

城市規劃委員會

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北角政府合署十五樓

TOWN PLANNING BOARD

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來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/R/S/K5/32-2

14 April 2011

The Real Estate Developers Association of Hong Kong  
Room 1403, World-Wide House  
19 Des Voeux Road  
Central, Hong Kong  
(Attn: Louis Loong)

Dear Sir/Madam,

**Draft Cheung Sha Wan Outline Zoning Plan No. S/K5/32**  
**(Representation No. R2)**

I refer to my letter to you dated 18.3.2011.

After giving consideration to the representations, the Town Planning Board (TPB) decided on 25.3.2011 not to propose amendment to the above Plan to meet your representation for the following reasons:

- (a) the purpose of imposing building height restrictions (BHRs) in the Area is to provide better planning control on the building height (BH) upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for the area, all relevant factors including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the site concerned, development potential, the wind performance of the existing condition and the recommendations of the Air Ventilation Assessment (AVA), have been taken into consideration. The BHRs have struck a balance between public aspirations for a better living environment and private development potential;
- (b) the BHRs are formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development potential permissible under the Outline Zoning Plan (OZP). Blanket relaxation of the BHRs is not supported as it would result in proliferation of excessively high developments, which is not in line with the intended planning control. Deletion or piecemeal relaxation of BHRs for individual sites would jeopardize the coherence of the stepped BH profile and would result in proliferation of excessively high developments, which is not in line with the intended planning control;
- (c) the BHRs would not result in larger building bulk. Whether a building is bulky or massive depends on many factors other than BH alone. Given the tendency to maximize the best view in certain direction

(particularly sea view), and to capitalize the land value of the lower floors by designing 15-m high commercial podium with a 100% site coverage under Building (Planning) Regulations (B(P)R) to 15m, a development with no BH control may be even taller and bulkier. The provision of better design buildings is not guaranteed. In this regard, the BHRs have been formulated based on reasonable assumptions on building design with allowance for design flexibility to accommodate maximum development potential permitted under the OZP for the residential sites;

- (d) given that the lots in these areas are largely small in size, allowing a higher maximum BH (i.e. 20m more) for sites with an area of 400m<sup>2</sup> or more is mainly to cater for site amalgamation for more comprehensive development and provision of other supporting facilities to meet modern standards;
- (e) the BHRs are intended to avoid future developments with excessive height, the development intensity of individual sites would not be affected. There would not be adverse impacts on the development intensity permitted under the OZP in general. For an existing building which has already exceeded the BHRs, the rights of redeveloping the building to its existing height would be respected on the OZP;
- (f) apart from providing Government, Institution or Community facilities, the "Government, Institution or Community" ("G/IC") sites in the Area form major visual relief and breathing spaces to the built-up area. It is recommended in the AVA Study that BHRs should be imposed on "G/IC" sites to contain their development scale. In order to preserve the openness and existing character of the "G/IC" sites, the BHRs for the "G/IC" sites are mainly to reflect and contain the existing BHs;
- (g) to cater for site-specific circumstances and schemes with planning and design merits, there is provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the TPB on its individual merits based on the set of criteria set out in the Explanatory Statement of the OZP;
- (h) the Area is very different in character from Tsim Sha Tsui and it is inappropriate to apply the approach adopted for the Tsim Sha Tsui OZP to the subject OZP. In the absence of strong justifications, incorporating a relaxation clause on BHRs for sites zoned "Commercial" ("C") and "Other Specified Uses" annotated "Business" ("OU(B)") with an area of not less than 1,500m<sup>2</sup> is considered inappropriate;
- (i) given the wide coverage of the Area that comprises areas with varying characteristics and that there are different planning intentions/objectives to achieve, different restrictions for different sub-areas under the same broad zone are necessary;
- (j) s.3 and 4 of the Town Planning Ordinance and the scheme of the

legislation are intended to give the TPB comprehensive powers to control development in any part of Hong Kong. The TPB should have the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under s.3 and 4 of the Town Planning Ordinance if there are necessary and sufficient planning justifications;

- (k) designation of non-building area (NBA), building gap and setback requirements on the OZP can serve a positive planning purpose and have positive planning benefits by improving air ventilation, visual permeability and the pedestrian environment. It has legal basis as it would form part of the planning control of the TPB, which has the necessary and sufficient justifications;
- (l) the setback requirement for “Other Specified Uses” annotated “Business (1)” to “Other Specified Uses” annotated “Business (4)”, “Commercial (4)”, “Government, Institution or Community (4)” sub-areas and “Other Specified Uses” annotated “Petrol Filling Station” zone is to improve air ventilation of the Cheung Sha Wan Industrial/Business Area, and to facilitate road widening and streetscape improvement taking into account the recommendation of the AVA and advice of the Transport Department. Removing the setback requirement would defeat the planning intention of improving air ventilation, and facilitating road widening and streetscape improvement of the Cheung Sha Wan Industrial/Business Area. Whether the setback area would be allowed to claim bonus plot ratio would have to be determined by the Buildings Authority;
- (m) the relaxation of the NBA, building gap and setback requirements for one site would affect the effectiveness of their planning intention. The wording ‘exceptional circumstances’ is included in the minor relaxation clause of these requirements to cater for the situation that only in some exceptional cases under which the requirement cannot be met due to site constraints but the planning objectives would be achieved in other forms; and
- (n) the two-month statutory exhibition period and provision for representations and comments form part of the public consultation process. Any premature release of information before exhibition of the amendments to the OZP may prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs. All information supporting the BH, NBA, building gap and setback requirements on the OZP including the AVA Report and visual analysis, is available for public inspection.

A copy of the relevant extract of minutes of the TPB meeting held on 25.3.2011 is enclosed herewith for your reference.

In accordance with section 8 of the Town Planning Ordinance, the above Plan together with a schedule of the representation(s) and comment(s), if any, will be submitted to the Chief Executive in Council for a decision.

If you wish to seek further clarification/information on matters relating to the above decision, please contact Mr. Philip Chum of Tsuen Wan and West Kowloon District Planning Office at 2158 6357.

Yours faithfully,

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a vertical line and a small 'i'.

( S.K. CHEUNG )

for Secretary, Town Planning Board

SKC/LL/m