



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 Tsuen Wan Outline Zoning Plan, Plan No. S/TW/29

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 (BHRs), building gap restrictions and Non-building Areas (NBAs), and other associated matters included as amendments in the Draft Tsuen Wan Outline Zoning Plan, Plan No. S/TW/29 (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, building gap restrictions, NBAs and other restrictions in the amendments shown on the OZP. In other words, this representation objects to Amendment Items A, B1 to B6, C, F6, N on the Plan and (a) to (g), and (i) 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 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 the setting of BHRs 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 changing market expectations.



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

Objectives for Height Limits

3.1.2 It appears from paragraph 7.1 of the Explanatory Statement that the reasons for imposing building height limits are:

- to provide better control on development intensity and building height of development/redevelopment;
- to prevent excessively tall or out-of-context buildings; and
- to meet public aspirations for greater certainty and transparency in the statutory planning system.

3.1.3 No consideration, or inadequate 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, and with a greater site coverage. The consequences include lowering property values and reducing air ventilation at the street level.

3.1.4 It is considered that most of these objectives for the BHRs can be achieved with slightly relaxed height limits, imposed at a level which generally permits a more reasonable form of development while meeting the objectives mentioned in the Explanatory Statement.

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 locations. High-rise developments in the order of 40 storeys have been in place in various parts of Hong Kong for years and they are generally acceptable to the public.

3.1.6 The adoption of BHRs of only 80/100mPD, 120mPD and 140mPD over most of the area is considered very restrictive. This will adversely affect the redevelopment and urban renewal process being undertaken by the private sector and further aggravate the impact on the urban environment. A general increase in the height bands by 20m each would better provide for good 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”.

Building Heights and Air Ventilation



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

- 3.1.7 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 BHRs as this tends to force developments down into a solid mass of building to accommodate the permitted amount of development, rather than encouraging the creation of space around buildings at street level.

Need for Reasonable Building Heights

- 3.1.8 The overall height profile of the Planning Area is formed mainly by the Residential, Commercial, Business and Industrial zones with Open Space and G/IC zones as being used for visual relief and breathing space. However, the new BHRs stipulated on the OZP are generally too low.
- 3.1.9 Taking account of building economics, technology for construction, visual considerations, air ventilation and public aspirations, the height bands as introduced in the amendments for the development zones should be increased. Imposition of unreasonably low building height limit restrains the incorporation of innovative architectural design and void feature. This directly affects streetscape, air ventilation at grade and the quality of life the users of the development.

Twin Town Nodes and Stepped Building Height Profile

- 3.1.10 The urban design principles that have been adopted in setting the BHRs on the OZP are generally twin town nodes at the town center and stepped heights for the hilly area and the western fringe area. At the town center, the twin town nodes are formed around the two MTR stations with the highest BHRs mainly reflecting the heights of the built and the committed developments. The approach of recognizing the approved building heights of committed developments is appreciated. However, most areas other than these twin town nodes are imposed with low height bands of 80/100mPD, 120mPD and 140mPD. It is considered that such height bands only allow the maximum permissible gross floor area to be fitted into the building while provision and flexibility for sustainable and innovative design are missing.
- 3.1.11 Therefore, a general increase of 20m to all existing BHRs on the OZP is suggested. This would allow more flexibility in design, possible compliance with the Sustainable Building Design (SBD) Guidelines and incorporation of green features suggested by the Joint Practice Notes (JPN). The difference in



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

height would be insignificant in terms of visual impact and the stepped profile retained.

Kwok Shui Road Residential Group (E) and OU(Business) Sites

- 3.1.12 The Kwok Shui Road Residential Group (E) [R(E)] and Other Specified Uses (Business) [OU(B)] sites are imposed with a BHR of 120mPD. It is considered that there has not been a thorough consideration of the BHRs imposed for these sites. Firstly, there is a need for the R(E) sites to address the industrial/residential interface issues. This would require a higher flexibility in building design to mitigate impacts from industrial emissions and noise. A taller and thinner building would allow a larger separation between the residential towers from the adjacent industrial blocks that exist during the transformation stage.
- 3.1.13 Secondly, some of the R(E) sites lie within the Tsuen Wan Water Treatment Works (TWWTW) 400m Consultation Zone (Paragraph of 8.6.4 of the Explanatory Statement refers). Redevelopment of these sites require preparation and submission of a Hazard Assessment (HA) to the Coordinating Committee on Land-use Planning and Control relating to Potentially Hazardous Installations (CCPHI) for approval prior to the submission of S.16 planning application. The hazard associated with the TWWTW is related to leakage of Chlorine which can be fatal to life. At room temperature, Chlorine exists in the form of gas which is heavier than air. Chlorine leaked from the TWWTW would tend to accumulate to lower level. To safeguard residents, development would need to locate the residential floors on a generally higher level. A taller building is therefore needed to accommodate the floor area.
- 3.1.14 Thirdly, there are committed developments within the R(E) zone with heights much higher than the BHR imposed, including 106-114 Kwok Shui Road (with approved height 174mPD and under construction) and 13-17 Fu Uk Road (planning approval with height 174.9mPD). A member at the MPC meeting which discussed the proposed amendments to the OZP questioned whether the BHRs at the waterfront were excessive, Planning Department responded that the developments at the CDA sites (i.e. TW5, TW6 and TW7 sites) were previously approved by the Committee. It is considered that a consistent approach of respecting the planning approvals should be adopted for the Kwok Shui Road sites.
- 3.1.15 Fourthly, from the urban design considerations, the 120 mPD BHR imposed on the R(E) and OU(B) sites would make the Primrose Hill development a “sore thumb”; while relaxing the BHR of the R(E) and OU(B) sites to about 160mPD would create a more reasonable stepped building profile along Kwok



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

Shui Road. This BHR will more likely be able to address the genuine needs for mitigating the environmental interface issues and potential hazard from the TWWTW mentioned above. Furthermore, a more reasonable stepped height profile would be formed with Lei Muk Shue Estate which is set at 170mPD/190mPD BHR.

- 3.1.16 Fifthly, the recommendations of the AVA Report only states that the 120mPD imposed on the R(E) is acceptable without giving any reason (paragraph 6.6 (k) of the AVA Report). No assessment has been undertaken for a higher BHR which may also be acceptable from the air ventilation perspective.

3.2 Spot Zoning Approach Inconsistent with the Town Planning Ordinance

- 3.2.1 The Explanatory Statement in paragraph 3.1 indicates that “The object of the Plan is to indicate the broad land use zonings and major road networks...”. However, the principle of establishing broad statutory land use zones with similar characteristics has been largely abandoned in relation to the Outline Zoning Plan. The approach has been unnecessarily restrictive, and to impose BHRs, NBAs, building gap and GFA restrictions on a number of sites in a very restrictive and specific manner.
- 3.2.2 Spot BHRs are imposed on a number of sites within the Planning Area. For example, a NBA and three other BHRs have been imposed on the Nina Tower site; three BHRs on TW5 Cityside CDA site; and four different BHRs on C(2), C(3) and C(4) sites along Yeung Uk Road and Ma Tau Pa Road. Another example of spot zoning is imposed on the original R(E) and OU(B) sites on Kwok Shui Road. Despite the fact that the sites have similar planning characteristics, the Primrose Hill site has been rezoned as R(A)14 with a specific GFA and 210mPD BHR, the rest is with 120mPD BHR and a NBA is imposed on the Sun Fung Centre site.
- 3.2.3 The provision in the amendments for different BHRs to apply to different sites in the same zone could also be considered as a form of ‘spot zoning’. In the R(A)13 zone, a greater height is permitted for sites with an area of 400sqm 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.
- 3.2.4 The principle of establishing broad statutory zones with similar characteristics has been largely abandoned in relation to the Tsuen Wan Outline Zoning Plan.



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

The approach has been to be unnecessarily restrictive, and to relate height and plot ratio of GFA limits to the existing development in a very restrictive manner. While this may have been incorporated in previous amendments to the Outline Zoning Plan to the R(A) zone with the introduction of many sub-zones, the introduction of further sub-zones of R(A)13 and R(A)14 exacerbates the problems of moving to zonings which specifically relate to approved schemes. This is contrary to the more generalized development controls originally established for the R(A) zone with a maximum domestic plot ratio of 5 and a maximum non-domestic plot ratio of 9.5.

- 3.2.5 The establishment of an enormous number of sub-zones with their own individual restrictions have been proposed in the R(A) zones, R(B) zones and the G/IC zones. 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.

3.3 Non-Building Areas

- 3.3.1 The AVA study has been used as a basis for the designation of NBAs and building gaps. Two NBAs are introduced to the OZP for air ventilation purposes under the proposed amendments. Sections 3 and 4 of the TPO 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).

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

- 3.3.3 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. There therefore appears to be no justification for an additional category of NBA.



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

3.3.4 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.

3.3.5 A NBA (Amendment Item B2) is proposed at the northwestern corner of Nina Tower at 8 Yeung Uk Road. According to Paragraph 8.1.5 of the Explanatory Statement, the Nina Tower development was built in accordance with the relevant lease to include a NBA at the northwestern corner of the site. As the lease has already included the restriction, there is no need to duplicate the restriction on the OZP. This also shows that the lease is a more appropriate means for including such restrictions than on the statutory Outline Zoning Plan, as the NBA was established without the need for its inclusion on the Outline Zoning Plan.

3.3.6 Another NBA (Amendment Item B1) is imposed along the western boundary of Sun Fung Centre at 88 Kwok Shui Road. This adversely affects the development rights of the private landowner without any form of compensation. The AVA assessment carried out for the review of the OZP is inadequate to justify the extent of the proposed NBAs. No critical assessment has been undertaken to show that such proposal is essential for the public good. Neither alternative proposals have been considered, nor consideration of compensation for loss of property rights has been undertaken. The proposal goes well beyond the scope that the TPO allows.

3.3.7 The Board should make use of the zonings permitted by the TPO if it is convinced that the use of some form of gap or space is required for essential air ventilation. The proposed NBA on the Sun Fung Centre site can be zoned as "Open Space" ("O") or "Road" for if it is absolutely essential in the public interest, and resumed with compensation paid to the land owners.

3.4 Imposition of Building Gaps Inconsistent with the Town Planning Ordinance

Imposing Building Gaps violates the Intention of Outline Zoning Plans

3.4.1 REDA opposes to the requirement 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



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

inconsistent with good town planning practice and could be considered inconsistent with the TPO in relation to the content and application of statutory plans. This may be subject to legal challenge.

SBD Guidelines more Appropriate for Air Paths

- 3.4.2 The SBD Guidelines have a much more advanced and flexible approach to providing space around and through buildings than the incorrect use of building gaps on OZP. Provision of air paths would be more appropriately catered for under the SBD regime. Therefore, the proposed building gaps should be removed.

No Provision for Compensation of Loss of Property Right for Air Ventilation Reasons

- 3.4.3 The justifications stated in Paragraphs 7.8 of the Explanatory Statement for providing building gaps for the “CDA” zones and Waterside Plaza development are on air ventilation reasons. Building gap restrictions imposed would affect property rights. Affected values of sites in Government’s land bank will be reflected in land sales. However, REDA is concerned about the property rights of private owners, there is no provision that the loss of their ownership rights could be compensated for on air ventilation grounds.
- 3.4.4 Paragraph 7.8 indicates varying building gaps with different BHRs with no justification as to why they must be at the specified width, and why they must be at the specified BHRs. There is no indication that alternatives have been considered and those proposed are the only solution. Therefore, all building gaps should be removed particularly those within private sites.

Sudden Introduction of Restrictions delay Development Process

- 3.4.5 It is noted that the draft OZP has introduced restrictions that do not give due regard to the Master Layout Plans of the railway property developments that are already approved by the Board. This does not only cause unnecessary frustrations to the developments that have just been awarded by the railway company, but also upsets the tender schedule for those sites that are planned for tender, thus delaying the housing supply for alleviating the imminent housing shortage.

3.5 Application of Sustainable Building Design Guidelines (SBD Guidelines)

- 3.5.1 The SBD Guidelines have identified 3 key building design elements: building separation, building set back and site coverage of greenery. The objectives of



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

putting forward the SBD Guidelines are to achieve better air ventilation, enhance the environmental quality of our living space, particularly at pedestrian level, provide more greenery and mitigate the heat island effect. However, REDA considers that building height restrictions imposed on the OZP are set so low that the SBD Guidelines are difficult to be implemented.

- 3.5.2 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.
- 3.5.3 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 can be taken account of. The desirable 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.
- 3.5.4 REDA is concerned that in setting the BHR, the Building Gaps and NBA, no consideration has been given to the need for future developments to comply with the SBD Guidelines. The SBD Guidelines are progressively becoming integral parts of the building development process in Hong Kong and are becoming a requirement under new leases. They are promoted by the government to achieve the same objectives as the NBA and building gaps on the OZP and they unnecessarily duplicate and conflict with the new provisions on the OZP. There has been no serious attempt to allow for the incorporation of the SBD requirements when preparing BHRs.

3.6 No Public Consultation

- 3.6.1 The BHRs, NBAs and building gaps, 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 or 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, building gaps 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.



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

- 3.6.2 It is strongly suggested that Planning Department should have carried out a planning study and public engagement process for the current proposed amendments. The Department should have presented the public with the visual impact assessment and diagrams for consultation, in order that owners, stakeholders and the general public, could be informed of the implications of the AVA, the height restrictions and the other amendments. Options should have been provided for discussion. The public could have submitted their comments before the restrictions became statutory controls. Consultation of the Tsuen Wan 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.

4. **Proposals to Meet the Representation**

Building Height Restrictions

- 4.1 A modest increase of all BHRs by 20m would provide a significant degree of design flexibility while achieving the general objectives of twin city nodes and stepped building heights. Height restrictions set at the increased levels would also result in developments of varied heights which may facilitate better air ventilation and a more interesting skyline. A more generous building height bands of 120mPD, 140mPD and 160mPD would encourage innovative design and built form, with opportunities for provision of GIC facilities and ground floor open space for the enjoyment of local community and visitors. Many developments would not reach these maximum building heights due to plot ratio restriction, thus resulting in variety and interest.
- 4.2 The BHRs must be reviewed to make better use of the air space to accommodate floor space and to free up the lower level space for better air ventilation and street environment as well as to take account of specific site characteristics and constraints. Therefore, given the existing and committed building height profile of R(A)14, R(E) and OU(B) sites at Kwok Shui Road, an increase in the BHRs of 120m to 160mPD is considered appropriate and this should be amended accordingly.

Deletion of Non Building Areas

- 4.3 The legal basis for the imposition of the NBAs and the technical justification for them are questionable. It is proposed that the requirement for the NBAs to be deleted completely. Should the Board consider it necessary to provide gaps, a more suitable zoning such as "Open Space" should be used for clear demarcation. Should however the NBAs be retained, the words "under



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

exceptional circumstances” should be removed from the Notes to the relevant zones so that a relaxation can be decided on its own merits.

Deletion of Building Gaps

- 4.4 All building gaps should be deleted from the OZP.

The wording of the Minor Relaxation Clause should be Amended

- 4.5 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.

Different Building Height Restrictions for Different Sized Sites Should be Deleted

- 4.6 The provisions for lower heights for smaller sites in the R(A)13 zone should be deleted and all sites allowed the greater height.

Removal of Spot Heights

- 4.7 Sites with similar planning characteristics should be treated in a fair and equitable manner and should not be imposed with spot BHRs. These sites should be set with the highest BHRs. The same applies to those sites with several BHRs within a single site.

Consolidation of Spot Zones into Broad Zones

- 4.8 Instead of creating additional sub-zones relating to specific approved developments the Board should revert to the broad generalized zoning that previously applied to the R(A), R(B) and G/IC zones.

5. Conclusion

- 5.1 The building height restrictions, NBAs and building gaps requirements imposed on the OZP go much further than is necessary to achieve the stated objectives in the Explanatory Statement. The BHRs are generally set so low as to stifle good design and achievement of a good quality of urban environment. The approach of imposing spot heights, NBA and building gaps is considered fundamentally against the broad zoning approach which is consistent with treating private property rights in a generalized, fair and consistent manner.



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

- 5.2 The proposed amendments to the Tsuen Wan OZP 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, high quality form of urban development for Tsuen Wan.

The Real Estate Developers Association of Hong Kong
April 2012