A more generous BHR of between 120mPD to 180mPD would encourage innovative design and built form, while ensuring no “out of context buildings” would arise. Many developments would not reach these maximum building heights, resulting in variety and interest.
- 6.4 It would appear that the building height restrictions have been set too low to allow for the existing development rights to be achieved on redevelopment. All building height restrictions should be increased to ensure that existing development rights of plot ratio 15 or greater can be achieved.



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Relaxation Scheme

- 6.5 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, so as to provide an incentive for innovative design and improvement to the general urban environment.

Deletion of Non Building Area

- 6.6 The legal basis for the imposition of the NBA is questionable. It is proposed that the requirement for NBA be replaced by “Open Space” to reflect the actual use of the land. The words “exceptional circumstances” should be removed from the relevant Notes to the “OU” zones should it be decided to retain the NBA. The conflict with the new Practice Note System must be resolved through changes to the Outline Zoning Plan.

Deletion of Set Backs

- 6.7 All set-back requirements should be deleted from the Outline Zoning Plan. The conflict with the new Practice Note System must be resolved through changes to the Outline Zoning Plan.

The wording of the Minor Relaxation Clause should be Amended

- 6.8 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.

Introduction of “OU (Mixed Use) Zone”

- 6.9 It is suggested that a new “Other Specified Uses” annotated “Mixed Use” (OU(MU)) zone be introduced to the Planning Area. The OU(MU) zone,



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though imposing more controls that the C/R zone, is supported in principle by REDA as it retains some of the objectives of the C/R zone. This zone could be introduced in the R(A) zones one to two blocks from Nathan Road and those along Jordan Road, in particular those close to the MTR stations. This would encourage the extension of a mixed use/commercial spine in the area and form an important part of the character of Yau Ma Tei.

Different Building Height Restrictions for Different Sized Sites Should be Deleted

- 6.10 The provisions for lower heights for smaller sites in the R(A) zone should be deleted and all sites allowed the greater height.

7. Conclusion

- 7.1 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. They should also respect property rights and property value.
- 7.2 The proposed amendments to the Yau Ma Tei 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 the Planning Area.