

**CONSIDERATION OF FURTHER REPRESENTATION NO. FF1  
ON PROPOSED AMENDMENTS TO THE DRAFT NGAU TAU KOK  
AND KOWLOON BAY OUTLINE ZONING PLAN NO. S/K13/29  
ARISING FROM THE RE-CONSIDERATION OF REPRESENTATION NO. R2 ON THE  
DRAFT NGAU TAU KOK & KOWLOON BAY OUTLINE ZONING PLAN NO. S/K13/26**

<b>Subject of Further Representation</b>	<b>Further Representer</b>
<b>Oppose</b> the proposed amendment Item A to delete the building gap (BG) requirement within “Other Specified Uses” annotated “Business (2)” (“OU(B)2”) zone with revision of the building height restriction (BHR) from 22mPD to 170mPD for the area concerned and revision to the Remarks of the Notes for the “OU(B)” zone accordingly ( <b>Plan FH-1</b> )	<b>FF1: Individual</b>

**1. Introduction**

- 1.1 On 19.11.2010, the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/26 (the Plan) was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the plan exhibition period, a total of 1,304 representations and 1 comment were received. **R2** was submitted by the Real Estate Developers Association of Hong Kong (REDA) opposing the BHRs for all residential and Government, Institution or Community (“G/IC”) zones outside Kowloon Bay Business Area (KBBA) and all non-building area (NBA) and BG requirements in various zones. On 27.5.2011, the Town Planning Board (the Board) considered **R2** and decided not to uphold **R2**<sup>1</sup>.
- 1.2 A judicial review (JR) was lodged by REDA on 25.7.2011 against the decisions of the Board not to propose amendments to the Plan and three other OZPs<sup>2</sup> in accordance with its representations. On 3.2.2015, the Court of First Instance (CFI) allowed the JR by REDA and ordered that the Board’s decisions on REDA’s representations in respect of the four OZPs be quashed and that the decisions be remitted to the Board for re-consideration.

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<sup>1</sup> On 27.5.2011 and 1.6.2011, after giving consideration to the representations (including **R2**) and comment, the Board decided to partially meet some representations and decided to propose amendments to the Plan under section 6B(8) of the Ordinance. On 30.6.2011, the proposed amendments were published for three weeks for further representations. A total of 286 further representations were received. On 3.2.2012, the Board gave consideration to the further representations and decided to amend the OZP by the proposed amendments under section 6F(8) of the Ordinance.

<sup>2</sup> The three other OZPs are the Wan Chai, Mong Kok and Yau Ma Tei OZPs.

- 1.3 Pursuant to the Court's order on REDA's JR, the Board re-considered **R2**'s representation on 27.9.2019. The Board decided to partially meet the representation and to propose amendment to the draft Ngau Tau Kok and Kowloon Bay OZP No. S/K13/29 under section 6B(8) of the Ordinance, by deleting the BG requirement within the "OU(B)2" zone with revision of the BHR from 22mPD to 170mPD for the area concerned (**Amendment Item A**) and revision to the Remarks of the Notes for the "OU(B)" zone accordingly. The Board also decided not to uphold the remaining part of the representation relating to revisions of the BHRs and deletion of NBA and BG requirements on all other zones that were subject of **R2**'s representation. The relevant TPB Paper No. 10575 and the minutes of the aforesaid Board's meeting are deposited at the Board's Secretariat for Members' inspection. They are also available at the Board's website.
- 1.4 On 18.10.2019, the proposed amendments were exhibited for public inspection under section 6C(2) of the Ordinance. A copy of the Schedule of Proposed Amendments, Amendment Plan No. R/S/K13/26-B1 and Proposed Amendments to the Notes and Explanatory Statement of the draft Ngau Tau Kok and Kowloon Bay OZP No. S/K13/29 is attached at **Enclosure I**. Upon expiry of the 3-week exhibition period, 1 further representation (**FF1**) submitted by an individual was received.
- 1.5 On 22.11.2019, the Board decided to hear **FF1** at its meeting. This paper is to provide the Board with information for the consideration of **FF1**. A summary of **FF1** with Planning Department (PlanD)'s responses, in consultation with the concerned government departments, is at paragraphs 3 and 4 below. A copy of **FF1** is attached at **Enclosure II** and the further representation site of **FF1** is shown on **Plan FH-1**.
- 1.6 In accordance with section 6F(3) of the Ordinance, the original representers/commenters who have made representations/comments after consideration of which the proposed amendments have been made (in this case **R2** with no related commenter) and the further representer **FF1** have been invited to attend the meeting.

## 2. **Background**

- 2.1 Pursuant to the Court's order on REDA's JR, a review of the OZP restrictions was undertaken by PlanD taking into account the Court's ruling that was related to the Board's duty to make sufficient inquiries in relation to REDA's representation including the effects of sustainable building design guidelines (SBDG), air ventilation and building height profile in determining the development restrictions on the OZP. The development restrictions of the OZP were reviewed considering the implications of SBDG and changes in the planning environment since 2010 (the Review). An Air Ventilation Assessment (AVA) by expert evaluation was conducted in 2010 (AVA 2010) in support of the development restrictions stipulated under OZP No. S/K13/26. For the Review, an updated AVA was completed in 2019 (AVA 2019) to review whether the development restrictions on the OZP remain appropriate from air ventilation viewpoint.

- 2.2 On 9.3.2018 and 25.1.2019, the Board noted the findings of the Review that the BHRs as well as requirements for NBA and BG on respective zones should generally be able to accommodate the plot ratio/gross floor area permitted under the OZP after taking into account the SBDG requirements (TPB Papers No. 10397 and 10515).
- 2.3 On 27.9.2019, the Board re-considered **R2**'s representation taking into account the planning considerations and assessment in TPB Paper No. 10575 and the representer's submissions and presentation at the re-hearing. The Board noted that the development restrictions could accommodate the development intensities stipulated on the OZP taking into account the implications of SBDG. The Board also agreed that the principle it had adopted for reviewing other OZPs (Wanchai, Causeway Bay, Mong Kok) of retaining NBA and BG restrictions with district-wide significance and removing those restrictions where localised wind environment could be improved through SBDG was followed in the Review. Based on the above and having considered the specific grounds of **R2** as highlighted in paragraph 4.4 below, the Board decided to propose amendment to delete the BG requirement at the "OU(B)2" zone and decided to retain all BHRs, NBAs and BGs covering various other zones.

### 3. The Further Representation

#### Major Grounds of Further Representation

- 3.1 **FF1** opposed the proposed amendment to delete the BG requirement (from Lam Fung Street to Sheung Yee Road) for the "OU(B)2" zone mainly on the following grounds:
- (a) there was no justification for the proposed deletion of the BG on the Site which was within a very congested built-up area. There was no objection on the part of the community to that BG requirement (at the representation stage of OZP No. S/K13/26) and it seemed that the Board proposed deletion of the BG when re-considering **R2**'s representation in order to prove that it had complied with the JR ruling;
  - (b) relevant and sufficient documents and information should be provided to members of the public when publishing the proposed amendments for further representations; and
  - (c) the cumulative impact of the planning applications for relaxing the development intensity of various sites in the district, which had rendered the AVA obsolete, had not been duly considered.

#### Further Representer's Proposal

- 3.2 **FF1** has not provided any proposal.

#### 4. Planning Considerations and Assessments

##### *The “OU(B)2” zone and its surroundings (Plans FH-1 to FH-4)*

- 4.1 The proposed amendment is related to the “OU(B)2” zone (Mega Box site) which is subject to a BHR of 170mPD. The BG requirement is a 15m-wide BG in north-south direction from Lam Fung Street to Sheung Yee Road. In addition to the BG requirement, there is a 3m-wide NBA stipulated within the “OU(B)2” zone along the Wang Chiu Road boundary. The NBA requirement is stipulated on all sites on both sides of Wang Chiu Road to enhance the major air path/breezeway of district-wide significance.
- 4.2 To the immediate north and west of the Mega Box site are two sites zoned “Open Space” (“O”) occupied by the Zero Carbon Building and Kwun Tong Community Green Station. Abutting the eastern boundary is Wang Chiu Road. To the further east across Wang Chiu Road is Enterprise Square Three site zoned “OU(B)” and subject to a BHR of 170mPD. To the south of the Site is an area zoned “Government, Institution or Community (1)” currently occupied by the Police Vehicle Detention and Examination Centre, which is subject to a BHR of 40mPD.

##### *Responses to Grounds of Further Representation*

##### Justification for the Proposed Deletion of the BG on the Mega Box site

- 4.3 The BG requirement in the “OU(B)2” zone was previously stipulated on the Plan in accordance with the findings of the AVA 2010 in that the BG served to form a wind corridor through the middle of the site, mainly for incoming southerly winds to connect through the “O” zone (with the Zero Carbon Building) to Wang Kwun Road further north. Given the large area of Mega Box site (about 1.2ha) and long frontal length (about 120m between Sheung Yee Road and Wang Chiu Road), the BG requirement (that was to be provided upon redevelopment) could minimize the wake area in the “O” zone to its north under prevailing southerly wind by reducing the width of the frontal area of the building. With a BHR of 170mPD of the Mega Box site, it was considered that there would be reasonable allowance for design flexibility to achieve the permissible PR of 12 under the OZP even with the BG and NBA requirements.
- 4.4 In its representation in respect of the Plan, **R2** proposed to delete the BG at the Mega Box site on grounds that the big open spaces to the north and west of the Mega Box site and Wang Chiu Road could also allow good air penetration in the locality; that the alignment of the BG through the middle of the Mega Box site would create considerable design constraints; and that alternative permeable building design measures under SBDG would serve similar localized air ventilation purpose that would help reduce the wake area for the southerly wind affecting users of the open space and pedestrians in the north.
- 4.5 At the re-hearing of **R2** on 27.9.2019, after taking into account the original rationale for the BG requirement, **R2**'s grounds above and the principle that the Board had adopted in the review of other OZPs to retain NBA and BG requirements with district-wide significance and removing those restrictions where localised wind environment could be improved through SBDG, the

Board decided to propose amendments to the Plan by deleting the BG requirement for the Mega Box site to partially meet **R2**, whereas the NBA and BHR for the Mega Box site were both retained. The allegation on the ground that the Board proposed amendment only to prove that it has complied with the JR ruling is unfounded.

#### Provision of Information to Members of the Public

- 4.6 In the gazette notice dated 18.10.2019 for the subject proposed amendments to delete the BG at the Site, it is clearly stated that the proposed amendments were made by the Board upon re-consideration of the representation in relation to the draft Ngau Tau Kok and Kowloon Bay OZP No. S/K13/26 pursuant to the Court's ruling on a JR. The hearing for the re-consideration of **R2** was clearly set out in the Board's website with links to the full version of the TPB Paper No. 10575.
- 4.7 TPB Paper No. 10575 included the grounds of representation, planning considerations and assessments, responses to grounds of representation and proposals, reasons for proposed amendments and reasons for not upholding the remaining part of the representation. The AVA 2019 and the Review of development restrictions were included as attachment to TPB Paper No. 10575. All of the materials above as well as the relevant minutes of the Board's meeting on 9.3.2018, 25.1.2019 and 27.9.2019 for re-consideration of **R2** have been uploaded to the Board's website and available for public inspection.

#### Cumulative Impact of Relaxing the Development Intensity of Various Sites and Validity of AVA 2019

- 4.8 To date, the Board has not considered any application for minor relaxation of PR and/or BH restrictions in KBBA relating to the Policy Initiatives of Revitalisation of Industrial Buildings as set out in the Policy Address 2018. **FF1**'s claim that the AVA 2019 has become obsolete is not supported by the facts.
- 4.9 Any future applications for minor relaxation of PR and/or BH restrictions in KBBA (including application No. A/K13/313 for minor relaxation of PR restriction from 12.0 to 14.4 and BHR from 120mPD to 143.65mPD for redevelopment of an existing industrial building for permitted office use that is yet to be submitted for the Board's consideration) have to be supported by relevant technical assessments and will be considered on their individual merits. On air ventilation aspect, such applications will need to observe the Joint HPLB-ETWB Technical Circular on AVA No. 1/06 and also be required to demonstrate that the proposed developments will fulfill SBDG requirements, which will benefit the localized wind environment.

## **5. Consultation**

- 5.1 The following government departments have been consulted on the further representation and their comments received have been included in the above paragraphs.
- (a) Chief Town Planner/Urban Design and Landscape, PlanD;

- (b) Commissioner for Transport;
- (c) Chief Building Surveyor/Kowloon, Buildings Department;
- (d) Chief Architect/Central Management Division 2, Architectural Services Department;
- (e) Chief Engineer/Mainland South, Drainage Services Department;
- (f) Chief Engineer/Construction, Water Supplies Department;
- (g) Chief Highway Engineer/Kowloon, Highways Department;
- (h) Director of Electrical and Mechanical Services;
- (i) Director of Environmental Protection;
- (j) Director of Fire Services;
- (k) Director of Leisure and Cultural Services;
- (l) District Lands Officer/Kowloon East, Lands Department;
- (m) District Officer (Kwun Tong), Home Affairs Department; and
- (n) Project Manager (East), Civil Engineering and Development Department.

## 6. **Planning Department's Views**

Based on the assessments made in paragraph 4 above, PlanD does not support the opposing views of **FF1** and considers that the draft OZP should be amended by the proposed amendments for the following reasons:

- (a) there is no need to retain the BG requirement on the “OU(B)2” site as its localised wind environment could be improved through SBDG requirements; and
- (b) the proposed amendment to the “OU(B)2” zone under Amendment Item A is in line with the Board’s principles adopted in review of OZPs to retain NBAs and BGs with district-wide significance and remove those where localised wind environment could be improved through SBDG.

## 7. **Decision Sought**

The Board is invited to give consideration to **FF1** taking into consideration the points raised in the further hearing, and decide whether to amend the draft OZP by the proposed amendments or by the proposed amendments as further varied during the hearing.

## 8. **Follow-up Action**

- 8.1 Should the Board decide to amend the draft OZP by the proposed amendments or the proposed amendment(s) as further varied, such amendment(s) shall form part of the draft Ngau Tau Kok and Kowloon Bay OZP No. S/K13/29. In accordance with section 6H of the Ordinance, the draft OZP shall thereafter be read as including the amendment(s). The amendment(s) shall be made available for public inspection until the Chief Executive in Council has made a decision in respect of the draft OZP in question under section 9 of the Ordinance.

- 8.2 Administratively, the Building Authority and relevant government departments will be informed of the decision of the Board and will be provided with a copy/copies of the amendment(s).

**Attachments**

<b>Plan FH-1</b>	Location plan of further representation
<b>Plan FH-2</b>	Site plan of amendment item
<b>Plan FH-3</b>	Aerial photo of amendment item
<b>Plan FH-4</b>	Site photo of amendment item
<b>Enclosure I</b>	Schedule of Proposed Amendments, Amendment Plan and proposed amendments to the Notes and Explanatory Statement of the OZP
<b>Enclosure II</b>	Copy of FF1

**PLANNING DEPARTMENT  
DECEMBER 2019**