圖例 NOTATION

Annex I of TPB Paper No. 10575

ZONES 地帶

COMMERCIAL	C	商業
RESIDENTIAL (GROUP A)	R(A)	住宅（甲類）
RESIDENTIAL (GROUP B)	R(B)	住宅（乙類）
GOVERNMENT, INSTITUTION OR COMMUNITY	G/IC	政府、機構或社區
OPEN SPACE	O	休憩用地
OTHER SPECIFIED USES	OU	其他指定用途
GREEN BELT	GB	綠化地帶

COMMUNICATIONS 交通

RAILWAY AND STATION (UNDERGROUND)	MTR STATION	鐵路及車站（地下）
RAILWAY AND STATION (ELEVATED)	MTR STATION	鐵路及車站（高架）
MAJOR ROAD AND JUNCTION		主要道路及路口
ELEVATED ROAD		高架道路

MISCELLANEOUS 其他

BOUNDARY OF PLANNING SCHEME		規劃範圍界線
BUILDING HEIGHT CONTROL ZONE BOUNDARY		建築物高度管制區界線
MAXIMUM BUILDING HEIGHT (IN METRES ABOVE PRINCIPAL DATUM)	120	最高建築物高度（在主水平基準上若干米）
MAXIMUM BUILDING HEIGHT (IN NUMBER OF STOREYS)	8	最高建築物高度（樓層數目）
PETROL FILLING STATION	P F S	加油站
NON-BUILDING AREA	NBA	非建築用地

土地用途及面積一覽表 SCHEDULE OF USES AND AREAS

USES	大約面積及百分率 APPROXIMATE AREA & % 公頃 HECTARES	% 百分率	用途
COMMERCIAL	2.42	0.71	商業
RESIDENTIAL (GROUP A)	60.36	18.27	住宅（甲類）
RESIDENTIAL (GROUP B)	4.74	1.39	住宅（乙類）
GOVERNMENT, INSTITUTION OR COMMUNITY	50.86	14.90	政府、機構或社區
OPEN SPACE	52.15	15.28	休憩用地
OTHER SPECIFIED USES	44.03	12.90	其他指定用途
GREEN BELT	52.64	15.43	綠化地帶
MAJOR ROAD ETC.	72.07	21.12	主要道路等
TOTAL PLANNING SCHEME AREA	341.26	100.00	規劃範圍總面積

夾附的《註釋》屬這份圖則的一部分，
現經修訂並按照城市規劃條例第5條展示。
THE ATTACHED NOTES ALSO FORM PART OF THIS PLAN
AND HAVE BEEN AMENDED FOR EXHIBITION UNDER
SECTION 5 OF THE TOWN PLANNING ORDINANCE

核准圖編號 S/K13/25 的修訂
AMENDMENTS TO APPROVED PLAN No. S/K13/25

按照城市規劃條例第5條展示的修訂
AMENDMENTS EXHIBITED UNDER SECTION 5 OF THE TOWN PLANNING ORDINANCE

- 修訂項目A項 AMENDMENT ITEM A
- 修訂項目B1，B2，B3，B4，B5項 AMENDMENT ITEMS B1,B2,B3,B4,B5
- 修訂項目C1，C2，C3，C4項 AMENDMENT ITEMS C1,C2,C3,C4
- 修訂項目D1，D2，D3，D4，D5，D6項 AMENDMENT ITEMS D1,D2,D3,D4,D5,D6
- 修訂項目E1，E3項 AMENDMENT ITEMS E1,E3
- 修訂項目E2，E5項 AMENDMENT ITEMS E2,E5
- 修訂項目E4項 AMENDMENT ITEM E4
- 修訂項目F1，F2，F3項 AMENDMENT ITEMS F1,F2,F3
- 修訂項目G1，G2項 AMENDMENT ITEMS G1,G2

（參看附表）
(SEE ATTACHED SCHEDULE)

2010年11月19日 按照城市規劃條例第5條展示的核准圖編號 S/K13/25 的修訂
AMENDMENTS TO APPROVED PLAN No. S/K13/25 EXHIBITED UNDER SECTION 5 OF THE TOWN PLANNING ORDINANCE ON 19 NOVEMBER 2010

S. LAU 劉星
SECRETARY 城市規劃委員會秘書
TOWN PLANNING BOARD

香港城市規劃委員會依據城市規劃條例擬備的牛頭角及九龍灣（九龍規劃區第13及17區）分區計劃大綱圖
TOWN PLANNING ORDINANCE, HONG KONG TOWN PLANNING BOARD
KOWLOON PLANNING AREAS No. 13 & 17 - NGAU TAU KOK & KOWLOON BAY - OUTLINE ZONING PLAN

SCALE 1:5000 比例尺
米 METRES 100 0 200 400 600 800 METRES 米

規劃署遵照城市規劃委員會指示擬備
PREPARED BY THE PLANNING DEPARTMENT UNDER THE DIRECTION OF THE TOWN PLANNING BOARD

圖則編號 PLAN No. **S/K13/26**

本摘要圖於2019年9月4日擬備
EXTRACT PLAN PREPARED ON 4.9.2019

參考編號 REFERENCE No. R/S/K13/26-2

城市規劃委員會根據城市規劃條例(第 **131** 章)
對牛頭角及九龍灣分區計劃大綱核准圖編號 **S/K13/25**
所作修訂項目附表

I. 就圖則所顯示的事項作出的修訂項目

A 項 - 爲九龍灣商貿區外的「住宅(甲類)」地帶、「住宅(乙類)」地帶、「政府、機構或社區」地帶及「政府、機構或社區(2)」地帶訂定新的建築物高度限制。

B1 項 - 把位於宏基街「政府、機構或社區(1)」地帶中間的一塊狹長土地指定爲「非建築用地」。

B2 項 - 把位於宏茂道「其他指定用途」註明「商貿」地帶西面界線的一塊狹長土地指定爲「非建築用地」。

B3 項 - 把位於觀塘道及彩石里交界處附近的「住宅(甲類)」地帶北面和東面界線的兩塊狹長土地指定爲「非建築用地」。

B4 項 - 把位於坪石邨的「住宅(甲類)」地帶內的斜坡指定爲「非建築用地」。

B5 項 - 把位於順緻苑的「住宅(乙類)」地帶內的斜坡指定爲「非建築用地」。

C1 項 - 爲介乎臨興街至常悅道的「商業」、「其他指定用途」註明「商貿」和「其他指定用途」註明「商業用途包括公共車輛總站」地帶的三塊劃爲建築物間距的狹長土地訂定建築物高度限制。

C2項 - 爲位於觀塘道及彩石里交界處附近的「住宅(甲類)」地帶內一塊劃爲建築物間距的狹長土地訂定建築物高度限制。

C3項 - 爲觀塘道及偉業街之間「其他指定用途」註明「香港鐵路車廠連上蓋的商業及住宅發展」地帶內三塊劃爲建築物間距的狹長土地訂定建築物高度限制。

C4項 - 爲介乎臨豐街至常怡道的「其他指定用途」註明「商貿(2)」地帶內一塊劃爲建築物間距的狹長土地訂定建築物高度限制。

D1項 - 把位於啓業邨內的一所現有學校由「住宅(甲類)」地帶改劃爲「政府、機構或社區」地帶，並訂定建築物高度限制。

D2項 - 把位於啓仁街的一塊狹長土地由「休憩用地」地帶改劃爲「政府、機構或社區(1)」地帶，以配合現有學校的界線，並訂定建築物高度限制。

D3項 - 把位於觀塘道與牛頭角道交界處一塊土地由「住宅(甲類)」地帶改劃爲「政府、機構或社區(1)」地帶，並訂定建築物高度限制。

D4項 - 把位於觀塘道的一所現有歷史建築物由「休憩用地」地帶改劃爲「政府、機構或社區(2)」地帶，並訂定建築物高度限制。

D5項 - 把彩霞道一塊土地由「政府、機構或社區」地帶改劃爲「政府、機構或社區(3)」地帶，並訂定建築物高度限制。

D6項 - 把位於利安道的一所現有學校由「住宅(甲類)」地帶改劃爲「政府、機構或社區」地帶，以反映

現有學校，並訂定建築物高度限制。

E1 項 - 把清水灣道一塊土地由「政府、機構或社區」地帶」改劃爲「其他指定用途」註明「商業／住宅發展連公眾停車場及公共交通交匯處」地帶，並訂定建築物高度限制。

E2 項 - 把位於觀塘道及偉業街之間的一塊土地由「其他指定用途」註明「地下鐵路綜合發展區」地帶改劃爲「其他指定用途」註明「香港鐵路車廠連上蓋的商業及住宅發展」地帶，並訂定建築物高度限制。

E3 項 - 把位於觀塘道旁邊一塊土地由「其他指定用途」註明「地下鐵路綜合發展區」地帶和「道路」用地改劃爲「其他指定用途」註明「鐵路」地帶，以反映現有香港鐵路九龍灣站的設施，並訂定建築物高度限制。

E4 項 - 把位於常怡道及啓福道的一塊狹長土地由「休憩用地」地帶和「道路」用地改劃爲「其他指定用途」註明「園景美化高架行人道」地帶。

E5 項 把介乎臨豐街、宏照道、常怡道範圍內位於一塊土地由「其他指定用途」註明「商貿」地帶改劃爲「其他指定用途」註明「商貿(2)」地帶。

F1 項 - 把位於清水灣道的現有休憩處由「政府、機構或社區」地帶改劃爲「休憩用地」地帶。

F2 項 - 把位於新清水灣道順利邨遊樂場由「政府、機構或社區」地帶改劃爲「休憩用地」地帶。

F3 項 - 把前牛頭角下邨的一塊土地由「住宅(甲類)」地帶改劃爲「休憩用地」地帶。

G1 項 - 把彩石里一塊狹長土地由「政府、機構或社區」地帶改劃爲「道路」用地。

G2 項 - 把觀塘道和牛頭角道間的一塊土地由「住宅(甲類)」地帶改劃爲「道路」用地。

II. 就圖則《註釋》作出的修訂項目

(a) 在「住宅(甲類)」、「住宅(乙類)」、「政府、機構或社區」地帶「註釋」的「備註」中，加入建築物高度限制和略爲放寬該限制的條款。

(b) 在「商業」、「住宅(甲類)」、「其他指定用途」註明「商貿」及「其他指定用途」註明「商業用途包括公共車輛總站」地帶「註釋」的「備註」中，加入建築物間距限制和略爲放寬該限制的條款。

(c) 在「其他指定用途」註明「商貿(2)」支區地帶「註釋」的「備註」中，加入建築物間距限制和略爲放寬該限制的條款; 並加入可申請以其他方法替代該限制的的條文。

(d) 在「商業」、「住宅(甲類)」、「其他指定用途」註明「商貿」和「其他指定用途」註明「商業用途包括公共車輛總站」地帶「註釋」的「備註」中，加入略爲放寬地積比率限制的條款。

(e) 在「住宅(甲類)」地帶「註釋」的「備註」中加入一項條款，以釐清現有建築物的地積比率的適用範圍。

(f) 在「住宅(甲類)」及「住宅(乙類)」地帶「註釋」的「備註」中，加入略爲放寬非建築用地限制的條款。

(g) 在「政府、機構或社區(1)」、「休憩用地」、「其他指定用途」註明「商貿」、「其他指定用途」註明

「商貿(2)」和「其他指定用途」註明「垃圾轉運站」地帶「註釋」的「備註」中，加入非建築用地限制和略爲放寬該限制的條款。

(h) 修改「住宅(乙類)」地帶「註釋」的「備註」中的發展限制，以及加入略爲放寬該限制的條款。

(i) 在「政府、機構或社區」地帶「註釋」的「備註」中加入一項條文，訂明在以樓層數目訂定最高建築物高度限制時，地庫樓層可免計算在內。

(j) 修訂「政府、機構或社區(2)」支區地帶「註釋」的「備註」，以反映保存歷史建築物的規劃意向。

(k) 在「政府、機構或社區(3)」支區地帶「註釋」的「備註」中，加入總樓面面積限制、釐清總樓面面積的寬免條款和略爲放寬該限制的條款。

(l) 在「其他指定用途」註明「商業用途包括公共車輛總站」地帶「註釋」的「備註」中，加入提供公共車輛總站的規定。

(m) 刪除「其他指定用途」註明「地下鐵路綜合發展區」地帶。

(n) 加入「其他指定用途」註明「香港鐵路車廠連上蓋的商業及住宅發展」、「其他指定用途」註明「商業／住宅發展連公眾停車場及公共交通交匯處」、「其他指定用途」註明「園景美化高架行人道」和「其他指定用途」註明「鐵路」地帶的新「註釋」。

(o) 修訂「住宅(甲類)」及「住宅(乙類)」地帶「註釋」的「備註」，以澄清在計算地積比率／總樓面面積時有關管理員宿舍和康樂設施的豁免條文。

(p) 修訂「其他指定用途」註明「露天貨車停車場」地帶的註明及「註釋」，以訂明該地帶的規劃意向是作露天貨車停車場。

城市規劃委員會
2010 年 11 月 19 日

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

19 January 2011

By fax and mail

The Secretary
Town Planning Board
15 Floor North Point Government Offices
333 Java Road
North Point
Hong Kong

Dear Sir

**Representations in Relation to the
Amendments to the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan
(Amendments shown on Plan Number S/K13/26)**

We refer to the proposed amendments to the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan which have been shown on the Draft Outline Zoning Plan No. S/K13/26 gazetted on 19 November 2010.

We hereby submit Representations to the Amendments under Section 6(1) of the Town Planning Ordinance. The reasons for the Representations are included in the paper attached to this letter.

Please note that this Representation relates to matters of principle and should not be used as a basis for rejection of any development which complies with the restrictions on the Outline Zoning Plan. Our proposals are for a relaxation of the restrictions and more flexibility in design.

We retain the right to provide additional information in support of this Representation and to raise additional points, if necessary.

Yours sincerely,

Louis Loong
Secretary General

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 Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26 -- 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 (BHRs), building gap Restrictions and Non-building Areas (NBAs) and other associated matters included as amendments in the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26 (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 BHR, building gap restrictions, NBAs and other restrictions in the amendments shown to the OZP. In other words, this representation objects to Amendment Items A, B1 – B5, C1 – C4 on the Plan and (a), (b), (f) and (g) of Amendments to the Notes of the Plan.

2.2 This representation is made in the broad interests of Hong Kong as a whole including the interests of individual property owners. It is REDA's views that any planning changes should enhance the economic growth of Hong Kong, maintain an efficient and sustainable urban development system, and respect the private property rights of individual property owners.

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 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 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 7.2 of the Explanatory Statement that the reasons for the imposing of building height limits are:

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

3.1.3 No 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. The consequences include lowering property values and reducing air ventilation at street level.

3.1.4 It is considered that most of the objectives for the building height restrictions can be achieved with height limits imposed at a level which generally permits a more reasonable form of development while achieving 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 positions. High-rise developments in the order of 40 storeys have been in place in various parts of Hong Kong for years and they are acceptable to the public.

3.1.6 The OZP generally allows for an absolute height of only about 80m to about 100m for many of the residential sites. The absolute heights are equivalent to about 25 to 32 storeys. It is considered that the height restrictions have been set unreasonably low, lower than what is necessary to address the public concern.

Preservation of Ridgelines and Stepped Building Heights

3.1.7 The Urban Design Guidelines Study has identified four key vantage points on the Hong Kong Island. The Hong Kong Convention and Exhibition Centre (HKCEC) and the Quarry Bay Park are the most relevant ones for visual impact considerations in this Outline Zoning Plan. The previous Planning Department study on visual impact used as a basis to set the BHRs for the Kowloon Bay

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

Business Area had accepted BHRs of 120mPD to 140mPD for much of the OU(B) zone in the Kowloon Bay Business Area (KBBA).

3.1.8 It is therefore illogical to adopt a descending BHR profile to the east, from the 120mPD along Wai Yip Street, and to disallow continued increase in BHRs across Telford Gardens, across Kwun Tong Road and Ngau Tau Kok Road. The whole of this central area should have increased BHRs ranging from 140mPD to 150mPD to maintain the rising profile of building heights, while still protecting the ridgelines from the recognized viewpoints.

3.1.9 The Planning Department appear to have arbitrarily adopted other "view corridors" such as from a footbridge near Choi Ying Place, and used this as a reason for reducing BHRs. There is no particular reason why this footbridge or the other viewpoints should be selected as they have no significant characteristics which make them more important than any other place for creating view corridors. These have not been established after public consultation and should not be given any significance.

Building Height and Air Ventilation

3.1.10 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 building height limits as this tends to force developments down into a solid mass of building rather than encouraging the creation of space around buildings at street level. The imposition of the height limit at a level which is too low therefore creates a solid wall effect closer to ground level.

Need for Reasonable Building Height

3.1.11 The overall height profile of the Planning Area is formed mainly by the Residential and Business zones with Open Space and G/IC zones as visual relief and breathing space. However, the new BHRs stipulated on the Outline Zoning Plan are generally too low.

3.1.12 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. In this respect a more reasonable approach has been taken in the previous exercise for establishing the BHRs for the OU(B) in the KBBA where 120 – 170mPD BHRs were imposed.

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

3.1.13 Imposition of unreasonably low building height limit restrains the building bulk, making incorporation of innovative architectural design and void feature impossible. This directly affects streetscape, air ventilation and the quality of life of the users of the development.

3.1.14 It would also appear that the result of the BHR imposition in that the private land in the vicinity of Kwun Tong Road , i.e. in the 'valley' created by the approach outlined in paragraph 3.1.7 above, is that the private land has been provided with much more restrictive BHRs than the public housing sites in the Area. The assumptions regarding the floor-to-floor heights and plot ratios used in determining the BHRs on public and private land should be provided.

3.2 No Public Consultation

3.2.1 The BHRs, 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 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, setback requirements 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.

3.2.2 This is strongly contrasted with the approach taken in 2004 when a "Study of "Building Height Restrictions for Kwun Tong and Kowloon Bay Business Area" was undertaken and TPB Guidelines issued to propose a temporary arrangement during the processing of the proposed BHRs. It is strongly suggested that the Planning Department should have carried out a similar planning study 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.

3.3 Non-Building Areas

3.3.1 NBAs are extensively introduced throughout the Outline Zoning Plan 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

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

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.

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 The proposed NBAs on this OZP are a major deprivation of the development rights of private landowners without any form of compensation. The AVA assessment carried out for the review of the OZP is inadequate to justify the extent of imposition that is proposed. No information was included in the AVA to justify the extent of intrusion into private property rights that is proposed. For example there is no indication of the extent of adverse impact of the existing situation, or the extent of improvement that would be obtained, by the imposition of the NBA restriction through the centre of Enterprise Square V/Mega Box, or through Kai Tak Mansions. No critical assessment has been undertaken to show that such proposals are <u>essential</u> for the public good, and no alternatives have been considered, and no consideration of compensation for owners for the loss of their property rights has been considered. These proposals go way beyond the scope that the Town Planning Ordinance allows.

3.3.6 The Board should make use of the zonings permitted by the Town Planning Ordinance if it is convinced that the use of some form of gap or space is required for essential air ventilation. For example, Amendment Item B4 relates to an extensive vegetated slope at Ping Shek Estate which should be zoned as "Green

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

Belt" if it is not to be built on, or "Open Space". Both zones are abutting the NBA. The same applies to B5 near Shun Chi Court. Similarly, the NBA proposed by Amendment Item C1 should be zoned as "Open Space" if it is absolutely essential in the public interest, and resumed with compensation paid to the land owners. This would then be the same situation as that for the existing linear park zoned "O" and located to the east between Kai Cheung Road and Sheung Yuet Road.

3.4 Building Gaps and Setbacks

Imposing Setbacks violates the Intention of Outline Zoning Plans

3.4.1 REDA is opposed to requirements for setbacks 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 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 proposes is considered wrong and may be subject to legal challenge.

Lack of Legal Basis for Setbacks for Air Paths

3.4.2 In addition, there is no legal recognition of the provision of setbacks for "air paths" as being a public purpose for which private land could be taken. It is therefore considered inappropriate for the Board to include these on the OZP and to be a matter outside the provisions of the Town Planning Ordinance.

Inadequate Justifications provided in Explanatory Statement for Setback Requirement

3.4.3 The justifications stated in the Explanatory Statement for providing setbacks for the "OU(B)", "G1IC(4)" and other zones are confusing. The sub-paragraphs of paragraphs 8.6 of the Explanatory Statement of the Outline Zoning Plan, indicate varying building gaps and set-backs with no justification as to why they are essential, why they must be the specified width, and why some must be at ground level and others can be at 22mPD. There is no justification as to why there should be an additional set-back along some of the widest streets in the KBBA namely Wang Kwong Road and Wang Chiu Road. This imposition is considered to be unreasonable as the streets are already sufficiently wide to provide adequate space for vehicles, pedestrian and need not be wider for 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

3.4.4 The unclear justifications for the setback requirements would render unnecessary complication related to compensating private land owners for the loss of their land for a public purpose under the Buildings Ordinance and the Roads (Works Use and Compensation) Ordinance. In these circumstances, REDA requests that all setback requirements be removed from the Outline Zoning Plan.

3.5 Spot Zoning Approach Inconsistent with the Town Planning Ordinance

3.5.1 The Explanatory Statement in paragraph 3.2 indicates that *"The Plan is to illustrate the broad principles of development and to provide guidelines for more detailed planning within the Planning Scheme Area"*. The principle of establishing broad statutory zones with similar characteristics has been largely abandoned in relation to the OZP. The approach adopted has been unnecessarily restrictive and too detailed.

3.5.2 This can be seen in the designation of NBAs and setback requirements in a number of sites as detailed above, and also violates the broad principles of statutory town planning. The imposition of different BHRs within the same site, such as the imposition of 22mPD within sites in the OU(B) zones which have a general height of 140mPD, is an example of how this should not be applied.

3.5.3 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.

4. Proposals to Meet the Representation

Building Height Restrictions

4.1 The Building Height Restrictions 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. Given the previously established BHRs on the OU(B) zones in KBBA, and the general background of development on the slopes to the east, a general increase in the BHRs of 20m to 40m is appropriate and they should be amended accordingly.

Removal of Spot Zoning through NBAs and Building Gaps

4.2 The Board should adopt a more rational and generalized approach to the zoning by deleting "Spot Building Height Restrictions" which adversely affect development rights and building potential potential.

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

Deletion of Non Building Areas

4.3 The legal basis for the imposition of the NBAs and the technical justification for them is questionable. It is proposed that the requirement for the NBAs be deleted completely. Should the Board consider it necessary to provide gaps, a more suitable zoning such as "Open Space" should be used so that compensation is provided to the affected land owners. However, should the NBAs be retained, the words "under 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 Setbacks

4.4 All setbacks should be deleted from the Outline Zoning Plan.

5. Conclusion

5.1 The building height restrictions, NBAs and set-back 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. .

5.2 The proposed amendments on the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan 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 the Planning Area.

Ngau Tau Kok and Kowloon Bay Outline Zoning Plan

Representation Number R2

The Real Estate Developers Association of Hong Kong

Tabled Information

27 March 2011

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

7 March 2011

The Chairman and Members of the
Town Planning Board
15/F North Point Government Offices
333 Java Road
North Point
Hong Kong

Dear Sirs

Town Planning Board
Call to Suspend Amendments to Outline Zoning Plans
Pending Review of Impact of New BD and Joint Practice Notes

Background

1. You will be aware that REDA has lodged Representations and Comments objecting to fundamental aspects of the draft amendments to various Outline Zoning Plans which have recently been exhibited for public inspection.

2. These objections have been lodged on the basis that, amongst other things, the Town Planning Board is exceeding its authority under the Town Planning Ordinance with respect to spot building height restrictions (**"BHR"**), imposition of non-building areas (**"NBAs"**), buildings gaps and building setback requirements along footpaths and road frontages (collectively referred to below as **"OZP Development Controls"**).

3. One of the points which has been made by REDA is that there are other more suitable means for implementing OZP Development Controls, such as through the Buildings Ordinance. The alternative means of achieving such measures should carefully be taken into account, as the Town Planning Ordinance limits the actions of the Board to broad zoning of a general and consistent manner over sites of similar planning characteristics.

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

4. To date, no amendment has been made to meet any of REDA's points of objection to any of the draft Outline Zoning Plans.

5. REDA has also submitted that in many cases the BHRs have been set so low as to either adversely affect land owners property rights, or result in poor quality of new buildings. These views have also been ignored and no amendment has been made to meet these submissions.

6. REDA, and others, have called for prior consultation on the imposition of new OZP Development Controls on the Outline Zoning Plans but no such consultation has taken place. No details have been provided to REDA or other representers, nor apparently to Town Planning Board members, as to the detailed basis of establishing such restrictions. For example:

   (a) no one is aware of the floor-to-floor height assumptions made in relation to the setting of BHRs;

   (b) no reason has been given as to why an inconsistent approach is taken towards respecting some existing approved General Building Plans but ignoring others;

   (c) no evidence has been provided in any instance to show how the Planning Department concluded that the existing development rights of land owners are not adversely affected.

7. A large number of Outline Zoning Plans have been gazetted with such OZP Development Controls and there are hundreds of outstanding Representations to be heard, many of which oppose the manner in which such restrictions have been imposed and their impact.

New BD and Joint Practice Notes on Sustainable Building Development

8. As you are aware, new Practice Notes have recently been issued by the Buildings Department and jointly by the Planning, Lands and Buildings Departments in relation to Sustainable Building Design. These new Practice Notes introduce a completely new regime for building design in Hong Kong.

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

These new restrictions, to a large degree, duplicate the OZP Development Controls being imposed by the Town Planning Board, particularly those relating to spot building heights, air ventilation requirements, building gaps and building set-backs along street frontages.

9. It is clear that the Town Planning Board and the Planning Department have not made any attempt to take account of the impact of these new Practice Note provisions when preparing the OZP Development Controls recently gazetted for various Outline Zoning Plans, and no attempt has been made to ascertain the extent to which the two regimes may interface with or duplicate each other, or what their combined impact might be on land owners' development rights.

10. It is also evident that any calculations previously made as to the achievement of existing development rights under an amended draft OZP are now no longer valid. All such restrictions imposed on Outline Zoning Plans should therefore be re-considered as a matter of urgency, with reference to the new Practice Notes.

11. REDA has consistently stated that the Outline Zoning Plans are not the appropriate mechanism for imposing detailed OZP Development Controls on building development. It can now be seen that the reasons given by the Town Planning Board for the imposition of such detailed OZP Development Controls, and the form that those OZP Development Controls take, are almost identical to the reasons for and form of the controls introduced through the Practice Notes. This shows clearly that the Buildings Ordinance is the more appropriate means for imposing such controls.

12. With the new Practice Notes taking effect on the 1 April 2011, the critical conflict that exists between these two systems of control needs to be urgently addressed. REDA therefore requests that the Town Planning Board immediately address this by the following :-

(a) Immediately suspend the preparation of any amendments to Outline Zoning Plans involving building set-backs, BHRs, building gaps, NBAs, spot zoning and spot building heights pending the completion of the further steps set out below.

(b) Undertake a detailed review and genuine consultation on the technical

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

aspects of the two development control regimes, jointly with REDA and relevant professional institutes, with a view to formulating clear lines of demarcation between the two regimes, so that the stated objectives can be realistically met. In doing so, some consensus should be reached as to what are the desirable design criteria to be applied to address such issues such as "tall and out of context buildings", protection of approved GBPs, assumptions for internal floor-to-floor heights and the relationship of such controls to the Practice Notes.

(c) All existing Outline Zoning Plans for which Representations are yet to be heard should be reassessed based on an assumption that building set-backs, BHRs, building gaps, NBAs, spot zoning and spot building heights are no longer required because of the Practice Notes and removed from these Outline Zoning Plans.

Managing of Town Planning Board hearings

13. REDA is also concerned that the manner in which the Town Planning Board is managing review hearings is contrary to the principle of providing the public with a full and fair hearing. Town Planning Board members sat for more than 12 hours continuously on the day when the Sai Ying Pun and Sheung Wan Outline Zoning Plan representations were heard. This does not give confidence that the representations were properly considered. This is not an isolated example. It is also considered unreasonable that Town Planning Board members who give their time generously should be expected to work in such conditions and to make very important decisions under such pressure of time. The Town Planning Ordinance provides the Board with the flexibility to form Hearing Committees, the power to defer hearing of representations where necessary, and the possibility of requesting a 6 month extension of time from the Chief Executive for submission of the draft OZP to the Chief Executive in Council, so as to allow for full and proper consideration of Representations that are often complex.

Prior consultation

14. Finally, as REDA has often stated, prior consultation with the public and land owners before gazetting of Outline Zoning Plans would provide a means for

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

obtaining a consensus on public aspirations and reduce the large number of representations in opposition to amendments subsequently made to Outline Zoning Plans.

15. We would respectfully request your urgent consideration of these matters.

Yours sincerely

Louis Loong
Secretary General

c.c. Mr. Jimmy Leung, JP, Director of Planning

城 市 規 劃 委 員 會
香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD
15/F., North Point Government Offices
333 Java Road, North Point,
Hong Kong.

傳　　真 Fax: 2877 0245 / 2522 8426
電　　話 Tel: 2231 4812

來函檔號 Your Reference:

覆函請註明本會檔號
In reply please quote this ref.: TPB/G/PUB/29

BY FAX (2845 2521) AND POST

9 May 2011

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

Dear Mr. Loong,

Town Planning Board
Call to Suspend Amendment to Outline Zoning Plans
Pending Review of Impact of New BD and Joint Practice Notes

Your letter dated 7.3.2011 to the Chairman and Members of the Town Planning Board (the Board) was submitted to the Board for consideration at its meeting held on 25.3.2011. The Board had asked the Secretary to reply on its behalf.

The Board, after considering your requests carefully, did not think it necessary to suspend immediately the preparation of any amendments to Outline Zoning Plans (OZPs) involving building setbacks, building height restrictions (BHRs), building gaps, non-building area (NBA) and spot zoning pending the completion of a detailed review and consultation on the technical aspects of the two development control regimes, namely Building Department's Practice Notes on Sustainable Building Design (SBD) and development restrictions under OZPs. The Board had also considered that there was no need to reassess all existing OZPs for which representations had yet to be heard. The main considerations of the Board are set out below:

Duplication of Development Control

(i) The Board noted that the new measures on SBD Guidelines and the OZP development controls on building height (BH), NBA, building setback/gaps were under two separate regimes i.e. the building regime and the town planning regime. They were complementary, rather than duplicating with each other.

(ii) The SBD Guidelines focused on the building design at a site level and were applicable to all building developments with no reference to specific district characteristics. Besides, the requirements under the SBD Guidelines were prerequisite for the granting of gross floor area (GFA) concession under the Buildings Ordinance on application to the project proponent. On the other hand, OZP development controls on BH, NBA and building setback were imposed at a district level to achieve certain urban design and planning objectives. They were often location-specific taking into account various factors such as the BH concept, topography, the local characteristics, compatibility with the surroundings, preserving green/view corridors/ ridgelines, air ventilation, traffic consideration and the need to strike a balance between public aspirations for a better living environment and development intensity permitted under the OZP.

(iii) To cater for site specific circumstances, there was provision under the OZP for minor relaxation of the BHRs, NBA and building setback on application to the Board and each case would be considered based on its individual planning and design merits.

Management of the Board's Hearings

(iv) As to your concern about the manner in which the Board managed the representation hearing, the Board was of the view that the length of the meetings should not be a concern. The crux of the matter was whether the representers / commenters had been given a reasonable opportunity to present their cases at the meeting and whether all the oral and written representations had been fully and fairly considered by the Board before it made a decision. The Board had all along ensured a fair hearing of representations and comments and had allowed sufficient time for the representers and commenters to present their cases. All relevant information and considerations had been taken into account by the Board in making a decision.

Prior Consultation

(v) The Board had all along adopted the practice that proposed amendments involving plot ratio restrictions and BHR would not be released to the public prior to the gazetting of the OZPs. The exhibition and representation hearing process under the Ordinance itself was a statutory public consultation process for the Board to consider representations and comments on the OZPs.

Yours sincerely,

(Ms. Amy Wu)
for Secretary, Town Planning Board

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

Attachment 1

19 January 2011

By fax and mail

The Secretary
Town Planning Board
15 Floor North Point Government Offices
333 Java Road
North Point
Hong Kong

Dear Sir

Representations in Relation to the
Amendments to the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan
(Amendments shown on Plan Number S/K13/26)

We refer to the proposed amendments to the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan which have been shown on the Draft Outline Zoning Plan No. S/K13/26 gazetted on 19 November 2010.

We hereby submit Representations to the Amendments under Section 6(1) of the Town Planning Ordinance. The reasons for the Representations are included in the paper attached to this letter.

Please note that this Representation relates to matters of principle and should not be used as a basis for rejection of any development which complies with the restrictions on the Outline Zoning Plan. Our proposals are for a relaxation of the restrictions and more flexibility in design.

We retain the right to provide additional information in support of this Representation and to raise additional points, if necessary.

Yours sincerely,

Louis Loong
Secretary General

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 Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26 -- 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 (BHRs), building gap Restrictions and Non-building Areas (NBAs) and other associated matters included as amendments in the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26 (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 BHR, building gap restrictions, NBAs and other restrictions in the amendments shown to the OZP. In other words, this representation objects to Amendment Items A, B1 – B5, C1 – C4 on the Plan and (a), (b), (f) and (g) of Amendments to the Notes of the Plan.

2.2 This representation is made in the broad interests of Hong Kong as a whole including the interests of individual property owners. It is REDA's views that any planning changes should enhance the economic growth of Hong Kong, maintain an efficient and sustainable urban development system, and respect the private property rights of individual property owners.

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 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 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 7.2 of the Explanatory Statement that the reasons for the imposing of building height limits are:

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

3.1.3 No 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. The consequences include lowering property values and reducing air ventilation at street level.

3.1.4 It is considered that most of the objectives for the building height restrictions can be achieved with height limits imposed at a level which generally permits a more reasonable form of development while achieving 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 positions. High-rise developments in the order of 40 storeys have been in place in various parts of Hong Kong for years and they are acceptable to the public.

3.1.6 The OZP generally allows for an absolute height of only about 80m to about 100m for many of the residential sites. The absolute heights are equivalent to about 25 to 32 storeys. It is considered that the height restrictions have been set unreasonably low, lower than what is necessary to address the public concern.

Preservation of Ridgelines and Stepped Building Heights

3.1.7 The Urban Design Guidelines Study has identified four key vantage points on the Hong Kong Island. The Hong Kong Convention and Exhibition Centre (HKCEC) and the Quarry Bay Park are the most relevant ones for visual impact considerations in this Outline Zoning Plan. The previous Planning Department study on visual impact used as a basis to set the BHRs for the Kowloon Bay

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

Business Area had accepted BHRs of 120mPD to 140mPD for much of the OU(B) zone in the Kowloon Bay Business Area (KBBA).

3.1.8 It is therefore illogical to adopt a descending BHR profile to the east, from the 120mPD along Wai Yip Street, and to disallow continued increase in BHRs across Telford Gardens, across Kwun Tong Road and Ngau Tau Kok Road. The whole of this central area should have increased BHRs ranging from 140mPD to 150mPD to maintain the rising profile of building heights, while still protecting the ridgelines from the recognized viewpoints.

3.1.9 The Planning Department appear to have arbitrarily adopted other "view corridors" such as from a footbridge near Choi Ying Place, and used this as a reason for reducing BHRs. There is no particular reason why this footbridge or the other viewpoints should be selected as they have no significant characteristics which make them more important than any other place for creating view corridors. These have not been established after public consultation and should not be given any significance.

Building Height and Air Ventilation

3.1.10 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 building height limits as this tends to force developments down into a solid mass of building rather than encouraging the creation of space around buildings at street level. The imposition of the height limit at a level which is too low therefore creates a solid wall effect closer to ground level.

Need for Reasonable Building Height

3.1.11 The overall height profile of the Planning Area is formed mainly by the Residential and Business zones with Open Space and G/IC zones as visual relief and breathing space. However, the new BHRs stipulated on the Outline Zoning Plan are generally too low.

3.1.12 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. In this respect a more reasonable approach has been taken in the previous exercise for establishing the BHRs for the OU(B) in the KBBA where 120 – 170mPD BHRs were imposed.

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

3.1.13 Imposition of unreasonably low building height limit restrains the building bulk, making incorporation of innovative architectural design and void feature impossible. This directly affects streetscape, air ventilation and the quality of life of the users of the development.

3.1.14 It would also appear that the result of the BHR imposition in that the private land in the vicinity of Kwun Tong Road , i.e. in the 'valley' created by the approach outlined in paragraph 3.1.7 above, is that the private land has been provided with much more restrictive BHRs than the public housing sites in the Area. The assumptions regarding the floor-to-floor heights and plot ratios used in determining the BHRs on public and private land should be provided.

3.2 No Public Consultation

3.2.1 The BHRs, 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 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, setback requirements 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.

3.2.2 This is strongly contrasted with the approach taken in 2004 when a "Study of "Building Height Restrictions for Kwun Tong and Kowloon Bay Business Area" was undertaken and TPB Guidelines issued to propose a temporary arrangement during the processing of the proposed BHRs. It is strongly suggested that the Planning Department should have carried out a similar planning study 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.

3.3 Non-Building Areas

3.3.1 NBAs are extensively introduced throughout the Outline Zoning Plan 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

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

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.

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 The proposed NBAs on this OZP are a major deprivation of the development rights of private landowners without any form of compensation. The AVA assessment carried out for the review of the OZP is inadequate to justify the extent of imposition that is proposed. No information was included in the AVA to justify the extent of intrusion into private property rights that is proposed. For example there is no indication of the extent of adverse impact of the existing situation, or the extent of improvement that would be obtained, by the imposition of the NBA restriction through the centre of Enterprise Square V/Mega Box, or through Kai Tak Mansions. No critical assessment has been undertaken to show that such proposals are <u>essential</u> for the public good, and no alternatives have been considered, and no consideration of compensation for owners for the loss of their property rights has been considered. These proposals go way beyond the scope that the Town Planning Ordinance allows.

3.3.6 The Board should make use of the zonings permitted by the Town Planning Ordinance if it is convinced that the use of some form of gap or space is required for essential air ventilation. For example, Amendment Item B4 relates to an extensive vegetated slope at Ping Shek Estate which should be zoned as "Green

Belt" if it is not to be built on, or "Open Space". Both zones are abutting the NBA. The same applies to B5 near Shun Chi Court. Similarly, the NBA proposed by Amendment Item C1 should be zoned as "Open Space" if it is absolutely essential in the public interest, and resumed with compensation paid to the land owners. This would then be the same situation as that for the existing linear park zoned "O" and located to the east between Kai Cheung Road and Sheung Yuet Road.

3.4 Building Gaps and Setbacks

Imposing Setbacks violates the Intention of Outline Zoning Plans

3.4.1 REDA is opposed to requirements for setbacks 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 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 proposes is considered wrong and may be subject to legal challenge.

Lack of Legal Basis for Setbacks for Air Paths

3.4.2 In addition, there is no legal recognition of the provision of setbacks for "air paths" as being a public purpose for which private land could be taken. It is therefore considered inappropriate for the Board to include these on the OZP and to be a matter outside the provisions of the Town Planning Ordinance.

Inadequate Justifications provided in Explanatory Statement for Setback Requirement

3.4.3 The justifications stated in the Explanatory Statement for providing setbacks for the "OU(B)", "G1IC(4)" and other zones are confusing. The sub-paragraphs of paragraphs 8.6 of the Explanatory Statement of the Outline Zoning Plan, indicate varying building gaps and set-backs with no justification as to why they are essential, why they must be the specified width, and why some must be at ground level and others can be at 22mPD. There is no justification as to why there should be an additional set-back along some of the widest streets in the KBBA namely Wang Kwong Road and Wang Chiu Road. This imposition is considered to be unreasonable as the streets are already sufficiently wide to provide adequate space for vehicles, pedestrian and need not be wider for 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

3.4.4 The unclear justifications for the setback requirements would render unnecessary complication related to compensating private land owners for the loss of their land for a public purpose under the Buildings Ordinance and the Roads (Works Use and Compensation) Ordinance. In these circumstances, REDA requests that all setback requirements be removed from the Outline Zoning Plan.

3.5 Spot Zoning Approach Inconsistent with the Town Planning Ordinance

3.5.1 The Explanatory Statement in paragraph 3.2 indicates that *"The Plan is to illustrate the broad principles of development and to provide guidelines for more detailed planning within the Planning Scheme Area"*. The principle of establishing broad statutory zones with similar characteristics has been largely abandoned in relation to the OZP. The approach adopted has been unnecessarily restrictive and too detailed.

3.5.2 This can be seen in the designation of NBAs and setback requirements in a number of sites as detailed above, and also violates the broad principles of statutory town planning. The imposition of different BHRs within the same site, such as the imposition of 22mPD within sites in the OU(B) zones which have a general height of 140mPD, is an example of how this should not be applied.

3.5.3 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.

4. Proposals to Meet the Representation

Building Height Restrictions

4.1 The Building Height Restrictions 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. Given the previously established BHRs on the OU(B) zones in KBBA, and the general background of development on the slopes to the east, a general increase in the BHRs of 20m to 40m is appropriate and they should be amended accordingly.

Removal of Spot Zoning through NBAs and Building Gaps

4.2 The Board should adopt a more rational and generalized approach to the zoning by deleting "Spot Building Height Restrictions" which adversely affect development rights and building potential potential.

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

Deletion of Non Building Areas

4.3 The legal basis for the imposition of the NBAs and the technical justification for them is questionable. It is proposed that the requirement for the NBAs be deleted completely. Should the Board consider it necessary to provide gaps, a more suitable zoning such as "Open Space" should be used so that compensation is provided to the affected land owners. However, should the NBAs be retained, the words "under 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 Setbacks

4.4 All setbacks should be deleted from the Outline Zoning Plan.

5. Conclusion

5.1 The building height restrictions, NBAs and set-back 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. .

5.2 The proposed amendments on the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan 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 the Planning Area.

Attachment 2

TOWN PLANNING BOARD

TPB PAPER NO. 8820

FOR CONSIDERATION BY THE TOWN PLANNING BOARD ON 27.5.2011

DRAFT NGAU TAU KOK & KOWLOON BAY OUTLINE ZONING PLAN NO. S/K13/26
CONSIDERATION OF REPRESENTATIONS NO. TPB/R/S/K13/26-2 TO 4 (Group 1)

TPB Paper No. 8820
For Consideration by
the Town Planning Board
on 27.5.2011

DRAFT NGAU TAU KOK & KOWLOON BAY OUTLINE ZONING PLAN NO. S/K13/26
CONSIDERATION OF REPRESENTATIONS NO. TPB/R/S/K13/26-2 TO 4
(Group 1)

Subject of Representations/ Representation Site	Representers	Commenter
Oppose Various Amendment Items in General		
Oppose the building height restrictions (BHRs) and the requirements of non-building areas (NBAs) and building gaps under Amendment Items A to C4 and Items (a), (b), (f) and (g) to the Notes of the OZP	**R2** The Real Estate Developers Association of Hong Kong (REDA) (**Annex III-1**)	Nil
Oppose Development Restrictions for Specific Sites		
Oppose the BHR for the "Residential (Group A)" ("R(A)") site at 7 Ngau Tau Kok Road under Amendment Item A	**R3** Folabs Limited and Monafat Limited represented by Masterplan Limited (**Annex III-2**)	Nil
Oppose the rezoning, BHRs and building gaps at the "Other Specified Uses" annotated "Mass Transit Railway Depot with Commercial and Residential Development Above)" ("OU(MTR Depot with Commercial and Residential Development Above") at Telford Gardens and "OU(Railway)" for the Kowloon Bay MTR Station under Amendment Items C3, E2 and E3 and Item (n) to the Notes of the OZP	**R4** MTR Corporation Limited (MTRCL) (**Annex III-3**)	Nil

1 Introduction

1.1 On 19.11.2010, the draft Ngau Tau Kok & Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/26 (the OZP) incorporating amendments mainly to impose BHRs on various development zones outside Kowloon Bay Business Area (KBBA); to designate NBAs in various zones; and other zoning amendments was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance) (**Annex I**). The Schedule of Amendments is at **Annex II** for Members' reference. Upon expiry of the 2-month exhibition period on 19.1.2011, a total of 1,313 representations were received. On 28.1.2011, the 1,313 representations were published for public comments for 3

weeks until 18.2.2011 and 1 comment was received. However, some representers subsequently wrote to the Town Planning Board (the Board) indicating that they did not submit the representations.

1.2 On 8.4.2011, the Board decided to consider the representations and comment in 3 groups and to hear Representations No. 2 to 4 (**R2 to R4**) collectively under Group 1. The Board also agreed to hear the **R1** and **R5** under Group 2 as well as **R6 to R1313** and the related Comment No. 1 (**C1**) under Group 3 in separate sessions at the same meeting. This Paper is to provide the Board with information for the consideration of Group 1. The specific assessments of individual representations are at **Annex VI**.

1.3 The concerned representers and commenter have been invited to attend the meeting in accordance with section 6B(3) of the Ordinance.

2 The Representations and Comment

2.1 The Representations (Plan H-1)

The 3 representations (**R2, R3 and R4**) covered by this Paper are related to the imposition of BHRs, NBAs and building gap requirement as well as rezoning. **R2** is submitted by the REDA and is related to the BHRs for all residential and GIC sites outside KBBA as well as the requirements of NBAs and building gaps (**Annex IV-1**). **R3** is submitted by Folabs Limited and Monafat Limited (represented by Masterplan Limited) and is against the BHR of the "R(A)" site at 7 Ngau Tau Kok Road (**Annex IV-2**). **R4 is** submitted by the MTRCL and is against the rezoning, BHRs and building gaps at the "OU(MTR Depot with Commercial and Residential Development Above)" at Telford Gardens and "OU(Railway)" for the Kowloon Bay MTR Station.

R2 - Opposing Various Amendment Items

2.2 **R2** submitted by REDA opposes Amendment Items A to C4 to the OZP and items (a) (b), (f) and (g) of amendments to the Notes of the OZP regarding the imposition of BHRs on the residential and GIC sites outside KBBA and the designation of NBAs and building gaps.

Grounds of Representation

BHRs

Lack of Flexibility for Quality Design and Impact on Streetscape and Air Ventilation

2.2.1 The setting of BHRs at levels which are so low as to unnecessarily constrain the provision of good quality environment. This objective can only be achieved by providing for the design of developments

which provide good internal space for people with sufficient internal headroom.

2.2.2 No consideration has been given to building economics, implications for redevelopment of the area, form of new buildings, negative impact on provision of space around buildings and would result in lower and bulkier buildings. The imposition of the height limit at a level which is too low therefore creates a solid wall effect closer to ground level.

2.2.3 Imposition of unreasonably low BH limit restrains the building bulk, making incorporation of innovative architectural design and void feature impossible, and directly affects streetscape, air ventilation and the quality of life of the users of the development.

Reasonable height limits and control of out-of-context tall buildings

2.2.4 The reasons for imposing of BH limits as stated in paragraph 7.2 of the Explanatory Statement (ES) can be achieved with height limits imposed at a level for more reasonable form of development.

2.2.5 The recent public concern appears to be about developments in the order of 60 storeys or taller in prominent positions. High-rise developments of around 40 storeys are acceptable to the public. The general BHRs of about 80m to 100m for many residential sites in the Area, which are equivalent to about 25 to 32 storeys, are unreasonably low to address the public concern.

Adoption of view corridors and stepped BHs

2.2.6 The Hong Kong Convention and Exhibition Centre (HKCEC) and the Quarry Bay Park are the most relevant key vantage points for visual impact considerations in this OZP. The other "view corridors" such as from a footbridge near Choi Ying Place should not be adopted as they have no significant characteristics and have not been established after public consultation.

2.2.7 It is illogical to adopt a descending BHRs profile to the east, from the Kowloon Bay Business Area of 120mPD, and to disallow continued increase in BHRs across Telford Gardens, across Kwun Tong Road and Ngau Tau Kok Road.

2.2.8 The imposition of the BHRs for private land in the vicinity of Kwun Tong Road would be more restrictive than the public housing sites in the OZP area.

NBAs

2.2.9 The imposition of NBAs on individual sites for air ventilation purposes is not permitted under sections 3 and 4 of the Ordinance in relation to the content and application of statutory plans as no buildings are

provided within NBAs.

2.2.10 "Gaps" between buildings can be achieved by provision for open spaces, parks and streets. There appears no justification for an additional category of NBA.

2.2.11 The AVA assessment is inadequate to justify the extent of imposition of NBAs and no information was included to justify the extent of intrusion into private property rights. No critical assessment has been undertaken to show that NBAs are essential for the public good and no alternatives have been considered, and no compensation for owners for the loss of property rights has been considered. The NBAs proposals go beyond the scope of the Ordinance.

Building Gaps and Setbacks

2.2.12 Setback requirements on OZPs are not appropriate for the scale and generality of the broad brush plans determining types of buildings and permitted uses. Such designation on OZPs goes beyond the intention of town planning and may be subject to legal challenge. There is no legal recognition of the provision of setbacks for "air paths" as being a public purpose for which private land could be taken.

2.2.13 The OZP is not an appropriate statutory framework for the implementation of building setback and building gap as provision of road widening is covered by other ordinances [i.e. Buildings Ordinance (BO) and the Roads (Works, Use and Compensation) Ordinance ("Roads Ordinance")] and these ordinances provide means for compensating private land owners for the loss of their land for setback for a public purpose.

2.2.14 The justifications in paragraph 8.6 of he ES for providing setbacks for "OU(B)", "G/IC(1)" and other zones are confusing. No justifications are provided as to why they are essential, why they must be the specified width, and why some must be at ground level and others can be at 22mPD. No justifications are provided for an additional setback along the widest streets in KBBA.

2.2.15 The unclear justifications for the setback requirements would render unnecessary complication related to compensating private land owners for the loss of land for public purpose under the BO and the Roads Ordinance.

Spot Zoning Approach

2.2.16 The imposition of BHRs, NBA and building gaps on individual sites constitutes a form of 'spot zoning', which is too restrictive, inappropriate and unlawful. It is not permitted under sections 3 and 4

of the Ordinance in relation to the content and application of statutory plans. It violates the broad principle of planning indicated in paragraph 3.2 of the ES that the object of the OZP is to indicate only the broad principles of development.

Public Consultation

2.2.17 The BHRs, NBAs as well as setback requirements were imposed on the OZP without any prior public consultation. There was no opportunity for the public, including the development industry, to be informed as to the justification or the need of the restrictions. No explanation on particular height limits, NBAs and setback requirements were provided to the public. Furthermore, no visual impact analysis was made available to the public.

2.2.18 The approach adopted for the present OZP amendments was in contrast with that taken in 2004 when a study was undertaken for KBBA and TPB Guidelines was issued to propose a temporary arrangement for processing of the proposed BHRs.

Representer's Proposals

2.2.19 In view of the above grounds, **R2** has the following proposals:

(a) 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.

(b) A more rational and generalised approach to the zoning should be adopted by deleting "Spot BHRs" which adversely affect development rights and building potential.

(c) The OZP central area should have increased BHRs ranging from 140mPD to 150mPD to maintain the rising profile of BHs, while still protecting the ridgelines from the recognised viewpoints.

(d) Given the established BHRs on KBBA, and the general background of development on the slopes to the east, a general increase in the BHRs of 20m to 40m is appropriate.

(e) To delete the NBA requirement from the OZP and alternative zonings, such as "Open Space" ("O") should be used to provide desired gaps. The words "exceptional circumstances" in respect of applications for minor relaxation of NBA requirements should be deleted from the relevant Notes.

(f) To delete all setbacks from the OZP.

R3 - Opposing Development Restrictions for the "R(A)" Site at 7 Ngau Tau Kok Road

2.3 **R3** submitted by Folabs Limited and Monafat Limited represented by Masterplan Limited opposes the BHR of 120mPD for the "R(A)" site at 7 Ngau Tau Kok Road (**Plans H-7a to H-7d**).

Grounds of Representation in General

Lack of public consultation

2.3.1 No prior public consultation or engagement and no explanation given to land owners and public on the need for the BHRs and why the particular BHR adopted. No urban design study or visual impact analysis to indicate the Government's vision for the long term development of the Area.

Flexibility for innovative and quality design

2.3.2 A reasonable BH is required to allow flexibility for the design of future redevelopment and for changing requirements over time and scope to meet market expectations.

Need for reasonable BH

2.3.3 There is a need to ensure that buildings are not restricted to unreasonably low heights which will result in bulky buildings forming walls of development which block air flows, light and views. Taller and more slender buildings allow more space at ground level and thus enhancing the surrounding urban environment.

Specific Grounds of Representation for the Site

The BHR of 120mPD is too low

2.3.4 The BHR of 120mPD on the site is too low given the public housing estates are nearly 140mPD and there is a hilly topography in the area.

No significant positive visual impacts

2.3.5 The imposition of BHR of 120mPD on the site and adjoining residential development would not enhance the visual impact of the surrounding area significantly. Instead, the BHR would generate monotonous flat roofs of all developments in the area upon redevelopment.

No significant positive air ventilation impacts

2.3.6 The imposition of BHR of 120mPD on the site would not have significant positive air ventilation impacts to the area due to the

abundance of open space, green belt and low-rise G/IC developments in the surrounding. It is considered that Tak Bo Garden located to the north and west of the site has prevented the downhill valley winds from reaching the site fronting Ngau Tau Kok Road. The wind corridors are mainly along the roads and therefore the imposition of BHR brings no real benefits. Also, the site itself has no significant air ventilation impacts to the area.

Potential wall effect at the representation site

2.3.7 The imposition of BHR of 120mPD on the site would create 'wall effect' blocking most of the views of Tak Po Garden and Jade Field Garden.

Lease Restrictions

2.3.8 The lease of the site is an old lease which is unrestricted to the use, the BH and the development potential of the site. The imposition of the BHR of 120mPD would reduce the property value and unjustly encroach on the property rights of the owner.

Representer's Proposal

2.3.9 Given the sloping topography of the neighbourhood, the BHR of 140mPD in the north of Choi Ha Road and the more recently completed developments in the area which are in the BHs of 140mPD and 170mPD, a taller BH is proposed. It forms a stepped height profile and is desirable from urban design perspective. It also provides an opportunity to avoid wall effect of the buildings by effective building designs, add variations to the area in visual terms and improve air ventilation at street level.

(a) Revise the BHR of the whole "R(A)" zone to 140mPD; or
(b) Revise the BHR for the site to 140mPD or such other height greater than 120mPD as may be appropriate.

R4 - Opposing Development Restrictions for the MTR Depot and Kowloon Bay MTR Station Site

2.4 **R4** submitted by the MTRCL opposes the rezoning, BHRs and building gaps at the "OU(MTR Depot with Commercial and Residential Development Above)" at Telford Gardens and "OU(Railway)" for the Kowloon Bay MTR Station (**Plans H-8a to H-8e**).

Grounds of Representation

Inappropriate zonings for the comprehensive development above Kowloon Bay MTR Depot and the adjoining railway and MTR Station

2.4.1 Currently, there is no restriction on non-domestic GFA or commercial GFA under the lease. However, the new zonings of "OU(MTR Depot with Commercial and Residential Development Above)" and "OU(Railway)" would impose land use and/ or GFA restrictions on the future development of the site. For the former zoning, maximum domestic and non-domestic GFA are specified. For the latter zoning, land use restrictions are imposed such that commercial use is now not permitted.

2.4.2 The restrictions of new zonings will render the Government in breach of its agreement and covenants to MTRCL and prejudiced the rights and entitlements of MTRCL both under the land grants of the Lots. As the developments on the site are already controlled by the means of Master Plan under the land grants, no further GFA restrictions under the OZP should be imposed.

2.4.3 In view of the completion of projects including the Kai Tak Environmentally Friendly Transport System (EFTS) and the Kowloon Bay Elevated Walkway System, Kowloon Bay MTR Station will be the important key interchange and important link for the new district pedestrian walkway system; and there will be demand for additional covered walkways, lifts and commercial facilities. The new zonings will be incapable of meeting the future needs.

Inappropriate BHR for the office towers

2.4.4 It is a commonly accepted urban design principle that taller buildings are placed at commercial centres, transport hubs or district focal points with gradation in BH profile from the high density core to the fringe. The BH of the office towers at Kowloon Bay should be decided in its urban design context instead of making reference to the existing height which was the result of the old Airport Height Restriction. Given the planned height profile of Kowloon Bay is 120mPD for "OU(Business)" sites and up to 170mPD for the strategic commercial sites, the BH of 170mPD for the office towers at the district focal point of Telford Plaza is more reasonable and appropriate.

Fail to reflect the existing conditions of the railway depot and affect the railway operation

2.4.5 It is noted that only the railway tracks and some of the existing buildings are shown on the OZP. It is not correct that the remaining areas are vacant and without any structures. Also, workshops and engineering structures are required for the railway operation. As such, their BHs should be driven by the operational needs on a case-by-case basis rather than restricting the BH limits.

Building gap conflicting with an existing retail footbridge

2.4.6 The building gap of 22mPD in the southern part of the "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" conflicts with the existing retail footbridge (roof level of about 27.4mPD). Though existing buildings will not be affected, the retail footbridge serves important transport function and should not be removed upon redevelopment or major alterations as there is no feasible alternative.

Incorporation of unreasonable and unfair restriction in the new set of Notes

2.4.7 The new set of Notes for the "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" zone incorporate new non-domestic GFA restriction which is unreasonable and unfair to MTRCL as it will take away development right and deprive ability to provide extra facilities to respond to the site's enhanced hub functions.

Representer's Proposals

2.4.8 In view of the above grounds, **R4** has the following proposals:

(a) Reflect the presence of the retail footbridge at the building gap;
(b) Allow a BH of 170mPD for the office towers;
(c) Reflect existing depot structures and delete BHRs on the open depot area; and
(d) Amend the Notes for "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" zone by deleting the non-domestic GFA restriction.

2.5 Comment on Representations

The representations were published for 3 weeks for public comments on 28.1.2011. No public comment was received in relation to the 3 representations during the 3 weeks of the statutory public inspection period of the representations.

3 Background

3.1 Review of the OZP

3.1.1 In order to provide better planning control on BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, we have reviewed the OZP with a view to incorporating the appropriate BH restrictions for various zones on the OZP to guide the future development/redevelopment.

3.1.2 In recent years, Kwun Tong District Council (KTDC) and the locals have expressed great concerns on the excessive BHs of new developments/ redevelopments within the district as well as their impacts on the air ventilation in the local area. In the absence of BH control, incompatible tall developments were developed in the area. The stipulation of BH restrictions on OZPs is an effective measure to regulate the development profile of the built environment. It would set out the planning intention more clearly, making it more transparent and open to public scrutiny.

3.1.3 An Air Ventilation Assessment (AVA) by Expert Evaluation has been undertaken to assess the likely impact of the proposed BHs of the development sites within the Ngau Tau Kok and Kowloon Bay Area (the Area) on the pedestrian wind environment (**Annex VI**). The BH bands and other restrictions on the OZP such as the NBAs and building gap have taken into account the findings and recommendations of the AVA. The report of the AVA is available for public viewing at the AVA Register on PlanD's website.

3.2 Amendments to the OZP

The proposed amendments to the OZP were considered and agreed by the Metro Planning Committee (MPC) of the Board on 12.11.2010. The relevant MPC Paper No. 25/10 and the minutes of the MPC meeting are available at PlanD's enquiry counters and the Board's website respectively for public inspection. On 19.11.2010, the OZP incorporating the amendments was exhibited for public inspection under section 5 of the Ordinance. The OZP (reduced size) and the Schedule of Amendments are at **Annexes I** and **II** respectively for Members' reference.

3.3 Public Consultation

3.3.1 Since the amendments to the OZP involved BH control, it was considered not appropriate to carry out public consultation prior to the gazettal. To avoid premature release of information before exhibition of the amendments which might prompt developers/landowners to accelerate submission of building plans for development/ redevelopment, consultation on development restrictions with the public was held during the exhibition of the amendments to the OZP in accordance with the established practice. Pre-mature release of this information may lead to a surge of building plan submissions, and the approved building plans will remain valid irrespective of subsequent zoning change, unless substantially revised.

3.3.2 During the 2-month exhibition period, the amendments to the OZP were presented to the KTDC on 4.1.2011. KTDC Councillors have no objection to the proposed amendments. Councillors raised several questions and requests on the lowering the BH for Kai Tak Mansion,

the rezoning of the ex-Royal Air Force Headquarters and the road widening of the roads in the KBBA.

3.3.3 PlanD's responses provided to the KTDC at the meeting on 4.1.2011 are summarised below:

(a) the BHR for Kai Tak Mansion and the buildings in its vicinity were considered reasonable and had taken into account the need to accommodate the permissible development intensity under the OZP;

(b) the Notes for the "G/IC(2)" zone in the OZP has been revised and stipulated that no demolition or redevelopment would be allowed and any addition, alteration and/or modification to the existing historic buildings require planning permission from the Board; and

(c) Transport Department was consulted on the carrying capacity of the existing and proposed road network in the OZP area during the review of the OZP. Setbacks for road widening purpose had been designated in the Outline Development Plan. Besides, NBA had been designated along both sides of Wang Kwong Road and Wang Chiu Road, which would facilitate road widening upon redevelopment of the lots along the roads.

3.3.4 Extract of the minutes of KTDC meeting held on 4.1.2011 is at **Annex V**.

4 Planning Considerations and Assessments

Rationales of the OZP Amendments

4.1 **R2** and part of **R3** are related to the BHRs/NBAs/building gap requirements in general. The rationales of the OZP amendments are summarised below:

The BHRs (**Plan H-4**)

Guiding Principles for BH in the Area

4.1.1 In conducting the BH review for the Area, relevant planning considerations have been taken into account, including the existing topography, site formation levels, existing land use zonings, the characteristics of existing BH profile, the existing BHs of adjoining areas including Ngau Chi Wan, Kai Tak and Kwun Tong, the local character, the need to balance between public aspirations for a better living environment and private development right, the views toward the Lion Rock ridgeline and mountainous backdrop, the recommendations of the AVA Study and as well as the broad urban

design principles in Urban Design Guidelines in the Hong Kong Planning Standards and Guidelines (HKPSG). The following principles form the basis of formulating the BHRs for the Area:

(a) the Area mainly falls within the view fans of the vantage points from Quarry Bay Park and HKCEC New Wing. Public views to the 20% building-free zone of the ridgelines of Kowloon Peak, Lion Rock and Tsz Wan Shan, which provides a green backdrop to the Area, should be preserved.

(b) The BH should enhance the district character of specific localities, retain characteristic mountain backdrop and respect the character of neighbourhood. The BH profile should be sympathetic and respect the surrounding developments, which has diversity in height and massing of developments in different localities.

(c) The proposed BH bands should be compatible with the character of the neighbourhood, avoiding development of 'out-of-context "sore thumb" buildings, which might cause adverse visual impact on the surroundings.

(d) The proposed BH bands should ensure that the urban design principles will not be negated while still accommodating the development intensity as provided under the current OZP with allowance for building design flexibility.

(e) The proposed BH of developments should provide a compatible setting for the historic buildings to avoid overshadowing and dwarfing effects on the heritage features.

(f) The "G/IC" and "OU" sites in various parts of the Area have been developed as relatively low-rise developments. The existing BHs of these sites will be kept to function as spatial and visual relief in this urban environment. Moreover, "O" and "GB" sites should be retained in order to preserve the existing greenery and open area as breathing space. Consideration would be given to create breezeways and view corridor by linking up the low-rise G/IC facilities, open spaces and the "GB" in the Area. The local view corridor to the Lion Rock from the view point at the footbridge near Choi Ying Place, which is a major pedestrian route linking up Kowloon Bay MTR Station to the public housing developments in Jordan Valley, needs to be preserved as far as possible.

(g) In order to maintain an open vista along the southern side of the Clear Water Bay Road at the entrance of East Kowloon from Sai Kung and preserve the public view and amenity of the area as far as possible, the residential developments on the eastern side of the Area near the foothill of Kowloon Peak should be kept as

medium-rise developments with height limits at similar level of Clear Water Bay Road (about 175mPD).

4.1.2 Taking into account of the above principles, the proposed BH bands maintain a smooth transition from the KBBA and gradually decrease towards the residential developments in the west of Kwun Tong Road. In the east of Kwun Tong Road, the BH bands of the residential developments increase progressively uphill ranging from 80mPD at Ping Shek Estate to 180mPD near Jordan Valley and Shun Lee area. The BH bands help preserve views to ridgelines and achieve a stepped height profile and allow wind penetration. The height profile is sympathetic, compatible in scale and in proportion with the surrounding developments. The BH bands ensure that the urban design principles would be complied with as far as practicable while accommodating permissible development intensity under the OZP.

4.1.3 To allow for design flexibility, minor relaxation of the BHRs through the planning permission system could be considered on individual merits. However, minor relaxation of BHRs for existing buildings which have already exceeded the specific BHRs stipulated on the OZP are generally not supported unless under exceptional circumstances with very strong justifications. This is to avoid further compromising the intended height profile.

4.1.4 In general, the Area can be divided into 3 sub-areas (**Plans H-3**). The characteristics and rationales for the BHRs of the different sub-areas are described below.

The BH Profile

Kowloon Bay Business and Residential Areas

4.1.5 This sub-area is mainly occupied by the KBBA with residential developments along its flanks. In 2005, BHRs were imposed in the KBBA to preserve the Kowloon ridgelines and to create a discernible townscape. A BHR of 170mPD is imposed for "Commercial" ("C") and "OU(Business) zones in the southern part to form an identifiable area node. Three lower height bands of 100mPD, 120mPD and 140mPD are imposed for "C" and "OU(Business) zones to provide a stepped backdrop to accentuate the business node. These height bands on the OZP were approved by the CE in C in 2006. On the current OZP, the height profile decreases gradually to the medium-rise residential developments at its northern and western fringes including Kai Yip Estate, Richland Gardens and Telford Gardens which are currently zoned "R(A)" or "OU" in the sub-area, which are subject to maximum BHRs of 60mPD, 80mPD and 100mPD (**Plan H-4**).

Ngau Tau Kok and Jordan Valley Residential Area

4.1.6 This sub-area is located in the east of Kwun Tong Road and occupied by the medium to high-rise private and public residential developments. Having considered natural topography, the compatibility with existing BH profile, lease conditions, the BH of developments in adjoining planning areas (Ngau Chi Wan and Kwun Tong South), the local view corridor to the Lion Rock and preservation of the Jordan Valley ridgeline as local backdrop and AVA consideration, maximum BH bands ranging from 80mPD to 180mPD are proposed for the residential developments within the sub-area (**Plan H-4**).

Shun Lee Residential Area

4.1.7 This sub-area is predominantly occupied by medium-rise public housing, HOS developments and Shun Lee Disciplined Services Quarters. Taking into account the existing height profile, the natural topography, lease conditions, compatibility with the BH of surrounding area, proximity to the Kowloon Peak and the need to preserve the open vista when viewing from Clear Water Bay Road, maximum BH bands of 160mPD to 180mPD are proposed for these residential developments in this sub-area (**Plan H-4**).

"G/IC" and "OU" sites

4.1.8 The "G/IC" sites are intended to provide the necessary GIC facilities and serve to provide breathing space and visual relief in the densely built-up environment. Taking into consideration the recommendations of the AVA, the low-rise nature of the GIC sites should as far as possible be maintained for better air ventilation. Moreover, due regard has been given to the nature of the existing facilities/uses on the sites, the existing BHs, the height restrictions on the land allocation/lease (if any), the need to meet the minimum height requirement for the designated GIC facilities and the need to maintain compatible building mass in the local setting. The BHRs are mainly to reflect the existing BHs of the various GIC developments unless there are committed proposals for known/ agreed developments or a need to meet the minimum height requirement (**Plan H-4**).

4.1.9 Similarly, the intention of the "OU" sites is to provide/reserve land for specific purposes and uses. A site is zoned "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" subject to a maximum BH of 60mPD and 100mPD so as to reflect the planning intention of the development, the existing conditions and existing development restrictions on the Master Plans of the lease (**Plan H-4**).

NBAs and Building Gaps

4.2 The AVA Study recommends adoption of mitigation measures including a number of NBAs and building gaps in the Area in order to improve permeability of sea breeze towards Kowloon Bay (**Plan H-6**), the effectiveness of major breezeways and the overall wind environment in KBBA. The NBAs in the KBBA are along Wang Kwong Road, Wang Chiu Road and Wang Mau Street as well as within "G/IC(1)" zone at Wang Chin Street, whilst building gaps are from Lam Hing Street to Sheung Yuet Road and from Lam Fung Street to Sheung Yee Road (**Plan H-5**). For areas outside KBBA, various NBAs and building gaps (within Telford Gardens) are also designated to help minimise adverse air ventilation impact on the neighbours and improve permeability of prevailing winds in the locality upon redevelopment of relevant sites.

4.3 **The Representation Sites and their Surroundings**

The "R(A)" site at 7 Ngau Tau Kok Road (Plan H-7a)

4.3.1 The site has an area of about 1,910m^2 abuts Ngau Tau Kok Road. It is currently occupied by an 8-storey industrial building known as Amoy Industrial Centre. The building was completed in 1961 and has a BH of about 32mPD (at main roof). The site is situated in the Ngau Tau Kok and Jordan Valley Residential Area which is characterised by a mixture of both old and new low-rise to high-rise public and private residential developments. The site is mainly surrounded by the medium-rise private residential cluster of Tak Bo Garden and other residential buildings along Ngau Tau Kok Road. It falls within an area zoned "R(A)" on the OZP and subject to a maximum BH of 120mPD and a maximum PR of 7.5 for a domestic development and 9 for a partly domestic and partly non-domestic development.

Planning Intention

4.3.2 The "R(A)" zone is intended primarily for high-density residential developments. Commercial uses are always permitted on the lowest 3 floors of a building or in the purpose-designed non-residential portion of an existing building.

Land Administration

4.3.3 The site is held under NKIL 1744. The lease of the lot is virtually unrestricted except non-offensive trade uses and without any height restriction.

The "OU(MTR Depot with Commercial and Residential Development Above)" at Telford Gardens and "OU(Railway)" for the Kowloon Bay MTR Station (Plan H-8a)

4.3.4 The private residential/ commercial development of Telford Gardens has a site area of about 110,693m^2. The Telford Gardens is a large medium-rise private commercial/residential development (50mPD to 100mPD) on top of the MTR depot at Kowloon Bay. The development comprises 2 office towers (23 storeys/ 100mPD) and various shopping facilities. In addition, a wide range of community facilities including a recreational club and a cinema are provided to cater for the needs of the residents. The Telford Annex of the City University of Hong Kong is also accommodated within the development.

4.3.5 The Telford Gardens is currently zoned "OU(MTR Depot with Commercial and Residential Development Above)". According to the Notes of the OZP, developments and redevelopments within this zone are subject to a maximum GFA of 278,703m^2 for domestic use and 177,031m^2 for non-domestic use, and maximum BHs of 60mPD and 100mPD. A public transport terminus is provided within this zone. Three building gaps are demarcated within the zone upon redevelopment in order to improve air ventilation in the area. Two 22m-wide building gaps run parallel to Wang Tai Road and Sheung Yuet Road in east-west direction, and one 15m-wide building gap runs parallel to Tai Yip Street in north-south direction are demarcated, on which no building shall exceed a maximum BH of 22mPD.

4.3.6 On the other hand, the Kowloon Bay MTR Station, the open-air railway and the associated facilities occupy an area of about 63,018m^2. The Kowloon Bay MTR Station provides important railway transport to the Area. It is zoned "OU(Railway)" on the OZP. Within this zone, a BHR of 3 storeys is imposed for the Kowloon Bay MTR Station along Kwun Tong Road, and 1 to 2 storeys as shown on the OZP for the existing buildings for associated facilities such as warehouses, a control tower and a pumping house. According to the Notes of the OZP, no new development except 1-storey structure ancillary to the railway and the MTR Station shall be permitted.

4.3.7 The sites are located in the west of Kwun Tong Road along the flank of the KBBA. To the north are the medium-rise residential developments including the subsidised housing developments of Kai Yip Estate, Kai Tai Court and Richland Gardens. To the east is the medium to high-rise public/ private residential developments in Ngau Tau Kok and Jordan Valley Area.

Planning Intention

4.3.8 The "OU(MTR Depot with Commercial and Residential Development

Above)" is intended primarily for the provision of land for MTR depot together with commercial and residential development above.

4.2.9 The "OU(Railway)" zone is intended primarily for the provision of land for the open-air railway, the Kowloon Bay MTR Station and the associated facilities.

Land Administration

4.2.10 The Telford Gardens comprises 2 lots, namely NKIL 5744 (covering the MTR depot with a comprehensive residential/ commercial development above) and NKIL 6201 (comprising 2 office towers and the commercial arcade under).

4.2.11 NKIL 5744 is held under the Conditions of Grant No. 11083 for the purposes of MTR Depot and non-industrial development. The lot is governed by Master Plans and changes to the Master Plans should require Director of Lands' prior approval. In particular, for non-industrial development, it shall comprise residential accommodation not exceeding 3,000,000 sq. ft (i.e. about 278,706.8m^2) and the non-industrial development shall be used for the purpose as designated on the Master Plans. The lot is also subject to height restrictions of 300ft (91.44m), 170ft (51.82m) and 168.5ft (51.36m) above HKPD. According to the approved Master Plans, the approved domestic GFA and non-domestic GFA are 278,703m^2 and 105,294m^2 respectively.

4.2.12 NKIL 6201 is held under Conditions of Exchange No. 12289 for the purposes of non-industrial (excluding residential, hotel, go-down and petrol filling station). The lot is governed by Master Plans and changes to the Master Plans should require Director of Lands' prior approval. The total GFA of the lot shall not exceed 71,736m^2 in which the commercial portion (excluding office) shall not exceed 23,401m^2. The breakdown of the GFA calculation for the 2 lots is as follows:

Table 1 Breakdown of GFA for NKIL 5744 and 6201

	Domestic GFA	**Non-domestic GFA**
NKIL 5744	278,703m^2 (Master Plans)	105,294m^2 (Master Plans)
NKIL 6201	Not applicable	71,736m^2 (Lease)
Total	***278,703m^2***	***177,030m^2***

4.2.13 The Kowloon Bay MTR Station and the railway mainly fall within the NKIL 5744. According to the lease, the MTR Depot shall not be used for any purpose other than for the purpose of a MTR workshop and maintenance depot, including running lines, marshalling yards, stabling sheds, stores, a training school, a staff canteen, staff facilities, cash collection and revenue office facilities, and other MTR operational uses as many be approved by the Director of Lands and such ancillary offices and

quarters for watchmen or caretakers as may be approved by the Commissioner for Labour. It is also subject to a height of not exceeding 60ft (18.29m) above HKPD.

4.3 **Responses to Grounds of Representations and Proposals**

Representation Opposing Various Amendment Items (R2)

BHRs

Lack of Flexibility for Quality Design and Impact on Streetscape and Air Ventilation

4.3.1 The BHRs would not necessarily result in bulkier buildings or wall effect affecting air ventilation. The BHRs are formulated based on reasonable assumptions and flexibility is allowed in the shape and form of the buildings. In general, they should be sufficient to accommodate the permissible PR under the OZP as well as meeting various building requirements. Besides, the BHRs do not preclude the incorporation of innovative architectural features and landscape treatment, etc. of a development proposal. The ES of the OZP has also expressly encouraged the provision of improvement measures for better air ventilation e.g. greater permeability of podium, wider gap between buildings and building setback.

4.3.2 Building design is determined by the interplay of a host of factors such as PR, site coverage, BH, design and disposition of buildings and the geometry of the site. As advised by Chief Town Planner/Urban Design & Landscape (CTP/UD&L), the control or reduction in BH does not necessarily result in large building bulk. In considering the building bulk, apart from the size and volume of a building, reference should also be made to the following:

(a) the shape and form of building, including any podium, balcony, bay window, architectural feature and stepped height profile;

(b) the disposition of building in relation to the boundary of the site and the adjacent building, including set back at both ground and upper levels; and

(c) the location of the building in relation to the characteristics of the surrounding area, including surrounding buildings, heritage, open areas, natural topography, ridgeline, main street and pedestrian circulation pattern, view corridor and breezeway.

4.3.3 As such, whether a building is considered bulky depends on many considerations other than BH alone. The assumption that BH control will compress a building and hence increase its bulkiness without attempting for a change in design is only quoting an extreme case. A

development without BH control can also give the same bulkiness at pedestrian level, for example, by designing a podium of 100% site coverage up to 15m under B(P)R in order to maximise the best views at higher levels and to capitalise the land values.

4.3.4 Moreover, there is provision for application for minor relaxation of the BHRs under the OZP to cater for development/redevelopment with planning and design merits. As stated in paragraph 7.13 of the ES, the consideration criteria of such applications include the provision of innovative building design, separation between buildings, better streetscape and good quality street level public urban space. Any innovative scheme with planning and design merits would be duly considered by the Board in accordance with such criteria.

Reasonable Height Limits and Out-of-context Buildings

4.3.5 Apart from air ventilation consideration and protection of ridgelines of Lion Rock, Tsz Wan Shan and Kowloon Peak, together with the views from the HKCEC and Quarry Bay Park, the BHRs have been formulated based on an overall BH concept and other relevant considerations including the existing BH profile, natural topography, local area context and characteristics, the BH of the developments in the adjoining planning areas as well as visual compatibility of building masses in the wider setting. A balance has been struck between public aspirations for a better living environment and private development right.

4.3.6 **R2**'s claim that high-rise developments in the order of 40 storeys have been in place in Hong Kong for years and are thus acceptable to the public is not backed up by any evidence. Such a BH is not considered as a readily and widely acceptable BH for the Territory, particularly in the district or local context. As advised by CTP/UD&L, whether a development is "out-of-context" should be considered with reference to the characteristics of the surrounding areas, not solely the absolute BH. It should be determined by considering how the development relates to the height and massing of the adjacent natural and man-made setting, and whether it contributes towards a coherent composition or creates diversity and contrast.

Local View Corridors

4.3.7 According to the Urban Design Guidelines in Chapter 11 of the HKPSG, views to special landmarks and features (such as ridgelines, water body, countryside and other natural features) should be functionally protected so as to avoid finger or broken views and additional view access should also be maximised to strengthen visual permeability in the dense city form. In Kowloon, it is stated that the visual access to Lion Rock and major ridgelines should be enhanced to avoid losing these features which form "the image of Hong Kong".

4.3.8 As such, in addition to the view corridors towards the Kowloon ridgelines from the established vantage points at Hong Kong Island, suitable viewing points/local view corridors in a more local context had been considered. In Ngau Tau Kok & Kowloon Bay area, a local view corridor towards the Lion Rock viewing from the pedestrian footbridge at Kwun Tong Road near Choi Ying Place has been identified. The footbridge is the major pedestrian route linking up Kowloon Bay Station to the public housing developments serving the nearby residents and is easily accessible by the public. Such view corridor opens up a vista to the Lion Rock in the far northwest via a belt of various "R(A)", "G/IC" and "Open Space" ("O") uses on both sides of Kwun Tong Road. When determining the BHs for developments/ redevelopments that falling within the local view corridor, among other factors, due respect has been given to preserving the natural setting of the Lion Rock **(Plan H-9)**.

4.3.9 The current BH profile is to create a discernible townscape for the KBBA with a BHR of 170mPD imposed for "C" and "OU(Business)" zones in the southern part as a business node where some new developments have been completed recently and agglomerated to form a critical mass as an identifiable area node, and stepping down to 3 lower height bands of 100mPD, 120mPD and 140mPD in the northern and eastern parts. With a smooth transition of BH profile from the KBBA, the business node steps down gradually to the medium-rise residential developments including Kai Yip Estate, Richland Gardens and Telford Gardens along Kwun Tong Road. Across Kwun Tong Road, the BH profile for the residential developments mainly follows the natural topography stepping up gradually eastward and northward towards Jordan Valley and the foothill of Kowloon Peak. Thus, the BH profile in the Area including the KBBA is considered logical and desirable from urban design point of view.

4.3.10 On the OZP, the public housing developments have higher height bands ranging from 140mPD to 170mPD than the private residential developments with the height band of 120mPD. It is because public housing development sites are located at higher site levels ranging from 20mPD to 60mPD while the private residential developments are on site levels of about 5mPD. The absolute BHs of the public housing developments are similar to or even more stringent than the private residential developments. It is considered incorrect to claim that BHRs for private residential sites are more restrictive than the public housing sites.

NBAs and Building Gaps Requirements and Spot Zoning Approach

4.3.11 Legal advice has been obtained on the spot zoning approach. According to the Department of Justice (D of J), sections 3 and 4 of the Ordinance and the scheme of the legislation are intended to give the Board comprehensive powers to control development in any part of

Hong Kong. The Board should have the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if there are necessary and sufficient planning justifications. The imposition of BHRs is considered justified as it could provide better planning control on the BH of development/redevelopment and avoid out-of-context development.

4.3.12 Sections 3 and 4 of the Ordinance and the scheme of the legislation are intended to give the Board comprehensive powers to control development. NBA and building gap requirements can also be a part of the planning control provided that the Board has necessary and sufficient planning justifications. The designation of such requirements on the OZP, which can serve a positive planning purpose and have positive planning benefits, is justified in the circumstances.

4.3.13 The objective of the NBA and building gap requirements is for air ventilation and urban design considerations and would improve pedestrian walking environment and local amenity and assist air ventilation as stated in paragraph 8.6 of the ES. The imposition of NBA and building gap requirements depends on different site context, site configuration and building disposition. The areas designated as NBA are clearly marked and shown in the OZP where no building structure above ground is allowed. However, taking into account the practical constraint in existing development pattern and development right, building gaps where no building structure shall exceed the BHRs would be imposed in certain localities.

4.3.14 The NBAs and building gaps requirements are in relation to air ventilation issues. As stated in the AVA Study, air ventilation is subject to a combination of factors like site geometry, building form and disposition, BH and bulk, choice of views and prevailing wind direction, etc. For better air ventilation, breezeways along major prevailing wind directions and air paths intersecting the breezeways should be provided. Breezeways should be created in forms of major open ways, such as principal roads, inter-linked open spaces, amenity areas, NBAs, building setbacks and low-rise building corridors, through the high-density/high-rise urban form. In addition to the provision of open spaces, parks and streets, stipulation of NBAs and building gaps on OZP is an effective alternative to improve air ventilation. The AVA Study therefore recommends the mitigation measures of imposing NBAs and building gaps in the Area in order to improve the permeability of sea breeze towards Kowloon Bay, the effectiveness of major breezeways and the overall wind environment in KBBA (**Plans H-5 and H-6**).

4.3.15 In addition, "O" zoning and NBA serve different functions. "O" zone is intended to provide open space for public enjoyment and its implementation may involve land resumption. NBA forms part of the

building design to free up ground floor space for air ventilation purpose, but the land is still vested with the landowners and the development intensity of the sites would not be affected by the NBAs. Should these areas be rezoned to "O", the development potential of the concerned site would be affected.

4.3.16 The AVA by EE, which is particularly useful for a large area, is considered an appropriate approach for overall review of BH for the Area. The AVA has been carried out in accordance with the Technical Circular on AVAs promulgated by the Government. The AVA has assessed the existing wind environment in the Area and made a qualitative evaluation of the likely impact of the developments in accordance with BHRs on the pedestrian wind environment, including identification of areas of concern and recommending possible measures to address the potential problems. Justifications for the specific NBAs and building gap requirement including improving air ventilation and providing pleasant pedestrian environment are clearly set out in the AVA Study (**Annex IV**) and MPC Paper No. 25/10.

4.3.17 It is considered appropriate to impose NBA and building gap restrictions on the OZP to provide clearer control and allow opportunity for public representation under the Ordinance. The requirements of NBAs and building gaps under the OZP and the provision of setback under the BO are two separate regimes, i. e. building regime and town planning regime respectively. However, they are complementary, rather than duplicating to each other. In comparison, the OZP requirements were determined based on specific district circumstances and conditions, while the BO is applicable to all building developments with no reference to specific district characteristics.

4.3.18 Regarding compensating the private land owners, in general, proposals involving dedication of land for public passage and surrender of land for street widening would be entitled to bonus GFA under B(P)R, and any such claim would be duly considered by the Building Authority in accordance with the normal practice. The NBA and building gap requirements on the OZP should not adversely affect development intensity of the relevant sites, and do not preclude the claim for bonus GFA under the BO.

Public Consultation

4.3.19 Subsequent to the completion of the Study "Urban Design Guidelines for Hong Kong" setting out the broad urban design guidelines in 2003, the BH proposals were firstly translated onto OZP restrictions in KBBA and Kwun Tong Business Area (KTBA) in 2004. As most of the sites within the business areas were subject to the Airport Height Restrictions/ BHRs under leases and a surge of building plan submissions to establish "fait accompli" was unlikely, it was

considered that public consultation prior to the gazetting could be conducted to gauge the public views on such translation of BHR onto relevant OZPs. The TPB Guidelines for Interim BH Control in KBBA and KTBA was issued in 2004for planning control purposes pending on the results of the public consultation on imposing BHRs in KBBA and KTBA.

4.3.20 For the current OZP reviews, it has been an established practice that proposed amendments involving BHRs would not be released to public prior to gazetting. The reason is that premature release of such information before exhibition of the amendments might prompt an acceleration of submission of building plans by developers to establish "fait accompli", hence defeating the purpose of imposing the BHRs.

4.3.21 The rationales for the BHRs and NBAs requirements have been set out clearly in the MPC Paper No. 25/10, the AVA Study and the ES of the OZP, which are all available to the public.

4.3.22 A visual appraisal was undertaken as part of the BH review and photomontages showing the proposed BH bands for development sites in the OZP area were included in the MPC Paper No. 25/10.

4.3.23 Amendments to the OZP were exhibited for public inspection for a period of 2 months in accordance with the provisions of the Ordinance. The exhibition process itself is a public consultation to seek representations and comments on the draft OZP. During the exhibition period, PlanD also provided briefings on the OZP amendments to KTDC. The 2-month statutory exhibition period is considered adequate for consultation with the public, while maintaining the efficiency of the process.

Responses to R2's Proposals

4.3.24 Keeping the integrity of the BH profile and designation of NBAs /building gaps to maintain and improve the visual quality of the townscape and permeability of the district are considered important. Stipulation of NBAs on OZP is an effective measure to improve air ventilation, particularly for sites facing narrow street canyon. Any uplifting of the BHRs or removal of NBAs should be subject to adequate justifications and demonstrations.

4.3.25 **R2**'s proposals for increased BHRs ranging from 140mPD to 150mPD to create a rising profile of BHs for the OZP central area is not supported since it would result in an awkward downward and upward BH profile for the OZP area as well as the overall visual quality of the townscape. The proposals for increasing the BHRs of 20m to 40m and deletion of NBAs are not supported having considered the urban design considerations set out above.

4.3.26 The proposal for deleting the NBA requirement and for designating alternative "O" zone to provide desired gaps is not supported as they serve different purpose. The proposed deletion of the words "exceptional circumstances" in respect of applications for minor relaxation of NBA requirements from the relevant Notes is also not acceptable since this would render the NBA requirements ineffective.

Representation Opposing Development Restrictions for the "R(A)" Site at 7 Ngau Tau Kok Road (R3)

R3

Lack of public consultation

4.3.27 As aforementioned, it is an established practice that proposed amendments involving BHRs should not be released to public prior to gazetting. Premature release of such information before exhibition of the amendments might prompt an acceleration of submission of building plans by developers to establish "fait accompli", hence defeating the purpose of imposing the BHRs. Amendments to the OZP were exhibited for public inspection for a period of 2 months in accordance with the provisions of the Ordinance. The exhibition process itself is a public consultation to seek representations and comments on the draft OZP. During the exhibition period, PlanD also provided briefings on the OZP amendments to KTDC. The 2-month statutory exhibition period is considered adequate for consultation with the public, while maintaining the efficiency of the process.

4.3.28 Regarding the Representer's concerns on the urban design study and visual impact assessment, it should be noted that a visual appraisal for the BH concepts and restrictions of the Area was conducted and incorporated in the MPC Paper No. 25/10. The MPC Paper is available to the public.

Flexibility for innovative and quality design

4.3.29 The BHRs are formulated based on reasonable assumptions, having regard to the development intensity permissible under the OZP, without precluding the possibility for incorporating building design measures to achieve good quality developments. They should be sufficient to accommodate the permissible PR under the OZP. Besides, the BHRs do not preclude the incorporation of green features, innovative architectural features and a reasonable floor-to-floor height for development/redevelopment. The BHRs should not be the sole consideration for a quality building design. Instead, as advised by CTP/UD&L, it could be achieved by innovative architectural design, and landscape treatment of a development proposal. Also, to allow for design flexibility and to provide incentive for development/redevelopments with planning and design merits, minor relaxation of the BHRs may be considered by the Board based on

individual merits of the development proposal.

Need for reasonable BH

4.3.30 As mentioned previously, the BHRs would not result in bulkier buildings or wall effect affecting air ventilation. The BHRs are formulated based on reasonable assumptions and flexibility is allowed in the shape and form of the buildings. The ES of the OZP has also expressly encouraged the provision of improvement measures for better air ventilation e.g. greater permeability of podium, wider gap between buildings and building setback. In considering the building bulk, apart from the size and volume of a building, reference should also be made to the shape and form of building, including any podium, balcony, bay window, architectural feature and stepped height profile; the disposition of building in relation to the boundary of the site and the adjacent building, including setback at both ground and upper levels; and the location of the building in relation to the characteristics of the surrounding area, including surrounding buildings, heritage, open areas, natural topography, ridgeline, main street and pedestrian circulation pattern, view corridor and breezeway. Given the tendency to maximise the best view in certain direction (particularly sea view), and to capitalize on land values on the lower floors by designing a 100% site coverage commercial podium permissible under B(P)R to 15m, a development with more lenient BH control may be taller and even bulkier (as site coverage may not necessarily be reduced).

The BHR of 120mPD is too low

4.3.31 The imposition of BHRs in the Area has taken into account various considerations, including the natural topography and site levels. It should be noted that the difference of the BHRs between private and public housing developments are the result of the site level of the representation site, which is about 5mPD and that of the public housing estates beyond Choi Ha Road ranging from about 20mPD to 40mPD. As such, there is no differential treatments for the private and public housing sites and the BHR of the site is not unreasonably low.

No significant positive visual impacts

4.3.32 The imposition of BHR of 120mPD on the site and adjoining private residential development is considered visually desirable from urban design point of view. CTP/UD&L indicates that, with respect to the natural topography of Jordan Valley and the existing and planned BHs for the residential developments to the west of Jordan Valley, the BHR of 120mPD for the "R(A)" zone (where the site is located) could allow a stepped BH profile gradually descending from 170mPD of Choi Fuk Estate at Choi Wing Street near Jordan Valley to 140mPD of Choi Ha Estate along Choi Ha Road and 120mPD of the private residential developments along Ngau Tau Kok Road, then further to 40mPD for

the planned G/IC development along Kwun Tong Road.

No significant positive air ventilation impacts

4.3.33 The AVA Study was conducted to assess the likely impacts of the BHRs of the developments within the Area, including the representation site, on the pedestrian wind environment. According to the AVA Study and as advised by CTP/UD&L, the BH is one of the factors affecting the air ventilation in the Area. Though the AVA Study concludes that, in Ngau Tau Kok and Jordan Valley sub-area, there are no significant negative air ventilation impacts due to the abundant surrounding open space, green belt and / or low-rise G/IC developments, it does not imply that the BHRs in the sub-area could be varied. Increasing the BHR of the representation site would set an undesirable precedent in the sub-area, and would have cumulative adverse impact on the air ventilation in the Area.

4.3.34 Also, as mentioned above, the BHR of 120mPD for the private residential sites along Ngau Tau Kok Road and the BHR of 140mPD for the public housing estates form part of the stepped height profile in the Area. It is indicated in the Urban Design Guidelines of the HKPSG that, stepped BH can help optimise the wind performance. It is therefore considered necessary to maintain the BHR of 120mPD for a 20m BH interval.

Potential wall effect at the representation site

4.3.35 The BH of 120mPD is considered more desirable than the BH of 140mPD as proposed by the representer. CTP/UD&L comments that the proposed 140mPD at the representation site would breach the integrity of the height profile of 120mPD without any particular planning or design merits. For the alternative proposal of 140mPD for the whole "R(A)" zone, the uplifting of the whole height band from 120mPD to 140mPD would breach the stepped height concept (**Plan H-7e**).

Lease Restrictions

4.3.36 The OZP requirements and lease conditions are under two separate regimes, i.e. land administration and town planning regimes. The intention of stipulating BHRs on the OZP is to achieve a good urban form. In formulating the BHRs, a balance between public aspirations for a better living environment and private development potential has been struck. The BHRs are formulated on the basis of reasonable assumptions that development potential permissible under the OZP could be accommodated. Lease is only one of the considerations in formulating the BHRs.

Responses to R3's Proposals

4.3.37 **R3** proposes to revise the BHR of the whole "R(A)" zone to 140mPD, or revise the BHR for the site to 140mPD or such other height greater than 120mPD as may be appropriate. For the following reasons, the representers' proposals are not supported:

(a) With respect to the natural topography, the BHR of 120mPD for the "R(A)" zone (where the site is located) along Ngau Tau Kok Road could allow a stepped BH profile gradually eastward and northward towards Jordan Valley and the foothill of Kowloon Peak. The proposed BH of 140mPD for the whole "R(A)" zone would breach the stepped height concept; and

(b) The proposed BH of 140mPD at the representation site would breach the integrity of the height band of 120mPD without any particular planning or design merits, and in turn adversely affect the stepped height profile in the Area.

Representation Opposing Development Restrictions for Kowloon Bay MTR Depot and the adjoining Railway Station (R4)

R4

New zonings for the comprehensive development above Kowloon Bay MTR Depot and the adjoining railway and MTR Station and the new sets of Notes

4.3.38 As advised by the DLO/KE, the agreement and covenants as mentioned by the MTRCL in paragraph 2.4.2 should mean the lease conditions. The Telford Garden comprises 2 lots, namely NKIL 5744 and NKIL 6201. The 2 concerned lots are governed by Master Plans. The new zonings of "OU(MTR Depot with Commercial and Residential Development Above)" and "OU(Railway)" are to reflect more clearly the planning intention of the residential/commercial development on top of Kowloon Bay MTR depot and the railway station and facilities. The new zoning of the "OU(MTR Depot with Commercial and Residential Development Above)" zone and the development restrictions are to reflect the optimal development pattern and long term planning intention as set out on the Master Plans under the lease, which were agreed among various government departments. DLO/KE indicates that any changes shall require Director of Lands' prior consent who may, in granting such consent, impose such terms and conditions including payment of premium.

4.3.39 Regarding the land use of the "OU(Railway)", as mentioned in paragraph 4.2.13, the user clause of the land grants has already specified that the MTR Depot shall not be used for any purpose other than for the purpose of a MTR workshop and maintenance depot, where no commercial use is allowed. The new zoning of "OU(Railway)" is to ensure effective control from land use planning

perspective.

4.3.40 As advised by CBS/K, the non-domestic GFA in accordance with the latest approved building plans for the sites is about 168,531m^2. Compared with the approved non-domestic GFA of 177,030m^2 (Table 1 refers), the remaining non-domestic GFA is about 8,499m^2, which could meet the future public needs and facility improvements arising from the projects including Kai Tak Environmentally Friendly Transport System (EFTS) and Kowloon Bay Elevated Walkway System. Also, Project Manager(Kowloon) (PM(K)) points out that the proposed EFTS is only at the technical feasibility stage. It would be premature to assume the effect of EFTS at this stage.

Inappropriate BHR for the office towers

4.3.41 The Kowloon Bay Station and the Telford Plaza is a transport/ retail hub in the district situated in the transitional zone between the business node at KBBA to its west and the medium to high-rise residential areas to its east across Kwun Tong Road. As stated in the MPC Paper No. 25/10, it is the intention to form a critical mass of office/ commercial use at 170mPD in the southern part of the KBBA as an identifiable business node, with a smooth transition of the BH profile from the business node within KBBA stepping down gradually to the medium-rise residential development in the northern and eastern fringes. To ensure the smooth transition of BH profile to the residential areas of 120mPD to 140mPD to the east of Kwun Tong Road, CTP/UD&L considers that the BHRs of 100mPD for the office towers above Telford Plaza, with respect to the existing BH (i. e. about 100mPD), is more reasonable than the BH of 170mPD.

Fail to reflect the existing conditions of the railway depot and affect the railway operation

4.3.42 Within the "OU(Railway)" zone, specific BHRs have been imposed on the Kowloon Bay MTR Station and the existing buildings which are ancillary to the railway operation. In order to ensure the planning intention of providing land for the open-air railway, the Kowloon Bay MTR Station and the associated facilities, it is necessary to ensure that only low-rise ancillary structures are allowed in the open depot areas. As such, for the remaining areas including the open-sided/ temporary structures as mentioned by the representer, it is specified in the Notes of the OZP for the "OU(Railway)" zone that no new development except 1-storey structure ancillary to the railway and MTR Station shall be permitted. Currently, except those with specific BHRs, the BH of all other open-sided/ temporary structures is 1-storey. As such, it is considered that the BHR of 1 storey for the open depot area is appropriate and can reflect the existing condition in the depot area.

4.3.43 However, should there be a need for a relaxation of BHRs of the

ancillary structures, there are provisions for application for minor relaxation of the BHR under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.

Building gap conflicting with an existing retail footbridge

4.3.44 The demarcation of 15m-wide building gap running in north-south direction in Telford Gardens where no building shall exceed 22mPD (i.e. the height of the MTR depot) is demarcated in accordance with the recommendation of the AVA Study in order to connect Tai Yip Street in Kwun Tong for improving the air ventilation. As shown on **Plan H-8e**, only a portion of the existing retail footbridge falls within the demarcated building gap running in north-south direction. However, the existing building/ structure is not required to conform to the OZP until it is redeveloped. As stated in the ES, the requirements of these building gaps would only need to be taken into account upon future redevelopment of Telford Gardens and Telford Plaza (**Plan H-8e**). Should there be a need for a relaxation of the building gaps in future redevelopment, there are provisions for application for minor relaxation of the building gaps under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.

Responses to R4's Proposals

4.3.45 **R4** proposes to reflect the presence of the retail footbridge at the building gap, allow a BH of 170mPD for the office towers, reflect existing depot structures and delete BHRs on the open depot area as well as amend the Notes Item (n) to delete the non-domestic GFA restriction. The proposals are not supported for the following reasons:

(a) The requirements of building gaps is recommended by the AVA Study and to be taken into account upon future redevelopment. It is noted that only a portion of the existing retail footbridge falls within the demarcated building gap running in north-south direction. However, there is no need for existing buildings/ structures to comply with the requirements. As such, the existing retail footbridge would not be affected and there is no strong reason to reflect this on the OZP. Should there be a need for a relaxation of the building gaps in future redevelopment, there are provisions for application for minor relaxation of the building gaps under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.

(b) The proposed BH of 170mPD for the office towers is not in line with the intention of maintaining a smooth transition of the BH profile from the business node within KBBA stepping down

gradually to the medium-rise residential development in the northern and eastern fringes.

(c) Specific BHRs have already been imposed on the Kowloon Bay MTR Station and the existing buildings which are ancillary to the railway operation. The BHRs on the open depot area are to ensure that only low-rise ancillary structures are allowed in the open depot area. Should there be a need for a relaxation of BHRs of the ancillary structures, there are provisions for application for minor relaxation of the BHR under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.

(d) The non-domestic GFA restriction in the Notes is line with the approved Master Plans required under the land grants. Also, the remaining non-domestic GFA of the development would be sufficient to cater for future need.

5 Consultation

5.1 The following Government departments have been consulted on the representations and their comments have been incorporated in the above paragraphs, where appropriate:

(a) Chief Town Planner/Urban Design and Landscape, Planning Department
(b) District Lands Officer/Kowloon East; and
(c) Project Manager (Kowloon), Civil Engineering & Development Department

5.2 The following Government departments have no comments on the representations:

(a) Antiquities & Monument Office, Leisure & Cultural Services Department;
(b) Chief Architect/Advisory and Statutory Compliance, Architectural Services Department;
(c) Chief Building Surveyor/ Kowloon, Buildings Department;
(d) Chief Engineer/Development(2), Water Supplies Department;
(e) Chief Engineer/Mainland South, Drainage Services Department;
(f) Chief Highway Engineer/Kowloon, Highways Department;
(g) Chief Engineer/Railway Development Office, Highways Department;
(h) Commissioner of Transport;
(i) Director of Electrical and Mechanical Services;
(j) Director of Environmental Protection;
(k) Director of Fire Services;
(l) Director of Leisure and Cultural Services; and
(m) District Officer (Kwun Tong).

6 Planning Department's Views

Based on the assessments in paragraph 4 above and for the following reasons, PlanD does not support the **Representations No. 2 to 4** and considers that the representations should not be upheld:

6.1 R2

BHRs

(a) The purpose of imposing BHRs in the Area is to provide better planning control on the building height 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 building height profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped building height concept, local characteristics, existing building height 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 AVA Study, had 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 OZP. Piecemeal relaxation of BHRs for individual sites is not supported as it would jeopardise the coherence of the stepped building height profile and would result in proliferation of excessively high developments, which is not in line with the intended planning control.

(c) The BHRs do not necessarily result in larger building bulk. Whether a building is bulky or massive depends on many factors other than BH alone. Given the tendency to maximise the best view in certain direction and to capitalise on the land value of lower floors, a development with more lenient building height control might be even taller and bulkier.

(d) To cater for site specific circumstances and schemes with planning and design merits, there is provision for application for minor relaxation of BHRs under the OZP. Each application would be considered by the Board on its individual merits.

NBA, Building Gap and Setback Requirements

(e) Sections 3 and 4 of the Town Planning Ordinance (the Ordinance) and

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

(f) Designation of NBA and building gap 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. Given that the designation of NBA is fully justified, it has legal basis to form part of the planning control of the Board.

(g) The relaxation of the NBA and building gap requirement would affect the effectiveness of their planning intention. The wording 'exceptional circumstances' is included in the minor relaxation clause requirement to cater for the situation that only in some exceptional cases under which the requirement could not be met due to site constraints but the planning objectives would be achieved in other forms.

(h) The requirements under BO and OZP on NBAs and building gaps are under two separate regimes. They are complementary, rather than duplicating each other.

Public Consultation

(i) Subsequent to the completion of the Study "Urban Design Guidelines for Hong Kong" setting out the broad urban design guidelines in 2003, the BH proposals were firstly translated onto OZP restrictions in KBBA and Kwun Tong Business Area (KTBA) in 2004. As most of the sites within the business areas were subject to the Airport Height Restrictions/ BHRs under leases and a surge of building plan submissions to establish "fait accompli" was unlikely, it was considered that public consultation prior to the gazetting could be conducted to gauge the public views on such translation of BHR onto relevant OZPs. The TPB Guidelines for Interim BH Control in KBBA and KTBA was issued in 2004for planning control purposes pending on the results of the public consultation on imposing BHRs in KBBA and KTBA.

(j) The 2-month statutory exhibition period and provision for representations and comments formed part of the current public consultation process. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs. All information supporting the BHRs, NBA and building gap requirements on the OZP including the AVA Report and visual analysis, is available for public inspection.

6.2 **R3**

(a) The purpose of imposing BHRs in the Area is to provide better planning control on the building height 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 building height profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped building height concept, local characteristics, existing building height 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 AVA, had 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 OZP. Piecemeal relaxation of BHRs for individual sites is not supported as it would jeopardise the coherence of the stepped building height profile and would result in proliferation of excessively high developments, which is not in line with the intended planning control.

(c) The BHRs do not necessarily result in larger building bulk. Whether a building is bulky or massive depends on many factors other than BH alone. Given the tendency to maximise the best view in certain direction and to capitalise on the land value of lower floors, a development with more lenient building height control might be even taller and bulkier.

(d) The BHR for the representation site and the adjoining residential developments allow a stepped building height profile in the Area gradually descending from the Jordan Valley towards Ngau Tau Kok Road, which is considered desirable from urban design point of view and can help optimise the wind performance.

(e) There is a need to strike a balance between public interest and private development right. The stipulation of BHRs on the OZP is to achieve a good urban design. It is an effective measure to regulate the development profile of the built environment. In addition, the BHRs are formulated on the basis of reasonable assumptions that development potential permissible under the OZP could be accommodated.

(f) To cater for schemes with planning and design merits, there is provision for application for minor relaxation of the BHRs under the OZP. Each application will be considered by the Board on its individual merits

based on the set of criteria set out in the ES of the OZP.

6.3 **R4**

(a) The new zonings of "OU(MTR Depot with Commercial and Residential Development above)" and "OU(Railway)" are to better reflect the planning intention of the residential/commercial development on top of Kowloon Bay MTR depot and the railway station and facilities; and the optimal development pattern and long term planning intention as set out on the Master Plans under the lease, which were agreed among various departments.

(b) The Kowloon Bay MTR Station and the Telford Plaza are situated in the transitional zone between the business node at KBBA to its west and the medium to high-rise residential areas to its east across Kwun Tong Road. The current BHR for the office towers is required to ensure a smooth transition of the building height profile from the high-rise business node within KBBA stepping down gradually to the medium-rise residential development in the northern and eastern fringes.

(c) Specific BHRs have already been imposed on the Kowloon Bay MTR Station and the existing buildings which are ancillary to the railway operation. The BHRs on the open depot area are to ensure that only low-rise ancillary structures are allowed in the open depot area. Should there be a need for a relaxation of BHRs of the ancillary structures, there are provisions for application for minor relaxation of the BHR under s.16 or amendments to OZP under s.12A of the Town Planning Ordinance. Each application would be considered by the Board on individual merits.

(d) The requirements of building gaps are to reflect the findings and recommendations of the AVA Study and to be taken into account upon future redevelopment. It is noted that only a portion of the existing retail footbridge falls within the demarcated building gap running in north-south direction. However, the existing building/ structure is not required to conform to the OZP until it is redeveloped. As such, the existing retail footbridge would not be affected and there is no strong reason to reflect this on the OZP. Should there be a need for a relaxation of the building gaps in future redevelopment, there are provisions for application for minor relaxation of the building gaps under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.

7 Decision Sought

The Board is invited to give consideration to the representations and decide whether to propose/not to propose any amendments to the OZP to uphold/not to uphold the

representations.

Attachments

Annex I	Draft Ngau Tau Kok & Kowloon Bay Outline Zoning Plan No. S/K13/26 (reduced)
Annex II	Schedule of Amendments to the Approved Ngau Tau Kok & Kowloon Bay Outline Zoning Plan No. S/K13/26
Annex III-1 to III-3	Submissions made by the Representers
Annex IV	Expert Evaluation on AVA Report of the Ngau Tau Kok & Kowloon Bay Area
Annex V	Extract of the minutes of Kwun Tong District Council
Annex VI	Summary of representations and PlanD's responses
Plan H-1	Location Plan for Representation Sites
Plan H-2	Spatial Attributes of Ngau Tau Kok & Kowloon Bay Area
Plan H-3	Sub-areas of Ngau Tau Kok & Kowloon Bay Area
Plan H-4	BHRs in Ngau Tau Kok & Kowloon Bay Area
Plan H-5	NBA and Building Gap Requirements
Plan H-6	Major Breezeway
Plan H-7a to H-7e	R3 – Location Plan, Aerial Photo, Site Plan, Site Photos and Photomontages
Plan H-8a to H-8e	R4 – Location Plan, Aerial Photo, Site Plan and Site Photos
Plan H-9	Local View Corridor towards Lion Rock Ridgeline

PLANNING DEPARTMENT
MAY 2011

新蒲崗
SAN PO KONG
NGAU CHI WAN
啓德
KAI TAK
KOWLOON BAY
九龍灣
Kowloon Bay Sports Ground
Kowloon Bay Interchange
Choi Tak Estate
Choi Tai Estate
Choi Yuen Estate
Kai Lok Estate
Kai Yip Estate
Kai Tak Estate
Jordan Valley Park
DORSET
Dorset Regis
Grand Century Place
Grand Century Tower
Grand Central
Grand Harbour
Grand Horizon
Grand Mercure Apartments
Grand Mercure Hotel
Grand Oriental Plaza
Grand Oriental Tower
Grand Peninsula
Grand Promenade
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SCHEDULE OF AMENDMENTS TO THE APPROVED NGAU TAU KOK AND KOWLOON BAY OUTLINE ZONING PLAN NO. S/K13/25 MADE BY THE TOWN PLANNING BOARD UNDER THE TOWN PLANNING ORDINANCE (Chapter 131)

I. Amendments to Matters shown on the Plan

Item A – Stipulating new building height restrictions for areas zoned "Residential (Group A)" ("R(A)"), "Residential (Group B)" ("R(B)"), "Government, Institution or Community" ("G/IC") and "G/IC(2)" outside the Kowloon Bay Business Area .

Item B1 – Designation of a strip of land at the central part of the "G/IC(1)" zone at Wang Kee Street as a 'non-building area'.

Item B2 – Designation of a strip of land along the western boundary of the "OU" annotated "Business" ("OU(Business)") zone at Wang Mau Street as a 'non-building area'.

Item B3 – Designation of two strips of land along the northern and eastern boundaries of the "R(A)" zone near the junction of Kwun Tong Road and Choi Shek Lane as 'non-building areas'.

Item B4 – Designation of the existing slope within the "R(A)" zone of Ping Shek Estate as a 'non-building area'.

Item B5 – Designation of the existing slope within the "R(B)" zone of Shun Chi Court as a 'non-building area'.

Item C1 – Stipulation of building height restrictions on three strips of land demarcated as building gaps within the "Commercial" ("C"), "OU(Business)" and "OU(Commercial Uses with Public Transport Terminus)" zones from Lam Hing Street to Sheung Yuet Road.

Item C2 – Stipulation of building height restriction on a strip of land demarcated as a building gap within the "R(A)" zone near the junction of Kwun Tong Road and Choi Shek Lane.

Item C3 – Stipulation of building height restrictions on three strips of land demarcated as building gaps within the "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" zone bounded by Kwun Tong Road and Wai Yip Street.

Item C4 – Stipulation of building height restriction on a strip of land demarcated as a building gap within the "OU(Business)2" zone from Lam Fung Street to Sheung Yee Road.

Item D1 – Rezoning of an existing school within Kai Yip Estate from "R(A)" to "G/IC" and stipulating with building height restriction .

Item D2 – Rezoning of a strip of land at Kai Yan Street from "Open Space" ("O") to "G/IC(1)" to tally with the boundary of an existing school and stipulating with building height restriction .

Item D3 – Rezoning of an area at the junction of Kwun Tong Road and Ngau Tau Kok Road from "R(A)" to "G/IC(1)" and stipulating with building height restriction .

Item D4 – Rezoning of an existing historical building at Kwun Tong Road from "O" to "G/IC(2)" and stipulating with building height restriction .

Item D5 – Rezoning of a site at Choi Ha Road from "G/IC" to "G/IC(3)" and stipulating with building height restriction .

Item D6 – Rezoning of an existing school at Lee On Road from "R(A)" to "G/IC" and stipulating with building height restriction .

Item E1 – Rezoning of a site at Clear Water Bay Road from "G/IC" to "OU(Commercial/Residential Development with Public Car Park and Public Transport Interchange)" and stipulating with building height restriction .

Item E2 – Rezoning of an area bounded by Kwun Tong Road and Wai Yip Street from "OU(Mass Transit Railway Comprehensive Development Area)" to "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" and stipulating with building height restrictions .

Item E3 – Rezoning of a piece of land along Kwun Tong Road from "OU(Mass Transit Railway Comprehensive Development Area)" and area shown as 'Road' to "OU(Railway)" to reflect the existing Mass Transit Railway facilities at Kowloon Bay Station and stipulating with building height restrictions .

Item E4 – Rezoning of a narrow strip of land at Sheung Yee Road and Kai Fuk Road from "O" and an area shown as 'Road' to "OU(Landscaped Elevated Walkway)".

Item E5 – Rezoning of a site bounded by Lam Fung Street, Wang Chiu Road and Sheung Yee Road from "OU(Business)" to "OU(Business)2".

Item F1 – Rezoning of an existing sitting-out area at Clear Water Bay Road from "G/IC" to "O".

Item F2 – Rezoning of Shun Lee Tsuen Playground at New Clear Water Bay Road from "G/IC" to "O".

Item F3 – Rezoning of an area within the former Lower Ngau Tau Kok Estate from "R(A)" to "O".

Item G1 – Rezoning of a strip of land along Choi Shek Lane from "G/IC" to area shown as 'Road'.

Item G2 – Rezoning of an area between Kwun Tong Road and Ngau Tak Kok Road from "R(A)" to area shown as 'Road'.

II. Amendments to the Notes of the Plan

(a) Incorporation of building height restrictions and a minor relaxation clause for such restrictions in the Remarks of the Notes for the "R(A)", "R(B)" and "G/IC" zones.

(b) Incorporation of building gap restrictions and a minor relaxation clause for such restrictions in the Remarks of the Notes for the "C", "R(A)", "OU(Business)" and "OU(Commercial Uses with Public Transport Terminus)" zones.

(c) Incorporation of a building gap restriction and a minor relaxation clause for such restriction in the Remarks of the Notes for the "OU(Business)2" sub-zone; and inclusion of a provision for application for alternative means to such restriction.

(d) Incorporation of a minor relaxation clause for plot ratio restrictions in the Remarks of the Notes for the "C", "R(A)", "OU(Business)" and "OU(Commercial Uses with Public Transport Terminus)" zones.

(e) Incorporation of a clause in the Remarks of the Notes for the "R(A)" zone to clarify the application of plot ratio(s) of the existing building.

(f) Incorporation of a minor relaxation clause for non-building area restrictions in the Remarks of the Notes for the "R(A)" and "R(B)" zones.

(g) Incorporation of non-building area restrictions and a minor relaxation clause for such restrictions in the Remarks of the Notes for the "G/IC(1)", "O", "OU(Business)", "OU(Business)2" and "OU(Refuse Transfer Station)" zones.

(h) Revision of the development restrictions and inclusion of a minor relaxation clause for such restrictions in the Remarks of the Notes for the "R(B)" zone.

(i) Incorporation of a clause in the Remarks of the Notes for the "G/IC" zone to allow exemption of basement floor(s) in determining the building height restrictions .

(j) Revision to the Remarks of the Notes for the "G/IC(2)" sub-zone to reflect the planning intention to preserve the historical buildings.

(k) Incorporation of gross floor area restrictions and inclusion of an exemption clause and a minor relaxation clause for such restrictions in the Remarks of the Notes for the "G/IC(3)" sub-zone.

(l) Incorporation of the requirement for a public transport terminus in the Remarks of the Notes for the "OU(Commercial Uses with Public Transport Terminus)" zone.

(m) Deletion of the Notes for the "OU(Mass Transit Railway Comprehensive Development Area)" zone.

(n) Incorporation of new sets of Notes for the "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)", "OU(Commercial/ Residential Development with Public Car Park and Public Transport Interchange)", "OU(Landscaped Elevated Walkway)" and "OU(Railway)" zones.

(o) Revision to the plot ratio/ gross floor area exemption clause to clarify the provision related to caretaker's quarters and recreational facilities in the Remarks of the Notes for the "R(A)" and "R(B)" zones.

(p) Revision to the annotation of and the Notes for the "OU(Open Lorry Park)" zone to set out the planning intention of the zone for an open-air lorry park.

Town Planning Board
19 November 2010

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

Annex III-1 of TPB Paper No. 8820

FAX

By fax and mail

19 January 2011

The Secretary
Town Planning Board
15 Floor North Point Government Offices
333 Java Road
North Point
Hong Kong

雙面影印

Dear Sir

Representations in Relation to the Amendments to the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (Amendments shown on Plan Number S/K13/26)

We refer to the proposed amendments to the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan which have been shown on the Draft Outline Zoning Plan No. S/K13/26 gazetted on 19 November 2010.

We hereby submit Representations to the Amendments under Section 6(1) of the Town Planning Ordinance. The reasons for the Representations are included in the paper attached to this letter.

Please note that this Representation relates to matters of principle and should not be used as a basis for rejection of any development which complies with the restrictions on the Outline Zoning Plan. Our proposals are for a relaxation of the restrictions and more flexibility in design.

We retain the right to provide additional information in support of this Representation and to raise additional points, if necessary.

Yours sincerely,

Louis Loong
Secretary General
01173

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 Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26 – 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 (BHRs), building gap Restrictions and Non-building Areas (NBAs) and other associated matters included as amendments in the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26 (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 BHR, building gap restrictions, NBAs and other restrictions in the amendments shown to the OZP. In other words, this representation objects to Amendment Items A, B1 – B5, C1 – C4 on the Plan and (a), (b), (f) and (g) of Amendments to the Notes of the Plan.

2.2 This representation is made in the broad interests of Hong Kong as a whole including the interests of individual property owners. It is REDA's views that any planning changes should enhance the economic growth of Hong Kong, maintain an efficient and sustainable urban development system, and respect the private property rights of individual property owners.

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 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 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 7.2 of the Explanatory Statement that the reasons for the imposing of building height limits are:

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

3.1.3 No 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. The consequences include lowering property values and reducing air ventilation at street level.

3.1.4 It is considered that most of the objectives for the building height restrictions can be achieved with height limits imposed at a level which generally permits a more reasonable form of development while achieving 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 positions. High-rise developments in the order of 40 storeys have been in place in various parts of Hong Kong for years and they are acceptable to the public.

3.1.6 The OZP generally allows for an absolute height of only about 80m to about 100m for many of the residential sites. The absolute heights are equivalent to about 25 to 32 storeys. It is considered that the height restrictions have been set unreasonably low, lower than what is necessary to address the public concern.

Preservation of Ridgelines and Stepped Building Heights

3.1.7 The Urban Design Guidelines Study has identified four key vantage points on the Hong Kong Island. The Hong Kong Convention and Exhibition Centre (HKCEC) and the Quarry Bay Park are the most relevant ones for visual impact considerations in this Outline Zoning Plan. The previous Planning Department study on visual impact used as a basis to set the BHRs for the Kowloon Bay

香港地產建設商會
THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG
香港中環干諾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

Business Area had accepted BHRs of 120mPD to 140mPD for much of the OU(B) zone in the Kowloon Bay Business Area (KBBA).

3.1.8 It is therefore illogical to adopt a descending BHR profile to the east, from the 120mPD along Wai Yip Street, and to disallow continued increase in BHRs across Telford Gardens, across Kwun Tong Road and Ngau Tau Kok Road. The whole of this central area should have increased BHRs ranging from 140mPD to 150mPD to maintain the rising profile of building heights, while still protecting the ridgelines from the recognized viewpoints.

3.1.9 The Planning Department appear to have arbitrarily adopted other "view corridors" such as from a footbridge near Choi Ying Place, and used this as a reason for reducing BHRs. There is no particular reason why this footbridge or the other viewpoints should be selected as they have no significant characteristics which make them more important than any other place for creating view corridors. These have not been established after public consultation and should not be given any significance.

Building Height and Air Ventilation

3.1.10 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 building height limits as this tends to force developments down into a solid mass of building rather than encouraging the creation of space around buildings at street level. The imposition of the height limit at a level which is too low therefore creates a solid wall effect closer to ground level.

Need for Reasonable Building Height

3.1.11 The overall height profile of the Planning Area is formed mainly by the Residential and Business zones with Open Space and G/IC zones as visual relief and breathing space. However, the new BHRs stipulated on the Outline Zoning Plan are generally too low.

3.1.12 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. In this respect a more reasonable approach has been taken in the previous exercise for establishing the BHRs for the OU(B) in the KBBA where 120 – 170mPD BHRs were imposed.

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

3.1.13 Imposition of unreasonably low building height limit restrains the building bulk, making incorporation of innovative architectural design and void feature impossible. This directly affects streetscape, air ventilation and the quality of life of the users of the development.

3.1.14 It would also appear that the result of the BHR imposition in that the private land in the vicinity of Kwun Tong Road , i.e. in the 'valley' created by the approach outlined in paragraph 3.1.7 above, is that the private land has been provided with much more restrictive BHRs than the public housing sites in the Area. The assumptions regarding the floor-to-floor heights and plot ratios used in determining the BHRs on public and private land should be provided.

3.2 No Public Consultation

3.2.1 The BHRs, 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 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, setback requirements 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.

3.2.2 This is strongly contrasted with the approach taken in 2004 when a "Study of "Building Height Restrictions for Kwun Tong and Kowloon Bay Business Area" was undertaken and TPB Guidelines issued to propose a temporary arrangement during the processing of the proposed BHRs. It is strongly suggested that the Planning Department should have carried out a similar planning study 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.

3.3 Non-Building Areas

3.3.1 NBAs are extensively introduced throughout the Outline Zoning Plan 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

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

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.

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 The proposed NBAs on this OZP are a major deprivation of the development rights of private landowners without any form of compensation. The AVA assessment carried out for the review of the OZP is inadequate to justify the extent of imposition that is proposed. No information was included in the AVA to justify the extent of intrusion into private property rights that is proposed. For example there is no indication of the extent of adverse impact of the existing situation, or the extent of improvement that would be obtained, by the imposition of the NBA restriction through the centre of Enterprise Square V/Mega Box, or through Kai Tak Mansions. No critical assessment has been undertaken to show that such proposals are <u>essential</u> for the public good, and no alternatives have been considered, and no consideration of compensation for owners for the loss of their property rights has been considered. These proposals go way beyond the scope that the Town Planning Ordinance allows.

3.3.6 The Board should make use of the zonings permitted by the Town Planning Ordinance if it is convinced that the use of some form of gap or space is required for essential air ventilation. For example, Amendment Item B4 relates to an extensive vegetated slope at Ping Shek Estate which should be zoned as "Green

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

Belt" if it is not to be built on, or "Open Space". Both zones are abutting the NBA. The same applies to B5 near Shun Chi Court. Similarly, the NBA proposed by Amendment Item C1 should be zoned as "Open Space" if it is absolutely essential in the public interest, and resumed with compensation paid to the land owners. This would then be the same situation as that for the existing linear park zoned "O" and located to the east between Kai Cheung Road and Sheung Yuet Road.

3.4 Building Gaps and Setbacks

Imposing Setbacks violates the Intention of Outline Zoning Plans

3.4.1 REDA is opposed to requirements for setbacks 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 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 proposes is considered wrong and may be subject to legal challenge.

Lack of Legal Basis for Setbacks for Air Paths

3.4.2 In addition, there is no legal recognition of the provision of setbacks for "air paths" as being a public purpose for which private land could be taken. It is therefore considered inappropriate for the Board to include these on the OZP and to be a matter outside the provisions of the Town Planning Ordinance.

Inadequate Justifications provided in Explanatory Statement for Setback Requirement

3.4.3 The justifications stated in the Explanatory Statement for providing setbacks for the "OU(B)", "G11C(4)" and other zones are confusing. The sub-paragraphs of paragraphs 8.6 of the Explanatory Statement of the Outline Zoning Plan, indicate varying building gaps and set-backs with no justification as to why they are essential, why they must be the specified width, and why some must be at ground level and others can be at 22mPD. There is no justification as to why there should be an additional set-back along some of the widest streets in the KBBA namely Wang Kwong Road and Wang Chiu Road. This imposition is considered to be unreasonable as the streets are already sufficiently wide to provide adequate space for vehicles, pedestrian and need not be wider for 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

3.4.4 The unclear justifications for the setback requirements would render unnecessary complication related to compensating private land owners for the loss of their land for a public purpose under the Buildings Ordinance and the Roads (Works Use and Compensation) Ordinance. In these circumstances, REDA requests that all setback requirements be removed from the Outline Zoning Plan.

3.5 Spot Zoning Approach Inconsistent with the Town Planning Ordinance

3.5.1 The Explanatory Statement in paragraph 3.2 indicates that *"The Plan is to illustrate the broad principles of development and to provide guidelines for more detailed planning within the Planning Scheme Area"*. The principle of establishing broad statutory zones with similar characteristics has been largely abandoned in relation to the OZP. The approach adopted has been unnecessarily restrictive and too detailed.

3.5.2 This can be seen in the designation of NBAs and setback requirements in a number of sites as detailed above, and also violates the broad principles of statutory town planning. The imposition of different BHRs within the same site, such as the imposition of 22mPD within sites in the OU(B) zones which have a general height of 140mPD, is an example of how this should not be applied.

3.5.3 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.

4. Proposals to Meet the Representation

Building Height Restrictions

4.1 The Building Height Restrictions 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. Given the previously established BHRs on the OU(B) zones in KBBA, and the general background of development on the slopes to the east, a general increase in the BHRs of 20m to 40m is appropriate and they should be amended accordingly.

Removal of Spot Zoning through NBAs and Building Gaps

4.2 The Board should adopt a more rational and generalized approach to the zoning by deleting "Spot Building Height Restrictions" which adversely affect development rights and building potential potential.

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

Deletion of Non Building Areas

4.3 The legal basis for the imposition of the NBAs and the technical justification for them is questionable. It is proposed that the requirement for the NBAs be deleted completely. Should the Board consider it necessary to provide gaps, a more suitable zoning such as "Open Space" should be used so that compensation is provided to the affected land owners. However, should the NBAs be retained, the words "under 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 Setbacks

4.4 All setbacks should be deleted from the Outline Zoning Plan.

5. Conclusion

5.1 The building height restrictions, NBAs and set-back 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.

5.2 The proposed amendments on the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan 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 the Planning Area.

雙面影印

MTR Corporation Limited
香港鐵路有限公司
www.mtr.com.hk

MTR

Annex III-3 of
TPB Paper No. 8820

Our ref: TPD 7.2/SCY/11746
Your ref:

19 January 2011

Secretary, Town Planning Board,
c/o Planning Department
15/F, North Point Government Offices,
333 Java Road,
North Point, Hong Kong.

BY FAX (2877 0245) & POST

Dear Sir/Madam,

Representation under Section 6 of the Town Planning Ordinance
Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26

This is a formal representation made pursuant to the Town Planning Ordinance by MTR Corporation Limited ("MTRCL") in respect of the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26 gazetted on 19 November 2010.

MTRCL, as the land grantee of NKIL5744 and NKIL6201 (collectively "the Lots") which have been developed into MTR Kowloon Bay Depot with a comprehensive commercial and residential development above and as the owner of Telford Plaza and MTR Headquarters Building, the commercial developments erected at the Lots, objects to Amendment Items C3, E2 and E3, and the Amendment to the Notes (n) shown on the draft plan and submit MTRCL's representations below.

Nature and Reasons for Representation

(1) Amendment Items E2 and E3 will introduce inappropriate zonings which will render the Government in breach of its agreement and covenants to MTRCL under the Government Grants of the Lots and prejudiced the rights and entitlements of MTRCL under the Government Grants

Telford Plaza above Kowloon Bay Station and Depot has been successfully developed as a key transport-cum-commercial hub in East Kowloon. Given the transformation of the Kowloon Bay Industrial Area into a business district and with the imminent further enhancement of Kowloon Bay's function as a transport hub, this commercial node has the potential to be further expanded.

Under the Government Grant of NKIL5744 (covering the core part of the subject site), there is no restriction on non-domestic GFA provision, nor restriction on commercial GFA.

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MTR Headquarters Building, Telford Plaza, Kowloon Bay, Kowloon, Hong Kong. GPO Box 9916, Hung Kong
Tel (852) 2993 2111 Fax (852) 2798 8822

香港九龍灣德福廣場鐵路大樓
郵政總局郵箱9916號
電話 (852) 2993 2111 傳真 (852) 2798 8822

19/F, MTR Headquarters Building, Telford Plaza,
Kowloon Bay, Kowloon, Hong Kong
Tel: 2993 [illegible] (Direct Line)
Fax: 2798 [illegible]
E-mail: steveyu@mtr.com.hk

MTR

The rezoning to the new "OU (Mass Transit Railway Depot with Commercial and Residential Development Above)" and "OU (Railway)" zones imposes restrictions on the further development of the site. For the former zoning, maximum domestic and non-domestic GFA are specified. For the latter zoning, land use restrictions are imposed such that commercial use is now not permitted.

The said new zonings and GFA restrictions introduced will render the Government in breach of its agreement and covenants to MTRCL under the Government Grants of the Lots and prejudiced the rights and entitlements of MTRCL under the Government Grant. This is unreasonable and unfair to MTRCL.

As the developments on the Lots are already controlled by means of Master Plan under the Government Grant, no further GFA restrictions under the OZP should be imposed.

It should also be noted that in Government's planning for the Kai Tak Environmentally Friendly Transport System (EFTS), MTR Kowloon Bay Station will become an interchange station with the EFTS which connects the Kai Tak Development with the hinterland in East Kowloon. Other than the EFTS, the Kowloon Bay Elevated Walkway System, which connects Telford Plaza/ MTR Kowloon Bay Station with several commercial developments in Kowloon Bay Industrial Area, was gazetted on 12 January 2010 and is anticipated to be implemented in the near future.

When these projects are completed, Kowloon Bay Station will become a key interchange of the two transport systems and Telford Plaza will be the important link for the new district pedestrian walkway network. As the transport/pedestrian hub function of the Lots expands, there will be demand for additional covered walkways, lifts, and commercial facilities. The new restrictions on non-domestic GFA under the rezoning proposal will render future public needs and improvements in facilities incapable of being met, notwithstanding that the Grantee and existing owner of the commercial accommodation are entitled to do so under the existing Government Grant.

(2) <u>Amendment Item E2 will introduce an inappropriate height restriction on office towers in a key transport/commercial hub in East Kowloon</u>

The amendment restricts the building height of the office towers in Telford Plaza to +100 mpd only.

It is a commonly accepted urban design principle that taller buildings are placed at commercial centres, transport hubs or district focal points with gradation in building height profile from the high density core to the fringe. We submit that the building height of the office towers at Kowloon Bay should be decided in its urban design context rather than by reference to its existing height (i.e. 100 mpd) which was a result of the old Airport Height Restriction.

MTR

The planned height profile of Kowloon Bay, as shown in the OZP, allows +120 mpd for "OU (Business)" sites and up to +170 mpd for strategic commercial sites. As explained above, we are of the view that a building height of +170 mpd for the office towers at the district focal point of Telford Plaza is considered more reasonable and appropriate, instead of +100 mpd as currently stipulated in the OZP.

(3) Amendment Item B3 fails to reflect the existing conditions of the railway depot and the height restrictions will adversely affect railway operation

The new "OU (Railway)" zoning restricts the building height of the open depot area. It has come to our attention that only the railway tracks and some of the existing buildings are shown. The remaining areas appear to be vacant without any existing structure, which is not correct. A full picture of existing structures in this zone is shown in the extract plan attached at Appendix 1, which should be duly reflected in the OZP.

Clearer plan needed

To meet the operational needs of the railway, workshops and engineering structures need to be erected at the railway depot and station as and when required, sometimes quite quickly. Normally these structures will not be high but our view is that their height should be driven by operational needs on a case-by-case basis rather than being bound by a given storey height limit. As "MTR vent shaft and/or other structure above ground level other than entrances" is already a Column 2 use and planning permission from TPB is required, the new height restrictions having no regard to the operational needs of a depot and station will adversely affect normal railway operation. Accordingly, the Amendment should not be allowed.

(4) Amendment Item C3 will introduce a building gap which conflicts with the grade-separation function of an existing retail footbridge

Under the proposed Amendment Item C3, an east-west building gap of a building height restriction of +22 mpd is imposed in the southern part of the "OU (Mass Transit Railway Depot with Commercial and Residential Development Above)" zone and it runs across an existing retail footbridge of a roof level of about +27.4 mpd.

This retail footbridge serves the important function of a grade-separated pedestrian spine separating pedestrians from the busy roundabout below, connecting the MTR station to/from the office towers, the Public Transport Interchange and GIC uses including the VTC training centre and Ngau Tau Kok District Police Station. The daily 2-way pedestrian flow on this footbridge is estimated to be over 100,000 persons. As the operating railway depot is immediately under the roundabout, a subway link is technically infeasible. Removal of the footbridge will result in grossly inadequate at-grade crossing facilities, not to mention the problems of safety, discomfort and inconvenience.

While it is understood that the proposed gap shows only a planning intention and it will not affect existing buildings, we submit that the important transport function served by the retail footbridge is very important and should be duly reflected in the OZP. The building gap proposed in the OZP carries the effect of removing the retail footbridge upon its redevelopment or major alterations when there is no feasible alternative. This is considered unreasonable and unacceptable.

(5) In the Amendment to Notes (n), the new set of Notes for "OU (Mass Transit Railway Depot with Commercial and Residential Development Above)" incorporate new restrictions which are unreasonable and unfair to MTRCL

This reason for objection is related to our point (1) above. Under the lease of NKIL 5744, there is no restriction on non-domestic GFA provision. The new GFA restrictions in the OZP to impose a maximum limit on non-domestic GFA will take away the development right the Grantee is entitled under the Government Grant, which is unreasonable and unfair. It will also deprive the Grantee of the ability to provide extra lifts, covered walkways and commercial facilities in the future to respond to the site's enhanced transport/pedestrian hub functions.

In view of the above reasons, alterations to the OZP are proposed as follows:

Reverse the zoning of the subject site to the previous zone, or change to another appropriate zoning which can address our concerns. In any event, the new zoning(s) should take into account our comments on Amendment Items C3 to reflect the presence of the retail footbridge, E2 to allow a building height of +170 mpd for the office towers, E3 to reflect existing depot structures and delete height restrictions on the open depot area and Amendment to the Notes (n) to delete restriction on non-domestic GFA.

Yours faithfully,

Steve C. Yiu
Head of Town Planning

Appendix 1

EXTRACT OF DRAFT NGAU TAU KOK AND KOWLOON BAY OUTLINE ZONING PLAN NO. S/K13/26
AMENDMENT ITEM E3 PROPOSING MAXIMUM BUILDING HEIGHT IN NUMBER OF STOREYS

Annex IV of
TPB Paper No. 8820

Sustainable Design Consultants

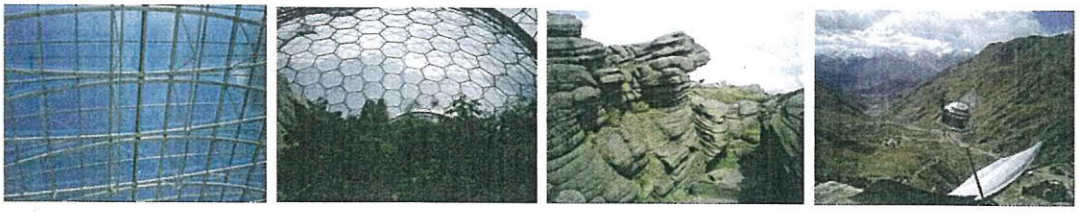
CO_2nnsulting

Term Consultancy for Expert Evaluation and Advisory Services on Air Ventilation Assessment Services under Agreement No. PLNQ 35/2009

Expert Evaluation and Advisory Report for Proposed Amendments to Ngau Tau Kok and Kowloon Bay Outline Zoning Plan

Final

November 2010



CO_2nnsulting sustainable design consultants 11/F Unit 1102B, 359-361 Queen's Road Central, Hong Kong
t: +852 2544 8868 w:www.co2nnsulting.com

Issue / Revision	Issue 1	Revision 1	Revision 2	Revision 3	Revision 4	Revision 5	Revision 6	Revision 7
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Prepared by	various	various	various	various	various	various	various	various
Signature								
Checked by	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen
Signature								
Authorised by	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen
Signature								
Project number	J9008-07	J9008-07	J9008-07	J9008-07	J9008-07	J9008-07	J9008-07	J9008-07
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Issue / Revision								
Remarks								

EXECUTIVE SUMMARY

CO_2nnsulting was commissioned by the Planning Department of HKSARG under the Term Consultancy for Expert Evaluation on Air Ventilation Assessment Services to assess the air ventilation impacts of the building height restrictions incorporated in the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/25 and recommend mitigation measures to alleviate the impacts.

The methodology adopted here follows that for an expert evaluation in the "Technical Guide for Air Ventilation Assessment for Developments in Hong Kong" as well as those requirements in the Project Brief.

The wind data in Ngau Tau Kok and Kowloon Bay is obtained from the CLP Power Wind / Wave Tunnel Facility (WWTF) at The Hong Kong University of Science and Technology. The annual prevailing wind directions for the Project Area are: north-easterlies, easterlies and south-easterlies. The summer prevailing wind directions for the Project Area are: easterlies, south-easterlies, southerlies, and south-westerlies.

The Project Area of Ngau Tau Kok and Kowloon Bay is hilly on the east and flat on the west. Region 1 of the Project Area is located at the east of Kai Tak Planning Area (former airport), adjacent to the Kwun Tong Typhoon Shelter, includes Kowloon Bay Business Area (KBBA) with maximum building height restriction of 170 mPD, and large-scale public housing estates and substantial private residential developments. Region 1 enjoys abundant sea breeze due to its proximity to the harbour. The majority of streets in Region 1 run north-south and east-west, channeling cooler sea breeze to the redevelopment area. As Region 1 is the gateway to sea breeze, it is essential that the OU and G/IC sites at the waterfront are maintained at 40mPD or below to allow permeability of sea breeze to Kowloon Bay. This strategy has already been adopted in the committed plan. Numerous sites in form of Residential, Commercial, G/IC and OU are planned to be developed in Kai Tak which is just southwest of Region 1, outside the Project Area. The majority of the buildings are in the range of 15mPD to 65mPD. Care should be exercised in the arrangement of building blocks in the Kai Tak area to minimise the adverse impact of air ventilation to the Kowloon Bay area.

The KBBA is densely packed with medium to high-rise commercial and industrial buildings (120 mPD to 170 mPD). Narrow roads are found in the KBBA. Given the maximum

building height and the width of the blocks, the negative impact on air ventilation cannot be mitigated unless the effective road spacing (measured from building face-to-building face) is increased from 10m - 25m to 30m or beyond. Since this mitigation measure is not practical, it is recommended to introduce and maintain several urban linear parks and open space within KBBA, as well as practical setbacks from the roads. These ventilation pockets include the CICTA Sheung Yuet Road Training Ground, Lam Wah Street Playground, Kowloon Bay Park, Kowloon Bay Sports Ground, Kowloon Bay Playground, a series of "linear open space", as well as numerous low-rise G/IC sites with building height restriction of 40mPD, help to improve air ventilation in the Kowloon Bay Area, and should be maintained.

The committed linear open spaces from Kai Cheung Road to Wang Yuen Street would better serve the business area if the further redeveloped building(s) are set back from Wang Mau Street by 5m. A building gap of around 15m is recommended along Sheung Yee Road and Lam Hing Street to extend the breezeway for better permeability in KBBA. Widening breezeways, Wang Kwong Road and Wang Chiu Road, by setting back three meters on each side of the road will improve the effectiveness of the major breezeways. The KBBA area lacks breezeways to funnel easterlies and sea breeze. The introduction of a non-building area at the proposed International Mail Centre to connect to the breezeway provided by Wang Tai Road and Lam Wah Street would improve the air ventilation in the KBBA. The site of Enterprise Square V is sizable with unfavourable slab-type towers. As Enterprise Square V sits on the waterfront, it presents an obstacle to permeability to KBBA. A slanting alignment of the 15m building gap is recommended at the 22mPD podium level of Enterprise Square V to introduce a wind corridor for the oncoming sea breeze. A permeable podium is recommended for the Enterprise Square V. It is also recommended that the building disposition should adopt a similar arrangement shown in the study report for air ventilation improvement.

Outside of the KBBA, the majority of the land consists of large-scale housing estates and residential developments, such as the Kai Yip Estate, the committed Lower Ngau Tau Kok Estate Redevelopment Project, and Richland Gardens. In general, building disposition should not form a wind wall to improve permeability. Furthermore, low-rise facilities should be located in the centre of these developments to maximise the size of the open courtyard to improve local ventilation. Recommendations for such sites have been provided in the study report.

Region 2 of the Project Area is hilly, with the majority of open space in the form of G/IC sites, green belts and open space areas, such as Jordan Valley Playground, Jordan Valley Leisure

Pool Complex, Ping Shek Recreational Ground, Former Jordan Valley Landfill Site, Service Reservoir, Shun Lee Tsuen Park, which provide pleasant air ventilation to the region, and should be maintained. Areas of larger-scale medium-rise residential developments are located along the eastern and western boundaries of Region 2, with maximum height from 80mPD to 250mPD. In general, there are no significant negative air ventilation impacts due to these estates because of the abundance of the surrounding open space, green belt and/or low-rise G/IC developments. These areas shall be maintained for better air ventilation. However, better arrangements in terms of air ventilation have been proposed in the study report for future redevelopments.

In the proposed plan, the proposed maximum building height of Telford Gardens remain unchanged (60mPD and 100mPD). The proposed plan also indicates that two corridors have been proposed to be introduced on the podium (22mPD). This strategy will help to provide a wind corridor connecting Wang Tai Road and Sheung Yuet Road. A 15m to 20m building gap is also recommended to connect Kwun Tong Road to Tai Yip Street to improve air ventilation.

The proposed maximum building height of Kai Yip Estate increased from 60mPD to 80mPD and 100mPD. The increased maximum height is acceptable, however it is recommended that the building disposition should adopt a similar arrangement shown in the study report for air ventilation improvement.

The maximum building height of 100mPD is retained for the site of Richland Gardens. The current disposition includes sizable building gaps in the range of 60m to 85m, maintenance of this space together with the unchanged building height will give a positive impact on air ventilation.

The proposed maximum building height of Shun Chi Court and Shun Tin Estate are kept at 170mPD and 160mPD/170mPD respectively. When the building disposition adopts a similar arrangement shown in the study report, the air ventilation effectiveness will be improved.

For specific sites where large-scale development or redevelopment may be possible, detailed AVAs on a site-by-site basis should be undertaken.

The baseline scenario and alternative option of Kai Tak Mansion site have been compared in terms of AVA. It is concluded that the alternative option with a building gap of 20m to 24m wide at 15mPD and non-building areas of 10m provides better air ventilation compared to the baseline option.

Table of Content

EXECUTIVE SUMMARY 2

1. INTRODUCTION 7

2. SITE INFORMATION 8

3. WIND ENVIRONMENT 17

4. EXISTING SCENARIO 18

4.1 Topography 18

4.2 Existing Summer and Annual Scenarios 23

4.2.1 Region 1 23

4.2.2 Region 2 30

5. PLANNED SCENARIO 39

5.1 Observations 39

5.2 Area of Concern 39

5.2.1 General 39

5.2.2 Region 1 40

5.2.3 Region 2 42

5.3 Kai Tak Mansion 43

5.3.1 Background 43

5.3.2 Existing Scenarios of Kai Tak Mansion Site 45

5.3.3 Option Study of Kai Tak Mansion Site 47

5.4 Further Study 53

6. CONCLUSIONS 54

1. INTRODUCTION

CO_2nnsulting was commissioned by the Planning Department of HKSARG under Category A Service of the Term Consultancies for Air Ventilation Assessment Services (AVAs). The objective is to assess the air ventilation impacts of the plot ratio / gross floor area and building height restrictions under the draft Outline Zoning Plan (OZP) No. S/K13/25 Ngau Tau Kok and Kowloon Bay Area and recommend mitigation measures to alleviate the impacts.

The main tasks are to provide the followings:

- Site inspection and analysis of the wind data and environment of the Project Area;
- A qualitative evaluation of the air ventilation impacts of the development as illustrated under the planned scenario as compared to the existing scenario;
- Recommendations of mitigation and improvement measures.

Figure 1 shows the boundary of the Project Area. Figure 2 shows satellite images of the Project Area. Figure 3 shows various views within the Project Area. The methodology adopted here follows that for an expert evaluation in the "Technical Guide for Air Ventilation Assessment for Developments in Hong Kong" as well as those requirements in the Project Brief.

2. SITE INFORMATION

The Project Area covers Ngau Tau Kok and Kowloon Bay area which is located at the South-east Kowloon within the Kwun Tong District, with an area of approximately 341 hectares (according to S/K13/25). See Figure 1. The Project Area descends from the foothills of Fei Ngo Shan and Tan Shan in the north and east respectively to the Kwun Tong Typhoon Shelter in the southwest. It is bounded by New Clear Water Bay Road and Clear Water Bay Road in the north, Kwun Tong By-pass in the west, Shun Yip Street and Chun Wah Road in the south, and Hong Ning Road, Sau Mau Ping Road and Lee On Road in the east. Kai Tak, Ngau Chi Wan and Kwun Tong (South) are the adjacent districts, outside of the Project Area, in the west, north-west and south-east directions respectively.

For the purpose of expert evaluation, the total Project Area is dissected into the following regions of similar topography, as shown in Figure 1.

Sub areas	Location	Descriptions	Terrain
Region 1	Bounded by Kwun Tong Road, Ngau Tau Kok Road, Shun Yip Street and Kwun Tong Bypass	Mixed land use of residential developments, in terms of Residential (R(A)) and Other Specified Uses (OU); business developments, in terms of Commercial (C) and Other Specified Uses (OU); and Government /Institution or Community (G/IC), with some Open Space (O).	flat (4.6 mPD to 5.8 mPD)
Region 2	Bounded by Kwun Tong Road, Ngau Tau Kok Road, Chun Wah Road, Hong Ning Road, Sau Mau Ping Road, Lee On Road, New Clear Water Bay Road and Clear Water Bay Road.	Majority are open space, in terms of Green Belt (GB), Open Space (O), Government / Institution or Community (G/IC); Residential developments (R(A), R(B)).	hilly (8.5 mPD to 175.2 mPD)

Table 1 Characteristics of Sub-Regions within Project Area

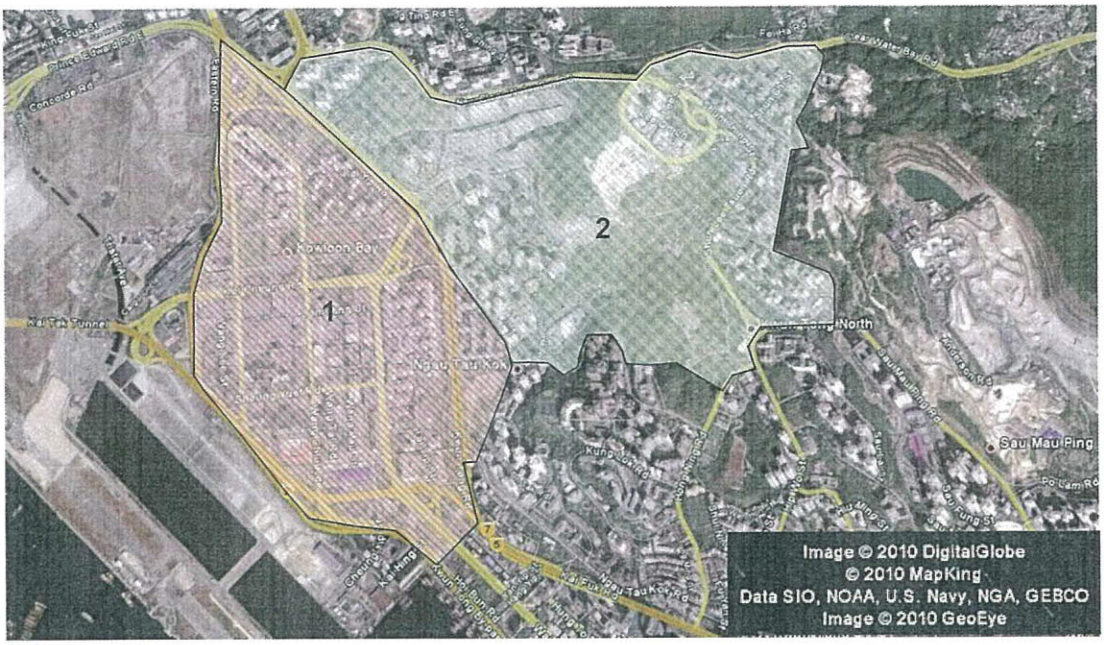
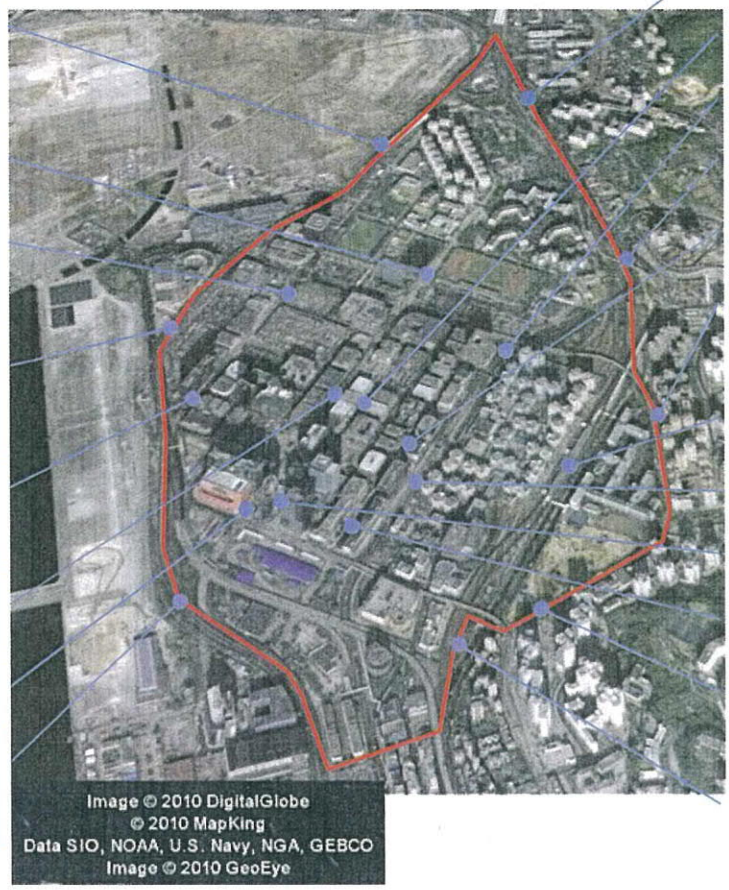
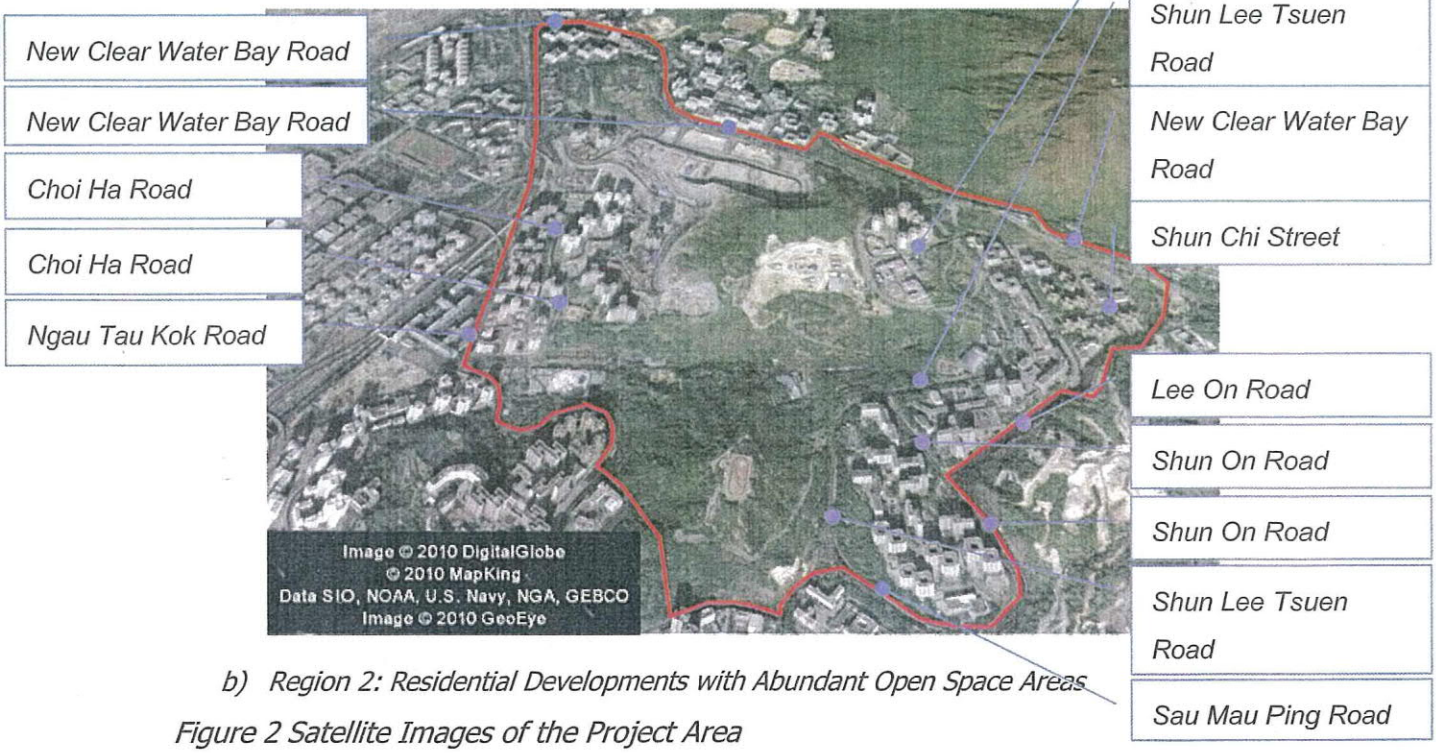


Figure 1 The Project Area of Ngau Tau Kok and Kowloon Bay

(Image source: Google maps, http://maps.google.com.hk)



a) Region 1: The Kowloon Bay Town Centre



b) Region 2: Residential Developments with Abundant Open Space Areas

Figure 2 Satellite Images of the Project Area

(Image source: Google maps, http://maps.google.com.hk)

Figure 3a Views of Ngau Tau Kok Road (a key breezeway) Looking Southeastward Showing Amoy Garden

(Image source: CO_2nnsulting Ltd.)

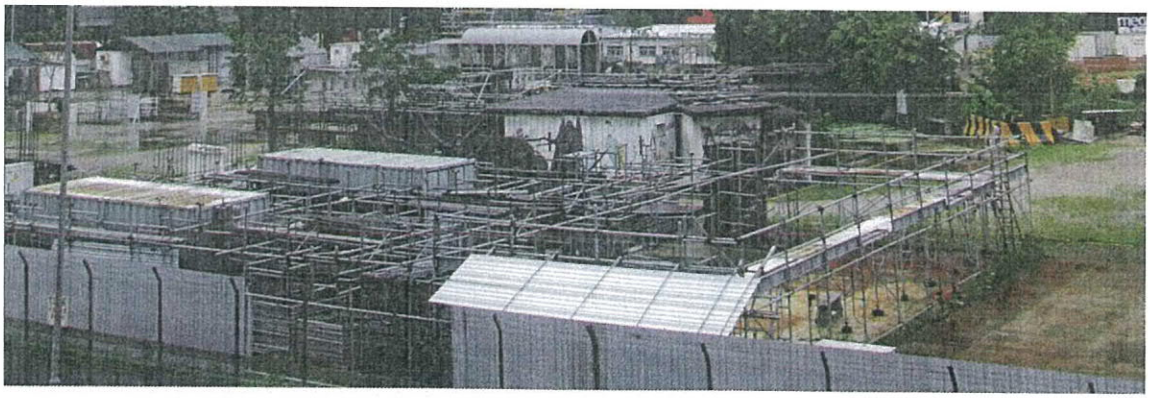


Figure 3b Views of CICTA Sheung Yuet Road Training Ground (a ventilation pocket)

(Image source: CO_2nnsulting Ltd.)

Figure 3c Views of Ping Shek Recreational Ground (ventilation pocket) on New Clear Water Bay Road (a key breezeway)

(Image source: CO_2nnsulting Ltd.)

Figure 3d Views of Shun On Road (a key breezeway) Looking Southeastward Showing Shun Tin Estate (right) and Foothill of Tan Shan (left)

(Image source: CO_2nnsulting Ltd.)

Figure 3e Views of Ventilation Pockets such as Jordan Valley Playground (left) and Jordan Valley Leisure Pool Complex (right)

(Image source: CO_2nnsulting Ltd.)

Figure 3f Views of Kwun Tong Road (a key breezeway) Looking Southward Showing Lower Ngau Tau Kok Estate (left)

(Image source: CO_2nnsulting Ltd.)

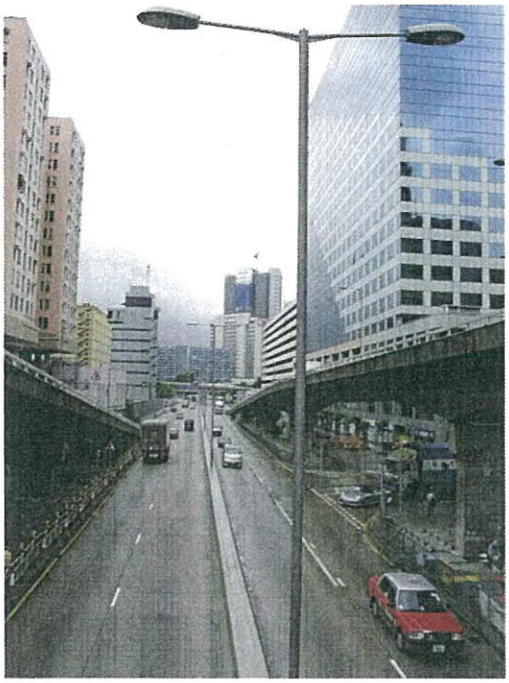


Figure 3g Views of Wai Yip Street (a key breezeway) Looking Southward

(Image source: CO_2nnsulting Ltd.)

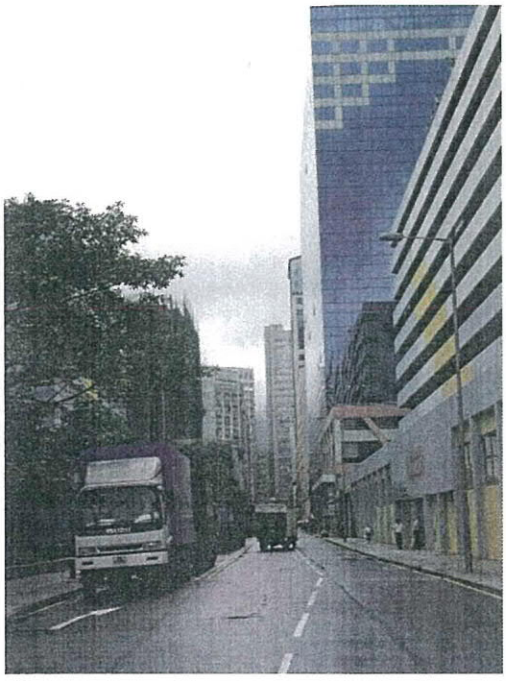


Figure 3h Views of Wang Hoi Road (a key breezeway) Looking Northward

(Image source: CO_2nnsulting Ltd.)

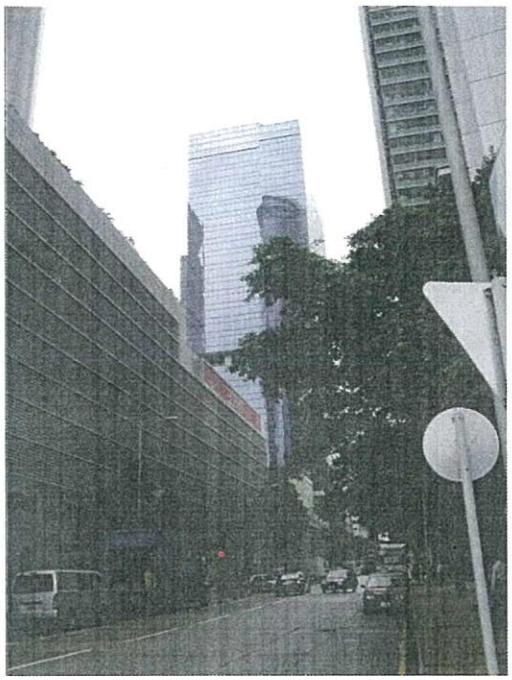


Figure 3i Views of Wang Tai Road (a key breezeway) Looking Northward
(Image source: CO_2nnsulting Ltd.)

Figure 3j Views of Wang Chiu Road (a key breezeway) Looking Northward Showing Enterprise Square V (left) and Enterprise Square III (right) (Obstruction to breeze)
(Image source: CO_2nnsulting Ltd.)

Figure 3k Views of Lam Wah Street Playground (ventilation pocket) on Wang Kwong Road

(Image source: CO_2nnsulting Ltd.)

Figure 3l Views of Kowloon Bay Sports Ground

(Image source: CO_2nnsulting Ltd.)

3. WIND ENVIRONMENT

The wind data at various heights refers to the experimental data conducted by the CLP Power Wind / Wave Tunnel Facility (WWTF) at The Hong Kong University of Science and Technology for the Ngau Tau Kok and Kowloon Bay Study Area. The annual and Summer wind roses at 60m, 120m and 450m are shown in Figure 4. The wind roses show that the wind data at the lowest levels of 60m and 120m are subject to more urban roughness, compared to the data at 450m, which is closer to the edge of the atmospheric boundary layer. Nonetheless, the annual prevailing wind directions for the Project Area are: north-easterlies, easterlies and south-easterlies. The summer prevailing winds are: easterlies, south-easterlies, southerlies and south-westerlies.

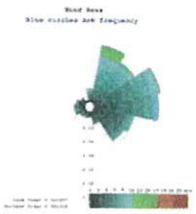
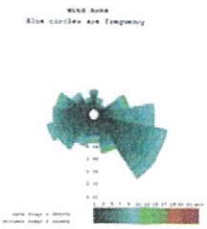
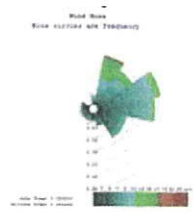
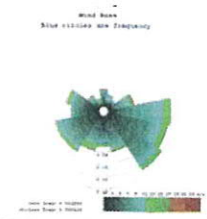
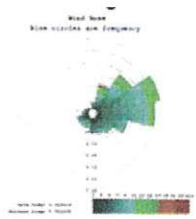
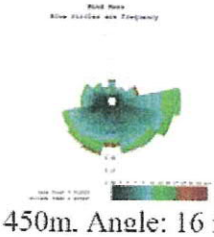
Height	Annual	Summer
60m	 Height: 60m, Angle: 16 intervals	 Height: 60m, Angle: 16 intervals
120m	 Height: 120m, Angle: 16 intervals	 Height: 120m, Angle: 16 intervals
450m	 Height: 450m, Angle: 16 intervals	 Height: 450m, Angle: 16 intervals

Figure 4 Annual and Summer Wind Roses for Ngau Tau Kok and Kowloon Bay

(Source: CLP Power Wind / Wave Tunnel Facility (WWTF) at The Hong Kong University of Science and Technology)

4. EXISTING SCENARIO

4.1 Topography

The following observations of the characteristics of the project area are noted:

- The Project Area is surrounded by Hammer Hill, Fei Ngo Shan and Tan Shan. It includes hilly Ngau Tau Kok and Jordan Valley. The Project Area is relatively flat north-west of Ngau Tau Kok and reclaimed Kowloon Bay. Kwun Tong (South) with development of up to 170 mPD is found at the south-east of the Project Area. It is adjacent to the Kai Tak Planning Area where the existing low-rise developments are to be redeveloped. The Project Area is dissected into two regions according to the topography for the purpose of the expert evaluation.
- Region 1, adjacent to the Kwun Tong Typhoon Shelter in the southwest, is relatively flat (4.6 mPD to 5.8 mPD), with low-rise developments at the waterfront. Region 1 consists of KBBA with maximum building height restriction of 170 mPD, and large-scale residential developments with maximum height up to 100mPD and OU sites up to 140 mPD. Region 1 also includes some open space areas in the form of open space and G/IC sites, such as Kowloon Bay Park, Kowloon Bay Sports Ground, Kowloon Bay Playground, Lam Wah Street Playground and CICTA Sheung Yuet Road Training Ground. Numerous sites in form of Residential (R(C)), Commercial, G/IC and OU are planned to be developed in Kai Tak which is just southwest of Region 1, outside the Project Area. The majority of the buildings are up in the range of 15 mPD to 65mPD, as shown in Figure 5. Care should be exercised in the arrangement of building blocks in the Kai Tak area to minimise the adverse impact of air ventilation to the Kowloon Bay area. A handful of sites are up to 100 mPD. These sites are surrounded by low-rise developments (up to 65mPD), the impact to air ventilation in Kowloon Bay would be minimal.
- Region 2 is hilly (8.5 mPD to 175.2 mPD), and consists of Ngau Tau Kok Valley east of Kowloon Bay and Jordan Valley with vast open space areas and green belts. Region 2 is adjacent to Fei Ngo Shan and Tan Shan in the respective north and east, and should enjoy the downhill winds. The centre of Region 2 is the natural green

belt of Jordan Valley, areas of larger-scale medium-rise residential developments are located along the eastern and western boundaries of Region 2, with existing building heights from 80mPD to 250mPD.

The wind flow in the Project Area is impacted not only by the disposition, massing, site coverage and height of buildings, but also the Victoria Harbour nearby and the surrounding hills, Fei Ngo Shan and Tan Shan. The proximity of water mass will bring cooler breeze. The land heats up more rapidly than the water, causing the air over the land to rise and be replaced by the cool air from over the water. Existing open areas in the form of green belt, open space and low-rise G/IC developments such as Kowloon Bay Park, Kowloon Bay Sports Ground, Kowloon Bay Playground, Lam Wah Street Playground and CICTA Sheung Yuet Road Training Ground, Jordan Valley, Jordan Valley Playground, Jordan Valley Leisure Pool Complex, Ping Shek Recreational Ground, Former Jordan Valley Landfill Site, Service Reservoir and Shun Lee Tsuen Park are essential ventilation pockets to the Project Area. These regions are recommended to be maintained to allow penetration of wind inland.

The Project Area benefits from Jordan Valley and the proximity of Hammer Hill, Fei Ngo Shan and Tan Shan. Even on a calm day, upward air movement can be created as the sun warms the hills slopes, and creates a thermal gradient between the top of the hill and its base. The air movement cycle reverses when the air cools in the evening; it descends the hills and brings cooler wind to the base of the hills. Winds descend the faces of these green slopes of Hammer Hill and Jordan Valley and bring coolth to the base of the hill.

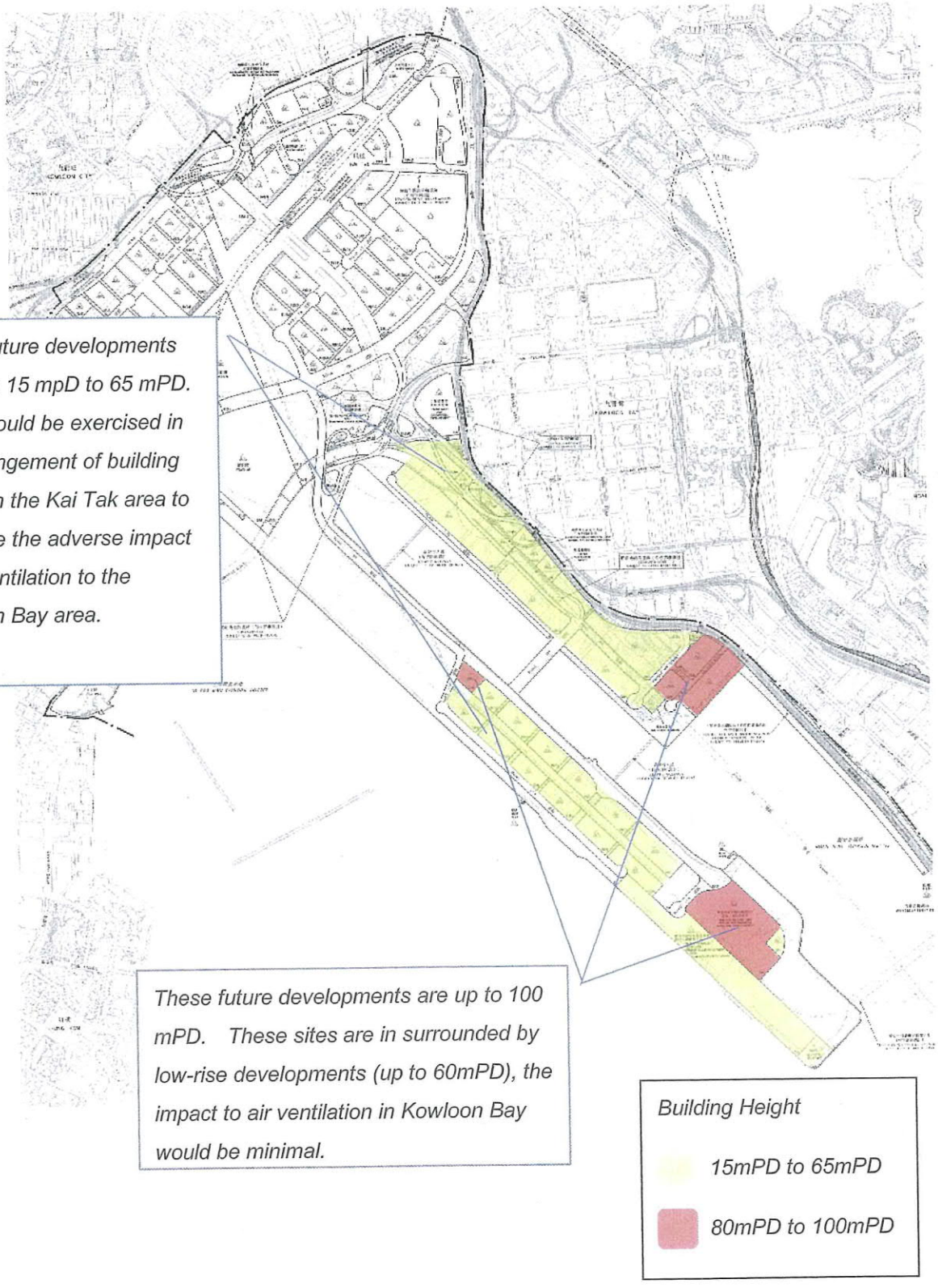


Figure 5 Kai Tak Outline Zoning

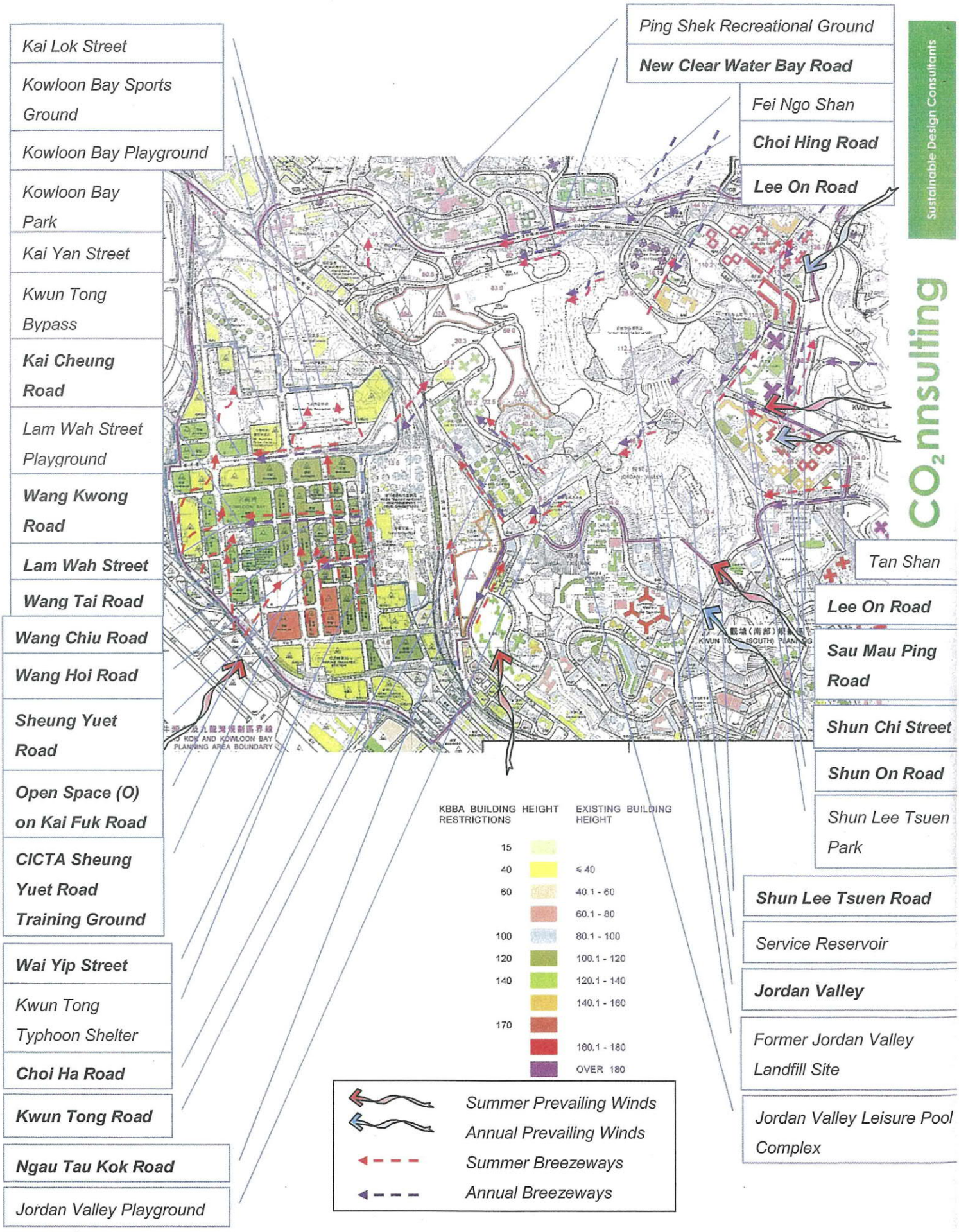


Figure 6a Existing Scenario showing Breezeways

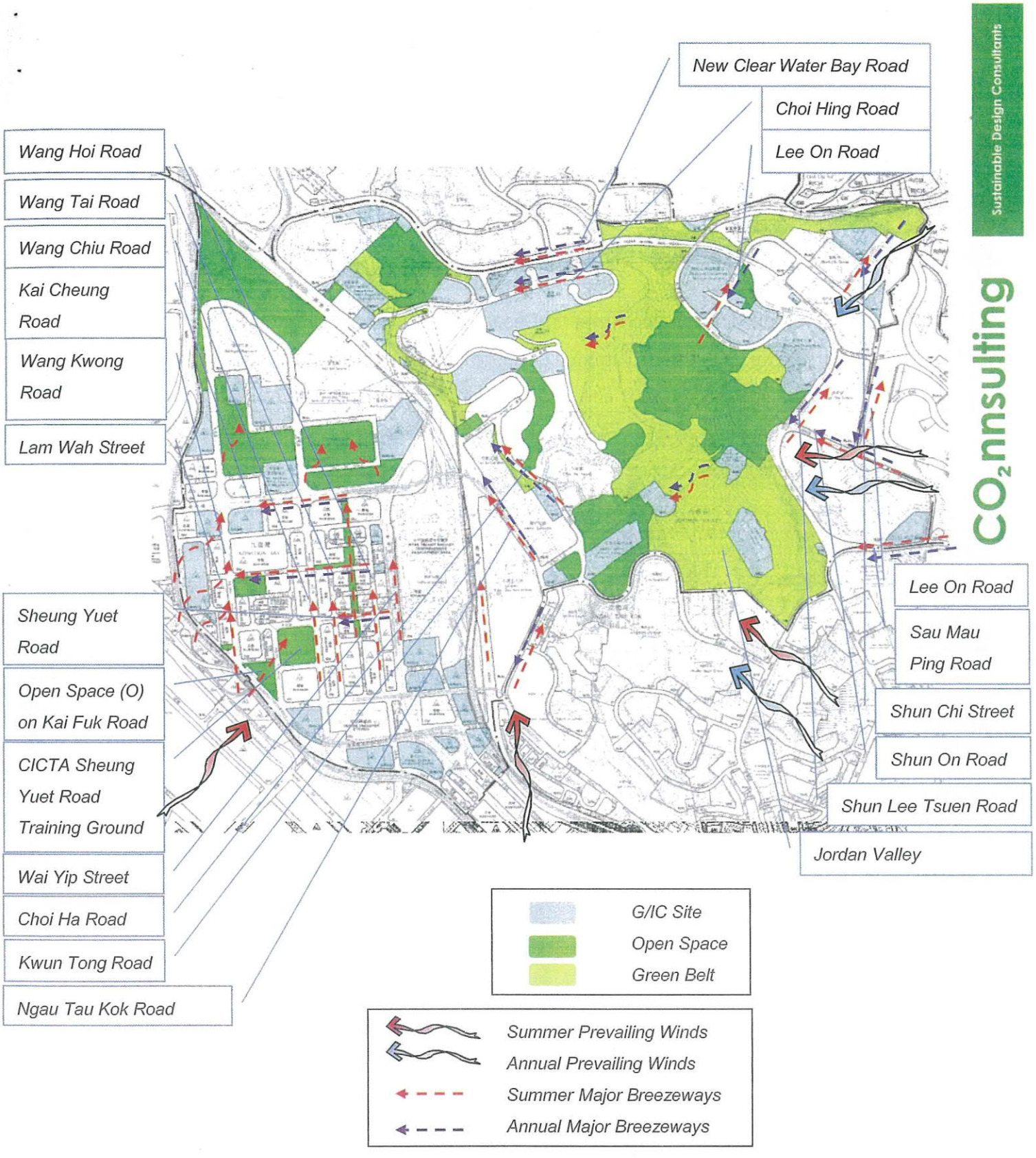


Figure 6b Existing Scenario with Major Breezeways

4.2 Existing Summer and Annual Scenarios

Section 3 has identified the annual prevailing wind directions are north-easterlies, easterlies and south-easterlies, whilst the summer prevailing wind directions are easterlies, south-easterlies, southerlies and south-westerlies. The information on the existing scenario, as provided by the Planning Department, presents the existing building profile including the approved and committed developments. It is used as a basis for appreciating the existing wind environment and understanding the effects of development restrictions. Figure 6 shows the prevailing winds for the existing scenario with breezeways marked by arrows. Table 2 summarises the major breezeways throughout the Project Area. It can be seen that these wind corridors are essential for air ventilation all year round.

Breezeways			
Northeasterlies (annual) Southwesterlies (summer)	*Easterlies (summer and annual)*	*Southeasterlies (summer and annual)*	*Southerlies (summer)*
Jordan Valley Ngau Tau Kok Road Lee On Road (adjacent to Shun Lee Discipline Services Quarters) Shun Chi Street Shun Lee Tsuen Road Open Space (O) on Kai Fuk Road and CITIA Sheung Yuet Road Training Ground	New Clear Water Bay Road Sau Mau Ping Road Wang Tai Road and Lam Wah Street Sheung Yuet Road Kai Cheung Road Choi Hing Road	Shun On Road Choi Ha Road Ngau Tau Kok Road	Ngau Tau Kok Road Kwun Tong Road Wai Yip Street Wang Hoi Road Wang Tai Road Wang Chiu Road Wang Kwong Road

Table 2 Major Breezeways in Ngau Tau Kok and Kowloon Bay

4.2.1 Region 1

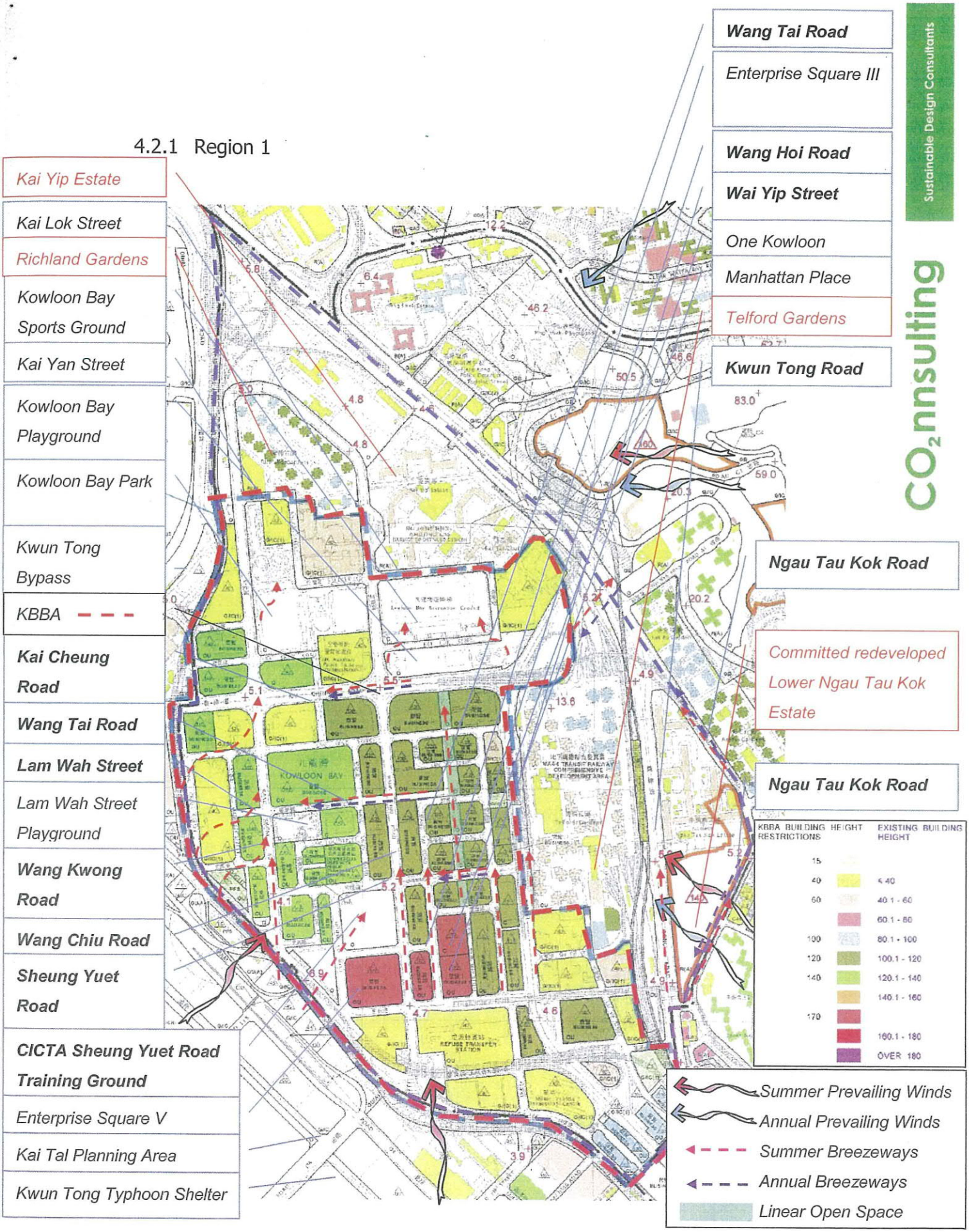


Figure 7 Existing/Committed Scenario in the Region 1 of Ngau Tau Kok and Kowloon Bay

Region 1 of the Project Area is located at the east of Kai Tak Planning Area (former airport), and adjacent to the Kwun Tong Typhoon Shelter. Region 1 includes KBBA with building height restrictions up to 170 mPD, and large-scale public housing estates and substantial private residential developments. See Figure 7.

Region 1 enjoys abundant sea breeze due to its proximity to the harbour. The majority of streets in Region 1 run north-south and east-west, channeling cooler sea breeze to the redevelopment area. As Region 1 is the gateway to sea breeze, it is essential that the OU and G/IC sites at the waterfront are maintained at 40mPD or below to allow permeability of sea breeze to Kowloon Bay. This strategy has already been adopted in the committed plan.

The KBBA is densely packed with medium to high-rise commercial and industrial buildings (120 mPD to 170 mPD). Narrow roads are found in the KBBA. Given the maximum building height and the width of the blocks, the negative impact on air ventilation cannot be mitigated unless the effective road spacing (measured from building face-to-building face) is increased from 10m - 25m to 30m or beyond. See Figure 8. Since this mitigation measure is not practical, it is recommended to introduce and maintain several urban linear parks and open space within KBBA, as well as practical setbacks from the roads. These ventilation pockets include the CICTA Sheung Yuet Road Training Ground, Lam Wah Street Playground, Kowloon Bay Park, Kowloon Bay Sports Ground, Kowloon Bay Playground, a series of "linear open space" as shown in Figure 9, as well as numerous low-rise G/IC sites with building height restriction of 40mPD, help to improve air ventilation in the Kowloon Bay Area, and should be maintained.

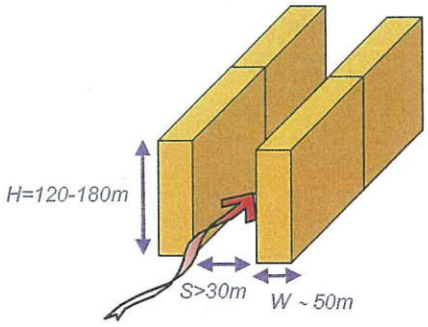


Figure 8 Planned Maximum Building Height with Recommended Road Spacing for Streets in KBBA

Enterprise Square III, Enterprise Square V, One Kowloon and Manhattan Place up to 170mPD stand tall amidst the committed 120mPD business developments should introduce

some downwash onto the pedestrian level with the sea breeze, and thus ventilate the Wang Tai Road, Wang Mau Street, Wang Chiu Road and Sheung Yee Road, however the podia are sizable and would cancel out the air ventilation benefits; the same buildings also create a stagnant area at its immediate north, along Wang Yuen Street; and CITIA Sheung Yuet Road Training Ground. The negative impact on AVA caused by this existing development is inevitable. The overall negative impact is minimised by the maintenance of the linear open space along Wang Mau Street, as well as the open space along Kai Fuk Road, as shown in Figure 9. Furthermore, the committed linear open spaces from Kai Cheung Road to Wang Yuen Street would better serve the business area if the further redeveloped building(s) are set back from Wang Mau Street by 5m. A building gap of around 15m is recommended along Sheung Yee Road and Lam Hing Street to extend the breezeway for better permeability in KBBA, as shown in Figure 10. Widening breezeways, Wang Kwong Road and Wang Chiu Road, by setting back three meters of each side of the road, will lead to road widths of 31m, and improve the effectiveness of the major breezeways. The KBBA area lacks breezeways to funnel easterlies and sea breeze. The introduction of a non-building area of 15m at the proposed International Mail Centre to connect to the breezeway provided by Wang Tai Road and Lam Wah Street would improve the air ventilation in the KBBA.

The site of Enterprise Square V is sizable with unfavourable slab-type towers. As Enterprise Square V sits on the waterfront, it presents an obstacle to permeability to KBBA. A slanting alignment of the 15m building gap is recommended at the 22mPD podium level of Enterprise Square V to introduce a wind corridor for the oncoming sea breeze. See Figure 11b. The lot in front (i.e. the "G/IC(1)" site) will have some impact on the air ventilation, but the impact is reduced by the height restriction of 40mPD. The wind can flow over the low-rise development of 40mPD and reach the Enterprise Square V. It is therefore essential to open up the Enterprise Square V to allow the wind to permeate to other areas in Kowloon Bay. It is recommended to arrange the buildings of the Enterprise Square V in the manner as shown in Figure 11b for air ventilation improvement. A permeable podium is recommended for the Enterprise Square V. See Figure 12. Figure 13 shows the committed plan of KBBA in Region 1 with recommendations.

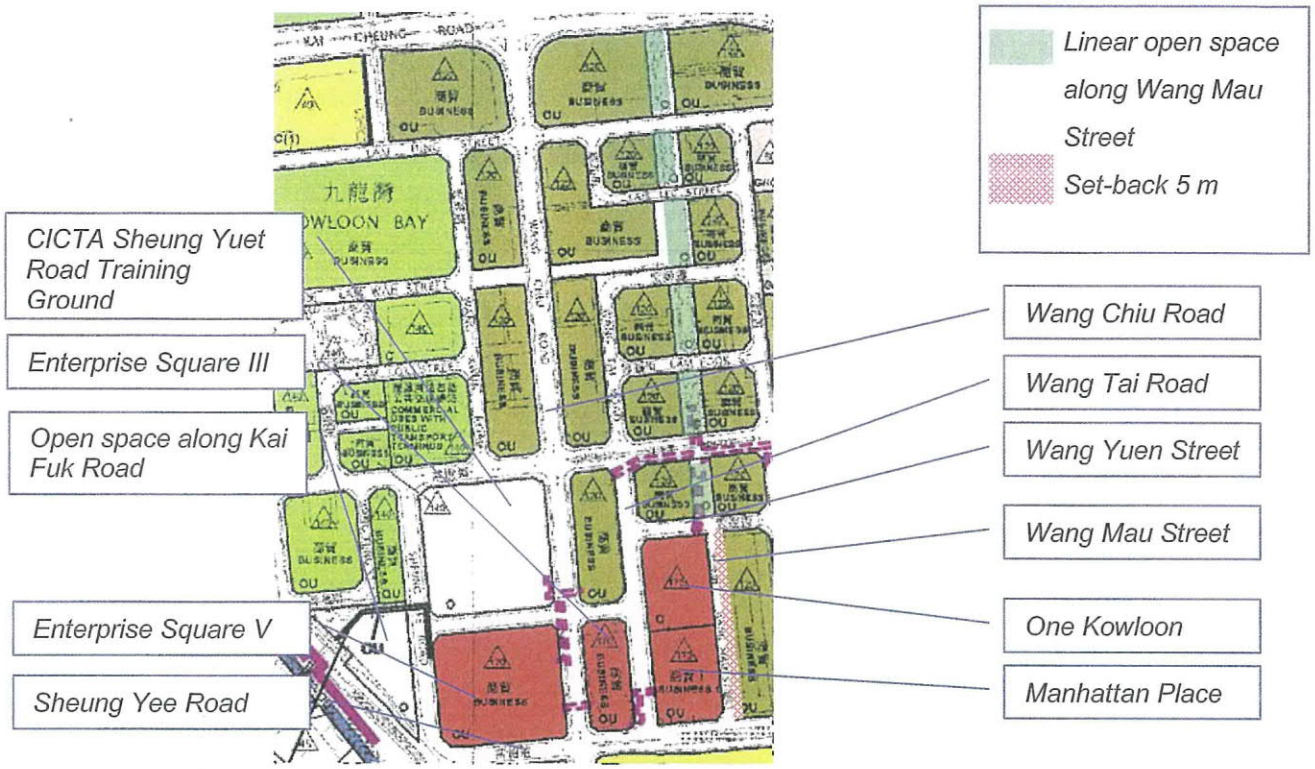
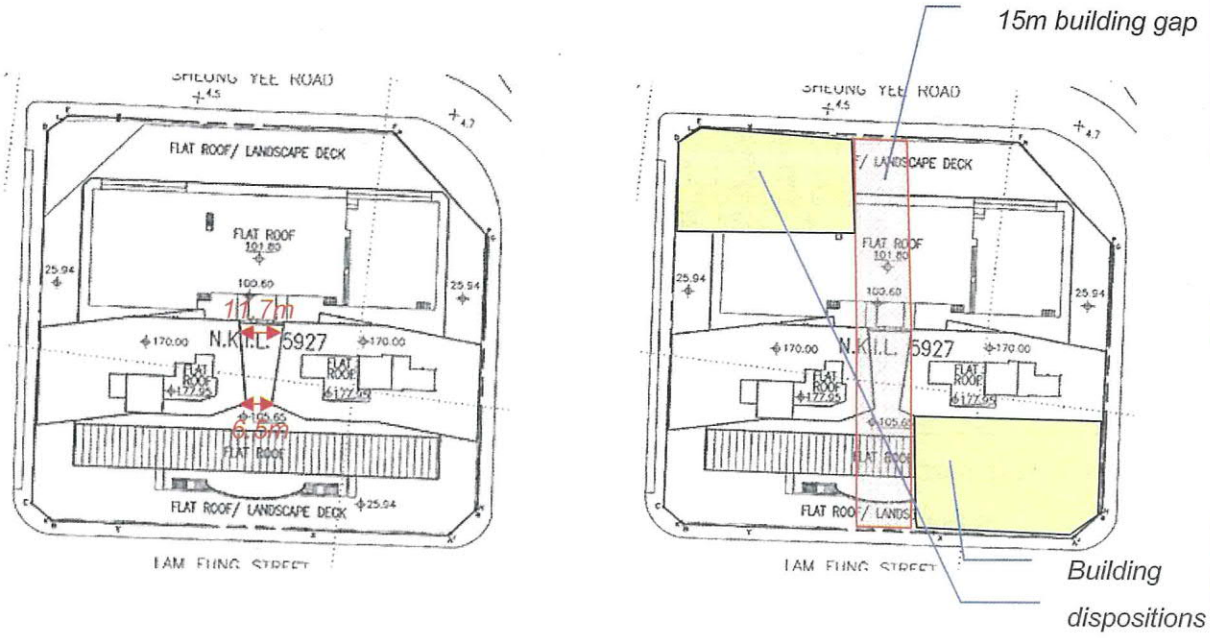


Figure 9 The Vicinity of One Kowloon

Figure 10 Recommendations of Building Gaps to connect to Sheung Yee Road and Lam Hing Street



(a) Existing Layout Plan

(b) Recommended Layout Plan

Figure 11 Enterprise Square V

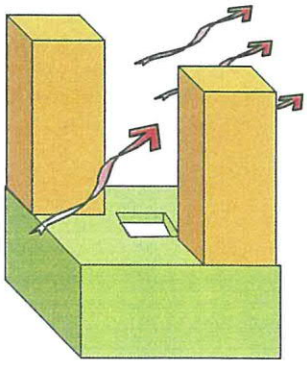


Figure 12 Recommendations for the site of Enterprise Square V

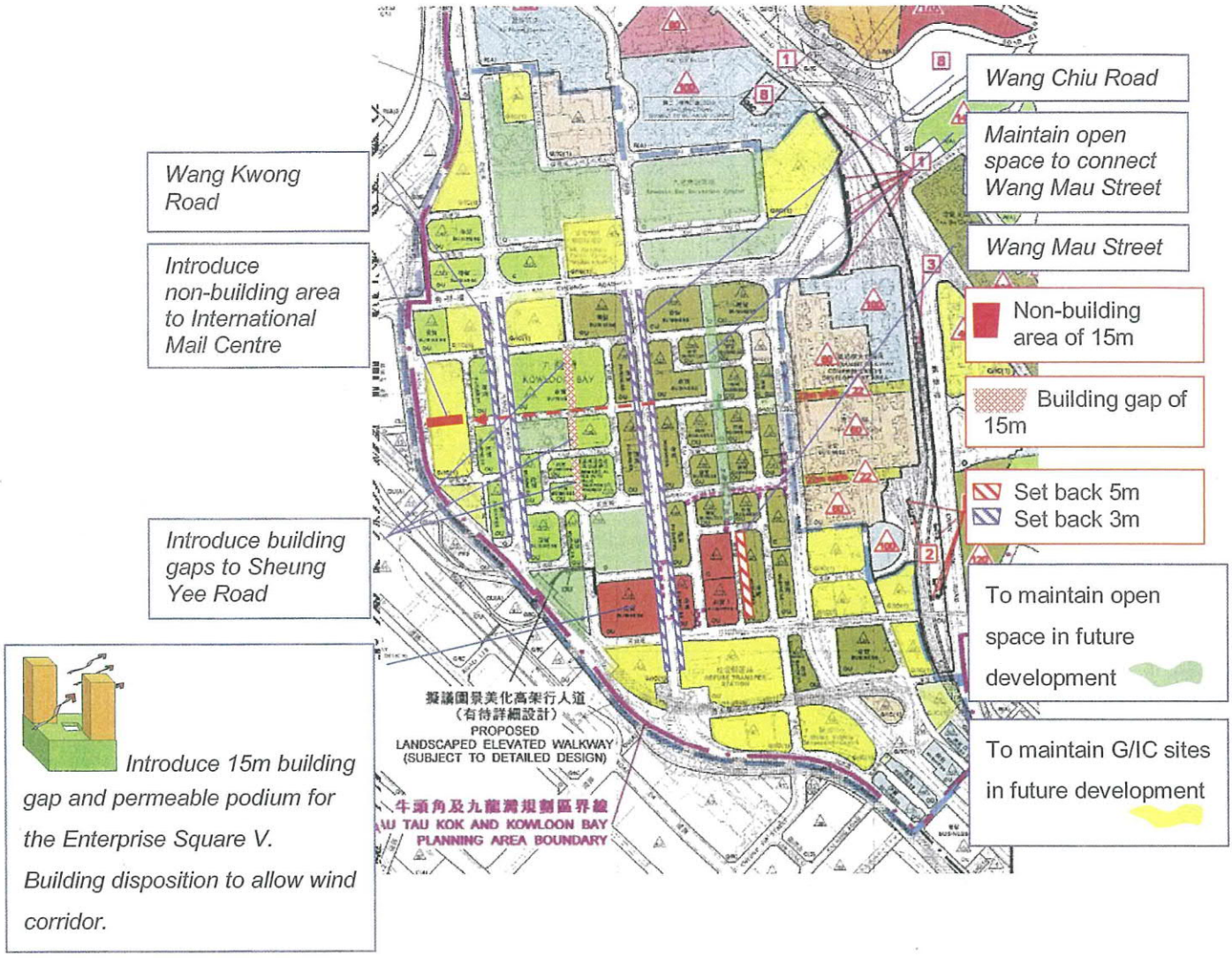
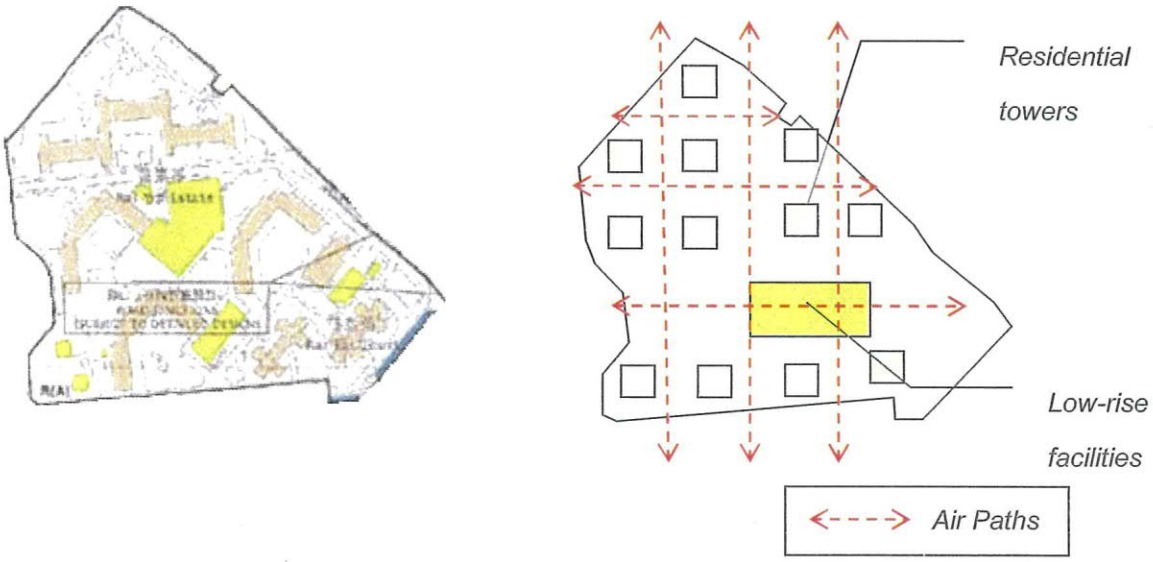


Figure 13 Committed Plan of KBBA in Region 1 with Recommendations

Outside of the KBBA, the majority of the land consists of large-scale housing estates and residential developments, such as the Kai Yip Estate, the committed Lower Ngau Tau Kok Estate Redevelopment Project, Richland Gardens and Telford Gardens. The building disposition and arrangement of Kai Yip Estate are slab-type and are not favourable to air ventilation as it impedes southerlies and northerlies. This existing arrangement will result in a large area with little wind movement at the site as well as up to a radius of 600m from the site. Figures 14 a and b show the existing building arrangement and the recommended principle for Kai Yip Estate. The principle shown in Figure 14b eliminates the slab-type

buildings and replace with smaller blocks with sufficient building spacing of 35m and a wide courtyard to improve ventilation. A series of 15 to 20m wide linear parks are recommended with the Telford site to allow permeability of southerlies. The committed Lower Ngau Tau Kok Estate Redevelopment Project includes a proposed G/IC development of the Cross District Community Cultural Centre (CDCCC) at 40mPD, a District Open Space and a road connecting Ngau Tau Kok Road and Kwun Tong Road. See Figure 15a. The maximum building heights of 100mPD to 140mPD is acceptable, but wider building-to-building gaps are recommended to improve permeability, as shown in Figure 15b. Further air ventilation assessment is recommended for the proposed built form and massing of the committed Lower Ngau Tau Kok Estate Redevelopment Project.



(a) Existing Layout *(b) Recommended Airpaths with Maximum Open Space*

Figure 14 Kai Yip Estate

(a) Committed Layout Plan *(b) Recommended Layout Plan*

Figure 15 Committed Redevelopment of Lower Ngau Tau Kok Estate

4.2.2 Region 2

Region 2 of the Project Area is hilly, with the majority of open space in the form of G/IC sites, green belts and open space areas, such as Jordan Valley Playground, Jordan Valley Leisure Pool Complex, Ping Shek Recreational Ground, Former Jordan Valley Landfill Site, Service Reservoir, Shun Lee Tsuen Park, which provide pleasant air ventilation to the region, should be maintained. See Figure 16.

Region 2 enjoys pleasant air ventilation throughout the year, and benefits from any transpiration cooling effect from the vegetated hill sides. The large-scale public housing estates and the private residential developments are mainly located around the boundary of Region 2. Table 3 summarises the characteristics of the developments. The positive and negative impacts are highlighted in the following paragraphs with recommendations to improve air ventilation.

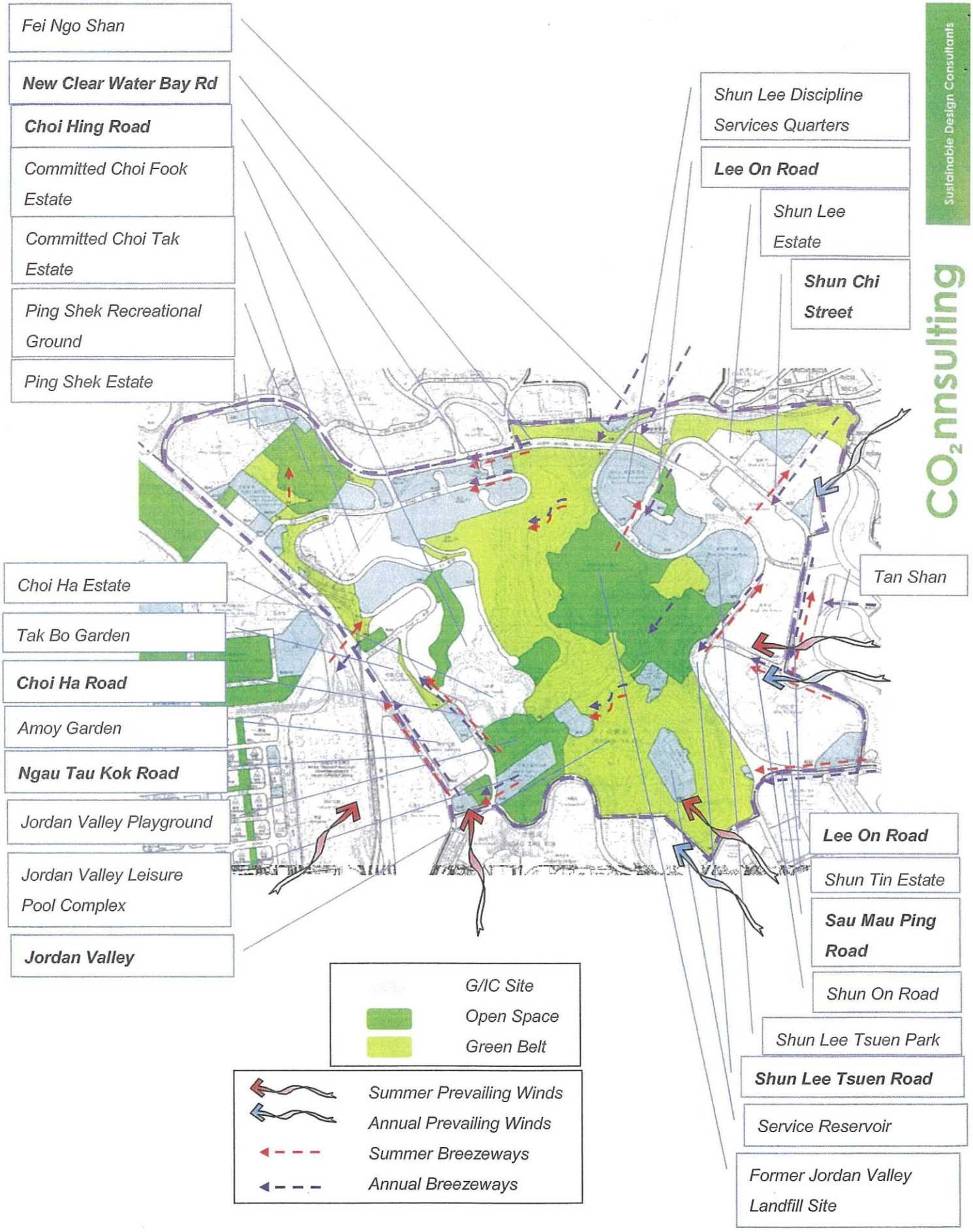


Figure 16 Existing/Committed Scenario in the Region 2 of Ngau Tau Kok and Kowloon Bay

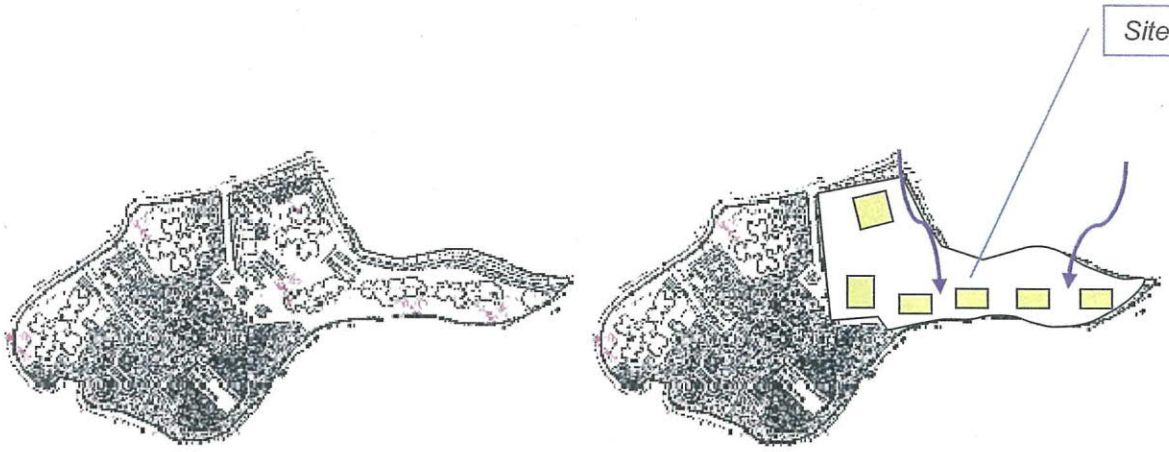
Developments	Housing Type	Existing/ Committed Heights	Impacts
Committed Choi Tak Estate	Public	137-174 mPD, medium-rise	Some negative impacts. Recommendations provide to improve site 3A. See Figure 17b.
Committed Choi Fook Estate	Public	166-174 mPD, medium-rise	No major negative impact.
Choi Ha Estate	Public	138 mPD, medium-rise	Some negative impacts, but not severe due to abundant surrounding open space which acts as alternative breezeways. Recommendations provided in Figure 18.
Ping Shek Estate	Public	32-85 mPD, low to medium-rise	No major negative impact due to availability of sizable courtyards within the site and low building height. Recommendations provided in Figure 19.
Tak Bo Garden	Private	105-125 mPD, medium-rise	No major negative impact due to availability of low-rise development within site and open space in Choi Wan Road.
Amoy Garden	Private	100-119 mPD, medium-rise	Some negative impacts, but not severe due to availability of low-rise development within site and adjacent open space and G/IC site in Chun Wah Road. See Figure 20 for recommendations.
Shun Lee Estate	Public	160-175 mPD, medium-rise	Some negative impacts due to slab type buildings, but not significant due to low building height. Recommendations are provided in Figure 21.
Shun Chi Court	Public	168 mPD, medium-rise	Some negative impacts due to slab type buildings, but not significant due to low building height. Recommendations are provided in Figure 21.
Shun Tin Estate	Public	155-173 mPD, low to medium-rise	Some negative impacts, but not significant due to low building height. Recommendations are provided in Figure 21.
Shun Lee Discipline Services Quarters	Staff Quarters of Government	Over 180 mPD, high- rise	Some negative impacts, but not significant due to abundant surrounding open space which act as alternative breezeways. Recommendations are provided in Figure 21.

Table 3 Summary of Negative Impacts due to Existing / Committed[1] Residential Developments in Region 2

[1] Existing developments are developments that have already existed on site whereas committed developments are those approved by relevant authority for impending development.

(a) Committed Choi Tak Estate

Figure 17a shows the disposition of the committed Choi Tak Estate with 40 storeys. The current disposition forms a wind fence and blocks the north-easterlies, easterlies and downhill wind to permeate to Region 1. It is recommended to arrange the buildings in the manner as shown in Figure 17b. This principle shown reduces the resistance to coming wind and provides better permeability. Further air ventilation assessment is recommended for the proposed built form and massing.

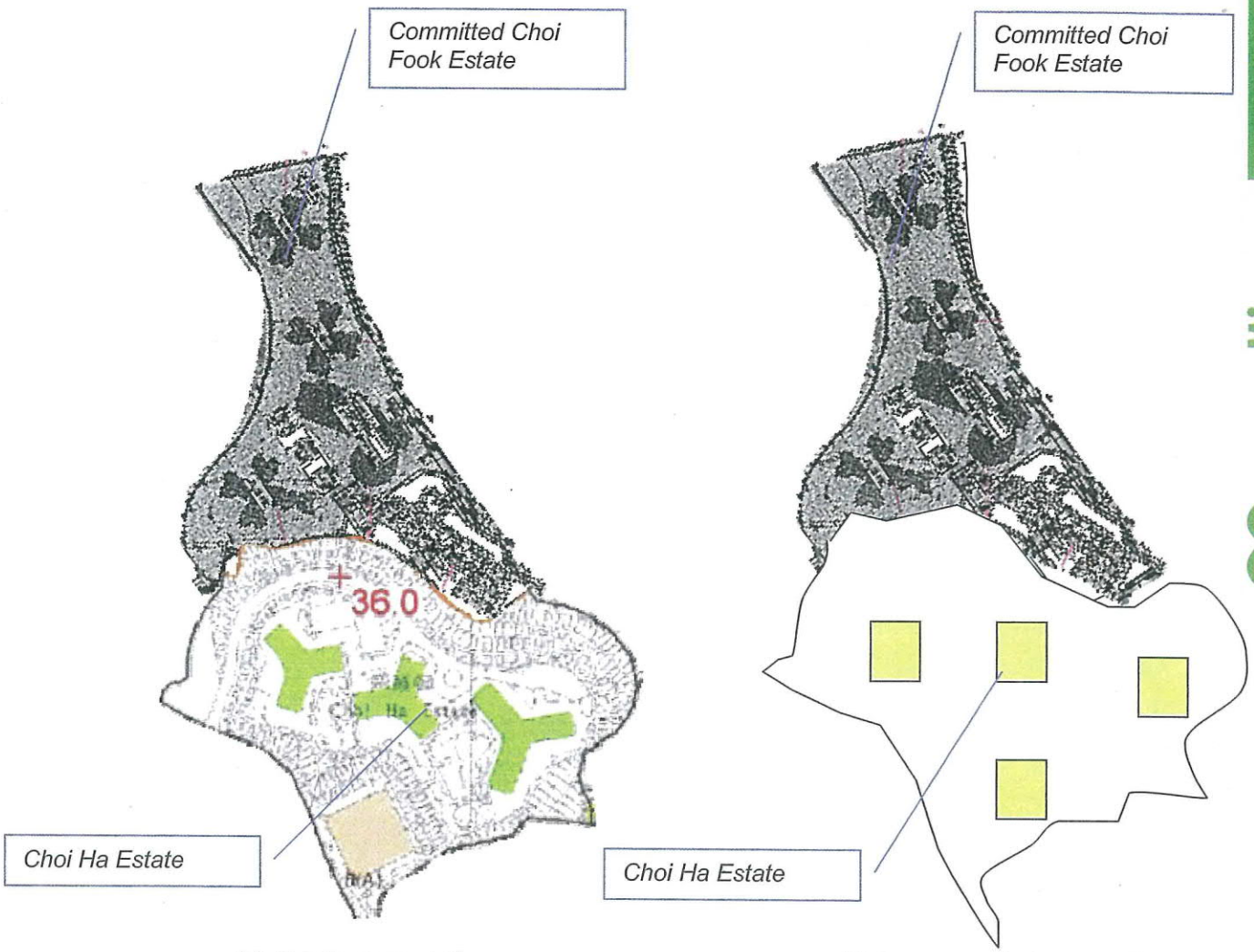


(a) Existing Layout Plan *(b) Recommended Layout Plan*

Figure 17 Committed Choi Tak Estate

(b) Choi Ha Estate and Committed Choi Fook Estate

These two public housing estates with around 40 storeys are located closely to each other and the current dispositions impede the north-easterlies and downhill wind as shown in Figure 18a. Figure 18b shows the recommended principle to improve air ventilation.



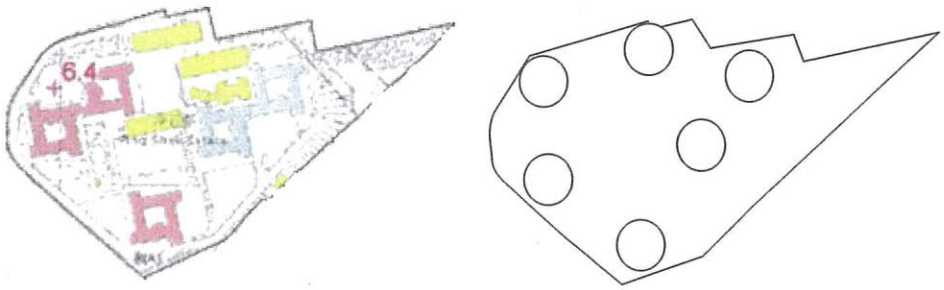
(a) Existing Layout Plan

(b) Recommended Layout Plan

Figure 18 Choi Ha Estate and Committed Choi Fook Estate

(c) Ping Shek Estate

The current slab-type building disposition of Ping Shek Estate forms an obstacle to the winds. Figure 19 shows the existing scenario and the recommended disposition. Further air ventilation assessment is recommended for the proposed built form and massing.



(a) Existing Layout Plan *(b) Recommended Layout Plan*

Figure 19 Ping Shek Estate

(d) Amoy Garden

It is recommended to rearrange the building blocks in order to maximise the open space within Amoy Garden as shown in Figure 20b. The courtyard shown in Figure 20b will help to improve the air ventilation within the estate.

(a) Existing Layout Plan *(b) Recommended Layout Plan*

Figure 20 Amoy Garden

(e) Shun Lee Estate, Shun Chi Court, Shun Tin Estate and Shun Lee Discipline Services Quarters

Since the developments are aligned along the boundary of Region 2 and can impede downhill winds from Fei Ngo Shan and Tan Shan outside the Project Area, it is recommended that the redevelopment should follow the arrangement as demonstrated in Figure 21b.

(a) Existing Layout Plan *(b) Recommended Layout Plan*

Figure 21 Recommended Disposition for Shun Lee Estate, Shun Chi Court, Shun Tin Estate and Shun Lee Discipline Services Quarters

5. PLANNED SCENARIO

5.1 Observations

Figure 22a Building Blocks and Layout of Future Developments (Indicative)

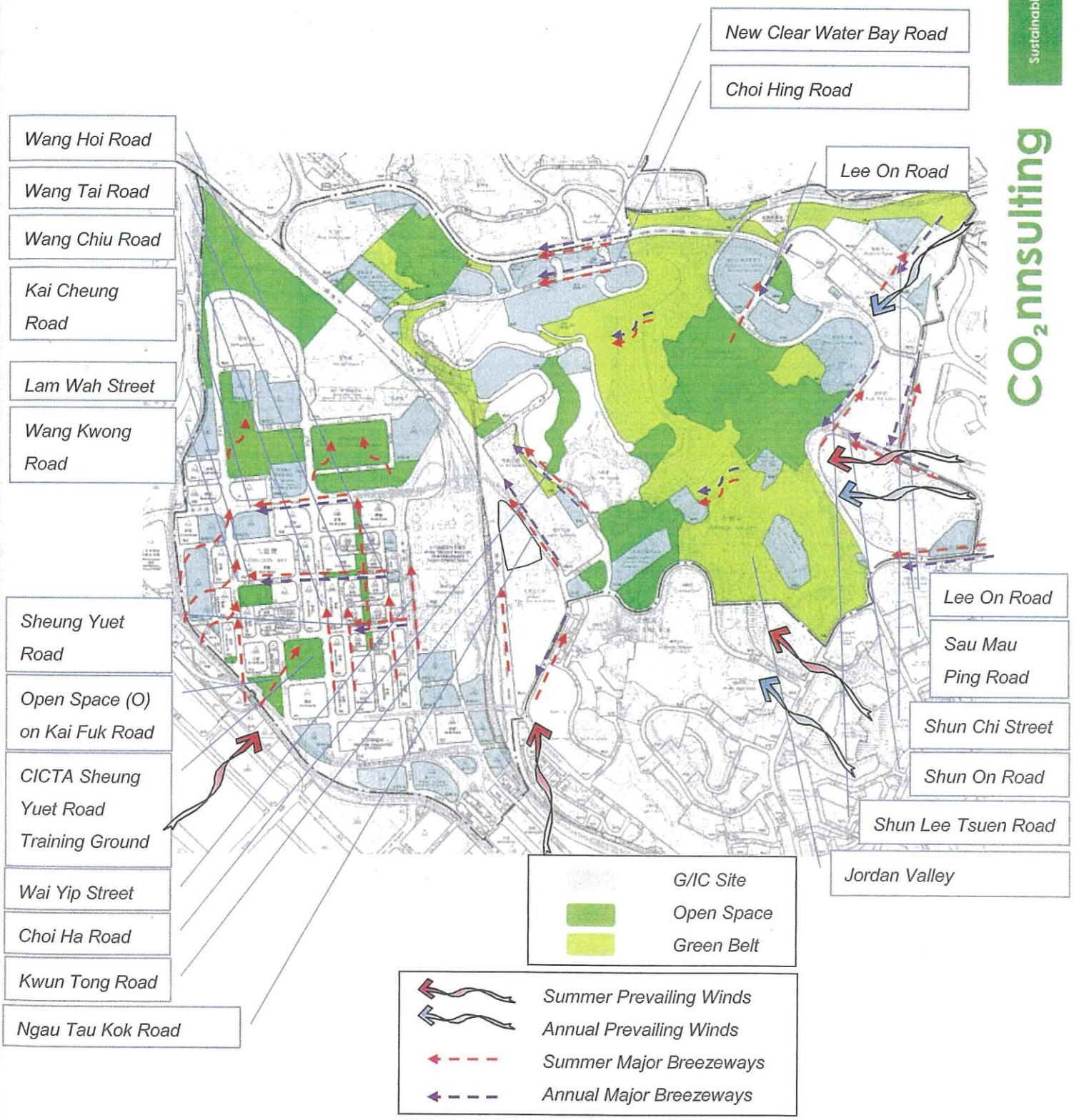


Figure 22b Proposed Plan with Major Breezeways

5.2 Areas of Concern

Figure 22a shows the proposed maximum building height restrictions on the OZP. The design, disposition and height of new development shown in this figure are hypothetical.

5.2.1 General

Where podia are allowed, it is recommended to provide set-back from the site boundary, or to recess the lower floors from these key wind corridors, or to align the podia edge with the building edge, to make the podia more permeable, by delineating non-building areas wherever possible, as shown in Figure 23.

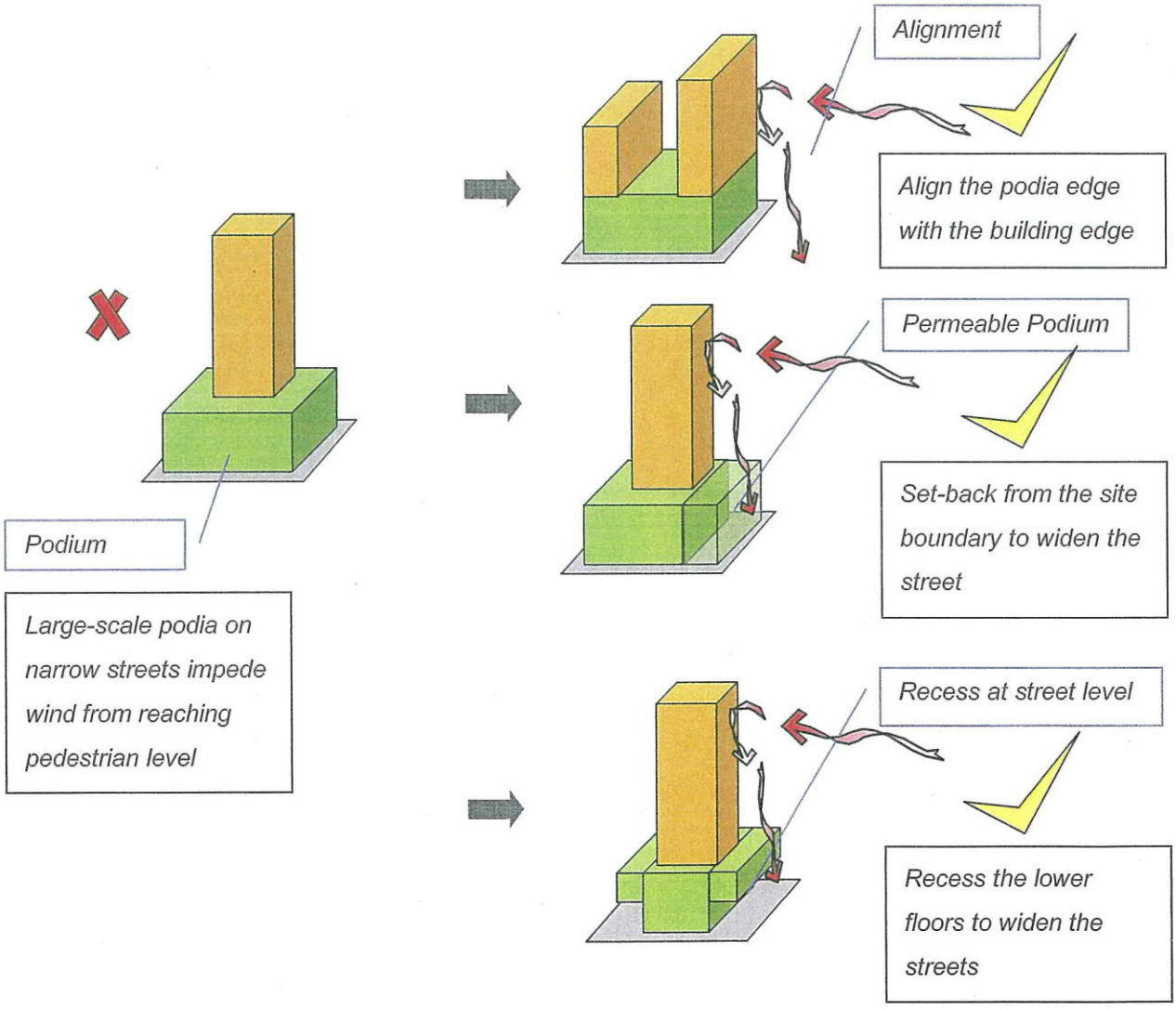


Figure 23 Recommendations for Podia

5.2.2 Region 1

Figure 24 shows the proposed plan for Region 1.

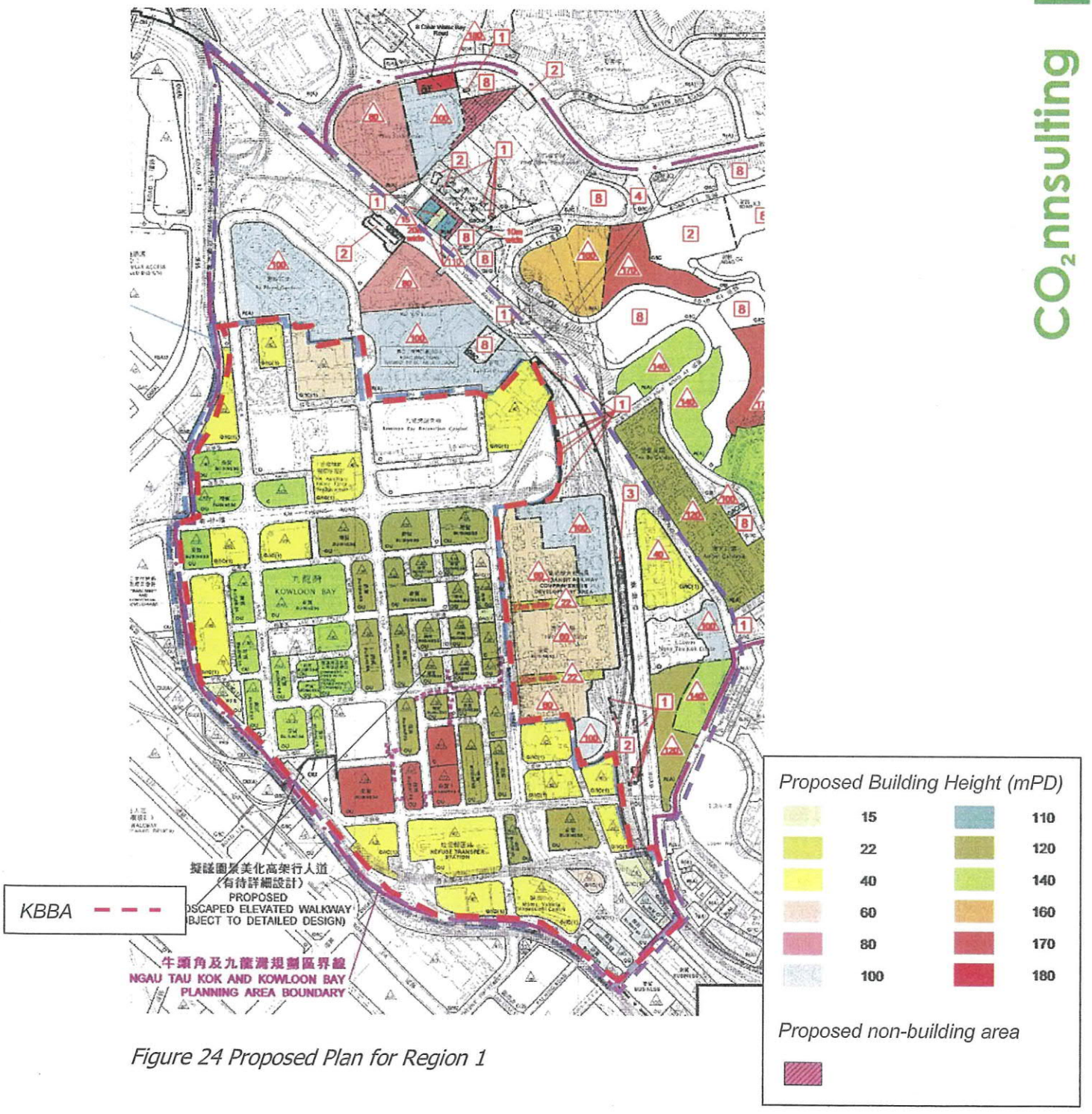


Figure 24 Proposed Plan for Region 1

There are no changes in the proposed outline plan in the KBBA between the committed and the proposed plans. The recommendations to the committed plan have been provided in Section 4.2.1.

Outside of the KBBA, the maximum proposed building height of Telford Gardens remain unchanged (60mPD and 100mPD). The proposed plan indicates that two corridors have been proposed to be introduced on the podium (22mPD) as shown in Figure 25. This strategy will help to provide a wind corridor connecting Wang Tai Road and Sheung Yuet Road. It is also recommended that a 15m to 20m building gap at 22mPD to be provided as shown in Figure 25, to connect to Kwun Tong Road Tai Yip Street, to improve air ventilation.

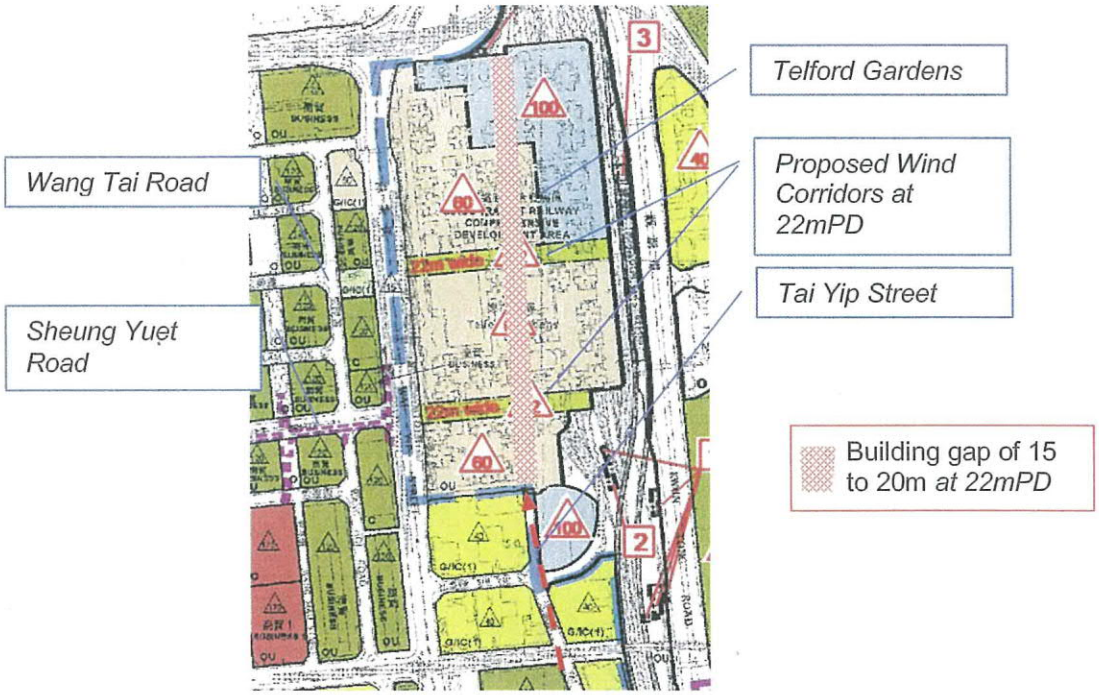


Figure 25 Recommended Building Gap for Telford Gardens

The maximum proposed building height of Kai Yip Estate increased from 60mPD to 100mPD. The increased maximum height is acceptable, however it is recommended that the building disposition should adopt a similar arrangement shown in Figure 14 in section 4.2.1.

The existing building height of Richland Gardens is about 100mPD. The current disposition includes sizable building gaps in the range of 60m to 85 m, maintenance of this space

together with the existing building height will give a positive impact on air ventilation, as shown in Figure 26.

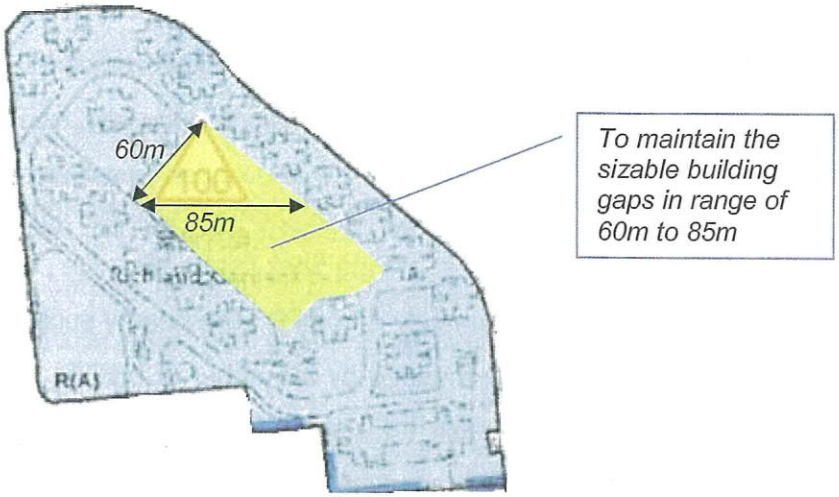


Figure 26 Richland Gardens

5.2.3 Region 2

There are no significant changes in Region 2. The proposed maximum building height of Shun Chi Court and Shun Tin Estate are kept at 170mPD and 160mPD/170mPD respectively. When the building disposition adopts a similar arrangement shown in Figure 21, discussed in section 4.2.2, the air ventilation effectiveness will be improved. The other recommendations have already been provided in Section 4.2.2.

Two non-building areas are proposed in Ping Shek Estate and Shun Chi Court, see Figure 27. It is recommended to maintain these two non-building areas for better air ventilation.

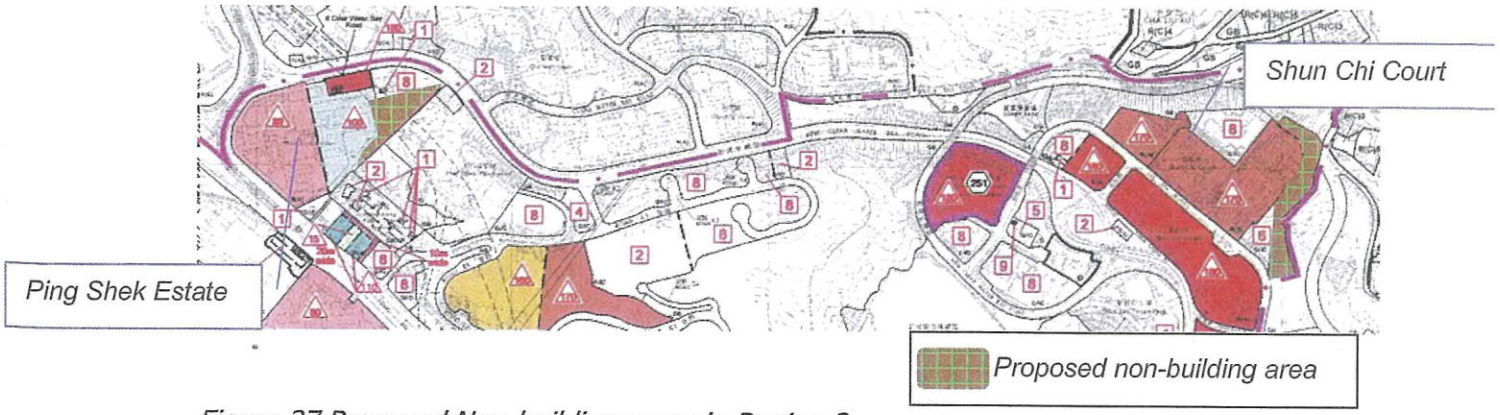


Figure 27 Proposed Non-building areas in Region 2

Notwithstanding the above, there is an area of concern in the future redevelopment of Kai Tak Mansion and the assessment is detailed in section 5.3.

5.3 Kai Tak Mansion

5.3.1 Background

The Kai Tak Mansion is located at the foothill of the slope adjoining the Hong Kong Baptist University Academy of Visual Arts to the south-east of Ping Shek Estate. The site consists of seven storeys with a building height of approximately 25.6mPD. The nearby spot height is approximately 4.6mPD. The "R(A)" site is surrounded by a number of historic buildings, G/IC facilities, open spaces and medium-rise public housing estates. Figure 29 shows the view of the Site and its surrounding. To its immediate north are two Grade I historic buildings of Ex-Royal Air Force (RAF) Officers' Quarters Compound (which include the two-storey RAF Officers Mess and an Annex Block) zoned "G/IC(2)", which are now being re-used as the Hong Kong Baptist University's (HKBU) Academy of Visual Arts, and to its immediate southwest is another two-storey Grade I historic building Ex-RAF Headquarters Building, which is currently zoned "O" and occupied by Caritas Family Crisis Support Centre. A one-storey Sam Shan Kwok Wong Temple (Grade III) and 8-storey St. Joseph Anglo-Chinese Primary School are located to its northwest and southeast respectively.

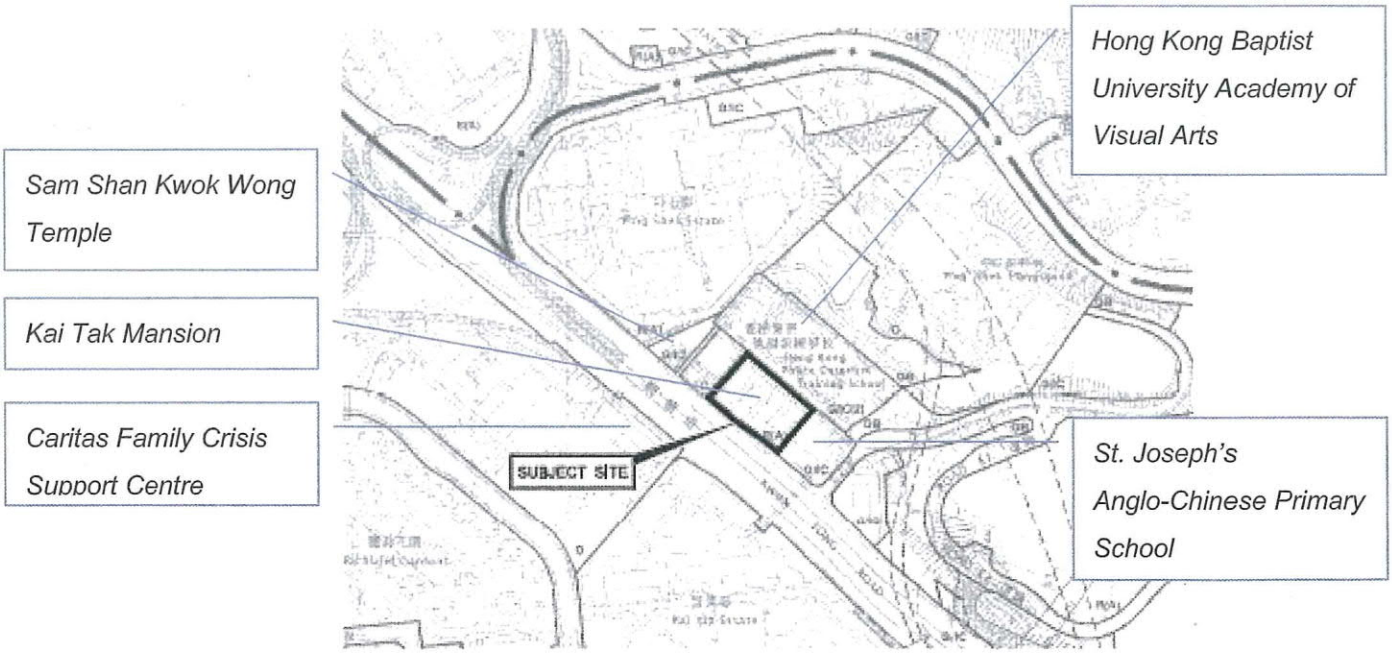


Figure 28 Project Site for Option Study

The building height of subject "R(A)" site, which could be built up to 110mPD, may have adverse impact on the air ventilation of the HKBU site at its rear and thus affecting students' activity. In order to minimise the potential adverse air ventilation impacts on the neighbours, development restrictions (NBAs and/or building gap) are proposed for future redevelopment of the "R(A)" site and tested in different options. Two development options: the baseline option (PR 9, BH 105mPD with no NBAs and building gap) and alternative option (PR 9, BH 105mPD with NBAs and building gap restrictions), are compared qualitatively in terms of the impacts on air ventilation in the surrounding developments in particular HKBU with the existing scenario (i.e. 7-storey building).

Figure 29 shows the view of the site and its surrounding.

Figure 29 Views of Kai Tak Mansion Site and its Surrounding Developments

5.3.2 Existing Scenarios of Kai Tak Mansion Site

Figure 30 shows the prevailing winds, identified in Section 3, for the existing scenario with breezeways.

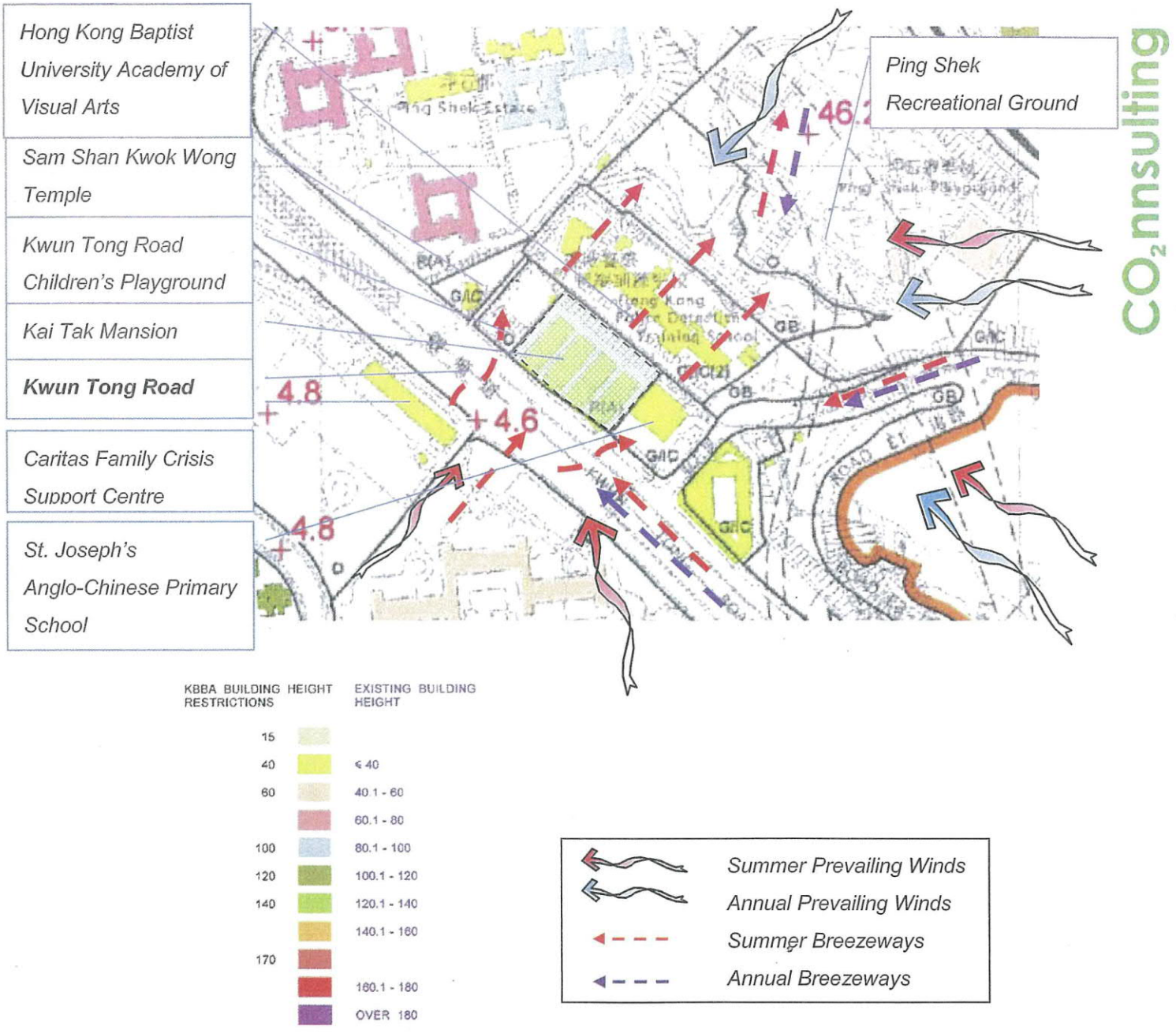


Figure 30 Existing Scenario at Kai Tai Mansion Site (highlighted in cross-hatched pattern) and its Surrounding Developments showing Major Breezeways

Figure 31 shows the building disposition of the existing Kai Tai Mansion. Some downdraft will also ventilate the area. The site includes four similar blocks with a 5m spacing. These narrow building gaps are insufficient to funnel the south-westerlies to the HKBU Academy of Visual Arts. However, this negative impact is not significant due to two reasons: the availability of the adjacent green belt and the large open space, Kwun Tong Road Children's Playground and Ping Shek Recreational Ground; as well as the limited building height of seven storeys (25.6mPD). It can therefore be said that the surrounding buildings have access to breeze.

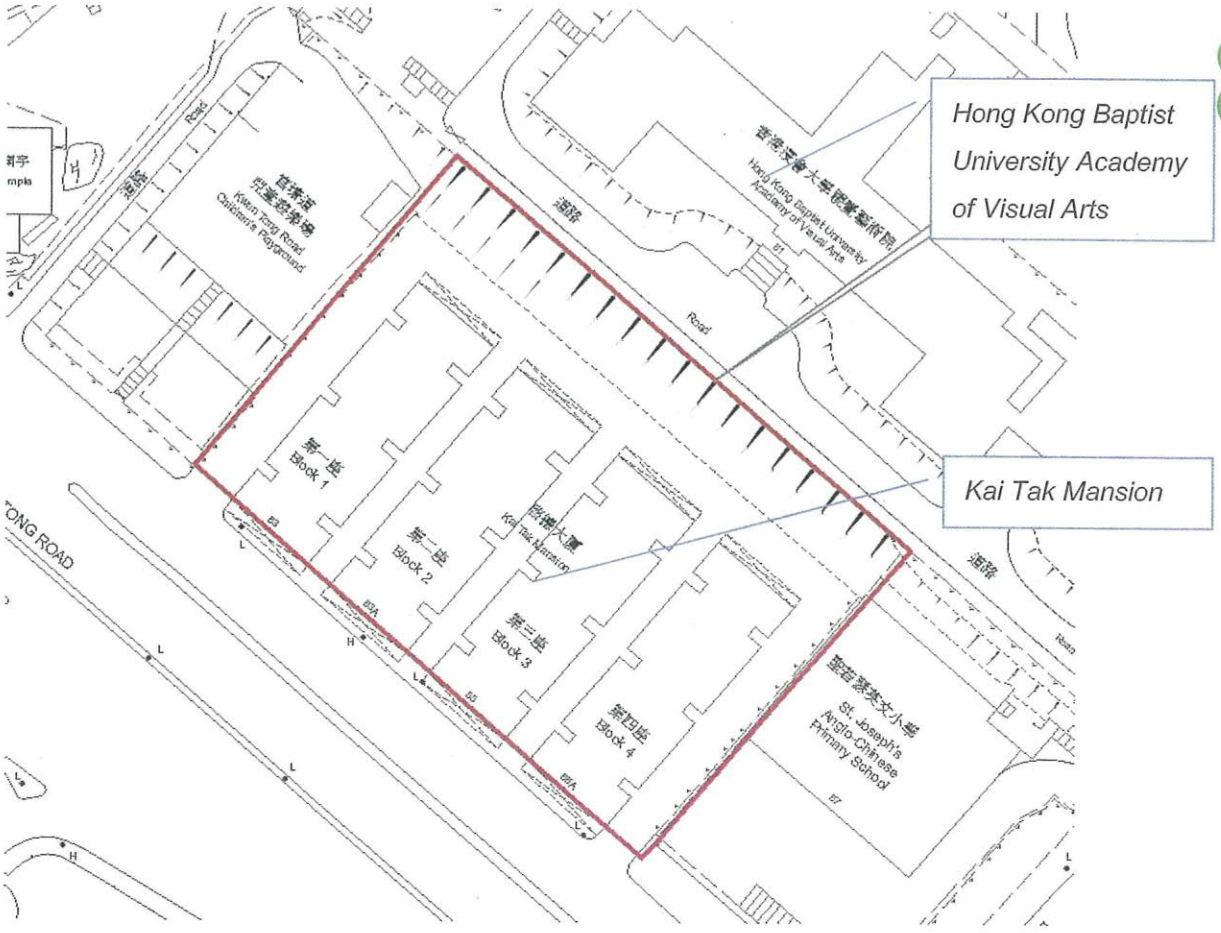


Figure 31 Existing Kai Tak Mansion

5.3.3 Options study of Kai Tak Mansion Site

(A) Baseline Option

Figure 32 shows the baseline option with a proposed building height of 105 mPD. Observations of the baseline option are described in the following paragraphs.

Figure 32 Baseline Option for Kai Tak Mansion

The large-scale podium would reduce the downdraft attributed by the subject towers with the south-westerlies and southerlies, and therefore minimise the ventilation on Kwun Tong Road.

The non-building area of 3m next to St. Joseph's Anglo-Chinese Primary School (approximately 37mpD), as shown in Figure 32, is insufficient to allow the south-westerlies to reach Hong Kong Baptist University Academy of Visual Arts, but will help to receive downdraft to ventilate the area with easterlies.

With the elevated height of 105 mPD (compared to approximately 25.6mPD of the existing scenario), the building gap of 5 m is not effective in ventilating the area.

The alignment of a building gap is directed too much towards the west to harvest the south-westerlies and southerlies.

The HKBU lies in the wake (area with no or little air movement) of the Kai Tak Mansion with diminished air ventilation. Part of the Kwun Tong Road Playground and St. Joseph Anglo-Chinese Primary School also lie in the area with little air movement. See Figure 32.

In general, the baseline scenario causes significant negative impact on air ventilation compared to the existing scenario.

(B) Alternative Option

Figure 33 shows alternative option for Kai Tak Mansion site. The proposed building height is at 105 mPD, similar to that in the baseline scenario.

Figure 33 Alternative Option for Kai Tak Mansion with Recommendations

Two non-building areas of 10m each are introduced as shown in Figure 33. The non-building area of 10m adjacent to St. Joseph's Anglo-Chinese Primary School is insufficient to ventilate the area with south-westerlies, but will encourage downdraft to reach the ground level and ventilate the area with easterlies.

The introduction of a 20m building gap between the four towers of 105mPD encourages the south-westerlies and north-easterlies to permeate. Nevertheless, it is recommended to widen the building gap to ideally 24m to further improve ventilation. See Figure 33.

The alignment of this 20m building gap also encourages south-westerlies and southerlies to permeate.

In general, alternative option provides better air ventilation to the vicinity than the baseline option.

5.4 Further Study

Given the consideration of development right which will lead to high-rise buildings, control of building height in itself is not an effective means for better air ventilation. This study has also included measures on set-backs, podia design, non-building areas to supplement with the height restriction. This study provides an overview of the existing wind environment and recommends broad measures to minimise negative impacts and where appropriate, improvement to the existing conditions.

The Project Area benefits from green belts, open spaces and low-rise G/IC sites, the sites should be maintained for better air ventilation. Building gaps and non-building areas have been recommended throughout the Project Area to improve permeability.

For specific sites where large-scale development or redevelopment may be possible, as shown in Figure 34, detailed AVAs on a site-by-site basis should be undertaken.

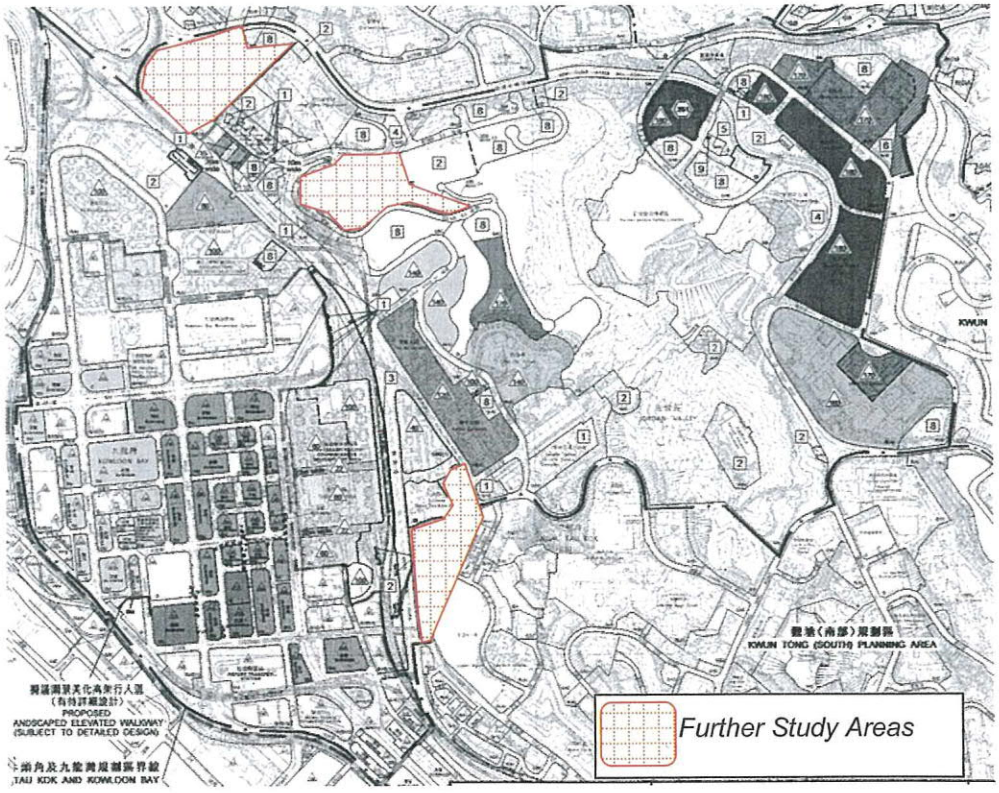


Figure 34 Recommended Sites for Detailed AVAs during Development / Redevelopment

6 CONCLUSIONS

As Region 1 is the gateway to sea breeze, it is essential that the OU and G/IC sites at the waterfront are maintained at 40mPD or below to allow permeability of sea breeze to Kowloon Bay. This strategy has already been adopted in the committed plan. Numerous sites in form of Residential, Commercial, G/IC and OU are planned to be developed in Kai Tak which is just southwest of Region 1, outside the Project Area. The majority of the buildings are up to in the range of 15mPD to 65mPD. Care should be exercised in the arrangement of building blocks in the Kai Tak area to minimise the adverse impact of air ventilation to the Kowloon Bay area.

The KBBA is densely packed with medium to high-rise commercial and industrial buildings (120 mPD to 170 mPD). Narrow roads are found in the KBBA. Given the maximum building height and the width of the blocks, the negative impact on air ventilation cannot be mitigated unless the effective road spacing (measured from building face-to-building face) is increased from 10m - 25m to 30m or beyond. Since this mitigation measure is not practical, it is recommended to introduce and maintain several urban linear parks and open space within KBBA, as well as practical setbacks from the roads. These ventilation pockets include the CICTA Sheung Yuet Road Training Ground, Lam Wah Street Playground, Kowloon Bay Park, Kowloon Bay Sports Ground, Kowloon Bay Playground, a series of "linear open space", as well as numerous low-rise G/IC sites with building height restriction of 40mPD, help to improve air ventilation in the Kowloon Bay Area, and should be maintained.

The committed linear open spaces from Kai Cheung Road to Wang Yuen Street would better serve the business area if the future redeveloped building(s) are set back from Wang Mau Street by 5m. A building gap of around 15m is recommended along Sheung Yee Road and Lam Hing Street to extend the breezeway for better permeability in KBBA. Widening breezeways, Wang Kwong Road and Wang Chiu Road, by setting back three meters of each side of the road will improve the effectiveness of the major breezeways. The KBBA area lacks breezeways to funnel easterlies and sea breeze. The introduction of a non-building area at the proposed International Mail Centre to connect to the breezeway provided by Wang Tai Road and Lam Wah Street would improve the air ventilation in the KBBA. The site of Enterprise Square V is sizable with unfavourable slab-type towers. As Enterprise Square V sits on the waterfront, it presents an obstacle to permeability to KBBA. A slanting alignment of the 15m building gap is recommended at the 22mPD podium level of Enterprise Square V to introduce a wind corridor for the oncoming sea breeze. A permeable podium is recommended for the Enterprise Square V. It is also recommended that the building

disposition should adopt a similar arrangement shown in the study report for air ventilation improvement.

Outside the KBBA, the majority of the land consists of large-scale housing estates and residential developments, such as Kai Yip Estate, the committed Lower Ngau Tau Kok Estate Redevelopment Project, and Richland Gardens. In general, building disposition should not form a wind wall to improve permeability. Furthermore, low-rise facilities should be located in the centre of these developments to maximise the size of the open courtyard to improve local ventilation. Recommendations for such sites have been provided in the study report.

Region 2 of the Project Area is hilly, with the majority of open space in the form of G/IC sites, green belts and open space areas, such as Jordan Valley Playground, Jordan Valley Leisure Pool Complex, Ping Shek Recreational Ground, Former Jordan Valley Landfill Site, Service Reservoir, Shun Lee Tsuen Park, which provide pleasant air ventilation to the region, and should be maintained. Areas of larger-scale medium-rise residential developments are located along the eastern and western boundaries of Region 2, with maximum height from 80mPD to 250mPD. In general, there are no significant negative air ventilation impacts due to these estates because of the abundant surrounding open space, green belt and/or low-rise G/IC developments. These areas shall be maintained for better air ventilation. However, better arrangements in terms of air ventilation have been proposed in the study report for future redevelopments.

In the proposed plan, the proposed maximum building height of Telford Gardens remain unchanged (60mPD and 100mPD). The proposed plan also indicates that two corridors have been proposed to be introduced on the podium (22mPD). This strategy will help to provide a wind corridor connecting Wang Tai Road and Sheung Yuet Road. A 15m to 20m building gap is also recommended to connect Kwun Tong Road to Tai Yip Street to improve air ventilation.

The proposed maximum building height of Kai Yip Estate increased from 60mPD to 80mPD and 100mPD. The increased maximum height is acceptable, however it is recommended that the building disposition should adopt a similar arrangement shown in the study report for air ventilation improvement.

The maximum building height of 100mPD is retained for the site of Richland Gardens. The current disposition includes sizable building gaps in the range of 60m to 85 m, maintenance

of this space together with the unchanged building height will give a positive impact on air ventilation.

The proposed maximum building heights of Shun Chi Court and Shun Tin Estate are kept at 170mPD and 160mPD/170mPD respectively. When the building disposition adopts a similar arrangement shown in the study report, the air ventilation effectiveness will be improved.

For specific sites where large-scale development or redevelopment may be possible, detailed AVAs on a site-by-site basis should be undertaken.

The summary of recommendations to minimise the impact of the overall Project Area are listed below and illustrated in Figure 35.

General:

- Provide set-back from the site boundary, or recess the lower floors from these key wind corridors, or align the podia edge with the building edge, to make the podia more permeable, by delineating non-building areas wherever possible

Region 1:

- Maintain the linear open spaces from Kai Cheung Road to Wang Yuen Street;
- Introduce a building gap of around 15m wide along Sheung Yee Road and Lam Hing Street to extend the breezeway for better permeability in KBBA;
- Introduce set-back of 5m to the building(s) on Wang Mau Street;
- Introduce a 15m building gap and a permeable podium for Enterprise Square V;
- Avoid slab-type building disposition in the Enterprise Square V. Buildings should be arranged in the manner as recommended in the report to allow wind corridor;
- Introduce a set-back of 3m on each side of Wang Kwong Road and Wang Chiu Road;
- Introduce a 15m non-building area at the proposed International Mail Centre;
- Widen the building-to-building gaps in the committed Lower Ngau Tau Kok Estate Redevelopment Project;
- Avoid slab-type building disposition in the Kai Yip Estate. Air paths should be introduced;
- Maximise the open space within the Amoy Garden;
- Introduce a building gap of 15 to 20m wide in Telford Gardens to connect Kwun Tong Road to Tai Yip Street;

- Maintain the sizable building gaps in range of 60m to 85m in the Richland Gardens;
- Maintain the open space and G/C sites in the future development;

Region 2:

- Avoid slab-type building disposition in the Ping Shek Estate. Air paths should be introduced;
- Maintain the non-building areas in the Ping Shek Estate and Shun Chi Court;
- Avoid wind wall building disposition in the committed Choi Tak Estate Site 3A. Air paths should be introduced;
- Introduce air paths in the Choi Ha Estate, the Shun Lee Estate, the Shun Chi Court, the Shun Tin Estate and the Shun Lee Discipline Services Quarters; and
- The baseline scenario and alternative option of Kai Tak Mansion site have been compared. It is concluded that the alternative option with building gap of 20m to 24m wide at 13.6mPD and non-building areas of 10m provides better air ventilation compared to the baseline option.

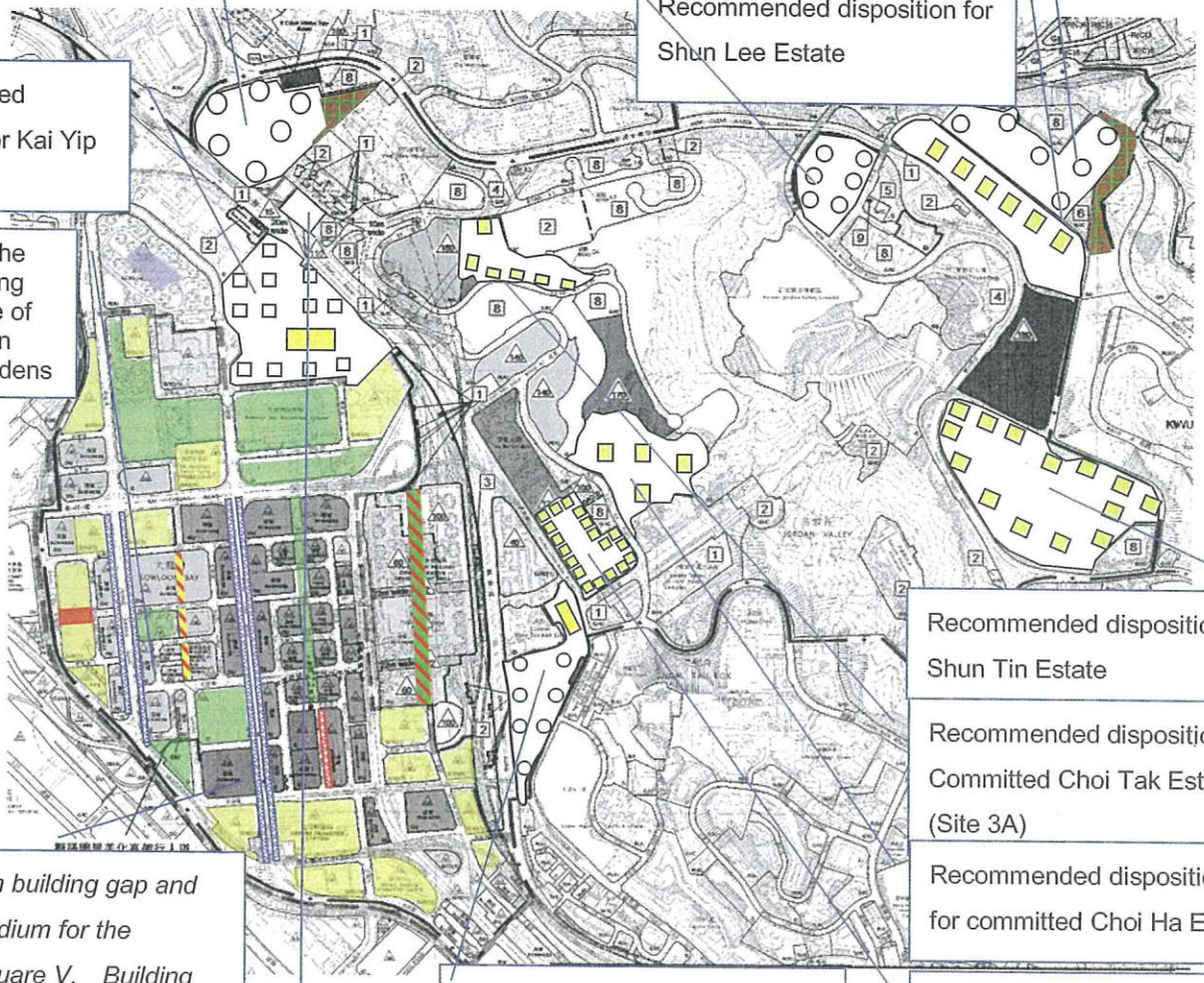


Figure 35 Summary of Recommendations to Minimise the Impact

第三屆觀塘區議會
第二十次全會會議記錄

日期:2011 年 1 月 4 日(星期二)
時間:下午 2 時 35 分至 4 時 45 分
地點:九龍觀塘同仁街觀塘政府合署 3 樓
觀塘民政事務處會議室

出席者:

主席

陳振彬先生, SBS, JP

副主席

蘇麗珍女士

議員

陳國華先生, MH
陳汶堅先生
陳百里博士
陳華裕先生, MH
張順華先生
周耀明先生
蔡澤鴻先生
范偉光先生
符碧珍女士
馮錦照先生, MH
馮錦源先生
馮美雲女士
徐海山先生
洪錦鉉先生
簡銘東先生
郭必錚先生, MH
黎樹濠先生, BBS, MH,JP
劉定安先生
梁芙詠女士, BBS, MH
林亨利先生, MH
馬軼超先生
麥富寧先生
伍兆祥先生, MH
吳耀民先生
柯創盛先生
潘進源先生, MH
潘兆文先生, MH
潘任惠珍女士, MH
蘇冠聰先生
施能熊先生
鄧志豪先生
鄧咏駿先生
黃啓明先生
黃偉達先生

林家強先生	葉興國先生,MH
林建華博士, MH	姚柏良先生
林　峰先生	

出席會議的政府部門/機構代表

區慶源先生,JP	觀塘民政事務專員	
徐耀良先生	觀塘民政事務助理專員	
趙啓丁總警司	警務處觀塘警區指揮官	
劉識添總警司	警務處秀茂坪警區指揮官	
莫鵬程先生	土木工程拓展署高級工程師/2(九龍)	
吳家謙先生	社會福利署觀塘區福利專員	
石如東先生	食物環境衞生署觀塘區環境衞生總監	
陸智剛先生	康樂及文化事務署觀塘區康樂事務經理	
韓祖耀先生	運輸署高級運輸主任/觀塘	
馬錦全先生	房屋署物業管理總經理(東九龍)	
梁卓文先生, JP	食物環境衞生署署長	)議項 I
勞月儀女士	食物環境衞生署助理署長(行動)2	)
杜錦蕙女士	規劃署高級城市規劃師/九龍 4	)議項 II
張芝明女士	規劃署城市規劃師/九龍 3	)
李美芬女士	規劃署城市規劃師/九龍 11	)
李樹榮博士	市區重建局觀塘項目總監	)議項 III
鄧文雄先生	市區重建局觀塘項目總經理	)
蘇毅朗先生	市區重建局社區發展高級經理	)

秘書

李賢斌先生	觀塘民政事務處高級行政主任(區議會)

列席者：

陳華添先生	觀塘民政事務處高級聯絡主任(1)
鄭家寶女士	觀塘民政事務處高級聯絡主任(2)
蕭潔芝女士	觀塘民政事務處高級行政主任(地區管理)
梁錫恩先生	觀塘民政事務處一級行政主任(區議會)

缺席者：

呂東孩先生

開會辭

主席歡迎所有與會人士出席會議。

議項 I－食物環境衞生署署長與區議員會面

2. 主席歡迎食物環境衞生署(下稱"食環署")署長梁卓文先生(下稱"梁署長")、助理署長勞月儀女士及觀塘區環境衞生總監石如東先生出席會議，討論有關食物及環境衞生的事宜。

3. 梁署長介紹署方的主要工作，並闡述未來一年署方的工作重點涵蓋《食物安全條例草案》的立法進程、拓闊食品來源渠道以穩定供應及物價、公共街市管理及小販發牌檢討等範疇。

4. 議員提出的查詢及意見如下：

4.1 葉興國議員指出隨着居民陸續入伙，在牛頭角佐敦谷房屋計劃下的商場及超級市場未能滿足居民的生活所需，及查詢署方：(i)會否與房屋署合作在規劃階段因應人口需要在該處加入街市設施，若不會的話，能否擴大現有街市的規模；(ii)會否加強牛頭角一帶有牌活動小販的規管，避免問題惡化。

4.2 陳華裕議員建議署方：(i)與持份者全面檢討過時的規管商販非法擺賣政策，以免影響居民的日常生活；(ii)檢討空置街市檔位的情況，以解決空置的問題，例如引入社企單位；(iii)跟進市中心非法張貼街招、開源道一帶易拉架及市中心食肆非法擴展營業範圍等問題。

4.3 張順華議員建議署方加強專責處理樓宇滲水問題的屋宇署/食物環境衞生署聯合辦事處(觀塘分處)(下稱"聯合辦事處")的工作，以減少個案等候時間及將測試方法現代化，同時改善與屋宇署之間的協調機制。

議項 II－牛頭角及九龍灣分區計劃大綱核准圖編號 S/K13/25 的修訂項目
(觀塘區議會文件第 1/2011 號)

7. 主席歡迎規劃署高級城市規劃師杜錦蕙女士協助討論。

8. 杜錦蕙女士介紹有關文件。

9. 議員提出的查詢及意見如下：

9.1 陳華裕議員建議署方：(i)切實執行經修訂的觀塘道與牛頭角道樓宇高度限制，使該些道路附近的居民能享有不受噪音和低頻滋擾和通風較佳的生活環境；(ii)考慮將啓德大廈及附近一帶較高樓宇的高度限制降低，以減少壓迫感；(iii)盡量規劃擴闊重建後牛頭角下 一帶牛頭角道的行人路及車路，方便未來使用跨區社區文化中心及附近休憩場所的人士。

9.2 潘進源議員建議署方考慮將啓業 旁前空軍基地規劃成爲旅遊景點，並查詢署方將上述地段修訂爲"政府、機構或社區"地帶會否令上述基地有需要拆卸。

9.3 蘇冠聰議員指出在九龍灣一帶工貿區因玻璃幕牆而產生的光污染十分嚴重，對駕駛者及行人構成危險，他建議署方在限制樓宇高度時也須限制發展商在興建新的大廈時避免產生上述光污染的問題。

9.4 蘇麗珍議員向署方查詢位於彩石里的聖約瑟學校校舍的用途爲何。

9.5 洪錦鉉議員有見觀塘區逐漸轉爲商業區，人流與車流也日漸增加，建議署方考慮在規劃上盡量擴闊全區的道路，以應付不斷增加的交通流量。

10. 署方就議員的查詢及意見回應如下：

10.1 樓宇高度限制：就降低啓德大廈附近一帶樓宇現有較高的建築物高度，由於大綱圖上訂明，現有建築物將來拆卸後，可重建同一高度的建築物，因此署方未能降低此類建築物高度限制。署方亦指出目前建議啓德大廈重建後的高度(即主水平

基準上 110 米)已是合理的高度限制，並已考慮到高度限制需要容納相關的地積比率和已預計停車場設在地庫。

10.2 牛頭角下邨一帶擴闊牛頭角道車路及行人路：署方會向房屋署反映議員的相關意見。

10.3 一級歷史建築物被規劃爲"政府、機構或社區(2)"地帶：署方解釋根據大綱圖上的註釋，上述地帶的建築物不能拆卸或重建，而加建或改動也須向城市規劃委員會提交申請，以保護議員所提及的前空軍基地的一級歷史建築物。相反，如建築物位於"休憩用地"則可被拆卸。

10.4 彩石里旁聖約瑟學校校舍的用途：署方指出有關政府部門現正考慮該校舍的臨時或其他用途。

10.5 九龍灣商貿區的道路：署方表示已向運輸署了解目前的道路網絡是否足夠應付有關車流需求。署方在發展大綱圖上已劃定地段後移線以擴闊相關的道路。此外，在分區計劃大綱圖上，宏光道及宏照道兩旁設有非建築用地，建築物重建時可擴闊有關道路。

11. 大會備悉有關文件。

(陳汶堅議員於 3 時 45 分離開會場，伍兆祥議員於 3 時 50 分離開會場。)

議項 III－市區重建局觀塘市中心項目進度報告
(觀塘區議會文件第 2/2011 號)

12. 主席歡迎市區重建局(下稱"市建局")觀塘項目總監李樹榮博士、觀塘項目總經理鄧文雄先生及社區發展高級經理蘇毅朗先生參加討論。

13. 李樹榮博士及蘇毅朗先生介紹有關文件。

14. 議員提出的查詢及意見如下：

14.1 徐海山議員表示，有關在開源道迴旋處西北方重置美沙酮診所的建議並未有在區議會會議中作深入的討論。在市建局就

SUMMARY OF REPRESENTATIONS AND COMMENTS IN RESPECT OF DRAFT NGAU TAU KOK & KOWLOON BAY OUTLINE ZONING PLAN NO. S/K13/26 AND PLAND'S RESPONSES/RECOMMENDED REJECTION REASONS (Group 1)

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons

Representation No. R2
The Real Estate Developers Association of Hong Kong (REDA)

- Oppose the building height restrictions (BHRs) and the requirements of non-building areas (NBAs) and building gaps [Amendment Items A to C4 on to the OZP and items (a) (b), (f) and (g) of amendments to the Notes of the OZP]

The grounds of representations are:

BHRs

Lack of Flexibility for Quality Design and Impact on Streetscape and Air Ventilation

- The setting of BHRs at levels which are so low as to unnecessarily constrain the provision of good quality environment. This objective can only be achieved by providing for the design of developments which provide good internal space for people with sufficient internal headroom.

- No consideration has been given to building economics, implications for redevelopment of the area, form of new buildings, negative impact on provision of space around buildings and would result in lower and bulkier buildings. The imposition of the height limit at a level which is too low therefore creates a solid wall effect closer to ground level.

- Imposition of unreasonably low BH limit restrains the building bulk, making incorporation of innovative architectural design and void feature impossible, and directly affects streetscape, air

Lack of Flexibility for Quality Design and Impact on Streetscape and Air Ventilation

- The BHRs would not necessarily result in bulkier buildings or wall effect affecting air ventilation. The BHRs are formulated based on reasonable assumptions and flexibility is allowed in the shape and form of the buildings. In general, they should be sufficient to accommodate the permissible PR under the OZP as well as meeting various building requirements. Besides, the BHRs do not preclude the incorporation of innovative architectural features and landscape treatment, etc. of a development proposal. The ES of the OZP has also expressly encouraged the provision of improvement measures for better air ventilation e.g. greater permeability of podium, wider gap between buildings and building setback.

- Building design is determined by the interplay of a host of factors such as PR, site coverage, BH, design and disposition of buildings and the geometry of the site. As advised by Chief Town Planner/Urban Design & Landscape (CTP/UD&L), the control or reduction in BH does not necessarily result in large building bulk. In considering the building bulk, apart from the size and volume of a building,

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons
ventilation and the quality of life of the users of the development.		reference should also be made to the following: (a) the shape and form of building, including any podium, balcony, bay window, architectural feature and stepped height profile; (b) the disposition of building in relation to the boundary of the site and the adjacent building, including set back at both ground and upper levels; and (c) the location of the building in relation to the characteristics of the surrounding area, including surrounding buildings, heritage, open areas, natural topography, ridgeline, main street and pedestrian circulation pattern, view corridor and breezeway. • As such, whether a building is considered bulky depends on many considerations other than BH alone. The assumption that BH control will compress a building and hence increase its bulkiness without attempting for a change in design is only quoting an extreme case. A development without BH control can also give the same bulkiness at pedestrian level, for example, by designing a podium of 100% site coverage up to 15m under B(P)R in order to maximise the best views at higher levels and to capitalise the land values. • Moreover, there is provision for application for minor relaxation of the BHRs under the OZP to cater for development/redevelopment with planning and design merits. As stated in paragraph 7.13 of the ES, the consideration criteria of such applications include the provision of innovative building design, separation between buildings, better streetscape and good quality street level public urban space. Any innovative scheme with planning and design merits would be duly considered by the Board in accordance with such criteria.
Reasonable height limits and control of out-of-context tall buildings • The reasons for imposing of BH limits as stated in paragraph 7.2 of the Explanatory Statement (ES) can be achieved with height limits imposed at a level for more reasonable form of development. • The recent public concern appears to be about developments in the order of 60 storeys or taller in prominent positions. High-rise		*Reasonable height limits and control of out-of-context tall buildings* • Apart from air ventilation consideration and protection of ridgelines of Lion Rock, Tsz Wan Shan and Kowloon Peak, together with the views from the HKCEC and Quarry Bay Park, the BHRs have been formulated based on an overall BH concept and other relevant considerations including the existing BH profile, natural topography, local area context and characteristics, the BH of the

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons
developments of around 40 storeys are acceptable to the public. The general BHRs of about 80m to 100m for many residential sites in the Area, which are equivalent to about 25 to 32 storeys, are unreasonably low to address the public concern.		developments in the adjoining planning areas as well as visual compatibility of building masses in the wider setting. A balance has been struck between public aspirations for a better living environment and private development right. • R2's claim that high-rise developments in the order of 40 storeys have been in place in Hong Kong for years and are thus acceptable to the public is not backed up by any evidence. Such a BH is not considered as a readily and widely acceptable BH for the Territory, particularly in the district or local context. As advised by CTP/UD&L, whether a development is "out-of-context" should be considered with reference to the characteristics of the surrounding areas, not solely the absolute BH. It should be determined by considering how the development relates to the height and massing of the adjacent natural and man-made setting, and whether it contributes towards a coherent composition or creates diversity and contrast.
Adoption of view corridors and stepped BHs • The Hong Kong Convention and Exhibition Centre (HKCEC) and the Quarry Bay Park are the most relevant key vantage points for visual impact considerations in this OZP. The other "view corridors" such as from a footbridge near Choi Ying Place should not be adopted as they have no significant characteristics and have not been established after public consultation. • It is illogical to adopt a descending BHRs profile to the east, from the Kowloon Bay Business Area of 120mPD, and to disallow continued increase in BHRs across Telford Gardens, across Kwun Tong Road and Ngau Tau Kok Road. • The imposition of the BHRs for private land in the vicinity of Kwun Tong Road would be more restrictive than the public housing sites in the OZP area.		*Adoption of view corridors and stepped BHs* • According to the Urban Design Guidelines in Chapter 11 of the HKPSG, views to special landmarks and features (such as ridgelines, water body, countryside and other natural features) should be functionally protected so as to avoid finger or broken views and additional view access should also be maximised to strengthen visual permeability in the dense city form. In Kowloon, it is stated that the visual access to Lion Rock and major ridgelines should be enhanced to avoid losing these features which form "the image of Hong Kong". • As such, in addition to the view corridors towards the Kowloon ridgelines from the established vantage points at Hong Kong Island, suitable viewing points/local view corridors in a more local context had been considered. In Ngau Tau Kok & Kowloon Bay area, a local view corridor towards the Lion Rock viewing from the pedestrian footbridge at Kwun Tong Road near Choi Ying Place has been identified. The footbridge is the major pedestrian route linking up Kowloon Bay Station to the public housing developments serving the nearby residents and is easily accessible by the public. Such view corridor opens up a vista to the Lion Rock in the far northwest via a belt of various "R(A)", "G/IC" and "Open Space" ("O") uses on both sides of Kwun Tong Road. When determining the BHs for developments/ redevelopments that falling within the local view corridor, among other factors, due respect has been given to preserving the natural setting of the

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons
		Lion Rock (Plan H-9). • The current BH profile is to create a discernible townscape for the KBBA with a BHR of 170mPD imposed for "C" and "OU(Business)" zones in the southern part as a business node where some new developments have been completed recently and agglomerated to form a critical mass as an identifiable area node, and stepping down to 3 lower height bands of 100mPD, 120mPD and 140mPD in the northern and eastern parts. With a smooth transition of BH profile from the KBBA, the business node steps down gradually to the medium-rise residential developments including Kai Yip Estate, Richland Gardens and Telford Gardens along Kwun Tong Road. Across Kwun Tong Road, the BH profile for the residential developments mainly follows the natural topography stepping up gradually eastward and northward towards Jordan Valley and the foothill of Kowloon Peak. Thus, the BH profile in the Area including the KBBA is considered logical and desirable from urban design point of view. • On the OZP, the public housing developments have higher height bands ranging from 140mPD to 170mPD than the private residential developments with the height band of 120mPD. It is because public housing developments sites are located at higher site levels ranging from 20mPD to 60mPD while the private residential developments are on site levels of about 5mPD. The absolute BHs of the public housing developments are similar to or even more stringent than the private residential developments. It is considered incorrect to claim that BHRs for private residential sites are more restrictive than the public housing sites.
NBAs • The imposition of NBAs on individual sites for air ventilation purposes is not permitted under sections 3 and 4 of the Ordinance in relation to the content and application of statutory plans as no buildings are provided within NBAs. • "Gaps" between buildings can be achieved by provision for open spaces, parks and streets. There appears no justification for an additional category of NBA. • The AVA assessment is inadequate to justify the extent of		**NBAs and Building Gaps Requirements and Spot Zoning Approach** • Legal advice has been obtained on the spot zoning approach. According to the Department of Justice (D of J), sections 3 and 4 of the Ordinance and the scheme of the legislation are intended to give the Board comprehensive powers to control development in any part of Hong Kong. The Board should have the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if there are necessary and sufficient planning justifications. The imposition of BHRs is considered justified as it could provide better planning control on the BH of development/redevelopment and avoid out-of-context development.

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons
imposition of NBAs and no information was included to justify the extent of intrusion into private property rights. No critical assessment has been undertaken to show that NBAs are essential for the public good and no alternatives have been considered, and no compensation for owners for the loss of property rights has been considered. The NBAs proposals go beyond the scope of the Town Planning Ordinance. **Building Gaps and Setbacks** • Setback requirements on OZPs are not appropriate for the scale and generality of the broad brush plans determining types of buildings and permitted uses. Such designation on OZPs goes beyond the intention of town planning and may be subject to legal challenge. There is no legal recognition of the provision of setbacks for "air paths" as being a public purpose for which private land could be taken. • The OZP is not an appropriate statutory framework for the implementation of building setback and building gap as provision of road widening is covered by other ordinances [i.e. Buildings Ordinance (BO) and the Roads (Works, Use and Compensation) Ordinance ("Roads Ordinance")] and these ordinances provide means for compensating private land owners for the loss of their land for setback for a public purpose. • The justifications in paragraph 8.6 of the ES for providing setbacks for "OU(B)", "G/IC(1)" and other zones are confusing. No justifications are provided as to why they are essential, why they must be the specified width, and why some must be at ground level and others can be at 22mPD. No justifications are provided for an additional setback along the widest streets in KBBA. • The unclear justifications for the setback requirements would render unnecessary complication related to compensating private land owners for the loss of land for public purpose under the BO and the Roads Ordinance.		• Sections 3 and 4 of the Ordinance and the scheme of the legislation are intended to give the Board comprehensive powers to control development. NBA and building gap requirements can also be a part of the planning control provided that the Board has necessary and sufficient planning justifications. The designation of such requirements on the OZP, which can serve a positive planning purpose and have positive planning benefits, is justified in the circumstances. • The objective of the NBA and building gap requirements is for air ventilation and urban design considerations and would improve pedestrian walking environment and local amenity and assist air ventilation as stated in paragraph 8.6 of the ES. The imposition of NBA and building gap requirements depends on different site context, site configuration and building disposition. The areas designated as NBA are clearly marked and shown in the OZP where no building structure above ground is allowed. However, taking into account the practical constraint in existing development pattern and development right, building gaps where no building structure shall exceed the BHRs would be imposed in certain localities. • The NBAs and building gaps requirements are in relation to air ventilation issues. As stated in the AVA Study, air ventilation is subject to a combination of factors like site geometry, building form and disposition, BH and bulk, choice of views and prevailing wind direction, etc. For better air ventilation, breezeways along major prevailing wind directions and air paths intersecting the breezeways should be provided. Breezeways should be created in forms of major open ways, such as principal roads, inter-linked open spaces, amenity areas, NBAs, building setbacks and low-rise building corridors, through the high-density/high-rise urban form. In addition to the provision of open spaces, parks and streets, stipulation of NBAs and building gaps on OZP is an effective alternative to improve air ventilation. The AVA Study therefore recommends the mitigation measures of imposing NBAs and building gaps in the Area in order to improve the permeability of sea breeze towards Kowloon Bay, the effectiveness of major breezeways and the overall wind environment in KBBA (Plans H-5 and H-6). • In addition, "O" zoning and NBA serve different functions. "O" zone is intended to provide open space for public enjoyment and its implementation may involve land resumption. NBA forms part of the building design to free up ground floor space for air ventilation purpose, but the land is still vested with the landowners and the development intensity of the sites would not be affected by the NBAs.

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons
Spot Zoning Approach • The imposition of BHRs, NBAs and building gaps on individual sites constitutes a form of 'spot zoning', which is too restrictive, inappropriate and unlawful. It is not permitted under sections 3 and 4 of the Ordinance in relation to the content and application of statutory plans. It violates the broad principle of planning indicated in paragraph 3.2 of the ES that the object of the OZP is to indicate only the broad principles of development.		Should these areas be rezoned to "O", the development potential of the concerned site would be affected. • The AVA by EE, which is particularly useful for a large area, is considered an appropriate approach for overall review of BH for the Area. The AVA has been carried out in accordance with the Technical Circular on AVAs promulgated by the Government. The AVA has assessed the existing wind environment in the Area and made a qualitative evaluation of the likely impact of the developments in accordance with BHRs on the pedestrian wind environment, including identification of areas of concern and recommending possible measures to address the potential problems. Justifications for the specific NBAs and building gap requirement including improving air ventilation and providing pleasant pedestrian environment are clearly set out in the AVA (Annex IV) and MPC Paper No. 25/10. • It is considered appropriate to impose NBA and building gap restrictions on the OZP to provide clearer control and allow opportunity for public representation under the Ordinance. The requirements of NBAs and building gaps under the OZP and the provision of setback under the BO are two separate regimes, i. e. building regime and town planning regime respectively. However, they are complementary, rather than duplicating to each other. In comparison, the OZP requirements were determined based on specific district circumstances and conditions, while the BO is applicable to all building developments with no reference to specific district characteristics. • Regarding compensating the private land owners, in general, proposals involving dedication of land for public passage and surrender of land for street widening would be entitled to bonus GFA under B(P)R, and any such claim would be duly considered by the Building Authority in accordance with the normal practice. The NBA and building gap requirements on the OZP should not adversely affect development intensity of the relevant sites, and do not preclude the claim for bonus GFA under the BO.
Public Consultation • The BHRs, NBAs as well as setback requirements were imposed on the OZP without any prior public consultation. There was no		**Public Consultation** • Subsequent to the completion of the Study "Urban Design Guidelines for Hong Kong" setting out the broad urban design guidelines in 2003, the BH proposals

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons
opportunity for the public, including the development industry, to be informed as to the justification or the need of the restrictions. No explanation on particular height limits, NBAs and setback requirements were provided to the public. Furthermore, no visual impact analysis was made available to the public. • The approach adopted for the present OZP amendments was in contrast with that taken in 2004 when a study was undertaken for KBBA and TPB Guidelines was issued to propose a temporary arrangement for processing of the proposed BHRs.		were firstly translated onto OZP restrictions in KBBA and Kwun Tong Business Area (KTBA) in 2004. As most of the sites within the business areas were subject to the Airport Height Restrictions/ BHRs under leases and a surge of building plan submissions to establish "fait accompli" was unlikely, it was considered that public consultation prior to the gazetting could be conducted to gauge the public views on such translation of BHR onto relevant OZPs. The TPB Guidelines for Interim BH Control in KBBA and KTBA was issued in 2004for planning control purposes pending on the results of the public consultation on imposing BHRs in KBBA and KTBA. • Nowadays, it has been an established practice that proposed amendments involving BHRs would not be released to public prior to gazetting. The reason is that premature release of such information before exhibition of the amendments might prompt an acceleration of submission of building plans by developers to establish "fait accompli", hence defeating the purpose of imposing the BHRs. • The rationales for the BHRs and NBAs requirements have been set out clearly in the MPC Paper No. 25/10, the AVA and the ES of the OZP, which are all available to the public. • Photomontages and photos showing proposed general BH bands for development sites in the OZP area were included in the MPC Paper. • Amendments to the OZP were exhibited for public inspection for a period of 2 months in accordance with the provisions of the Ordinance. The exhibition process itself is a public consultation to seek representations and comments on the draft OZP. During the exhibition period, PlanD also provided briefings on the OZP amendments to KTDC. The 2-month statutory exhibition period is considered adequate for consultation with the public, while maintaining the efficiency of the process.
Representer's Proposals • 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.		Representer's Proposals • Keeping the integrity of the BH profile and designation of NBAs /building gaps to maintain and improve the visual quality of the townscape and permeability of the district are considered important. Stipulation of NBAs on OZP is an effective measure to improve air ventilation, particularly for sites facing narrow street

Representations

- A more rational and generalised approach to the zoning should be adopted by deleting "Spot BHRs" which adversely affect development rights and building potential.

- The OZP central area should have increased BHRs ranging from 140mPD to 150mPD to maintain the rising profile of BHs, while still protecting the ridgelines from the recognised viewpoints.

- Given the established BHRs on KBBA, and the general background of development on the slopes to the east, a general increase in the BHRs of 20m to 40m is appropriate.

- To delete the NBA requirement from the OZP and alternative zonings, such as "Open Space" ("O") should be used to provide desired gaps. The words "exceptional circumstances" in respect of applications for minor relaxation of NBA requirements should be deleted from the relevant Notes.

- To delete all setbacks from the OZP.

Comments

PlanD's Responses/Recommended Rejection Reasons

canyon. Any uplifting of the BHRs or removal of NBAs should be subject to adequate justifications and demonstrations.

- R2's proposals for increased BHRs ranging from 140mPD to 150mPD to create a rising profile of BHs for the OZP central area is not supported since it would result in an awkward downward and upward BH profile for the OZP area as well as the overall visual quality of the townscape. The proposals for increasing the BHRs of 20m to 40m and deletion of NBAs are not supported having considered the urban design considerations set out above.

- The proposal for deleting the NBA requirement and for designating alternative "O" zone to provide desired gaps is not supported as they serve different purpose as mentioned above. The proposed deletion of the words "exceptional circumstances" in respect of applications for minor relaxation of NBA requirements from the relevant Notes is also not acceptable since this would render the NBA requirements ineffective.

Recommended Rejection Reasons:

BHRs

(a) The purpose of imposing BHRs in the Area is to provide better planning control on the building height 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 building height profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped building height concept, local characteristics, existing building height 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 AVA Study, had been taken into consideration. The BHRs have struck a balance between public aspirations for a better living environment and private development potential.

Representations **Comments** **PlanD's Responses/Recommended Rejection Reasons**

(b) The BHRs are formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development potential permissible under the OZP. Piecemeal relaxation of BHRs for individual sites is not supported as it would jeopardise the coherence of the stepped building height profile and would result in proliferation of excessively high developments, which is not in line with the intended planning control.

(c) The BHRs do not necessarily result in larger building bulk. Whether a building is bulky or massive depends on many factors other than BH alone. Given the tendency to maximise the best view in certain direction and to capitalise on the land value of lower floors, a development with more lenient building height control might be even taller and bulkier.

(d) To cater for site specific circumstances and schemes with planning and design merits, there is provision for application for minor relaxation of BHRs under the OZP. Each application would be considered by the Board on its individual merits.

NBA, Building Gap and Setback Requirements

(e) Sections 3 and 4 of the Ordinance and the scheme of the legislation are intended to give the Board comprehensive powers to control development in any part of Hong Kong. The Board should have the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if there are necessary and sufficient planning justifications.

(f) Designation of NBA and building gap 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. Given that the designation of NBA is fully justified, it has legal basis to form part of the planning control of the Board.

(g) The relaxation of the NBA and building gap requirement would affect the effectiveness of their planning intention. The wording 'exceptional circumstances' is included in the minor relaxation clause requirement to cater

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons
		for the situation that only in some exceptional cases under which the requirement could not be met due to site constraints but the planning objectives would be achieved in other forms. (h) The requirements under BO and OZP on NBAs and building gaps are under two separate regimes. They are complementary, rather than duplicating each other. **Public Consultation** (i) Subsequent to the completion of the Study "Urban Design Guidelines for Hong Kong" setting out the broad urban design guidelines in 2003, the BH proposals were firstly translated onto OZP restrictions in KBBA and Kwun Tong Business Area (KTBA) in 2004. As most of the sites within the business areas were subject to the Airport Height Restrictions/ BHRs under leases and a surge of building plan submissions to establish "fait accompli" was unlikely, it was considered that public consultation prior to the gazetting could be conducted to gauge the public views on such translation of BHR onto relevant OZPs. The TPB Guidelines for Interim BH Control in KBBA and KTBA was issued in 2004for planning control purposes pending on the results of the public consultation on imposing BHRs in KBBA and KTBA. (j) The 2-month statutory exhibition period and provision for representations and comments formed part of the current public consultation process. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs. All information supporting the BHRs, NBA and building gap requirements on the OZP including the AVA Report and visual analysis, is available for public inspection.
Representations No. R3 **Folabs Limited and Monafat Limited represented by Masterplan** • Oppose the BHR for the "R(A)" site at 7 Ngau Tau Kok Road [Amendment Item A to the OZP]		

Representations

The grounds of representation are:

General

Lack of public consultation

- No prior public consultation or engagement and no explanation given to land owners and public on the need for the BHRs and why the particular BHR adopted. No urban design study or visual impact analysis to indicate the Government's vision for the long term development of the Area.

Flexibility for innovative and quality design

- A reasonable BH is required to allow flexibility for the design of future redevelopment and for changing requirements over time and scope to meet market expectations.

Comments

PlanD's Responses/Recommended Rejection Reasons

General

Lack of public consultation

- As aforementioned, it is an established practice that proposed amendments involving BHRs should not be released to public prior to gazetting. Premature release of such information before exhibition of the amendments might prompt an acceleration of submission of building plans by developers to establish "fait accompli", hence defeating the purpose of imposing the BHRs. Amendments to the OZP were exhibited for public inspection for a period of 2 months in accordance with the provisions of the Ordinance. The exhibition process itself is a public consultation to seek representations and comments on the draft OZP. During the exhibition period, PlanD also provided briefings on the OZP amendments to KTDC. The 2-month statutory exhibition period is considered adequate for consultation with the public, while maintaining the efficiency of the process.

- Regarding the Representer's concerns on the urban design study and visual impact assessment, it should be noted that a visual appraisal for the BH concepts and restrictions of the Area was conducted and incorporated in the MPC Paper No. 25/10. The MPC Paper is available to the public.

Flexibility for innovative and quality design

- The BHRs are formulated based on reasonable assumptions, having regard to the development intensity permissible under the OZP, without precluding the possibility for incorporating building design measures to achieve good quality developments. They should be sufficient to accommodate the permissible PR under the OZP. Besides, the BHRs do not preclude the incorporation of green features, innovative architectural features and a reasonable floor-to-floor height for development/redevelopment. The BHRs should not be the sole consideration for a quality building design. Instead, as advised by CTP/UD&L, it could be achieved by the presence of innovative architectural design, and landscape treatment of a development proposal. Also, to allow for design flexibility and to provide incentive for development/redevelopments with planning and design

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons
		merits, minor relaxation of the BHRs may be considered by the Board based on individual merits of the development proposal.
Need for reasonable BH • There is a need to ensure that buildings are not restricted to unreasonably low heights which will result in bulky buildings forming walls of development which block air flows, light and views. Taller and more slender buildings allow more space at ground level and thus enhancing the surrounding urban environment.		*Need for reasonable BH* • As mentioned previously, the BHRs would not result in bulkier buildings or wall effect affecting air ventilation. The BHRs are formulated based on reasonable assumptions and flexibility is allowed in the shape and form of the buildings. The ES of the OZP has also expressly encouraged the provision of improvement measures for better air ventilation e.g. greater permeability of podium, wider gap between buildings and building setback. In considering the building bulk, apart from the size and volume of a building, reference should also be made to the shape and form of building, including any podium, balcony, bay window, architectural feature and stepped height profile; the disposition of building in relation to the boundary of the site and the adjacent building, including setback at both ground and upper levels; and the location of the building in relation to the characteristics of the surrounding area, including surrounding buildings, heritage, open areas, natural topography, ridgeline, main street and pedestrian circulation pattern, view corridor and breezeway. Given the tendency to maximise the best view in certain direction (particularly sea view), and to capitalize on land values on the lower floors by designing a 100% site coverage commercial podium permissible under B(P)R to 15m, a development with more lenient BH control may be taller and even bulkier (as site coverage may not necessarily be reduced).
Specific		
The BHR of 120mPD is too low • The BHR of 120mPD on the site is too low given the public housing estates are nearly 140mPD and there is a hilly topography in the area.		*The BHR of 120mPD is too low* • The imposition of BHRs in the Area has taken into account various considerations, including the natural topography and site levels. It should be noted that the difference of the BHRs between private and public housing developments are the result of the site level of the representation site, which is about 5mPD and that of the public housing estates beyond Choi Ha Road ranging from about 20mPD to 40mPD. As such, there is no differential treatments for the private and public housing sites and the BHR of the site is not unreasonably low.
No significant positive visual impacts		*No significant positive visual impacts*

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons
• The imposition of BHR of 120mPD on the site and adjoining residential development would not enhance the visual impact of the surrounding area significantly. Instead, the BHR would generate monotonous flat roofs of all developments in the area upon redevelopment.		• The imposition of BHR of 120mPD on the site and adjoining private residential development is considered visually desirable from urban design point of view. CTP/UD&L indicates that, with respect to the natural topography of Jordan Valley and the existing and planned BHs for the residential developments to the west of Jordan Valley, the BHR of 120mPD for the "R(A)" zone (where the site is located) could allow a stepped BH profile gradually descending from 170mPD of Choi Fuk Estate at Choi Wing Street near Jordan Valley to 140mPD of Choi Ha Estate along Choi Ha Road and 120mPD of the private residential developments along Ngau Tau Kok Road, then further to 40mPD for the planned G/IC development along Kwun Tong Road.
No significant positive air ventilation impacts • The imposition of BHR of 120mPD on the site would not have significant positive air ventilation impacts to the area due to the abundance of open space, green belt and low-rise G/IC developments in the surrounding. It is considered that Tak Bo Garden located to the north and west of the site has prevented the downhill valley winds from reaching the site fronting Ngau Tau Kok Road. The wind corridors are mainly along the roads and therefore the imposition of BHR brings no real benefits. Also, the site itself has no significant air ventilation impacts to the area.		*No significant positive air ventilation impacts* • The AVA Study was conducted to assess the likely impacts of the BHRs of the developments within the Area, including the representation site, on the pedestrian wind environment. According to the AVA Study and as advised by CTP/UD&L, the BH is one of the factors affecting the air ventilation in the Area. Though the AVA Study concludes that, in Ngau Tau Kok and Jordan Valley sub-area, there are no significant negative air ventilation impacts due to the abundant surrounding open space, green belt and / or low-rise G/IC developments, it does not imply that the BHRs in the sub-area could be varied. Increasing the BHR of the representation site would set an undesirable precedent in the sub-area, and would have cumulative adverse impact on the air ventilation in the Area. • Also, as mentioned above, the BHR of 120mPD for the private residential sites along Ngau Tau Kok Road and the BHR of 140mPD for the public housing estates form part of the stepped height profile in the Area. It is indicated in the Urban Design Guidelines of the HKPSG that, stepped BH can help optimise the wind performance. It is therefore considered necessary to maintain the BHR of 120mPD for a 20m BH interval.
Potential wall effect at the representation site • The imposition of BHR of 120mPD on the site would create 'wall effect' blocking most of the views of Tak Po Garden and Jade Field Garden.		*Potential wall effect at the representation site* • The BH of 120mPD is considered more desirable than the BH of 140mPD as proposed by the Representer. CTP/UD&L comments that the proposed 140mPD at the representation site would breach the integrity of the height profile of 120mPD without any particular planning or design merits. For the alternative

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons
		proposal of 140mPD for the whole "R(A)" zone, the uplifting of the whole height band from 120mPD to 140mPD would breach the stepped height concept (Plan H-7e).
Lease Restrictions		*Lease Restrictions*
• The lease of the site is an old lease which is unrestricted to the use, the BH and the development potential of the site. The imposition of the BHR of 120mPD would reduce the property value and unjustly encroach on the property rights of the owner.		• The OZP requirements and lease conditions are under two separate regimes, i.e. land administration and town planning regimes. The intention of stipulating BHRs on the OZP is to achieve a good urban form. In formulating the BHRs, a balance between public aspirations for a better living environment and private development potential has been struck. The BHRs are formulated on the basis of reasonable assumptions that development potential permissible under the OZP could be accommodated. Lease is only one of the considerations in formulating the BHRs.
Representer's Proposals		Representer's Proposals
Given the sloping topography of the neighbourhood, the BHR of 140mPD in the north of Choi Ha Road and the more recently completed developments in the area which are in the BHs of 140mPD and 170mPD, a taller BH is proposed. It forms a stepped height profile and is desirable from urban design perspective. It also provides an opportunity to avoid wall effect of the buildings by effective building designs, add variations to the area in visual terms and improve air ventilation at street level.		R3 proposes to revise the BHR of the whole "R(A)" zone to 140mPD, or revise the BHR for the site to 140mPD or such other height greater than 120mPD as may be appropriate. For the following reasons, the representers' proposals are not supported:
• Revise the BHR of the whole "R(A)" zone to 140mPD; or		• With respect to the natural topography, the BHR of 120mPD for the "R(A)" zone (where the site is located) along Ngau Tau Kok Road could allow a stepped BH profile gradually eastward and northward towards Jordan Valley and the foothill of Kowloon Peak. The proposed BH of 140mPD for the whole "R(A)" zone would breach the stepped height concept; and
• Revise the BHR for the site to 140mPD or such other height greater than 120mPD as may be appropriate.		• The proposed BH of 140mPD at the representation site would breach the integrity of the height band of 120mPD without any particular planning or design merits, and in turn adversely affect the stepped height profile in the Area.
		Recommended Rejection Reasons:
		(a) The purpose of imposing BHRs in the Area is to provide better planning control on the building height upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons

planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall building height profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped building height concept, local characteristics, existing building height 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 AVA, had 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 OZP. Piecemeal relaxation of BHRs for individual sites is not supported as it would jeopardise the coherence of the stepped building height profile and would result in proliferation of excessively high developments, which is not in line with the intended planning control.

(c) The BHRs do not necessarily result in larger building bulk. Whether a building is bulky or massive depends on many factors other than BH alone. Given the tendency to maximise the best view in certain direction and to capitalise on the land value of lower floors, a development with more lenient building height control might be even taller and bulkier.

(d) The BHR for the representation site and the adjoining residential developments allow a stepped building height profile in the Area gradually descending from the Jordan Valley towards Ngau Tau Kok Road, which is considered desirable from urban design point of view and can help optimise the wind performance.

(e) There is a need to strike a balance between public interest and private development right. The stipulation of BHRs on the OZP is to achieve a good urban design. It is an effective measure to regulate the development profile of the built environment. In addition, the BHRs are formulated on the basis of reasonable assumptions that development potential permissible under the OZP could be accommodated.

Representations | **Comments** | **PlanD's Responses/Recommended Rejection Reasons**

(f) To cater for schemes with planning and design merits, there is provision for application for minor relaxation of the BHRs under the OZP. Each application will be considered by the Board on its individual merits based on the set of criteria set out in the ES of the OZP.

Representations No. R4
MTR Corporation Limited

- Oppose the rezoning, BHRs and building gaps at the "Other Specified Uses" annotated "Mass Transit Railway Depot with Commercial and Residential Development Above)" ("OU(MTR Depot with Commercial and Residential Development Above) at Telford Gardens and "OU(Railway)" for the Kowloon Bay MTR Station
  [Amendment Items C3, E2 and E3 and Item (n) of the amendment to the Notes of the OZP]

The grounds of representation are:

Inappropriate zonings for the comprehensive development above Kowloon Bay MTR Depot and the adjoining railway and MTR Station

- Currently, there is no restriction on non-domestic GFA or commercial GFA under the lease. However, the new zonings of "OU(MTR Depot with Commercial and Residential Development Above)" and "OU(Railway)" would impose land use and/ or GFA restrictions on the future development of the site. For the former zoning, maximum domestic and non-domestic GFA are specified. For the latter zoning, land use restrictions are imposed such that commercial use is now not permitted.

- The restrictions of new zonings will render the Government in breach of its agreement and covenants to MTRCL and prejudiced the rights and entitlements of MTRCL both under the land grants

New zonings for the comprehensive development above Kowloon Bay MTR Depot and the adjoining railway and MTR Station and the new sets of Notes

- As advised by the DLO/KE, the agreement and covenants as mentioned by the MTRCL in paragraph 2.4.2 should mean the lease conditions. The Telford Garden comprises 2 lots, namely NKIL 5744 and NKIL 6201. The 2 concerned lots are governed by Master Plans. The new zonings of "OU(MTR Depot with Commercial and Residential Development Above)" and "OU(Railway)" are to reflect more clearly the planning intention of the residential/commercial development on top of Kowloon Bay MTR depot and the railway station and facilities. The new zoning of the "OU(MTR Depot with Commercial and Residential Development Above)" zone and the development restrictions are to reflect the optimal development pattern and long term planning intention as set out on the Master Plans under the lease, which were agreed among various

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons
of the Lots. As the developments on the site are already controlled by the means of Master Plan under the land grants, no further GFA restrictions under the OZP should be imposed.		government departments. DLO/KE indicates that any changes shall require Director of Lands' prior consent who may, in granting such consent, impose such terms and conditions including payment of premium.
• In view of the completion of projects including the Kai Tak Environmentally Friendly Transport System (EFTS) and the Kowloon Bay Elevated Walkway System, Kowloon Bay MTR Station will be the important key interchange and important link for the new district pedestrian walkway system; and there will be demand for additional covered walkways, lifts and commercial facilities. The new zonings will be incapable of meeting the future needs.		• Regarding the land use of the "OU(Railway)", as mentioned in paragraph 4.2.13 in the TPB Paper, the user clause of the land grants has already specified that the MTR Depot shall not be used for any purpose other than for the purpose of a MTR workshop and maintenance depot, where no commercial use is allowed. The new zoning of "OU(Railway)" is to ensure effective control from land use planning perspective.
		• As advised by CBS/K, the non-domestic GFA in accordance with the latest approved building plans for the sites is about 168,531m^2. I Compared with the approved non-domestic GFA of 177,030m^2, the remaining non-domestic GFA is about 8,499m^2, which could meet the future public needs and facility improvements arising from the projects including Kai Tak Environmentally Friendly Transport System (EFTS) and Kowloon Bay Elevated Walkway System. Also, Project Manager(Kowloon) (PM(K)) points out that the proposed EFTS is only at the technical feasibility stage. It would be premature assume the effect of EFTS at this stage.
Inappropriate BHR for the office towers		*Inappropriate BHR for the office towers*
• It is a commonly accepted urban design principle that taller buildings are placed at commercial centres, transport hubs or district focal points with gradation in BH profile from the high density core to the fringe. The BH of the office towers at Kowloon Bay should be decided in its urban design context instead of making reference to the existing height which was the result of the old Airport Height Restriction. Given the planned height profile of Kowloon Bay is 120mPD for "OU(Business)" sites and up to 170mPD for the strategic commercial sites, the BH of 170mPD for the office towers at the district focal point of Telford Plaza is more reasonable and appropriate.		• The Kowloon Bay Station and the Telford Plaza is a transport/ retail hub in the district situated in the transitional zone between the business node at KBBA to its west and the medium to high-rise residential areas to its east across Kwun Tong Road. As stated in the MPC Paper No. 25/10, it is the intention to form a critical mass of office/ commercial use at 170mPD in the southern part of the KBBA as an identifiable business node, with a smooth transition of the BH profile from the business node within KBBA stepping down gradually to the medium-rise residential development in the northern and eastern fringes. To ensure the smooth transition of BH profile to the residential areas of 120mPD to 140mPD to the east of Kwun Tong Road, CTP/UD&L considers that the BHRs of 100mPD for the office towers above Telford Plaza, with respect to the existing BH (i. e. about 100mPD), is more reasonable than the BH of 170mPD.
Fail to reflect the existing conditions of the railway depot and affect		*Fail to reflect the existing conditions of the railway depot and affect the railway*

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons
the railway operation • It is noted that only the railway tracks and some of the existing buildings are shown on the OZP. It is not correct that the remaining areas are vacant and without any structures. Also, workshops and engineering structures are required for the railway operation. As such, their BHs should be driven by the operational needs on a case-by-case basis rather than restricting the BH limits.		*operation* • Within the "OU(Railway)" zone, specific BHRs have been imposed on the Kowloon Bay MTR Station and the existing buildings which are ancillary to the railway operation. In order to ensure the planning intention of providing land for the open-air railway, the Kowloon Bay MTR Station and the associated facilities, it is necessary to ensure that only low-rise ancillary structures are allowed in the open depot areas. As such, for the remaining areas including the open-sided/ temporary structures as mentioned by the representer, it is specified in the Notes of the OZP for the "OU(Railway)" zone that no new development except 1-storey structure ancillary to the railway and MTR Station shall be permitted. Currently, except those with specific BHRs, the BH of all other open-sided/ temporary structures is 1-storey. As such, it is considered that the BHR of 1 storey for the open depot area is appropriate and can reflect the existing condition in the depot area. • However, should there be a need for a relaxation of BHRs of the ancillary structures, there are provisions for application for minor relaxation of the BHR under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.
Building gap conflicting with an existing retail footbridge • The building gap of 22mPD in the southern part of the "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" conflicts with the existing retail footbridge (roof level of about 27.4mPD). Though existing buildings will not be affected, the retail footbridge serves important transport function and should not be removed upon redevelopment or major alterations as there is no feasible alternative.		*Building gap conflicting with an existing retail footbridge* • The demarcation of 15m-wide building gap running in north-south direction in Telford Gardens where no building shall exceed 22mPD (i.e. the height of the MTR depot) is demarcated in accordance with the recommendation of the AVA Study in order to connect Tai Yip Street in Kwun Tong for improving the air ventilation. As shown on Plan H-8e, only a portion of the existing retail footbridge falls within the demarcated building gap running in north-south direction. However, the existing building / structure is not required to conform to the OZP until it is redeveloped. As stated in the ES, the requirements of these building gaps would only need to be taken into account upon future redevelopment of Telford Gardens and Telford Plaza (Plan H-8e). Should there be a need for a relaxation of the building gaps in future redevelopment, there are provisions for application for minor relaxation of the building gaps under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.
Incorporation of unreasonable and unfair restriction in the new set		*Incorporation of unreasonable and unfair restriction in the new set of Notes*

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons
of Notes • The new set of Notes for the "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" zone incorporate new non-domestic GFA restriction which is unreasonable and unfair to MTRCL as it will take away development right and deprive ability to provide extra facilities to respond to the site's enhanced hub functions.		Refer to the responses under "New zonings for the comprehensive development above Kowloon Bay MTR Depot and the adjoining railway and MTR Station and the new sets of Notes" above.
Representer's Proposals • Reflect the presence of the retail footbridge at the building gap • Allow a BH of 170mPD for the office towers • Reflect existing depot structures and delete BHRs on the open depot area • Amend the Notes for "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" zone by deleting Item (n) to delete the non-domestic GFA restriction.		Representer's Proposals • The requirements of building gaps are recommended by the AVA Study and to be taken into account upon future redevelopment. It is noted that only a portion of the existing retail footbridge falls within the demarcated building gap running in north-south direction. However, there is no need for existing buildings/ structures to comply with the requirements. As such, the existing retail footbridge would not be affected and there is no strong reason to reflect this on the OZP. Should there be a need for a relaxation of the building gaps in future redevelopment, there are provisions for application for minor relaxation of the building gaps under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits. • The proposed BH of 170mPD for the office towers is not in line with the intention of maintaining a smooth transition of the BH profile from the business node within KBBA stepping down gradually to the medium-rise residential development in the northern and eastern fringes. • Specific BHRs have already been imposed on the Kowloon Bay MTR Station and the existing buildings which are ancillary to the railway operation. The BHRs on the open depot area are to ensure that only low-rise ancillary structures are allowed in the open depot area. Should there be a need for a relaxation of BHRs of the ancillary structures, there are provisions for application for minor relaxation of the BHR under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits. • The non-domestic GFA restriction in the Notes is line with the approved Master

Representations | **Comments** | **PlanD's Responses/Recommended Rejection Reasons**

Plans required under the land grants. Also, the remaining non-domestic GFA of the development would be sufficient to cater for future need.

Recommended Rejection Reasons:

(a) The new zonings of "OU(MTR Depot with Commercial and Residential Development Above)" and "OU(Railway)" are to better reflect the planning intention of the residential/commercial development on top of Kowloon Bay MTR depot and the railway station and facilities; and the optimal development pattern and long term planning intention as set out on the Master Plans under the lease, which were agreed among various departments.

(b) The Kowloon Bay MTR Station and the Telford Plaza are situated in the transitional zone between the business node at KBBA to its west and the medium to high-rise residential areas to its east across Kwun Tong Road. The current BHR for the office towers is required to ensure a smooth transition of the building height profile from the high-rise business node within KBBA stepping down gradually to the medium-rise residential development in the northern and eastern fringes.

(c) Specific BHRs have already been imposed on the Kowloon Bay MTR Station and the existing buildings which are ancillary to the railway operation. The BHRs on the open depot area are to ensure that only low-rise ancillary structures are allowed in the open depot area. Should there be a need for a relaxation of BHRs of the ancillary structures, there are provisions for application for minor relaxation of the BHR under s.16 or amendments to OZP under s.12A of the Town Planning Ordinance. Each application would be considered by the Board on individual merits.

(d) The requirements of building gaps are to reflect the findings and recommendations of the AVA Study and to be taken into account upon future redevelopment. It is noted that only a portion of the existing retail footbridge falls within the demarcated building gap running in north-south direction. However, the existing building/ structure is not required to conform to the OZP until it is redeveloped. As such, the existing retail footbridge would not be affected and there is no strong reason to reflect this on the OZP. Should there be a need for a relaxation of the building gaps in future redevelopment, there

Representations	Comments	PlanD's Responses/Recommended Rejection Reasons
		are provisions for application for minor relaxation of the building gaps under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.

啟德規劃區
KAI TAK PLANNING AREA

觀塘(北部)規劃區
KWUN TONG (NORTH) PLANNING AREA

觀塘(南部)規劃區
KWUN TONG (SOUTH) PLANNING AREA

牛池灣規劃區
NGAU CHI WAN PLANNING AREA

新蒲崗 SAN PO KONG
啓德 KAI TAK
牛池灣 NGAU CHI WAN
茶寮坳 CHA LIU AU
九龍灣 KOWLOON BAY
佐敦谷 JORDAN VALLEY
牛頭角 NGAU TAU KOK
秀茂坪 SAU MAU PING

圖例 LEGEND

申述地點
REPRESENTATION SITE

- 申述個案編號R/S/K13/26-2 REPRESENTATION No. R/S/K13/26-2
- 申述個案編號R/S/K13/26-3 REPRESENTATION No. R/S/K13/26-3
- 申述個案編號R/S/K13/26-4 REPRESENTATION No. R/S/K13/26-4

界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSE ONLY

本摘要圖於2011年4月6日擬備，
所根據的資料為於2010年11月19日
展示的分區計劃大綱圖編號 S/K13/26
EXTRACT PLAN PREPARED ON 6.4.2011
BASED ON OUTLINE ZONING PLAN No.
S/K13/26 EXHIBITED ON 19.11.2010

位置圖 LOCATION PLAN

就牛頭角及九龍灣分區計劃大綱草圖編號S/K13/26
提出的申述個案編號2至4作出考慮
CONSIDERATION OF REPRESENTATIONS No. 2 TO 4
TO THE DRAFT NGAU TAU KOK & KOWLOON BAY
OUTLINE ZONING PLAN No. S/K13/26

SCALE 1 : 10 000 比例尺
米 METRES 100 0 100 200 300 400 500 米 METRES

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

圖 PLAN
H - 1

N

新蒲崗
SAN PO KONG

牛池灣
NGAU CHI WAN

牛池灣規劃區
NGAU CHI WAN PLANNING AREA

飛鵝山
KOWLOON PEAK

啟德規劃區
KAI TAK PLANNING AREA

啓德

觀塘(北部)規劃區
KWUN TONG (NORTH) PLANNING AREA

彩盈坊天橋觀景廊
VIEW CORRIDOR FROM FOOTBRIDGE NEAR CHOI YING PLACE

九龍灣
KOWLOON BAY

佐敦谷
JORDAN VALLEY

牛頭角
NGAU TAU KOK

觀塘(南部)規劃區
KWUN TONG (SOUTH) PLANNING AREA

擬議行人天橋
(有待詳細設計)
PROPOSED FOOTBRIDGE
(SUBJECT TO DETAILED DESIGN)

圖例 LEGEND

- 規劃區界線 PLANNING AREA BOUNDARY
- 九龍灣商貿區 KOWLOON BAY BUSINESS AREA
- 視覺調劑/通風小區("O", "G/IC"&"GB") VISUAL RELIEF / VENTILATION POCKET ("O", "G/IC" & "GB")
- 綠化山丘背景 GREEN BACKDROP
- 佐敦谷山脊線 JORDAN VALLEY RIDGELINE
- 綠化山谷 GREEN VALLEY
- 歷史建築物 HISTORIC BUILDING
- 商貿中心 BUSINESS NODE
- 運輸交匯處 TRANSPORT INTERCHANGE
- 清水灣道觀景景色 VISTA FROM CLEAR WATER BAY ROAD
- 佐敦谷山脊觀景眺望點 SCENIC VIEW POINT AT JORDAN VALLEY RIDGELINE
- 夏季盛行風 SUMMER PREVAILING WIND
- 全年盛行風 ANNUAL PREVAILING WIND
- 通往啟德的地面行人通道 AT-GRADE PEDESTRIAN LINKS TO KAI TAK
- 通往啟德的行人隧道 SUBWAY TO KAI TAK
- 通往啟德的行人天橋 FOOTBRIDGE TO KAI TAK
- 擬議行人天橋 PROPOSED FOOTBRIDGE
- 擬議私人高架行人道系統 PROPOSED PRIVATE ELEVATED WALKWAY SYSTEM
- 通往九龍市區的主要入口 GATEWAY TO URBAN KOWLOON AREA

界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSE ONLY

本摘要圖於2011年4月11日擬備，所根據的資料為於2010年11月19日展示的分區計劃大綱圖編號 S/K13/26
EXTRACT PLAN PREPARED ON 11.4.2011 BASED ON OUTLINE ZONING PLAN No. S/K13/26 EXHIBITED ON 19.11.2010

牛頭角及九龍灣規劃區主要空間特性
KEY SPATIAL ATTRIBUTES FOR NGAU TAU KOK AND KOWLOON BAY PLANNING AREA

SCALE 1 : 10 000 比例尺
METRES 100 0 100 200 300 400 500 METRES

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

圖 PLAN
H - 2

N

新蒲崗
SAN PO KONG

啓德
KAI TAK

啟德規劃區
KAI TAK PLANNING AREA

牛池灣
NGAU CHI WAN

牛池灣規劃區
NGAU CHI WAN PLANNING AREA

順利分區
SHUN LEE AREA

茶寮凹
CHA LIU AU

觀塘(北部)規劃區
KWUN TONG (NORTH) PLANNING AREA

九龍灣
KOWLOON BAY

九龍灣分區
KOWLOON BAY AREA

佐敦谷
JORDAN VALLEY

牛頭角
NGAU TAU KOK

牛頭角及佐敦谷分區
NGAU TAU KOK AND JORDAN VALLEY AREA

觀塘(南部)規劃區
KWUN TONG (SOUTH) PLANNING AREA

秀茂坪
SAU MAU PING

N

圖例 LEGEND

規劃區界線
PLANNING AREA BOUNDARY

九龍灣商貿區
KOWLOON BAY BUSINESS AREA

佐敦谷山脊線
JORDAN VALLEY RIDGELINE

界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSE ONLY

本摘要圖於2011年4月11日擬備，所根據的資料為於2010年11月19日展示的分區計劃大綱圖編號 S/K13/26

EXTRACT PLAN PREPARED ON 11.4.2011 BASED ON OUTLINE ZONING PLAN No. S/K13/26 EXHIBITED ON 19.11.2010

牛頭角及九龍灣規劃區的分區位置圖
LOCATION PLAN OF SUB-AREAS IN NGAU TAU KOK AND KOWLOON BAY AREA

SCALE 1 : 10 000 比例尺

METRES 100 0 100 200 300 400 500 METRES

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

圖 PLAN
H - 3

牛池灣規劃區
NGAU CHI WAN PLANNING AREA

九龍灣商貿區
（設有現有建築物高度限制）
KOWLOON BAY BUSINESS AREA (KBBA)
(WITH EXISTING BUILDING HEIGHT RESTRICTIONS)

啟德規劃區
KAI TAK PLANNING AREA

觀塘（北部）規劃區
KWUN TONG (NORTH) PLANNING AREA

觀塘（南部）規劃區
KWUN TONG (SOUTH) PLANNING AREA

新蒲崗 SAN PO KONG
牛池灣 NGAU CHI WAN
啓德 KAI TAK
九龍灣 KOWLOON BAY
佐敦谷 JORDAN VALLEY
牛頭角 NGAU TAU KOK
秀茂坪 SAU MAU PING
茶寮坳 CHA LIU AU

圖例 LEGEND

- 規劃區界線 PLANNING AREA BOUNDARY
- 區劃界線 ZONING BOUNDARY
- 80 最高建築物高度（在主水平基準上若干米） MAXIMUM BUILDING HEIGHT (IN mPD)
- 2 最高建築物高度（樓層數目） MAXIMUM BUILDING HEIGHT (IN NUMBER OF STOREYS)
- +20.3 高程點（在主水平基準上若干米） SPOT HEIGHT (IN mPD)

界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSE ONLY

本摘要圖於2011年4月20日擬備，
所根據的資料為於2010年11月19日
展示的分區計劃大綱圖編號 S/K13/26
EXTRACT PLAN PREPARED ON 20.4.2011
BASED ON OUTLINE ZONING PLAN No.
S/K13/26 EXHIBITED ON 19.11.2010

牛頭角及九龍灣分區計劃大綱圖
的建築物高度限制
BUILDING HEIGHT RESTRICTIONS
UNDER NGAU TAU KOK & KOWLOON BAY
OULINE ZONING PLAN

SCALE 1 : 10 000 比例尺
米 METRES 100 0 100 200 300 400 500 米 METRES

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

圖 PLAN
H - 4

N

新蒲崗
SAN PO KONG

牛池灣
NGAU CHI WAN

牛池灣規劃區
NGAU CHI WAN PLANNING AREA

啟德規劃區
KAI TAK PLANNING AREA

啓德
KAI TAK

茶寮凹
CHA LIU AU

觀塘(北部)規劃區
KWUN TONG (NORTH) PLANNING AREA

佐敦谷
JORDAN VALLEY

牛頭角
NGAU TAU KOK

觀塘(南部)規劃區
KWUN TONG (SOUTH) PLANNING AREA

九龍灣
KOWLOON BAY

PRINCE EDWARD ROAD EAST 太子道東

CLEAR WATER BAY ROAD 清水灣道

NEW CLEAR WATER BAY ROAD 新清水灣道

KWUN TONG ROAD 觀塘道

KAI TAK ROAD 啟德道

KAI CHEUNG ROAD 啟祥道

KAI LAI ROAD 啟禮道

KAI YUEN STREET 啟源街

KAI SHUN ROAD 啟順路

KAI YUEN ROAD 啟元路

KAI TAK ROAD 啟德道

KAI FUK ROAD 啟福道

KAI CHEUNG ROAD 啟祥道

LAM HING STREET 林興街

LAM WAH STREET 林華街

LAM YUEN STREET 林元街

LAM FOK ROAD 林福道

LAM SHING STREET 林城街

SHEUNG YUET ROAD 常悅道

SHEUNG SHUN STREET 常順街

SHEUNG TAK ROAD 常德道

SHEUNG YEE ROAD 常義道

SHEUNG YIP STREET 常業街

WANG CHIU ROAD 宏照道

WANG CHIU STREET 宏照街

WANG TUNG STREET 宏通街

WANG HOI ROAD 宏開道

WANG KWONG ROAD 宏光道

WANG TAI ROAD 宏泰道

WANG CHIN ROAD 宏正道

WANG CHI ROAD 宏基道

WANG TUNG ROAD 宏通道

WANG KWONG ROAD 宏光道

KWUN TONG BYPASS 觀塘繞道

KWUN TONG ROAD 觀塘道

CHUN WAH ROAD 振華道

HOI BUN ROAD 海濱道

HOI WAN STREET 海運街

HOI SHUEN ROAD 海旋道

HOI FAN ROAD 海帆道

HOI FAT ROAD 海發街

HOI YUEN ROAD 海源道

HOI LAI STREET 海麗街

HOI KWAN STREET 海關街

HOI KWONG STREET 海光街

HOI CHEUNG ROAD 海祥道

HOI SHING ROAD 海城路

HOI BUN ROAD 海濱道

HOI WAN STREET 海運街

HOI SHUEN ROAD 海旋道

HOI FAN ROAD 海帆道

HOI FAT ROAD 海發街

HOI YUEN ROAD 海源道

HOI LAI STREET 海麗街

HOI KWAN STREET 海關街

HOI KWONG STREET 海光街

HOI CHEUNG ROAD 海祥道

HOI SHING ROAD 海城路

NGAU TAU KOK ROAD 牛頭角道

NGAU TAU KOK ROAD 牛頭角道

JORDAN VALLEY ROAD 佐敦谷道

JORDAN VALLEY ROAD 佐敦谷道

SHUN LEE ROAD 順利道

SHUN LEE TSUEN ROAD 順利邨道

SHUN ON ROAD 順安道

SHUN TIN ROAD 順天道

SHUN CHI COURT 順基苑

SHUN LEE DISCIPLINED SERVICES QUARTERS 順利紀律部隊宿舍

SHUN LEE TSUEN PLAYGROUND 順利邨遊樂場

SHUN LEE TSUEN PARK 順利邨公園

SHUN ON ESTATE 順安邨

SHUN TIN ESTATE 順天邨

JORDAN VALLEY PARK 佐敦谷公園

JORDAN VALLEY PLAYGROUND 佐敦谷遊樂場

JORDAN VALLEY SWIMMING POOL 佐敦谷游泳池

ARMORY GARDENS 軍火花園

TELFORD GARDENS 禮頓花園

RICHLAND GARDENS 寶晴花園

KAI YIP ESTATE 啓業邨

KAI TAI COURT 啓泰苑

KOWLOON BAY PARK 九龍灣公園

KOWLOON BAY SPORTS GROUND 九龍灣運動場

KOWLOON BAY PLAYGROUND 九龍灣兒童遊樂場

HK AUXILIARY POLICE HEADQUARTERS 香港輔助警察總部

PINO SHEK ESTATE 碧石邨

PINO SHEK PLAYGROUND 碧石遊樂場

HONG KONG SCHOOL OF MOTORING LTD. 香港駕駛學校有限公司

CHOI TAK ESTATE 彩德邨

CHOI YING ESTATE 彩英邨

CHOI FOOK ESTATE 彩福邨

CHOI HA ESTATE 彩霞邨

TAK BO GARDEN 德寶花園

NGAU TAU KOK ESTATE 牛頭角下邨

REFUSE TRANSFER STATION 垃圾轉運站

MOTOR-VEHICLE REPOSITION CENTRE 車輛重新調配中心

MASS TRANSIT RAILWAY DEPOT WITH COMMERCIAL AND RESIDENTIAL DEVELOPMENT ABOVE 鐵路車廠上蓋物業發展

COMMERCIAL/RESIDENTIAL DEVELOPMENT WITH PUBLIC CAR PARK AND PUBLIC TRANSPORT INTERCHANGE 設有公眾停車場及公共交通交匯處的商業/住宅發展

LANDSCAPED ELEVATED WALKWAY (SUBJECT TO DETAILED DESIGN) 園景美化高架行人路(視乎詳細設計)

OBSERVATORY PARK 天文資料館園地

20m wide

16m wide

22m wide

22m wide

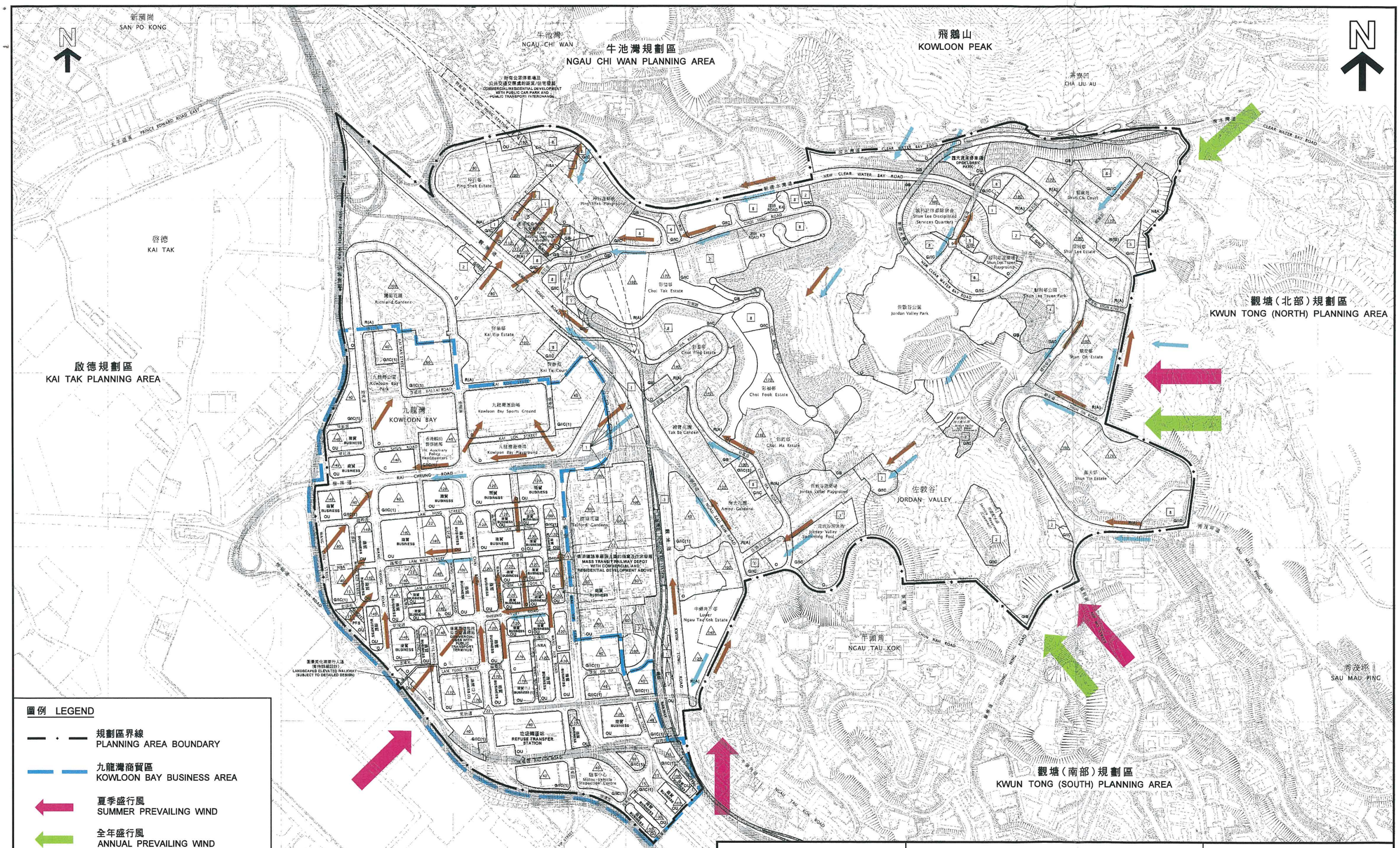
15m wide

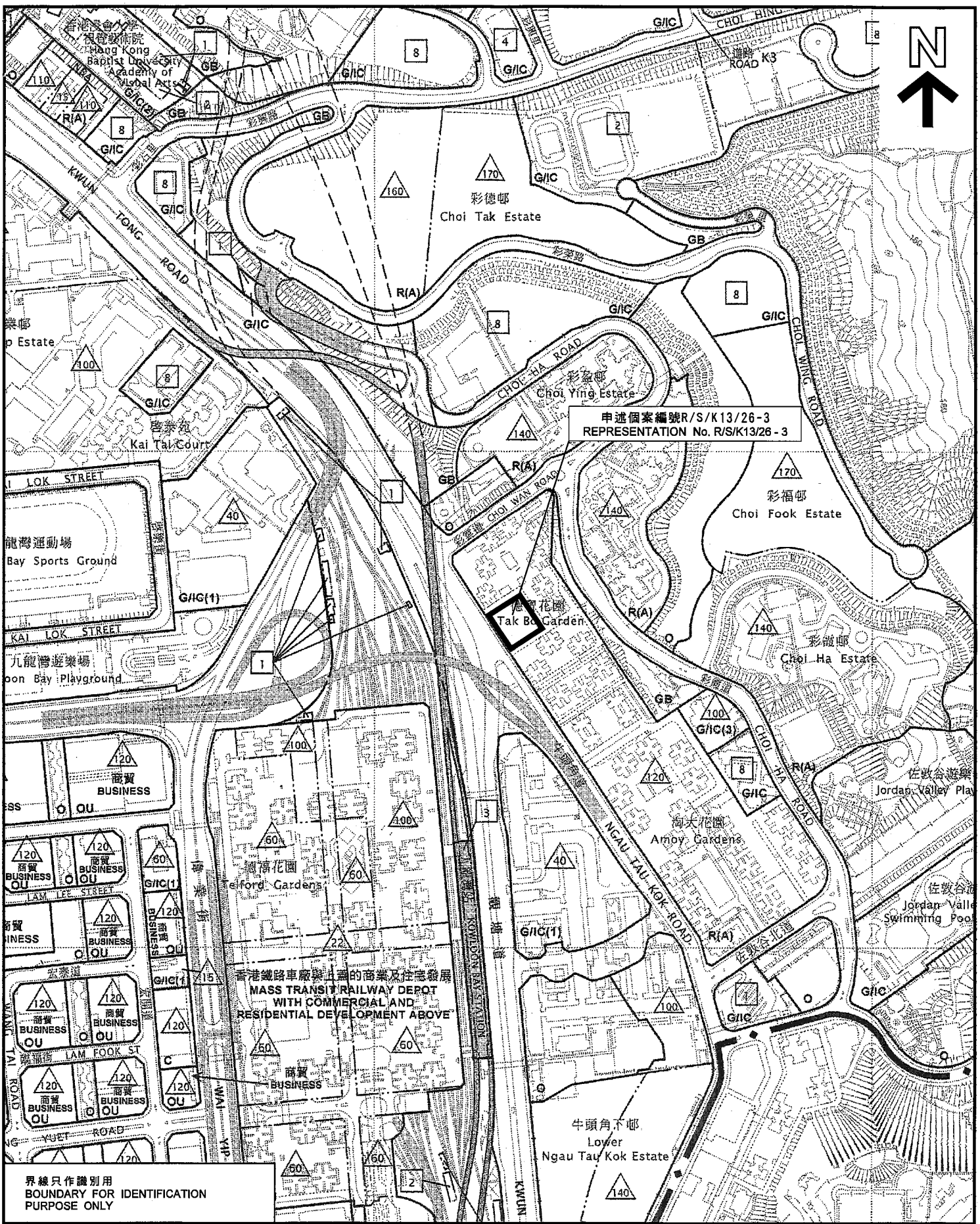
22m wide

NBA

NBA

NBA


N
新蒲崗
SAN PO KONG
牛池灣
NGAU CHI WAN
牛池灣規劃區
NGAU CHI WAN PLANNING AREA
飛鵝山
KOWLOON PEAK
茶寮卸
CHA LIU AU
啓德
KAI TAK
啟德規劃區
KAI TAK PLANNING AREA
九龍灣
KOWLOON BAY
佐敦谷
JORDAN VALLEY
牛頭角
NGAU TAU KOK
秀茂坪
SAU MAU PING
觀塘(北部)規劃區
KWUN TONG (NORTH) PLANNING AREA
觀塘(南部)規劃區
KWUN TONG (SOUTH) PLANNING AREA
PRINCE EDWARD ROAD EAST
CLEAR WATER BAY ROAD
NEW CLEAR WATER BAY ROAD
CHOI HUNG ROAD
CHOI HUNG STATION
KAI TAK ROAD
KAI YIP STREET
KAI TAK STREET
KAI CHEUNG ROAD
KAI SHUN ROAD
KAI LOK STREET
LAM HING STREET
LAM WAH STREET
LAM LOK STREET
LAM FUNG STREET
SHEUNG YEE ROAD
SHEUNG YIP STREET
CHUNG YIP STREET
CHUNG HA ROAD
CHOI YING ROAD
CHOI FOOK ROAD
CHOI HA ROAD
SHUN LEE TSUEN ROAD
SHUN ON ROAD
SHUN TIN ROAD
SHUN YIP STREET
SHUN CHI ROAD
KWUN TONG ROAD
KAU TAU KOK ROAD
CHUN WAH ROAD
HING MING ROAD
SAU MAU PING ROAD
KAM PUN ROAD
TONG MING STREET
TONG YIN STREET
TONG TAI ROAD
TONG CHUN STREET
TONG TAK STREET
TONG TAK ROAD
TONG YUEN STREET
TONG YUEN ROAD
TONG CHUEN STREET
TONG CHUEN ROAD



本摘要圖於2011年4月12日擬備，
所根據的資料為於2010年11月19日
展示的分區計劃大綱圖編號 S/K13/26

EXTRACT PLAN PREPARED ON 12.4.2011
BASED ON OUTLINE ZONING PLAN No.
S/K13/26 EXHIBITED ON 19.11.2010

位置圖 LOCATION PLAN

就牛頭角及九龍灣分區計劃大綱草圖編號S/K13/26
提出的申述個案編號2至4作出考慮

CONSIDERATION OF REPRESENTATIONS No. 2 TO 4
TO THE DRAFT NGAU TAU KOK & KOWLOON BAY
OUTLINE ZONING PLAN No. S/K13/26

SCALE 1 : 5 000 比例尺

METRES 100 0 100 200 METRES

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

圖 PLAN
H - 7a

圖例 LEGEND

申述地點
REPRESENTATION SITE

申述個案編號R/S/K13/26-3
REPRESENTATION No. R/S/K13/26 - 3

界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSE ONLY

本圖於2011年4月8日擬備，
所根據的資料為於2008年11月10日
拍得的航攝照片編號 CW81293
PLAN PREPARED ON 8.4.2011
BASED ON AERIAL PHOTO No.
CW81293 TAKEN ON 10.11.2008

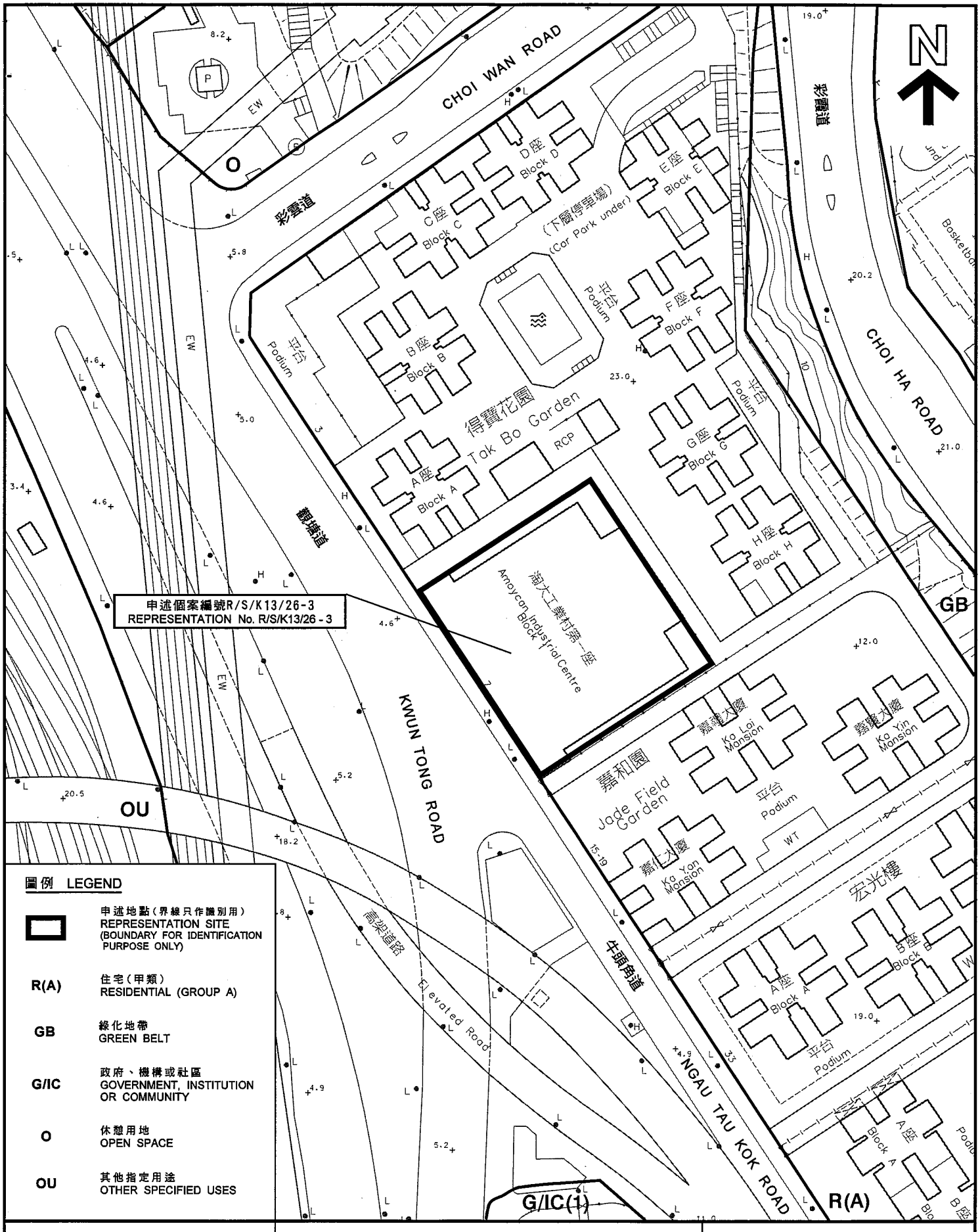
航攝照片 AERIAL PHOTO

就牛頭角及九龍灣分區計劃大綱草圖編號S/K13/26
提出的申述個案編號3作出考慮
CONSIDERATION OF REPRESENTATION No. 3
TO THE DRAFT NGAU TAU KOK & KOWLOON BAY
OUTLINE ZONING PLAN No. S/K13/26

規劃署
PLANNING
DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

圖 PLAN
H - 7b



圖例 LEGEND

	申述地點（界線只作識別用） REPRESENTATION SITE (BOUNDARY FOR IDENTIFICATION PURPOSE ONLY)
R(A)	住宅（甲類） RESIDENTIAL (GROUP A)
GB	綠化地帶 GREEN BELT
G/IC	政府、機構或社區 GOVERNMENT, INSTITUTION OR COMMUNITY
O	休憩用地 OPEN SPACE
OU	其他指定用途 OTHER SPECIFIED USES

本摘要圖於2011年4月11日擬備，
所根據的資料為測量圖編號
11-NE-12D

EXTRACT PLAN PREPARED ON 11.4.2011
BASED ON SURVEY SHEET No.
11-NE-12D

平面圖 SITE PLAN

就牛頭角及九龍灣分區計劃大綱草圖編號S/K13/26
提出的申述個案編號2至4作出考慮

CONSIDERATION OF REPRESENTATIONS No. 2 TO 4
TO THE DRAFT NGAU TAU KOK & KOWLOON BAY
OUTLINE ZONING PLAN No. S/K13/26

SCALE 1 : 1 000 比例尺

米 METRES 20 0 20 40 米 METRES

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

圖 PLAN
H - 7c

照片1 - 申述個案編號 R/S/K13/26-3
PHOTO 1 - REPRESENTATION No. R/S/K13/26-3

界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSES ONLY

本圖於2011年4月12日擬備，
所根據的資料為攝於
2011年4月7日的實地照片
PLAN PREPARED ON 12.4.2011
BASED ON SITE PHOTO
TAKEN ON 7.4.2011

實地照片 SITE PHOTO

就牛頭角及九龍灣分區計劃大綱草圖編號S/K13/26
提出的申述個案編號2至4作出考慮
CONSIDERATION OF REPRESENTATIONS No. 2 TO 4
TO THE DRAFT NGAU TAU KOK & KOWLOON BAY
OUTLINE ZONING PLAN No. S/K13/26

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

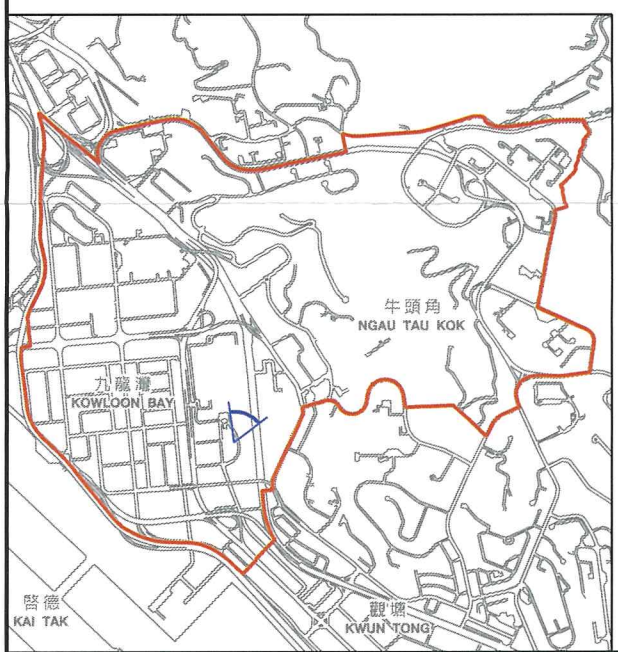
圖 PLAN
H - 7d

現有景觀
EXISTING VIEW

現有分區計劃大綱圖下的建築物高度輪廓
BUILDING HEIGHT PROFILE UNDER CURRENT OZP

申述編號3建議(1) R3's PROPOSAL (1)
只有申述地點(R3)作主水平基準以上140米發展
140mPD FOR THE REPRESENTATION SITE (R3) ONLY

申述編號3建議(2) R3's PROPOSAL (2)
沿牛頭角道全個「住宅(甲類)」地盤作主水平基準以上140米發展
140mPD FOR THE WHOLE "R(A)" SITES ALONG NGAU TAU KOK ROAD



從九龍灣港鐵總部大樓向東北眺望九龍灣區
VIEW OF KOWLOON BAY AREA FROM MTR HEADQUARTERS BUILDING, KOWLOON BAY LOOKING NORTHEAST

最高建築物高度(在主水平基準上若干米)
MAXIMUM BUILDING HEIGHT (IN mPD)

- 120mPD
- 140mPD (R3)
- 申述地點(R3) REPRESENTATION SITE (R3)

本摘要圖於2011年5月6日擬備
EXTRACT PLAN PREPARED ON 6.5.2011

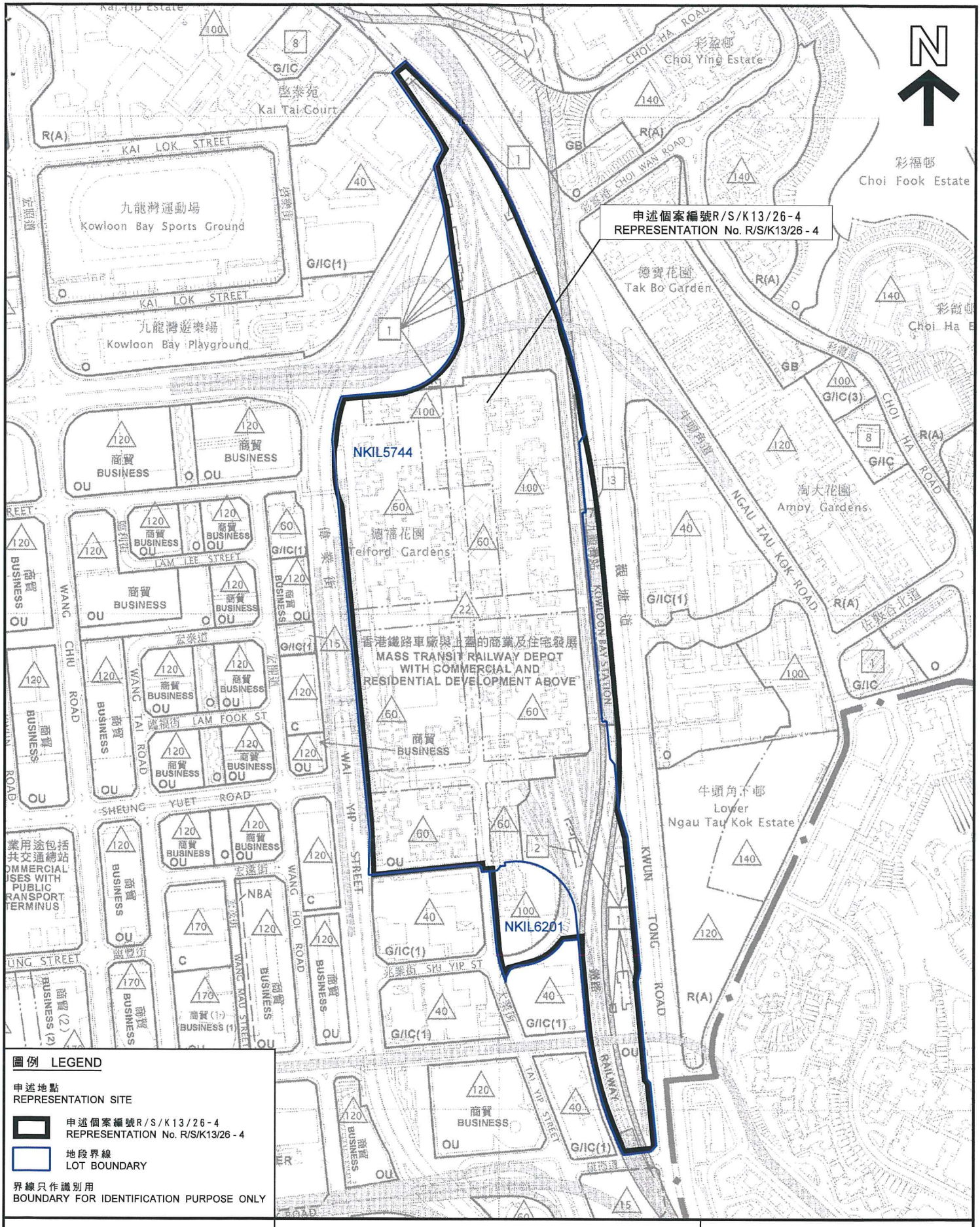
合成照片 PHOTOMONTAGE

沿牛頭角道「住宅(甲類)」發展的不同建築物高度輪廓
ALTERNATIVE BUILDING HEIGHT PROFILES
FOR THE "R(A)" DEVELOPMENT ALONG NGAU TAU KOK ROAD

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

圖 PLAN
H - 7e



圖例 LEGEND

申述地點
REPRESENTATION SITE

申述個案編號R/S/K13/26-4
REPRESENTATION No. R/S/K13/26 - 4

地段界線
LOT BOUNDARY

界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSE ONLY

本摘要圖於2011年5月19日擬備，
所根據的資料為於2010年11月19日
展示的分區計劃大綱圖編號 S/K13/26

EXTRACT PLAN PREPARED ON 19.5.2011
BASED ON OUTLINE ZONING PLAN No.
S/K13/26 EXHIBITED ON 19.11.2010

位置圖 LOCATION PLAN

就牛頭角及九龍灣分區計劃大綱草圖編號S/K13/26
提出的申述個案編號2至4作出考慮

CONSIDERATION OF REPRESENTATIONS No. 2 TO 4
TO THE DRAFT NGAU TAU KOK & KOWLOON BAY
OUTLINE ZONING PLAN No. S/K13/26

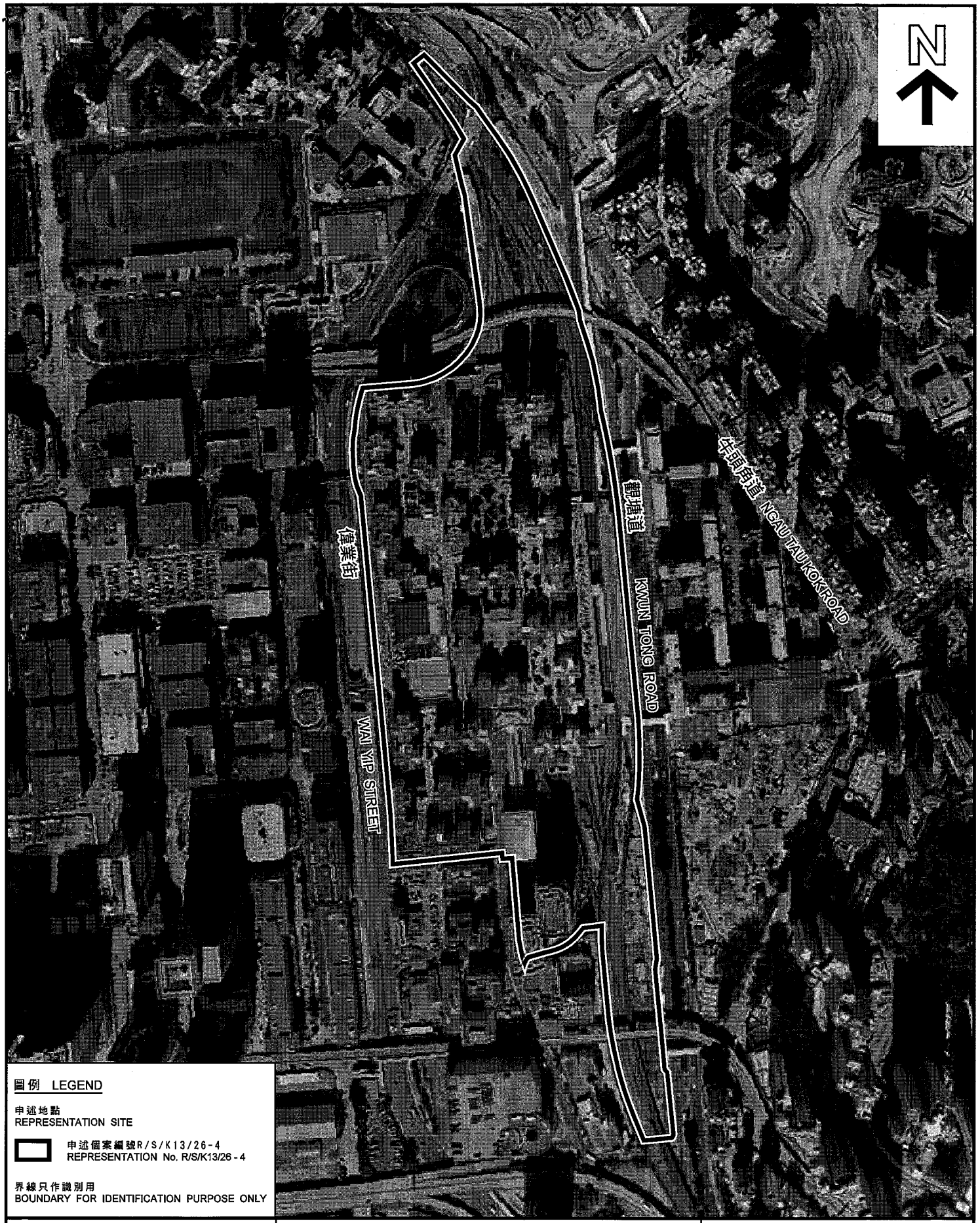
SCALE 1 : 5 000 比例尺

米 METRES 100 0 100 200 METRES 米

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

圖 PLAN
H - 8a



圖例 LEGEND

申述地點
REPRESENTATION SITE

申述個案編號R/S/K13/26-4
REPRESENTATION No. R/S/K13/26-4

界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSE ONLY

本圖於2011年4月8日擬備，
所根據的資料為於2008年11月10日
拍得的航攝照片編號 CW81293
PLAN PREPARED ON 8.4.2011
BASED ON AERIAL PHOTO No.
CW81293 TAKEN ON 10.11.2008

航攝照片 AERIAL PHOTO

就牛頭角及九龍灣分區計劃大綱草圖編號S/K13/26
提出的申述個案編號4作出考慮
CONSIDERATION OF REPRESENTATION No. 4
TO THE DRAFT NGAU TAU KOK & KOWLOON BAY
OUTLINE ZONING PLAN No. S/K13/26

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

圖 PLAN
H - 8b

申述個案編號R/S/K13/26-4
REPRESENTATION No. R/S/K13/26 - 4

香港鐵路車廠與上蓋的商業及住宅發展
MASS TRANSIT RAILWAY DEPOT
WITH COMMERCIAL AND
RESIDENTIAL DEVELOPMENT ABOVE

KAI CHEUNG ROAD 啟祥道
SHEUNG YEE ROAD 常怡道
WAI YIP STREET 偉業街
KWUN TONG ROAD
RAILWAY 鐵路

圖例 LEGEND

- 申述地點（界線只作識別用） REPRESENTATION SITE (BOUNDARY FOR IDENTIFICATION PURPOSE ONLY)
- 建築物間距 BUILDING GAP
- R(A) 住宅（甲類） RESIDENTIAL (GROUP A)
- G/IC 政府、機構或社區 GOVERNMENT, INSTITUTION OR COMMUNITY
- O 休憩用地 OPEN SPACE
- OU 其他指定用途 OTHER SPECIFIED USES
- GB 綠化地帶 GREEN BELT
- 60 最高建築物高度（在主水平基準上若干米） MAXIMUM BUILDING HEIGHT (IN mPD)
- 2 最高建築物高度（樓層數目） MAXIMUM BUILDING HEIGHT (IN NUMBER OF STOREYS)

本摘要圖於2011年5月13日擬備，
所根據的資料為測量圖編號
11-NE-12A, B, C, D, 13A, C,
17A, B 和 18A

EXTRACT PLAN PREPARED ON 13.5.2011
BASED ON SURVEY SHEETS No.
11-NE-12A, B, C, D, 13A, C,
17A, B & 18A

平面圖 SITE PLAN

就牛頭角及九龍灣分區計劃大綱草圖編號S/K13/26
提出的申述個案編號2至4作出考慮
CONSIDERATION OF REPRESENTATIONS No. 2 TO 4
TO THE DRAFT NGAU TAU KOK & KOWLOON BAY
OUTLINE ZONING PLAN No. S/K13/26

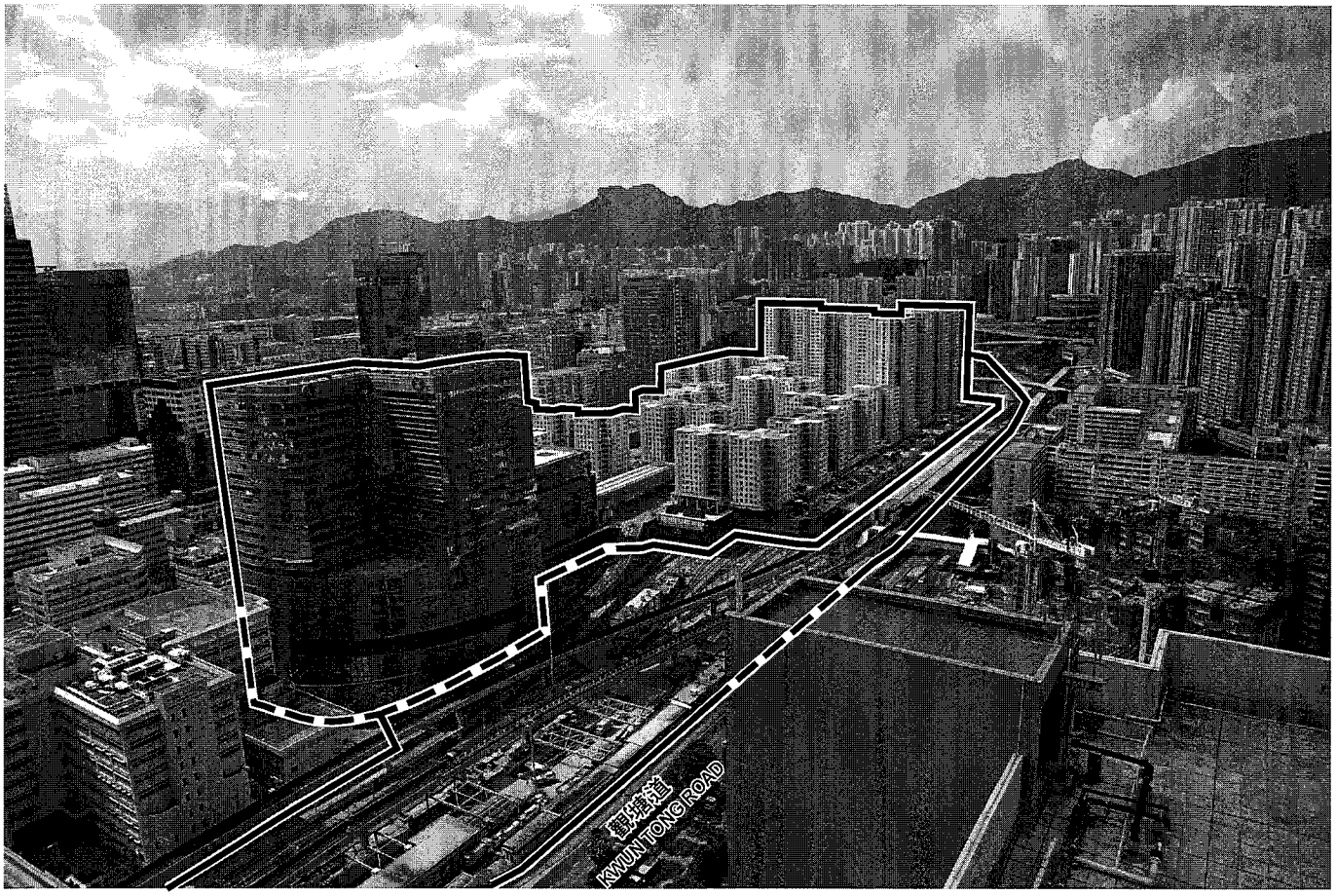
SCALE 1 : 4 000 比例尺

米 METRES 100 0 100 200 300 米 METRES

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

圖 PLAN
H - 8c



照片1 - 申述個案編號 R/S/K13/26-4
PHOTO 1 - REPRESENTATION No. R/S/K13/26-4

界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSES ONLY

本圖於2011年4月12日擬備，
所根據的資料為攝於
2010年8月27日的實地照片
PLAN PREPARED ON 12.4.2011
BASED ON SITE PHOTO
TAKEN ON 27.8.2010

實地照片 SITE PHOTO

就牛頭角及九龍灣分區計劃大綱草圖編號S/K13/26
提出的申述個案編號2至4作出考慮
CONSIDERATION OF REPRESENTATIONS No. 2 TO 4
TO THE DRAFT NGAU TAU KOK & KOWLOON BAY
OUTLINE ZONING PLAN No. S/K13/26

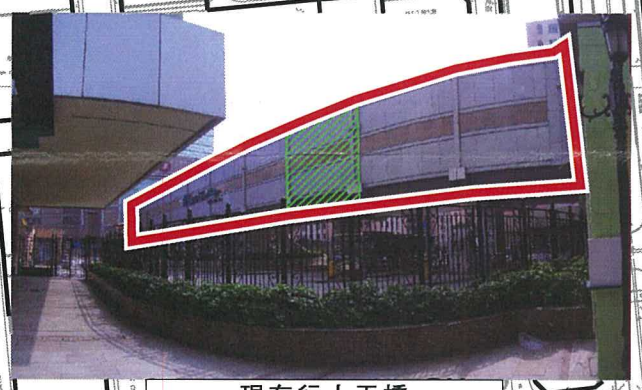
規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

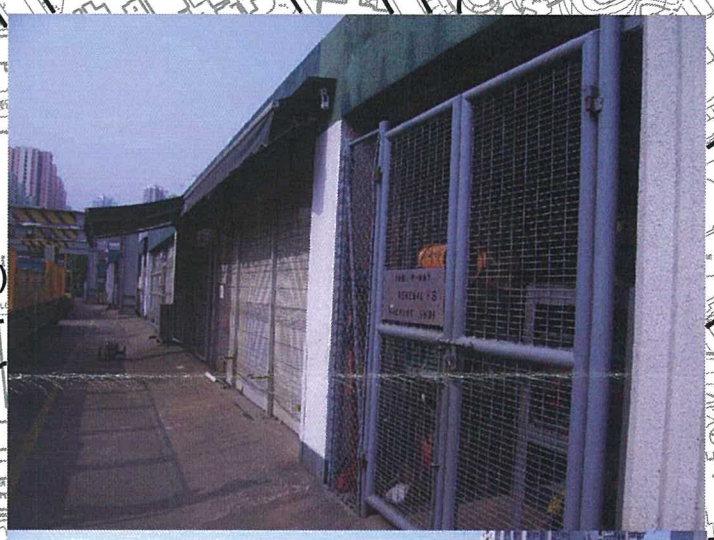
圖 PLAN
H - 8d

鋼軌輾磨車組維修間
RAIL GRINDING UNIT SHED

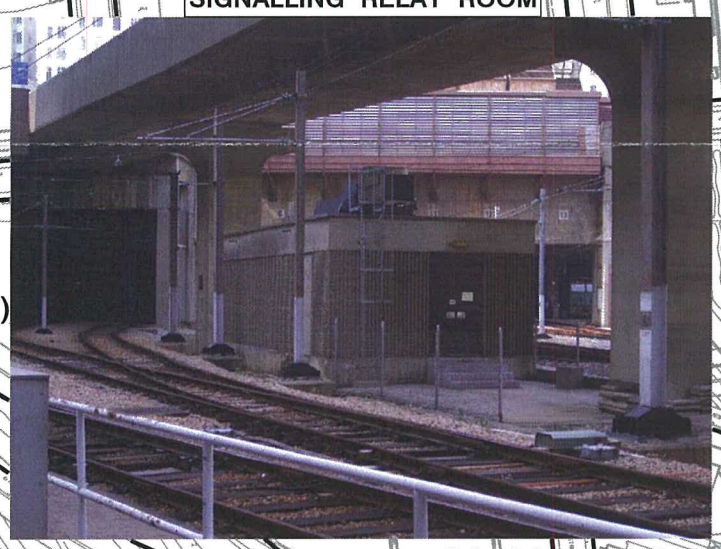
軌道組辦公室
PERMANENT WAY OFFICES



現有行人天橋
EXISTING FOOTBRIDGE



儲物室
STORAGE



信號設備室
SIGNALLING RELAY ROOM

香港鐵路車廠與上蓋的商業及住宅發展
MASS TRANSIT RAILWAY DEPOT
WITH COMMERCIAL AND
RESIDENTIAL DEVELOPMENT ABOVE

申述個案編號R/S/K13/26-4
REPRESENTATION No. R/S/K13/26 - 4

KAI CHEUNG ROAD 啟祥道
KWUN TONG ROAD 觀塘道
WAI YIP STREET 偉業街
常怡道
RAILWAY

圖例 LEGEND

- 申述地點（界線只作識別用） REPRESENTATION SITE (BOUNDARY FOR IDENTIFICATION PURPOSE ONLY)
- 建築物間距 BUILDING GAP
- R(A) 住宅（甲類） RESIDENTIAL (GROUP A)
- G/IC 政府、機構或社區 GOVERNMENT, INSTITUTION OR COMMUNITY
- O 休憩用地 OPEN SPACE
- 位於建築物間距內的現有行人天橋 PORTION OF EXISTING FOOTBRIDGE WITHIN THE BUILDING GAP
- OU 其他指定用途 OTHER SPECIFIED USES
- GB 綠化地帶 GREEN BELT
- 60 最高建築物高度（在主水平基準上若干米） MAXIMUM BUILDING HEIGHT (IN mPD)
- 2 最高建築物高度（樓層數目） MAXIMUM BUILDING HEIGHT (IN NUMBER OF STOREYS)

本摘要圖於2011年5月13日擬備，
所根據的資料為測量圖編號
11-NE-12A, B, C, D, 13A, C, 17A, B 和 18A

EXTRACT PLAN PREPARED ON 13.5.2011
BASED ON SURVEY SHEETS No.
11-NE-12A, B, C, D, 13A, C, 17A, B & 18A

實地照片 SITE PHOTOS

就牛頭角及九龍灣分區計劃大綱草圖編號S/K13/26
提出的申述個案編號2至4作出考慮
CONSIDERATION OF REPRESENTATIONS No. 2 TO 4
TO THE DRAFT NGAU TAU KOK & KOWLOON BAY
OUTLINE ZONING PLAN No. S/K13/26

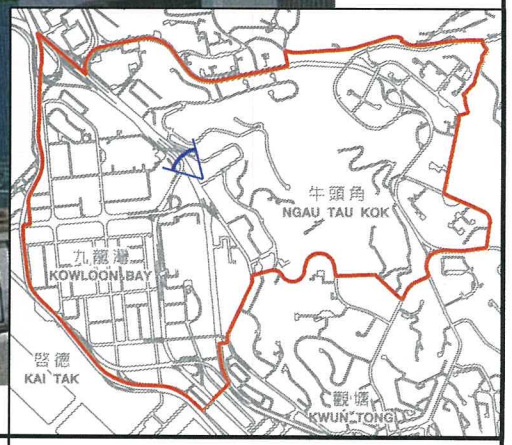
SCALE 1 : 4 000 比例尺

米 METRES 100 0 100 200 300 METRES

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

圖 PLAN
H - 8e



本圖於2011年4月26日擬備
PLAN PREPARED ON 26.4.2011

望向獅子山山脊線的地區觀景廊
LOCAL VIEW CORRIDOR TOWARDS LION ROCK RIDGELINE

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
R/S/K13/26-G1

圖 PLAN
H - 9

Extracted from Confirmed Minutes of 984th Meeting of TPB held on 27.5.2011 and 1.6.2011

Agenda Item 7

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comment to the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26

(TPB Papers No. 8820 to 8822)

[The hearing was conducted in English and Cantonese.]

Group 1 - Representations No. R2 to R4

(TPB Paper No. 8820)

The following Members declared interests on this item:

Mr. Roger K.H. Luk	-	being a Member of the Board of Directors of Octopus Card Ltd. in which MTRCL, one of the representers (R4), was a major shareholder.
Mr. K.Y. Leung	-	had represented his professional institute to make a submission to LegCo on the choice of location of the Express Rail Link Terminus and was an employee of the HKU SPACE (Tertiary Education Institution) with a campus in the area.
Mr. Raymond Y.M. Chan	-	being the convenor of the Railway Objections Hearing Panel for the Guangzhou – Hong Kong Express Rail Link and MTRCL (R4) was the operator of the Hong Kong section.
Professor S.C. Wong	-	being the external examiner for HKU SPACE with a campus in the area.
Dr. James C.W. Lau	-	being an Adjunct Professor of HKU
Professor Paul K.S. Lam	-	being an Honorary Professor of HKU
Professor Edwin H.W. Chan	-	being a Visiting Lecturer and external examiner to HKU and HKU SPACE.
Ms. Elsa H.K. Cheuk	-	being an alternate Member of the Board of the

MTRCL, one of the representers (R4).

Ms. Anna S.Y. Kwong - being an expert witness for MTRCL on another case.

Members noted that Mr. Roger K.H. Luk and Ms. Elsa H.K. Cheuk had already left the meeting while Mr. Raymond Y.M. Chan and Dr. James C.W. Lau had tendered their apologies for not attending the meeting. Members also agreed that the interests of Mr. K.Y. Leung, Professor S.C. Wong, Professor Paul K.S. Lam, Professor Edwin H.W. Chan and Ms Anna S.Y. Kwong were indirect and remote and that they should be allowed to stay in the meeting.

Presentation and Question Session

The following representatives from the Planning Department and the representers were invited to the meeting at this point:

Planning Department (PlanD)

Mr. Eric Yue	District Planning Officer/Kowloon, PlanD
Mr. Richard Siu	Senior Town Planner/Kowloon (4)
Dr. Conn Yuen	AVA Consultants for PlanD

R2 (The Real Estate Developers Association of Hong Kong)

Mr. Ian Brownlee - Representer's repesentative

R3 (Folabs Limited and Monfat Limited)

Mr. Ian Brownlee) Representer's representatives

Ms. Wendy Lee)

R4 (MTR Corporation Ltd.)

Mr. Anthony Ismail)

Ms. Lilian Chiang) Repesenter's representatives

Mr. Steve Yiu)

Ms. Linda Li)

The Vice-Chairman extended a welcome and explained the procedures of the hearing. He then invited the representatives of PlanD to brief Members on the representations.

With the aid of a Powerpoint presentation, Mr. Eric Yue made the following main points as detailed in the Paper:

(a) the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) incorporating mainly amendments to impose building height restrictions (BHRs) on various development zones outside the Kowloon Bay Business Area (KBBA), to designate non-building areas (NBAs) and require building gaps in various zones and to propose other zoning amendments was exhibited for public inspection on 19.11.2010 under section 5 of the Town Planning Ordinance (the Ordinance);

(b) the background of the amendments to the draft OZP was set out in paragraph 3 of the Paper. In order 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 system, appropriate BHRs were incorporated into the OZP. The principles adopted in determining the BHRs included preserving the views to the ridgelines of Lion Rock, Tsz Wan Shan and Kowloon Peak, respecting the natural topography of the area, creating BH diversity, taking into account compatibility with the local character, providing a compatible setting for historical buildings, preserving/creating visual relief, breezeways and local view corridors, and preserving the open vistas from Clear Water Bay Road. Ten height bands ranging from 15mPD to 180mPD were proposed for the various zones. An Air Ventilation Assessment (AVA) by Expert Evaluation was undertaken to assess the likely impact of the proposed BHs of the development sites on the pedestrian wind environment. According to the AVA, the prevailing wind of the Area came from the east in winter and from the east and south in summer. The AVA recommended that the urban linear parks and open space should be maintained and practical setback from the roads and building gaps should be introduced within KBBA to improve the

permeability of sea breeze towards Kowloon Bay and the overall air ventilation in KBBA.

(c) during the 2-month statutory publication period, a total of 1,313 representations were received. On 28.1.2011, the representations were published for public inspection and in the first three weeks of the publication period, one public comment was received. Subsequently, 10 representations indicated that they did not submit the representations. The records of these representations had been taken out from the register and the total number of valid representations was 1,303. On 8.4.2011, the Board decided to consider the representations in three groups. This TPB Paper covered 3 representations (Group 1) which were mainly related to the imposition of BHRs, NBAs and building gap requirements on various development zones and to other zoning amendments;

(d) an overview of the representations:

(i) R2 was submitted by The Real Estate Developers Association of Hong Kong (REDA) and it opposed the BHRs, NBAs and building gap requirements for all residential and GIC sites outside the KBBA;

(ii) R3 was submitted by the two owners of Amoy Industrial Centre (Folabs Limited and Monofat Limited) and it opposed the BHR for the "R(A)" site at 7 Ngau Tau Kok Road; and

(iii) R4 was submitted by the MTR Corporation Limited (MTRCL) and it opposed the rezoning, BHRs and building gaps at the Telford Gardens site zoned "Other Specified Uses" annotated "Mass Transit Railway Depot with Commercial and Residential Development Above" ("OU(MTR Depot with Commercial and Residential Development Above)") and at the Kowloon Bay MTR Station site zoned "Other Specified Uses" annotated "Railway" ("OU(Railway)");

(e) the grounds of representations and the representer's proposals were

summarized as follows:

(i) Representation R2

Grounds of Representation

BHRs

a. the BHRs were set at levels which were so low that they had unnecessarily constrained the provision of good quality development. Flexibility should be provided with sufficient internal headroom for the design of developments with good internal space;

b. no consideration was given to building economics, implications for redevelopment of the area, effect of the BHRs on the form of new buildings, and the negative impact on the provision of space around buildings;

c. the BHRs would discourage innovative architectural design and made it impossible to add void features into the design. The BHRs would adversely affect streetscape, air ventilation and the quality of life of the users of the development;

d. the objectives of imposing BHRs could still be achieved with height limits set at a level that would allow more reasonable forms of development;

e. the public concern on "out-of-context" buildings mainly referred to developments that were 60 storeys or more in height at prominent locations. High-rise developments of around 40 storeys were acceptable to the public. The proposed BHRs of about 80m to 100m would result in buildings of 25 to 32 storeys which were unreasonably low;

f. The Hong Kong Convention and Exhibition Centre (HKCEC)

and the Quarry Bay Park should be taken as the key vantage points for visual impact considerations and other 'view corridors' such as the footbridge near Choi Ying Place should not be adopted as these vantage points had not gone through the public consultation process;

g. as BHRs of 120mPD and 140mPD were already adopted in KBBA, it was illogical to adopt a descending BHR profile to the east and to disallow the continued increase in BHRs from the KBBA across Telford Gardens, Kwun Tong Road and Ngau Tau Kok Road;

h. the BHRs imposed on private land in the vicinity of Kwun Tong Road was more restrictive than those imposed on the public housing sites in the area;

NBAs

i. the imposition of NBAs on individual sites for air ventilation purposes was not permitted under sections 3 and 4 of the Ordinance as no buildings were provided within NBAs;

j. gaps between buildings could be achieved by the provision of open space, parks and streets. There was no justification for an additional category of NBA;

k. the AVA was inadequate to justify the extent of NBAs imposed and there was no information to justify the extent of intrusion into private property rights. There was no assessment to show that the NBAs were essential for the public good, other alternatives were not considered and compensation to owners for the loss of property rights was not considered. The proposed NBAs had gone beyond the scope of the Ordinance;

Building Gaps and Setbacks

l. setback requirements on the OZP were not appropriate for the scale and generality of broad brush plans. There was no legal recognition of the provision of setbacks for 'air paths' as being a public purpose for which private land could be taken;

m. the OZP was not an appropriate statutory framework for the implementation of building setbacks and building gaps as provision for road widening was covered by other Ordinances;

n. there were no justifications as to why the setbacks for the various zones were essential, why they must be at the specified width, and why some must be provided at ground level while others could be provided at 22mPD. There was also no justification for providing additional setbacks along the widest streets in KBBA;

o. the unclear justifications would cause unnecessary complications related to compensation under the Buildings Ordinance and the Roads Ordinance;

Spot Zoning Approach

p. the imposition of BHRs, NBAs and building gaps on individual sites constituted a form of 'spot' zoning which was too restrictive, inappropriate and unlawful. They were not permitted under sections 3 and 4 of the Ordinance and violated the principle that the object of the OZP was to indicate only the broad principles of development;

Public Consultation

q. the BHRs, NBAs and setback requirements were imposed on the OZP without prior public consultation. There was no opportunity for the public and the developers to be informed of the justifications or the need for the restrictions, and no visual impact assessment was available to the public; and

r. the approach adopted for the OZP was in contrast with that taken for the KBBA when TPB Guidelines were issued to propose temporary arrangements for the processing of the proposed BHRs;

Representer's Proposals

s. BHRs must be reviewed to make better use of the air space and to free up the lower level space for better air ventilation and street environment;

t. a more rational and generalised approach to the zoning should be adopted by deleting "Spot BHRs" which adversely affected development rights and building potential;

u. the BHRs for the central part of the OZP should be increased to 140mPD to 150mPD to maintain the rising profile of building heights (BHs), while still protecting the ridgelines from the recognized viewpoints;

v. given the established BHRs on KBBA and the general background of development on the slopes to the east, a general increase in the BHRs of 20m to 40m was appropriate;

w. to delete the NBA requirement from the OZP and alternative zonings, such as "Open Space" ("O") should be used to provide desired gaps. The words "exceptional circumstances" in respect of applications for minor relaxation of NBA requirements should be deleted from the relevant Notes; and

x. to delete all setbacks from the OZP;

(ii) <u>Representation R3</u>

Grounds of Representation

General

a. there was no prior public consultation or engagement and no explanation was given to land owners and the public on the need for the BHRs and why the particular BHRs were adopted. There was no urban design study or visual impact analysis to indicate the Government's vision for long term development of the Area;

b. a reasonable BH was required to allow flexibility for the design of future redevelopment and for changing requirements over time and scope to meet market expectations;

c. there was a need to ensure that buildings were not restricted to unreasonably low heights which would result in bulky buildings forming walls of development that blocked air flows, light and views. Taller and more slender buildings would allow more space at ground level, thus enhancing the surrounding urban environment;

Specific

d. the BHR of 120mPD on the site was too low, given that the public housing estates were nearly 140mPD and there was a hilly topography in the area;

e. the BHR for the site and the adjoining residential development would not enhance the visual impact of the surrounding area significantly. Instead, the BHR would generate monotonous flat roofs for all developments in the area upon redevelopment;

f. the BHR for the site would not bring about significant positive air ventilation impacts to the area due to the abundance of open space, green belt and low-rise G/IC developments in the

surrounding and the downhill valley wind was already blocked by Tak Bo Garden. As the wind corridors were mainly along the roads, the imposition of BHR would bring no real benefits. Also, the site itself had no significant air ventilation impacts to the area;

g. the BHR for the site would create 'wall effect' blocking most of the views of Tak Bo Garden and Jade Field Garden; and

h. the lease of the site was an old lease with no restrictions on the use, the BH and the development potential of the site. The imposition of the BHR of 120mPD would reduce the property value and unjustly encroach on the property rights of the owner;

Representer's Proposal

i. the BHR for the whole of the "R(A)" zone should be revised to 140mPD or the BHR for the site should be revised to 140mPD or such other height greater than 120mPD;

(iii) Representation R4

Grounds of Representation

a. there was no restriction on the non-domestic GFA or commercial GFA under the lease for Telford Gardens and the Kowloon Bay MTR Station. The new zonings of "OU(MTR Depot with Commercial and Residential Development Above)" and "OU(Railway)" would impose land use and/or GFA restrictions on the future development of the site. These restrictions would render the Government in breach of its agreement and covenants with MTRCL and adversely affect the rights and entitlements of MTRCL;

b. the developments on the site were already controlled by means

of Master Plan under the land grants. The GFA restrictions under the OZP were not necessary;

c. with the completion of the Kai Tak Environmentally Friendly Transport System (EFTS) and the Kowloon Bay Elevated Walkway System, Kowloon Bay MTR Station would be a key interchange and important link for the new district pedestrian walkway system. The new zonings would not be able to meet the future needs and the demand for additional covered walkways, lifts and commercial facilities;

d. taller buildings should be placed at commercial centres, transport hubs or district focal points with graduation in BH profile from the high density core to the fringe. Given the planned height profile of 120mPD for "OU(Business)" sites and up to 170mPD for the strategic commercial sites, the BH of 170mPD for the office towers at the district focal point of Telford Plaza would be more reasonable and appropriate;

e. other than the railway tracks and some existing buildings, the remaining part of the depot was incorrectly shown on the OZP as vacant land without any structure. As workshops and engineering structures needed to be erected at the railway depot from time to time, the BHRs imposed would adversely affect the normal operation of the railway;

f. the building gap of 22mPD in the southern part of the "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" would conflict with the existing retail footbridge (roof level of about 27.4mPD). Though the existing buildings would not be affected, the retail footbridge served an important transport function and should not be removed as there was no feasible alternative; and

g. the new set of Notes for the "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" zone which incorporated new non-domestic GFA restrictions was unreasonable and unfair to MTRCL as it would take away the existing development rights and deprive MTRCL of the ability to provide extra facilities to respond to the site's enhanced hub functions;

Representer's Proposal

h. to properly reflect the existing retail footbridge at the proposed building gap;

i. to allow a BH of 170mPD for the office towers at Telford Plaza;

j. to reflect the existing depot structures within the "OU(Railway)" zone and to delete the BHRs on the open area of the depot; and

k. to amend the Notes of the "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" zone by deleting the non-domestic GFA restriction;

(f) the Government's responses to the grounds of representations and the representer's proposals were summarized as follows:

(i) <u>Responses to Representation R2</u>

<u>BHRs</u>

a. the purpose of imposing BHRs in the Area was to provide better planning control on the building height 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 building height profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped building height concept, local characteristics, existing building height 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 AVA Study, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development potential;

b. the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development potential permissible under the OZP. Piecemeal relaxation of BHRs for individual sites was not supported as it would jeopardise the coherence of the stepped building height profile and would result in proliferation of excessively high developments;

c. the BHRs would not necessarily result in larger building bulk and walls of development as the bulkiness of a building depended on many factors other than BH alone. Moreover, a relaxed BHR would not guarantee the provision of more air flow, light and view;

d. the BHRs did not preclude the incorporation of innovative architectural features and landscape treatment of a development proposal. To cater for site specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of BHRs under the OZP. Each application would be considered by the Board on its individual merits;

e. whether a development was out-of-context needed to be considered with reference to the characteristics of the surrounding area. The claim that BH of 40 storeys were readily and widely accepted was not proven;

f. according to the Urban Design Guidelines, the number of view access should be maximized to strengthen visual permeability in the dense built form. The proposed local view corridor would help to preserve the vista to Lion Rock;

g. the BH profile in the Area was to step down gradually from the KBBA to the medium-rise residential developments including Kai Yip Estate. Across Kwun Tong Road, the BH profile for the residential developments mainly followed the natural topography ascending towards the Kowloon Peak;

h. taking into account the different site level, the absolute BHs of the public housing developments were similar to or more stringent than that permitted for private residential developments;

'Spot' Zoning, NBA, Building Gap and Setback Requirements

i. sections 3 and 4 of the Town Planning Ordinance (the Ordinance) and the scheme of the legislation were intended to give the Board comprehensive powers to control development in any part of Hong Kong. The Board should have the power to impose BHRs, NBA and building gap requirements on the OZP if there were necessary and sufficient planning justifications to do so;

j. the designation of NBA and building gap requirements on the OZP could serve a positive planning purpose with positive planning benefits by improving air ventilation, visual permeability and the pedestrian environment. Given that the

designation of NBA and building gap was fully justified, it had legal basis to form part of the planning control of the Board;

k. the relaxation of the NBA and building gap requirement would affect the effectiveness of their planning intention. The wording 'exceptional circumstances' was included in the minor relaxation clause to cater for the situation that only in some exceptional cases under which the requirement could not be met due to site constraints but the planning objectives would be achieved in other forms;

l. the provision of setbacks under the Buildings Ordinance and the OZP requirement on NBAs and building gaps were under two separate regimes. They were complementary, rather than duplicating each other. The OZP requirements were determined based on specific district circumstances while the Buildings Ordinance was applicable to all building developments with no reference to specific district characteristics;

Public Consultation

m. the 2-month statutory exhibition period and provision for representations and comments formed part of the current public consultation process. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs. All information supporting the BHRs, NBA and building gap requirements on the OZP, including the AVA Report and visual analysis, was available for public inspection;

n. when the BHR for KBBA and Kwun Tong Business Area (KTBA) was first proposed in 2004, most of the sites within the area were subject to the Airport Height Restrictions/BHRs

under leases and a surge of building plan submissions to establish "fait accompli" was unlikely. It was therefore considered that public consultation prior to the gazetting could be conducted to gauge the public views on such translation of BHR onto relevant OZPs. The TPB Guidelines for Interim BH Control in KBBA and KTBA was issued in 2004 for planning control purposes pending the results of the public consultation on imposing BHRs in KBBA and KTBA;

Responses to Representer's Proposals

o. it was important to keep the integrity of the BH profile and the designated NBAs/building gaps in order to maintain and improve the visual quality of the townscape and permeability of the district;

p. amending the BHRs for the central part of the OZP to a range of 140mPD to 150mPD would result in an awkward downward and upward BH profile and would adversely affect the overall visual quality of the townscape;

q. as an "O" zone and an NBA served different functions, the proposal to rezone all NBAs to "O" would adversely affect the development intensity of sites in the area; and

r. it was necessary to retain the wording "under exceptional circumstances" in order to give a clear message of the firm planning intention and that the NBA, building gap and setback requirements could only be relaxed with very strong justifications and under exceptional circumstances;

(ii) Responses to Representation R3

General

a. the 2-month statutory exhibition period and provision for

representations and comments formed part of the current public consultation process. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs. All information supporting the BHRs, NBA and building gap requirements on the OZP, including the AVA Report and visual analysis, was available for public inspection;

b. the BHRs did not preclude the incorporation of green features, innovative architectural features and a reasonable floor-to-floor height for the development/redevelopment. Besides, to cater for site specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of BHRs under the OZP. Each application would be considered by the Board on its individual merits;

c. the BHRs would not necessarily result in larger building bulk and walls of development as the bulkiness of a building depended on many factors other than BH alone. Moreover, a relaxed BHR would not guarantee the provision of more air flow, light and view;

Specific

d. taking into account the different site level, the absolute BHs of the public housing developments were similar to or more stringent than that permitted for private residential developments;

e. the BHR for the representation site and the adjoining residential developments allowed a stepped building height profile in the Area gradually descending from the Jordan Valley towards Ngau Tau Kok Road, which was considered desirable from urban design point of view and could help

optimise the wind performance;

f. there was a need to strike a balance between public interest and private development right. The BHRs were formulated on the basis of reasonable assumptions that development potential permissible under the OZP could be accommodated. Moreover, the lease was one of the considerations in formulating the BHRs;

Responses to Representer's Proposals

g. the proposed BH of 140mPD for the whole "R(A)" zone would adversely affect the stepped height concept for the area; and

h. the proposed BH of 140mPD at the representation site would adversely affect the integrity of the height band of 120mPD ;

(iii) Responses to Representation R4

a. the new zonings of "OU(MTR Depot with Commercial and Residential Development above)" and "OU(Railway)" were to better reflect the planning intention of the residential/commercial development on top of Kowloon Bay MTR depot and the railway station and facilities, and the optimal development pattern and long term planning intention as set out on the Master Plans under the lease, which were agreed among various departments;

b. the current BHR for the office towers was required to ensure a smooth transition of the building height profile from the high-rise business node within KBBA stepping down gradually to the medium-rise residential development in the northern and eastern fringes;

c. specific BHRs had already been imposed on the Kowloon Bay

MTR Station and the existing buildings which were ancillary to the railway operation. The BHRs on the open depot area were to ensure that only low-rise ancillary structures were allowed in the open depot area. Should there be a need for a relaxation of BHRs of the ancillary structures, there were provisions for application for minor relaxation of the BHR under s.16 or amendments to OZP under s.12A of the Town Planning Ordinance;

d. the requirement of building gaps was to reflect the findings and recommendations of the AVA Study and was to be taken into account upon future redevelopment of Telford Gardens and Telford Plaza. The existing building/structure was not required to conform to the OZP until it was redeveloped;

Responses to Representer's Proposals

e. only a portion of the existing retail footbridge fell within the demarcated building gap running in north-south direction and it would not be affected until it was redeveloped;

f. the proposed BH of 170mPD for the office towers was not in line with the intention of maintaining a smooth transition of the BH profile from the business node within KBBA to gradually step down to the medium rise residential development in the north and east;

g. the BHRs for the "OU(Railway)" zone were to ensure that only low-rise ancillary structures were allowed in the open depot area. Provision for application for minor relaxation of the BHR was already available; and

h. the non-domestic GFA restriction in the Notes was in line with the approved Master Plans required under the land grants. The remaining non-domestic GFA that was not yet developed

should be sufficient to cater for the future needs of MTRCL.

[Ms. Anna S.Y. Kwong left the meeting temporarily at this point.]

The Vice-Chairman then invited the representatives of the representers to elaborate on the representations.

Representation No. R2

Mr. Ian Brownlee tabled a document with two letters and, with the aid of some plans and photos, made the following main points:

(a) REDA was concerned about the impact of the zoning amendments on private property rights. Any planning changes should enhance economic growth, maintain an efficient and sustainable urban development system and protect private ownership;

(b) although it was desirable to impose BHRs to protect important visual landmarks and provide certainty to landowners and the public, the BHR must be set at a reasonable level. The BHRs applied to the subject OZP were unreasonably low, with no consideration given to building economics or design, impact on property values and impact on urban renewal;

[Professor Edwin H.W. Chan arrived to join the meeting at this point.]

(c) the BHR of 60mPD for Telford Gardens only reflected the existing BH of the development. As Telford Gardens/Kowloon Bay MTR Station was an existing focal point in the whole area, the BHR for this site should be set at 120mPD to 150mPD and the BH profile should be stepped up from the KBBA to this focal point. The number of domestic towers on the Telford Gardens site could be reduced by half with a BHR of 120mPD and more space would be created without the need to impose the 22mPD building gaps;

(d) the overall BH concept had relied too heavily on the existing BH of the developments and no alternative concepts had been presented to the MPC or to the public. An alternative BH concept was to step up the BHR at Telford Gardens to 120mPD and across the other side of Kwun Tong Road to 140mPD, so as to increase the BHR to follow the ascending topography;

(e) the BHRs were set at a very low level and had not taken into account the new measures on Sustainable Building Design (SBD) introduced by Buildings Department (BD);

(f) referring to the tabled documents (REDA's letter dated 7.3.2011 and TPB Secretary's reply dated 9.5.2011), REDA had in their letter requested the Board to re-assess all the existing OZPs as the form of controls proposed was no longer necessary with the issue of the SBD Practice Notes. The combined effect of BHRs which were set at too low a level and the SBD requirements on development sites was a general down-zoning of the development potential, a loss of development rights, a loss of property value, and would result in a lower quality urban environment;

(g) although REDA suggested conducting a detailed review with the relevant professional institutes with a view to reaching a consensus on the desirable design criteria and to assess the impact of the SBD requirements, the Board made no response to REDA's proposal in their reply to REDA dated 9.5.2011;

(h) different standards were applied for private housing and public housing in the formulation of BHRs. Referring to Plan H-4, it was noted that Tak Bo Garden was at a site level of 23mPD and the two public housing estates on the other side of Choi Ha Road was at the level of 19.6mPD and 22.5mPD. However, the BHR for Tak Bo Garden was 120mPD which was lower than the BHR of 140mPD for the two public housing estates;

[Mr. Walter K.L. Chan left the meeting at this point.]

(i) the Board should carry out a critical assessment on whether the AVA proposals were essential, and critically assess the justifications for the extent of the proposals. Similar to zoning amendments for open space or road widening which would require the resumption of private land, very strong justifications should be provided before the AVA proposals were incorporated into the OZP as they would significantly affect private property rights;

(j) according to the AVA proposals, a 15m building gap at 22mPD was proposed to cut through the middle of the MegaBox site. Noting that there was open space on the west and north of MegaBox, the necessity of the proposed building gap was doubtful. The restrictions would deter the future redevelopment of the site;

(k) the proposed 3m building setbacks along Wang Chiu Road and Wang Kwong Road were not justified as these two roads, being the widest roads in KBBA, were already serving as breezeways. The series of 15m wide building gaps at 22mPD level were also not essential as they had duplicated the function of other breezeways running parallel or nearby;

(l) in the AVA report, the proposals on setbacks and building gaps were only regarded as desirable and not something essential. The linear open space zone on the eastern part of KBBA was a proper way to ensure air ventilation in the area; and

(m) the BHRs proposed for Kai Tak Mansion were unnecessary as redevelopment of the site would not cause any adverse impact to its surroundings which were mainly open space and G/IC uses. The imposition of the NBAs and the 20m-wide building gap would severely constrain any redevelopment proposal. There were inadequate justifications to impose the planning controls which had severely affected private property rights and the opportunity for urban renewal by the

private sector.

[Professor Paul K.S. Lam left the meeting at this point.]

Representation No. R3

Mr. Ian Brownlee tabled a document showing two proposed schemes at different BHRs and, with the aid of a Powerpoint presentation, made the following main points:

(a) the existing building was the last industrial building in the area and the owners had been preparing for the redevelopment of the site. There was no restriction in the lease on the use and the building height. The imposition of the BHR at 120mPD had adversely affected the development rights of the owners;

(b) the BHR of 120mPD would leave no room for design flexibility and would result in a low and bulky building similar in height to the existing buildings surrounding the site. It was unfair as even the public housing sites along Choi Ha Road were allowed a higher BHR than the representation site;

(c) three possible redevelopment scenarios were submitted in the representation and supplementary information on sectional drawings and schematic layouts for these schemes were tabled for Members' consideration;

(d) to comply with a BHR of 120mPD, two towers would be necessary to achieve the permitted plot ratio, with a resultant site coverage of 33% and that would result in bulky buildings filling up the existing gaps and creating a wall effect along Ngau Tau Kok Road. By increasing the BHR to 140mPD, the site could be redeveloped into one tower at a site coverage of 25%, creating more space and openness around the building;

(e) the proposed relaxation of BHR to 140mPD only meant that the site would have the same BHR as the public housing estates on the eastern

side of Choi Ha Road. The stepped building height profile would still be maintained and that would not cause any air ventilation problems; and

(f) the provision for application for minor relaxation of BHR should not be taken as a mechanism to compensate for the inadequacy in the plan-making process. On the other hand, an application for minor relaxation of BHR would be subject to objections from the neighbouring developments. In addition, the proposed 20m increase in BH would be more than 10% of the original BHR which might have exceeded the extent of minor relaxation.

Representation No. R4

Mr. Anthony Ismail tabled a document entitled "Extract of Documents" and an extract of the minutes of the TPB meeting dated 16.1.2009 and, with the aid of a Powerpoint presentation, made the following main points:

(a) Telford Gardens and Telford Plaza were together a comprehensive development with residential buildings, office buildings and a large shopping centre above Kowloon Bay Station which was a major transport hub. The daily pedestrian flow through the development complex was about 300,000 persons;

(b) MTRCL agreed with the submissions of representations R2 and R3 and considered that the BHR and the designation of NBAs imposed on the representation site were unreasonable and not justified;

(c) the imposition of a non-domestic GFA restriction up to 177,031m^2 for the site would adversely affect the ability of the site to meet market and operational needs as a regional hub and was not in the interest of the community;

(d) according to the lease, which included NKIL 5744 and NKIL 6201, the development should be built in accordance with the Master Plan;

(e) objections were raised as the development right under NKIL 5744 had been prejudiced. While the lease for NKIL 5744 imposed no restrictions on non-domestic GFA, the imposition of non-domestic GFA restrictions on the site would infringe the private property right under the lease. Referring to the extract of the TPB minutes that was tabled, protection of development right was one of the key considerations of the Board and had been an established practice of the Board. It was also noted from the the Court of Appeal's decision on Capital Rich v. TPB that the accrued rights of a site should be recognized;

(f) the OZP restrictions would frustrate MTRCL's proposal to improve the pedestrian facilities (including a lift for the disabled, escalators, improved staircases and alterations to the shopping centre) to connect with the Kowloon Bay Elevated Walkway System which would link up the various commercial buildings in KBBA with the MTR Kowloon Bay Station and would bring about a sharp increase in pedestrian flow into Telford Plaza;

(g) other improvement projects affected by the zoning amendment included connections to the future Ngau Tau Kok housing development and new cultural centre and connections to the future Kai Tak Environmentally Friendly Transport System;

(h) the new pedestrian facilities and changes to the shopping centre would account for a non-domestic GFA of about 20,000m^2. As the actual non-domestic GFA had already exceeded the maximum limit of 177,031m^2 imposed on the OZP, the upgrading works would require planning permission and would face uncertainties and delay. The GFA of 20,000m^2 had exceeded 10% of the maximum limit and hence might not be able to be covered under section 16 planning applications;

(i) since the lease conditions had already required the prior approval of the Director of Lands for any amendments to the Master Plan for the two lots, the existing control mechanism under the lease was sufficient and effective and the additional OZP restrictions were unnecessary. The

Board should adopt the general planning principle that planning conditions should not be imposed on a "belt and braces" basis;

(j) the non-domestic GFA restrictions served no useful planning purpose as the site was already built and the planning rationale for imposing the restrictions were not given. On the other hand, the restrictions would delay and impede the implementation of improvements to pedestrian facilities that were beneficial to the community;

(k) the non-domestic GFA restrictions amounted to spot-zoning which was not consistent with the "broad brush" approach provided under the Ordinance. According to the Ordinance, the Board should prepare draft plans with broad zonings to guide development. However, for the subject OZP, the planning controls proposed for specific sites only served to reflect the existing development parameters of the sites. This was contrary to the decision of the Court of Appeal on Attorney General v. C.C. Tse (Estate) Ltd. (1982), where the judge considered that "the Ordinance was meant to give guidance only of the "broad brush" kind, not to deal with fine particulars of this nature". By the same token, sections 3(1) and 4(1) of the Ordinance should only be applied to general areas rather than to specific sites;

(l) the claim by PlanD that the new zoning and restrictions were to reflect the Master Plans under the lease were incorrect. On the Master Plan for NKIL 5744, there were no restrictions on non-domestic GFA. On the Master Plan for NKIL 6201 and 5744 (part), while there was a maximum non-domestic GFA of 71,736m^2 for NKIL 6201, the total non-domestic GFA for NKIL 5744 (part) was only used to demonstrate that the change in non-domestic GFA complied with the maximum GFA as permitted under the Building (Planning) Regulations. That figure was descriptive in nature and not restrictive. As the lease for NKIL 5744 was unrestricted, it did not make sense that the Master Plan would restrict the non-domestic GFA;

[Mr. Timothy K.W. Ma left the meeting at this point.]

(m) there was a dispute of fact on the non-domestic GFA actually in existence on the site. BD advised that the total non-domestic GFA in existence was 168,531m^2 and with the maximum non-domestic GFA of 177,031m^2 under the OZP, PlanD considered that the remaining 8,500m^2 GFA could be used to improve the pedestrian facilities and meet future needs. However, according to MTRCL's records (page 25 of the tabled document), the total non-domestic GFA in existence was 177,784m^2, which had exceeded the OZP restrictions by 753m^2;

(n) the discrepancy in the figures could be due to building alterations that had resulted in a higher non-domestic GFA approved over the years not taken into account by BD, or the exclusion of the GFA of a secondary school from the calculation of non-domestic GFA. If the discrepancy was due to the school, the Notes of the OZP could be amended to expressly state that the GFA for the school should be disregarded; and

[Dr. W.K. Yau and Professor Eddie C.M. Hui left the meeting at this point.]

(o) the Board should reverse the zoning of the representation site to the previous zoning or make appropriate changes to the zoning to address the concerns of MTRCL.

As the presentations from the representers' repesentatives had been completed, the Vice-Chairman invited questions from Members.

[Mr. K.Y. Leung left the meeting temporarily at this point.]

In response to a Member's enquiry on the need for the proposed building gap imposed on the MegaBox site, Mr. Eric Yue said that the building gap at 22mPD was proposed based on the recommendations of the AVA to provide a north-south corridor through the site to enable southerly winds to pass through the site to reach the planned open space to the north of MegaBox. Dr. Conn Yuen supplemented that as the whole

KBBA extended across a width of 450 metres to 700 metres, several breezeways would need to be created within the KBBA to enable the southerly and south-westerly winds to pass through the area and reach the sites to the further north. Although the existing roads and the linear open space within the KBBA had already served the breezeway function, it was still necessary to impose setback requirements to widen the air corridor along some of the breezeways in order to improve air flow. As MegaBox was located at the mouth of one of the breezeways, a north-south corridor to allow winds to pass through the MegaBox site was necessary.

Mr. Ian Brownlee reiterated that there was nothing in the AVA report to justify that the proposed restrictions were essential or necessary. REDA's position was that there was inadequate information in the Expert Evaluation to enable the Board to critically assess whether the proposed restrictions such as those imposed on MegaBox and Kai Tak Mansion were essential. The Expert Evaluation was only a generalized expression of opinion based on generalized information. No explanation or information had been provided to assess the benefits brought about by the proposed restrictions in relation to the impact on private property right. The proposed setback and NBA requirements might be something nice to have, but there were no justifications to prove that they were essential.

In response to the same Member's enquiry on the dispute of fact on the existing non-domestic GFA at representation site R4, Mr. Eric Yue said that the non-domestic GFA of 177,031m^2 stipulated on the OZP was derived from the sum of the non-domestic GFA permitted in the approved Master Plan for NKIL 5744 and the non-domestic GFA permitted under the lease for NKIL 6201. Nevertheless, Chief Building Surveyor/Kowloon of Buildings Department (CBS/K, BD) advised that according to the latest approved building plans for the representation site, the total non-domestic GFA was 168,531m^2. Comparing with the OZP restriction of 177,031m^2, MTRCL could still add 8,500m^2 of non-domestic GFA to the development. PlanD did not have information on how the non-domestic GFA of 177,784m^2 as claimed by MTRCL was derived.

Referring to page 32 of the document tabled by representation R4 concerning the Court of Appeal case of Attorney General v. C.C. Tse (Estate) Ltd, the same Member

noted that the statement quoted by Mr. Ismail in his presentation that "the Ordinance was meant to give guidance only of the "broad brush" kind" was not the opinion of the judge but the submission made by the counsel for one of the parties. In response, Mr. Anthony Ismail confirmed that the statement was from the submission made by the counsel for the appellant but the judge's view in the following sentence implied that the submission of the counsel was accepted by the judge.

The same Member noted that one of the lease conditions required that the development must be in line with the Master Plan. This Member asked Mr. Ismail why he considered that the Master Plan was only descriptive and could not be read as imposing a maximum non-domestic GFA on the site. In response, Mr. Anthony Ismail referred to the approved Master Plan for Telford Gardens NKIL 5744 (page 10 and 11 of the tabled document) and pointed out that the permitted GFA shown was only for domestic GFA and there was no restriction on non-domestic GFA. As for the Master Plan of NKIL 6201 and NKIL 5744 (part) which was for the Telford Gardens Extension (page 15 of the tabled document), the total non-domestic GFA was presented as 105,294.32m^2 < 1,454,257.50m^2, which meant to demonstrate the calculation that the non-domestic GFA was less than the maximum permitted under the Building (Planning) Regulations. In this respect, the non-domestic GFA included in the Master Plan was only descriptive rather than restrictive. Mr. Steve Yiu supplemented that the non-domestic GFA of 105,294.32m^2 was related to NKIL 5744 (part) while the non-domestic GFA for NKIL 6201 was 71,736m^2, which was within the limit permitted under the lease and the maximum GFA under the Building (Planning) Regulations.

Referring to page 17 of the document tabled by R4, Miss Annie K.L. Tam asked if the representer was aware that that the secondary school was only granted under a temporary waiver. In response, Mr. Anthony Ismail said that they were aware that the secondary school with a non-domestic GFA of 8,320.08m^2 was granted under a temporary waiver and he suspected that this might be the cause of the discrepancy between MTRCL's and PlanD's figure on the total non-domestic GFA.

As the representatives of the representers had finished their presentation and Members had no more questions to raise, the Vice-Chairman said that the hearing

procedures had been completed, the Board would deliberate on the representations in their absence and would inform them of the Board's decision in due course. The Vice-Chairman thanked the representatives of the representers and the PlanD representatives for attending the hearing. They all left the meeting at this point.

Deliberation Session

On the representation submitted by R2 concerning the justifications for the BHRs, necessity of the NBAs, building gaps and setbacks, the lack of prior public consultation and the point about 'spot' zoning, the Vice-Chairman noted that most of these issues had already been deliberated in the context of other OZPs where BHRs were imposed. Miss Ophelia Y.S. Wong said that the new points that had been raised by R2 in this representation included whether the BHR for Telford Gardens, which was based on the existing building heights, was too restrictive given its function as a main transport hub in the area, whether the AVA in the form of an Expert Evaluation had provided adequate justifications for imposing the planning restrictions in the area, and whether the public benefit brought about by the proposed NBAs, building gaps and setback requirements could justify the impact on private property rights.

Regarding representation R2's proposal to relax the BHR of Telford Gardens to 120mPD, Miss Ophelia Y.S. Wong had doubts on whether there was any real prospect for redevelopment of the site, even if the proposal was acceded to. Assuming the site would be redeveloped in future was not a realistic assumption to adopt in devising the planned building height profile for the area. She said that the BHR was determined based on the Master Plans for the development, which were vetted by and acceptable to all concerned departments as the optimal development at the site for the future. A Member agreed that there was little prospect for Telford Gardens to be redeveloped and considered the BHRs were reasonable. Miss Wong said that MTRCL did not raise objection to the BHR of Telford Gardens.

The Vice-Chairman appreciated the holistic approach adopted by the AVA in assessing the wind environment not only for a single building or just KBBA, but the entire OZP area. In this respect, there were adequate justifications to support the requirements in the draft OZP. A Member considered that it would be impractical to

require every point of the proposed restrictions to be fully justified. Another Member said that the imposition of planning restrictions for a wider public interest would inevitably create some impact on private property rights. A Member said that should representer R2 disagree with the proposed requirements, they should conduct their own AVA to substantiate their argument.

Turning to representation R3, the Vice-Chairman said that although the representer had asked for a relaxation of the BHR by 20 metres, he did not consider the request justified as the representer did acknowledge that they had no difficulty to redevelop the site at the existing BHR and that the proposed relaxation would only allow a more slender design.

On representation R4, Miss Annie K.L. Tam explained that there was already control on the development of the site under the lease. According to the lease conditions, the site was governed by Master Plans and any change to the Master Plans would require the prior approval of the Director of Lands (D of Lands). D of Lands had the discretion to approve or not to approve a change to the Master Plan and PlanD would be consulted in the process. With the stipulation of the non-domestic GFA on the OZP, the D of Lands would be unable to approve any change in the Master Plans that would exceed the OZP restrictions, even for changes processed under temporary waiver.

Miss Ophelia Y.S. Wong said that the lease control and the plan-making process were two separate matters. The lease was a private contract between the Government and the leasee, while the plan-making process involved a statutory process of public consultation for any amendments made to the OZP. MTRCL's proposal to remove the non-domestic GFA restrictions was not commensurate with their stated need to provide pedestrian facilities and would result in forgoing statutory controls on the provision of commercial facilities at the representation site, especially when there was no restriction on the non-domestic GFA under the lease of the depot. As to the claim of 20,000m^2 GFA for the new pedestrian facilities and changes to the shopping centre, she said that MTRCL did not provide any substantiation on why such a large amount of GFA was required. She agreed that the existing GFA of the development on the site was uncertain at this stage as the figures provided by BD and MTRCL were

different.

A Member asked whether the purpose of incorporating the non-domestic GFA restriction was only to reflect the existing development on the site. In response, Miss Ophelia Y.S. Wong said that when the Master Plan of the development at the representation site was submitted, it was supported by various technical assessments and was considered acceptable by relevant government departments. This reflected that the existing development was an optimal development that met the long term planning intention of the site. In this respect, the non-domestic GFA restriction imposed on the OZP were not merely to reflect the existing development on the site. If the non-domestic GFA restriction was not imposed on the OZP, there would be no statutory planning control on additional commercial development. In addition, the public would not have the chance to make any comments on the increase in GFA on the site under the Town Planning Ordinance. The same Member was concerned that the non-domestic GFA restriction might be too restrictive if it would affect the additional pedestrian facilities which were provided for the interest of the general public.

Another Member considered it appropriate to incorporate the non-domestic GFA restriction on the OZP to reflect that the existing development which had been proved to be optimal when it was approved. If additional pedestrian facilities were needed in future, the MTRCL could always apply to the Board to relax the GFA restrictions and there was no reason why the Board would disapprove the application if it was demonstrated that there were planning merits in doing so. The public would also have the chance to give views on the proposal through the statutory planning procedures. This would avoid the criticism of collusion between the Government and MTRCL. The Vice-Chairman also agreed to impose the non-domestic GFA restriction on the OZP so as to ensure proper planning control on the future development of the site.

[Mr. Benny Y.K. Wong returned to join the meeting at this point.]

A Member enquired whether the Notes of the OZP could exempt the provision of pedestrian facilities from obtaining planning permission from the Board. In response,

Miss Ophelia Y.S. Wong said that while pedestrian facilities were always permitted under the "OU(MTR Depot with Commercial and Residential Development Above)" zoning at the representation site, planning permission would be required if the additional GFA generated by the pedestrian facilities would result in the maximum GFA permitted under the OZP to be exceeded. If Members considered it appropriate, the Notes of the OZP could be amended to specify clearly that the GFA for pedestrian walkway could be exempted.

A Member said that it was not clear whether the pedestrian facilities as claimed by MTRCL would include commercial facilities. This Member considered that the MTRCL should be required to go through the statutory planning procedures if the additional pedestrian facilities exceeded the GFA restrictions on the OZP. There was no reason for the Board to reject such an application if the pedestrian facilities were beneficial to the public. Two other Members shared the same view.

A Member considered that the amount of non-domestic GFA of the existing development would need to be verified as the GFA restriction on the OZP should be a reflection of the existing GFA on the site. Miss Ophelia Y.S. Wong said that to ensure that there would be no loss in existing GFA upon redevelopment, the Notes of the OZP could be amended as "No new development, or addition, alteration and/or modification to or redevelopment of an existing building shall result in a total development and/or redevelopment in excess of a maximum domestic gross floor area of 278,703m^2, a maximum non-domestic gross floor area of 177,031m^2 and the maximum building height, in terms of metres above Principal Datum (mPD), as stipulated on the Plan, or the *gross floor area and* height of the existing building, whichever is the greater". Apart from that, Members might wish to decide if it was necessary to clarify the accuracy of the non-domestic GFA of the existing development. After some discussions, Members agreed that the actual non-domestic GFA figure, after clarifying with BD, should be included as the maximum non-domestic GFA on the OZP.

The Vice-Chairman then concluded the discussion and re-capitulated the various issues raised by the representers. Members agreed that the representations made by R2 on the BHRs, NBAs, building gaps and building setback requirements should not

be upheld as the proposed planning controls incorporated on the OZP were justified. Members also agreed that the representation submitted by R3 should not be upheld as the proposed BHR of 140mPD for the representation site would adversely affect the integrity of the stepped height concept for the area and the integrity of the height band at 120mPD. Members also agreed that the representation of R4 concerning the BH of the retail footbridge, the proposed relaxation of the office tower to 170mPD and the proposal to delete the BHRs on the open area of the depot should not be upheld. Members also agreed to partially uphold representation R4 by adding the clause "or the existing gross floor area, whichever is greater" to the Remarks (1) of the Notes of the OZP for the "OU(MTR Depot with Commercial and Residential Development Above)" zone.

Members then went through the suggested reasons for not upholding the representations as detailed in paragraph 6 and Annex VI of the Paper and considered that they were appropriate.

[Mr. B.W. Chan returned to join the meeting at this point.]

Representation No. R2

After further deliberation, the Board decided not to uphold the representation for the following reasons:

BHRs

(a) the purpose of imposing building height restrictions (BHRs) in the Area was to provide better planning control on the building height 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 building height profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped building height concept, local characteristics, existing building height 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 AVA Study, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development potential;

(b) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development potential permissible under the OZP. Piecemeal relaxation of BHRs for individual sites was not supported as it would jeopardise the coherence of the stepped building height profile and would result in proliferation of excessively high developments, which was not in line with the intended planning control;

(c) the BHRs did not necessarily result in larger building bulk. Whether a building was bulky or massive depended on many factors other than BH alone. Given the tendency to maximise the best view in certain direction and to capitalise on the land value of lower floors, a development with more lenient building height control might be even taller and bulkier;

(d) to cater for site specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of BHRs under the OZP. Each application would be considered by the Board on its individual merits;

NBA, Building Gap and Setback Requirements

(e) sections 3 and 4 of the Ordinance and the scheme of the legislation were intended to give the Board comprehensive powers to control development in any part of Hong Kong. The Board should have the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if there were necessary and sufficient planning justifications;

(f) designation of non-building area (NBA) and building gap requirements on the OZP could serve a positive planning purpose and had positive planning benefits by improving air ventilation, visual permeability and the

pedestrian environment. Given that the designation of NBA was fully justified, it had legal basis to form part of the planning control of the Board;

(g) the relaxation of the NBA and building gap requirement would affect the effectiveness of their planning intention. The wording 'exceptional circumstances' was included in the minor relaxation clause requirement to cater for the situation that only in some exceptional cases under which the requirement could not be met due to site constraints but the planning objectives would be achieved in other forms;

(h) the requirements under the Buildings Ordinance and the OZP on NBAs and building gaps were under two separate regimes. They were complementary, rather than duplicating each other.

Public Consultation

(i) subsequent to the completion of the Study "Urban Design Guidelines for Hong Kong" setting out the broad urban design guidelines in 2003, the BH proposals were firstly translated onto OZP restrictions in KBBA and Kwun Tong Business Area (KTBA) in 2004. As most of the sites within the business areas were subject to the Airport Height Restrictions/ BHRs under leases and a surge of building plan submissions to establish "fait accompli" was unlikely, it was considered that public consultation prior to the gazetting could be conducted to gauge the public views on such translation of BHR onto relevant OZPs. The TPB Guidelines for Interim BH Control in KBBA and KTBA was issued in 2004 for planning control purposes pending on the results of the public consultation on imposing BHRs in KBBA and KTBA; and

(j) the 2-month statutory exhibition period and provision for representations and comments formed part of the current public consultation process. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs.

All information supporting the BHRs, NBA and building gap requirements on the OZP including the AVA Report and visual analysis, were available for public inspection.

Representation No. R3

After further deliberation, the Board decided not to uphold the representation for the following reasons:

(a) the purpose of imposing building height restrictions (BHRs) in the Area was to provide better planning control on the building height 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 building height profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped building height concept, local characteristics, existing building height 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 AVA, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development potential;

(b) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development potential permissible under the OZP. Piecemeal relaxation of BHRs for individual sites was not supported as it would jeopardise the coherence of the stepped building height profile and would result in proliferation of excessively high developments, which was not in line with the intended planning control;

(c) the BHRs did not necessarily result in larger building bulk. Whether a building was bulky or massive depended on many factors other than BH alone. Given the tendency to maximise the best view in certain

direction and to capitalise on the land value of lower floors, a development with more lenient building height control might be even taller and bulkier;

(d) the BHR for the representation site and the adjoining residential developments allowed a stepped building height profile in the Area gradually descending from the Jordan Valley towards Ngau Tau Kok Road, which was considered desirable from urban design point of view and could help optimise the wind performance;

(e) there was a need to strike a balance between public interest and private development right. The stipulation of BHRs on the OZP was to achieve a good urban design. It was an effective measure to regulate the development profile of the built environment. In addition, the BHRs were formulated on the basis of reasonable assumptions that development potential permissible under the OZP could be accommodated; and

(f) to cater for schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits based on the set of criteria set out in the ES of the OZP.

Representation No. R4

After further deliberation, the Board decided to partially uphold the representation by adding a clause to ensure that there would be no loss in existing GFA upon redevelopment in Remarks (1) of the Notes for the "Other Specified Uses" annotated "Mass Transit Railway Depot with Commercial and Residential Development Above". The Board also decided not to uphold the remaining parts of the representation for the following reasons:

(a) the new zonings of "Other Specified Uses" annotated "Mass Transit Railway Depot with Commercial and Residential Development Above" and "Other Specified Uses" annotated "Railway" were to better reflect

the planning intention of the residential/commercial development on top of Kowloon Bay MTR depot and the railway station and facilities, and the optimal development pattern and long term planning intention as set out on the Master Plans under the lease, which were agreed among various departments;

(b) the Kowloon Bay MTR Station and the Telford Plaza were situated in the transitional area between the business node at Kowloon Bay Business Area (KBBA) to its west and the medium to high-rise residential areas to its east across Kwun Tong Road. The current building height restriction (BHR) for the office towers was required to ensure a smooth transition of the building height profile from the high-rise business node within KBBA stepping down gradually to the medium-rise residential development in the northern and eastern fringes;

(c) specific BHRs had already been imposed on the Kowloon Bay MTR Station and the existing buildings which were ancillary to the railway operation. The BHRs on the open depot area were to ensure that only low-rise ancillary structures were allowed in the open depot area. Should there be a need for a relaxation of BHRs of the ancillary structures, there were provisions for application for minor relaxation of the BHR under s.16 or amendments to OZP under s.12A of the Town Planning Ordinance. Each application would be considered by the Board on individual merits; and

(d) the requirements of building gaps were to reflect the findings and recommendations of the AVA Study and to be taken into account upon future redevelopment. It was noted that only a portion of the existing retail footbridge fell within the demarcated building gap running in north-south direction. However, the existing building/structure was not required to conform to the OZP until it was redeveloped. As such, the existing retail footbridge would not be affected and there was no strong reason to reflect this on the OZP. Should there be a need for a relaxation of the building gaps in future redevelopment, there were provisions for

application for minor relaxation of the building gaps under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.

Attachment 4

TOWN PLANNING BOARD

TPB Paper No. 10397

For Consideration by
the Town Planning Board on 9.3.2018

REVIEW OF THE DRAFT NGAU TAU KOK & KOWLOON BAY OUTLINE ZONING PLAN No. S/K13/26

TPB Paper No. 10397
For Consideration by the
Town Planning Board
on 9.3.2018

REVIEW OF THE DRAFT NGAU TAU KOK & KOWLOON BAY OUTLINE ZONING PLAN No. S/K13/26

1. Introduction

1.1 This paper is to brief Members on the review of development restrictions for the draft Ngau Tau Kok & Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/26 (the subject OZP) (**Annex A1** and **Plans 1 and 2**) following the Court of First Instance (CFI)'s judgment on the judicial review (JR) lodged by the Real Estate Developers Association of Hong Kong (REDA) against the Town Planning Board (TPB / the Board)'s decision not to uphold REDA's representations in respect of the subject OZP and three other OZPs[1].

2. Background

2.1 On 19.11.2010, the subject OZP incorporating amendments mainly to impose building height restrictions (BHRs) on various development zones outside the Kowloon Bay Business Area (KBBA)[2], and designation of non-building areas (NBAs) and building gaps (BGs) on various development zones was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance).

2.2 REDA submitted a representation (**R2**[3]**)** opposing the BHRs for all residential and Government, institution or community ("G/IC") zones outside KBBA and NBAs and BG requirements in various zones. On 27.5.2011, the Board considered R2 together with two other representations (all with no related comments) under Group 1 and decided not to uphold **R2**. The OZP has been amended three times under section 7 of the Ordinance subsequent to gazettal of the subject OZP.

2.3 On 25.7.2011, REDA lodged a JR against the decisions of the Board not to propose amendments to the subject OZP and three other OZPs in accordance with its representations. The Court granted interim stay of submission of the four OZPs to the Chief Executive in Council until determination of the JR.

2.4 On 3.2.2015, the CFI handed down the judgment allowing the JR by REDA. The CFI ordered that the Board's decisions on REDA's representations in respect of the four OZPs be quashed and remitted the decisions to the Board for

[1] REDA submitted similar representations in respect of the Wan Chai, Mong Kok and Yau Ma Tei OZPs, and lodged JR against the Board's decisions of not upholding its representations in respect of the four OZPs.
[2] BHRs were imposed on sites within KBBA in 2005.
[3] The representations in respect of the subject OZP was considered under three groups. Under Group 1, apart from **R2**, the two other representations were submitted by Folabs Limited and Monafat Limited in respect of a site at 7 Ngau Tau Kok Road (R3) and MTR Corporation Limited in respect of the Telford Gardens and Telford Plaza site (R4).

re-consideration. In particular, with reference to the Court of Appeal (CA)'s ruling on appeals arising from the JRs lodged by the Hysan Group Companies, the CFI ruled that the Board should take into account the potential combined effect of sustainable building design guidelines (SBDG) and the restrictions under the four draft OZPs on the development potential of the sites[4].

2.5 The Board and REDA have lodged appeal and cross-appeal respectively against CFI's judgment. The parties are attending to the formalities for the disposal of the appeals by consent.

2.6 Pursuant to the Court's order, the representation submitted by **R2** will need to be re-examined before it is remitted to the Board for reconsideration. Hence, a review on the potential combined effect of the SBDG and the restrictions stipulated under relevant zonings in the subject OZP was undertaken (the Review)[5].

3. Implications of SBDG on Building Height (BH) Profile

3.1 SBDG establishes three key building design elements i.e. building separation, building setback and site coverage of greenery, with the objectives to achieve a better built environment. The relevant Buildings Department Practice Notes are in **Annexes B1 and B2** and a summary of the implications of SBDG are set out in **Annex C1**.

3.2 The typical BH profile of commercial and private composite commercial/residential developments and the implications of SBDG were assessed. With the assumptions set out in **Annex C2**[6], a typical commercial building within "Other Specified Uses" annotated "Business" ("OU(B)") and "Commercial" ("C") zones with plot ratio (PR) restriction of 12 will have a BH ranging from 91m to 99m for incorporating building setback requirement and from 95m to 103m for both building setback and building separation requirements, where applicable, depending on site classification under Buildings Ordinance. A private composite building within "R(A)" zone (with the lowest 2 to 3 floors for non-residential use and upper portion for residential use) with total and domestic PR restriction of 9 and 7.5 respectively will have a BH ranging from 81m to 89m for incorporating building setback requirements and from 84m to 92m for both building setback and building separation requirements, where applicable. The Home Ownership Scheme (HOS) site (Shun Chi Court) zoned "R(B)" with gross floor area (GFA) restriction equivalent to PR of about 3 requires a BH of 40m for implementing building setback and building separation requirements (**Annex C2**).

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[4] REDA's JR was also allowed on grounds related to procedural unfairness, taking minor relaxation into account in rejecting the representations, and breach of *Tameside* duty in respect of the air ventilation and building height profile issues.

[5] To follow up on the Court's order, Planning Department is also reviewing the development restrictions under the Wan Chai, Mong Kok and Yau Ma Tei OZPs and the findings of the review and proposed amendments (if any) will be submitted for the Board's consideration in due course.

[6] Including types of building (domestic, non-domestic or composite building), site classification and corresponding permissible PR and site coverage under Building (Planning) Regulations (B(P)R), GFA concessions, podium height and floor-to-floor height.

4. Review of Development Restrictions

Scope of Review

4.1 In the subject OZP, BHRs were stipulated in the "R(A)", "R(B)", "OU" and "G/IC" zones outside the KBBA. In addition, NBAs and BGs were stipulated in various zones both within and outside the KBBA. To follow up on the Court's ruling, a review of these BHRs, and NBA and BG requirements imposed in 2010 has been conducted to take into account the implications of SBDG on the development intensities permissible under the various zones in the subject OZP. The scope of the Review covering the BHRs in areas outside KBBA and the NBAs and BGs are shown on **Plans 3B** and **3C**.

4.2 The BHRs in KBBA exhibited in 2005 under OZP No. S/K13/22 (**Plan 3A**) and amendments made subsequent to the subject OZP, i.e. No. S/K13/27 to 29 were excluded from the scope of Review as they are not a subject of REDA's representation. The amendments made under OZP No. S/K13/27 were mainly technical amendments to reflect the as-built conditions/lot boundaries and SBDG implications are not relevant. Amendments made under OZP Nos. S/K13/28 and S/K13/29 had taken into account the general implications of SBDG.

Findings of the Review

4.3 The Review concluded that the current BHRs as well as requirements for NBA, and BGs on respective zones should generally be able to accommodate the PR/ GFA permitted under the OZP after taking into account the SBDG requirements. In the light of the above, no amendment to the BHRs is recommended after considering the implications of SBDG. The details of the Review are in **Annex C3** and the key findings are summarised below.

BHRs

4.4 The existing BHRs should be able to accommodate PR/GFA permissible under the subject OZP with reference to SBDG requirements for the following sites:

(a) the "R(A)" zones for private residential and HOS developments (BHRs of 100mPD or 120mPD) at Richland Gardens, Kai Tai Court, Tak Bo Garden, Amoy Gardens, Amoycan Industrial Centre, Jade Field Garden, Wang Kwong Building and Lee Kee Building and the "R(B)" zone at Shun Chi Court;

(b) the "OU" annotated "Commercial/Residential Development with Public Car Park and Public Transport Interchange" zone at 8 Clear Water Bay Road (with BHR of 180mPD);

(c) the "OU" annotated "Mass Transit Railway Depot with Commercial and Residential Development above" zone at Telford Gardens and Telford Plaza. The BHRs of 60mPD and 100mPD covering the Telford Gardens portion are generally 10m higher than the existing BHs and the BHR of 100mPD at Telford Plaza reflects the existing BH; and

(d) the "G/IC(3)" zone at Cheerful Court (Hong Kong Housing Society's Senior Citizen Residences development) with BHR of 100mPD. Based on the site configuration and width of the abutting road, SBDG requirements are not applicable to this site.

4.5 The existing BHRs of the following sites have been reviewed and the findings are summarised below:

(a) the BHRs for the public housing sites stipulated under the subject OZP generally reflected existing/committed BHs of majority of the public housing estates. Housing Department (HD) has no programme to redevelop the housing estates at this juncture and has no comment on retaining the existing BHRs for the public housing sites that are all zoned "R(A)". There is an established mechanism for considering redevelopment of public housing sites in which each site will be reviewed case-by-case for the optimal development intensities taking into account factors such as design considerations, site circumstances and requirements for government facilities when there are redevelopment plans in future;

(b) for the "G/IC" zone at the Shun Lee Disciplined Services Quarters, the BHR is 180mPD and there is no GFA/PR restriction stipulated under the OZP. The existing BH of 247mPD to 251mPD for the development is excessive in the local context. That development was at a PR of 7.78 and was built prior to stipulation of BHRs in the OZP. Upon redevelopment, there is a need to review the most suitable use for this "G/IC" site and the optimal development intensities, and residential uses will also require planning permission from the Board. The BHR of 180mPD that was imposed based on the intended BH profile for the Shun Lee area should not be amended at this stage; and

(c) the other "G/IC" and "OU" sites[7] that are not for residential/commercial uses have special functional and design requirements with great variation in floor-to-floor height or open air design to suit operational need; and provide spatial and visual relief amidst the densely built environment; and/or the BHRs mainly reflect their existing BHs and may be reviewed on a case-by-case basis when there are known committed redevelopment proposal with policy support.

4.6 The photomontages showing the BH profile taking into account the latest developments in the area and the BHRs in the extant OZP have been prepared (**Plans 4A to 4D**).

NBAs and BGs

4.7 NBAs and BGs were stipulated on the subject OZP taking into account recommendations in the Air Ventilation Assessment (AVA) in **Annex D** to improve permeability and allow penetration of sea breeze towards Kowloon Bay,

[7] These other "OU" sites are annotated for "Refuse Transfer Station", "Petrol Filling Station", "Landscape Elevated Walkway", "Open Lorry Park" and "Railway". The "G/IC" sites are mainly for schools, police stations, fire stations, reservoir, sports centre, swimming pool etc.

and enhance the effectiveness of major breezeways and the overall wind environment in KBBA. In general, the NBAs and BGs are stipulated following the alignment of major roads in the area and serve to extend/widen these breezeways. These NBAs and BGs are stipulated to provide design guidance upon redevelopment of the sites and existing developments would not be affected.

Within KBBA

4.8 Within KBBA, the following NBAs and BGs are stipulated in the subject OZP:

(a) 3m-wide NBA are stipulated along both sides of Wang Chiu Road and Wang Kwong Road within, inter alias, "OU(B)", "OU(B)2" and "G/IC(1)" zones. This serve to widen and enhance the effectiveness of the breezeways along these two north-south running major roads;

(b) a 5m-wide NBA is stipulated along Wang Mau Road in the "OU(B)" zone occupied by Housing Authority's Yip On Factory Building to enhance the breezeway along the row of linear open space from Kai Cheung Road in the north;

(c) a 15m-wide NBA is stipulated within the "G/IC(1)" zone that is designated for the Hong Kong Post Central Mail Centre, to extend the breezeway along Lam Wah Street. The design of the mail centre development has already taken into account the NBA;

(d) 15m/16m-wide BGs at 22mPD are stipulated on two sites zoned "OU(B)", one site zoned "OU" annotated "Commercial Uses with Public Transport Interchange" and one site zoned "C", which serve to extend the breezeway at Sheung Yee Road northwards to Lam Hing Street; and

(e) the Mega Box development that is zoned "OU(B)2" was considered to be sizable with slab-type tower that is unfavourable for wind penetration. A 15m-wide BG at 22mPD was stipulated on the "OU(B)2" zone to introduce a wind corridor for incoming sea breeze upon its redevelopment to connect through the "Open Space" zone to Wang Kwun Street in the north.

4.9 Whilst the BHRs in KBBA are not subject to review, the permissible PR/GFA under the respective zonings are attainable after taking into account the BHRs, NBAs/BGs as well as SBDG requirements (**Annex C3**). Since these NBAs and BGs are stipulated based on the recommendations of the AVA to enhance the penetration of sea breeze to the inland and the wind environment in the planning area and there is no change in planning circumstances since then, they are recommended to be retained.

Outside KBBA[8]

4.10 Within the "OU" annotated "Mass Transit Railway Depot with Commercial and Residential Development Above" zone covering Telford Gardens and Telford Plaza, three BGs with BHR of 22mPD (i.e. height of the existing MTR depot) are stipulated. Two are 22m-wide running in an east-west direction that generally extends the breezeways along Lam Wah Street/Wang Tai Road and Sheung Yuet Road to facilitate air flow to Kwun Tong Road in the east. Another one is 15m-wide running in north-south direction that generally extends the breezeway from Kai Cheung Road to Tai Yip Street. Whilst the permissible GFA could still be attainable with the imposition of BHRs and BGs under the OZP, for redevelopment of this site, it may be difficult to meet the prescriptive SBDG requirements due to the long site frontage and special functional requirements for accommodating the MTR depot and PTI. A performance-based design alternative approach with support of an AVA will likely be required. The design and scale of the topside development together with the special facilities including the MTR depot and PTI may also need to be reviewed. In the absence of a specific redevelopment scheme, it is recommended to retain the BGs which have been stipulated as a result of the AVA conducted in 2010 as guidance for future development.

4.11 Two slope areas within the "R(A)" zone of Ping Shek Estate and the "R(B)" zone of Shun Chi Court are demarcated as NBAs in order to preserve the vegetated slope and serve as air ventilation pockets. Stipulation of these NBAs will not affect the permissible GFA under the OZP as the NBA at Ping Shek Estate has been excluded from net site area for PR calculations, and the maximum GFA stipulated for the "R(B)" zone reflects the existing as-built GFA on the site.

Conclusion

4.12 Based on the above findings, it is concluded that the BHRs, NBA and BG requirements stipulated under the subject OZP should be able to accommodate the permissible PR/GFA under the OZP with reference to the SBDG requirements. The NBA and BG requirements stipulated on the basis of the recommendations of the AVA conducted in 2010 are still valid given no change in the planning circumstances. Hence, there is no need to amend the extant OZP No. S/K13/29. Nevertheless, the land uses in the Kowloon Bay area are being reviewed in the context of initiatives of the Energizing Kowloon East Office for transformation of Kowloon East into CBD2 including land use restructuring for Kowloon Bay Action Area. In future amendments to the OZP, opportunity could be taken to review the appropriate land uses, development parameters as well as air ventilation measures for the area with reference to latest planning circumstances and requirements.

[8] The NBA and BG at the former Kai Tak Mansion site at Kwun Tong Road were quashed by Court arising from another JR, and upon review, no NBA and BG restrictions are imposed for the site under OZP No. S/K13/29.

5. Departmental Consultation

5.1 The general findings of the Review and the proposal of not amending the OZP after taking account of the SBDG have been circulated to relevant government bureau and departments for comment.

5.2 All government bureau/departments consulted had no objection to the findings of the Review that there is no need to amend the OZP:

(a) Planning Unit and Lands Unit, Development Bureau;
(b) Chief Town Planner/Urban Design and Landscape, PlanD;
(c) District Lands Officer/Kowloon East, Lands Department;
(d) Chief Building Surveyor/Kowloon, Buildings Department;
(e) Chief Highway Engineer/Kowloon, Highways Department (HyD);
(f) Chief Engineer/Railway Development 2-2, Railway Development Office, HyD;
(g) Director of Environmental Protection;
(h) Director of Housing;
(i) Commissioner for Transport;
(j) Chief Engineer/Mainland South, Drainage Services Department;
(k) Chief Engineer/Construction, Water Supplies Department;
(l) Project Manager (Kowloon), Civil Engineering and Development Department;
(m) Director of Fire Services;
(n) Chief Architect/Central Management Division 2, Architectural Services Department;
(o) Director of Electrical and Mechanical Services;
(p) Director of Leisure and Cultural Services;
(q) Antiquities and Monuments Office, Leisure and Cultural Services Department; and
(r) District Officer (Kwun Tong), Home Affairs Department.

6. Decision Sought

Members are invited to:

(a) note the findings of the Review that the BHRs, NBA and BG requirements stipulated under the subject OZP should be able to accommodate permissible PR/GFA under the OZP with reference to the SBDG requirements; that the NBA and BG requirements are appropriate and should be retained; and PlanD's recommendation that there is no need to amend the extant OZP No. S/K13/29 after considering the implications of SBDG;

(b) on the basis of (a) above, agree to invite **R2** to a meeting convened under section 6B of the Ordinance for reconsideration of its representation (R2) in respect of the subject OZP; and

(c) subject to the Board's agreement on (b) above, agree to allow a period of three weeks for R2 to submit supplementary information to the Board, if any, prior to the reconsideration of R2.

7. Attachments

Annex A1	Draft Ngau Tau Kok & Kowloon Bay OZP No. S/K13/26
Annex A2	Draft Ngau Tau Kok & Kowloon Bay OZP No. S/K13/29 (reduced to A3 size)
Annex B1	APP-151 "Building Design to Foster a Quality and Sustainable Built Environment"
Annex B2	APP-152 "Sustainable Building Design Guidelines"
Annexes C1, C1a & C1b	Implications of SBDG
Annex C2	Basic Assumptions adopted in the Review
Annex C3	Review of Development Restrictions on Ngau Tau Kok & Kowloon Bay OZP
Annex D	AVA report by Expert Evaluation for Proposed Amendments to Ngau Tau Kok & Kowloon Bay OZP (November 2010)
Plan 1	Aerial Photo of Ngau Tau Kok & Kowloon Bay
Plan 2	Location Plan of Sub-areas in Ngau Tau Kok and Kowloon Bay Area
Plan 3A	BHRs Stipulated in 2005
Plan 3B	BHRs Stipulated in 2010
Plan 3C	NBA and BG Stipulated in 2010
Plan 3D	Development Restrictions stipulated in extant OZP in 2017
Plans 4A to 4D	Photomontages of BH Profile
Plans 5A to 5C	Site Photos

PLANNING DEPARTMENT
MARCH 2018

新蒲崗
SAN PO KONG
牛池灣
NGAU CHI WAN
啓德
KAI TAK
九龍灣
KOWLOON BAY
佐敦谷
JORDAN VALLEY
牛頭角
NGAU TAU KOK
秀茂坪
SAU MAU PING
觀塘
KWUN TONG
茶寮坳
CHA LIU AU
NEW CLEAR WATER BAY ROAD
CLEAR WATER BAY ROAD
PRINCE EDWARD ROAD EAST
CHOI HUNG STATION
KAI TAK ROAD
KAI LOK STREET
KAI CHEUNG ROAD
KAI TAK ROAD
CHEUNG YUET ROAD
EAST TOWN STREET
SHEUNG YUET ROAD
TOWN STREET
NGAU TAU KOK ROAD
UNION WAN ROAD
WAN TAU STREET
CHUK YUEN ROAD
WAN HANG ROAD
WAN TAU STREET
KWUN TONG BY-PASS
A
B1
B2
B3
B4
B5
C1
C2
C3
C4
D1
D2
D3
D4
D5
D6
E1
E2
E3
E4
E5
F1
F2
F3
G1
G2
九龍灣公園
Kowloon Bay Park
九龍灣運動場
Kowloon Bay Sports Ground
九龍灣遊樂場
Kowloon Bay Playground
啓德運動場
Kai Tak Sports Park
啓德公園
Kai Tak Park
啓德(1)公園
Kai Tak (1) Park
啓德(2)公園
Kai Tak (2) Park
啓德(3)公園
Kai Tak (3) Park
啓德(4)公園
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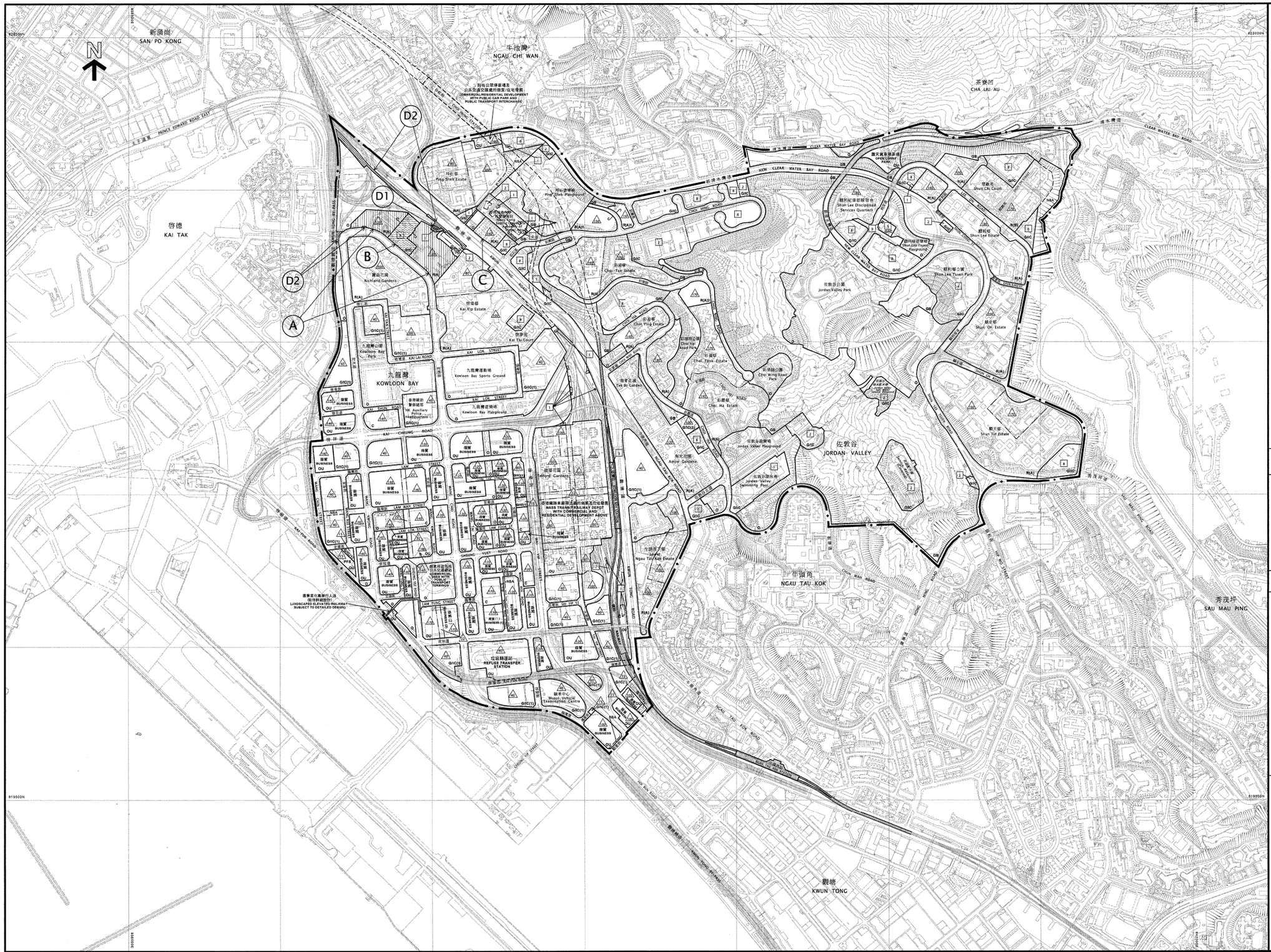
Kai Tak (8) Park


新蒲崗
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KAI TAK
茶寮坳
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佐敦谷
JORDAN VALLEY
牛頭角
NGAU TAU KOK
秀茂坪
SAU MAU PING
觀塘
KWUN TONG
九龍灣
KOWLOON BAY
D1
D2
A
B
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CLEAR WATER BAY ROAD
NEW CLEAR WATER BAY ROAD
PRINCE EDWARD ROAD EAST
CHOI HUNG ROAD
KAI TAK ROAD
KAI CHEUNG ROAD
KWUN TONG BYPASS
NGAU TAU KOK ROAD
SAU MAU PING ROAD
MAU HING ROAD
LAM TIN STREET
SHUN LEE STREET
SHUN LEE TUNNEL PLAYGROUND
SHUN LEE TUNNEL PARK
SHUN LEE ESTATE
SHUN CHI COURT
SHUN ON ESTATE
SHUN TAK ESTATE
CHOI TAK ESTATE
CHOI YING ESTATE
CHOI HUNG ROAD PARK
CHOI FUNG ESTATE
CHOI WING ROAD PARK
CHOI HA ESTATE
KAI KIP ESTATE
KAI YU COURT
KOWLOON BAY PARK
KOWLOON BAY SPORTS GROUND
KOWLOON BAY PLAYGROUND
KAI LOK STREET
KAI LAI ROAD
KAI SHUN ROAD
KAI YUEN STREET
KAI TUNG ROAD
KAI TAK ROAD
LAM WAN STREET
LAM TUNG STREET
LAM TIN STREET
CHEUNG YUET ROAD
CHEUNG LEE STREET
CHEUNG WANG STREET
CHEUNG SHUN STREET
CHEUNG TAK STREET
CHEUNG WAN ROAD
CHEUNG YIP STREET
HOI LAI STREET
HOI KWONG STREET
HOI YUEN ROAD
HOI WAN STREET
HOI TUNG ROAD
HOI TAK ROAD
HOI TAI ROAD
HOI TAI STREET
HOI TAI COURT
HOI TAI GARDENS
HOI TAI ESTATE
HOI TAI PLAYGROUND
HOI TAI PARK
HOI TAI PARK PLAYGROUND
HOI TAI PARK SPORTS GROUND
HOI TAI PARK SWIMMING POOL

Buildings Department	Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers	APP-151

Building Design to Foster a Quality and Sustainable Built Environment

There has been rising public concern over the quality and sustainability of the built environment, including issues regarding building bulk and height, air ventilation, greening and energy efficiency in buildings. In 2009, the Council for Sustainable Development launched a public engagement process entitled "Building Design to Foster a Quality and Sustainable Built Environment" in collaboration with the Government. The exercise has pointed to a need for putting in place a package of new measures to foster a quality and sustainable built environment. This practice note sets out a package of measures, covering the following major elements, to promote a quality and sustainable built environment:

(a) sustainable building design guidelines (SBD Guidelines) on building separation, building set back and site coverage of greenery,

(b) gross floor area (GFA) concessions, and

(c) energy efficiency of buildings.

Sustainable Building Design Guidelines

2. The Buildings Department (BD) has commissioned a consultancy study on "Building Design that Supports Sustainable Urban Living Space in Hong Kong". Based on the study, a set of SBD Guidelines has been developed to promote building separation, building set back and site coverage of greenery as promulgated in the Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers (PNAP) APP-152.

3. To enhance the quality and sustainability of the built environment, the Building Authority (BA) will take account of the compliance with the SBD Guidelines as promulgated in the PNAP APP-152, where applicable, as a pre-requisite in exempting or disregarding green / amenity features and non-mandatory / non-essential plant rooms and services from GFA and/or site coverage calculations (GFA concessions) in new building developments. Such green / amenity features and non-mandatory / non-essential plant rooms and services and the relevant practice notes promulgating the criteria and requirements for granting GFA concessions are summarised in Appendix A.

/Overall .....

Overall Cap on GFA Concessions

4. To contain the effect on the building bulk while allowing flexibility in the design for incorporating desirable green / amenity features and non-mandatory / non-essential plant rooms and services, an overall cap will be imposed on the total amount of GFA concessions for these features, except those features described in paragraph 5 below. This cap is set at 10 % of the total GFA of the development. If a development comprises both domestic and non-domestic buildings or in the case of a composite building, GFA concessions for features serving the domestic part or the non-domestic part of the development will be calculated separately such that GFA concessions for each part will be capped at 10%, based on the total GFA of the respective part of the development. Features that are subject to this overall cap of GFA concessions are listed in the table at Appendix A.

5. GFA concessions for the following features, which may have to satisfy their own individual acceptance criteria, will not be subject to the overall cap:

(a) Mandatory features and essential plant rooms such as refuse storage chamber, telecommunications and broadcasting rooms;

(b) Communal podium gardens and sky gardens that improve permeability of a development to its neighbourhood;

(c) Floor space used solely for parking motor vehicles and loading and unloading of motor vehicles which is separately controlled given its significant impact on building bulk and height and the relevant transport, planning and environmental policies;

(d) Voids in front of cinemas or in shopping arcades, etc. with operational needs in non-domestic developments;

(e) Bonus GFA and / or GFA exemptions relating to dedication for public passage or surrender for road widening and building set back in accordance with the SBD Guidelines; and

(f) Hotel concessions granted under regulation 23A of the Building (Planning) Regulations.

Pre-requisites for Granting GFA Concessions

6. To promote sustainable building designs and energy efficient features in new developments, compliance with the following requirements will be pre-requisites for the granting of GFA concessions for all green / amenity features and non-mandatory / non-essential plant rooms and services provided in a proposed development as described in Appendix A:

/(a) .....

(a) Compliance with the SBD Guidelines on building separation, building set back and site coverage of greenery in PNAP APP-152, where applicable;

(b) For domestic or composite development, compliance with the requirements of PNAP APP-156 on Design and Construction Requirements for Energy Efficiency of Residential Buildings, where applicable;

(c) Submission of the official letter issued by the Hong Kong Green Building Council (HKGBC) acknowledging the satisfactory completion of project registration application for BEAM Plus certification;

(d) Submission of a letter by the developer or owner undertaking to submit to the BD the following documents:

(i) Result of the Provisional Assessment under the BEAM Plus certification conferred / issued by the HKGBC to be submitted prior to the application for consent to commence the building works shown on the approved plans (consent);

(ii) Information on the estimated energy performance / consumption for the common parts (for domestic developments) or for the entire building (for non-domestic developments including hotels) to be submitted in the standard form (Appendix B) prior to the consent application;

(iii) Information specified in item (ii) above to be updated and submitted at the time of submitting application for occupation permit (OP);

(iv) Result of the Final Assessment under the BEAM Plus certification conferred / issued by the HKGBC, within 18 months of the date of issuance of the OP by the BA;

(v) Provisional energy efficiency report prior to the consent application in accordance with PNAP APP-156, where applicable; and

(vi) Final energy efficiency report upon application for an OP in accordance with PNAP APP-156, where applicable ;

(e) Compliance with the overall cap on GFA concessions as described in paragraph 4 above, where applicable; and

/ (f) .....

(f) Compliance with the relevant acceptance criteria for the individual green and amenity features.

Conditions for Granting GFA Concessions

7. In addition to the acceptance criteria and conditions that may be imposed for granting GFA concessions as detailed in the relevant practice notes for the green / amenity features and non-mandatory / non-essential plant rooms and services described in paragraph 6 above, the following conditions may be imposed:

(a) The modification is given in recognition of the undertaking submitted by the developer or owner as described in paragraph 6(d) above;

(b) Information described in paragraph 6(d)(i), (ii) and (v) above shall be submitted to the BD prior to the consent application;

(c) Information described in paragraph 6(d)(iii) and (vi) above shall be submitted to the BD at the time of submitting application for OP;

(d) Information described in paragraph 6(d)(iv) above shall be submitted to the BD within 18 months of the date of the OP; and

(e) The modification will be revoked if the consent application is submitted prior to the submission of information specified in item (b) above.

8. Authorized persons should consult a registered professional engineer under the Engineers Registration Ordinance of the relevant discipline in assessing the energy efficiency of the building and in completing the standard form at Appendix B;

Disclosure for Public Information

9. To increase the transparency of information to the public, the following information will be uploaded onto the BD website after the issuance of the occupation permit:

(a) The estimated energy performance / consumption information as described in paragraph 6(d)(iii) above;

(b) The results of the Provisional Assessment under the BEAM Plus certification as described in paragraph 6(d)(i) above, which will be replaced by the results of the Final Assessment described in paragraph 6(d)(iv) above, upon receipt; and

/(c) .....

(c) The finalised RTTV and OTTV for RRF as recorded in the final energy efficiency report.

(HUI Siu-wai)
Building Authority

Ref. : BD GP/BREG/P/49

First issue	January 2011	
This revision	September 2014 (AD/NB1)	(paras. 6, 7 and 9, Item 27 in Appendix A and Appendix B amended and previous paras. 10 and 11 deleted)

Appendix A
(PNAP APP- 151)

List of GFA Concessions

		Practice Notes	Features subject to compliance with the pre-requisites in para. 6 & 7 of PNAP APP-151	Features Subject to the Overall Cap of 10% in para.4 of PNAP APP-151
Disregarded GFA under Regulation 23(3)(b) of the Building (Planning) Regulations (B(P)R)				
1.	Carpark and loading/unloading area excluding public transport terminus	PNAP APP-2 and APP-111		
2.	**Plant rooms and similar services**			
2.1	Mandatory feature or essential plant room, area of which is limited by respective PNAP or regulation, such as lift machine room,TBE room, refuse storage chamber, etc. [1]	PNAP APP-35 & APP-84		
2.2	Mandatory feature or essential plant room, areas of which is NOT limited by any PNAP or regulation, such as room occupied solely by FSI and equipment, meter room, transformer room, potable and flushing water tank, etc. [2]	PNAP APP-2 and APP-42		
2.3	Non-mandatory or non-essential plant room, such as A/C plant room, AHU room, etc. [3]	PNAP APP-2 and APP-42	✓	✓
Disregarded GFA under Regulation 23A(3) of the B(P)R				
3.	Area for picking up and setting down persons departing from or arriving at the hotel by vehicle	PNAP APP-40		
4.	Supporting facilities for a hotel	PNAP APP-40		
Green Features under Joint Practice Notes (JPNs)				
5.	Balcony for residential buildings	JPN1	✓	✓
6.	Wider common corridor and lift lobby	JPN1	✓	✓
7.	Communal sky garden	JPN1 & 2 PNAP APP-122	✓	
8.	Communal podium garden for non-residential buildings	JPN1	✓	
9.	Acoustic fin	JPN1	✓	
10.	Wing wall, wind catcher and funnel	JPN1	✓	
11.	Non-structural prefabricated external wall	JPN2	✓	✓
12.	Utility platform	JPN2	✓	✓
13.	Noise barrier	JPN2	✓	
Amenity Features				
14.	Counter, office, store, guard room and lavatory for watchman and management staff, Owners' Corporation Office	PNAP APP-42	✓	✓
15.	Residential recreational facilities including void, plant room, swimming pool filtration plant room, covered walkway etc serving solely the recreational facilities	PNAP APP-2, APP-42 and APP-104	✓	✓
16.	Covered landscaped and play area	PNAP APP-42	✓	

17.	Horizontal screen/covered walkway, trellis	PNAP APP-42	✓	✓[9]
18.	Larger lift shaft	PNAP APP-89	✓	✓
19.	Chimney shaft	PNAP APP-2	✓	✓
20.	Other non-mandatory or non-essential plant room, such as boiler room, SMATV room [4]	PNAP APP-2	✓	✓
21.	Pipe duct, air duct for mandatory feature or essential plant room[5]	PNAP APP-2 & APP-93		
22.	Pipe duct, air duct for non-mandatory or non-essential plant room[6]	PNAP APP-2	✓	✓
23.	Plant room, pipe duct, air duct for environmentally friendly system and feature[7]	PNAP APP-2	✓	
24.	High headroom and void in front of cinema, shopping arcade etc. in non-domestic development[8]	PNAP APP-2	✓	
25.	Void over main common entrance (prestige entrance) in non-domestic development	PNAP APP-2 & APP-42	✓	✓
26.	Void in duplex domestic flat and house	PNAP APP-2	✓	✓
27.	Sunshade and reflector	PNAP APP-19, APP-67 & APP-156		
28.	Minor projection such as AC box, window cill, projecting window	PNAP APP-19 & APP-42		
29.	Other projection such as air-conditioning box and platform with a projection of more than 750mm from the external wall	PNAP APP-19	✓	✓
Other Items				
30.	Refuge floor including refuge floor cum sky garden	PNAP APP-2 & APP-122		
31.	Covered area under large projecting/overhanging feature	PNAP APP-19		
32.	Public transport terminus (PTT)	PNAP APP-2		
33.	Party structure and common staircase	PNAP ADM-2		
34.	Horizontal area of staircase, lift shaft and vertical duct solely serving floor accepted as not being accountable for GFA	PNAP APP-2		
35.	Public passage	PNAP APP-108		
36.	Covered set back area	PNAP APP-152		
Bonus GFA				
37.	Bonus GFA	PNAP APP-108		

Notes:

1 Mandatory feature or essential plant room, area of which is limited by respective PNAP or regulation, include duct for basement smoke extraction system, lift machine room, telecommunications and broadcasting room, refuse storage chamber, refuse storage and material recovery chamber, material recovery chamber, refuse storage and material recovery room, or similar feature / plant room, and pipe and air ducts which are part of the distribution network for such mandatory feature or essential plant and contained within such room.

2 Mandatory feature or essential plant room, area of which is NOT limited by any PNAP or regulation*, include electrical switch room, meter room, transformer room, generator room, potable and flushing water tank and pump room, sewage treatment plant room, refuse chute, refuse hopper room, room occupied solely by fire service installations and equipment such as fire service / sprinkler water tank and pump room, fire control centre, CO2 room, fan for smoke extraction system / staircase pressurization system, hose reel closet, sump pump room/ pump room for rainwater, soil and waste disposal, or similar feature / plant room and pipe and air ducts which are part of the distribution network for such mandatory feature or essential plant and contained within such room.

3 Non-mandatory feature or non-essential plant room, area of which may be disregarded under regulation 23(3)(b) of the B(P)R, include plant room occupied solely by machinery or equipment for air-conditioning or heating system such as AC plant room, air handling unit room, or similar plant room, and pipe and air ducts which are part of the distribution network for such feature or plant and contained within such room.

4 Other non-mandatory feature or non-essential plant room, area of which may be exempted under regulation 23(3)(a) of the B(P)R, include hot water boiler room, filtration plant room for swimming pool in a hotel or for a water feature in a communal garden/landscape area, SMATV room, or similar plant room, and pipe and air ducts which are part of the distribution network for such feature or plant and contained within such room.

5 Pipe duct, air duct for mandatory feature or essential plant room, include pipe duct for rainwater, soil and waste disposal and individual pipe and air ducts which are part of the distribution network for such mandatory feature or essential plant as described in notes 1 and 2 above, and located outside such plant room.

6 Pipe duct, air duct for non-mandatory feature or non-essential plant room, include individual pipe and air ducts which are part of the distribution network for such non-mandatory feature or non-essential plant as described in notes 3 and 4 above and located outside such plant room.

7 Plant room for environmentally friendly system and feature, area of which may be exempted under regulation23(3)(a) of the B(P)R, include plant room for rainwater harvesting / grey water recycling system, battery room for solar panels, or similar system / feature, and pipe and air ducts which are part of the distribution network for such system and feature.

8 High headroom and void in front of cinema, shopping arcade etc. in non-domestic development include void in front of cinema, theatre balcony, banking hall, shopping arcade, cockloft floor for storage within the ground storey in single-staircase building, auditorium, sporting hall, school hall and religious institution that have operational justifications.

9 Horizontal screen / covered walkway / trellis may be excluded from the overall cap on GFA concessions subject to provision of greenery to BA's satisfaction as stipulated under PNAP APP-42.

* Although the feature or plant room, area of which is not limited by any PNAP or regulation, only the minimum amount of GFA necessary for accommodating and maintaining the services and commensurate with the the development would be allowed to be disregarded as stated in PNAP APP-2.

(9/2014)

Appendix B
附錄B
(PNAP APP- 151)
(《認可人士、註冊結構工程師及註冊岩土工程師作業備考-151》)

Declaration on Annual Energy Use of a Building Development
樓宇發展項目每年能源消耗量聲明

Part I: Building Particulars
第一部分: 樓宇詳情

(a) Building name 樓宇名稱 (if known 如知悉): (English) _____ (中文) _____

(b) Address of site 地盤地址: (English) _____

(中文) _____

(c) Lot number 地段編號: _____

(d) Type of building 樓宇類型:
* Domestic Building 住宅樓宇 / Non –domestic Building 非住宅樓宇/Composite Building 綜合用途樓宇

(e) Provision of Central Air Conditioning 提供中央空調 *YES 是 / NO 否

(f) Provision of Energy Efficient Features 提供具能源效益的設施 *YES 是 / NO 否

(g) Please list the * proposed / installed Energy Efficient Features (add separate sheet if necessary)
請列出 * 擬安裝 / 已安裝的具能源效益的設施 (如有需要，請另頁說明)

	English	中文
1.	_____	_____
2.	_____	_____
3.	_____	_____

Part II: Predicted Annual Energy Use① of * Proposed / Completed * Building / Part of Building
第二部分: * 擬興建 / 已竣工 * 樓宇 / 部分樓宇預計每年能源消耗量①

Type of Development 發展項目類型	Location 位置	Internal Floor Area Served (m^2) 使用有關裝置的內部樓面面積 (平方米)	Annual Energy Use of Baseline Building② (m^2/annum) 基線樓宇②每年能源消耗量 (平方米/年)		Annual Energy Use of Proposed/Completed Building (m^2/annum) 擬 * 興建/已竣工樓宇每年能源消耗量 (平方米./年)	
			Electricity 電力 kWh 千瓦小時	Town Gas / LPG 煤氣 / 石油氣 unit 用量單位	Electricity 電力 kWh 千瓦小時	Town Gas/ LPG 煤氣 / 石油氣 unit 用量單位
Domestic Development (excluding Hotel) 住用發展項目 (不包括酒店)	Central building services installation③ 中央屋宇裝備裝置③					
Non-domestic Development④ (including Hotel) 非住用發展項目④	Podium(s) (central building services installation) 平台 (中央屋宇裝備裝置)					
	Podium(s) (non - central building services					

(包括酒店)	installation) 平台（非中央屋宇裝備裝置）					
	Tower(s) (central building services installation) 塔樓（中央屋宇裝備裝置）					
	Tower(s) (non - central building services installation) 塔樓（非中央屋宇裝備裝置）					

Note: In general, the lower the estimated "Annual Energy Use" of the building, the more efficient the building in terms of energy use. For example, if the estimated "annual energy use of proposed building" is less than the estimated "annual energy use of baseline building", it means the predicted use of energy is more efficient in the proposed building than in the baseline building. The larger the reduction, the greater the efficiency.

註：一般來說，樓宇的預計每年每平方米能源消耗量愈低，樓宇的能源消耗愈有效。例如，如果擬興建樓宇的預計每年能源消耗量少於基線樓宇預計的每年能源消耗量，則表示擬興建樓宇的預計能源使用較基線樓宇有效。減少愈多，效能愈大。

Part III
第三部分

The following installation(s) * is / are * designed / completed in accordance with the relevant Codes of Practice published by the Electrical and Mechanical Services Department:-

以下裝置乃按機電工程署公布的相關實務守則 設計 / 完成：-

Type of Installations 裝置類型	YES 是	NO 否	N/A 不適用
Lighting Installations 照明裝置			
Air Conditioning Installations 空調裝置			
Electrical Installations 電力裝置			
Lift & Escalator Installations 升降機及自動梯的裝置			
Performance-based Approach 以總能源爲本的方法			

Please (✓) where appropriate 請在適當方格內填上(✓)號

Signature 簽署#
(Registered Professional Engineer註冊專業工程師/ Registered Energy Assessor 註冊能源效益評核人)

Certificate of Registration No. 註冊證書編號#

Date of expiry of registration 註冊到期日#

Signature簽署#
(Authorized Person 認可人士)

Certificate of Registration No. 註冊證書編號#

Date of expiry of registration 註冊到期日#

Company Chop公司印章/ Signature of applicant申請人簽署

Date日期

In accordance with the registration record 根據註冊記錄

* Delete whichever is inapplicable 請刪去不適用者

① The predicted annual energy use per m^2 per annum, in terms of electricity consumption (kWh) and town gas/LPG consumption (unit) of the development by the internal floor area served, where:-
預計每年每平方米能源消耗量〔以耗電量（千瓦小時）及煤氣/石油氣消耗量用量單位〕計算)，指將發展項目的每年能源消耗總量除以使用有關裝置的內部樓面面積所得出的商，其中:

(a) "total annual energy use" has the same meaning of "annual energy use" under Section 4 and Appendix 8 of the BEAM Plus for New Building (current version); and
每年能源消耗量" 與新建樓宇BEAM Plus標準（現行版本）第4節及附錄8中的「年能源消耗」具有相同涵義；及

(b) "internal floor area", in relation to a building, a space or a unit means the floor area of all enclosed space measured to the internal faces of enclosing external and/or party walls.
樓宇、空間或單位的 "內部樓面面積"，指外牆及/或共用牆的內壁之內表面起量度出來的樓面面積。

② "Baseline Building" has the same meaning as "Baseline Building Model (zero-credit benchmark)" under Section 4 and Appendix 8 of the BEAM Plus for New Building (current version).
"基線樓宇" 與新建樓宇BEAM Plus標準（現行版本）第4節及附錄8中的 "基準建築物模型（零分標準）" 具有相同涵義。

③ 'Central Building Services Installation' has the same meaning as that in the Code of Practice for Energy Efficiency of Building Services Installation issued by the electrical and Mechanical Services Department.
"中央屋宇裝備裝置" 與機電工程署發出的《屋宇裝備裝置能源效益實務守則》中的涵義相同。

④ Podium(s) normally means the lowest part of the development (usually the lowest 15m of the development and its basement, if any) carrying different use(s) from that of the tower(s) above. For development without clear demarcation between podium(s) and tower(s), the development, as a whole, should be considered as tower(s).
平台一般指發展項目的最低部分（通常爲發展項目最低15米部分及其地庫(如適用)），並與其上的塔樓具有不同用途。對於並無明確劃分平台與塔樓的發展項目，應視整個發展項目爲塔樓。

Buildings Department	Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers	APP-152

Sustainable Building Design Guidelines

This practice note promulgates guidelines on building design which will enhance the quality and sustainability of the built environment in Hong Kong. These guidelines are the Sustainable Building Design Guidelines (SBD Guidelines) referred to in Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers (PNAP) APP-151, the compliance with which the Building Authority (BA) will take into account, where applicable, as a pre-requisite in exempting or disregarding green and amenity features and non-mandatory / non-essential plant rooms and services from gross floor area and/or site coverage calculations (GFA concessions) for new building developments. Terminology used in the SBD Guidelines is listed in Appendix A.

Objectives

2. The SBD Guidelines establish 3 key building design elements to enhance the environmental sustainability of our living space. They are building separation, building setback and site coverage of greenery. The objectives are to achieve better air ventilation, enhance the environmental quality of our living space, provide more greenery, particularly at pedestrian level; and mitigate the heat island effect.

Building Separation

3. In order to improve air ventilation, enhance the environmental quality at pedestrian level and mitigate heat island effects arising from the undesirable screening effect of long buildings at different levels, building sites of the following categories should comply with the building separation requirements:

(a) sites that are 20,000m^2 or above; or

(b) sites that are less than 20,000m^2 and proposed with building or group of buildings having a *continuous projected façade length (Lp)* of 60m or above.

4. Building separation requirements for each *assessment zone*:

(a) Design Requirement (1) – *Lp*

The *Lp* of a building or group of buildings along a *street* should not exceed the maximum permissible[1] which is calculated based on 5 times the *mean width of street canyon (U)*; and

/(b) .....

[1] See Appendix B for computation of maximum permissible *Lp*

(b) Design Requirement (2) – *Separating Distance (S)* and *Permeability (P)*

(i) The *P*, comprising a minimum of 2/3 *Intervening Space (IS)* and a maximum of 1/3 *Permeable Element (PE)*, assessed on two vertical projection planes for the two categories of sites should not be less than those as shown in Table 1.

(ii) Along the chosen projection planes, the *S* for the *IS* between the projected façade of the building and the site boundaries or the centreline of adjoining *streets* / lanes should not be less than 7.5m wide; and

(iii) If such *IS* are not sufficient to meet 2/3 of the *P*, additional *IS* with *S* not less than 15m wide can be provided between 2 projected building façades for making up.

Table 1

Height (H) of the tallest building	Minimum P of buildings in each *assessment zone* on two projection planes		
	Site area $< 20{,}000m^2$ and with $Lp \geq 60m$	Site area $\geq 20{,}000m^2$	
	Each Plane	Plane 1	Plane 2
$H \leq 60m$	20%	20%	25%
$H > 60m$	20%	20%	33.3%

5. Detailed requirements and method of measurement on *Lp, S* and *P* are given in Appendix B.

6. Standalone residential building blocks of height not exceeding 15m can be exempted from the building separation requirements and disregarded in the assessment of such for other buildings.

Building Setback

7. In order to improve air ventilation, enhance the environmental quality at pedestrian level and mitigate street canyon effect, buildings fronting a *street* less than 15m wide should be set back to comply with one of the following requirements:

(a) For maintaining a ventilation corridor with minimum section of 15m x 15m, no part of the building up to a level of 15m above the *street* level should be within 7.5m from the centreline of the *street* as shown in Figures C1 and C2 of Appendix C. Where level of a *street* varies, the minimum sectional area should be kept along the full frontage following the profile of the *street*.

/(b).....

(b) Where a cross-ventilated communal podium garden with a clear height of not less than 4.5m is provided, no part of the building up to a level of 15m above the *street* level, should protrude above the 45° inclined plane, the base of which is placed at *street* level at the site boundary line on the opposite side of the *street* as shown in Figures C3 and C4 of Appendix C.

Typical examples on the application of building setback requirements are given in Figures C5 to C9 of Appendix C.

8. In determining the compliance with the setback requirement, the BA may take into account the following factors:

(a) Structures higher than 15m above the *street* level may be allowed to build over the setback area[2]. If the setback area is uncovered, a canopy that complied with regulation 10 of the B(P)R may be permitted;

(b) Minor projecting features and signboards projecting not more than 600mm from the external walls and at a clear height of not less than 2.5m above the *street* level; and single-storey footbridges across the setback area may also be permitted;

(c) Columns supporting the building above may be permitted within the setback areas subject to requirements as shown in Figure C2 of Appendix C; and

(d) The setback area should be properly landscaped and paved, and be open without any permanent building structures other than landscaped features, perforated balustrades, perforated boundary walls and structural columns.

9. Buildings may be exempted from whole or parts of the building setback requirement with reference to a *street* where its height[3] is less than 2 times the mean width of the *street*.

Site Coverage of Greenery

10. In order to improve the environmental quality of the urban space, particularly at the pedestrian level and to mitigate the heat island effect, sites with areas of 1,000m^2 or more should be provided with *greenery areas* in accordance with Table 2. Detail guidelines are provided in Appendix D.

/Table....

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[2] The setback area at ground level under the footprint of such structures or the covered areas under the canopy may be exempted from GFA calculation if it is designated as common parts accessible by occupants of the building and without any commercial activities.

[3] Height of the building in this context is measured from the mean level of the *street* on which the building abuts to the mean height of the roof over the highest usable floor space in the building.

Table 2

Site Area	Minimum Site Coverage of Greenery	
	Primary zone	Overall
1,000 m^2 – 20,000 m^2	10%	20%
≥ 20,000 m^2	15%	30%

11. This requirement is not applicable to sites with a single family house only.

Special Considerations

12. There are special circumstances in which genuine difficulties in complying with the SBD Guidelines may be encountered. Examples include new buildings serving special functions such as ferry piers, railway terminals, stadia; and conversion of existing buildings to new buildings especially the adaptive reuse of historic buildings where building façades or even layout are character defining elements. In recognition of such genuine constraints in meeting the prescriptive requirements, the BA takes a flexible and pragmatic stance when considering applicants' proposals holistically to achieve the objectives of the SBD Guidelines. Alternative approaches are provided in Appendix E.

Conditions for Approval

13. PNAP APP-151 specifies the compliance with the SBD guidelines as one of the pre-requisites for granting GFA concessions. When granting such modifications under section 42 of the Buildings Ordinance, the BA may impose relevant conditions for assuring the sustainability of the approved building design.

Information to be Submitted

14. To demonstrate compliance with the building separation, building setback and site coverage of greenery requirements, information as detailed in Appendix F should be submitted.

15. To increase the transparency of information to the public, plans and details showing the site coverage of greenery as described in Appendix F will be uploaded to the BD's website after the occupation permit is issued.

(HUI Siu-wai)
Building Authority

Ref. : BD GR/1-55/187/1
BD GP/BREG/P/49

First issue January 2011
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Appendix A
(PNAP APP-152)

Terminology

Air Ventilation Assessment (AVA)	*Air ventilation assessment (AVA)* is a protocol to objectively assess the effects of planning and development proposals on external air movement for achieving a better pedestrian wind environment. An advisory framework for the methodology to undertake *AVA* has been outlined in the Technical Guideline for Air Ventilation Assessment available in the Planning Department's website under the Hong Kong Planning Standard and Guidelines.
Assessment Zones	*Assessment zones* demarcate the vertical spatial division for assessing fulfilment of the building separation requirement. The zonal division consists of low zone (within 20m from level zero), middle zone (20-60m from Level Zero) and high zone (higher than 60m from Level Zero). [Building Separation]
Computational Fluid Dynamics (CFD)	*CFD* is a branch of fluid mechanics using numerical methods and algorithms to solve and analyze problems that involve fluid flows. Computers are used to perform the millions of calculations required to simulate the interaction of fluids and gases with the complex surfaces used in engineering.
Continuous projected facade length (Lp)	The total projected length of facade of a building or a group of buildings if separation between them is less than 15m. (see Figures B2 & B3 of Appendix B) [Building Separation]
Grass paving	Paving having not less than 50% of floor designed for the growth of grass or groundcovers. [Site Coverage of Greenery]
Greenery area	Area with live plants and soil or similar base. Such area may include other greening features as per Appendix D. [Site Coverage of Greenery]
Intervening Space (IS)	Space that is open to above or have a clear height of not less than 2/3 of the height of the respective assessment zone. [Building Separation]
Level Zero	The mean *street* level on which the site abuts or where the site abuts *streets* having different levels, the mean level of the lower or lowest *street*. [Building Separation]
Mean Width of Street Canyon (U)	The mean distance between (i) an external wall of the subject building which is within 30m perpendicular from the centre line of a *street* and (ii) the boundary of the other site on the opposite side of the *street*, as shown in Figures B4 to B7 of Appendix B. It forms the basis for assessing the maximum permissible Lp of the building in the assessment zone, which is 5x*U*. [Building Separation]
Primary Zone	The 15m vertical zone of a site along the abutting street level. The greenery in this zone is for providing visual contacts or access from a street through common parts of the building for enhancing the walkability of urban space to the public, visitors or occupiers. The top level of soil or similar base for planting should be taken as the reference level for inclusion in the Primary Zone. [Site Coverage of Greenery].
Permeability (P)	A percentage indicating how permeable a building or group of buildings in that assessment zone is. It is obtained by dividing the sum of the areas recognized as *intervening space* or *permeable elements* by the area of the assessment zone as shown in Figure B9 of Appendix B. [Building Separation].
Permeable Element (PE)	Space provided within, above, below or between buildings within the same site

with a minimum clear width and clear height of 3m as projected onto the chosen projection plan, e.g. refuge floors, communal sky gardens etc. [Building Separation]

Separating Distance (S)

This is the minimum width of an *IS* in the following scenarios:-

(i) between end of the projected building façade and the site boundary;

(ii) between end of the projected building façade and the centerline of adjoining *street*/lane where the site abuts; or

(iii) between 2 projected building facades.

Where such distance varies for an *IS*, the method of arriving at the mean of such distance is shown in Figure B12 of Appendix B.
[Building Separation]

Site Coverage of Greenery

The percentage of total live *greenery area* divided by the area of the site.

Street

A *street* of width not less than 4.5m vested in the Government and maintained by the Highways Department or a private street on land held under the same Government lease as the site and under the terms of the lease, the lessee has to surrender (when required to do so) the land on which the street is situated to the Government, as described under B(P)R18A(3)(a)(i) & (ii). [Building Separation and Building Setback]

Vertical greening

Greenery that grows within the primary zone on a vertical surface abutting a street or public pedestrian way/public open space accessible from a street, and the top level of the soil or similar base including the frame for greenery is within the primary zone. [Site Coverage of Greenery]

(Rev 1/2016)

Appendix B
(PNAP APP-152)

Building Separation Requirements

1. Assessment and Method of Measurement

1.1 The design of building(s) above *Level Zero* of the site shall comply with the Design Requirements (1) and (2) below. They shall be assessed separately for each of the three *assessment zones* i.e. the low, middle and high zones.

1.2 In general, all measurements for building separation are taken from the external walls of the building. Minor building features that will not materially affect air ventilation around buildings, including single-storey footbridges across buildings (not shadowed vertically by other footbridges), signboards, minor projecting features as described in paragraph 3 of PNAP APP-19, open sided features such as balconies, utility platforms, covered walkways, trellises and other highly permeable features such as railing and perforated fence walls (with free area $\geq$ 2/3 or equivalent) may be disregarded in the building separation assessment. Minor noise barriers that are not extensive in height and designed to permit air flow through or over the barriers may also be disregarded subject to the provision of appropriate building features or permeable elements such as communal podium gardens to compensate for the barrier's obstruction to free air flow to the satisfaction of the BA.

1.3 Effect on air ventilation around buildings due to topographical features in a site including any slope features and retaining walls may be disregarded. Any parts of a building that are below the original site topography may therefore be disregarded from the *assessment zone* (see Figure B1).

2. Design Requirement (1) - *Lp* of building(s) abutting a *street*

2.1 Design Requirement (1) controls the maximum *Lp* of a building or a group of buildings if any part of the building is within 30m from the centreline of the *street* on which the building(s) abuts.

2.2 The *Lp* of a building or a group of buildings along its long side shall not exceed the maximum permissible *Lp* which is obtained by multiplying 5 and the *U* on which the building(s) abuts. The *U* of such a street canyon in the *assessment zone* is measured perpendicular to the centreline of the *street* from the external wall of the building that is within 30m from the centreline of the *street*, to the site boundary of the other site on the opposite side of the *street* (see Figures B2 to B6). If the building or group of buildings abuts two or more *streets* having different *U*, the least *U* shall be adopted.

2.3 If the width of a street canyon varies (on plan), *U* is the width obtained by dividing the area of such a street canyon by its length as measured along the centreline of the *street*. If only a part of the building is within 30m from the centreline of the *street*, *U* is the mean width of the street canyon that abuts such part of the building. If there is more than one such street canyon along the same *street*, *U* is the width obtained by dividing the sum of the areas of such street canyons by the sum of the lengths, as measured along the centreline of the *street*, of such street canyons (see Figure B7).

2.4 For the purpose of measuring *Lp* of a building or a group of buildings along its long side, the part of the building(s) that is within the low zone and of a height of not more than 6.67m (i.e. 1/3 of 20m which is the height of the low zone) may be disregarded.

2.5 Maximum permissible *Lp* is not applicable for Design Requirement (1) in the following circumstances:

(a) The subject site does not abut a *street;*

(b) There is no building or no parts of building in the *assessment zone* within 30m from the centreline of any *streets* on which the site abuts.

3. Design Requirement (2) - *S* & *P* of Buildings (Projection Planes for Assessment)

3.1 Assessment on compliance with Design Requirement (2) shall be made through a pair of vertical projection planes (x, y) at an orthogonal relationship to each other (see Figure B8). At least one of the projection planes for the low zone shall be set parallel to a *street* on which the site abuts. For a site that abuts on a curvilinear *street*, the projection plane for the low zone shall be set along any tangent of the *street*. For the middle/high zones, such pair of projection planes may be set to suit the building disposition or the site wind environment.

3.2 To allow more flexibility in building design, the angle between each pair of projection planes may vary from 75 to 105 degrees.

3.3 For a site that is less than 20,000 m^2 and the total width of all projected building facades exceeds 60m along one projection plane only, assessment on compliance with Design Requirement (2) is only required for that projection plane.

4. Assessment of *S* and *P*

4.1 Elevation of all buildings within the site shall be projected onto the chosen projection planes. On each projection plane, the required *P* of buildings as stipulated in Table 1 of this PNAP shall be achieved (see Figure B9).

4.2 Not less than 2/3 of the required *P* shall be provided by *IS* between the ends of the projected building facades and the adjacent site boundaries or, where the site abuts a street or a lane, the centreline of adjoining *street* or lane[1]. Save for the part of building disregarded in paragraph 2.4 above, such *IS* shall provide a *S* of not less than 7.5m wide. For *S* involving site boundary or adjoining street/lane, if it varies on plan, the mean of *S* shall not be less than 7.5m and no part of the building shall be within 3m from the boundary line. If such *IS* cannot meet 2/3 of the required *P*, additional *IS* can be provided between buildings. Such additional *IS* shall have an *S* of not less than 15m (see Figures B10 to B12).

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[1] The *street*/lane of width less than 4.5m may also be included in the assessment of *S* and *P*. Open space outside the site boundary is not accountable for *P*. However, where an area is zoned as open space on the Outline Zoning Plan / Development Permission Area Plan and provided such area is a nullah or designated as promenade or non-building area on the aforesaid plan and / or in the explanatory notes of the aforesaid plan, such area may be treated as a lane for the purpose of assessing *S* and *P*.

4.3 Not more than 1/3 of the required *P* may be provided by *PE*. (see Figures B10 & B11)

4.4 To allow more design flexibility, the projection line of the *IS* within an *assessment zone* may follow the path of a notional air corridor that starts at 90° from the projection plane (on plan). The air corridor may flow between buildings and may change direction without changing its width, when it meets the boundary line or anywhere within the site, by not more than 15° provided the direction of the air corridor after the change of course is always within 15° from its original path before it enters the site. The minimum width of the air corridor along its path between buildings shall not be less than 15m (see Figures B13 to B16).

4.5 When the site is large and / or of irregular shape, the site may be subdivided into two or more notional sites provided that the line of the sub-division is located along the centreline of a notional wind path that complies with the following requirements:

(a) the wind path is open to above from the lowest level of the subject *assessment zone* (disregarding the minor projecting features and permeable features mentioned in paragraph 1.2 above);

(b) it is of a width of not less than 15m;

(c) it is continuous across the site in one direction or it may change in direction by not more than 15 degrees provided its direction after the change of course is always within 15 degrees from its original path[2];

(d) where it meets the site boundaries, there is a street or lane with a mean width of not less than 7.5m.

4.6 After subdividing the site, the *P* may be assessed separately for each subdivided site using the same or a different pair of orthogonal projection planes (see Figures B17 & B18).

4.7 A sample case on assessment of building separation provisions is given in Figures B19 to B21.

(Rev. 1/2016)

[2] The wind path should preferably align with the summer prevailing wind direction or existing street pattern.

Site Topography & Sunken Buildings

Appendix B
(PNAP APP-152)

- "Level Zero" is the mean level of the lower or lowest street(s).
- The height of a building shall be measured from Level Zero to the mean height of the roof over the highest usable floor space.
- The effect on air ventilation around buildings due to topographical features or sunken part of a building below Level Zero shall be disregarded. (See Fig.B9-Fig.B11)

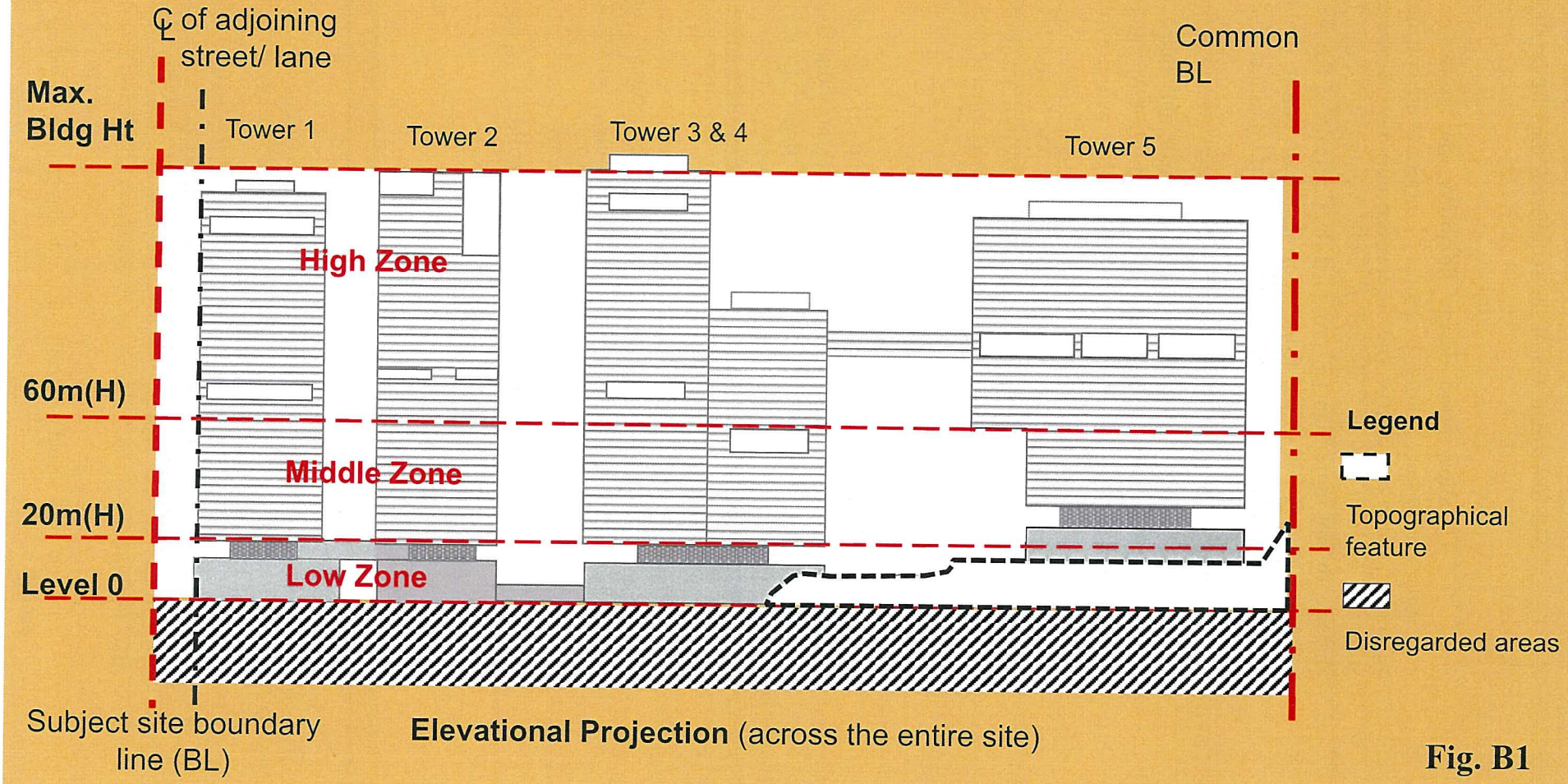
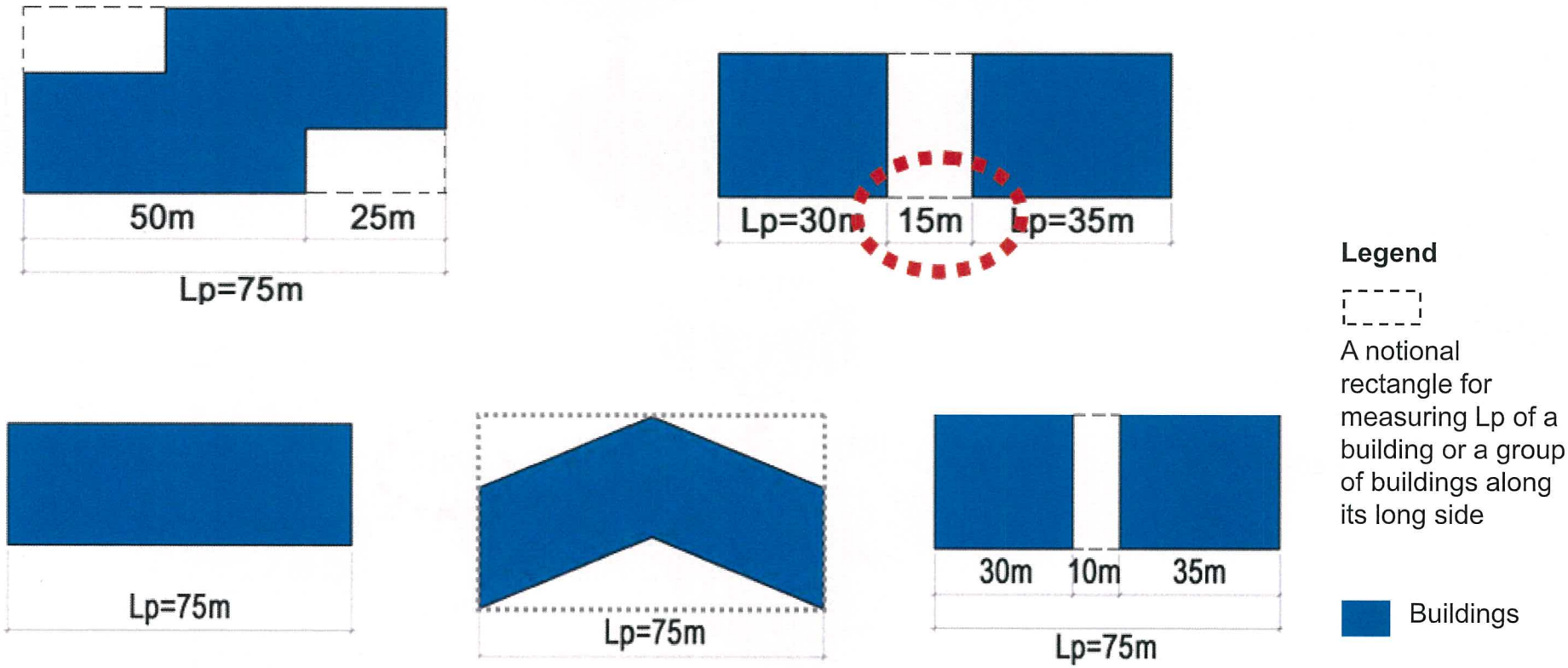


Fig. B1

Lp Examples of determining Lp

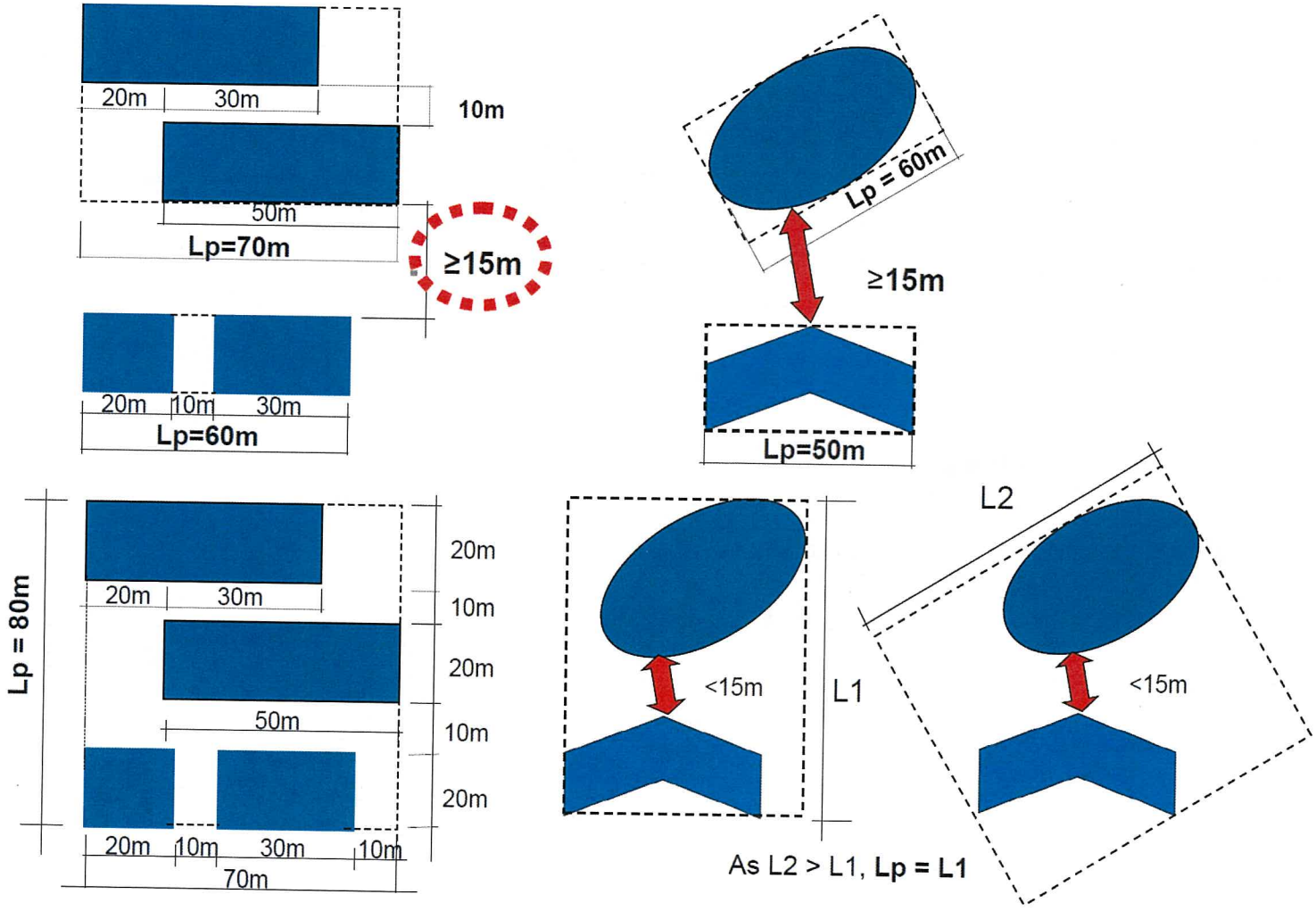
- Building portions at low zone of height ≤6.67m (1/3H of low zone) are disregarded in Lp measurement



Diagrammatic Plans of Buildings

Fig. B2

Lp Examples of Lp of a building or group of buildings along its long side



Legend

- A notional rectangle for measuring Lp of a building or a group of buildings along its long side.
- Where the building or a group of buildings is irregular in shape, the notional rectangle may be the smallest rectangle that contains the building or group of buildings.

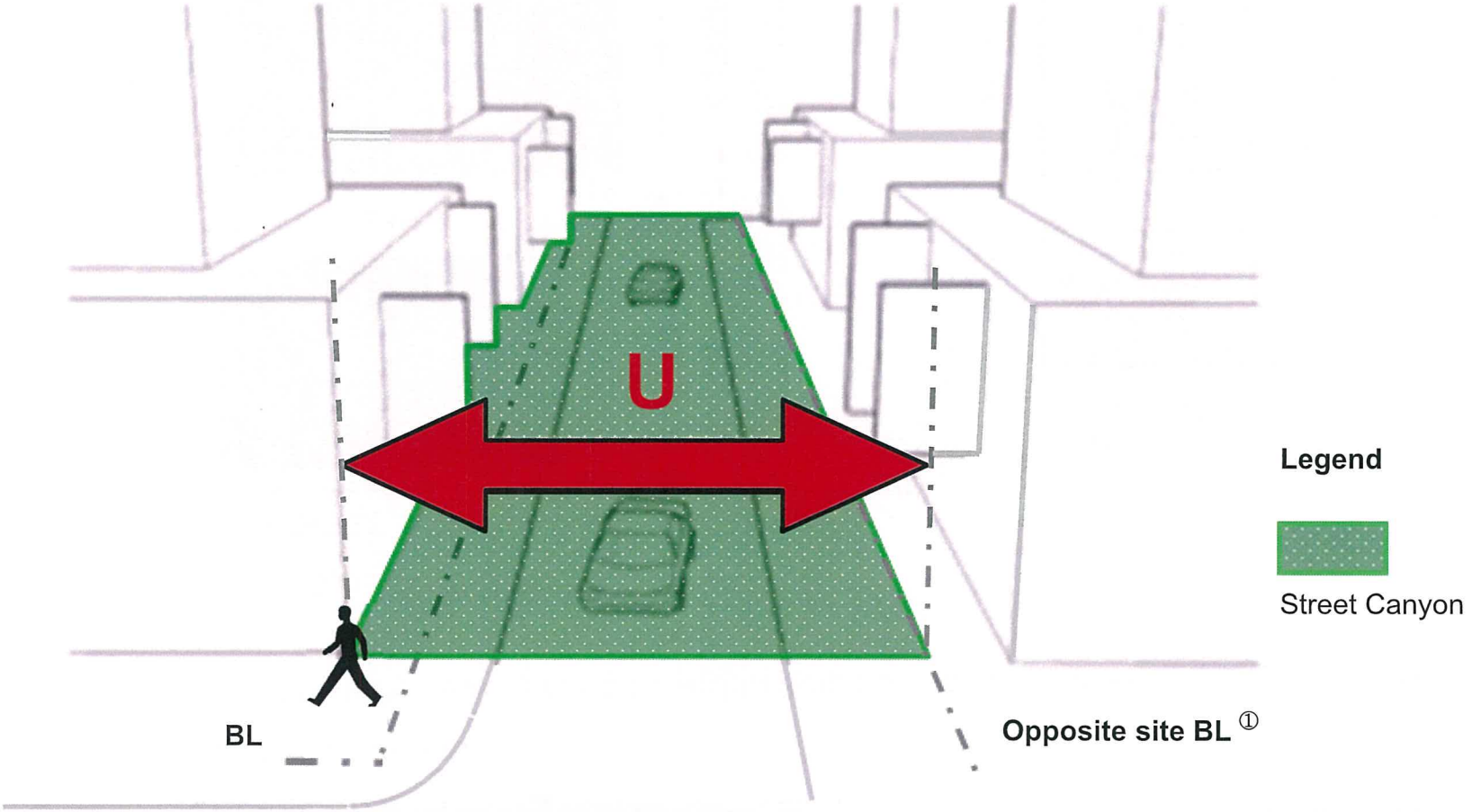
Buildings

Diagrammatic Plans of Buildings

Fig. B3

Showing U

- Street canyon shall be vertically unobstructed. Minor projecting features, such as signboard, a covered footbridge and open sided features (balconies, utility platforms, covered walkways, trellises, etc.) may be disregarded.



Perspective Showing Width of Street Canyon

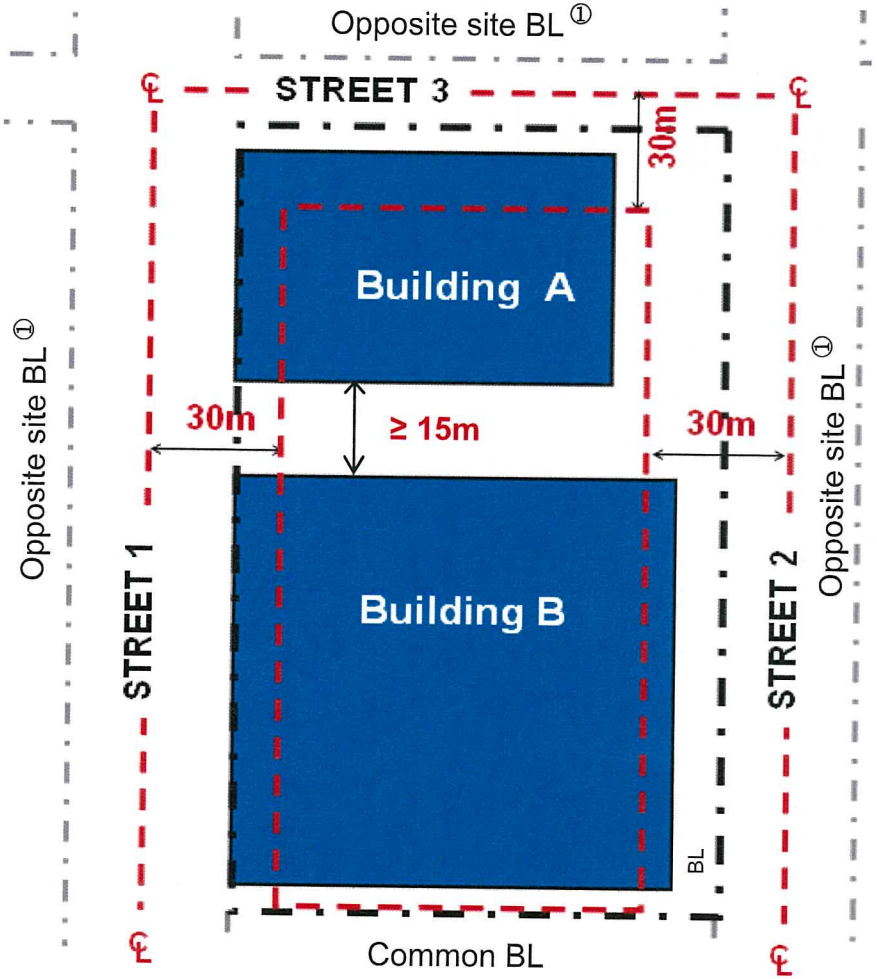
① Opposite side of the street if no opposite site

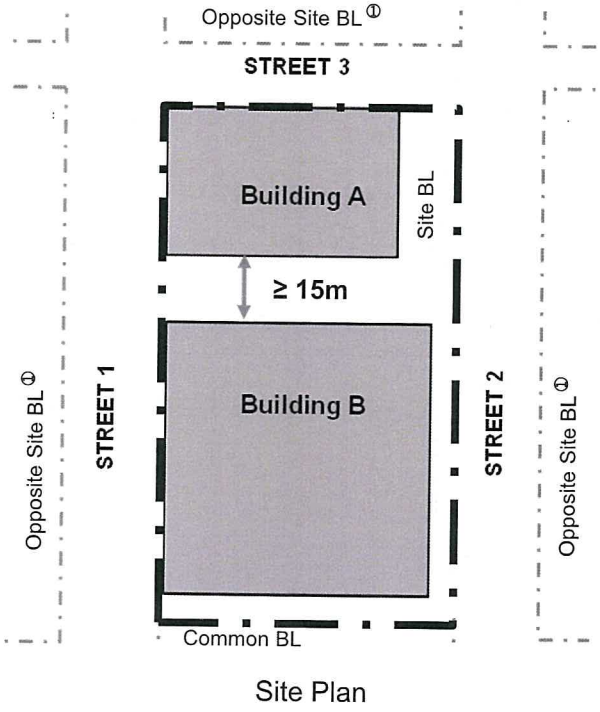
Fig. B4

Adjoining Street Canyons

Buildings subject to control on Lp

- Buildings/groups of buildings wholly or partly **within 30m** from the centreline of an adjoining street.





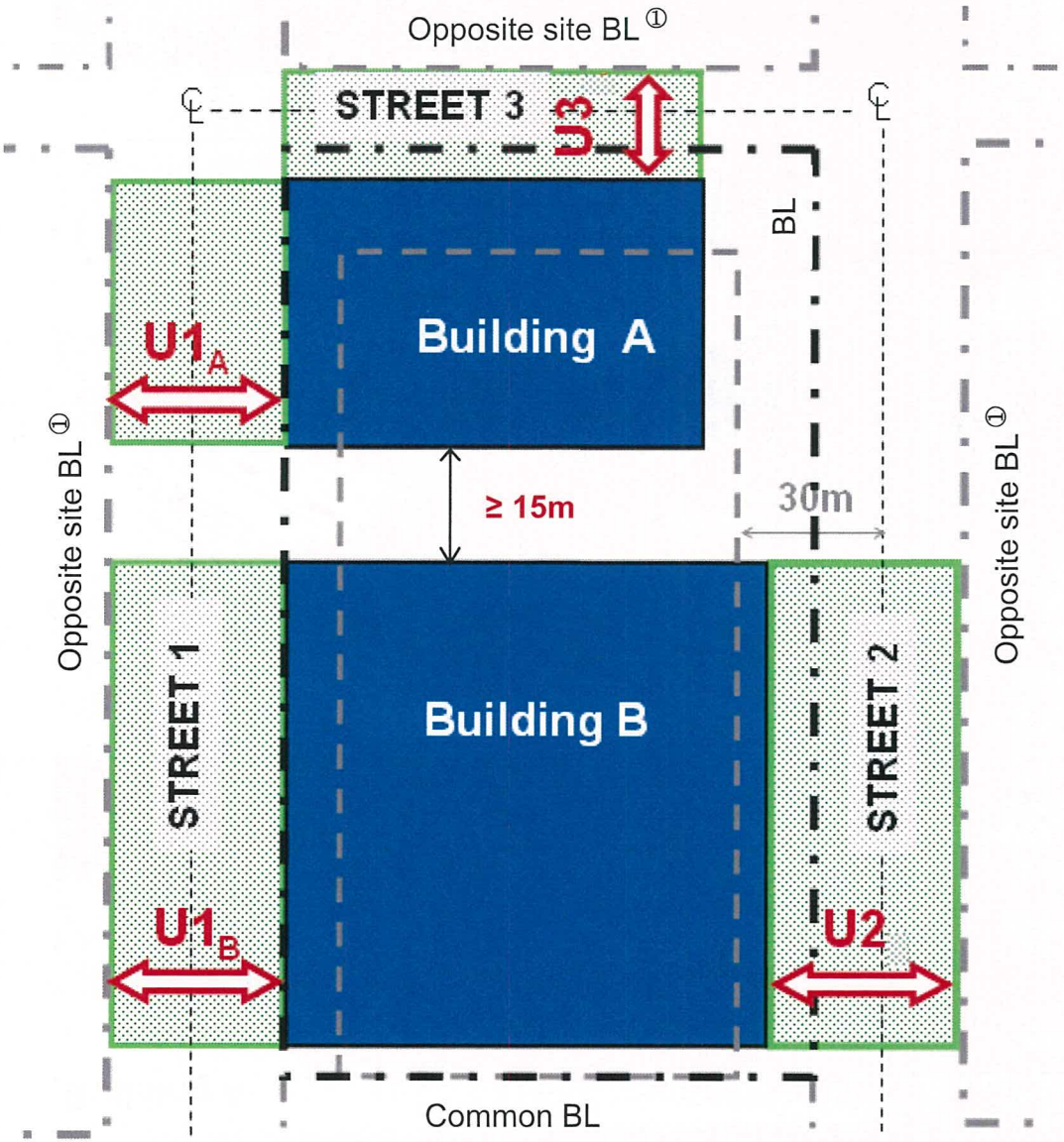
Site Plan

Diagrammatic Plans

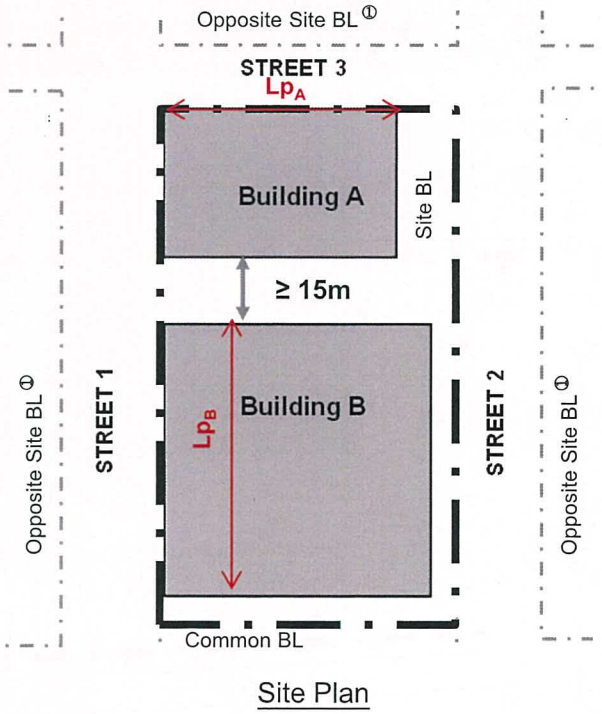
① Opposite side of the street if no opposite site.

Fig. B5

U & Max. Permissible Lp



① Opposite side of the street if no opposite site.



Site Plan

Max. Lp = 5 x U

- If a building abuts two or more streets, use the least U.
- **Building A**

  When $U3 < U1_A$, max. $Lp_A = 5 \times U3$
- **Building B**

  When $U1_B < U2$, max $Lp_B = 5 \times U1_B$

Diagrammatic Plans

Fig. B6

U & Max. Permissible Lp

Building A

- When width of the adjoining street canyon varies, Lp is determined by the smallest U.
- When $U_{A1} < U_{A2}$, max. $Lp_A = 5 \times U_{A1}$

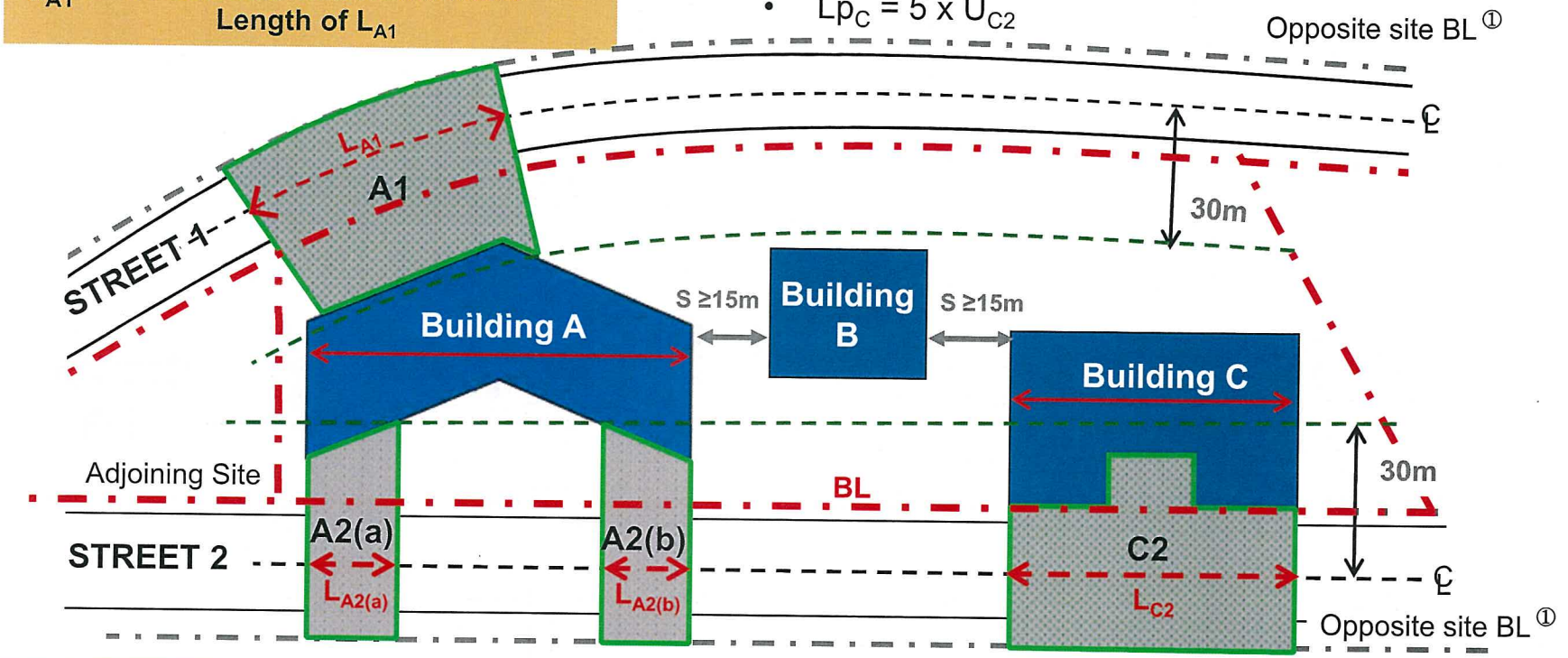
$$U_{A1} = \frac{\text{A1 (area of street canyon)}}{\text{Length of } L_{A1}}$$

Building B

- No part of the building is closer than 30m to the street centrelines. Building B is not subject to Design Requirement (1).

Building C

- Lp is determined by the U at Street 2:
- $Lp_C = 5 \times U_{C2}$



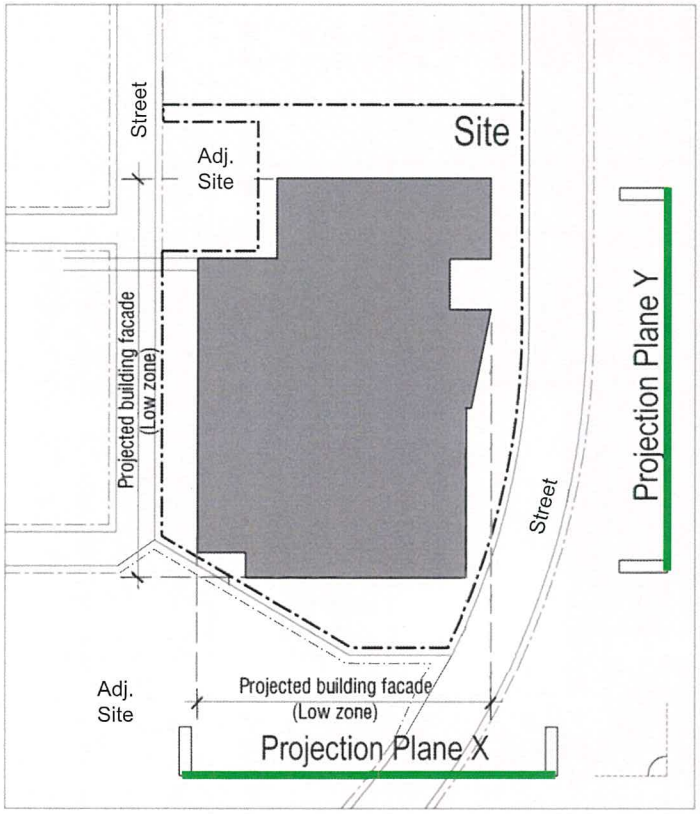
$$U_{A2} = \frac{\text{A2(a) + A2(b) (total areas of street canyon)}}{\text{Length of } L_{A2(a)} \text{ \& } L_{A2(b)}}$$

$$U_{C2} = \frac{\text{C2 (area of street canyon)}}{\text{Length of } L_{C2}}$$

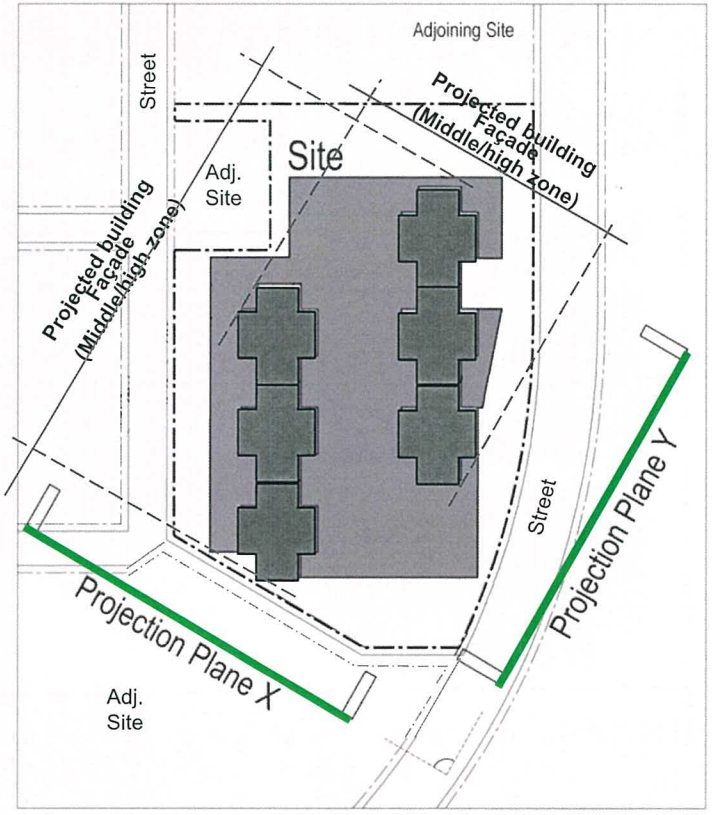
① Opposite side of the street if no opposite site.

Diagrammatic Plan Fig. B7

Pair of Projection Planes for Assessment of P



Low Zone (Plan)



Middle/Upper Zone (Plan)

Low Zone

- One of the planes ① parallel to an adjoining street

Middle/High Zone

- Any pair of chosen planes ① to suit the building disposition or environmental context e.g. prevailing wind direction

P assessment on one plane only if:

- Site < 2ha and Lp > 60m on <u>one</u> projection plane only.

① The angle between each pair of projection planes is **75-105°**.

Fig. B8

Assessment of P

Appendix B
(PNAP APP-152)

$$P = \frac{\text{Sum of areas of IS and PE}}{\text{Area of the assessment zone}} \times 100\%$$

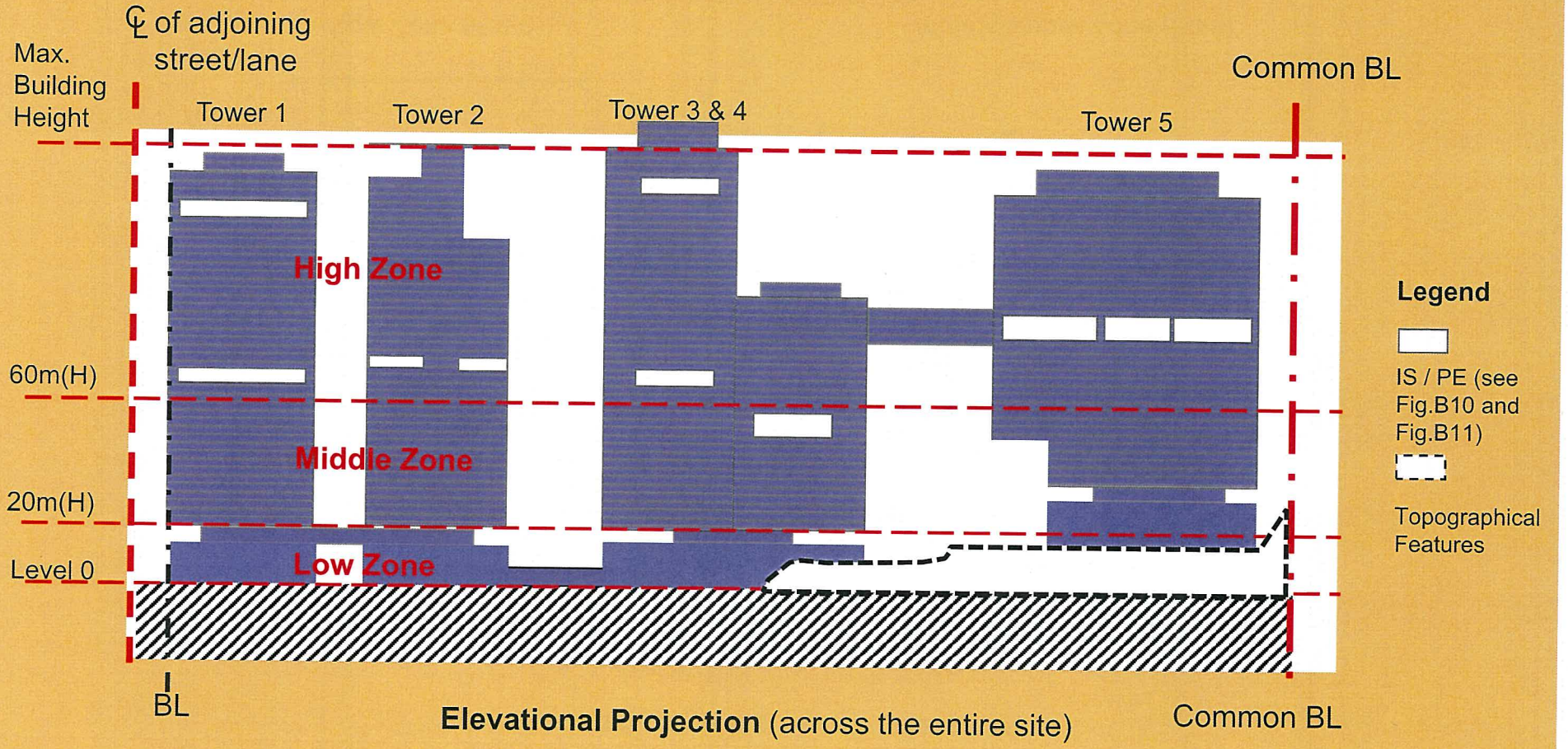


Fig. B9

IS & PE

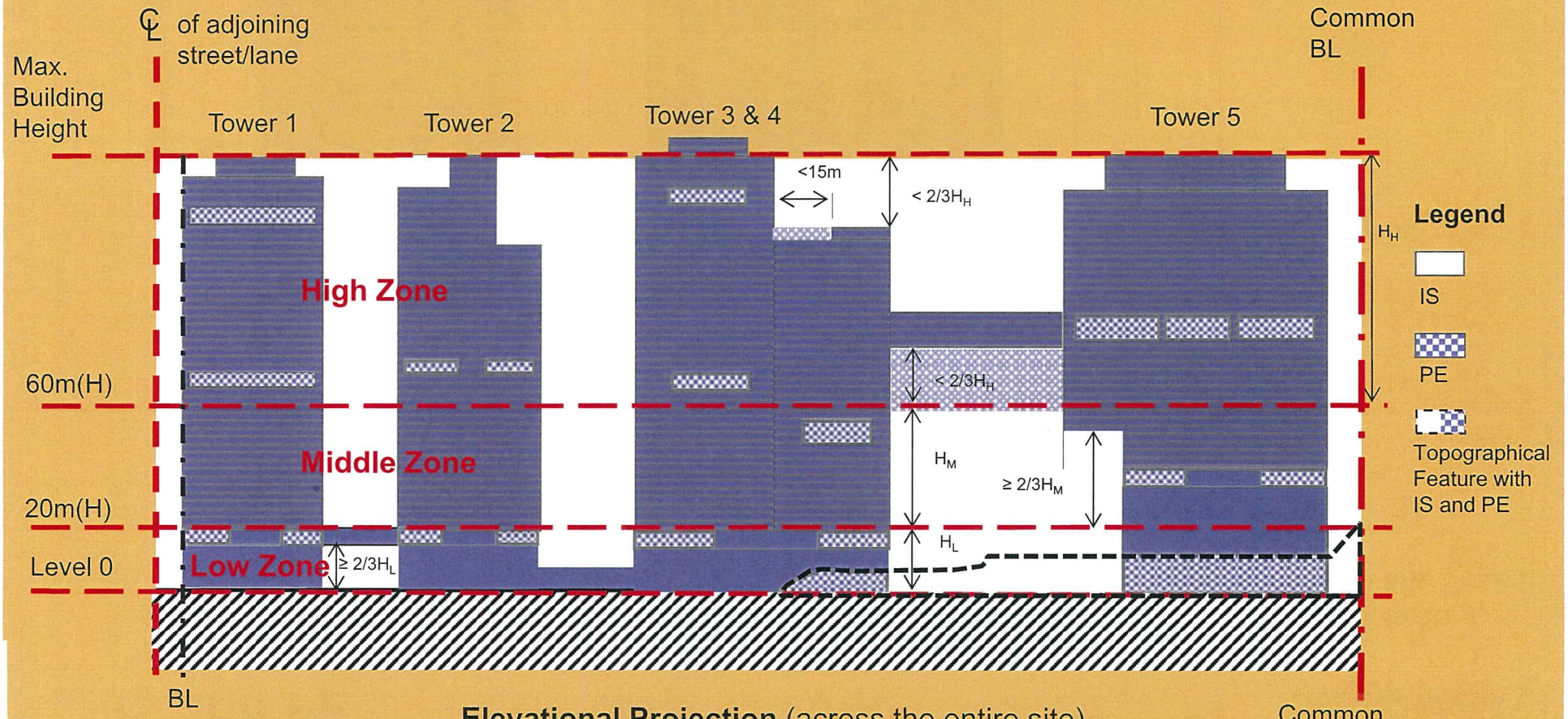
Appendix B
(PNAP APP-152)

IS shall account for min. 2/3 of the required P

$$\frac{\text{Sum of areas of IS}}{\text{Area of the assessment zone}} \times 100\% \geq 2/3\ P$$

PE may contribute to maximum 1/3 of the required P

$$\frac{\text{Sum of areas of PE}}{\text{Area of the assessment zone}} \times 100\% \leq 1/3\ P$$

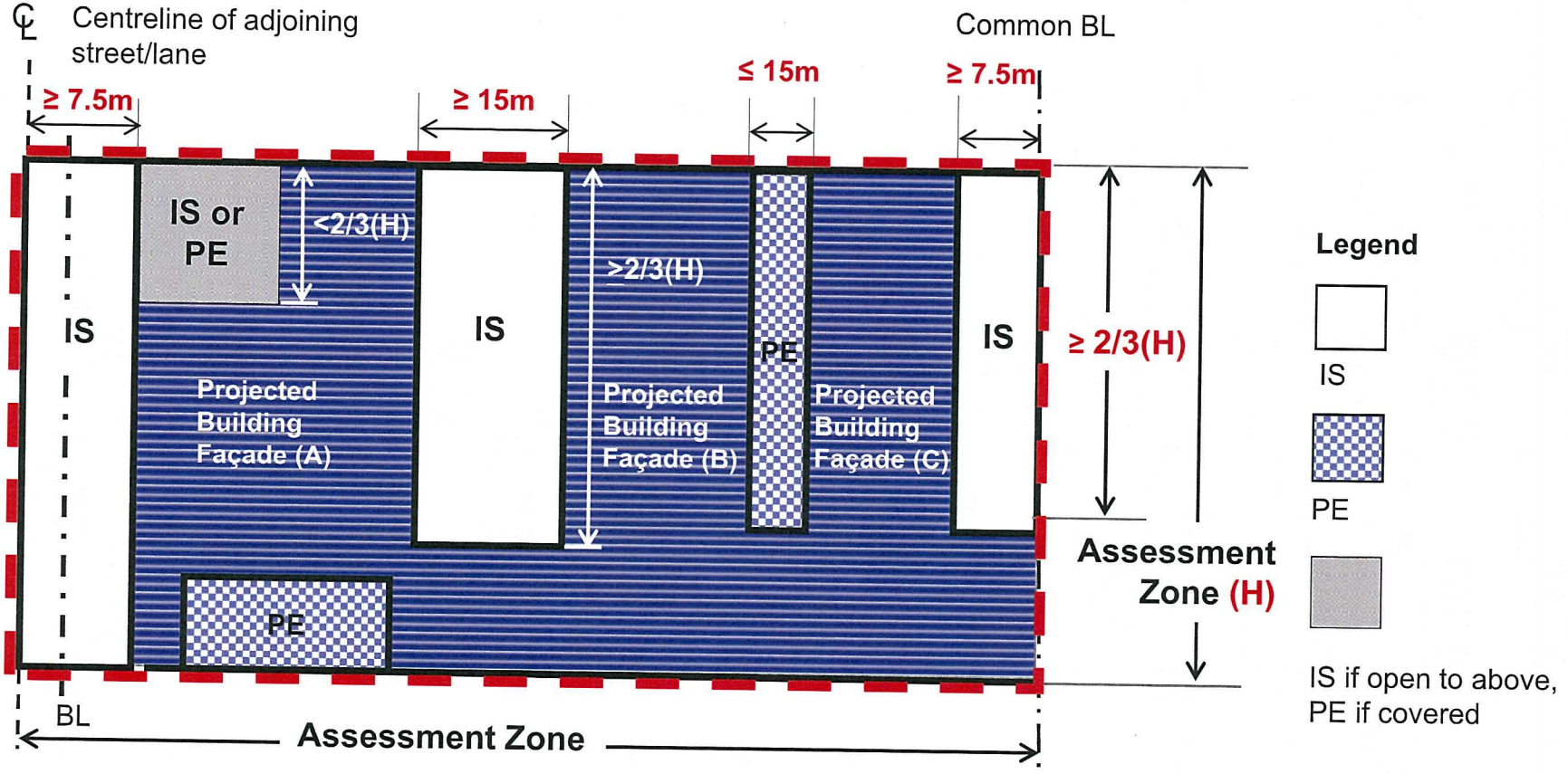


Elevational Projection (across the entire site)

Fig. B10

IS and PE

- IS shall be provided between end of a projected façade and adjacent common BL / centreline of adjoining street/lane and has a width or mean width ≥ 7.5m (see Fig.B12, Fig.B14, Fig.B15 and Fig.B16).
- Additional IS between end of projected façades shall be ≥ 15m.
- Height of IS shall be ≥ 2/3H of the Assessment Zone or open to above.
- PE shall have clear width and clear height ≥ 3m.



Elevational Projection (across the entire site)

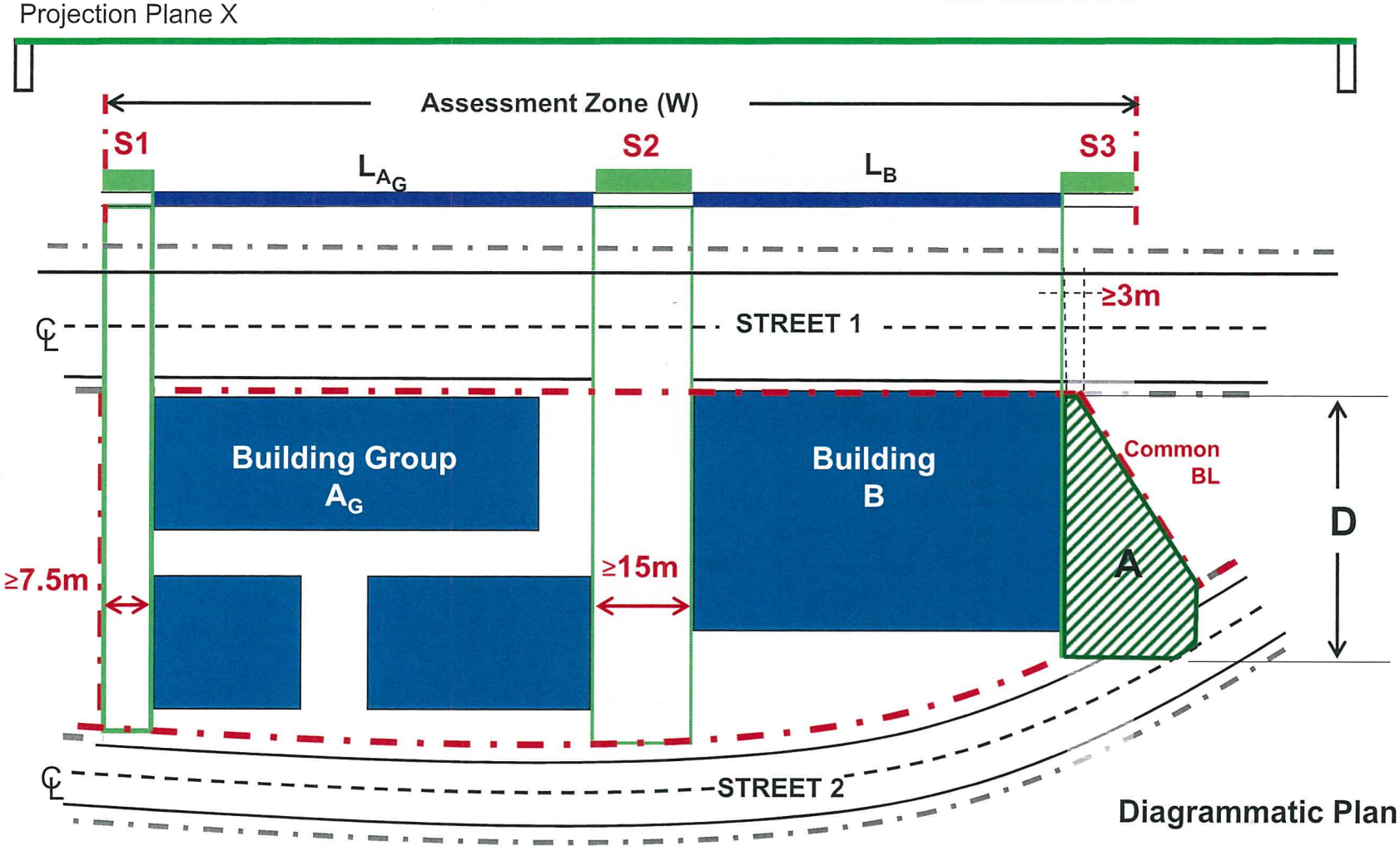
Fig. B11

Assessment of S

S1 ≥ 7.5m

S2 ≥ 15m

S3 ① = Area (A) / Depth (D) (≥ 7.5m)



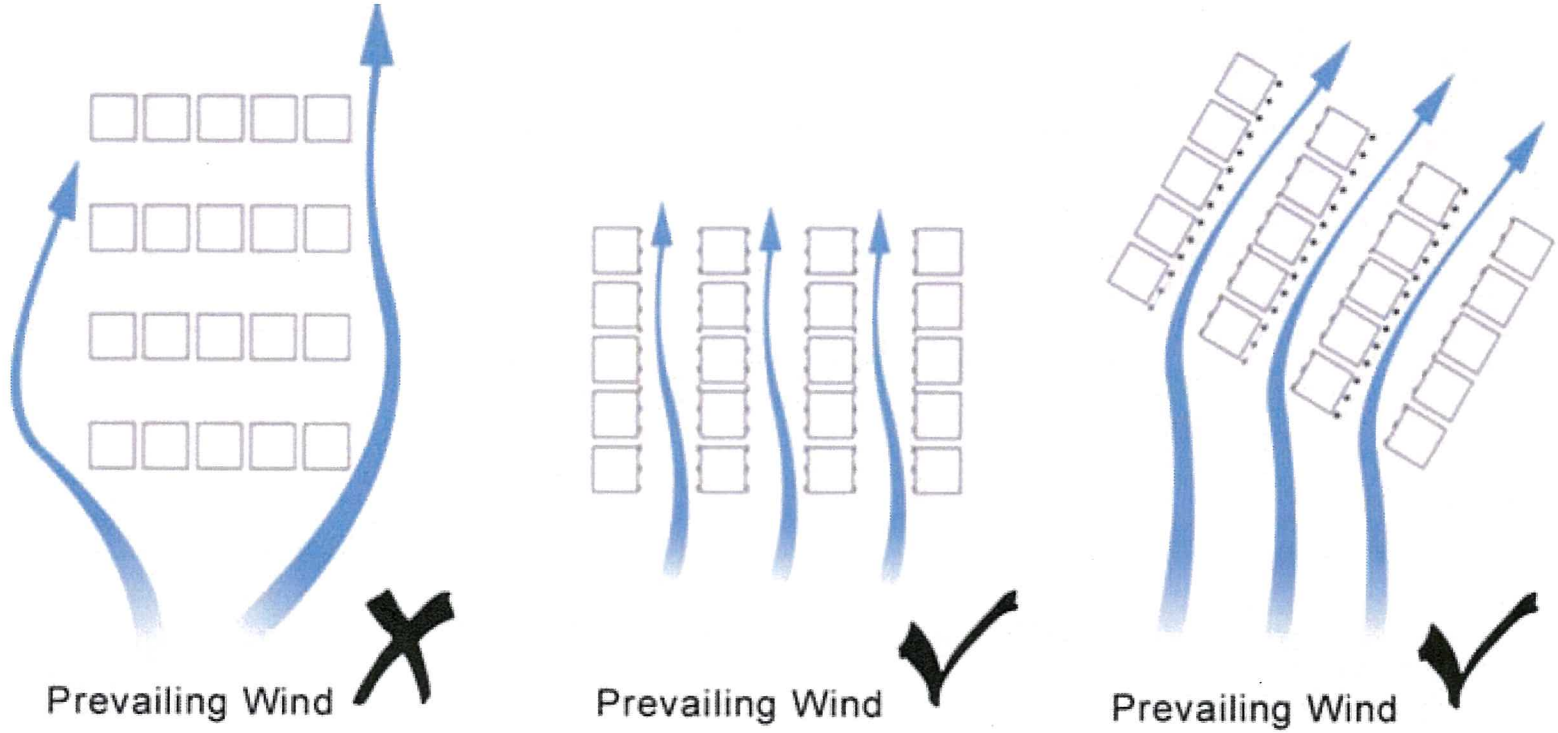
① No part of the building within 3m from the BL.

Fig. B12

Notional Air Corridor

Provided that the minimum required width of the IS / notional air corridor is maintained,

- Change in direction is permissible **≤ 15°** when it meets the BL or anywhere within the site, and
- Overall direction deviate **≤ 15°** from the original path

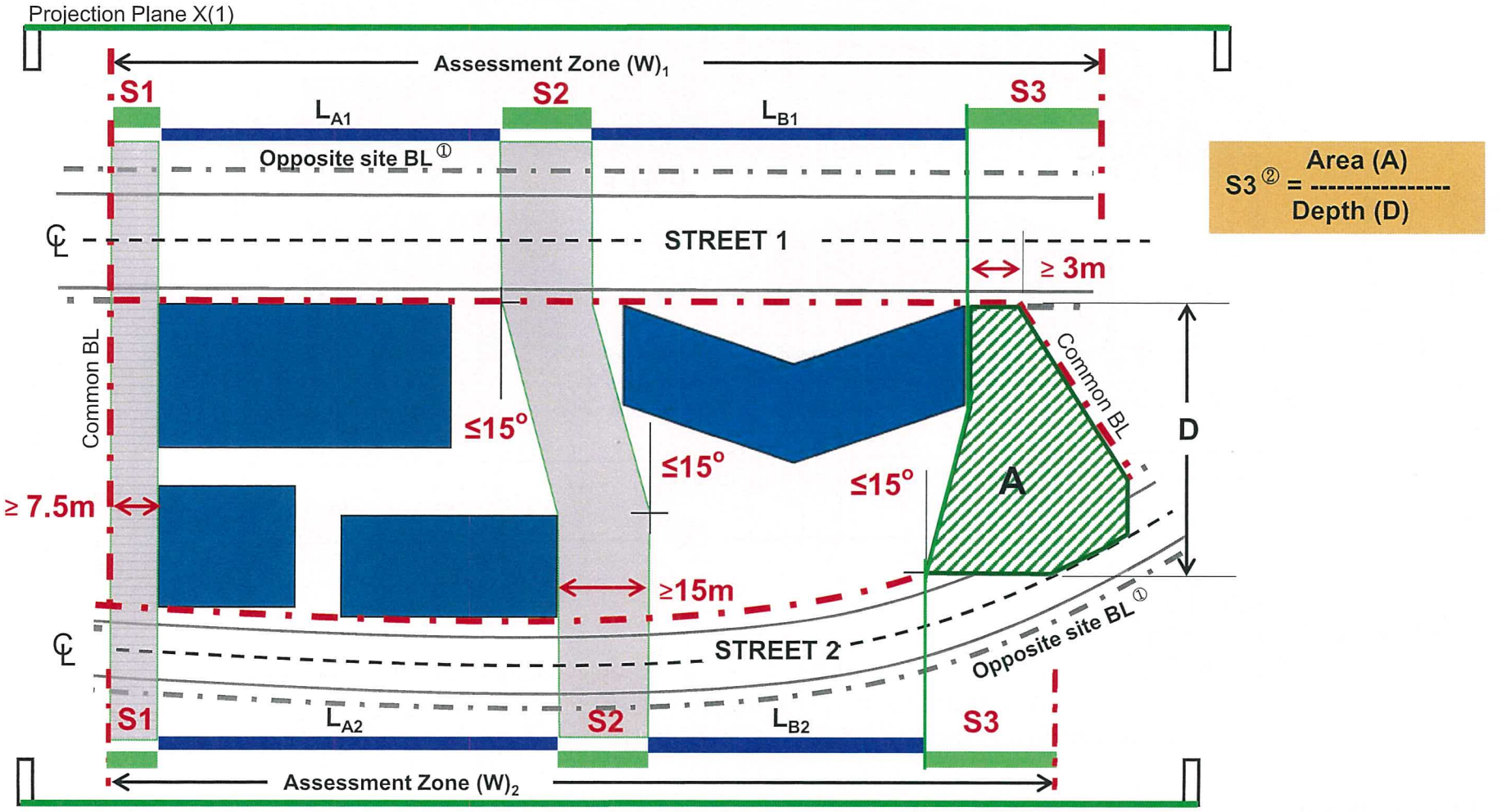


Diagrammatic Plan

Fig. B13

Notional Air Corridor S between buildings & at façade ends

- When projection plane X is placed on either side of the site, length of a building façade so projected on the planes may vary.
- Assessment of P may be based on the projection on either Plane X(1) or X(2).
- S1 & S3 ② **≥7.5m.**
- S2 **≥15m**



$$S3\ ② = \frac{\text{Area (A)}}{\text{Depth (D)}}$$

① Opposite side of the street if no opposite site.
② No part of the building within 3m from the BL.

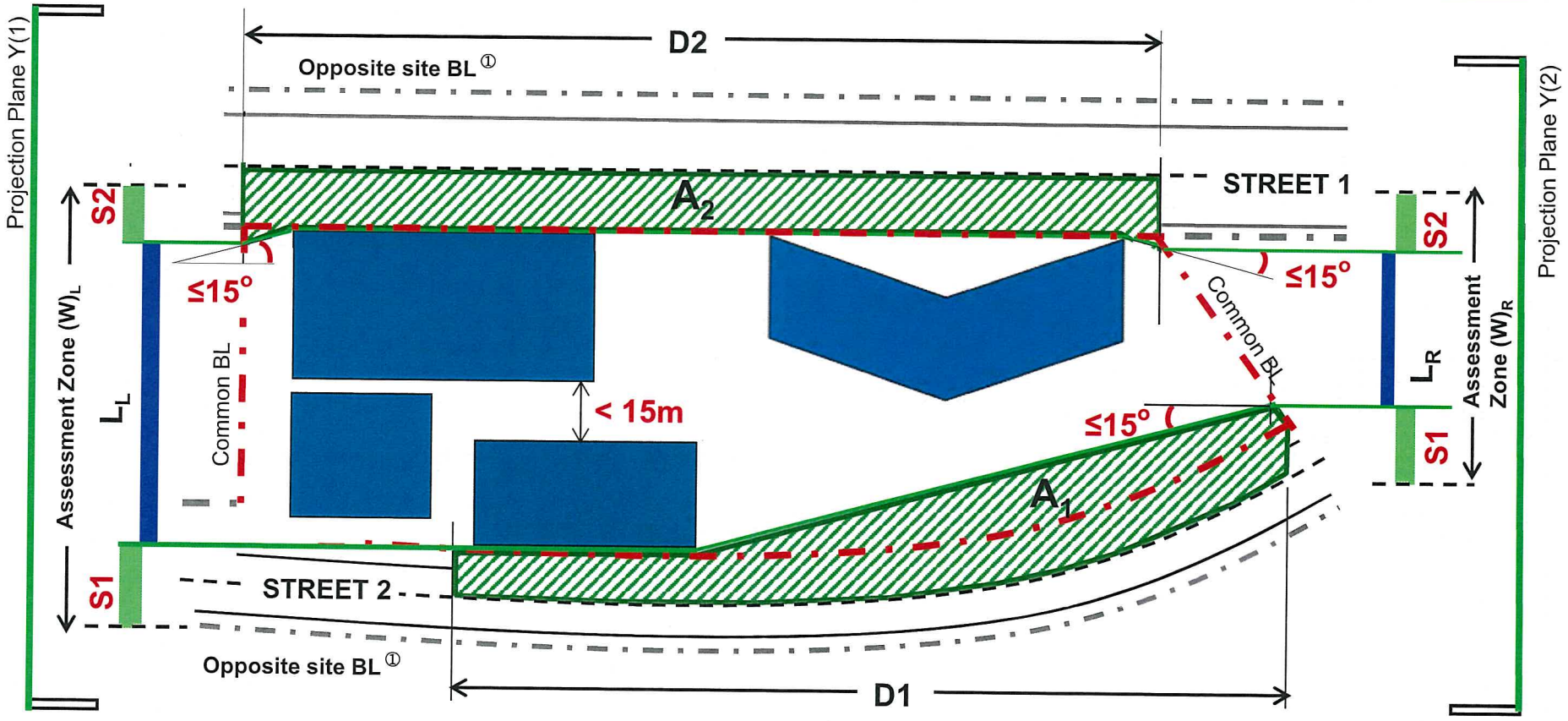
Diagrammatic Plan

Fig. B14

Notional Air Corridor S at façade ends

- When projection plane Y is placed on either side of the site, length of a building façade so projected on the planes may vary.
- Assessment of P may be based on the projection on either Y(1) or Y(2) as chosen.
- S1 & S2 between adjoining street/lane **≥7.5m**

$$S = \frac{\text{Area (A)}}{\text{Depth (D)}} \quad (\geq 7.5\text{m})$$

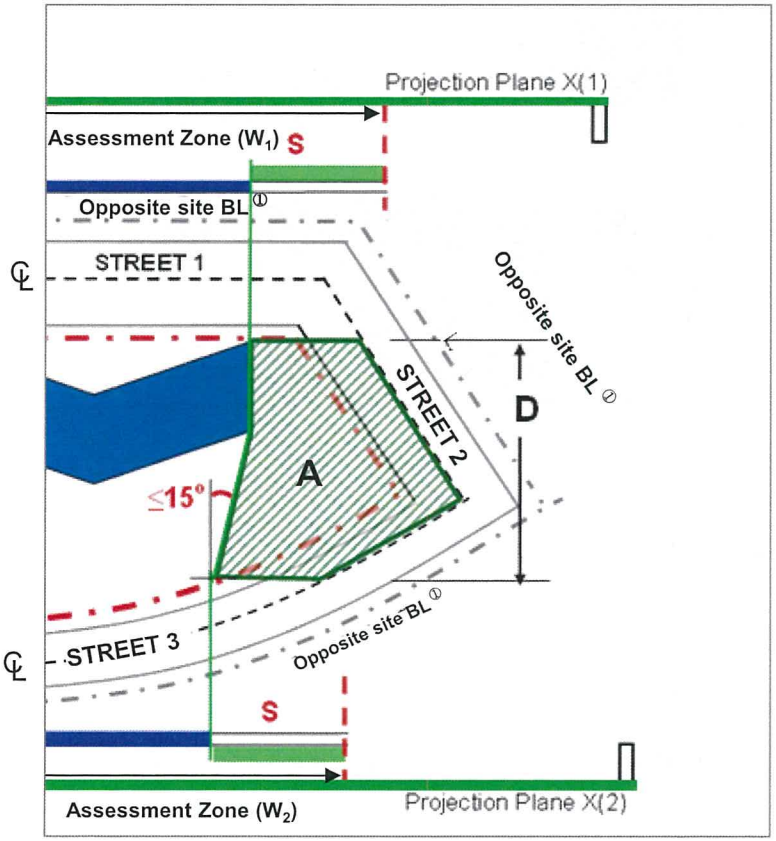


① Opposite side of the street if no opposite site.

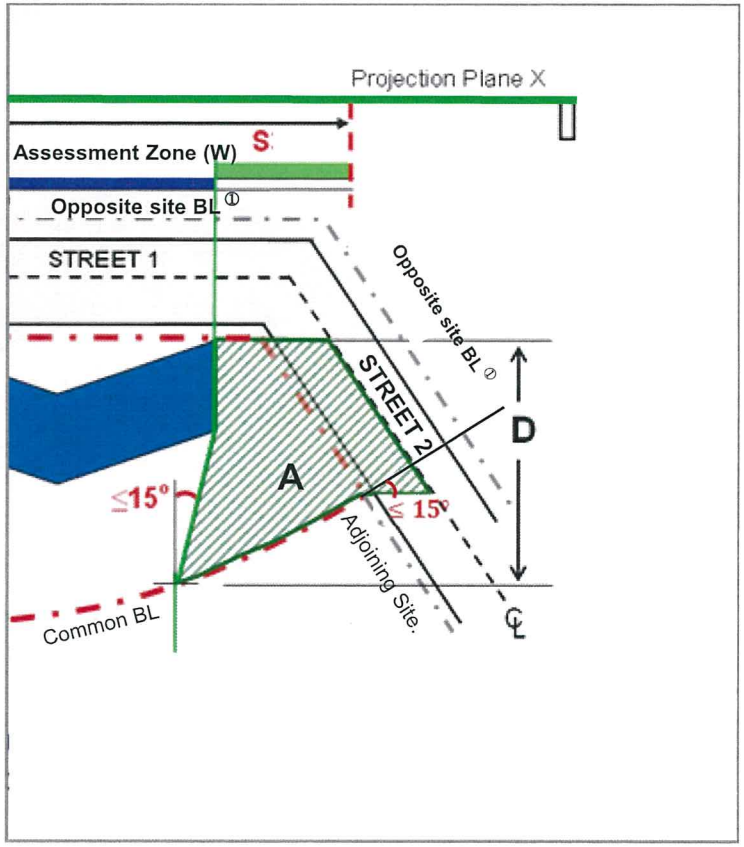
Diagrammatic Plan **Fig. B15**

Notional Air Corridor S at façade ends

$$S^{②} = \frac{\text{Area (A)}}{\text{Depth (D)}} \quad (\geq 7.5\text{m})$$



- When the site abuts three adjoining streets



- When the site abuts two adjoining streets

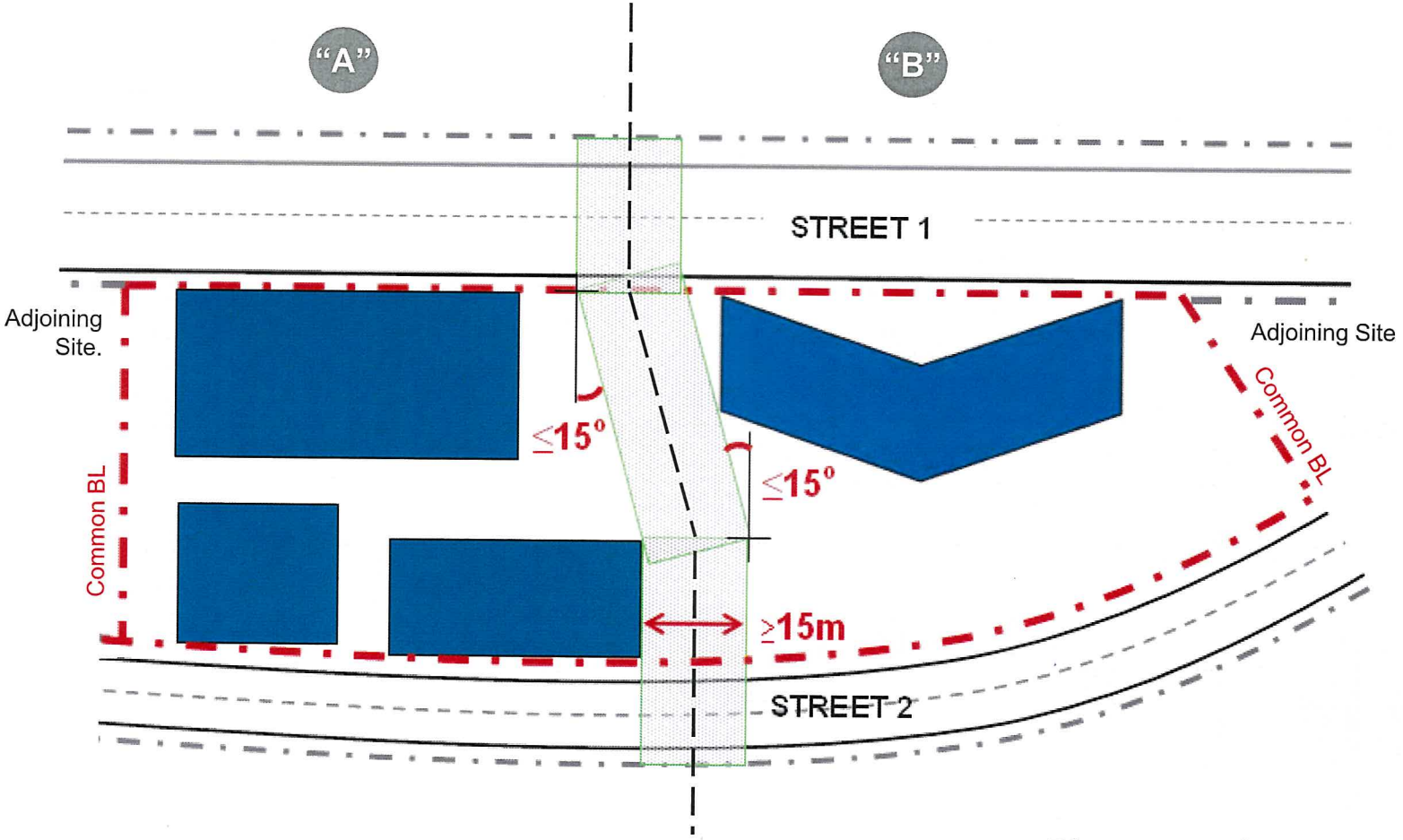
① Opposite side of the street if no opposite site.
② No part of the building within 3m from the BL.

Diagrammatic Plans **Fig. B16**

Wind Path passing through the site

Dividing the site into TWO or more notional sites for assessment of P

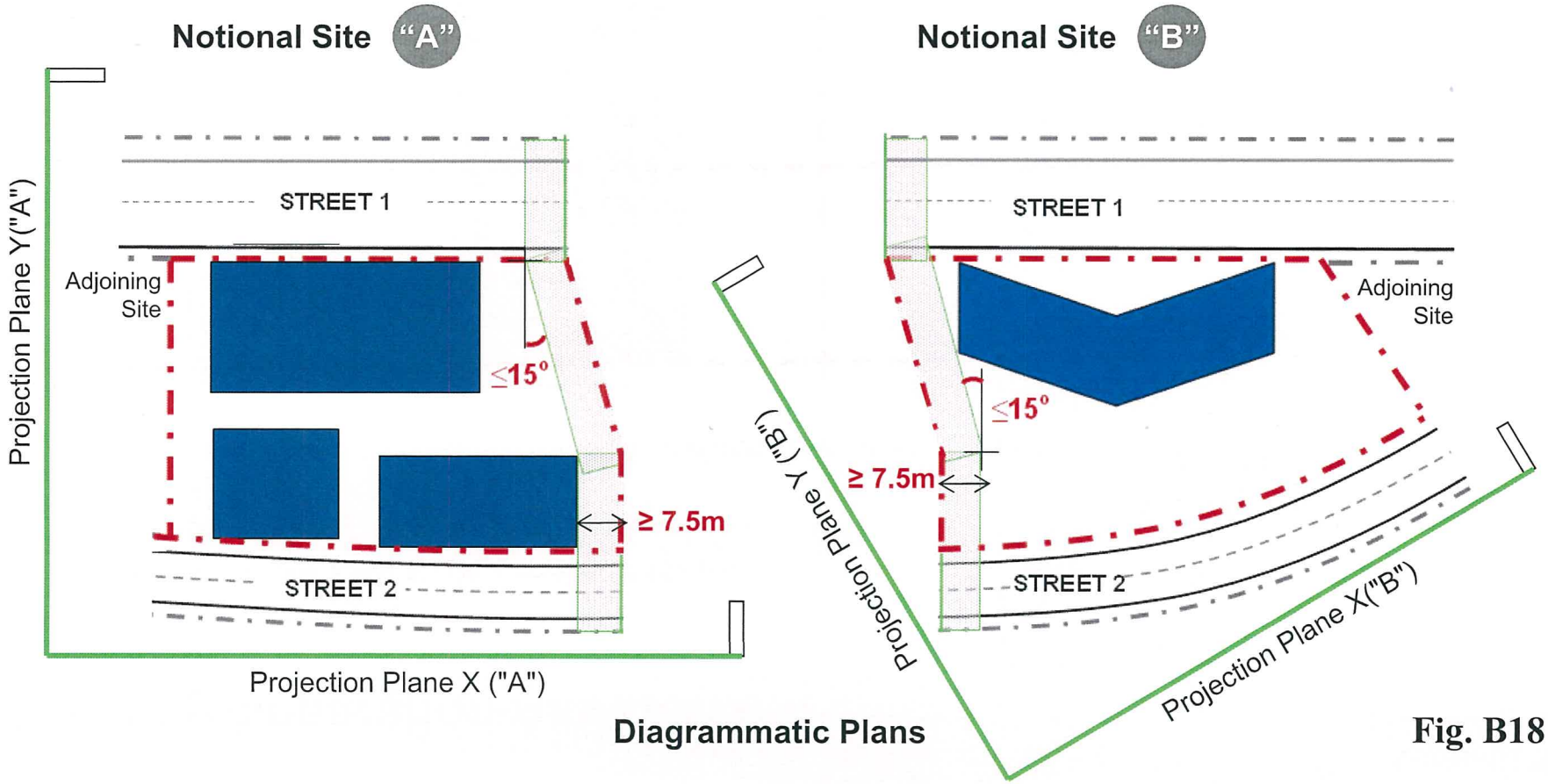
- vertically uncovered and unobstructed above the lowest level of the assessment zone
- width **≥ 15m**
- leading to a street or lane of mean width **≥ 7.5m** at both ends



Diagrammatic Plan **Fig. B17**

Sub-divided Notional Sites for Assessment of P

- S at the projected facade end shall be measured to the notional BL at centreline of the wind path.
- Individual pair of projection planes may be chosen for each of the TWO sub-divided sites for P assessment.
- "Level Zero" of the original undivided site shall be used for all notional sites.



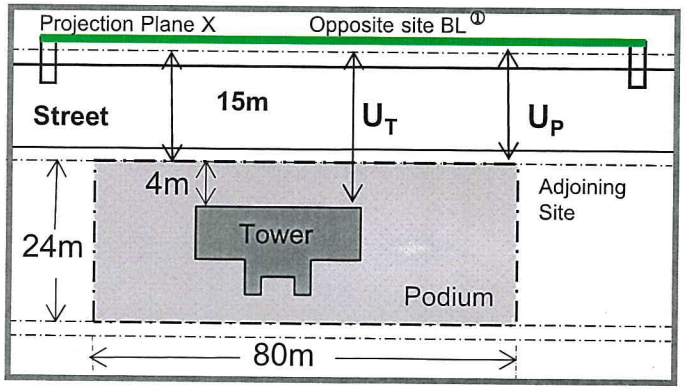
Diagrammatic Plans

Fig. B18

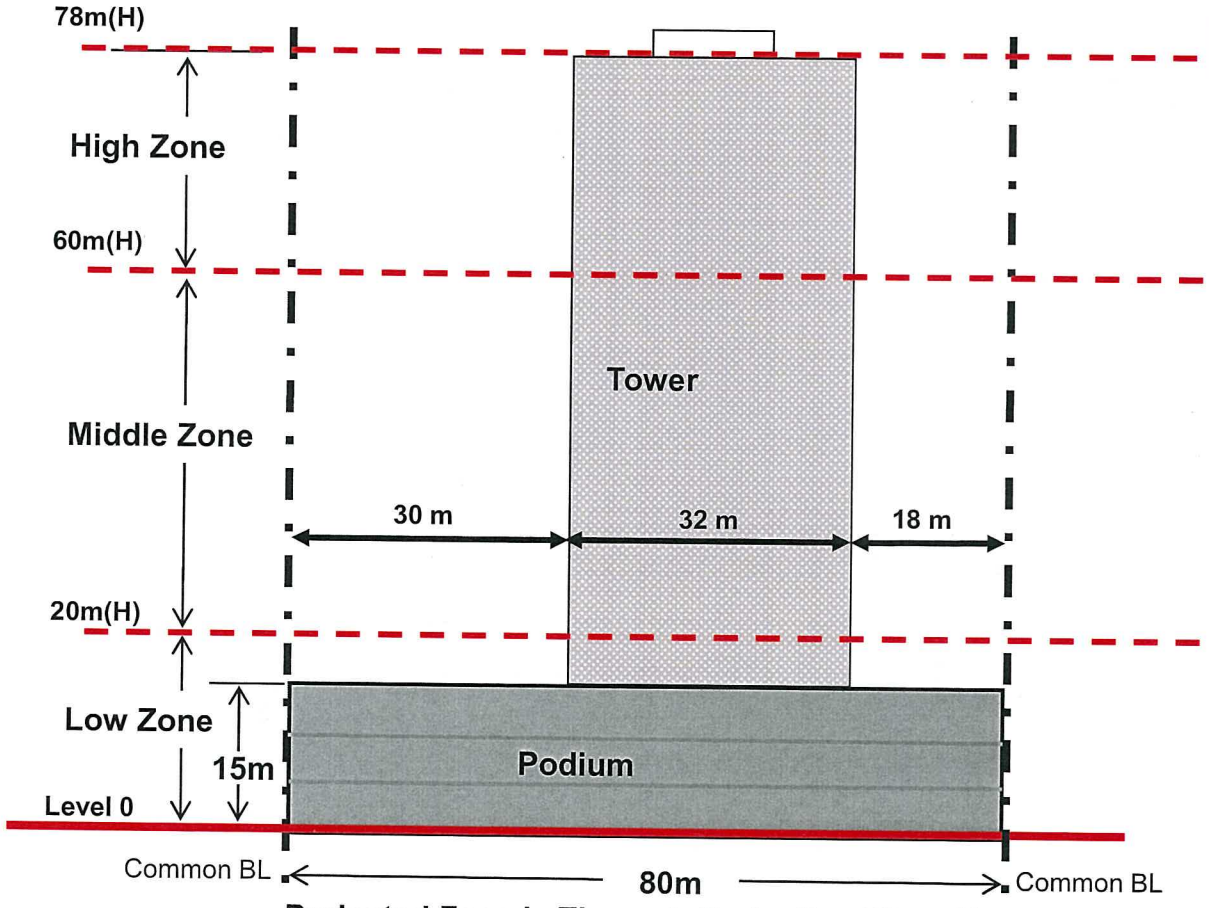
Building Separation Assessment

Sample Case

- Site area =1,920m^2 (< 20,000 m^2)
- Proposed building: one tower above a podium of 15m(H)
- Max. building height = 78m (> 60m)
- The site abuts a street of 15m wide
- Lp of podium with full site coverage = 80m(>60m, *assessment required*)



Plan



Projected Facade Through Projection Plane X **Elevational Projection**

Design Requirement (1)
Max. Lp = 5 x U

Building at Low Zone

- U_P = 15m, max. L_P = U_P x 5 = 75m
- Lp of proposed podium = 80 m (> 75m)
  (*i.e. NOT OK*)

Building at Middle Zone

- U_T = 19m, max. L_T = U_T x 5 = 95m
- Lp of proposed tower = 32m (< 95m)
  (*i.e. OK*)

Building at High Zone

- U_T = 19m, max. L_T = U_T x 5 = 95m
- Lp of proposed tower = 32m (< 95m)
  (*i.e. OK*)

① Opposite side of the street if no opposite site

Fig. B19

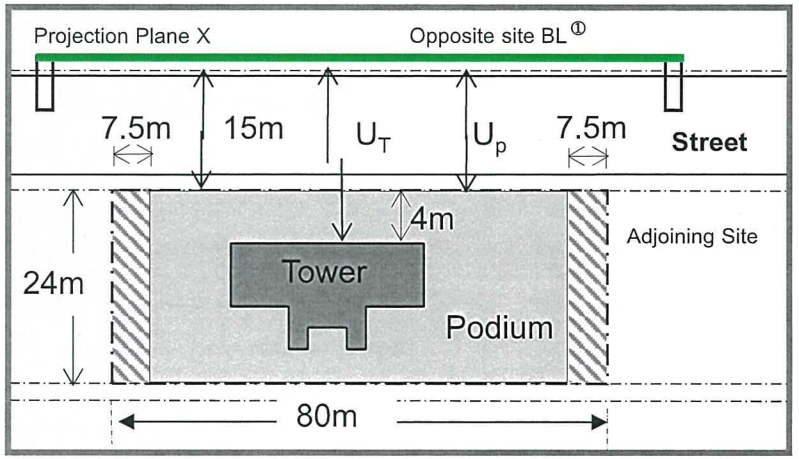
Building Separation Assessment

Design Requirement (1) - Low Zone

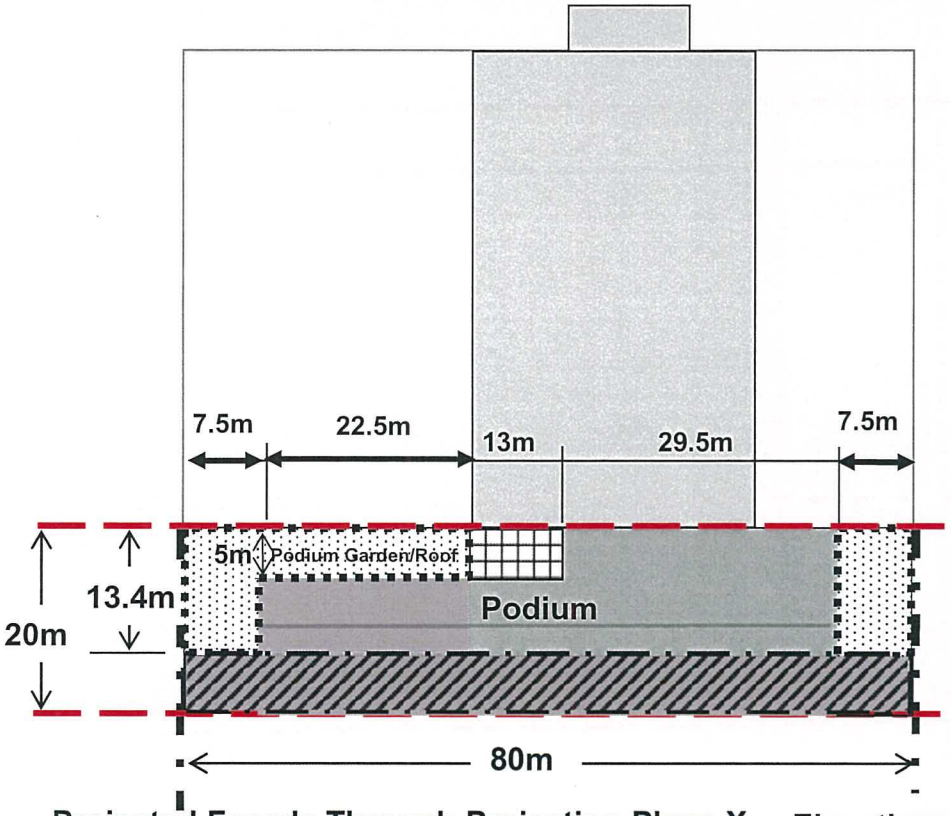
- U_P = 15m, max. L_P = U_P x 5 = 75m
- Lp = 80m – 7.5m x 2 = 65m < 75m

Design Requirement (2) - Low Zone

- Minimum P = 20% (from Table 2)
- Set Projection Plane X parallel to a Street



Plan



Projected Facade Through Projection Plane X

Elevational Projection

IS & S

- min. 7.5m to common B.L.
- height ≥ 2/3 of the Assessment Zone **or** open to above

Total facade area of the IS

= (7.5x13.4)m^2 + (7.5x13.4 + 22.5x5)m^2 = 313.5m^2

P achieved by the IS

= 313.5m^2 / (20x80)m^2 x 100%
= 19% (< 20%, but not less than (2/3) x 20% = 13.33%)

Facade area of the PE

= 13m x 5m = 65m^2

P achieved by the PE

= 65m^2 / (20x80)m^2 x 100%
= 4% (< (1/3) x 20% = 6.66%, *i.e. all accountable*)

Overall P achieved at low zone

= 19% +4% = 23% (> 20%, *i.e. OK*)

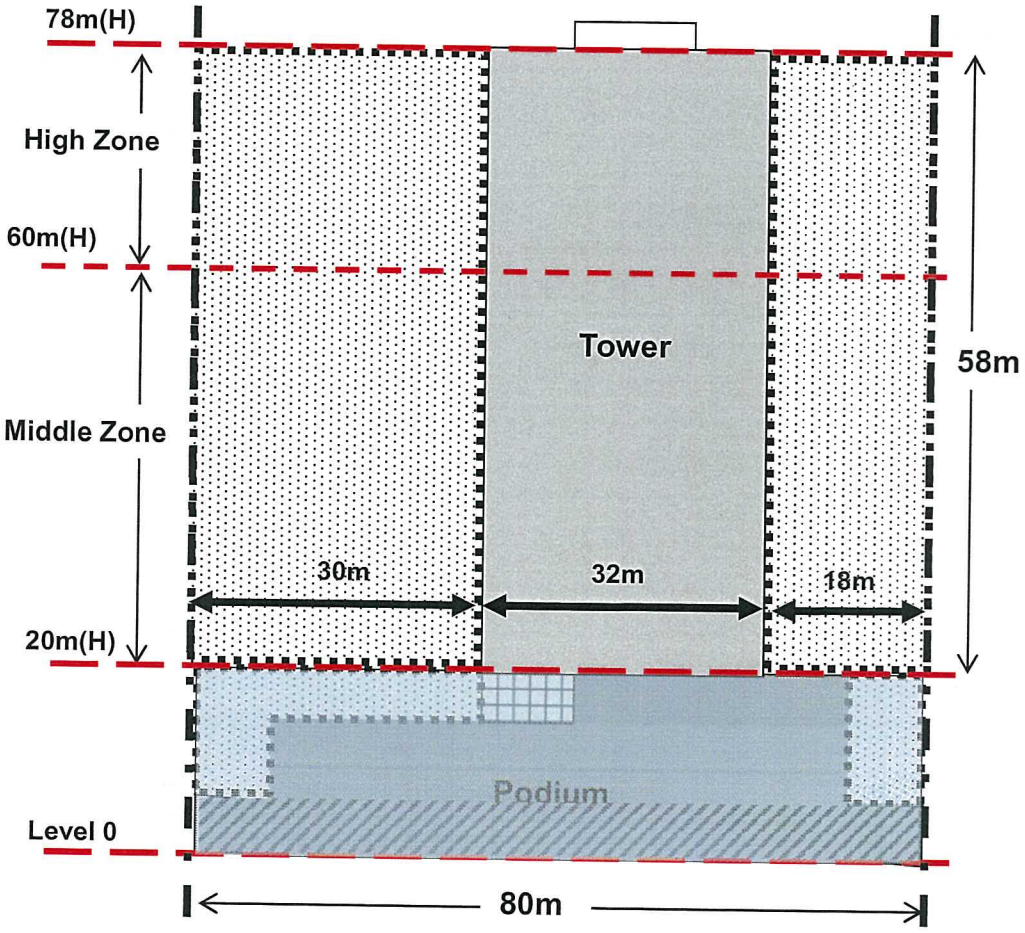
IS PE Low zone portion ≤1/3H are disregarded in Lp measurement

① Opposite side of the street if no opposite site

Fig. B20

Building Separation Assessment

Design Requirement (2) - Middle and High Zone

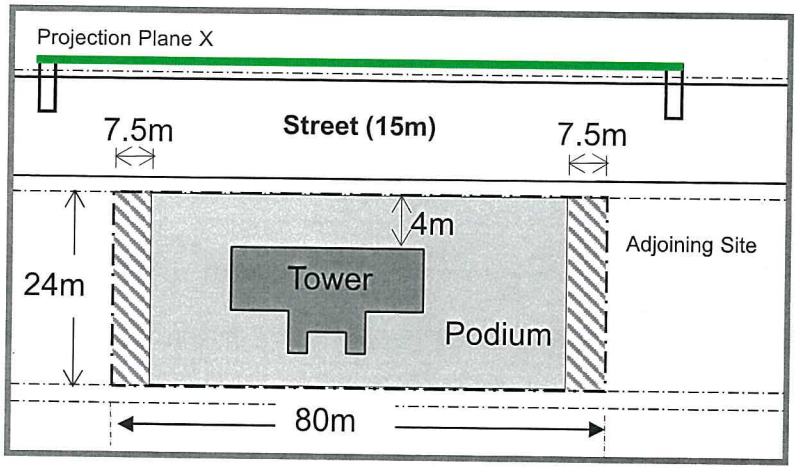


Projected Facade Through Projection Plane X

Elevational Projection

IS

(Rev. 1/2016)



Plan

IS & S for middle & high zone

- min. 7.5m to common BL
- height ≥ 2/3 of the Assessment Zone **or** open to above

Middle zone:

Total facade area of the IS

= (18x40)m^2 + (30x40)m^2 = 1920m^2

P achieved by IS

= 1920m^2 / (80x40)m^2 x 100%

= 60% (> 20%, *i.e. OK*)

High zone:

Total facade area of the IS

= (18x18)m^2 + (30x18)m^2 = 864m^2

P achieved by IS

= 864m^2 / (80x18)m^2 x 100%

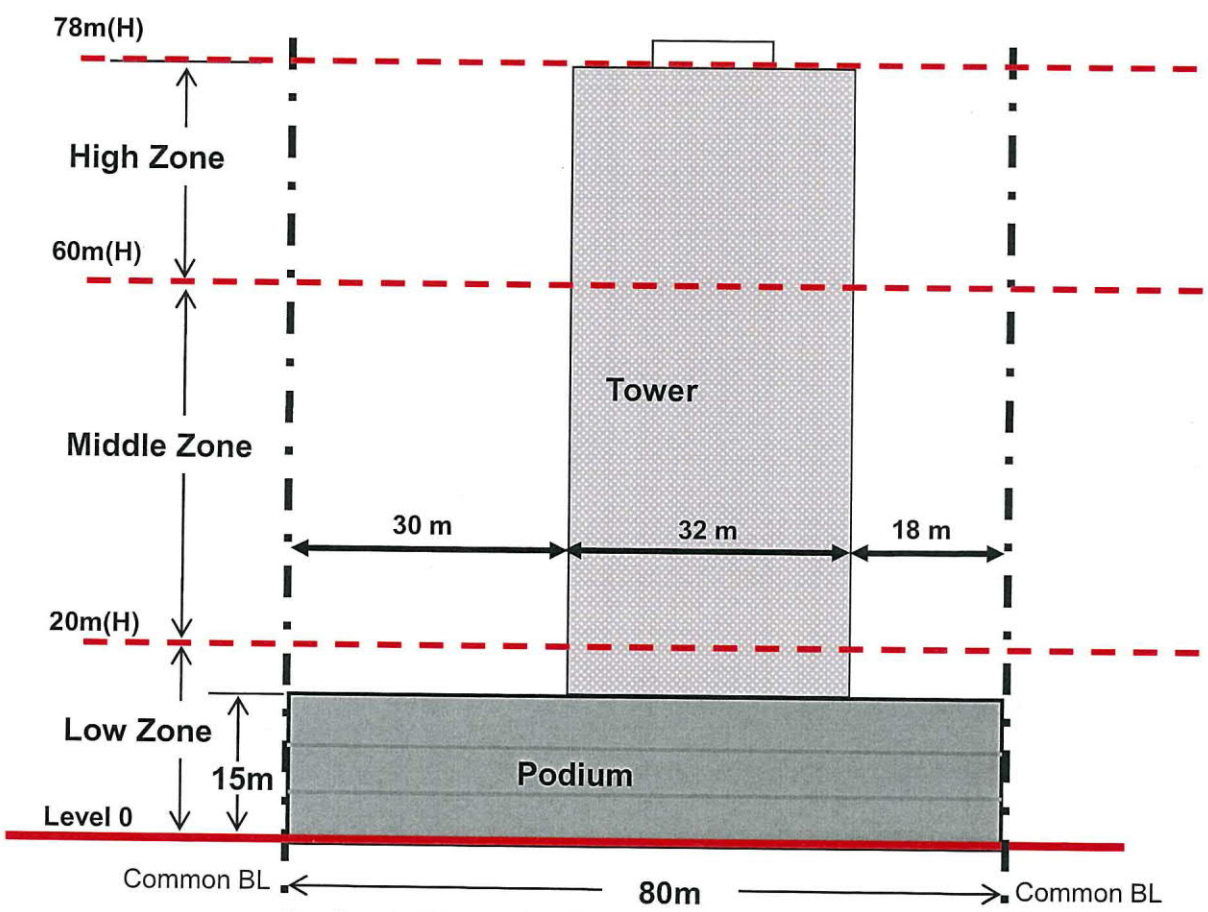
= 60% (> 20%, *i.e. OK*)

Fig. B21

Building Separation Assessment

Sample Case

- Site area =1,920m² (< 20,000 m²)
- Proposed building: one tower above a podium of 15m(H)
- Max. building height = 78m (> 60m)
- The site abuts a street of 15m wide
- Lp of podium with full site coverage = 80m(>60m, *assessment required*)



Projected Facade Through Projection Plane X

Plan

Elevational Projection

Design Requirement (1)
Max. Lp = 5 x U

Building at Low Zone

- U_P = 15m, max. $L_P = U_P \times 5$ = 75m
- Lp of proposed podium = 80 m (> 75m)
  (*i.e. NOT OK*)

Building at Middle Zone

- U_T = 19m, max. $L_T = U_T \times 5$ = 95m
- Lp of proposed tower = 32m (< 95m)
  (*i.e. OK*)

Building at High Zone

- U_T = 19m, max. $L_T = U_T \times 5$ = 95m
- Lp of proposed tower = 32m (< 95m)
  (*i.e. OK*)

① Opposite side of the street if no opposite site

Fig. B19

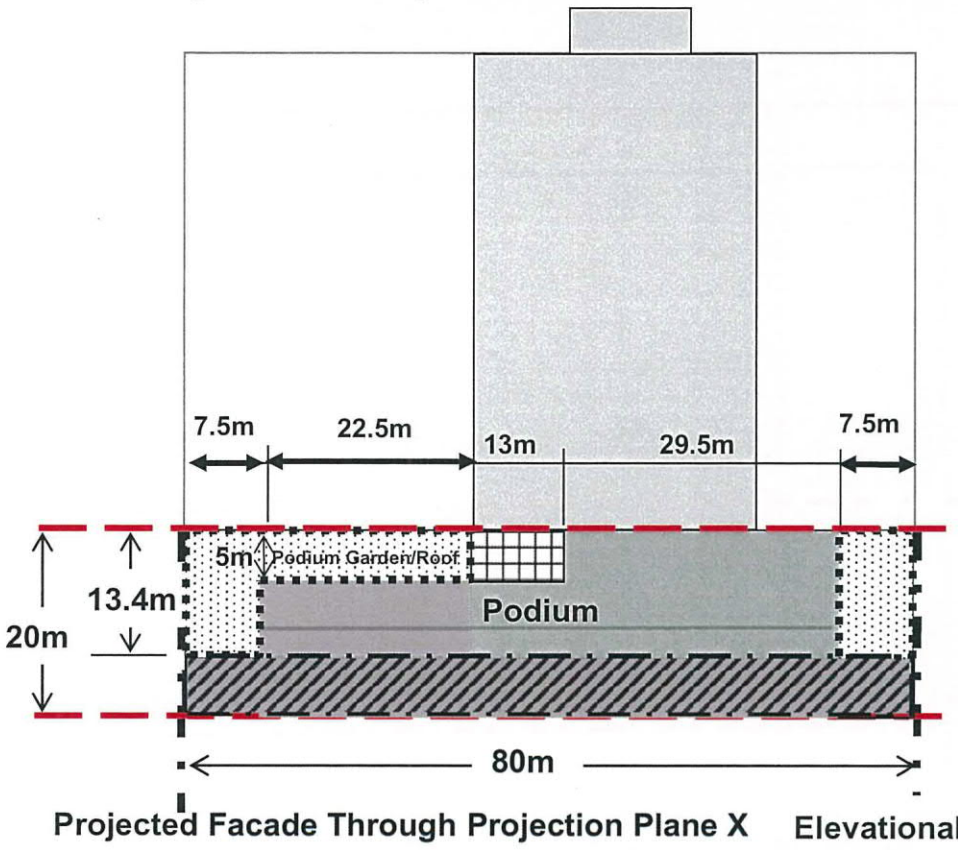
Building Separation Assessment

Design Requirement (1) - Low Zone

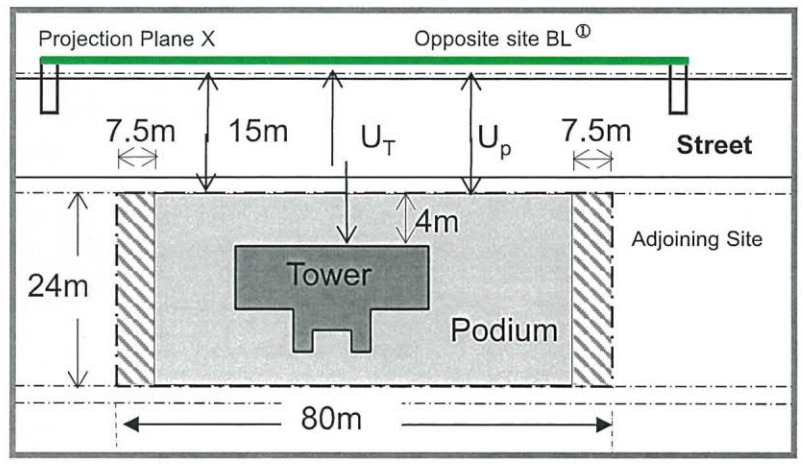
- U_P = 15m, max. L_P = U_P x 5 = 75m
- Lp = 80m – 7.5m x 2 = 65m < 75m

Design Requirement (2) - Low Zone

- Minimum P = 20% (from Table 2)
- Set Projection Plane X parallel to a Street



Projected Facade Through Projection Plane X Elevational Projection



Plan

IS & S
- min. 7.5m to common B.L.
- height ≥ 2/3 of the Assessment Zone **or** open to above

Total facade area of the IS
= (7.5x13.4)m^2 + (7.5x13.4 + 22.5x5)m^2 = 313.5m^2

P achieved by the IS
= 313.5m^2 / (20x80)m^2 x 100%
= 19% (< 20%, but not less than (2/3) x 20% = 13.33%)

Facade area of the PE
= 13m x 5m = 65m^2

P achieved by the PE
= 65m^2 / (20x80)m^2 x 100%
= 4% (< (1/3) x 20% = 6.66%, *i.e. all accountable*)

Overall P achieved at low zone
= 19% +4% = 23% (> 20%, *i.e. OK*)

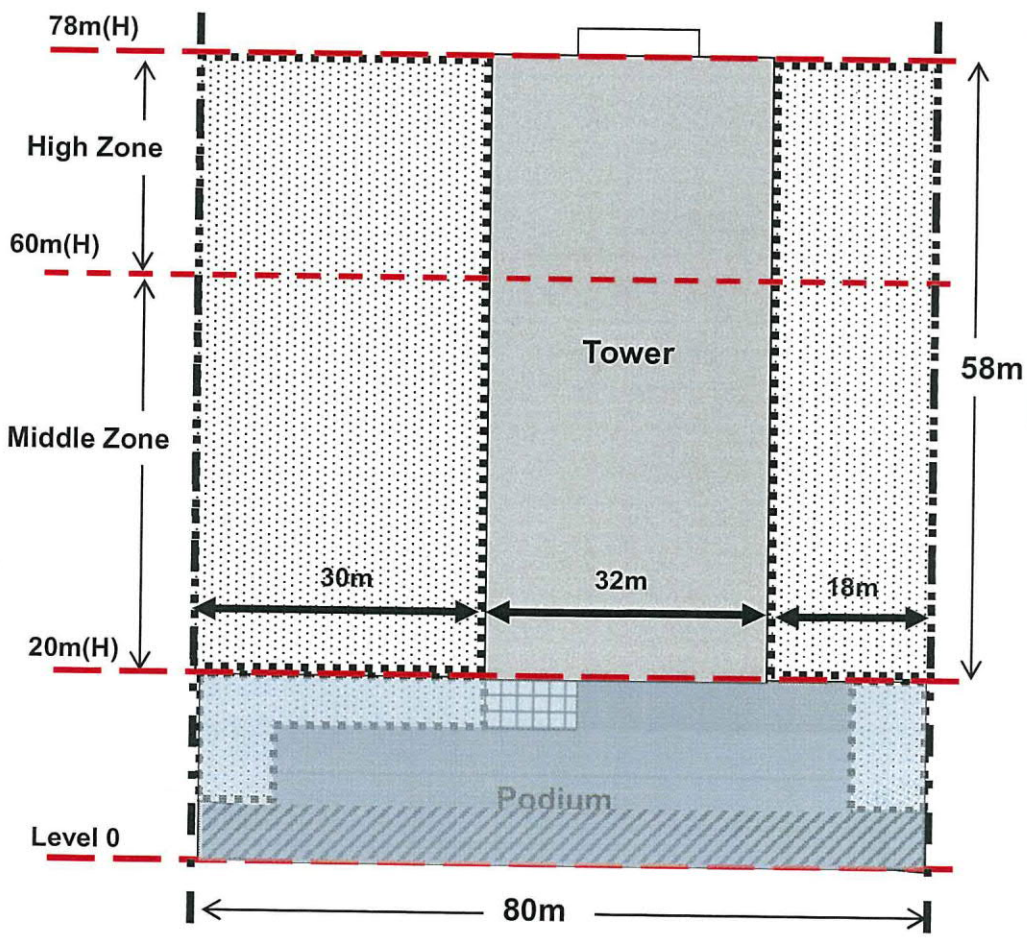
IS PE Low zone portion ≤1/3H are disregarded in Lp measurement

① Opposite side of the street if no opposite site

Fig. B20

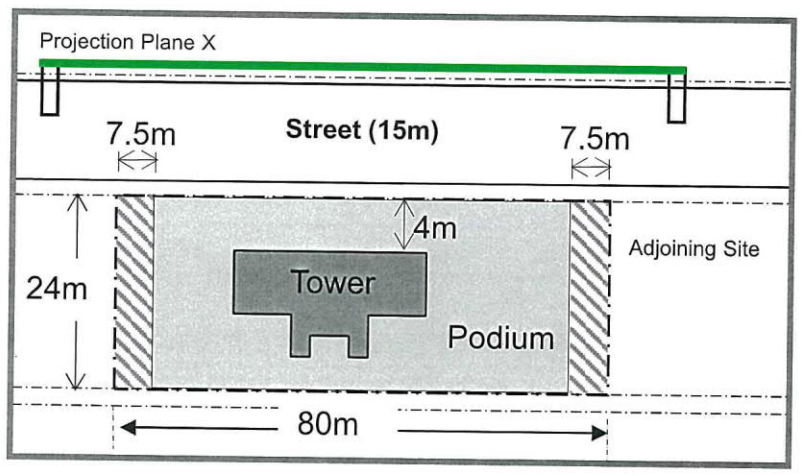
Building Separation Assessment

Design Requirement (2) - Middle and High Zone



Projected Facade Through Projection Plane X

Elevational Projection



Plan

IS & S for middle & high zone
- min. 7.5m to common BL
- height ≥ 2/3 of the Assessment Zone **or** open to above

Middle zone:
Total facade area of the IS
= (18x40)m^2 + (30x40)m^2 = 1920m^2

P achieved by IS
= 1920m^2 / (80x40)m^2 x 100%
= 60% (> 20%, *i.e. OK*)

High zone:
Total facade area of the IS
= (18x18)m^2 + (30x18)m^2 = 864m^2

P achieved by IS
= 864m^2 / (80x18)m^2 x 100%
= 60% (> 20%, *i.e. OK*)

IS

(Rev. 1/2016)

Fig. B21

Appendix C
(PNAP APP-152)

Building Setback Requirements

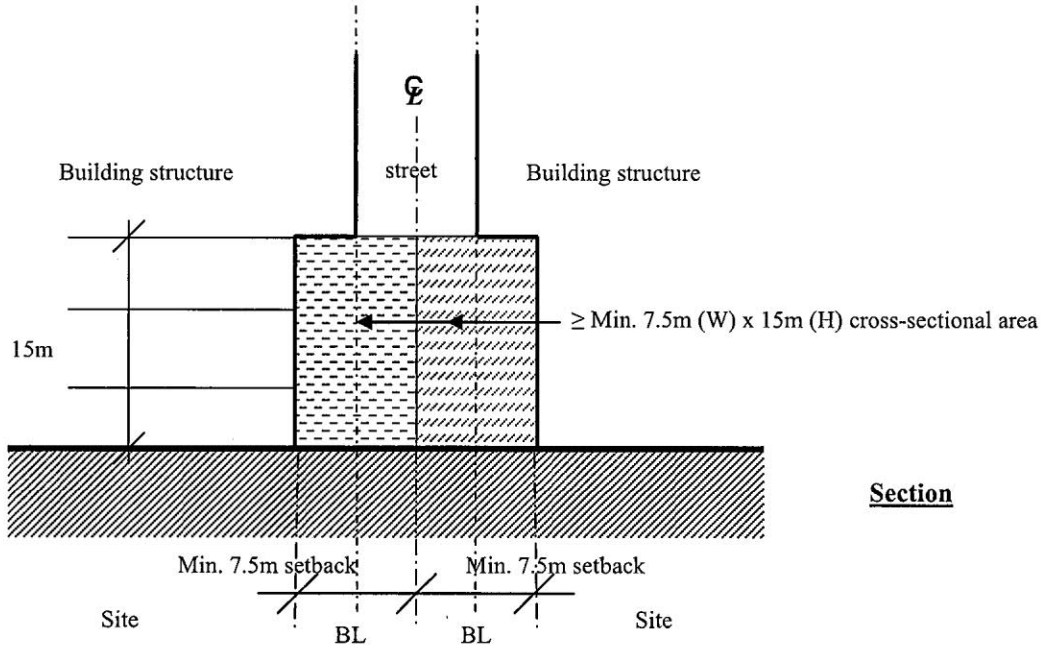


Fig. C1 Building setback as detailed in paragraph 7(a) of this PNAP

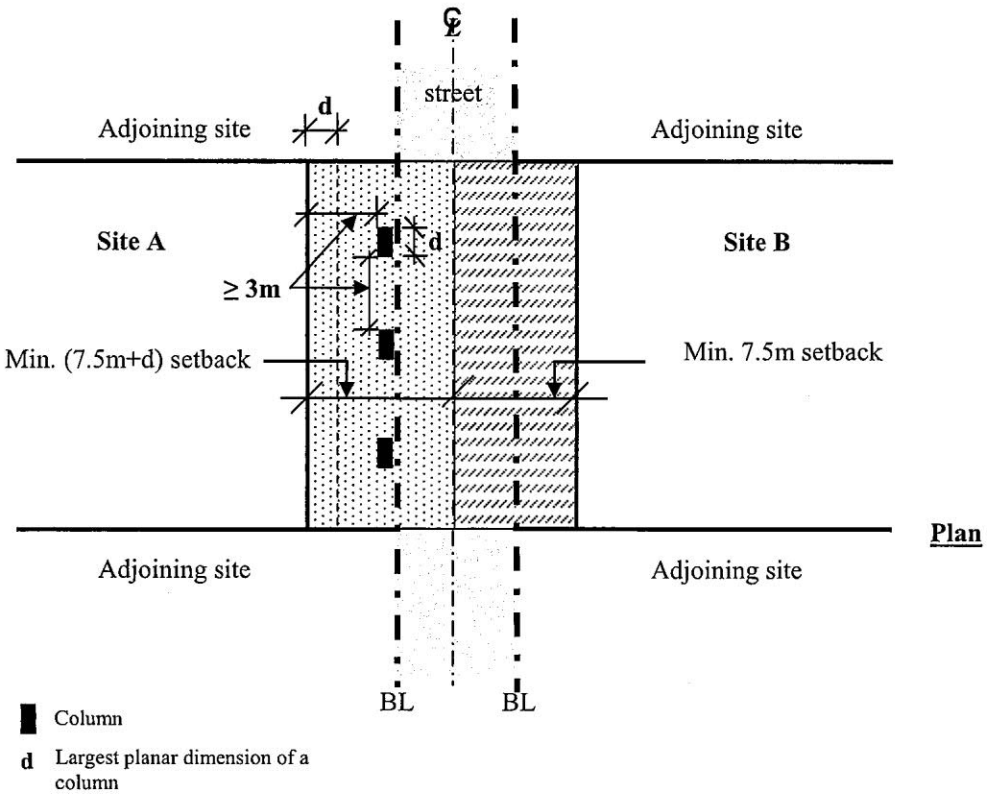


Fig. C2 Building setback as detailed in paragraphs 7(a) and 8(c)

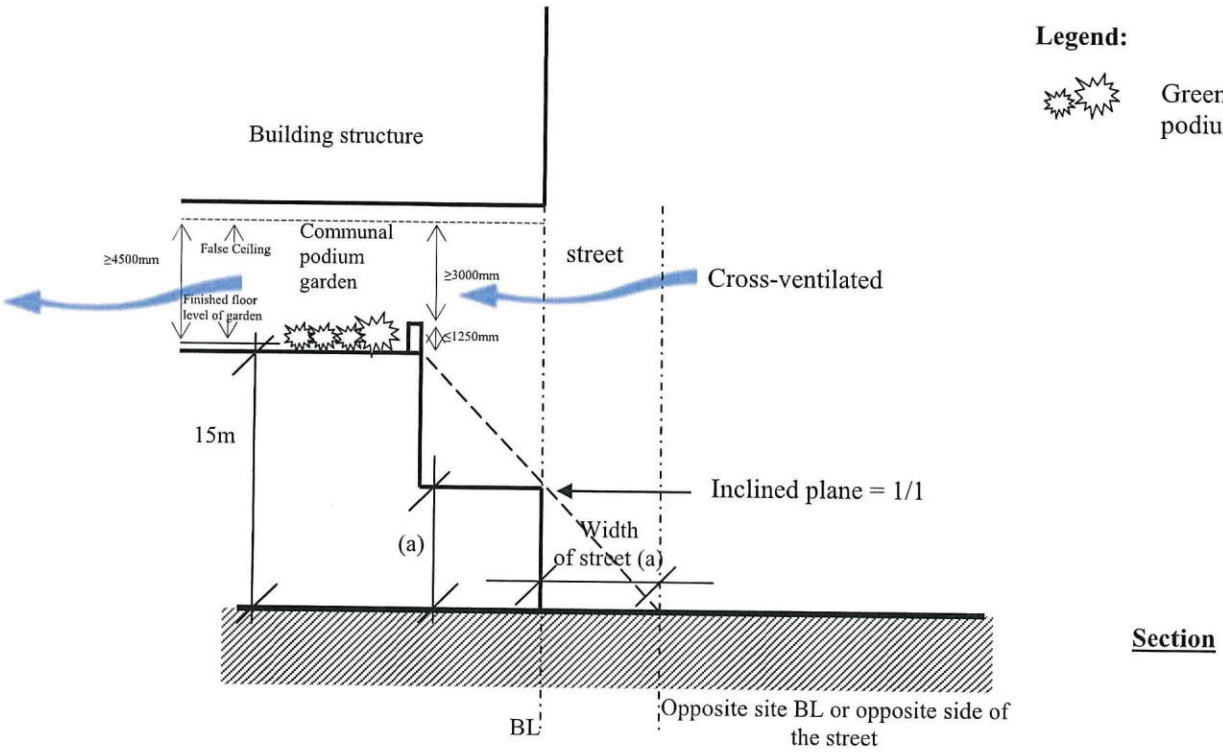


Fig. C3 Stepped building profile with communal podium garden as detailed in paragraph 7(b)

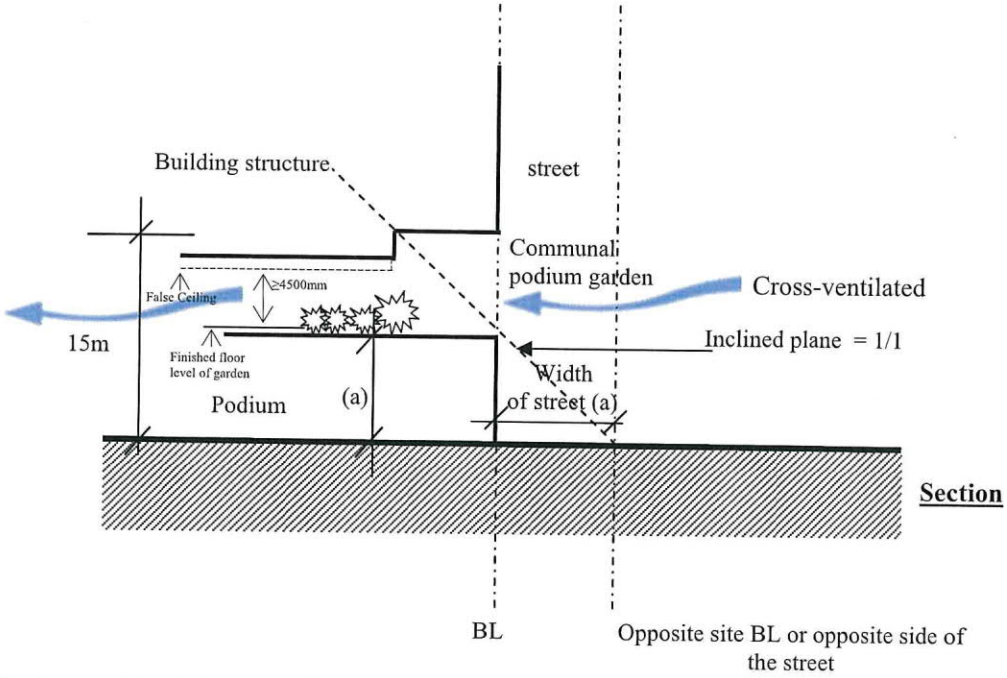
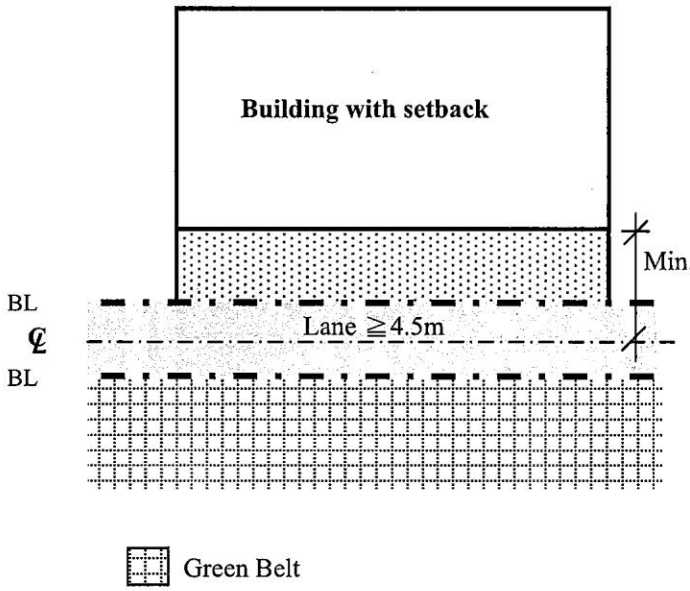
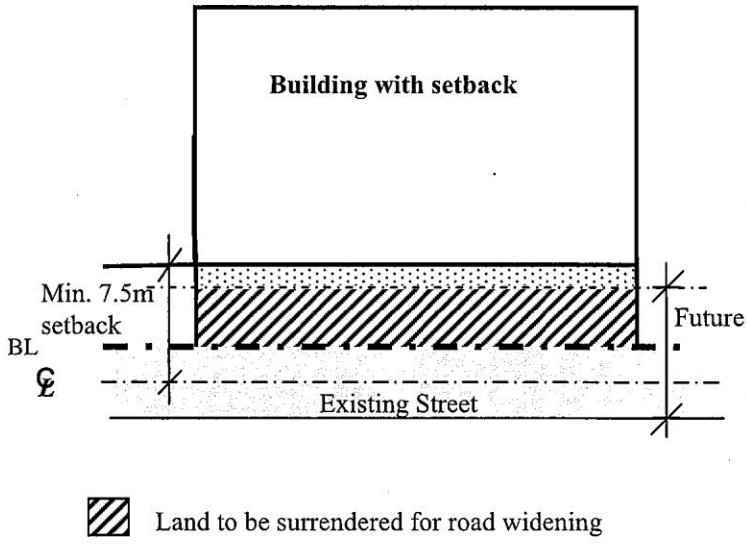


Fig. C4 Stepped building profile with communal podium garden as detailed in paragraph 7(b)



Notes:
- Check if lane falls under the definition of "street" in Appendix A
- Likelihood of future development within Green Belt cannot be precluded. Hence, Green Belt should not be regarded as lane
- If width of the lane is ≧4.5m but <15m, building setback is required

Fig. C5 Example (1) of Building Setback - Site abutting narrow lane with Green Belt beyond



- If part of site is to be surrendered for road widening and width of future street (on account of the subject site only as indicated) including any existing street is ≧4.5m but <15m, building setback is required from the centreline of the existing street.

Fig. C6 Example (2) of Building Setback – Portion of Site will be surrendered to form a future street

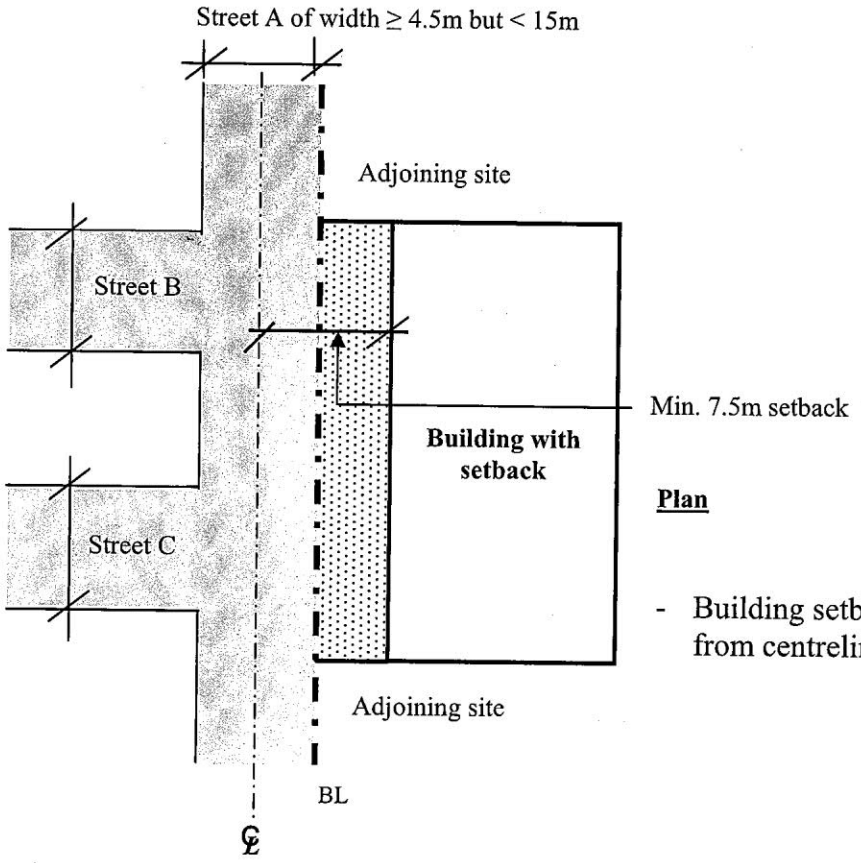


Fig. C7 Example (3) of Building Setback - Site abutting streets at intersections

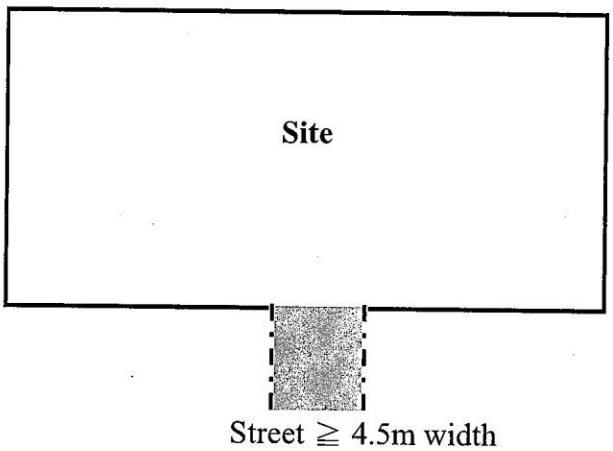
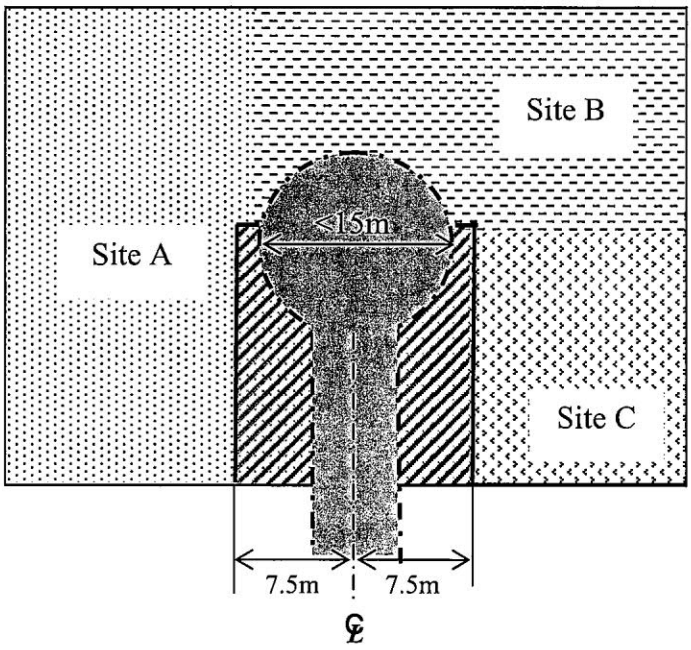


Fig. C8 Example (4) of Building Setback – Site at the end of the street/ cul-de-sac



Plan

- For Site B abutting the cul-de-sac, building setback is not required.
- For Site A & C abutting the street with width ≧4.5m but <15m, building setback (hatched area) is applicable.

Fig. C9 Example (5) of Building Setback – Site abutting cul-de-sac

(Rev 1/2016)

Appendix D
(PNAP APP-152)

Site Coverage of Greenery

1. All *greenery areas* should be measured horizontally based on the uncovered soil[1] areas as shown on the plan except for the following scenarios in the *primary zone* :-

   (i) greenery areas in the form of projecting planters (see Figure D1) may be shadowed vertically by other projecting features, provided that the clear height of the projecting features above the covered area is not less than 8 times the horizontal width of the covered area and fronting or visible to the public from a street/a public pedestrian way/ public open space; or

   (ii) greenery areas may be shadowed vertically by buildings (including overhangs), provided that when measured from the 45° projected line taken from the edge of the building, they should fall within the area and be accessible to the public, visitors or occupiers from the adjoining open areas (see Figure D2).

2. The summation of following greening features may be accepted to contribute not more than 30% of the total required *greenery areas* of the overall provision as specified in Table 2 of this PNAP subject to its location and application of a reduction factor where applicable.

Greening Features	**Location**	**Reduction Factor in Computing the *Greenery Areas***
Covered greenery areas[2] accessible to public, occupiers or visitors from adjoining open space	*Primary zone* (measured from 45° projected line taken from the edge of building)	50%
Water features[3]	*Primary zone* or uncovered communal roof	50%
Grass paving	Except carparking spaces or loading / unloading areas	50%
Planters along the perimeter of an inaccessible roof[4]	Primary zone	50%
Vertical greening[5]	Primary zone	Nil
Landscape-treated Greening on slopes / retaining structures[6] with gradient steeper than 45°	No restriction	Nil

---

1 For reference, the recommended minimum soil depths for trees, shrubs, grass/ground covers are 1.2m, 0.6m and 0.3m respectively.

2 In planting design and species selection for covered greenery, reference should be made to "Proper Planting Practice – Provide Sufficient Growing Space between Trees and Adjacent Buildings / Structures" issued by Greening, Landscape & Tree Management Section of DEVB (www.greening.gov.hk).

3 Water features should be measured by the horizontal water surface area. Swimming pool and jacuzzi are not considered as water features. Filtration plant room for water feature may be exempted from

GFA but subject to compliance with the pre-requisites and the overall GFA cap on GFA concessions stipulated in PNAP APP-151.

3. Irrigation points and drainage provision should be provided at *greenery areas* to facilitate future maintenance. In addition, where greenery is provided on the roof, the roof should be of impervious construction and the design and calculation of the minimum imposed load on the roof should also take into account the anticipated loads of the soil, plants, trees, etc.

4. Greenery in removable pots/planters that are not permanently fixed or built into the development; and covered greenery above the *primary zone* such as in covered communal podium garden or sky garden cannot be counted as *greenery area.*

5. All *greenery areas* for the purpose of this PNAP should be designated as common part of the building. As for the perimeter planters on the inaccessible flat roofs, communal access paths should still be provided from the common areas for maintenance of the planters.

6. When granting modifications under section 42 of the Building Ordinance for GFA concessions applied under PNAP APP-151, the Building Authority (BA) may impose, but not limited to, the following conditions: -

   (a) The *greenery areas* should not be used for any other purposes without the prior consent of the BA.

   (b) The restriction on the use as stated in item (a) above and the *greenery areas* to be designated as common parts should be incorporated into the Deed of Mutual Covenant (DMC) with details of their size (in area), locations and the common access thereto clearly indicated on a plan(s). Where no DMC is to be in force, such restriction and designation should be incorporated into the Sales and Purchase Agreement, Assignment or Tenancy Agreement.

   (c) The letter of undertaking for complying with the requirements as stated in items (a) and (b) above, submitted by the developer or owner in support of the application for GFA concessions should be registered in the Land Registry before applying for the occupation permit.

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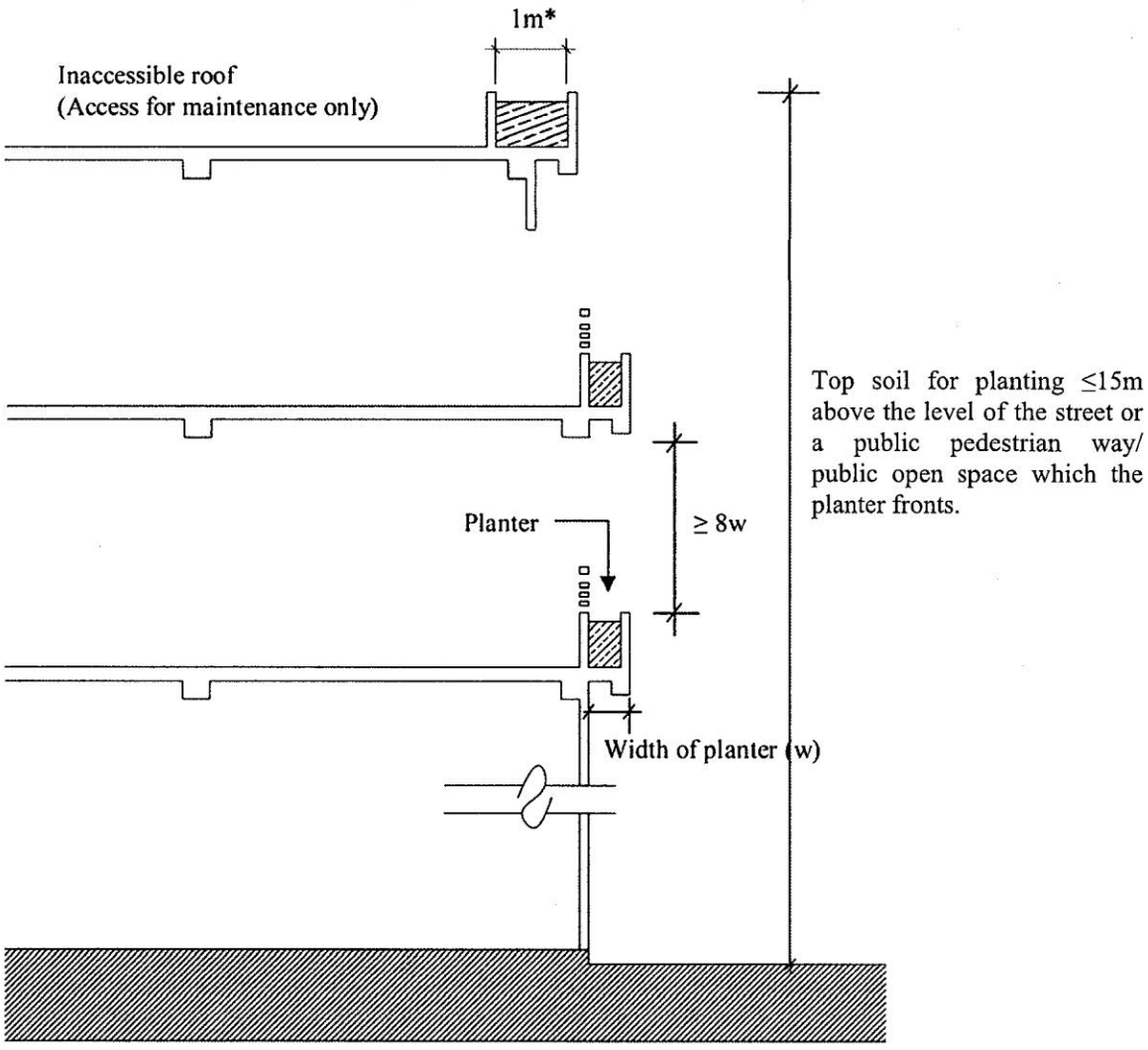
4 Irrespective of the size of planters, only the soil areas within 1m from the perimeter of the roof are accountable.

5 *Vertical greening* should be measured by the elevational area of the vegetated panel/modular planter or panel, and the vertical frame (for climbing and/or weeping plants) where the greenery will grow. For *greenery areas* provided by climbing or weeping plants, vertical frames with a height more than 7.5m are not accountable. The horizontal area of soil in planters under the vertical frame/modular planter/panel already counted for vertical greening as aforesaid should be excluded from the *greenery area* calculation. Self-clinging climbing plants on hard surfaced walls should be measured horizontally based on the soil areas as shown on the plan (not counted as vertical greening and therefore not subject to the restriction in the table).

6 Greening on slopes/retaining structures should be measured by the projected elevational area of the soil where the greenery will grow. Greening on slopes/retaining structures with gradient equal or less than 45° will be measured horizontally based on the soil area as shown on the plan.

Appendix D
(PNAP APP-152)

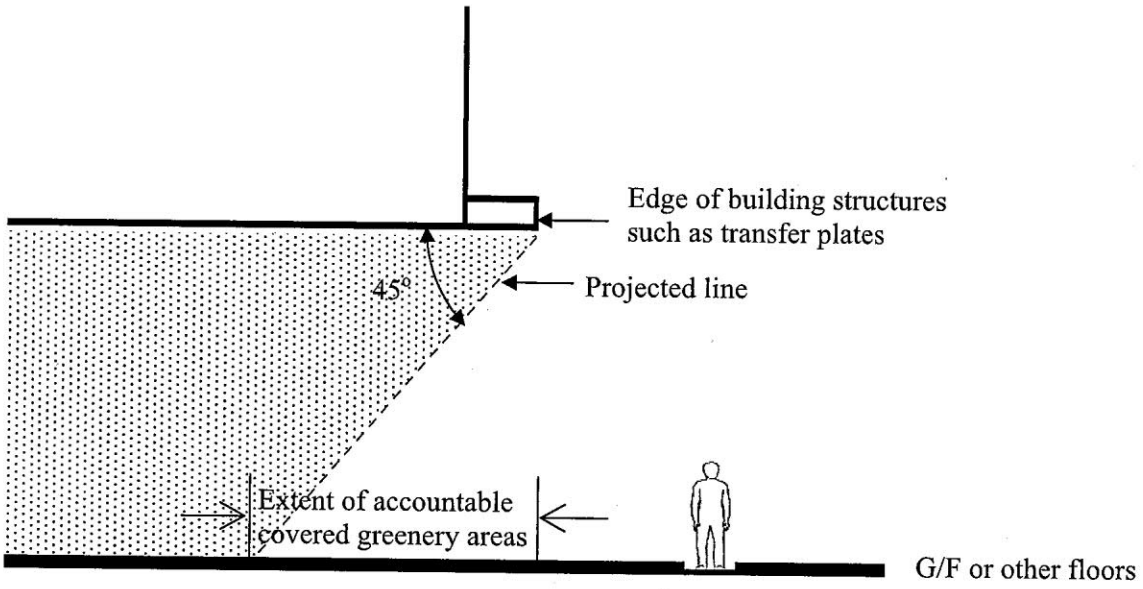
Greenery Area at Primary Zone



Typical Section (not to scale)

* Irrespective of the size of planters, only maximum 1m wide soil areas of planters along the perimeter of an inaccessible flat roof in the *primary zone* can be accountable.

Fig. D1 Greenery in *primary zone* as per paragraph 1(i) of this Appendix



Typical Section (not to scale)

Fig. D2 Covered greenery in *primary zone* as per paragraph 1(ii)

Appendix E
(PNAP APP-152)

Alternative Approaches

Principles

Pursuant to paragraph 12 of this PNAP, in recognition of the genuine constraints in compliance with the SBD Guidelines under the special circumstances of individual cases, the BA takes a flexible and pragmatic stance in accepting:

(a) performance-based approach in justifying alternative designs that can achieve equivalent standards, or

(b) inadequate provisions of a particular key design element when mitigated by other effective compensatory measures such as enhancement in the provision of other key elements or by the consideration of the unique context of the site e.g. sites with unobstructed surrounds, such as piers.

2. Alternative design proposals and applications for exemption or modification of the building separation, building setback and site coverage of greenery requirements should be supported by justifications. Where necessary, such proposals and applications may be examined by the Building Committee or the Expanded Building Committee (collectively as BC) composing of external experts in the relevant fields. The BA may take into account recommendations from the BC and other relevant considerations in determining acceptance of the proposal.

Building Separation

Alternative Design for Waiving Low Zone Assessment

3. The building separation requirement at the low zone may be waived for buildings with:

(a) less dominating building bulk – the site coverage for the building including any podium does not exceed 65% of the site; and

(b) adequate setback along *street* frontage – the full height of the building is set back[1] from a site boundary abutting any *street* such that the total frontage of such setback is not less than 50% of the length of that boundary and not less than 10m long or the full frontage for site with frontage less than 10m; and the total setback area is not less than 15% of the site area.

Performance-based Design Alternative

[1] Reference is made to the design criteria on the setback approach under PNAP APP-132

4. To allow for flexibility in building design where the prescriptive requirements specified in Design Requirements (1) and (2) as mentioned in paragraph 4 of this PNAP cannot be fully met, the adoption of performance-based design alternative on the provision of building separation may be accepted on the conditions that:-

(a) Provision of the minimum P as specified in Table 1 for each assessment zone; and

(b) Satisfactory demonstration by *air ventilation assessment* (*AVA*) that the buildings' potential impact on the local wind environment has been duly considered and that by comparing with a baseline case which complies with the above Design Requirements (1) and (2), the proposed design is equivalent or better in external air ventilation terms.

5. The *AVA* shall be done by referring to the latest methodology and requirements of Technical Guide for Air Ventilation Assessments[2] using wind tunnel modelling or digital representation of the physical and wind environment using *Computational Fluid Dynamics (CFD)* simulations.

6. For projects adopting a performance-based design alternative, the following information with full justifications for deviation from the prescribed requirements should be submitted preferably in two stages to avoid abortive work:

Stage 1 Submission

(a) An expert evaluation on whether the tools and methodologies for *AVA* employed are fit for the purpose and are suitably verified and scientifically validated with practical merits shall be carried out. In this connection, submission for prior acceptance of all information listed below covering factors like site configuration, local topography, wind characteristic and sensitive receivers in the surrounding areas, relevant urban climatic considerations, etc. is required:

(i) a baseline case that fully complies with all the prescriptive Design Requirements (1) and (2);

(ii) details of scientific bases to assess performance;

(iii) analysis tools and/or design procedures;

(iv) modeling input, settings and parameters for the analysis and/or design;

(v) limitation and applicability of the proposal in context;

(vi) interpretation of results;

(vii) method of verification;

(viii) similar established standard and implementation in other places; and

(ix) documented references of the scientific bases.

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[2] The Technical Guide is issued by the Planning Department and is available from the website at (http://www.pland.gov.hk/pland_en/p_study/comp_s/avas/avas_eng/avas_mtguide_p01.html)

Stage 2 Submission

(b) A study report on whether the proposed scheme will be in line with urban climatic considerations and such similar requirements as imposed through the town planning approval process or in Government lease; and

(c) An *AVA* report on whether the proposed scheme will perform better in external air ventilation terms, demonstrated by the simulation results of the proposed scheme as compared to the simulation results of the baseline case.

7. Upon approval of the proposal, additional three hard copies and an electronic copy in Acrobat format for each *AVA* report shall be submitted together with a copy of the completed *AVA* register[3] for inclusion in the register kept by the Planning Department.

Special Considerations for Buildings with Unique Functional Requirements or Heritage Value

8. For alteration and addition of an existing building resulting in a new building involving the adaptive reuse of historic building or for certain new buildings with special functional requirements in building length and/or bulk e.g. infrastructural facilities, transport terminus, sports and civic facilities, the BA may exempt such historic buildings or special facilities from the building separation Design Requirements (1) & (2) if the equivalent performance is proven and compensatory measures are provided as follows:

(a) An *AVA* by wind tunnel or *CFD* has been conducted to demonstrate that the design for the proposed new building has outperformed another viable notional scheme[4] in accordance with the methodology and requirements stipulated under the category of Microclimate Around Buildings (S_A8) of the BEAM Plus[5] certification; and either one of the following three requirements under the aforesaid category has been complied with; and the results of which are considered acceptable by the BA:

(i) wind amplification – no pedestrian areas will be subject to excessive wind speeds;

(ii) elevated temperatures – providing shade; or

(iii) elevated temperatures – providing suitable roofing material or vegetation roof.

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[3] AP is requested to seek consent from the owners to release the information contained in the *AVA* proforma (https://www.devb.gov.hk/filemanager/en/content_679/hplb-etwb-tc-01-06.pdf) and / or the *AVA* reports for public inspection. For projects which cannot be disclosed to the public due to confidentiality or consent from owners has not been given, the information would be kept solely for the government's internal reference.

[4] Viable notional scheme is a practically viable scheme complying with relevant statutory and allied requirements but excluding those on building separation for demonstrating the improvements to be achieved by the proposed design.

[5] BEAM Plus for New Buildings. (http://www.hkgbc.org.hk/eng/beamplus-main.aspx)

(b) Building features such as additional building setback, stepped profile of the podium from the adjoining streets and communal podium garden to separate the podium from the tower above and to promote air flow at pedestrian level, etc. have been considered in the assessment described in item (a) above and incorporated in the design, where appropriate; and

(c) Building separation requirement is fully complied with for other buildings on the same site or other parts of the building that are located above such special facilities or historic buildings, where applicable.

Proposal involving both new and existing buildings in a site

9. In principle, provided that new buildings will not increase the *Lp* of the existing building, the BA may exempt the existing building from the building separation requirement by disregarding them from the assessment zone.

Building Setback

10. Where the setback of a building will result in a setback area of more than 15% of the area of the site, requirement for building setback may be relaxed if the following compensatory measures are provided:

(a) Full height and full frontage setback of the building from the site boundaries abutting any narrow streets from the respective site boundaries with a total setback area which is not less than 15% of the area of the site provided that such area will contribute to improving the street environment; and

(b) For small sites not exceeding 1,000 m^2, greenery should be provided at the Primary Zone such that the greenery area is not less than 50% of the setback area. All greenery areas shall comply with the requirements in Appendix D where applicable.

Site Coverage of Greenery

11. For sites with genuine difficulties in providing greenery along the street frontage or in the primary zone but with abundance of sustainable natural landscape at the back, the BA may favourably consider the provision of welcoming "green" path to the street pedestrian for viewing such natural landscape as an alternative.

12. For sites with development in phases, while the level of provision of greenery should base on the area of the whole site, notional site area may be applicable to a certain phase of the development for the greenery area to be provided for that particular phase.

Appendix F
(PNAP APP-152)

Information and Documents to be Submitted

To demonstrate compliance with the building separation, building setback and site coverage of greenery requirements, the following information should be provided for consideration: -

Building Separation

(a) 1:500 layout plans each showing the site in relation to its adjoining *streets* and surrounding buildings and features. The footprint (external walls) of the proposed buildings within the site, the provided *IS*, *PE*, the selected orthogonal projection planes, air corridors and air paths are to be clearly shown to demonstrate compliance with the building separation requirements for each low, middle and high zones.

(b) Plans, elevations and sections at a legible ratio (preferably not less than 1:300) with supporting calculations showing the *U*, the maximum *Lp* of buildings and groups of buildings in comparison to the permissible *Lp*; *S* provided in comparison to the required *S*; and *P* of buildings achieved at each low, middle and high zone, in comparison to the minimum *P*.

Building Setback

(c) A block plan showing the location of the subject site and the width of all adjoining *streets*;

(d) Where the width of any *street* is less than 15m, further details such as level(s) of the *street* for computing the amount of required setback.

(e) 1:100 plan(s) and section(s) with calculations demonstrating compliance with the building setback requirements.

(f) Information showing the compliance of *greenery areas* requirement under paragraph 10(b) of Appendix E (as detailed in items (g) and (h) below).

Site Coverage of Greenery

(g)* Plans at a legible ratio (preferably not less than 1:300) showing the locations of the proposed *greenery areas*, the common access thereto and details of relevant street, public pedestrian way, public open space for compliance with the requirement of *greenery areas* at *Primary Zone*(s).

(h)* A schedule with calculations and illustrated diagrams showing the area of proposed greenery at each location for compliance with the minimum site coverage of greenery requirements.

Note

* Information to be updated and soft copy to be submitted at the time of submitting application for occupation permit. The soft copy should be in PDF format with 200 dpi resolution.

Implications of Sustainable Building Design Guidelines

1. Sustainable Building Design Guidelines

1.1 In October 2010, the Government promulgated that a series of measures would be put in place to enhance the design standard of new buildings to foster a quality and sustainable built environment as well as to address local concerns on excessive building bulk and height. The new requirements were subsequently imposed through administrative means by way of new practice notes for building professionals (i.e. PNAP APP-151 "Building Design to Foster a Quality and Sustainable Built Environment" **(Annex B1)** and APP-152 "Sustainable Building Design Guidelines" (SBDG) **(Annex B2))** first issued by the Buildings Department in January 2011.

1.2 SBDG establishes 3 key building design elements, i.e. building separation, building setback and site coverage of greenery, with the objectives to achieve better air ventilation, enhance the environmental quality of living space, provide more greenery particularly at pedestrian level, and mitigate heat island effect **(Annex B2)**.

(a) *Building Separation* – Building sites that are 20,000m^2 or above, or sites that are less than 20,000m^2 but proposed with a continuous building façade length of 60m or above are subject to maximum façade length control and the requirement to provide 20%, 25% or 33.3% permeability, depending on the site area, façade length and building height (BH), in the three assessment zones (i.e. 0-20m (Low Zone), 20-60m (Middle Zone) and above 60m (High Zone)).

(b) *Building Setback* – Buildings fronting a street less than 15m wide should be set back so that no part of the building up to a level of 15m above the street level is within 7.5m from the street centreline; or alternatively a cross-ventilated communal podium garden as specified and with a clear height of not less than 4.5m is to be provided.

(c) *Site Coverage of Greenery* – For sites not less than 1,000m^2, greenery areas of 20% or 30% of the site area should be provided depending on the size of site; and not less than half of greenery areas should be within a 15m vertical zone along the abutting street level (i.e. the Primary Zone).

1.3 Since there are special circumstances in which genuine difficulties in complying with the prescriptive requirements of SBDG may be encountered, a flexible and pragmatic stance has been taken by the Building Authority (BA) when considering proposals holistically to achieve the objectives of SBDG. Alternative approaches (e.g. performance-based design alternatives, mitigation by effective compensatory measures, or consideration of the unique context of the site) are provided in SBDG (**Appendix E** of APP-152 in **Annex B2**).

1.4 Compliance with SBDG is one of the pre-requisites for granting gross floor area (GFA) concessions for green/amenity features and non-mandatory/ non-essential plant rooms and services by the BA (**Annex B1**). Such requirements would also be included in the lease conditions of new land sale sites or lease modifications/land exchanges.

2. Implications on Building Profile

2.1 Since the specific and relevant building design requirements under SBDG can only be determined at detailed building design stage and there are different options or alternative approaches to meet the requirements, it would be difficult to ascertain at the early planning stage precisely the implications on individual development such as its eventual built form, block layout and BH. As such, the extent of implications of SBDG on building profile can only be estimated in general terms by adopting typical assumptions.

Building Setback

2.2 For building setback, to maintain a building line of 7.5m from the street centreline up to 15m from the street level, the likely implication would be a reduction of site coverage (SC) of the podium/lower floors. The extent of building setback, however, depends on the width of the existing street.

2.3 In the situation where a significant portion of the site may be required to be set back resulting in development constraints particularly in cases of small sites or sites having a long street frontage, SBDG has made provision that the maximum land area to be set back could be capped at 15% of the site area if compensatory measures including full height/frontage setback and prescribed greenery areas are provided.

2.4 In this connection, the maximum reduction in SC in podium/lower floors to meet the building setback requirement would be 15% of the site area and the GFA incurred would depend on the number of podium storeys affected. In Ngau Tau Kok and Kowloon Bay, a composite development would generally involve residential tower(s) over a two-storey or three-storey podium[1]. To accommodate the floor space so displaced, an additional storey may be required[2]. See illustration (**Annex C1a**). The impact of the option of providing a cross-ventilated communal podium garden, if adopted, would be an additional storey with a BH of about 5m.

---

[1] The maximum PR for the "R(A)" sites in Ngau Tau Kok and Kowloon Bay is stipulated on the OZP (i.e. domestic PR 7.5 and total PR 9). A three-storey podium of 100% site coverage purely for commercial use for composite development is not so common unless the non-domestic PR is to be maximized and domestic PR is less than the maximum of 7.5 as permitted.

[2] The estimate is based on the assumption that the maximum domestic GFA will be adopted for a composite development. If non-domestic GFA is to be maximized instead, another additional storey may be required pending on site classification.

Building Separation

2.5 In devising building separation, there would be more variations in design options for the Low Zone (i.e. 0-20m) which is usually occupied by continuous podium floors having long façade length and 100% SC. Some of the floor space would need to be redistributed from lower to upper floors to allow for the prescribed building separations. For the tower block at the assessment zones above, the maximum façade length and the 20% to 33% permeability requirements could usually be met without much difficulty given that the size of tower block is already capped by the maximum permissible SC (i.e. 60% to 65% for non-domestic buildings and 33.33% to 40% for domestic buildings) under Building (Planning) Regulations (B(P)R).

2.6 To cater for possible difficulties in meeting the building separation requirement in the Low Zone, SBDG has allowed flexibility to waive such requirement if less dominating building bulk and adequate setback along street frontage are provided. The maximum SC allowed in this alternative design is set at 65%. The impact on BH for a composite development would be equivalent to about two storeys (**Annex C1b**). It should be noted that the above reduction in SC and setback could also be counted towards the building setback requirement mentioned in paragraphs 2.2 to 2.4 above. Hence, the cumulative impact of building setback and building separation on BH would be about two storeys[3] or about 6m (depending on building types and floor-to-floor height (FTFH)).

Site Coverage of Greenery

2.7 Since greenery can usually be provided within the building setback area, at podium floors or in form of vertical greening etc., the requirement would unlikely have any significant implication on BH and building massing.

3. Assumptions for Assessment of Building Height

3.1 To estimate the implications of SBDG on BH, a conservative approach is adopted. It is assumed that the maximum achievable SC for the podium/lower floors to meet the building setback requirement is 85%, and that for meeting the building separation requirement is 65%. BH will then be derived based on the types of building (domestic, non-domestic or composite building), site classification and corresponding permissible PR and SC under B(P)R, possible GFA concessions, podium height up to 15m, FTFH, provision of carpark at basement level and refuge floor requirement.

3.2 With assumptions set out in **Annex C2**, where building setback and building separation requirements of SBDG are implemented, the BH of a typical commercial building at PR of 12 will be ranging from 91m to 103m and that of a composite building within an "R(A)" zone (with the podium floors for

[3] The estimate is based on the assumption that the maximum domestic GFA will be adopted for a composite development. If non-domestic GFA is to be maximized instead, another additional storey may be required pending on site classification.

non-domestic use and upper portion for domestic use) [4] will be ranging from 81m to 92m.[5]

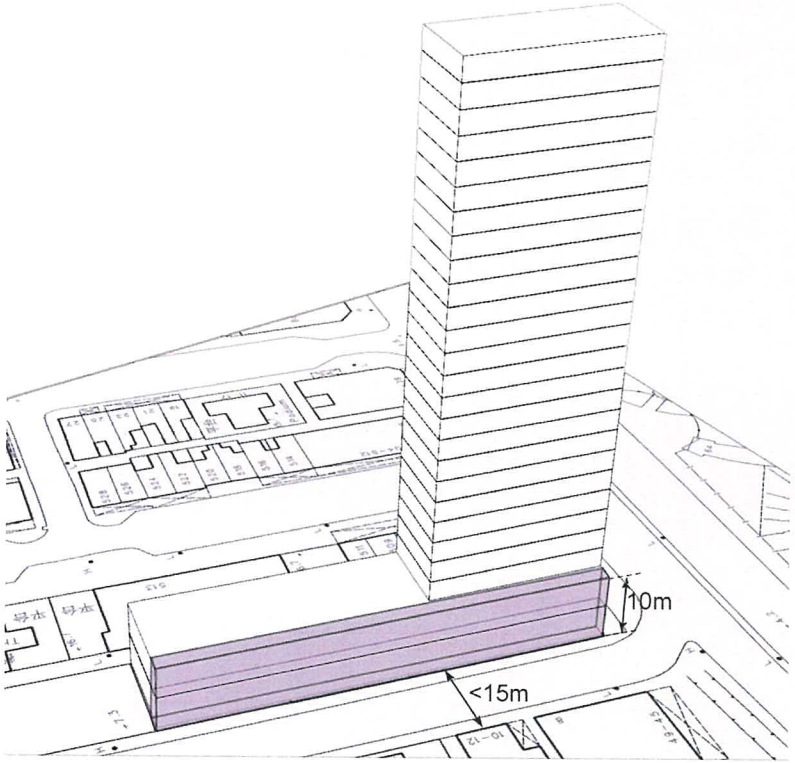
3.3 However, it should be noted that the assessment is only generic one where site-specific constraints have not been factored. For sites with odd shape and constraints, for example, sites with narrow and elongated site configuration abutting narrow streets may constrain future redevelopment in achieving the building separation requirements under SBDG, notional schemes should be drawn up to review the possible building profiles and BH.

[4] In actuality the podium also contains domestic use, for example entrance lobby and club house.
[5] Estimates based on maximizing the domestic PR (i.e. 7.5) of a composite development under "R(A)" zone.

Sustainable Building Design Guidelines

Implication of Building Setback Requirement

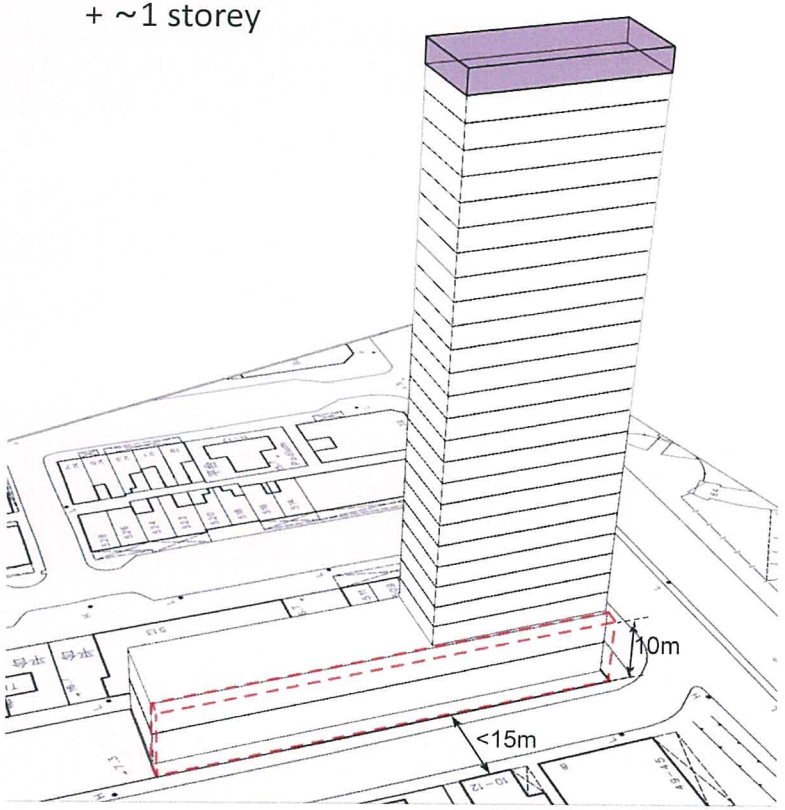
- Full height and full frontage setback from **narrow street(s)**
- Setback can be from **one or more** narrow street(s)
- Total setback area not less than **15%** of the site area
- Provides at least half of the setback area with greenery



Podium: 100 % SC

Additional Building Height

+ ~1 storey



Setback by 15% of Site Area

Illustration of a composite development

Annex C1a of TPB Paper No. 10397

Sustainable Building Design Guidelines

Implication of Building Separation Requirement

- Site coverage ≤ **65%**
- Setback area from street(s) ≥ **15%**
  (≥ **10m** and ≥ **50%** of the site boundary length abutting street(s))

→ Building separation requirement **at low zone may be waived**

Podium: 100 % SC

Additional Building Height

+ ~2 storeys

Podium: 65 % SC

Illustration of a composite development

Annex C1b of TPB Paper No. 10397

Basic Assumptions and Implications of Sustainable Building Design Guidelines

Assumptions

Floor to Floor Height (m)									
Residential (private)	3.15								
Commercial	4								
Podium	5								
Plot Ratio	Class A		Class B			Class C			
"R(A)" (Dom / Non dom PR)	7.5 / 0.94		7.5 / 1.5			7.5 / 1.5			
"OU(B)"	12		12			12			
Other zones	GFA permissible under OZP								
GFA Concessions [a]									
Residential and Composite Commercial/ Residential Commercial	20% 25%								
Site Coverage	Basic Building Profile			SBDG Building Setback + Basic Building Profile			SBDG Building Separation + Basic Building Profile		
Class of Site	A	B	C	A	B	C	A	B	C
Podium (%)	100			85			65		
Residential (%)	33.3	37.5	40	33.3	37.5	40	33.3	37.5	40
Commercial (%)	60	62.5	65	60	62.5	65	60	62.5	65

Estimated Absolute BH based on above Assumptions

	Basic Building Profile (m)			SBDG Building Setback + Basic Building Profile (m)			SBDG Building Separation + Basic Building Profile (m)		
Class of Site	A	B	C	A	B	C	A	B	C
Residential ("R(A)" - Private/PSPS/HOS)	86	82	79	89	84	81	92	91	84
"R(B)" - HOS	40	-	-	40	-	-	40	-	-
"OU(B)" and "C"	95	91	87	99	95	91	103	99	95

Estimated No. of Storeys based on above Assumptions

	Basic Building Profile (No. of storeys/ Over No. of podium) [b]			SBDG Building Setback + Basic Building Profile (No. of storeys/ Over No. of podium)			SBDG Building Separation + Basic Building Profile (No. of storeys/ Over No. of podium)		
Class of Site	A	B	C	A	B	C	A	B	C
Residential ("R(A)" - Private/PSPS/HOS)	24s/ 2p	23s/ 2p	22s/ 2p	25s/ 2p	22s/ 3p	21s/ 3p	26s/ 2p	24s/ 3p	22s/ 3p
"R(B)" - HOS	11s/ 1p	-	-	11s/ 1p	-	-	11s/ 1p	-	-
"OU(B)" and "C"	20s/ 3p	19s/ 3p	18s/ 3p	21s/ 3p	20s/ 3p	19s/ 3p	22s/ 3p	21s/ 3p	20s/ 3p

General Notes:

[a] The assumption takes into account (i) the average GFA (e.g. plant rooms, etc. other than carparks)" for non-domestic buildings of 15% under the "Sample Study on GFA Concessions Granted to Buildings" conducted by a Government inter-departmental working group led by the Buildings Department in 2006; and (ii) the overall cap of 10% for the total amount of GFA concession for green/amenity features and non-mandatory/non-essential plant rooms and services under APP-151.

[b] In general, roof-top structures accommodating GFA exempted facilities and occupying not more than 50% of the area of the floor below will not be counted as a storey.

Review of Development Restrictions on Ngau Tau Kok & Kowloon Bay OZP

1. Overview

1.1 The assumptions adopted for the Review are explained in **Annex C1** and detailed in **Annex C2**. The scope of the Review covers the amendments stipulated under the Ngau Tau Kok & Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/26 (the subject OZP), including building height restrictions (BHRs) in sites outside the Kowloon Bay Business Area (KBBA) as well as the non-building area (NBA) and building gap (BG) in areas both within and outside KBBA (see **Plans 3B** and **3C**).

1.2 The BHRs in KBBA exhibited in 2005 under OZP No. S/K13/22 and amendments made subsequent to the subject OZP i.e. No. S/K13/27 to 29 are excluded from the scope of the Review as they are not subject of REDA's representation. The amendments made under OZP No. S/K13/27 are mainly technical amendments to reflect the as-built conditions/lot boundaries and SBDG implications are not relevant. Amendments made under OZP Nos. S/K13/28 and S/K13/29 had taken into account the general implications of SBDG.

1.3 The Review concluded that no amendment to the BHR, and NBA and BG requirements in the OZP is required.

2. Review of Building Height Restrictions (BHRs)

"Residential (Group A)" ("R(A)") and "Residential (Group B)" ("R(B)") Sites for Private Developments or Home Ownership Schemes

2.1 For all "R(A)" sites and the "R(B)" site, the existing BHRs should be able to accommodate the permissible plot ratio (PR)/gross floor area (GFA) taking into account site classifications and sustainable building design guidelines (SBDG) requirements.

"R(A)"	**Richland Gardens, Kai Tai Court, Tak Bo Garden, Amoy Garden, Amoycan Industrial Centre (Blk 1), Jade Field Garden, Wang Kwong Building, Lee Kee Building** (Permissible Dom./Total PR – 7.5/9)	
	BHRs	100mPD and 120mPD
	Building heights (BHs) required to accommodate PRs permitted under OZP taking into account SBDG requirements	86mPD to 97mPD
"R(B)"	**Shun Chi Court** Permissible GFA – 89,900m^2 (equivalent to 3 PR on net site area excluding the NBA and Shun Chi Street)	
	BHR	170mPD
	BHs required to accommodate GFA permitted under OZP taking into account SBDG requirements	159mPD

"R(A)" Sites for Public Housing Developments

2.2 The BHRs for the public housing sites stipulated under the subject OZP generally reflected existing/committed BHs of majority of the public housing estates. Housing Department (HD) has no programme to redevelop the housing estates at this juncture and has no comment on retaining the existing BHRs for the public housing sites. There is an established mechanism for considering redevelopment of public housing sites in which each site will be reviewed case-by-case for the optimal development intensities taking into account factors such as design considerations, site circumstances and requirements for government facilities when there are redevelopment plans in future;

"Other Specified Uses" ("OU") annotated "Commercial/Residential Development with Public Car Park and Public Transport Interchange"

2.3 For the "OU" zone at 8 Clear Water Bay Road, the existing BHR can accommodate permissible GFA with reference to SBDG requirements.

8 Clear Water Bay Road Permissible dom. / non- dom. GFA – 19,138m^2 / 13,360m^2 (equivalent to dom./non-dom. PR of 6/4.1)	
BHR	180mPD
BH required to accommodate GFA permitted under OZP taking into account SBDG requirements	119mPD

2.4 The following should be noted:

(a) the development is the subject of planning application No. A/K13/160 approved by TPB in 2002;

(b) the BHR of 180mPD generally reflects the existing BH at 184.3mPD (on site level of 9.5mPD) of the residential development over a podium with commercial use, a public transport interchange (PTI), ancillary car parking and a park and ride facilities with 450 public car parking spaces; and

(c) the development was built relatively recently in 2005. If there is redevelopment in future, there will be a need to review whether the special uses including the park and ride and PTI on the site should be retained.

"OU" annotated "Mass Transit Railway Depot with Commercial and Residential Development above"

2.5 For this zone, due to the specific uses that need to be accommodated on the site including a railway depot and a PTI, drawing up an indicative redevelopment scheme for BH review taking into account SBDG at this stage may be highly arbitrary. However, based on a broadbrush layout review, it

is considered that the existing BHRs will not render the permissible GFA under the OZP not attainable.

Telford Gardens and Telford Plaza above MTR depot Permissible dom. / non-dom. GFA – 278,703m^2 / 177,031m^2 (equivalent to dom./non-dom. PR of 1.72/0.96)	
BHR	60mPD and 100mPD
BH required to accommodate GFA permitted under OZP	BHR can accommodate the GFA permissible under OZP. The BHRs of 60mPD and 100mPD applicable to the Telford Gardens portion are generally 10m more than the existing BHs. The BHR of 100mPD at the Telford Plaza portion reflects the existing BH.
SBDG requirements	For redevelopment of the site, it may be difficult to meet the prescriptive SBDG requirements due to the long site frontage and special functional requirements for accommodating the MTR depot and PTI. A performance-based design alternative approach with support of an air ventilation assessment will likely be required.

"G/IC" Sites

2.6 For the "G/IC(3)" site, BHR can accommodate the permissible GFA. SBDG requirements are not applicable to the site.

Cheerful Court : Hong Kong Housing Society Senior Citizen Residence development Permissible dom. / non- dom. GFA – 16,500m^2 / 4,125m^2 (equivalent to dom./non-dom. PR of 5.9/1.5)	
BHR	100mPD
BH required to accommodate GFA permitted under OZP	95mPD
SBDG requirements	Not applicable as (i) the frontages of the site are shorter than 60m and (ii) abut more than 7.5m from the centreline of adjoining streets

2.7 For the "G/IC" site occupied by Shun Lee Disciplined Services Quarters, the existing BH is excessive. Upon redevelopment, there is a need to review the most suitable use and the optimal development intensities for the site. The existing BHR is imposed based on the intended BH profile for the Shun Lee Area, it should not be amended at this stage.

Shun Lee Disciplined Services Quarters No GFA restriction under OZP

Approved planning application No. A/K13/140 at 7.78 PR (approved in 2000)	
BHR	180mPD
Existing BH (on site level of 118mPD)	247 mPD to 251mPD

2.8 The following should be noted:

(a) the existing development was built in 2001 before BHRs were stipulated on the OZP. The development is excessively tall and out of context with adjoining developments especially from the perspective of preserving open vista as viewed from Clear Water Bay Road that is at general level of around 100mPD;

(b) the BHR of 180mPD was stipulated to reflect the intended BH profile in the Shun Lee area; and

(c) the staff quarters development is on government land and it was only built in 2001. Should there be redevelopment plans in the longer term, the most suitable use for this "G/IC" site and scale of the development on the site would need to be reconsidered taking account of the optimal development intensity, built form, BH profile on the OZP with a view to achieving a more compatible built form on the site. Residential uses on the "G/IC" site will also require planning permission from the Board.

2.9 For the other "G/IC" and "OU" sites[1] that are not for residential/commercial uses, they have special functional and design requirements with great variation in floor-to-floor height or open air design to suit operational need; and provide spatial and visual relief amidst the densely built environment; and/or the BHRs mainly reflected their existing BHs and may be reviewed on a case-by-case basis when there are known committed redevelopment proposal with policy support.

3. Review of NBA and BG Requirements

3.1 NBAs and BGs are stipulated on the subject OZP taking into account recommendations in the Air Ventilation Assessment (AVA) in **Annex D** to improve permeability of sea breeze towards Kowloon Bay, the effectiveness of major breezeways and the overall wind environment in KBBA. These NBAs and BGs are stipulated to provide design guidance for future redevelopment proposals that will be beneficial to the wind environment in the planning area. In general, the NBAs and BGs are stipulated following the alignment of major roads in the area and serve to extend/widen these breezeways.

---

[1] These other "OU" sites are annotated for "Refuse Transfer Station", "Petrol Filling Station", "Landscape Elevated Walkway", "Open Lorry Park" and "Railway". The "G/IC" sites are mainly for schools, police stations, fire stations, reservoir, sports centre, swimming pool etc.

Within KBBA

3.2 Within KBBA, the following NBAs and BGs are stipulated in the subject OZP:

(a) 3m-wide NBA are stipulated along both sides of Wang Chiu Road and Wang Kwong Road, within inter alias, "OU(B)", "OU(B)2" and "G/IC(1)" zones. This serve to widen and enhance the effectiveness of the breezeways along these two major roads;

(b) a 5m-wide NBA is stipulated along Wang Mau Road in the "OU(B)" zone occupied by Housing Authority's Yip On Factory Building to enhance the breezeway along the linear open space from Kai Cheung Road in the north;

(c) a 15m-wide NBA is stipulated within the "G/IC(1)" zone that is designated for the Hong Kong Post Central Mail Centre, to extend the breezeway along Lam Wah Street. The design of the mail centre development has already taken into account the NBA;

(d) 15m/16m-wide BGs at 22mPD are stipulated on two sites zoned "OU(B)", one site zoned "OU" annotated "Commercial Uses with Public Transport Interchange" and one site zoned "C", which serve to extend the breezeway at Sheung Yee Road northwards to Lam Hing Street; and

(e) the Mega Box development that is zoned "OU(B)2" was considered to be sizable with slab-type tower that is unfavourable for wind penetration. A 15m-wide BG at 22mPD was stipulated on the "OU(B)2" zone to introduce a wind corridor for incoming sea breeze upon its redevelopment to connect through the "Open Space" zone to Wang Kwun Street in the north.

3.3 These NBAs and BGs are stipulated based on the recommendations of the AVA to enhance the penetration of sea breeze to the inland and the wind environment in the planning area. They have been reviewed and it is considered that they are appropriate and should be retained, there is no changing circumstances that warrant their deletion or amendment. The permissible GFA under the respective zonings are attainable after taking into account the BHRs, NBAs/BGs as well as SBDG requirements as explained below.

Sites with BG only

3.4 Sites stipulated with BG at BHR of 22mPD are shown in **Plan 3C**.

Sites stipulated with BG Permissible non- dom. PR under all respective zones – 12	
Zonings of the three sites stipulated with BG	"C", "OU(B)" and "OU" annotated "Commercial Uses with Public Transport Interchange" only
Width of BG	"C" – 16m

	"OU(B)" and "OU" zone – 15m
BHR at BG	22mPD
BHR	140mPD
BH required to accommodate PR permitted under OZP with BG	92mPD
BHs required to accommodate PR permitted under OZP taking into account BG and SBDG	96mPD / 100mPD

3.5 The following should be noted:

(a) as the BG is stipulated with BHR of 22mPD, it will not affect the SBDG requirements at podium levels (assumed to be at a level below 20mPD); and

(b) the area of the BG is only about 8% to 23% of the individual lots (i.e. developable area of 77% to 92% above 22mPD). This requirement should not affect achieving the maximum permissible non-domestic site coverage under the Buildings Ordinance above the podium level (i.e. 60%, 60.5% and 65% for Class A, B and C sites respectively).

Sites with NBA only

3.6 Sites stipulated with NBA in KBBA are shown in **Plan 3C**[2].

Sites stipulated with NBAs zoned "OU(B)" Permissible non- dom. PR – 12		
	5m-wide NBA	3m-wide NBA
BHRs	120mPD	120mPD/140mPD/ 170mPD
BHs required to accommodate PR permitted under OZP with NBA	92mPD	92mPD/100mPD
BH required to accommodate PR permitted under OZP taking into account NBA and SBDG	96mPD/100mPD	96mPD/108mPD

3.7 The following should be noted:

For 5m-wide NBA:

(a) the 5m-wide NBA along Wang Mau Street is within the site occupied by Housing Authority's Yip On Factory Estate;

(b) Wang Mau Street is narrow of about 9m wide. According to the SBDG, developments need to be setback from centreline of street by 7.5m (i.e. setback of about 3m from the subject site boundary). The 5m-NBA

[2] A 15m-wide NBA is stipulated within the "G/IC(1)" zone that is designated for the Hong Kong Post Central Mail Centre, to extend the breezeway along Lam Wah Street. The design of the mail centre has already taken into account the NBA.

requirement is slightly wider than the SBDG requirement, this is justified as it generally aligns with and serves to extend the breezeway of the row of linear open space from Kai Cheung Road;

(c) the area of the NBA is about 7% which is less than the overall setback area of 35% assumed for lower levels as a worst case scenario in **Annex C2**. BHRs can accommodate BH required under worst case scenario, hence, stipulation of NBA will not affect achieving the permissible PR and accommodation of SBDG requirements on the sites;

For 3m-wide NBAs:

(d) the requirements for 3m-wide NBAs along both sides of Wang Chiu Road and Wang Kwong Road are stated in the Notes. This serves to enhance the effectiveness of the breezeways along these two major roads;

(e) the areas of the NBAs are less than 1% to 9% of individual lots, which is less than the maximum setback area of 15% and 35% assumed for lower levels as worst case scenario in **Annex C2**. As the BHR can accommodate BH required under worst case scenario, stipulation of NBA will not affect achieving the permissible PR and accommodation of SBDG requirements on these sites; and

15m-wide NBA

(f) a 15m-wide NBA is stipulated within the "G/IC(1)" zone that is designated for the Hong Kong Post Central Mail Centre development, to extend the breezeway along Lam Wah Street. The design of the mail centre has already taken into account the NBA.

"OU(B)2" zone with NBA and BG

3.8 An "OU(B)2" zone is stipulated with NBA and BG as shown in **Plan 3C**.

Megabox Permissible non- dom. PR – 12 15m-wide BG and 3m-NBA along Wang Chiu Road	
BHR	170mPD
BHR at BG	22mPD
BHs required to accommodate PRs permitted under OZP with BG and NBA	92mPD
BH required to accommodate PR permitted under OZP taking into account BG, NBA and SBDG	96mPD/100mPD

3.9 The following should be noted:

(a) as the BG is stipulated with BHR of 22mPD, it will not affect the SBDG requirements at podium levels (assumed to be at a level below 20mPD);

(b) the area of the BG is only about 13% of the lot i.e. developable area of 87% above 22mPD. This will not affect achieving the maximum

permissible non-domestic site coverage under the Buildings Ordinance above podium level (i.e. to 65% for Class C site);

(c) the area of the NBA is about 2% of the lot which could be accommodated within the setback/separation requirements as per the SBDG under the assumptions set out in **Annex C2**; and

(d) as BHR can accommodate the BH required under worst case scenarios, the cumulative effect of stipulating BG and NBA on the site will not affect achieving the permissible PR and accommodation of SBDG requirements on the site.

Outside KBBA

3.10 Designation of the existing vegetated slope at the eastern periphery of the "R(B)" zone covering Shun Chi Court as NBA will not affect the development potential of the site as the maximum GFA permitted under the OZP reflect the existing GFA built on the net site (i.e. excluding the slope and Shun Chi Street).

3.11 Designation of the existing vegetated slope in the "R(A)" zone covering Ping Shek Estate as NBA will not affect the development potential of the site as the slope area was excluded from net site area of PR calculation.

3.12 Designation of three BGs in "OU" annotated "Mass Transit Railway Depot with Commercial and Residential Development above" zone with BHR of 22mPD (i.e. height of the existing MTR depot) will not affect the development potential of the site. The BG covers an area of about 15% of the "OU" zone, which is low when compared to the existing as-built condition where about 69% of the podium is uncovered.

4. Conclusion

Based on the above findings, it is concluded that the BHRs, NBA and BG requirements stipulated under the subject OZP should be able to accommodate the permissible PR/GFA under the OZP with reference to the SBDG requirements. The NBA and BG requirements stipulated on the basis of the recommendations of the AVA conducted in 2010 are still valid given no change in the planning circumstances. Hence, there is no need to amend the extant OZP No. S/K13/29. Nevertheless, the land uses in the Kowloon Bay area are being reviewed in the context of initiatives of the Energizing Kowloon East Office for transformation of Kowloon East into CBD2 including land use restructuring for Kowloon Bay Action Area. In future amendments to the OZP, opportunity could be taken to review the appropriate land uses, development parameters as well as air ventilation measures for the area with reference to latest planning circumstances and requirements.

Annex D of
TPB Paper No. 10397

Sustainable Design Consultants

CO_2nnsulting

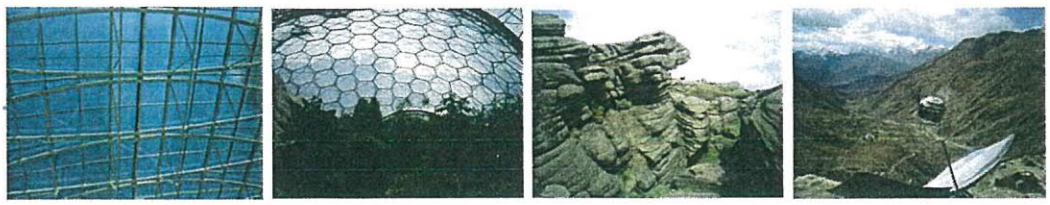
Term Consultancy for Expert Evaluation and Advisory Services on Air Ventilation Assessment Services under Agreement No. PLNQ 35/2009

Expert Evaluation and Advisory Report for

Proposed Amendments to Ngau Tau Kok and Kowloon Bay Outline Zoning Plan

Final

November 2010



CO_2nnsulting sustainable design consultants 11/F Unit 1102B, 359-361 Queen's Road Central, Hong Kong
t: +852 2544 8868 w:www.co2nnsulting.com

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Signature								
Checked by	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen
Signature								
Authorised by	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen	Dr. C. Yuen
Signature								
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EXECUTIVE SUMMARY

CO_2nnsulting was commissioned by the Planning Department of HKSARG under the Term Consultancy for Expert Evaluation on Air Ventilation Assessment Services to assess the air ventilation impacts of the building height restrictions incorporated in the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/25 and recommend mitigation measures to alleviate the impacts.

The methodology adopted here follows that for an expert evaluation in the "Technical Guide for Air Ventilation Assessment for Developments in Hong Kong" as well as those requirements in the Project Brief.

The wind data in Ngau Tau Kok and Kowloon Bay is obtained from the CLP Power Wind / Wave Tunnel Facility (WWTF) at The Hong Kong University of Science and Technology. The annual prevailing wind directions for the Project Area are: north-easterlies, easterlies and south-easterlies. The summer prevailing wind directions for the Project Area are: easterlies, south-easterlies, southerlies, and south-westerlies.

The Project Area of Ngau Tau Kok and Kowloon Bay is hilly on the east and flat on the west. Region 1 of the Project Area is located at the east of Kai Tak Planning Area (former airport), adjacent to the Kwun Tong Typhoon Shelter, includes Kowloon Bay Business Area (KBBA) with maximum building height restriction of 170 mPD, and large-scale public housing estates and substantial private residential developments. Region 1 enjoys abundant sea breeze due to its proximity to the harbour. The majority of streets in Region 1 run north-south and east-west, channeling cooler sea breeze to the redevelopment area. As Region 1 is the gateway to sea breeze, it is essential that the OU and G/IC sites at the waterfront are maintained at 40mPD or below to allow permeability of sea breeze to Kowloon Bay. This strategy has already been adopted in the committed plan. Numerous sites in form of Residential, Commercial, G/IC and OU are planned to be developed in Kai Tak which is just southwest of Region 1, outside the Project Area. The majority of the buildings are in the range of 15mPD to 65mPD. Care should be exercised in the arrangement of building blocks in the Kai Tak area to minimise the adverse impact of air ventilation to the Kowloon Bay area.

The KBBA is densely packed with medium to high-rise commercial and industrial buildings (120 mPD to 170 mPD). Narrow roads are found in the KBBA. Given the maximum

building height and the width of the blocks, the negative impact on air ventilation cannot be mitigated unless the effective road spacing (measured from building face-to-building face) is increased from 10m - 25m to 30m or beyond. Since this mitigation measure is not practical, it is recommended to introduce and maintain several urban linear parks and open space within KBBA, as well as practical setbacks from the roads. These ventilation pockets include the CICTA Sheung Yuet Road Training Ground, Lam Wah Street Playground, Kowloon Bay Park, Kowloon Bay Sports Ground, Kowloon Bay Playground, a series of "linear open space", as well as numerous low-rise G/IC sites with building height restriction of 40mPD, help to improve air ventilation in the Kowloon Bay Area, and should be maintained.

The committed linear open spaces from Kai Cheung Road to Wang Yuen Street would better serve the business area if the further redeveloped building(s) are set back from Wang Mau Street by 5m. A building gap of around 15m is recommended along Sheung Yee Road and Lam Hing Street to extend the breezeway for better permeability in KBBA. Widening breezeways, Wang Kwong Road and Wang Chiu Road, by setting back three meters on each side of the road will improve the effectiveness of the major breezeways. The KBBA area lacks breezeways to funnel easterlies and sea breeze. The introduction of a non-building area at the proposed International Mail Centre to connect to the breezeway provided by Wang Tai Road and Lam Wah Street would improve the air ventilation in the KBBA. The site of Enterprise Square V is sizable with unfavourable slab-type towers. As Enterprise Square V sits on the waterfront, it presents an obstacle to permeability to KBBA. A slanting alignment of the 15m building gap is recommended at the 22mPD podium level of Enterprise Square V to introduce a wind corridor for the oncoming sea breeze. A permeable podium is recommended for the Enterprise Square V. It is also recommended that the building disposition should adopt a similar arrangement shown in the study report for air ventilation improvement.

Outside of the KBBA, the majority of the land consists of large-scale housing estates and residential developments, such as the Kai Yip Estate, the committed Lower Ngau Tau Kok Estate Redevelopment Project, and Richland Gardens. In general, building disposition should not form a wind wall to improve permeability. Furthermore, low-rise facilities should be located in the centre of these developments to maximise the size of the open courtyard to improve local ventilation. Recommendations for such sites have been provided in the study report.

Region 2 of the Project Area is hilly, with the majority of open space in the form of G/IC sites, green belts and open space areas, such as Jordan Valley Playground, Jordan Valley Leisure

Pool Complex, Ping Shek Recreational Ground, Former Jordan Valley Landfill Site, Service Reservoir, Shun Lee Tsuen Park, which provide pleasant air ventilation to the region, and should be maintained. Areas of larger-scale medium-rise residential developments are located along the eastern and western boundaries of Region 2, with maximum height from 80mPD to 250mPD. In general, there are no significant negative air ventilation impacts due to these estates because of the abundance of the surrounding open space, green belt and/or low-rise G/IC developments. These areas shall be maintained for better air ventilation. However, better arrangements in terms of air ventilation have been proposed in the study report for future redevelopments.

In the proposed plan, the proposed maximum building height of Telford Gardens remain unchanged (60mPD and 100mPD). The proposed plan also indicates that two corridors have been proposed to be introduced on the podium (22mPD). This strategy will help to provide a wind corridor connecting Wang Tai Road and Sheung Yuet Road. A 15m to 20m building gap is also recommended to connect Kwun Tong Road to Tai Yip Street to improve air ventilation.

The proposed maximum building height of Kai Yip Estate increased from 60mPD to 80mPD and 100mPD. The increased maximum height is acceptable, however it is recommended that the building disposition should adopt a similar arrangement shown in the study report for air ventilation improvement.

The maximum building height of 100mPD is retained for the site of Richland Gardens. The current disposition includes sizable building gaps in the range of 60m to 85m, maintenance of this space together with the unchanged building height will give a positive impact on air ventilation.

The proposed maximum building height of Shun Chi Court and Shun Tin Estate are kept at 170mPD and 160mPD/170mPD respectively. When the building disposition adopts a similar arrangement shown in the study report, the air ventilation effectiveness will be improved.

For specific sites where large-scale development or redevelopment may be possible, detailed AVAs on a site-by-site basis should be undertaken.

The baseline scenario and alternative option of Kai Tak Mansion site have been compared in terms of AVA. It is concluded that the alternative option with a building gap of 20m to 24m wide at 15mPD and non-building areas of 10m provides better air ventilation compared to the baseline option.

Table of Content

EXECUTIVE SUMMARY 2

1. INTRODUCTION 7

2. SITE INFORMATION 8

3. WIND ENVIRONMENT 17

4. EXISTING SCENARIO 18

4.1 Topography 18

4.2 Existing Summer and Annual Scenarios 23

4.2.1 Region 1 23

4.2.2 Region 2 30

5. PLANNED SCENARIO 39

5.1 Observations 39

5.2 Area of Concern 39

5.2.1 General 39

5.2.2 Region 1 40

5.2.3 Region 2 42

5.3 Kai Tak Mansion 43

5.3.1 Background 43

5.3.2 Existing Scenarios of Kai Tak Mansion Site 45

5.3.3 Option Study of Kai Tak Mansion Site 47

5.4 Further Study 53

6. CONCLUSIONS 54

1. INTRODUCTION

CO_2nnsulting was commissioned by the Planning Department of HKSARG under Category A Service of the Term Consultancies for Air Ventilation Assessment Services (AVAs). The objective is to assess the air ventilation impacts of the plot ratio / gross floor area and building height restrictions under the draft Outline Zoning Plan (OZP) No. S/K13/25 Ngau Tau Kok and Kowloon Bay Area and recommend mitigation measures to alleviate the impacts.

The main tasks are to provide the followings:

- Site inspection and analysis of the wind data and environment of the Project Area;
- A qualitative evaluation of the air ventilation impacts of the development as illustrated under the planned scenario as compared to the existing scenario;
- Recommendations of mitigation and improvement measures.

Figure 1 shows the boundary of the Project Area. Figure 2 shows satellite images of the Project Area. Figure 3 shows various views within the Project Area. The methodology adopted here follows that for an expert evaluation in the "Technical Guide for Air Ventilation Assessment for Developments in Hong Kong" as well as those requirements in the Project Brief.

2. SITE INFORMATION

The Project Area covers Ngau Tau Kok and Kowloon Bay area which is located at the South-east Kowloon within the Kwun Tong District, with an area of approximately 341 hectares (according to S/K13/25). See Figure 1. The Project Area descends from the foothills of Fei Ngo Shan and Tan Shan in the north and east respectively to the Kwun Tong Typhoon Shelter in the southwest. It is bounded by New Clear Water Bay Road and Clear Water Bay Road in the north, Kwun Tong By-pass in the west, Shun Yip Street and Chun Wah Road in the south, and Hong Ning Road, Sau Mau Ping Road and Lee On Road in the east. Kai Tak, Ngau Chi Wan and Kwun Tong (South) are the adjacent districts, outside of the Project Area, in the west, north-west and south-east directions respectively.

For the purpose of expert evaluation, the total Project Area is dissected into the following regions of similar topography, as shown in Figure 1.

Sub areas	Location	Descriptions	Terrain
Region 1	Bounded by Kwun Tong Road, Ngau Tau Kok Road, Shun Yip Street and Kwun Tong Bypass	Mixed land use of residential developments, in terms of Residential (R(A)) and Other Specified Uses (OU); business developments, in terms of Commercial (C) and Other Specified Uses (OU); and Government /Institution or Community (G/IC), with some Open Space (O).	flat (4.6 mPD to 5.8 mPD)
Region 2	Bounded by Kwun Tong Road, Ngau Tau Kok Road, Chun Wah Road, Hong Ning Road, Sau Mau Ping Road, Lee On Road, New Clear Water Bay Road and Clear Water Bay Road.	Majority are open space, in terms of Green Belt (GB), Open Space (O), Government / Institution or Community (G/IC); Residential developments (R(A), R(B)).	hilly (8.5 mPD to 175.2 mPD)

Table 1 Characteristics of Sub-Regions within Project Area

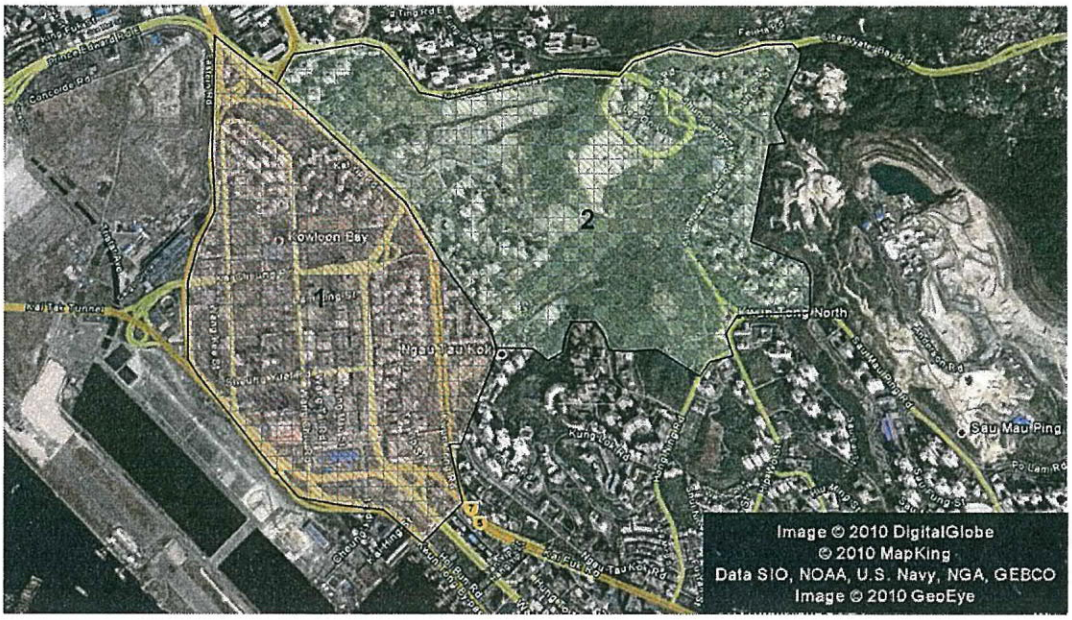
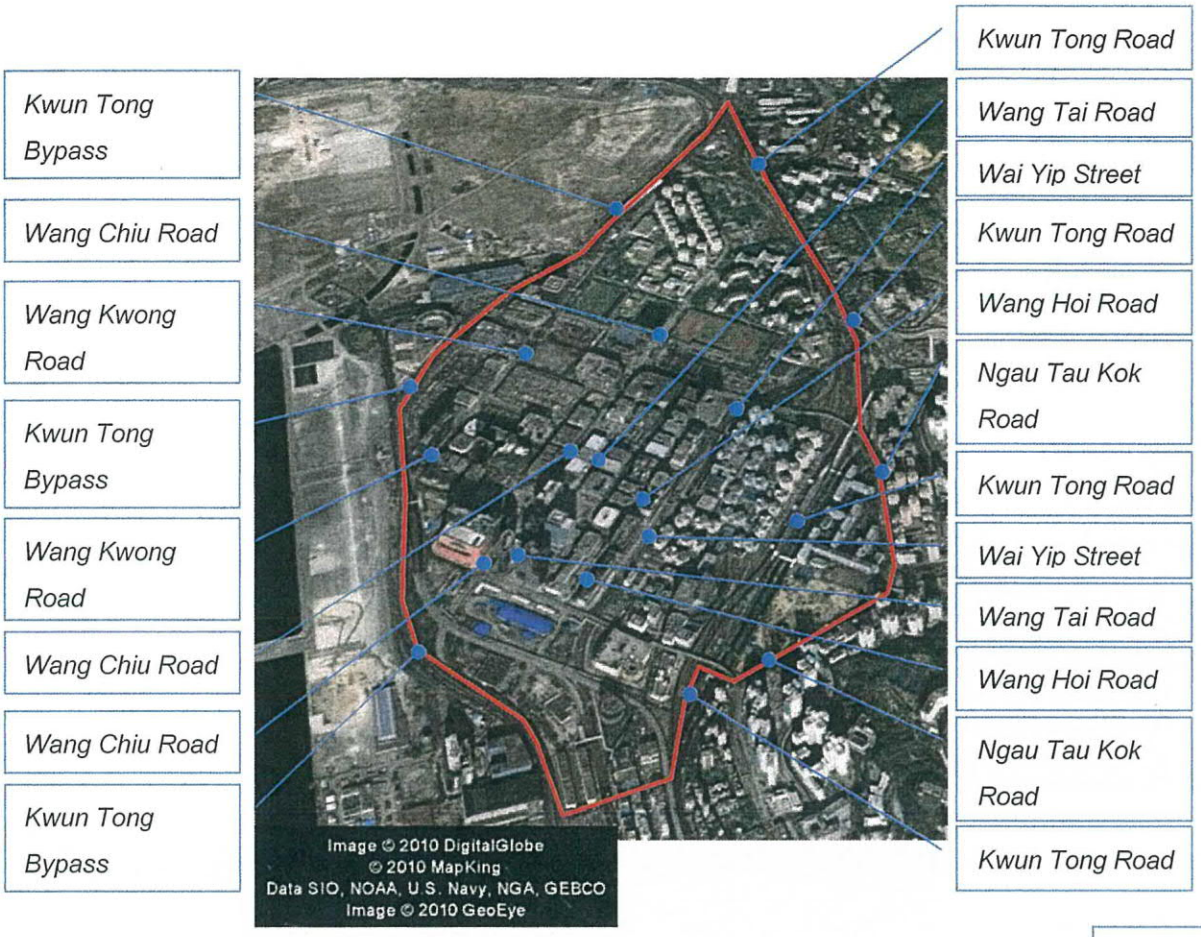
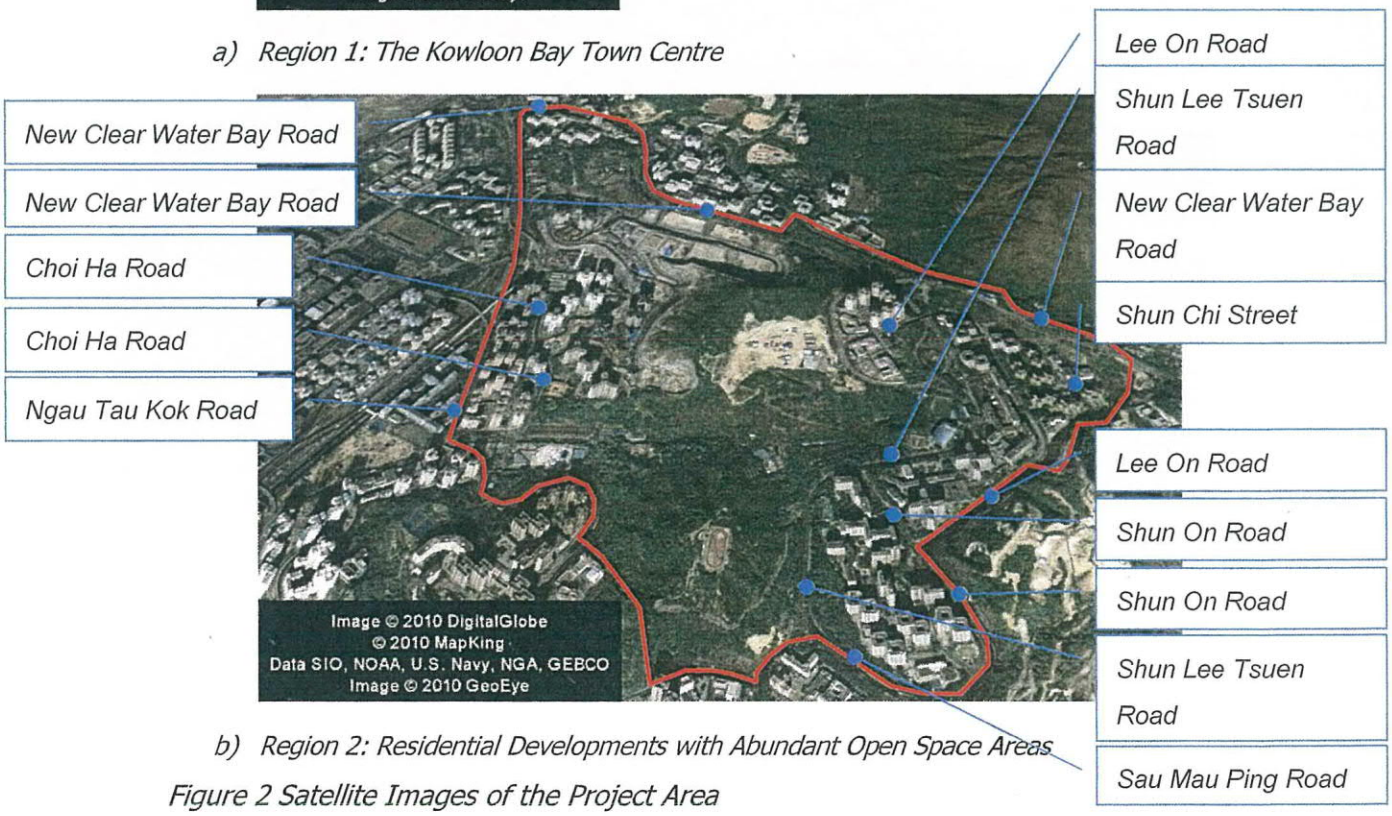


Figure 1 The Project Area of Ngau Tau Kok and Kowloon Bay

(Image source: Google maps, http://maps.google.com.hk)



a) *Region 1: The Kowloon Bay Town Centre*



b) *Region 2: Residential Developments with Abundant Open Space Areas*

Figure 2 Satellite Images of the Project Area

(Image source: Google maps, http://maps.google.com.hk)

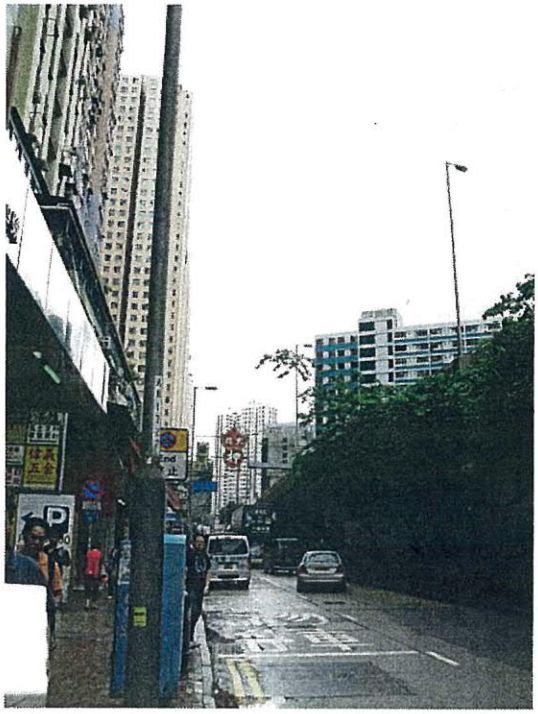


Figure 3a Views of Ngau Tau Kok Road (a key breezeway) Looking Southeastward Showing Amoy Garden

(Image source: CO_2nnsulting Ltd.)

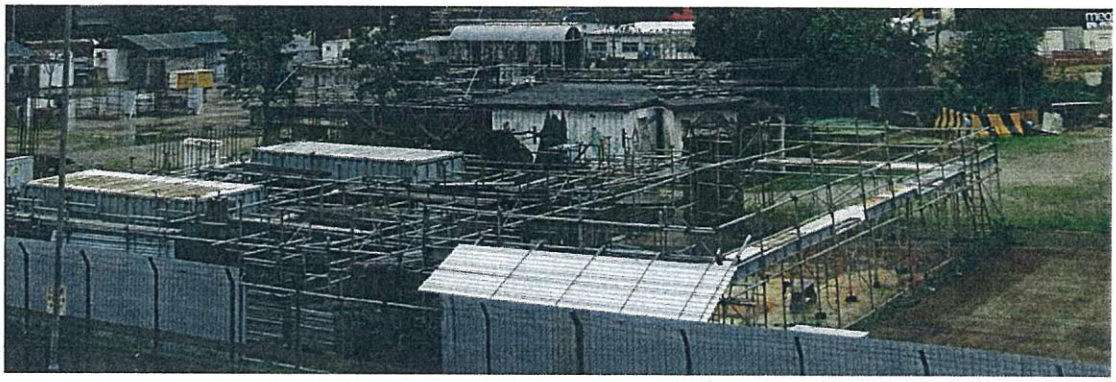


Figure 3b Views of CICTA Sheung Yuet Road Training Ground (a ventilation pocket)

(Image source: CO_2nnsulting Ltd.)

Figure 3c Views of Ping Shek Recreational Ground (ventilation pocket) on New Clear Water Bay Road (a key breezeway)

(Image source: CO_2nnsulting Ltd.)

Figure 3d Views of Shun On Road (a key breezeway) Looking Southeastward Showing Shun Tin Estate (right) and Foothill of Tan Shan (left)

(Image source: CO_2nnsulting Ltd.)

Figure 3e Views of Ventilation Pockets such as Jordan Valley Playground (left) and Jordan Valley Leisure Pool Complex (right)

(Image source: CO_2nnsulting Ltd.)

Figure 3f Views of Kwun Tong Road (a key breezeway) Looking Southward Showing Lower Ngau Tau Kok Estate (left)

(Image source: CO_2nnsulting Ltd.)

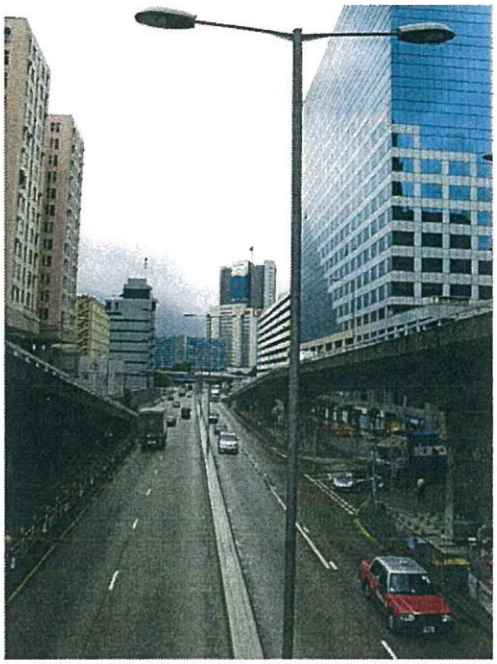


Figure 3g Views of Wai Yip Street (a key breezeway) Looking Southward

(Image source: CO_2nnsulting Ltd.)

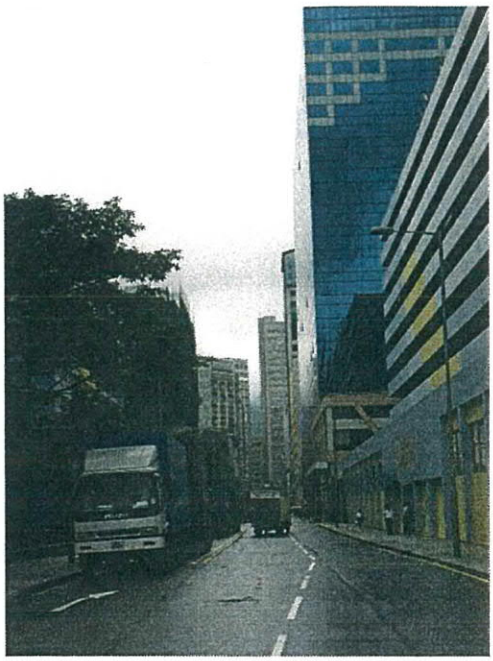


Figure 3h Views of Wang Hoi Road (a key breezeway) Looking Northward

(Image source: CO_2nnsulting Ltd.)

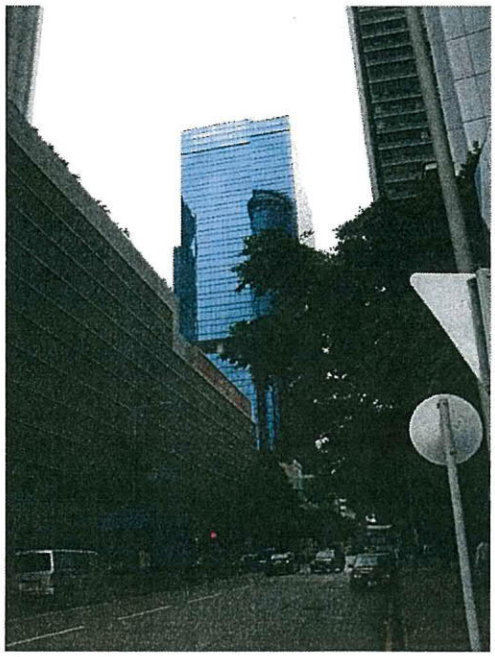


Figure 3i Views of Wang Tai Road (a key breezeway) Looking Northward
(Image source: CO_2nnsulting Ltd.)

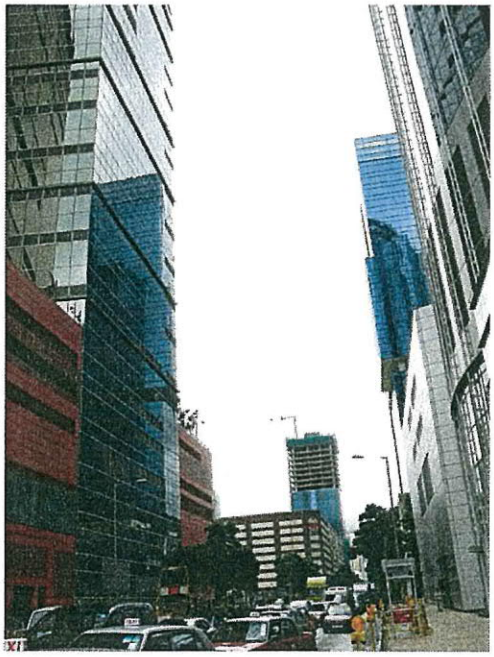


Figure 3j Views of Wang Chiu Road (a key breezeway) Looking Northward Showing Enterprise Square V (left) and Enterprise Square III (right) (Obstruction to breeze)
(Image source: CO_2nnsulting Ltd.)

Figure 3k Views of Lam Wah Street Playground (ventilation pocket) on Wang Kwong Road

(Image source: CO_2nnsulting Ltd.)

Figure 3l Views of Kowloon Bay Sports Ground

(Image source: CO_2nnsulting Ltd.)

3. WIND ENVIRONMENT

The wind data at various heights refers to the experimental data conducted by the CLP Power Wind / Wave Tunnel Facility (WWTF) at The Hong Kong University of Science and Technology for the Ngau Tau Kok and Kowloon Bay Study Area. The annual and Summer wind roses at 60m, 120m and 450m are shown in Figure 4. The wind roses show that the wind data at the lowest levels of 60m and 120m are subject to more urban roughness, compared to the data at 450m, which is closer to the edge of the atmospheric boundary layer. Nonetheless, the annual prevailing wind directions for the Project Area are: north-easterlies, easterlies and south-easterlies. The summer prevailing winds are: easterlies, south-easterlies, southerlies and south-westerlies.

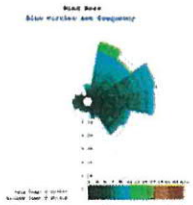
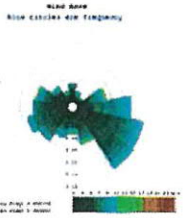
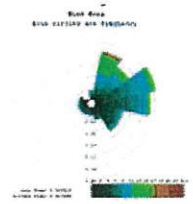
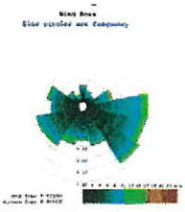
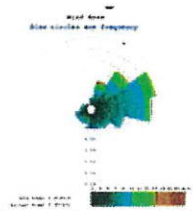
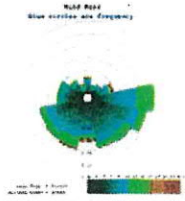
Height	Annual	Summer
60m	 Height: 60m, Angle: 16 intervals	 Height: 60m, Angle: 16 intervals
120m	 Height: 120m, Angle: 16 intervals	 Height: 120m, Angle: 16 intervals
450m	 Height: 450m, Angle: 16 intervals	 Height: 450m, Angle: 16 intervals

Figure 4 Annual and Summer Wind Roses for Ngau Tau Kok and Kowloon Bay

(Source: CLP Power Wind / Wave Tunnel Facility (WWTF) at The Hong Kong University of Science and Technology)

4. EXISTING SCENARIO

4.1 Topography

The following observations of the characteristics of the project area are noted:

- The Project Area is surrounded by Hammer Hill, Fei Ngo Shan and Tan Shan. It includes hilly Ngau Tau Kok and Jordan Valley. The Project Area is relatively flat north-west of Ngau Tau Kok and reclaimed Kowloon Bay. Kwun Tong (South) with development of up to 170 mPD is found at the south-east of the Project Area. It is adjacent to the Kai Tak Planning Area where the existing low-rise developments are to be redeveloped. The Project Area is dissected into two regions according to the topography for the purpose of the expert evaluation.
- Region 1, adjacent to the Kwun Tong Typhoon Shelter in the southwest, is relatively flat (4.6 mPD to 5.8 mPD), with low-rise developments at the waterfront. Region 1 consists of KBBA with maximum building height restriction of 170 mPD, and large-scale residential developments with maximum height up to 100mPD and OU sites up to 140 mPD. Region 1 also includes some open space areas in the form of open space and G/IC sites, such as Kowloon Bay Park, Kowloon Bay Sports Ground, Kowloon Bay Playground, Lam Wah Street Playground and CICTA Sheung Yuet Road Training Ground. Numerous sites in form of Residential (R(C)), Commercial, G/IC and OU are planned to be developed in Kai Tak which is just southwest of Region 1, outside the Project Area. The majority of the buildings are up in the range of 15 mPD to 65mPD, as shown in Figure 5. Care should be exercised in the arrangement of building blocks in the Kai Tak area to minimise the adverse impact of air ventilation to the Kowloon Bay area. A handful of sites are up to 100 mPD. These sites are surrounded by low-rise developments (up to 65mPD), the impact to air ventilation in Kowloon Bay would be minimal.
- Region 2 is hilly (8.5 mPD to 175.2 mPD), and consists of Ngau Tau Kok Valley east of Kowloon Bay and Jordan Valley with vast open space areas and green belts. Region 2 is adjacent to Fei Ngo Shan and Tan Shan in the respective north and east, and should enjoy the downhill winds. The centre of Region 2 is the natural green

belt of Jordan Valley, areas of larger-scale medium-rise residential developments are located along the eastern and western boundaries of Region 2, with existing building heights from 80mPD to 250mPD.

The wind flow in the Project Area is impacted not only by the disposition, massing, site coverage and height of buildings, but also the Victoria Harbour nearby and the surrounding hills, Fei Ngo Shan and Tan Shan. The proximity of water mass will bring cooler breeze. The land heats up more rapidly than the water, causing the air over the land to rise and be replaced by the cool air from over the water. Existing open areas in the form of green belt, open space and low-rise G/IC developments such as Kowloon Bay Park, Kowloon Bay Sports Ground, Kowloon Bay Playground, Lam Wah Street Playground and CICTA Sheung Yuet Road Training Ground, Jordan Valley, Jordan Valley Playground, Jordan Valley Leisure Pool Complex, Ping Shek Recreational Ground, Former Jordan Valley Landfill Site, Service Reservoir and Shun Lee Tsuen Park are essential ventilation pockets to the Project Area. These regions are recommended to be maintained to allow penetration of wind inland.

The Project Area benefits from Jordan Valley and the proximity of Hammer Hill, Fei Ngo Shan and Tan Shan. Even on a calm day, upward air movement can be created as the sun warms the hills slopes, and creates a thermal gradient between the top of the hill and its base. The air movement cycle reverses when the air cools in the evening; it descends the hills and brings cooler wind to the base of the hills. Winds descend the faces of these green slopes of Hammer Hill and Jordan Valley and bring coolth to the base of the hill.

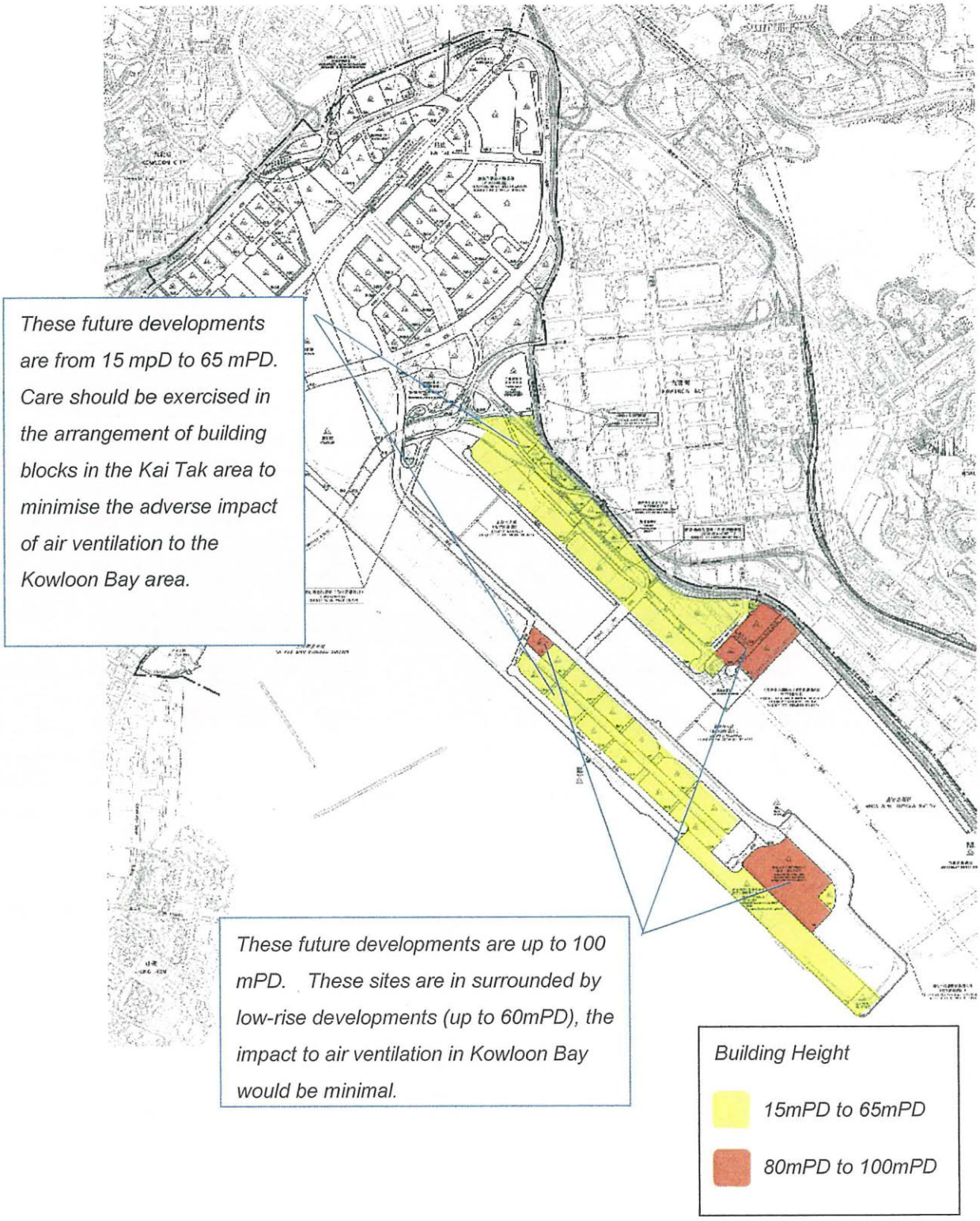


Figure 5 Kai Tak Outline Zoning

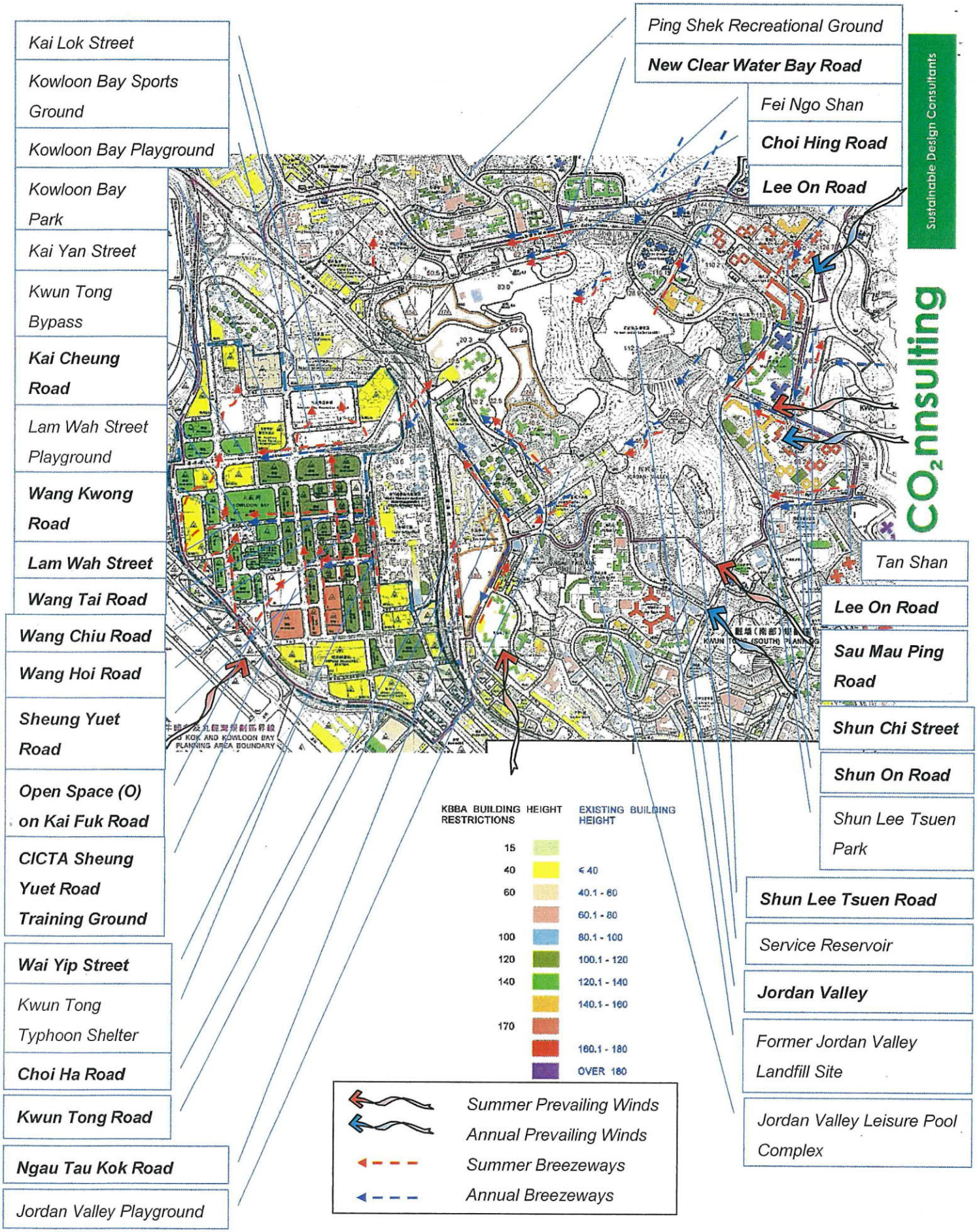


Figure 6a Existing Scenario showing Breezeways

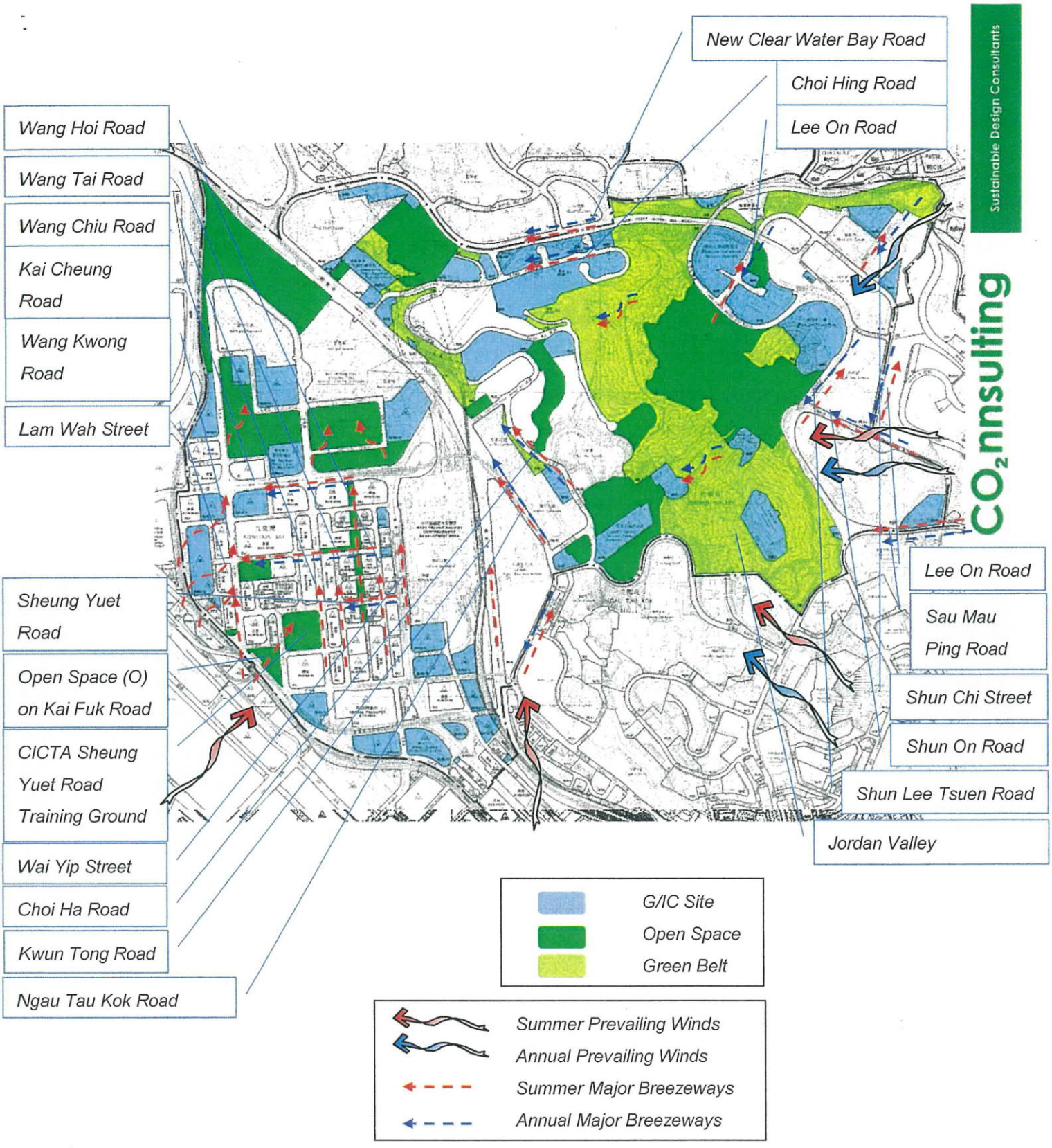


Figure 6b Existing Scenario with Major Breezeways

4.2 Existing Summer and Annual Scenarios

Section 3 has identified the annual prevailing wind directions are north-easterlies, easterlies and south-easterlies, whilst the summer prevailing wind directions are easterlies, south-easterlies, southerlies and south-westerlies. The information on the existing scenario, as provided by the Planning Department, presents the existing building profile including the approved and committed developments. It is used as a basis for appreciating the existing wind environment and understanding the effects of development restrictions. Figure 6 shows the prevailing winds for the existing scenario with breezeways marked by arrows. Table 2 summarises the major breezeways throughout the Project Area. It can be seen that these wind corridors are essential for air ventilation all year round.

Breezeways			
Northeasterlies (annual) Southwesterlies (summer)	*Easterlies (summer and annual)*	*Southeasterlies (summer and annual)*	*Southerlies (summer)*
Jordan Valley Ngau Tau Kok Road Lee On Road (adjacent to Shun Lee Discipline Services Quarters) Shun Chi Street Shun Lee Tsuen Road Open Space (O) on Kai Fuk Road and CITIA Sheung Yuet Road Training Ground	New Clear Water Bay Road Sau Mau Ping Road Wang Tai Road and Lam Wah Street Sheung Yuet Road Kai Cheung Road Choi Hing Road	Shun On Road Choi Ha Road Ngau Tau Kok Road	Ngau Tau Kok Road Kwun Tong Road Wai Yip Street Wang Hoi Road Wang Tai Road Wang Chiu Road Wang Kwong Road

Table 2 Major Breezeways in Ngau Tau Kok and Kowloon Bay

4.2.1 Region 1

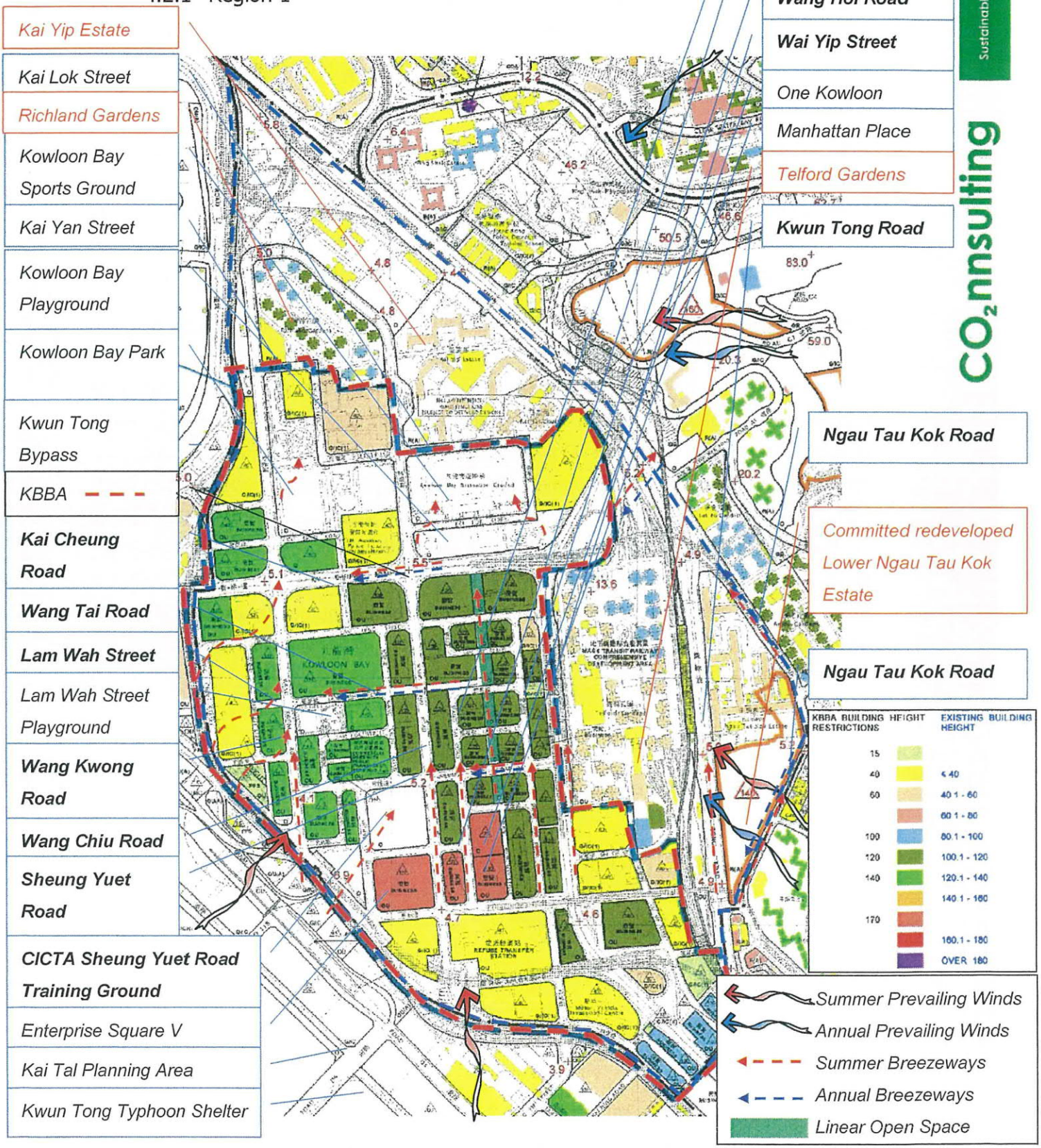


Figure 7 Existing/Committed Scenario in the Region 1 of Ngau Tau Kok and Kowloon Bay

Region 1 of the Project Area is located at the east of Kai Tak Planning Area (former airport), and adjacent to the Kwun Tong Typhoon Shelter. Region 1 includes KBBA with building height restrictions up to 170 mPD, and large-scale public housing estates and substantial private residential developments. See Figure 7.

Region 1 enjoys abundant sea breeze due to its proximity to the harbour. The majority of streets in Region 1 run north-south and east-west, channeling cooler sea breeze to the redevelopment area. As Region 1 is the gateway to sea breeze, it is essential that the OU and G/IC sites at the waterfront are maintained at 40mPD or below to allow permeability of sea breeze to Kowloon Bay. This strategy has already been adopted in the committed plan.

The KBBA is densely packed with medium to high-rise commercial and industrial buildings (120 mPD to 170 mPD). Narrow roads are found in the KBBA. Given the maximum building height and the width of the blocks, the negative impact on air ventilation cannot be mitigated unless the effective road spacing (measured from building face-to-building face) is increased from 10m - 25m to 30m or beyond. See Figure 8. Since this mitigation measure is not practical, it is recommended to introduce and maintain several urban linear parks and open space within KBBA, as well as practical setbacks from the roads. These ventilation pockets include the CICTA Sheung Yuet Road Training Ground, Lam Wah Street Playground, Kowloon Bay Park, Kowloon Bay Sports Ground, Kowloon Bay Playground, a series of "linear open space" as shown in Figure 9, as well as numerous low-rise G/IC sites with building height restriction of 40mPD, help to improve air ventilation in the Kowloon Bay Area, and should be maintained.

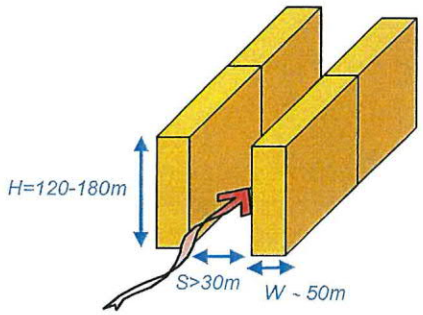


Figure 8 Planned Maximum Building Height with Recommended Road Spacing for Streets in KBBA

Enterprise Square III, Enterprise Square V, One Kowloon and Manhattan Place up to 170mPD stand tall amidst the committed 120mPD business developments should introduce

some downwash onto the pedestrian level with the sea breeze, and thus ventilate the Wang Tai Road, Wang Mau Street, Wang Chiu Road and Sheung Yee Road, however the podia are sizable and would cancel out the air ventilation benefits; the same buildings also create a stagnant area at its immediate north, along Wang Yuen Street; and CITIA Sheung Yuet Road Training Ground. The negative impact on AVA caused by this existing development is inevitable. The overall negative impact is minimised by the maintenance of the linear open space along Wang Mau Street, as well as the open space along Kai Fuk Road, as shown in Figure 9. Furthermore, the committed linear open spaces from Kai Cheung Road to Wang Yuen Street would better serve the business area if the further redeveloped building(s) are set back from Wang Mau Street by 5m. A building gap of around 15m is recommended along Sheung Yee Road and Lam Hing Street to extend the breezeway for better permeability in KBBA, as shown in Figure 10. Widening breezeways, Wang Kwong Road and Wang Chiu Road, by setting back three meters of each side of the road, will lead to road widths of 31m, and improve the effectiveness of the major breezeways. The KBBA area lacks breezeways to funnel easterlies and sea breeze. The introduction of a non-building area of 15m at the proposed International Mail Centre to connect to the breezeway provided by Wang Tai Road and Lam Wah Street would improve the air ventilation in the KBBA.

The site of Enterprise Square V is sizable with unfavourable slab-type towers. As Enterprise Square V sits on the waterfront, it presents an obstacle to permeability to KBBA. A slanting alignment of the 15m building gap is recommended at the 22mPD podium level of Enterprise Square V to introduce a wind corridor for the oncoming sea breeze. See Figure 11b. The lot in front (i.e. the "G/IC(1)" site) will have some impact on the air ventilation, but the impact is reduced by the height restriction of 40mPD. The wind can flow over the low-rise development of 40mPD and reach the Enterprise Square V. It is therefore essential to open up the Enterprise Square V to allow the wind to permeate to other areas in Kowloon Bay. It is recommended to arrange the buildings of the Enterprise Square V in the manner as shown in Figure 11b for air ventilation improvement. A permeable podium is recommended for the Enterprise Square V. See Figure 12. Figure 13 shows the committed plan of KBBA in Region 1 with recommendations.

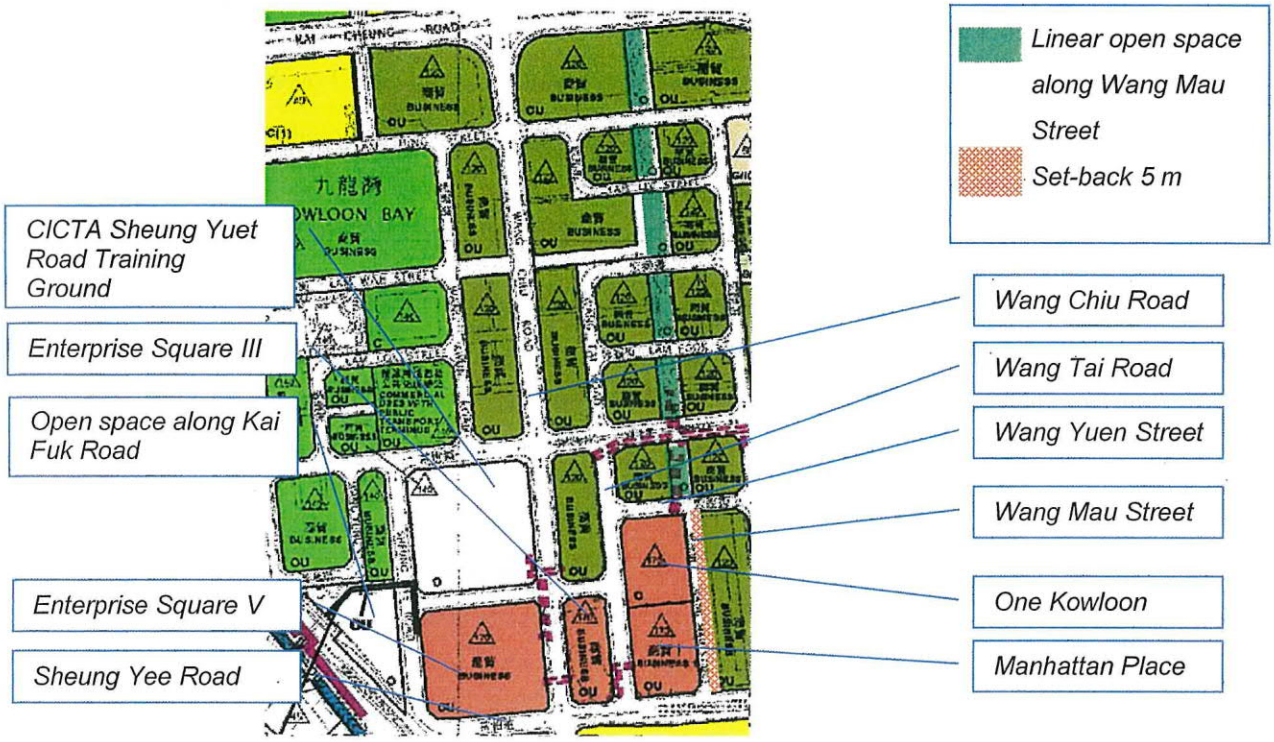


Figure 9 The Vicinity of One Kowloon

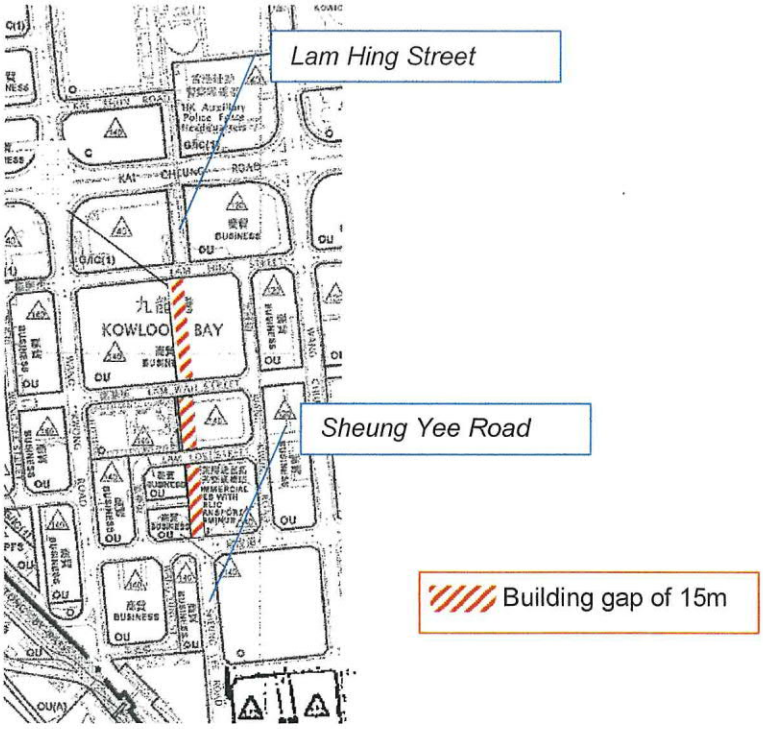
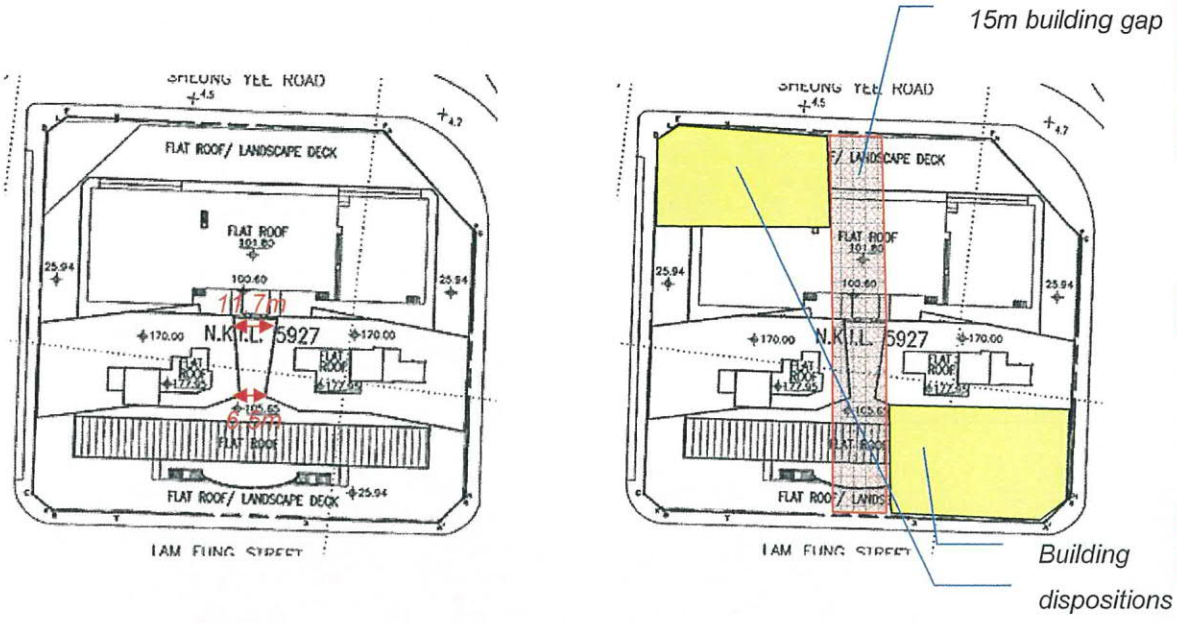


Figure 10 Recommendations of Building Gaps to connect to Sheung Yee Road and Lam Hing Street



(a) Existing Layout Plan (b) Recommended Layout Plan

Figure 11 Enterprise Square V

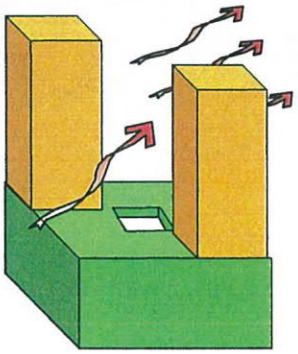


Figure 12 Recommendations for the site of Enterprise Square V

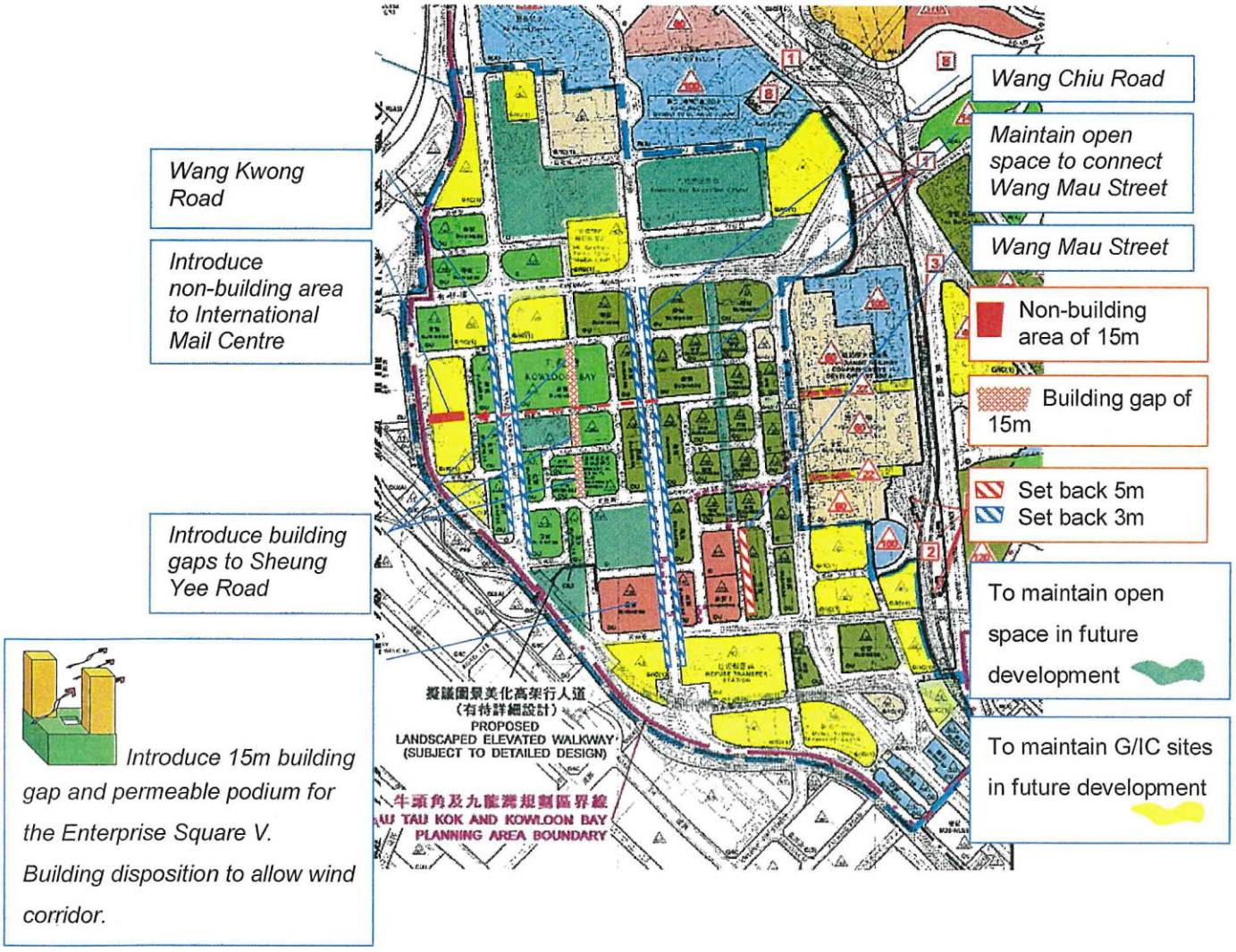
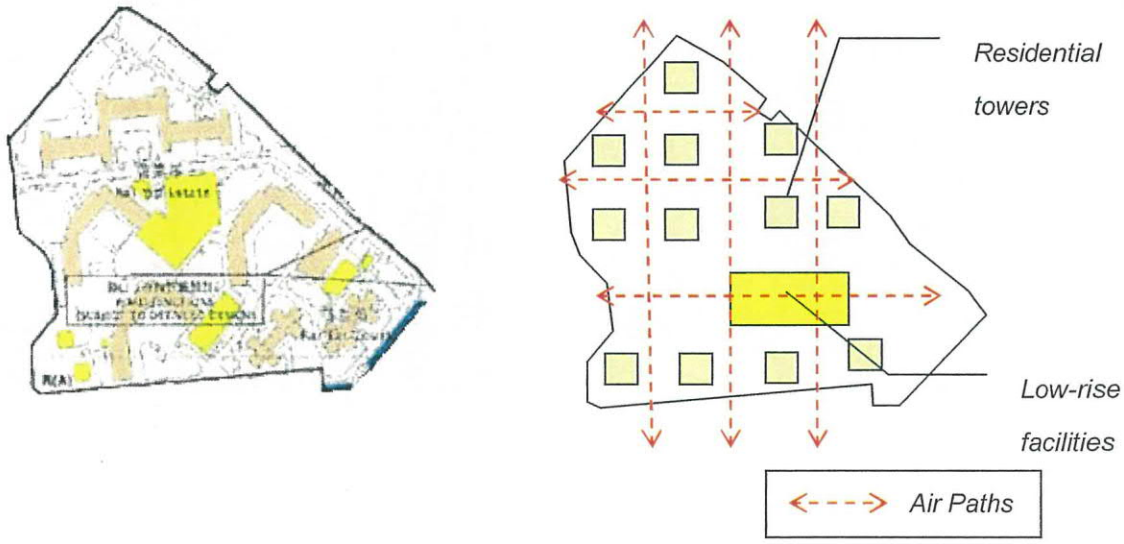


Figure 13 Committed Plan of KBBA in Region 1 with Recommendations

Outside of the KBBA, the majority of the land consists of large-scale housing estates and residential developments, such as the Kai Yip Estate, the committed Lower Ngau Tau Kok Estate Redevelopment Project, Richland Gardens and Telford Gardens. The building disposition and arrangement of Kai Yip Estate are slab-type and are not favourable to air ventilation as it impedes southerlies and northerlies. This existing arrangement will result in a large area with little wind movement at the site as well as up to a radius of 600m from the site. Figures 14 a and b show the existing building arrangement and the recommended principle for Kai Yip Estate. The principle shown in Figure 14b eliminates the slab-type

buildings and replace with smaller blocks with sufficient building spacing of 35m and a wide courtyard to improve ventilation. A series of 15 to 20m wide linear parks are recommended with the Telford site to allow permeability of southerlies. The committed Lower Ngau Tau Kok Estate Redevelopment Project includes a proposed G/IC development of the Cross District Community Cultural Centre (CDCCC) at 40mPD, a District Open Space and a road connecting Ngau Tau Kok Road and Kwun Tong Road. See Figure 15a. The maximum building heights of 100mPD to 140mPD is acceptable, but wider building-to-building gaps are recommended to improve permeability, as shown in Figure 15b. Further air ventilation assessment is recommended for the proposed built form and massing of the committed Lower Ngau Tau Kok Estate Redevelopment Project.



(a) Existing Layout *(b) Recommended Airpaths with Maximum Open Space*

Figure 14 Kai Yip Estate

(a) Committed Layout Plan *(b) Recommended Layout Plan*

Figure 15 Committed Redevelopment of Lower Ngau Tau Kok Estate

4.2.2 Region 2

Region 2 of the Project Area is hilly, with the majority of open space in the form of G/IC sites, green belts and open space areas, such as Jordan Valley Playground, Jordan Valley Leisure Pool Complex, Ping Shek Recreational Ground, Former Jordan Valley Landfill Site, Service Reservoir, Shun Lee Tsuen Park, which provide pleasant air ventilation to the region, should be maintained. See Figure 16.

Region 2 enjoys pleasant air ventilation throughout the year, and benefits from any transpiration cooling effect from the vegetated hill sides. The large-scale public housing estates and the private residential developments are mainly located around the boundary of Region 2. Table 3 summarises the characteristics of the developments. The positive and negative impacts are highlighted in the following paragraphs with recommendations to improve air ventilation.

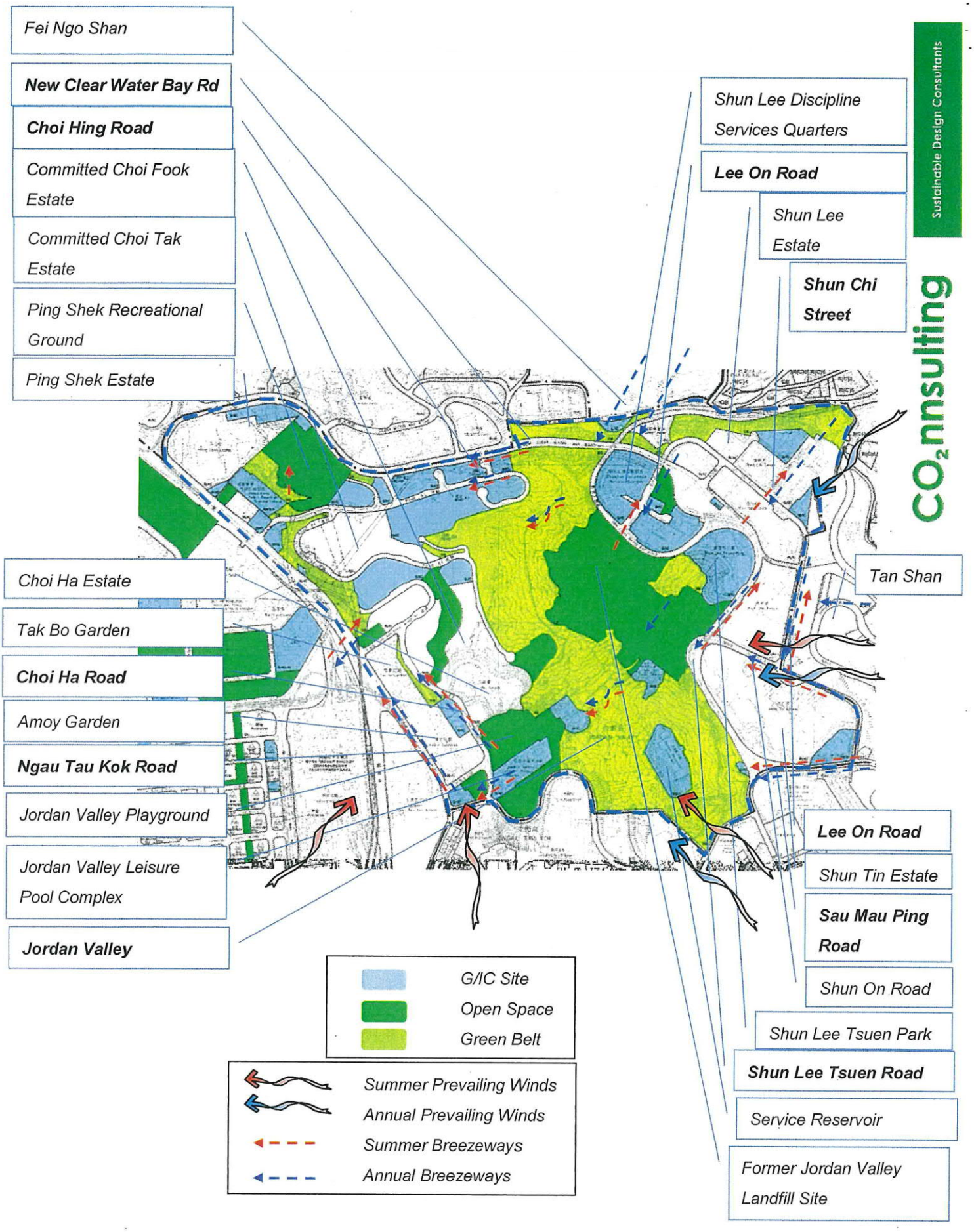


Figure 16 Existing/Committed Scenario in the Region 2 of Ngau Tau Kok and Kowloon Bay

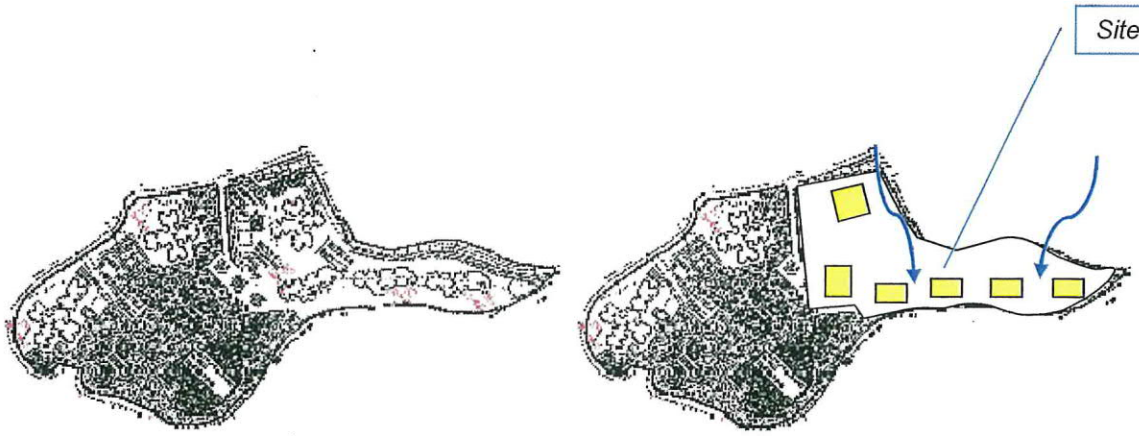
Developments	Housing Type	Existing/ Committed Heights	Impacts
Committed Choi Tak Estate	Public	137-174 mPD, medium-rise	Some negative impacts. Recommendations provide to improve site 3A. See Figure 17b.
Committed Choi Fook Estate	Public	166-174 mPD, medium-rise	No major negative impact.
Choi Ha Estate	Public	138 mPD, medium-rise	Some negative impacts, but not severe due to abundant surrounding open space which acts as alternative breezeways. Recommendations provided in Figure 18.
Ping Shek Estate	Public	32-85 mPD, low to medium-rise	No major negative impact due to availability of sizable courtyards within the site and low building height. Recommendations provided in Figure 19.
Tak Bo Garden	Private	105-125 mPD, medium-rise	No major negative impact due to availability of low-rise development within site and open space in Choi Wan Road.
Amoy Garden	Private	100-119 mPD, medium-rise	Some negative impacts, but not severe due to availability of low-rise development within site and adjacent open space and G/IC site in Chun Wah Road. See Figure 20 for recommendations.
Shun Lee Estate	Public	160-175 mPD, medium-rise	Some negative impacts due to slab type buildings, but not significant due to low building height. Recommendations are provided in Figure 21.
Shun Chi Court	Public	168 mPD, medium-rise	Some negative impacts due to slab type buildings, but not significant due to low building height. Recommendations are provided in Figure 21.
Shun Tin Estate	Public	155-173 mPD, low to medium-rise	Some negative impacts, but not significant due to low building height. Recommendations are provided in Figure 21.
Shun Lee Discipline Services Quarters	Staff Quarters of Government	Over 180 mPD, high- rise	Some negative impacts, but not significant due to abundant surrounding open space which act as alternative breezeways. Recommendations are provided in Figure 21.

Table 3 Summary of Negative Impacts due to Existing / Committed[1] Residential Developments in Region 2

[1] Existing developments are developments that have already existed on site whereas committed developments are those approved by relevant authority for impending development.

(a) Committed Choi Tak Estate

Figure 17a shows the disposition of the committed Choi Tak Estate with 40 storeys. The current disposition forms a wind fence and blocks the north-easterlies, easterlies and downhill wind to permeate to Region 1. It is recommended to arrange the buildings in the manner as shown in Figure 17b. This principle shown reduces the resistance to coming wind and provides better permeability. Further air ventilation assessment is recommended for the proposed built form and massing.

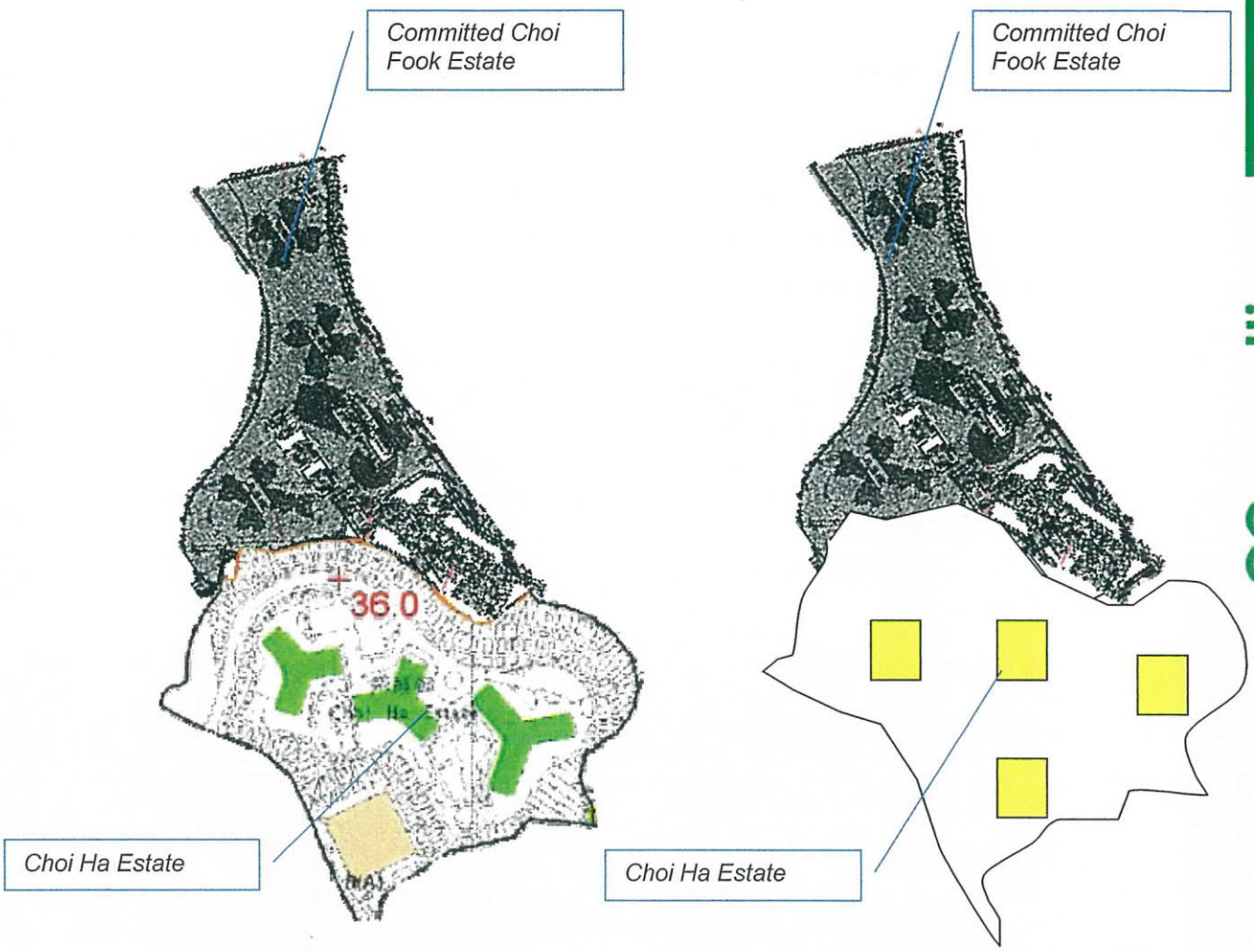


(a) Existing Layout Plan *(b) Recommended Layout Plan*

Figure 17 Committed Choi Tak Estate

(b) Choi Ha Estate and Committed Choi Fook Estate

These two public housing estates with around 40 storeys are located closely to each other and the current dispositions impede the north-easterlies and downhill wind as shown in Figure 18a. Figure 18b shows the recommended principle to improve air ventilation.

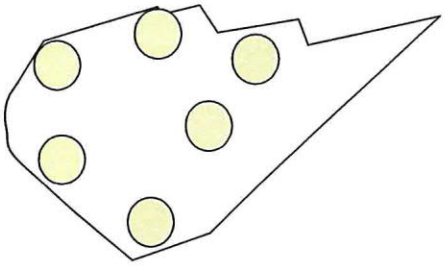


(a) Existing Layout Plan (b) Recommended Layout Plan

Figure 18 Choi Ha Estate and Committed Choi Fook Estate

(c) Ping Shek Estate

The current slab-type building disposition of Ping Shek Estate forms an obstacle to the winds. Figure 19 shows the existing scenario and the recommended disposition. Further air ventilation assessment is recommended for the proposed built form and massing.

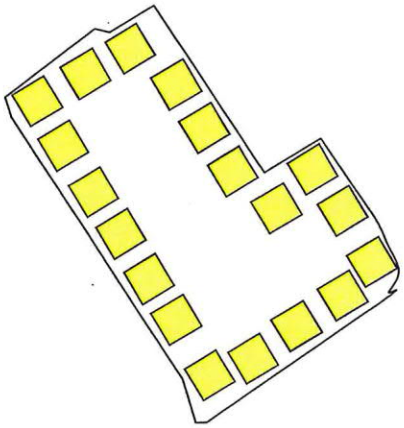


(a) Existing Layout Plan *(b) Recommended Layout Plan*

Figure 19 Ping Shek Estate

(d) Amoy Garden

It is recommended to rearrange the building blocks in order to maximise the open space within Amoy Garden as shown in Figure 20b. The courtyard shown in Figure 20b will help to improve the air ventilation within the estate.

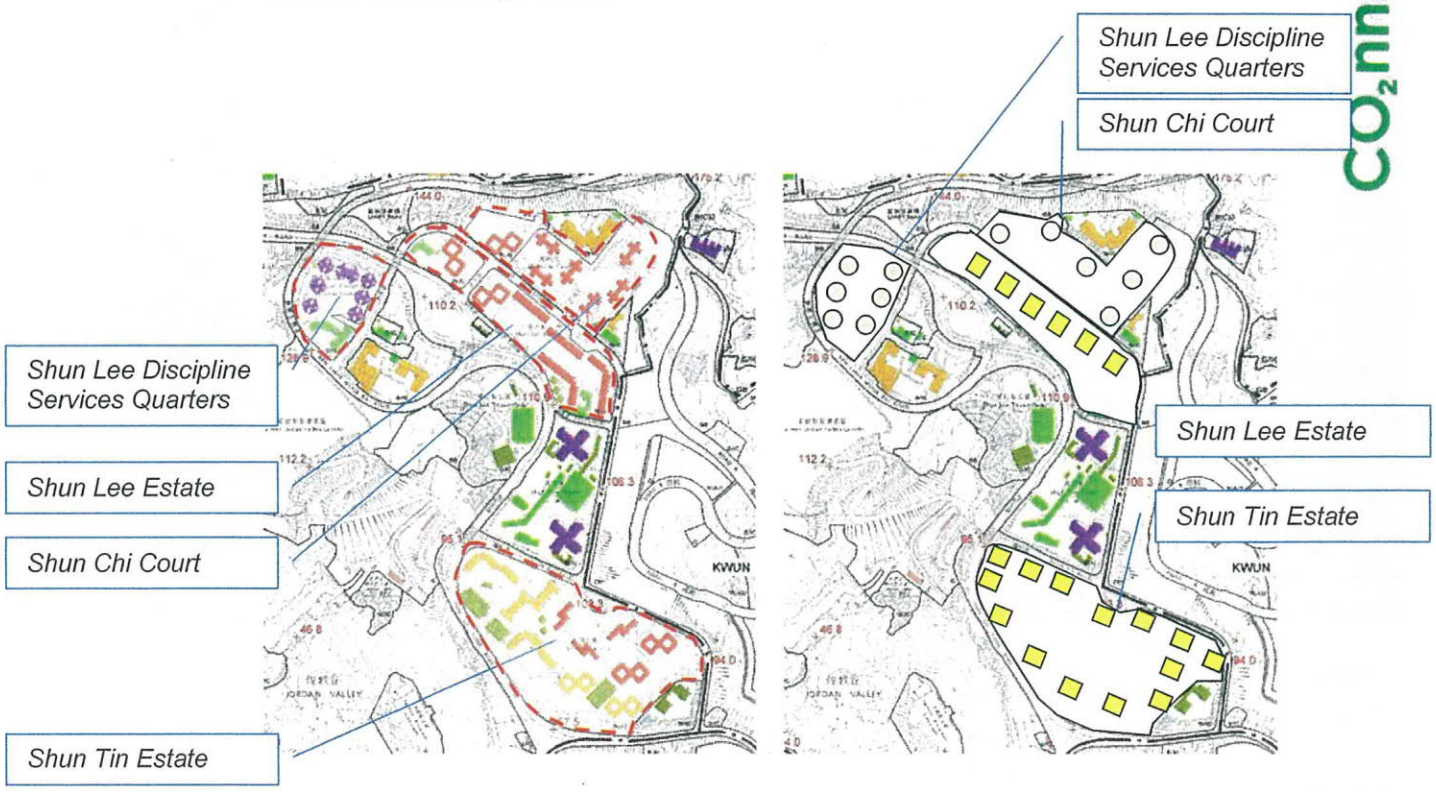


(a) Existing Layout Plan *(b) Recommended Layout Plan*

Figure 20 Amoy Garden

(e) Shun Lee Estate, Shun Chi Court, Shun Tin Estate and Shun Lee Discipline Services Quarters

Since the developments are aligned along the boundary of Region 2 and can impede downhill winds from Fei Ngo Shan and Tan Shan outside the Project Area, it is recommended that the redevelopment should follow the arrangement as demonstrated in Figure 21b.



(a) Existing Layout Plan *(b) Recommended Layout Plan*

Figure 21 Recommended Disposition for Shun Lee Estate, Shun Chi Court, Shun Tin Estate and Shun Lee Discipline Services Quarters

5. PLANNED SCENARIO

5.1 Observations

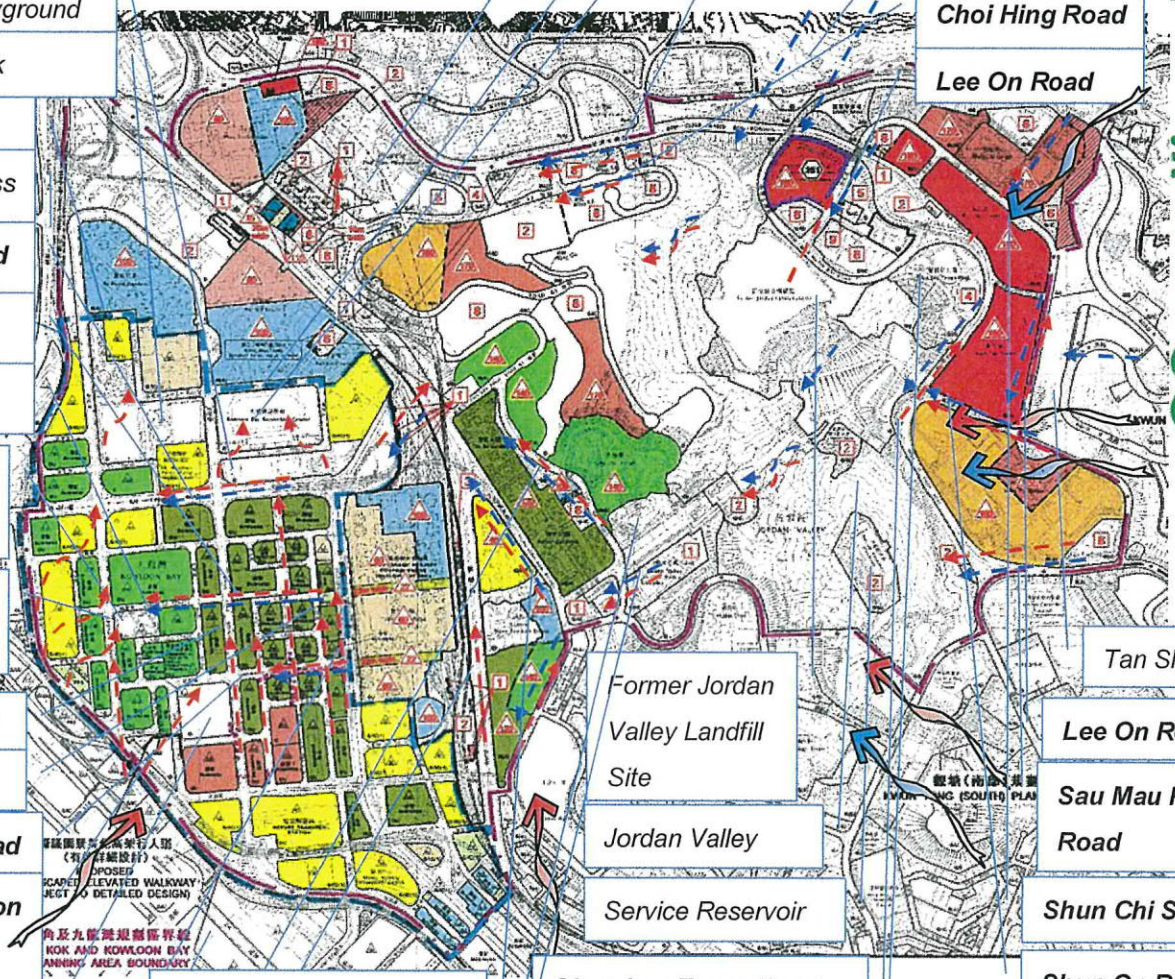


Figure 22a Building Blocks and Layout of Future Developments (Indicative)

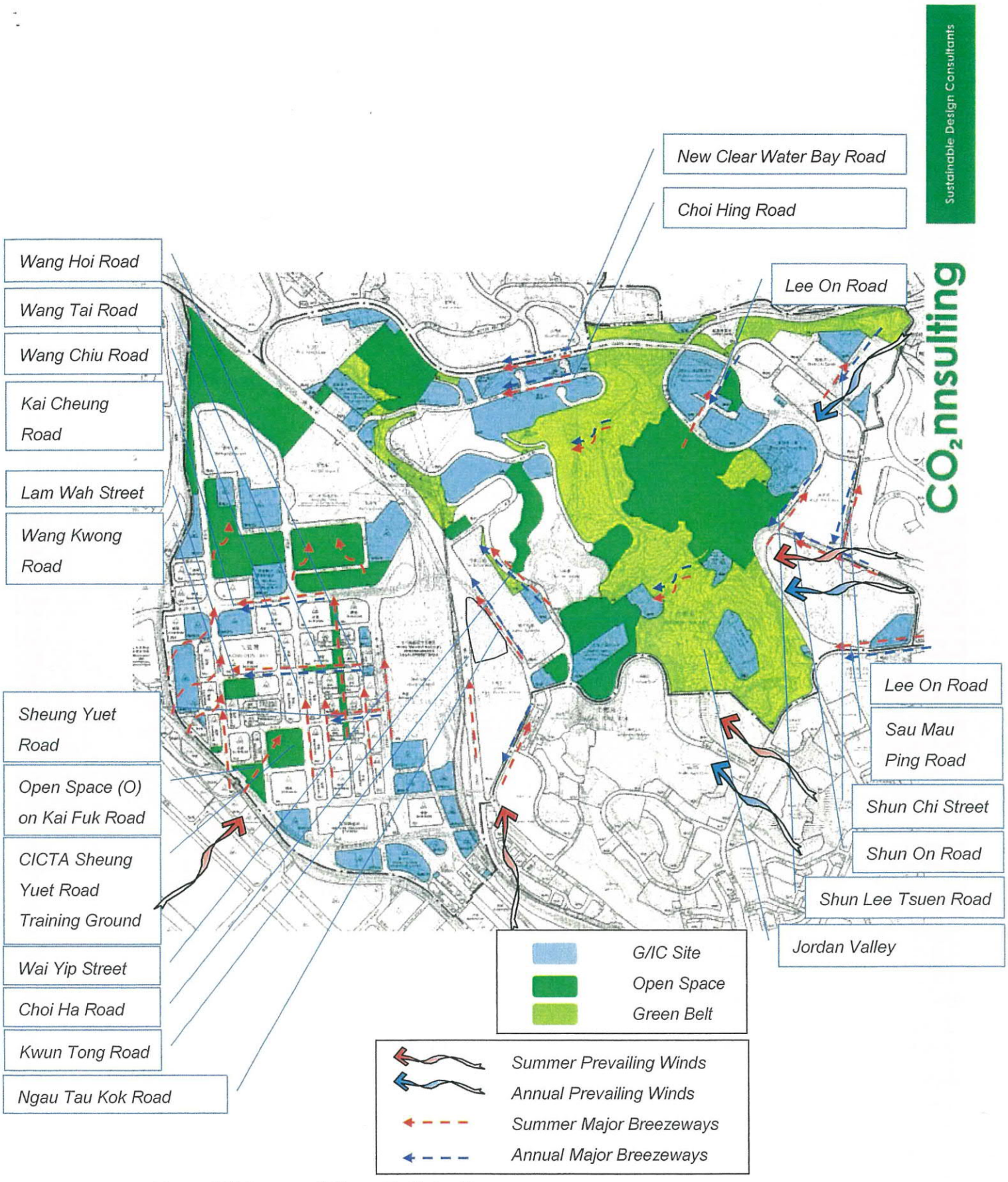


Figure 22b Proposed Plan with Major Breezeways

5.2 Areas of Concern

Figure 22a shows the proposed maximum building height restrictions on the OZP. The design, disposition and height of new development shown in this figure are hypothetical.

5.2.1 General

Where podia are allowed, it is recommended to provide set-back from the site boundary, or to recess the lower floors from these key wind corridors, or to align the podia edge with the building edge, to make the podia more permeable, by delineating non-building areas wherever possible, as shown in Figure 23.

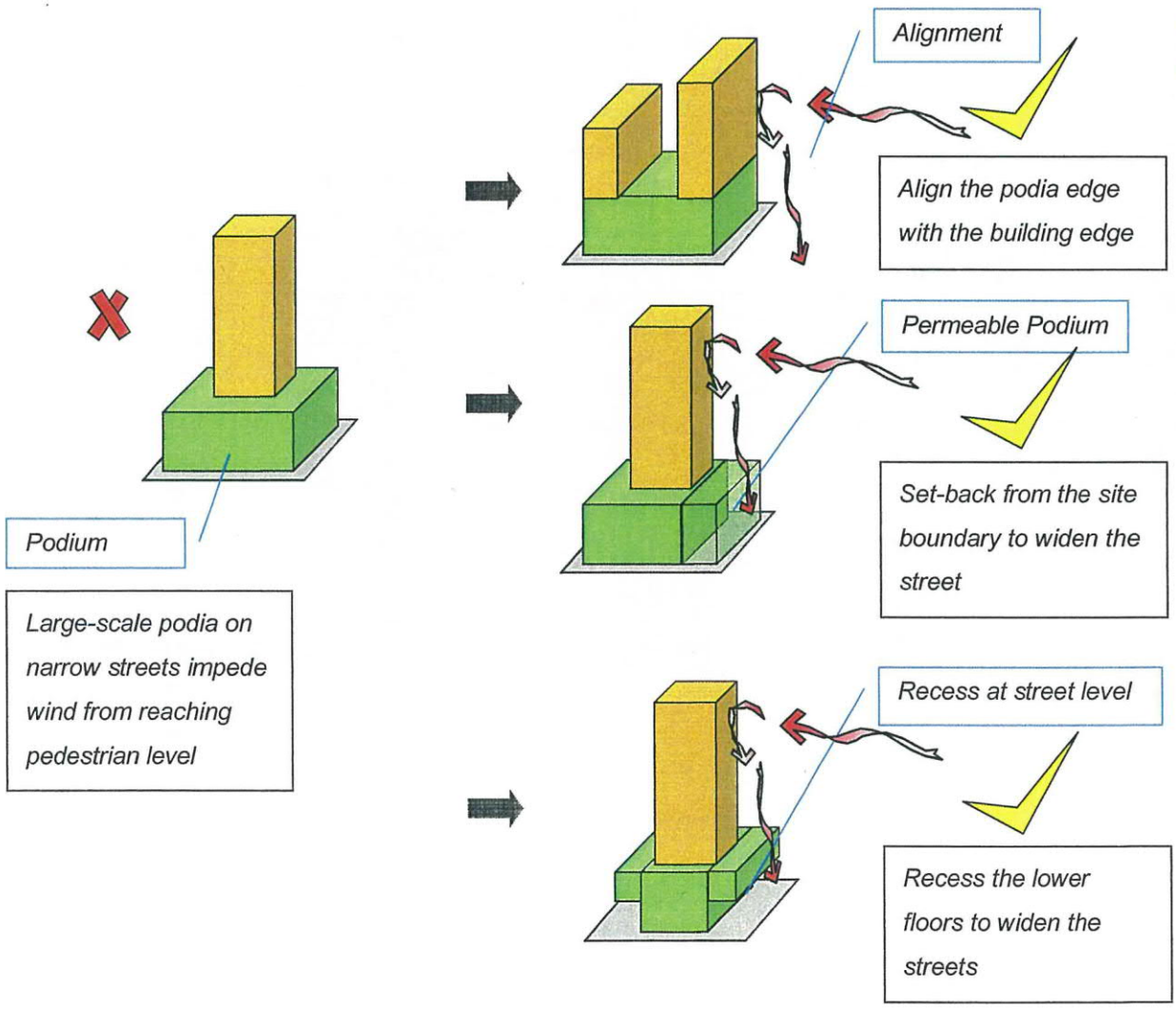


Figure 23 Recommendations for Podia

5.2.2 Region 1

Figure 24 shows the proposed plan for Region 1.

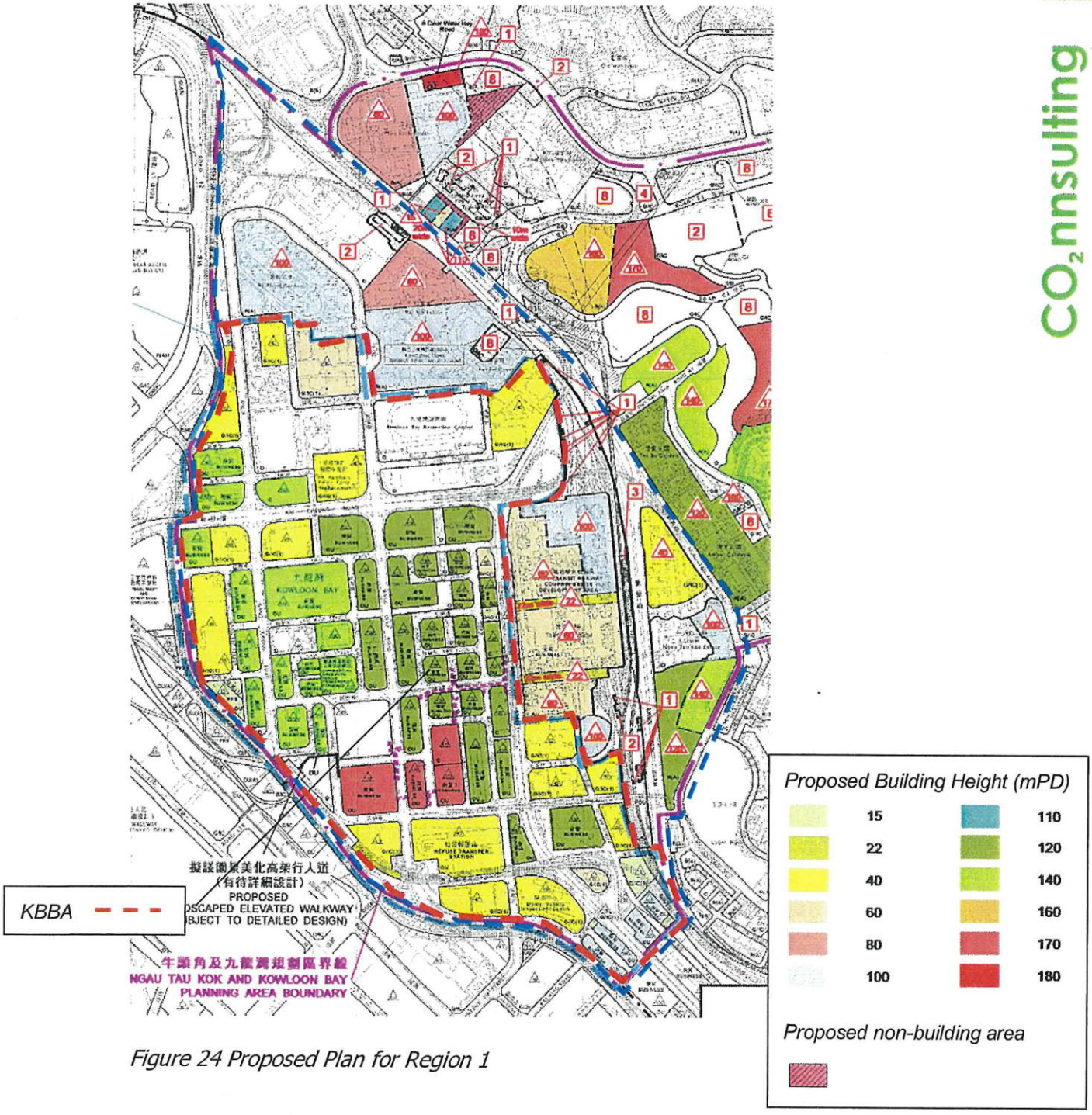


Figure 24 Proposed Plan for Region 1

There are no changes in the proposed outline plan in the KBBA between the committed and the proposed plans. The recommendations to the committed plan have been provided in Section 4.2.1.

Outside of the KBBA, the maximum proposed building height of Telford Gardens remain unchanged (60mPD and 100mPD). The proposed plan indicates that two corridors have been proposed to be introduced on the podium (22mPD) as shown in Figure 25. This strategy will help to provide a wind corridor connecting Wang Tai Road and Sheung Yuet Road. It is also recommended that a 15m to 20m building gap at 22mPD to be provided as shown in Figure 25, to connect to Kwun Tong Road Tai Yip Street, to improve air ventilation.

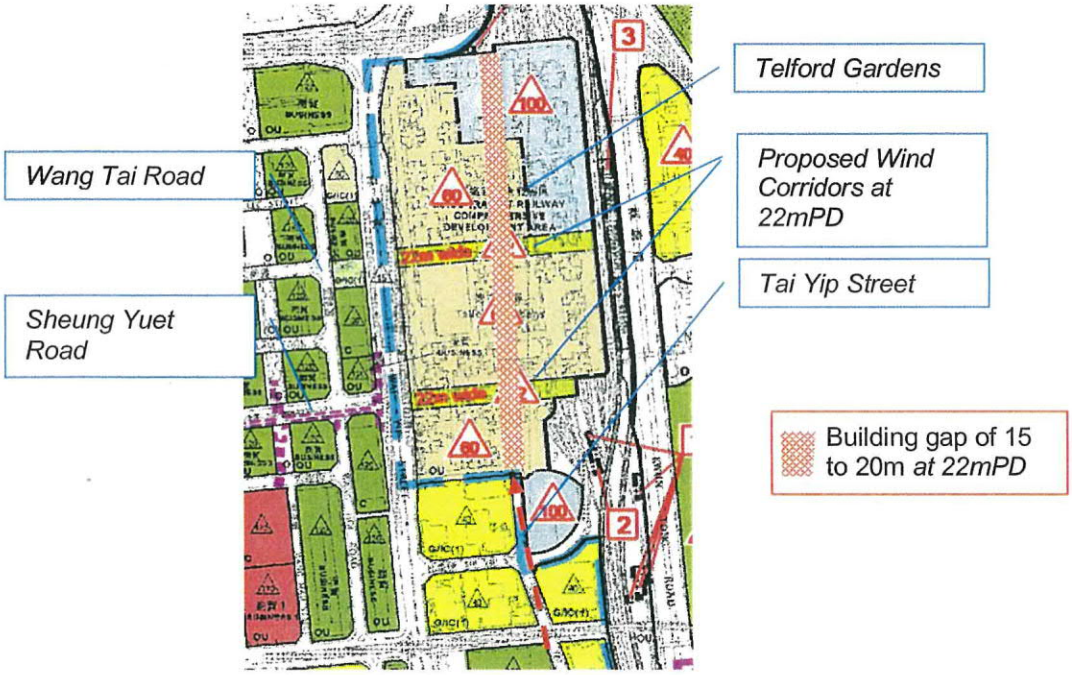


Figure 25 Recommended Building Gap for Telford Gardens

The maximum proposed building height of Kai Yip Estate increased from 60mPD to 100mPD. The increased maximum height is acceptable, however it is recommended that the building disposition should adopt a similar arrangement shown in Figure 14 in section 4.2.1.

The existing building height of Richland Gardens is about 100mPD. The current disposition includes sizable building gaps in the range of 60m to 85 m, maintenance of this space

together with the existing building height will give a positive impact on air ventilation, as shown in Figure 26.

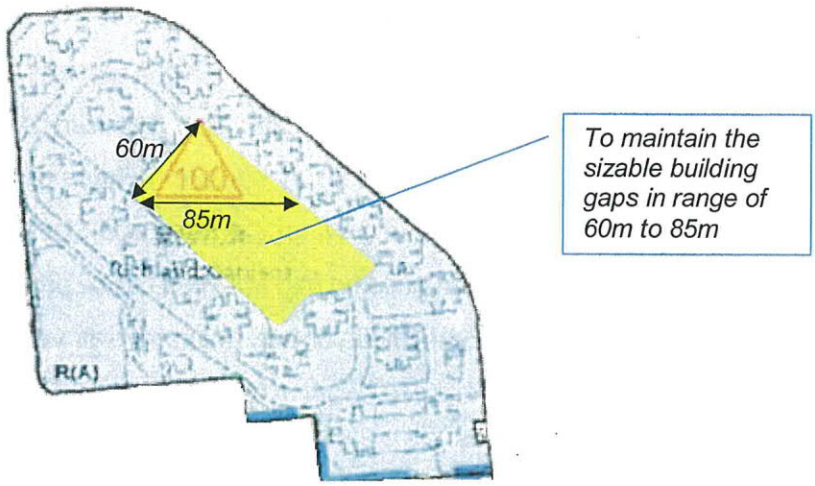


Figure 26 Richland Gardens

5.2.3 Region 2

There are no significant changes in Region 2. The proposed maximum building height of Shun Chi Court and Shun Tin Estate are kept at 170mPD and 160mPD/170mPD respectively. When the building disposition adopts a similar arrangement shown in Figure 21, discussed in section 4.2.2, the air ventilation effectiveness will be improved. The other recommendations have already been provided in Section 4.2.2.

Two non-building areas are proposed in Ping Shek Estate and Shun Chi Court, see Figure 27. It is recommended to maintain these two non-building areas for better air ventilation.

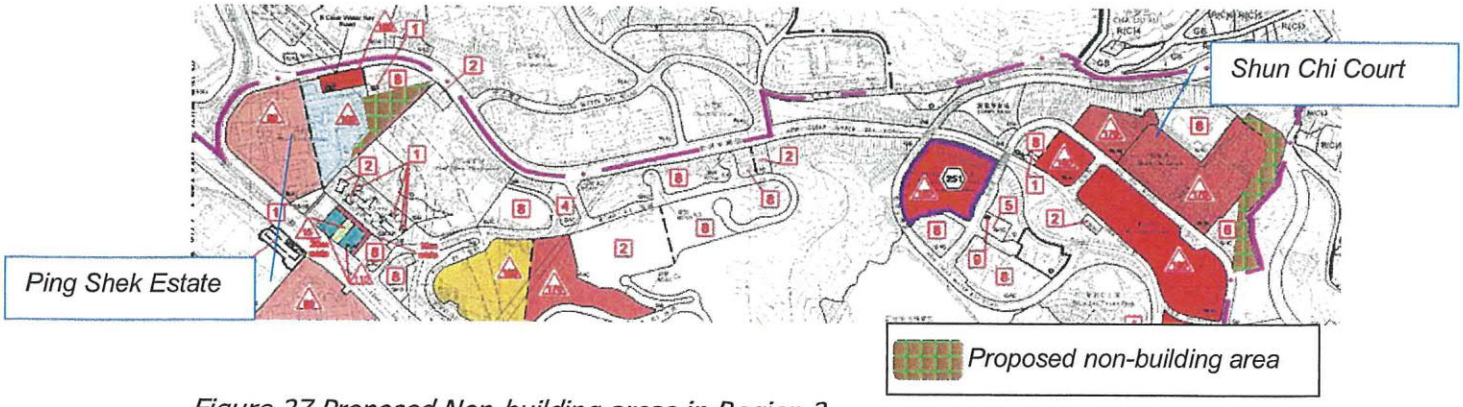


Figure 27 Proposed Non-building areas in Region 2

Notwithstanding the above, there is an area of concern in the future redevelopment of Kai Tak Mansion and the assessment is detailed in section 5.3.

5.3 Kai Tak Mansion

5.3.1 Background

The Kai Tak Mansion is located at the foothill of the slope adjoining the Hong Kong Baptist University Academy of Visual Arts to the south-east of Ping Shek Estate. The site consists of seven storeys with a building height of approximately 25.6mPD. The nearby spot height is approximately 4.6mPD. The "R(A)" site is surrounded by a number of historic buildings, G/IC facilities, open spaces and medium-rise public housing estates. Figure 29 shows the view of the Site and its surrounding. To its immediate north are two Grade I historic buildings of Ex-Royal Air Force (RAF) Officers' Quarters Compound (which include the two-storey RAF Officers Mess and an Annex Block) zoned "G/IC(2)", which are now being re-used as the Hong Kong Baptist University's (HKBU) Academy of Visual Arts, and to its immediate southwest is another two-storey Grade I historic building Ex-RAF Headquarters Building, which is currently zoned "O" and occupied by Caritas Family Crisis Support Centre. A one-storey Sam Shan Kwok Wong Temple (Grade III) and 8-storey St. Joseph Anglo-Chinese Primary School are located to its northwest and southeast respectively.

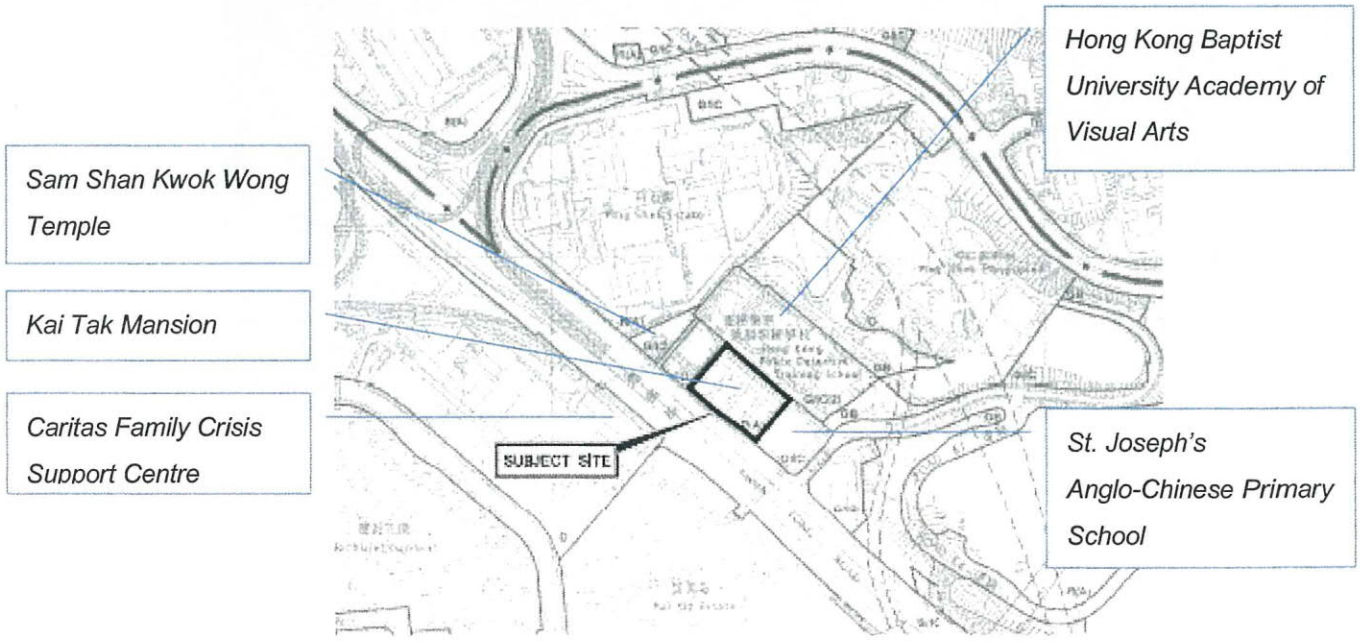


Figure 28 Project Site for Option Study

The building height of subject "R(A)" site, which could be built up to 110mPD, may have adverse impact on the air ventilation of the HKBU site at its rear and thus affecting students' activity. In order to minimise the potential adverse air ventilation impacts on the neighbours, development restrictions (NBAs and/or building gap) are proposed for future redevelopment of the "R(A)" site and tested in different options. Two development options: the baseline option (PR 9, BH 105mPD with no NBAs and building gap) and alternative option (PR 9, BH 105mPD with NBAs and building gap restrictions), are compared qualitatively in terms of the impacts on air ventilation in the surrounding developments in particular HKBU with the existing scenario (i.e. 7-storey building).

Figure 29 shows the view of the site and its surrounding.

Figure 29 Views of Kai Tak Mansion Site and its Surrounding Developments

5.3.2 Existing Scenarios of Kai Tak Mansion Site

Figure 30 shows the prevailing winds, identified in Section 3, for the existing scenario with breezeways.

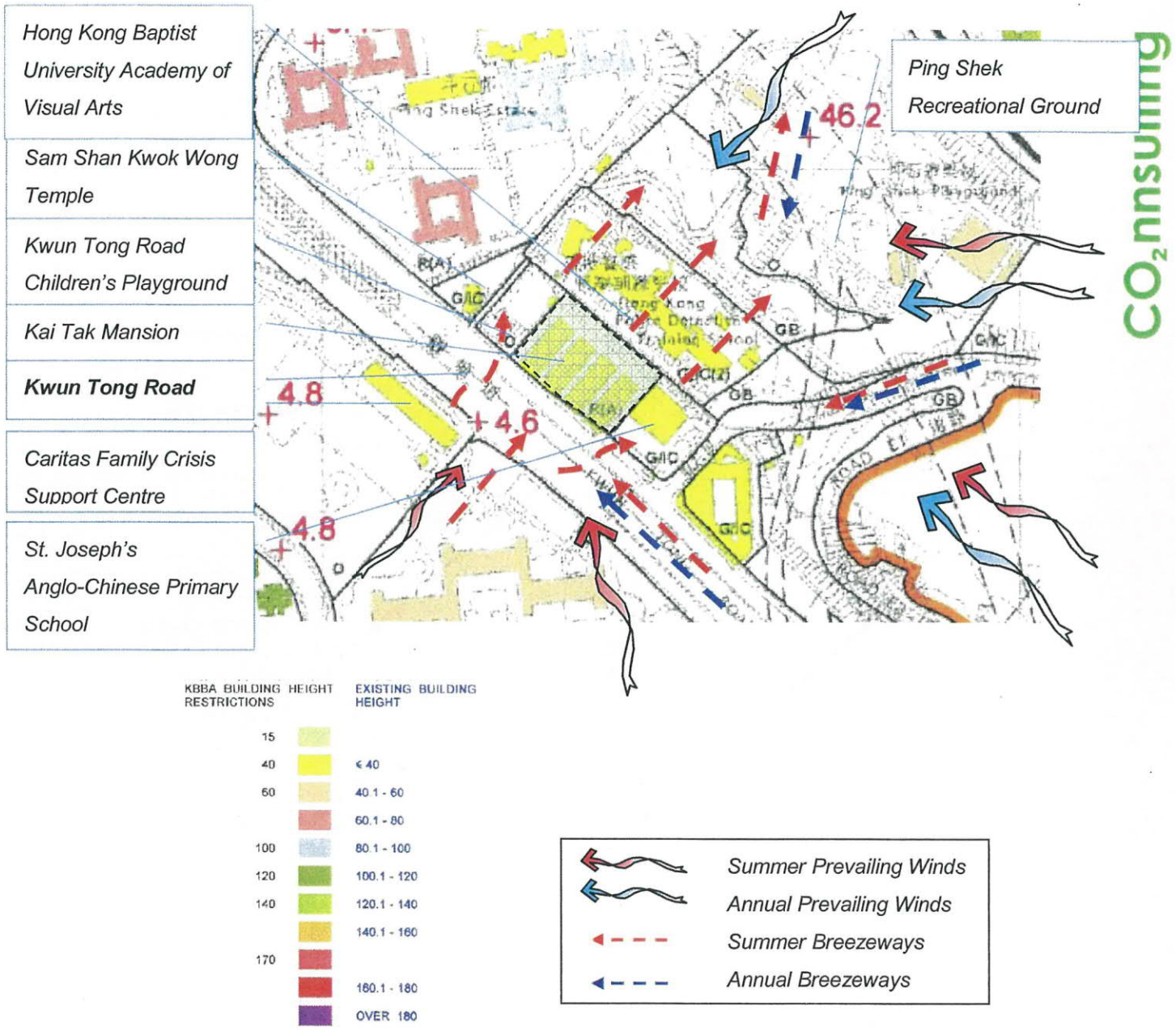


Figure 30 Existing Scenario at Kai Tai Mansion Site (highlighted in cross-hatched pattern) and its Surrounding Developments showing Major Breezeways

Figure 31 shows the building disposition of the existing Kai Tai Mansion. Some downdraft will also ventilate the area. The site includes four similar blocks with a 5m spacing. These narrow building gaps are insufficient to funnel the south-westerlies to the HKBU Academy of Visual Arts. However, this negative impact is not significant due to two reasons: the availability of the adjacent green belt and the large open space, Kwun Tong Road Children's Playground and Ping Shek Recreational Ground; as well as the limited building height of seven storeys (25.6mPD). It can therefore be said that the surrounding buildings have access to breeze.

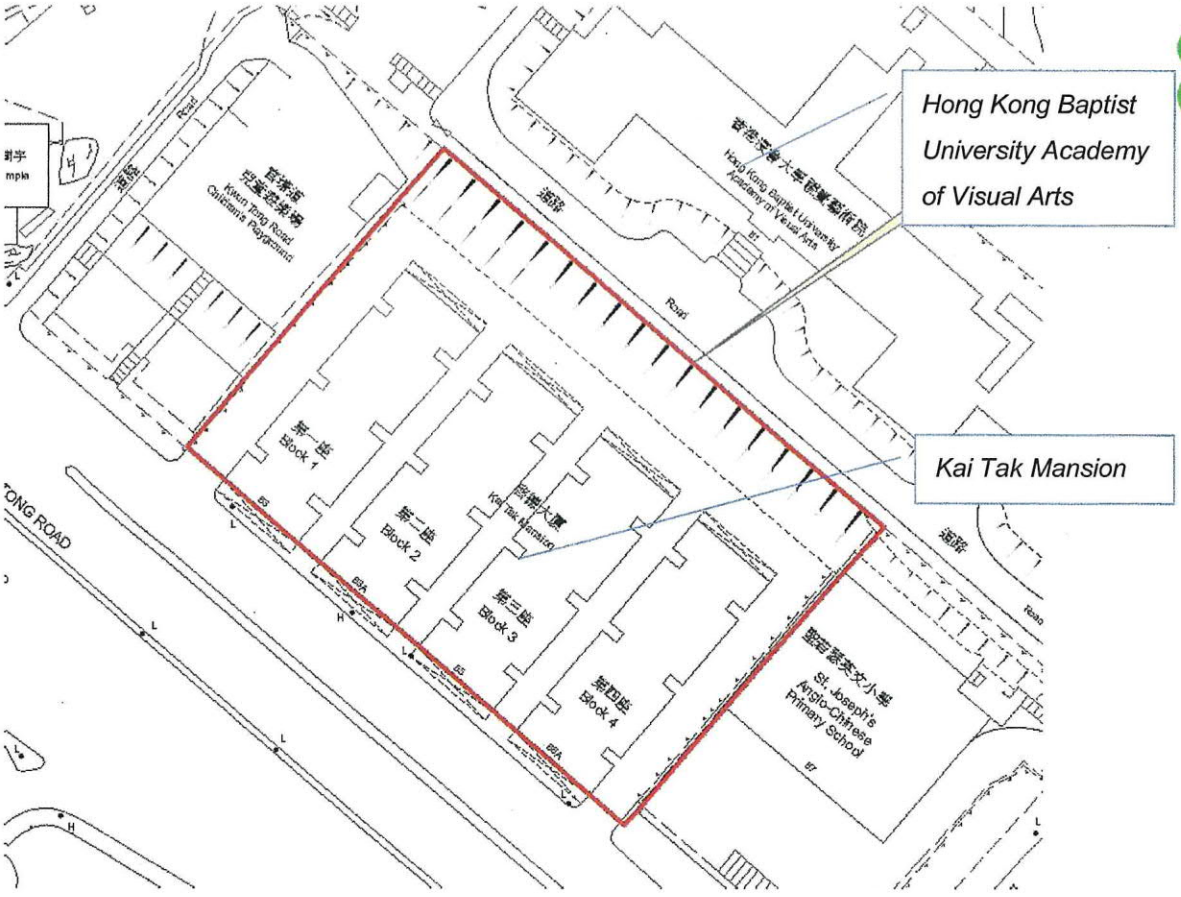


Figure 31 Existing Kai Tak Mansion

5.3.3 Options study of Kai Tak Mansion Site

(A) Baseline Option

Figure 32 shows the baseline option with a proposed building height of 105 mPD. Observations of the baseline option are described in the following paragraphs.

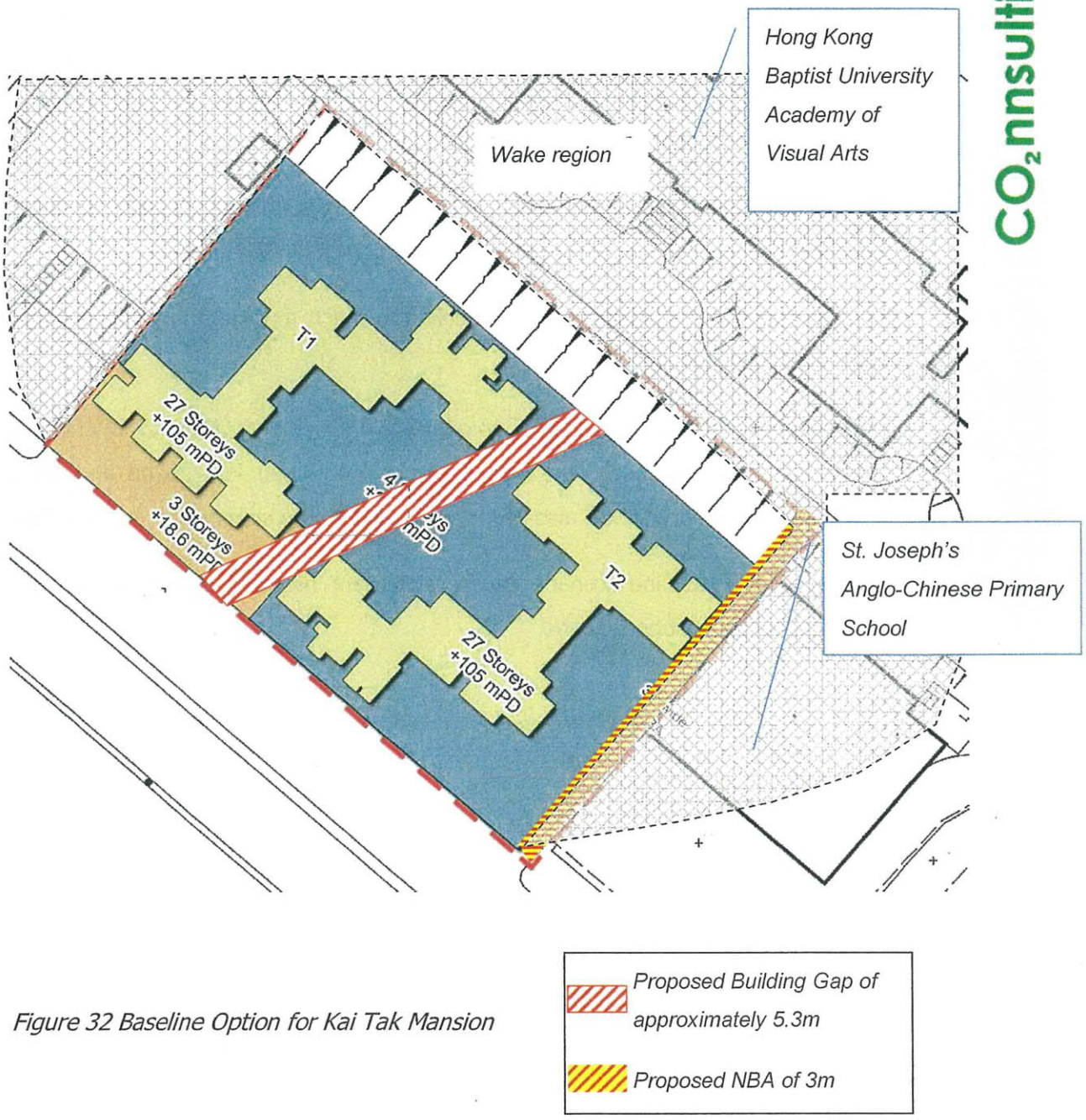


Figure 32 Baseline Option for Kai Tak Mansion

The large-scale podium would reduce the downdraft attributed by the subject towers with the south-westerlies and southerlies, and therefore minimise the ventilation on Kwun Tong Road.

The non-building area of 3m next to St. Joseph's Anglo-Chinese Primary School (approximately 37mpD), as shown in Figure 32, is insufficient to allow the south-westerlies to reach Hong Kong Baptist University Academy of Visual Arts, but will help to receive downdraft to ventilate the area with easterlies.

With the elevated height of 105 mPD (compared to approximately 25.6mPD of the existing scenario), the building gap of 5 m is not effective in ventilating the area.

The alignment of a building gap is directed too much towards the west to harvest the south-westerlies and southerlies.

The HKBU lies in the wake (area with no or little air movement) of the Kai Tak Mansion with diminished air ventilation. Part of the Kwun Tong Road Playground and St. Joseph Anglo-Chinese Primary School also lie in the area with little air movement. See Figure 32.

In general, the baseline scenario causes significant negative impact on air ventilation compared to the existing scenario.

(B) Alternative Option

Figure 33 shows alternative option for Kai Tak Mansion site. The proposed building height is at 105 mPD, similar to that in the baseline scenario.

Figure 33 Alternative Option for Kai Tak Mansion with Recommendations

Two non-building areas of 10m each are introduced as shown in Figure 33. The non-building area of 10m adjacent to St. Joseph's Anglo-Chinese Primary School is insufficient to ventilate the area with south-westerlies, but will encourage downdraft to reach the ground level and ventilate the area with easterlies.

The introduction of a 20m building gap between the four towers of 105mPD encourages the south-westerlies and north-easterlies to permeate. Nevertheless, it is recommended to widen the building gap to ideally 24m to further improve ventilation. See Figure 33.

The alignment of this 20m building gap also encourages south-westerlies and southerlies to permeate.

In general, alternative option provides better air ventilation to the vicinity than the baseline option.

5.4 Further Study

Given the consideration of development right which will lead to high-rise buildings, control of building height in itself is not an effective means for better air ventilation. This study has also included measures on set-backs, podia design, non-building areas to supplement with the height restriction. This study provides an overview of the existing wind environment and recommends broad measures to minimise negative impacts and where appropriate, improvement to the existing conditions.

The Project Area benefits from green belts, open spaces and low-rise G/IC sites, the sites should be maintained for better air ventilation. Building gaps and non-building areas have been recommended throughout the Project Area to improve permeability.

For specific sites where large-scale development or redevelopment may be possible, as shown in Figure 34, detailed AVAs on a site-by-site basis should be undertaken.

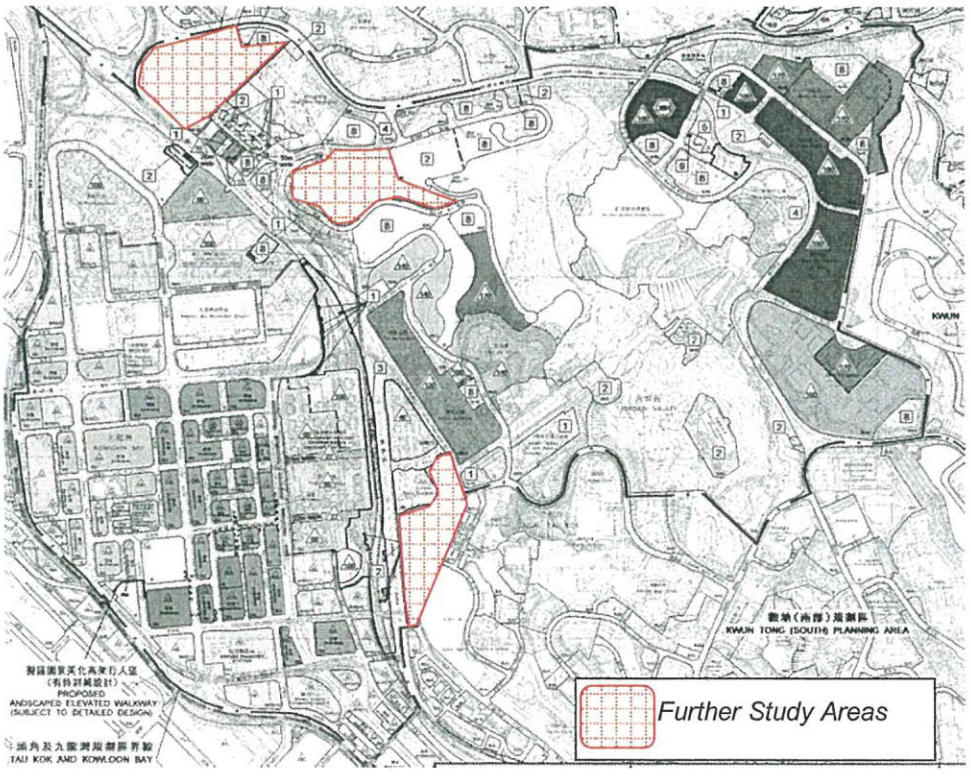


Figure 34 Recommended Sites for Detailed AVAs during Development / Redevelopment

6 CONCLUSIONS

As Region 1 is the gateway to sea breeze, it is essential that the OU and G/IC sites at the waterfront are maintained at 40mPD or below to allow permeability of sea breeze to Kowloon Bay. This strategy has already been adopted in the committed plan. Numerous sites in form of Residential, Commercial, G/IC and OU are planned to be developed in Kai Tak which is just southwest of Region 1, outside the Project Area. The majority of the buildings are up to in the range of 15mPD to 65mPD. Care should be exercised in the arrangement of building blocks in the Kai Tak area to minimise the adverse impact of air ventilation to the Kowloon Bay area.

The KBBA is densely packed with medium to high-rise commercial and industrial buildings (120 mPD to 170 mPD). Narrow roads are found in the KBBA. Given the maximum building height and the width of the blocks, the negative impact on air ventilation cannot be mitigated unless the effective road spacing (measured from building face-to-building face) is increased from 10m - 25m to 30m or beyond. Since this mitigation measure is not practical, it is recommended to introduce and maintain several urban linear parks and open space within KBBA, as well as practical setbacks from the roads. These ventilation pockets include the CICTA Sheung Yuet Road Training Ground, Lam Wah Street Playground, Kowloon Bay Park, Kowloon Bay Sports Ground, Kowloon Bay Playground, a series of "linear open space", as well as numerous low-rise G/IC sites with building height restriction of 40mPD, help to improve air ventilation in the Kowloon Bay Area, and should be maintained.

The committed linear open spaces from Kai Cheung Road to Wang Yuen Street would better serve the business area if the future redeveloped building(s) are set back from Wang Mau Street by 5m. A building gap of around 15m is recommended along Sheung Yee Road and Lam Hing Street to extend the breezeway for better permeability in KBBA. Widening breezeways, Wang Kwong Road and Wang Chiu Road, by setting back three meters of each side of the road will improve the effectiveness of the major breezeways. The KBBA area lacks breezeways to funnel easterlies and sea breeze. The introduction of a non-building area at the proposed International Mail Centre to connect to the breezeway provided by Wang Tai Road and Lam Wah Street would improve the air ventilation in the KBBA. The site of Enterprise Square V is sizable with unfavourable slab-type towers. As Enterprise Square V sits on the waterfront, it presents an obstacle to permeability to KBBA. A slanting alignment of the 15m building gap is recommended at the 22mPD podium level of Enterprise Square V to introduce a wind corridor for the oncoming sea breeze. A permeable podium is recommended for the Enterprise Square V. It is also recommended that the building

disposition should adopt a similar arrangement shown in the study report for air ventilation improvement.

Outside the KBBA, the majority of the land consists of large-scale housing estates and residential developments, such as Kai Yip Estate, the committed Lower Ngau Tau Kok Estate Redevelopment Project, and Richland Gardens. In general, building disposition should not form a wind wall to improve permeability. Furthermore, low-rise facilities should be located in the centre of these developments to maximise the size of the open courtyard to improve local ventilation. Recommendations for such sites have been provided in the study report.

Region 2 of the Project Area is hilly, with the majority of open space in the form of G/IC sites, green belts and open space areas, such as Jordan Valley Playground, Jordan Valley Leisure Pool Complex, Ping Shek Recreational Ground, Former Jordan Valley Landfill Site, Service Reservoir, Shun Lee Tsuen Park, which provide pleasant air ventilation to the region, and should be maintained. Areas of larger-scale medium-rise residential developments are located along the eastern and western boundaries of Region 2, with maximum height from 80mPD to 250mPD. In general, there are no significant negative air ventilation impacts due to these estates because of the abundant surrounding open space, green belt and/or low-rise G/IC developments. These areas shall be maintained for better air ventilation. However, better arrangements in terms of air ventilation have been proposed in the study report for future redevelopments.

In the proposed plan, the proposed maximum building height of Telford Gardens remain unchanged (60mPD and 100mPD). The proposed plan also indicates that two corridors have been proposed to be introduced on the podium (22mPD). This strategy will help to provide a wind corridor connecting Wang Tai Road and Sheung Yuet Road. A 15m to 20m building gap is also recommended to connect Kwun Tong Road to Tai Yip Street to improve air ventilation.

The proposed maximum building height of Kai Yip Estate increased from 60mPD to 80mPD and 100mPD. The increased maximum height is acceptable, however it is recommended that the building disposition should adopt a similar arrangement shown in the study report for air ventilation improvement.

The maximum building height of 100mPD is retained for the site of Richland Gardens. The current disposition includes sizable building gaps in the range of 60m to 85 m, maintenance

of this space together with the unchanged building height will give a positive impact on air ventilation.

The proposed maximum building heights of Shun Chi Court and Shun Tin Estate are kept at 170mPD and 160mPD/170mPD respectively. When the building disposition adopts a similar arrangement shown in the study report, the air ventilation effectiveness will be improved.

For specific sites where large-scale development or redevelopment may be possible, detailed AVAs on a site-by-site basis should be undertaken.

The summary of recommendations to minimise the impact of the overall Project Area are listed below and illustrated in Figure 35.

General:

- Provide set-back from the site boundary, or recess the lower floors from these key wind corridors, or align the podia edge with the building edge, to make the podia more permeable, by delineating non-building areas wherever possible

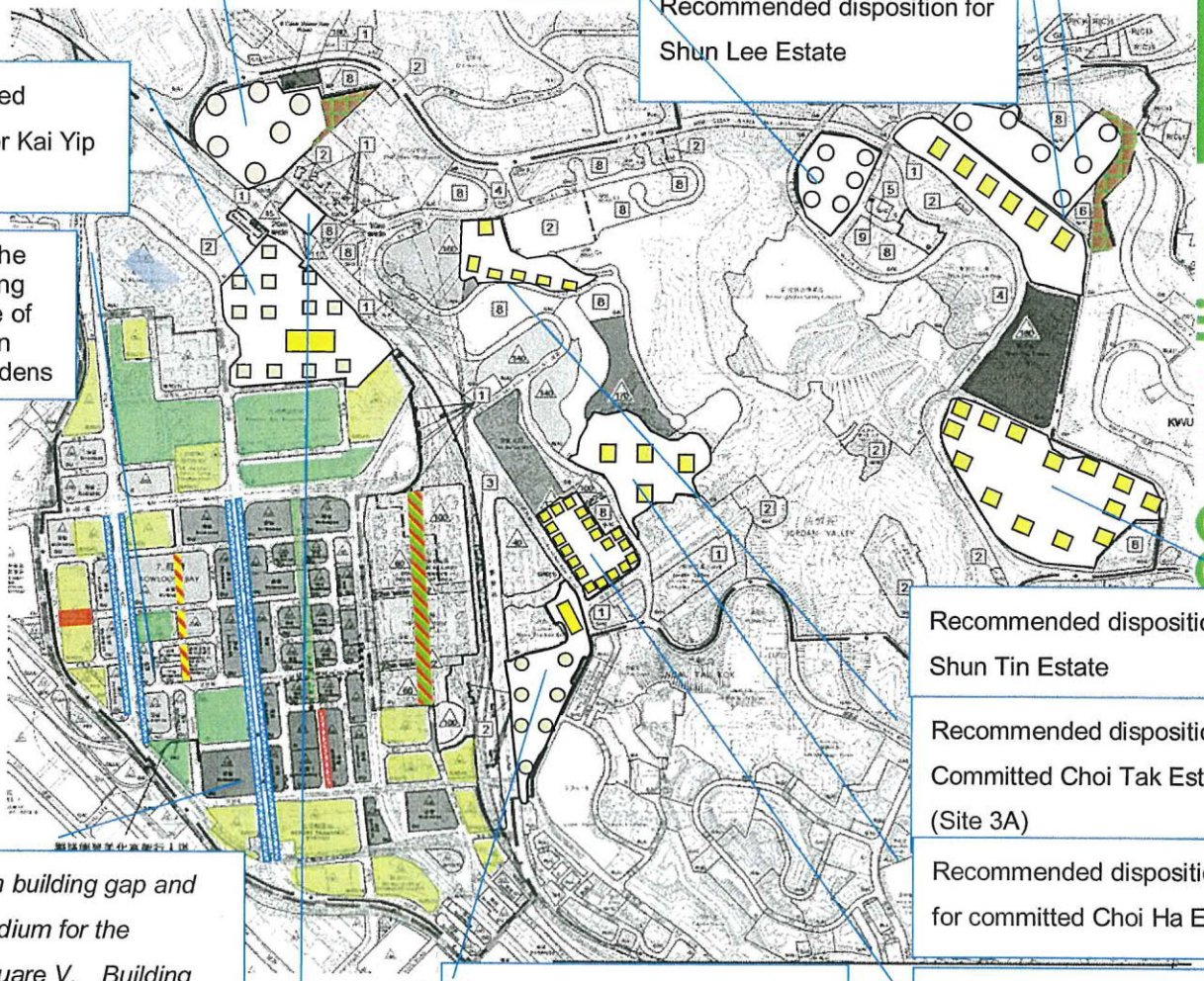
Region 1:

- Maintain the linear open spaces from Kai Cheung Road to Wang Yuen Street;
- Introduce a building gap of around 15m wide along Sheung Yee Road and Lam Hing Street to extend the breezeway for better permeability in KBBA;
- Introduce set-back of 5m to the building(s) on Wang Mau Street;
- Introduce a 15m building gap and a permeable podium for Enterprise Square V;
- Avoid slab-type building disposition in the Enterprise Square V. Buildings should be arranged in the manner as recommended in the report to allow wind corridor;
- Introduce a set-back of 3m on each side of Wang Kwong Road and Wang Chiu Road;
- Introduce a 15m non-building area at the proposed International Mail Centre;
- Widen the building-to-building gaps in the committed Lower Ngau Tau Kok Estate Redevelopment Project;
- Avoid slab-type building disposition in the Kai Yip Estate. Air paths should be introduced;
- Maximise the open space within the Amoy Garden;
- Introduce a building gap of 15 to 20m wide in Telford Gardens to connect Kwun Tong Road to Tai Yip Street;

- Maintain the sizable building gaps in range of 60m to 85m in the Richland Gardens;
- Maintain the open space and G/C sites in the future development;

Region 2:

- Avoid slab-type building disposition in the Ping Shek Estate. Air paths should be introduced;
- Maintain the non-building areas in the Ping Shek Estate and Shun Chi Court;
- Avoid wind wall building disposition in the committed Choi Tak Estate Site 3A. Air paths should be introduced;
- Introduce air paths in the Choi Ha Estate, the Shun Lee Estate, the Shun Chi Court, the Shun Tin Estate and the Shun Lee Discipline Services Quarters; and
- The baseline scenario and alternative option of Kai Tak Mansion site have been compared. It is concluded that the alternative option with building gap of 20m to 24m wide at 13.6mPD and non-building areas of 10m provides better air ventilation compared to the baseline option.



Recommended disposition for Ping Shek Estate
To maintain non-building area

Recommended disposition for Shun Lee Discipline Services Quarters

Recommended disposition for Shun Chi Court
To maintain non-building area

Recommended disposition for Shun Lee Estate

Recommended disposition for Kai Yip Estate

To maintain the sizable building gaps in range of 60m to 85m in Richland Gardens

Recommended disposition for Shun Tin Estate

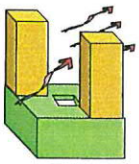
Recommended disposition for Committed Choi Tak Estate (Site 3A)

Recommended disposition for committed Choi Ha Estate

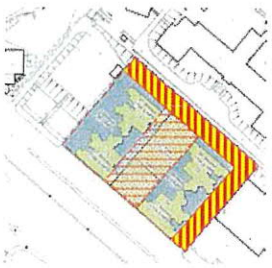
Recommended disposition for committed Lower Ngau Tau Kok Estate Redevelopment Project

Recommended disposition for Amoy Garden

Introduce 15m building gap and permeable podium for the Enterprise Square V. Building disposition to allow wind corridor.

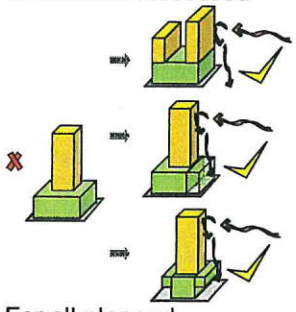


Alternative option



Building gap of 20m to 24m wide at 13.6mPD and non-building areas of 10m

Setback or Recessed



For all planned developments

Set-back of 5m
Set-back of 3m

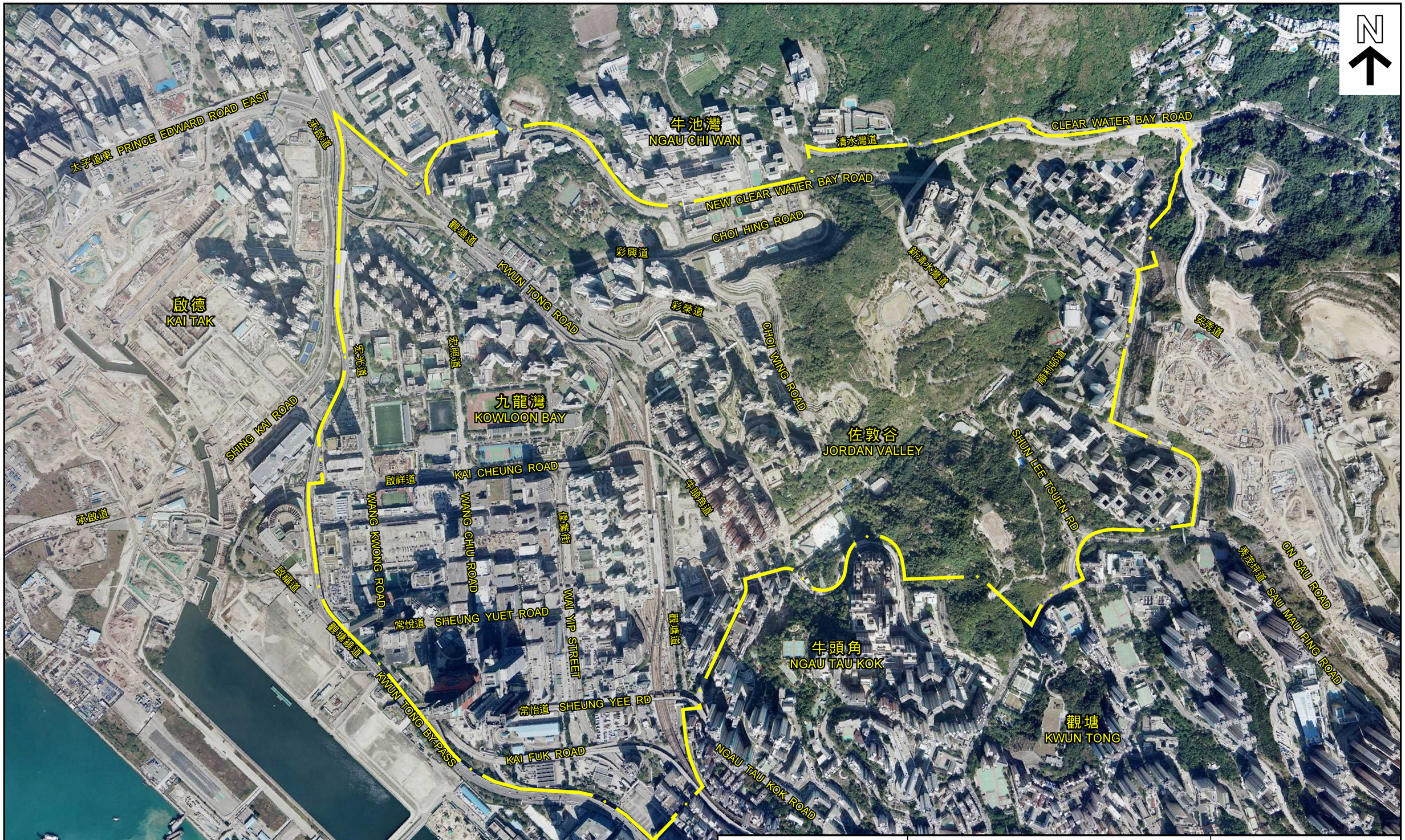
Non-building area of 15m

Building gap of 15m
Building gap of 15 to 20m

To maintain G/IC sites in future development

To maintain open space in future development

Figure 35 Summary of Recommendations to Minimise the Impact



圖例 LEGEND

規劃區界線
PLANNING AREA BOUNDARY

界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSE ONLY

本圖於2017年12月6日擬備，
所根據的資料為地政總署於
2015年1月16日拍得的航攝照片
編號CW112594及CW112596

PLAN PREPARED ON 6.12.2017
BASED ON AERIAL PHOTOS No.
CW112594 & CW112596
TAKEN ON 16.1.2015
BY LANDS DEPARTMENT

航攝照片 AERIAL PHOTO

牛頭角及九龍灣規劃區的空中鳥瞰圖
AERIAL OVERVIEW OF
NGAU TAU KOK AND KOWLOON BAY PLANNING AREA

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
M/K13/17/108

圖 PLAN
1

新蒲崗
SAN PO KONG

牛池灣
NGAU CHI WAN

牛池灣規劃區
NGAU CHI WAN PLANNING AREA

順利分區
SHUN LEE AREA

茶寮凹
CHA LIU AU

太子道東 PRINCE EDWARD ROAD EAST

啓德
KAI TAK

啟德規劃區
KAI TAK PLANNING AREA

觀塘(北部)規劃區
KWUN TONG (NORTH) PLANNING AREA

九龍灣分區
KOWLOON BAY AREA

牛頭角及佐敦谷分區
NGAU TAU KOK AND
JORDAN VALLEY AREA

觀塘(南部)規劃區
KWUN TONG (SOUTH) PLANNING AREA

秀茂坪
SAU MAU PING

九龍灣
KOWLOON BAY

佐敦谷
JORDAN VALLEY

牛頭角
NGAU TAU KOK

附有公眾停車場及公共交通交匯處的商業/住宅發展
COMMERCIAL/RESIDENTIAL DEVELOPMENT WITH PUBLIC CAR PARK AND PUBLIC TRANSPORT INTERCHANGE

啓德站 CHOI HUNG STATION

公眾貨車停車場
OPEN LORRY PARK

清水灣道 CLEAR WATER BAY ROAD

新清水灣道 NEW CLEAR WATER BAY ROAD

觀塘道 KWUN TONG ROAD

觀塘繞道 KWUN TONG BY-PASS

彩虹道 CHOI HUNG ROAD

彩德道 CHOI TAK ROAD

彩霞道 CHOI HA ROAD

彩虹邨 CHOI HUNG ESTATE

彩德邨 Choi Tak Estate

彩霞邨 Choi Ha Estate

彩虹道遊樂場 Choi Hung Playground

彩特路公園 Choi Hei Road Park

彩福邨 Choi Fook Estate

彩榮路公園 Choi Wing Road Park

彩盈邨 Choi Ying Estate

啓業邨 Kai Yip Estate

啓泰苑 Kai Tai Court

啓業道 KAI YIP STREET

啓德道 KAI TAK ROAD

啓祥道 KAI CHEUNG ROAD

啓福道 KAI FUK ROAD

啓晴道 KAI CHING ROAD

啓業街 KAI YIP STREET

啓泰街 KAI TAI STREET

啓德道 KAI TAK ROAD

啓祥道 KAI CHEUNG ROAD

啓福道 KAI FUK ROAD

啓晴道 KAI CHING ROAD

啓業街 KAI YIP STREET

啓泰街 KAI TAI STREET

九龍灣公園 Kowloon Bay Park

九龍灣運動場 Kowloon Bay Sports Ground

九龍灣遊樂場 Kowloon Bay Playground

香港輔助警察總部 HK Auxiliary Police Headquarters

麗晶花園 Richland Gardens

德賢花園 Tak Bo Garden

海天花園 Amoy Gardens

佐敦谷公園 Jordan Valley Park

佐敦谷遊樂場 Jordan Valley Playground

佐敦谷遊泳池 Jordan Valley Swimming Pool

佐敦谷公園 Jordan Valley Park

順利邨 Shun Lee Estate

順利邨公園 Shun Lee Tsuen Park

順利邨遊樂場 Shun Lee Tsuen Playground

順安邨 Shun On Estate

順天邨 Shun Tin Estate

順利紀律部隊宿舍 Shun Lee Disciplined Services Quarters

順德邨 Shun Chi Court

順利邨 SHUN LEE ESTATE

順德街 SHUN CHI STREET

順利邨道 SHUN LEE ROAD

順安道 SHUN ON ROAD

順天道 SHUN TIN ROAD

順利邨道 SHUN LEE TSUEN ROAD

秀茂坪道 SAU MAU PING ROAD

秀坪街 HIU PING STREET

坪石邨 Ping Shek Estate

坪石遊樂場 Ping Shek Playground

牛頭角下邨 Lower Ngau Tau Kok Estate

牛頭角道 NGAU TAU KOK ROAD

振華道 CHUN WAH ROAD

恆安街 HANG ON STREET

恆興街 HANG HING ROAD

恆茂街 HANG MOU STREET

恆業街 HANG YIP STREET

恆景街 HANG KING STREET

恆基兆業地產有限公司 香港浸信會大學校董會有限公司 Hong Kong Baptist University Academy of Visual Arts

香港鐵路有限公司的商業及住宅發展 MASS TRANSIT RAILWAY DEPOT WITH COMMERCIAL AND RESIDENTIAL DEVELOPMENT ABOVE

商業用途包括公共交通總站 COMMERCIAL USES WITH PUBLIC TRANSPORT TERMINUS

垃圾轉運站 REFUSE TRANSFER STATION

車輛中心 Motor Vehicle Examination Centre

園景美化高架行人道 (有待詳細設計) LANDSCAPED ELEVATED WALKWAY (SUBJECT TO DETAILED DESIGN)

圖例 LEGEND

規劃區界線
PLANNING AREA BOUNDARY

九龍灣商貿區
KOWLOON BAY BUSINESS AREA

佐敦谷山脊線
JORDAN VALLEY RIDGELINE

界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSE ONLY

本摘要圖於2017年12月7日擬備，
所根據的資料為於2017年4月13日
展示的分區計劃大綱圖編號S/K13/29

EXTRACT PLAN PREPARED ON 7.12.2017
BASED ON OUTLINE ZONING PLAN No.
S/K13/29 EXHIBITED 13.4.2017

位置圖 LOCATION PLAN

牛頭角及九龍灣規劃區的分區位置圖
LOCATION PLAN OF SUB-AREAS IN
NGAU TAU KOK AND KOWLOON BAY PLANNING AREA

SCALE 1 : 10 000 比例尺

METRES 100 0 100 200 300 400 500 METRES

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
M/K13/17/108

圖 PLAN
2

新蒲崗
SAN PO KONG

牛池灣
NGAU CHI WAN

牛池灣規劃區
NGAU CHI WAN PLANNING AREA

茶寮凹
CHA LIU AU

啓德
KAI TAK

九龍灣商貿區
KOWLOON BAY
BUSINESS AREA (KBBA)

啟德規劃區
KAI TAK PLANNING AREA

觀塘(北部)規劃區
KWUN TONG (NORTH) PLANNING AREA

佐敦谷
JORDAN VALLEY

牛頭角
NGAU TAU KOK

觀塘(南部)規劃區
KWUN TONG (SOUTH) PLANNING AREA

秀茂坪
SAU MAU PING

牛頭角及九龍灣規劃區界線
NGAU TAU KOK AND KOWLOON BAY
PLANNING AREA BOUNDARY

圖例 LEGEND

規劃區界線
PLANNING AREA BOUNDARY

區劃界線
ZONING BOUNDARY

最高建築物高度(在主水平基準上若干米)
MAXIMUM BUILDING HEIGHT
(IN METERS ABOVE PRINCIPAL DATUM)

15	100	170
40	120	
60	140	

+4.6 地盤平整/街道高度(在主水平基準上若干米)
SITE FORMATION / STREET LEVEL
(IN METERS ABOVE PRINCIPAL DATUM)

界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSE ONLY

本摘要圖於2018年1月23日擬備，
所根據的資料為於2015年2月25日
展示的分區計劃大綱圖編號S/K13/22

EXTRACT PLAN PREPARED ON 23.1.2018
BASED ON OUTLINE ZONING PLAN No.
S/K13/22 EXHIBITED 25.2.2015

位置圖 LOCATION PLAN

2005年訂定的建築物高度限制
BUILDING HEIGHT RESTRICTIONS STIPULATED IN 2005

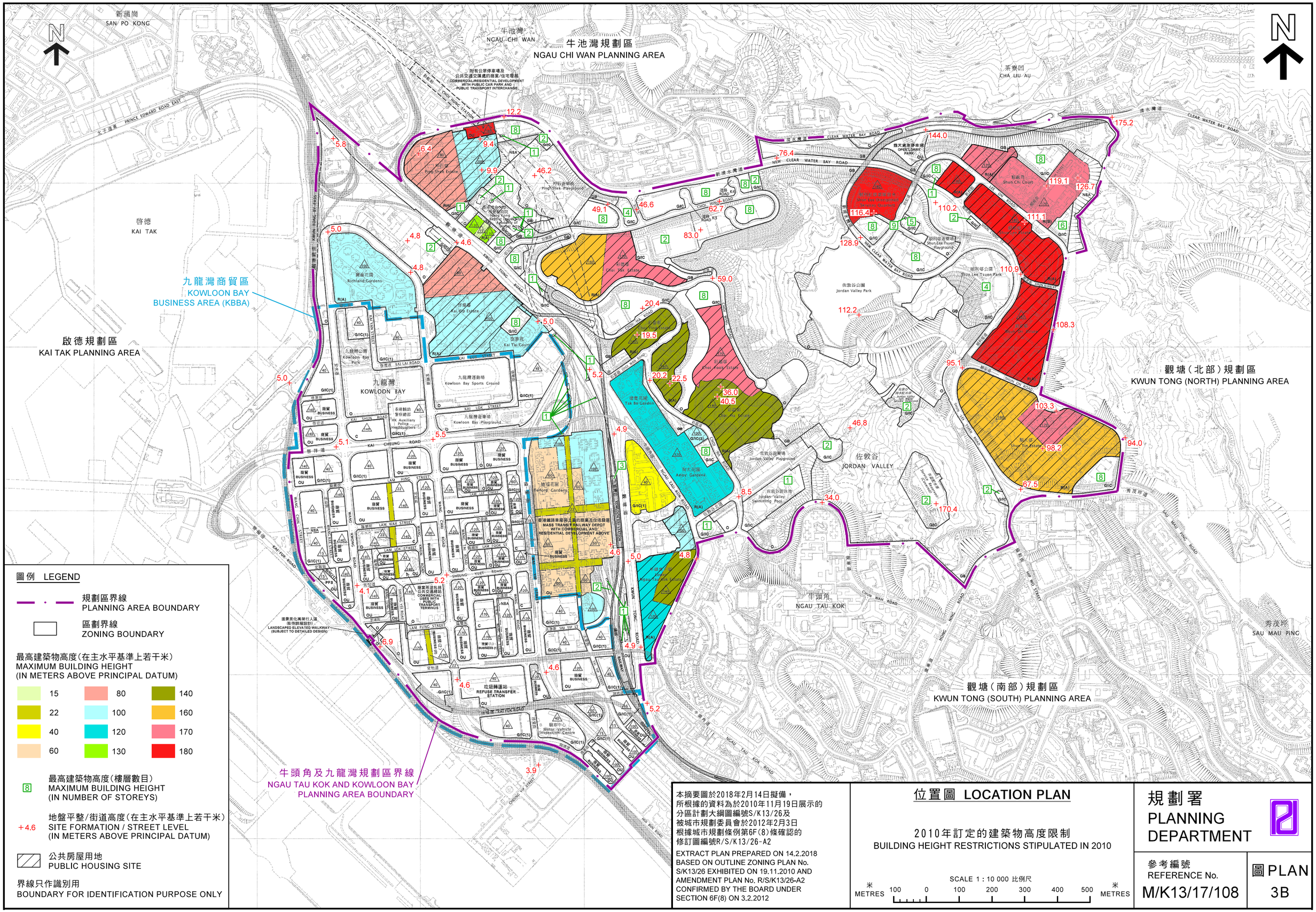
SCALE 1 : 10 000 比例尺

米 METRES 100 0 100 200 300 400 500 米 METRES

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
M/K13/17/108

圖 PLAN
3A



本摘要圖於2018年2月14日擬備，
所根據的資料為於2010年11月19日展示的
分區計劃大綱圖編號S/K13/26及
被城市規劃委員會於2012年2月3日
根據城市規劃條例第6F(8)條確認的
修訂圖編號R/S/K13/26-A2

EXTRACT PLAN PREPARED ON 14.2.2018
BASED ON OUTLINE ZONING PLAN No.
S/K13/26 EXHIBITED ON 19.11.2010 AND
AMENDMENT PLAN No. R/S/K13/26-A2
CONFIRMED BY THE BOARD UNDER
SECTION 6F(8) ON 3.2.2012

位置圖 LOCATION PLAN

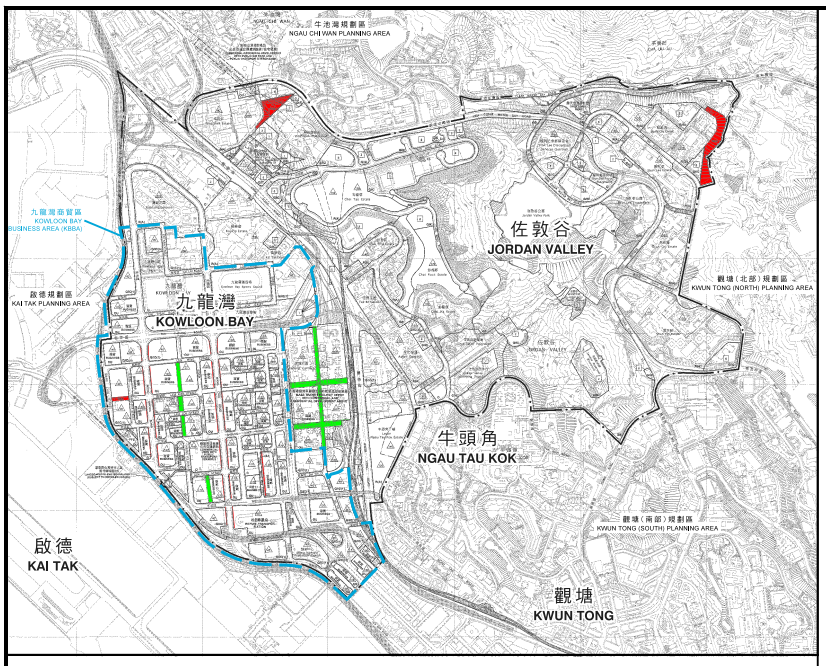
2010年訂定的建築物高度限制
BUILDING HEIGHT RESTRICTIONS STIPULATED IN 2010

SCALE 1 : 10 000 比例尺
米 METRES 100 0 100 200 300 400 500 米 METRES

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
M/K13/17/108

圖 PLAN
3B



要覽圖 KEY PLAN

SCALE 1: 30 000 比例尺

圖例 LEGEND

- 規劃區界線 PLANNING AREA BOUNDARY
- 區劃界線 ZONING BOUNDARY
- 建築物間距 BUILDING GAP
- 非建築用地 NON-BUILDING AREA

備註：在前啟德大廈地盤的非建築用地及建築物間距並沒有被標示出來，該等限制並沒有附加在分區計劃大綱圖編號S/K13/29

NOTE : NON-BUILDING AREA AND BUILDING GAP IN THE FORMER KAI TAK MANSION SITE ARE NOT HIGHLIGHTED, THE RESTRICTIONS WERE NOT IMPOSED UNDER OZP No. S/K13/29

界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSE ONLY

本摘要圖於2018年3月1日擬備，
所根據的資料為於2010年11月19日展示的
分區計劃大綱圖編號S/K13/26及
被城市規劃委員會於2012年2月3日
根據城市規劃條例第6F(8)條確認的
修訂圖編號R/S/K13/26-A2

EXTRACT PLAN PREPARED ON 1.3.2018 BASED ON OUTLINE ZONING PLAN No. S/K13/26 EXHIBITED ON 19.11.2010 AND AMENDMENT PLAN No. R/S/K13/26-A2 CONFIRMED BY THE BOARD UNDER SECTION 6F(8) ON 3.2.2012

位置圖 LOCATION PLAN

2010年訂定的非建築用地及建築物間距規定
NON-BUILDING AREA AND BUILDING GAP REQUIREMENTS STIPULATED IN 2010

SCALE 1 : 5 000 比例尺

米 METRES 100 0 100 200 300 400 米 METRES

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
M/K13/17/108

圖 PLAN
3C

新蒲崗
SAN PO KONG

牛池灣
NGAU CHI WAN

牛池灣規劃區
NGAU CHI WAN PLANNING AREA

茶寮凹
CHA LIU AU

太子道東 PRINCE EDWARD ROAD EAST

啓德
KAI TAK

九龍灣商貿區
KOWLOON BAY
BUSINESS AREA (KBBA)

啟德規劃區
KAI TAK PLANNING AREA

九龍灣
KOWLOON BAY

觀塘(北部)規劃區
KWUN TONG (NORTH) PLANNING AREA

佐敦谷
JORDAN VALLEY

牛頭角
NGAU TAU KOK

秀茂坪
SAU MAU PING

觀塘(南部)規劃區
KWUN TONG (SOUTH) PLANNING AREA

牛頭角及九龍灣規劃區界線
NGAU TAU KOK AND KOWLOON BAY
PLANNING AREA BOUNDARY

圖例 LEGEND

規劃區界線
PLANNING AREA BOUNDARY

區劃界線
ZONING BOUNDARY

最高建築物高度(在主水平基準上若干米)
MAXIMUM BUILDING HEIGHT
(IN METERS ABOVE PRINCIPAL DATUM)

15	80	150
22	100	160
40	120	170
60	140	180

[8] 最高建築物高度(樓層數目)
MAXIMUM BUILDING HEIGHT
(IN NUMBER OF STOREYS)

+4.6 地盤平整/街道高度(在主水平基準上若干米)
SITE FORMATION / STREET LEVEL
(IN METERS ABOVE PRINCIPAL DATUM)

界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSE ONLY

本摘要圖於2018年1月23日擬備，
所根據的資料為於2017年4月13日
展示的分區計劃大綱圖編號S/K13/29

EXTRACT PLAN PREPARED ON 23.1.2018
BASED ON OUTLINE ZONING PLAN No.
S/K13/29 EXHIBITED 13.4.2017

位置圖 LOCATION PLAN

現時的建築物高度限制
CURRENT BUILDING HEIGHT RESTRICTIONS

SCALE 1 : 10 000 比例尺
米 METRES 100 0 100 200 300 400 500 米 METRES

規劃署
PLANNING DEPARTMENT

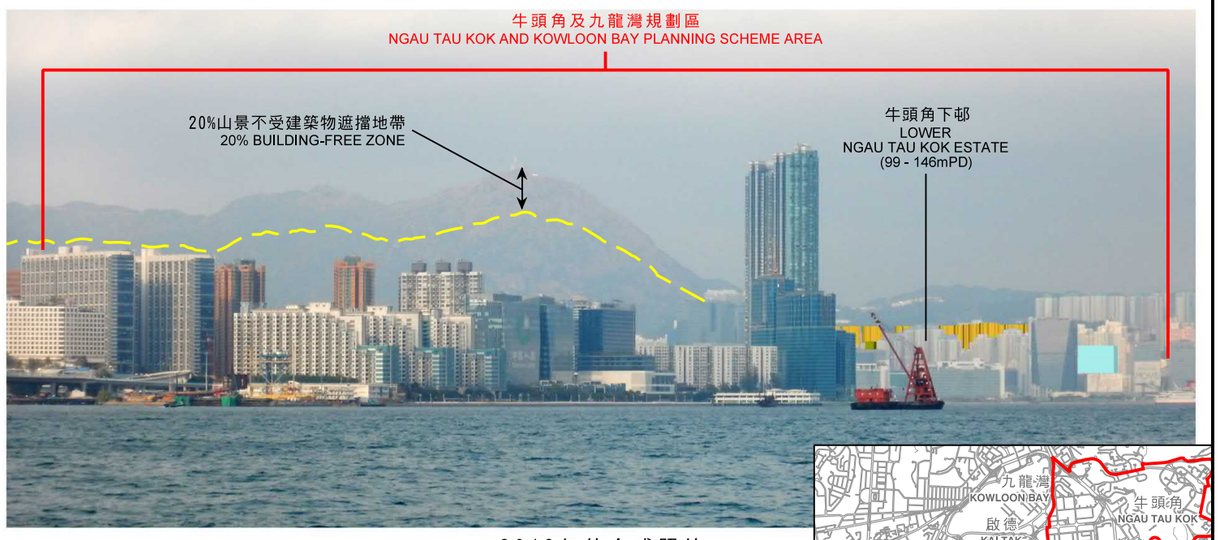
參考編號
REFERENCE No.
M/K13/17/108

圖 PLAN
3D

2010年的景觀
VIEW IN 2010

2018年的景觀
VIEW IN 2018

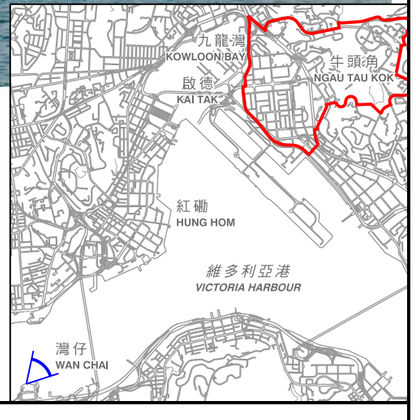
2010年的合成照片
PHOTOMONTAGE IN 2010



2018年的合成照片
PHOTOMONTAGE IN 2018

最高建築物高度(在主水平基準上若干米)
MAXIMUM BUILDING HEIGHT
(IN METRES ABOVE PRINCIPAL DATUM)

- 100mPD
- 120mPD
- 180mPD
- 2010年承諾建築物 COMMITTED DEVELOPMENT IN 2010



從灣仔香港會議展覽中心(新翼)向東北眺望牛頭角及九龍灣區
VIEW OF NGAU TAU KOK AND KOWLOON BAY AREA
FROM HONG KONG CONVENTION AND EXHIBITION CENTRE (NEW WING), WAN CHAI LOOKING NORTHEAST

本圖於2018年3月1日擬備，
所根據的資料為攝於2018年2月8日的實地照片
PLAN PREPARED ON 1.3.2018
BASED ON SITE PHOTO TAKEN ON 8.2.2018

合成照片 PHOTOMONTAGES

牛頭角及九龍灣區擬議發展地點的建築物高度級別
PROPOSED GENERAL BUILDING HEIGHT BANDS FOR DEVELOPMENT SITES IN NGAU TAU KOK AND KOWLOON BAY AREA

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
M/K13/17/108

圖 PLAN
4A

2010年的景觀
VIEW IN 2010

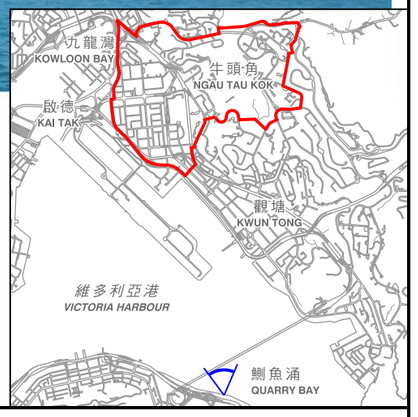
2018年的景觀
VIEW IN 2018

2010年的合成照片
PHOTOMONTAGE IN 2010

2018年的合成照片
PHOTOMONTAGE IN 2018

最高建築物高度(在主水平基準上若干米)
MAXIMUM BUILDING HEIGHT
(IN METRES ABOVE PRINCIPAL DATUM)

- 100mPD
- 110mPD
- 120mPD
- 140mPD
- 180mPD
- 2010年承諾建築物 COMMITTED DEVELOPMENT IN 2010



從鰂魚涌公園向北眺望牛頭角及九龍灣區
VIEW OF NGAU TAU KOK AND KOWLOON BAY AREA
FROM QUARRY BAY PARK LOOKING NORTH

本圖於2018年3月1日擬備，
所根據的資料為攝於2017年11月27日的實地照片
PLAN PREPARED ON 1.3.2018
BASED ON SITE PHOTO TAKEN ON 27.11.2017

合成照片 PHOTOMONTAGES

牛頭角及九龍灣區擬議發展地點的建築物高度級別
PROPOSED GENERAL BUILDING HEIGHT BANDS FOR
DEVELOPMENT SITES IN NGAU TAU KOK AND KOWLOON BAY AREA

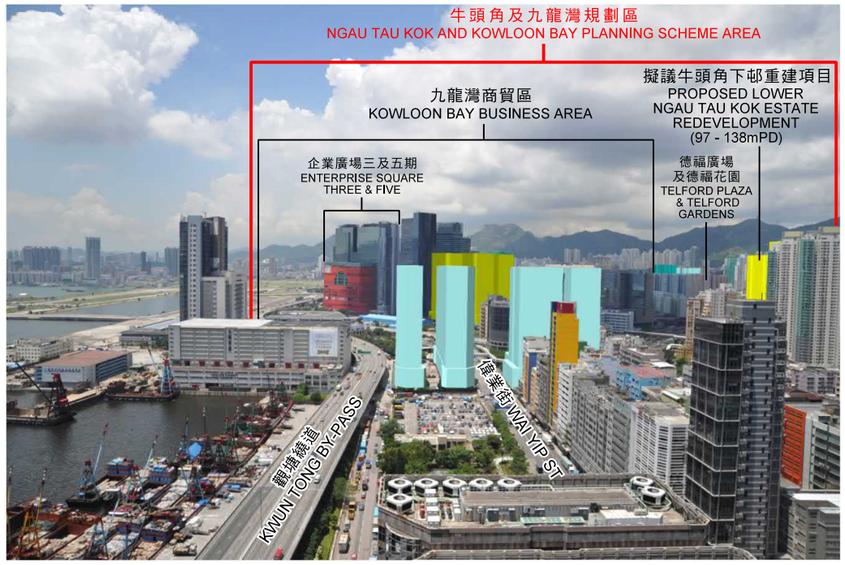
規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
M/K13/17/108

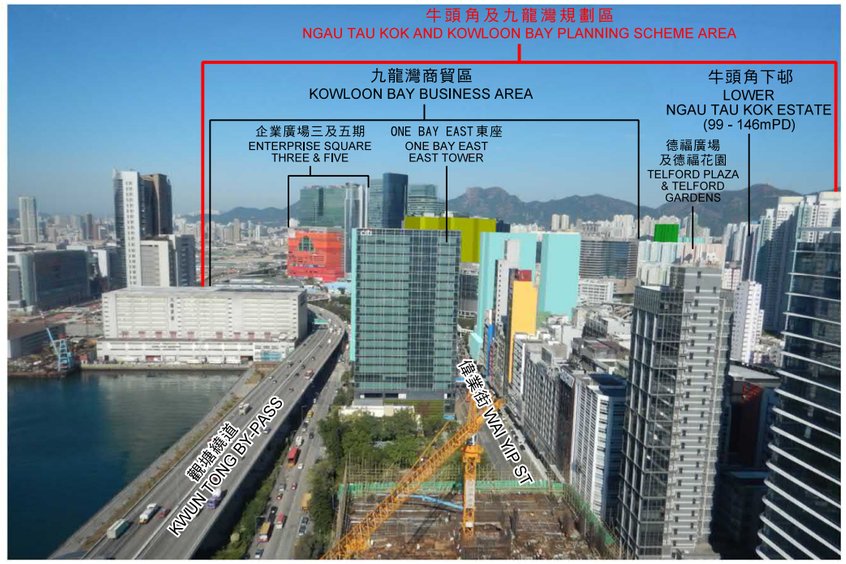
圖 PLAN
4B

2010年的景觀
VIEW IN 2010

2018年的景觀
VIEW IN 2018



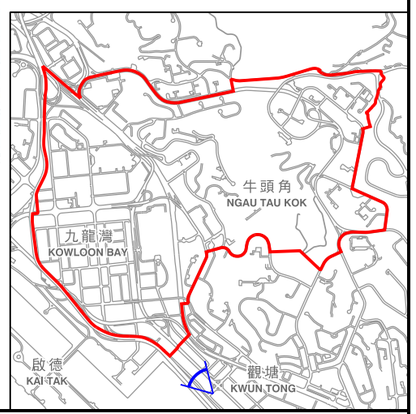
2010年的合成照片
PHOTOMONTAGE IN 2010



2018年的合成照片
PHOTOMONTAGE IN 2018

最高建築物高度（在主水平基準上若干米）
MAXIMUM BUILDING HEIGHT
(IN METRES ABOVE PRINCIPAL DATUM)

- 100mPD
- 110mPD
- 120mPD
- 140mPD
- 2010年承諾建築物 COMMITTED DEVELOPMENT IN 2010



從觀塘絲寶國際大廈向西北眺望九龍灣區
VIEW OF KOWLOON BAY AREA FROM C-BONS INTERNATIONAL CENTRE, KWUN TONG LOOKING NORTHWEST

本圖於2018年3月1日擬備，
所根據的資料為攝於2017年11月27日的實地照片
PLAN PREPARED ON 1.3.2018
BASED ON SITE PHOTO TAKEN ON 27.11.2017

合成照片 PHOTOMONTAGES

牛頭角及九龍灣區擬議發展地點的建築物高度級別
PROPOSED GENERAL BUILDING HEIGHT BANDS FOR DEVELOPMENT SITES IN NGAU TAU KOK AND KOWLOON BAY AREA

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
M/K13/17/108

圖 PLAN
4C

2010年的景觀
VIEW IN 2010

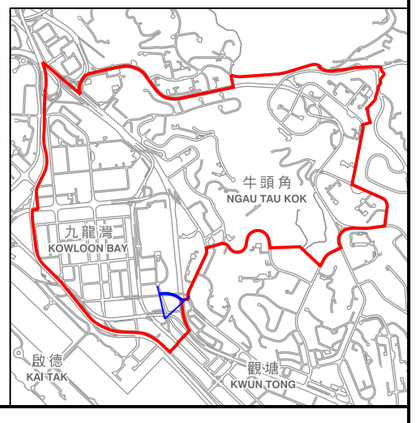
2018年的景觀
VIEW IN 2018

2010年的合成照片
PHOTOMONTAGE IN 2010

2018年的合成照片
PHOTOMONTAGE IN 2018

最高建築物高度(在主水平基準上若干米)
MAXIMUM BUILDING HEIGHT
(IN METRES ABOVE PRINCIPAL DATUM)

- 80mPD
- 110mPD
- 120mPD
- 140mPD
- 2010年承諾建築物 COMMITTED DEVELOPMENT IN 2010
- 政府、機構或社區設施 G/IC FACILITIES



從九龍灣水務署九龍東區大樓向北眺望牛頭角區
VIEW OF NGAU TAU KOK AREA
FROM WSD KOWLOON EAST REGIONAL BUILDING, KOWLOON BAY LOOKING NORTH

本圖於2018年3月1日擬備，
所根據的資料為攝於2017年11月27日的實地照片

PLAN PREPARED ON 1.3.2018
BASED ON SITE PHOTO TAKEN ON 27.11.2017

合成照片 PHOTOMONTAGES

牛頭角及九龍灣區擬議發展地點的建築物高度級別
PROPOSED GENERAL BUILDING HEIGHT BANDS FOR DEVELOPMENT SITES IN NGAU TAU KOK AND KOWLOON BAY AREA

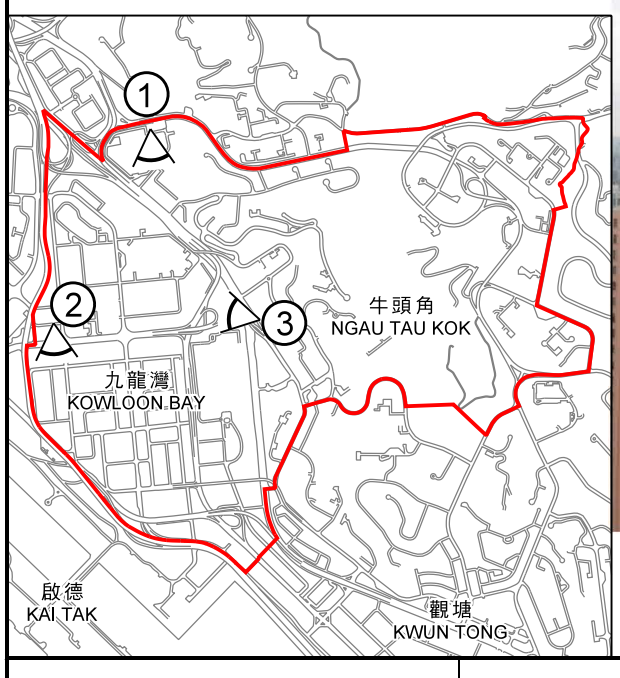
規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
M/K13/17/108

圖 PLAN
4D

從清水灣道8號眺望九龍灣分區
VIEW OF KOWLOON BAY AREA
FROM 8 CLEAR WATER BAY ROAD

從宏天廣場眺望九龍灣分區（商貿區）景觀
VIEW OF KOWLOON BAY AREA (BUSINESS AREA)
FROM SKYLINE TOWER



從嘉和園眺望九龍灣分區（住宅區）景觀
VIEW OF KOWLOON BAY AREA (RESIDENTIAL AREA)
FROM JADE FIELD GARDEN

本圖於2018年2月6日擬備，
所根據的資料為攝於
2017年11月27日的實地照片

PLAN PREPARED ON 6.2.2018
BASED ON SITE PHOTOS
TAKEN ON 27.11.2017

實地照片 SITE PHOTOS

牛頭角及九龍灣區觀景點的實際照片
SITE PHOTOS FROM VIEW POINTS AT NGAU TAU KOK AND KOWLOON BAY AREA

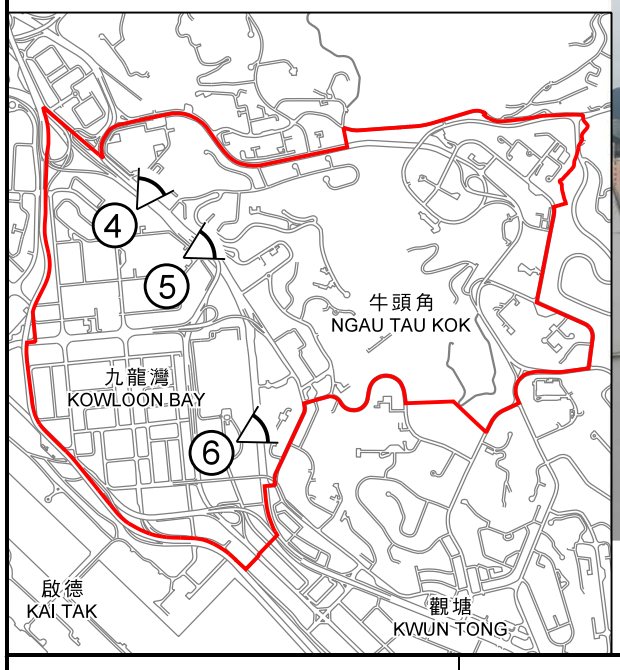
規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
M/K13/17/108

圖 PLAN
5A

從啟業邨啟祥樓眺望牛頭角及佐敦谷分區
VIEW OF NGAU TAU KOK AND JORDAN VALLEY AREA
FROM KAI CHEUNG HOUSE, KAI YIP ESTATE

從啟泰苑啟勳閣眺望牛頭角及佐敦谷分區
VIEW OF NGAU TAU KOK AND JORDAN VALLEY AREA
FROM KAI FAN HOUSE, KAI TAI COURT



從德福廣場眺望牛頭角及佐敦谷分區
VIEW OF NGAU TAU KOK AND JORDAN VALLEY AREA
FROM TELFORD PLAZA

本圖於2018年2月6日擬備，
所根據的資料為攝於
2017年11月27日的實地照片

PLAN PREPARED ON 6.2.2018
BASED ON SITE PHOTOS
TAKEN ON 27.11.2017

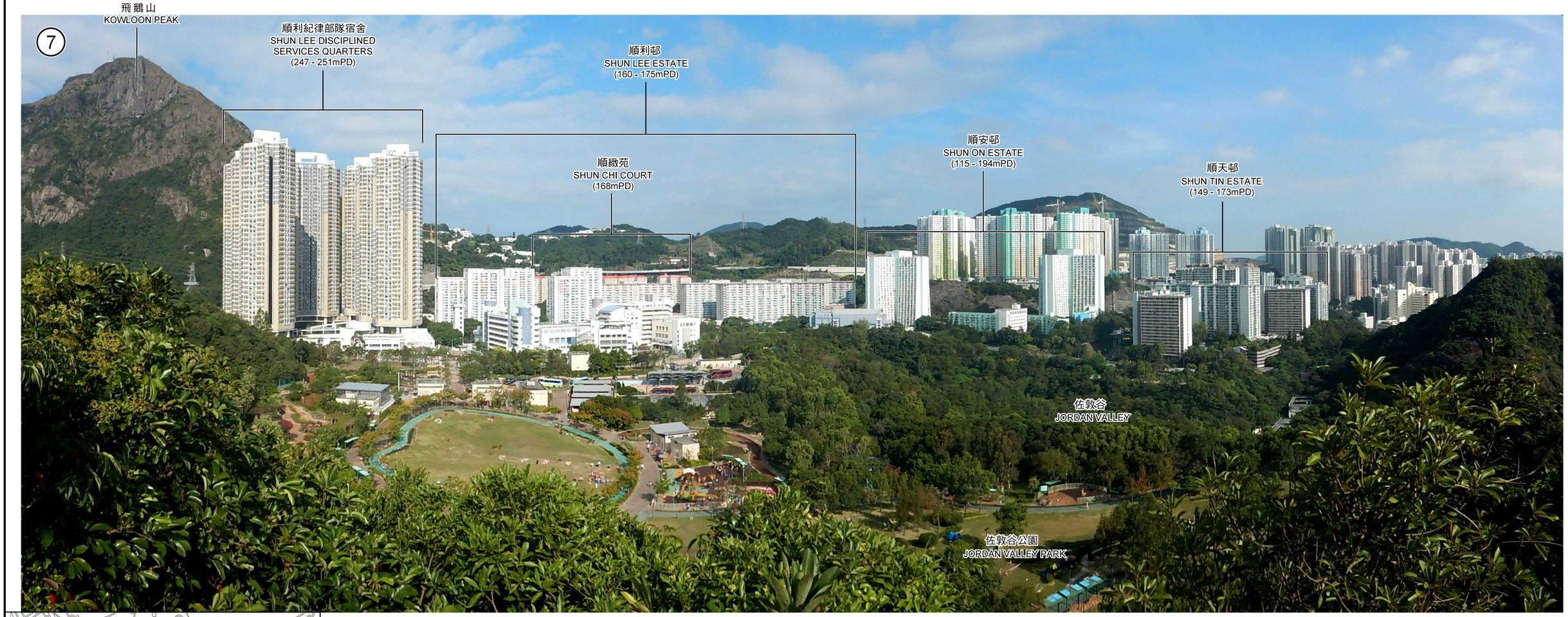
實地照片 SITE PHOTOS

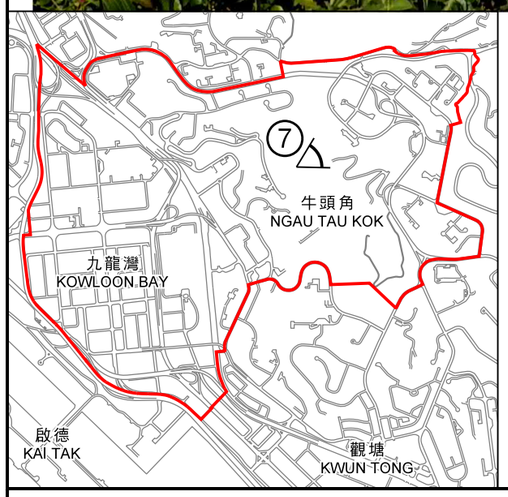
牛頭角及九龍灣區觀景點的實際照片
SITE PHOTOS FROM VIEW POINTS AT NGAU TAU KOK AND KOWLOON BAY AREA

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
M/K13/17/108

圖 PLAN
5B





從佐敦谷平山眺望順利分區
VIEW OF SHUN LEE AREA FROM PING SHAN, JORDAN VALLEY

本圖於2018年2月6日擬備，
所根據的資料為攝於2017年11月27日的實地照片

PLAN PREPARED ON 6.2.2018
BASED ON SITE PHOTO TAKEN ON 27.11.2017

實地照片 SITE PHOTO

佐敦谷山脊線觀景點的實際照片
SITE PHOTO FROM VIEW POINT AT JORDAN VALLEY RIDGELINE

規劃署
PLANNING DEPARTMENT

參考編號
REFERENCE No.
M/K13/17/108

圖 PLAN
5C

well as the representers/commenters and their representative left the meeting at this point.

Kowloon District

Agenda Item 5

[Open Meeting]

Review of the Draft Ngau Tau Kok & Kowloon Bay Outline Zoning Plan No. S/K13/26
(TPB Paper No. 10397)

[The item was conducted in Cantonese.]

43. The Secretary reported that the item was to brief Members on the review of development restrictions on the draft Ngau Tau Kok & Kowloon Bay Outline Zoning Plan No. S/K13/26 (the subject OZP) following the Court of First Instance (CFI)'s Judgment on the judicial review (JR) lodged by the Real Estate Developers Association of Hong Kong (REDA) against the Board's decisions not to uphold REDA's representation in respect of the subject OZP. Masterplan Limited (Masterplan) was the representative of REDA for submitting the representation on the subject OZP. Mr Ivan C.S. Fu had declared an interest on the item for having current business dealings with Masterplan. Members agreed that as Mr Fu had no involvement in the subject matter, he could stay in the meeting.

44. The following representatives from Planning Department (PlanD) were invited to the meeting at this point:

Mr Tom. C.K. Yip	-	District Planning Officer/Kowloon (DPO/K)
Ms Johanna W.Y. Cheng	-	Senior Town Planner/Kowloon (STP/K)

45. The Chairperson extended a welcome and invited the representatives from PlanD to brief Members on the subject review.

46. With the aid of a PowerPoint presentation, Mr Tom. C.K. Yip, DPO/K, briefed Members on the background, the implications of the sustainable building design guidelines (SBDG) on the building height (BH) profile, scope and findings of the review as detailed in the TPB Paper No. 10397 (the Paper). He highlighted that the review had concluded that the building height restriction (BHR), non-building area (NBA) and building-gap (BG) requirements stipulated under the subject OZP should be able to accommodate the permissible plot ratio (PR)/gross floor area (GFA) under the OZP with reference to the SBDG requirements and hence no amendment to the subject OZP would be required.

47. As the presentation of the representatives of PlanD was completed, the Chairperson invited comments and questions from Members.

48. Some Members had the following comments and questions:

Methodology of Review

(a) noting that the Board had already considered the review on the potential combined effect of SBDG and the restrictions under the Causeway Bay OZP and proposed amendments to relax the relevant BHR, whether the same approach had been adopted in the current review exercise of the subject OZP;

BHR on OZP

(b) whether there were different approaches in determining the appropriate BHR for public housing compared to that for private residential developments;

(c) whether BHR for sites currently occupied by public housing estate could be further relaxed to cater for future redevelopment. The Government might also consider a comprehensive review of development intensities with a view to optimising the use of land for public housing development to meet the community's aspiration. By relaxing the BHR, building separation between residential blocks could be increased to facilitate air ventilation and natural lighting;

(d) with reference to the photomontages as shown in the PowerPoint presentation,

whether preservation of ridgeline was the major factor for determining the BHR on the OZP, and whether the current guiding principle to keep a 20% building-free zone to preserve views to the ridgeline would be reviewed;

(e) whether REDA or other parties had provided any empirical evidence to argue that the BHR on the OZP would not be able to accommodate the permitted PR with SBDG requirements adopted;

Application of SBDG

(f) whether an increase in GFA would result in an increase in population;

(g) what the factors for designating NBA or BG were, and whether there were sufficient incentives for developers to follow the SBDG;

(h) given that the current review had looked into the combined effected of SBDG and the restriction on OZP on development potentials of sites, whether there was still scope to relax the NBA/BG restrictions on the OZP, noting that SBDG could, to a certain extent, ensure sustainable and good building design;

(i) whether the current recommendation of PlanD of not amending the restrictions on OZP would result in further JR by REDA;

Procedure for Reconsideration of REDA's Representation

(j) whether the proposal to invite REDA to submit supplementary information to the Board for the purpose of reconsidering REDA's representation was legally proper if such submission would not be published for public inspection in the same manner as the original representation. As the supplementary information from REDA might contain material beyond the scope of its original submission, acceptability of such submission from legal perspective should be confirmed;

(k) whether other representers and commenters should be involved in the reconsideration

process. If other members of the public also made submission to the Board during that period, whether such submission could be considered by the Board;

(l) whether it would be more appropriate to exhibit the OZP under section 7 of the Town Planning Ordinance (the Ordinance) such that all members of the public could make representations and comment on representations; and

(m) as REDA's representation was considered a few years ago, whether the change in membership of the Board over the years would have implication on the reconsideration.

49. In response, Mr Tom C.K. Yip, DPO/K, made the following main points:

Methodology of Review

(a) the same approach had been adopted in the current review exercise as the review for the Causeway Bay OZP. For the Causeway Bay OZP, as the BHR was recommended to be relaxed, a new Air Ventilation Assessment (AVA) had been conducted to ensure that the revised BH profile was acceptable in air ventilation terms. For the subject OZP, the findings of the review concluded that the existing BHR as stipulated under the OZP would generally be able to accommodate the permitted PR with adopting of the SBDG requirements and hence no revision to the BHR was required. This being the case, the planning circumstances for the area generally had not changed, and the results from the previously conducted AVA were still considered valid and there was no need to conduct a new AVA at this stage;

(b) the need for conducting a new AVA would likely be triggered in another context. Specifically, the land uses in Kowloon Bay area would be reviewed in due course under the Energising Kowloon East initiatives for transformation of Kowloon East into Central Business District 2 including land use restructuring for the Kowloon Bay Action Area. Should there be any proposals for OZP amendments involving air ventilation implications, an AVA would be conducted for the area;

BHR on OZP

(c) for the purpose of determining the appropriate BHR, public housing and private residential sites were assessed on the same basis, i.e., mainly on the compatibility of the BH profile with the surrounding area, air ventilation, site constraints etc.;

(d) a Planning Brief would usually be prepared by Housing Department (HD) for redevelopment of a public housing site, setting out details on proposed layout and facilities to be provided within, and appropriate development intensity. Issues related to the SBDG, including building separation and air ventilation, would be duly considered in the building design stage of public housing sites. According to the advice from HD, there was currently no plan for redevelopment of the existing public housing estates within the subject OZP. As such, there was no basis to relax the BHR for public housing sites at this stage and it would be more appropriate to consider such relaxation when redevelopment proposals became available;

(e) based on the Urban Design Guidelines (UDG) for Hong Kong promulgated in early 2000s, the target was to preserve the view of 20% of the ridgeline from key vantage points in Hong Kong Island and Kowloon. In coming up with this guiding principle, the views of the public as well the existing BH profile were considered. Since its promulgation, PlanD had taken due consideration of the UDG in formulating BHR for various districts in Hong Kong, and the ridgeline protection was generally supported by the public. However, it should be noted that ridgeline protection was only one of the factors to be considered in determining an appropriate BHR in the current exercise. Other planning factors such as whether the BHR could accommodate the permitted PR, compatibility with the building height profile in the surrounding area, as well as the overall planned land uses etc. would also be taken into account. The photomontages included in the Paper were used mainly to demonstrate that the current BHR on the OZP would not be in conflict with the above principle. For the existing tall building in the photomontages that appeared to have protruded into the 20% building-free zone of the ridgeline, namely the Harbourfront Landmark, it was located in Hung Hom and the development was completed prior to the introduction of BHRs on OZP for that

area;

(f) for the JR case related to the subject OZP, REDA's representation was general in nature, pointing out that the BHR would not be able to accommodate the permitted PR taking into account SBDG. No site specific details had been provided by REDA to substantiate its argument and only a broad brush suggestion to generally increase the BHR by 20m was made. Notwithstanding that, REDA might submit supplementary information, in view of PlanD's review and recommendation not to amend the BHR on the OZP;

Application of the SBDG

(g) the restriction on development intensity of a site would usually be specified in terms of a maximum PR or GFA. Generally speaking, a higher PR/GFA figure would lead to a higher population. For relaxation of the PR/GFA restrictions, technical assessments would have to be conducted to demonstrate that the resultant increase in population would not cause unacceptable impact on various technical and infrastructural aspects;

(h) a NBA referred to an area free of above-ground buildings and structures whereas BG generally referred to a free space above a specific height. The former might be more effective in enhancing air ventilation at pedestrian level, but would impose more stringent requirement on the development. For the subject OZP, reference had been made to the findings of the previously conducted AVA in determining whether a NBA or BG was required. Major air paths with district significance would normally be designated as NBA. In designating these NBA and BG, PlanD had struck a balance in preserving wind corridor and minimising impact on the development potential of the sites. If all the requirements under SBDG, including building set back, building separation and greening ratio, were met, a maximum 10% GFA concession for non-essential plant rooms and green features could be allowed under the Buildings Ordinance. As such, there were incentives for developers, in particular for development covering a large site, to follow the SBDG and provide a quality building environment. Since the promulgation of the SBDG, most of the new commercial

developments in the Kowloon Bay Business Area had complied with the SBDG;

(i) while REDA's next step of action was not known, the current review was conducted in pursuance of the Court's Order to re-examine the restrictions, and it was conducted in a similar approach as the review of the Causeway Bay OZP; and

Procedure for Reconsideration of REDA's Representation

(j) as no amendments to the OZP were considered necessary after PlanD's review of the development restrictions on the subject OZP in accordance with the Court's Judgement, it was proposed that a meeting should be held to reconsider REDA's representation under section 6B of the Town Planning Ordinance. As the previous submission by REDA was made some years ago and PlanD had conducted a review for the Board's consideration, it would be fair to allow a reasonable period for REDA to make a response and provide supplementary information. REDA would also be invited to attend the hearing meeting and make an oral submission. The Board could, if considered appropriate, amend the subject OZP after reconsidering REDA's representation.

50. Members noted that the Paper was an open document and the Board's discussion of the subject item was being conducted in an open meeting. The Chairperson remarked that Members could focus the current discussion on PlanD's review and the recommendations not to amend the development restrictions on the subject OZP at this stage and to invite REDA to a hearing on this basis.

51. In response to a Member's query on whether there was a directive from the Government for relaxing PR in view of the genuine shortage of housing supply, Mr Raymond K.W. Lee, Director of Planning, said that the 2014 Policy Address stated that the Government considered it feasible to generally increase the maximum domestic PR currently permitted for areas other than the north of Hong Kong Island and Kowloon Peninsula, which were already more densely populated, by around 20% as appropriate. Depending on the restrictions stipulated on individual OZPs, suitable procedures such as obtaining planning permission from the Board under s.16 of the Ordinance or amendment to OZP might be required for relaxing the PR restrictions. Taking the examples of the Kai Tak OZP, after the first round of review of the PR restriction, the PR of a number of sites were relaxed by way of s.16

applications. Upon completion of the second round of review, development restrictions for additional sites were relaxed through amendment to OZP. In response to the Member's follow-up question, Mr Lee further explained that for any relaxation of development restrictions, suitable technical assessments, including AVA, would be conducted as appropriate.

52. In response to the Chairperson and Members' questions, Mr Raymond K.W. Lee further said that the JR lodged by REDA also covered the Wan Chai, Mong Kok and Yau Ma Tei OZPs. Pursuant to the Court's Order, REDA's representation would need to be re-examined before it was remitted to the Board for reconsideration. Today's discussion was to re-examine the development restrictions in respect of the subject OZP and the recommendation of PlanD's review was that no amendment to the subject OZP was required. The same exercise would be carried out for the other three OZPs. Separately, the Hysan Group had also lodged JR on the Wan Chai and Causeway Bay OZPs. The Board had already considered the proposed amendments to relax the development restrictions on the Causeway Bay OZP following a review conducted by PlanD. The amendments to the Causeway Bay OZP were exhibited under section 7 of the Ordinance in January 2018. Regarding a Member's question on whether the subject OZP would be exhibited under section 7, it would depend on whether amendment to the OZP was required.

53. Another Member considered that the SBDG was mainly a set of quantifiable guideline and there should be no major dispute regarding the findings of PlanD's review. However, the implications of inviting REDA to make submission, which would most likely contain new information compared to the original representation, should be handled with care. A Member also considered that as the BHR could accommodate the permitted PR as revealed in PlanD's review, there was no justification for amending the restrictions on the subject OZP at this stage.

54. A Member noted that REDA had also raised query on the validity of the AVA previously conducted by PlanD and suggested a number of alternative BH profiles, and asked whether due consideration had been given to these arguments and alternative profiles. Mr Tom C.K. Yip said that PlanD had previously made responses to these grounds both during the representation hearing and JR stages. A paper containing all the relevant information, including REDA's previous submission, and PlanD's assessment would be prepared to facilitate the Board's reconsideration of REDA's representation and circulated before the hearing meeting. The Secretary supplemented that the current item was mainly to brief Members on the findings of PlanD's review and seek Members' endorsement

of the recommendation not to make amendments at this stage. Information regarding previous submission by REDA and PlanD's responses should be dealt with when the representation was reconsidered by the Board.

55. Noting that Members, while having no adverse comment on the findings and recommendation of PlanD's review, had raised some questions regarding the procedures for reconsideration of REDA's representation from legal perspective, the Chairperson said that further legal advice would be sought in this regard.

[Ms Janice W.M. Lai, Dr Frankie W.S. Yeung and Mr Alex T.H. Lai left the meeting during the Q&A session.]

56. After deliberation, the Board decided to:

(a) note the findings of the Review that the BHRs, NBA and BG requirements stipulated under the subject OZP should be able to accommodate permissible PR/GFA under the OZP with reference to the SBDG requirements; that the NBA and BG requirements were appropriate and should be retained; and PlanD's recommendation that there was no need to amend the extant OZP No. S/K13/29 after considering the implications of SBDG;

(b) conduct further hearing(s) on the basis of the subject OZP; and

(c) seek further legal advice on the procedures for conducting the further hearing(s) for the purpose of reconsiderating R2's representation.

57. The Chairperson thanked the representatives of PlanD for attending the meeting. They left the meeting at this point.

[Dr F.C. Chan arrived to join the meeting, Mr Lincoln L.H. Huang left the meeting temporarily, and Messrs Stephen H.B. Yau and Elvis W.K. Au left the meeting at this point.]

香港地產建設商會
THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG
香港中環德輔道中19 號環球大廈1403 室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

25 May 2018

Your Ref.: TPB/R/S/K13/26(VI)

The Secretary
Town Planning Board
15/F North Point Government Offices
333 Java Road
North Point
Hong Kong

Dear Sirs

Draft Ngau Tau Kok & Kowloon Bay Outline Zoning Plan No. S/K13/26

We refer to your above referenced letter of the 28 March 2018. We enclose supplementary information ("**SI**") provided by REDA on a preliminary basis and subject to the comments below.

1. We have considered TPB Paper No. 10397 (the "**Review Paper**", Extracts included as Attachment 4 to the SI), which was a partial review of the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26 ("**DOZP 26**"), with reference to subsequent draft OZPs numbered 27 and 28 and the extant draft OZP No. 29, and having regard to parts of the recent Court judgments.

2. We have obtained professional advice on the relevant town planning principles and on implementation of the Orders of the Court of First Instance dated 3 February 2015 in HCAL 58/2011 ("**CFI Order**") and in relation to the Review Paper.

3. On 20 March 2018, our solicitors, Mayer Brown JSM, wrote to your Government Counsel at the Department of Justice to express our concerns over the Review Paper. Summarised, our main concerns were:

   a. Given the lengthy procedural history, the Town Planning Board ("**TPB**") should not have proceeded to "*re-examine*" Representation R2 unilaterally, without consulting or allowing REDA to participate. There was no relevant need for confidentiality.

香港地產建設商會
THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG
香港中環德輔道中19 號環球大廈1403 室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

b. The CFI Order did not provide for any separate "*Review*" of DOZP 26 prior to remission of Representation R2 back to the TPB for reconsideration under section 6B of the *Town Planning Ordinance* ("**TPO**").

c. The Review Paper suggested that the section 6B rehearing is premised on the basis of the findings of the "*Review*" of the DOZP. REDA wishes to obtain an assurance that the outcome of the reconsideration of Representation R2 pursuant to the CFI Order has not in any way been pre-determined or prejudiced.

d. Reconsideration of Representation R2 cannot fairly or properly proceed on the basis of the outdated information submitted in 2011. REDA's SI (now submitted as attached, by the subsequently agreed date of 28 May 2018), may need to address the 3 subsequent draft OZPs, as well as relevant alterations and/or developments in the physical and economic environment, and changes in laws, regulations, technical and market practices.

4. We note that in your letter dated 28 March 2018, TPB stated that the meeting to reconsider Representation R2 will be held tentatively in June / July 2018 and that a representative of REDA may attend the meeting, that at least one month's notice will be given to REDA of the date of the meeting, and that the TPB Paper will be provided to REDA no less than 1 week in advance of the meeting.

5. In considering the Review Paper and preparing the SI, we have specifically referred to our written representation R2 of 19 January 2011 (Attachment 1 to the SI), and the presentation to the TPB on 27 May 2011 which elaborated on the written representation, and was recorded in the minutes of the TPB's 984th meeting (extracts at Attachment 3 to the SI). We have also reviewed the content of the Review Paper in relation to the recent Court judgments.

6. For the reasons elaborated in the SI, our conclusion is that the process undertaken by Planning Department ("**PlanD**") and the TPB to date are inadequate, for reasons including that the TPB's "duty to inquire" has not been carried out to the standard required to properly address the points raised in Representation R2 for the purpose of the proposed rehearing. As such, the presently contemplated rehearing is premature and will not fulfill the requirements of the CFI Order, based on the information in the Review Paper as presently disclosed. In particular this relates to:-

香港地產建設商會
THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG
香港中環德輔道中19號環球大廈1403室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

Building Height Restrictions

(a) The reconsideration of the Building Height Profile and the proposed lifting of the Building Height Restrictions (BHRs) in various locations, particularly in the Telford Gardens area, have not been carried out. In association with this, the need for the proposed Non-Building Areas (NBAs) should be reviewed;

Air Ventilation Assessment

(b) The Review Paper has wrongly assumed that there have been no changes to the planning circumstances in relation to the air ventilation of the area. There have been significant changes made by the TPB to the nearby Kai Tak OZP and these need to be taken into account.

In relation to the Causeway Bay draft OZP and the Wan Chai draft OZP, PlanD recently commissioned new AVAs to consider the need for various NBAs, Building Gaps and other restrictions, given that the Sustainable Building Design Guidelines (SBDG) would improve the permeability of the area for wind ventilation. This was not undertaken in the current review. Instead it was assumed that the AVA from 2010 was still valid, and hence that all of the NBAs, BGs, set-backs and other measures were still valid. No consideration of the SDBG was included in the 2010 AVA study. Given the character of the Ngau Tau Kok and Kowloon Bay areas with wide roads and significant open space, we do not believe this to be a correct assumption. A new AVA needs to be undertaken, taking account of the changed circumstances, the proposed BH profile and the SBDG.

7. In view of these fundamental inadequacies of the Review Paper, REDA reiterates that the proposed process for rehearing of Representation R2, as presently contemplated, is insufficient to meet the requirement of the CFI Order.

8. REDA therefore proposes that the re-hearing of Representation R2 be deferred until the matters mentioned above, and other relevant matters referred to in the SI, have been properly addressed by way of updated technical studies and assessments. We further ask that the TPB request the PlanD to obtain the relevant updated technical studies and assessments, and that REDA be given a 2 month period to review them and to provide further supplementary information.

香港地產建設商會
THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG
香港中環德輔道中19 號環球大廈1403 室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

9. The attached SI is therefore provided on a preliminary basis, to facilitate the TPB in identifying further areas for inquiry prior to the proposed rehearing of Representation R2.

10. Please note that the attached SI contains an index of attachments on the final page, most of which are extracts only. PlanD is requested to provide full copies of these documents for consideration of TPB members when the rehearing of Representation R2 is ultimately ready to proceed.

11. In considering the above, please bear in mind that (as stated in sections 1 and 2 of Representation R2, included as Attachment 1 to the SI), REDA's submissions are made in the broad interests of Hong Kong as a whole and in the interests of maintaining an efficient and sustainable urban development system, and therefore relate to specific amendments in DOZP 26 with reference to general matters applicable to a wide range of issues which arise because of the inclusion of the BHRs, BGs, NBAs and other restrictions in DOZP 26.

12. We request that this letter, or an accurate précis, be placed before the TPB at its next meeting, to enable the TPB to consider the matters and requests in paragraphs 7 to 9 above.

13. All of REDA's rights are reserved.

Yours sincerely

Louis Loong
Secretary General

Supplementary Information to Representation No. R2
in Relation to the Amendments shown on the
Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26

The Real Estate Developers Associations of Hong Kong (REDA)

I. INTRODUCTION

1 Introduction

1.1 This submission is made to supplement Representation No. R2 in relation to the amendments shown on the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26 (K13OZP No. 26, the Subject Draft OZP). Representation No. R2 was submitted on 19 January 2011[1] and was described in detail at paragraphs 2.2.1 to 2.2.19 of TPB Paper No. 8820, considered by Town Planning Board (TPB, the Board) on 27 May 2011. Copies of Representation No. R2 and the main part of TPB Paper No. 8820 are attached as **Attachments 1 and 2** of this Supplementary Information (SI) Paper[2].

1.2 This SI paper takes into account of information that has become available after the Board's consideration of representations on the Subject Draft OZP on 27 May 2011 and 1 June 2011 as well as relevant court judgments since that hearing, two of which concerned the Subject OZP directly[3]. It also refers to the Minutes of the Board's consideration of R2 which included elaboration of the written submission and are relevant (extracts from the Minutes of the Board's 984th meeting on 27 May 2011 and 1 June 2011 are attached as **Attachment 3**). This will facilitate the reconsideration of Representation R2 by the Board.

1.3 This submission also refers to the TPB Paper No. 10397 which was considered on the 9 March 2018 (the main part attached as **Attachment 4**). This was entitled "Review of the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26" and in it, Planning Department (PlanD) recommended that, after having regard to

[1] A copy of Representation R2 was attached as Annex III-1 to TPB Paper No. 8820 and summarised in detail at Annex VI of the same TPB Paper together with PlanD's Responses / Recommended Rejection Reasons.

[2] None of these documents at Attachments 1 to 3 were reproduced as attachments to TPB paper No. 10397 considered by the Board at its 1166th meeting on 9 March 2018 referred to below and reproduced as **Attachment 4** to this SI Paper.

[3] *Oriental Generation v. Town Planning Board* (Court of Appeal, CACV 127/2012, 13 November 2014) and *The Real Estate Developers Association (REDA) .v Town Planning Board* (Court of First Instance, Au. J., HCAL 58/2011, 3 February 2015).

representation R2 and the judgment of the Court of First Instance (CFI) which ordered a re-hearing of R2[4], and after considering the implications of the Sustainable Building Design Guidelines (SBDG): (a) no changes should be made to the extant draft OZP No. S/K13/29 (K13OZP No. 29, the Extant Draft OZP) to accommodate permissible PR/GFA under the OZP with reference to the SBDG requirements; that the NBA and BG requirements in the Extant Draft OZP are appropriate and should be retained.

1.4 On the basis of (a) above, PlanD recommended that the Board agree to invite REDA (as representer R2) to a meeting convened under section 6B of the Town Planning Ordinance (TPO) for reconsideration of its representation (R2) in respect of the Subject Draft OZP, subject to giving REDA an opportunity to put forward supplementary information. The Board agreed to PlanD's recommendations (extracts from the Minutes of the Board's 1166th meeting held on 9 March 2018 are attached as **Attachment 5**).

1.5 As further explained below, REDA considers that Paper No. 10397 was inadequate to address the issues raised in the representation R2 and, also did not meet the directive of the CFI to give adequate consideration to the representations made by REDA on the question of air ventilation as a justification to impose the restrictions on the OZP and on building height profile issues. In particular, the TPB has to consider the relationship of the SBDG in relation to building permeability and air ventilation, not only the achievement of building development rights.

Premature to proceed with Re-hearing

1.6 In view of the inadequacy of the assessment process carried out so far, REDA is firmly of the view that it is premature for the rehearing to proceed until such time as the necessary technical assessments have been carried out to justify the relevant restrictions on private land as being no more than reasonably necessary, or alternatively that such restrictions ought to be relaxed or deleted. To facilitate this process the following paragraphs indicate what the review process should address.

[4] *REDA v. Town Planning Board* (Court of First Instance, Au. J., HCAL 58/2011, 3 February 2015). Paragraph 2.4 of TPB Paper No. 10397 made the CFI's ruling (made with reference to the Court of Appeal (CA)'s ruling on appeals arising from the JRs lodged by the Hysan Group Companies) that the Board should take into account the potential combined effect of sustainable building design guidelines (SBDG) and the restrictions under the four draft OZPs on the development potential of the sites. It further noted (in footnote 4 of that Paper) that REDA's JR was also allowed on grounds related to procedural unfairness, taking minor relaxation into account in rejecting the representations, and breach of *Tameside* duty in respect of the air ventilation and building height profile issues.

1.7 REDA is greatly concerned that PlanD's and the Board's conduct of the "*Review of the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26*" and its consideration of TPB Paper No. 10397 should not in any way pre-empt the Board's duty, in compliance with the judgment of the Court in the REDA JR, to conduct a full and proper re-hearing of Representation R2, including making all necessary inquiries, and without any pre-determination of the issues raised in Representation R2.

II. BACKGROUND

2 Gazettal of K13 OZP No. 26

2.1 The TPB gazetted draft K13OZP No. 26 on 19 November 2010. The amendments shown on the OZP included extensive imposition of Building Height Restrictions (BHRs), Non-building Areas (NBAs), Building Gaps (BGs) and Setbacks (SBs) on sites of the draft OZP[5].

2.2 The Board considered the representations and comments made in relation to the Subject OZP on 27 May 2011 and 1 June 2011[6] (see **Attachments 2 and 3** to this SI Paper).

2.3 The Board later gazetted three more versions of OZP for the Planning Area, No. 27, No. 28 and No. 29. The amendments included in these three OZPs are related to individual sites[7].

3 Representation No. R2

3.1 Representation No. R2 in respect of the Subject Draft OZP was submitted by REDA (see **Attachment 1** to this SI Paper). It considers that the BHRs are set too low. The restrictions are excessive to achieve the objectives stated in the Explanatory Statement (ES). Representation R2 also questions the legal basis of imposing controls of NBAs and BGs on sites within the OZP. It puts forward proposals of relaxing the BHRs and removing all the NBAs, BGs ad SBs to meet the representation. Representation R2 was not upheld by the Board (see paragraph 87 of the Minutes at **Attachment 3** to this SI Paper).

4 REDA's Representations in relation to other OZPs

4.1 In the early 2010s, the Board gazetted amendments to many OZPs by imposing

[5] The BHRs of the Kowloon Bay Business Area (KBBA) were imposed in 2005, not in this round of amendments.

[6] Representation R2 was considered only on 27 May 2011.

[7] Paragraph 4.2 of TPB Paper 10397 (**Attachment 4** to this SI Paper) stated that "*The BHRs in KBBA exhibited in 2005 under OZP No. S/K13/22 (Plan 3A) and amendments made subsequent to the subject OZP, i.e. No. S/K13/27 to 29 were excluded from the scope of Review as they are not a subject of REDA's representation. The amendments made under OZP No. S/K13/27 were mainly technical amendments to reflect the as-built conditions/lot boundaries and SBDG implications are not relevant. Amendments made under OZP Nos. S/K13/28 and S/K13/29 had taken into account the general implications of SBDG*"

extensive development controls of BHRs, NBAs and BGs. REDA lodged representations to express its views that the controls were in general too restrictive to achieve the stated objectives in the ES of the relevant OZPs.

5 Judicial Reviews

5.1 A number of judicial reviews (JRs) against the Board in relation to impositions of BHR, NBA and BG requirements were filed by different parties. Some of the judgments of these JRs are available and are of high reference values to the reconsideration of R2. Some of these JRs are briefly described below:

Judicial Review submitted by REDA

5.2 On 25 July 2011, REDA applied to the Court for JR (HCAL 58 of 2011) against the Board's decision in respect of R2 on the Subject Draft OZP, together with its decision on REDA's representations in respect to three other OZPs[8]. On 3 February 2015, following the Court of Appeal (CA)'s decisions in the *Hysan*[9] and *Oriental Generation*[10] cases handed down on 13 November 2014, the CFI handed down its judgment on the JR regarding the four draft OZPs. Following the principles in those CA judgments (discussed further below), the CFI ordered that JR is allowed on grounds of specific procedural unfairness (Paras. 98-105 of the judgement) and the TPB's failure to make sufficient inquiries in relation to development intensity and SBDG (Paras. 106-115 of the judgment), failure to make sufficient inquiries in relation to AVA (Paras. 122-126 of the judgment), failure to make sufficient inquiries in relation to Building Height Profile (Paras. 127-128 of the judgment), inappropriate reliance on minor relaxation as a substantive ground (Paras. 118-121 of the judgment) . The TPB's four decisions (including the decision on 1 June 2011 in respect of the Subject Draft OZP) were quashed and remitted back to the Board for reconsideration.

Judicial Reviews related to the Kai Tak Mansion Site

5.3 A JR (and two related JRs) was lodged by Oriental Generation Limited (OGL) against the TPB, all related to the Kai Tak Mansion site (KTM Site) which is located in the

[8] They are Wan Chai, Mong Kok and Yau Ma Tei OZPs.
[9] *Hysan Development Co. & Others v. Town Planning Board* (Court of Appeal, CACV 232 and 233 /2012, 13 November 2014).
[10] *Oriental Generation v. Town Planning Board* (Court of Appeal, CACV 127/2012, 13 November 2014).

K13 Planning Area. The 1st and main JR (HCAL 62/2011) was against the TPB's decision at the representation hearing on 1 June 2011 to only partially uphold the Applicant's representation by proposing amendment to relax the BHR of the KTM Site from 110mPD to 130mPD[11].

5.4 The OGL JRs were heard together by the CFI on 3 May 2012 and Judgment was delivered on 11 May 2012. The CFI ruled that the three restrictions imposed on the KTM Site as shown on draft K13OZP No. 26 and No. 27 and the Board's refusal to consider raising the BHR beyond 130mPD were quashed. It ordered that the question of whether any restrictions should be imposed on the KTM Site was to be remitted to the Board for reconsideration.

5.5 The CFI ruled that the Board has power under the TPO to impose BHRs, NBAs or BGs on particular sites. However, "*the Board cannot impose restrictions arbitrarily, but must have a rational justification for the measures implemented*." (Para. 86 of the judgment, emphasis underlined)

5.6 Certain parts of the CFI judgment related to imposition of NBA and BG as well as the consideration of requisite proportionality are of high relevance to the rehearing of R2. They are briefly described in the following paragraphs.

5.7 The judgement has made the following points regarding the control of NBA:

(1) The Board's decision to impose a 10m NBA along the south-eastern boundary that abuts a primary school, which was based on an alternative option in PlanD's Air Ventilation Assessment (AVA) study, was arbitrary and should be quashed (Paras. 70-72 and 75 of the judgment, emphasis underlined);

(2) The AVA study did not explore other options for improving air ventilation impacts nor explain why the 10m NBA is an optimum or appropriate way of addressing ventilation impacts (Paras. 68 and 70 of the judgment, emphasis underlined); and

(3) The Board's decision to impose the burden of a 10m NBA or other restrictions

[11] The 2nd related JR (HCAL 109/2011) was against the TPB's gazettal of OZP No. 27 with identical restrictions shown on OZP No. 26 in respect of the KTM Site, and the 3rd related JR (HCAL 34/2012) was against the TPB's decision at the further representation hearing on 3 February 2012 to confirm amendment to the OZP No. 26 in respect of the KTM Site.

on a site must be backed up by cogent evidence that the measure can be reasonably be regarded as necessary for achieving a particular planning objective. In the subject case, it has not been sufficiently demonstrated that the NBA is no more than what might be regarded as reasonably necessary to mitigate adverse ventilation impacts (Paras. 76 and 77 of the judgment, emphasis underlined).

5.8 Regarding the control of BG, the judgment has the following points:

(1) The AVA Study did not explore and compare the beneficial effects of other gap widths or other permeable structure nor explain how the recommended central gap of 24m could be justified by its limited methodology. There was no quantification of the effects of a 20m or 24m gap (Para. 79 of the judgment, emphasis underlined); and

(2) There was insufficient evidence on which the Board could have determined that a 20m gap was an appropriate restriction. The 20m BG should therefore be quashed as arbitrary (Para. 80-82 of the judgment, emphasis underlined).

5.9 Regarding the Minor Relaxation Clause, the judgment states *own merits* that *"...the Board does not relay on the responsibility of minor relaxation as a justification for the 3 restrictions. The 3 restrictions have to be justified on their own merits, rather than by reference to the possibility of relaxation in specific cases."* (Para. 87 of the judgment, emphasis underlined)

5.10 Regarding infringement of property rights, the judgement states that a restriction imposed on a person's land must be no more than is reasonably necessary to achieve a planning objective. Requisite proportionality has not been demonstrated in respect of the imposed restrictions[12]. (Para. 91 of the judgment, emphasis underlined)

5.11 The Board appealed against the CFI's judgment dated 11 May 2012. In the CA's judgment dated 13 November 2014, the findings summarised above were not disturbed and the appeal was dismissed. The CFA subsequently refused to grant leave to the Board for any further appeal[13].

[12] At paras. 88-90, the CFI held that Article 105 of the Basic Law is not applicable. This was subsequently reversed by the Court of Final Appeal (CFA) in the Hysan case, referred to below (FACV 21&22/2015, 29 September 2016, reported at (2016) 19 HKCFAR 635).

[13] *Town Planning Board v. Oriental Generation* (Appeal Committee of the CFA, FAMV 17/2015, 18 November 2015).

Judicial Reviews submitted by Hysan Group

5.12 The Hysan Group also filed two JRs against the Board in respect of the Causeway Bay OZP and Wan Chai OZP., respectively. These two JRs and related appeals were heard by the Courts together.

5.13 The CA held[14] that the Board's decisions in respect of Hysan's representations were to be quashed on various grounds, including: (i) the Board's failure to make reasonable inquiries (in accordance with the *Tameside* duty and section 3(2) of the TPO) into matters including both the adverse impacts on potential development intensity of the subject sites (taking into account the SBDG), and particularly its failure to query PlanD's working assumptions as against the contrary opinions put forward by the representers' experts (see paras. 90-120 of the Judgment); (ii) Error in placing reliance on minor relaxations as one of the substantive reasons for rejecting representations (see paras. 156-164 of the Judgment); (iii) various aspects of procedural fairness and inadequate consideration of Hysan's representations (see paras. 165-193 of the Judgment) and in particular the Board's failure to properly consider the opinions of Hysan's experts regarding AVA matters which were contrary to the views of PlanD's AVA consultant (see paras. 194-197 of the Judgment) combined with the inadequacy of the Board's reasons (see paras. 198-206 of the Judgment).

5.14 The judgment of the Court of Final Appeal (CFA) in *Hysan Development Co. Ltd and Others v Town Planning Board*[15] (CFA Judgment) confirmed the earlier orders of the CA[16] directing the TPB to reconsider its decisions in relation to the Hysan Group's representations in accordance with the law. The CFA reversed the CA's decision regarding the principles of proportionality that apply when constitutionally protected property rights are affected.

5.15 An important factor arising from the CFA's judgment is to balance the proportional impact on individuals' rights with the societal benefits of the measures to be included as controls on the OZP. The process outlined by the CFA for the TPB is explained below.

5.16 The CFA held that the proportionality analysis should follow a progressive, four step

[14] *Hysan Development Co. & Others v. Town Planning Board* (Court of Appeal, CACV 232 and 233 /2012, 13 November 2014).
[15] FACV Nos. 21 and 22 of 2015, reported at (2016) 19 HKCFAR 372.
[16] *Hysan Development Co. & Others v. Town Planning Board* (Court of Appeal, CACV 232 and 233/2012, 13 November 2014).

assessment, summarised as follows:

(1) whether the intrusive measure pursues a legitimate aim;

(2) if (1) above is satisfied, whether it is rationally connected with advancing that aim;

(3) if (1) and (2) above are satisfied, whether the measure is no more than necessary for that purpose (Para. 134 of the judgment); and

(4) if (1), (2) and (3) above are satisfied, whether "*a reasonable balance has been struck between the societal benefits of the encroachment and the inroads made into the constitutionally protected rights of the individual, asking in particular whether pursuit of the societal interest results in an unacceptably harsh burden on the individual*" (Para. 135 of the judgment).

Summaries of principles in judgments of Judicial Reviews relevant to the present rehearing of Representation R2

5.17 Selected main points of the judgments of the JRs mentioned above as relevant to the rehearing of Representation R2 are summarized below:

- The TPB's needs to make sufficient inquiries to ensure procedural fairness, particularly where the views of representers are different to the views put forward by PlanD's consultants on matters such as AVA;

- Restrictions imposed should pursue a legitimate aim;

- The TPB cannot impose restrictions arbitrarily and must have a rational justification for the restrictions imposed;

- AVA needs to explore other options, and restrictions imposed need to be backed up by cogent evidence;

- Restrictions imposed should be no more than what might be regarded as reasonably necessary; and

- Requisite proportionality has to be demonstrated in respect of the imposed restrictions, and in particular that the proportional impact on individuals' rights should be balanced with the societal benefits of the measures proposed to be included as controls in the draft OZP. The progressive 4-step assessment prescribed by the CFA should be undertaken.

III. REASONS FOR SUPPLEMENTING REPRESENTATION R2

6 TPB's Recent Review of Development Restrictions of the Subject OZP not addressing concerns of R2

TPB Paper No. 10397 to review development restrictions of the Subject OZP

6.1 A TPB Paper titled "Review of the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26" was considered by the Board (Paper No. 10397, the TPB Paper) on 9 March 2018 (see **Attachment 4** to this SI Paper). The introduction of the Paper states that the paper is to brief Members on the review of development restrictions for K13OZP No. 26 following the judgment of the JR by REDA quashing the Board's decision not to uphold R2 and REDA's representations in respect of other OZPs.

6.2 The TPB Paper provides some background which is closely related to the approach taken to review the planning restrictions imposed on the K13OZP No. 26:

"...In particular, with reference to the Court of Appeal (CA)'s ruling on appeals arising from the JRs lodged by the Hysan Group Companies, of CFI ruled that the Board should take the potential combined effect of sustainable building design guidelines (SBDG) and the restrictions under the four draft OZPs on the development potential of the sites."
(Para. 2.4 of TPB Paper No. 10397)

6.3 The TPB Paper only focuses on whether the BHRs imposed on sites could accommodate the entitled GFA and potential concessions taking account of the SBDG. It did not include the written representation statement of R2 (see **Attachment 1** to this SI Paper), or the further verbal statements made on behalf of REDA at the meeting on 27 May 2011 (see Minutes at **Attachment 3** to this SI Paper), as annexes to TPB Paper No. 10397. It has not tried to address any points raised in Representation R2 other than in relation to the GFA aspect of SBDG. Furthermore, the NBA and BG requirements have been reviewed based on an outdated 2010 AVA which has been held in OGL and in the REDA case to be flawed, as discussed in Paragraph 8 below. This outdated AVA has not taken account of the SBDG which has only become available in April 2011.

Concerns raised in Hearing not addressed in the TPB Paper

6.4 R2 made a number of points at the hearing held in May 2011. However, they are not addressed in the 'Review' presented in TPB Paper No. 10397. Some of the points are briefly described below:

- Telford Garden/Kowloon Bay MTR Station was an existing focal point of the whole planning area. The BHR for the site should be set at 120mPD to 150mPD to create a stepping up profile from the waterfront/KBBA. If the BHR was set at 120mPD instead of 60mPD, the number of towers would be reduced by half and more space would be created without the need to impose the 22mPD BGs.

- The overall building height (BH) concept had relied too heavily on the existing BH of the developments and no alternative concepts had been presented to the MPC or to the public. The proposed alternative concept was to increase the BHR at Telford Garden to 120mPD and across the other side of Kwun Tong Road to 140mPD so that the overall height profile is ascending with topography.

- Different standards were applied for private housing and public housing in the formulation of BHRs, such as Tak Bo Garden (at site level of 23mPD, imposed with 120mPD BHR) and the public housing estates on the other side of Choi Ha Road (at site levels of 19.6mPD and 22.5mPD, both with 140mPD). The absolute heights for public housing sites were larger than that of the private housing.

TPB Paper No. 10397 has neither addressed nor responded to any of the above concerns and views expressed in the hearing held in 2011.

7 Planning Circumstances have actually been Changed

7.1 TPB Paper No. 10397 states that *"The NBA and BG requirements stipulated on the basis of the recommendations of the AVA conducted in 2010 are still valid given no change in planning circumstances*". However, the planning circumstances have actually been changed with rezoning of some sites shown in the three versions of OZPs after No.26. In addition, since 2010, there have been substantial increase in development intensity and BHRs in the Kai Tak area which is to the immediate west and southwest of the K13 planning area. Therefore, the assertion that "no change in planning circumstances" is invalid. A genuine review of the development restrictions should be backed up by an updated AVA.

8 Inadequacy of AVA Study to justify the Restrictions Imposed

Methodology of the AVA adopted has Fundamental Problems

8.1 As stated in Paragraphs 5.4 to 5.8 and 5.11 above, the judgments in the OGL JRs of the KTM Site ruled that the TPB cannot impose restrictions arbitrarily and there must be a rational justification for the measures implemented, and that the 2010 AVA study did not explore other options for the KTM Site.

8.2 The AVA Study in 2010 for K13 OZP No.26 states at its introduction that the methodology of the study adopted follows that for an expert evaluation in the "Technical Guide for Air Ventilation Assessment for Developments in Hong Kong" as well as those requirements in the Project Brief. With the OGL JRs court judgments for the KTM Site, it is evident that the methodology adopted has fundamental problems.

8.3 The OGL JRs court judgments made the point that no alternative options for the KTM Site were explored in the 2010 AVA study for improving air ventilation impacts, nor did it explain why the 10m NBA is an optimum or appropriate way of addressing ventilation impacts. The situation for most of the other sites within the OZP is even worse as no similar comparison of an option with a base case was done.

Use of AVA to justify the Imposition of Restriction questioned at Hearing held in 2011

8.4 The 2010 AVA study was considered too general to justify the proposed restrictions. R2 pointed out [Para. 68 in Minutes at **Attachment 3**], at the hearing held in 2011, that there was nothing in the 2010 AVA report to justify that the proposed restrictions were essential or necessary. There was inadequate information to enable to Board to critically assess whether the proposed restrictions such as those imposed on Mega Box and Kai Tak Mansion were essential. The 2010 AVA report was only a generalized expression of opinion based on generalized information. No explanation or information had been provided to assess the benefits brought about by the proposed restrictions in relation to the impact on private property rights. It is a pity that the 'Review' in TPB Paper No. 10397 still adopted the same outdated and flawed 2010 AVA without any update and without more concrete information to justify the proposed development restrictions.

Failure to consider the Individual Site Context

8.5 It is considered that the 2010 AVA study failed to take account of the context of individual sites. Taking the Mega Box Site as an example, the 2010 AVA study has only considered the site occupying a waterfront location and that the present slab-type development does not facilitate air ventilation. It has totally ignored that the fact that both to the north and to the west of the site are big open spaces; and the site is fronting Wang Chiu Road which is one of the widest roads in KBBA. The two big open spaces and the wide road can allow good air penetration into the Kowloon Bay inner area. If the open spaces and the wide road to the immediate vicinity of the site had been taken account, the need for the stringent restrictions imposed on the site would be substantially reduced.

9 The NBA and BG restrictions are arbitrary and not supported by Cogent Evidence

Effective Road Spacing for Air Ventilation

9.1 A review of the development restrictions for the Causeway Bay area has been undertaken recently and included the TPB Paper No. 10340 (the main part of the TPB Paper is attached as **Attachment 6** to this SI Paper). The review has included an updated AVA Expert Evaluation (EE). The AVA EE pointed out that an effective air path is at least 15m as included in Para 7.1(e) of the TPB Paper No. 10340 mentioned above:

> *"Building design measures, including NBAs, BGs and setbacks, to reduce ground coverage and create building permeability particularly at low level and effective air paths to facilitate airflow from prevailing wind directions are more important for improving pedestrian environment in Causeway Bay area. While it is ideal that air paths are as wide as possible, it is the prevailing practice that an effective air path should be at least 15m in width for wind penetration. Such principle is in line with the building setback and building separation requirements stipulated in SBDG. ..."*
>
> (Extract of TPB Paper No. 10340 related to Causeway Bay, emphasis underlined)

9.2 Similar to the case of Causeway Bay, a recent review of development restrictions for the Wan Chai area has also been conducted and included in TPB Paper No. 10415 (the main part of the paper is attached as **Attachment 7** to this SI Paper). The updated

AVA EE for Wan Chai also states that in general a minimum width of 15m is an effective air path. Para 7.1(e) of TPB Paper No. 10415 is extracted below:

> *"In general, to improve wind environment at street level, widening narrow streets, reducing ground coverage, improving permeability among buildings and developments and ensuring effective air paths of 15m would be more relevant. The measures recommended in SBDG are working towards this end and when implemented could serve the similar purposes. While it is ideal that the width of air path can be as wide as possible, it is the prevailing practice that an effective air path should be at least 15m in width for wind penetration. Such principle is in line with the building setback and building separation requirements stipulated in SBDG. ..."*
>
> (Extract of TPB Paper No. 10415 related to Wan Chai, emphasis underlined)

9.3 It can be seen that both reviews for the Causeway Bay and Wan Chai areas consider that 15m is the minimum effective air path. However, the K13 AVA 2010 study proposes a much wider air path. The Executive summary of K13 AVA 2010 study states that:

> *"The KBBA is densely packed with high-rise commercial and industrial buildings (120mPD to 170mPD). Narrow roads are found in the KBBA. Given the maximum building height and the width of the blocks, the negative impact on air ventilation cannot be mitigated unless the effective road spacing (measured from building face-to building face) is increased from 10-25m to 30m or beyond. Since this mitigation measure is not practical, it is recommended to introduce and maintain several urban linear parks and open space within KBBA, as well as practical setbacks from the roads."* (Extract of K13 AVA 2010, emphasis underlined)

9.4 Both the Causeway Bay and Wan Chai AVAs provide a general effective road spacing of 15m width and state that this aligns with the similar requirements under the SBDG. In contrast, that which is proposed under K13 AVA 2010 is significantly wider and self-evidently ignores the SBDG, which the Board now accepts as an essential consideration as directed by the court judgments referred to above. Yet, the strangest thing is that this AVA proposes an NBA not at the narrow roads, but at the widest roads.

Arbitrary Impositions of NBA and BG Requirements

9.5 Obviously, the recommendations of the 2010 AVA study to impose NBA and BG restrictions on the sites were not backed up by cogent evidence. They were imposed arbitrarily, and no justifications have been provided for a particular width at a particular location. For example, to name a few:

a. There is no strong justifications for the 3m wide NBAs that are imposed on both sides of Wang Chiu Road and Wang Kwong Road which are two of the widest streets in KBBA.

b. Why were two 22m wide BGs imposed for the Telford Gardens and Telford Plaza sites? Why not 15m which is a general effective air path? Is the 22m width "more than necessary"?

c. For the BG linking Lam Hing Street and Sheung Yuet Road, why is part of it 15m wide and the other part is 16m wide? What are the justifications for the difference?

In the absence of cogent justification being provided, the NBA and BG requirements should be removed.

10 Fail the Proportionality Analysis

10.1 As stated in Paragraph 5.16 above, the CFA held that proportionality analysis should follow a progressive, four-step assessment. The NBA and BG requirements are imposed only with reference to Steps (1) and (2). With the examples mentioned in the above paragraphs, it is evident that they fail Step 3 of the four-step assessment. The TPB has simply not made any attempt at all to consider "whether the measure is no more than necessary for that purpose".

10.2 Considering the Mega Box Site as an example, an NBA and a BG are imposed on the site. The NBA is of 3m wide applied on one side of the site, while the BG is imposed through the centre of the site at 15m width and 22mPD BHR. These two requirements are very restrictive. The Board has not made any attempt at all to assess the burden of the combined effect of the restrictions to the owner of the site. Not only does the imposition of restrictions fail Step 3, it also fails Step 4 of the 4-step assessment.

11 BHRs are unnecessarily Restrictive

TPB Paper No. 10397 considered by the Board in March 2018

11.1 TPB Paper No. 10397 has tried to demonstrate that the BHR as well as other restrictions imposed are able to accommodate GFA of sites. These are included in Annexes C1, C1a, C1b, C2 and C3 of the Paper.

11.2 However, it is considered that the BHR are unnecessarily restrictive. It can be seen that a theoretical maximum site coverage of the tower has been assumed in Annexes C1a and C1b based on an assumed building bulk. This may not be the case if a more interesting building profile, such as diminishing area on upper floors, is to be pursued. The BHR should be set to allow some innovative design elements to be incorporated into the development. The community certainly welcomes and prefers to live in a more diverse and interesting built environment.

11.3 Annex C2 is too brief and the presentation appears illogical with the estimated building height presented before the estimated number of storeys. In addition, brief checking reveals that there appears some round down of the estimated number of storeys. This means that the BHRs are set very tight. They are more than "reasonably necessary". Relaxing the BHR by 20m to 40m in the Subject Draft OZP / Extant Draft OZP can still achieve the objective as stated in the ES. In this regard, the Board must be careful not to place any substantive reliance on the possibility of minor relaxation, and must instead ensure that the BHR in the draft OZP is adequate on its own merits.

11.4 Taking the Telford Garden/Kowloon Bay MTR Station Site as an example again, the BHR imposed relies too heavily on the existing BH. If the BHR is raised, the overall height profile would be more aligned with the stepped building height concept instead of forming a valley at the site. By relaxing the BHR, more space would be available for the public to move around and offer more chance of social interaction and activities on the podium above the station. This is such a great opportunity to enhance the identity of the Kowloon Bay area at this focal point site.

Hearing of K13 OZP held in 2011

11.5 The issue of relaxing the BHR of Telford Garden was discussed at the Deliberation Session of the hearing on 27 May 2011. However, the issue was not seriously discussed. Miss Ophelia Y. S. Wong, the then Deputy Director of Planning/District expressed that she "*had doubts on whether there was any real prospect for redevelopment of the site, even if the proposal was acceded to. Assuming the site would be redeveloped in future was not a realistic assumption to adopt in devising the*

planned building height profile for the area. She said the BHR was determined based on the Master Plans for the development, which were vetted by and acceptable to all Departments as the optimal department at the site for the future. A Member agreed that there was little prospect for Telford Gardens to be redeveloped and considered the BHRs were reasonable. Miss Wong said that MTRCL did not raise objection to the BHR of Telford Garden." (Para. 75 in the minutes of **Attachment 3** to this SI Paper)

11.6 The Board had not tried to justify the restrictions imposed on the sites on the OZP. As recorded in the minutes, *"...A Member considered that it would be impractical to require every point of the proposed restrictions to be fully justified. Another member said that the imposition of planning restrictions for a wider public interest would inevitably create some impact on private property rights. A Member said that should representer R2 disagree with the proposed requirements, they should conduct their own AVA to substantiate their argument.*" (Para. 76 in the minutes of **Attachment 3** to this SI Paper).

11.7 The Board was also not keen on considering whether the development restrictions are "essential" and "reasonably necessary". For example, *"most of the issues had already been deliberated in the context of other OZPs"* (Para. 74 in the minutes of **Attachment 3** to this SI Paper) and "…*he did not consider the request justified as the representer did acknowledge that they had no difficuty to redevelop the site at the existing BHR and that the proposed relaxation would only allow a more slender design."* (Para. 77 in the minutes of **Attachment 3** to this SI Paper)

11.8 The Board had failed to examine the need for the unnecessarily restrictive BHRs as well as other development restrictions at the hearing held in 2011.

12 Inconsistent Methodology for undertaking Review of Development Restrictions with other Planning Areas

12.1 At the TPB meeting which discussed the review of development restrictions of the area covered by the Subject OZP held on 9 Mach 2018, a Member asked and the District Planning Officer confirmed that the same methodology for reviewing the development restrictions of the Causeway Bay area was adopted [Paras. 48(a), 49(a) and 49(b) in Minutes at **Attachment 5**]. However, it is <u>not</u> the case. For the Causeway Bay area, the AVA EE was updated and the NBAs and BGs imposed earlier are re-examined and adjustments are proposed.

12.2 However, a new AVA EE for the Subject Draft OZP / Extant Draft OZP was not undertaken and the review of development restrictions was still supported by the old AVA study prepared in 2010.

IV. PROPOSALS TO MEET REPRESENTATION R2

13 Proposals to meet Representation R2

13.1 REDA maintains the proposal put forward in R2 that the BHRs should generally be relaxed by 20m to 40m. Relaxation of the BHRs will still achieve the objective stated in the ES of the Subject OZP. This will also have the advantage of providing more flexibility in designing innovative developments which benefits the direct users as well as the overall built environment. Further, the BHR of Telford Gardens should be revised from 60/100mPD to 100/120mPD so that a height profile more generally ascending with the topography can be achieved.

13.2 The NBA and BG requirements were proposed under a methodology in the 2010 AVA study which has been questioned by the courts and found to be flawed. They were imposed without cogent evidence and were not backed up by sound justifications. They should be removed from the OZPs.

13.3 Should any of the NBA and BG requirements be retained, the words "under exceptional circumstances" should be removed from the relevant Notes to the zones so that a relaxation can be considered in future for each restriction on its own merits.

V. CONCLUSIONS

14 Conclusions

14.1 The review of the Subject OZP has only taken account of a small part of the court judgments, i.e. SBDG and related building height, but has ignored the major part including "cogent evidence", "explore alternatives", "imposition of restrictions that are no more than necessary" and "undertake proportionality analysis".

14.2 The NBA and BG requirements are imposed without cogent evidence to support their widths and their locations. Their impositions are arbitrary and have not been reviewed through an updated AVA in accordance with the Court directive to take account to the SBDG and improvements to building permeability and air ventilation that will arise, and to make all reasonably necessary inquiries, including obtaining relevant and updated technical studies.

14.3 The BHRs imposed are unnecessarily restrictive to achieve the stated objectives included in the ES. They are so restrictive that opportunities to enhance air ventilation at pedestrian level are slim, as it is hard for development to reduce ground coverage and improve permeability by incorporating special features.

14.4 The planning circumstances of the K13 Planning Area have changed. A new AVA study should be conducted for the area. Most importantly, in doing so the methodology of the AVA to justify the development restrictions should also be reconsidered given the court judgment in relation to the KTM Site.

14.5 Overall, the review of the development restrictions of the Subject OZP fails to address the concerns included in the written representation and presentation at hearing put forward by R2. It also does not meet the directive of the Court. Before the re-hearing is held, a new AVA needs to be undertaken to assess the need for and the extent of the NBA and BG in the Ngau Tau Kok and Kowloon Bay OPZ, in a similar manner undertaken in the assessment of the Wan Chai OZP and the Causeway Bay OZP.

14.6 As noted at paragraph 1.7 above, REDA is greatly concerned that PlanD's and the Board's conduct of the "*Review of the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26*" and its consideration of TPB Paper No. 10397 should not in any way pre-empt the Board's duty, in compliance with the judgment of the Court

in the REDA JR, to conduct a full and proper re-hearing of Representation R2, including making all necessary inquiries, and without any pre-determination of the issues raised in Representation R2.

The Real Estate Developers Association of Hong Kong
25 May 2018

Attachments to SI Paper

1. Representation No. R2 dated 19 January 2011
2. TPB Paper No. 8820, considered at the Board's 984th meeting on 27 May 2011 (Main part only)
3. Relevant extracts of the Minutes of the Board's 984th meeting on 27 May 2011 and 1 June 2011
4. TPB Paper No. 10397, considered at the Board's 1166th meeting held on the 9 March 2018 (Main part only).
5. Relevant extracts from the Minutes of the Board's 1166th meeting held on 9 March 2018.
6. TPB Paper No. 10340 for the Causeway Bay draft OZP area (Main part only).
7. TPB Paper No. 10415 for the Wan Chai draft OZP area (Main part only).

香港地產建設商會
THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG
香港中環德輔道中19 號環球大廈1403 室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

18 April 2019

The Secretary
Town Planning Board
15/F North Point Government Offices
333 Java Road
North Point
Hong Kong

Attention: Mr. Raymond Kan

Dear Sir

Representation No. R2 in Relation to the Amendments shown on the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26

Supplementary Information (2019)

I refer to the TPB letter dated 20 February 2019 related to the draft Ngau Tau Kok and Kowloon Bay OZP No. S/K13/26 (the OZP). The letter made reference to a TPB Paper No. 10515 which further reviews the development restrictions shown on the OZP by conducting an updated Air Ventilation Assessment (AVA).

It is considered that the TPB Paper has neither addressed the issues nor responded to main points of the court judgements included in our Supplementary Information submitted in 2018, except for including an updated AVA. REDA therefore considers that this review fails to respond to the judgement of the Court. For more details, please refer to the enclosed Supplementary Information.

Yours sincerely

Louis Loong,
Secretary General

Representation No. R2
in Relation to the Amendments shown on the
Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26

The Real Estate Developers Associations of Hong Kong (REDA)

Supplementary Information (2019)

1 Introduction

1.1 This Supplementary Information (SI 2019) is related to the representation (Representation No. R2) made to the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26 (OZP 26) back in 2011.

1.2 R2 opposed to the imposition of Building height Restrictions (BHR's), Non-building Areas (NBAs) and Building Gaps (BGs) shown on OZP 26. None of the points of the representation were up-held by the Town Planning Board (TPB, the Board). REDA filed a Judicial Review (JR) of the TPB's decisions in 2011. The Court of First Instance (CFI) remitted the OZP to the TPB for reconsideration in 2015.

1.3 Before the rehearing of R2, TPB Paper No. 10397 (Paper 10397) dated 9 March 2018 was prepared to review the planning restrictions imposed on OZP 26, and REDA was invited to submit supplementary information.

1.4 After reviewing Paper 10397, REDA made a submission on 28 May 2018 (SI 2018). In the SI, REDA raised a number of concerns which were not addressed in the paper and considered that it was premature for the Board to re-consider R2.

1.5 Another review paper, namely, TPB Paper No. 10515 dated 25 Jan 2019 was issued (Paper 10515). This submission has reviewed the paper and provides supplementary information to R2.

2 Inadequacies of The TPB Paper No. 10515

2.1 Paper 10515 states that its purpose is to further review the planning restrictions. However, this paper has neither addressed the issues nor responded to the main points of the court judgements included in SI 2018, except for including an updated Air Ventilation Assessment Expert Evaluation (AVA 2019). REDA therefore

considers that this review even with an updated AVA fails to respond to the judgement of the Court. This will be discussed in the following paragraphs.

3 AVA 2019, Two Scenarios but No Alternative Options

3.1 According to the report of AVA 2019, assessment for two scenarios has been undertaken:

1. The Baseline Scenario: This is the scenario of the OZP 29, with planning restrictions of NBA's and BG's same as those introduced on OZP 26 and were recommendations of AVA 2010.

2. The Initial Scenario: In terms of the planning restrictions of the planning area, they are same as OZP 29. This scenario also takes account of the anticipated changes which might be brought about by the Preliminary Outline development Plan (PODP) of Kowloon Bay Action Area (KBAA) which is located south of the Kowloon Bay Business Area (KBBA).

3.2 The AVA has explored two scenarios. However, the planning restrictions already shown on OZP are exactly the same under the two scenarios. No alternative options as suggested by REDA of the planning restrictions have been explored.

4 Not Follow the Directives of Court

4.1 The Oriental Generation Limited (OGL) court judgement which relates to the Kai Tak Mansion site criticised the AVA 2010 in that it did not explore other options to improve air ventilation. This has been stated in Para 5.7(2) of SI 2018.

4.2 Therefore, at the outset, the methodology of the AVA 2019 is fundamentally flawed and does not comply with the judgement of the court.

5 Forgo Opportunity of Adjusting Unreasonable Height Profile of the Planning Area

5.1 All along, stepped height profile has been generally adopted in various parts of the SAR. However, in this planning area, the height profile is like a deep valley. Taking a cross section from the KBBA to Choi Ha Estate and Choi Fook Estate, the waterfront KBBA is generally of BHR of 120mPD to 170mPD, Telford Gardens and Telford Plaza (60mPD and 100mPD), Amoy Gardens (120mPD), Choi Ha Estate (140mPD) and Choi Fook Estate (170mPD).

5.2 The updated AVA should have assessed the wind performance of the option with more relaxed BHRs for Telford Gardens and Telford Plaza, such as 100mPD and 120mPD. These BHR's were proposed by REDA in R2.

6 Forgo Opportunity of Reinforcing a Landmark Focal Point around the MTR Station

6.1 As stated above, the Telford Gardens and Telford Plaza are imposed with the most stringent BHR's, more or less reflecting the existing building heights. The imposition of the BHR's has totally ignored the important location of the sites which are immediately adjacent to the MTR Station and connect the KBBA and the residential areas east of Kwun Tong Road. The site is a focal point of the planning area and has the potential to be further enhanced if more relaxed BHRs are adopted. More relaxed BHRs would mean less towers, thereby freeing up more space on ground or podium level depending on future design of redevelopment. If this is done, there would be no need to impose the very rigid and extensive BGs at 22mPD on the area.

6.2 Furthermore, freeing up the space offers opportunities for better pedestrian circulation, landscaping, passive and leisure function as well as for holding special festival/cultural events. This would reinforce the focal point function around the MTR Station. It would also encourage redevelopment.

6.3 The AVA 2019 has neither explored the air ventilation performance of the proposed option for the Telford Gardens and Telford Plaza put forward by REDA nor any other option. The opportunity of improving this special area is not being grasped.

7 Expert View defies Comprehension

7.1 Taking the Mega Box Site as an example, AVA 2019 justifies the 15m wide BGs at 22mPD by providing a simple figure showing the flow of wind and states that there would be a wake area in the leeward side. Is this really the case even with two big open spaces and a wide road in the immediate vicinity of the site? The statement made by the Expert defies comprehension. The Expert only focuses on the blockage of wind by the slab of building but has ignored the wind that could flow through adjacent space.

7.2 There is also no evidence that the imposition of the planning restrictions on the Mega Box site had undertaken the four-step proportionality analysis stated under the Hysan case. (Please refer para 5.16 of SI 2018)

8 Conclusions

8.1 The TPB review papers have totally ignored site characteristics, urban design considerations and the flexibility that the development industry needs to respond to market changes.

8.2 The concerns raised in the SI 2018 have not been properly responded. The AVA 2019 has neither explored alternative planning restrictions imposed on the sites of the planning areas, nor undertaken proportionality analysis to balance the impacts on private property rights against public benefits, a step which should been taken before planning restrictions are imposed on the sites. This is against the court judgements.

8.3 Are the planning restrictions something good to have or are they really necessary for the wind conditions of the planning area? AVA 2019 appears to have been used as a tool to justify the unnecessary stringent controls.

The Real Estate Developers Association of Hong Kong
April 2019

關於《牛頭角及九龍灣分區計劃大綱草圖編號 S/K13/26》的
申述編號 2 和規劃署的回應摘要

申述編號 R2

香港地產建設商會(下稱「地產建設商會」)

反對建築物高度限制及非建築用地和建築物間距規定[分區計劃大綱圖修訂項目 A 至 C4 及分區計劃大綱圖《註釋》修訂項目(a)、(b)、(f)及(g)]

項目	申述的理由及建議	規劃署的回應
1.	建築物高度限制	
1.1	*為優質設計提供彈性，以及對街景和通風的影響*	
1.1.1	把建築物高度限制定得太低，會不必要地限制提供優質環境的機會。只有通過發展項目的設計，使發展項目有足夠的樓底高度，創造良好的內部空間，才可達致締造優質環境的目標。	• 建築物高度限制本身未必會令建築物體積更龐大或造成屏風效應而影響通風。建築物高度限制是根據合理的假設而擬定，並容許建築物的形狀及形式具靈活性。所施加的建築物高度應足以容納分區計劃大綱圖所准許的地積比率，同時符合各項建築規定，包括《可持續建築設計指引》的要求。此外，有關的建築物高度限制並不妨礙在發展建議中加入創新的建築特色及美化環境措施等。分區計劃大綱圖的《說明書》亦已明確表示鼓勵實施改善通風的措施，包括增加平台的通風度、加闊建築物之間的距離和建築物後移距離。

項目	申述的理由及建議	規劃署的回應
1.1.2	當局沒有考慮建築經濟、重建該區所造成的影響、新建築物的形式、對在建築物四周提供空間所造成的負面影響，以及會導致建築物變得較矮和體積更龐大。把高度限制定得過低，會在接近地面水平的位置造成屏風效應。	• 建築物設計取決於多項因素，例如地積比率、上蓋面積、建築物的高度、設計和布局，以及地盤形狀的相互影響。管制或減低建築物高度未必會令建築物體積增大。在考慮建築物規模時，除了建築物的大小和體積外，亦應顧及以下因素： (a) 建築物的形狀和形式，包括任何平台、露台、窗台、建築特色及梯級式高度輪廓； (b) 因應用地界線和毗鄰建築物設定的樓宇配置，包括把建築物地面層及上層後移；以及 (c) 建築物所在位置的附近地區特色，包括四周的建築物、文物古蹟、露天地方、天然地勢、山脊線、主要街道及人流模式、觀景廊及通風廊。 • 故此，建築物的體積是否龐大視乎多項考慮因素，並非單看建築物的高度而已。假設在建築物高度管制下，建築物的高度會壓低，體積會增加，又不嘗試改變建築設計，這個假設只是極端情況。即使沒有建築物高度管制，在行人水平，發展項目的體積亦可同樣龐大。例如，發展項目可按《建築物(規劃)規例》准許的100%上蓋面積和15米高度設計平台，以充分利用地面層的空間的價值。
1.1.3	施加過低的不合理建築物高度限制，會限制建築物體積；窒礙加入創新的建築設計和中空建築特色；以及直接影響街道環境、通風和發展項目使用者的生活質素。	

項目	申述的理由及建議	規劃署的回應
1.1.4	建築物高度限制訂得不必要地過嚴，以假設的建築物體積為基礎，然後推算出建築物理論上的最大上蓋面積(城市規劃委員會文件第 10397 號附件 C1a 及 C1b)。然而，若建築物採用較特別的高度輪廓設計，例如縮減較高樓層的面積，情況則可能不同。所訂定的建築物高度限制，應容許在發展中加入一些創新的建築元素。	• 因應法庭的裁決，規劃署已對建築物高度限制及其他發展限制進行檢討(下稱「檢討」)，當中考慮了《可持續建築設計指引》的影響。檢討的結果已於 2018 年 3 月 9 日及 2019 年 1 月 25 日提交城市規劃委員會(下稱「城規會」)，委員備悉檢討結果。根據有關檢討的結果，即使已顧及《可持續建築設計指引》的要求，有關分區計劃大綱圖所訂的建築物高度限制、非建築用地及建築物間距規定亦足以容納分區計劃大綱圖的准許發展密度。
1.1.5	城市規劃委員會文件第 10397 號附件 C2 過於簡略，而有關簡介先闡述估算樓層數目，然後才說明估算建築物高度，似乎不合邏輯。此外，簡單的複查發現有部分的估算樓層數目似乎曾四捨五入下調至最接近的整數，換言之建築物高度限制訂得極嚴，超出「合理需要」。	• 檢討時所採用的假設全部載於城市規劃委員會文件第 10397 號附件 C2。在檢討灣仔、銅鑼灣和旺角的分區計劃大綱圖時，亦採用了類似的假設。有關檢討說明，即使已顧及《可持續建築設計指引》的要求，有關分區計劃大綱圖所訂的建築物高度限制、非建築用地及建築物間距規定，仍足以容納條例所准許的地積比率／總樓面面積。在所有的假設當中，有關總樓面面積寬免(住宅用途及綜合式商住用途為 20%，商業發展為 25%)及建築物高度限制的假設已大致預留足夠空間，以容納所准許的總樓面面積，並容許在設計上具一定程度的靈活性，以注入包括《可持續建築設計指引》在內的各類設計元

項目	申述的理由及建議	規劃署的回應
		素。 • 用作放置豁免計算總樓面面積設施的天台構築物，如所佔面積少於下層面積 50%，將不作一層計算(載於**附件 VIb** 城市規劃委員會文件第 10397 號附件 C2 一般註釋[b])，因此估算樓層數目已四捨五入至最接近的整數。
1.2	*合理的高度限制*	
1.2.1	《說明書》第 7.2 段有關訂下建築物高度限制的目標，只要把所施加的高度上限訂在一個可容納合理發展布局的水平，便可達致該目標。	• 在制訂建築物高度限制時，除了考慮空氣流通情況和需要保留獅子山、慈雲山及飛鵝山的山脊線外，還以整體建築物高度概念為依據，並顧及其他相關考慮因素，包括現有建築物高度輪廓、天然地勢、區內情況和特色、毗連規劃區的發展項目的建築物高度，以及在視覺上與廣闊範圍內的建築羣是否和諧協調。若不顧及上述因素便斷然按 **R2** 的建議容許整個規劃區都可興建樓高 40 層的高廈，此舉會破壞整體城市設計概念。分區計劃大綱圖已在公眾對改善生活環境(即城市設計所指的市容)的期望與私人發展權(即准許地積比率)兩者之間取得平衡。 • 有關檢討對建築形式採取了合理的假設，確認即使顧及《可持續建築設計指引》的要求，在有關的建築物高度限制和非建築用地及建築物間距規定下，用地仍可容納分區計
1.2.2	公眾所擔心的似乎是位於重要位置樓高 60 層或以上的發展項目，樓高約 40 層的高層發展實為公眾所接受。該區有不少住宅用地的建築物高度限制一般訂為約主水平基準上 80 米至 100 米，相等於約 25 至 32 層。這些住宅用地的建築物高度不合理地低，比會觸發公眾關注的高度還要低。	
1.2.3	建築物高度限制訂得過低，而且沒有考慮屋宇署提出的可持續建築設計新措施。建築物高度限制訂得過低，加上發展用地須符合可持續建築設計的要求，兩者加起來會導致整體發展潛力下降，令發展商失去發展權，以及物業價值下跌。	

項目	申述的理由及建議	規劃署的回應
		劃大綱圖准許的發展密度，並不存在 **R2** 所聲稱令發展潛力下降的問題。這點已在城市規劃委員會文件第 10397 號(請參閱**附件 VIb** 及 **VIc**)中闡明。
1.3	*觀景廊及梯級式建築物高度*	
1.3.1	就分區計劃大綱圖而言，在考慮視覺影響時，應以香港會議展覽中心(下稱「會展」)及鰂魚涌公園為最相關的主要瞭望點，而不應採用其他的「觀景廊」(例如彩盈坊附近的行人天橋)，因為該等「觀景廊」並不重要，而且經公眾諮詢後其重要性亦未獲確認。	• 《香港規劃標準與準則》第 11 章的「城市設計指引」訂明，應保護可觀賞地標、特色景物(例如山脊線、水域、郊外景色和其他自然景物)的視野，以避免景觀變得狹窄及不完整。此外，應盡量增設觀景廊，增加從多方面望穿這個稠密城市的視線。九龍方面，該指引訂明，從不同瞭望點(包括香港會議展覽中心和鰂魚涌公園)眺望獅子山和主要山脊線的景觀都是「香港形象」的所繫，應致力保護和避免失去這些景觀。 • 在 2017 年檢討分區計劃大綱圖編號 S/K13/29 所載的觀塘道前啟德大廈用地的發展限制時，在視覺評估中採納了多個區內觀景點，彩盈坊附近行人天橋的觀景點(須保留由該觀景點眺望獅子山的觀景廊)只是其中之一。目前這次的分析沒有採納這個瞭望點。
1.3.2	• 採用從九龍灣商貿區(主水平基準上 120 米)沿偉業街向東漸次下降的建築物高度輪廓，以及不容許有關建築物高度限制向德福花	• 目前的建築物高度輪廓旨在為九龍灣商貿區塑造鮮明的市容。該商貿區南部是商業樞紐，劃為「商業」地帶和「其他指定用途」

項目	申述的理由及建議	規劃署的回應
	園、觀塘道及牛頭角道繼續上升，並不合邏輯。整個中央區的建築物高度限制，應增加至主水平基準上 140 米至 150 米，以維持漸次上升的建築物高度輪廓，同時亦可確保從已確認的瞭望點眺望的山脊線景觀可得到保護。 • 根據九龍灣商貿區至彩霞邨及彩福邨一帶的切面圖，九龍灣商貿區海旁的建築物高度限制一般訂為主水平基準上 120 米至 170 米。德福花園及德福廣場分別是主水平基準上 60 米及 100 米，淘大花園為主水平基準上 120 米，彩霞邨為主水平基準上 140 米，彩福邨為主水平基準上 170 米。倘把德福花園／港鐵九龍灣站用地的建築物高度限制訂得更高，該處的整體高度輪廓更能配合梯級式建築物高度的概念，反而不會令該用地呈凹陷的高度輪廓。	註明「商貿」地帶，建築物高度限制訂為主水平基準上 170 米。這範圍有一些新發展項目落成，匯聚成羣，形成觸目的地方樞紐。九龍灣商貿區建築物的高度從南部逐級下降至北部及東部的 3 個較矮高度級別，即主水平基準上 100 米、120 米及 140 米。隨着建築物高度輪廓從九龍灣商貿區流暢地過渡，建築物高度從該商業樞紐逐級下降至觀塘道沿路的啓業邨、麗晶花園及德福花園這些中層住宅發展項目。在觀塘道另一邊的東面較遠處，住宅發展項目的建築物高度輪廓主要順着天然地勢向東面和北面逐級上升至佐敦谷和飛鵝山山麓。因此，從城市設計的角度而言，該區(包括九龍灣商貿區)的建築物高度輪廓實屬合理、合宜(**圖 H-4d**)。
1.3.3	德福花園／九龍灣港鐵站位於整個規劃區現時的中樞點。該用地的建築物高度限制應訂為主水平基準上 120 米至 150 米，而建築物高度輪廓應由九龍灣商貿區漸次上升至這個中樞點。若採取主水平基準上 120 米的建築物高度限制，不但德福花園用地上的住用建築物數目可減半，還可提供更多的空間，同時亦無須在主水平基準上 22 米劃設建築物間距。	• 位於港鐵九龍灣站及港鐵車廠上蓋的德福花園及德福廣場用地劃為「其他指定用途」註明「香港鐵路車廠連上蓋的商業及住宅發展」地帶。該用地佔地逾 10 公頃，面積廣闊，闊 230 米、長約 500 米(即使不計及德福廣場的商業／辦公室發展)。該用地的住用及非住用總樓面面積分別為 278 703 平方米及 177 031 平方米。「其他指定用途」地帶

項目	申述的理由及建議	規劃署的回應
		的北部是德福花園，建築物高度限制訂為主水平基準上 60 米及 100 米，較現有住宅樓宇的建築物高度高約 10 米。「其他指定用途」地帶的東南部是德福廣場的商業／辦公室發展，建築物高度限制訂為主水平基準上 100 米，反映了現有建築物的高度。 • 鑑於用地面積廣闊，故須在車廠之上劃設建築物間距，以改善區內的空氣流通。該三道建築物間距不但能改善德福花園及德福廣場內建築物的通透度，而且還能貫通周邊的道路，形成氣道，以收預期的通風效果，對整個地區起着重要的作用。在建築物間距的土地範圍內建築物高度限為主水平基準上 22 米，正好配合現有香港鐵路車廠的高度。 • 這大幅用地須容納特定用途，包括一間鐵路車廠和一個公共運輸交匯處。因此，在現階段就制訂顧及《可持續建築設計指引》要求的概念性重建方案，以便根據方案檢討建築物高度，此舉未免過於隨意。至於這用地日後的重建計劃，由於用地需要容納上述特別功能的用途，所以可能會難以滿足《可持續建築設計指引》的要求。正如《可持續建築設計指引》(APP-152)第 12 段及附錄 E 所述，這用地很可能需要採用以效能為本的其他設計方案，但有關設計方案必須有定量空

項目	申述的理由及建議	規劃署的回應
		氣流通評估結果支持。然而，根據該檢討就建築形式所採用的假設(請參閱**附件 VIb**)，在現有的建築物高度限制和建築物間距規定下，用地可發展准許的總樓面面積，而且在建築設計上具充分彈性。根本沒有理據支持按 **R2** 的建議隨意大幅將建築物高度提高至主水平基準上 120 米及 150 米，以容納分區計劃大綱圖准許的總樓面面積。
1.4	*私營房屋的建築物高度限制*	
1.4.1	就觀塘道附近私人土地施加的建築物高度限制，比分區計劃大綱圖涵蓋範圍內公共房屋用地的建築物高度限制嚴苛。正如城市規劃委員會文件第 8820 號圖 H-4 所示，德寶花園的高程點為主水平基準上 23 米，而彩霞道另一邊的兩個公共屋邨的高程點則為主水平基準上 19.6 米及 22.5 米。然而，德寶花園限制的建築物高度(主水平基準上 120 米)較該兩個公共屋邨限制的建築物高度(主水平基準上 140 米)為低。	• 在分區計劃大綱圖上，觀塘道附近的公營房屋發展項目的建築物高度級別介乎主水平基準上 80 米至 170 米，而觀塘道附近的私人住宅發展項目的建築物高度級別則為主水平基準上 120 米及主水平基準上 140 米。這是因為該些公營房屋發展項目的地盤位於主水平基準上 20 米至 60 米的較高地方(例如彩盈邨和彩德邨)，而該些私人住宅發展項目(例如淘大花園和得寶花園)的地盤則位於主水平基準上約 5 米的地方(**R2** 所指的主水平基準上 23 米其實是得寶花園 5 樓平台層的高程點)。[得寶花園位於斜坡土地上，因此其地面層毗鄰位於主水平基準上約 5 米的牛頭角道，而平台層則位於主水平基準上 23 米(5 樓)。]公營房屋發展項目的絕對建築物高度與私人住宅發展項目相若，甚或限制更

項目	申述的理由及建議	規劃署的回應
		為嚴格(**圖 H-4d**)。
2.	**非建築用地和建築物間距**	
2.1	*不符合《城市規劃條例》原意的限制和以定點形式劃分地帶*	
2.1.1	通過劃設非建築用地和建築物間距，在同一用地內施加不同建築物高度限制，會構成「以定點形式劃分地帶」。「以定點形式劃分地帶」做法過嚴，既不恰當，亦不合法。《城市規劃條例》第3及第4條並沒有規定須劃設非建築用地。這做法有違《說明書》第3.2段所指的概括規劃發展原則，即分區計劃大綱圖的目的只是為了顯示概括的發展原則。	• 法庭已裁定，城規會在權限上有權施加建築物高度限制、非建築用地及建築物間距規定(有關上訴個案為民事上訴2012年第232及233號(希慎訴城規會)和民事上訴2012年第127及129號(東展有限公司訴城規會))。
2.1.2	概括圖則決定建築物類型和准許用途。就概括圖則的規模及概括程度而言，在有關分區計劃大綱圖上訂定後移規定並不恰當，亦不符合城市規劃的原意，更可能會受到法律挑戰。把為構成「氣道」而訂定後移規定視作可收回私人土地的公共用途，並無法律依據。	• 有關分區計劃大綱圖訂有非建築用地及建築物間距規定，但並無施加後移規定。 • 在分區計劃大綱圖上的非建築用地及建築物間距規定，是因應這些規定對更廣闊地區的重要性而決定施加。至於對私人土地擁有人的補償，一般而言，如有關建議涉及撥地興建公用通道及徵用土地作擴闊街道用途，可根據《建築物(規劃)規例》獲得額外的總樓面面積，而所有這類申請將由建築事務監督根據《建築物條例》妥為考慮。在分區計劃大綱圖上的非建築用地及建築物間距規定，主要目的是為了通風，不涉及徵用私人土地擁有人本身的土地，亦不須撥地作公用通
2.1.3	分區計劃大綱圖並非落實建築物後移及建築物間距的適當法定框架，因為擴闊道路的規定由其他條例(即《建築物條例》及《道路(工程、使用及補償)條例》(下稱「《道路條例》」))所涵蓋。該些條例提供方法，以補償因劃設後移範圍作公眾用途而失去土地的私人土地擁有人提供補償方法。	

項目	申述的理由及建議	規劃署的回應
2.1.4	由於施加後移規定的理由有欠清晰，令政府根據《建築物條例》及《道路條例》向交出土地作公共用途的私人土地擁有人作出補償一事變得不必要地複雜。	道。 • **R2** 所建議的「休憩用地」地帶在功能上有別於非建築用地。「休憩用地」地帶旨在提供休憩空間供市民享用，而且通常會獲豁免計入發展用地的地積比率。落實闢設休憩用地或會涉及收地。非建築用地則是建築設計的一部分，目的是在地面／平台騰出空間作通風之用，相關用地的發展密度不會受非建築用地影響。倘把非建築用地改劃為「休憩用地」，會影響相關用地的發展潛力。
2.1.5	提供休憩用地、公園及街道亦可作為建築物之間的「間距」。加設非建築用地這個類別似乎並無理據支持。	
2.1.6	《說明書》第 8.6 段所載有關在「其他指定用途」註明「商貿」地帶、「政府、機構或社區(1)」地帶及其他地帶劃設後移範圍的理據令人費解，亦沒有理據說明為何分區計劃大綱圖必須劃設後移範圍，或解釋為何必須訂明後移範圍的闊度，以及為何一些後移範圍必須設於地面一層，其他的則可設於主水平基準上 22 米。至於在九龍灣商貿區內最闊的街道沿途增闢後移範圍，亦是理據欠奉。	• 《說明書》第 8.6 段是關於非建築用地及建築物間距規定而非後移規定。 • 專家評估對就範圍較大的地區作空氣流通評估特別適用，以此為該區的建築物高度進行整體評估實屬恰當的做法。2010 年的空氣流通評估(城市規劃委員會文件第 10397 號附件 D)及 2019 年的最新空氣流通評估(城市規劃委員會文件第 10515 號附件 C)是根據政府就空氣流通評估所頒布的技術通告而進行。上述的空氣流通評估已對區內現時的風環境進行評估，並根據有關的建築物高度限制，就有關發展可能對行人風環境造成的影響進行定質評估，包括找出有需要關注之處，並建議可行措施以解決潛在問題。空氣流通評估報告清楚列明就非建築用地及建築

項目	申述的理由及建議	規劃署的回應
		物間距訂定具體規定的理據，當中包括：可把上述地方連接起來，擴闊沿路空間和貫通主要道路和支路，形成對地區具重要性的氣道／主要通風廊；改善通風和締造宜人的行人環境。 • 2019 年的最新空氣流通評估清楚指出，在用地設計階段，雖然《可持續建築設計指引》有助改善用地本身及其緊鄰地方的風環境，但就地區層面而言，不能有效地代替已訂定的非建築用地及建築物間距。該檢討亦確定，在考慮《可持續建築設計指引》後，非建築用地規定、建築物間距規定和建築物高度限制可容納分區計劃大綱圖的准許發展密度(載於**附件 VIb** 的城市規劃委員會文件第 10397 號附件 C3)。 • 城市規劃委員會文件第 10515 號第 3.8 段清楚列明劃設建築物間距及非建築用地的需要。由於九龍灣商貿區的地面覆蓋比率和樓宇體積比率俱高，通風狀況較弱，須予改善，故已就該商貿區具體劃設建築物間距及非建築用地，以貫通對整個地區尤為重要的氣道／主要通風廊。有關訂明闊度及高度的回應載於下文第 2.2.3 至 2.2.6 項。 • 另請參閱下文對第 2.2.1 項的回應。

項目	申述的理由及建議	規劃署的回應
2.2	*施加非建築用地及建築物間距規定*	
2.2.1	2010 年和 2019 年完成的空氣流通評估，不足以證明施加的發展限制合適，亦未有提供資料說明侵擾私人產權程度合理。空氣流通評估既無作出審慎評估，亦無考慮替代方案。非建築用地及建築物間距規定在沒有有力的證據下隨意劃設。	• 一般來說，施加非建築用地及建築物間距規定的目的，是希望改善對地區具重要性的通風情況，以及改善行人步行環境及美化區內市容。非建築用地及建築物間距規定載於《說明書》第 8.6 段。施加這些限制須視乎不同地盤環境、地盤布局及樓宇配置而定。劃為非建築用地的地方，會於分區計劃大綱圖清楚標明。在非建築用地內，不得有建於地面之上的構築物，但美化環境設施、設計上屬高透氣度的邊界圍欄／邊界圍牆，以及行人天橋或有蓋行人通道的小型構築物則除外。不過，考慮到現有發展模式及發展權的實際限制，則在區內某些地方施加建築物間距，在該範圍內不得有構築物超出大致高於平台的建築物高度限制。 • 根據政府就空氣流通評估所頒布的房屋及規劃地政局和環境運輸及工務局技術通告第 1/06 號所進行的空氣流通評估(城市規劃委員會文件第 10397 號附件 D 的 2010 年空氣流通評估及城市規劃委員會文件第 10515 號附件 C 的 2019 年空氣流通評估)，證明有需要施加有關的非建築用地及建築物間距規定。上述的空氣流通評估已對區內現時的風環境進行評估，並根據有關的建築物高度限

項目	申述的理由及建議	規劃署的回應
		制，就有關發展可能對行人風環境造成的影響進行定質評估，包括找出有需要關注之處，並建議可行措施以解決潛在問題。鑑於自 2010 年以來規劃情況不斷改變(包括《可持續建築設計指引》造成的影響、規劃區內有些用地的土地用途已經改劃，以及啟德發展區的發展密度和建築物高度限制有所增加)，2019 年空氣流通評估的目的，主要是核實 2010 年空氣流通評估所建議劃設的非建築用地及建築物間距是否仍然有效。 • 正如空氣流通評估所顯示，空氣流通取決於多項因素結合，例如地勢、城市形態及風環境／主要通風路徑等。為改善通風，應沿主要盛行風的方向闢設通風廊和增設與通風廊交接的氣道。除了增設／保留以大型空曠地帶(如幹道、互相連接的休憩用地、美化市容地帶及低層建築物走廊)連成貫穿高樓大廈密集的城市結構的通風廊外，在分區計劃大綱圖上劃設非建築用地及建築物間距，亦是改善通風的有效方法。空氣流通評估報告清楚列明就非建築用地及建築物間距訂定具體規定的理據。這些理據撮述於**附件 VII** 第 3 至 6 段，當中包括：可把上述地方連接起來，擴闊沿路空間；貫通主要道路和支路，形成對地區具重要性的氣道／主要通風廊；改善

項目	申述的理由及建議	規劃署的回應
		通風和締造宜人的行人環境。 • 2019 年空氣流通評估清楚指出，在用地設計階段，雖然《可持續建築設計指引》有助改善用地本身及其緊鄰地方的風環境，但不能有效地代替已訂定的非建築用地及建築物間距來改善地區的空氣流通。該檢討亦確定，在考慮《可持續建築設計指引》後，非建築用地規定、建築物間距規定和建築物高度限制可容納分區計劃大綱圖的准許發展密度(載於**附件 VIb** 的城市規劃委員會文件第 10397 號附件 C3)。 • 亦可參閱上文對第 2.1.4 項的回應。有關非建築用地和建築物間距指定闊度的詳細回應，見下文第 2.2.2 至 2.2.5 項。
2.2.2	<u>宏照道及宏光道兩邊闊 3 米的非建築用地</u> 闊 3 米的非建築用地限制沒有理據支持，因為這兩條道路是九龍灣商貿區最闊的道路，已發揮通風廊的作用。	• 宏照道及宏光道位於該區的中心地帶，地面覆蓋率及建築物體積比率高(**圖 H-7a**)。這兩條道路兩旁劃為「其他指定用途」註明「商貿」地帶及「商業」地帶的地段，有關的建築物高度限制較高(主水平基準上 120 米、140 米及 170 米)，並擁有寬闊的臨街立面闊。雖然在條件受限制的用地，可按最低要求劃設闊 15 米(即一條有效氣道的最少闊度)的氣道，但 2019 年空氣流通評估再次確認，道路必須擴闊至大約 30 米，以提高這兩條約 500 至 800 米長的南北向主要道路

項目	申述的理由及建議	規劃署的回應
		作為通風廊的效用，令風可吹至內陸地方。在兩條主要道路劃設非建築用地可擴闊通風廊，並有助把街道拐角渦旋引起的側向流動進入東西向的街道峽谷。 • 由於位於這兩條主要道路兩旁的地段面積普遍較大(平均面積約為 0.4 公頃，地盤深度至少約為 40 米)，因此劃設非建築用地規定不會對個別發展用地的發展潛力造成不合理的影響。舉例說，緊連宏照道金利豐國際中心(NKIL 6312)(0.43 公頃)的商業發展項目於近日落成，並已按照分區計劃大綱圖所訂明的限制劃設非建築用地。
2.2.3	<u>在 Mega Box(企業廣場五期)用地內劃設闊 15 米的建築物間距和施加主水平基準上 22 米的建築物高度限制</u> • 2010 年空氣流通評估只考慮該用地坐落在海旁位置，以及目前的樓板式發展不利於空氣流通。該評估完全忽略了用地的北面和西面設有大型休憩用地，以及用地前方的宏照道是九龍灣商貿區其中一條最闊的道路。兩幅大型休憩用地及該條寬闊的道路有助九龍灣內圍保持良好通風。倘當局考慮到該用地毗鄰的休憩用地及該條寬闊道路，對用地施加嚴格限制的需要將大大減少。該評估並沒有顧及個別用地的情況。	• 宏照道沿路的非建築用地屬於上文第 2.2.2 項所提及的主要通風廊的一部分。有關的建築物間距可形成一條風道，主要是讓南面吹來的風經「休憩用地」地帶(零碳天地用地)吹向北面的宏冠道(**圖 H-7a**)。限制建築物間距內的建築物高度(即主水平基準上 22 米，與九龍灣商貿區其他建築物間距所施加的建築物高度限制一致)和闊度是為了讓該處可發展商業用途的平台，以及讓用地設計更具彈性。該用地是九龍灣商貿區第二大的「其他指定用途」註明「商貿」地帶(約 1.2 公頃)，有長長的臨街立面(常怡道與宏照道之間約長 120 米)。2019 年空氣流通評估指

項目	申述的理由及建議	規劃署的回應
	• 2019年空氣流通評估提供了顯示氣流的簡單圖解，說明在用地劃設15米建築物間距和施加主水平基準上22米建築物高度限制的理據，並指出背風側的地方會產生一些弱風區域。專家只着眼於樓板式大廈會擋風，但忽略了風可從毗鄰空間吹過。	出，倘沒有這15米闊的建築物間距，吹盛行南風時，用地北面的背風區側可能會產生一些弱風區域。一般而言，可能出現的弱風區可以很深，最少有該建築物臨街立面的高度和闊度。因此，用地北鄰的休憩用地或行人環境會受到負面影響。由於建築物間距擬劃設於用地中間，建築物臨街立面闊度會減少，弱風區域亦會減少。 • 該用地面積大並且臨街立面長，連同位於宏照道毗鄰及東面的3幅用地(准許的建築物高度為主水平基準上170米)，會形成很深的街道峽谷，不利風由南面吹入。因此，劃設非建築用地會有助改善沿宏照道的主要南北向氣道；劃設建築物間距則會減少在吹南風時的弱風區域，減低對北面休憩用地的使用者及行人的影響。顧及該地的建築物高度限制訂為主水平基準上170米，即使施加了非建築用地及建築物間距規定，亦可為設計提供合理的彈性，以達致分區計劃大綱圖所准許的12倍地積比率(根據該檢討所採用的假設，就丙類地盤而言，要達到商業建築物12倍的地積比率，其建築物高度最少要有95米；換言之，如地盤水平高度約為主水平基準上5米，最少的建築物高度則為主水平基準上100米)。

項目	申述的理由及建議	規劃署的回應
		• 即使就用地施加 3 項限制(即建築物高度限為主水平基準上 170 米、沿宏照道劃設 3 米闊的非建築用地及 15 米闊的建築物間距)，用地仍可達致 12 倍的准許地積比率，讓用地的設計具有一些彈性。不過，考慮到 **R2** 在 2019 年 4 月 18 日的補充資料內所提出的理由(包括 Mega Box 用地北面和西面的大型休憩用地及宏照道亦可令該區維持良好的通風；在用地中間劃設一道建築物間距會較大限制項目的設計；以及《可持續建築設計指引》下的其他有助透風的建築設計措施，可在該區起到類似的通風作用，有助減少吹南風時的弱風區域，以及減低對北面休憩用地的使用者及行人的影響)，當局認為 **R2** 提出刪除 Mega Box 用地建築物間距規定的建議可以接受。不過，宏照道沿路的非建築用地，屬於該區一條主要氣道不可或缺的部分，故應予保留。
2.2.4	<u>在臨興街至常悅道劃設闊 15 米／闊 16 米的建築物間距和施加主水平基準上 22 米的建築物高度限制</u> 劃設建築物間距及施加主水平基準上 22 米的建築物高度限制，與並行或附近的通風廊的功能重疊。當局並沒有提供理據，說明劃設闊 15 米與	• 這一列的建築物間距形成一個通風走廊／氣道網絡，具有特定作用，不會與附近的其他通風廊重疊。一條氣道最少闊 15 米才能發揮效用，而在「休憩用地」地帶旁的一小塊土地劃設的氣道則闊 16 米，以配合該處的私人地段界線。訂定建築物間距範圍內的建築物高度上限和建築物間距的闊度，旨在讓

項目	申述的理由及建議	規劃署的回應
	闊 16 米的建築物間距兩者之間的分別。	作商業用途的平台可以在建築物間距內發展，並讓用地的設計具有彈性。 • 鑑於所涉的 3 塊用地面積較大(約 0.5 公頃至 2.1 公頃)，3 或 4 邊的臨街立面都很長(60 米至 170 米)(**圖 H-7a**)，從規劃的角度而言，分區計劃大綱圖對這 3 塊用地訂立建築物間距規定，以及對其中一塊用地(屬九龍灣商貿區內最大的「其他指定用途」註明「商貿」地帶，緊連宏光道，現用作巴士車廠)施加非建築用地規定，實屬合理。這幾塊用地的建築物高度限制訂為主水平基準上 140 米，上述的建築物間距和非建築用地規定不會影響用地達致分區計劃大綱圖准許的地積比率。建築物間距範圍內的建築物高度限為主水平基準上 22 米，正是要反映現時位於此走廊的最大「其他指定用途」註明「商貿」地帶內的巴士車廠高度。
2.2.5	<u>在德福花園及德福廣場用地劃設兩道闊 22 米(東西向)及一道闊 15 米(南北向)的建築物間距和施加主水平基準上 22 米的建築物高度限制</u> 未能提供理據說明劃設 22 米較闊的建築物間距而非 15 米的建築物間距「未有超越所需的程度」，因為有效氣道的闊度一般為 15 米。	• 如上文對第 1.3.3 項的回應所述，必須劃設這 3 道建築物間距，以貫通四周道路，形成氣道，以收預期具地區重要性的通風效果，同時亦可改善德福花園及德福廣場內的建築物通透度。在訂定 3 道建築物間距的擬議闊度時，大致已考慮低層建築物和休憩用地之間的毗鄰道路／氣道(宏泰道、臨華街、常悅道及大業街)的闊度。分區計劃大綱圖亦訂立

項目	申述的理由及建議	規劃署的回應
		了建築物間距內的建築物高度上限，此舉旨在規定鐵路車廠和商業用途的平台高度。現時的建築物高度限制和建築物間距讓用地可達致准許的總樓面面積。 • 請參閱上文對第 1.3.3 項的回應。
2.3	*有助促進空氣流通的有效道路闊度*	
2.3.1	根據銅鑼灣及灣仔的空氣流通評估，有效道路的闊度一般為 15 米，而該闊度符合《可持續建築設計指引》的要求。然而，2010 年空氣流通評估建議的非建築用地／建築物間距闊度遠比《可持續建築設計指引》的要求為闊，該評估明顯忽略了該指引。根據法庭在判詞中的指示，城規會現承認須將《可持續建築設計指引》視作必要考慮。該評估並非建議於狹窄的道路而是在最闊的道路劃設非建築用地。	• 銅鑼灣和灣仔的空氣流通評估顯示，為了讓風可以吹過，氣道應盡量寬闊，一條有效的氣道最少須闊 15 米。在本身條件有所限制的的用地(例如銅鑼灣及灣仔的用地，用地面積相對較小、深度相對較淺)，或只能闢出闊 15 米的氣道。至於非建築用地，實際闊度則須顧及地區情況和氣道對整個地區的重要性。九龍灣商貿區的特色，是地面覆蓋比率和樓宇體積比率俱高，通風狀況一般較弱，需要利用更有效的具地區重要性氣道改善通風。就地段面積而言，九龍灣商貿區內的發展用地所受限制一般較少，用地的臨街立面闊度和地盤深度均較大。分區計劃大綱圖把「其他指定用途」註明「商貿」用地及「商業」用地的建築物高度限制訂為主水平基準上 120 米、140 米和 170 米(約在主水平基準上 5 米的地盤水平)，讓用地的設計具有足夠彈性，以容納所准許的 12 倍地積比率。相反，在銅鑼灣和灣仔，把商業用地的建築

項目	申述的理由及建議	規劃署的回應
		物高度限制訂為主水平基準上 135 米(約在主水平基準上 4 米的地盤水平)，是為了容納 15 倍的最高地積比率。分區計劃大綱圖施加非建築用地和建築物間距規定，不會影響九龍灣商貿區內有關用地的發展潛力。由於九龍灣商貿區的地段面積普遍較大，發展項目的體積可能會較為龐大。因此，正如上文對第 2.2 項的回應所述，分區計劃大綱圖必須訂定關於非建築用地和建築物間距規定，以及訂明非建築用地和建築物間距的闊度和位置，以加強空氣流通，並貫通對整個地區尤為重要的氣道／主要通風廊。關於這些重要的氣道，倘用地所受限制相對較少，而且證實有通風方面的需要，則有合理理由要求氣道的闊度必須大於 15 米。因此，分區計劃大綱圖已在保障私人產權與改善該地區的空氣流通兩者之間取得合理平衡。

項目	申述的理由及建議	規劃署的回應
2.4	*相稱性分析*	
2.4.1	在希慎集團公司(下稱「希慎公司」)的司法覆核案中，終審法院裁定相稱性分析須依循 4 個步驟逐一進行評估[1]，但當局只依照步驟(1)及(2)(即有關限制是為了達致某合法目的，而且與之有關連)來施加非建築用地及建築物間距規定。上文所述的例子可證明城規會沒有遵照步驟(3)，即他們完全沒有試圖考慮「該措施是否未有超越為達到該目的所需的程度」。	• 在希慎集團和東展公司的終審上訴案中，終審法院察悉，身為用地業主的發展商所擁有的權利明顯十分重要，而且具有重大的憲制意義；另外，亦備悉城規會的組成和決策機制。終審法院據此得出以下結論：假設不能根據一貫的司法覆核理由推翻城市規劃限制，但法庭如信納這些限制是明顯地欠缺合理基礎，一般只可就其是否合憲予以覆核。 • **R2** 同意，藉施加建築物間距和非建築用地規定來改善地區重要氣道是合法的做法，並與該合法目的有合理關聯。 • 這些規定是當局在考慮一籃子因素(現時的路面闊度、地段大小和形狀等區內狀況、已訂立的建築物高度限制和地積比率、空氣流通方面的要求等)後而合理地訂定的。因此，有關限制並非明顯沒有合理基礎。檢討亦證明，即使顧及《可持續建築設計指引》的要求，所訂立的建築物高度限制、非建築用地和建築物間距規定(只為改善區內重要通風情

[1] 終審法院裁定，雖然事實證明城規會所施加的規劃限制侵犯土地擁有人的產權，但有關侵犯權利措施(如有的話)的法律效力由 4 個步驟的相稱性分析決定，即查究(1)該侵擾措施是否為了達致某合法目的；(2)若然，該措施是否與達致該目的有合理關聯；(3)該措施是否不超越為達致該目的所需的程度；以及倘某項侵犯權利措施已通過首 3 個步驟的驗證，相對性分析便應加入第 4 個步驟，即審視(4)從該項措施所獲得的社會利益，與受憲法保護的個人權利所受到的侵擾之間，是否已取得合理平衡，尤其須審視追求該社會利益會否導致該個別人士承受不可接受的嚴苛負擔。

項目	申述的理由及建議	規劃署的回應
		況而訂立的規定)，仍可容納分區計劃大綱圖准許的地積比率／總樓面面積，並讓設計具有彈性。由此可見，有關規定在個人權益和社會利益之間已取得合理平衡。不過，正如上文對第 2.2.3 項的回應所述，當局認為取消對 Mega Box 用地的建築物間距規定可以接受。
2.4.2	此外，沒有證據顯示 Mega Box 用地的規劃限制是在進行 4 個步驟的相稱性分析後施加。城規會規定分別在毗鄰宏照道的地段界線沿途劃設闊 3 米的非建築用地，以及在該用地中央部分劃設闊 15 米的建築物間距和施加主水平基準上 22 米的建築物高度。該兩項限制極為嚴格。城規會完全沒有試圖評估這兩項限制加起來對 Mega Box 用地擁有人所帶來的負擔。城規會在施加限制時，不僅未有遵照步驟(3)，亦未能符合評估步驟(4)的要求，即未有在個人權利與社會利益之間取得合理平衡。	• 見上文對第 2.2.2 及 2.2.3 項的回應。
2.5	*比較空氣流通評估提出的各替代方案*	
2.5.1	關於東展有限公司(下稱「東展公司」)就前啟德大廈用地提出的司法覆核，根據法庭判詞，分區計劃大綱圖所採用的空氣流通評估方法明顯存有基本問題。法庭在東展公司司法覆核案的判詞中指出，2010 年空氣流通評估研究沒有就如何紓緩前啟德大廈用地的通風影響提出替代方案，也	• 當局就分區計劃大綱圖修訂項目作出的所有空氣流通評估，評估方法是把根據多項考慮因素(地盤環境／形狀、建築物高度／布局等)而制訂的建議規限，與沒有新加限制的基本情況作比較。就分區計劃大綱圖所涵蓋的全部限制而言，由於當中的方案選項和組合

項目	申述的理由及建議	規劃署的回應
	沒有解釋為何劃設指定的非建築用地是處理通風影響的最佳方案或適當方法。至於分區計劃大綱圖內大部分其他用地，情況就更差，因為當局沒有提出任何方案與基本情況進行類似的比較。	可以多不勝數，在進行地區性空氣流通評估時，如要就不同方案選項作出評估，並不切實可行。儘管如此，當局已採取審慎做法，進行了最新的空氣流通專家評估(即 2019 年空氣流通評估)。評估再次確認有必要訂定非建築用地和建築物間距規定，而有關用地和間距的闊度要求適中，亦為設計留有合理彈性以達致分區計劃大綱圖准許的地積比率。**R2** 沒有提供技術評估，以支持其提出修訂建築物高度限制以及取消非建築用地和建築物間距規定的建議。
2.5.2	2010 年空氣流通評估研究過於籠統，無法證明施加擬議限制理由充分。在 2011 年舉行的聆聽會上，**R2** 指 2010 年空氣流通評估報告完全無法證明擬議限制是必要的或必需的，亦沒有足夠資料讓城規會可以嚴格評估擬議限制(例如對 Mega Box 用地和前啟德大廈用地施加的限制)是否必要的。2010 年空氣流通評估報告只是根據概括的資料提出一般意見。報告亦沒有解釋或提供資料，以評估相比起對私人產權造成的影響，擬議限制所帶來的利益。鑑於規劃環境有變(《可持續建築設計指引》的影響、該地區用地的改劃，以及啟德發展區的發展密度和建築物高度限制有所增加)，2010 年空氣流通評估研究已經過時，未能為施加有關發展限制提供支持理	• 當局根據法庭在相關司法覆核案中作出的判決，檢討前啟德大廈用地的發展限制。有關修訂(包括刪除非建築用地及建築物間距，以及修訂建築物高度限制)已納入 S/K13/29 內，並於 2017 年 4 月 13 日在憲報公布。 • 關於對 Mega Box 用地限制的評估，請參閱上文對第 2.2.2 及 2.2.3 項的回應。評估顯示，在顧及《可持續建築設計指引》的要求，分區計劃大綱圖所訂立的建築物高度限制、非建築用地和建築物間距規定，應可容納分區計劃大綱圖准許的地積比率／總樓面面積，並且不會對私人產權造成重要影響。 • 空氣流通評估報告清楚列明就非建築用地及建築物間距訂定具體規定的理據。這些理據

項目	申述的理由及建議	規劃署的回應
	據。	包括：可把上述地方連接起來，擴闊沿路空間；貫通主要道路和支路，形成對地區具重要性的氣道／主要通風廊；改善通風和締造宜人的行人環境。 • 如上文對第 2.5.1 項的回應所述，當局已採取審慎做法，進行了最新的空氣流通專家評估(即 2019 年空氣流通評估)。
2.5.3	2019 年空氣流通評估的方法基本上不完善，不符合法庭的判決。當局沒有按商會所建議，研究規劃限制的替代方案。最新的空氣流通評估應根據德福花園和德福廣場的更寬鬆建築物高度限制方案(例如主水平基準上 100 米和主水平基準上 120 米)評估通風表現。商會在 **R2** 提出這些建築物高度限制。	• 見上文對第 2.5 項的回應。**R2** 沒有提供技術評估，以支持其提出修訂建築物高度限制以及取消非建築用地和建築物間距的建議。
3.	**《可持續建築設計指引》的影響**	
3.1	《可持續建築設計指引》的要求在很大程度上與分區計劃大綱圖的發展管制互有重疊，特別是涉及對個別地點加入建築物高度、非建築用地、建築物間距及建築物後移等規定的發展管制。	• 根據有關檢討的結果，即使已顧及《可持續建築設計指引》的要求，有關分區計劃大綱圖所訂的建築物高度限制、非建築用地及建築物間距規定亦足以容納分區計劃大綱圖的准許發展密度。 • 《可持續建築設計指引》主要着眼個別建築物的詳細設計，而分區計劃大綱圖則旨在闡述概括的土地用途地帶和規劃原則，為地區的發展和重建提供指引。當局考慮周邊環境及其他相關規劃考慮因素後，通過在分區計
3.2	城規會和規劃署在制訂分區計劃大綱圖的發展管制時，未有試圖考慮《可持續建築設計指引》新條文的影響，亦沒有嘗試確定這兩個制度可能會某程度上互相影響或互有重疊，或兩者對土地擁有人的發展權可能造成的綜合影響。	
3.3	分區計劃大綱圖並非對建築環境施加詳細發展管	

項目	申述的理由及建議	規劃署的回應
	制的合適機制。相比之下，《建築物條例》更適宜用作實施這類管制。	劃大綱圖訂明適當的地積比率、建築物高度限制及／或上蓋面積，管制發展密度。本質上，分區計劃大綱圖較注重地區層面的整體建築物體積、公共空間和主要氣道。
4.	**制訂圖則的職能和略為放寬限制**	
4.1	城規會應把制訂圖則的職能視為最重要的職能，以訂立良好和合理的管制。倘城規會施加了不合適的管制，其後藉不當使用其規劃申請職能作出修訂，並非恰當的做法。城規會須留意不要過於依賴可申請略為放寬限制這機制，反而須確保分區計劃大綱草圖所施加的建築物高度限制符合該區的情況。	• 檢討已確認，分區計劃大綱圖上規定的發展限制，足以容納分區計劃大綱圖准許的地積比率／總樓面面積，無須依賴申請略為放寬限制，才能容納分區計劃大綱圖准許的地積比率／總樓面面積。因此，可略為放寬限制並非在分區計劃大綱圖施加擬議規劃限制的一個理由。
5.	**公眾諮詢**	
5.1	當局在分區計劃大綱圖上施加建築物高度限制、非建築用地及後移規定前並沒有進行公眾諮詢。公眾(包括發展業界)沒有機會知悉施加有關限制的理據或需要。當局亦沒有就施加特定的高度限制、非建築用地和後移規定，向公眾作出解釋。此外，公眾亦無法得知視覺影響分析的結果。	• 訂定概略城市設計指引的「香港城市設計指引」研究於 2003 年完成後，當局於 2004 年初次把有關建築物高度建議收納於有關分區計劃大綱圖，以對九龍灣商貿區及觀塘商貿區施加限制。由於當時有關商貿區內大部分用地均受制於機場高度限制／契約的建築物高度限制，而且出現大量提交建築圖則以建立「既成事實」的機會不大。因此，當局認為可在刊憲前諮詢公眾，以收集公眾對在相關分區計劃大綱圖上施加建築物高度限制的意見。當局於 2004 年就九龍灣商貿區及觀塘商貿區的臨時建築物高度管制發出城規
5.2	當局在 2004 年就九龍灣商貿區進行研究，並發出城規會規劃指引，就處理擬議建築物高度限制建議作出臨時安排。目前分區計劃大綱圖修訂項目所採用的方法違反當時所採用的方法。	

項目	申述的理由及建議	規劃署的回應
		會規劃指引，以便在關於在該兩區施加建築物高度限制的公眾諮詢有結果前作出規劃管制。 • 當局一向的既定做法，是涉及在分區計劃大綱圖上廣泛地區訂定建築物高度限制的擬議修訂項目不會在刊憲前向公眾披露，理由是在展示修訂項目前過早發放有關資料，或會令發展商加快提交建築圖則，造成既成事實，因而有違訂定建築物高度限制的目的。 • 當局已根據《城市規劃條例》的規定，展示有關分區計劃大綱圖的修訂項目，以供公眾查閱，為期兩個月。展示程序本身屬於公眾諮詢工作，讓有關人士就分區計劃大綱草圖提出申述及意見。在展示期間，規劃署亦已就有關分區計劃大綱圖的修訂項目，向觀塘區議會作簡介。當局認為以徵詢公眾意見而言，兩個月的法定展示期已很足夠，同時亦可維持有關過程的效率。
6.	**城市規劃委員會聆聽會的管理**	
6.1	城規會管理覆核聆聽會的方式，與向公眾提供全面而公平聆聽會的宗旨背道而馳。以 2010 年舉行的西營盤及上環分區計劃大綱圖申述聆聽會為例，城規會委員當日開會超過 12 小時。此做法未能給予公眾信心，相信委員已妥為考慮有關申述。	• 過去法庭的裁決曾指城規會的個別程序不公。有見及此，城規會已加強申述聆聽會的程序，以避免再次出現任何同類的程序不公。所採取措施的例子包括妥善管理每場聆聽會的時間，讓委員有足夠時間了解和閱讀相關資料，然後才就申述作出決定。

項目	申述的理由及建議	規劃署的回應
		• 關於這次就 **R2** 再作考慮，城規會已給予 **R2** 兩個月時間，為回應城市規劃委員會文件第 10397 號提交補充資料。城規會接納了 **R2** 於 2018 年 5 月 28 日提交的補充資料內的建議，並同意進行最新的技術評估，包括最新的空氣流通評估。城規會亦再給予 **R2** 兩個月時間提交補充資料，以回應城市規劃委員會文件第 10515 號。城規會已就重新舉行聆聽會發出多於一個月的預先通知，而有關文件亦已於會議前一星期發出。城規會以城市規劃委員會文件第 10397 號及第 10515 號為基礎，邀請 **R2** 出席是次聆聽會。待這次重新考慮 **R2** 的聆聽會結束後，城規會才會就 **R2** 作出決定。
7.	**申述人的建議**	
7.1	考慮到九龍灣商貿區已定立的建築物高度限制，以及東面山上發展的整體背景，把整體建築物高度限制普遍增加 20 米至 40 米實屬恰當。	• 商會建議把分區計劃大綱圖中所限定的建築物高度全面提高 20 米至 40 米。考慮到目前的建築物高度限制足以容納分區計劃大綱圖准許的總樓面面積／地積比率，以及分區計劃大綱圖內 3 個不同區域採用了梯級式建築物高度輪廓(見**附件 VII** 第 2 段及**圖 H-3**)，規劃署未能支持這項建議。上文第 1.3.3 項對放寬德福花園建築物高度限制的理由所作回應，亦適用於此。
7.2	德福花園的建築物高度限制應由主水平基準上 60/100 米修訂為主水平基準上 100/120 米。	
7.3	應撤銷分區計劃大綱圖非建築用地規定，並應劃	• 上文第 2.2 項有關非建築用地及建築物間距

項目	申述的理由及建議	規劃署的回應
	設其他用途地帶(例如「休憩用地」地帶)，以提供所需的間距或空間作通風用途。	規定的理由所作回應，亦適用於此。 • 上文第 2.2.3 及 2.2.5 項有關德福花園和 Mega Box 用地的建築物間距的理由所作回應，亦適用於此。 • 商會建議撤銷非建築用地規定，改而劃為「休憩用地」地帶，以提供間距。正如上文第 2.1 項所作回應，考慮到該建築用地和休憩用地用來達致不同的目的，規劃署未能支持這項建議。 • 商會亦建議從《註釋》中涉及申請略為放寬非建築用地及建築物間距規定的相關部分，刪除「特殊情況」的字眼。在特殊情況下，因用地有所限制而未能符合有關規定，仍可以其他形式達到規劃目的。不過，如在非特殊情況下經常放寬這些規定，累積影響所及，有關的非建築用地及建築物間距規定就會失去效用。因此，規劃署未能支持這項建議。
7.4	如要保留任何非建築用地和建築物間距規定，應在地帶的《註釋》中刪除「在特殊情況下」的字眼，以便當局日後可按個別情況考慮放寬各項限制。	
7.	應撤銷分區計劃大綱圖所有後移規定。	• 有關分區計劃大綱圖並無後移規定。

CONSULTANCY STUDY FOR AIR VENTILATION ASSESSMENT SERVICES

Cat. A1– Term Consultancy for Expert Evaluation on Air Ventilation Assessment (PLN AVA 2015)

Final Report

For an Instructed Project For Ngau Tau Kok and Kowloon Bay Planning Area

January 2019

INSTITUTE OF Future Cities

.....

by Professor Edward Ng
School of Architecture, CUHK, Shatin, NT, Hong Kong
T: 39436515 F: 26035267
E: edwardng@cuhk.edu.hk W: www.edwardng.com

Table of content

Executive summary 6
1.0 The Assignment 8
2.0 Background 9
3.0 The Wind Environment 11
4.0 Topography, Urban Morphology and Wind Environment / Major Ventilation Paths 23
Urban Morphology and Wind Environment/Major Ventilation Paths 25
5.0 Expert Evaluation of Baseline Scenario 36
The major changes since the last Expert Evaluation on Air Ventilation Assessment 2010 / Outline Zoning Plan No. S/K13/26 36
Review of Building Height Restrictions, Non-building Areas and Building Gaps 38
Implementation of Sustainable Building Design Guidelines 41
6.0 Expert Evaluation of Initial Scenario 46
7.0 Recommendations and Further Work 51
Further Design Principles 51
Appendix A 54
Appendix B 71
Appendix C 85

A list of figures/appendices

Figure 3.1 Some of the Hong Kong Observatory (HKO) weather stations in Hong Kong (a screen capture at 13:40 on 14 Sept 2018 from the HKO website) 11

Figure 3.2 The HKO weather stations at 1: Waglan Island (WGL), 2: Kai Tak 12

Figure 3.3 Wind rose of WGL weather station from 1998 to 2007 (annual) 14

Figure 3.4 Monthly wind roses of WGL weather station from 1998 to 2007 15

Figure 3.5 Wind roses of WGL weather station from 1998 to 2007 (Jan and July) 15

Figure 3.6 Wind rose of SE, Kai Tak weather station from 1998 to 2007 (annual) 16

Figure 3.7 (as an example) monthly wind roses of SE, Kai Tak weather station from 1998 to 2007 16

Figure 3.8 (as an example) Wind roses of SE, Kai Tak weather station from 1998 to 2007 (Jan and July) 17

Figure 3.9 The wind data based on MM5 simulation (taken from AVA EE 2010) 18

Figure 3.10 Wind rose for annual non-typhoon winds for Public Rental Housing of Choi Fook Estate Phase 3 and Sports Centre (at 500 mPD) (taken from AVA IS 2015) 19

Figure 3.11 Wind rose for summer non-typhoon winds for for Public Rental Housing of Choi Fook Estate Phase 3 and Sports Centre (at 500 mPD) (taken from AVA IS 2015) 19

Figure 3.12 A summary of the prevailing winds of of the Project Area 22

Figure 4.1 Topography surrounding the Project Area 24

Figure 4.2 Existing building height (mPD) 27

Figure 4.3 "Government, Institution or Community", "Open Space", and "Green Belt" zones 28

Figure 4.4 Ground Coverage Ratio map of the Project Area resolved to 100m x 100m cell area... including roads, open spaces and ground area covered by buildings and podia) 29

Figure 4.5 Building Volume Ratio map of the Project Area resolved to 100m x 100m cell 30

Figure 4.6 Air movement in the Project Area under prevailing winds from the NE, ENE, E and ESE 32

Figure 4.7 Air movement in the Project Area under prevailing winds from the SW and WSW 33

Figure 4.8 Air movement in the Project Area under prevailing winds from the N and NNE 34

Figure 4.9 Air movement in the Project Area under prevailing winds from the SE, S and SSW 35

Figure 5.1 Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/29 42

Figure 5.2 Current OZP with committed/planned developments ..... 43 - 44

Figure 5.3 Proposed Non-building Areas and Building Gaps in the OZP 45

Figure 6.1 Existing developments in Kowloon Bay Action Area (KBAA) 48

Figure 6.2 Preliminary Outline Development Plan (PODP) of KBAA 49

Figure 6.3 Air Paths in the Master Layout Plan of KBAA 50

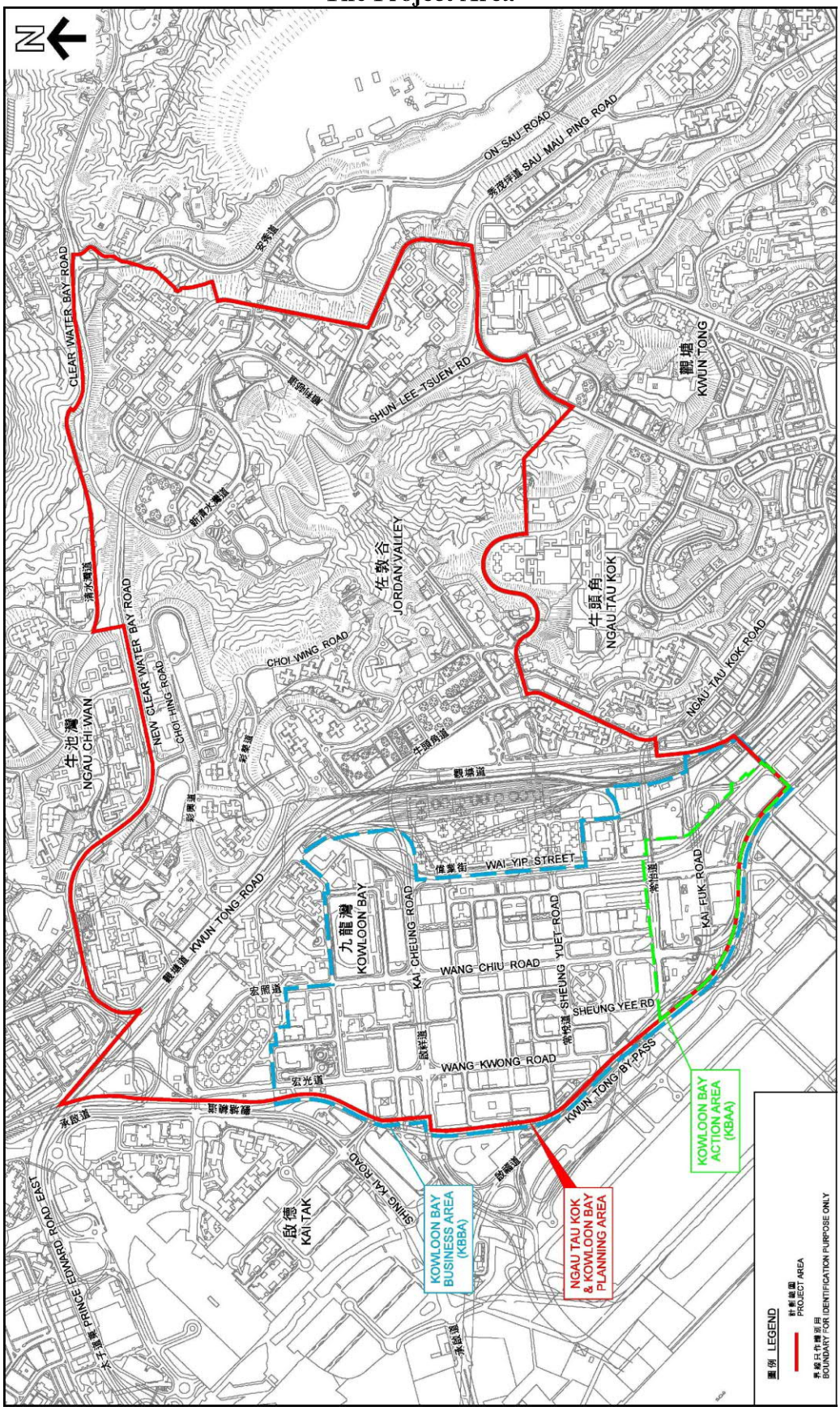
Figure A-1 The RAMS wind data extracted from Planning Department (PlanD's) website at grid x:087; y:042 55

Figure A-2 The RAMS wind data extracted from PlanD's website at grid x:087; y:043.....57
Figure A-3 The RAMS wind data extracted from PlanD's website at grid x:087; y:044.....57
Figure A-4 The RAMS wind data extracted from PlanD's website at grid x:087; y:045.....58
Figure A-5 The RAMS wind data extracted from PlanD's website at grid x:088; y:042.....59
Figure A-6 The RAMS wind data extracted from PlanD's website at grid x:088; y:043.....60
Figure A-7 The RAMS wind data extracted from PlanD's website at grid x:088; y:044.....61
Figure A-8 The RAMS wind data extracted from PlanD's website at grid x:088; y:045.....62
Figure A-9 The RAMS wind data extracted from PlanD's website at grid x:089; y:043.....63
Figure A-10 The RAMS wind data extracted from PlanD's website at grid x:089; y:044.....64
Figure A-11 The RAMS wind data extracted from PlanD's website at grid x:089; y:045.....65
Figure A-12 The RAMS wind data extracted from PlanD's website at grid x:090; y:043.....66
Figure A-13 The RAMS wind data extracted from PlanD's website at grid x:090; y:044.....67
Figure A-14 The RAMS wind data extracted from PlanD's website at grid x:090; y:045.....68
Figure A-15 The RAMS wind data extracted from PlanD's website at grid x:091; y:044.....69
Figure A-16 The RAMS wind data extracted from PlanD's website at grid x:091; y:045.....70
Figure B-1 The geometric definition of Sky View Factor.....71
Figure B-2 The figure shows a generic understanding of the wind regimes in canyons.....72
Figure B-3 The relationship between building height and street width ratio and the possible flow regimes.....79
Figure B-4 CFD study on street canyon with varying width/height.....74
Figure B-5 Wind flows around buildings.....75
Figure B-6 Flow structures in an isolated street canyon with perpendicular air flow.....76
Figure B-7 Street widening / building setback.....77
Figure B-8 Determining Lp.....78
Figure B-9 Defining the mean width of street canyon (U) and the maximum permissible continuous projected façade length (Lp).....79
Figure B-10 Assessment of permeability (P).....80
Figure B-11 Air Paths / Breezeways.....81
Figure B-12 Varying height profile to promote air movements.....82
Figure B-13 Gaps between building blocks to enhance air permeability.....82
Figure B-14 Reducing site coverage of the podia to allow more open space at grade.....83
Figure B-15 Terraced podium design.....83
Figure B-16 Linkage of roads, open spaces and low-rise buildings to form breezeways.....84
Figure B-17 Ways to create breezeways/air paths to facilitate air ventilation connectivity.....84

A list of tables

Table 1 Summary of Prevailing Wind Directions..... 20 - 21

The Project Area



Expert Evaluation Report

for an Instructed Project for Ngau Tau Kok and Kowloon Bay Planning Area

Executive summary

0.1 Wind Availability

(a) The annual prevailing winds of Ngau Tau Kok and Kowloon Bay Planning Area (the Project Area) are mainly from the N, NNE, NE, ENE, E, ESE and SE. The summer winds of the Project Area mainly come from the E, ESE, SE, S, SSW, SW and WSW.

0.2 Topography, Urban Morphology and Wind Environment / Major Ventilation Paths

(a) The ground coverage (an indication of how buildings reduce urban air ventilation potentials) in the western part of the Project Area, that includes Kowloon Bay Business Area (KBBA) and Telford Gardens and Telford Plaza is high (Figure 4.4).

(b) The Building Volume Ratio (BVR) (an indication of how buildings reduces air movement) in the western part of the Project Area, that includes KBBA and Telford Gardens and Telford Plaza is medium to high (Figure 4.5).

(c) Due to the high ground coverage and BVR, the wind condition in the area identified in Sections 0.2(a) and (b) is weak and needed to be improved. Furthermore, it is likely that in the future the building coverage and BVR will increase in this area with committed projects and future new developments. Mitigation measures, such as establishing and/or widening air paths/breezeways through the area, are needed to improve/maintain the urban air ventilation performance in this region.

0.3 Expert Evaluation of Baseline Scenario

(a) The current non-building area (NBAs) and building gaps (BGs) on the Outline Zoning Plan (OZP) were based on the recommendations of an Expert Evaluation on Air Ventilation conducted in 2010 (the AVA EE 2010). Most NBAs and BGs were imposed in the area identified in paragraphs 0.2(a) and (b) with high ground coverage and BVR.

(b) Due to dense and tall urban developments and narrow streets, the built-up areas in this OZP are generally subject to poor air ventilation. Most of the suggested NBAs and BGs in paragraph 0.3(a) above are good features for urban air ventilation at the district level in the Project Area and are therefore necessary to be maintained in the Baseline Scenario.

(c) In general, the width/location of the NBAs on the OZP are appropriate for the air paths/breezeways in the Project Area. Creation/maintenance of connected air paths/breezeways of district significance at strategic location would be important and

necessary. Sustainable building design (SBD) will be necessary at the site design stage to improve the localised wind environment inside the site and for the surrounding areas but will not be effective alternative measures.

0.4 Expert Evaluation of Initial Scenario

(a) Kowloon Bay Action Area (KBAA) is located at the southern tip of the Project Area. It should not block the prevailing winds coming into the Project Area. A separate AVA has been conducted for the on-going feasibility study of KBAA to alleviate the potential air ventilation impact created by the planned developments in KBAA. Some major air paths have been identified in this AVA (Figure 6.3) and some major design features of Preliminary Outline Development Plan (PODP) for wind enhancement have been proposed such as a designated NBA on Lot 2 (Figure 6.2). Given major design features of PODP for wind enhancement as recommended in the AVA study for KBAA and the building separation requirements under the SBD Guidelines would be fulfilled in the building design stage, the KBAA may not significantly affect the ventilation performance of its surrounding areas.

0.5 Recommendations and Further Work

(a) From the district level urban air ventilation point of view, the development restrictions/requirements in both the Baseline Scenario (namely NBAs and BGs) as indicated in Figure 5.3 and the Initial Scenario (namely NBAs, BGs and building setback) are important features for urban air ventilation of the Project Area and should therefore be maintained/pursued.

(b) From the building design point of view, the sustainable building design (SBD) Guidelines establish key building design elements to increase permeability and improve the localised wind environment at the pedestrian level near to and around the buildings.

(c) The further work of the KBAA's AVA on the Recommended Outline Development Plan (RODP) would be conducted and covered by a separate study.

(d) Amalgamated sites with bulkier buildings and longer building frontage should be carefully planned and follow the design principles set out in the Hong Kong Planning Standards and Guidelines (HKPSG), especially those listed below, and the SBD Guidelines:

- introduce variations in building height across the area;
- avoid long and continuous façades;
- reduce site coverage at grade and minimise ground coverage of podia;
- maintain "Open Space" ("O") and "Government, Institution or Community" ("G/IC") sites as air spaces and connect breezeways; and
- maximise planting of greenery in open spaces, preferably at grade.

Expert Evaluation Report

for an Instructed Project for Ngau Tau Kok and Kowloon Bay Planning Area

1.0 The Assignment

1.1 The development restrictions for the Ngau Tau Kok and Kowloon Bay Planning Area (the Project Area) are being reviewed to take account of the relevant principles and considerations set out in the court judgments on the judicial reviews (JR) in respect of the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/26 which was gazetted on 19.11.2010 incorporating amendments mainly to impose building height restrictions (BHRs) and designation of non-building areas (NBAs) and building gaps (BGs) on various development zones. The OZP has been amended three times subsequently and the latest one is OZP No. S/K13/29 gazetted on 13.4.2017.

1.2 Two JR applications were filed by The Real Estate Developers Association of Hong Kong (REDA) (JR case HCAL No. 58 of 2011) and Oriental Generation Limited (JR cases HCAL No. 62 of 2011, HCAL No. 109 of 2011, HCAL No. 34 of 2012, CACV No. 127 of 2012 and CACV No. 129 of 2012) against the Town Planning Board's (the Board) decisions on their representations in respect of the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/26 concerning issues like BHRs, NBAs, BGs, air paths, Sustainable Building Design (SBD) Guidelines, etc.

1.3 The development restrictions on the OZP including BHRs, NBAs and BGs are required to be reviewed taking into account the changing circumstances, the SBD Guidelines and updated assessments. The current NBAs and BGs on the OZP were based on the recommendations of an Expert Evaluation on Air Ventilation Assessment conducted in 2010 (the AVA EE 2010[1]). To facilitate the review of the development restrictions on the OZP, it is necessary to conduct an Expert Evaluation on Air Ventilation Assessment (AVA EE) for updating assessment on the air ventilation impacts of the development restrictions and on whether these restrictions are appropriate from air ventilation viewpoint. This assessment had taken into account the changes in the planning environment within the Planning Area (e.g. the proposed developments in the Kowloon Bay Action Area (KBAA)) and in its surrounding areas (e.g. Kai Tak Development (KTD)), and possible alternative air ventilation measures under the SBD Guidelines.

1.4 The study aims to assess the potential air ventilation impacts of the development restrictions on the OZP, to identify possible wind potential and problem areas, to examine whether the development restrictions are appropriate, and to explore and recommend alternative development restrictions/air ventilation improvement or mitigation measures where appropriate to enhance or address the possible wind potential or problems identified or improve the wind environment. The

[1] AVA EE for Ngau Tau Kok and Kowloon Bay Area (November 2010)

Project Area should be covered by a self-contained Air Ventilation Assessment (AVA) report.

1.5 This expert evaluation report is based on all previous AVA studies relating to the concerned areas, the court judgements of concerned JR cases and the materials given by Planning Department (PlanD) to the Consultant (Appendix C).

1.6 The consultant has studied the foregoing materials. During the preparation of the report, the consultant has visited the site and conducted working sessions with PlanD.

2.0 Background

2.1 PlanD's study "Feasibility Study for Establishment of Air Ventilation Assessment System" (Feasibility Study) has recommended that it is important to allow adequate air ventilation through the built environment for pedestrian comfort.

2.2 Given Hong Kong's high density urban development, the Feasibility Study opines that: "more air ventilation, the better" is the useful design guideline.

2.3 The Feasibility Study summarizes 10 qualitative guidelines for planners and designers. For the OZP level of consideration, breezeways/air paths, street grids and orientations, open spaces, NBAs, waterfront sites, scales of podium, building heights, building dispositions, and greeneries are all important strategic considerations.

2.4 The Feasibility Study also suggests that AVA could be conducted in three stages: Expert Evaluation, Initial Study, and Detailed Study. The suggestion has been adopted and incorporated into Housing Planning and Lands Bureau (HPLB) and Environment, Transport and Works Bureau (ETWB) Technical Circular no. 1/06. The key purposes of Expert Evaluation are to the following:

(a) identify good design features;
(b) identify obvious problem areas and propose some mitigation measures;
(c) define "focuses" and methodologies of the Initial and/or Detailed studies; and
(d) determine if further study should be staged into Initial Study and Detailed Study, or Detailed Study alone.

2.5 To conduct the Expert Evaluation systematically and methodologically, it is necessary to undertake the following information analysis:

(a) analyse relevant wind data as the input conditions to understand the wind environment of the Area;
(b) analyse the topographical features of the study area, as well as the surrounding areas;
(c) analyse the greenery/landscape characteristics of the study area, as well as the surrounding areas; and
(d) analyse the land use and built form of the study area, as well as the surrounding areas.

Based on the analysis of site context and topography:

(e) estimate the characteristics of the input wind conditions of the study area;
(f) identify the wind paths and wind flow characteristics of the study area through slopes, open spaces, streets, gaps and non-building areas between buildings, and low-rise buildings; also identify stagnant/problem areas, if any; and
(g) estimate the need of wind for pedestrian comfort.

Based on the analysis of the EXISTING urban conditions:

(h) evaluate the strategic role of the study area in air ventilation term;
(i) identify problematic areas which warrant attention; and
(j) identify existing "good features" that needs to be kept or strengthened.

Based on an understanding of the EXISTING urban conditions:

(k) compare the prima facie impact, merits or demerits of the different development restrictions as proposed by PlanD on air ventilation;
(l) highlight problem areas, if any. Recommend improvements and mitigation measures if possible; and
(m) identify focus areas or issues that may need further studies. Recommend appropriate technical methodologies for the study if needed.

2.6 In this particular AVA EE, the focus is put to assess the air ventilation performance of (i) the Baseline Scenario, which refers to the scenario under the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/29 with BHRs, NBAs and BGs; and (ii) the Initial Scenario, which refers to the changes introduced to the Baseline Scenario at the KBAA. It will review whether the SBD Guidelines could serve similar function without the need for imposing the current restrictions.

3.0 The Wind Environment

3.1 Hong Kong Observatory (HKO) weather stations provide useful and reliable measurement data on the wind environment in Hong Kong (Figure 3.1). There are some 46 weather stations operated by HKO in Hong Kong. Together, these stations allow for a good general understanding of the wind environment.

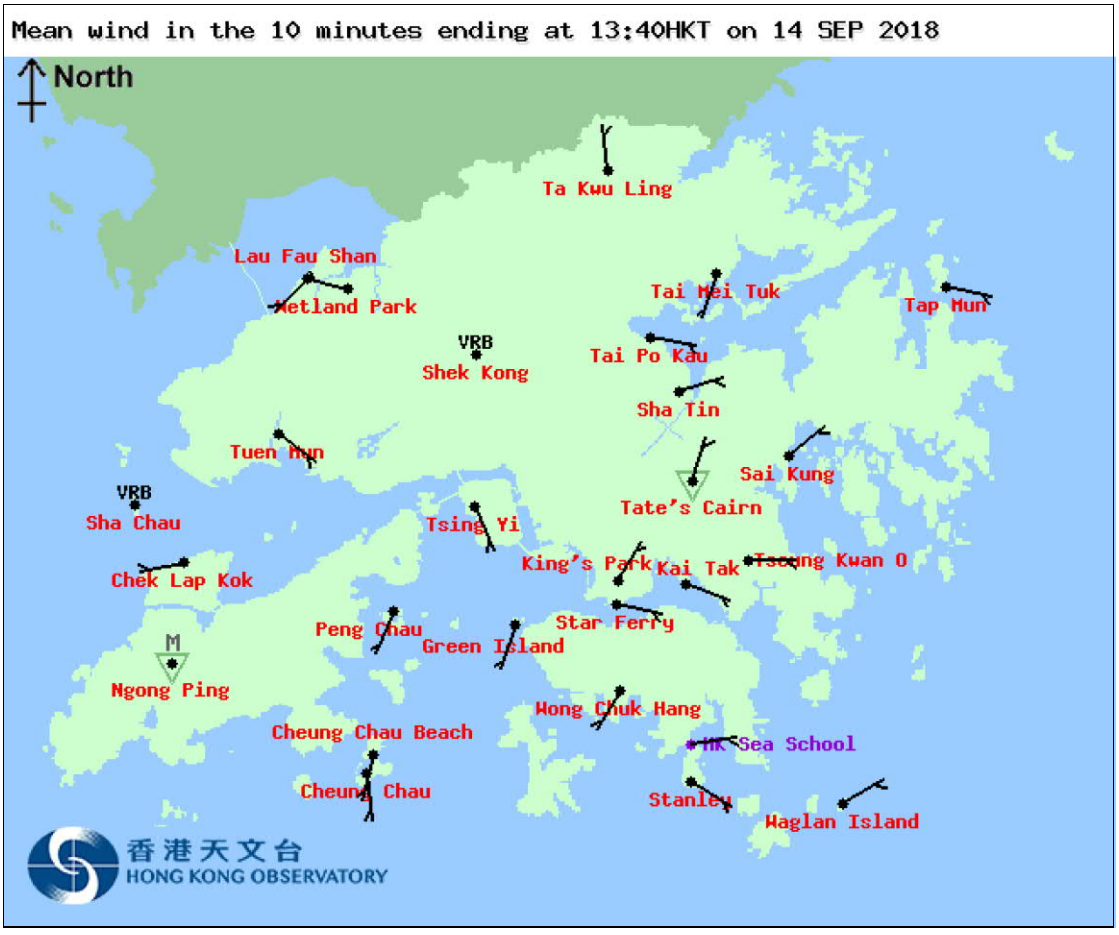


Figure 3.1 Some of the HKO weather stations in Hong Kong (a screen capture at 13:40 on 14 Sept 2018 from the HKO website)

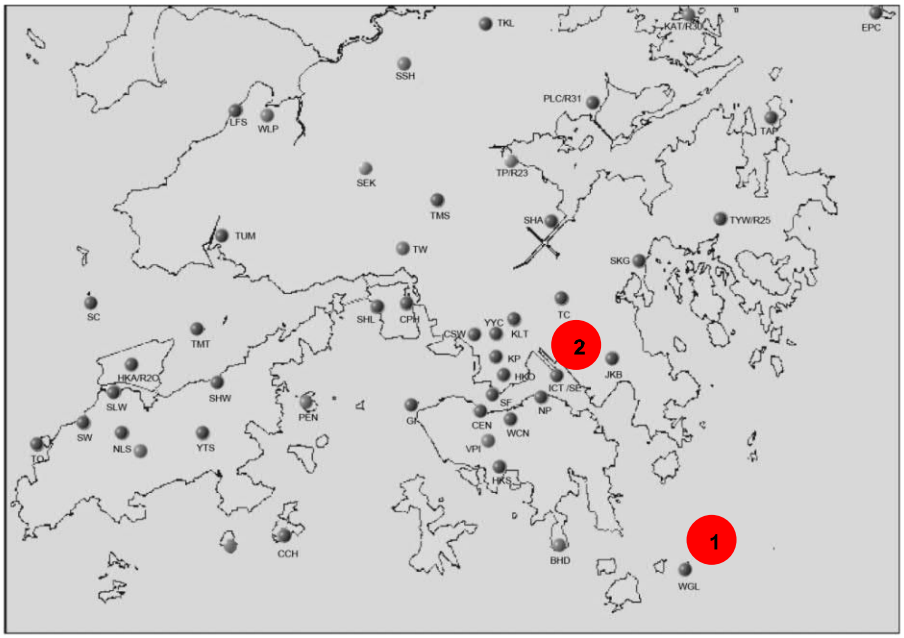


Figure 3.2 The HKO weather stations at 1: Waglan Island (WGL), 2: Kai Tak

3.2 The HKO weather station at Waglan Island (WGL) is normally regarded by wind engineers as the reference station for wind related studies (Location 1 in Figure 3.2). The station has a very long measurement record, and is unaffected by Hong Kong's complex topography. However, it is known not to be able to capture the thermally induced local wind circulation like sea breezes very well. Based on WGL wind data, AVA studies are typically employed to estimate the site wind availability taking into account the topographical features around the site.

3.3 Based on the annual wind rose of WGL weather station (Figure 3.3), it is apparent that the annual prevailing wind in Hong Kong is from the E. A major component of wind also comes from the NE; and there is a minor, but nonetheless observable component from the SW. WGL has weak to moderate wind (0.1m/s to 8.2 m/s) approximately 70% of the time.

3.4 For the AVA study, seasonally or monthly wind environment should be understood (Figures 3.4 and 3.5). During winter, the prevailing wind comes from the NE, whereas it comes from the SW during summer. As far as AVA is concerned in Hong Kong, the summer wind is very important and beneficial for thermal comfort. Hence, based on WGL data, it is very important to plan our city, on the one hand, to capture the annual wind characteristics, and on the other hand, to maximize the penetration of the summer winds (mainly from the SW) into the urban fabric.

3.5 Apart from WGL, the wind data of Kai Tak weather station (Figure 3.2) have also been extracted from HKO for reference (Figure 3.6 to Figure 3.8) as the nearest station measuring wind environment for the Project Area. It can be observed that the annual prevailing winds are mainly from the E and SE. The summer prevailing winds are mainly from the SE and SW.

3.6 Noting the limitation of the wind data of WGL weather station mentioned in paragraph 3.2, wind characteristic from the web-based database system available on PlanD's website[1] (i.e. RAMS wind data) has also been referred[2]. Data from 16 locations (i.e. x:087, y:042; x:087, y:043; x:087, y:044; x:087, y:045; x:088, y:042; x:088, y:043; x:088, y:044; x:088, y:045; x:089, y:043; x:089, y:044; x:089, y:045; x:090, y:043; x:090, y:044; x:090, y:045; x:091, y:044 and x:091, y:045), which cover the Project Area, were simulated at 200m, 300m and 500m above the ground (Figures A-1 to A-16 at Appendix A). These locations, according to the application of Regional Atmospheric Modeling System (RAMS), were selected to reflect the general wind patterns of the Project Area induced by topography. Prevailing wind directions are summarised in Table 1. As the HKO weather station at Kai Tak is not within the Project Area and the surroundings of Kai Tak are different from those of Project Area, the RAMS wind data extracted from PlanD's website is more representative to reflect the wind availability of the Project Area. It can be observed that the annual prevailing winds of the Project Area are mainly from NE, ENE, E and ESE in accordance with the RAMS wind data extracted from PlanD's website. The summer prevailing winds of Project Area are mainly from the E, SSW, SW and WSW. In general, the wind data from PlanD's website are consistent with those of Kai Tak and WGL.

[1] http://www.pland.gov.hk/pland_en/info_serv/site_wind/site_wind/index.html

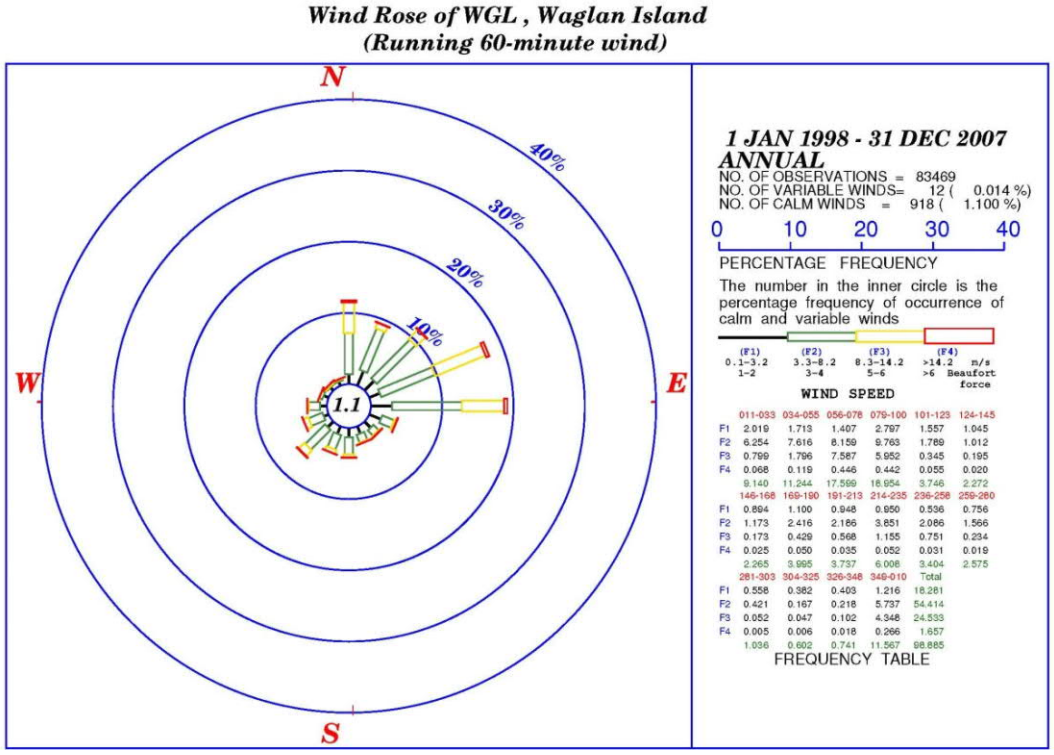


Figure 3.3 Wind rose of WGL weather station from 1998 to 2007[1] (annual)

[1] Wind data from 1998 to 2007 are the latest available 10-year data from HKO to the consultant.

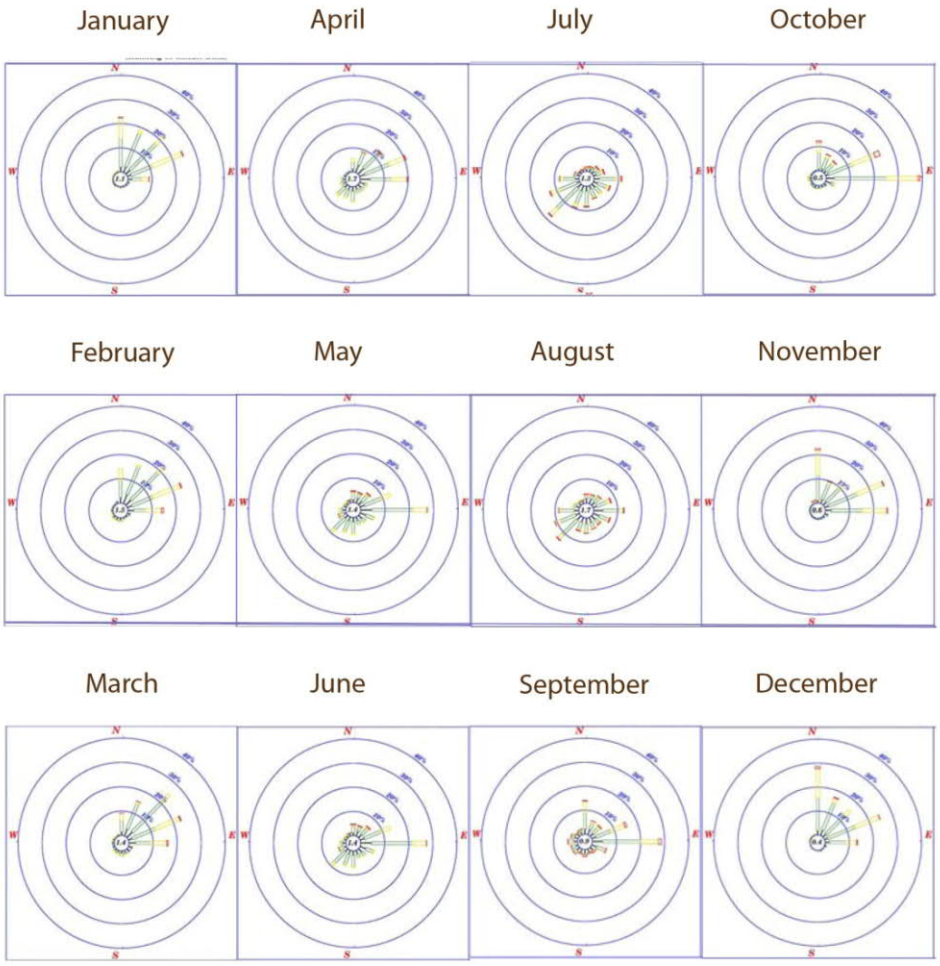


Figure 3.4 Monthly wind roses of WGL weather station from 1998 to 2007

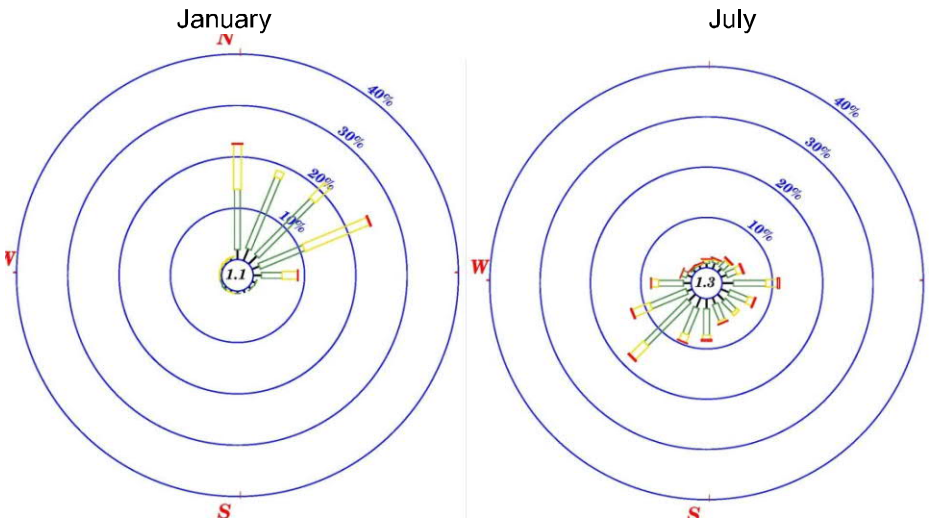


Figure 3.5 Wind roses of WGL weather station from 1998 to 2007 (Jan and July)

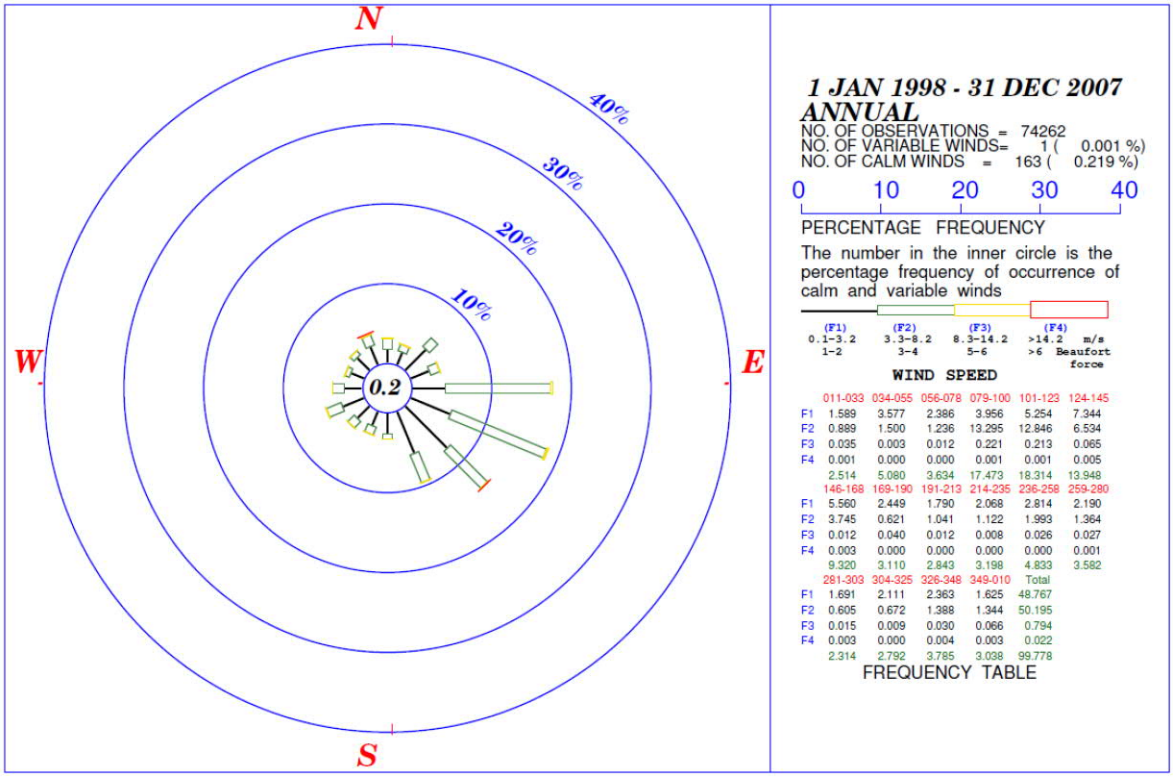


Figure 3.6 Wind rose of SE, Kai Tak weather station from 1998 to 2007 (annual)

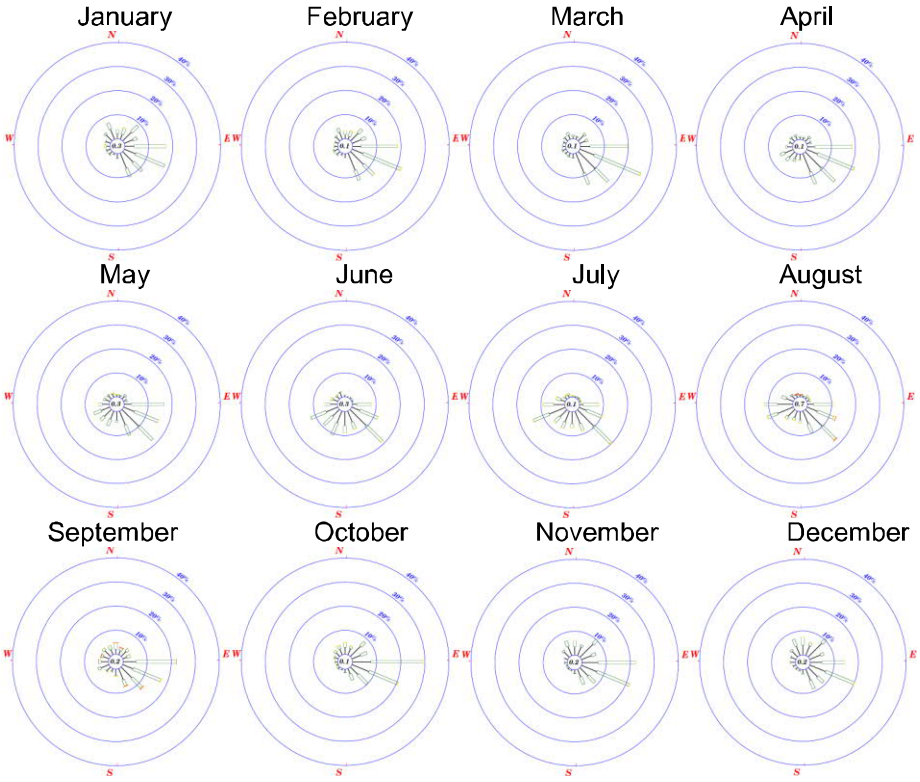


Figure 3.7 (as an example) monthly wind roses of SE, Kai Tak weather station from 1998 to 2007

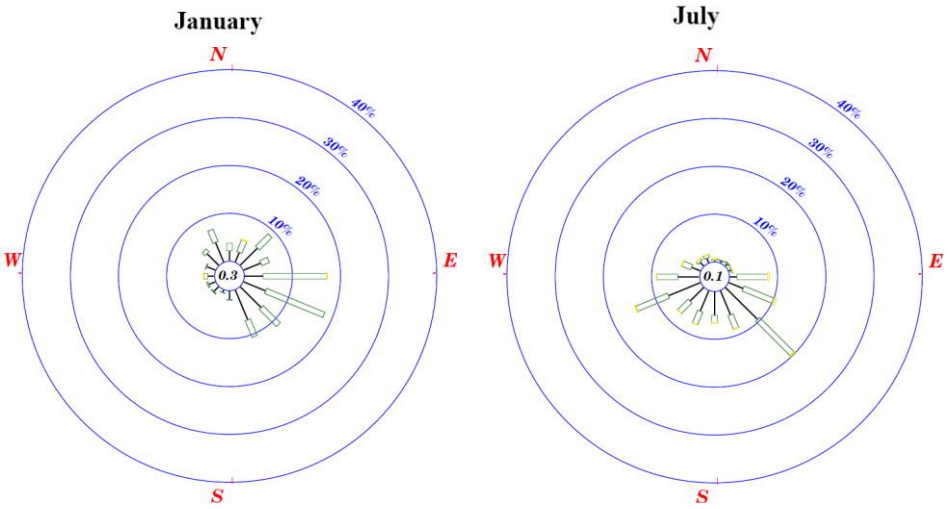


Figure 3.8 (as an example) Wind roses of SE, Kai Tak weather station from 1998 to 2007 (Jan and July)

3.7 With reference to the AVA EE 2010 for the Project Area and AVA IS 2015[1], wind availability data were also obtained from MM5 simulation performed by Hong Kong University of Science and Technology (HKUST) (Figure 3.9) and wind tunnel (Figures 3.10 and 3.11) respectively. Based on the simulated wind availability data, annual prevailing winds were identified from the E and NE quadrants, while summer prevailing winds were identified from E, SE and SW quadrants. Based on the wind tunnel data for Choi Fook Estate Phase 3 and Sport Centre, the annual prevailing winds are from N, ENE and E directions while the summer prevailing winds mainly come from E, S, SW and WSW directions.

[1] Hong Kong Housing Authority: Public Rental Housing of Choi Fook Estate Phase 3 and Sports Centre - Air Ventilation Assessment (AVA) - Initial Study (2015)

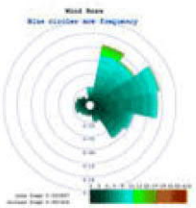
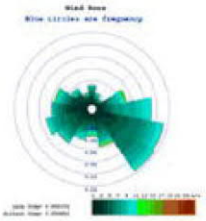
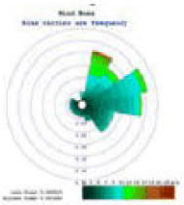
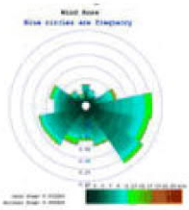
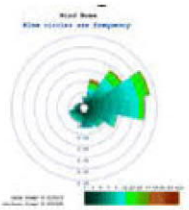
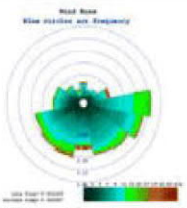
Height	Annual	Summer
60m	 Height: 60m, Angle: 16 intervals	 Height: 60m, Angle: 16 intervals
120m	 Height: 120m, Angle: 16 intervals	 Height: 120m, Angle: 16 intervals
450m	 Height: 450m, Angle: 16 intervals	 Height: 450m, Angle: 16 intervals

Figure 3.9 The wind data based on MM5 simulation (taken from AVA EE 2010)

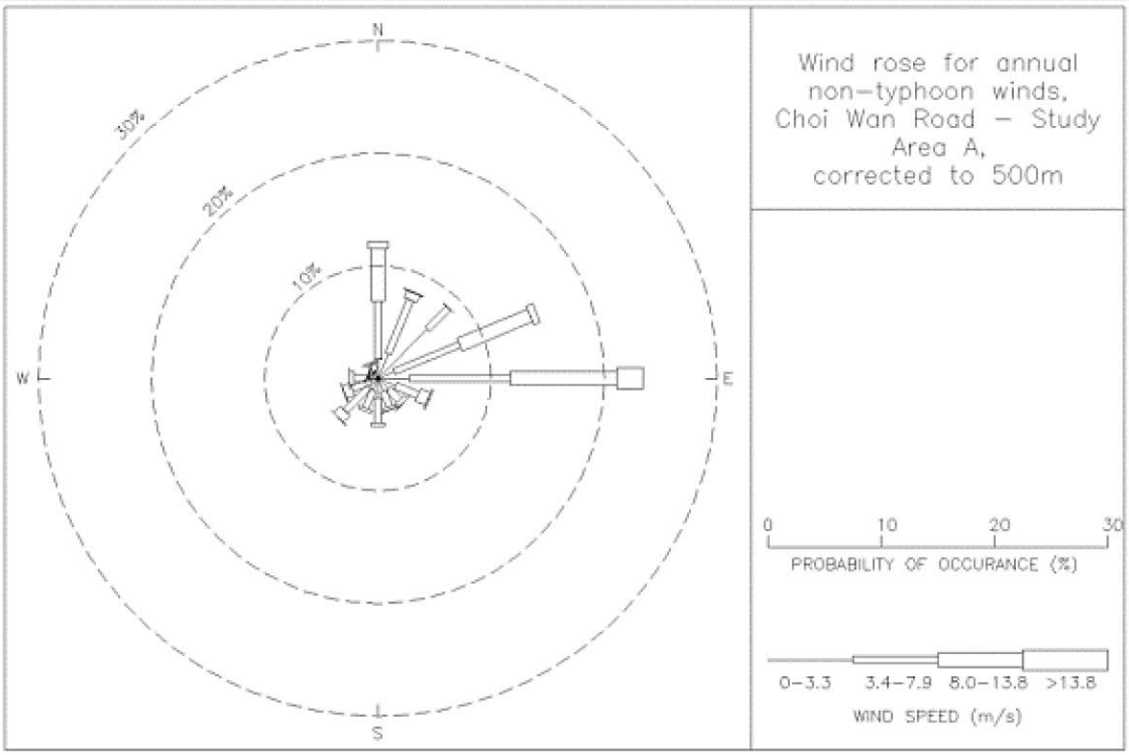


Figure 3.10 Wind rose for annual non-typhoon winds for Public Rental Housing of Choi Fook Estate Phase 3 and Sports Centre (at 500 mPD) (taken from AVA IS 2015)

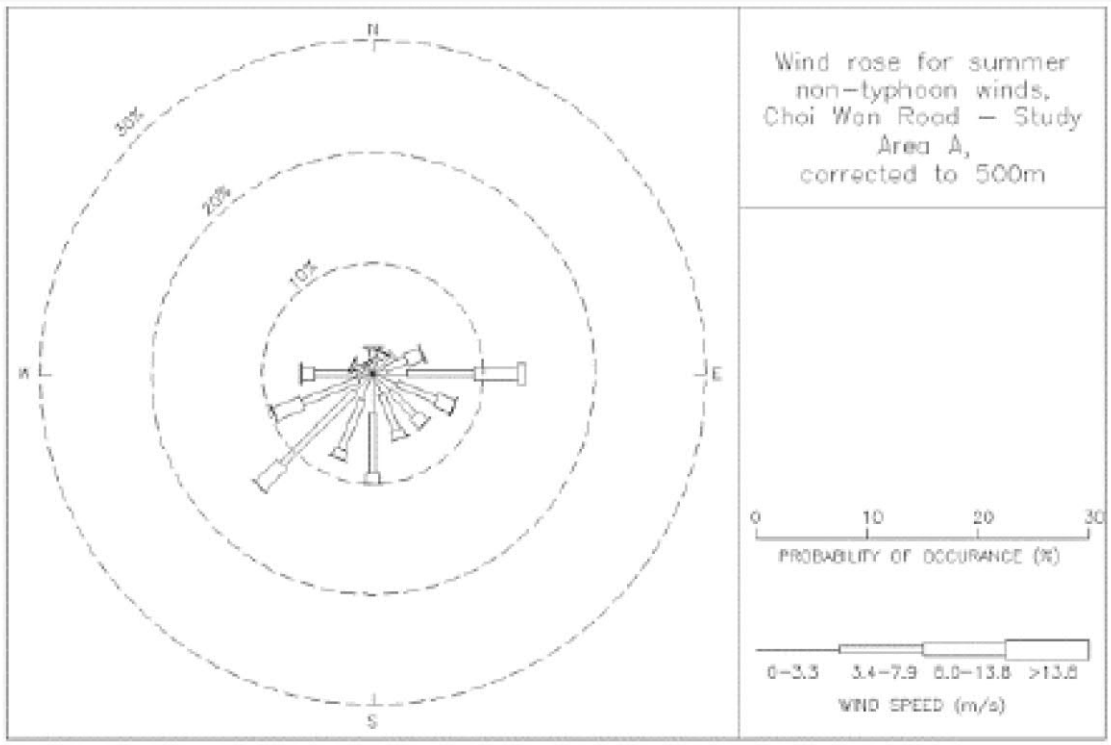


Figure 3.11 Wind rose for summer non-typhoon winds for Public Rental Housing of Choi Fook Estate Phase 3 and Sports Centre (at 500 mPD) (taken from AVA IS 2015)

3.8 In summary, based on the available wind data (Table 1) by considering that wind data provided by PlanD is likely to be more representative to reflect the wind availability of the Project Area elaborated in paragraph 3.6, it can be concluded the annual prevailing winds of the Project Area are mainly from the N, NNE, NE, ENE, E, ESE and SE. The summer winds of the Project Area mainly come from the E, ESE, SE, S, SSW, SW and WSW (Figure 3.12). This is in agreement with the previous AVA EE reports [1].

Table 1 Summary of Prevailing Wind Directions

			Period	
			Annual	Summer
HKO weather station	Kai Tak weather station		E, SE	SE, SW
RAMS Wind data provided by Planning Department	x:087; y:042	200m	E, ENE, ESE	SW, WSW, E
		300m	E, ENE, ESE	SW, WSW, E
		500m	E, ENE, ESE	SW, SSW, WSW
	x:087; y:043	200m	E, ENE, ESE	SW, E, WSW
		300m	E, ENE, ESE	SW, E, WSW
		500m	E, ENE, ESE	SW, SSW, WSW
	x:087; y:044	200m	E, ENE, ESE	SW, E, WSW
		300m	E, ENE, ESE	SW, E, WSW
		500m	E, ENE, ESE	SW, SSW, WSW
	x:087; y:045	200m	E, ENE, ESE	SW, E, WSW
		300m	E, ENE, ESE	SW, E, WSW
		500m	E, ENE, ESE	SW, SSW, WSW
	x:088; y:042	200m	E, ENE, NE	SW,WSW, E
		300m	E, ENE, NE	SW, WSW, E
		500m	E, ENE, ESE	SW, SSW, WSW
	x:088; y:043	200m	E, ENE, NE	SW, WSW, E
		300m	E, ENE, NE	SW, WSW, E
		500m	E, ENE, ESE	SW, SSW, WSW
	x:088; y:044	200m	E, ENE, ESE	SW, E, WSW
		300m	E, ENE, ESE	SW, E, WSW
		500m	E, ENE, ESE	SW, SSW, WSW
	x:088; y:045	200m	E, ENE, ESE	SW, E, WSW
		300m	E, ENE, ESE	SW, E, WSW
		500m	E, ENE, ESE	SW, SSW, WSW
	x:089;	200m	E, ENE, NE	SW, WSW, E

[1] AVA EE for Ngau Tau Kok and Kowloon Bay Area (November 2010);
AVA EE for Public Housing Development at Wang Chiu Road (September 2016); and
AVA EE for Kai Tak Mansion (KTM) (March 2017)

	y:043	300m	E, ENE, NE	SW, WSW, E
		500m	E, ENE, ESE	SW, SSW, WSW
	x:089; y:044	200m	E, ENE, NE	SW, E, WSW
		300m	E, ENE, NE	SW, E, WSW
		500m	E, ENE, ESE	SW, SSW, WSW
	x:089; y:045	200m	E, ENE, NE	SW, E, WSW
		300m	E, ENE, NE	SW, E, WSW
		500m	E, ENE, ESE	SW, SSW, WSW
	x:090; y:043	200m	E, ENE, NE	SW, WSW, E
		300m	E, ENE, NE	SW, WSW, E
		500m	E, ENE, ESE	SW, SSW, WSW
	x:090; y:044	200m	E, ENE, NE	SW, WSW, E
		300m	E, ENE, NE	SW, E, WSW
		500m	E, ENE, ESE	SW, SSW, WSW
	x:090; y:045	200m	ENE, E, NE	SW, WSW, E
		300m	E, ENE, NE	SW, WSW, E
		500m	E, ENE, ESE	SW, SSW, WSW
	x:091; y:044	200m	E, ENE, NE	SW, WSW, E
		300m	E, ENE, NE	SW, E, WSW
		500m	E, ENE, ESE	SW, SSW, WSW
	x:091; y:045	200m	ENE, E, NE	SW, E, WSW
		300m	ENE, E, NE	SW, E, WSW
		500m	E, ENE, ESE	SW, SSW, WSW
MM5 simulation (from AVA EE 2010)		60m	E, ENE, NNE	SE, ESE, E
		120m	E, ENE, NNE	SE, E, ESE
		450m	ENE, E, NE	E, ESE, SW, SE
Wind tunnel data (from AVA IS 2015)		500m	N, ENE, E	E, S, SW, WSW
Summary of wind directions			**N, NNE, NE, ENE, E, ESE, SE**	**E, ESE, SE, S SSW, SW, WSW**

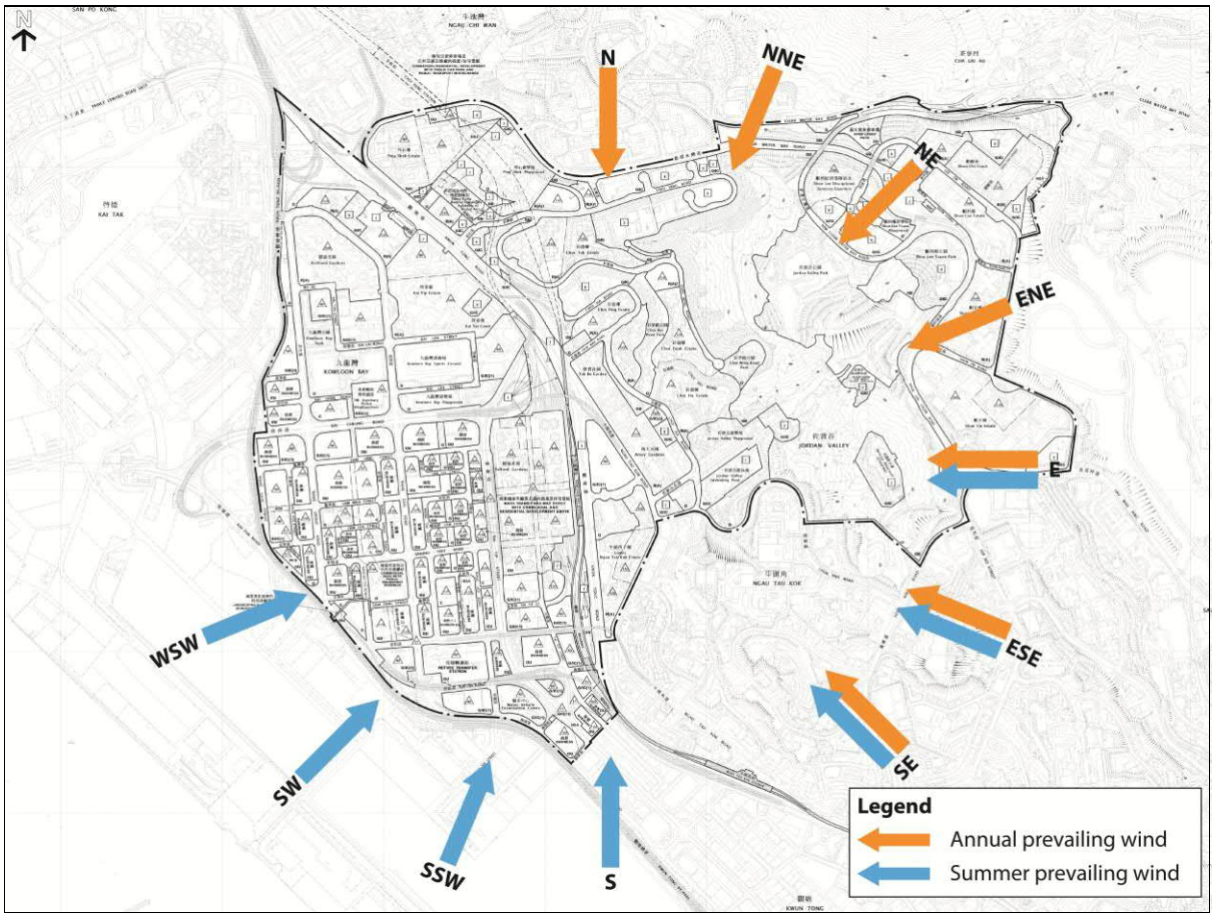


Figure 3.12 A summary of the prevailing winds of Ngau Tau Kok and Kowloon Bay Planning Area

4.0 Topography, Urban Morphology and Wind Environment / Major Ventilation Paths

4.1 The Project Area is surrounded by Hammer Hill, Kowloon Peak and Ping Shan, ascending from the low level at southwest to the high level at northeast (Figure 4.1). It includes hilly Ngau Tau Kok and Jordan Valley. The area, west of the Kwun Tong Road, is relatively flat. The area, east of the Kwun Tong Road, is hilly, and consists of Jordan Valley with vast open space areas and green belts. Katabatic (downhill) air movements at night time can be expected from the vegetated hill valleys from the northeast (Figure 4.1). Sea breeze during the daytime from the south is not significant due to the small waterbody south of the Project Area.

4.2 Prevailing winds from the north, north-easterlies and easterlies will be slowed down and weakened by the shielding effects of the hills surrounding the Project Area.

4.3 When prevailing winds come from the south-easterlies, the Project Area will not be affected by the topography but the surrounding urban developments in Ngau Tau Kok and Kwun Tong to the southeast.

4.4 KTD to the south and southwest of the Project Area is currently under construction and mostly occupied by open areas or construction sites with existing developments ranging from smaller scale low-rise/mid-rise developments to larger scale high-rise and high-density developments. Major building and park developments completed or under construction include the public rental housing (existing Kai Ching Estate and Tak Long Estate) and Home Ownership Scheme developments, government buildings (existing Trade and Industry Tower and Kai Tak Community Hall as well as planned Kowloon East Regional Headquarters and Operational Base cum Ngau Tau Kok Divisional Police Station) and 2 existing schools at the former North Apron area; the existing Kai Tak Cruise Terminal/Park, Runway Park (Phase 1)/Pier at the former Runway area; the existing fire station and Hong Kong Children's Hospital (HKCH) at the former South Apron area. When prevailing winds come from the south and south-westerlies, the Project Area will not be affected by the topography but the KTD in future.

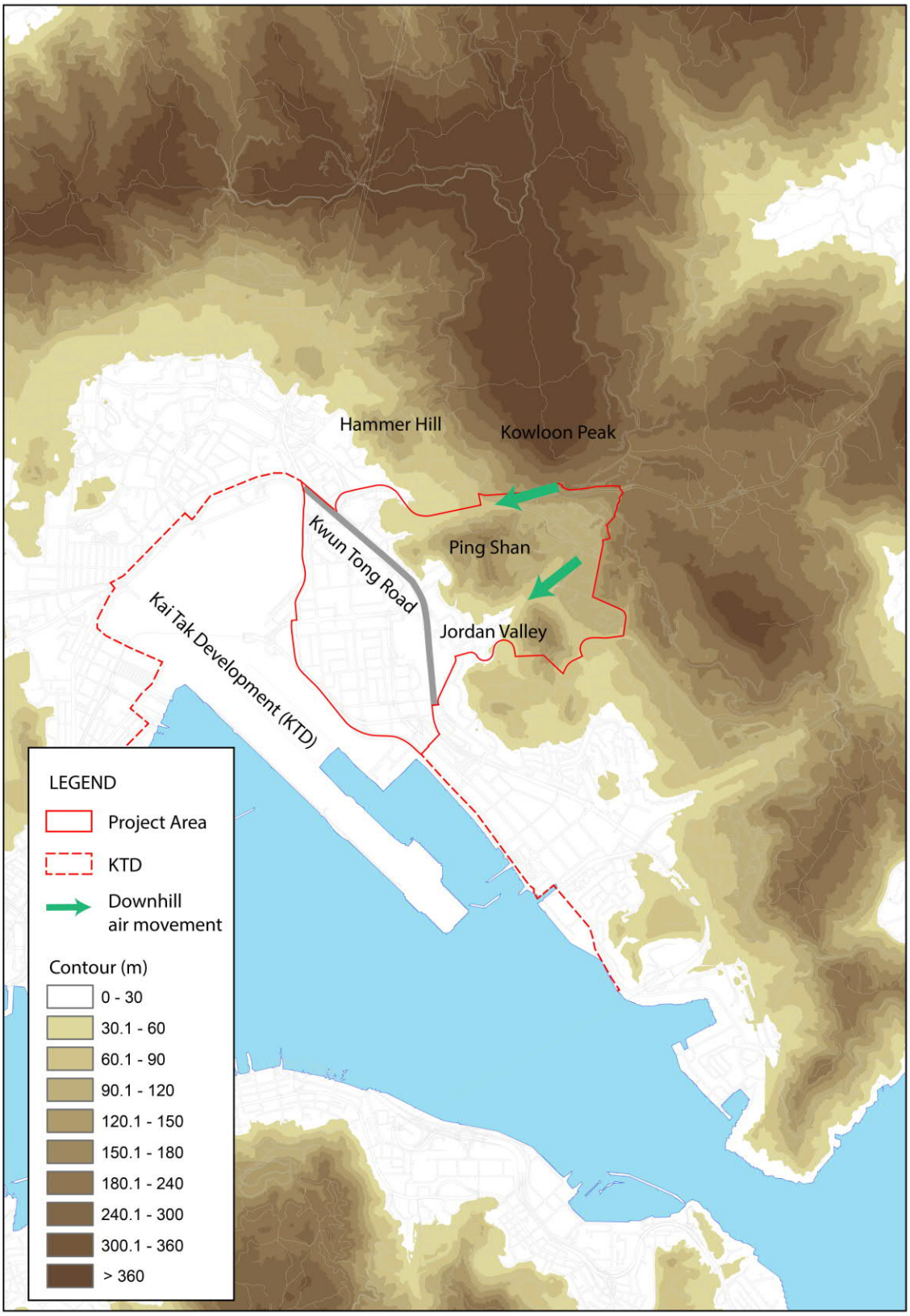


Figure 4.1 Topography surrounding the Project Area

Urban Morphology and Wind Environment / Major Ventilation Paths

4.5 The region to the west of Kwun Tong Road consists of Kowloon Bay Business Area (KBBA) with maximum building heights for commercial/business developments up to 170 mPD; the large scale commercial and residential development (Telford Plaza and Telford Gardens) to the east of KBBA with maximum building height up to 100 mPD; and residential developments to the north of KBBA with maximum building height up to 100 mPD for existing residential towers and BHR of 120 mPD for a proposed public housing development (Figure 4.2). This region also includes some "Government, Institution or Community" ("GIC"), "Open Space" ("O"), and "Green Belt" ("GB") zones as 'air spaces', which contribute to the air ventilation, such as Kowloon Bay Park, Kowloon Bay Sports Ground, Kowloon Bay Playground, Lam Wah Street Playground and Zero Carbon Building (Figure 4.3).

4.6 The region to the east of Kwun Tong Road is hilly. It consists of Ngau Tau Kok Valley to the east of Kowloon Bay and Jordan Valley with vast open space areas and green belts (Figure 4.3). This region is adjacent to Kowloon Peak and Tan Shan in the respective north and east, and should enjoy the downhill winds (i.e. katabatic wind). The centre of this region is the natural green belt of Jordan Valley, areas of larger-scale medium-rise residential developments are located along the eastern and western boundaries of this region, with existing building heights from 80mPD to 250mPD (Figures 4.2 and 4.3).

4.7 High ground coverage reduces urban porosity at the pedestrian level, thus reducing the potentials of air ventilation. As a whole, the ground coverage ratio in the eastern part of the Project Area is generally low (<30%). Ground coverage at Tak Bo Garden and Amoy Gardens is relatively high but it is isolated and surrounded by low ground coverage cells. The ground coverage ratio in the western part of the Project Area that includes KBBA and Telford Gardens and Telford Plaza is high with clusters of red cells (>50%) (in Figure 4.4). Thus, lesser wind from the west could reach the Project Area when compared with wind from the east.

4.8 High building volume increases the thermal capability and reduces urban Sky View Factor (SVF) (see Figure B-1 in Appendix B), which reduces long wave radiation back to the sky causing urban heat island. This creates higher thermal stress during the summer and a need for good air ventilation to mitigate the negative thermal effects. Researchers at Chinese University of Hong Kong (CUHK) have resolved a set of understanding based on Building Volume Ratio (BVR)[1] and SVF for Hong Kong. A decrease of 0.15 average of SVF in a 100m radius neighbourhood may result in 1 °C temperature increase[2]. As a whole, the BVR in the eastern part of

[1] Building Volume Ratio is the ratio between the cubic volume of buildings in a 100mx100m grid and the maximum building volume in Hong Kong – currently 1.2 million m3

[2] Chen, L., Ng, E., An, X., Ren, C., Lee, M., Wang, U., & He, Z. (2012). Sky view factor analysis of street canyons and its implications for daytime intra-urban air temperature differentials in high-rise, high-density urban areas of Hong Kong: a GIS-based simulation approach. International Journal of Climatology, 32(1), 121-136.

the Project Area is low (<10%) to medium (<25%) (Figure 4.4). The BVR in the western part of the Project Area that includes KBBA and Telford Gardens and Telford Plaza are ranged from medium (10-25%) to high (>25%) (Figure 4.5).

4.9 Due to the high ground coverage ratio and BVR, the wind condition in the area (centre of KBBA and Telford Gardens and Telford Plaza in Figures 4.4 & 4.5) identified in paragraphs 4.7 and 4.8 is weak and needs to be improved. Furthermore, there are some existing vacant sites or committed "Other Specified Uses" ("OU") sites for business use with BHRs up to 120 mPD at the junction of Sheung Yuet Road and Wang Tai Road in this area. It is likely that in the future the ground coverage ratio and BVR will be increased in this area with committed projects and future new developments. Mitigation measures, such as establishing and/or widening air paths through the area, are needed to improve/maintain the urban air ventilation performance in this region[1].

[1] Ng, E., Yuan, C., Chen, L., Ren, C., & Fung, J. C. (2011). Improving the wind environment in high-density cities by understanding urban morphology and surface roughness: a study in Hong Kong. Landscape and Urban planning, 101(1), 59-74.

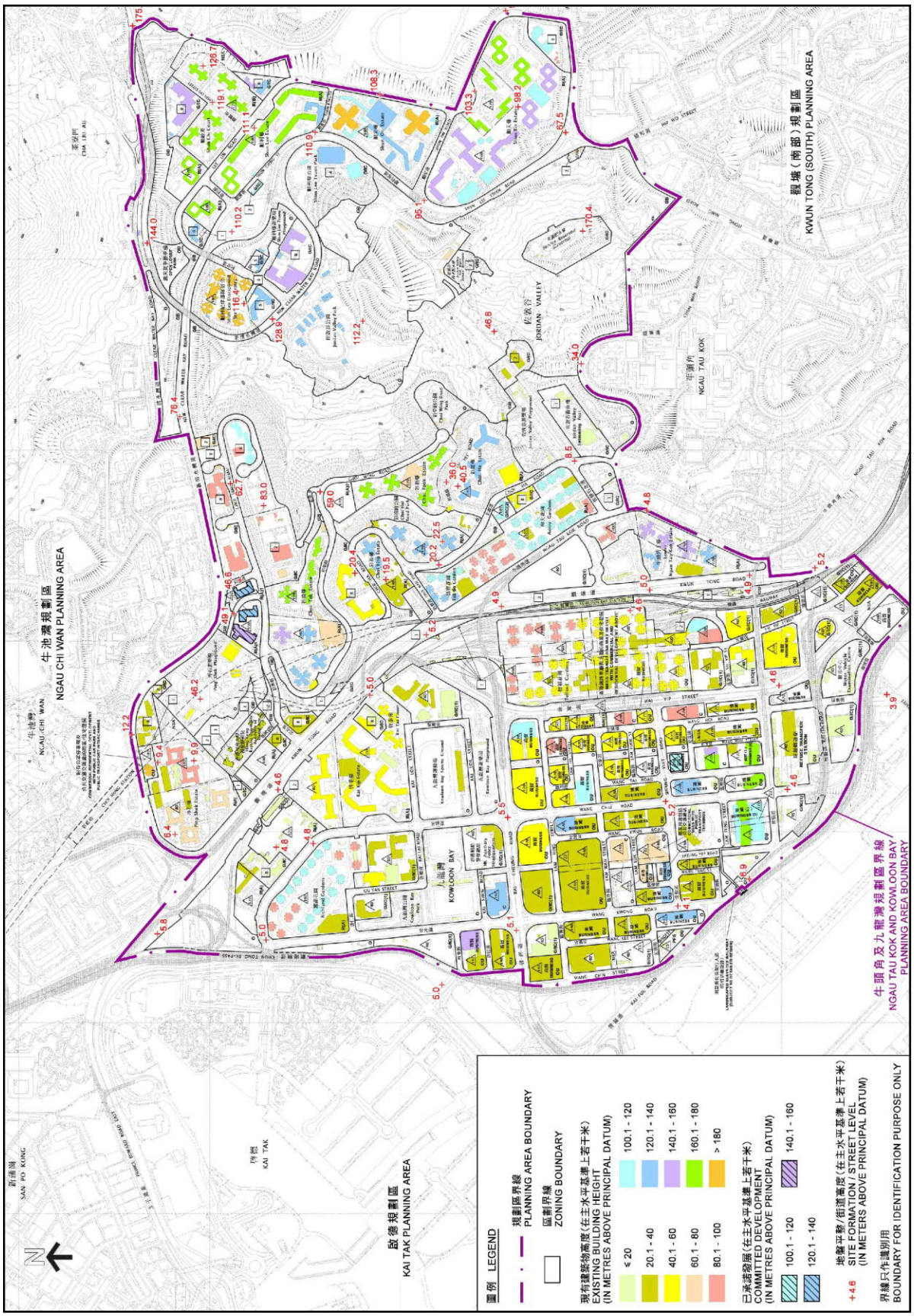


Figure 4.2 Existing building height (mPD)

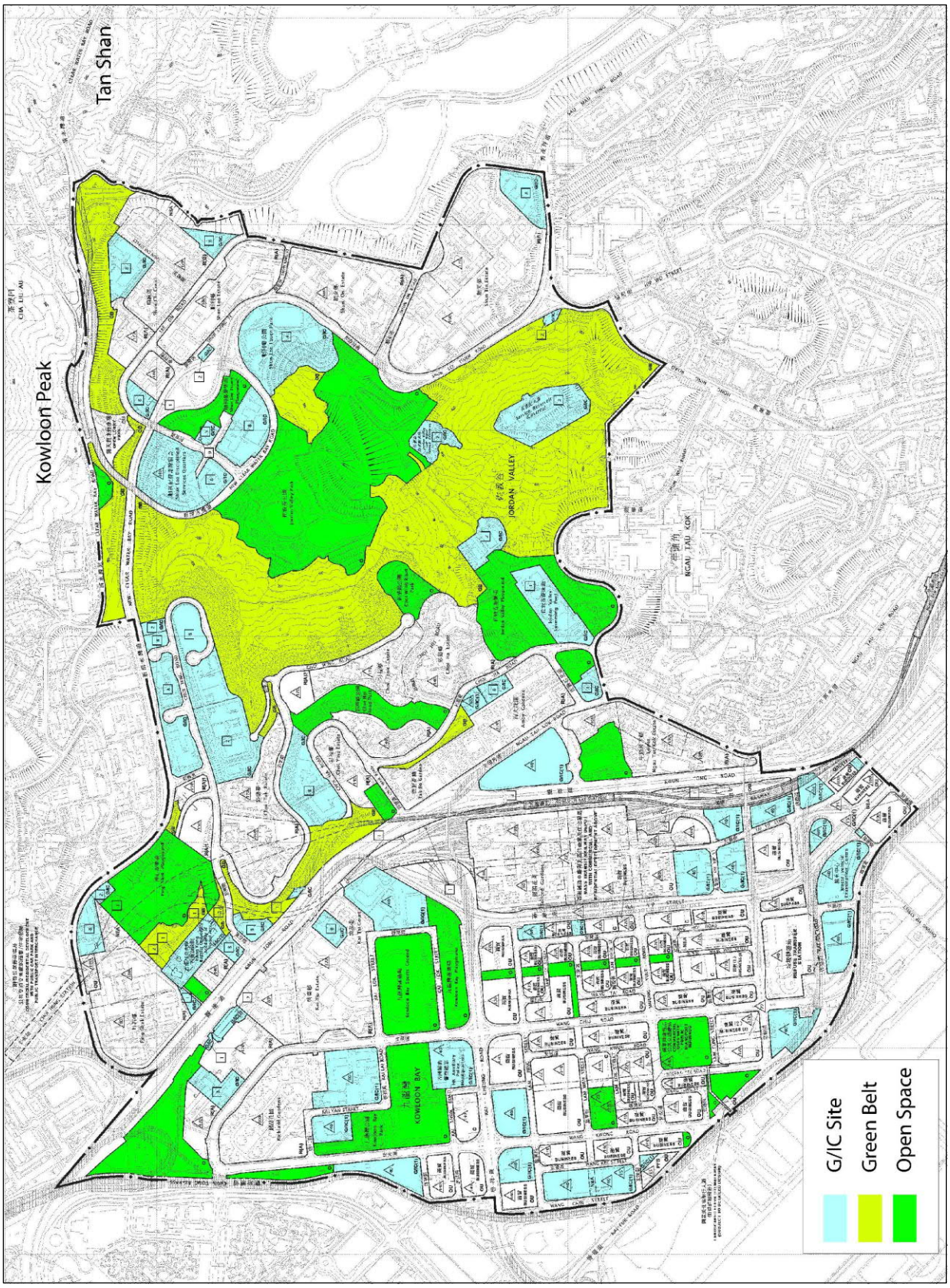


Figure 4.3 "Government, Institution or Community", "Open Space", and "Green Belt" zones

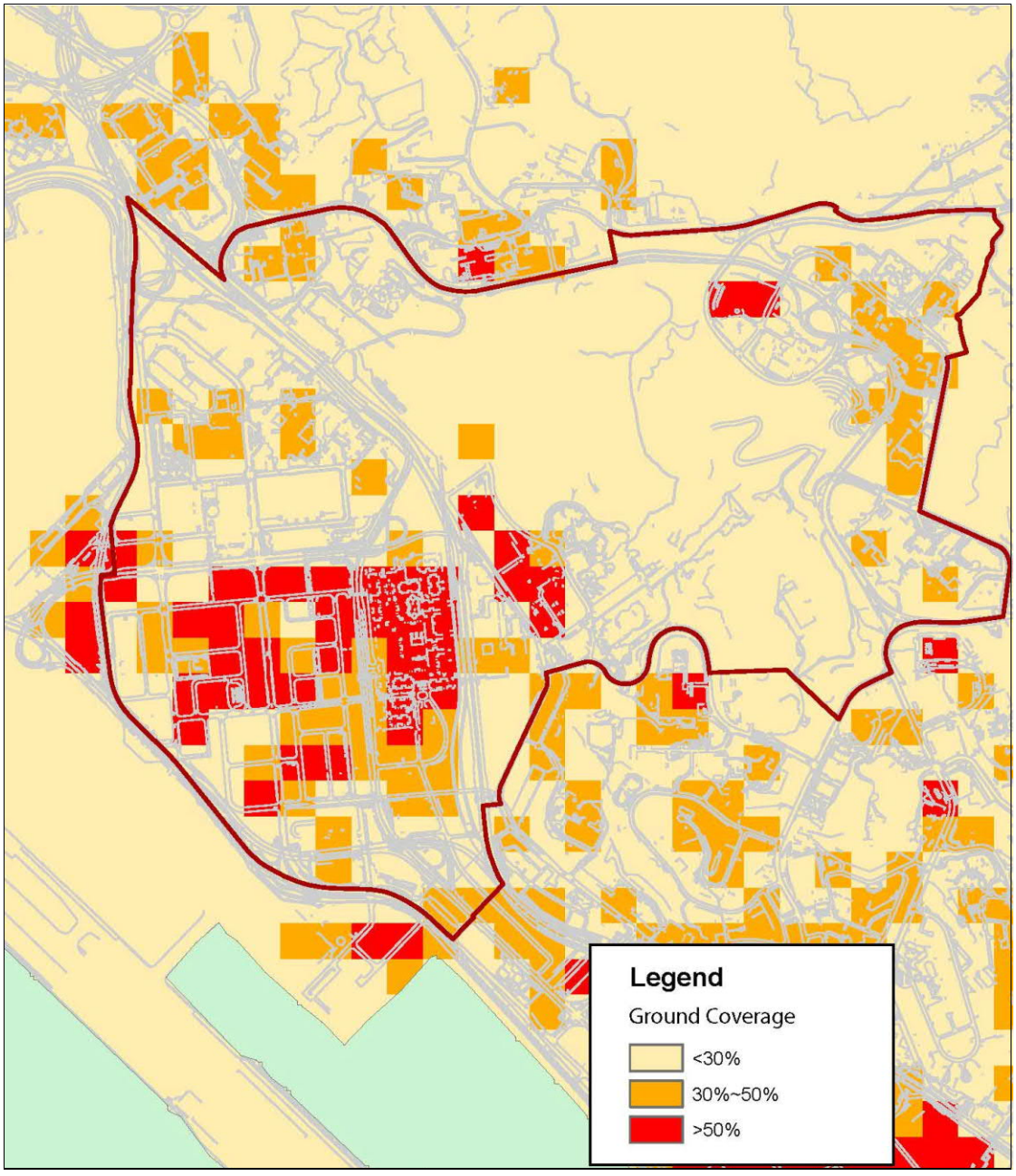


Figure 4.4 Ground Coverage Ratio map of the Project Area resolved to 100mx100m cell area (including roads, open spaces and ground area covered by buildings and podia)

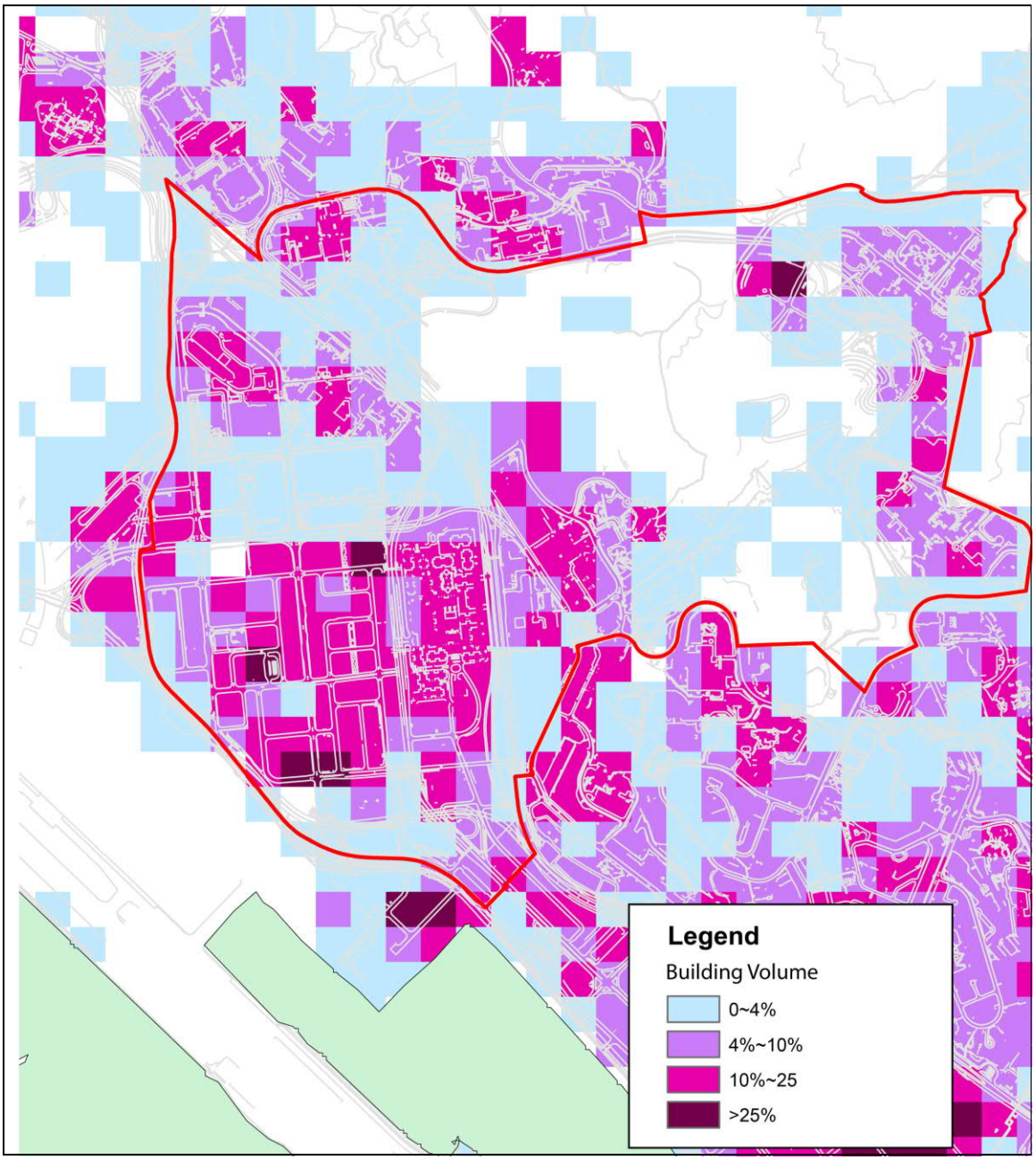


Figure 4.5 Building Volume Ratio map of the Project Area resolved to 100m x 100m cell

4.10 Major roads/streets in parallel with or less than 30 degrees to the prevailing wind directions together with open spaces and low-rise buildings can form air paths (Figures 4.6 and 4.9). The existing wind condition in the Project Area mainly relies on the existing road network and open spaces.

4.11 The area east of the Kwun Tong Road consists of large areas of open spaces. Prevailing winds can flow relatively freely through the open spaces, major roads, and over the low-rise developments (Figures 4.6 to 4.9).

4.12 The area west of the Kwun Tong Road especially KBBA is a densely built-up area. When prevailing winds come from the NE, ENE, E, ESE, WSW and SW, air movements will mostly follow the east-west direction roads and streets (Figures 4.6 and 4.7). The developments of Telford Gardens will weaken the winds from the easterlies coming into the centre of KBBA. When prevailing winds come from the N, NNE, SE, S and SSW, air movements will mostly follow the north-south direction roads and streets (Figures 4.8 and 4.9). The major north-south direction roads and streets are important for the winds from the southerly quadrant coming into the centre of KBBA and further into the area north of KBBA.

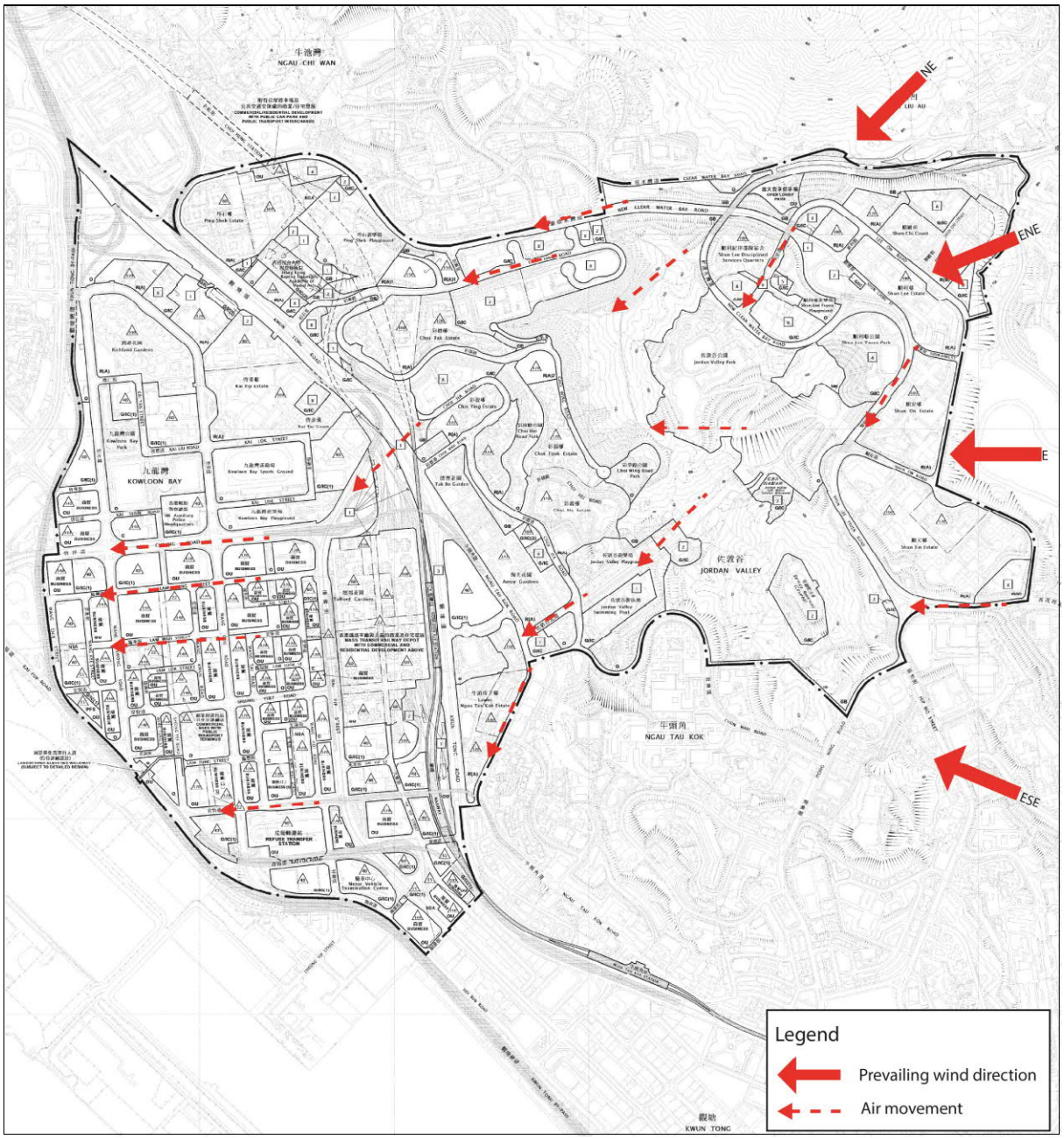


Figure 4.6 Air movement in the Project Area under prevailing winds from the NE, ENE, E and ESE

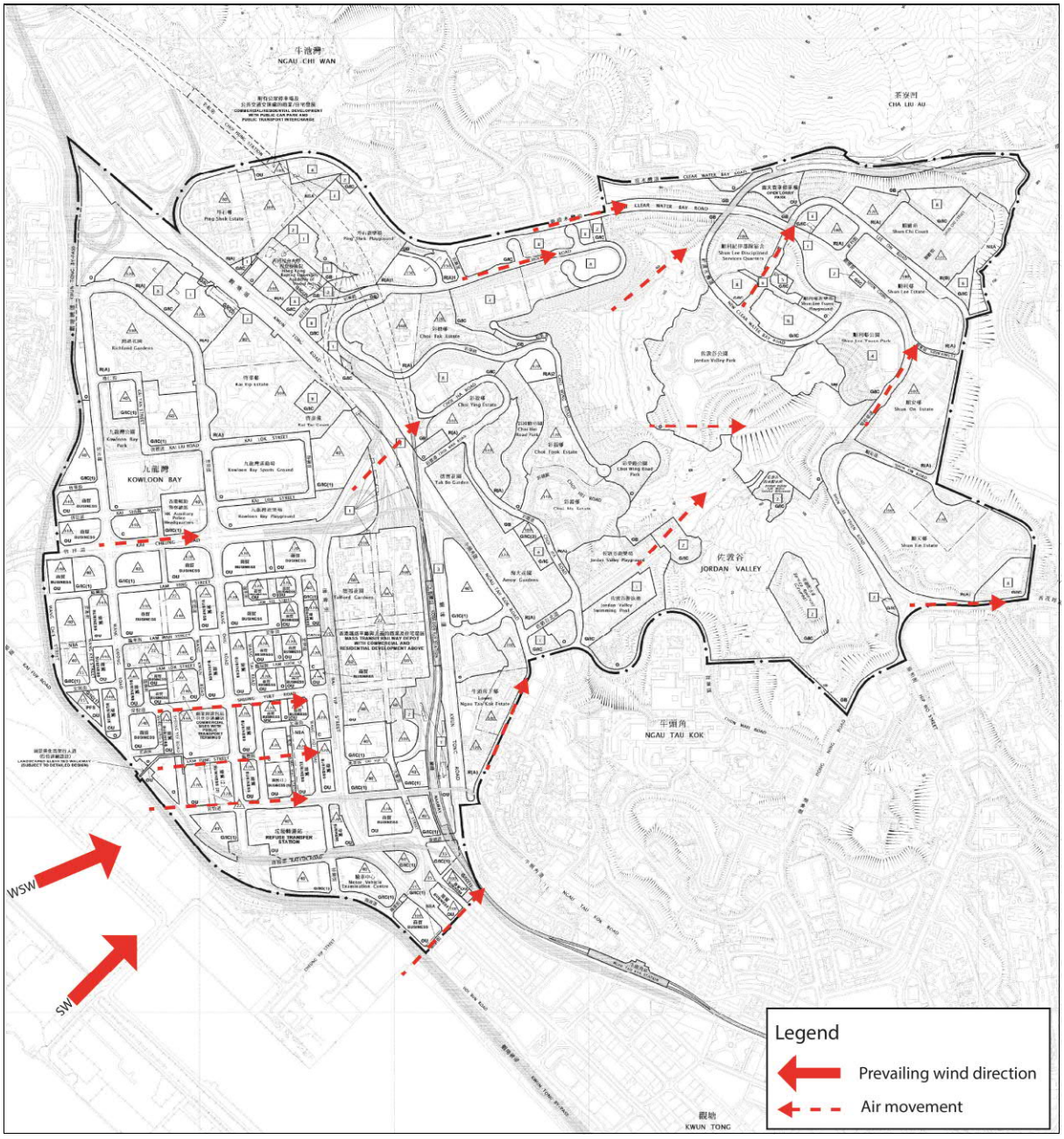


Figure 4.7 Air movement in the Project Area under prevailing winds from the SW and WSW

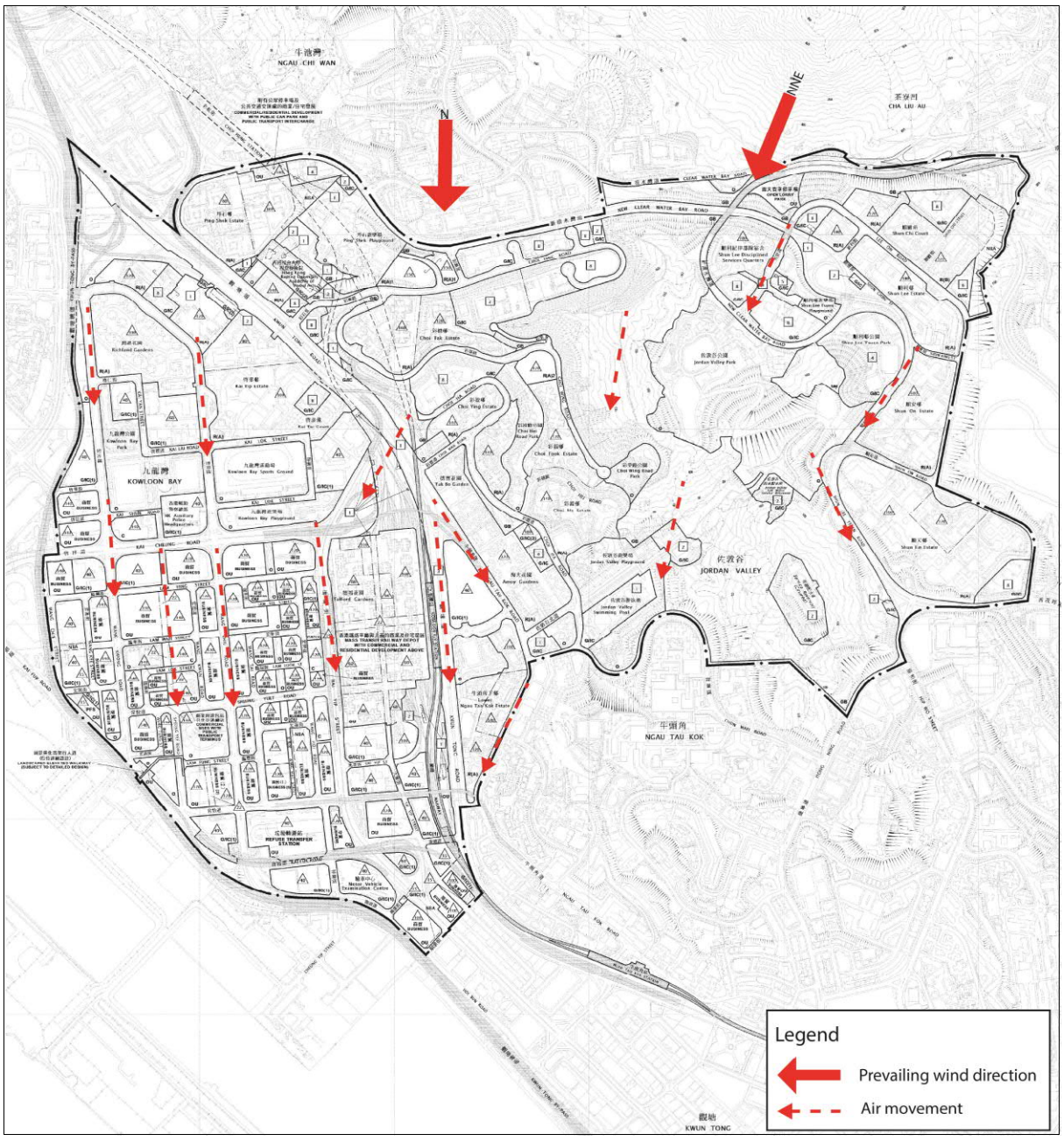


Figure 4.8 Air movement in the Project Area under prevailing winds from the N and NNE

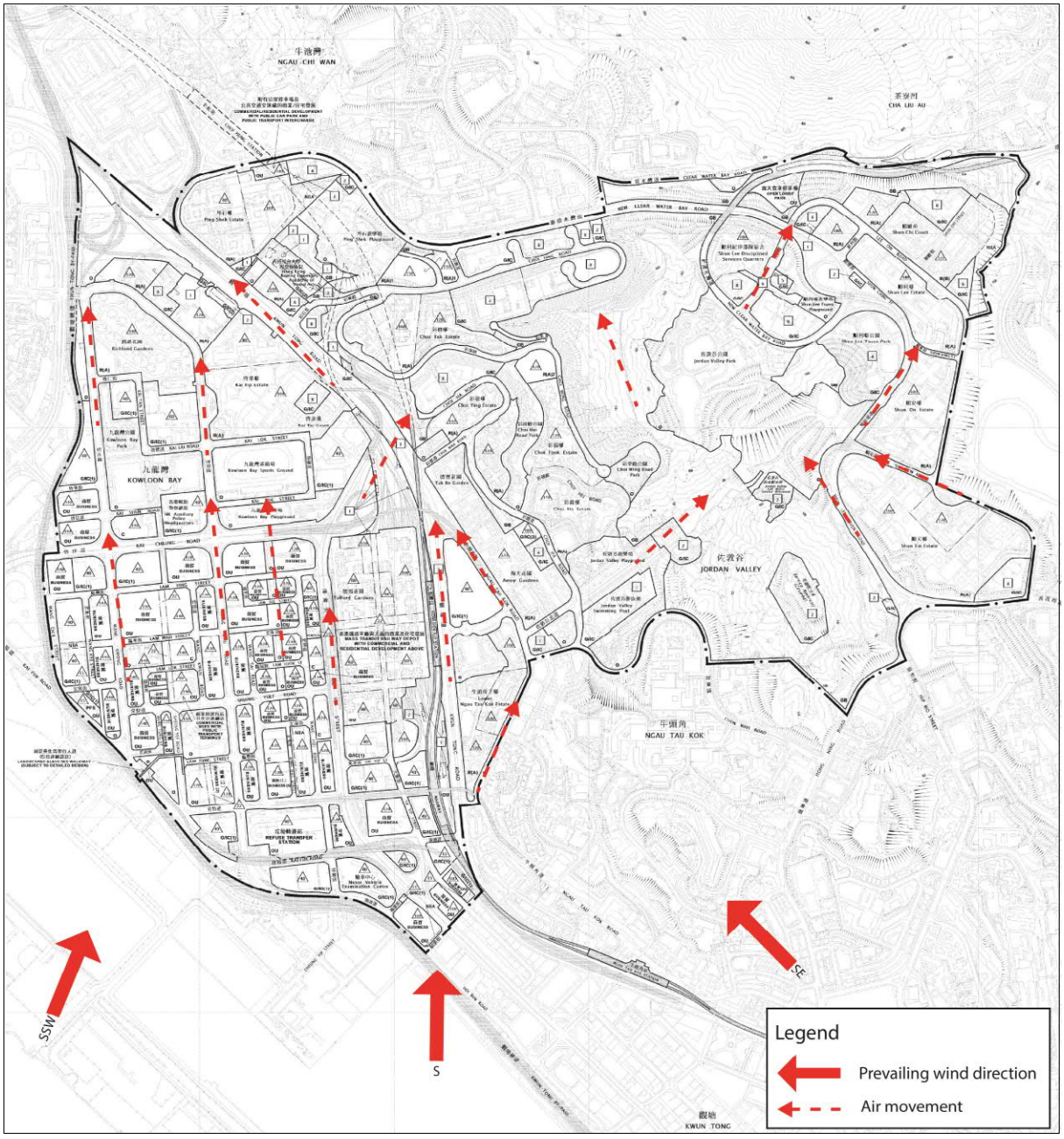


Figure 4.9 Air movement in the Project Area under prevailing winds from the SE, S and SSW

5.0 Expert Evaluation of Baseline Scenario

The major changes since the last AVA EE 2010 / OZP No.S/K13/26

5.1 The Baseline Scenario refers to the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/29 with BHRs, NBAs and BGs (Figure 5.1). In comparison with the OZP No. S/K13/26, the Project Area has some changes in land use and development restrictions in the OZP No. S/K13/29 and adjoining KTD. One of the aims of this AVA is to update the findings of previous AVA EE 2010 that was conducted for OZP No. S/K13/26 by taking into account the major changes. These changes are mainly covered by zoning amendments to the OZPs and planning applications resulting in change in land use and increase in development intensity and building height. Technical assessments including AVAs had been conducted to support these changes. BHRs, BGs and NBAs are imposed in the OZP or required in the planning briefs of public housing developments.

Public Housing Developments at Choi Hing Road and Choi Wing Road

5.2 Three sites for public housing developments at Choi Hing Road and Choi Wing Road have been rezoned from mainly "G/IC" and/or "GB" to "Residential Group (A)" "R(A)" (Sites 1-3 in Figure 5.2 (a)) and are under construction. Separate AVAs have been conducted for these sites at the rezoning/planning application stages. Site 1 and Site 2 at Choi Hing Road are not on the existing E-W air paths under prevailing easterly winds. According to the AVA study (2014)[1], building gap and disposition are recommended to improve the wind penetration in the N-S and NE-SW directions. An Initial Study on Air Ventilation Assessment (AVA IS) at the detailed design stage for Choi Hing Road development was conducted to incorporate wind enhancement features such as NBA and empty bay to further improve local wind performance. Site 3 at Choi Wing Road is not on the air paths under all prevailing wind directions. According to the AVA IS (2015)[2] submitted for a planning application for minor relaxation of BHR from 170 mPD to 190 mPD, the planned development on Site 3 has incorporated various good air ventilation measures such as building setback, reduced façade length, podium empty bay design, etc. It is unlikely to impose significant air ventilation impacts on the surrounding areas.

Public Housing and School Developments at Wang Chiu Road

5.3 A proposed site at Wang Chiu Road has been rezoned from "O" to "R(A)" and "G/IC" for public housing and school developments (Site 4 in Figure 5.2 (a)) respectively. A separate AVA EE has been conducted for the rezoning[3]. With the provision of various good air ventilation measures (e.g. NBA, building separation and

[1] Proposed Public Housing at Choi Hing Road - Air Ventilation Aspect (2014) (available at https://www.info.gov.hk/tpb/en/papers/MPC/508-mpc_6-14.pdf)
[2] Hong Kong Housing Authority: Public Rental Housing of Choi Fook Estate Phase 3 and Sports Centre - Air Ventilation Assessment (AVA) - Initial Study (2015)
[3] AVA report for Wang Chiu Road Public Housing Site (September 2017) (available at http://www.info.gov.hk/tpb/en/papers/MPC/577-mpc_1-17.pdf)

setback, etc.), the committed/planned development on this site is unlikely to impose significant air ventilation impacts on the surrounding areas. A quantitative AVA has been required in the planning brief to further explore effective mitigation measures at the detailed design stage.

Residential Development at Former Kai Tak Mansion Site

5.4 The development restrictions for the proposed residential development at former Kai Tak Mansion site (Site 5 in Figure 5.2 (a)) have been reviewed and a BHR of 140 mPD on the OZP is imposed only while air ventilation and visual impacts are to be considered at the detailed design stage. To address the localised air ventilation impact, a quantitative AVA will be required to explore effective mitigation measures at the detailed design stage[1].

Business Development at Shun Yip Street/Hung Yip Street

5.5 Two sites have been amalgamated for business development at Shun Yip Street/Hung Yip Street in KBAA by incorporating the road area between the sites into the "OU(Business)" zone (Site 6 in Figure 5.2 (b)). A separate AVA IS has been conducted for this site[2]. With the recommendation of various good air ventilation measures (e.g. setback, chamfered corner of buildings, etc.), the development which is under construction with the application of SBD Guidelines on the site is unlikely to impose significant air ventilation impacts on the surrounding areas. To enhance the ventilation performance, the AVA IS recommended incorporating building setback along Shun Yip Street which has been incorporated as NBA on the OZP (paragraph 5.17 refers).

Kai Tak Development

5.6 As discussed in paragraph 4.4, construction works for the KTD is undergoing. Having regard to the annual and summer prevailing winds of the Project Area (paragraph 3.8 and Figure 3.12), the developments in the South Apron and Runway areas would affect the wind environment of the Project Area. There have been major change in land use, increase in development intensity and building height in the South Apron and Runway areas (Figure 5.2(c)). An AVA IS for the KTD and AVA EE for the Runway area have been conducted to assess the air ventilation impacts both in KTD and on the surrounding areas. According to the AVA studies for the KTD[3], careful designs and mitigation measures to alleviate the potential air ventilation impact have been proposed for some focus areas in KTD including the

[1] Term Consultancy for Expert and Advisory Services on Air Ventilation Assessment for Instructed Project for a Proposed Residential Site at 53,53A, 55 and 55A Kwun Tong Road, Kowloon (August 2016)
[2] Executive Summary of AVA Report for the Ex-Kowloon Bay Flatted Factory site (October 2013)
[3] AVA report for Kai Tak Development Engineering Study cum Design and Construction of Advance Works - Investigation, Design and Construction (Further Review of Development Intensity) (January 2017) and AVA Report - EE Proposed Residential and Commercial Development at Kai Tak Runway (June 2017)

area to the south and southwest of the Project Area. They are summarised as follows:

- suitable building disposition to align with the prevailing winds and avoid creating blockage against existing wind corridors and the air paths;
- building height variations to promote air movements;
- further quantitative AVAs to be conducted for some sites including sites in the South Apron area adjacent to the Project Area to facilitate penetration of prevailing winds;
- NBAs, building separation and setbacks along the Runway Area to be maintained;
- building separation adopted in the design of the Twin Tower design of HKCH[1]; and
- the disposition of the 3 blocks of New Acute Hospital (NAH) has due respect to the breeze corridor across HKCH and Road D4 in KTD to enhance permeability between the waterfront and KBBA[2].

Review of BHRs, NBAs and BGs

5.7 The building height bands vary from 15mPD to 180mPD adopted for the "Commercial" ("C"), "R(A)", "R(A)1", "R(A)2", "Residential (Group B)" "R(B)", "G/IC(1)", "G/IC(3)" and "OU" zones on the OZP No. S/K13/29 (Figure 5.1). The Project Area has high average height-to-width (H/W) ratio, high Frontal Area Density (FAD). Especially, the existing wind condition in the area west to the Kwun Tong Road is weak as discussed in paragraphs 4.7 and 4.8.

5.8 For high-density cities with tall buildings, the H/W ratio is already high (normally greater than 2:1), it is difficult for winds from above the rooftops to reach the pedestrian level. For H/W greater than 2:1, a double air circulation vortex will begin to form within the street canyon and air ventilation at the ground level will be poor (See Figures B-2, B-3 and B-4 in Appendix B).

5.9 The current H/W ratio of the Project Area is already high and hence the wind condition at the pedestrian level is weak as discussed in paragraph 5.8. As such, it is more effective to introduce gaps between buildings, enlarge the air space nearer to the ground levels, introducing NBAs and BGs to allow winds to benefit the pedestrian wind environment.

5.10 The current NBAs and BGs on the OZP (Figure 5.3) were based on the recommendations of the AVA EE 2010. Most NBAs and BGs were imposed in the area identified in paragraphs 4.7 and 4.8 to mitigate the problem areas.

[1] AVA Report for Establishment of Centre of Excellence in Paediatrics in Kai Tak Development (Programme Nos.: 76MM) (February 2012)
[2] Harbourfront Commission Presentation: New Acute Hospital (2018)

BGs at Telford Gardens and Telford Plaza

5.11 Within the "OU" zone covering Telford Gardens and Telford Plaza, three BGs with BHR of 22mPD are imposed (Figure 5.3). As discussed in paragraph 4.12, the developments of Telford Gardens have weakened the winds from the easterly quadrant to reach the centre of KBBA. The northern 22m-wide BG running in an east-west direction that connect Wang Tai Road and the G/IC site west of Kwun Tong Road facilitates easterly prevailing winds flowing along Wang Tai Road and Lam Wah Street further into KTD through 15m-wide NBA G/IC(1) site south of the Hongkong Post Central Mail Centre. The southern 22m-wide BG running in an east-west direction that connect Sheung Yuet Road to facilitate easterly prevailing winds flowing along Sheung Yuet Road. The 15m-wide BG running in a north-south direction facilitates penetration of southerly prevailing winds flowing from Tai Yip Street to Kai Cheung Road. Not only improving the building permeability within Telford Gardens and Telford Plaza, the three BGs are important for linking the surrounding roads to form air paths to achieve the intended air ventilation performance of district significance.

BGs extending from Sheung Yee Road for Sites between Lam Wah Street and Sheung Yuet Road

5.12 Three 15m/16m-wide BGs at 22mPD are imposed on three sites zoned "C", "OU(Business)" and "OU(Commercial Uses with Public Transport Terminus") which serve as effective air paths to extend the existing air paths at Sheung Yee Road northwards to Lam Hing Street for facilitating penetration of the southerly prevailing winds (Figure 5.3). While 15m is the minimum width for an effective air path, one 16m-width was designated due to the site circumstance.

BGs at Enterprise Square Five (Mega Box)

5.13 A 15m-wide BG at 22mPD was stipulated on the "OU(Business)2" zone (the Mega Box) to form a wind corridor mainly for incoming southerly winds upon its redevelopment to connect through the "O" zone to Wang Kwun Road in the north (Figure 5.3). Under the current AVA Study, the worst case scenario has been assumed that there would be wake area on the leeward side of the building upon encountering the impermeable building. Without providing this 15m-wide BG, the developments in the subject site are likely to create some wake areas under prevailing southerly wind on the leeward side north of the site. In general, the depth of the possible wake area could be at least the height or the width of the frontal area of the building (see Figures B-3 and B-5 in the Appendix B). The proposed BG in the middle of the site could minimize the wake areas by reducing the width of the frontal area of the building.

NBA south of Hong Kong Post Central Mail Centre

5.14 A 15m-wide NBA is stipulated within the "G/IC(1)" zone that is designated for the Hongkong Post Headquarters (Figure 5.3). This NBA has district significance to extend the air path for the easterly prevailing winds along Lam Wah Street and

further into KTD and to let the westerly winds flow into KBBA through the Kwun Tong Bypass and the open space between Kwun Tong Bypass and Kai Fuk Road in KTD.

NBAs at Wang Chiu Road and Wang Kwong Road

5.15 3m-wide NBAs are imposed along both sides of Wang Chiu Road and Wang Kwong Road (Figure 5.3). Wang Chiu Road and Wang Kwong Road are in the centre of the area with high ground coverage and BVR identified in paragraphs 4.7 and 4.8. They are major breezeways running in north-south direction for the summer prevailing winds from the southerly quadrant. The proposed 3m NBAs would further widen the breezeways at Wang Chiu Road and Wang Kwong Road which are considered as major wind corridors in KBBA. In addition, the NBAs that widen the breezeways of the north-south oriented Wang Chiu Road and Wang Kwong Road can aid the lateral flow induced by corner eddies (see Figure B-6 in Appendix B) to enter into the east-west oriented street canyons. For long street canyons, air ventilation effects by corner vortices fade with increasing length-to-width (L/W) ratios of streets[1]. Due to the tall height of buildings along Wang Chiu Road and Wang Kwong Road, it is difficult for southerly winds from above the rooftops to penetrate down to the street level for the east-west oriented street canyons as mentioned in paragraph 5.8. Lateral flow induced by horizontal vortices at lower levels become important for the penetration of air movement into the east-west street canyons under prevailing summer winds from the southerly quadrant.

NBA at Wang Mau Street

5.16 The 5m-wide NBA is stipulated along Wang Mau Street (Figure 5.3) serves to widen the air path of the street for more effective air ventilation by connecting with the row of linear open space in the north up to Kai Cheung Road.

NBA at Shun Yip Street

5.17 A 5m-wide NBA is stipulated along Shun Yip Street (Figure 5.3). It can reduce the overall building bulk and widen the air path at pedestrian level[2], and thus further enhance the ventilation performance of the surrounding areas.

NBAs at Ping Shek Estate and Shun Chi Court

5.18 Two sloping areas within the "R(A)" zone of Ping Shek Estate and the "R(B)" zone of Shun Chi Court are demarcated as NBAs in order to preserve the vegetated slopes and serve as air ventilation pocket in these areas (Figure 5.3).

[1] Theurer, W. Typical building arrangements for urban air pollution modelling. Atmospheric Environment 33.24-25 (1999): 4057-4066.
[2] AVA IS Report for Term Consultancies for AVA Services - Ex-Kowloon Bay Flatted Factory Site (Oct 2013)

Implementation of Sustainable Building Design Guidelines

5.19 The SBD Guidelines aims to enhance the quality and sustainability of the built environment in Hong Kong by granting Gross Floor Area (GFA) concessions for new building developments that comply with the SBD Guidelines. It establishes three key building design elements, namely building separation, setback, and site coverage of greenery, to achieve better air ventilation, mitigate the heat island effect, and enhance the environmental quality of our living space.

5.20 The SBD Guidelines benefit the pedestrian wind environment by widening streets to avoid the development of deep street canyons (see Figure B-7 in Appendix B). According to the SBD Guidelines, buildings fronting a street less than 15m wide should be setback so that no part of the building up to a level of 15m above the street level should be within 7.5m from the centreline of the street. The potential improvement on air ventilation caused by sites adopting setback can be quite significant for those streets which are currently less than 15m wide.

5.21 According to the SBD Guidelines, building sites that are (a) 20,000m^2 or above, or (b) less than 20,000m^2 and proposed with buildings having a continuous projected façade length (L_p) of 60m or above, should comply with the building separation requirements (see Figure B-8 in Appendix B). The maximum permissible L_p for such building sites should not exceed five times the mean width of street canyon (U) (see Figure B-9 in Appendix B). A minimum permeability (P) of 20% is required for each plane in each assessment zone (see Figure B-10 in Appendix A).

5.22 For better air ventilation to achieve the intended air ventilation performance of district significance, the disposition of open space, BGs and NBAs should be linked while widening of air space along roads and connection of major roads and minor roads should be planned in such a way to form some air paths/major breezeways to further enhance wind penetration into inner parts of urbanised areas (see Figure B-11 in Appendix B). The NBAs to widen Wang Chiu Road and Wang Kwong Road are necessary as they are major breezeways in the centre of the KBBA as discussed in the paragraph 5.15. The two 22m-wide BGs on Telford Gardens running in east-west direction are also major air paths for easterly prevailing winds (both annual and summer prevailing winds as indicated in Figure 3.12) flowing to the centre of the KBBA. The 15m-wide BG on Telford Gardens running in a north-south direction is also an important air path to connect Tai Yip Street and the open space to the north. In general, the width of the NBAs and BGs on the current OZP are appropriate. The location of the NBAs and BGs are appropriate for the air paths/major breezeways in the Project Area as discussed in paragraphs 5.11 to 5.18. Creation/maintenance of connected air paths/major breezeways of district significance at strategic location would be important and necessary. SBD Guidelines will be necessary at the site design stage to improve the localised wind environment at site level and for the surrounding areas but may not serve as effective alternative measures which have district significance.

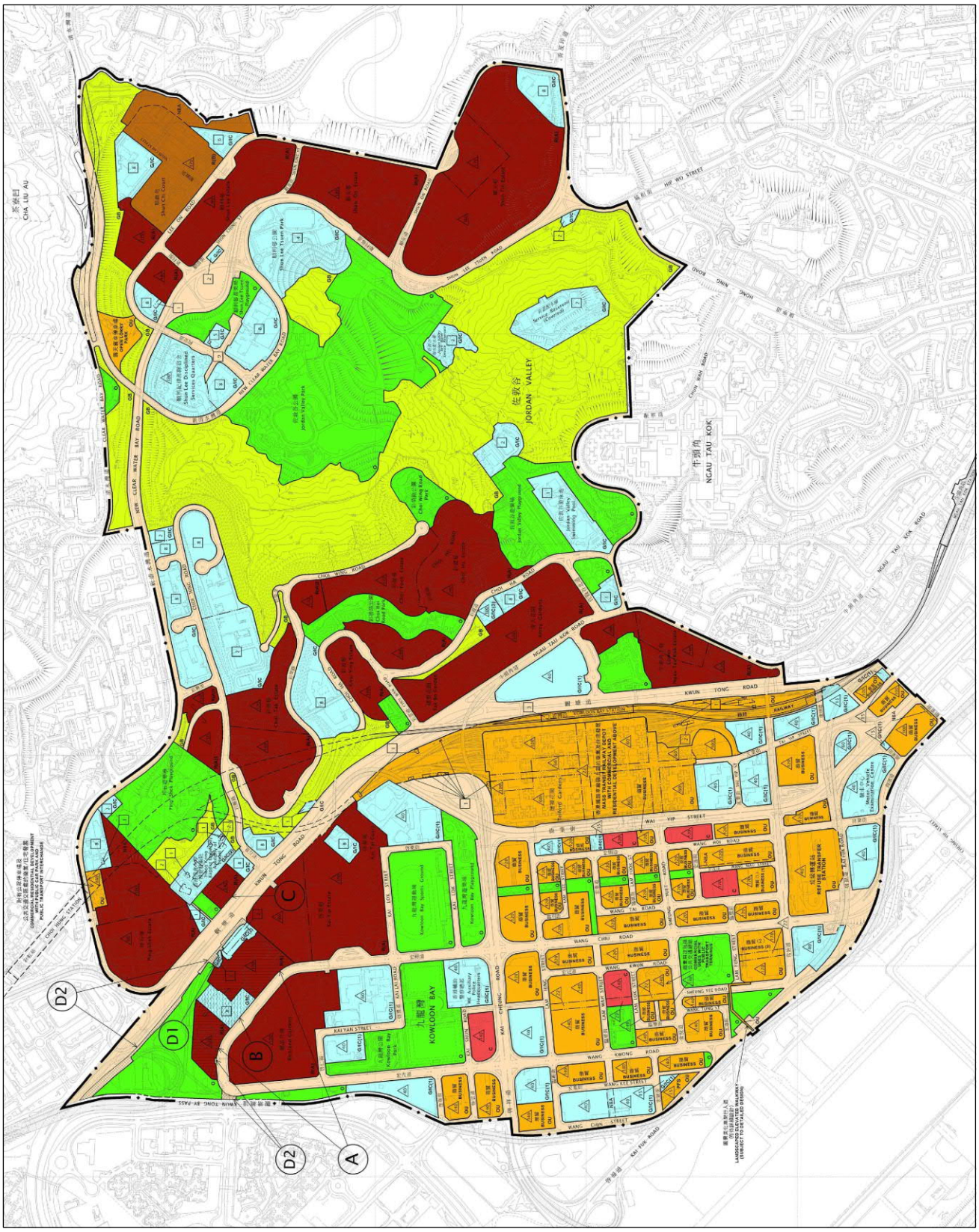
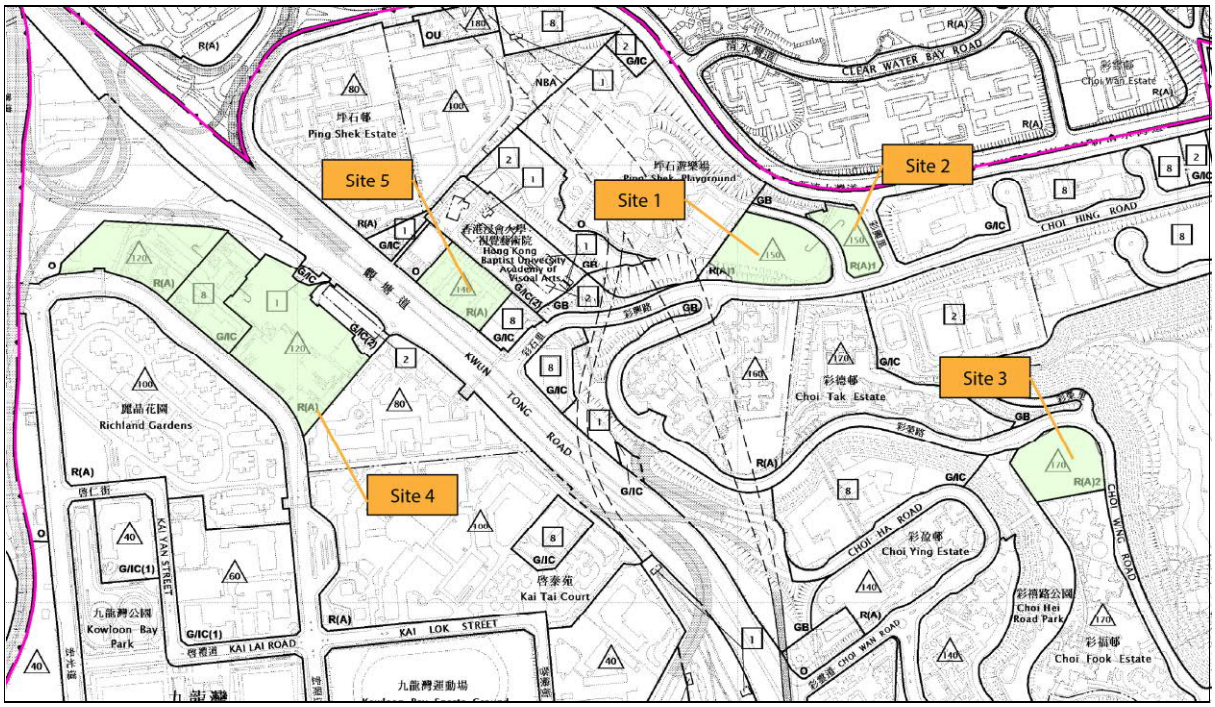
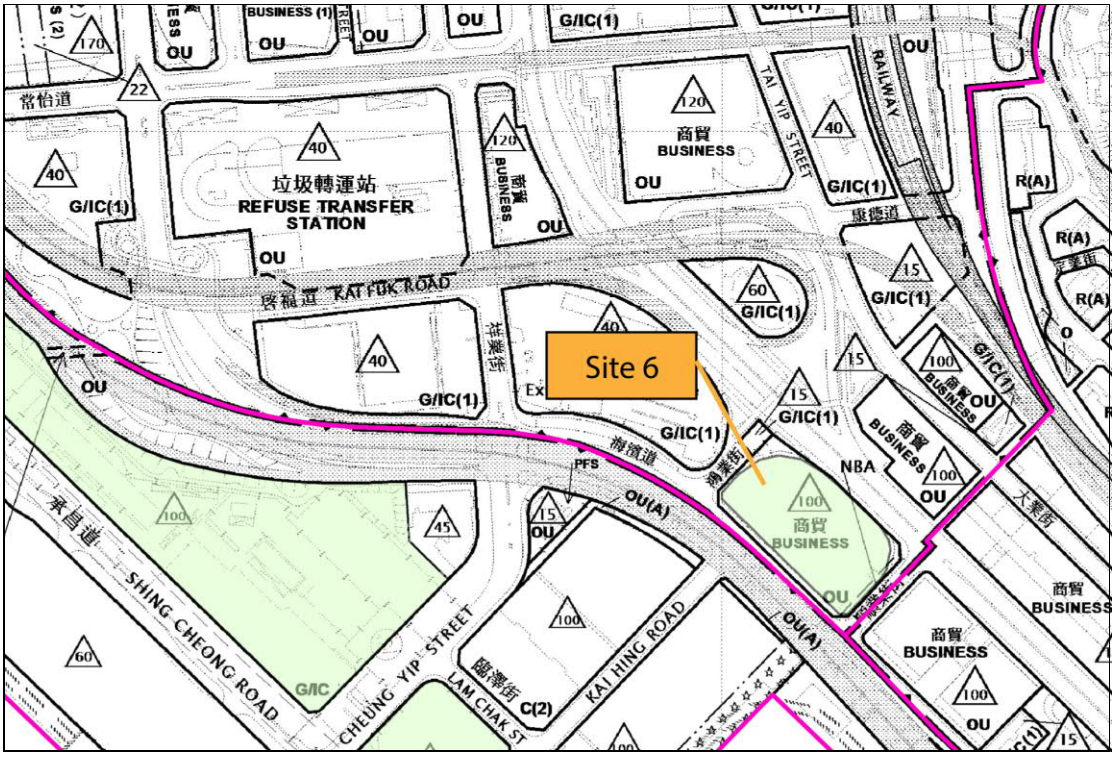


Figure 5.1 The draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/29

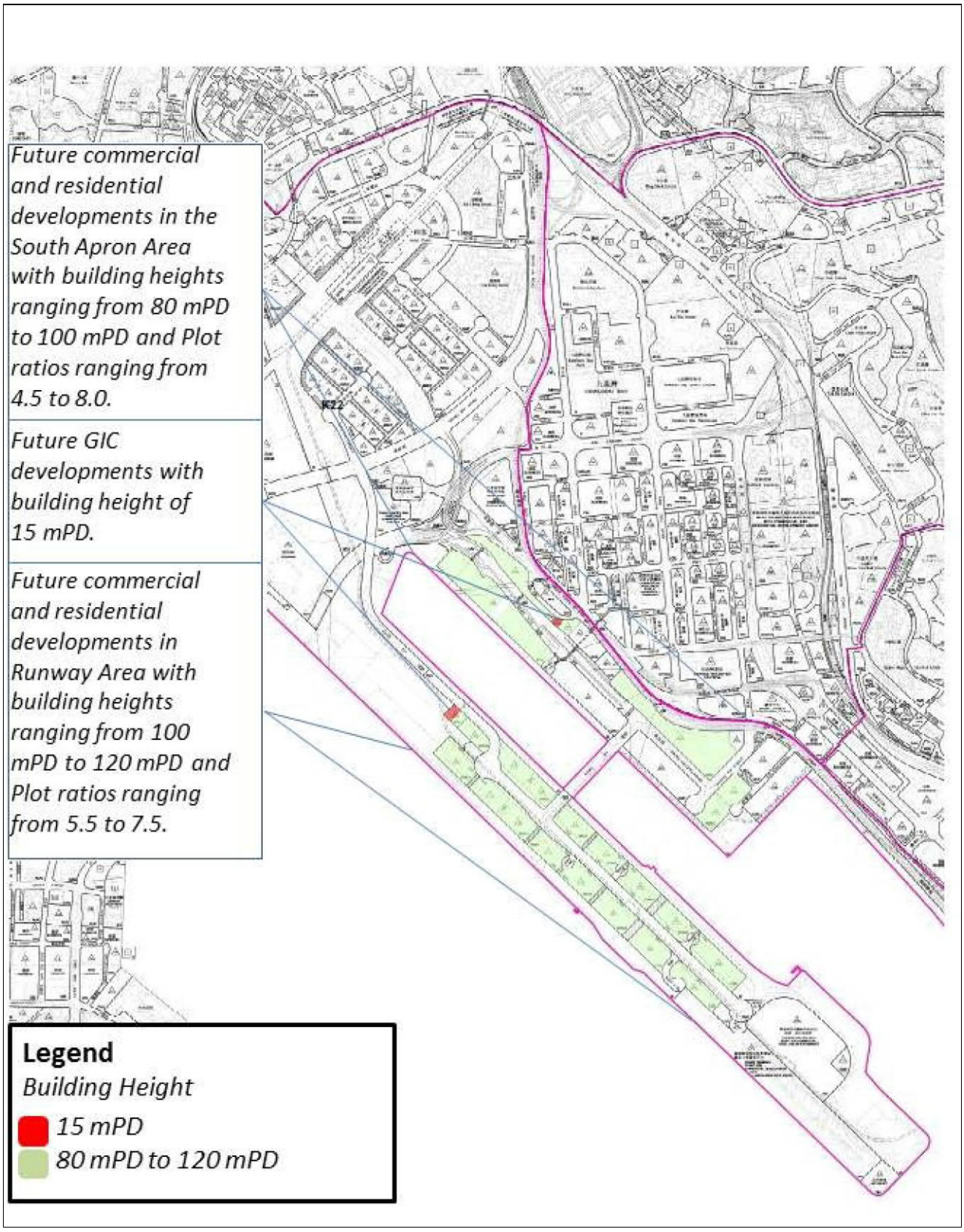


(a) Part 1



(b) Part 2

Figure 5.2 Current OZP with committed/planned developments



(c) Part 3

Figure 5.2 Current OZP with committed/planned developments

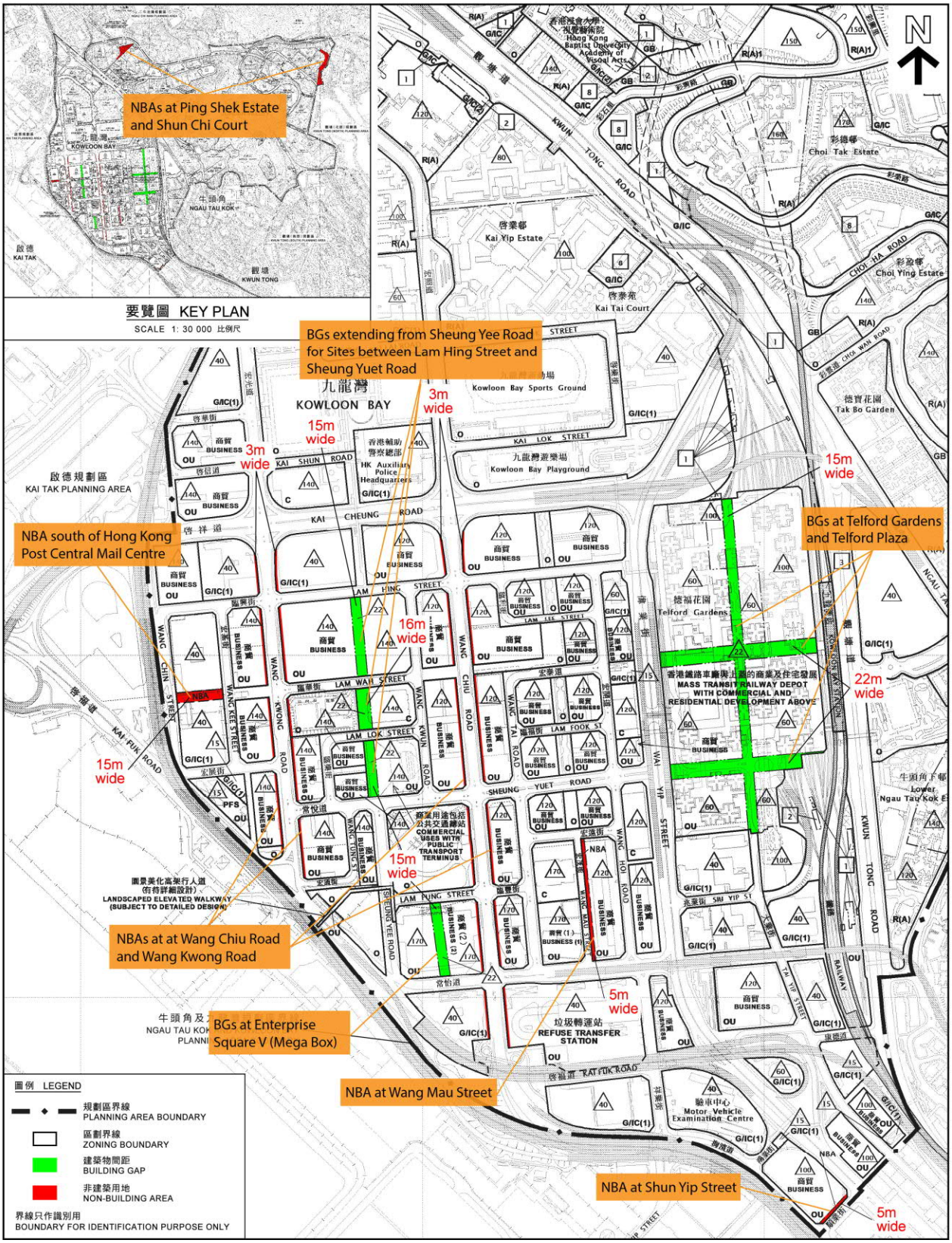


Figure 5.3 Proposed Non-building Areas and Building Gaps in the OZP

6.0 Expert Evaluation of Initial Scenario

6.1 The KBAA is located at the southern part of the Project Area and is mainly planned for G/IC and business uses under the current OZP with BHRs of 40mPD and 100mPD respectively. The G/IC sites are currently occupied by a police vehicle detention and examination centre (Lot 1), Transport Department's vehicle examination centres (Lot 4), Environmental Protection Department's waste recycling centre (Lot 2) while two sites for business use is under construction (Figure 6.1). In view of the potential of KBAA to become a commercial / office hub of Kowloon East, it is covered by the ongoing Planning and Engineering Study for the Development at KBAA (KBAA Study) of Energising Kowloon East Office to review the land use of the area taking into account various planning considerations including the connectivity between KBAA and the surrounding area.

6.2 According to the Preliminary Outline Development Plan (PODP) of the KBAA Study, there would be major changes in land use, building height and development intensity except Lots 5 and 6. The proposed changes are broadly set out below[1] (Figure 6.1) and the PODP of KBAA is shown in Figure 6.2:

(a) Lot 1: to be rezoned from "G/IC" to "OU" annotated "Integrated Waste Handling Facility" ("OU(IWHF)"). The existing BHR of 40mPD would be maintained.
(b) Lot 2: to be rezoned from "OU" annotated "Refuse Transfer Station" to "Commercial" ("C") and "O" with BHRs of 50mPD/150mPD, NBA and building setback requirements for the "C" site.
(c) Lot 3 (space beneath the flyover): to be rezoned to "OU (Cultural and Creative Uses)".
(d) Lot 4: to be rezoned from "G/IC" to "OU (Commercial Development cum Environmentally Friendly Linkage System (EFLS) Depot and Station)" with BHRs of 50mPD/120mPD/135mPD and building gap and setback requirements.
(e) At-grade public open space between Lots 4 and 6.

6.3 Located at the southern tip of the Project Area, the planned development within KBAA may have potential air ventilation impacts on the surrounding pedestrian areas with the changes of development intensity and building height. A separate AVA has been conducted under the on-going KBAA Study to assess the potential air ventilation impact created by the planned developments in KBAA[2]. Some major air paths have been identified in this separate AVA (Figure 6.3) and some major design features of PODP for wind enhancement have been proposed[2] such as a designated NBA on Lot 2 extending the air path from Wang Mau Street (Figure 6.2). Given major design features of PODP for wind enhancement as recommended in the AVA study for KBAA as follows and the building separation

[1] https://www.ekeo.gov.hk/filemanager/content/public/tc/TFKT_06_2016.pdf
[2] Planning and Engineering Study for the Development at Kowloon Bay Action Area of Kowloon East – Feasibility Study Board Cost, Technical, Environmental and Air Ventilation Assessments (WP No. 8)

requirements under the SBD Guidelines to be fulfilled in the building design stage, it is expected that the future development at KBAA may not significantly affect the ventilation performance of its surrounding areas:

- building permeability by means of ventilation bays;
- alignment / patterning of towers;
- creation of 2 additional local air paths;
- widening of local air paths and empty bays; and
- greening and disposition of open space and pedestrian area.

From the district level urban air ventilation point of view, the good features proposed above in KBAA together with the NBAs and BGs on the OZP are important for urban air ventilation in the Project Area and should therefore be maintained/pursued.

6.4 The KBAA Study is still ongoing and is anticipated to complete in 2019. The PODP is still subject to refinement into the Recommended Outline Development Plan (RODP) in the light of public views collected in the consultation conducted in 2016, detailed technical assessments and the findings of the Detailed Feasibility Study for EFLS for Kowloon East. In the preparation of the RODP, AVA IS is to be conducted to explore effective measures to enhance the penetration of prevailing winds inland.

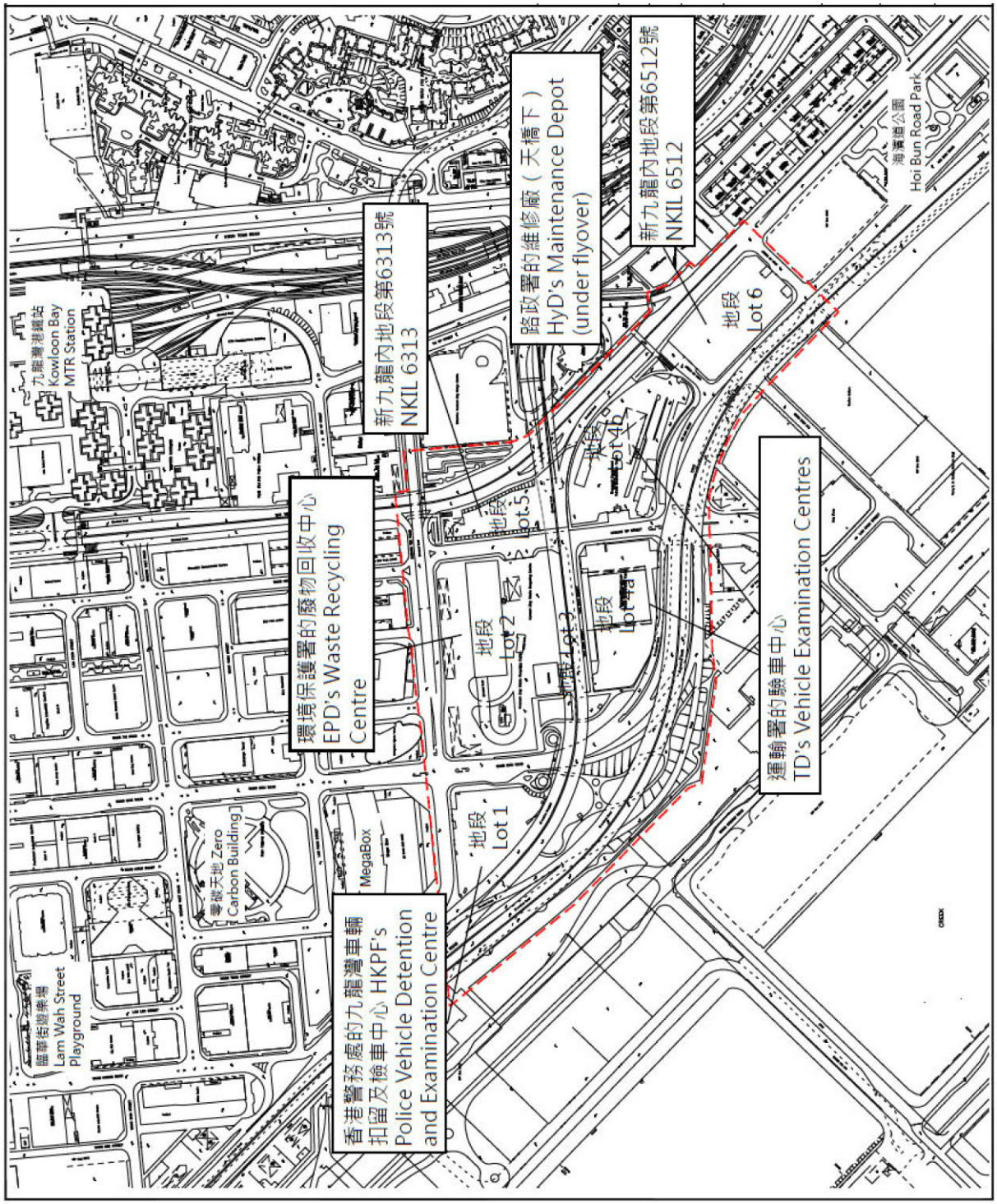


Figure 6.1 Existing developments in KBAA[1]

[1] https://www.ekeo.gov.hk/filemanager/content/public/tc/TFKT_06_2016.pdf

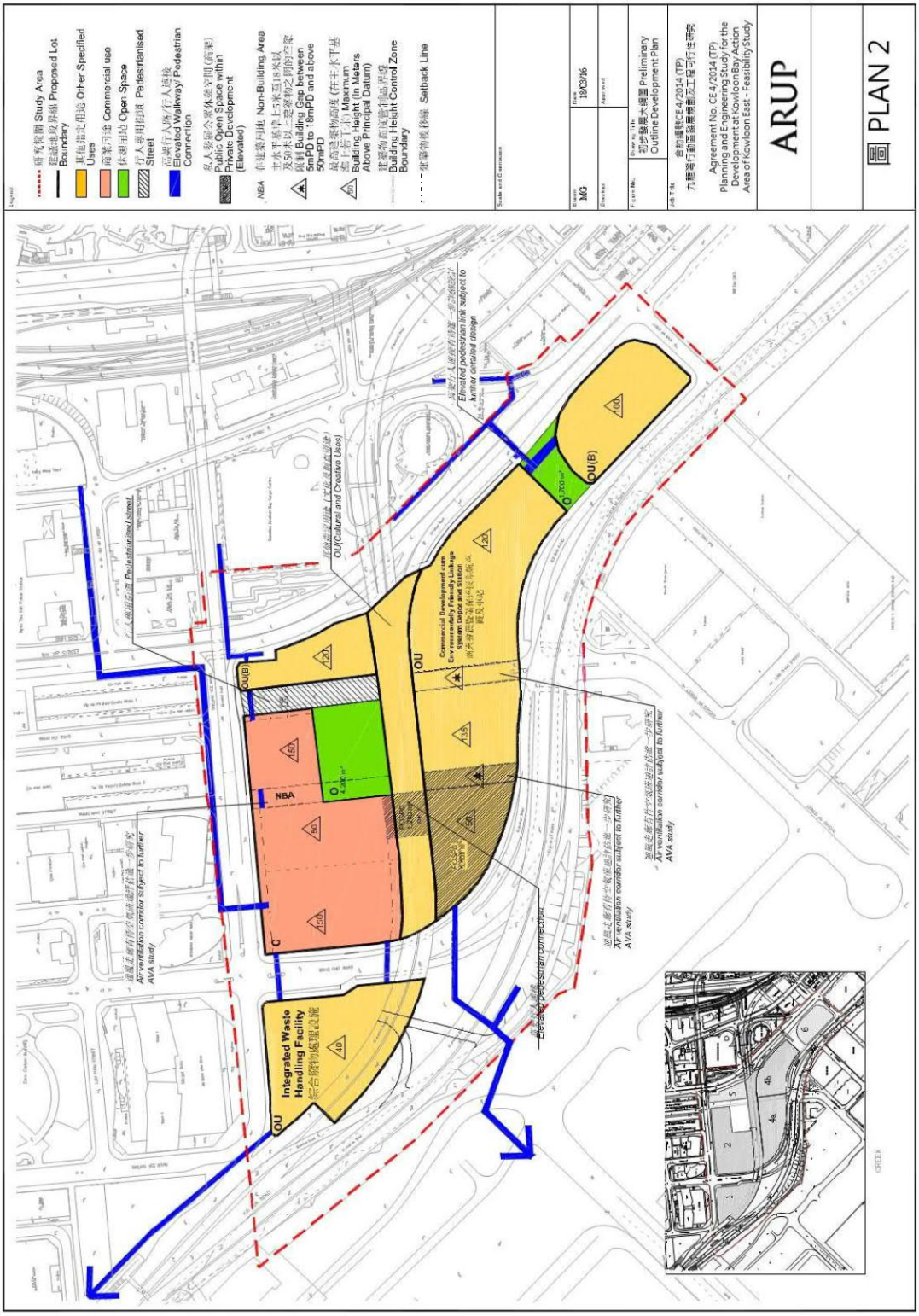


Figure 6.2 Preliminary Outline Development Plan of KBAA[1]

[1] https://www.ekeo.gov.hk/filemanager/content/public/tc/TFKT_06_2016.pdf

Figure 6.3 Air Paths in the Master Layout Plan of PODP[1]

[1] https://www.ekeo.gov.hk/filemanager/content/public/tc/TFKT_06_2016.pdf

7.0 Recommendations and Further Work

7.1 From the district level urban air ventilation point of view, the development restrictions/requirements in both the Baseline Scenario (namely NBAs and BGs) and the Initial Scenario (namely NBAs, BGs and building setback) are all important features for air ventilation in the Project Area and should be maintained/pursued.

7.2 From the building design point of view, the SBD Guidelines establish key building design elements to increase permeability and improve the pedestrian wind environment at site level.

7.3 Any future developments/redevelopments would inevitably add stress to the existing conditions in the Project Area. Therefore, amalgamated sites with bulkier buildings and longer building frontage should be carefully planned and follow the design principles set out in the Hong Kong Planning Standards and Guidelines (HKPSG)[1] and SBD Guidelines at the detailed design stage as the prevailing effort for improvement in pedestrian wind environment and urban climate. The five most important design principles are highlighted below (paragraphs 7.5 to 7.9).

7.4 The further work of the KBAA's AVA on the RODP would be conducted and covered by a separate study for alleviating the potential air ventilation impact on the pedestrian wind environment due to the proposed developments.

Further Design Principles

7.5 Variations in building height should be introduced across the Project Area to help instigate wind flow throughout the district by encouraging downwashes and mixing of air due to pressure differences (see Figure B-12 in Appendix B). Low-rise buildings and open spaces should be located in the windward direction to allow the entry and penetration of prevailing winds. Tall buildings of uniform heights forming deep urban canyons should be avoided as they create skimming flows over the top of buildings and stagnant conditions at pedestrian level (see Figures B-2 and B-3 in Appendix B).

7.6 Long and continuous façades should also be avoided, especially perpendicular to the prevailing wind direction at street level. Suitable building disposition could help effective air flows around building in desirable directions (see Figure B-13 in Appendix B). Ground coverage for buildings, including any podium structures, should be minimised to no more than 65% of the site.

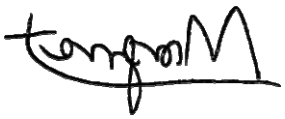
[1] Hong Kong Planning Department. Hong Kong Planning Standards and Guidelines (HKPSG). 2011

7.7 To increase the permeability of the urban fabric at street level, site coverage of the podia should be reduced to allow more open space at grade (see Figure B-14 in Appendix B). A terraced podium design should be adopted to facilitate downward airflow to the pedestrian level (see Figure B-15 in Appendix B).

7.8 Existing "O" and "G/IC" sites should be maintained as "air spaces" where air ventilation can be relieved within the dense urban morphology. Open spaces, NBAs, building setbacks, and low-rise building corridors are important in providing urban permeability, moderating the city climate, and connecting breezeways and air paths (see Figures B-16 and B-17 in Appendix B).

7.9 Planting in open spaces should be maximised. Greenery (preferably tree planting) should cover no less than 30% for sites larger than 1 ha and 20% for sites below 1 ha at lower levels, preferably at grade.

Prepared by



Date: 18 January 2019

Kwok Yu Ting

Endorsed by

Date: 18 January 2019

Professor Edward Ng

On behalf of technical experts in the term consultant term

The Chinese University of Hong Kong,
Shatin, NT, Hong Kong
T: 39436515 F: 26035267
E: edwardng@cuhk.edu.hk

Consultant team

	Expertise
Professor Edward Ng CUHK, Hong Kong	Coordinator, Architect, Environmental scientist, AVA methodology
Professor Kevin Ka-Lun Lau CUHK, Hong Kong	Urban Climatologist, Environmental scientist
Professor Jimmy Chi-Hung Fung HKUST, Hong Kong	Mathematician, Mesoscale wind simulation, Climatic studies
Professor Chao Ren CUHK, Hong Kong	Architect, Urban Climatologist
Miss Yu-Ting Kwok CUHK, Hong Kong	Environmental scientist

Appendix A

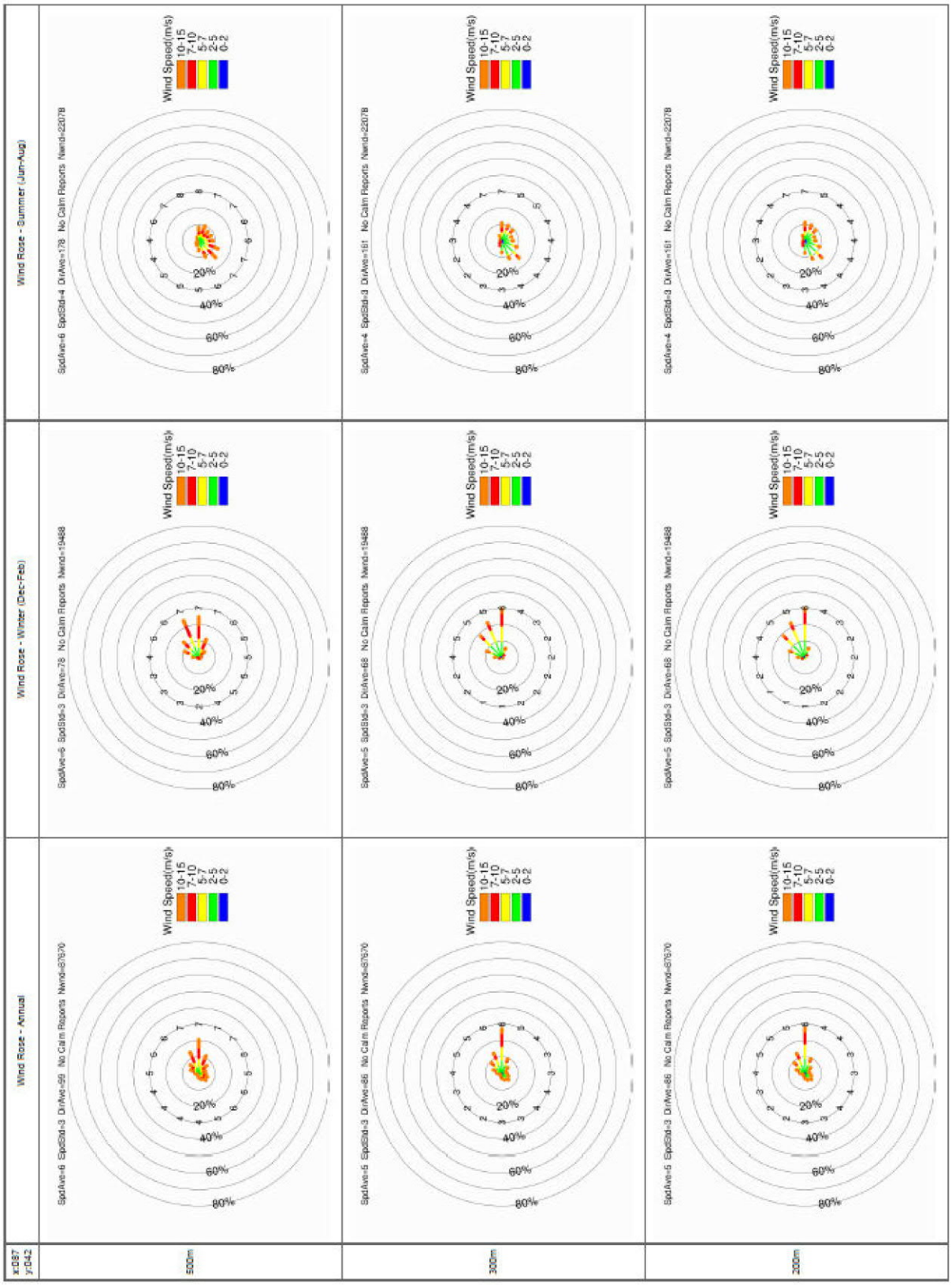


Figure A-1 The RAMS wind data extracted from Planning Department (PlanD's) website at grid x:087; y:042

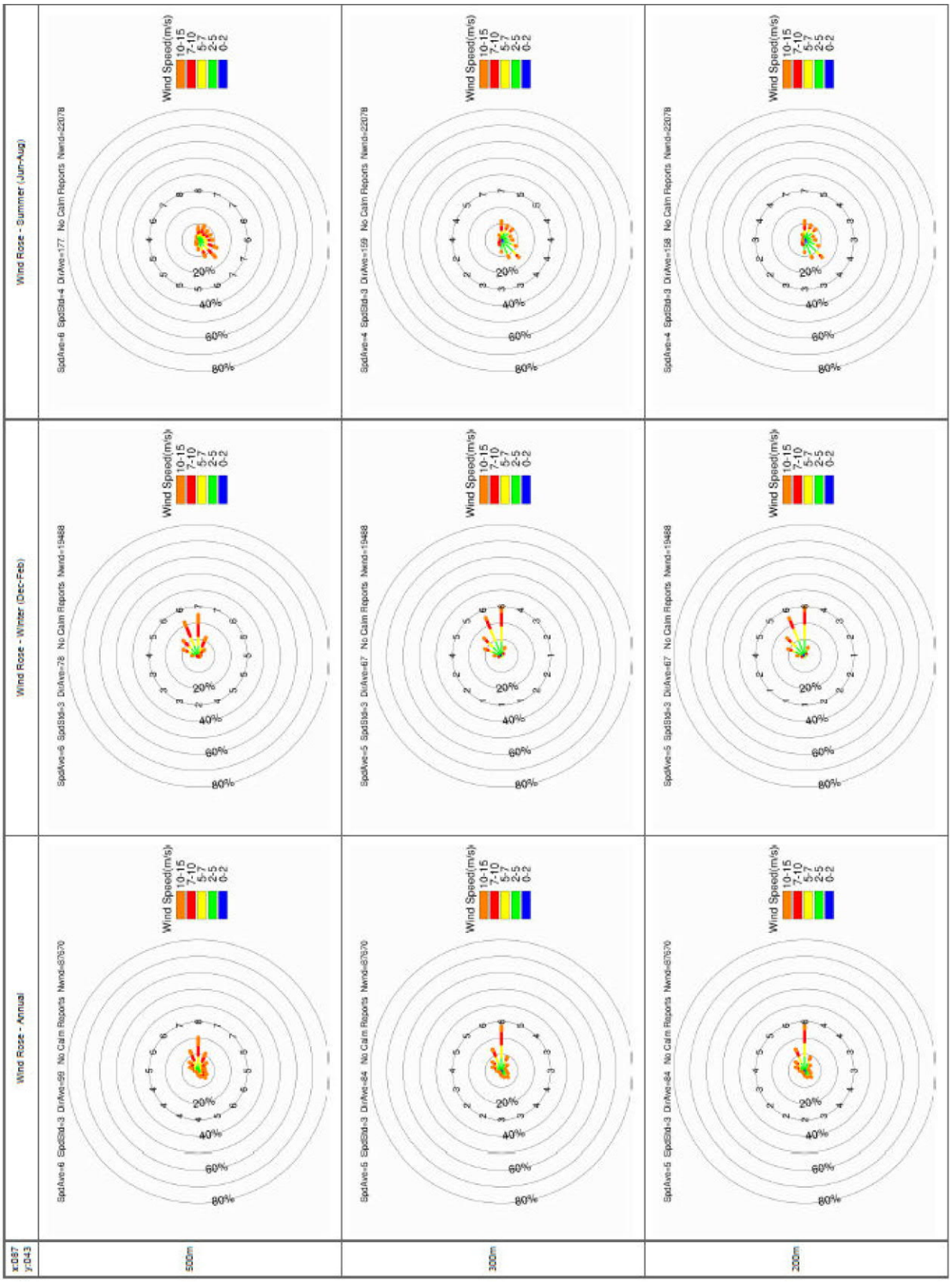


Figure A-2 The RAMS wind data extracted from PlanD's website at grid x:087; y:043

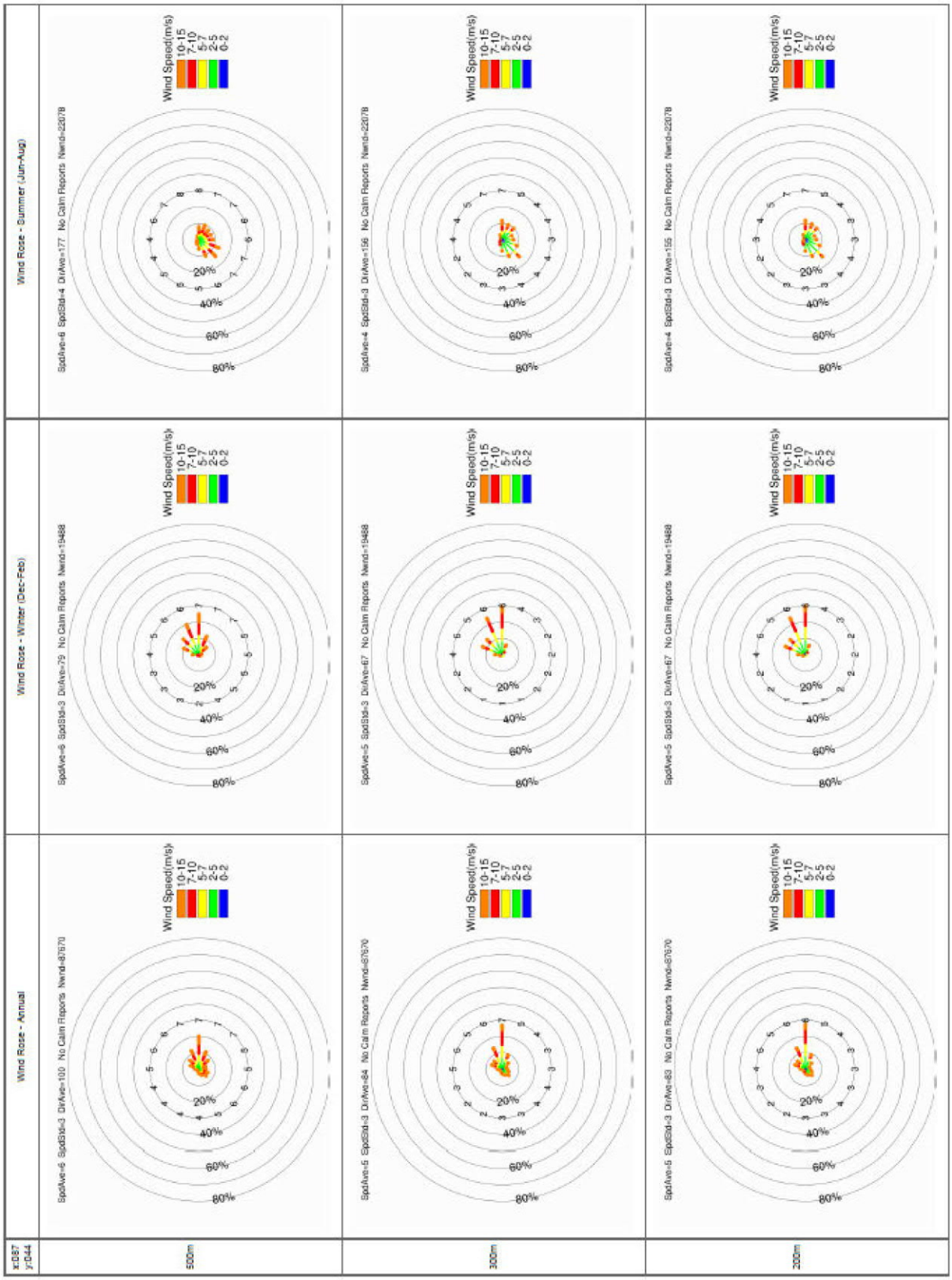


Figure A-3 The RAMS wind data extracted from PlanD's website at grid x:087; y:044

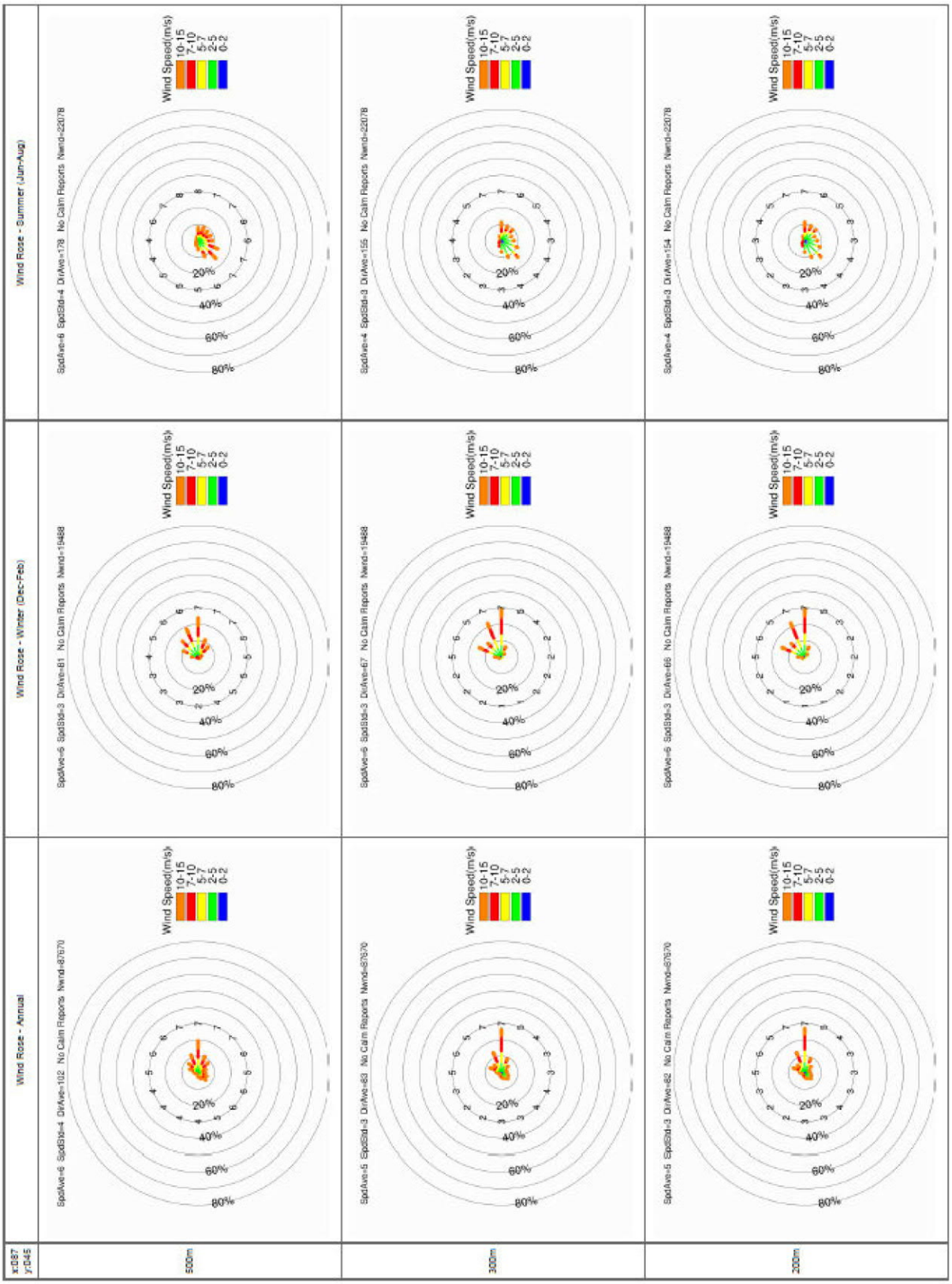


Figure A-4 The RAMS wind data extracted from PlanD's website at grid x:087; y:045

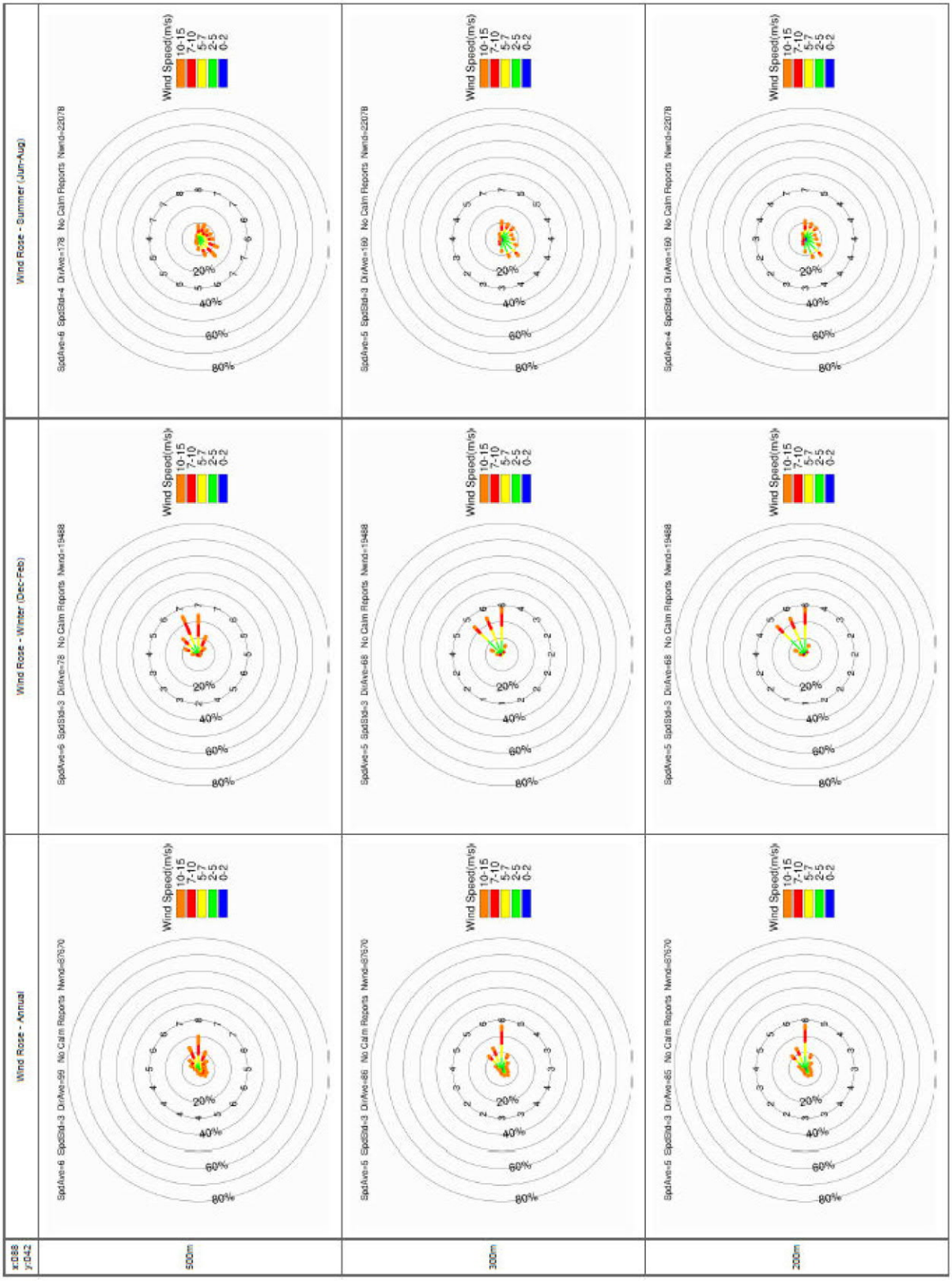


Figure A-5 The RAMS wind data extracted from PlanD's website at grid x:088; y:042

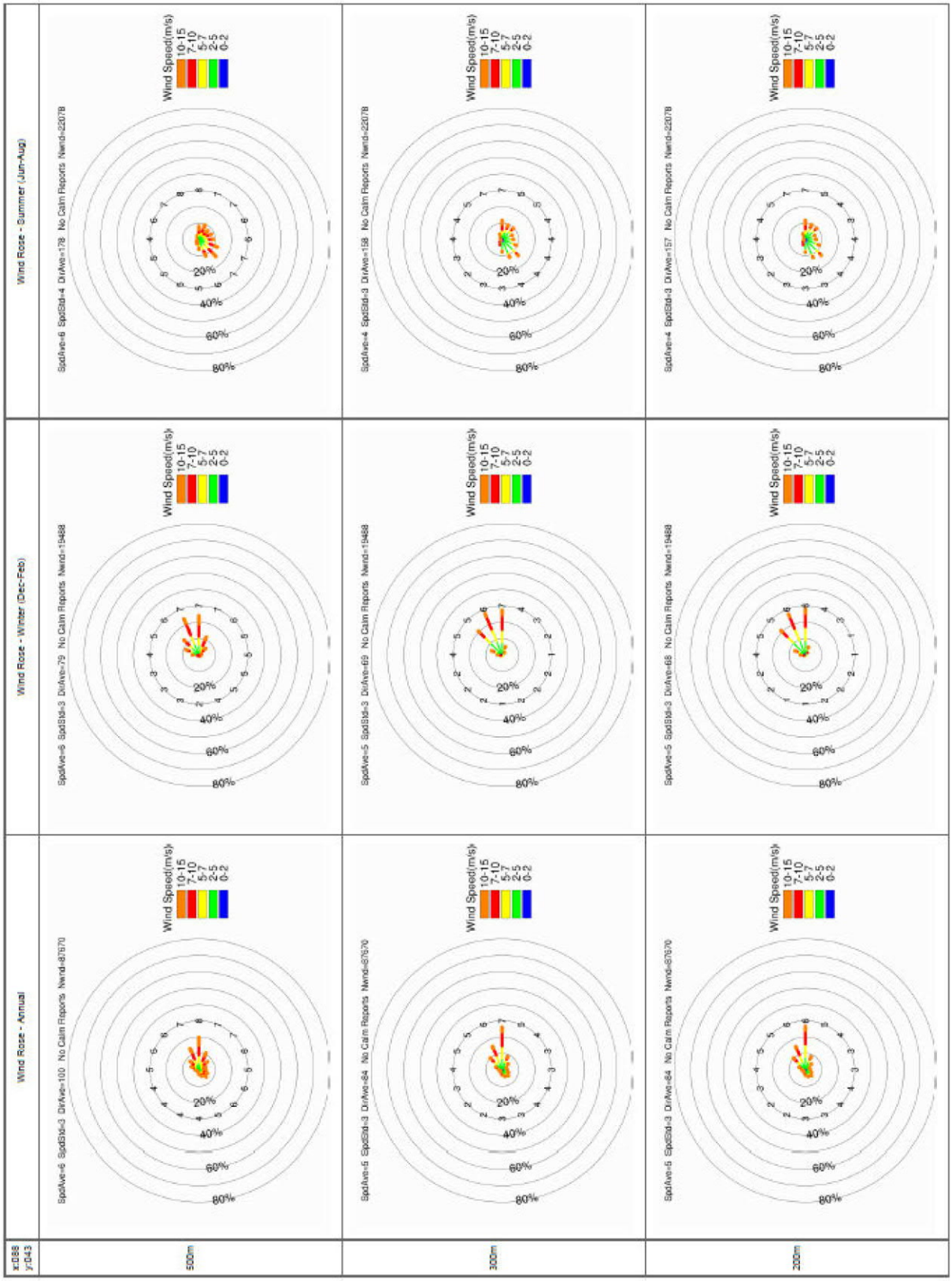


Figure A-6 The RAMS wind data extracted from PlanD's website at grid x:088; y:043

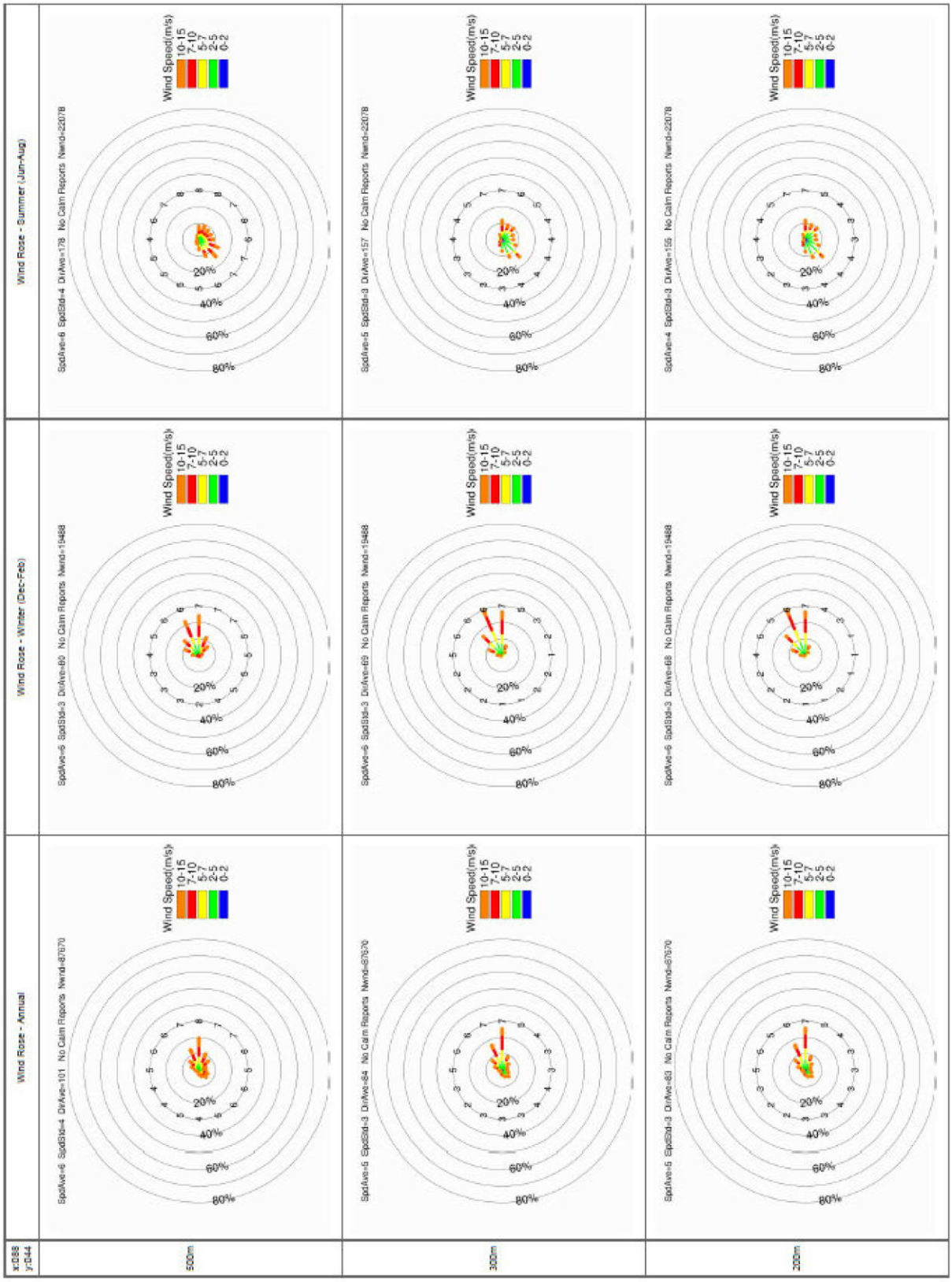


Figure A-7 The RAMS wind data extracted from PlanD's website at grid x:088; y:044

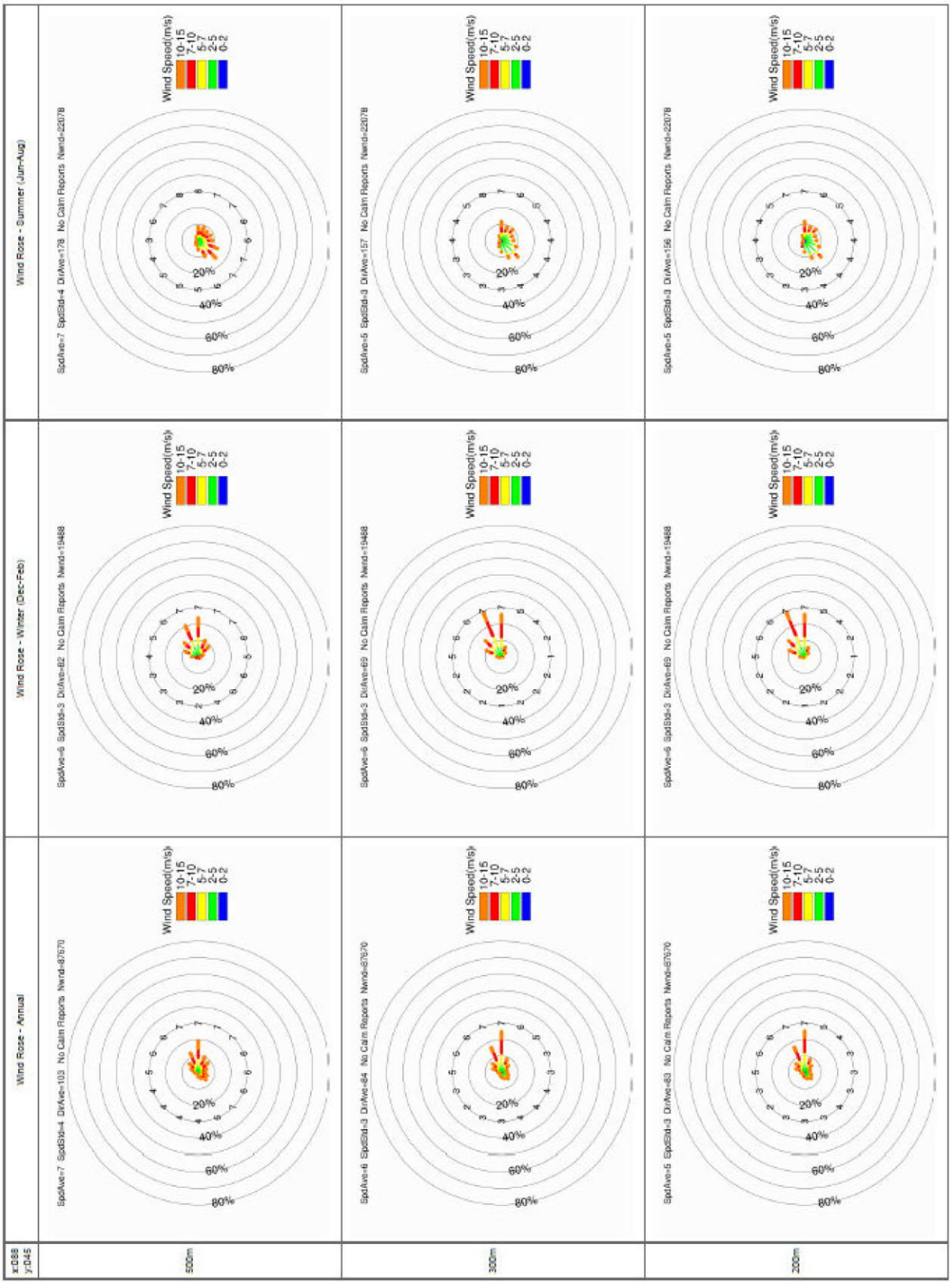


Figure A-8 The RAMS wind data extracted from PlanD's website at grid x:088; y:045

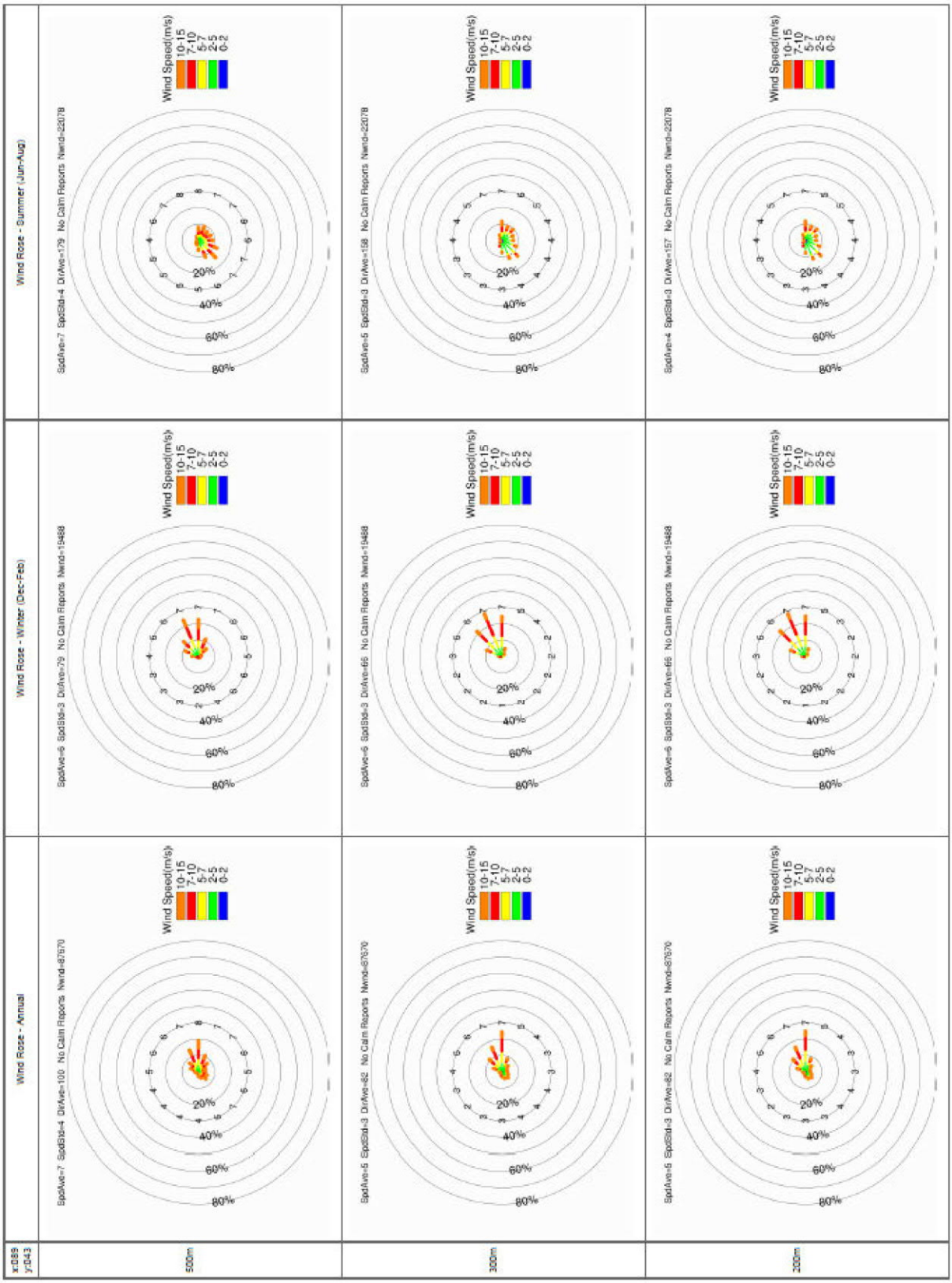


Figure A-9 The RAMS wind data extracted from PlanD's website at grid x:089; y:043

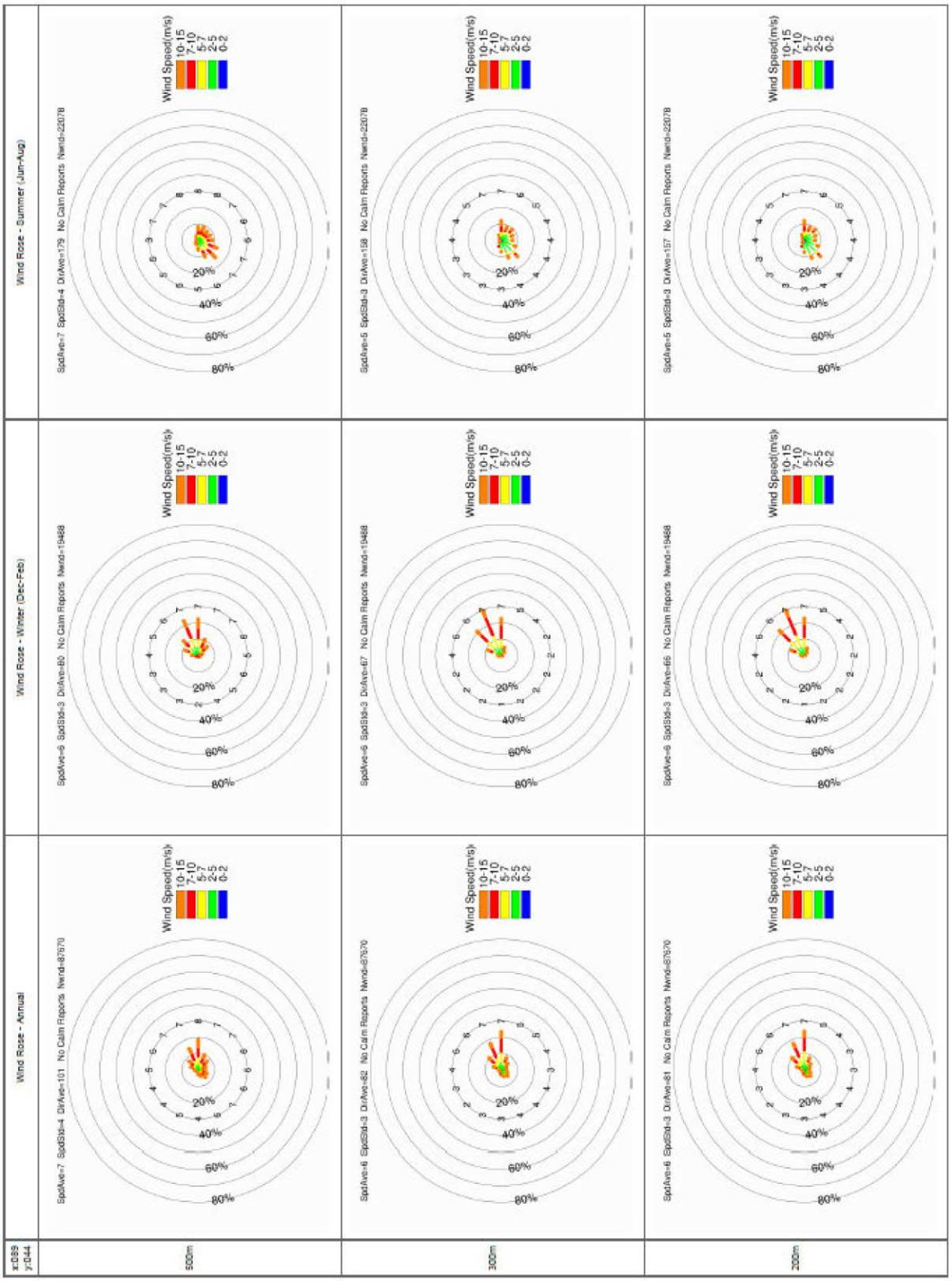


Figure A-10 The RAMS wind data extracted from PlanD's website at grid x:089; y:044

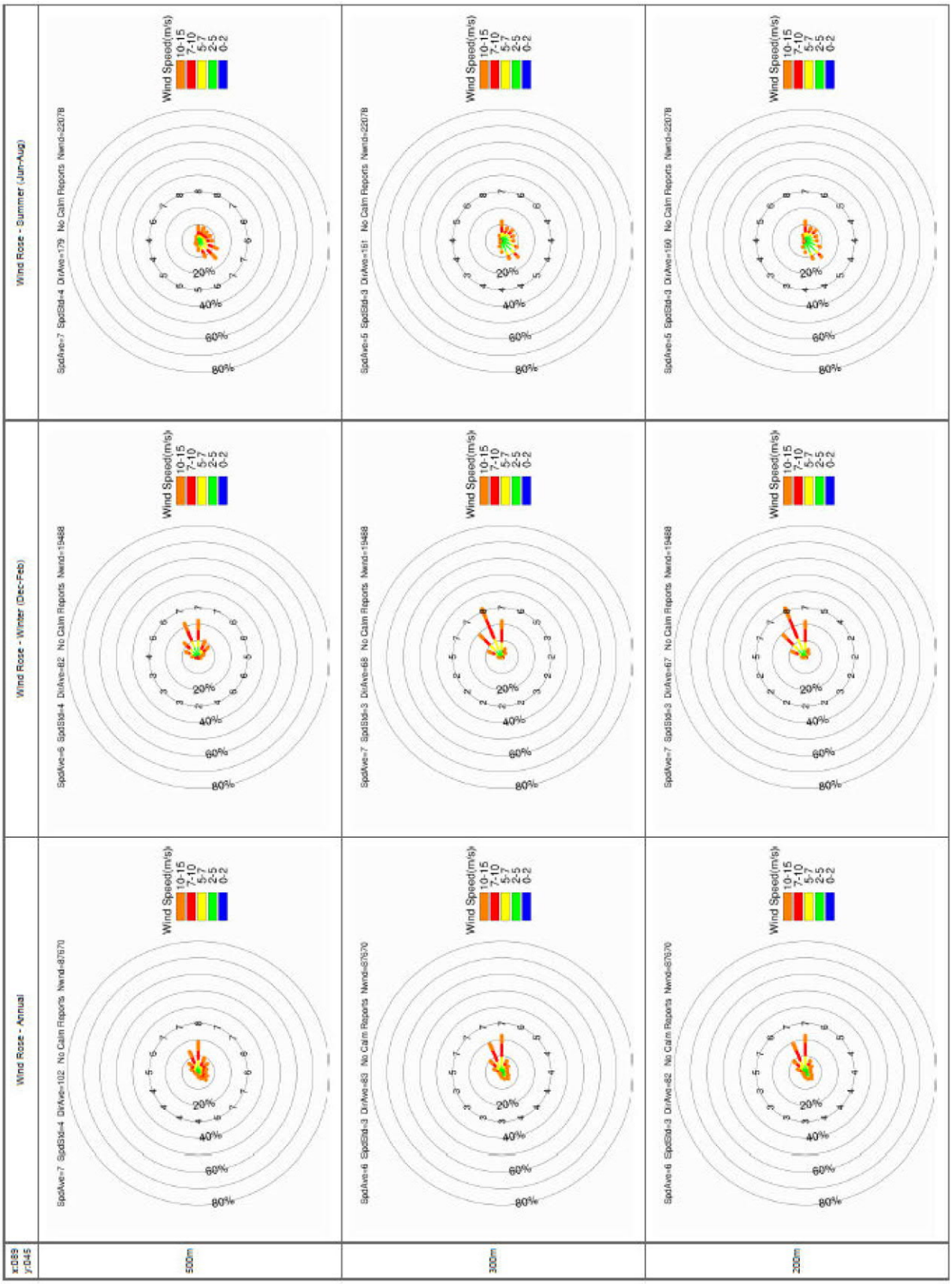


Figure A-11 The RAMS wind data extracted from PlanD's website at grid x:089; y:045

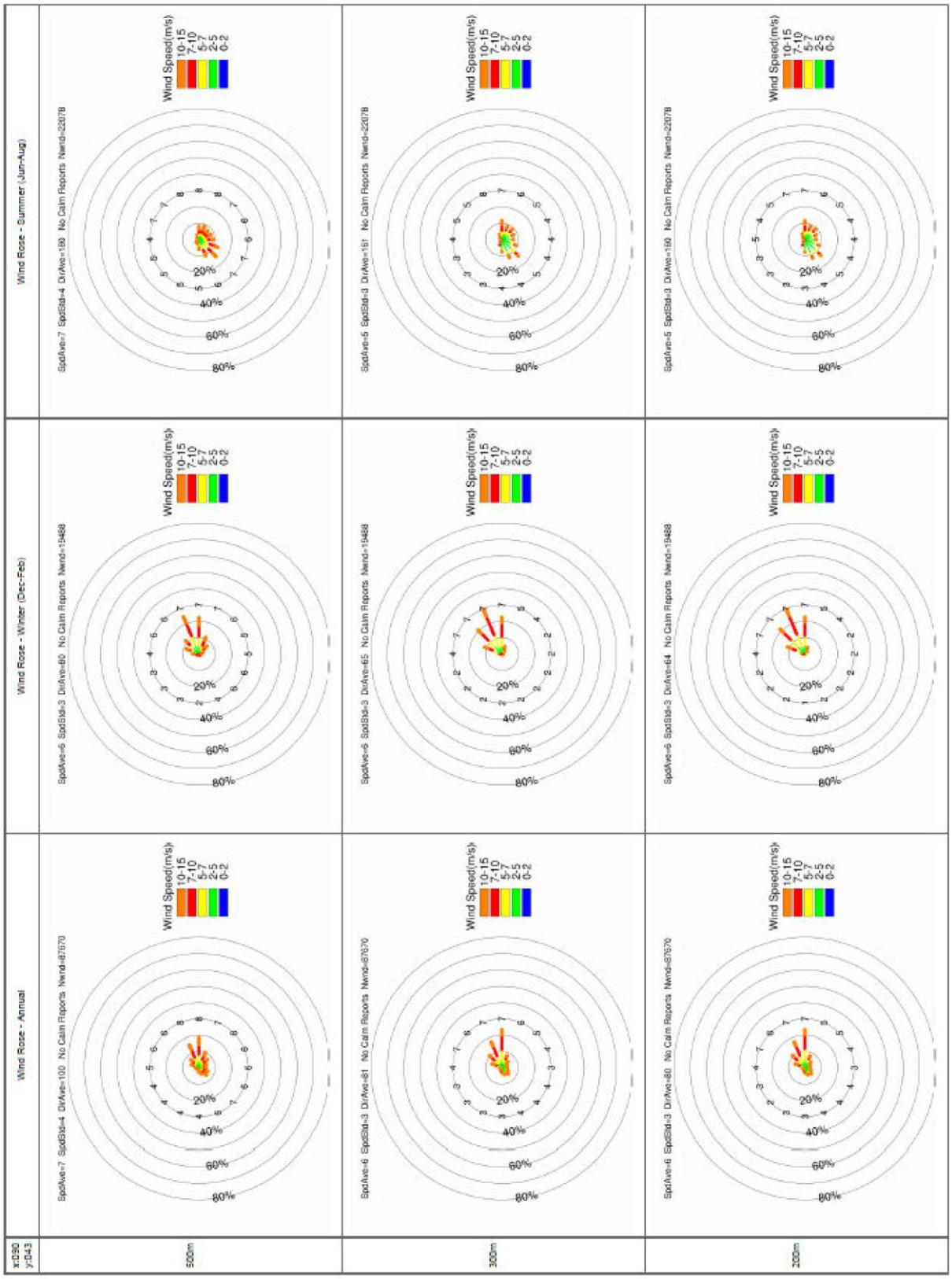


Figure A-12 The RAMS wind data extracted from PlanD's website at grid x:090; y:043

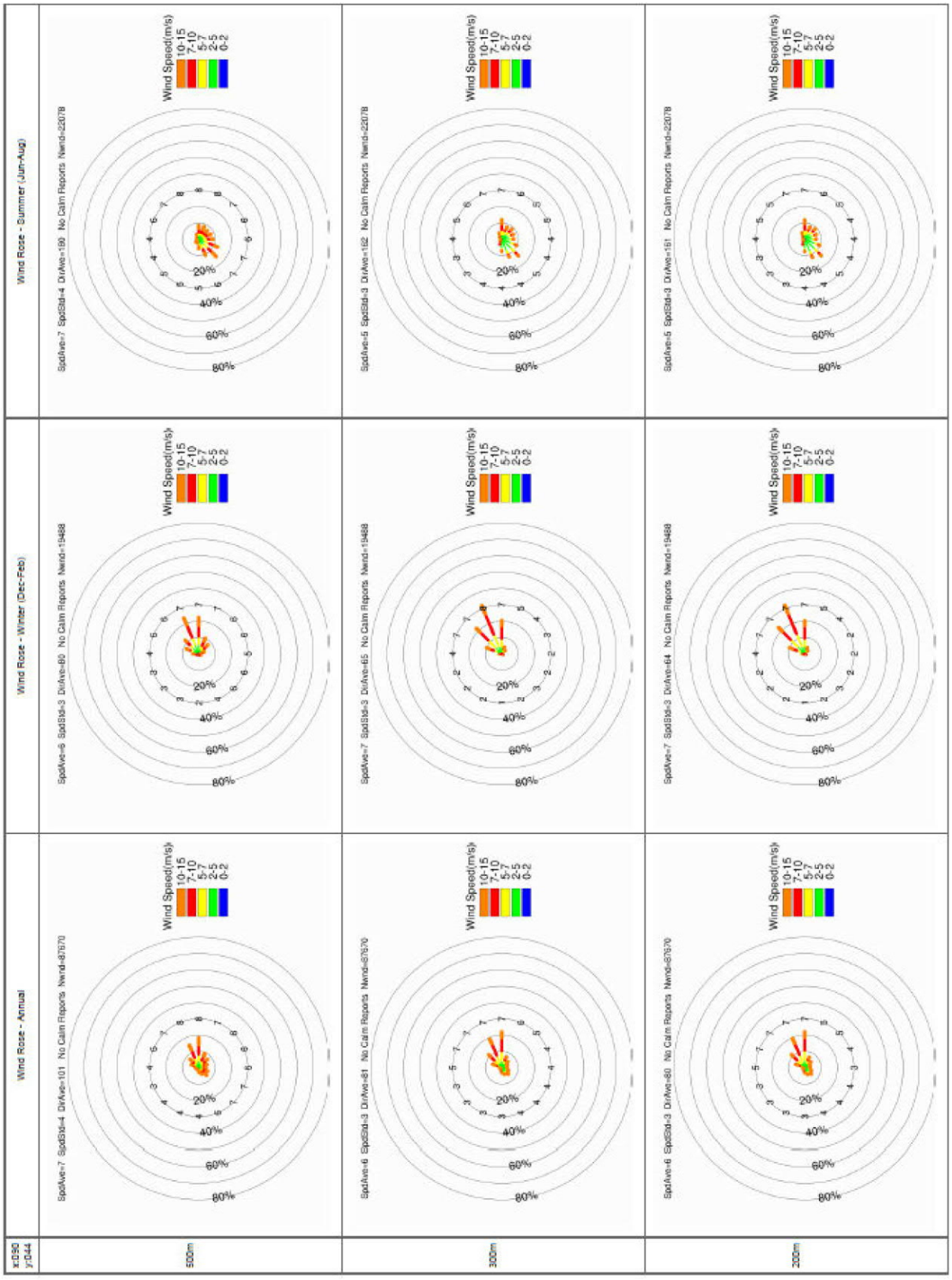


Figure A-13 The RAMS wind data extracted from PlanD's website at grid x:090; y:044

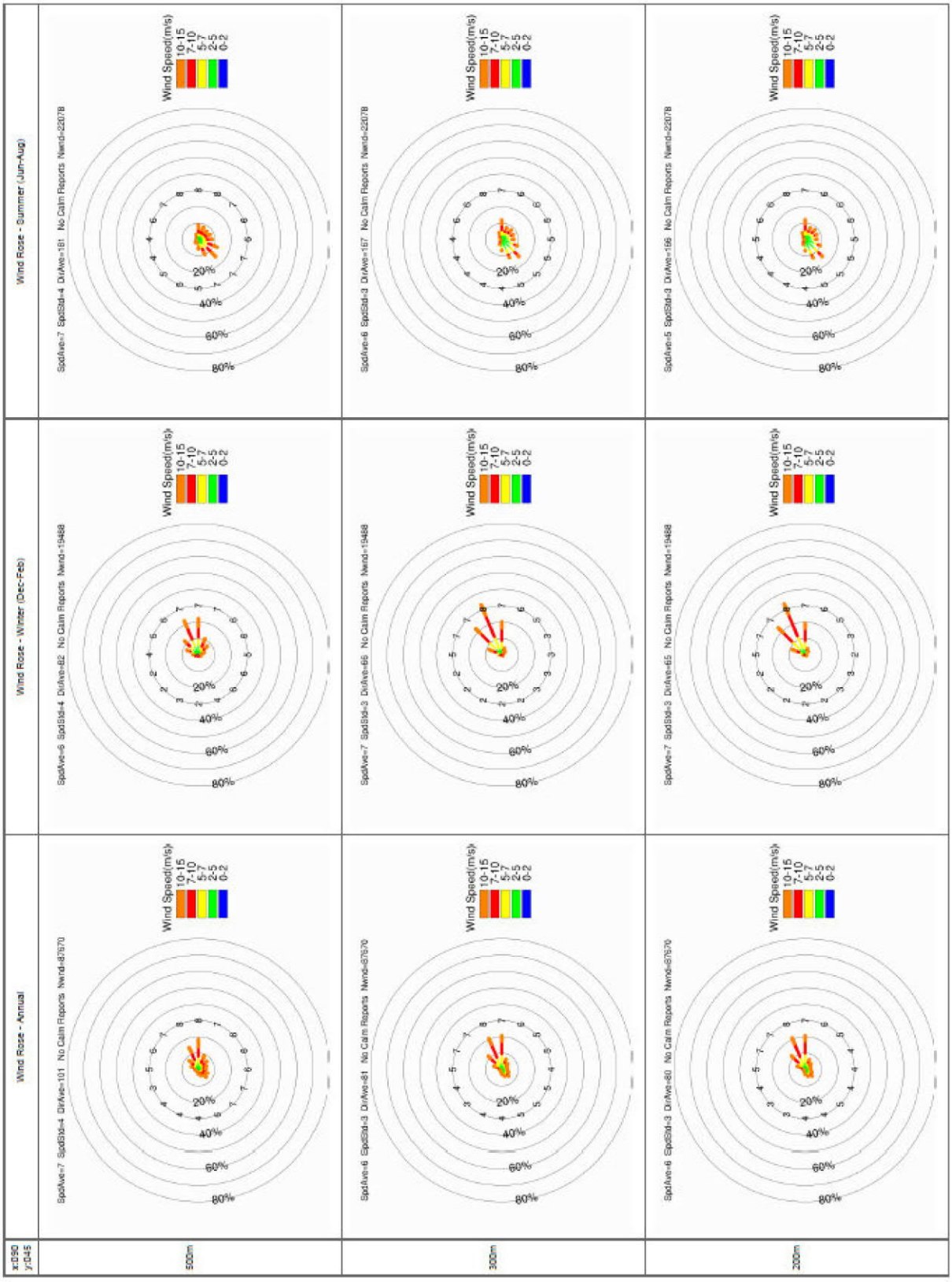


Figure A-14 The RAMS wind data extracted from PlanD's website at grid x:090; y:045

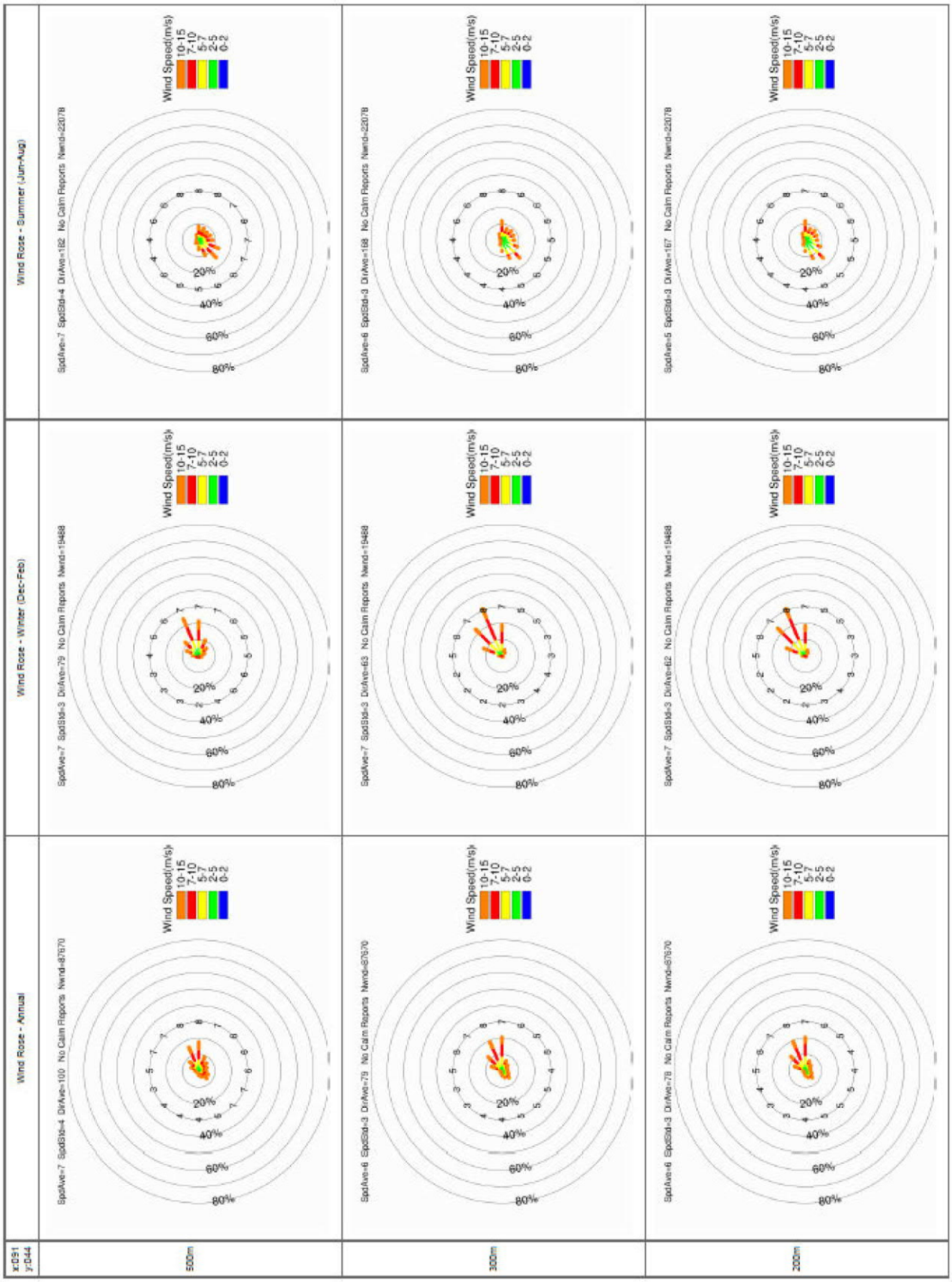


Figure A-15 The RAMS wind data extracted from PlanD's website at grid x:091; y:044

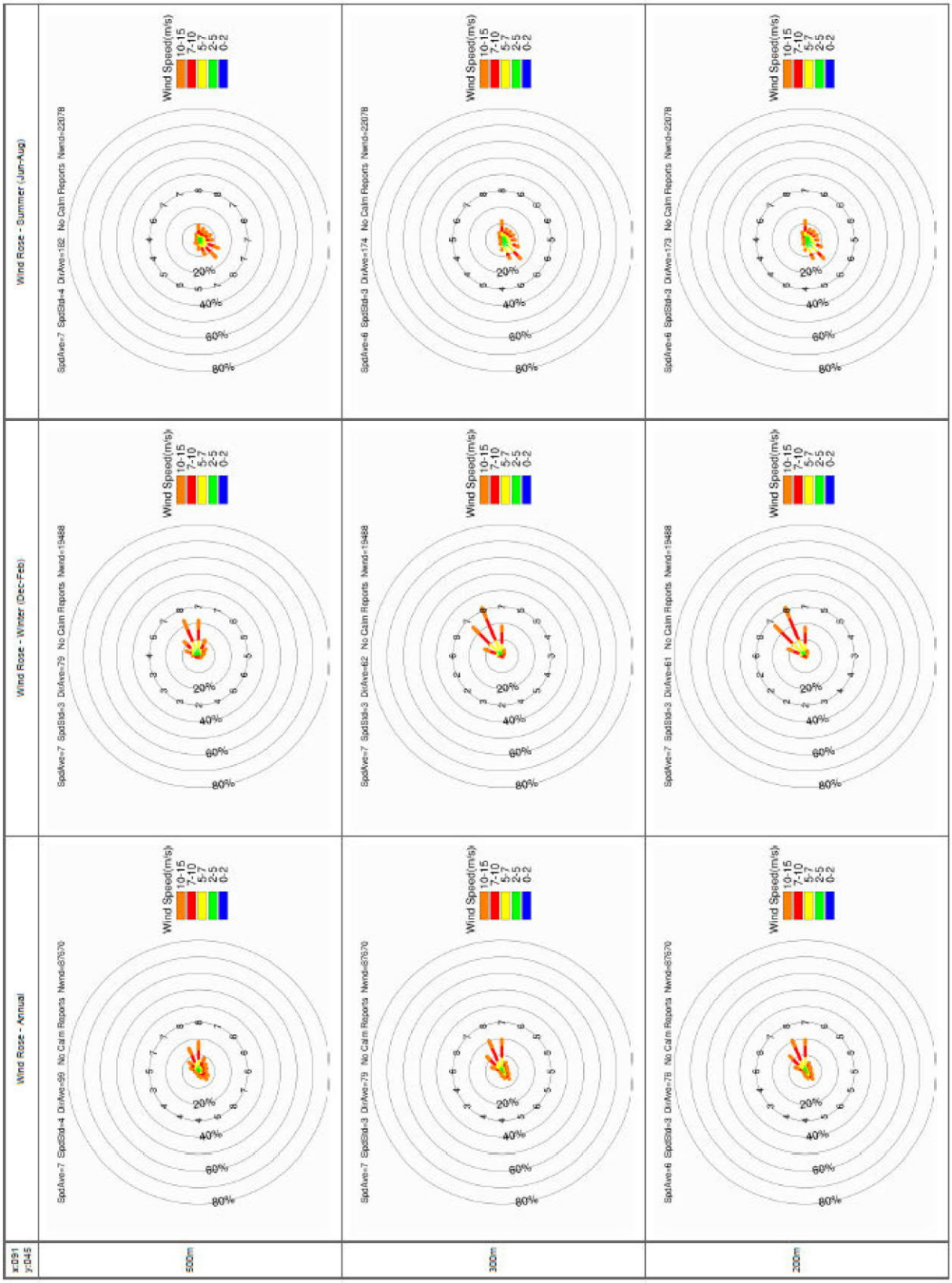
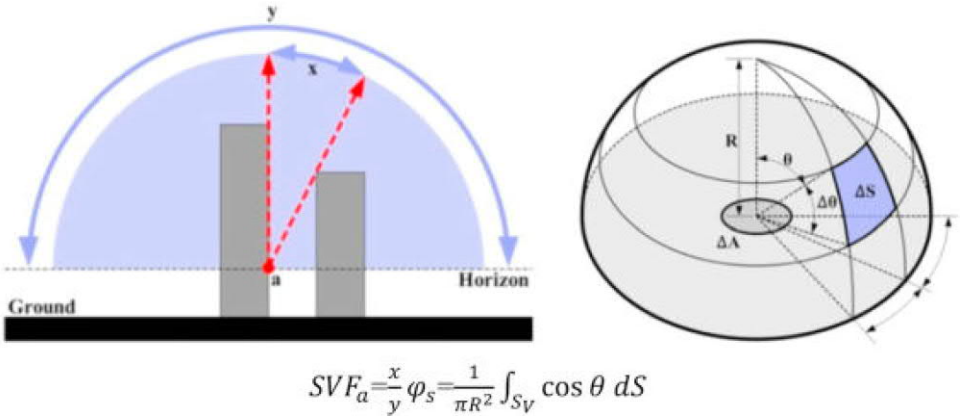


Figure A-16 The RAMS wind data extracted from PlanD's website at grid x:091; y:045

Appendix B

Sky View Factor (SVF) defines the ratio of sky hemisphere visible from the ground (not obstructed by buildings, terrain or trees).



$$SVF_a = \frac{x}{y} \varphi_s = \frac{1}{\pi R^2} \int_{Sv} \cos\theta \, dS$$

Figure B-1 The geometric definition of Sky View Factor

[Reference: Nasrollahi, N., & Shokri, E. (2016). Daylight illuminance in urban environments for visual comfort and energy performance. Renewable and sustainable energy reviews, 66, 861-874.]

For high-density cities with tall buildings, the H/W ratio is already high (normally greater than 2:1), it is difficult for winds from above the roof tops to penetrate down to the street level. For H/W greater than 2:1, a double air circulation vortex will begin to form within the street canyon and air ventilation at the ground level will be poor.

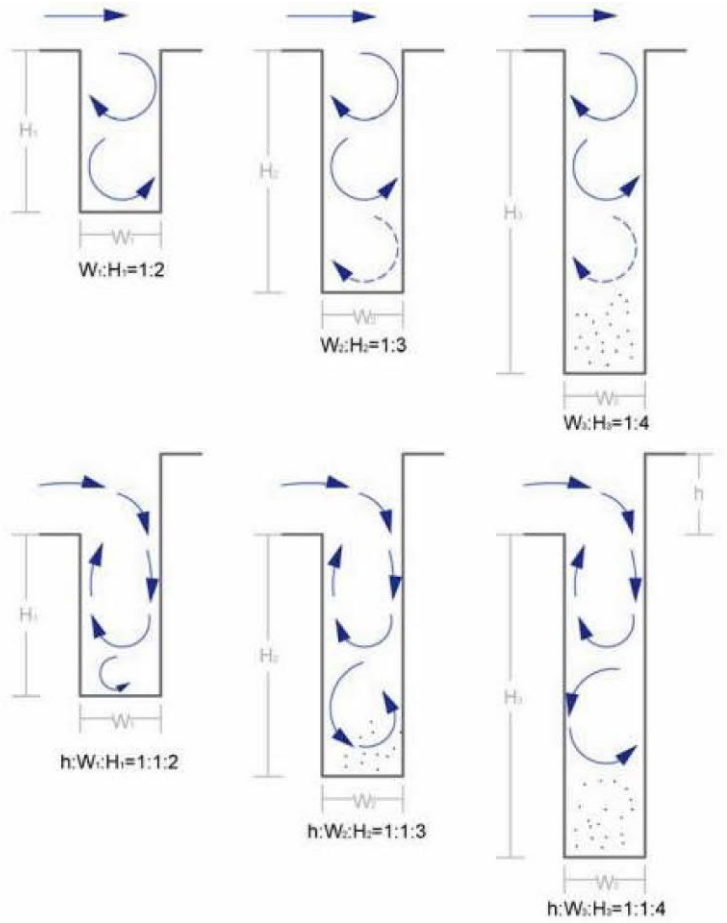


Figure B-2 The figure shows a generic understanding of the wind regimes in canyons

.

[Reference: A. KOVAR-PANSKUS, P. LOUKA, J.-F. SINI, E. SAVORY, M. CZECH, A. ABDELQARI, P. G. MESTAYER and N. TOY, INFLUENCE OF GEOMETRY ON THE MEAN FLOWWITHIN URBAN STREET CANYONS – A COMPARISON OF WIND TUNNEL EXPERIMENTS AND NUMERICAL SIMULATIONS, Water, Air, and Soil Pollution: Focus 2: 365–380, 2002, Kluwer Academic Publishers.]

Air Flow Regimes in Urban Canyons

The mechanisms by which each of the flow regimes occurs may be summarized as follows. When the H/W ratio of a canyon is less than 0.3, i.e., the buildings are well spaced, they act essentially as individual buildings (or 'isolated roughness elements') since the air travels a sufficient distance downwind of the first building before encountering the next obstacle. As buildings become more closely spaced and H/W ratios increase, the disturbed air flow has insufficient distance to readjust before encountering the next obstacle. The result is 'wake interference' flow. With reduced building spacing, the mesoscale flow skims over the top of the canyon.

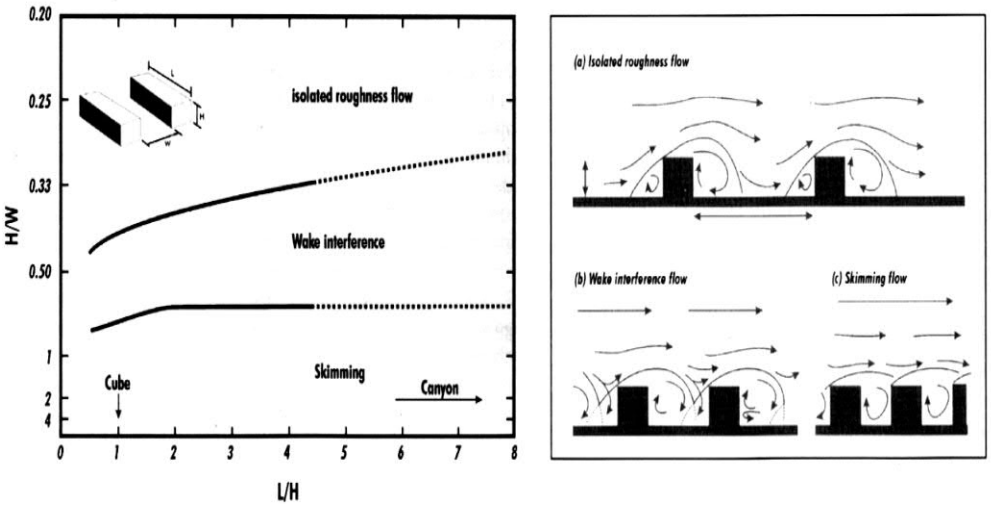


Figure B-3 The relationship between building height and street width ratio and the possible flow regimes

[Reference: Oke, T. R. (1987). Boundary layer climates. Routledge.]

CFD study on street canyon

Studies in Hong Kong show that with the increase of the H/W, the air flow will go up along the long street canyon. The wind at the ground level is weak in the depth of the street canyon.

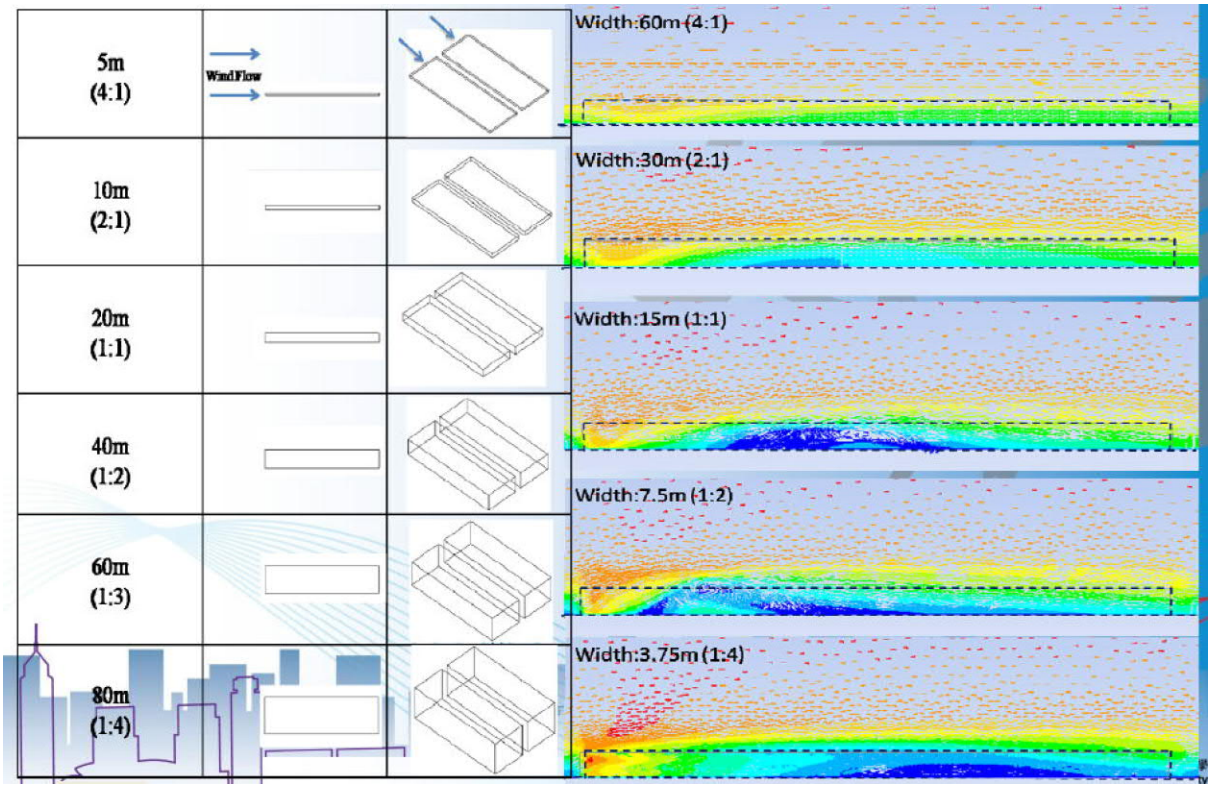
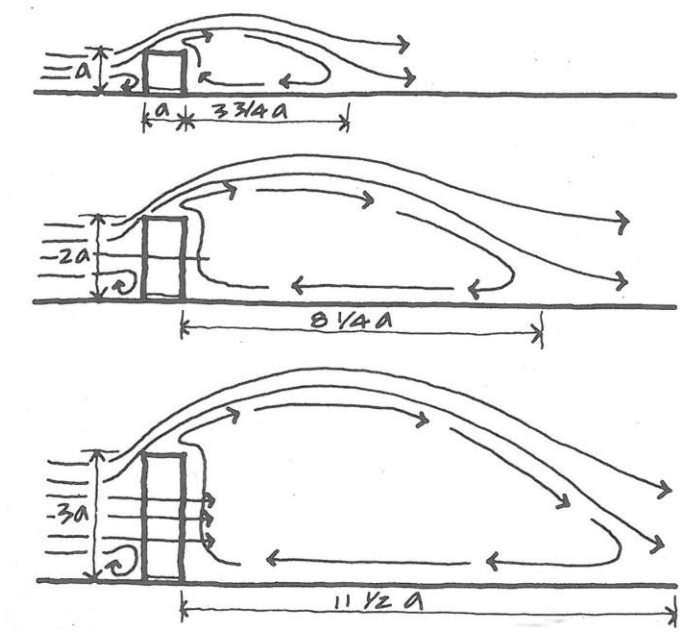
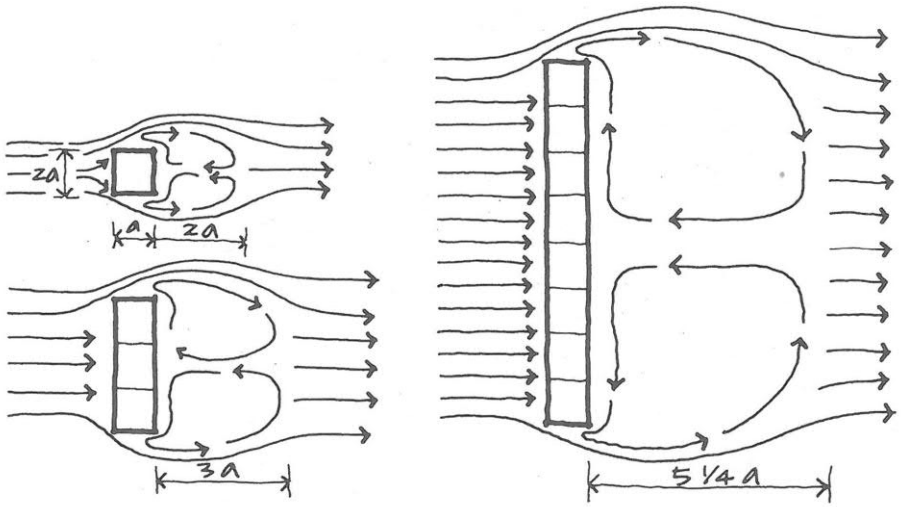


Figure B-4 CFD study on street canyon with varying width/height

[Reference: Choi, E. Air ventilation studies.
https://www.housingauthority.gov.hk/hdw/content/static/file/en/aboutus/events/qualityhousing/seminar/07CityUProfEdmundChoi.pdf]



(a) Impact of building height



(b) Impact of building width

Figure B-5 Wind flows around buildings

Note: Arrows represent wind flow patterns, with closer lines indicating increased wind speed. Circular arrows indicate eddies. The low-pressure eddy zones will have markedly decrease wind speeds and are sometimes termed areas of "wind shadow" (wind wake).

[Reference: Brown, G. Z., & Sun, D. M. (2001). Wind, and Light: Architectural Design Strategies. *US: Wiley*.]

The street canyon has the lateral flow induced by corner. For long street canyons, air ventilation effects by corner vortices fade with increasing length-to-width (L/W) ratios of streets. Due to the high H/W ratio, lateral flow induced by horizontal vortices at lower levels become important for the penetration of air movement into the street canyons perpendicular to the prevailing winds.

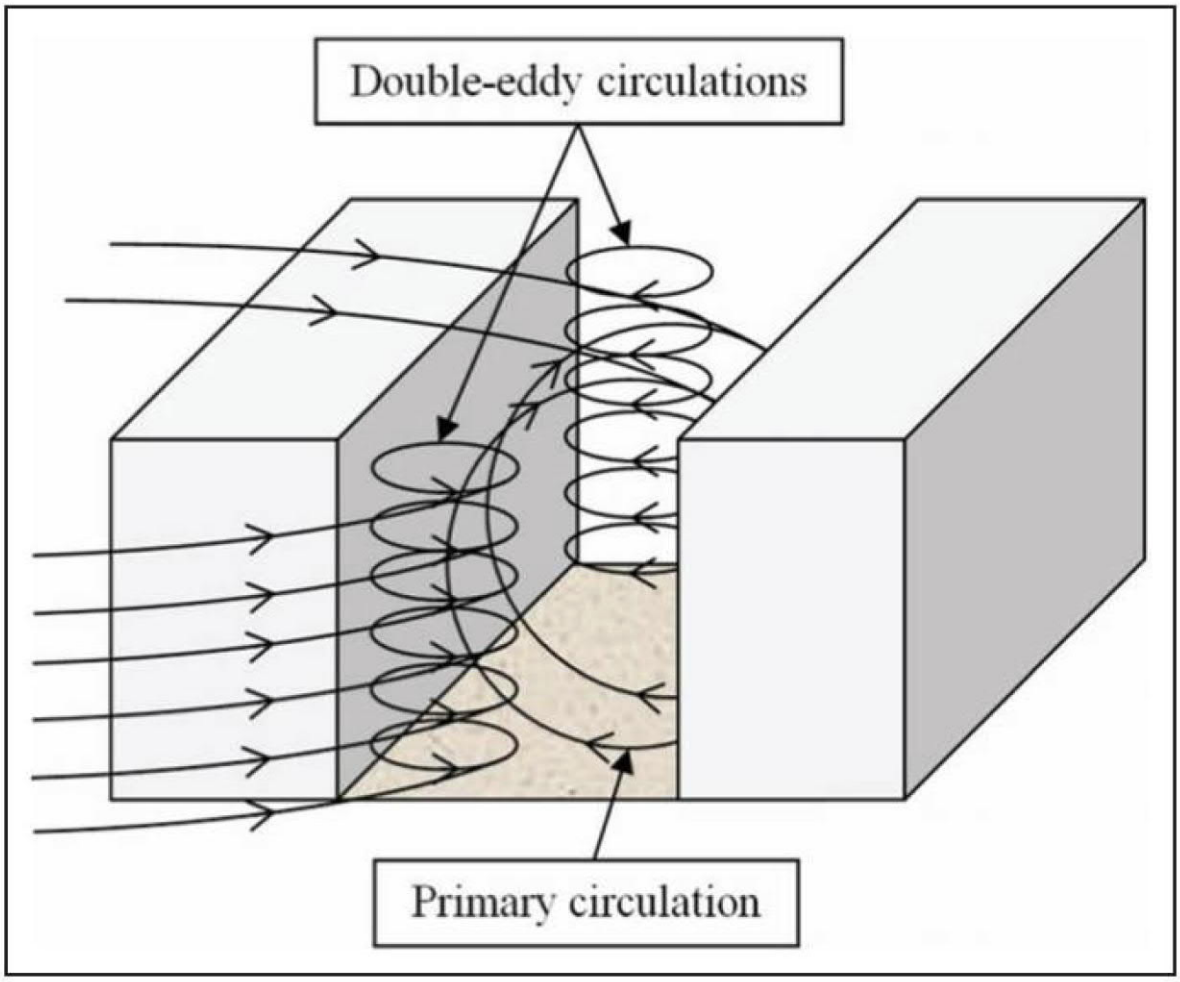
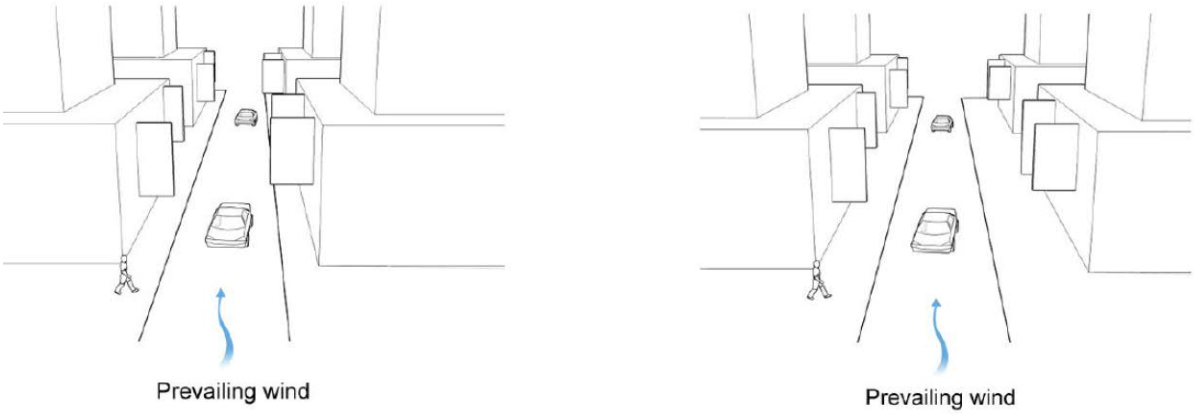


Figure B-6 Flow structures in an isolated street canyon with perpendicular air flow

[Reference: Yazid, A. W. M., Sidik, N. A. C., Salim, S. M., & Saqr, K. M. A review on the flow structure and pollutant dispersion in urban street canyons for urban planning strategies. Simulation 90.8 (2014): 892-916.]



To improve the air ventilation in the urban areas, the widening of streets along the prevailing wind direction is considered of high effectiveness. Especially for large sites facing narrow urban canyon as typically found in old urban district like Mong Kok, the building setback on each side of the street should be provided upon redevelopment or urban renewal.

Figure B-7 Street widening / Building setback

[Reference: Hong Kong Planning Department. Hong Kong Planning Standards and Guidelines (HKPSG). 2011]

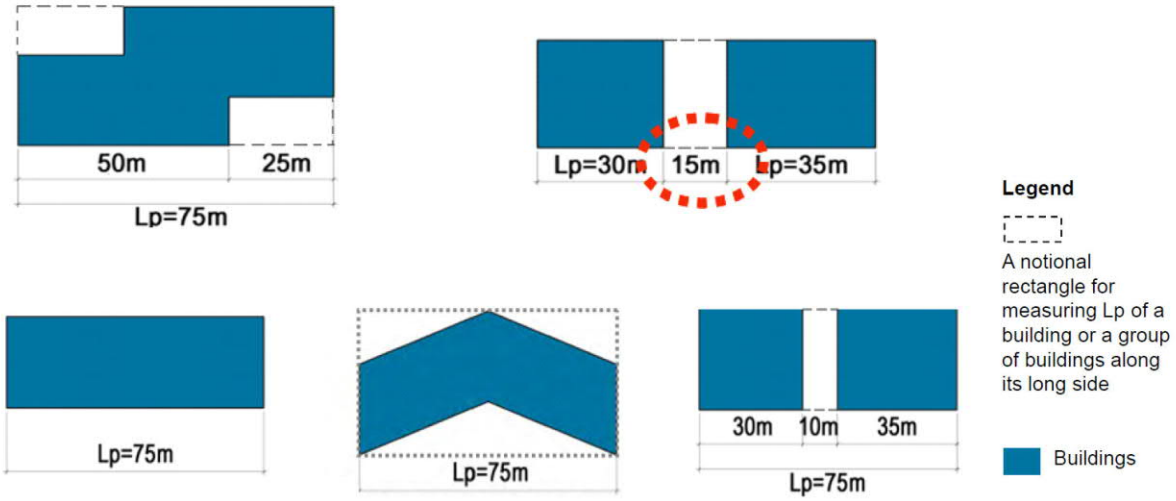


Figure B-8 Determining Lp
(i.e. the total projected length of façade of a building or a group of buildings if separation between them is less than 15m. Building portions at low zone of height ≤6.67m are disregarded in Lp.)

[Reference: Sustainable Building Design Guidelines (PNAP APP-152)]

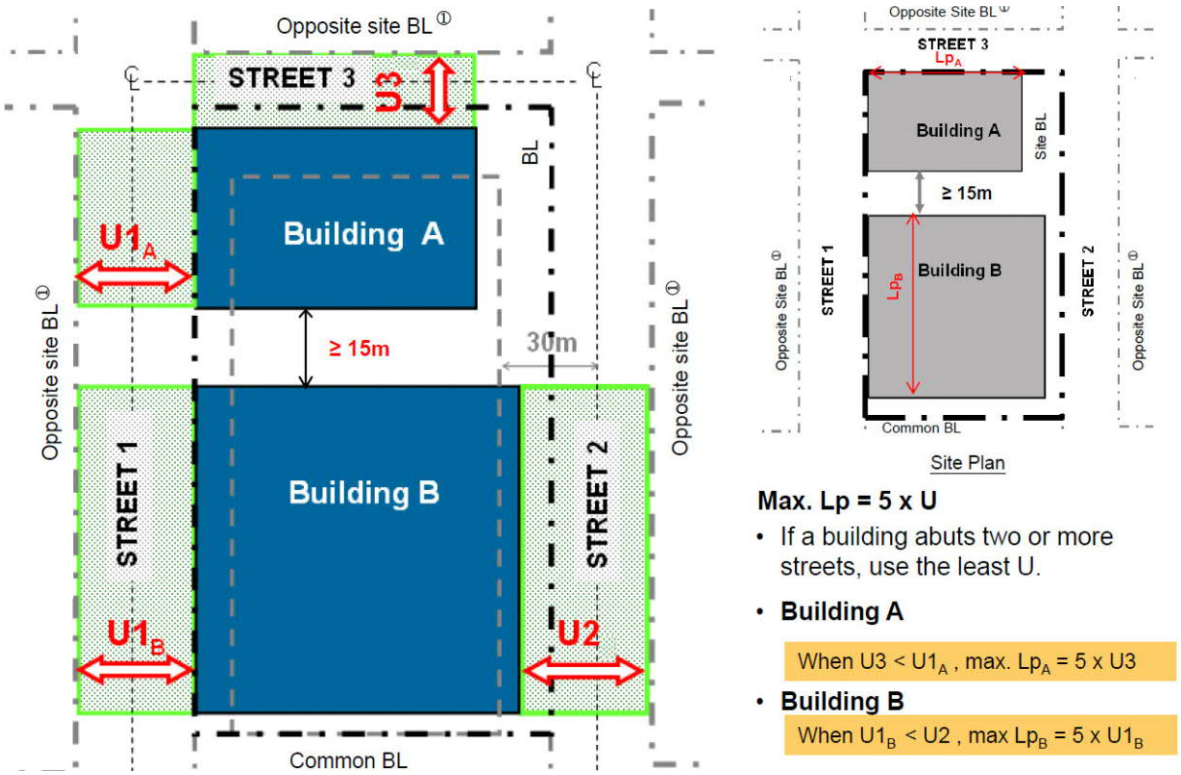


Figure B-9 Defining the mean width of street canyon (U) and the maximum permissible continuous projected façade length (L_P)

[Reference: Sustainable Building Design Guidelines (PNAP APP-152)]

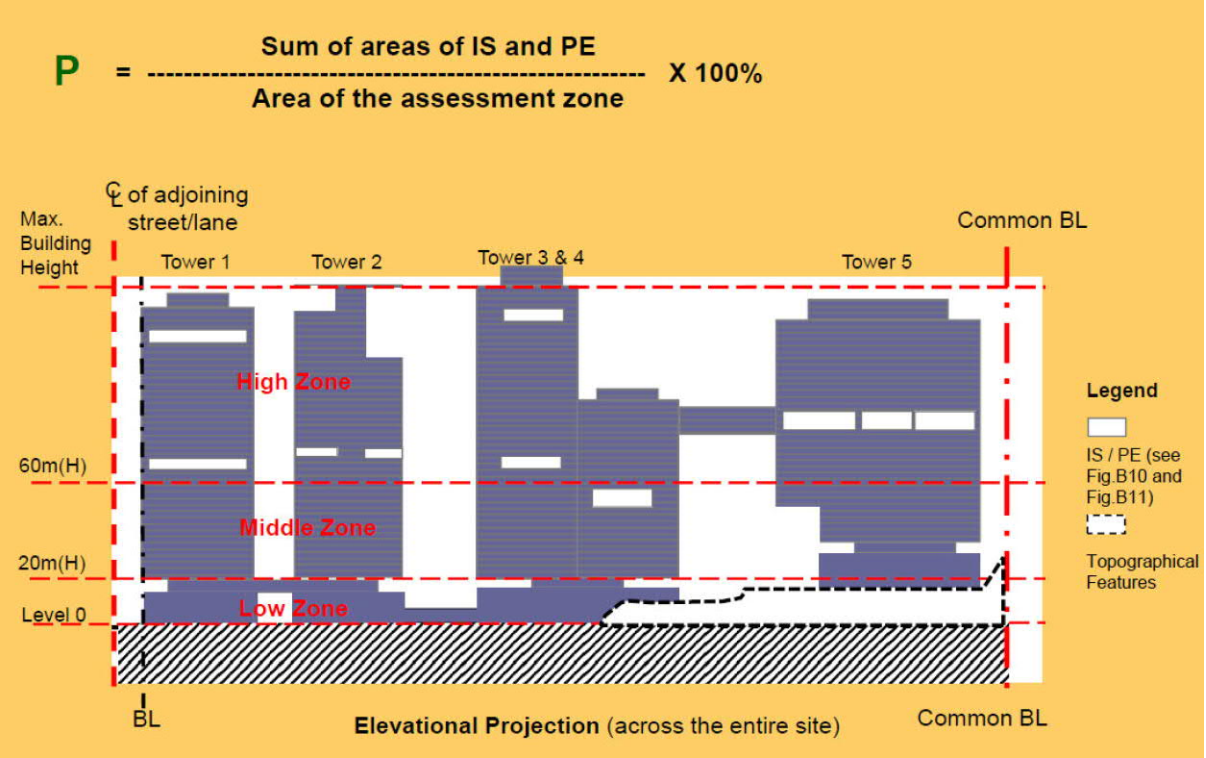
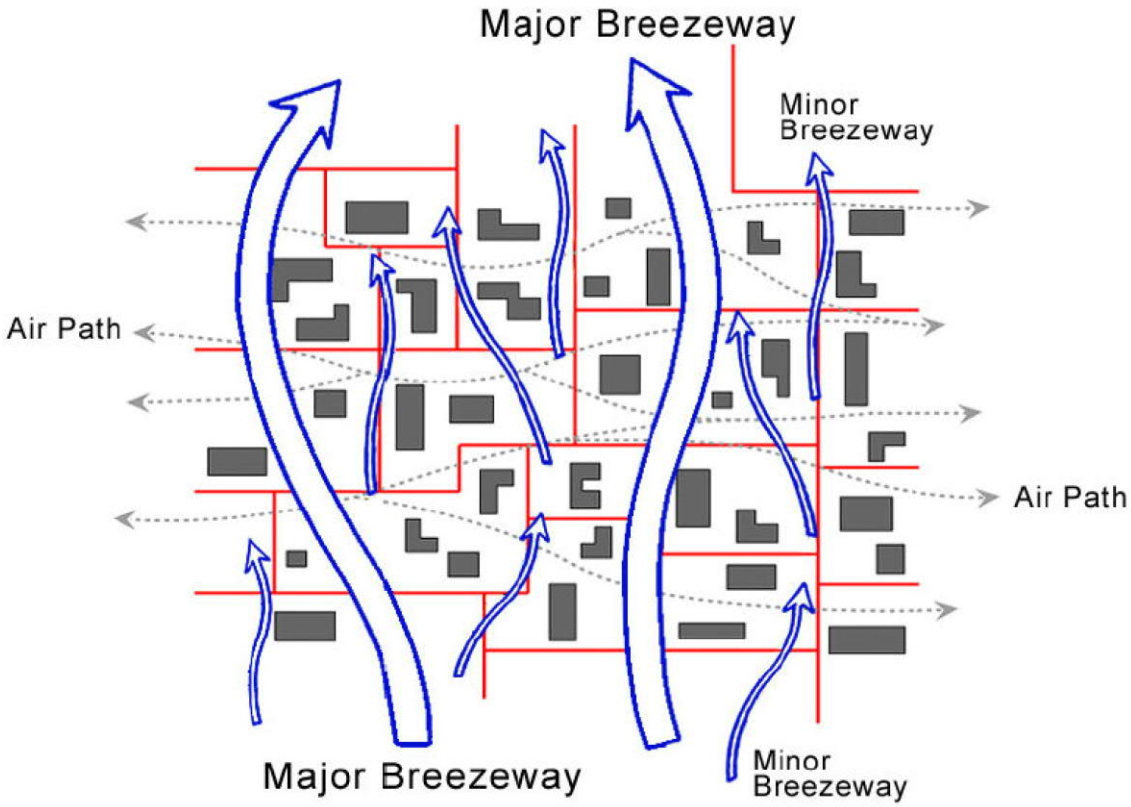


Figure B-10 Assessment of Permeability (P)

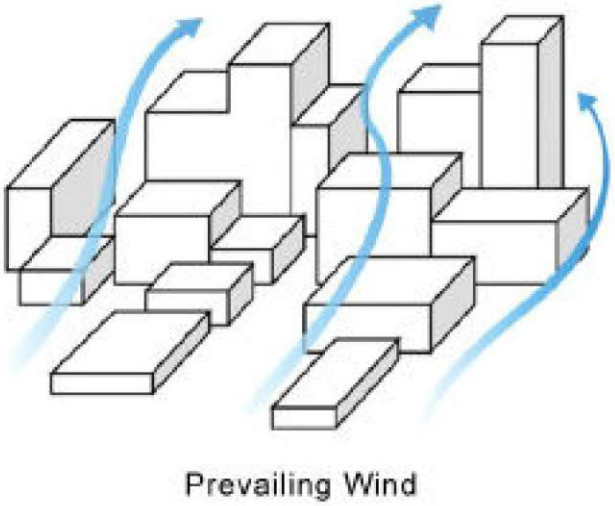
[Reference: Sustainable Building Design Guidelines (PNAP APP-152)]



The disposition of amenity areas, building setbacks and non-building areas should be linked, and widening of the minor roads connecting to major roads should be planned in such a way to form ventilation corridors/air paths to further enhance wind penetration into inner parts of urbanised areas

Figure B-11 Air Paths / Breezeways

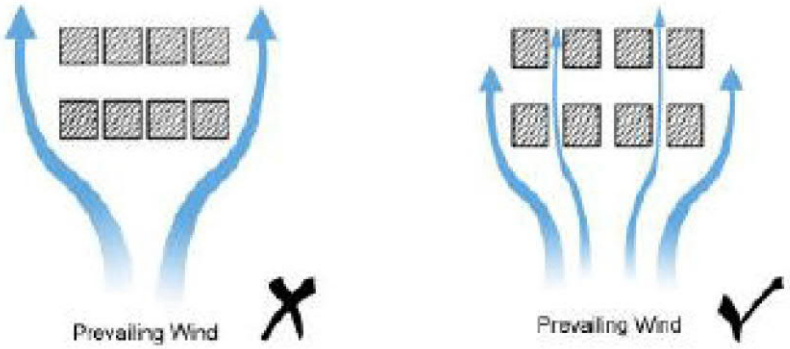
[Reference: Hong Kong Planning Department. Hong Kong Planning Standards and Guidelines (HKPSG). 2011]



In general, gradation of building heights would help wind deflection and avoid air stagnation. Where appropriate, height variation across the district with decreasing heights towards the direction where the prevailing wind comes from should be adopted to promote air movements.

Figure B-12 Varying height profile to promote air movements

[Reference: Hong Kong Planning Department. Hong Kong Planning Standards and Guidelines (HKPSG). 2011]



Where practicable, adequately wide gaps should be provided between building blocks to maximize the air permeability of development and minimize its impact on wind capturing potential of adjacent developments. The gaps for enhancing air permeability should be at a face perpendicular to the prevailing wind.

Figure B-13 Gaps between Building Blocks to Enhance Air Permeability

[Reference: Hong Kong Planning Department. Hong Kong Planning Standards and Guidelines (HKPSG). 2011]

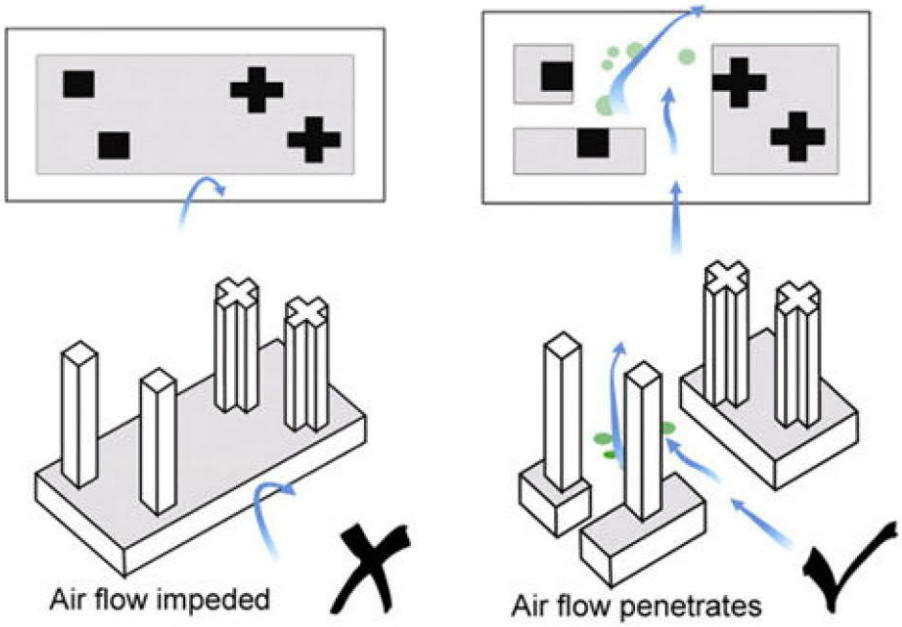


Figure B-14 Reducing Site Coverage of the Podia to Allow More Open Space at Grade

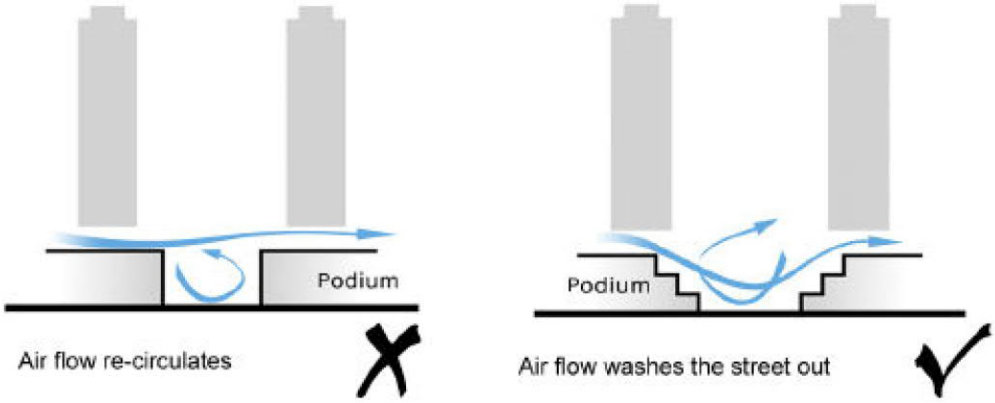
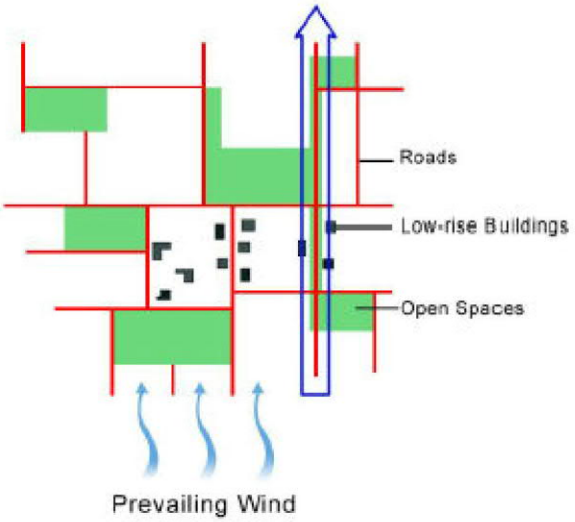


Figure B-15 Terraced Podium Design

[Reference: Hong Kong Planning Department. Hong Kong Planning Standards and Guidelines (HKPSG). 2011]



Breezeways should be created in forms of major open ways, such as principal roads, inter-linked open spaces, amenity areas, non-building areas, building setbacks and low-rise building corridors, through the high-density/high-rise urban form. They should be aligned primarily along the prevailing wind direction routes, and as far as possible, to also preserve and funnel other natural air flows including sea and land breezes and valley winds, to the developed area.

Figure B-16 Linkage of Roads, Open Spaces and Low-rise Buildings to form Breezeways

[Reference: Hong Kong Planning Department. Hong Kong Planning Standards and Guidelines (HKPSG). 2011]

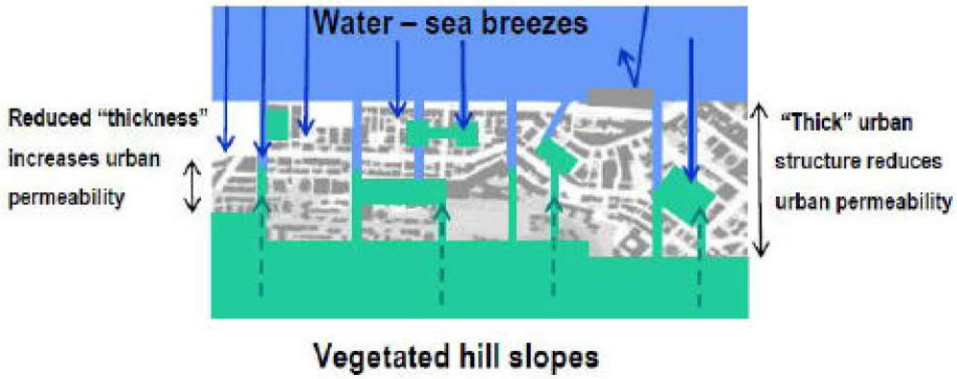


Figure B-17 Ways to create breezeways/air paths to facilitate air ventilation connectivity

[Reference: Hong Kong Planning Department. Hong Kong Planning Standards and Guidelines (HKPSG). 2011]

Appendix C

List of Information provided by Planning Department (PlanD)

BASELINE ANALYSIS
Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/29 (Plan, Notes and Explanatory Statement (ES) together with Schedule of Amendments) (Notes and ES available at: https://www2.ozp.tpb.gov.hk/gos/download.aspx?type=ozp&caseno=S/K13/29&lang=0)
Plan 1: Existing building height (in no. of Storeys)
Plan 2: Existing building height (in mPD)
Plan 3: Existing building height and podium height (in mPD) on 1:2,600 survey sheet
Plan 4: Existing spot height on 1:2,600 survey sheet
Plan 5: Committed developments – Approved General Building Plans and Planning Application
Plan 6: Current Building Height Restrictions
Plan 7: Current Non-building Area and Building Gap Requirements
Plan 8: Aerial Photo
Plan 9: Existing Street Width

INITIAL SCENARIO
Kowloon Bay Action Area (KBAA) Preliminary Outline Development Plan (PODP) under the ongoing Planning and Engineering Study for the Development at KBAA of Kowloon East (available at https://www.ekeo.gov.hk/en/activities/planning_engineering_study_kbaa.html); and the associated AVA for the KBAA PODP (extract of Working Paper No. 8 of the Study) (April 2017)

OTHER REFERENCE MATERIALS
K 13 OZP related materials
1. Previous OZPs: • OZP No. S/K13/26 (Plan, Notes & Explanatory Statement together with Schedule of Amendments) • OZP No. S/K13/27 (Plan, Notes & Explanatory Statement together with Schedule of Amendments) • OZP No. S/K13/28 (Plan, Notes & Explanatory Statement together with Schedule of Amendments)

OTHER REFERENCE MATERIALS

2. Proposed Amendments to OZP No. S/K13/25:

- Metro Planning Committee (MPC) Paper No. 25/10 for Proposed Amendments to the approved Ngau Tau Kok and Kowloon Bay OZP No. S/K13/25
- Minutes of MPC Meeting on 12.11.2010

3. Representation Materials and Town Planning Board (TPB) Hearings on 27.5.2011 and 1.6.2011:

- TPB Paper Nos. 8820, 8821 and 8822
- Representation (R2) by The Real Estate Developers Association of Hong Kong (REDA) at TPB Paper No. 8820 Annex III-1
- Minutes of TPB Meetings on 27.5.2011 and 1.6.2011

4. Judicial Reviews

REDA v. TPB

Relevant JR materials submitted by REDA

- Form 86 in respect to HCAL No. 58 of 2011
- Affirmation 1 (Barry WILL)
- Affirmation 2 (Ian BROWNLEE)
- Reply Affirmation (Ian BROWNLEE)

Relevant JR materials submitted by TPB

- Affidavit 1 (Ophelia WONG)
- Affidavit 2 (Eric YUE)
- Affidavit 3 (Yan Yung NG)
- Letter from Department of Justice to REDA's solicitor (power point presentation from REDA for consideration of representations for Leighton Centre & Lee Theatre Plaza and sheets prepared by PlanD listing out the site-specific/generic assessments and assumptions made in relation to the K13 OZP)

Court Judgements

- CFI Judgement (HCAL No. 58 of 2011)
  (available at https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=96941&currpage=T)

Oriental Generation Limited (OGL) v. TPB

Court Judgments

- CFI Judgement (HCAL No. 62 of 2011, HCAL No. 109 of 2011 and HCAL No. 34 of 2012)
  (available at https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=81628&currpage=T)
- CA Judgement (CACV No. 127 of 2012 and CACV No. 129 of 2012)
  (available at https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=95736&currpage=T)

OTHER REFERENCE MATERIALS
5. Review of Draft Ngau Tau Kok and Kowloon Bay OZP No. S/K13/26 in relation to decision of REDA Judicial Review and REDA's supplementary information • TPB Paper No. 10397 (available at https://www.info.gov.hk/tpb/en/meetings/TPB/Agenda/1166_tpb_agenda_en.html) • Minutes of TPB Meeting on 9.3.2018 • Supplementary Information and letter from REDA dated 25.5.2018
6. Consideration of Sustainable Building Design Guidelines: • SBD Guidelines (PNAP APP-151 & 152) (available at http://www.bd.gov.hk/english/documents/index_pnap.html)
7. Past Initial Study (IS)/Expert Evaluation (EE) on Air Ventilation Assessments (AVAs): • EE on AVA for Ngau Tau Kok and Kowloon Bay OZP (November 2010) (available at https://www.pland.gov.hk/pland_en/info_serv/ava_register/government.html) • Executive Summary of AVA Report for the Ex-Kowloon Bay Flatted Factory site, air ventilation appraisal reports for Choi Wing Road site, Choi Hing Road and Choi Hing Lane sites (March 2014) (available at https://www.info.gov.hk/tpb/en/papers/MPC/508-mpc_6-14.pdf) • AVA IS Report for Term Consultancies for AVA Services - Ex-Kowloon Bay Flatted Factory Site (Oct 2013) • IS on AVA for approved planning application No. A/K13/299 for minor relaxation of building height restriction from 170mPD to 190mPD for Public Rental Housing of Choi Fook Estate Phase 3 and Sports Centre (December 2015) • EE on AVA for Kai Tak Mansion (March 2017) (available at http://www.info.gov.hk/tpb/en/papers/MPC/577-mpc_1-17.pdf) • AVA report for Wang Chiu Road Public Housing Site (September 2017) (available at http://www.info.gov.hk/tpb/en/papers/MPC/577-mpc_1-17.pdf)
8. Study • Executive Summary for Kowloon Bay Business Area (KBBA) Pedestrian Environment Improvement - Feasibility Study (available at https://www.ekeo.gov.hk/kbba-pedestrian/en/Home.html)
Related materials of surrounding area
Kai Tak Development • AVA report for Kai Tak Development Engineering Study cum Design and Construction of Advance Works - Investigation, Design and Construction (Further Review of Development Intensity) (January 2017) • EE on AVA Report - Proposed Residential and Commercial Development at Kai Tak Runway (June 2017) • AVA Report for Establishment of Centre of Excellence in Paediatrics in Kai Tak

OTHER REFERENCE MATERIALS

Development (Programme Nos.: 76MM) (February 2012) (available at: https://www.pland.gov.hk/pland_en/info_serv/ava_register/ProjInfo/AVRG61_Final Report.pdf)

- Approved Kai Tak OZP No. S/K22/6 (Plan, Notes and Explanatory Statement) (Notes and ES available at: https://www2.ozp.tpb.gov.hk/gos/download.aspx?type=ozp&caseno=S/K22/6&lang=0)

Related materials of REDA Representation in other areas

Further Consideration of Proposed Amendments to Draft Causeway Bay OZP No. S/H6/15

- TPB Paper No. 10375 (available at http://www.info.gov.hk/tpb/en/papers/TPB/1160-tpb_10375.pdf)

Proposed Amendments to Draft Wan Chai OZP No. S/H5/27

- TPB Paper No. 10415 (available at http://www.info.gov.hk/tpb/en/papers/TPB/1168-tpb_10415.pdf)

Proposed Amendments to Draft Mong Kok OZP No. S/K3/30

- TPB Paper No. 10422 (available at https://www.info.gov.hk/tpb/en/papers/TPB/1177-tpb_10422.pdf)

城市規劃委員會文件第 10575 號
附件 VIa

城市規劃委員會文件第 10397 號
附件 C1

《可持續建築設計指引》的影響

1. 《可持續建築設計指引》

1.1 2010年10月，政府宣布會採取一系列措施，提升新樓的設計水平，以締造優質及可持續的建築環境，回應社會對建築物體積過大、高度過高的關注。新的規定其後透過行政措施實行。屋宇署於2011年1月發出全新的建築專業人士作業備考PNAP APP-151—《推動優質及可持續建築環境的建築設計》(**附件B1**)，以及APP-152 —《可持續建築設計指引》(**附件B2**)。

1.2 《可持續建築設計指引》確立3項主要建築設計元素(分別是建築物間距、建築物後移及綠化上蓋面積)，目的是改善空氣流通，提升市民生活空間的環境質素，加強綠化(特別是地面的綠化)，紓緩熱島效應(**附件B2**)。

(a) *建築物間距* —面積 2 萬平方米或以上的建築地盤，或面積少於 2 萬平方米但建築物的連續外牆闊度不少於60 米的建築地盤，其建築物外牆闊度須受管制，而且必須在 3 個評估層區(即 0 至 20 米的低層區、20 至60 米的中層區，以及 60 米以上的高層區)留有相當於建築物正面外牆總面積 20%、25%或 33.3%的間距空間，實際間距視乎地盤面積、外牆闊度和建築物高度而定。

(b) *建築物後移* —面對不足 15 米闊街道的建築物，須將其地面至之上 15 米的部分後移退入，使街道中線與建築物之間的距離不少於 7.5 米；或者按規定，提供淨高度不少於 4.5 米的對流公用平台花園。

(c) *綠化上蓋面積* —凡面積少於 1 000 平方米的地盤，須劃出 20%或 30%的地盤面積作為綠化區(視乎地盤面

積而定)；以及綠化區必須有不少於一半的面積位於沿街道的一面從地面至之上15米的垂直範圍(即主區)。

1.3 鑑於個別發展項目可能會因特殊情況而在遵從《可持續建築設計指引》所訂明的規定有確實困難，建築事務監督靈活務實地從整體上考慮各方案，務求達到《可持續建築設計指引》的目的。為此，《可持續建築設計指引》訂有其他替代方案(例如採用以成效為本的其他設計、採取其他有效的補償措施，或對於情況獨特的地盤作出特別的考慮)(**附件B2**的APP-152**附錄E**)。

1.4 發展項目必須遵從《可持續建築設計指引》的要求，才可獲建築事務監督就環保／適意設施和非强制性／非必要機房和設備批給總樓面面積寬免(**附件B1**)。新賣地地盤的地契條款或地契修訂書／換地文件亦會訂明該等要求。

2. <u>對建築物高度輪廓的影響</u>

2.1 由於《可持續建築設計指引》的具體及相關建築設計規定只能在詳細建築設計階段確定，加上有多種方式或其他方法以符合有關要求，難以在規劃初期準確地確定對個別發展項目造成的影響，例如對最終的建築外型、建築布局和建築物高度的影響。因此，《可持續建築設計指引》對建築物高度輪廓的預計影響，通常只可基於一般假設而得出。

建築物後移

2.2 就建築物後移而言，把建築物界線(從街道地面至15米高的部分)維持在離街道中心線起計7.5米的距離，很可能會影響平台／低層的上蓋面積，令上蓋面積減少。不過，建築物後移多少，視乎現有街道的闊度而定。

2.3 《可持續建築設計指引》訂明，倘地盤大部分範圍可能因為後移而令發展受到限制，尤以面積細小或立面很長的地盤為然，實施補償措施(包括把整個建築物的高度／立面後移及劃設指定的綠化範圍)後，其最大後移面積限為地盤面積的15%。

2.4 就此而言，為符合建築物後移的規定，平台／低層上蓋面積的減幅以地盤面積的15%為限，而涉及的總樓面面積視乎受影響的平台層數而定。就牛頭角及九龍灣而言，一項綜合用途發展一般涉及設有兩至三層平台的住宅大樓[1]。為了補回失去的樓面空間，或須加建一層[2]。詳情見圖解(附件C1a)。倘採用設有空氣對流的公用平台花園這一方案，其影響將會是加建一層建築物高度約5米的樓層。

建築物間距

2.5 在訂定建築物間距時，低層區(介乎0至20米高，通常這個範圍是無間斷的平台層，外牆寬闊，上蓋面積達100%)的設計選擇較多。部分樓面空間須重新分配，將低層區的空間撥到高層區，以便留有訂明的建築物間距。至於大廈在中層區和高層區範圍內的部分，鑑於大廈的大小受《建築物(規劃)規例》所訂的最大准許上蓋面積限制(即非住用建築物的上蓋面積限為60%至65%，住用建築物的上蓋面積限為33.33%至40%)，故這類建築物通常不難符合最大外牆闊度和20%至30%間距的規定。

2.6 為了克服在低層區符合建築物間距規定時可能出現的困難，《可持續建築設計指引》訂明，如建築物體積較細小，以及面向街道的部分充分後移，則可彈性豁免這方面的規定。採用這類其他設計的項目，最大上蓋面積限為65%。這對於一項綜合用途發展建築物高度的影響大約相等於兩個樓層(**附件C1b**)。上述在上蓋面積和後移方面的減幅亦可計入上文第2.2至2.4段所述關於建築物後移規定的評估。因此，建築物後移和建築物間距對建築物高度的累積影響，將相等於大約兩個樓層[3]或6米(視乎建築物類型和樓底高度而定)。

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[1] 分區計劃大綱圖訂明牛頭角及九龍灣「住宅(甲類)」地帶地盤的最高地積比率(即住用地積比率為 7.5 及總地積比率為 9)。在一項綜合用途發展以 100%上蓋面積發展三層全用作商業用途的平台的做法並不常見，除非需要盡用該項目的非住用地積比率，以及住用地積比率低於分區計劃大綱圖所准許的 7.5。

[2] 有關估算是基於綜合用途發展項目會採用最大住用總樓面面積的假設而作出的。如選擇採用最大非住用總樓面面積，可能須再加建一層，視乎地盤分類而定。

[3] 有關估算是基於綜合用途發展項目會採用最大住用總樓面面積的假設而作出的。如選擇採用最大非住用總樓面面積，可能須再加建一層，視乎地盤分類而定。

綠化上蓋面積

2.7 發展項目通常可以在建築物後移騰出的空間、平台樓層等地方進行綠化工程，或者在外牆進行垂直綠化。因此，相信綠化上蓋面積的規定不會對建築物高度和建築物體積有重大影響。

3. 就評估建築物高度作出的假設

3.1 《可持續建築設計指引》對建築物高度的預計影響，是根據保守的方法作出評估。假設要符合建築物後移規定，平台／低層可建的最大上蓋面積為85%；假設要符合建築物間距規定，平台／低層可建的最大上蓋面積為65%。建築物高度的推算，是基於建築物類別(住用、非住用或綜合用途樓宇)、《建築物(規劃)規例》訂明的地盤分類及相應准許地積比率和上蓋面積、可能寬減的樓面總面積、平台高度(最高15米)、樓底高度、地庫停車場及隔火層等要求而推算出來。

3.2 基於附件C2的假設，在落實有關建築物後移及建築物間距規定後，一般地積比率為12的商業樓宇，其建築物高度介乎95米至103米；至於「住宅(甲類)」地帶內的綜合用途樓宇(平台層作非住用用途，而上層則作住用用途)[4]，其建築物高度則介乎81米至92米[5]。

3.3 不過，有一點須留意的，是有關評估只屬一般評估，並沒有針對個別地盤限制而作出考慮。形狀不規則和有一定限制的地盤，例如位於狹窄街道旁的狹長地盤，日後進行重建時，可能會在符合《可持續建築設計指引》的建築物間距規定方面受到限制。須就這類地盤擬備概念計劃，以審視各可行的建築物高度輪廓及建築物高度。

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[4] 事實上，平台亦會設有住用用途，例如大堂入口及會所。

[5] 有關估算是基於「住宅(甲類)」地帶的綜合發展項目的最高住用地積比率(即 7.5 倍)而作出的。

城市規劃委員會文件第 10575 號
附件 VIb

城市規劃委員會文件第 10397 號
附件 C2

《可持續建築設計指引》的基本假設及影響

假設

樓層高度(米)									
住宅(私人)				3.15					
商業				4					
平台				5					
地積比率				甲類		乙類		丙類	
「住宅(甲類)」地帶(住用／非住用地積比率)				7.5／0.94 倍		7.5／1.5 倍		7.5／1.5 倍	
「其他指定用途」註明「商貿」地帶				12		12		12	
其他地帶				分區計劃大綱圖所准許的總樓面面積					
總樓面面積寬免[a]									
住宅及綜合商業／住宅 商業				20% 25%					
上蓋面積	基本的建築物輪廓			《可持續建築設計指引》(下稱《指引》)所規定的建築物後移+基本的建築物輪廓			《指引》所規定的建築物間距+基本的建築物輪廓		
地盤類別	A	B	C	A	B	C	A	B	C
平台(%)	100			85			65		
住宅(%)	33.3	37.5	40	33.3	37.5	40	33.3	37.5	40
商業(%)	60	62.5	65	60	62.5	65	60	62.5	65

基於上述假設而預計的絕對建築物高度

	基本的建築物輪廓(米)			《指引》所規定的建築物後移+基本的建築物輪廓(米)			《指引》所規定的建築物間距+基本的建築物輪廓(米)		
地盤類別	A	B	C	A	B	C	A	B	C
住宅(「住宅(甲類)」地帶—私人／私人機構參建居屋計劃／居者有其屋計劃)	86	82	79	89	84	81	92	91	84
「住宅(乙類)」地帶—居者有其屋計劃	40	-	-	40	-	-	40	-	-
「其他指定用途」註明「商貿」地帶及「商業」地帶	95	91	87	99	95	91	103	99	95

基於上述假設而預計的樓層數目

	基本的建築物輪廓(平台上樓層數目／平台樓層數目)[b]			《指引》規定的建築物後移+基本的建築物輪廓(平台上樓層數目／平台樓層數目)			《指引》規定的建築物間距+基本的建築物輪廓(平台上樓層數目／平台樓層數目)		
地盤類別	A	B	C	A	B	C	A	B	C
住宅(「住宅(甲類)」地帶—私人／私人機構參建居屋計劃／居者有其屋計劃)	24層／2層	23層／2層	22層／2層	25層／2層	22層／3層	21層／3層	26層／2層	24層／3層	22層／3層
「住宅(乙類)」地帶—居者有其屋計劃	11層／1層	-	-	11層／1層	-	-	11層／1層	-	-

「其他指定用途」註明「商貿」地帶及「商業」地帶	20層／3層	19層／3層	18層／3層	21層／3層	20層／3層	19層／3層	22層／3層	21層／3層	20層／3層

一般註釋：

[a] 有關假設已計及(i)根據屋宇署於 2006 年率領政府跨部門工作小組所進行的「就樓宇獲批的總樓面面積寬免而進行的抽樣研究」，指出非住用樓宇的平均總樓面面積寬免(例如機房等，但不包括停車場)為 15%；以及(ii)《認可人士、註冊結構工程師及註冊岩土工程師作業備考》APP-151 所訂明適用於環保／適意設施及非強制性／非必要的機房及設施的總樓面面積寬免整體上限合共為 10%。

[b] 一般來說，用作放置豁免計算總樓面面積設施的天台構築物，如所佔面積少於下層的 50%，將不作一層計算。

城市規劃委員會文件第 10575 號
附件 VIc

城市規劃委員會文件第 10397 號
附件 C3

檢討牛頭角及九龍灣分區計劃大綱圖的發展限制

1. 概述

1.1 這項檢討所採用的假設闡於**附件 C1** 及詳載於**附件 C2**。檢討的範圍涵蓋《牛頭角及九龍灣分區計劃大綱圖編號 S/K13/26》(下稱「該圖」)所訂明的修訂，包括九龍灣商貿區以外用地的建築物高度限制，以及九龍灣商貿區以內及以外地方的非建築用地和建築物間距規定(見**圖 3B** 及 **3C**)。

1.2 檢討的範圍並不包括 2005 年分區計劃大綱圖編號 S/K13/22 所展示的九龍灣商貿區建築物高度限制，以及其後對該圖所作的修訂(即編號 S/K13/27 至 29 的圖則)，因為其內容與香港地產建設商會的申述無關。分區計劃大綱圖編號 S/K13/27 所作的修訂主要是技術修訂，以反映現存狀況／地段界線，與《可持續建築設計指引》的影響無關。分區計劃大綱圖編號 S/K13/28 及 S/K13/29 所作的修訂已顧及《可持續建築設計指引》的一般影響。

1.3 檢討總結認為，無須修訂分區計劃大綱圖內的建築物高度限制和非建築用地和建築物間距規定。

2. 檢討建築物高度限制

用作發展私人房屋或居者有其屋計劃單位的「住宅(甲類)」用地和「住宅(乙類)」用地

2.1 就所有「住宅(甲類)」用地和該幅「住宅(乙類)」用地而言，計及用地的類別及《可持續建築設計指引》的要求後，現有建築物高度限制應能容納准許的地積比率／總樓面面積。

「住宅(甲類)」用地	**麗晶花園、啓泰苑、得寶花園、淘大花園、淘大工業村(第一座)、嘉和園、宏光樓及利基大廈** (准許住用地積比率／總地積比率—7.5 倍／9 倍)	
	建築物高度限制	主水平基準上 100 米及 120 米
	顧及《可持續建築設計指引》的要求後，要容納分區計劃大綱圖准許的地積比率所需的建築物高度	主水平基準上 86 米至 97 米
「住宅(乙類)」用地	**順緻苑** 准許總樓面面積—89 900 平方米(相等於根據地盤淨面積(不包括非建築用地和順緻街範圍)計算的 3 倍地積比率)	
	建築物高度限制	主水平基準上 170 米
	顧及《可持續建築設計指引》的要求後，要容納分區計劃大綱圖准許的總樓面面積所需的建築物高度	主水平基準上 159 米

用作發展公共房屋的「住宅(甲類)」用地

2.2 該圖就公共房屋用地所訂的建築物高度限制，大致反映了大部分相關公共屋邨現有／已落實發展的建築物高度。房屋署現時沒有計劃重建該等屋邨，對是否保留該等公共屋邨用地的現有建築物高度限制沒有意見。如日後房屋署有計劃重建該等屋邨，規劃署會根據審議公屋用地重建計劃的既定機制，考慮設計、地盤環境和對政府設施的要求等因素，並按個別情況檢視每幅用地的最適當發展密度。

「其他指定用途」註明「商業／住宅發展連公眾停車場及公共交通交匯處」地帶

2.3 在參照《可持續建築設計指引》的要求下，清水灣道 8 號的「其他指定用途」註明「商業／住宅發展連公眾停車場及公共交通交匯處」地帶的現有建築物高度限制可容納准許的總樓面面積。

清水灣道 8 號 准許住用／非住用總樓面面積—19 138 平方米／13 360 平方米 (相等於 6 倍／4.1 倍的住用／非住用地積比率)	
建築物高度限制	主水平基準上 180 米
顧及《可持續建築設計指引》的要求後，要容納分區計劃大綱圖准許的總樓面面積所需的建築物高度	主水平基準上 119 米

2.4 應留意以下事項：

(a) 該項發展是於 2002 年根據規劃申請編號 A/K13/160 獲城規會批准的；

(b) 建築物高度限制訂為主水平基準上 180 米，大致反映了該項住宅發展的現有建築物高度(為主水平基準上 184.3 米，而地盤水平為主水平基準上 9.5 米)。住宅下面是平台，設有商舖、一個公共交通交匯處及提供 450 個公共停車位的附屬泊車設施和泊車轉乘設施；以及

(c) 該項發展於 2005 年落成，屬於較近期的項目。如日後進行重建，便須檢討應否保留用地內的特別用途，包括泊車轉乘設施和公共交通交匯處。

<u>「其他指定用途」註明「香港鐵路車廠與上蓋的商業及住宅發展」地帶</u>

2.5 就此地帶而言，這幅用地須容納特定用途，包括一間鐵路車廠和一個公共運輸交匯處。因此，在現階段就制訂顧及《可持續建築設計指引》要求的概念性重建方案，以便根據方案檢討建築物高度，此舉未免過於隨意。然而，根據概略的布局設計檢討，現時的建築物高度限制不會令該地帶的發展無法達到分區計劃大綱圖准許的總樓面面積。

港鐵車廠上蓋的德福花園及德福廣場 准許住用／非住用總樓面面積—278 703 平方米／177 031 平方米 (相等於 1.72／0.96 倍的住用／非住用地積比率)

建築物高度限制	主水平基準上 60 米及 100 米
要容納分區計劃大綱圖准許的總樓面面積所需的建築物高度	建築物高度限制能容納分區計劃大綱圖准許的總樓面面積。適用於德福花園部分的建築物高度限制(主水平基準上 60 米及 100 米)，較現時的建築物高度普遍高出 10 米。德福廣場部分的建築物高度限制(主水平基準上 100 米)，反映了現時的建築物高度。
《可持續建築設計指引》的要求	至於這用地的重建計劃，由於用地的臨街立面長，以及需要特別功能的用途以容納港鐵車廠和公共交通交匯處，所以可能會難以滿足《可持續建築設計指引》的要求。這用地很可能需要採用以成效為本的其他設計方案，並有空氣流通評估支持。

「政府、機構或社區」用地

2.6 就該「政府、機構或社區(3)」用地而言，建築物高度限制能容納准許的總樓面面積。《可持續建築設計指引》的要求不適用於此用地。

彩頤居：香港房屋協會長者安居樂住屋發展 准許住用／非住用總樓面面積—16 500 平方米／4 125 平方米 (相等於 5.9／1.5 倍的住用／非住用地積比率)	
建築物高度限制	主水平基準上 100 米
要容納分區計劃大綱圖准許的總樓面面積所需的建築物高度	主水平基準上 95 米
《可持續建築設計指引》的要求	不適用，因為(i)用地的臨街立面不足 60 米；以及(ii)與毗鄰街道的中線相距超過 7.5 米。

2.7 順利紀律部隊宿舍位於「政府、機構或社區」地帶的用地，現時的建築物高度過高。進行重建時，當局須檢討這塊用地的最合適用途和最佳發展密度。現時的建築物高度限制是當局根據順利區的擬議建築物高度輪廓而訂定的，現階段不應修改。

順利紀律部隊宿舍 分區計劃大綱圖沒有就總樓面面積訂明限制 獲批的規劃申請編號 A/K13/140(地積比率為 7.78 倍)(於 2000 年獲批)	
建築物高度限制	主水平基準上 180 米
現時的建築物高度 (地盤水平為主水平基準上 118 米)	主水平基準上 247 米至 251 米

2.8 須留意以下事項：

(a) 現有發展於 2001 年落成，當時分區計劃大綱圖還未有就建築物高度訂立限制。該項發展太高，與毗鄰發展格格不入，尤其是從保護清水灣道(整體水平約為主水平基準上 100 米) 的遠眺開揚景觀來看；

(b) 建築物高度限制訂為主水平基準上 180 米，以反映順利區的擬議建築物高度輪廓；以及

(c) 職員宿舍的發展項目位於政府土地，於 2001 年才落成。倘長遠計劃重建職員宿舍，規劃署會因應該分區計劃大綱圖上的最佳發展密度、建築形式和建築物高度輪廓，重新考慮該「政府、機構或社區」用地的最合適用途和發展規模，務求令該用地的建築形式與周邊環境更為協調。在該「政府、機構或社區」用地發展住宅用途，亦須向城規會申請規劃許可。

2.9 至於其他不是作住宅／商業用途的「政府、機構或社區」和「其他指定用途」用地[1]，由於這些用地有特殊用途和設計要求，不但樓底高度會有很大差別，甚或會採用露天設計，以配合運作需要，以及為高密度的發展環境提供緩衝空間和視覺調劑；以及／或這些用地的建築物高度限制主要反映現有建築物高度。當有已知會落實進行並已獲政策支持的重建項目，規劃署會按個別情況檢視重建項目的建築物高度限制。

[1] 這些其他的「其他指定用途」用地是註明作「垃圾轉運站」、「加油站」、「園景美化高架行人道」、「露天貨車停車場」及「鐵路」用途。這些「政府、機構或社區」用地主要作學校、警署、消防局、水塘、體育中心和游泳池等用途。

3. 檢討非建築用地及建築物間距規定

3.1 規劃署是因應空氣流通評估的建議(載於**附件 D**)而在分區計劃大綱圖上劃設非建築用地及建築物間距的，以助海風吹進九龍灣，加強主要通風廊的效用，以及改善九龍灣商貿區整體的風環境。劃設這些非建築用地及建築物間距，旨在為未來重建計劃的設計提供指引，確保計劃的設計有利於規劃區的風環境。一般而言，非建築用地及建築物間距是按照區內主要道路的走線而劃定，用以延長／擴闊這些通風廊。

<u>九龍灣商貿區</u>

3.2 在該分區計劃大綱圖上，九龍灣商貿區內劃設了以下非建築用地及建築物間距：

(a) 在宏照道和宏光道兩旁的「其他指定用途」註明「商貿」地帶、「其他指定用途」註明「商貿(2)」地帶，以及「政府、機構或社區(1)」地帶內，指定闊 3 米的非建築用地，用作擴闊沿這兩條主要道路的通風廊，加強通風廊的效用；

(b) 在房屋委員會業安工廠大廈所在的「其他指定用途」註明「商貿」地帶內，沿宏茂街指定闊 5 米的非建築用地，以加強由北面的啟祥道起沿長形休憩用地的通風廊；

(c) 在香港郵政中央郵件中心所在的「政府、機構或社區(1)」地帶內指定闊 15 米的非建築用地，作為臨華街通風廊的伸延部分。郵件中心的設計已顧及該非建築用地規定；

(d) 在兩幅「其他指定用途」註明「商貿」地帶、一幅「其他指定用途」註明「商業用途包括公共車輛總站」地帶，以及一幅「商業」地帶劃設闊 15 米／16 米的建築物間距(高度為主水平基準上 22 米)，以便把位於常怡道的通風廊向北伸延至臨興街；以及

(e) MegaBox 位處「其他指定用途」註明「商貿(2)」地帶，屬體積大的發展項目，其板樓式設計不利通風。在「其他指定用途」註明「商貿(2)」地帶劃設闊 15 米的建築物間距(高度為主水平基準上 22 米)，以便在重建時闢設一條通風廊，讓海風經「休憩用地」地帶吹進北面的宏冠道。

3.3 上述非建築用地及建築物間距是根據空氣流通評估的建議而訂定的，目的是加強海風吹入內陸，改善規劃區的風環境。規劃署在檢討有關非建築用地及建築物間距後，認為有關安排恰當應予以保留，亦無環境上的轉變值得規劃署刪除或修訂有關用地及間距。考慮到下文所闡釋的建築物高度限制、非建築用地／建築物間距，以及《可持續建築設計指引》的要求後，當局認為可以達到各地帶的准許總樓面面積。

只涉及建築物間距的用地

3.4 有劃設建築物間距，而間距部分的建築物高度限為主水平基準上 22 米的用地載於**圖 3C**。

有劃設建築物間距的用地 各地帶准許的非住用地積比率均為 12 倍	
3 幅有劃設建築物間距的用地所屬的用途地帶	「商業」地帶、「其他指定用途」註明「商貿」地帶、「其他指定用途」註明「商業用途包括公共車輛總站」地帶
建築物間距的闊度	「商業」地帶—16 米 「其他指定用途」註明「商貿」地帶及「其他指定用途」地帶—15 米
建築物間距範圍內的建築物高度限制	主水平基準上 22 米
建築物高度限制	主水平基準上 140 米
要容納分區計劃大綱圖准許的地積比率及劃設建築物間距所需的建築物高度	主水平基準上 92 米

顧及建築物間距和《可持續建築設計指引》的要求後，要容納分區計劃大綱圖准許的地積比率所需的建築物高度	主水平基準上 96 米／主水平基準上 100 米

3.5 應留意以下事項：

(a) 由於建築物間距範圍內的建築物高度限制訂為主水平基準上 22 米，故此不會影響《可持續建築設計指引》中有關平台層(假設將位於主水平基準上 20 米以下)的規定；以及

(b) 建築物間距的範圍只佔個別地段約 8%至 23%(即主水平基準上 22 米以上的面積有 77%至 92%為可發展面積)。這項規定應不會影響平台層以上的非住用上蓋面積達至《建築物條例》所准許的上限(即甲類地盤、乙類地盤及丙類地盤分別限為 60%、60.5%及 65%)。

只涉及非建築用地的用地

3.6 九龍灣商貿區內有劃設非建築用地的用地載於**圖 3C**[2]。

劃為「其他指定用途」註明「商貿」地帶且有劃設非建築用地的用地 准許的非住用地積比率為 12 倍		
	闊 5 米的 非建築用地	闊 3 米的 非建築用地
建築物高度限制	主水平基準上 120 米	主水平基準上 120 米／主水平基準上 140 米／主水平基準上 170 米

[2] 在劃為「政府、機構或社區(1)」地帶的香港郵政中央郵件中心用地範圍內劃設闊 15 米的非建築用地，使沿臨華街闢設的通風廊得以伸延。該郵件中心的設計已顧及有關的非建築用地規定。

要容納分區計劃大綱圖准許的地積比率及劃設非建築用地所需的建築物高度	主水平基準上92米	主水平基準上92米／主水平基準上100米
顧及非建築用地和《可持續建築設計指引》的要求後，要容納分區計劃大綱圖准許的地積比率所需的建築物高度	主水平基準上96米／主水平基準上100米	主水平基準上96米／主水平基準上108米

3.7 應留意以下事項：

就闊5米的非建築用地而言：

(a) 沿宏茂街所劃設闊5米的非建築用地，屬香港房屋委員會轄下業安工廠大廈所佔用地的範圍；

(b) 宏茂街路形狹窄，闊約9米。根據《可持續建築設計指引》，兩旁的發展須由街道中心線起計後移7.5米(即由用地界線起計後移3米)。闊5米的非建築用地規定較《可持續建築設計指引》的要求稍闊，得到充分理由支持，因為該非建築用地與源於啓祥道的一列長形休憩用地所構成的通風廊走向大致一致，並可把該通風廊伸延。

(c) 該非建築用地的範圍佔地段面積約7%，較**附件C2**所述假設在最壞情況下低層的35%整體後移範圍為少。在最壞的情況下，有關的建築物高度限制仍可容納所需的建築物高度，故此，劃設非建築用地不會影響有關用地達至准許的地積比率和配合《可持續建築設計指引》的要求；

就闊3米的非建築用地而言：

(d) 沿宏照道和宏光道兩旁須留有闊3米的非建築用地的規定，已於《註釋》內列明。這些非建築用地有助改善沿該兩條主要道路的通風廊的效用；

(e) 這些非建築用地的範圍佔個別地段面積少於1%至9%，較**附件C2**所述假設在最壞情況下低層的

15%35%後移範圍上限為少。由於在最壞的情況下，有關的建築物高度限制仍可容納所需的建築物高度，故此劃設非建築用地不會影響這些用地達至准許的地積比率和配合《可持續建築設計指引》的要求；以及

就闊 15 米的非建築用地而言：

(f) 在劃為「政府、機構或社區(1)」地帶的香港郵政中央郵件中心用地範圍內劃設闊 15 米的非建築用地，使沿臨華街闢設的通風廊得以伸延。該郵件中心的設計已顧及有關的非建築用地規定。

涉及非建築用地及建築物間距的「其他指定用途」註明「商貿(2)」地帶

3.8 有劃設非建築用地及建築物間距的「其他指定用途」註明「商貿(2)」地帶載於**圖 3C**。

Megabox 准許的非住用地積比率為 12 倍 闊 15 米的建築物間距及沿宏照道劃設闊 3 米的非建築用地	
建築物高度限制	主水平基準上 170 米
建築物間距範圍內的 建築物高度限制	主水平基準上 22 米
要容納分區計劃大綱圖准許的地積比率及劃設建築物間距和非建築用地所需的建築物高度	主水平基準上 92 米
顧及建築物間距、非建築用地和《可持續建築設計指引》的要求後，要容納分區計劃大綱圖准許的地積比率所需的建築物高度	主水平基準上 96 米／主水平基準上 100 米

3.9 須留意以下事項：

(a) 劃設為建築物間距的範圍內，建築物高度不得超過主水平基準上 22 米，因此將不會影響《可持續建築設計

指引》關於平台層的要求(假設平台層低於主水平基準上 20 米)；

(b) 建築物間距的面積大約只佔有關地段的 13%，(即在主水平基準上 22 米之上的面積有 87%為可發展面積)，因此將不會影響地段內的發展項目盡用《建築物條例》准許的平台層以上非住用上蓋面積(丙類地盤的准許上蓋面積百分率為 65%)；

(c) 非建築用地的面積大約只佔有關地段的 2%。根據**附件 C2** 載述的假設，按《可持續建築設計指引》的要求後移退入／留有間距足以容納這非建築用地；以及

(d) 建築物高度限制可容納在最壞情況下所需的建築物高度。因此，在該用地劃設建築物間距和非建築用地的累積效應，不會影響用地內的發展項目盡用准許的地積比率和符合《可持續建築設計指引》的要求。

<u>九龍灣商貿區以外的地方</u>

3.10 把涵蓋順緻苑的「住宅(乙類)」地帶的東面邊緣現時草木茂盛的斜坡指定為非建築用地，將不會影響該用地的發展潛力，因為分區計劃大綱圖准許的最大總樓面面積反映根據地盤淨範圍(即不包括斜坡和順緻街)並現時已興建的總樓面面積。

3.11 把涵蓋坪石邨的「住宅(甲類)」地帶現時草木茂盛的斜坡指定為非建築用地，將不會影響該用地的發展潛力，因為在計算地積比率時並沒有把斜坡面積計算在地盤淨面積內。

3.12 在「其他指定用途」註明「香港鐵路車廠連上蓋的商業及住宅發展」地帶劃設 3 道建築物間距，並訂明建築物高度限為主水平基準上 22 米(即現有港鐵車廠的高度)，將不會影響該用地的發展潛力。有關建築物間距的面積只佔該「其他指定用途」地帶面積的大約 15%。相比於現存狀況(平台的露天部分大約佔平台總面積的 69%)，建築物間距佔地不多。

4. 結論

檢討結果總結認為，在顧及《可持續建築設計指引》的要求後，分區計劃大綱圖所訂的建築物高度限制、非建築用地及建築物間距規定能夠容納分區計劃大綱圖的准許地積比率／總樓面面積。鑑於規劃情況沒有改變，按2010年進行的空氣流通評估的建議所訂的非建築用地及建築物間距規定仍然有效，因此無須修訂現行的分區計劃大綱圖編號S/K13/29。然而，起動九龍東辦事處正推行把九龍東轉型成為第二個核心商業區(包括重整九龍灣行動區土地用途)的政策措施。就着這方面，規劃署正檢討九龍灣區的土地用途。在日後修訂分區計劃大綱圖時，可參照最新的規劃情況和規定，藉機檢討適合該區的土地用途、發展參數和通風措施。

分區計劃大綱圖訂立的發展限制背後的理據

建築物高度限制(圖H-4a、H-4b和H-4d)

訂定分區計劃大綱圖涵蓋地區的建築物高度時所依據的指導原則

1. 在制訂該地區的建築物高度限制時，已顧及相關的規劃考慮因素，包括現有地形、地盤平整水平、現有土地用途地帶、現有建築物高度輪廓特色、鄰區(包括牛池灣、啟德和觀塘)的現有建築物高度、當區特色、需要在公眾對改善生活環境的期望與私人發展權兩者之間取得平衡、望向獅子山山脊線和山巒背景的景觀、空氣流動評估的建議，以及《香港規劃標準與準則》中的「城市設計指引」所載的概括城市設計原則。分區計劃大綱圖為該區訂定的建築物高度限制是以下述原則為依據：

(a) 該地區主要位於鰂魚涌公園及香港會議展覽中心新翼瞭望點的視野範圍內。須保存公眾從這兩個瞭望點眺望飛鵝山、獅子山和慈雲山山脊線的景觀，保證山脊線下 20%山景不受建築物遮檔。這幾座山為該地區提供翠綠的背景；

(b) 建築物高度應能加強個別地方的特色，保留特有的山巒背景，以及尊重社區特色。建築物高度輪廓應顧及和尊重周邊的發展。周邊不同地方的建築物高度和建築物密集程度甚為多元化。

(c) 擬議建築物高度級別應與社區特色相協調，避免出現與周邊環境格格不入、可能會對周邊地方的景觀造成不良影響的建築物。

(d) 應確保擬議建築物高度級別不會違反城市設計原則，同時可容納有關分區計劃大綱圖准許的發展密度，以及讓建築設計具有彈性。

(e) 該地區各處的「政府、機構或社區」用地和「其他指定用途」用地已建有相對較低矮的發展項目。這些用地的建築物高度將會維持在現時的水平，以繼續為這個市區環境提供視覺調劑和緩衝空間。此外，應保留「休憩用地」和「綠化地帶」，讓現有的綠化空間和休憩場地繼續發揮歇息空間的作

用。可考慮將該區低矮的政府、機構或社區設施、休憩用地和「綠化地帶」貫通起來，以形成通風廊和觀景廊。

(f) 為了保留由西貢進入東九龍的一段清水灣道以南的開揚景觀，以及盡量保存該區的公眾景觀和景致，位於該地區東面飛鵝山山麓附近的住宅發展項目應維持中層的高度，不得超過與清水灣道相若的水平(約為主水平基準上 175 米)。

(g) 考慮到上述原則，擬議的建築物高度級別可確保建築物高度輪廓暢順地過渡，從九龍灣商貿區漸次下降至觀塘道以西的住宅發展項目。在觀塘道的東面，住宅發展項目的建築物高度級別沿山勢和天然地形漸次上升，由坪石邨的主水平基準上 80 米，上升至佐敦谷和順利區的主水平基準上 180 米。該建築物高度級別有助保存望向山脊線的景觀，形成梯級式高度輪廓，並保持通風。該高度輪廓已顧及周邊的發展，在規模和比例上與周邊發展相協調。分區計劃大綱圖已確保擬議建築物高度級別在切實可行範圍內符合城市設計原則，同時容納准許的發展密度，當中已考慮《可持續建築設計指引》的要求。

建築物高度輪廓

2. 有關分區計劃大綱圖涵蓋的地區大致可分為 3 個支區(**圖 H-3**)。根據城市設計指引，有關分區計劃大綱圖整體採用梯級式建築物高度的概念。對於政府、機構或社區設施用地，所訂的建築物高度則較低。雖然該分區計劃大綱圖在刊憲後曾 3 次根據條例第 7 條作出修訂，但 3 個支區的建築物高度概念大致維持如下：

<u>九龍灣區</u>

(a) 九龍灣商貿區——2005 年，分區計劃大綱圖對九龍灣商貿區施加建築物高度限制，以保存九龍的山脊線和締造鮮明的市容。位於南部的「商業」地帶和「其他指定用途」註明「商貿」地帶的建築物高度限為主水平基準上 170 米，以形成明顯滿布高樓大廈的商業樞紐。至於其他的「商業」地帶和「其他指定用途」註明「商貿」地帶，則訂有 3 個建築物高度級別(主水平基準上 100 米、主水平基準上 120 米和主水平基準上 140 米)，以營造從商業樞紐的高樓大廈漸次下降的

梯級式高度輪廓。2006 年，行政長官會同行政會議核准分區計劃大綱圖所訂的上述高度級別(**圖 H-4a**)。

(b) 九龍灣商貿區以外地區——考慮到現有的建築物高度輪廓、天然地形、地契條款，以及與周邊地方的建築物高度是否協調等方面後，分區計劃大綱圖訂出建築物高度從商業樞紐的高樓大廈漸次下降至北面和東面邊緣的中層住宅發展項目(包括啟業邨、啟泰苑、麗晶花園、德福花園和德福廣場)。這些項目的建築物高度分別限為主水平基準上 60 米、主水平基準上 80 米和主水平基準上 100 米。

牛頭角和佐敦谷住宅區

(c) 這個支區位於觀塘道的東面，建有中至高層的私人和公共房屋。考慮到天然地形、與現有建築物高度輪廓是否協調、地契條款、毗連規劃區(牛池灣和觀塘南)的發展項目的建築物高度、須保存佐敦谷山脊線作為區內背景，以及空氣流通評估所作的考慮等方面後，分區計劃大綱圖訂明這個支區內的住宅發展最高建築物高度級別介乎主水平基準上 80 米至主水平基準上 180 米不等。

順利住宅區

(d) 這個支區主要建有中層公屋、居屋和順利紀律部隊宿舍。考慮到現有建築物高度輪廓、天然地形、地契條款、與周邊地方的建築物高度是否協調、地點鄰近飛鵝山，以及須保留從清水道道眺望的開揚景觀等方面後，分區計劃大綱圖訂明這個支區內的上述住宅發展最高建築物高度級別介乎主水平基準上 160 米至主水平基準上 180 米。

非建築用地及建築物間距的規定(圖H-4c)

3. 2010 年空氣流通評估建議採取緩解措施，包括在該分區計劃大綱圖上劃設多塊非建築用地和多道建築物間距，以助海風吹入九龍灣，加強主要通風廊的效用，以及改善九龍灣商貿區的整體風環境。最新的 2019 年空氣流通評估再次確認，考慮到自 2010 年起規劃環境的改變，以下在現行分區計劃大綱圖訂明的非建築用地和

建築物間距必須繼續保留，把地區內重要的氣道／主要通風廊貫通起來，配合地區內的盛行風(**圖 H-5**)。

4. 2019 年空氣流通評估把觀塘道西面的九龍灣商貿區和德福花園／德福廣場界定為地面覆蓋率及建築物體積比率俱高的地區。該區內的通風狀況較弱，需要改善。

(a) 在「其他指定用途」註明「商貿」地帶、「其他指定用途」註明「商貿(2)」地帶和「政府、機構或社區(1)」地帶內沿宏照道及宏光道兩旁劃設闊 3 米的非建築用地 — 宏照道及宏光道位於該區的中心地帶，地面覆蓋率及建築物體積比率俱高。宏照道及宏光道是主要的南北向通風廊，讓夏季的盛行南風可吹進區內。劃設該些非建築用地，旨在擴闊沿這兩條南北向主要道路的通風廊，以提高其效用，同時有助把街道拐角渦旋引起的側向流動進入東西向的街道峽谷。如不劃設該些非建築用地，南風根本難以由宏照道及宏光道的高樓大廈天台上方吹至地面。

(b) 在現建有香港房屋委員會業安工廠大廈的「其他指定用途」註明「商貿」地帶內，沿宏茂街劃設闊 5 米的非建築用地 — 此舉旨在貫通北面直至啟祥道的一列長形休憩用地，以擴闊街道的氣道，令空氣更流通。

(c) 在香港郵政中央郵件中心南面的「政府、機構或社區(1)」地帶內劃設闊 15 米的非建築用地 — 該非建築用地對整個地區很重要，一方面能延長臨華街的氣道，讓盛行東風可沿臨華街進一步吹至啟德發展區；另一方面，能讓西風可經觀塘繞道以及觀塘繞道與啟德發展區內啟福道之間的休憩用地吹入九龍灣商貿區。

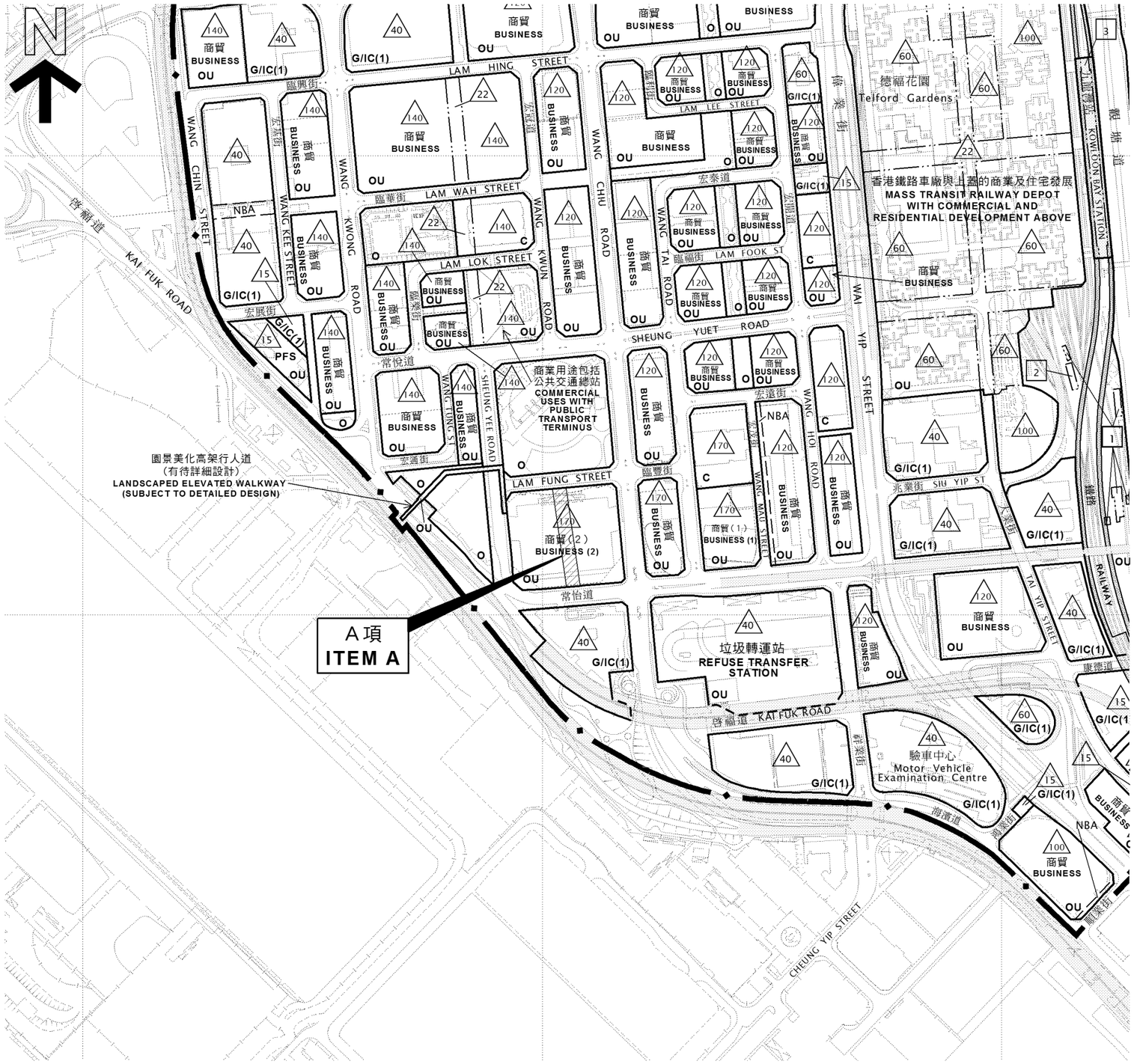
(d) 在三塊「其他指定用途」註明「商貿」用地、一塊「其他指定用途」註明「商業用途包括公共交通交匯處」用地和一塊「商業」用地劃設闊 15 米／16 米的建築物間距(高度為主水平基準上 22 米) — 這些建築物間距能成為有效的氣道，把常怡道的現有氣道向北伸延至臨興街，以助盛行南風吹進區內。雖然一條氣道只要最少闊 15 米便能發揮效用，但基於用地的情況(需要配合毗鄰地段界線)，有一段的建築物間距闊 16 米。

(e) 在 Mega Box 發展所在的「其他指定用途」註明「商貿(2)」地帶劃設闊 15 米的建築物間距(高度為主水平基準上 22 米) — 該建築物間距可形成一條通風走廊，主要是讓南面吹來的風經「休憩用地」地帶(零碳天地)吹向北面的宏冠道。倘沒有這 15 米闊的建築物間距，吹盛行南風時，用地北面的背風區側可能會產生一些弱風區域。一般而言，可能出現的弱風區可以很深，最少有該建築物臨街立面的高度或闊度。由於建築物間距擬劃設於用地中間，建築物臨街立面闊度會減少，弱風區域亦會減少。

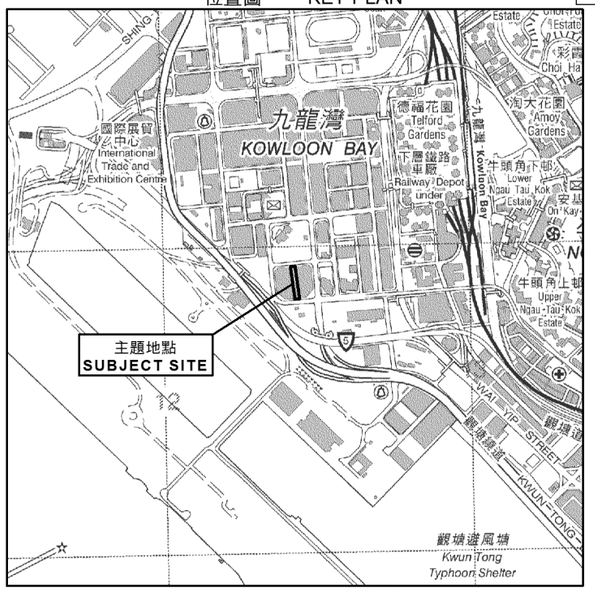
(f) 在「其他指定用途」註明「香港鐵路車廠與上蓋的商業及住宅發展」地帶內的德福花園和德福廣場劃設三道建築物間距 — 兩道闊 22 米東西向的建築物間距有助盛行東風沿宏泰道、臨華街及香港郵政中央郵件中心南面的非建築用地(上文(c)段所述)吹至啟德發展區；以及有助盛行東風吹入常悅道。另一道闊 15 米南北向的建築物間距有助盛行南風由大業街吹進啟祥道。德福花園的樓宇減弱了吹至九龍灣商貿區中心的東風。劃設這三道建築物間距，不但可改善德福花園及德福廣場內的建築物通透度，還可貫通四周道路，形成氣道，以收預期具地區重要性的通風效果。

5. 現有較新或較大規模的發展項目(例如上文第 4(e)和(f)段所述的 Mega Box、德福花園和德福廣場)的建築物間距，旨在營造適當的氣道，以改善整個地區的空氣流通。當重建時，相關的項目倡議者／發展商可向城規會提交申請，提出具體的重建計劃，說明須如何修訂這些用地的發展限制，以達致預期的通風效果。這用地很可能需要採用以效能為本的其他設計方案，但有關設計方案必須有空氣流通評估結果支持。

6. 觀塘道東面有兩塊非建築用地，位於坪石邨所在的「住宅(甲類)」地帶和順緻苑所在的「住宅(乙類)」地帶的斜坡上，是區內的通風地帶。



位置圖 KEY PLAN



SCALE 1 : 20 000 比例尺

草圖編號 S/K13/29 的建議修訂
PROPOSED AMENDMENT TO DRAFT PLAN No. S/K13/29

根據城市規劃條例第6C(2)條公布的建議修訂
PROPOSED AMENDMENT PUBLISHED UNDER SECTION 6C(2)
OF THE TOWN PLANNING ORDINANCE

A項 ITEM A

刪除位於「其他指定用途」註明「商貿(2)」地帶的建築物間距規定，並把該部分土地的建築物高度限制由主水平基準上22米修訂為主水平基準上170米

DELETION OF THE BUILDING GAP REQUIREMENT TO THE "OTHER SPECIFIED USES" ANNOTATED "BUSINESS (2)" AND REVISION OF THE BUILDING HEIGHT RESTRICTION FROM 22mPD TO 170mPD FOR THE AREA CONCERNED

夾附的《註釋》屬這份圖則的一部分，
《註釋》的建議修訂已根據城市規劃條例第6C(2)條公布。
THE ATTACHED NOTES ALSO FORM PART OF THIS PLAN
AND THE PROPOSED AMENDMENT THERETO HAS BEEN PUBLISHED
UNDER SECTION 6C(2) OF THE TOWN PLANNING ORDINANCE

（參看附表）
(SEE ATTACHED SCHEDULE)

牛頭角及九龍灣分區計劃大綱草圖編號 S/K13/29 的建議修訂
PROPOSED AMENDMENT TO DRAFT NGAU TAU KOK & KOWLOON BAY OUTLINE ZONING PLAN No. S/K13/29

SCALE 1 : 5 000 比例尺

米 METRES 100 0 100 200 300 400 METRES 米

規劃署遵照城市規劃委員會指示擬備
PREPARED BY THE PLANNING DEPARTMENT UNDER
THE DIRECTION OF THE TOWN PLANNING BOARD

圖則編號
PLAN No. R/S/K13/26 - B1

就修訂圖則編號 R/S/K13/26-B1 而
建議對《牛頭角及九龍灣分區計劃大綱草圖編號 S/K13/29》的
《註釋》作出的修訂

建議修訂「其他指定用途」註明「商貿」地帶《註釋》的備註：

其他指定用途

第一欄	第二欄
經常准許的用途	須先向城市規劃委員會申請，可能在有附帶條件或無附帶條件下獲准的用途

只適用於「商貿」

附表 I：適用於露天發展或工業樓宇或工業-辦公室樓宇[@]以外的建築物

救護站
商營浴室／按摩院
食肆
教育機構
展覽或會議廳
政府用途(只限報案中心、郵政局)
資訊科技及電訊業
機構用途(未另有列明者)
圖書館
非污染工業用途(不包括涉及使用／貯存危險品[△]的工業經營)
場外投注站
辦公室
娛樂場所
康體文娛場所
私人會所
政府診所
公廁設施
公共車輛總站或車站
公用事業設施裝置
公眾停車場(貨櫃車除外)
雷達、電訊微波轉發站、電視及／或廣播電台發射塔裝置
可循環再造物料回收中心
宗教機構
研究所、設計及發展中心
學校(不包括特別設計的獨立校舍及幼稚園)
商店及服務行業
訓練中心
私人發展計劃的公用設施裝置
播音室、電視製作室及／或電影製作室
貨物裝卸及貨運設施
政府垃圾收集站
政府用途(未另有列明者)
酒店
香港鐵路通風塔及／或高出路面的其他構築物(入口除外)
非污染工業用途(未另有列明者)
加油站
學校(未另有列明者)
社會福利設施(涉及住宿照顧者除外)
汽車修理工場(只限設於指定為「其他指定用途」註明「商貿(1)」的土地範圍內)
貨倉(危險品倉庫除外)
批發行業

(請看下頁)

其他指定用途(續)

第一欄 經常准許的用途	第二欄 須先向城市規劃委員會申請，可能在有附帶條件或無附帶條件下獲准的用途

只適用於「商貿」(續)

附表II：適用於工業樓宇或工業-辦公室樓宇[@]

救護站
藝術工作室(直接提供顧客服務或貨品者除外)
巴士廠
貨物裝卸及貨運設施(未另有列明者)
食肆(只限食堂)
政府垃圾收集站
政府用途(未另有列明者)
資訊科技及電訊業
非污染工業用途(不包括涉及使用／貯存危險品[△]的工業經營)
辦公室(直接提供顧客服務或貨品者除外)
公廁設施
公共車輛總站或車站
公用事業設施裝置
公眾停車場(貨櫃車除外)
雷達、電訊微波轉發站、電視及／或廣播電台發射塔裝置
可循環再造物料回收中心
研究所、設計及發展中心
商店及服務行業(只限設於地面一層的汽車陳列室，以及服務行業)
私人發展計劃的公用設施裝置
汽車修理工場(只限設於指定為「其他指定用途」註明「商貿(1)」的土地範圍內)
貨倉(危險品倉庫除外)
播音室、電視製作室及／或電影製作室
貨物裝卸及貨運設施(只限貨櫃裝卸站、特別設計的獨立物流中心)
教育機構(只限設於地面一層)
工業用途(未另有列明者)
香港鐵路通風塔及／或高出路面的其他構築物(入口除外)
場外投注站
辦公室(未另有列明者)
加油站
娛樂場所(只限設於地面一層)
康體文娛場所(未另有列明者)
私人會所
宗教機構(只限設於地面一層)
商店及服務行業(未另有列明者)(只限設於地面一層；附屬陳列室[#]可能獲准設於任何一層，不在此限)
訓練中心
汽車修理工場(未另有列明者)
批發行業

除以上所列，建築物的工業經營如沒有涉及厭惡性行業或使用／貯存危險品[△]，經常准許的用途亦包括：

辦公室

(請看下頁)

其他指定用途(續)

只適用於「商貿」(續)

除以上所列，在現有建築物內，倘若設有一層或多層緩衝樓層，把有關用途與樓上的工業用途分開，同時沒有工業用途設在建築物的非工業部分內，則在建築物低層(地庫和全層或主要為停車位、上落客貨車位及／或機房的樓層除外)特別設計的非工業部分，經常准許的用途亦包括：	除以上所列，在現有建築物內，倘若設有一層或多層緩衝樓層，把有關用途與樓上的工業用途分開，同時沒有工業用途設在建築物的非工業部分內，則只要先向城市規劃委員會申請，便可能在有附帶條件或無附帶條件下獲准在建築物低層(地庫和全層或主要為停車位、上落客貨車位及／或機房的樓層除外)特別設計的非工業部分進行下列用途：
商營浴室／按摩院 食肆 教育機構 展覽或會議廳 機構用途(未另有列明者) 圖書館 場外投注站 辦公室 娛樂場所 康體文娛場所 私人會所 政府診所 宗教機構 學校(幼稚園除外) 商店及服務行業 訓練中心	社會福利設施(涉及住宿照顧者除外)

@ 工業樓宇或工業-辦公室樓宇指經建築事務監督批准興建或計劃分別作為工業或工業-辦公室用途的建築物。

△ 危險品指根據《危險品條例》(第295章)界定為危險的物品。使用或貯存這些物品，必須取得牌照。

須申請規劃許可的附屬陳列室指其面積佔一間工業公司在同一處所或建築物的總實用樓面面積20%以上的陳列室用途。

(請看下頁)

其他指定用途(續)

只適用於「商貿」(續)

規劃意向

此地帶的規劃意向，主要是作一般商貿用途。在此地帶內，資訊科技及電訊業、非污染工業用途、辦公室用途和其他商業用途，均屬新「商貿」樓宇經常准許的用途。在現有工業樓宇或工業-辦公室樓宇內，具有較低火警危險而不直接向公眾提供顧客服務或供應貨品的辦公室用途，列為經常准許的用途。

備註

(1) 任何新發展，或任何現有建築物的加建、改動及／或修改，或現有建築物的重建，不得引致整個發展及／或重建計劃的最高地積比率超過12.0倍，以及最高建築物高度(以米為單位從主水平基準起計算)超過圖則上所指定的限制，或超過現有建築物的地積比率和高度，兩者中以數目較大者為準。

(2) 必須從緊連宏光道和宏照道的地段界線(啟祥道和啟福道之間)劃設至少闊三米的非建築用地。

(3) 在圖則上所示由臨興街至臨華街劃作闊15米的建築物間距的土地範圍內，任何新發展(不影響現有建築物高度輕微加建、改動及／或修改除外)，或現有建築物的重建，不得超過主水平基準上22米的最高建築物高度限制。

~~(4) 在指定為「其他指定用途」註明「商貿(2)」的土地範圍內，在圖則上所示由臨豐街至常怡道闊15米的狹長土地劃作建築物間距。任何新發展(不影響現有建築物高度的輕微加建、改動及／或修改除外)，或現有建築物的重建，不得超過主水平基準上22米的最高建築物高度限制。申請人或可根據《城市規劃條例》第16條提交申請予城市規劃委員會核准，該申請須附有空氣流通評估連平面圖。~~

~~(5)~~*(4)* 為施行上文第(1)段而計算最高地積比率時，任何純粹建造為或擬用作停車位、上落客貨車位、機房和管理員辦事處的樓面空間，若是發展或重建計劃的附屬和直接有關用途和設施，可免計算在內。

(請看下頁)

其他指定用途(續)

只適用於「商貿」(續)

備註(續)

~~(6)~~*(5)* 遇有《建築物(規劃)規例》第 22(1)或(2)條所列的情況而獲准超過該規例界定的准許地積比率時，在第(1)段適用的土地範圍內的建築物的地積比率可提高；提高的幅度為根據上述規例第 22(1)或(2)條獲准超過准許地積比率的幅度，縱使提高後的地積比率因而超過上文第(1)段所規定的有關最高地積比率亦可。

~~(7)~~*(6)* 城市規劃委員會如接獲根據《城市規劃條例》第 16 條提出的申請，可按個別發展或重建計劃的情況，考慮略為放寬上文第(1)段所述的發展限制。

~~(8)~~*(7)* 城市規劃委員會如接獲根據《城市規劃條例》第 16 條提出的申請，可在特殊情況下，就發展及／或重建計劃，考慮略為放寬圖則所顯示和上文第(2)段所述的非建築用地限制和上文第(3)~~及(4)~~段所述的建築物間距限制。

(請看下頁)

建議刪除《說明書》第9.6.3段的最後句子及第9.6.4段:

~~造業議會零碳天地已經落成。為配合彩福邨及彩盈邨的房屋發展，彩霞邨東北面及西北面的兩塊用地，以及位於觀塘道與彩雲道交界處的一塊用地，已分別發展為彩榮路公園、彩禧路公園及彩雲道休憩處。~~

9.5.3 當局已預留多塊用地作休憩用地發展。位於太子道東／觀塘道的一塊用地已預留作發展地區休憩用地。多塊用地亦已預留作鄰舍休憩用地，包括介乎啟福道、常怡道及宏通街的一塊用地、宏泰道以北的一塊用地，以及宏茂街以北的一塊用地。

9.5.4 在公共屋邨、居者有其屋計劃屋苑、私人綜合住宅發展及九龍灣商貿區內，也闢有鄰舍休憩用地，供區內居民和就業人口享用。

9.5.5 必須從緊連宏光道和宏照道(啟祥道與啟福道之間)的地段界線劃設至少闊三米的非建築用地。

9.5.6 城規會如接獲根據條例第 16 條提出的申請，可在特殊情況下，就發展及／或重建計劃考慮略為放寬非建築用地限制。

9.6 <u>其他指定用途</u> – 總面積 44.28 公頃

9.6.1 此地帶涵蓋劃作指定用途的土地，包括商貿、鐵路、香港鐵路車廠與上蓋的商業及住宅發展、商業用途包括公共車輛總站、附有公眾停車場及公共交通交匯處的商業／住宅發展、垃圾轉運站、加油站、園景美化高架行人道及露天貨車停車場。

9.6.2 劃作「其他指定用途」註明「商貿」地帶的土地約為22.44 公頃。此地帶的規劃意向，主要是作一般商貿用途。在新「商貿」樓宇內，資訊科技及電訊業、非污染工業用途、辦公室用途和其他商業用途，均屬經常准許的用途。在現有工業樓宇或工業－辦公室樓宇內，具有較低火警危險而不直接向公眾提供顧客服務或供應貨品的辦公室用途，屬經常准許的用途。為容許設置汽車修理工場，常怡道和宏泰道一塊用地劃為「其他指定用途」註明「商貿(1)」地帶，「汽車修理工場」在工業或工業–辦公室樓宇屬經常准許的用途，而在露天發展或非工業或非工業–辦公室樓宇，則屬須向城規會申請許可的用途。

9.6.3 由於不可能即時完全淘汰在「其他指定用途」註明「商貿」地帶內的現存具污染性和危險性的工業用途，在整個地區轉化成容納新的非污染的商貿用途之前，在同一座工業樓宇或工業－辦公室樓宇以致九龍灣區內，必須確保各

種用途得以相容。此地帶的樓宇可能需要後移，以配合未來交通需要的增長。在「其他指定用途」註明「商貿」、「商貿(1)」和「商貿(2)」地帶內進行發展，不可超過12.0倍地積比率，以及介乎主水平基準上100米至170米的最高建築物高度，並應參照有關的城規會指引。為改善九龍灣商貿區的空氣流通，必須從緊連宏光道和宏照道(啟祥道與啟福道之間)的「其他指定用途」註明「商貿」地帶的地段界線劃設至少闊三米的非建築用地，以及從緊連宏茂街東面的「其他指定用途」註明「商貿」地帶的地段界線劃設闊五米的非建築用地。一塊位於偉業街與順業街交界處的「其他指定用途」註明「商貿」地帶東南界線的狹長土地亦指定為非建築用地，以加強行人區的空氣流通。「其他指定用途」註明「商貿」地帶內亦指定了一塊由臨興街至臨華街闊15米的建築物間距(任何建築物高度不可超過主水平基準上22米)。~~另外，「其他指定用途」註明「商貿(2)」地帶內亦劃設另一塊由臨豐街至常怡道闊15米的建築物間距(任何建築物高度不可超過主水平基準上22米)。~~

~~9.6.4 「其他指定用途」註明「商貿(2)」用地(「企業廣場五期」所在位置)坐落於海濱，現有的發展阻礙了氣流滲入九龍灣商貿區。因此，地帶內已劃設了一塊由臨豐街至常怡道闊15米的建築物間距(任何建築物高度不可超過主水平基準上22米)，待日後重建時，建築物間距可為南面吹來的海風開闢通風廊，以滲進九龍灣商貿區的其他地方。申請人或可根據條例第16條提交申請予城市規劃委員會核准，該申請須附有空氣流通評估連平面圖。空氣流通評估的結果和建議應證明採取替代措施比提供15米的建築物間距能有相若或更好的通風表現，以支持有關申請。~~

9.6.~~5~~*4* 一塊在常悅道與宏冠道交界處的用地劃為「其他指定用途」註明「商業用途包括公共車輛總站」地帶，即「企業廣場」。該塊土地已發展成一個公共車輛總站，上蓋則用作商業用途。在此地帶內的發展，最高地積比率限為12.0倍，以限制交通增長，避免現有及擬建的運輸網超出負荷。而最高建築物高度則限為主水平基準上140米。此地帶內必須闢設一個公共交通總站(包括三個巴士停車處和一個專線小巴停車處)。沿此地帶由臨樂街至常悅街的西面界線已指定闊15米的建築物間距(任何建築物高度不可超過主水平基準上22米)，以改善該區的空氣流通。

9.6.~~6~~*5* 在《建築物(規劃)規例》第22條所列的情況下，上文規定的最高地積比率可以根據該規例第22條准許的幅度予以提高。這項安排旨在使當局可以靈活地處理一些特殊情況，例如把部分土地撥作擴闊道路或公共用途。

9.6.~~7~~*6* 宏照道、常怡道、祥業街與啟福道天橋環繞的一塊用地劃為「其他指定用途」註明「垃圾轉運站」地帶。由於主要市區範圍的堆填區不足，此地帶的規劃意向，主要是提供土地設置垃圾轉運站，以便把垃圾轉運到新界的堆填區。該用地的最高建築物高度為主水平基準上 40 米，並必須從緊連宏照道的地段界線劃設至少闊三米的非建築用地。

9.6.~~8~~*7* 在啓福道劃為「其他指定用途」註明「加油站」地帶的兩塊用地，主要是提供加油站，以配合當地居民以至公眾的需要。兩塊用地的最高建築物高度為主水平基準上 15 米。

9.6.~~9~~*8* 露天的鐵路、港鐵九龍灣站和相關設施劃為「其他指定用途」註明「鐵路」地帶。在此地帶內，觀塘道港鐵九龍灣站的建築物高度限為三層，而相關設施(例如倉庫、控制塔和泵房) 的建築物高度則為圖則上所示的一至兩層。除附屬於鐵路及港鐵站的一層構築物外，不得興建新發展。

9.6.~~10~~*9* 港鐵九龍灣車廠的綜合發展劃為「其他指定用途」註明「香港鐵路車廠與上蓋的商業及住宅發展」地帶。此地帶的規劃意向，主要是提供土地作港鐵車廠連上蓋的住宅和商業發展。發展主要包括港鐵車廠、兩幢商業大樓包括港鐵總部大樓，以及一個名為「德福花園」及「德福廣場」的大型商業／住宅發展；除有辦公室和購物設施外，發展附設康樂會所和電影院等多項社區設施，以配合居民的需要。香港城市大學專上學院德福分校亦位於發展範圍內。在此地帶內進行發展和重建，最大住用總樓面面積為 278 703 平方米，最大非住用總樓面面積為 177 031 平方米，最高建築物高度為主水平基準上 60 米和 100 米。此地帶內必須闢設一個公共車輛總站。在此地帶重建時，必須劃設三道建築物間距，以改善區內的空氣流通。兩道闊 22 米的東西向建築物間距與宏泰道和常悅道平行，另一道闊 15 米的南北向建築物間距則與大業街平行，在這些建築物間距內的建築物高度不可超過主水平基準上 22 米。

9.6.~~11~~*10* 位於新清水灣道坪石邨東北面的一塊用地劃為「其他指定用途」註明「附有公眾停車場及公共交通交匯處的商業／住宅發展」地帶。該用地有一個住宅發展連商業用途，稱為「清水灣道 8 號」，發展亦包括位於平台，供較大地區使用的公共交通交匯處和泊車轉乘設施。該用地的最大住用總樓面面積限為 19 138 平方米，最大非住用總樓面面積限為 13 366 平方米，最高建築物高度限為主水平基準上 180 米。此地帶內必須闢設一個設有

450 個泊車位的公眾停車場，以及一個公共交通交匯處，當中包括四個巴士停車處、三個公共小巴及的士候客位，以及一個一般車輛避車處。城規會如接獲根據條例第 16 條提出的申請，可考慮略為放寬泊車位數目的限制。

9.6.~~12~~*11* 一塊橫跨常怡道及啟福道的狹長土地劃為「其他指定用途」註明「園景美化高架行人道」地帶。此地帶的規劃意向，主要是闢設園景美化高架行人道，把九龍灣商貿區的行人通道系統和啟德區連接起來，改善行人環境。

9.6.~~13~~*12* 位於利安道的露天貨車停車場劃為「其他指定用途」註明「露天貨車停車場」地帶。此地帶的規劃意向，主要是提供土地以設置一個露天貨車停車場。除附屬於露天貨車停車場的一層構築物外，該用地不得搭建任何構築物。

9.6.~~14~~*13* 城規會如接獲根據條例第 16 條提出的申請，可考慮略為放寬發展限制。上文第 7.12 和 7.13 段所載的準則適用於評估是否略為放寬建築物高度限制。每宗申請將按個別情況考慮。

9.6.~~15~~*14* 然而，如現有建築物的地積比率／總樓面面積已經超過《註釋》所訂明的相關限制，根據一般推定，除非情況特殊，否則不應批准略為放寬限制的申請。

9.6.~~16~~*15* 城規會如接獲根據條例第 16 條提出的申請，可在特殊情況下，就發展及／或重建計劃考慮略為放寬非建築用地和建築物間距限制。

~~9.7 綠化地帶－總面積 52.63 公頃~~

9.7.1 此地帶的規劃意向，主要是保育已建設地區／市區邊緣地區內的現有天然環境、防止市區式發展滲入這些地區，以及提供更多靜態康樂地點。根據一般推定，此地帶不宜進行發展。

9.7.2 此地帶主要涵蓋該區東部邊緣的陡峭山坡、為配合彩德邨、彩盈邨及彩福邨的房屋發展而拓闢台地所形成的斜坡，以及在佐敦谷東部的山坡。此地帶亦包括得寶花園和坪石遊樂場附近數塊草木茂盛的狹長土地。彩榮路附近的山坡亦位於此地帶內。這些山坡不宜作市區形式的發展用途以保留天然景致，但部分地點或可撥作靜態康樂用途。當局會審慎地管制此地帶內的發展，並會參照有關的城規會指引，按個別情況審批每宗發展建議。

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

19 January 2011

By fax and mail

The Secretary
Town Planning Board
15 Floor North Point Government Offices
333 Java Road
North Point
Hong Kong

Dear Sir

Representations in Relation to the
Amendments to the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan
(Amendments shown on Plan Number S/K13/26)

We refer to the proposed amendments to the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan which have been shown on the Draft Outline Zoning Plan No. S/K13/26 gazetted on 19 November 2010.

We hereby submit Representations to the Amendments under Section 6(1) of the Town Planning Ordinance. The reasons for the Representations are included in the paper attached to this letter.

Please note that this Representation relates to matters of principle and should not be used as a basis for rejection of any development which complies with the restrictions on the Outline Zoning Plan. Our proposals are for a relaxation of the restrictions and more flexibility in design.

We retain the right to provide additional information in support of this Representation and to raise additional points, if necessary.

Yours sincerely,

Louis Loong
Secretary General

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 Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26 -- 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 (BHRs), building gap Restrictions and Non-building Areas (NBAs) and other associated matters included as amendments in the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26 (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 BHR, building gap restrictions, NBAs and other restrictions in the amendments shown to the OZP. In other words, this representation objects to Amendment Items A, B1 – B5, C1 – C4 on the Plan and (a), (b), (f) and (g) of Amendments to the Notes of the Plan.

2.2 This representation is made in the broad interests of Hong Kong as a whole including the interests of individual property owners. It is REDA's views that any planning changes should enhance the economic growth of Hong Kong, maintain an efficient and sustainable urban development system, and respect the private property rights of individual property owners.

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 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 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 7.2 of the Explanatory Statement that the reasons for the imposing of building height limits are:

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

3.1.3 No 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. The consequences include lowering property values and reducing air ventilation at street level.

3.1.4 It is considered that most of the objectives for the building height restrictions can be achieved with height limits imposed at a level which generally permits a more reasonable form of development while achieving 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 positions. High-rise developments in the order of 40 storeys have been in place in various parts of Hong Kong for years and they are acceptable to the public.

3.1.6 The OZP generally allows for an absolute height of only about 80m to about 100m for many of the residential sites. The absolute heights are equivalent to about 25 to 32 storeys. It is considered that the height restrictions have been set unreasonably low, lower than what is necessary to address the public concern.

Preservation of Ridgelines and Stepped Building Heights

3.1.7 The Urban Design Guidelines Study has identified four key vantage points on the Hong Kong Island. The Hong Kong Convention and Exhibition Centre (HKCEC) and the Quarry Bay Park are the most relevant ones for visual impact considerations in this Outline Zoning Plan. The previous Planning Department study on visual impact used as a basis to set the BHRs for the Kowloon Bay

香港地產建設高會
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

Business Area had accepted BHRs of 120mPD to 140mPD for much of the OU(B) zone in the Kowloon Bay Business Area (KBBA).

3.1.8 It is therefore illogical to adopt a descending BHR profile to the east, from the 120mPD along Wai Yip Street, and to disallow continued increase in BHRs across Telford Gardens, across Kwun Tong Road and Ngau Tau Kok Road. The whole of this central area should have increased BHRs ranging from 140mPD to 150mPD to maintain the rising profile of building heights, while still protecting the ridgelines from the recognized viewpoints.

3.1.9 The Planning Department appear to have arbitrarily adopted other "view corridors" such as from a footbridge near Choi Ying Place, and used this as a reason for reducing BHRs. There is no particular reason why this footbridge or the other viewpoints should be selected as they have no significant characteristics which make them more important than any other place for creating view corridors. These have not been established after public consultation and should not be given any significance.

Building Height and Air Ventilation

3.1.10 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 building height limits as this tends to force developments down into a solid mass of building rather than encouraging the creation of space around buildings at street level. The imposition of the height limit at a level which is too low therefore creates a solid wall effect closer to ground level.

Need for Reasonable Building Height

3.1.11 The overall height profile of the Planning Area is formed mainly by the Residential and Business zones with Open Space and G/IC zones as visual relief and breathing space. However, the new BHRs stipulated on the Outline Zoning Plan are generally too low.

3.1.12 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. In this respect a more reasonable approach has been taken in the previous exercise for establishing the BHRs for the OU(B) in the KBBA where 120 – 170mPD BHRs were imposed.

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

3.1.13 Imposition of unreasonably low building height limit restrains the building bulk, making incorporation of innovative architectural design and void feature impossible. This directly affects streetscape, air ventilation and the quality of life of the users of the development.

3.1.14 It would also appear that the result of the BHR imposition in that the private land in the vicinity of Kwun Tong Road , i.e. in the 'valley' created by the approach outlined in paragraph 3.1.7 above, is that the private land has been provided with much more restrictive BHRs than the public housing sites in the Area. The assumptions regarding the floor-to-floor heights and plot ratios used in determining the BHRs on public and private land should be provided.

3.2 No Public Consultation

3.2.1 The BHRs, 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 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, setback requirements 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.

3.2.2 This is strongly contrasted with the approach taken in 2004 when a "Study of "Building Height Restrictions for Kwun Tong and Kowloon Bay Business Area" was undertaken and TPB Guidelines issued to propose a temporary arrangement during the processing of the proposed BHRs. It is strongly suggested that the Planning Department should have carried out a similar planning study 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.

3.3 Non-Building Areas

3.3.1 NBAs are extensively introduced throughout the Outline Zoning Plan 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

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

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.

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 The proposed NBAs on this OZP are a major deprivation of the development rights of private landowners without any form of compensation. The AVA assessment carried out for the review of the OZP is inadequate to justify the extent of imposition that is proposed. No information was included in the AVA to justify the extent of intrusion into private property rights that is proposed. For example there is no indication of the extent of adverse impact of the existing situation, or the extent of improvement that would be obtained, by the imposition of the NBA restriction through the centre of Enterprise Square V/Mega Box, or through Kai Tak Mansions. No critical assessment has been undertaken to show that such proposals are <u>essential</u> for the public good, and no alternatives have been considered, and no consideration of compensation for owners for the loss of their property rights has been considered. These proposals go way beyond the scope that the Town Planning Ordinance allows.

3.3.6 The Board should make use of the zonings permitted by the Town Planning Ordinance if it is convinced that the use of some form of gap or space is required for essential air ventilation. For example, Amendment Item B4 relates to an extensive vegetated slope at Ping Shek Estate which should be zoned as "Green

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

Belt" if it is not to be built on, or "Open Space". Both zones are abutting the NBA. The same applies to B5 near Shun Chi Court. Similarly, the NBA proposed by Amendment Item C1 should be zoned as "Open Space" if it is absolutely essential in the public interest, and resumed with compensation paid to the land owners. This would then be the same situation as that for the existing linear park zoned "O" and located to the east between Kai Cheung Road and Sheung Yuet Road.

3.4 Building Gaps and Setbacks

Imposing Setbacks violates the Intention of Outline Zoning Plans

3.4.1 REDA is opposed to requirements for setbacks 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 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 proposes is considered wrong and may be subject to legal challenge.

Lack of Legal Basis for Setbacks for Air Paths

3.4.2 In addition, there is no legal recognition of the provision of setbacks for "air paths" as being a public purpose for which private land could be taken. It is therefore considered inappropriate for the Board to include these on the OZP and to be a matter outside the provisions of the Town Planning Ordinance.

Inadequate Justifications provided in Explanatory Statement for Setback Requirement

3.4.3 The justifications stated in the Explanatory Statement for providing setbacks for the "OU(B)", "G1IC(4)" and other zones are confusing. The sub-paragraphs of paragraphs 8.6 of the Explanatory Statement of the Outline Zoning Plan, indicate varying building gaps and set-backs with no justification as to why they are essential, why they must be the specified width, and why some must be at ground level and others can be at 22mPD. There is no justification as to why there should be an additional set-back along some of the widest streets in the KBBA namely Wang Kwong Road and Wang Chiu Road. This imposition is considered to be unreasonable as the streets are already sufficiently wide to provide adequate space for vehicles, pedestrian and need not be wider for 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

3.4.4 The unclear justifications for the setback requirements would render unnecessary complication related to compensating private land owners for the loss of their land for a public purpose under the Buildings Ordinance and the Roads (Works Use and Compensation) Ordinance. In these circumstances, REDA requests that all setback requirements be removed from the Outline Zoning Plan.

3.5 Spot Zoning Approach Inconsistent with the Town Planning Ordinance

3.5.1 The Explanatory Statement in paragraph 3.2 indicates that *"The Plan is to illustrate the broad principles of development and to provide guidelines for more detailed planning within the Planning Scheme Area"*. The principle of establishing broad statutory zones with similar characteristics has been largely abandoned in relation to the OZP. The approach adopted has been unnecessarily restrictive and too detailed.

3.5.2 This can be seen in the designation of NBAs and setback requirements in a number of sites as detailed above, and also violates the broad principles of statutory town planning. The imposition of different BHRs within the same site, such as the imposition of 22mPD within sites in the OU(B) zones which have a general height of 140mPD, is an example of how this should not be applied.

3.5.3 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.

4. Proposals to Meet the Representation

Building Height Restrictions

4.1 The Building Height Restrictions 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. Given the previously established BHRs on the OU(B) zones in KBBA, and the general background of development on the slopes to the east, a general increase in the BHRs of 20m to 40m is appropriate and they should be amended accordingly.

Removal of Spot Zoning through NBAs and Building Gaps

4.2 The Board should adopt a more rational and generalized approach to the zoning by deleting "Spot Building Height Restrictions" which adversely affect development rights and building potential potential.

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

Deletion of Non Building Areas

4.3 The legal basis for the imposition of the NBAs and the technical justification for them is questionable. It is proposed that the requirement for the NBAs be deleted completely. Should the Board consider it necessary to provide gaps, a more suitable zoning such as "Open Space" should be used so that compensation is provided to the affected land owners. However, should the NBAs be retained, the words "under 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 Setbacks

4.4 All setbacks should be deleted from the Outline Zoning Plan.

5. Conclusion

5.1 The building height restrictions, NBAs and set-back 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. .

5.2 The proposed amendments on the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan 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 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19 號環球大廈1403 室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

25 May 2018

Your Ref.: TPB/R/S/K13/26(VI)

The Secretary
Town Planning Board
15/F North Point Government Offices
333 Java Road
North Point
Hong Kong

Dear Sirs

Draft Ngau Tau Kok & Kowloon Bay Outline Zoning Plan No. S/K13/26

We refer to your above referenced letter of the 28 March 2018. We enclose supplementary information ("**SI**") provided by REDA on a preliminary basis and subject to the comments below.

1. We have considered TPB Paper No. 10397 (the "**Review Paper**", Extracts included as Attachment 4 to the SI), which was a partial review of the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26 ("**DOZP 26**"), with reference to subsequent draft OZPs numbered 27 and 28 and the extant draft OZP No. 29, and having regard to parts of the recent Court judgments.

2. We have obtained professional advice on the relevant town planning principles and on implementation of the Orders of the Court of First Instance dated 3 February 2015 in HCAL 58/2011 ("**CFI Order**") and in relation to the Review Paper.

3. On 20 March 2018, our solicitors, Mayer Brown JSM, wrote to your Government Counsel at the Department of Justice to express our concerns over the Review Paper. Summarised, our main concerns were:

    a. Given the lengthy procedural history, the Town Planning Board ("**TPB**") should not have proceeded to "*re-examine*" Representation R2 unilaterally, without consulting or allowing REDA to participate. There was no relevant need for confidentiality.

香港地產建設商會
THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG
香港中環德輔道中19 號環球大廈1403 室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

b. The CFI Order did not provide for any separate "*Review*" of DOZP 26 prior to remission of Representation R2 back to the TPB for reconsideration under section 6B of the *Town Planning Ordinance* ("**TPO**").

c. The Review Paper suggested that the section 6B rehearing is premised on the basis of the findings of the "*Review*" of the DOZP. REDA wishes to obtain an assurance that the outcome of the reconsideration of Representation R2 pursuant to the CFI Order has not in any way been pre-determined or prejudiced.

d. Reconsideration of Representation R2 cannot fairly or properly proceed on the basis of the outdated information submitted in 2011. REDA's SI (now submitted as attached, by the subsequently agreed date of 28 May 2018), may need to address the 3 subsequent draft OZPs, as well as relevant alterations and/or developments in the physical and economic environment, and changes in laws, regulations, technical and market practices.

4. We note that in your letter dated 28 March 2018, TPB stated that the meeting to reconsider Representation R2 will be held tentatively in June / July 2018 and that a representative of REDA may attend the meeting, that at least one month's notice will be given to REDA of the date of the meeting, and that the TPB Paper will be provided to REDA no less than 1 week in advance of the meeting.

5. In considering the Review Paper and preparing the SI, we have specifically referred to our written representation R2 of 19 January 2011 (Attachment 1 to the SI), and the presentation to the TPB on 27 May 2011 which elaborated on the written representation, and was recorded in the minutes of the TPB's 984th meeting (extracts at Attachment 3 to the SI). We have also reviewed the content of the Review Paper in relation to the recent Court judgments.

6. For the reasons elaborated in the SI, our conclusion is that the process undertaken by Planning Department ("**PlanD**") and the TPB to date are inadequate, for reasons including that the TPB's "duty to inquire" has not been carried out to the standard required to properly address the points raised in Representation R2 for the purpose of the proposed rehearing. As such, the presently contemplated rehearing is premature and will not fulfill the requirements of the CFI Order, based on the information in the Review Paper as presently disclosed. In particular this relates to:-

香港地產建設商會
THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG
香港中環德輔道中19 號環球大廈1403 室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

Building Height Restrictions

(a) The reconsideration of the Building Height Profile and the proposed lifting of the Building Height Restrictions (BHRs) in various locations, particularly in the Telford Gardens area, have not been carried out. In association with this, the need for the proposed Non-Building Areas (NBAs) should be reviewed;

Air Ventilation Assessment

(b) The Review Paper has wrongly assumed that there have been no changes to the planning circumstances in relation to the air ventilation of the area. There have been significant changes made by the TPB to the nearby Kai Tak OZP and these need to be taken into account.

In relation to the Causeway Bay draft OZP and the Wan Chai draft OZP, PlanD recently commissioned new AVAs to consider the need for various NBAs, Building Gaps and other restrictions, given that the Sustainable Building Design Guidelines (SBDG) would improve the permeability of the area for wind ventilation. This was not undertaken in the current review. Instead it was assumed that the AVA from 2010 was still valid, and hence that all of the NBAs, BGs, set-backs and other measures were still valid. No consideration of the SDBG was included in the 2010 AVA study. Given the character of the Ngau Tau Kok and Kowloon Bay areas with wide roads and significant open space, we do not believe this to be a correct assumption. A new AVA needs to be undertaken, taking account of the changed circumstances, the proposed BH profile and the SBDG.

7. In view of these fundamental inadequacies of the Review Paper, REDA reiterates that the proposed process for rehearing of Representation R2, as presently contemplated, is insufficient to meet the requirement of the CFI Order.

8. REDA therefore proposes that the re-hearing of Representation R2 be deferred until the matters mentioned above, and other relevant matters referred to in the SI, have been properly addressed by way of updated technical studies and assessments. We further ask that the TPB request the PlanD to obtain the relevant updated technical studies and assessments, and that REDA be given a 2 month period to review them and to provide further supplementary information.

香港地產建設商會
THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG
香港中環德輔道中19 號環球大廈1403 室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

9. The attached SI is therefore provided on a preliminary basis, to facilitate the TPB in identifying further areas for inquiry prior to the proposed rehearing of Representation R2.

10. Please note that the attached SI contains an index of attachments on the final page, most of which are extracts only. PlanD is requested to provide full copies of these documents for consideration of TPB members when the rehearing of Representation R2 is ultimately ready to proceed.

11. In considering the above, please bear in mind that (as stated in sections 1 and 2 of Representation R2, included as Attachment 1 to the SI), REDA's submissions are made in the broad interests of Hong Kong as a whole and in the interests of maintaining an efficient and sustainable urban development system, and therefore relate to specific amendments in DOZP 26 with reference to general matters applicable to a wide range of issues which arise because of the inclusion of the BHRs, BGs, NBAs and other restrictions in DOZP 26.

12. We request that this letter, or an accurate précis, be placed before the TPB at its next meeting, to enable the TPB to consider the matters and requests in paragraphs 7 to 9 above.

13. All of REDA's rights are reserved.

Yours sincerely

Louis Loong
Secretary General

Supplementary Information to Representation No. R2
in Relation to the Amendments shown on the
Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26

The Real Estate Developers Associations of Hong Kong (REDA)

I. INTRODUCTION

1 Introduction

1.1 This submission is made to supplement Representation No. R2 in relation to the amendments shown on the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26 (K13OZP No. 26, the Subject Draft OZP). Representation No. R2 was submitted on 19 January 2011[1] and was described in detail at paragraphs 2.2.1 to 2.2.19 of TPB Paper No. 8820, considered by Town Planning Board (TPB, the Board) on 27 May 2011. Copies of Representation No. R2 and the main part of TPB Paper No. 8820 are attached as **Attachments 1 and 2** of this Supplementary Information (SI) Paper[2].

1.2 This SI paper takes into account of information that has become available after the Board's consideration of representations on the Subject Draft OZP on 27 May 2011 and 1 June 2011 as well as relevant court judgments since that hearing, two of which concerned the Subject OZP directly[3]. It also refers to the Minutes of the Board's consideration of R2 which included elaboration of the written submission and are relevant (extracts from the Minutes of the Board's 984th meeting on 27 May 2011 and 1 June 2011 are attached as **Attachment 3**). This will facilitate the reconsideration of Representation R2 by the Board.

1.3 This submission also refers to the TPB Paper No. 10397 which was considered on the 9 March 2018 (the main part attached as **Attachment 4**). This was entitled "Review of the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26" and in it, Planning Department (PlanD) recommended that, after having regard to

[1] A copy of Representation R2 was attached as Annex III-1 to TPB Paper No. 8820 and summarised in detail at Annex VI of the same TPB Paper together with PlanD's Responses / Recommended Rejection Reasons.

[2] None of these documents at Attachments 1 to 3 were reproduced as attachments to TPB paper No. 10397 considered by the Board at its 1166th meeting on 9 March 2018 referred to below and reproduced as **Attachment 4** to this SI Paper.

[3] *Oriental Generation v. Town Planning Board* (Court of Appeal, CACV 127/2012, 13 November 2014) and *The Real Estate Developers Association (REDA) .v Town Planning Board* (Court of First Instance, Au. J., HCAL 58/2011, 3 February 2015).

representation R2 and the judgment of the Court of First Instance (CFI) which ordered a re-hearing of R2[4], and after considering the implications of the Sustainable Building Design Guidelines (SBDG): (a) no changes should be made to the extant draft OZP No. S/K13/29 (K13OZP No. 29, the Extant Draft OZP) to accommodate permissible PR/GFA under the OZP with reference to the SBDG requirements; that the NBA and BG requirements in the Extant Draft OZP are appropriate and should be retained.

1.4 On the basis of (a) above, PlanD recommended that the Board agree to invite REDA (as representer R2) to a meeting convened under section 6B of the Town Planning Ordinance (TPO) for reconsideration of its representation (R2) in respect of the Subject Draft OZP, subject to giving REDA an opportunity to put forward supplementary information. The Board agreed to PlanD's recommendations (extracts from the Minutes of the Board's 1166th meeting held on 9 March 2018 are attached as **Attachment 5**).

1.5 As further explained below, REDA considers that Paper No. 10397 was inadequate to address the issues raised in the representation R2 and, also did not meet the directive of the CFI to give adequate consideration to the representations made by REDA on the question of air ventilation as a justification to impose the restrictions on the OZP and on building height profile issues. In particular, the TPB has to consider the relationship of the SBDG in relation to building permeability and air ventilation, not only the achievement of building development rights.

Premature to proceed with Re-hearing

1.6 In view of the inadequacy of the assessment process carried out so far, REDA is firmly of the view that it is premature for the rehearing to proceed until such time as the necessary technical assessments have been carried out to justify the relevant restrictions on private land as being no more than reasonably necessary, or alternatively that such restrictions ought to be relaxed or deleted. To facilitate this process the following paragraphs indicate what the review process should address.

[4] *REDA v. Town Planning Board* (Court of First Instance, Au. J., HCAL 58/2011, 3 February 2015). Paragraph 2.4 of TPB Paper No. 10397 made the CFI's ruling (made with reference to the Court of Appeal (CA)'s ruling on appeals arising from the JRs lodged by the Hysan Group Companies) that the Board should take into account the potential combined effect of sustainable building design guidelines (SBDG) and the restrictions under the four draft OZPs on the development potential of the sites. It further noted (in footnote 4 of that Paper) that REDA's JR was also allowed on grounds related to procedural unfairness, taking minor relaxation into account in rejecting the representations, and breach of *Tameside* duty in respect of the air ventilation and building height profile issues.

1.7 REDA is greatly concerned that PlanD's and the Board's conduct of the "*Review of the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26*" and its consideration of TPB Paper No. 10397 should not in any way pre-empt the Board's duty, in compliance with the judgment of the Court in the REDA JR, to conduct a full and proper re-hearing of Representation R2, including making all necessary inquiries, and without any pre-determination of the issues raised in Representation R2.

II. BACKGROUND

2 Gazettal of K13 OZP No. 26

2.1 The TPB gazetted draft K13OZP No. 26 on 19 November 2010. The amendments shown on the OZP included extensive imposition of Building Height Restrictions (BHRs), Non-building Areas (NBAs), Building Gaps (BGs) and Setbacks (SBs) on sites of the draft OZP[5].

2.2 The Board considered the representations and comments made in relation to the Subject OZP on 27 May 2011 and 1 June 2011[6] (see **Attachments 2 and 3** to this SI Paper).

2.3 The Board later gazetted three more versions of OZP for the Planning Area, No. 27, No. 28 and No. 29. The amendments included in these three OZPs are related to individual sites[7].

3 Representation No. R2

3.1 Representation No. R2 in respect of the Subject Draft OZP was submitted by REDA (see **Attachment 1** to this SI Paper). It considers that the BHRs are set too low. The restrictions are excessive to achieve the objectives stated in the Explanatory Statement (ES). Representation R2 also questions the legal basis of imposing controls of NBAs and BGs on sites within the OZP. It puts forward proposals of relaxing the BHRs and removing all the NBAs, BGs ad SBs to meet the representation. Representation R2 was not upheld by the Board (see paragraph 87 of the Minutes at **Attachment 3** to this SI Paper).

4 REDA's Representations in relation to other OZPs

4.1 In the early 2010s, the Board gazetted amendments to many OZPs by imposing

[5] The BHRs of the Kowloon Bay Business Area (KBBA) were imposed in 2005, not in this round of amendments.

[6] Representation R2 was considered only on 27 May 2011.

[7] Paragraph 4.2 of TPB Paper 10397 (**Attachment 4** to this SI Paper) stated that "*The BHRs in KBBA exhibited in 2005 under OZP No. S/K13/22 (Plan 3A) and amendments made subsequent to the subject OZP, i.e. No. S/K13/27 to 29 were excluded from the scope of Review as they are not a subject of REDA's representation. The amendments made under OZP No. S/K13/27 were mainly technical amendments to reflect the as-built conditions/lot boundaries and SBDG implications are not relevant. Amendments made under OZP Nos. S/K13/28 and S/K13/29 had taken into account the general implications of SBDG*"

extensive development controls of BHRs, NBAs and BGs. REDA lodged representations to express its views that the controls were in general too restrictive to achieve the stated objectives in the ES of the relevant OZPs.

5 Judicial Reviews

5.1 A number of judicial reviews (JRs) against the Board in relation to impositions of BHR, NBA and BG requirements were filed by different parties. Some of the judgments of these JRs are available and are of high reference values to the reconsideration of R2. Some of these JRs are briefly described below:

Judicial Review submitted by REDA

5.2 On 25 July 2011, REDA applied to the Court for JR (HCAL 58 of 2011) against the Board's decision in respect of R2 on the Subject Draft OZP, together with its decision on REDA's representations in respect to three other OZPs[8]. On 3 February 2015, following the Court of Appeal (CA)'s decisions in the *Hysan*[9] and *Oriental Generation*[10] cases handed down on 13 November 2014, the CFI handed down its judgment on the JR regarding the four draft OZPs. Following the principles in those CA judgments (discussed further below), the CFI ordered that JR is allowed on grounds of specific procedural unfairness (Paras. 98-105 of the judgement) and the TPB's failure to make sufficient inquiries in relation to development intensity and SBDG (Paras. 106-115 of the judgment), failure to make sufficient inquiries in relation to AVA (Paras. 122-126 of the judgment), failure to make sufficient inquiries in relation to Building Height Profile (Paras. 127-128 of the judgment), inappropriate reliance on minor relaxation as a substantive ground (Paras. 118-121 of the judgment) . The TPB's four decisions (including the decision on 1 June 2011 in respect of the Subject Draft OZP) were quashed and remitted back to the Board for reconsideration.

Judicial Reviews related to the Kai Tak Mansion Site

5.3 A JR (and two related JRs) was lodged by Oriental Generation Limited (OGL) against the TPB, all related to the Kai Tak Mansion site (KTM Site) which is located in the

[8] They are Wan Chai, Mong Kok and Yau Ma Tei OZPs.
[9] *Hysan Development Co. & Others v. Town Planning Board* (Court of Appeal, CACV 232 and 233 /2012, 13 November 2014).
[10] *Oriental Generation v. Town Planning Board* (Court of Appeal, CACV 127/2012, 13 November 2014).

K13 Planning Area. The 1st and main JR (HCAL 62/2011) was against the TPB's decision at the representation hearing on 1 June 2011 to only partially uphold the Applicant's representation by proposing amendment to relax the BHR of the KTM Site from 110mPD to 130mPD[11].

5.4 The OGL JRs were heard together by the CFI on 3 May 2012 and Judgment was delivered on 11 May 2012. The CFI ruled that the three restrictions imposed on the KTM Site as shown on draft K13OZP No. 26 and No. 27 and the Board's refusal to consider raising the BHR beyond 130mPD were quashed. It ordered that the question of whether any restrictions should be imposed on the KTM Site was to be remitted to the Board for reconsideration.

5.5 The CFI ruled that the Board has power under the TPO to impose BHRs, NBAs or BGs on particular sites. However, "*the Board cannot impose restrictions arbitrarily, but must have a rational justification for the measures implemented*." (Para. 86 of the judgment, emphasis underlined)

5.6 Certain parts of the CFI judgment related to imposition of NBA and BG as well as the consideration of requisite proportionality are of high relevance to the rehearing of R2. They are briefly described in the following paragraphs.

5.7 The judgement has made the following points regarding the control of NBA:

(1) The Board's decision to impose a 10m NBA along the south-eastern boundary that abuts a primary school, which was based on an alternative option in PlanD's Air Ventilation Assessment (AVA) study, was arbitrary and should be quashed (Paras. 70-72 and 75 of the judgment, emphasis underlined);

(2) The AVA study did not explore other options for improving air ventilation impacts nor explain why the 10m NBA is an optimum or appropriate way of addressing ventilation impacts (Paras. 68 and 70 of the judgment, emphasis underlined); and

(3) The Board's decision to impose the burden of a 10m NBA or other restrictions

[11] The 2nd related JR (HCAL 109/2011) was against the TPB's gazettal of OZP No. 27 with identical restrictions shown on OZP No. 26 in respect of the KTM Site, and the 3rd related JR (HCAL 34/2012) was against the TPB's decision at the further representation hearing on 3 February 2012 to confirm amendment to the OZP No. 26 in respect of the KTM Site.

on a site must be backed up by cogent evidence that the measure can be reasonably be regarded as necessary for achieving a particular planning objective. In the subject case, it has not been sufficiently demonstrated that the NBA is no more than what might be regarded as reasonably necessary to mitigate adverse ventilation impacts (Paras. 76 and 77 of the judgment, emphasis underlined).

5.8 Regarding the control of BG, the judgment has the following points:

(1) The AVA Study did not explore and compare the beneficial effects of other gap widths or other permeable structure nor explain how the recommended central gap of 24m could be justified by its limited methodology. There was no quantification of the effects of a 20m or 24m gap (Para. 79 of the judgment, emphasis underlined); and

(2) There was insufficient evidence on which the Board could have determined that a 20m gap was an appropriate restriction. The 20m BG should therefore be quashed as arbitrary (Para. 80-82 of the judgment, emphasis underlined).

5.9 Regarding the Minor Relaxation Clause, the judgment states *own merits* that *"…the Board does not relay on the responsibility of minor relaxation as a justification for the 3 restrictions. The 3 restrictions have to be justified on their own merits, rather than by reference to the possibility of relaxation in specific cases."* (Para. 87 of the judgment, emphasis underlined)

5.10 Regarding infringement of property rights, the judgement states that a restriction imposed on a person's land must be no more than is reasonably necessary to achieve a planning objective. Requisite proportionality has not been demonstrated in respect of the imposed restrictions[12]. (Para. 91 of the judgment, emphasis underlined)

5.11 The Board appealed against the CFI's judgment dated 11 May 2012. In the CA's judgment dated 13 November 2014, the findings summarised above were not disturbed and the appeal was dismissed. The CFA subsequently refused to grant leave to the Board for any further appeal[13].

[12] At paras. 88-90, the CFI held that Article 105 of the Basic Law is not applicable. This was subsequently reversed by the Court of Final Appeal (CFA) in the Hysan case, referred to below (FACV 21&22/2015, 29 September 2016, reported at (2016) 19 HKCFAR 635).

[13] *Town Planning Board v. Oriental Generation* (Appeal Committee of the CFA, FAMV 17/2015, 18 November 2015).

Judicial Reviews submitted by Hysan Group

5.12 The Hysan Group also filed two JRs against the Board in respect of the Causeway Bay OZP and Wan Chai OZP., respectively. These two JRs and related appeals were heard by the Courts together.

5.13 The CA held[14] that the Board's decisions in respect of Hysan's representations were to be quashed on various grounds, including: (i) the Board's failure to make reasonable inquiries (in accordance with the *Tameside* duty and section 3(2) of the TPO) into matters including both the adverse impacts on potential development intensity of the subject sites (taking into account the SBDG), and particularly its failure to query PlanD's working assumptions as against the contrary opinions put forward by the representers' experts (see paras. 90-120 of the Judgment); (ii) Error in placing reliance on minor relaxations as one of the substantive reasons for rejecting representations (see paras. 156-164 of the Judgment); (iii) various aspects of procedural fairness and inadequate consideration of Hysan's representations (see paras. 165-193 of the Judgment) and in particular the Board's failure to properly consider the opinions of Hysan's experts regarding AVA matters which were contrary to the views of PlanD's AVA consultant (see paras. 194-197 of the Judgment) combined with the inadequacy of the Board's reasons (see paras. 198-206 of the Judgment).

5.14 The judgment of the Court of Final Appeal (CFA) in *Hysan Development Co. Ltd and Others v Town Planning Board*[15] (CFA Judgment) confirmed the earlier orders of the CA[16] directing the TPB to reconsider its decisions in relation to the Hysan Group's representations in accordance with the law. The CFA reversed the CA's decision regarding the principles of proportionality that apply when constitutionally protected property rights are affected.

5.15 An important factor arising from the CFA's judgment is to balance the proportional impact on individuals' rights with the societal benefits of the measures to be included as controls on the OZP. The process outlined by the CFA for the TPB is explained below.

5.16 The CFA held that the proportionality analysis should follow a progressive, four step

[14] *Hysan Development Co. & Others v. Town Planning Board* (Court of Appeal, CACV 232 and 233 /2012, 13 November 2014).
[15] FACV Nos. 21 and 22 of 2015, reported at (2016) 19 HKCFAR 372.
[16] *Hysan Development Co. & Others v. Town Planning Board* (Court of Appeal, CACV 232 and 233/2012, 13 November 2014).

assessment, summarised as follows:

(1) whether the intrusive measure pursues a legitimate aim;

(2) if (1) above is satisfied, whether it is rationally connected with advancing that aim;

(3) if (1) and (2) above are satisfied, whether the measure is no more than necessary for that purpose (Para. 134 of the judgment); and

(4) if (1), (2) and (3) above are satisfied, whether "*a reasonable balance has been struck between the societal benefits of the encroachment and the inroads made into the constitutionally protected rights of the individual, asking in particular whether pursuit of the societal interest results in an unacceptably harsh burden on the individual*" (Para. 135 of the judgment).

Summaries of principles in judgments of Judicial Reviews relevant to the present rehearing of Representation R2

5.17 Selected main points of the judgments of the JRs mentioned above as relevant to the rehearing of Representation R2 are summarized below:

- The TPB's needs to make sufficient inquiries to ensure procedural fairness, particularly where the views of representers are different to the views put forward by PlanD's consultants on matters such as AVA;

- Restrictions imposed should pursue a legitimate aim;

- The TPB cannot impose restrictions arbitrarily and must have a rational justification for the restrictions imposed;

- AVA needs to explore other options, and restrictions imposed need to be backed up by cogent evidence;

- Restrictions imposed should be no more than what might be regarded as reasonably necessary; and

- Requisite proportionality has to be demonstrated in respect of the imposed restrictions, and in particular that the proportional impact on individuals' rights should be balanced with the societal benefits of the measures proposed to be included as controls in the draft OZP. The progressive 4-step assessment prescribed by the CFA should be undertaken.

III. REASONS FOR SUPPLEMENTING REPRESENTATION R2

6 TPB's Recent Review of Development Restrictions of the Subject OZP not addressing concerns of R2

TPB Paper No. 10397 to review development restrictions of the Subject OZP

6.1 A TPB Paper titled "Review of the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26" was considered by the Board (Paper No. 10397, the TPB Paper) on 9 March 2018 (see **Attachment 4** to this SI Paper). The introduction of the Paper states that the paper is to brief Members on the review of development restrictions for K13OZP No. 26 following the judgment of the JR by REDA quashing the Board's decision not to uphold R2 and REDA's representations in respect of other OZPs.

6.2 The TPB Paper provides some background which is closely related to the approach taken to review the planning restrictions imposed on the K13OZP No. 26:

"...In particular, with reference to the Court of Appeal (CA)'s ruling on appeals arising from the JRs lodged by the Hysan Group Companies, of CFI ruled that the Board should take the potential combined effect of sustainable building design guidelines (SBDG) and the restrictions under the four draft OZPs on the development potential of the sites."
(Para. 2.4 of TPB Paper No. 10397)

6.3 The TPB Paper only focuses on whether the BHRs imposed on sites could accommodate the entitled GFA and potential concessions taking account of the SBDG. It did not include the written representation statement of R2 (see **Attachment 1** to this SI Paper), or the further verbal statements made on behalf of REDA at the meeting on 27 May 2011 (see Minutes at **Attachment 3** to this SI Paper), as annexes to TPB Paper No. 10397. It has not tried to address any points raised in Representation R2 other than in relation to the GFA aspect of SBDG. Furthermore, the NBA and BG requirements have been reviewed based on an outdated 2010 AVA which has been held in OGL and in the REDA case to be flawed, as discussed in Paragraph 8 below. This outdated AVA has not taken account of the SBDG which has only become available in April 2011.

Concerns raised in Hearing not addressed in the TPB Paper

6.4 R2 made a number of points at the hearing held in May 2011. However, they are not addressed in the 'Review' presented in TPB Paper No. 10397. Some of the points are briefly described below:

- Telford Garden/Kowloon Bay MTR Station was an existing focal point of the whole planning area. The BHR for the site should be set at 120mPD to 150mPD to create a stepping up profile from the waterfront/KBBA. If the BHR was set at 120mPD instead of 60mPD, the number of towers would be reduced by half and more space would be created without the need to impose the 22mPD BGs.

- The overall building height (BH) concept had relied too heavily on the existing BH of the developments and no alternative concepts had been presented to the MPC or to the public. The proposed alternative concept was to increase the BHR at Telford Garden to 120mPD and across the other side of Kwun Tong Road to 140mPD so that the overall height profile is ascending with topography.

- Different standards were applied for private housing and public housing in the formulation of BHRs, such as Tak Bo Garden (at site level of 23mPD, imposed with 120mPD BHR) and the public housing estates on the other side of Choi Ha Road (at site levels of 19.6mPD and 22.5mPD, both with 140mPD). The absolute heights for public housing sites were larger than that of the private housing.

TPB Paper No. 10397 has neither addressed nor responded to any of the above concerns and views expressed in the hearing held in 2011.

7 Planning Circumstances have actually been Changed

7.1 TPB Paper No. 10397 states that *"The NBA and BG requirements stipulated on the basis of the recommendations of the AVA conducted in 2010 are still valid given no change in planning circumstances*". However, the planning circumstances have actually been changed with rezoning of some sites shown in the three versions of OZPs after No.26. In addition, since 2010, there have been substantial increase in development intensity and BHRs in the Kai Tak area which is to the immediate west and southwest of the K13 planning area. Therefore, the assertion that "no change in planning circumstances" is invalid. A genuine review of the development restrictions should be backed up by an updated AVA.

8 Inadequacy of AVA Study to justify the Restrictions Imposed

Methodology of the AVA adopted has Fundamental Problems

8.1 As stated in Paragraphs 5.4 to 5.8 and 5.11 above, the judgments in the OGL JRs of the KTM Site ruled that the TPB cannot impose restrictions arbitrarily and there must be a rational justification for the measures implemented, and that the 2010 AVA study did not explore other options for the KTM Site.

8.2 The AVA Study in 2010 for K13 OZP No.26 states at its introduction that the methodology of the study adopted follows that for an expert evaluation in the "Technical Guide for Air Ventilation Assessment for Developments in Hong Kong" as well as those requirements in the Project Brief. With the OGL JRs court judgments for the KTM Site, it is evident that the methodology adopted has fundamental problems.

8.3 The OGL JRs court judgments made the point that no alternative options for the KTM Site were explored in the 2010 AVA study for improving air ventilation impacts, nor did it explain why the 10m NBA is an optimum or appropriate way of addressing ventilation impacts. The situation for most of the other sites within the OZP is even worse as no similar comparison of an option with a base case was done.

Use of AVA to justify the Imposition of Restriction questioned at Hearing held in 2011

8.4 The 2010 AVA study was considered too general to justify the proposed restrictions. R2 pointed out [Para. 68 in Minutes at **Attachment 3**], at the hearing held in 2011, that there was nothing in the 2010 AVA report to justify that the proposed restrictions were essential or necessary. There was inadequate information to enable to Board to critically assess whether the proposed restrictions such as those imposed on Mega Box and Kai Tak Mansion were essential. The 2010 AVA report was only a generalized expression of opinion based on generalized information. No explanation or information had been provided to assess the benefits brought about by the proposed restrictions in relation to the impact on private property rights. It is a pity that the 'Review' in TPB Paper No. 10397 still adopted the same outdated and flawed 2010 AVA without any update and without more concrete information to justify the proposed development restrictions.

Failure to consider the Individual Site Context

8.5 It is considered that the 2010 AVA study failed to take account of the context of individual sites. Taking the Mega Box Site as an example, the 2010 AVA study has only considered the site occupying a waterfront location and that the present slab-type development does not facilitate air ventilation. It has totally ignored that the fact that both to the north and to the west of the site are big open spaces; and the site is fronting Wang Chiu Road which is one of the widest roads in KBBA. The two big open spaces and the wide road can allow good air penetration into the Kowloon Bay inner area. If the open spaces and the wide road to the immediate vicinity of the site had been taken account, the need for the stringent restrictions imposed on the site would be substantially reduced.

9 The NBA and BG restrictions are arbitrary and not supported by Cogent Evidence

Effective Road Spacing for Air Ventilation

9.1 A review of the development restrictions for the Causeway Bay area has been undertaken recently and included the TPB Paper No. 10340 (the main part of the TPB Paper is attached as **Attachment 6** to this SI Paper). The review has included an updated AVA Expert Evaluation (EE). The AVA EE pointed out that an effective air path is at least 15m as included in Para 7.1(e) of the TPB Paper No. 10340 mentioned above:

> *"Building design measures, including NBAs, BGs and setbacks, to reduce ground coverage and create building permeability particularly at low level and effective air paths to facilitate airflow from prevailing wind directions are more important for improving pedestrian environment in Causeway Bay area. While it is ideal that air paths are as wide as possible, it is the prevailing practice that an effective air path should be at least 15m in width for wind penetration. Such principle is in line with the building setback and building separation requirements stipulated in SBDG. ..."*
>
> (Extract of TPB Paper No. 10340 related to Causeway Bay, emphasis underlined)

9.2 Similar to the case of Causeway Bay, a recent review of development restrictions for the Wan Chai area has also been conducted and included in TPB Paper No. 10415 (the main part of the paper is attached as **Attachment 7** to this SI Paper). The updated

AVA EE for Wan Chai also states that in general a minimum width of 15m is an effective air path. Para 7.1(e) of TPB Paper No. 10415 is extracted below:

> *"In general, to improve wind environment at street level, widening narrow streets, reducing ground coverage, improving permeability among buildings and developments and ensuring effective air paths of 15m would be more relevant. The measures recommended in SBDG are working towards this end and when implemented could serve the similar purposes. While it is ideal that the width of air path can be as wide as possible, it is the prevailing practice that an effective air path should be at least 15m in width for wind penetration. Such principle is in line with the building setback and building separation requirements stipulated in SBDG. …"*
>
> (Extract of TPB Paper No. 10415 related to Wan Chai, emphasis underlined)

9.3 It can be seen that both reviews for the Causeway Bay and Wan Chai areas consider that 15m is the minimum effective air path. However, the K13 AVA 2010 study proposes a much wider air path. The Executive summary of K13 AVA 2010 study states that:

> *"The KBBA is densely packed with high-rise commercial and industrial buildings (120mPD to 170mPD). Narrow roads are found in the KBBA. Given the maximum building height and the width of the blocks, the negative impact on air ventilation cannot be mitigated unless the effective road spacing (measured from building face-to building face) is increased from 10-25m to 30m or beyond. Since this mitigation measure is not practical, it is recommended to introduce and maintain several urban linear parks and open space within KBBA, as well as practical setbacks from the roads."* (Extract of K13 AVA 2010, emphasis underlined)

9.4 Both the Causeway Bay and Wan Chai AVAs provide a general effective road spacing of 15m width and state that this aligns with the similar requirements under the SBDG. In contrast, that which is proposed under K13 AVA 2010 is significantly wider and self-evidently ignores the SBDG, which the Board now accepts as an essential consideration as directed by the court judgments referred to above. Yet, the strangest thing is that this AVA proposes an NBA not at the narrow roads, but at the widest roads.

Arbitrary Impositions of NBA and BG Requirements

9.5 Obviously, the recommendations of the 2010 AVA study to impose NBA and BG restrictions on the sites were not backed up by cogent evidence. They were imposed arbitrarily, and no justifications have been provided for a particular width at a particular location. For example, to name a few:

a. There is no strong justifications for the 3m wide NBAs that are imposed on both sides of Wang Chiu Road and Wang Kwong Road which are two of the widest streets in KBBA.
b. Why were two 22m wide BGs imposed for the Telford Gardens and Telford Plaza sites? Why not 15m which is a general effective air path? Is the 22m width "more than necessary"?
c. For the BG linking Lam Hing Street and Sheung Yuet Road, why is part of it 15m wide and the other part is 16m wide? What are the justifications for the difference?

In the absence of cogent justification being provided, the NBA and BG requirements should be removed.

10 Fail the Proportionality Analysis

10.1 As stated in Paragraph 5.16 above, the CFA held that proportionality analysis should follow a progressive, four-step assessment. The NBA and BG requirements are imposed only with reference to Steps (1) and (2). With the examples mentioned in the above paragraphs, it is evident that they fail Step 3 of the four-step assessment. The TPB has simply not made any attempt at all to consider "whether the measure is no more than necessary for that purpose".

10.2 Considering the Mega Box Site as an example, an NBA and a BG are imposed on the site. The NBA is of 3m wide applied on one side of the site, while the BG is imposed through the centre of the site at 15m width and 22mPD BHR. These two requirements are very restrictive. The Board has not made any attempt at all to assess the burden of the combined effect of the restrictions to the owner of the site. Not only does the imposition of restrictions fail Step 3, it also fails Step 4 of the 4-step assessment.

11 BHRs are unnecessarily Restrictive

TPB Paper No. 10397 considered by the Board in March 2018

11.1 TPB Paper No. 10397 has tried to demonstrate that the BHR as well as other restrictions imposed are able to accommodate GFA of sites. These are included in Annexes C1, C1a, C1b, C2 and C3 of the Paper.

11.2 However, it is considered that the BHR are unnecessarily restrictive. It can be seen that a theoretical maximum site coverage of the tower has been assumed in Annexes C1a and C1b based on an assumed building bulk. This may not be the case if a more interesting building profile, such as diminishing area on upper floors, is to be pursued. The BHR should be set to allow some innovative design elements to be incorporated into the development. The community certainly welcomes and prefers to live in a more diverse and interesting built environment.

11.3 Annex C2 is too brief and the presentation appears illogical with the estimated building height presented before the estimated number of storeys. In addition, brief checking reveals that there appears some round down of the estimated number of storeys. This means that the BHRs are set very tight. They are more than "reasonably necessary". Relaxing the BHR by 20m to 40m in the Subject Draft OZP / Extant Draft OZP can still achieve the objective as stated in the ES. In this regard, the Board must be careful not to place any substantive reliance on the possibility of minor relaxation, and must instead ensure that the BHR in the draft OZP is adequate on its own merits.

11.4 Taking the Telford Garden/Kowloon Bay MTR Station Site as an example again, the BHR imposed relies too heavily on the existing BH. If the BHR is raised, the overall height profile would be more aligned with the stepped building height concept instead of forming a valley at the site. By relaxing the BHR, more space would be available for the public to move around and offer more chance of social interaction and activities on the podium above the station. This is such a great opportunity to enhance the identity of the Kowloon Bay area at this focal point site.

Hearing of K13 OZP held in 2011

11.5 The issue of relaxing the BHR of Telford Garden was discussed at the Deliberation Session of the hearing on 27 May 2011. However, the issue was not seriously discussed. Miss Ophelia Y. S. Wong, the then Deputy Director of Planning/District expressed that she "*had doubts on whether there was any real prospect for redevelopment of the site, even if the proposal was acceded to. Assuming the site would be redeveloped in future was not a realistic assumption to adopt in devising the*

planned building height profile for the area. She said the BHR was determined based on the Master Plans for the development, which were vetted by and acceptable to all Departments as the optimal department at the site for the future. A Member agreed that there was little prospect for Telford Gardens to be redeveloped and considered the BHRs were reasonable. Miss Wong said that MTRCL did not raise objection to the BHR of Telford Garden." (Para. 75 in the minutes of **Attachment 3** to this SI Paper)

11.6 The Board had not tried to justify the restrictions imposed on the sites on the OZP. As recorded in the minutes, *"…A Member considered that it would be impractical to require every point of the proposed restrictions to be fully justified. Another member said that the imposition of planning restrictions for a wider public interest would inevitably create some impact on private property rights. A Member said that should representer R2 disagree with the proposed requirements, they should conduct their own AVA to substantiate their argument.*" (Para. 76 in the minutes of **Attachment 3** to this SI Paper).

11.7 The Board was also not keen on considering whether the development restrictions are "essential" and "reasonably necessary". For example, *"most of the issues had already been deliberated in the context of other OZPs"* (Para. 74 in the minutes of **Attachment 3** to this SI Paper) and "…*he did not consider the request justified as the representer did acknowledge that they had no difficuty to redevelop the site at the existing BHR and that the proposed relaxation would only allow a more slender design."* (Para. 77 in the minutes of **Attachment 3** to this SI Paper)

11.8 The Board had failed to examine the need for the unnecessarily restrictive BHRs as well as other development restrictions at the hearing held in 2011.

12 Inconsistent Methodology for undertaking Review of Development Restrictions with other Planning Areas

12.1 At the TPB meeting which discussed the review of development restrictions of the area covered by the Subject OZP held on 9 Mach 2018, a Member asked and the District Planning Officer confirmed that the same methodology for reviewing the development restrictions of the Causeway Bay area was adopted [Paras. 48(a), 49(a) and 49(b) in Minutes at **Attachment 5**]. However, it is <u>not</u> the case. For the Causeway Bay area, the AVA EE was updated and the NBAs and BGs imposed earlier are re-examined and adjustments are proposed.

12.2 However, a new AVA EE for the Subject Draft OZP / Extant Draft OZP was not undertaken and the review of development restrictions was still supported by the old AVA study prepared in 2010.

IV. PROPOSALS TO MEET REPRESENTATION R2

13 Proposals to meet Representation R2

13.1 REDA maintains the proposal put forward in R2 that the BHRs should generally be relaxed by 20m to 40m. Relaxation of the BHRs will still achieve the objective stated in the ES of the Subject OZP. This will also have the advantage of providing more flexibility in designing innovative developments which benefits the direct users as well as the overall built environment. Further, the BHR of Telford Gardens should be revised from 60/100mPD to 100/120mPD so that a height profile more generally ascending with the topography can be achieved.

13.2 The NBA and BG requirements were proposed under a methodology in the 2010 AVA study which has been questioned by the courts and found to be flawed. They were imposed without cogent evidence and were not backed up by sound justifications. They should be removed from the OZPs.

13.3 Should any of the NBA and BG requirements be retained, the words "under exceptional circumstances" should be removed from the relevant Notes to the zones so that a relaxation can be considered in future for each restriction on its own merits.

V. CONCLUSIONS

14 Conclusions

14.1 The review of the Subject OZP has only taken account of a small part of the court judgments, i.e. SBDG and related building height, but has ignored the major part including "cogent evidence", "explore alternatives", "imposition of restrictions that are no more than necessary" and "undertake proportionality analysis".

14.2 The NBA and BG requirements are imposed without cogent evidence to support their widths and their locations. Their impositions are arbitrary and have not been reviewed through an updated AVA in accordance with the Court directive to take account to the SBDG and improvements to building permeability and air ventilation that will arise, and to make all reasonably necessary inquiries, including obtaining relevant and updated technical studies.

14.3 The BHRs imposed are unnecessarily restrictive to achieve the stated objectives included in the ES. They are so restrictive that opportunities to enhance air ventilation at pedestrian level are slim, as it is hard for development to reduce ground coverage and improve permeability by incorporating special features.

14.4 The planning circumstances of the K13 Planning Area have changed. A new AVA study should be conducted for the area. Most importantly, in doing so the methodology of the AVA to justify the development restrictions should also be reconsidered given the court judgment in relation to the KTM Site.

14.5 Overall, the review of the development restrictions of the Subject OZP fails to address the concerns included in the written representation and presentation at hearing put forward by R2. It also does not meet the directive of the Court. Before the re-hearing is held, a new AVA needs to be undertaken to assess the need for and the extent of the NBA and BG in the Ngau Tau Kok and Kowloon Bay OPZ, in a similar manner undertaken in the assessment of the Wan Chai OZP and the Causeway Bay OZP.

14.6 As noted at paragraph 1.7 above, REDA is greatly concerned that PlanD's and the Board's conduct of the "*Review of the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26*" and its consideration of TPB Paper No. 10397 should not in any way pre-empt the Board's duty, in compliance with the judgment of the Court

in the REDA JR, to conduct a full and proper re-hearing of Representation R2, including making all necessary inquiries, and without any pre-determination of the issues raised in Representation R2.

The Real Estate Developers Association of Hong Kong
25 May 2018

Attachments to SI Paper

1. Representation No. R2 dated 19 January 2011
2. TPB Paper No. 8820, considered at the Board's 984th meeting on 27 May 2011 (Main part only)
3. Relevant extracts of the Minutes of the Board's 984th meeting on 27 May 2011 and 1 June 2011
4. TPB Paper No. 10397, considered at the Board's 1166th meeting held on the 9 March 2018 (Main part only).
5. Relevant extracts from the Minutes of the Board's 1166th meeting held on 9 March 2018.
6. TPB Paper No. 10340 for the Causeway Bay draft OZP area (Main part only).
7. TPB Paper No. 10415 for the Wan Chai draft OZP area (Main part only).

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

Attachment 1

19 January 2011

By fax and mail

The Secretary
Town Planning Board
15 Floor North Point Government Offices
333 Java Road
North Point
Hong Kong

Dear Sir

Representations in Relation to the
Amendments to the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan
(Amendments shown on Plan Number S/K13/26)

We refer to the proposed amendments to the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan which have been shown on the Draft Outline Zoning Plan No. S/K13/26 gazetted on 19 November 2010.

We hereby submit Representations to the Amendments under Section 6(1) of the Town Planning Ordinance. The reasons for the Representations are included in the paper attached to this letter.

Please note that this Representation relates to matters of principle and should not be used as a basis for rejection of any development which complies with the restrictions on the Outline Zoning Plan. Our proposals are for a relaxation of the restrictions and more flexibility in design.

We retain the right to provide additional information in support of this Representation and to raise additional points, if necessary.

Yours sincerely,

Louis Loong
Secretary General

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 Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26 -- 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 (BHRs), building gap Restrictions and Non-building Areas (NBAs) and other associated matters included as amendments in the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26 (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 BHR, building gap restrictions, NBAs and other restrictions in the amendments shown to the OZP. In other words, this representation objects to Amendment Items A, B1 – B5, C1 – C4 on the Plan and (a), (b), (f) and (g) of Amendments to the Notes of the Plan.

2.2 This representation is made in the broad interests of Hong Kong as a whole including the interests of individual property owners. It is REDA's views that any planning changes should enhance the economic growth of Hong Kong, maintain an efficient and sustainable urban development system, and respect the private property rights of individual property owners.

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 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 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 7.2 of the Explanatory Statement that the reasons for the imposing of building height limits are:

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

3.1.3 No 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. The consequences include lowering property values and reducing air ventilation at street level.

3.1.4 It is considered that most of the objectives for the building height restrictions can be achieved with height limits imposed at a level which generally permits a more reasonable form of development while achieving 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 positions. High-rise developments in the order of 40 storeys have been in place in various parts of Hong Kong for years and they are acceptable to the public.

3.1.6 The OZP generally allows for an absolute height of only about 80m to about 100m for many of the residential sites. The absolute heights are equivalent to about 25 to 32 storeys. It is considered that the height restrictions have been set unreasonably low, lower than what is necessary to address the public concern.

Preservation of Ridgelines and Stepped Building Heights

3.1.7 The Urban Design Guidelines Study has identified four key vantage points on the Hong Kong Island. The Hong Kong Convention and Exhibition Centre (HKCEC) and the Quarry Bay Park are the most relevant ones for visual impact considerations in this Outline Zoning Plan. The previous Planning Department study on visual impact used as a basis to set the BHRs for the Kowloon Bay

香港地產建設高會
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

Business Area had accepted BHRs of 120mPD to 140mPD for much of the OU(B) zone in the Kowloon Bay Business Area (KBBA).

3.1.8 It is therefore illogical to adopt a descending BHR profile to the east, from the 120mPD along Wai Yip Street, and to disallow continued increase in BHRs across Telford Gardens, across Kwun Tong Road and Ngau Tau Kok Road. The whole of this central area should have increased BHRs ranging from 140mPD to 150mPD to maintain the rising profile of building heights, while still protecting the ridgelines from the recognized viewpoints.

3.1.9 The Planning Department appear to have arbitrarily adopted other "view corridors" such as from a footbridge near Choi Ying Place, and used this as a reason for reducing BHRs. There is no particular reason why this footbridge or the other viewpoints should be selected as they have no significant characteristics which make them more important than any other place for creating view corridors. These have not been established after public consultation and should not be given any significance.

Building Height and Air Ventilation

3.1.10 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 building height limits as this tends to force developments down into a solid mass of building rather than encouraging the creation of space around buildings at street level. The imposition of the height limit at a level which is too low therefore creates a solid wall effect closer to ground level.

Need for Reasonable Building Height

3.1.11 The overall height profile of the Planning Area is formed mainly by the Residential and Business zones with Open Space and G/IC zones as visual relief and breathing space. However, the new BHRs stipulated on the Outline Zoning Plan are generally too low.

3.1.12 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. In this respect a more reasonable approach has been taken in the previous exercise for establishing the BHRs for the OU(B) in the KBBA where 120 – 170mPD BHRs were imposed.

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

3.1.13 Imposition of unreasonably low building height limit restrains the building bulk, making incorporation of innovative architectural design and void feature impossible. This directly affects streetscape, air ventilation and the quality of life of the users of the development.

3.1.14 It would also appear that the result of the BHR imposition in that the private land in the vicinity of Kwun Tong Road , i.e. in the 'valley' created by the approach outlined in paragraph 3.1.7 above, is that the private land has been provided with much more restrictive BHRs than the public housing sites in the Area. The assumptions regarding the floor-to-floor heights and plot ratios used in determining the BHRs on public and private land should be provided.

3.2 No Public Consultation

3.2.1 The BHRs, 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 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, setback requirements 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.

3.2.2 This is strongly contrasted with the approach taken in 2004 when a "Study of "Building Height Restrictions for Kwun Tong and Kowloon Bay Business Area" was undertaken and TPB Guidelines issued to propose a temporary arrangement during the processing of the proposed BHRs. It is strongly suggested that the Planning Department should have carried out a similar planning study 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.

3.3 Non-Building Areas

3.3.1 NBAs are extensively introduced throughout the Outline Zoning Plan 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

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

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.

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 The proposed NBAs on this OZP are a major deprivation of the development rights of private landowners without any form of compensation. The AVA assessment carried out for the review of the OZP is inadequate to justify the extent of imposition that is proposed. No information was included in the AVA to justify the extent of intrusion into private property rights that is proposed. For example there is no indication of the extent of adverse impact of the existing situation, or the extent of improvement that would be obtained, by the imposition of the NBA restriction through the centre of Enterprise Square V/Mega Box, or through Kai Tak Mansions. No critical assessment has been undertaken to show that such proposals are <u>essential</u> for the public good, and no alternatives have been considered, and no consideration of compensation for owners for the loss of their property rights has been considered. These proposals go way beyond the scope that the Town Planning Ordinance allows.

3.3.6 The Board should make use of the zonings permitted by the Town Planning Ordinance if it is convinced that the use of some form of gap or space is required for essential air ventilation. For example, Amendment Item B4 relates to an extensive vegetated slope at Ping Shek Estate which should be zoned as "Green

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

Belt" if it is not to be built on, or "Open Space". Both zones are abutting the NBA. The same applies to B5 near Shun Chi Court. Similarly, the NBA proposed by Amendment Item C1 should be zoned as "Open Space" if it is absolutely essential in the public interest, and resumed with compensation paid to the land owners. This would then be the same situation as that for the existing linear park zoned "O" and located to the east between Kai Cheung Road and Sheung Yuet Road.

3.4 Building Gaps and Setbacks

Imposing Setbacks violates the Intention of Outline Zoning Plans

3.4.1 REDA is opposed to requirements for setbacks 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 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 proposes is considered wrong and may be subject to legal challenge.

Lack of Legal Basis for Setbacks for Air Paths

3.4.2 In addition, there is no legal recognition of the provision of setbacks for "air paths" as being a public purpose for which private land could be taken. It is therefore considered inappropriate for the Board to include these on the OZP and to be a matter outside the provisions of the Town Planning Ordinance.

Inadequate Justifications provided in Explanatory Statement for Setback Requirement

3.4.3 The justifications stated in the Explanatory Statement for providing setbacks for the "OU(B)", "G1IC(4)" and other zones are confusing. The sub-paragraphs of paragraphs 8.6 of the Explanatory Statement of the Outline Zoning Plan, indicate varying building gaps and set-backs with no justification as to why they are essential, why they must be the specified width, and why some must be at ground level and others can be at 22mPD. There is no justification as to why there should be an additional set-back along some of the widest streets in the KBBA namely Wang Kwong Road and Wang Chiu Road. This imposition is considered to be unreasonable as the streets are already sufficiently wide to provide adequate space for vehicles, pedestrian and need not be wider for 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

3.4.4 The unclear justifications for the setback requirements would render unnecessary complication related to compensating private land owners for the loss of their land for a public purpose under the Buildings Ordinance and the Roads (Works Use and Compensation) Ordinance. In these circumstances, REDA requests that all setback requirements be removed from the Outline Zoning Plan.

3.5 Spot Zoning Approach Inconsistent with the Town Planning Ordinance

3.5.1 The Explanatory Statement in paragraph 3.2 indicates that *"The Plan is to illustrate the broad principles of development and to provide guidelines for more detailed planning within the Planning Scheme Area"*. The principle of establishing broad statutory zones with similar characteristics has been largely abandoned in relation to the OZP. The approach adopted has been unnecessarily restrictive and too detailed.

3.5.2 This can be seen in the designation of NBAs and setback requirements in a number of sites as detailed above, and also violates the broad principles of statutory town planning. The imposition of different BHRs within the same site, such as the imposition of 22mPD within sites in the OU(B) zones which have a general height of 140mPD, is an example of how this should not be applied.

3.5.3 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.

4. Proposals to Meet the Representation

Building Height Restrictions

4.1 The Building Height Restrictions 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. Given the previously established BHRs on the OU(B) zones in KBBA, and the general background of development on the slopes to the east, a general increase in the BHRs of 20m to 40m is appropriate and they should be amended accordingly.

Removal of Spot Zoning through NBAs and Building Gaps

4.2 The Board should adopt a more rational and generalized approach to the zoning by deleting "Spot Building Height Restrictions" which adversely affect development rights and building potential potential.

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

Deletion of Non Building Areas

4.3 The legal basis for the imposition of the NBAs and the technical justification for them is questionable. It is proposed that the requirement for the NBAs be deleted completely. Should the Board consider it necessary to provide gaps, a more suitable zoning such as "Open Space" should be used so that compensation is provided to the affected land owners. However, should the NBAs be retained, the words "under 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 Setbacks

4.4 All setbacks should be deleted from the Outline Zoning Plan.

5. Conclusion

5.1 The building height restrictions, NBAs and set-back 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. .

5.2 The proposed amendments on the Ngau Tau Kok and Kowloon Bay Outline Zoning Plan 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 the Planning Area.

TPB Paper No. 8820
For Consideration by
the Town Planning Board
on 27.5.2011

DRAFT NGAU TAU KOK & KOWLOON BAY OUTLINE ZONING PLAN NO. S/K13/26
CONSIDERATION OF REPRESENTATIONS NO. TPB/R/S/K13/26-2 TO 4
(Group 1)

Subject of Representations/ Representation Site	Representers	Commenter
Oppose Various Amendment Items in General		
Oppose the building height restrictions (BHRs) and the requirements of non-building areas (NBAs) and building gaps under Amendment Items A to C4 and Items (a), (b), (f) and (g) to the Notes of the OZP	**R2** The Real Estate Developers Association of Hong Kong (REDA) (**Annex III-1**)	Nil
Oppose Development Restrictions for Specific Sites		
Oppose the BHR for the "Residential (Group A)" ("R(A)") site at 7 Ngau Tau Kok Road under Amendment Item A	**R3** Folabs Limited and Monafat Limited represented by Masterplan Limited (**Annex III-2**)	Nil
Oppose the rezoning, BHRs and building gaps at the "Other Specified Uses" annotated "Mass Transit Railway Depot with Commercial and Residential Development Above)" ("OU(MTR Depot with Commercial and Residential Development Above") at Telford Gardens and "OU(Railway)" for the Kowloon Bay MTR Station under Amendment Items C3, E2 and E3 and Item (n) to the Notes of the OZP	**R4** MTR Corporation Limited (MTRCL) (**Annex III-3**)	Nil

1 Introduction

1.1 On 19.11.2010, the draft Ngau Tau Kok & Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/26 (the OZP) incorporating amendments mainly to impose BHRs on various development zones outside Kowloon Bay Business Area (KBBA); to designate NBAs in various zones; and other zoning amendments was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance) (**Annex I**). The Schedule of Amendments is at **Annex II** for Members' reference. Upon expiry of the 2-month exhibition period on 19.1.2011, a total of 1,313 representations were received. On 28.1.2011, the 1,313 representations were published for public comments for 3

weeks until 18.2.2011 and 1 comment was received. However, some representers subsequently wrote to the Town Planning Board (the Board) indicating that they did not submit the representations.

1.2 On 8.4.2011, the Board decided to consider the representations and comment in 3 groups and to hear Representations No. 2 to 4 (**R2 to R4**) collectively under Group 1. The Board also agreed to hear the **R1** and **R5** under Group 2 as well as **R6 to R1313** and the related Comment No. 1 (**C1**) under Group 3 in separate sessions at the same meeting. This Paper is to provide the Board with information for the consideration of Group 1. The specific assessments of individual representations are at **Annex VI**.

1.3 The concerned representers and commenter have been invited to attend the meeting in accordance with section 6B(3) of the Ordinance.

2 The Representations and Comment

2.1 The Representations (Plan H-1)

The 3 representations (**R2, R3 and R4**) covered by this Paper are related to the imposition of BHRs, NBAs and building gap requirement as well as rezoning. **R2** is submitted by the REDA and is related to the BHRs for all residential and GIC sites outside KBBA as well as the requirements of NBAs and building gaps (**Annex IV-1**). **R3** is submitted by Folabs Limited and Monafat Limited (represented by Masterplan Limited) and is against the BHR of the "R(A)" site at 7 Ngau Tau Kok Road (**Annex IV-2**). **R4 is** submitted by the MTRCL and is against the rezoning, BHRs and building gaps at the "OU(MTR Depot with Commercial and Residential Development Above)" at Telford Gardens and "OU(Railway)" for the Kowloon Bay MTR Station.

R2 - Opposing Various Amendment Items

2.2 **R2** submitted by REDA opposes Amendment Items A to C4 to the OZP and items (a) (b), (f) and (g) of amendments to the Notes of the OZP regarding the imposition of BHRs on the residential and GIC sites outside KBBA and the designation of NBAs and building gaps.

Grounds of Representation

BHRs

Lack of Flexibility for Quality Design and Impact on Streetscape and Air Ventilation

2.2.1 The setting of BHRs at levels which are so low as to unnecessarily constrain the provision of good quality environment. This objective can only be achieved by providing for the design of developments

which provide good internal space for people with sufficient internal headroom.

2.2.2 No consideration has been given to building economics, implications for redevelopment of the area, form of new buildings, negative impact on provision of space around buildings and would result in lower and bulkier buildings. The imposition of the height limit at a level which is too low therefore creates a solid wall effect closer to ground level.

2.2.3 Imposition of unreasonably low BH limit restrains the building bulk, making incorporation of innovative architectural design and void feature impossible, and directly affects streetscape, air ventilation and the quality of life of the users of the development.

Reasonable height limits and control of out-of-context tall buildings

2.2.4 The reasons for imposing of BH limits as stated in paragraph 7.2 of the Explanatory Statement (ES) can be achieved with height limits imposed at a level for more reasonable form of development.

2.2.5 The recent public concern appears to be about developments in the order of 60 storeys or taller in prominent positions. High-rise developments of around 40 storeys are acceptable to the public. The general BHRs of about 80m to 100m for many residential sites in the Area, which are equivalent to about 25 to 32 storeys, are unreasonably low to address the public concern.

Adoption of view corridors and stepped BHs

2.2.6 The Hong Kong Convention and Exhibition Centre (HKCEC) and the Quarry Bay Park are the most relevant key vantage points for visual impact considerations in this OZP. The other "view corridors" such as from a footbridge near Choi Ying Place should not be adopted as they have no significant characteristics and have not been established after public consultation.

2.2.7 It is illogical to adopt a descending BHRs profile to the east, from the Kowloon Bay Business Area of 120mPD, and to disallow continued increase in BHRs across Telford Gardens, across Kwun Tong Road and Ngau Tau Kok Road.

2.2.8 The imposition of the BHRs for private land in the vicinity of Kwun Tong Road would be more restrictive than the public housing sites in the OZP area.

NBAs

2.2.9 The imposition of NBAs on individual sites for air ventilation purposes is not permitted under sections 3 and 4 of the Ordinance in relation to the content and application of statutory plans as no buildings are

provided within NBAs.

2.2.10 "Gaps" between buildings can be achieved by provision for open spaces, parks and streets. There appears no justification for an additional category of NBA.

2.2.11 The AVA assessment is inadequate to justify the extent of imposition of NBAs and no information was included to justify the extent of intrusion into private property rights. No critical assessment has been undertaken to show that NBAs are essential for the public good and no alternatives have been considered, and no compensation for owners for the loss of property rights has been considered. The NBAs proposals go beyond the scope of the Ordinance.

Building Gaps and Setbacks

2.2.12 Setback requirements on OZPs are not appropriate for the scale and generality of the broad brush plans determining types of buildings and permitted uses. Such designation on OZPs goes beyond the intention of town planning and may be subject to legal challenge. There is no legal recognition of the provision of setbacks for "air paths" as being a public purpose for which private land could be taken.

2.2.13 The OZP is not an appropriate statutory framework for the implementation of building setback and building gap as provision of road widening is covered by other ordinances [i.e. Buildings Ordinance (BO) and the Roads (Works, Use and Compensation) Ordinance ("Roads Ordinance")] and these ordinances provide means for compensating private land owners for the loss of their land for setback for a public purpose.

2.2.14 The justifications in paragraph 8.6 of he ES for providing setbacks for "OU(B)", "G/IC(1)" and other zones are confusing. No justifications are provided as to why they are essential, why they must be the specified width, and why some must be at ground level and others can be at 22mPD. No justifications are provided for an additional setback along the widest streets in KBBA.

2.2.15 The unclear justifications for the setback requirements would render unnecessary complication related to compensating private land owners for the loss of land for public purpose under the BO and the Roads Ordinance.

Spot Zoning Approach

2.2.16 The imposition of BHRs, NBA and building gaps on individual sites constitutes a form of 'spot zoning', which is too restrictive, inappropriate and unlawful. It is not permitted under sections 3 and 4

of the Ordinance in relation to the content and application of statutory plans. It violates the broad principle of planning indicated in paragraph 3.2 of the ES that the object of the OZP is to indicate only the broad principles of development.

Public Consultation

2.2.17 The BHRs, NBAs as well as setback requirements were imposed on the OZP without any prior public consultation. There was no opportunity for the public, including the development industry, to be informed as to the justification or the need of the restrictions. No explanation on particular height limits, NBAs and setback requirements were provided to the public. Furthermore, no visual impact analysis was made available to the public.

2.2.18 The approach adopted for the present OZP amendments was in contrast with that taken in 2004 when a study was undertaken for KBBA and TPB Guidelines was issued to propose a temporary arrangement for processing of the proposed BHRs.

Representer's Proposals

2.2.19 In view of the above grounds, **R2** has the following proposals:

(a) 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.

(b) A more rational and generalised approach to the zoning should be adopted by deleting "Spot BHRs" which adversely affect development rights and building potential.

(c) The OZP central area should have increased BHRs ranging from 140mPD to 150mPD to maintain the rising profile of BHs, while still protecting the ridgelines from the recognised viewpoints.

(d) Given the established BHRs on KBBA, and the general background of development on the slopes to the east, a general increase in the BHRs of 20m to 40m is appropriate.

(e) To delete the NBA requirement from the OZP and alternative zonings, such as "Open Space" ("O") should be used to provide desired gaps. The words "exceptional circumstances" in respect of applications for minor relaxation of NBA requirements should be deleted from the relevant Notes.

(f) To delete all setbacks from the OZP.

R3 - Opposing Development Restrictions for the "R(A)" Site at 7 Ngau Tau Kok Road

2.3 **R3** submitted by Folabs Limited and Monafat Limited represented by Masterplan Limited opposes the BHR of 120mPD for the "R(A)" site at 7 Ngau Tau Kok Road (**Plans H-7a to H-7d**).

Grounds of Representation in General

Lack of public consultation

2.3.1 No prior public consultation or engagement and no explanation given to land owners and public on the need for the BHRs and why the particular BHR adopted. No urban design study or visual impact analysis to indicate the Government's vision for the long term development of the Area.

Flexibility for innovative and quality design

2.3.2 A reasonable BH is required to allow flexibility for the design of future redevelopment and for changing requirements over time and scope to meet market expectations.

Need for reasonable BH

2.3.3 There is a need to ensure that buildings are not restricted to unreasonably low heights which will result in bulky buildings forming walls of development which block air flows, light and views. Taller and more slender buildings allow more space at ground level and thus enhancing the surrounding urban environment.

Specific Grounds of Representation for the Site

The BHR of 120mPD is too low

2.3.4 The BHR of 120mPD on the site is too low given the public housing estates are nearly 140mPD and there is a hilly topography in the area.

No significant positive visual impacts

2.3.5 The imposition of BHR of 120mPD on the site and adjoining residential development would not enhance the visual impact of the surrounding area significantly. Instead, the BHR would generate monotonous flat roofs of all developments in the area upon redevelopment.

No significant positive air ventilation impacts

2.3.6 The imposition of BHR of 120mPD on the site would not have significant positive air ventilation impacts to the area due to the

abundance of open space, green belt and low-rise G/IC developments in the surrounding. It is considered that Tak Bo Garden located to the north and west of the site has prevented the downhill valley winds from reaching the site fronting Ngau Tau Kok Road. The wind corridors are mainly along the roads and therefore the imposition of BHR brings no real benefits. Also, the site itself has no significant air ventilation impacts to the area.

Potential wall effect at the representation site

2.3.7 The imposition of BHR of 120mPD on the site would create 'wall effect' blocking most of the views of Tak Po Garden and Jade Field Garden.

Lease Restrictions

2.3.8 The lease of the site is an old lease which is unrestricted to the use, the BH and the development potential of the site. The imposition of the BHR of 120mPD would reduce the property value and unjustly encroach on the property rights of the owner.

Representer's Proposal

2.3.9 Given the sloping topography of the neighbourhood, the BHR of 140mPD in the north of Choi Ha Road and the more recently completed developments in the area which are in the BHs of 140mPD and 170mPD, a taller BH is proposed. It forms a stepped height profile and is desirable from urban design perspective. It also provides an opportunity to avoid wall effect of the buildings by effective building designs, add variations to the area in visual terms and improve air ventilation at street level.

(a) Revise the BHR of the whole "R(A)" zone to 140mPD; or
(b) Revise the BHR for the site to 140mPD or such other height greater than 120mPD as may be appropriate.

R4 - Opposing Development Restrictions for the MTR Depot and Kowloon Bay MTR Station Site

2.4 **R4** submitted by the MTRCL opposes the rezoning, BHRs and building gaps at the "OU(MTR Depot with Commercial and Residential Development Above)" at Telford Gardens and "OU(Railway)" for the Kowloon Bay MTR Station (**Plans H-8a to H-8e**).

Grounds of Representation

Inappropriate zonings for the comprehensive development above Kowloon Bay MTR Depot and the adjoining railway and MTR Station

2.4.1 Currently, there is no restriction on non-domestic GFA or commercial GFA under the lease. However, the new zonings of "OU(MTR Depot with Commercial and Residential Development Above)" and "OU(Railway)" would impose land use and/ or GFA restrictions on the future development of the site. For the former zoning, maximum domestic and non-domestic GFA are specified. For the latter zoning, land use restrictions are imposed such that commercial use is now not permitted.

2.4.2 The restrictions of new zonings will render the Government in breach of its agreement and covenants to MTRCL and prejudiced the rights and entitlements of MTRCL both under the land grants of the Lots. As the developments on the site are already controlled by the means of Master Plan under the land grants, no further GFA restrictions under the OZP should be imposed.

2.4.3 In view of the completion of projects including the Kai Tak Environmentally Friendly Transport System (EFTS) and the Kowloon Bay Elevated Walkway System, Kowloon Bay MTR Station will be the important key interchange and important link for the new district pedestrian walkway system; and there will be demand for additional covered walkways, lifts and commercial facilities. The new zonings will be incapable of meeting the future needs.

Inappropriate BHR for the office towers

2.4.4 It is a commonly accepted urban design principle that taller buildings are placed at commercial centres, transport hubs or district focal points with gradation in BH profile from the high density core to the fringe. The BH of the office towers at Kowloon Bay should be decided in its urban design context instead of making reference to the existing height which was the result of the old Airport Height Restriction. Given the planned height profile of Kowloon Bay is 120mPD for "OU(Business)" sites and up to 170mPD for the strategic commercial sites, the BH of 170mPD for the office towers at the district focal point of Telford Plaza is more reasonable and appropriate.

Fail to reflect the existing conditions of the railway depot and affect the railway operation

2.4.5 It is noted that only the railway tracks and some of the existing buildings are shown on the OZP. It is not correct that the remaining areas are vacant and without any structures. Also, workshops and engineering structures are required for the railway operation. As such, their BHs should be driven by the operational needs on a case-by-case basis rather than restricting the BH limits.

Building gap conflicting with an existing retail footbridge

2.4.6 The building gap of 22mPD in the southern part of the "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" conflicts with the existing retail footbridge (roof level of about 27.4mPD). Though existing buildings will not be affected, the retail footbridge serves important transport function and should not be removed upon redevelopment or major alterations as there is no feasible alternative.

Incorporation of unreasonable and unfair restriction in the new set of Notes

2.4.7 The new set of Notes for the "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" zone incorporate new non-domestic GFA restriction which is unreasonable and unfair to MTRCL as it will take away development right and deprive ability to provide extra facilities to respond to the site's enhanced hub functions.

Representer's Proposals

2.4.8 In view of the above grounds, **R4** has the following proposals:

(a) Reflect the presence of the retail footbridge at the building gap;
(b) Allow a BH of 170mPD for the office towers;
(c) Reflect existing depot structures and delete BHRs on the open depot area; and
(d) Amend the Notes for "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" zone by deleting the non-domestic GFA restriction.

2.5 Comment on Representations

The representations were published for 3 weeks for public comments on 28.1.2011. No public comment was received in relation to the 3 representations during the 3 weeks of the statutory public inspection period of the representations.

3 Background

3.1 Review of the OZP

3.1.1 In order to provide better planning control on BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, we have reviewed the OZP with a view to incorporating the appropriate BH restrictions for various zones on the OZP to guide the future development/redevelopment.

3.1.2 In recent years, Kwun Tong District Council (KTDC) and the locals have expressed great concerns on the excessive BHs of new developments/ redevelopments within the district as well as their impacts on the air ventilation in the local area. In the absence of BH control, incompatible tall developments were developed in the area. The stipulation of BH restrictions on OZPs is an effective measure to regulate the development profile of the built environment. It would set out the planning intention more clearly, making it more transparent and open to public scrutiny.

3.1.3 An Air Ventilation Assessment (AVA) by Expert Evaluation has been undertaken to assess the likely impact of the proposed BHs of the development sites within the Ngau Tau Kok and Kowloon Bay Area (the Area) on the pedestrian wind environment (**Annex VI**). The BH bands and other restrictions on the OZP such as the NBAs and building gap have taken into account the findings and recommendations of the AVA. The report of the AVA is available for public viewing at the AVA Register on PlanD's website.

3.2 Amendments to the OZP

The proposed amendments to the OZP were considered and agreed by the Metro Planning Committee (MPC) of the Board on 12.11.2010. The relevant MPC Paper No. 25/10 and the minutes of the MPC meeting are available at PlanD's enquiry counters and the Board's website respectively for public inspection. On 19.11.2010, the OZP incorporating the amendments was exhibited for public inspection under section 5 of the Ordinance. The OZP (reduced size) and the Schedule of Amendments are at **Annexes I** and **II** respectively for Members' reference.

3.3 Public Consultation

3.3.1 Since the amendments to the OZP involved BH control, it was considered not appropriate to carry out public consultation prior to the gazettal. To avoid premature release of information before exhibition of the amendments which might prompt developers/landowners to accelerate submission of building plans for development/ redevelopment, consultation on development restrictions with the public was held during the exhibition of the amendments to the OZP in accordance with the established practice. Pre-mature release of this information may lead to a surge of building plan submissions, and the approved building plans will remain valid irrespective of subsequent zoning change, unless substantially revised.

3.3.2 During the 2-month exhibition period, the amendments to the OZP were presented to the KTDC on 4.1.2011. KTDC Councillors have no objection to the proposed amendments. Councillors raised several questions and requests on the lowering the BH for Kai Tak Mansion,

the rezoning of the ex-Royal Air Force Headquarters and the road widening of the roads in the KBBA.

3.3.3 PlanD's responses provided to the KTDC at the meeting on 4.1.2011 are summarised below:

(a) the BHR for Kai Tak Mansion and the buildings in its vicinity were considered reasonable and had taken into account the need to accommodate the permissible development intensity under the OZP;

(b) the Notes for the "G/IC(2)" zone in the OZP has been revised and stipulated that no demolition or redevelopment would be allowed and any addition, alteration and/or modification to the existing historic buildings require planning permission from the Board; and

(c) Transport Department was consulted on the carrying capacity of the existing and proposed road network in the OZP area during the review of the OZP. Setbacks for road widening purpose had been designated in the Outline Development Plan. Besides, NBA had been designated along both sides of Wang Kwong Road and Wang Chiu Road, which would facilitate road widening upon redevelopment of the lots along the roads.

3.3.4 Extract of the minutes of KTDC meeting held on 4.1.2011 is at **Annex V**.

4 Planning Considerations and Assessments

Rationales of the OZP Amendments

4.1 **R2** and part of **R3** are related to the BHRs/NBAs/building gap requirements in general. The rationales of the OZP amendments are summarised below:

The BHRs **(Plan H-4)**

Guiding Principles for BH in the Area

4.1.1 In conducting the BH review for the Area, relevant planning considerations have been taken into account, including the existing topography, site formation levels, existing land use zonings, the characteristics of existing BH profile, the existing BHs of adjoining areas including Ngau Chi Wan, Kai Tak and Kwun Tong, the local character, the need to balance between public aspirations for a better living environment and private development right, the views toward the Lion Rock ridgeline and mountainous backdrop, the recommendations of the AVA Study and as well as the broad urban

design principles in Urban Design Guidelines in the Hong Kong Planning Standards and Guidelines (HKPSG). The following principles form the basis of formulating the BHRs for the Area:

(a) the Area mainly falls within the view fans of the vantage points from Quarry Bay Park and HKCEC New Wing. Public views to the 20% building-free zone of the ridgelines of Kowloon Peak, Lion Rock and Tsz Wan Shan, which provides a green backdrop to the Area, should be preserved.

(b) The BH should enhance the district character of specific localities, retain characteristic mountain backdrop and respect the character of neighbourhood. The BH profile should be sympathetic and respect the surrounding developments, which has diversity in height and massing of developments in different localities.

(c) The proposed BH bands should be compatible with the character of the neighbourhood, avoiding development of 'out-of-context "sore thumb" buildings, which might cause adverse visual impact on the surroundings.

(d) The proposed BH bands should ensure that the urban design principles will not be negated while still accommodating the development intensity as provided under the current OZP with allowance for building design flexibility.

(e) The proposed BH of developments should provide a compatible setting for the historic buildings to avoid overshadowing and dwarfing effects on the heritage features.

(f) The "G/IC" and "OU" sites in various parts of the Area have been developed as relatively low-rise developments. The existing BHs of these sites will be kept to function as spatial and visual relief in this urban environment. Moreover, "O" and "GB" sites should be retained in order to preserve the existing greenery and open area as breathing space. Consideration would be given to create breezeways and view corridor by linking up the low-rise G/IC facilities, open spaces and the "GB" in the Area. The local view corridor to the Lion Rock from the view point at the footbridge near Choi Ying Place, which is a major pedestrian route linking up Kowloon Bay MTR Station to the public housing developments in Jordan Valley, needs to be preserved as far as possible.

(g) In order to maintain an open vista along the southern side of the Clear Water Bay Road at the entrance of East Kowloon from Sai Kung and preserve the public view and amenity of the area as far as possible, the residential developments on the eastern side of the Area near the foothill of Kowloon Peak should be kept as

medium-rise developments with height limits at similar level of Clear Water Bay Road (about 175mPD).

4.1.2 Taking into account of the above principles, the proposed BH bands maintain a smooth transition from the KBBA and gradually decrease towards the residential developments in the west of Kwun Tong Road. In the east of Kwun Tong Road, the BH bands of the residential developments increase progressively uphill ranging from 80mPD at Ping Shek Estate to 180mPD near Jordan Valley and Shun Lee area. The BH bands help preserve views to ridgelines and achieve a stepped height profile and allow wind penetration. The height profile is sympathetic, compatible in scale and in proportion with the surrounding developments. The BH bands ensure that the urban design principles would be complied with as far as practicable while accommodating permissible development intensity under the OZP.

4.1.3 To allow for design flexibility, minor relaxation of the BHRs through the planning permission system could be considered on individual merits. However, minor relaxation of BHRs for existing buildings which have already exceeded the specific BHRs stipulated on the OZP are generally not supported unless under exceptional circumstances with very strong justifications. This is to avoid further compromising the intended height profile.

4.1.4 In general, the Area can be divided into 3 sub-areas (**Plans H-3**). The characteristics and rationales for the BHRs of the different sub-areas are described below.

The BH Profile

Kowloon Bay Business and Residential Areas

4.1.5 This sub-area is mainly occupied by the KBBA with residential developments along its flanks. In 2005, BHRs were imposed in the KBBA to preserve the Kowloon ridgelines and to create a discernible townscape. A BHR of 170mPD is imposed for "Commercial" ("C") and "OU(Business) zones in the southern part to form an identifiable area node. Three lower height bands of 100mPD, 120mPD and 140mPD are imposed for "C" and "OU(Business) zones to provide a stepped backdrop to accentuate the business node. These height bands on the OZP were approved by the CE in C in 2006. On the current OZP, the height profile decreases gradually to the medium-rise residential developments at its northern and western fringes including Kai Yip Estate, Richland Gardens and Telford Gardens which are currently zoned "R(A)" or "OU" in the sub-area, which are subject to maximum BHRs of 60mPD, 80mPD and 100mPD (**Plan H-4**).

Ngau Tau Kok and Jordan Valley Residential Area

4.1.6 This sub-area is located in the east of Kwun Tong Road and occupied by the medium to high-rise private and public residential developments. Having considered natural topography, the compatibility with existing BH profile, lease conditions, the BH of developments in adjoining planning areas (Ngau Chi Wan and Kwun Tong South), the local view corridor to the Lion Rock and preservation of the Jordan Valley ridgeline as local backdrop and AVA consideration, maximum BH bands ranging from 80mPD to 180mPD are proposed for the residential developments within the sub-area (**Plan H-4**).

Shun Lee Residential Area

4.1.7 This sub-area is predominantly occupied by medium-rise public housing, HOS developments and Shun Lee Disciplined Services Quarters. Taking into account the existing height profile, the natural topography, lease conditions, compatibility with the BH of surrounding area, proximity to the Kowloon Peak and the need to preserve the open vista when viewing from Clear Water Bay Road, maximum BH bands of 160mPD to 180mPD are proposed for these residential developments in this sub-area (**Plan H-4**).

"G/IC" and "OU" sites

4.1.8 The "G/IC" sites are intended to provide the necessary GIC facilities and serve to provide breathing space and visual relief in the densely built-up environment. Taking into consideration the recommendations of the AVA, the low-rise nature of the GIC sites should as far as possible be maintained for better air ventilation. Moreover, due regard has been given to the nature of the existing facilities/uses on the sites, the existing BHs, the height restrictions on the land allocation/lease (if any), the need to meet the minimum height requirement for the designated GIC facilities and the need to maintain compatible building mass in the local setting. The BHRs are mainly to reflect the existing BHs of the various GIC developments unless there are committed proposals for known/ agreed developments or a need to meet the minimum height requirement (**Plan H-4**).

4.1.9 Similarly, the intention of the "OU" sites is to provide/reserve land for specific purposes and uses. A site is zoned "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" subject to a maximum BH of 60mPD and 100mPD so as to reflect the planning intention of the development, the existing conditions and existing development restrictions on the Master Plans of the lease (**Plan H-4**).

NBAs and Building Gaps

4.2 The AVA Study recommends adoption of mitigation measures including a number of NBAs and building gaps in the Area in order to improve permeability of sea breeze towards Kowloon Bay (**Plan H-6**), the effectiveness of major breezeways and the overall wind environment in KBBA. The NBAs in the KBBA are along Wang Kwong Road, Wang Chiu Road and Wang Mau Street as well as within "G/IC(1)" zone at Wang Chin Street, whilst building gaps are from Lam Hing Street to Sheung Yuet Road and from Lam Fung Street to Sheung Yee Road (**Plan H-5**). For areas outside KBBA, various NBAs and building gaps (within Telford Gardens) are also designated to help minimise adverse air ventilation impact on the neighbours and improve permeability of prevailing winds in the locality upon redevelopment of relevant sites.

4.3 **The Representation Sites and their Surroundings**

The "R(A)" site at 7 Ngau Tau Kok Road (Plan H-7a)

4.3.1 The site has an area of about 1,910m^2 abuts Ngau Tau Kok Road. It is currently occupied by an 8-storey industrial building known as Amoy Industrial Centre. The building was completed in 1961 and has a BH of about 32mPD (at main roof). The site is situated in the Ngau Tau Kok and Jordan Valley Residential Area which is characterised by a mixture of both old and new low-rise to high-rise public and private residential developments. The site is mainly surrounded by the medium-rise private residential cluster of Tak Bo Garden and other residential buildings along Ngau Tau Kok Road. It falls within an area zoned "R(A)" on the OZP and subject to a maximum BH of 120mPD and a maximum PR of 7.5 for a domestic development and 9 for a partly domestic and partly non-domestic development.

Planning Intention

4.3.2 The "R(A)" zone is intended primarily for high-density residential developments. Commercial uses are always permitted on the lowest 3 floors of a building or in the purpose-designed non-residential portion of an existing building.

Land Administration

4.3.3 The site is held under NKIL 1744. The lease of the lot is virtually unrestricted except non-offensive trade uses and without any height restriction.

The "OU(MTR Depot with Commercial and Residential Development Above)" at Telford Gardens and "OU(Railway)" for the Kowloon Bay MTR Station (Plan H-8a)

4.3.4 The private residential/ commercial development of Telford Gardens has a site area of about 110,693m^2. The Telford Gardens is a large medium-rise private commercial/residential development (50mPD to 100mPD) on top of the MTR depot at Kowloon Bay. The development comprises 2 office towers (23 storeys/ 100mPD) and various shopping facilities. In addition, a wide range of community facilities including a recreational club and a cinema are provided to cater for the needs of the residents. The Telford Annex of the City University of Hong Kong is also accommodated within the development.

4.3.5 The Telford Gardens is currently zoned "OU(MTR Depot with Commercial and Residential Development Above)". According to the Notes of the OZP, developments and redevelopments within this zone are subject to a maximum GFA of 278,703m^2 for domestic use and 177,031m^2 for non-domestic use, and maximum BHs of 60mPD and 100mPD. A public transport terminus is provided within this zone. Three building gaps are demarcated within the zone upon redevelopment in order to improve air ventilation in the area. Two 22m-wide building gaps run parallel to Wang Tai Road and Sheung Yuet Road in east-west direction, and one 15m-wide building gap runs parallel to Tai Yip Street in north-south direction are demarcated, on which no building shall exceed a maximum BH of 22mPD.

4.3.6 On the other hand, the Kowloon Bay MTR Station, the open-air railway and the associated facilities occupy an area of about 63,018m^2. The Kowloon Bay MTR Station provides important railway transport to the Area. It is zoned "OU(Railway)" on the OZP. Within this zone, a BHR of 3 storeys is imposed for the Kowloon Bay MTR Station along Kwun Tong Road, and 1 to 2 storeys as shown on the OZP for the existing buildings for associated facilities such as warehouses, a control tower and a pumping house. According to the Notes of the OZP, no new development except 1-storey structure ancillary to the railway and the MTR Station shall be permitted.

4.3.7 The sites are located in the west of Kwun Tong Road along the flank of the KBBA. To the north are the medium-rise residential developments including the subsidised housing developments of Kai Yip Estate, Kai Tai Court and Richland Gardens. To the east is the medium to high-rise public/ private residential developments in Ngau Tau Kok and Jordan Valley Area.

Planning Intention

4.3.8 The "OU(MTR Depot with Commercial and Residential Development

Above)" is intended primarily for the provision of land for MTR depot together with commercial and residential development above.

4.2.9 The "OU(Railway)" zone is intended primarily for the provision of land for the open-air railway, the Kowloon Bay MTR Station and the associated facilities.

Land Administration

4.2.10 The Telford Gardens comprises 2 lots, namely NKIL 5744 (covering the MTR depot with a comprehensive residential/ commercial development above) and NKIL 6201 (comprising 2 office towers and the commercial arcade under).

4.2.11 NKIL 5744 is held under the Conditions of Grant No. 11083 for the purposes of MTR Depot and non-industrial development. The lot is governed by Master Plans and changes to the Master Plans should require Director of Lands' prior approval. In particular, for non-industrial development, it shall comprise residential accommodation not exceeding 3,000,000 sq. ft (i.e. about 278,706.8m^2) and the non-industrial development shall be used for the purpose as designated on the Master Plans. The lot is also subject to height restrictions of 300ft (91.44m), 170ft (51.82m) and 168.5ft (51.36m) above HKPD. According to the approved Master Plans, the approved domestic GFA and non-domestic GFA are 278,703m^2 and 105,294m^2 respectively.

4.2.12 NKIL 6201 is held under Conditions of Exchange No. 12289 for the purposes of non-industrial (excluding residential, hotel, go-down and petrol filling station). The lot is governed by Master Plans and changes to the Master Plans should require Director of Lands' prior approval. The total GFA of the lot shall not exceed 71,736m^2 in which the commercial portion (excluding office) shall not exceed 23,401m^2. The breakdown of the GFA calculation for the 2 lots is as follows:

Table 1 Breakdown of GFA for NKIL 5744 and 6201

	Domestic GFA	**Non-domestic GFA**
NKIL 5744	278,703m^2 (Master Plans)	105,294m^2 (Master Plans)
NKIL 6201	Not applicable	71,736m^2 (Lease)
Total	***278,703m^2***	***177,030m^2***

4.2.13 The Kowloon Bay MTR Station and the railway mainly fall within the NKIL 5744. According to the lease, the MTR Depot shall not be used for any purpose other than for the purpose of a MTR workshop and maintenance depot, including running lines, marshalling yards, stabling sheds, stores, a training school, a staff canteen, staff facilities, cash collection and revenue office facilities, and other MTR operational uses as many be approved by the Director of Lands and such ancillary offices and

quarters for watchmen or caretakers as may be approved by the Commissioner for Labour. It is also subject to a height of not exceeding 60ft (18.29m) above HKPD.

4.3 **Responses to Grounds of Representations and Proposals**

Representation Opposing Various Amendment Items (R2)

BHRs

Lack of Flexibility for Quality Design and Impact on Streetscape and Air Ventilation

4.3.1 The BHRs would not necessarily result in bulkier buildings or wall effect affecting air ventilation. The BHRs are formulated based on reasonable assumptions and flexibility is allowed in the shape and form of the buildings. In general, they should be sufficient to accommodate the permissible PR under the OZP as well as meeting various building requirements. Besides, the BHRs do not preclude the incorporation of innovative architectural features and landscape treatment, etc. of a development proposal. The ES of the OZP has also expressly encouraged the provision of improvement measures for better air ventilation e.g. greater permeability of podium, wider gap between buildings and building setback.

4.3.2 Building design is determined by the interplay of a host of factors such as PR, site coverage, BH, design and disposition of buildings and the geometry of the site. As advised by Chief Town Planner/Urban Design & Landscape (CTP/UD&L), the control or reduction in BH does not necessarily result in large building bulk. In considering the building bulk, apart from the size and volume of a building, reference should also be made to the following:

(a) the shape and form of building, including any podium, balcony, bay window, architectural feature and stepped height profile;

(b) the disposition of building in relation to the boundary of the site and the adjacent building, including set back at both ground and upper levels; and

(c) the location of the building in relation to the characteristics of the surrounding area, including surrounding buildings, heritage, open areas, natural topography, ridgeline, main street and pedestrian circulation pattern, view corridor and breezeway.

4.3.3 As such, whether a building is considered bulky depends on many considerations other than BH alone. The assumption that BH control will compress a building and hence increase its bulkiness without attempting for a change in design is only quoting an extreme case. A

development without BH control can also give the same bulkiness at pedestrian level, for example, by designing a podium of 100% site coverage up to 15m under B(P)R in order to maximise the best views at higher levels and to capitalise the land values.

4.3.4 Moreover, there is provision for application for minor relaxation of the BHRs under the OZP to cater for development/redevelopment with planning and design merits. As stated in paragraph 7.13 of the ES, the consideration criteria of such applications include the provision of innovative building design, separation between buildings, better streetscape and good quality street level public urban space. Any innovative scheme with planning and design merits would be duly considered by the Board in accordance with such criteria.

Reasonable Height Limits and Out-of-context Buildings

4.3.5 Apart from air ventilation consideration and protection of ridgelines of Lion Rock, Tsz Wan Shan and Kowloon Peak, together with the views from the HKCEC and Quarry Bay Park, the BHRs have been formulated based on an overall BH concept and other relevant considerations including the existing BH profile, natural topography, local area context and characteristics, the BH of the developments in the adjoining planning areas as well as visual compatibility of building masses in the wider setting. A balance has been struck between public aspirations for a better living environment and private development right.

4.3.6 **R2**'s claim that high-rise developments in the order of 40 storeys have been in place in Hong Kong for years and are thus acceptable to the public is not backed up by any evidence. Such a BH is not considered as a readily and widely acceptable BH for the Territory, particularly in the district or local context. As advised by CTP/UD&L, whether a development is "out-of-context" should be considered with reference to the characteristics of the surrounding areas, not solely the absolute BH. It should be determined by considering how the development relates to the height and massing of the adjacent natural and man-made setting, and whether it contributes towards a coherent composition or creates diversity and contrast.

Local View Corridors

4.3.7 According to the Urban Design Guidelines in Chapter 11 of the HKPSG, views to special landmarks and features (such as ridgelines, water body, countryside and other natural features) should be functionally protected so as to avoid finger or broken views and additional view access should also be maximised to strengthen visual permeability in the dense city form. In Kowloon, it is stated that the visual access to Lion Rock and major ridgelines should be enhanced to avoid losing these features which form "the image of Hong Kong".

4.3.8 As such, in addition to the view corridors towards the Kowloon ridgelines from the established vantage points at Hong Kong Island, suitable viewing points/local view corridors in a more local context had been considered. In Ngau Tau Kok & Kowloon Bay area, a local view corridor towards the Lion Rock viewing from the pedestrian footbridge at Kwun Tong Road near Choi Ying Place has been identified. The footbridge is the major pedestrian route linking up Kowloon Bay Station to the public housing developments serving the nearby residents and is easily accessible by the public. Such view corridor opens up a vista to the Lion Rock in the far northwest via a belt of various "R(A)", "G/IC" and "Open Space" ("O") uses on both sides of Kwun Tong Road. When determining the BHs for developments/ redevelopments that falling within the local view corridor, among other factors, due respect has been given to preserving the natural setting of the Lion Rock (**Plan H-9**).

4.3.9 The current BH profile is to create a discernible townscape for the KBBA with a BHR of 170mPD imposed for "C" and "OU(Business)" zones in the southern part as a business node where some new developments have been completed recently and agglomerated to form a critical mass as an identifiable area node, and stepping down to 3 lower height bands of 100mPD, 120mPD and 140mPD in the northern and eastern parts. With a smooth transition of BH profile from the KBBA, the business node steps down gradually to the medium-rise residential developments including Kai Yip Estate, Richland Gardens and Telford Gardens along Kwun Tong Road. Across Kwun Tong Road, the BH profile for the residential developments mainly follows the natural topography stepping up gradually eastward and northward towards Jordan Valley and the foothill of Kowloon Peak. Thus, the BH profile in the Area including the KBBA is considered logical and desirable from urban design point of view.

4.3.10 On the OZP, the public housing developments have higher height bands ranging from 140mPD to 170mPD than the private residential developments with the height band of 120mPD. It is because public housing development sites are located at higher site levels ranging from 20mPD to 60mPD while the private residential developments are on site levels of about 5mPD. The absolute BHs of the public housing developments are similar to or even more stringent than the private residential developments. It is considered incorrect to claim that BHRs for private residential sites are more restrictive than the public housing sites.

NBAs and Building Gaps Requirements and Spot Zoning Approach

4.3.11 Legal advice has been obtained on the spot zoning approach. According to the Department of Justice (D of J), sections 3 and 4 of the Ordinance and the scheme of the legislation are intended to give the Board comprehensive powers to control development in any part of

Hong Kong. The Board should have the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if there are necessary and sufficient planning justifications. The imposition of BHRs is considered justified as it could provide better planning control on the BH of development/redevelopment and avoid out-of-context development.

4.3.12 Sections 3 and 4 of the Ordinance and the scheme of the legislation are intended to give the Board comprehensive powers to control development. NBA and building gap requirements can also be a part of the planning control provided that the Board has necessary and sufficient planning justifications. The designation of such requirements on the OZP, which can serve a positive planning purpose and have positive planning benefits, is justified in the circumstances.

4.3.13 The objective of the NBA and building gap requirements is for air ventilation and urban design considerations and would improve pedestrian walking environment and local amenity and assist air ventilation as stated in paragraph 8.6 of the ES. The imposition of NBA and building gap requirements depends on different site context, site configuration and building disposition. The areas designated as NBA are clearly marked and shown in the OZP where no building structure above ground is allowed. However, taking into account the practical constraint in existing development pattern and development right, building gaps where no building structure shall exceed the BHRs would be imposed in certain localities.

4.3.14 The NBAs and building gaps requirements are in relation to air ventilation issues. As stated in the AVA Study, air ventilation is subject to a combination of factors like site geometry, building form and disposition, BH and bulk, choice of views and prevailing wind direction, etc. For better air ventilation, breezeways along major prevailing wind directions and air paths intersecting the breezeways should be provided. Breezeways should be created in forms of major open ways, such as principal roads, inter-linked open spaces, amenity areas, NBAs, building setbacks and low-rise building corridors, through the high-density/high-rise urban form. In addition to the provision of open spaces, parks and streets, stipulation of NBAs and building gaps on OZP is an effective alternative to improve air ventilation. The AVA Study therefore recommends the mitigation measures of imposing NBAs and building gaps in the Area in order to improve the permeability of sea breeze towards Kowloon Bay, the effectiveness of major breezeways and the overall wind environment in KBBA (**Plans H-5 and H-6**).

4.3.15 In addition, "O" zoning and NBA serve different functions. "O" zone is intended to provide open space for public enjoyment and its implementation may involve land resumption. NBA forms part of the

building design to free up ground floor space for air ventilation purpose, but the land is still vested with the landowners and the development intensity of the sites would not be affected by the NBAs. Should these areas be rezoned to "O", the development potential of the concerned site would be affected.

4.3.16 The AVA by EE, which is particularly useful for a large area, is considered an appropriate approach for overall review of BH for the Area. The AVA has been carried out in accordance with the Technical Circular on AVAs promulgated by the Government. The AVA has assessed the existing wind environment in the Area and made a qualitative evaluation of the likely impact of the developments in accordance with BHRs on the pedestrian wind environment, including identification of areas of concern and recommending possible measures to address the potential problems. Justifications for the specific NBAs and building gap requirement including improving air ventilation and providing pleasant pedestrian environment are clearly set out in the AVA Study (**Annex IV**) and MPC Paper No. 25/10.

4.3.17 It is considered appropriate to impose NBA and building gap restrictions on the OZP to provide clearer control and allow opportunity for public representation under the Ordinance. The requirements of NBAs and building gaps under the OZP and the provision of setback under the BO are two separate regimes, i. e. building regime and town planning regime respectively. However, they are complementary, rather than duplicating to each other. In comparison, the OZP requirements were determined based on specific district circumstances and conditions, while the BO is applicable to all building developments with no reference to specific district characteristics.

4.3.18 Regarding compensating the private land owners, in general, proposals involving dedication of land for public passage and surrender of land for street widening would be entitled to bonus GFA under B(P)R, and any such claim would be duly considered by the Building Authority in accordance with the normal practice. The NBA and building gap requirements on the OZP should not adversely affect development intensity of the relevant sites, and do not preclude the claim for bonus GFA under the BO.

Public Consultation

4.3.19 Subsequent to the completion of the Study "Urban Design Guidelines for Hong Kong" setting out the broad urban design guidelines in 2003, the BH proposals were firstly translated onto OZP restrictions in KBBA and Kwun Tong Business Area (KTBA) in 2004. As most of the sites within the business areas were subject to the Airport Height Restrictions/ BHRs under leases and a surge of building plan submissions to establish "fait accompli" was unlikely, it was

considered that public consultation prior to the gazetting could be conducted to gauge the public views on such translation of BHR onto relevant OZPs. The TPB Guidelines for Interim BH Control in KBBA and KTBA was issued in 2004for planning control purposes pending on the results of the public consultation on imposing BHRs in KBBA and KTBA.

4.3.20 For the current OZP reviews, it has been an established practice that proposed amendments involving BHRs would not be released to public prior to gazetting. The reason is that premature release of such information before exhibition of the amendments might prompt an acceleration of submission of building plans by developers to establish "fait accompli", hence defeating the purpose of imposing the BHRs.

4.3.21 The rationales for the BHRs and NBAs requirements have been set out clearly in the MPC Paper No. 25/10, the AVA Study and the ES of the OZP, which are all available to the public.

4.3.22 A visual appraisal was undertaken as part of the BH review and photomontages showing the proposed BH bands for development sites in the OZP area were included in the MPC Paper No. 25/10.

4.3.23 Amendments to the OZP were exhibited for public inspection for a period of 2 months in accordance with the provisions of the Ordinance. The exhibition process itself is a public consultation to seek representations and comments on the draft OZP. During the exhibition period, PlanD also provided briefings on the OZP amendments to KTDC. The 2-month statutory exhibition period is considered adequate for consultation with the public, while maintaining the efficiency of the process.

Responses to R2's Proposals

4.3.24 Keeping the integrity of the BH profile and designation of NBAs /building gaps to maintain and improve the visual quality of the townscape and permeability of the district are considered important. Stipulation of NBAs on OZP is an effective measure to improve air ventilation, particularly for sites facing narrow street canyon. Any uplifting of the BHRs or removal of NBAs should be subject to adequate justifications and demonstrations.

4.3.25 **R2**'s proposals for increased BHRs ranging from 140mPD to 150mPD to create a rising profile of BHs for the OZP central area is not supported since it would result in an awkward downward and upward BH profile for the OZP area as well as the overall visual quality of the townscape. The proposals for increasing the BHRs of 20m to 40m and deletion of NBAs are not supported having considered the urban design considerations set out above.

4.3.26 The proposal for deleting the NBA requirement and for designating alternative "O" zone to provide desired gaps is not supported as they serve different purpose. The proposed deletion of the words "exceptional circumstances" in respect of applications for minor relaxation of NBA requirements from the relevant Notes is also not acceptable since this would render the NBA requirements ineffective.

Representation Opposing Development Restrictions for the "R(A)" Site at 7 Ngau Tau Kok Road (R3)

R3

Lack of public consultation

4.3.27 As aforementioned, it is an established practice that proposed amendments involving BHRs should not be released to public prior to gazetting. Premature release of such information before exhibition of the amendments might prompt an acceleration of submission of building plans by developers to establish "fait accompli", hence defeating the purpose of imposing the BHRs. Amendments to the OZP were exhibited for public inspection for a period of 2 months in accordance with the provisions of the Ordinance. The exhibition process itself is a public consultation to seek representations and comments on the draft OZP. During the exhibition period, PlanD also provided briefings on the OZP amendments to KTDC. The 2-month statutory exhibition period is considered adequate for consultation with the public, while maintaining the efficiency of the process.

4.3.28 Regarding the Representer's concerns on the urban design study and visual impact assessment, it should be noted that a visual appraisal for the BH concepts and restrictions of the Area was conducted and incorporated in the MPC Paper No. 25/10. The MPC Paper is available to the public.

Flexibility for innovative and quality design

4.3.29 The BHRs are formulated based on reasonable assumptions, having regard to the development intensity permissible under the OZP, without precluding the possibility for incorporating building design measures to achieve good quality developments. They should be sufficient to accommodate the permissible PR under the OZP. Besides, the BHRs do not preclude the incorporation of green features, innovative architectural features and a reasonable floor-to-floor height for development/redevelopment. The BHRs should not be the sole consideration for a quality building design. Instead, as advised by CTP/UD&L, it could be achieved by innovative architectural design, and landscape treatment of a development proposal. Also, to allow for design flexibility and to provide incentive for development/redevelopments with planning and design merits, minor relaxation of the BHRs may be considered by the Board based on

individual merits of the development proposal.

Need for reasonable BH

4.3.30 As mentioned previously, the BHRs would not result in bulkier buildings or wall effect affecting air ventilation. The BHRs are formulated based on reasonable assumptions and flexibility is allowed in the shape and form of the buildings. The ES of the OZP has also expressly encouraged the provision of improvement measures for better air ventilation e.g. greater permeability of podium, wider gap between buildings and building setback. In considering the building bulk, apart from the size and volume of a building, reference should also be made to the shape and form of building, including any podium, balcony, bay window, architectural feature and stepped height profile; the disposition of building in relation to the boundary of the site and the adjacent building, including setback at both ground and upper levels; and the location of the building in relation to the characteristics of the surrounding area, including surrounding buildings, heritage, open areas, natural topography, ridgeline, main street and pedestrian circulation pattern, view corridor and breezeway. Given the tendency to maximise the best view in certain direction (particularly sea view), and to capitalize on land values on the lower floors by designing a 100% site coverage commercial podium permissible under B(P)R to 15m, a development with more lenient BH control may be taller and even bulkier (as site coverage may not necessarily be reduced).

The BHR of 120mPD is too low

4.3.31 The imposition of BHRs in the Area has taken into account various considerations, including the natural topography and site levels. It should be noted that the difference of the BHRs between private and public housing developments are the result of the site level of the representation site, which is about 5mPD and that of the public housing estates beyond Choi Ha Road ranging from about 20mPD to 40mPD. As such, there is no differential treatments for the private and public housing sites and the BHR of the site is not unreasonably low.

No significant positive visual impacts

4.3.32 The imposition of BHR of 120mPD on the site and adjoining private residential development is considered visually desirable from urban design point of view. CTP/UD&L indicates that, with respect to the natural topography of Jordan Valley and the existing and planned BHs for the residential developments to the west of Jordan Valley, the BHR of 120mPD for the "R(A)" zone (where the site is located) could allow a stepped BH profile gradually descending from 170mPD of Choi Fuk Estate at Choi Wing Street near Jordan Valley to 140mPD of Choi Ha Estate along Choi Ha Road and 120mPD of the private residential developments along Ngau Tau Kok Road, then further to 40mPD for

the planned G/IC development along Kwun Tong Road.

No significant positive air ventilation impacts

4.3.33 The AVA Study was conducted to assess the likely impacts of the BHRs of the developments within the Area, including the representation site, on the pedestrian wind environment. According to the AVA Study and as advised by CTP/UD&L, the BH is one of the factors affecting the air ventilation in the Area. Though the AVA Study concludes that, in Ngau Tau Kok and Jordan Valley sub-area, there are no significant negative air ventilation impacts due to the abundant surrounding open space, green belt and / or low-rise G/IC developments, it does not imply that the BHRs in the sub-area could be varied. Increasing the BHR of the representation site would set an undesirable precedent in the sub-area, and would have cumulative adverse impact on the air ventilation in the Area.

4.3.34 Also, as mentioned above, the BHR of 120mPD for the private residential sites along Ngau Tau Kok Road and the BHR of 140mPD for the public housing estates form part of the stepped height profile in the Area. It is indicated in the Urban Design Guidelines of the HKPSG that, stepped BH can help optimise the wind performance. It is therefore considered necessary to maintain the BHR of 120mPD for a 20m BH interval.

Potential wall effect at the representation site

4.3.35 The BH of 120mPD is considered more desirable than the BH of 140mPD as proposed by the representer. CTP/UD&L comments that the proposed 140mPD at the representation site would breach the integrity of the height profile of 120mPD without any particular planning or design merits. For the alternative proposal of 140mPD for the whole "R(A)" zone, the uplifting of the whole height band from 120mPD to 140mPD would breach the stepped height concept **(Plan H-7e)**.

Lease Restrictions

4.3.36 The OZP requirements and lease conditions are under two separate regimes, i.e. land administration and town planning regimes. The intention of stipulating BHRs on the OZP is to achieve a good urban form. In formulating the BHRs, a balance between public aspirations for a better living environment and private development potential has been struck. The BHRs are formulated on the basis of reasonable assumptions that development potential permissible under the OZP could be accommodated. Lease is only one of the considerations in formulating the BHRs.

Responses to R3's Proposals

4.3.37 **R3** proposes to revise the BHR of the whole "R(A)" zone to 140mPD, or revise the BHR for the site to 140mPD or such other height greater than 120mPD as may be appropriate. For the following reasons, the representers' proposals are not supported:

(a) With respect to the natural topography, the BHR of 120mPD for the "R(A)" zone (where the site is located) along Ngau Tau Kok Road could allow a stepped BH profile gradually eastward and northward towards Jordan Valley and the foothill of Kowloon Peak. The proposed BH of 140mPD for the whole "R(A)" zone would breach the stepped height concept; and

(b) The proposed BH of 140mPD at the representation site would breach the integrity of the height band of 120mPD without any particular planning or design merits, and in turn adversely affect the stepped height profile in the Area.

Representation Opposing Development Restrictions for Kowloon Bay MTR Depot and the adjoining Railway Station (R4)

R4

New zonings for the comprehensive development above Kowloon Bay MTR Depot and the adjoining railway and MTR Station and the new sets of Notes

4.3.38 As advised by the DLO/KE, the agreement and covenants as mentioned by the MTRCL in paragraph 2.4.2 should mean the lease conditions. The Telford Garden comprises 2 lots, namely NKIL 5744 and NKIL 6201. The 2 concerned lots are governed by Master Plans. The new zonings of "OU(MTR Depot with Commercial and Residential Development Above)" and "OU(Railway)" are to reflect more clearly the planning intention of the residential/commercial development on top of Kowloon Bay MTR depot and the railway station and facilities. The new zoning of the "OU(MTR Depot with Commercial and Residential Development Above)" zone and the development restrictions are to reflect the optimal development pattern and long term planning intention as set out on the Master Plans under the lease, which were agreed among various government departments. DLO/KE indicates that any changes shall require Director of Lands' prior consent who may, in granting such consent, impose such terms and conditions including payment of premium.

4.3.39 Regarding the land use of the "OU(Railway)", as mentioned in paragraph 4.2.13, the user clause of the land grants has already specified that the MTR Depot shall not be used for any purpose other than for the purpose of a MTR workshop and maintenance depot, where no commercial use is allowed. The new zoning of "OU(Railway)" is to ensure effective control from land use planning

perspective.

4.3.40 As advised by CBS/K, the non-domestic GFA in accordance with the latest approved building plans for the sites is about 168,531m^2. Compared with the approved non-domestic GFA of 177,030m^2 (Table 1 refers), the remaining non-domestic GFA is about 8,499m^2, which could meet the future public needs and facility improvements arising from the projects including Kai Tak Environmentally Friendly Transport System (EFTS) and Kowloon Bay Elevated Walkway System. Also, Project Manager(Kowloon) (PM(K)) points out that the proposed EFTS is only at the technical feasibility stage. It would be premature to assume the effect of EFTS at this stage.

Inappropriate BHR for the office towers

4.3.41 The Kowloon Bay Station and the Telford Plaza is a transport/ retail hub in the district situated in the transitional zone between the business node at KBBA to its west and the medium to high-rise residential areas to its east across Kwun Tong Road. As stated in the MPC Paper No. 25/10, it is the intention to form a critical mass of office/ commercial use at 170mPD in the southern part of the KBBA as an identifiable business node, with a smooth transition of the BH profile from the business node within KBBA stepping down gradually to the medium-rise residential development in the northern and eastern fringes. To ensure the smooth transition of BH profile to the residential areas of 120mPD to 140mPD to the east of Kwun Tong Road, CTP/UD&L considers that the BHRs of 100mPD for the office towers above Telford Plaza, with respect to the existing BH (i. e. about 100mPD), is more reasonable than the BH of 170mPD.

Fail to reflect the existing conditions of the railway depot and affect the railway operation

4.3.42 Within the "OU(Railway)" zone, specific BHRs have been imposed on the Kowloon Bay MTR Station and the existing buildings which are ancillary to the railway operation. In order to ensure the planning intention of providing land for the open-air railway, the Kowloon Bay MTR Station and the associated facilities, it is necessary to ensure that only low-rise ancillary structures are allowed in the open depot areas. As such, for the remaining areas including the open-sided/ temporary structures as mentioned by the representer, it is specified in the Notes of the OZP for the "OU(Railway)" zone that no new development except 1-storey structure ancillary to the railway and MTR Station shall be permitted. Currently, except those with specific BHRs, the BH of all other open-sided/ temporary structures is 1-storey. As such, it is considered that the BHR of 1 storey for the open depot area is appropriate and can reflect the existing condition in the depot area.

4.3.43 However, should there be a need for a relaxation of BHRs of the

ancillary structures, there are provisions for application for minor relaxation of the BHR under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.

Building gap conflicting with an existing retail footbridge

4.3.44 The demarcation of 15m-wide building gap running in north-south direction in Telford Gardens where no building shall exceed 22mPD (i.e. the height of the MTR depot) is demarcated in accordance with the recommendation of the AVA Study in order to connect Tai Yip Street in Kwun Tong for improving the air ventilation. As shown on **Plan H-8e**, only a portion of the existing retail footbridge falls within the demarcated building gap running in north-south direction. However, the existing building/ structure is not required to conform to the OZP until it is redeveloped. As stated in the ES, the requirements of these building gaps would only need to be taken into account upon future redevelopment of Telford Gardens and Telford Plaza (**Plan H-8e**). Should there be a need for a relaxation of the building gaps in future redevelopment, there are provisions for application for minor relaxation of the building gaps under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.

Responses to R4's Proposals

4.3.45 **R4** proposes to reflect the presence of the retail footbridge at the building gap, allow a BH of 170mPD for the office towers, reflect existing depot structures and delete BHRs on the open depot area as well as amend the Notes Item (n) to delete the non-domestic GFA restriction. The proposals are not supported for the following reasons:

(a) The requirements of building gaps is recommended by the AVA Study and to be taken into account upon future redevelopment. It is noted that only a portion of the existing retail footbridge falls within the demarcated building gap running in north-south direction. However, there is no need for existing buildings/ structures to comply with the requirements. As such, the existing retail footbridge would not be affected and there is no strong reason to reflect this on the OZP. Should there be a need for a relaxation of the building gaps in future redevelopment, there are provisions for application for minor relaxation of the building gaps under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.

(b) The proposed BH of 170mPD for the office towers is not in line with the intention of maintaining a smooth transition of the BH profile from the business node within KBBA stepping down

gradually to the medium-rise residential development in the northern and eastern fringes.

(c) Specific BHRs have already been imposed on the Kowloon Bay MTR Station and the existing buildings which are ancillary to the railway operation. The BHRs on the open depot area are to ensure that only low-rise ancillary structures are allowed in the open depot area. Should there be a need for a relaxation of BHRs of the ancillary structures, there are provisions for application for minor relaxation of the BHR under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.

(d) The non-domestic GFA restriction in the Notes is line with the approved Master Plans required under the land grants. Also, the remaining non-domestic GFA of the development would be sufficient to cater for future need.

5 Consultation

5.1 The following Government departments have been consulted on the representations and their comments have been incorporated in the above paragraphs, where appropriate:

(a) Chief Town Planner/Urban Design and Landscape, Planning Department
(b) District Lands Officer/Kowloon East; and
(c) Project Manager (Kowloon), Civil Engineering & Development Department

5.2 The following Government departments have no comments on the representations:

(a) Antiquities & Monument Office, Leisure & Cultural Services Department;
(b) Chief Architect/Advisory and Statutory Compliance, Architectural Services Department;
(c) Chief Building Surveyor/ Kowloon, Buildings Department;
(d) Chief Engineer/Development(2), Water Supplies Department;
(e) Chief Engineer/Mainland South, Drainage Services Department;
(f) Chief Highway Engineer/Kowloon, Highways Department;
(g) Chief Engineer/Railway Development Office, Highways Department;
(h) Commissioner of Transport;
(i) Director of Electrical and Mechanical Services;
(j) Director of Environmental Protection;
(k) Director of Fire Services;
(l) Director of Leisure and Cultural Services; and
(m) District Officer (Kwun Tong).

6 Planning Department's Views

Based on the assessments in paragraph 4 above and for the following reasons, PlanD does not support the **Representations No. 2 to 4** and considers that the representations should not be upheld:

6.1 R2

BHRs

(a) The purpose of imposing BHRs in the Area is to provide better planning control on the building height 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 building height profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped building height concept, local characteristics, existing building height 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 AVA Study, had 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 OZP. Piecemeal relaxation of BHRs for individual sites is not supported as it would jeopardise the coherence of the stepped building height profile and would result in proliferation of excessively high developments, which is not in line with the intended planning control.

(c) The BHRs do not necessarily result in larger building bulk. Whether a building is bulky or massive depends on many factors other than BH alone. Given the tendency to maximise the best view in certain direction and to capitalise on the land value of lower floors, a development with more lenient building height control might be even taller and bulkier.

(d) To cater for site specific circumstances and schemes with planning and design merits, there is provision for application for minor relaxation of BHRs under the OZP. Each application would be considered by the Board on its individual merits.

NBA, Building Gap and Setback Requirements

(e) Sections 3 and 4 of the Town Planning Ordinance (the Ordinance) and

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

(f) Designation of NBA and building gap 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. Given that the designation of NBA is fully justified, it has legal basis to form part of the planning control of the Board.

(g) The relaxation of the NBA and building gap requirement would affect the effectiveness of their planning intention. The wording 'exceptional circumstances' is included in the minor relaxation clause requirement to cater for the situation that only in some exceptional cases under which the requirement could not be met due to site constraints but the planning objectives would be achieved in other forms.

(h) The requirements under BO and OZP on NBAs and building gaps are under two separate regimes. They are complementary, rather than duplicating each other.

Public Consultation

(i) Subsequent to the completion of the Study "Urban Design Guidelines for Hong Kong" setting out the broad urban design guidelines in 2003, the BH proposals were firstly translated onto OZP restrictions in KBBA and Kwun Tong Business Area (KTBA) in 2004. As most of the sites within the business areas were subject to the Airport Height Restrictions/ BHRs under leases and a surge of building plan submissions to establish "fait accompli" was unlikely, it was considered that public consultation prior to the gazetting could be conducted to gauge the public views on such translation of BHR onto relevant OZPs. The TPB Guidelines for Interim BH Control in KBBA and KTBA was issued in 2004for planning control purposes pending on the results of the public consultation on imposing BHRs in KBBA and KTBA.

(j) The 2-month statutory exhibition period and provision for representations and comments formed part of the current public consultation process. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs. All information supporting the BHRs, NBA and building gap requirements on the OZP including the AVA Report and visual analysis, is available for public inspection.

6.2 **R3**

(a) The purpose of imposing BHRs in the Area is to provide better planning control on the building height 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 building height profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped building height concept, local characteristics, existing building height 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 AVA, had 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 OZP. Piecemeal relaxation of BHRs for individual sites is not supported as it would jeopardise the coherence of the stepped building height profile and would result in proliferation of excessively high developments, which is not in line with the intended planning control.

(c) The BHRs do not necessarily result in larger building bulk. Whether a building is bulky or massive depends on many factors other than BH alone. Given the tendency to maximise the best view in certain direction and to capitalise on the land value of lower floors, a development with more lenient building height control might be even taller and bulkier.

(d) The BHR for the representation site and the adjoining residential developments allow a stepped building height profile in the Area gradually descending from the Jordan Valley towards Ngau Tau Kok Road, which is considered desirable from urban design point of view and can help optimise the wind performance.

(e) There is a need to strike a balance between public interest and private development right. The stipulation of BHRs on the OZP is to achieve a good urban design. It is an effective measure to regulate the development profile of the built environment. In addition, the BHRs are formulated on the basis of reasonable assumptions that development potential permissible under the OZP could be accommodated.

(f) To cater for schemes with planning and design merits, there is provision for application for minor relaxation of the BHRs under the OZP. Each application will be considered by the Board on its individual merits

based on the set of criteria set out in the ES of the OZP.

6.3 **R4**

(a) The new zonings of "OU(MTR Depot with Commercial and Residential Development above)" and "OU(Railway)" are to better reflect the planning intention of the residential/commercial development on top of Kowloon Bay MTR depot and the railway station and facilities; and the optimal development pattern and long term planning intention as set out on the Master Plans under the lease, which were agreed among various departments.

(b) The Kowloon Bay MTR Station and the Telford Plaza are situated in the transitional zone between the business node at KBBA to its west and the medium to high-rise residential areas to its east across Kwun Tong Road. The current BHR for the office towers is required to ensure a smooth transition of the building height profile from the high-rise business node within KBBA stepping down gradually to the medium-rise residential development in the northern and eastern fringes.

(c) Specific BHRs have already been imposed on the Kowloon Bay MTR Station and the existing buildings which are ancillary to the railway operation. The BHRs on the open depot area are to ensure that only low-rise ancillary structures are allowed in the open depot area. Should there be a need for a relaxation of BHRs of the ancillary structures, there are provisions for application for minor relaxation of the BHR under s.16 or amendments to OZP under s.12A of the Town Planning Ordinance. Each application would be considered by the Board on individual merits.

(d) The requirements of building gaps are to reflect the findings and recommendations of the AVA Study and to be taken into account upon future redevelopment. It is noted that only a portion of the existing retail footbridge falls within the demarcated building gap running in north-south direction. However, the existing building/ structure is not required to conform to the OZP until it is redeveloped. As such, the existing retail footbridge would not be affected and there is no strong reason to reflect this on the OZP. Should there be a need for a relaxation of the building gaps in future redevelopment, there are provisions for application for minor relaxation of the building gaps under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.

7 Decision Sought

The Board is invited to give consideration to the representations and decide whether to propose/not to propose any amendments to the OZP to uphold/not to uphold the

representations.

Attachments

Annex I	Draft Ngau Tau Kok & Kowloon Bay Outline Zoning Plan No. S/K13/26 (reduced)
Annex II	Schedule of Amendments to the Approved Ngau Tau Kok & Kowloon Bay Outline Zoning Plan No. S/K13/26
Annex III-1 to III-3	Submissions made by the Representers
Annex IV	Expert Evaluation on AVA Report of the Ngau Tau Kok & Kowloon Bay Area
Annex V	Extract of the minutes of Kwun Tong District Council
Annex VI	Summary of representations and PlanD's responses
Plan H-1	Location Plan for Representation Sites
Plan H-2	Spatial Attributes of Ngau Tau Kok & Kowloon Bay Area
Plan H-3	Sub-areas of Ngau Tau Kok & Kowloon Bay Area
Plan H-4	BHRs in Ngau Tau Kok & Kowloon Bay Area
Plan H-5	NBA and Building Gap Requirements
Plan H-6	Major Breezeway
Plan H-7a to H-7e	R3 – Location Plan, Aerial Photo, Site Plan, Site Photos and Photomontages
Plan H-8a to H-8e	R4 – Location Plan, Aerial Photo, Site Plan and Site Photos
Plan H-9	Local View Corridor towards Lion Rock Ridgeline

PLANNING DEPARTMENT
MAY 2011

Extracted from Confirmed Minutes of 984th Meeting of TPB held on 27.5.2011 and 1.6.2011

Agenda Item 7

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations and Comment to the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan No. S/K13/26

(TPB Papers No. 8820 to 8822)

[The hearing was conducted in English and Cantonese.]

Group 1 - Representations No. R2 to R4

(TPB Paper No. 8820)

The following Members declared interests on this item:

Mr. Roger K.H. Luk	-	being a Member of the Board of Directors of Octopus Card Ltd. in which MTRCL, one of the representers (R4), was a major shareholder.
Mr. K.Y. Leung	-	had represented his professional institute to make a submission to LegCo on the choice of location of the Express Rail Link Terminus and was an employee of the HKU SPACE (Tertiary Education Institution) with a campus in the area.
Mr. Raymond Y.M. Chan	-	being the convenor of the Railway Objections Hearing Panel for the Guangzhou – Hong Kong Express Rail Link and MTRCL (R4) was the operator of the Hong Kong section.
Professor S.C. Wong	-	being the external examiner for HKU SPACE with a campus in the area.
Dr. James C.W. Lau	-	being an Adjunct Professor of HKU
Professor Paul K.S. Lam	-	being an Honorary Professor of HKU
Professor Edwin H.W. Chan	-	being a Visiting Lecturer and external examiner to HKU and HKU SPACE.
Ms. Elsa H.K. Cheuk	-	being an alternate Member of the Board of the

MTRCL, one of the representers (R4).

Ms. Anna S.Y. Kwong - being an expert witness for MTRCL on another case.

Members noted that Mr. Roger K.H. Luk and Ms. Elsa H.K. Cheuk had already left the meeting while Mr. Raymond Y.M. Chan and Dr. James C.W. Lau had tendered their apologies for not attending the meeting. Members also agreed that the interests of Mr. K.Y. Leung, Professor S.C. Wong, Professor Paul K.S. Lam, Professor Edwin H.W. Chan and Ms Anna S.Y. Kwong were indirect and remote and that they should be allowed to stay in the meeting.

Presentation and Question Session

The following representatives from the Planning Department and the representers were invited to the meeting at this point:

Planning Department (PlanD)

Mr. Eric Yue	District Planning Officer/Kowloon, PlanD
Mr. Richard Siu	Senior Town Planner/Kowloon (4)
Dr. Conn Yuen	AVA Consultants for PlanD

R2 (The Real Estate Developers Association of Hong Kong)

Mr. Ian Brownlee - Representer's repesentative

R3 (Folabs Limited and Monfat Limited)

Mr. Ian Brownlee) Representer's representatives

Ms. Wendy Lee)

R4 (MTR Corporation Ltd.)

Mr. Anthony Ismail)

Ms. Lilian Chiang) Repesenter's representatives

Mr. Steve Yiu)

Ms. Linda Li)

The Vice-Chairman extended a welcome and explained the procedures of the hearing. He then invited the representatives of PlanD to brief Members on the representations.

With the aid of a Powerpoint presentation, Mr. Eric Yue made the following main points as detailed in the Paper:

(a) the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan (OZP) incorporating mainly amendments to impose building height restrictions (BHRs) on various development zones outside the Kowloon Bay Business Area (KBBA), to designate non-building areas (NBAs) and require building gaps in various zones and to propose other zoning amendments was exhibited for public inspection on 19.11.2010 under section 5 of the Town Planning Ordinance (the Ordinance);

(b) the background of the amendments to the draft OZP was set out in paragraph 3 of the Paper. In order 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 system, appropriate BHRs were incorporated into the OZP. The principles adopted in determining the BHRs included preserving the views to the ridgelines of Lion Rock, Tsz Wan Shan and Kowloon Peak, respecting the natural topography of the area, creating BH diversity, taking into account compatibility with the local character, providing a compatible setting for historical buildings, preserving/creating visual relief, breezeways and local view corridors, and preserving the open vistas from Clear Water Bay Road. Ten height bands ranging from 15mPD to 180mPD were proposed for the various zones. An Air Ventilation Assessment (AVA) by Expert Evaluation was undertaken to assess the likely impact of the proposed BHs of the development sites on the pedestrian wind environment. According to the AVA, the prevailing wind of the Area came from the east in winter and from the east and south in summer. The AVA recommended that the urban linear parks and open space should be maintained and practical setback from the roads and building gaps should be introduced within KBBA to improve the

permeability of sea breeze towards Kowloon Bay and the overall air ventilation in KBBA.

(c) during the 2-month statutory publication period, a total of 1,313 representations were received. On 28.1.2011, the representations were published for public inspection and in the first three weeks of the publication period, one public comment was received. Subsequently, 10 representations indicated that they did not submit the representations. The records of these representations had been taken out from the register and the total number of valid representations was 1,303. On 8.4.2011, the Board decided to consider the representations in three groups. This TPB Paper covered 3 representations (Group 1) which were mainly related to the imposition of BHRs, NBAs and building gap requirements on various development zones and to other zoning amendments;

(d) an overview of the representations:

(i) R2 was submitted by The Real Estate Developers Association of Hong Kong (REDA) and it opposed the BHRs, NBAs and building gap requirements for all residential and GIC sites outside the KBBA;

(ii) R3 was submitted by the two owners of Amoy Industrial Centre (Folabs Limited and Monofat Limited) and it opposed the BHR for the "R(A)" site at 7 Ngau Tau Kok Road; and

(iii) R4 was submitted by the MTR Corporation Limited (MTRCL) and it opposed the rezoning, BHRs and building gaps at the Telford Gardens site zoned "Other Specified Uses" annotated "Mass Transit Railway Depot with Commercial and Residential Development Above" ("OU(MTR Depot with Commercial and Residential Development Above)") and at the Kowloon Bay MTR Station site zoned "Other Specified Uses" annotated "Railway" ("OU(Railway)");

(e) the grounds of representations and the representer's proposals were

summarized as follows:

(i) Representation R2

Grounds of Representation

BHRs

a. the BHRs were set at levels which were so low that they had unnecessarily constrained the provision of good quality development. Flexibility should be provided with sufficient internal headroom for the design of developments with good internal space;

b. no consideration was given to building economics, implications for redevelopment of the area, effect of the BHRs on the form of new buildings, and the negative impact on the provision of space around buildings;

c. the BHRs would discourage innovative architectural design and made it impossible to add void features into the design. The BHRs would adversely affect streetscape, air ventilation and the quality of life of the users of the development;

d. the objectives of imposing BHRs could still be achieved with height limits set at a level that would allow more reasonable forms of development;

e. the public concern on "out-of-context" buildings mainly referred to developments that were 60 storeys or more in height at prominent locations. High-rise developments of around 40 storeys were acceptable to the public. The proposed BHRs of about 80m to 100m would result in buildings of 25 to 32 storeys which were unreasonably low;

f. The Hong Kong Convention and Exhibition Centre (HKCEC)

and the Quarry Bay Park should be taken as the key vantage points for visual impact considerations and other 'view corridors' such as the footbridge near Choi Ying Place should not be adopted as these vantage points had not gone through the public consultation process;

g. as BHRs of 120mPD and 140mPD were already adopted in KBBA, it was illogical to adopt a descending BHR profile to the east and to disallow the continued increase in BHRs from the KBBA across Telford Gardens, Kwun Tong Road and Ngau Tau Kok Road;

h. the BHRs imposed on private land in the vicinity of Kwun Tong Road was more restrictive than those imposed on the public housing sites in the area;

NBAs

i. the imposition of NBAs on individual sites for air ventilation purposes was not permitted under sections 3 and 4 of the Ordinance as no buildings were provided within NBAs;

j. gaps between buildings could be achieved by the provision of open space, parks and streets. There was no justification for an additional category of NBA;

k. the AVA was inadequate to justify the extent of NBAs imposed and there was no information to justify the extent of intrusion into private property rights. There was no assessment to show that the NBAs were essential for the public good, other alternatives were not considered and compensation to owners for the loss of property rights was not considered. The proposed NBAs had gone beyond the scope of the Ordinance;

Building Gaps and Setbacks

l. setback requirements on the OZP were not appropriate for the scale and generality of broad brush plans. There was no legal recognition of the provision of setbacks for 'air paths' as being a public purpose for which private land could be taken;

m. the OZP was not an appropriate statutory framework for the implementation of building setbacks and building gaps as provision for road widening was covered by other Ordinances;

n. there were no justifications as to why the setbacks for the various zones were essential, why they must be at the specified width, and why some must be provided at ground level while others could be provided at 22mPD. There was also no justification for providing additional setbacks along the widest streets in KBBA;

o. the unclear justifications would cause unnecessary complications related to compensation under the Buildings Ordinance and the Roads Ordinance;

Spot Zoning Approach

p. the imposition of BHRs, NBAs and building gaps on individual sites constituted a form of 'spot' zoning which was too restrictive, inappropriate and unlawful. They were not permitted under sections 3 and 4 of the Ordinance and violated the principle that the object of the OZP was to indicate only the broad principles of development;

Public Consultation

q. the BHRs, NBAs and setback requirements were imposed on the OZP without prior public consultation. There was no opportunity for the public and the developers to be informed of the justifications or the need for the restrictions, and no visual impact assessment was available to the public; and

r. the approach adopted for the OZP was in contrast with that taken for the KBBA when TPB Guidelines were issued to propose temporary arrangements for the processing of the proposed BHRs;

Representer's Proposals

s. BHRs must be reviewed to make better use of the air space and to free up the lower level space for better air ventilation and street environment;

t. a more rational and generalised approach to the zoning should be adopted by deleting "Spot BHRs" which adversely affected development rights and building potential;

u. the BHRs for the central part of the OZP should be increased to 140mPD to 150mPD to maintain the rising profile of building heights (BHs), while still protecting the ridgelines from the recognized viewpoints;

v. given the established BHRs on KBBA and the general background of development on the slopes to the east, a general increase in the BHRs of 20m to 40m was appropriate;

w. to delete the NBA requirement from the OZP and alternative zonings, such as "Open Space" ("O") should be used to provide desired gaps. The words "exceptional circumstances" in respect of applications for minor relaxation of NBA requirements should be deleted from the relevant Notes; and

x. to delete all setbacks from the OZP;

(ii) <u>Representation R3</u>

Grounds of Representation

General

a. there was no prior public consultation or engagement and no explanation was given to land owners and the public on the need for the BHRs and why the particular BHRs were adopted. There was no urban design study or visual impact analysis to indicate the Government's vision for long term development of the Area;

b. a reasonable BH was required to allow flexibility for the design of future redevelopment and for changing requirements over time and scope to meet market expectations;

c. there was a need to ensure that buildings were not restricted to unreasonably low heights which would result in bulky buildings forming walls of development that blocked air flows, light and views. Taller and more slender buildings would allow more space at ground level, thus enhancing the surrounding urban environment;

Specific

d. the BHR of 120mPD on the site was too low, given that the public housing estates were nearly 140mPD and there was a hilly topography in the area;

e. the BHR for the site and the adjoining residential development would not enhance the visual impact of the surrounding area significantly. Instead, the BHR would generate monotonous flat roofs for all developments in the area upon redevelopment;

f. the BHR for the site would not bring about significant positive air ventilation impacts to the area due to the abundance of open space, green belt and low-rise G/IC developments in the

surrounding and the downhill valley wind was already blocked by Tak Bo Garden. As the wind corridors were mainly along the roads, the imposition of BHR would bring no real benefits. Also, the site itself had no significant air ventilation impacts to the area;

g. the BHR for the site would create 'wall effect' blocking most of the views of Tak Bo Garden and Jade Field Garden; and

h. the lease of the site was an old lease with no restrictions on the use, the BH and the development potential of the site. The imposition of the BHR of 120mPD would reduce the property value and unjustly encroach on the property rights of the owner;

Representer's Proposal

i. the BHR for the whole of the "R(A)" zone should be revised to 140mPD or the BHR for the site should be revised to 140mPD or such other height greater than 120mPD;

(iii) Representation R4

Grounds of Representation

a. there was no restriction on the non-domestic GFA or commercial GFA under the lease for Telford Gardens and the Kowloon Bay MTR Station. The new zonings of "OU(MTR Depot with Commercial and Residential Development Above)" and "OU(Railway)" would impose land use and/or GFA restrictions on the future development of the site. These restrictions would render the Government in breach of its agreement and covenants with MTRCL and adversely affect the rights and entitlements of MTRCL;

b. the developments on the site were already controlled by means

of Master Plan under the land grants. The GFA restrictions under the OZP were not necessary;

c. with the completion of the Kai Tak Environmentally Friendly Transport System (EFTS) and the Kowloon Bay Elevated Walkway System, Kowloon Bay MTR Station would be a key interchange and important link for the new district pedestrian walkway system. The new zonings would not be able to meet the future needs and the demand for additional covered walkways, lifts and commercial facilities;

d. taller buildings should be placed at commercial centres, transport hubs or district focal points with graduation in BH profile from the high density core to the fringe. Given the planned height profile of 120mPD for "OU(Business)" sites and up to 170mPD for the strategic commercial sites, the BH of 170mPD for the office towers at the district focal point of Telford Plaza would be more reasonable and appropriate;

e. other than the railway tracks and some existing buildings, the remaining part of the depot was incorrectly shown on the OZP as vacant land without any structure. As workshops and engineering structures needed to be erected at the railway depot from time to time, the BHRs imposed would adversely affect the normal operation of the railway;

f. the building gap of 22mPD in the southern part of the "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" would conflict with the existing retail footbridge (roof level of about 27.4mPD). Though the existing buildings would not be affected, the retail footbridge served an important transport function and should not be removed as there was no feasible alternative; and

g. the new set of Notes for the "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" zone which incorporated new non-domestic GFA restrictions was unreasonable and unfair to MTRCL as it would take away the existing development rights and deprive MTRCL of the ability to provide extra facilities to respond to the site's enhanced hub functions;

Representer's Proposal

h. to properly reflect the existing retail footbridge at the proposed building gap;

i. to allow a BH of 170mPD for the office towers at Telford Plaza;

j. to reflect the existing depot structures within the "OU(Railway)" zone and to delete the BHRs on the open area of the depot; and

k. to amend the Notes of the "OU(Mass Transit Railway Depot with Commercial and Residential Development Above)" zone by deleting the non-domestic GFA restriction;

(f) the Government's responses to the grounds of representations and the representer's proposals were summarized as follows:

(i) Responses to Representation R2

BHRs

a. the purpose of imposing BHRs in the Area was to provide better planning control on the building height 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 building height profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped building height concept, local characteristics, existing building height 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 AVA Study, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development potential;

b. the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development potential permissible under the OZP. Piecemeal relaxation of BHRs for individual sites was not supported as it would jeopardise the coherence of the stepped building height profile and would result in proliferation of excessively high developments;

c. the BHRs would not necessarily result in larger building bulk and walls of development as the bulkiness of a building depended on many factors other than BH alone. Moreover, a relaxed BHR would not guarantee the provision of more air flow, light and view;

d. the BHRs did not preclude the incorporation of innovative architectural features and landscape treatment of a development proposal. To cater for site specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of BHRs under the OZP. Each application would be considered by the Board on its individual merits;

e. whether a development was out-of-context needed to be considered with reference to the characteristics of the surrounding area. The claim that BH of 40 storeys were readily and widely accepted was not proven;

f. according to the Urban Design Guidelines, the number of view access should be maximized to strengthen visual permeability in the dense built form. The proposed local view corridor would help to preserve the vista to Lion Rock;

g. the BH profile in the Area was to step down gradually from the KBBA to the medium-rise residential developments including Kai Yip Estate. Across Kwun Tong Road, the BH profile for the residential developments mainly followed the natural topography ascending towards the Kowloon Peak;

h. taking into account the different site level, the absolute BHs of the public housing developments were similar to or more stringent than that permitted for private residential developments;

'Spot' Zoning, NBA, Building Gap and Setback Requirements

i. sections 3 and 4 of the Town Planning Ordinance (the Ordinance) and the scheme of the legislation were intended to give the Board comprehensive powers to control development in any part of Hong Kong. The Board should have the power to impose BHRs, NBA and building gap requirements on the OZP if there were necessary and sufficient planning justifications to do so;

j. the designation of NBA and building gap requirements on the OZP could serve a positive planning purpose with positive planning benefits by improving air ventilation, visual permeability and the pedestrian environment. Given that the

designation of NBA and building gap was fully justified, it had legal basis to form part of the planning control of the Board;

k. the relaxation of the NBA and building gap requirement would affect the effectiveness of their planning intention. The wording 'exceptional circumstances' was included in the minor relaxation clause to cater for the situation that only in some exceptional cases under which the requirement could not be met due to site constraints but the planning objectives would be achieved in other forms;

l. the provision of setbacks under the Buildings Ordinance and the OZP requirement on NBAs and building gaps were under two separate regimes. They were complementary, rather than duplicating each other. The OZP requirements were determined based on specific district circumstances while the Buildings Ordinance was applicable to all building developments with no reference to specific district characteristics;

Public Consultation

m. the 2-month statutory exhibition period and provision for representations and comments formed part of the current public consultation process. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs. All information supporting the BHRs, NBA and building gap requirements on the OZP, including the AVA Report and visual analysis, was available for public inspection;

n. when the BHR for KBBA and Kwun Tong Business Area (KTBA) was first proposed in 2004, most of the sites within the area were subject to the Airport Height Restrictions/BHRs

under leases and a surge of building plan submissions to establish "fait accompli" was unlikely. It was therefore considered that public consultation prior to the gazetting could be conducted to gauge the public views on such translation of BHR onto relevant OZPs. The TPB Guidelines for Interim BH Control in KBBA and KTBA was issued in 2004 for planning control purposes pending the results of the public consultation on imposing BHRs in KBBA and KTBA;

Responses to Representer's Proposals

o. it was important to keep the integrity of the BH profile and the designated NBAs/building gaps in order to maintain and improve the visual quality of the townscape and permeability of the district;

p. amending the BHRs for the central part of the OZP to a range of 140mPD to 150mPD would result in an awkward downward and upward BH profile and would adversely affect the overall visual quality of the townscape;

q. as an "O" zone and an NBA served different functions, the proposal to rezone all NBAs to "O" would adversely affect the development intensity of sites in the area; and

r. it was necessary to retain the wording "under exceptional circumstances" in order to give a clear message of the firm planning intention and that the NBA, building gap and setback requirements could only be relaxed with very strong justifications and under exceptional circumstances;

(ii) Responses to Representation R3

General

a. the 2-month statutory exhibition period and provision for

representations and comments formed part of the current public consultation process. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs. All information supporting the BHRs, NBA and building gap requirements on the OZP, including the AVA Report and visual analysis, was available for public inspection;

b. the BHRs did not preclude the incorporation of green features, innovative architectural features and a reasonable floor-to-floor height for the development/redevelopment. Besides, to cater for site specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of BHRs under the OZP. Each application would be considered by the Board on its individual merits;

c. the BHRs would not necessarily result in larger building bulk and walls of development as the bulkiness of a building depended on many factors other than BH alone. Moreover, a relaxed BHR would not guarantee the provision of more air flow, light and view;

Specific

d. taking into account the different site level, the absolute BHs of the public housing developments were similar to or more stringent than that permitted for private residential developments;

e. the BHR for the representation site and the adjoining residential developments allowed a stepped building height profile in the Area gradually descending from the Jordan Valley towards Ngau Tau Kok Road, which was considered desirable from urban design point of view and could help

optimise the wind performance;

f. there was a need to strike a balance between public interest and private development right. The BHRs were formulated on the basis of reasonable assumptions that development potential permissible under the OZP could be accommodated. Moreover, the lease was one of the considerations in formulating the BHRs;

Responses to Representer's Proposals

g. the proposed BH of 140mPD for the whole "R(A)" zone would adversely affect the stepped height concept for the area; and

h. the proposed BH of 140mPD at the representation site would adversely affect the integrity of the height band of 120mPD ;

(iii) Responses to Representation R4

a. the new zonings of "OU(MTR Depot with Commercial and Residential Development above)" and "OU(Railway)" were to better reflect the planning intention of the residential/commercial development on top of Kowloon Bay MTR depot and the railway station and facilities, and the optimal development pattern and long term planning intention as set out on the Master Plans under the lease, which were agreed among various departments;

b. the current BHR for the office towers was required to ensure a smooth transition of the building height profile from the high-rise business node within KBBA stepping down gradually to the medium-rise residential development in the northern and eastern fringes;

c. specific BHRs had already been imposed on the Kowloon Bay

MTR Station and the existing buildings which were ancillary to the railway operation. The BHRs on the open depot area were to ensure that only low-rise ancillary structures were allowed in the open depot area. Should there be a need for a relaxation of BHRs of the ancillary structures, there were provisions for application for minor relaxation of the BHR under s.16 or amendments to OZP under s.12A of the Town Planning Ordinance;

d. the requirement of building gaps was to reflect the findings and recommendations of the AVA Study and was to be taken into account upon future redevelopment of Telford Gardens and Telford Plaza. The existing building/structure was not required to conform to the OZP until it was redeveloped;

Responses to Representer's Proposals

e. only a portion of the existing retail footbridge fell within the demarcated building gap running in north-south direction and it would not be affected until it was redeveloped;

f. the proposed BH of 170mPD for the office towers was not in line with the intention of maintaining a smooth transition of the BH profile from the business node within KBBA to gradually step down to the medium rise residential development in the north and east;

g. the BHRs for the "OU(Railway)" zone were to ensure that only low-rise ancillary structures were allowed in the open depot area. Provision for application for minor relaxation of the BHR was already available; and

h. the non-domestic GFA restriction in the Notes was in line with the approved Master Plans required under the land grants. The remaining non-domestic GFA that was not yet developed

should be sufficient to cater for the future needs of MTRCL.

[Ms. Anna S.Y. Kwong left the meeting temporarily at this point.]

The Vice-Chairman then invited the representatives of the representers to elaborate on the representations.

Representation No. R2

Mr. Ian Brownlee tabled a document with two letters and, with the aid of some plans and photos, made the following main points:

(a) REDA was concerned about the impact of the zoning amendments on private property rights. Any planning changes should enhance economic growth, maintain an efficient and sustainable urban development system and protect private ownership;

(b) although it was desirable to impose BHRs to protect important visual landmarks and provide certainty to landowners and the public, the BHR must be set at a reasonable level. The BHRs applied to the subject OZP were unreasonably low, with no consideration given to building economics or design, impact on property values and impact on urban renewal;

[Professor Edwin H.W. Chan arrived to join the meeting at this point.]

(c) the BHR of 60mPD for Telford Gardens only reflected the existing BH of the development. As Telford Gardens/Kowloon Bay MTR Station was an existing focal point in the whole area, the BHR for this site should be set at 120mPD to 150mPD and the BH profile should be stepped up from the KBBA to this focal point. The number of domestic towers on the Telford Gardens site could be reduced by half with a BHR of 120mPD and more space would be created without the need to impose the 22mPD building gaps;

(d) the overall BH concept had relied too heavily on the existing BH of the developments and no alternative concepts had been presented to the MPC or to the public. An alternative BH concept was to step up the BHR at Telford Gardens to 120mPD and across the other side of Kwun Tong Road to 140mPD, so as to increase the BHR to follow the ascending topography;

(e) the BHRs were set at a very low level and had not taken into account the new measures on Sustainable Building Design (SBD) introduced by Buildings Department (BD);

(f) referring to the tabled documents (REDA's letter dated 7.3.2011 and TPB Secretary's reply dated 9.5.2011), REDA had in their letter requested the Board to re-assess all the existing OZPs as the form of controls proposed was no longer necessary with the issue of the SBD Practice Notes. The combined effect of BHRs which were set at too low a level and the SBD requirements on development sites was a general down-zoning of the development potential, a loss of development rights, a loss of property value, and would result in a lower quality urban environment;

(g) although REDA suggested conducting a detailed review with the relevant professional institutes with a view to reaching a consensus on the desirable design criteria and to assess the impact of the SBD requirements, the Board made no response to REDA's proposal in their reply to REDA dated 9.5.2011;

(h) different standards were applied for private housing and public housing in the formulation of BHRs. Referring to Plan H-4, it was noted that Tak Bo Garden was at a site level of 23mPD and the two public housing estates on the other side of Choi Ha Road was at the level of 19.6mPD and 22.5mPD. However, the BHR for Tak Bo Garden was 120mPD which was lower than the BHR of 140mPD for the two public housing estates;

[Mr. Walter K.L. Chan left the meeting at this point.]

(i) the Board should carry out a critical assessment on whether the AVA proposals were essential, and critically assess the justifications for the extent of the proposals. Similar to zoning amendments for open space or road widening which would require the resumption of private land, very strong justifications should be provided before the AVA proposals were incorporated into the OZP as they would significantly affect private property rights;

(j) according to the AVA proposals, a 15m building gap at 22mPD was proposed to cut through the middle of the MegaBox site. Noting that there was open space on the west and north of MegaBox, the necessity of the proposed building gap was doubtful. The restrictions would deter the future redevelopment of the site;

(k) the proposed 3m building setbacks along Wang Chiu Road and Wang Kwong Road were not justified as these two roads, being the widest roads in KBBA, were already serving as breezeways. The series of 15m wide building gaps at 22mPD level were also not essential as they had duplicated the function of other breezeways running parallel or nearby;

(l) in the AVA report, the proposals on setbacks and building gaps were only regarded as desirable and not something essential. The linear open space zone on the eastern part of KBBA was a proper way to ensure air ventilation in the area; and

(m) the BHRs proposed for Kai Tak Mansion were unnecessary as redevelopment of the site would not cause any adverse impact to its surroundings which were mainly open space and G/IC uses. The imposition of the NBAs and the 20m-wide building gap would severely constrain any redevelopment proposal. There were inadequate justifications to impose the planning controls which had severely affected private property rights and the opportunity for urban renewal by the

private sector.

[Professor Paul K.S. Lam left the meeting at this point.]

Representation No. R3

Mr. Ian Brownlee tabled a document showing two proposed schemes at different BHRs and, with the aid of a Powerpoint presentation, made the following main points:

(a) the existing building was the last industrial building in the area and the owners had been preparing for the redevelopment of the site. There was no restriction in the lease on the use and the building height. The imposition of the BHR at 120mPD had adversely affected the development rights of the owners;

(b) the BHR of 120mPD would leave no room for design flexibility and would result in a low and bulky building similar in height to the existing buildings surrounding the site. It was unfair as even the public housing sites along Choi Ha Road were allowed a higher BHR than the representation site;

(c) three possible redevelopment scenarios were submitted in the representation and supplementary information on sectional drawings and schematic layouts for these schemes were tabled for Members' consideration;

(d) to comply with a BHR of 120mPD, two towers would be necessary to achieve the permitted plot ratio, with a resultant site coverage of 33% and that would result in bulky buildings filling up the existing gaps and creating a wall effect along Ngau Tau Kok Road. By increasing the BHR to 140mPD, the site could be redeveloped into one tower at a site coverage of 25%, creating more space and openness around the building;

(e) the proposed relaxation of BHR to 140mPD only meant that the site would have the same BHR as the public housing estates on the eastern

side of Choi Ha Road. The stepped building height profile would still be maintained and that would not cause any air ventilation problems; and

(f) the provision for application for minor relaxation of BHR should not be taken as a mechanism to compensate for the inadequacy in the plan-making process. On the other hand, an application for minor relaxation of BHR would be subject to objections from the neighbouring developments. In addition, the proposed 20m increase in BH would be more than 10% of the original BHR which might have exceeded the extent of minor relaxation.

Representation No. R4

Mr. Anthony Ismail tabled a document entitled "Extract of Documents" and an extract of the minutes of the TPB meeting dated 16.1.2009 and, with the aid of a Powerpoint presentation, made the following main points:

(a) Telford Gardens and Telford Plaza were together a comprehensive development with residential buildings, office buildings and a large shopping centre above Kowloon Bay Station which was a major transport hub. The daily pedestrian flow through the development complex was about 300,000 persons;

(b) MTRCL agreed with the submissions of representations R2 and R3 and considered that the BHR and the designation of NBAs imposed on the representation site were unreasonable and not justified;

(c) the imposition of a non-domestic GFA restriction up to 177,031m^2 for the site would adversely affect the ability of the site to meet market and operational needs as a regional hub and was not in the interest of the community;

(d) according to the lease, which included NKIL 5744 and NKIL 6201, the development should be built in accordance with the Master Plan;

(e) objections were raised as the development right under NKIL 5744 had been prejudiced. While the lease for NKIL 5744 imposed no restrictions on non-domestic GFA, the imposition of non-domestic GFA restrictions on the site would infringe the private property right under the lease. Referring to the extract of the TPB minutes that was tabled, protection of development right was one of the key considerations of the Board and had been an established practice of the Board. It was also noted from the the Court of Appeal's decision on Capital Rich v. TPB that the accrued rights of a site should be recognized;

(f) the OZP restrictions would frustrate MTRCL's proposal to improve the pedestrian facilities (including a lift for the disabled, escalators, improved staircases and alterations to the shopping centre) to connect with the Kowloon Bay Elevated Walkway System which would link up the various commercial buildings in KBBA with the MTR Kowloon Bay Station and would bring about a sharp increase in pedestrian flow into Telford Plaza;

(g) other improvement projects affected by the zoning amendment included connections to the future Ngau Tau Kok housing development and new cultural centre and connections to the future Kai Tak Environmentally Friendly Transport System;

(h) the new pedestrian facilities and changes to the shopping centre would account for a non-domestic GFA of about 20,000m^2. As the actual non-domestic GFA had already exceeded the maximum limit of 177,031m^2 imposed on the OZP, the upgrading works would require planning permission and would face uncertainties and delay. The GFA of 20,000m^2 had exceeded 10% of the maximum limit and hence might not be able to be covered under section 16 planning applications;

(i) since the lease conditions had already required the prior approval of the Director of Lands for any amendments to the Master Plan for the two lots, the existing control mechanism under the lease was sufficient and effective and the additional OZP restrictions were unnecessary. The

Board should adopt the general planning principle that planning conditions should not be imposed on a "belt and braces" basis;

(j) the non-domestic GFA restrictions served no useful planning purpose as the site was already built and the planning rationale for imposing the restrictions were not given. On the other hand, the restrictions would delay and impede the implementation of improvements to pedestrian facilities that were beneficial to the community;

(k) the non-domestic GFA restrictions amounted to spot-zoning which was not consistent with the "broad brush" approach provided under the Ordinance. According to the Ordinance, the Board should prepare draft plans with broad zonings to guide development. However, for the subject OZP, the planning controls proposed for specific sites only served to reflect the existing development parameters of the sites. This was contrary to the decision of the Court of Appeal on Attorney General v. C.C. Tse (Estate) Ltd. (1982), where the judge considered that "the Ordinance was meant to give guidance only of the "broad brush" kind, not to deal with fine particulars of this nature". By the same token, sections 3(1) and 4(1) of the Ordinance should only be applied to general areas rather than to specific sites;

(l) the claim by PlanD that the new zoning and restrictions were to reflect the Master Plans under the lease were incorrect. On the Master Plan for NKIL 5744, there were no restrictions on non-domestic GFA. On the Master Plan for NKIL 6201 and 5744 (part), while there was a maximum non-domestic GFA of 71,736m^2 for NKIL 6201, the total non-domestic GFA for NKIL 5744 (part) was only used to demonstrate that the change in non-domestic GFA complied with the maximum GFA as permitted under the Building (Planning) Regulations. That figure was descriptive in nature and not restrictive. As the lease for NKIL 5744 was unrestricted, it did not make sense that the Master Plan would restrict the non-domestic GFA;

[Mr. Timothy K.W. Ma left the meeting at this point.]

(m) there was a dispute of fact on the non-domestic GFA actually in existence on the site. BD advised that the total non-domestic GFA in existence was 168,531m^2 and with the maximum non-domestic GFA of 177,031m^2 under the OZP, PlanD considered that the remaining 8,500m^2 GFA could be used to improve the pedestrian facilities and meet future needs. However, according to MTRCL's records (page 25 of the tabled document), the total non-domestic GFA in existence was 177,784m^2, which had exceeded the OZP restrictions by 753m^2;

(n) the discrepancy in the figures could be due to building alterations that had resulted in a higher non-domestic GFA approved over the years not taken into account by BD, or the exclusion of the GFA of a secondary school from the calculation of non-domestic GFA. If the discrepancy was due to the school, the Notes of the OZP could be amended to expressly state that the GFA for the school should be disregarded; and

[Dr. W.K. Yau and Professor Eddie C.M. Hui left the meeting at this point.]

(o) the Board should reverse the zoning of the representation site to the previous zoning or make appropriate changes to the zoning to address the concerns of MTRCL.

As the presentations from the representers' repesentatives had been completed, the Vice-Chairman invited questions from Members.

[Mr. K.Y. Leung left the meeting temporarily at this point.]

In response to a Member's enquiry on the need for the proposed building gap imposed on the MegaBox site, Mr. Eric Yue said that the building gap at 22mPD was proposed based on the recommendations of the AVA to provide a north-south corridor through the site to enable southerly winds to pass through the site to reach the planned open space to the north of MegaBox. Dr. Conn Yuen supplemented that as the whole

KBBA extended across a width of 450 metres to 700 metres, several breezeways would need to be created within the KBBA to enable the southerly and south-westerly winds to pass through the area and reach the sites to the further north. Although the existing roads and the linear open space within the KBBA had already served the breezeway function, it was still necessary to impose setback requirements to widen the air corridor along some of the breezeways in order to improve air flow. As MegaBox was located at the mouth of one of the breezeways, a north-south corridor to allow winds to pass through the MegaBox site was necessary.

Mr. Ian Brownlee reiterated that there was nothing in the AVA report to justify that the proposed restrictions were essential or necessary. REDA's position was that there was inadequate information in the Expert Evaluation to enable the Board to critically assess whether the proposed restrictions such as those imposed on MegaBox and Kai Tak Mansion were essential. The Expert Evaluation was only a generalized expression of opinion based on generalized information. No explanation or information had been provided to assess the benefits brought about by the proposed restrictions in relation to the impact on private property right. The proposed setback and NBA requirements might be something nice to have, but there were no justifications to prove that they were essential.

In response to the same Member's enquiry on the dispute of fact on the existing non-domestic GFA at representation site R4, Mr. Eric Yue said that the non-domestic GFA of 177,031m^2 stipulated on the OZP was derived from the sum of the non-domestic GFA permitted in the approved Master Plan for NKIL 5744 and the non-domestic GFA permitted under the lease for NKIL 6201. Nevertheless, Chief Building Surveyor/Kowloon of Buildings Department (CBS/K, BD) advised that according to the latest approved building plans for the representation site, the total non-domestic GFA was 168,531m^2. Comparing with the OZP restriction of 177,031m^2, MTRCL could still add 8,500m^2 of non-domestic GFA to the development. PlanD did not have information on how the non-domestic GFA of 177,784m^2 as claimed by MTRCL was derived.

Referring to page 32 of the document tabled by representation R4 concerning the Court of Appeal case of Attorney General v. C.C. Tse (Estate) Ltd, the same Member

noted that the statement quoted by Mr. Ismail in his presentation that "the Ordinance was meant to give guidance only of the "broad brush" kind" was not the opinion of the judge but the submission made by the counsel for one of the parties. In response, Mr. Anthony Ismail confirmed that the statement was from the submission made by the counsel for the appellant but the judge's view in the following sentence implied that the submission of the counsel was accepted by the judge.

The same Member noted that one of the lease conditions required that the development must be in line with the Master Plan. This Member asked Mr. Ismail why he considered that the Master Plan was only descriptive and could not be read as imposing a maximum non-domestic GFA on the site. In response, Mr. Anthony Ismail referred to the approved Master Plan for Telford Gardens NKIL 5744 (page 10 and 11 of the tabled document) and pointed out that the permitted GFA shown was only for domestic GFA and there was no restriction on non-domestic GFA. As for the Master Plan of NKIL 6201 and NKIL 5744 (part) which was for the Telford Gardens Extension (page 15 of the tabled document), the total non-domestic GFA was presented as 105,294.32m^2 < 1,454,257.50m^2, which meant to demonstrate the calculation that the non-domestic GFA was less than the maximum permitted under the Building (Planning) Regulations. In this respect, the non-domestic GFA included in the Master Plan was only descriptive rather than restrictive. Mr. Steve Yiu supplemented that the non-domestic GFA of 105,294.32m^2 was related to NKIL 5744 (part) while the non-domestic GFA for NKIL 6201 was 71,736m^2, which was within the limit permitted under the lease and the maximum GFA under the Building (Planning) Regulations.

Referring to page 17 of the document tabled by R4, Miss Annie K.L. Tam asked if the representer was aware that that the secondary school was only granted under a temporary waiver. In response, Mr. Anthony Ismail said that they were aware that the secondary school with a non-domestic GFA of 8,320.08m^2 was granted under a temporary waiver and he suspected that this might be the cause of the discrepancy between MTRCL's and PlanD's figure on the total non-domestic GFA.

As the representatives of the representers had finished their presentation and Members had no more questions to raise, the Vice-Chairman said that the hearing

procedures had been completed, the Board would deliberate on the representations in their absence and would inform them of the Board's decision in due course. The Vice-Chairman thanked the representatives of the representers and the PlanD representatives for attending the hearing. They all left the meeting at this point.

Deliberation Session

On the representation submitted by R2 concerning the justifications for the BHRs, necessity of the NBAs, building gaps and setbacks, the lack of prior public consultation and the point about 'spot' zoning, the Vice-Chairman noted that most of these issues had already been deliberated in the context of other OZPs where BHRs were imposed. Miss Ophelia Y.S. Wong said that the new points that had been raised by R2 in this representation included whether the BHR for Telford Gardens, which was based on the existing building heights, was too restrictive given its function as a main transport hub in the area, whether the AVA in the form of an Expert Evaluation had provided adequate justifications for imposing the planning restrictions in the area, and whether the public benefit brought about by the proposed NBAs, building gaps and setback requirements could justify the impact on private property rights.

Regarding representation R2's proposal to relax the BHR of Telford Gardens to 120mPD, Miss Ophelia Y.S. Wong had doubts on whether there was any real prospect for redevelopment of the site, even if the proposal was acceded to. Assuming the site would be redeveloped in future was not a realistic assumption to adopt in devising the planned building height profile for the area. She said that the BHR was determined based on the Master Plans for the development, which were vetted by and acceptable to all concerned departments as the optimal development at the site for the future. A Member agreed that there was little prospect for Telford Gardens to be redeveloped and considered the BHRs were reasonable. Miss Wong said that MTRCL did not raise objection to the BHR of Telford Gardens.

The Vice-Chairman appreciated the holistic approach adopted by the AVA in assessing the wind environment not only for a single building or just KBBA, but the entire OZP area. In this respect, there were adequate justifications to support the requirements in the draft OZP. A Member considered that it would be impractical to

require every point of the proposed restrictions to be fully justified. Another Member said that the imposition of planning restrictions for a wider public interest would inevitably create some impact on private property rights. A Member said that should representer R2 disagree with the proposed requirements, they should conduct their own AVA to substantiate their argument.

Turning to representation R3, the Vice-Chairman said that although the representer had asked for a relaxation of the BHR by 20 metres, he did not consider the request justified as the representer did acknowledge that they had no difficulty to redevelop the site at the existing BHR and that the proposed relaxation would only allow a more slender design.

On representation R4, Miss Annie K.L. Tam explained that there was already control on the development of the site under the lease. According to the lease conditions, the site was governed by Master Plans and any change to the Master Plans would require the prior approval of the Director of Lands (D of Lands). D of Lands had the discretion to approve or not to approve a change to the Master Plan and PlanD would be consulted in the process. With the stipulation of the non-domestic GFA on the OZP, the D of Lands would be unable to approve any change in the Master Plans that would exceed the OZP restrictions, even for changes processed under temporary waiver.

Miss Ophelia Y.S. Wong said that the lease control and the plan-making process were two separate matters. The lease was a private contract between the Government and the leasee, while the plan-making process involved a statutory process of public consultation for any amendments made to the OZP. MTRCL's proposal to remove the non-domestic GFA restrictions was not commensurate with their stated need to provide pedestrian facilities and would result in forgoing statutory controls on the provision of commercial facilities at the representation site, especially when there was no restriction on the non-domestic GFA under the lease of the depot. As to the claim of 20,000m^2 GFA for the new pedestrian facilities and changes to the shopping centre, she said that MTRCL did not provide any substantiation on why such a large amount of GFA was required. She agreed that the existing GFA of the development on the site was uncertain at this stage as the figures provided by BD and MTRCL were

different.

A Member asked whether the purpose of incorporating the non-domestic GFA restriction was only to reflect the existing development on the site. In response, Miss Ophelia Y.S. Wong said that when the Master Plan of the development at the representation site was submitted, it was supported by various technical assessments and was considered acceptable by relevant government departments. This reflected that the existing development was an optimal development that met the long term planning intention of the site. In this respect, the non-domestic GFA restriction imposed on the OZP were not merely to reflect the existing development on the site. If the non-domestic GFA restriction was not imposed on the OZP, there would be no statutory planning control on additional commercial development. In addition, the public would not have the chance to make any comments on the increase in GFA on the site under the Town Planning Ordinance. The same Member was concerned that the non-domestic GFA restriction might be too restrictive if it would affect the additional pedestrian facilities which were provided for the interest of the general public.

Another Member considered it appropriate to incorporate the non-domestic GFA restriction on the OZP to reflect that the existing development which had been proved to be optimal when it was approved. If additional pedestrian facilities were needed in future, the MTRCL could always apply to the Board to relax the GFA restrictions and there was no reason why the Board would disapprove the application if it was demonstrated that there were planning merits in doing so. The public would also have the chance to give views on the proposal through the statutory planning procedures. This would avoid the criticism of collusion between the Government and MTRCL. The Vice-Chairman also agreed to impose the non-domestic GFA restriction on the OZP so as to ensure proper planning control on the future development of the site.

[Mr. Benny Y.K. Wong returned to join the meeting at this point.]

A Member enquired whether the Notes of the OZP could exempt the provision of pedestrian facilities from obtaining planning permission from the Board. In response,

Miss Ophelia Y.S. Wong said that while pedestrian facilities were always permitted under the "OU(MTR Depot with Commercial and Residential Development Above)" zoning at the representation site, planning permission would be required if the additional GFA generated by the pedestrian facilities would result in the maximum GFA permitted under the OZP to be exceeded. If Members considered it appropriate, the Notes of the OZP could be amended to specify clearly that the GFA for pedestrian walkway could be exempted.

A Member said that it was not clear whether the pedestrian facilities as claimed by MTRCL would include commercial facilities. This Member considered that the MTRCL should be required to go through the statutory planning procedures if the additional pedestrian facilities exceeded the GFA restrictions on the OZP. There was no reason for the Board to reject such an application if the pedestrian facilities were beneficial to the public. Two other Members shared the same view.

A Member considered that the amount of non-domestic GFA of the existing development would need to be verified as the GFA restriction on the OZP should be a reflection of the existing GFA on the site. Miss Ophelia Y.S. Wong said that to ensure that there would be no loss in existing GFA upon redevelopment, the Notes of the OZP could be amended as "No new development, or addition, alteration and/or modification to or redevelopment of an existing building shall result in a total development and/or redevelopment in excess of a maximum domestic gross floor area of 278,703m^2, a maximum non-domestic gross floor area of 177,031m^2 and the maximum building height, in terms of metres above Principal Datum (mPD), as stipulated on the Plan, or the *gross floor area and* height of the existing building, whichever is the greater". Apart from that, Members might wish to decide if it was necessary to clarify the accuracy of the non-domestic GFA of the existing development. After some discussions, Members agreed that the actual non-domestic GFA figure, after clarifying with BD, should be included as the maximum non-domestic GFA on the OZP.

The Vice-Chairman then concluded the discussion and re-capitulated the various issues raised by the representers. Members agreed that the representations made by R2 on the BHRs, NBAs, building gaps and building setback requirements should not

be upheld as the proposed planning controls incorporated on the OZP were justified. Members also agreed that the representation submitted by R3 should not be upheld as the proposed BHR of 140mPD for the representation site would adversely affect the integrity of the stepped height concept for the area and the integrity of the height band at 120mPD. Members also agreed that the representation of R4 concerning the BH of the retail footbridge, the proposed relaxation of the office tower to 170mPD and the proposal to delete the BHRs on the open area of the depot should not be upheld. Members also agreed to partially uphold representation R4 by adding the clause "or the existing gross floor area, whichever is greater" to the Remarks (1) of the Notes of the OZP for the "OU(MTR Depot with Commercial and Residential Development Above)" zone.

Members then went through the suggested reasons for not upholding the representations as detailed in paragraph 6 and Annex VI of the Paper and considered that they were appropriate.

[Mr. B.W. Chan returned to join the meeting at this point.]

Representation No. R2

After further deliberation, the Board decided not to uphold the representation for the following reasons:

BHRs

(a) the purpose of imposing building height restrictions (BHRs) in the Area was to provide better planning control on the building height 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 building height profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped building height concept, local characteristics, existing building height 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 AVA Study, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development potential;

(b) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development potential permissible under the OZP. Piecemeal relaxation of BHRs for individual sites was not supported as it would jeopardise the coherence of the stepped building height profile and would result in proliferation of excessively high developments, which was not in line with the intended planning control;

(c) the BHRs did not necessarily result in larger building bulk. Whether a building was bulky or massive depended on many factors other than BH alone. Given the tendency to maximise the best view in certain direction and to capitalise on the land value of lower floors, a development with more lenient building height control might be even taller and bulkier;

(d) to cater for site specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of BHRs under the OZP. Each application would be considered by the Board on its individual merits;

NBA, Building Gap and Setback Requirements

(e) sections 3 and 4 of the Ordinance and the scheme of the legislation were intended to give the Board comprehensive powers to control development in any part of Hong Kong. The Board should have the power to impose BHRs on individual sites or for such areas within the boundaries of the OZP under sections 3 and 4 of the Ordinance if there were necessary and sufficient planning justifications;

(f) designation of non-building area (NBA) and building gap requirements on the OZP could serve a positive planning purpose and had positive planning benefits by improving air ventilation, visual permeability and the

pedestrian environment. Given that the designation of NBA was fully justified, it had legal basis to form part of the planning control of the Board;

(g) the relaxation of the NBA and building gap requirement would affect the effectiveness of their planning intention. The wording 'exceptional circumstances' was included in the minor relaxation clause requirement to cater for the situation that only in some exceptional cases under which the requirement could not be met due to site constraints but the planning objectives would be achieved in other forms;

(h) the requirements under the Buildings Ordinance and the OZP on NBAs and building gaps were under two separate regimes. They were complementary, rather than duplicating each other.

Public Consultation

(i) subsequent to the completion of the Study "Urban Design Guidelines for Hong Kong" setting out the broad urban design guidelines in 2003, the BH proposals were firstly translated onto OZP restrictions in KBBA and Kwun Tong Business Area (KTBA) in 2004. As most of the sites within the business areas were subject to the Airport Height Restrictions/ BHRs under leases and a surge of building plan submissions to establish "fait accompli" was unlikely, it was considered that public consultation prior to the gazetting could be conducted to gauge the public views on such translation of BHR onto relevant OZPs. The TPB Guidelines for Interim BH Control in KBBA and KTBA was issued in 2004 for planning control purposes pending on the results of the public consultation on imposing BHRs in KBBA and KTBA; and

(j) the 2-month statutory exhibition period and provision for representations and comments formed part of the current public consultation process. Any premature release of information before exhibition of the amendments to the OZP might prompt an acceleration of submission of building plans, thus nullifying the effectiveness of imposing the BHRs.

All information supporting the BHRs, NBA and building gap requirements on the OZP including the AVA Report and visual analysis, were available for public inspection.

Representation No. R3

After further deliberation, the Board decided not to uphold the representation for the following reasons:

(a) the purpose of imposing building height restrictions (BHRs) in the Area was to provide better planning control on the building height 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 building height profile of the Area. In formulating the BHRs for the Area, all relevant factors including the Urban Design Guidelines, existing topography, stepped building height concept, local characteristics, existing building height 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 AVA, had been taken into consideration. The BHRs had struck a balance between public aspirations for a better living environment and private development potential;

(b) the BHRs were formulated on the basis of reasonable assumptions with allowance for design flexibility to accommodate development potential permissible under the OZP. Piecemeal relaxation of BHRs for individual sites was not supported as it would jeopardise the coherence of the stepped building height profile and would result in proliferation of excessively high developments, which was not in line with the intended planning control;

(c) the BHRs did not necessarily result in larger building bulk. Whether a building was bulky or massive depended on many factors other than BH alone. Given the tendency to maximise the best view in certain

direction and to capitalise on the land value of lower floors, a development with more lenient building height control might be even taller and bulkier;

(d) the BHR for the representation site and the adjoining residential developments allowed a stepped building height profile in the Area gradually descending from the Jordan Valley towards Ngau Tau Kok Road, which was considered desirable from urban design point of view and could help optimise the wind performance;

(e) there was a need to strike a balance between public interest and private development right. The stipulation of BHRs on the OZP was to achieve a good urban design. It was an effective measure to regulate the development profile of the built environment. In addition, the BHRs were formulated on the basis of reasonable assumptions that development potential permissible under the OZP could be accommodated; and

(f) to cater for schemes with planning and design merits, there was provision for application for minor relaxation of the BHRs under the OZP. Each application would be considered by the Board on its individual merits based on the set of criteria set out in the ES of the OZP.

Representation No. R4

After further deliberation, the Board decided to partially uphold the representation by adding a clause to ensure that there would be no loss in existing GFA upon redevelopment in Remarks (1) of the Notes for the "Other Specified Uses" annotated "Mass Transit Railway Depot with Commercial and Residential Development Above". The Board also decided not to uphold the remaining parts of the representation for the following reasons:

(a) the new zonings of "Other Specified Uses" annotated "Mass Transit Railway Depot with Commercial and Residential Development Above" and "Other Specified Uses" annotated "Railway" were to better reflect

the planning intention of the residential/commercial development on top of Kowloon Bay MTR depot and the railway station and facilities, and the optimal development pattern and long term planning intention as set out on the Master Plans under the lease, which were agreed among various departments;

(b) the Kowloon Bay MTR Station and the Telford Plaza were situated in the transitional area between the business node at Kowloon Bay Business Area (KBBA) to its west and the medium to high-rise residential areas to its east across Kwun Tong Road. The current building height restriction (BHR) for the office towers was required to ensure a smooth transition of the building height profile from the high-rise business node within KBBA stepping down gradually to the medium-rise residential development in the northern and eastern fringes;

(c) specific BHRs had already been imposed on the Kowloon Bay MTR Station and the existing buildings which were ancillary to the railway operation. The BHRs on the open depot area were to ensure that only low-rise ancillary structures were allowed in the open depot area. Should there be a need for a relaxation of BHRs of the ancillary structures, there were provisions for application for minor relaxation of the BHR under s.16 or amendments to OZP under s.12A of the Town Planning Ordinance. Each application would be considered by the Board on individual merits; and

(d) the requirements of building gaps were to reflect the findings and recommendations of the AVA Study and to be taken into account upon future redevelopment. It was noted that only a portion of the existing retail footbridge fell within the demarcated building gap running in north-south direction. However, the existing building/structure was not required to conform to the OZP until it was redeveloped. As such, the existing retail footbridge would not be affected and there was no strong reason to reflect this on the OZP. Should there be a need for a relaxation of the building gaps in future redevelopment, there were provisions for

application for minor relaxation of the building gaps under s.16 or amendments to OZP under s.12A of the Ordinance. Each application would be considered by the Board on individual merits.

TPB Paper No. 10397
For Consideration by the
Town Planning Board
on 9.3.2018

REVIEW OF THE DRAFT NGAU TAU KOK & KOWLOON BAY OUTLINE ZONING PLAN No. S/K13/26

1. Introduction

1.1 This paper is to brief Members on the review of development restrictions for the draft Ngau Tau Kok & Kowloon Bay Outline Zoning Plan (OZP) No. S/K13/26 (the subject OZP) (**Annex A1** and **Plans 1 and 2**) following the Court of First Instance (CFI)'s judgment on the judicial review (JR) lodged by the Real Estate Developers Association of Hong Kong (REDA) against the Town Planning Board (TPB / the Board)'s decision not to uphold REDA's representations in respect of the subject OZP and three other OZPs[1].

2. Background

2.1 On 19.11.2010, the subject OZP incorporating amendments mainly to impose building height restrictions (BHRs) on various development zones outside the Kowloon Bay Business Area (KBBA)[2], and designation of non-building areas (NBAs) and building gaps (BGs) on various development zones was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance).

2.2 REDA submitted a representation (**R2**[3]) opposing the BHRs for all residential and Government, institution or community ("G/IC") zones outside KBBA and NBAs and BG requirements in various zones. On 27.5.2011, the Board considered R2 together with two other representations (all with no related comments) under Group 1 and decided not to uphold **R2**. The OZP has been amended three times under section 7 of the Ordinance subsequent to gazettal of the subject OZP.

2.3 On 25.7.2011, REDA lodged a JR against the decisions of the Board not to propose amendments to the subject OZP and three other OZPs in accordance with its representations. The Court granted interim stay of submission of the four OZPs to the Chief Executive in Council until determination of the JR.

2.4 On 3.2.2015, the CFI handed down the judgment allowing the JR by REDA. The CFI ordered that the Board's decisions on REDA's representations in respect of the four OZPs be quashed and remitted the decisions to the Board for

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[1] REDA submitted similar representations in respect of the Wan Chai, Mong Kok and Yau Ma Tei OZPs, and lodged JR against the Board's decisions of not upholding its representations in respect of the four OZPs.

[2] BHRs were imposed on sites within KBBA in 2005.

[3] The representations in respect of the subject OZP was considered under three groups. Under Group 1, apart from **R2**, the two other representations were submitted by Folabs Limited and Monafat Limited in respect of a site at 7 Ngau Tau Kok Road (R3) and MTR Corporation Limited in respect of the Telford Gardens and Telford Plaza site (R4).

re-consideration. In particular, with reference to the Court of Appeal (CA)'s ruling on appeals arising from the JRs lodged by the Hysan Group Companies, the CFI ruled that the Board should take into account the potential combined effect of sustainable building design guidelines (SBDG) and the restrictions under the four draft OZPs on the development potential of the sites[4].

2.5 The Board and REDA have lodged appeal and cross-appeal respectively against CFI's judgment. The parties are attending to the formalities for the disposal of the appeals by consent.

2.6 Pursuant to the Court's order, the representation submitted by **R2** will need to be re-examined before it is remitted to the Board for reconsideration. Hence, a review on the potential combined effect of the SBDG and the restrictions stipulated under relevant zonings in the subject OZP was undertaken (the Review)[5].

3. Implications of SBDG on Building Height (BH) Profile

3.1 SBDG establishes three key building design elements i.e. building separation, building setback and site coverage of greenery, with the objectives to achieve a better built environment. The relevant Buildings Department Practice Notes are in **Annexes B1 and B2** and a summary of the implications of SBDG are set out in **Annex C1**.

3.2 The typical BH profile of commercial and private composite commercial/residential developments and the implications of SBDG were assessed. With the assumptions set out in **Annex C2**[6], a typical commercial building within "Other Specified Uses" annotated "Business" ("OU(B)") and "Commercial" ("C") zones with plot ratio (PR) restriction of 12 will have a BH ranging from 91m to 99m for incorporating building setback requirement and from 95m to 103m for both building setback and building separation requirements, where applicable, depending on site classification under Buildings Ordinance. A private composite building within "R(A)" zone (with the lowest 2 to 3 floors for non-residential use and upper portion for residential use) with total and domestic PR restriction of 9 and 7.5 respectively will have a BH ranging from 81m to 89m for incorporating building setback requirements and from 84m to 92m for both building setback and building separation requirements, where applicable. The Home Ownership Scheme (HOS) site (Shun Chi Court) zoned "R(B)" with gross floor area (GFA) restriction equivalent to PR of about 3 requires a BH of 40m for implementing building setback and building separation requirements (**Annex C2**).

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[4] REDA's JR was also allowed on grounds related to procedural unfairness, taking minor relaxation into account in rejecting the representations, and breach of *Tameside* duty in respect of the air ventilation and building height profile issues.

[5] To follow up on the Court's order, Planning Department is also reviewing the development restrictions under the Wan Chai, Mong Kok and Yau Ma Tei OZPs and the findings of the review and proposed amendments (if any) will be submitted for the Board's consideration in due course.

[6] Including types of building (domestic, non-domestic or composite building), site classification and corresponding permissible PR and site coverage under Building (Planning) Regulations (B(P)R), GFA concessions, podium height and floor-to-floor height.

4. Review of Development Restrictions

Scope of Review

4.1 In the subject OZP, BHRs were stipulated in the "R(A)", "R(B)", "OU" and "G/IC" zones outside the KBBA. In addition, NBAs and BGs were stipulated in various zones both within and outside the KBBA. To follow up on the Court's ruling, a review of these BHRs, and NBA and BG requirements imposed in 2010 has been conducted to take into account the implications of SBDG on the development intensities permissible under the various zones in the subject OZP. The scope of the Review covering the BHRs in areas outside KBBA and the NBAs and BGs are shown on **Plans 3B** and **3C**.

4.2 The BHRs in KBBA exhibited in 2005 under OZP No. S/K13/22 (**Plan 3A**) and amendments made subsequent to the subject OZP, i.e. No. S/K13/27 to 29 were excluded from the scope of Review as they are not a subject of REDA's representation. The amendments made under OZP No. S/K13/27 were mainly technical amendments to reflect the as-built conditions/lot boundaries and SBDG implications are not relevant. Amendments made under OZP Nos. S/K13/28 and S/K13/29 had taken into account the general implications of SBDG.

Findings of the Review

4.3 The Review concluded that the current BHRs as well as requirements for NBA, and BGs on respective zones should generally be able to accommodate the PR/ GFA permitted under the OZP after taking into account the SBDG requirements. In the light of the above, no amendment to the BHRs is recommended after considering the implications of SBDG. The details of the Review are in **Annex C3** and the key findings are summarised below.

BHRs

4.4 The existing BHRs should be able to accommodate PR/GFA permissible under the subject OZP with reference to SBDG requirements for the following sites:

(a) the "R(A)" zones for private residential and HOS developments (BHRs of 100mPD or 120mPD) at Richland Gardens, Kai Tai Court, Tak Bo Garden, Amoy Gardens, Amoycan Industrial Centre, Jade Field Garden, Wang Kwong Building and Lee Kee Building and the "R(B)" zone at Shun Chi Court;

(b) the "OU" annotated "Commercial/Residential Development with Public Car Park and Public Transport Interchange" zone at 8 Clear Water Bay Road (with BHR of 180mPD);

(c) the "OU" annotated "Mass Transit Railway Depot with Commercial and Residential Development above" zone at Telford Gardens and Telford Plaza. The BHRs of 60mPD and 100mPD covering the Telford Gardens portion are generally 10m higher than the existing BHs and the BHR of 100mPD at Telford Plaza reflects the existing BH; and

(d) the "G/IC(3)" zone at Cheerful Court (Hong Kong Housing Society's Senior Citizen Residences development) with BHR of 100mPD. Based on the site configuration and width of the abutting road, SBDG requirements are not applicable to this site.

4.5 The existing BHRs of the following sites have been reviewed and the findings are summarised below:

(a) the BHRs for the public housing sites stipulated under the subject OZP generally reflected existing/committed BHs of majority of the public housing estates. Housing Department (HD) has no programme to redevelop the housing estates at this juncture and has no comment on retaining the existing BHRs for the public housing sites that are all zoned "R(A)". There is an established mechanism for considering redevelopment of public housing sites in which each site will be reviewed case-by-case for the optimal development intensities taking into account factors such as design considerations, site circumstances and requirements for government facilities when there are redevelopment plans in future;

(b) for the "G/IC" zone at the Shun Lee Disciplined Services Quarters, the BHR is 180mPD and there is no GFA/PR restriction stipulated under the OZP. The existing BH of 247mPD to 251mPD for the development is excessive in the local context. That development was at a PR of 7.78 and was built prior to stipulation of BHRs in the OZP. Upon redevelopment, there is a need to review the most suitable use for this "G/IC" site and the optimal development intensities, and residential uses will also require planning permission from the Board. The BHR of 180mPD that was imposed based on the intended BH profile for the Shun Lee area should not be amended at this stage; and

(c) the other "G/IC" and "OU" sites[7] that are not for residential/commercial uses have special functional and design requirements with great variation in floor-to-floor height or open air design to suit operational need; and provide spatial and visual relief amidst the densely built environment; and/or the BHRs mainly reflect their existing BHs and may be reviewed on a case-by-case basis when there are known committed redevelopment proposal with policy support.

4.6 The photomontages showing the BH profile taking into account the latest developments in the area and the BHRs in the extant OZP have been prepared (**Plans 4A to 4D**).

NBAs and BGs

4.7 NBAs and BGs were stipulated on the subject OZP taking into account recommendations in the Air Ventilation Assessment (AVA) in **Annex D** to improve permeability and allow penetration of sea breeze towards Kowloon Bay,

[7] These other "OU" sites are annotated for "Refuse Transfer Station", "Petrol Filling Station", "Landscape Elevated Walkway", "Open Lorry Park" and "Railway". The "G/IC" sites are mainly for schools, police stations, fire stations, reservoir, sports centre, swimming pool etc.

and enhance the effectiveness of major breezeways and the overall wind environment in KBBA. In general, the NBAs and BGs are stipulated following the alignment of major roads in the area and serve to extend/widen these breezeways. These NBAs and BGs are stipulated to provide design guidance upon redevelopment of the sites and existing developments would not be affected.

Within KBBA

4.8 Within KBBA, the following NBAs and BGs are stipulated in the subject OZP:

(a) 3m-wide NBA are stipulated along both sides of Wang Chiu Road and Wang Kwong Road within, inter alias, "OU(B)", "OU(B)2" and "G/IC(1)" zones. This serve to widen and enhance the effectiveness of the breezeways along these two north-south running major roads;

(b) a 5m-wide NBA is stipulated along Wang Mau Road in the "OU(B)" zone occupied by Housing Authority's Yip On Factory Building to enhance the breezeway along the row of linear open space from Kai Cheung Road in the north;

(c) a 15m-wide NBA is stipulated within the "G/IC(1)" zone that is designated for the Hong Kong Post Central Mail Centre, to extend the breezeway along Lam Wah Street. The design of the mail centre development has already taken into account the NBA;

(d) 15m/16m-wide BGs at 22mPD are stipulated on two sites zoned "OU(B)", one site zoned "OU" annotated "Commercial Uses with Public Transport Interchange" and one site zoned "C", which serve to extend the breezeway at Sheung Yee Road northwards to Lam Hing Street; and

(e) the Mega Box development that is zoned "OU(B)2" was considered to be sizable with slab-type tower that is unfavourable for wind penetration. A 15m-wide BG at 22mPD was stipulated on the "OU(B)2" zone to introduce a wind corridor for incoming sea breeze upon its redevelopment to connect through the "Open Space" zone to Wang Kwun Street in the north.

4.9 Whilst the BHRs in KBBA are not subject to review, the permissible PR/GFA under the respective zonings are attainable after taking into account the BHRs, NBAs/BGs as well as SBDG requirements (**Annex C3**). Since these NBAs and BGs are stipulated based on the recommendations of the AVA to enhance the penetration of sea breeze to the inland and the wind environment in the planning area and there is no change in planning circumstances since then, they are recommended to be retained.

Outside KBBA[8]

4.10 Within the "OU" annotated "Mass Transit Railway Depot with Commercial and Residential Development Above" zone covering Telford Gardens and Telford Plaza, three BGs with BHR of 22mPD (i.e. height of the existing MTR depot) are stipulated. Two are 22m-wide running in an east-west direction that generally extends the breezeways along Lam Wah Street/Wang Tai Road and Sheung Yuet Road to facilitate air flow to Kwun Tong Road in the east. Another one is 15m-wide running in north-south direction that generally extends the breezeway from Kai Cheung Road to Tai Yip Street. Whilst the permissible GFA could still be attainable with the imposition of BHRs and BGs under the OZP, for redevelopment of this site, it may be difficult to meet the prescriptive SBDG requirements due to the long site frontage and special functional requirements for accommodating the MTR depot and PTI. A performance-based design alternative approach with support of an AVA will likely be required. The design and scale of the topside development together with the special facilities including the MTR depot and PTI may also need to be reviewed. In the absence of a specific redevelopment scheme, it is recommended to retain the BGs which have been stipulated as a result of the AVA conducted in 2010 as guidance for future development.

4.11 Two slope areas within the "R(A)" zone of Ping Shek Estate and the "R(B)" zone of Shun Chi Court are demarcated as NBAs in order to preserve the vegetated slope and serve as air ventilation pockets. Stipulation of these NBAs will not affect the permissible GFA under the OZP as the NBA at Ping Shek Estate has been excluded from net site area for PR calculations, and the maximum GFA stipulated for the "R(B)" zone reflects the existing as-built GFA on the site.

Conclusion

4.12 Based on the above findings, it is concluded that the BHRs, NBA and BG requirements stipulated under the subject OZP should be able to accommodate the permissible PR/GFA under the OZP with reference to the SBDG requirements. The NBA and BG requirements stipulated on the basis of the recommendations of the AVA conducted in 2010 are still valid given no change in the planning circumstances. Hence, there is no need to amend the extant OZP No. S/K13/29. Nevertheless, the land uses in the Kowloon Bay area are being reviewed in the context of initiatives of the Energizing Kowloon East Office for transformation of Kowloon East into CBD2 including land use restructuring for Kowloon Bay Action Area. In future amendments to the OZP, opportunity could be taken to review the appropriate land uses, development parameters as well as air ventilation measures for the area with reference to latest planning circumstances and requirements.

[8] The NBA and BG at the former Kai Tak Mansion site at Kwun Tong Road were quashed by Court arising from another JR, and upon review, no NBA and BG restrictions are imposed for the site under OZP No. S/K13/29.

5. Departmental Consultation

5.1 The general findings of the Review and the proposal of not amending the OZP after taking account of the SBDG have been circulated to relevant government bureau and departments for comment.

5.2 All government bureau/departments consulted had no objection to the findings of the Review that there is no need to amend the OZP:

(a) Planning Unit and Lands Unit, Development Bureau;
(b) Chief Town Planner/Urban Design and Landscape, PlanD;
(c) District Lands Officer/Kowloon East, Lands Department;
(d) Chief Building Surveyor/Kowloon, Buildings Department;
(e) Chief Highway Engineer/Kowloon, Highways Department (HyD);
(f) Chief Engineer/Railway Development 2-2, Railway Development Office, HyD;
(g) Director of Environmental Protection;
(h) Director of Housing;
(i) Commissioner for Transport;
(j) Chief Engineer/Mainland South, Drainage Services Department;
(k) Chief Engineer/Construction, Water Supplies Department;
(l) Project Manager (Kowloon), Civil Engineering and Development Department;
(m) Director of Fire Services;
(n) Chief Architect/Central Management Division 2, Architectural Services Department;
(o) Director of Electrical and Mechanical Services;
(p) Director of Leisure and Cultural Services;
(q) Antiquities and Monuments Office, Leisure and Cultural Services Department; and
(r) District Officer (Kwun Tong), Home Affairs Department.

6. Decision Sought

Members are invited to:

(a) note the findings of the Review that the BHRs, NBA and BG requirements stipulated under the subject OZP should be able to accommodate permissible PR/GFA under the OZP with reference to the SBDG requirements; that the NBA and BG requirements are appropriate and should be retained; and PlanD's recommendation that there is no need to amend the extant OZP No. S/K13/29 after considering the implications of SBDG;

(b) on the basis of (a) above, agree to invite **R2** to a meeting convened under section 6B of the Ordinance for reconsideration of its representation (R2) in respect of the subject OZP; and

(c) subject to the Board's agreement on (b) above, agree to allow a period of three weeks for R2 to submit supplementary information to the Board, if any, prior to the reconsideration of R2.

7. Attachments

Annex A1	Draft Ngau Tau Kok & Kowloon Bay OZP No. S/K13/26
Annex A2	Draft Ngau Tau Kok & Kowloon Bay OZP No. S/K13/29 (reduced to A3 size)
Annex B1	APP-151 "Building Design to Foster a Quality and Sustainable Built Environment"
Annex B2	APP-152 "Sustainable Building Design Guidelines"
Annexes C1, C1a & C1b	Implications of SBDG
Annex C2	Basic Assumptions adopted in the Review
Annex C3	Review of Development Restrictions on Ngau Tau Kok & Kowloon Bay OZP
Annex D	AVA report by Expert Evaluation for Proposed Amendments to Ngau Tau Kok & Kowloon Bay OZP (November 2010)
Plan 1	Aerial Photo of Ngau Tau Kok & Kowloon Bay
Plan 2	Location Plan of Sub-areas in Ngau Tau Kok and Kowloon Bay Area
Plan 3A	BHRs Stipulated in 2005
Plan 3B	BHRs Stipulated in 2010
Plan 3C	NBA and BG Stipulated in 2010
Plan 3D	Development Restrictions stipulated in extant OZP in 2017
Plans 4A to 4D	Photomontages of BH Profile
Plans 5A to 5C	Site Photos

PLANNING DEPARTMENT
MARCH 2018

well as the representers/commenters and their representative left the meeting at this point.

Kowloon District

Agenda Item 5

[Open Meeting]

Review of the Draft Ngau Tau Kok & Kowloon Bay Outline Zoning Plan No. S/K13/26
(TPB Paper No. 10397)

[The item was conducted in Cantonese.]

43. The Secretary reported that the item was to brief Members on the review of development restrictions on the draft Ngau Tau Kok & Kowloon Bay Outline Zoning Plan No. S/K13/26 (the subject OZP) following the Court of First Instance (CFI)'s Judgment on the judicial review (JR) lodged by the Real Estate Developers Association of Hong Kong (REDA) against the Board's decisions not to uphold REDA's representation in respect of the subject OZP. Masterplan Limited (Masterplan) was the representative of REDA for submitting the representation on the subject OZP. Mr Ivan C.S. Fu had declared an interest on the item for having current business dealings with Masterplan. Members agreed that as Mr Fu had no involvement in the subject matter, he could stay in the meeting.

44. The following representatives from Planning Department (PlanD) were invited to the meeting at this point:

Mr Tom. C.K. Yip	-	District Planning Officer/Kowloon (DPO/K)
Ms Johanna W.Y. Cheng	-	Senior Town Planner/Kowloon (STP/K)

45. The Chairperson extended a welcome and invited the representatives from PlanD to brief Members on the subject review.

46. With the aid of a PowerPoint presentation, Mr Tom. C.K. Yip, DPO/K, briefed Members on the background, the implications of the sustainable building design guidelines (SBDG) on the building height (BH) profile, scope and findings of the review as detailed in the TPB Paper No. 10397 (the Paper). He highlighted that the review had concluded that the building height restriction (BHR), non-building area (NBA) and building-gap (BG) requirements stipulated under the subject OZP should be able to accommodate the permissible plot ratio (PR)/gross floor area (GFA) under the OZP with reference to the SBDG requirements and hence no amendment to the subject OZP would be required.

47. As the presentation of the representatives of PlanD was completed, the Chairperson invited comments and questions from Members.

48. Some Members had the following comments and questions:

Methodology of Review

(a) noting that the Board had already considered the review on the potential combined effect of SBDG and the restrictions under the Causeway Bay OZP and proposed amendments to relax the relevant BHR, whether the same approach had been adopted in the current review exercise of the subject OZP;

BHR on OZP

(b) whether there were different approaches in determining the appropriate BHR for public housing compared to that for private residential developments;

(c) whether BHR for sites currently occupied by public housing estate could be further relaxed to cater for future redevelopment. The Government might also consider a comprehensive review of development intensities with a view to optimising the use of land for public housing development to meet the community's aspiration. By relaxing the BHR, building separation between residential blocks could be increased to facilitate air ventilation and natural lighting;

(d) with reference to the photomontages as shown in the PowerPoint presentation,

whether preservation of ridgeline was the major factor for determining the BHR on the OZP, and whether the current guiding principle to keep a 20% building-free zone to preserve views to the ridgeline would be reviewed;

(e) whether REDA or other parties had provided any empirical evidence to argue that the BHR on the OZP would not be able to accommodate the permitted PR with SBDG requirements adopted;

Application of SBDG

(f) whether an increase in GFA would result in an increase in population;

(g) what the factors for designating NBA or BG were, and whether there were sufficient incentives for developers to follow the SBDG;

(h) given that the current review had looked into the combined effected of SBDG and the restriction on OZP on development potentials of sites, whether there was still scope to relax the NBA/BG restrictions on the OZP, noting that SBDG could, to a certain extent, ensure sustainable and good building design;

(i) whether the current recommendation of PlanD of not amending the restrictions on OZP would result in further JR by REDA;

Procedure for Reconsideration of REDA's Representation

(j) whether the proposal to invite REDA to submit supplementary information to the Board for the purpose of reconsidering REDA's representation was legally proper if such submission would not be published for public inspection in the same manner as the original representation. As the supplementary information from REDA might contain material beyond the scope of its original submission, acceptability of such submission from legal perspective should be confirmed;

(k) whether other representers and commenters should be involved in the reconsideration

process. If other members of the public also made submission to the Board during that period, whether such submission could be considered by the Board;

(l) whether it would be more appropriate to exhibit the OZP under section 7 of the Town Planning Ordinance (the Ordinance) such that all members of the public could make representations and comment on representations; and

(m) as REDA's representation was considered a few years ago, whether the change in membership of the Board over the years would have implication on the reconsideration.

49. In response, Mr Tom C.K. Yip, DPO/K, made the following main points:

Methodology of Review

(a) the same approach had been adopted in the current review exercise as the review for the Causeway Bay OZP. For the Causeway Bay OZP, as the BHR was recommended to be relaxed, a new Air Ventilation Assessment (AVA) had been conducted to ensure that the revised BH profile was acceptable in air ventilation terms. For the subject OZP, the findings of the review concluded that the existing BHR as stipulated under the OZP would generally be able to accommodate the permitted PR with adopting of the SBDG requirements and hence no revision to the BHR was required. This being the case, the planning circumstances for the area generally had not changed, and the results from the previously conducted AVA were still considered valid and there was no need to conduct a new AVA at this stage;

(b) the need for conducting a new AVA would likely be triggered in another context. Specifically, the land uses in Kowloon Bay area would be reviewed in due course under the Energising Kowloon East initiatives for transformation of Kowloon East into Central Business District 2 including land use restructuring for the Kowloon Bay Action Area. Should there be any proposals for OZP amendments involving air ventilation implications, an AVA would be conducted for the area;

BHR on OZP

(c) for the purpose of determining the appropriate BHR, public housing and private residential sites were assessed on the same basis, i.e., mainly on the compatibility of the BH profile with the surrounding area, air ventilation, site constraints etc.;

(d) a Planning Brief would usually be prepared by Housing Department (HD) for redevelopment of a public housing site, setting out details on proposed layout and facilities to be provided within, and appropriate development intensity. Issues related to the SBDG, including building separation and air ventilation, would be duly considered in the building design stage of public housing sites. According to the advice from HD, there was currently no plan for redevelopment of the existing public housing estates within the subject OZP. As such, there was no basis to relax the BHR for public housing sites at this stage and it would be more appropriate to consider such relaxation when redevelopment proposals became available;

(e) based on the Urban Design Guidelines (UDG) for Hong Kong promulgated in early 2000s, the target was to preserve the view of 20% of the ridgeline from key vantage points in Hong Kong Island and Kowloon. In coming up with this guiding principle, the views of the public as well the existing BH profile were considered. Since its promulgation, PlanD had taken due consideration of the UDG in formulating BHR for various districts in Hong Kong, and the ridgeline protection was generally supported by the public. However, it should be noted that ridgeline protection was only one of the factors to be considered in determining an appropriate BHR in the current exercise. Other planning factors such as whether the BHR could accommodate the permitted PR, compatibility with the building height profile in the surrounding area, as well as the overall planned land uses etc. would also be taken into account. The photomontages included in the Paper were used mainly to demonstrate that the current BHR on the OZP would not be in conflict with the above principle. For the existing tall building in the photomontages that appeared to have protruded into the 20% building-free zone of the ridgeline, namely the Harbourfront Landmark, it was located in Hung Hom and the development was completed prior to the introduction of BHRs on OZP for that

area;

(f) for the JR case related to the subject OZP, REDA's representation was general in nature, pointing out that the BHR would not be able to accommodate the permitted PR taking into account SBDG. No site specific details had been provided by REDA to substantiate its argument and only a broad brush suggestion to generally increase the BHR by 20m was made. Notwithstanding that, REDA might submit supplementary information, in view of PlanD's review and recommendation not to amend the BHR on the OZP;

Application of the SBDG

(g) the restriction on development intensity of a site would usually be specified in terms of a maximum PR or GFA. Generally speaking, a higher PR/GFA figure would lead to a higher population. For relaxation of the PR/GFA restrictions, technical assessments would have to be conducted to demonstrate that the resultant increase in population would not cause unacceptable impact on various technical and infrastructural aspects;

(h) a NBA referred to an area free of above-ground buildings and structures whereas BG generally referred to a free space above a specific height. The former might be more effective in enhancing air ventilation at pedestrian level, but would impose more stringent requirement on the development. For the subject OZP, reference had been made to the findings of the previously conducted AVA in determining whether a NBA or BG was required. Major air paths with district significance would normally be designated as NBA. In designating these NBA and BG, PlanD had struck a balance in preserving wind corridor and minimising impact on the development potential of the sites. If all the requirements under SBDG, including building set back, building separation and greening ratio, were met, a maximum 10% GFA concession for non-essential plant rooms and green features could be allowed under the Buildings Ordinance. As such, there were incentives for developers, in particular for development covering a large site, to follow the SBDG and provide a quality building environment. Since the promulgation of the SBDG, most of the new commercial

developments in the Kowloon Bay Business Area had complied with the SBDG;

(i) while REDA's next step of action was not known, the current review was conducted in pursuance of the Court's Order to re-examine the restrictions, and it was conducted in a similar approach as the review of the Causeway Bay OZP; and

Procedure for Reconsideration of REDA's Representation

(j) as no amendments to the OZP were considered necessary after PlanD's review of the development restrictions on the subject OZP in accordance with the Court's Judgement, it was proposed that a meeting should be held to reconsider REDA's representation under section 6B of the Town Planning Ordinance. As the previous submission by REDA was made some years ago and PlanD had conducted a review for the Board's consideration, it would be fair to allow a reasonable period for REDA to make a response and provide supplementary information. REDA would also be invited to attend the hearing meeting and make an oral submission. The Board could, if considered appropriate, amend the subject OZP after reconsidering REDA's representation.

50. Members noted that the Paper was an open document and the Board's discussion of the subject item was being conducted in an open meeting. The Chairperson remarked that Members could focus the current discussion on PlanD's review and the recommendations not to amend the development restrictions on the subject OZP at this stage and to invite REDA to a hearing on this basis.

51. In response to a Member's query on whether there was a directive from the Government for relaxing PR in view of the genuine shortage of housing supply, Mr Raymond K.W. Lee, Director of Planning, said that the 2014 Policy Address stated that the Government considered it feasible to generally increase the maximum domestic PR currently permitted for areas other than the north of Hong Kong Island and Kowloon Peninsula, which were already more densely populated, by around 20% as appropriate. Depending on the restrictions stipulated on individual OZPs, suitable procedures such as obtaining planning permission from the Board under s.16 of the Ordinance or amendment to OZP might be required for relaxing the PR restrictions. Taking the examples of the Kai Tak OZP, after the first round of review of the PR restriction, the PR of a number of sites were relaxed by way of s.16

applications. Upon completion of the second round of review, development restrictions for additional sites were relaxed through amendment to OZP. In response to the Member's follow-up question, Mr Lee further explained that for any relaxation of development restrictions, suitable technical assessments, including AVA, would be conducted as appropriate.

52. In response to the Chairperson and Members' questions, Mr Raymond K.W. Lee further said that the JR lodged by REDA also covered the Wan Chai, Mong Kok and Yau Ma Tei OZPs. Pursuant to the Court's Order, REDA's representation would need to be re-examined before it was remitted to the Board for reconsideration. Today's discussion was to re-examine the development restrictions in respect of the subject OZP and the recommendation of PlanD's review was that no amendment to the subject OZP was required. The same exercise would be carried out for the other three OZPs. Separately, the Hysan Group had also lodged JR on the Wan Chai and Causeway Bay OZPs. The Board had already considered the proposed amendments to relax the development restrictions on the Causeway Bay OZP following a review conducted by PlanD. The amendments to the Causeway Bay OZP were exhibited under section 7 of the Ordinance in January 2018. Regarding a Member's question on whether the subject OZP would be exhibited under section 7, it would depend on whether amendment to the OZP was required.

53. Another Member considered that the SBDG was mainly a set of quantifiable guideline and there should be no major dispute regarding the findings of PlanD's review. However, the implications of inviting REDA to make submission, which would most likely contain new information compared to the original representation, should be handled with care. A Member also considered that as the BHR could accommodate the permitted PR as revealed in PlanD's review, there was no justification for amending the restrictions on the subject OZP at this stage.

54. A Member noted that REDA had also raised query on the validity of the AVA previously conducted by PlanD and suggested a number of alternative BH profiles, and asked whether due consideration had been given to these arguments and alternative profiles. Mr Tom C.K. Yip said that PlanD had previously made responses to these grounds both during the representation hearing and JR stages. A paper containing all the relevant information, including REDA's previous submission, and PlanD's assessment would be prepared to facilitate the Board's reconsideration of REDA's representation and circulated before the hearing meeting. The Secretary supplemented that the current item was mainly to brief Members on the findings of PlanD's review and seek Members' endorsement

of the recommendation not to make amendments at this stage. Information regarding previous submission by REDA and PlanD's responses should be dealt with when the representation was reconsidered by the Board.

55. Noting that Members, while having no adverse comment on the findings and recommendation of PlanD's review, had raised some questions regarding the procedures for reconsideration of REDA's representation from legal perspective, the Chairperson said that further legal advice would be sought in this regard.

[Ms Janice W.M. Lai, Dr Frankie W.S. Yeung and Mr Alex T.H. Lai left the meeting during the Q&A session.]

56. After deliberation, the Board decided to:

(a) note the findings of the Review that the BHRs, NBA and BG requirements stipulated under the subject OZP should be able to accommodate permissible PR/GFA under the OZP with reference to the SBDG requirements; that the NBA and BG requirements were appropriate and should be retained; and PlanD's recommendation that there was no need to amend the extant OZP No. S/K13/29 after considering the implications of SBDG;

(b) conduct further hearing(s) on the basis of the subject OZP; and

(c) seek further legal advice on the procedures for conducting the further hearing(s) for the purpose of reconsiderating R2's representation.

57. The Chairperson thanked the representatives of PlanD for attending the meeting. They left the meeting at this point.

[Dr F.C. Chan arrived to join the meeting, Mr Lincoln L.H. Huang left the meeting temporarily, and Messrs Stephen H.B. Yau and Elvis W.K. Au left the meeting at this point.]

TPB Paper No. 10340
For Consideration by the
Town Planning Board
on 17.11.2017

Proposed Amendments to
Draft Causeway Bay Outline Zoning Plan No. S/H6/15

1. Introduction

This paper is to brief Members on the review of development restrictions for the Causeway Bay area and to seek Members' agreement that:

(a) the proposed amendments to the draft Causeway Bay Outline Zoning Plan (OZP) No. S/H6/15 as shown on the draft Causeway Bay OZP No. S/16/15A (**Annex B1**) (to be renumbered as S/H6/16 upon exhibition) and its Notes (**Annex B2**) are suitable for exhibition for public inspection under section 7 of the Town Planning Ordinance (the Ordinance); and

(b) the revised Explanatory Statement (ES) of the OZP (**Annex B3**) is an expression of the planning intentions and objectives of the Town Planning Board (the Board) for the various land use zonings of the draft OZP No. S/H6/15A (to be renumbered as S/H6/16 upon exhibition) and is suitable for exhibition together with the draft OZP.

2. Background

2.1 The Causeway Bay Area is characterised by a mix of commercial/residential uses with open space, recreation clubs and government, institution and community (GIC) facilities **(Plan 1)**.

2.2 In 2001, building height restrictions (BHRs) of 30 storeys and 6 storeys were introduced to the "Residential (Group B)" ("R(B)") zones (subject to a plot ratio (PR) of 5) and the "Residential (Group C)" ("R(C)") zones (subject to a PR of 2) along the sloping Tai Hang Road in view of the limited road capacity and the intention to preserve the existing low to medium-density character of the area. A BHR of 234.7mPD was stipulated for the "Other Specified Uses" ("OU") annotated "Residential Development with Historical Site Preserved In-situ" zone covering the Haw Par Mansion and the adjoining residential development (**Plans 2A and 2B**). Subsequently, a review of the building height (BH) of the entire Causeway Bay Area was conducted and BHRs for other development sites were incorporated on the draft Causeway Bay OZP No. S/H6/15 in 2010 to achieve good urban form and to prevent excessively tall and out-of-context developments **(Plans 2A and 2C)**.

2.3 Apart from BHRs, non-building area (NBA) and building gap (BG) (including podium BHR) were designated on the OZP to facilitate ventilation along major corridors and creating/preserving air paths. To improve the pedestrian walking environment in the area and to meet the requirement under the Hong Kong

Planning Standards and Guidelines (HKPSG), setback requirements were also stipulated in certain locations for footpath widening based on the advice of the Transport Department (TD) **(Plans 3A to 3C)**. Provision for minor relaxation of these development restrictions has been incorporated in the Notes.

2.4 During the statutory exhibition period of the draft Causeway Bay OZP No. S/H6/15 in 2010 **(Annexes A1a and A1b)**, a total of 165 valid representations and 5 related comments were received. After giving consideration to the representations and comments on 11.3.2011, the Board decided to propose amendments to the OZP to meet/partially meet some representations. The proposed amendments were published under section 6C(2) of the Ordinance on 1.4.2011. Three valid further representations were received. On 24.6.2011, the Board decided not to uphold the further representations and confirmed the proposed amendments under sections 6F(8) and 6G of the Ordinance **(Annexes A2a and A2b)**.

2.5 On 10.6.2011, two judicial review applications (JRs) were filed by the Hysan Development Company Limited and its subsidiaries (Hysan Group) and the Excelsior Hotel (BVI) Limited (Excelsior) against the Board's decisions on their representations (R146 to R152), including amending the BHR of the sites at Sunning Road from 100mPD to 130mPD to only partially meet R150 and not upholding R146 to R149, R151 and R152. Submission of the draft Causeway Bay OZP to the Chief Executive in Council (CE in C) had since been stayed. In gist, the Courts have ruled and directed that:

Hysan Group's JR[1]

- the 5m NBA restriction at Hysan Place is quashed (Court of First Instance (CFI) on 14.9.2012) **(Plan 3A)**;

- Articles 6 and 105 of Basic Law are engaged in cases where planning restrictions imposed by the Board encroach upon a landowner's rights[2] (Court of Final Appeal (CFA) on 26.9.2016);

- the Board's decisions in respect of Hysan Group's representations (R147 to R152) made on 11.3.2011 are quashed[3] and the decisions have to be remitted to the Board for consideration (Court of Appeal (CA) on 19.1.2015

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1 Hysan Group's JR on the Causeway Bay OZP and the related appeals were heard by the Courts together with another JR lodged by the Hysan Group in respect of the Wan Chai OZP No. S/H5/26.

2 CFA has also ruled that where such encroachment on landowner's rights is established, the extent, if any, of the encroaching measure's validity is determined by a proportionality analysis. The standard of assessment in the proportionality test is that the encroaching measure should only be struck down if it is imposed "manifestly without reasonable foundation". A four-step process for the proportionality analysis is also set out in CFA's judgement (see CACV No. 232 and 233 of 2012 at http://www.doj.gov.hk/eng/public/significant.html#c).

3 The Board's decisions of not upholding Representations No. R146 to R149, R151 and R152 were quashed. Regarding R150 in relation to the Sunning Road sites, the Board decided on 11.3.2011 to partially meet the representation by relaxing the BHR for these sites from 100mPD to 130mPD whereas the remaining part of the representation was not upheld. The CA only quashed the Board's decision in respect of not upholding the representation. The amended BHR of the sites (i.e. 130mPD), being the prevailing BHR under the draft plan, is still in force.

and CFA on 26.9.2016); and

Excelsior's JR

- the Board's decision in respect of Excelsior's representation (R146) made on 11.3.2011 is quashed and the decision has to be remitted to the Board for consideration[4] (CFI on 2.6.2017).

2.6 In considering the appeals arising from Hysan Group's JR, CA has stated that although Sustainable Building Design Guidelines (SBDG) and measures of the OZP belong to two different regimes, SBDG could have an effect on the working assumptions in respect of gross floor area (GFA) concession. There was no reason why the possible impact of SBDG in combination with the proposed restrictions under the draft OZP should not be acknowledged on a general level in the overall assessment of the adverse impact on redevelopment intensity. CA also ruled that it was not open for the Board to rely on the minor relaxation mechanism as one of the substantive reasons for rejecting the representations.

3. Implication of Sustainable Building Design Guidelines on Building Profile

3.1 SBDG was first promulgated through practice notes for building professionals issued by the Buildings Department in 2011. It establishes 3 key building design elements i.e. building separation, building setback and site coverage of greenery, with the objectives to achieve better air ventilation, enhance the environmental quality of living space, provide more greenery particularly at pedestrian level; and mitigate heat island effect. Compliance with SBDG is one of the pre-requisites for granting GFA concessions for green/amenity features and non-mandatory/non-essential plant rooms and services by the Building Authority (**Annexes C1 and C2**). Such requirement would also be included in the lease conditions of new land sale sites or lease modifications/land exchange.

3.2 SBDG and OZP are two different regimes. The former mainly concerns with detailed building design, while OZP is to illustrate board land use zonings and planning principles to guide development and redevelopments. For OZPs, in general, restrictions on PR, BH, and/or site coverage (SC) will be stipulated where appropriate in order to control the development intensity having regard to the local settings and other relevant planning considerations including air ventilation. Stipulation of BHRs on the OZP is an important means to prevent excessively tall and out-of-context developments, especially for Hong Kong Island where there is generally no statutory planning control on PR for "Commercial" ("C") and "Residential (Group A)" ("R(A)") zones. OZP is more concerned with the general building bulk/mass, public space and major air path in a wider district context. Hence, the implications of SBDG on the building profile, particularly BH, and air ventilation of an area would be the focus in the review of development restrictions on the OZP.

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[4] The Court's ruling was based on the Consent Order prepared by both parties and filed on 24.5.2017.

3.3 Since the specific and relevant building design requirements under SBDG can only be determined at detailed building design stage and there are different options or alternative approaches to meet the requirements, it would be difficult to ascertain at early planning stage precisely the implications on individual development. The extent of implications of SBDG on the building profile can only be estimated in general terms by adopting typical assumptions.

3.4 In brief, amongst the 3 key building design elements under SBDG, the SC of greenery requirement is unlikely to have significant implication on the BH of a building as greenery can be provided within the setback area, at podium floors or in the form of vertical greening, etc. The implementation of the building setback and building separation requirements may lead to a reduction in SC of the podium/lower floors of a building (at Low Zone (0-20m)) and the GFA so displaced has to be accommodated at the tower portion of the building, which would result in increase in the number of storeys and thus BH. Details are set out in **Annexes D, D1a and D1b.**

3.5 With **assumptions**[5] set out in **Annexes D2 and D3**, a typical commercial building will have a height ranging from 118m to 126m for incorporating building setback requirement and from 122m to 130m for incorporating building separation requirement, whereas a composite building within "R(A)" zone (with the lowest 3 floors for non-residential use and upper portion for residential use) will have a height ranging from 90m to 93m and from 93m to 96m for implementing building setback and building separation requirements respectively.

4. Scope of Review of Development Restrictions

4.1 To follow up on the Court's rulings, a review of development restrictions including BHRs and NBA/BG taking into account the implications of SBDG and permissible development intensity has been conducted for all commercial, "OU" annotated "Mixed Use" ("OU(MU)") and "Residential (Group A) 1" ("R(A)1") sites on the OZP (**Plan 4**).

4.2 For GIC developments[6] and other "OU" sites, they have special functional and design requirements with a great variation in FTFH or open air design to suit operational needs. As they provide spatial and visual relief amidst the densely built environment, their current BHRs mainly reflect their existing BHs unless there is known committed redevelopment proposal with policy support. As there has been no substantial change in the planning circumstances since 2010, a general review of the BHRs for the "G/IC" and "OU" sites other than "OU(MU)" sites is considered not necessary.

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[5] Including types of building (domestic, non-domestic or composite building), site classification and corresponding permissible PR and SC under Building (Planning) Regulations (B(P)R), possible GFA concessions, podium height up to 15m, floor-to-floor height (FTFH), provision of carpark at basement level and refuge floor requirement.

[6] Including "Government, Institution or Community" ("G/IC") sites and two Buddhist monasteries at Tai Hang Road within "R(A)1" on the OZP.

4.3 The "R(B)" and "R(C)" zones are also not covered by the current review as they are intended for medium and low-density developments. The current PR and BH restrictions on the OZP (PR of 5 and 30 storeys for "R(B)" zones; 30 storeys for "R(B)1" zone; and PR of 2 and 6 storeys for "R(C)" zones) would generally not hinder future redevelopments in complying with SBDG.

5. Building Height Concept on Current OZP

5.1 Set against the background of high redevelopment pressure in the area and the tendency for developers to propose high-rise buildings to maximise views of the harbour, the main purpose of BHRs is to provide better planning control on the BH of developments/redevelopments and to avoid excessively tall and out-of-context developments which will adversely affect the visual quality of the area.

5.2 The current BHRs were formulated based on an overall BH concept and other relevant considerations including existing BH profile, topography, site formation level, local characteristics, the waterfront and foothill setting, compatibility with surroundings, predominant land use and development intensity, visual impact, air ventilation, and a proper balance between public interest and private development right.

5.3 In line with the Urban Design Guidelines, a stepped height concept progressively ascending from the waterfront towards the inland area has generally been adopted. For the medium-rise belt in the inland area adjoining clusters of GIC facilities and open spaces, a lower BHR has been adopted (**Plan 2A**):

(a) For the commercial and "OU(MU)" sites, a **stepped BH profile** is set under the current OZP with **110mPD** for the area to the north of Hennessy Road/Yee Wo Street and generally **130mPD** for the area south of Hennessy Road/Yee Wo Street, except that –

200mPD is stipulated for the street blocks covering two landmark buildings (Hysan Place and Lee Garden One (LG One)); and

30mPD is stipulated for the existing low-rise Pak Sha Road neighbourhood.

(b) **100mPD** is stipulated for the "OU(MU)" sites in Haven Street and area bounded by Moreton Terrace, Tung Lo Wan Road and Causeway Road, which are surrounded by low to medium-rise GIC/open space clusters.

(c) **Stepped BHRs of 85mPD, 100mPD and 115mPD** are stipulated for the northern part of the "R(A)1" zone covering the Wun Sha Street residential cluster. **165mPD** is stipulated for the southern part of the zone to generally reflect the existing BH of Illumination Terrace at Tai Hang Road.

6. Proposed Building Height Restrictions

6.1 Based on the analysis of a typical commercial or composite building profile as set out in paragraph 3.5 above, the BHRs for the commercial and "OU(MU)" sites (i.e. 30mPD/100mPD/110mPD/130mPD) and the "R(A)1" sites which are subject to a BHR of 85mPD on the OZP have to be relaxed to make allowance for redevelopments in complying with SBDG and the latest set of assumptions.

6.2 For the two landmark buildings (Hysan Place and LG One), the current BHR of 200mPD (which is the tallest BH band on the OZP) generally reflects their existing BHs. Such BH is sufficient to accommodate the requirements of SBDG in their future redevelopments. Likewise, the current BHRs of 100mPD, 115mPD and 165mPD for the "R(A)1" sites in the southern part of the Wun Sha Street residential cluster are generally sufficient for future redevelopments in complying with SBDG. There is no need to relax these BHRs for the sake of SBDG.

6.3 ***Commercial and "OU(MU)" Sites – Generally relaxed to 135mPD (Plan 5A)***

(a) The commercial and "OU(MU)" sites are concentrated in the north-western part of the Causeway Bay Area, bounded by Gloucester Road in the east and north, Percival Street/Hysan Avenue/Hoi Ping Road in the west and generally Leighton Road in the south. Close to Leighton Road, the development clusters at Haven Street and the area bounded by Tung Lo Wan Road, Moreton Terrace and Causeway Road are also zoned "OU(MU)".

(b) Taking into account the existing site level (mainly around 5mPD) and the estimated maximum BH requirement of 130m for a typical commercial building to implement SBDG requirements (**Annex D2**), it is proposed to relax the BHRs of these sites from 100/110/130mPD to 135mPD to make allowance for redevelopments to comply with SBDG (**Annex E1**), except for the Pak Sha Road neighbourhood as discussed in paragraph 6.4 below.

(c) Given the special site circumstances of the Lee Garden Two (LG Two) site, an assessment has been carried out to ascertain that the proposed BHR of 135mPD would be able to accommodate the GFA permissible under B(P)R as well as the SBDG requirements. The site has a narrow and elongated site configuration of over 190m in length and, for most part of the site, less than 19m in width. It abuts three narrow streets (i.e. Jardine's Crescent, Pennington Street and Yun Ping Road) of 9.1m to 12.4m wide. To comply with SBDG, redevelopment at the site is required to have building setback from the narrow streets and to avoid continuous building façade of more than 60m. It should be noted that SBDG has provision for alternative design based on performance based approach to address site constraints when there are genuine difficulties for the future redevelopment to comply with the prescriptive SBDG requirements. As shown in the two indicative schemes at **Annexes F1 and F2**, there is scope to meet SBDG requirements under the proposed BHR of 135mPD.

6.4 ***Pak Sha Road Neighbourhood – BHR of 30mPD to be maintained***

(a) Taking into account the distinctive character of this neighbourhood with uniform building style and its low-rise character (4 to 5 storeys (around 20mPD to 30mPD)) providing visual relief and breathing space amid the high-rise developments (**Plan 8A**), it is considered appropriate to maintain the current BHR of 30mPD for the area. Moreover, under the agreement made in the 1950s between the original owner (Lee Hysan Estate Company Limited (LHECL)) and the sub-lease for these sites, there is a restrictive covenant requiring the sub-leasees to "keep and maintain European style dwelling houses of a uniform design".[7]

(b) Notwithstanding the above, it is recognised that the area would have greater redevelopment potential if the restrictive covenant is relaxed with agreement between LHECL and the current lot owners. To avoid piecemeal redevelopments of individual lots, it has been stipulated in the ES of the OZP that any future redevelopment for this area should be in the form of comprehensive redevelopment supported by an urban design plan and technical assessments. Should the area be ripe for redevelopment in future, the concerned parties could submit a comprehensive redevelopment scheme to the Board for consideration through section 12A application.

6.5 ***Northern Part of Wun Sha Street Residential Area – Relaxed from 85mPD to 100mPD (Plan 5A)***

(a) The northern part of the "R(A)1" zone covering the Wun Sha Street residential area comprises a number of small street blocks (**Plan 8B**) where future redevelopments will not be subject to the building separation requirement under SBDG[8].

(b) As demonstrated in **Annex D3**, the estimated BH requirement for a typical "R(A)" composite building to incorporate building setback to comply with SBDG is ranging from 90m to 93m. Taking into account the site levels (around 4-7mPD), it is proposed to relax the BHR for the sites generally bounded by Tung Lo Wan Road, Wun Sha Street, King Street and Tai Hang Road from 85mPD to 100mPD (**Annex E2**).

7. Review of Air Ventilation Measures

Air Ventilation Assessment

7.1 The air ventilation measures, including NBA and BG, on the current OZP were formulated during the course of the BH review in 2010 before SBDG was put in

[7] In view of the said restrictive covenant, the Court in 1997 granted LHECL a permanent injunction to restrain the owner of 6-8 Kai Chiu Road to develop a 23-storey commercial building at its lot.

[8] The concerned street blocks are all less than 2 ha and the maximum length of the street blocks is about 48m (located at Sun Chuen Street) only, which do not meet the criteria requiring building separation under SBDG (i.e. site area of ≥ 2 ha; or proposing continuous building façade ≥ 60m).

place. An updated AVA (EE) has been undertaken to assess the air ventilation implications should the relaxed BHRs proposed in paragraph 6 above be incorporated into the OZP (AVA (2017)) to facilitate future redevelopments in complying with SBDG. A copy of the AVA (2017) is at **Annex G1**. Major findings are as follows –

(a) Despite OZP and SBDG are two different regimes, they both contribute to a better built environment. SBDG is an administrative means to promote sustainable building design by granting of GFA concessions. It mainly aims to enhance building porosity to avoid screen wall effect and promote air movement between developments to achieve better dispersion and air mixing. While the adoption of SBDG in any buildings is entirely a commercial decision of the developers, such requirement will be included in the lease conditions of new land sale sites or lease modifications/land exchanges. It is anticipated that the general wind environment of the city would be improved in the long run when the number of redeveloped buildings follow SBDG increases gradually.

(b) Relying on SBDG alone, however, would not be sufficient to ensure good air ventilation at the district level as concerned building design measures are drawn up on the basis of and confined to individual development sites. The beneficial effect could be localised and may not have taken into account the need of a wider area (e.g. building setback may not be aligned or building separation may not be at the right location to enhance air flow). Hence, incorporating air ventilation measures (such as NBA or BG) at strategic locations on the OZP to maintain major air paths or create inter-connected air paths of district importance is still considered necessary. Otherwise, provision of well-connected air paths of district importance which is important to densely developed area with poor wind environment such as Causeway Bay could not be ensured.

(c) It is reaffirmed that the existing wind environment in the north-western part of Causeway Bay is poor due to the high building density with tall buildings and narrow streets. Under such high BH to street width ratio (H/W ratio), it is difficult for wind from the roof top level to penetrate to the street level. Incoming wind would mostly skim over the developments. The so-called "downwash" is not expected to be obvious as the streets are narrow and most buildings are not different significantly in height. Under such circumstances, BH alone ceases to be the key consideration for the pedestrian wind environment in this area.

(d) However, a general increase in BH on an area basis would further elevate the already high urban canopy created by tall buildings. A larger wind shadow at the downstream areas would be created. Yet by improving permeability of developments, such impact of the wind shadow would be alleviated.

(e) Building design measures, including NBAs, BGs and setbacks, to reduce ground coverage and create building permeability particularly at low level and effective air paths to facilitate airflow from prevailing wind

directions, are more important for improving the pedestrian wind environment in Causeway Bay area. While it is ideal that air paths are as wide as possible, it is the prevailing practice that an effective air path should be at least 15m in width for wind penetration. Such principle is in line with the building setback and building separation requirements stipulated in SBDG.

Great George Street and Sugar Street

(f) In Causeway Bay area, Great George Street and Sugar Street are important air paths of district significance facilitating penetration of prevailing winds from NE, ENE and E directions to reach Hennessy Road and ventilate Causeway Bay and continue on towards Wan Chai area. The width of Great George Street is 14.1m to 16.4m. As majority part of the street is wider than 15m, an effective air path could be maintained without designated NBA on its two sides (**Plan 5B1**).

(g) However, Sugar Street is less than 15m wide. NBAs are recommended on both sides of the street in order to create an effective air path of 15m wide. Taking into account the existing width of Sugar Street of about 12.3m, it is proposed to adjust the width of the strips of NBA currently designated on the northern and southern sides of Sugar Street from 2m and 4m respectively to 1.5m **(Plan 5B1)**.

Between Kingston Street and Jaffe Road

(h) Kingston Street is another important wind entrance for this area. The NBA designated between Jaffe Road and Kingston Street should be widened to 15m for effective air flow to Jaffe Road as one of the major east-west air paths having district significance all the way towards Wan Chai area. However, the site at 51 Paterson Street has a width of 23m only. Widening of the NBA would impose severe constraints on its future redevelopment which would in turn hinder the realisation of the NBA. Considering the practical situation, the width of the current NBA of 8m on the OZP is proposed to be maintained **(Plan 5B2)**.

BG between The Excelsior and World Trade Centre

(i) Currently, a ground level BG (10m (W) x 8m (H)) is demarcated on the OZP between The Excelsior and World Trade Centre with an alignment similar to the existing pedestrian walkway there. The updated AVA (2017) recognised that this BG would help enhance the penetration of northerly wind and sea breeze to the busy pedestrian street between Yee On Building and Chee On Building and then to East Point Road. Yet, the wind penetration along such a tunnel-like BG may not be most effective given the length of the site and there are alternative building designs (e.g. ventilated communal garden or BG between podium and building block) that could serve similar air ventilation purpose for the locality other than a prescribed 10m x 8m BG at ground level. To this end, a taller BHR at 135mPD has been proposed for The Excelsior and World Trade Centre

and their adjoining development sites, allowing scope and flexibility for their future redevelopments to adopt building designs conducive to wind permeability. **(Plan 5B2)**

Between Lockhart Road and Hennessy Road

(j) The 8m to 12m wide NBA currently designated between Lockhart Road and Hennessy Road has limited effect as part of an air path for northerly wind/sea breeze penetration as it is not aligned with Cannon Street. Although it could break up the long façade formed by the line of buildings between Lockhart Road and Hennessy Road to facilitate air movement, such function could be met by the implementation of SBDG through redevelopments in the locality (**Plan 5B3**).

Sunning Road area, Lee Garden One and Lee Garden Two

(k) The requirements for 2m wide NBA on the two sides of Yun Ping Road between LG One and LG Two and the BHRs of 32mPD and 20mPD for the podium areas of LG One and LG Two respectively on the current OZP are intended to facilitate penetration of prevailing wind along Yun Ping Road to reach the Pak Sha Road area.

(l) The updated AVA (2017) has reviewed the wind environment in the areas around Sunning Road, LG One and LG Two. Without the requirements of NBAs along Yun Ping Road and BHRs for the podium areas at LG One and LG Two, the pedestrian wind environment at Pak Sha Road area and Jardine's Crescent area would be worsened as the original wind entrance may be lost. Hence, the penetration of prevailing SSE, SSW and SW winds will not be able to reach Yun Ping Road, Lan Fong Road and eventually Pak Sha Road.

(m) Should SBDG be followed in the redevelopments of LG One and LG Two, a permissible BH of 200mPD and 135mPD respectively would allow sufficient scope and flexibility for the new buildings to provide building setback along narrow streets and building separation among developments to maintain wind permeability of the area, serving similar purpose of the current NBA and BG requirements. **(Plan 5B4)**

Wun Sha Street Residential Cluster

(n) For the northern part of the Wun Sha Street residential cluster, a stepped BH profile of 85-100-115mPD is imposed on the current OZP to facilitate air movement at the street level. However, as mentioned in paragraph 7.1(c) above, the downwash effect is constrained by the narrow streets in the area with high H/W ratio. While the BHR for the northern part of the area is proposed to be relaxed from 85mPD to 100mPD, the difference between a 2-step and 3-step BH profiles in air ventilation terms is not expected to be significant. On the other hand, the regular street pattern in the cluster, which is well connected and aligned with the NE and SE prevailing wind directions, is more important to air movement particularly

at street level.

Proposed Revisions to Air Ventilation Measures

7.2 Based on the above findings, the air ventilation measures on the OZP are proposed to be revised as follows:

(a) reduction in the width of the NBAs on the northern and southern sides of Sugar Street from 2m and 4m respectively to 1.5m **(Plan 5B1)**;

(b) deletion of the NBAs along Great George Street **(Plan 5B1)**;

(c) deletion of the BG between 280 Gloucester Road (World Trade Centre) and 281 Gloucester Road (The Excelsior) **(Plan 5B2)**;

(d) deletion of the NBA between Lockhart Road and Hennessy Road **(Plan 5B3)**; and

(e) deletion of the NBA on both sides of Yun Ping Road and the BG (podium BHRs) for the podium areas of LG One and LG Two **(Plan 5B4)**.

7.3 The revised NBA requirements along Sugar Street (accounting for 3-8% of the area of the affected development sites[9]) and the NBA between Kingston Street and Jaffe Road to be retained (accounting for 2-18% of the area of the affected development sites[10]) have been taken into account in the BH assessment in **Annex E1**.

8. Footpath Widening

8.1 On the current OZP, setback requirements are stipulated for areas where there is a need to improve pedestrian circulation and walking environment. TD has reaffirmed that the footpaths at Jaffe Road (southern side), Lockhart Road, Cannon Street (eastern side) and Lee Garden Road (western side and part of eastern side (between Kai Chiu Road and Pak Sha Road)), Lan Fong Road and Jardine's Bazaar, Haven Street and the Wun Sha Street area should be widened, and the OZP requirements for provision of 0.5m or 1.5m wide setback from the boundary of the lots fronting these roads should be maintained **(Plan 6B)**. Yet, the ES of the OZP should be updated to explain that the setback requirements will not apply to underground developments, and that a minimum clear headroom of 3.5m from ground level should be provided within the setback areas for free pedestrian passage without obstruction.

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[9] The affected development sites are Grand View Commercial Centre, Fair View Commercial Building, Causeway Bay Centre, Causeway Bay Commercial Building, V Causeway Bay and Lok Sing Centre (**Plan 5B1**)).

[10] The affected development sites are Fairview Mansion, Paterson Building, Chee On Building, Yee On Building and The Excelsior (**Plan 5B2**)).

8.2 Specifically, TD advises that the setback requirements along Lee Garden Road and Lan Fong Road under Hysan Group's JR (**Plan 9A**) are to satisfy the minimum width of 3.5m for footways providing access to buildings generally as stipulated in HKPSG, taking into account desirable pedestrian circulation and walking environment, street activities as well as scarcity of land resources. As the widths of the existing footpaths at some sections of Lee Garden Road and Lan Fong Road are less than the required width of 3.5m, it is necessary to retain the setback requirements of 1.5m for the eastern side of Lee Garden Road between Kai Chiu Road and Pak Sha Road and at the western side of Lee Garden Road between Hennessy Road and Russell Street, and 0.5m for the western side of Lee Garden Road between Russell Street and Hysan Avenue. The setback requirement of 1.5m at both sides of Lan Fong Road also needs to be maintained.

8.3 It should be noted that any proposals involving dedication of land for public passage and surrender of land for street widening may be entitled to bonus GFA under B(P)R, and any such claim would be duly considered by the Building Authority in accordance with the established practice. For the setback requirements on the OZP, which account for an average of 7-8% of the area of the affected lots **(Plans 3B and 3C)**, the possible bonus GFA arising from such setback has also been taken into account in the BH assessments in **Annexes E1 and E2**.

9. Visual Consideration

9.1 In the long term, the BH profile of the area will mainly follow the BHRs on the OZP, except for those existing and committed developments (such as approved building plans) already exceed the respective BHRs. However, for the purpose of presenting the proposed BH profile more realistically in the medium term, sites which have higher redevelopment propensity are assumed to be redeveloped up to the BHRs in the photomontages shown in **Plans 7A to 7F**. Taking into account that developments having fewer storeys and therefore smaller number of units would more likely undergo ownership assembly and that older buildings would have a greater opportunity for redevelopments (especially for sites that have not been fully developed to the maximum development potential), only developments with a building age of 30 years or over and with a BH of 15 storeys or below are assumed to have higher redevelopment propensity.

9.2 According to the Visual Appraisal (**Annex G2**), the proposed BHR relaxation will reduce the visual openness (e.g. view of the sky and mountain backdrop) and dilute the original stepped BH concept. However, the BH profile under the relaxed BHRs is not incompatible with the surrounding visual context and will not affect the views to the ridgelines to be protected nor protrude into the 20% building free zone below ridgelines. Varieties in redevelopment scales and design styles/considerations would also contribute to the outlook of the city skyline.

9.3 The BHR relaxation is to allow design flexibility for future redevelopments in meeting SBDG which will improve the overall building permeability and visual amenity of the pedestrian environment. The proposed BHRs would be a matter of trade-off amongst different urban design considerations in the dense urban core

like Causeway Bay. In overall terms, the proposed BHR relaxation will not result in unacceptable visual impact.

10. Responses to Representations No. R146 to R152

10.1 To follow up on the court orders, Representations R146 to R152 have been re-examined with reference to the proposals set out in paragraphs 6 and 7 above, Court's rulings on the JRs and related appeals, and the prevailing circumstances of the representation sites.

10.2 **R147** (by Hysan Group) is a general representation against the BHR/NBA/BG/ setback requirements and the rezoning of "C/R" sites, whereas **R146** (by Excelsior) and **R148 to R152** (by Hysan Group) are against the restrictions of specific sites, including The Excelsior (**R146**), LG Two (**R148**), Hysan Place and The Goldmark (**R149**), sites along Sunning Road (**R150**), LG One (**R151**) and One Hysan Avenue (**R152**) (**Plans 9, 9A to 9G**).

10.3 The Representers propose to delete the NBA, BG and setback requirements from the Plan; and to remove the BHR (for The Excelsior), or to revise the BHRs to reflect the BH of the existing buildings (LG One) or approved building plans (for Hysan Place and The Goldmark, Sunning Road sites and One Hysan Avenue). Full set of the representations are at **Annex H3**.

10.4 Under the current OZP proposals, the BHRs for The Excelsior, LG Two, Sunning Road sites and One Hysan Avenue will be relaxed, and the NBA and BG requirements at The Excelsior, LG One and LG Two sites will be deleted as follows:

Representation Site	Representers' Proposal	Current OZP Proposal
R146 (The Excelsior)	• No BHR • No BG (10m(W) x 8m(H) from ground)	• BHR of 135mPD (relaxed from 110mPD) • BG deleted
R148 (LG Two)	• No NBA along Yun Ping Road • Relax BHR for podium from 20mPD to 130mPD or 32mPD; or BHR of 150mPD for whole site & SC of 62.5% for tower	• NBA deleted • Podium BHR (BG) deleted • BHR of 135mPD (relaxed from 130mPD)
R149 (Hysan Place & The Goldmark)	• BHR of 231mPD (BH of approved building plans is 230.7mPD) • No NBA along Lee Garden Road	• BHR of 200mPD (remains unchanged) • No NBA along Lee Garden Road (quashed by CFI)
R150 (Sunning Road sites)	• BHR of 150mPD	• BHR of 135mPD (relaxed from 130mPD)

Representation Site	Representers' Proposal	Current OZP Proposal
R151 (LG One)	• BHR of 210mPD (existing BH is 208mPD) • No podium BHR (32mPD) • No NBA along Yun Ping Road • No setback along Lan Fong Road	• BHR of 200mPD (remains unchanged) • Podium BHR (BG) deleted • NBA deleted • Setback along Lan Fong Road (remains unchanged)
R152 (One Hysan Avenue)	• BHR 150mPD (BH of approved building plans is 145.33mPD) • No setback along Lee Garden Road	• BHR 135mPD (relaxed from 130mPD) • Setback along Lee Garden Road (remains unchanged)

10.5 The relaxed BHRs have taken into account the SBDG requirements and permissible development intensity. With general public concern on excessive building bulk and height, further relaxation of the BHR for the Sunning Road sites (**R150**) and One Hysan Avenue (**R152**) to 150mPD is not supported. It is also considered inappropriate to adopt the existing BH of LG One at 208mPD (**R151**) as BHR on the OZP as it would jeopardise the overall BH profile. The current BHR of 200mPD for Hysan Place has already reflected its existing BH (199mPD). The approved building plans for the Hysan Place and The Goldmark site at 231mPD (**R149**) should not be taken as a basis in determining the BHR on the OZP so as to avoid proliferation of excessively tall buildings. The approved building plans could still be implemented according to the provisions of the Buildings Ordinance.

10.6 A summary of the representation grounds and the responses of Planning Department (PlanD) in consultation with relevant government departments is at **Annex H1**.

10.7 During the publication of the representations in 2010, one Comment No. **C1** was received from Designing Hong Kong Limited opposing to Representations No. R146 to R152, amongst others. But **C1** does not contain any views on the specific matters raised in these representations. The comment is at **Annex H4**.

10.8 Should the Board agree to the proposed amendments to the OZP as detailed in paragraph 11, Representers No. **R146 to R152** and Commenter **C1** will be informed accordingly. Representers No. **R146 to R152** may submit representations for the Board's consideration under section 6 of the Ordinance if they so wish.

11. Proposed Amendments to OZP

Amendments to Matters Shown on the Plan

11.1 Based on paragraphs 6 and 7 above, the following amendments to matters shown on the draft Causeway Bay OZP (**Annex B1**) are proposed:

Item A – Revision of the BHRs for the "C", "C(1)", "C(2)" and "OU(MU)" zones from 100mPD, 110mPD or 130mPD to 135mPD, except for the sites bounded by Lee Garden Road, Hysan Avenue, Yun Ping Road, Kai Chiu Road, Jardine's Crescent, Jardine's Bazaar and Hennessy Road.

Item B1 – Revision of the BHR of the north-eastern part of the "C(2)" site covering LG One at 33 Hysan Avenue from 32mPD to 200mPD.

Item B2 – Deletion of the requirement for a 2m wide NBA along Yun Ping Road from the north-eastern part of the "C(2)" site covering LG One at 33 Hysan Avenue and stipulation of BHR of 200mPD for that part of the site.

Item C1 – Revision of the BHR of the "C" site covering LG Two at 28 Yun Ping Road from 20mPD and 130mPD to 135mPD.

Item C2 – Deletion of the requirement for a 2m wide NBA along Yun Ping Road from the "C" site covering LG Two at 28 Yun Ping Road and stipulation of BHR of 135mPD for that part of the site.

Item D – Revision of the BHR for the "R(A)1" sites generally bounded by Tung Lo Wan Road, Wun Sha Street, King Street and Tai Hang Road from 85mPD to 100mPD.

Item E1 – Adjustment of the width of the NBA requirements on the northern and southern sides of Sugar Street from 2m and 4m respectively to 1.5m by deleting parts of the NBAs and stipulating BHR of 135mPD for the areas concerned.

Item E2 – Deletion of the NBA requirements to the south of Lockhart Road and on the two sides of Great George Street and stipulation of BHR of 135mPD for the areas concerned.

Item E3 – Deletion of the BG requirement between 280 and 281 Gloucester Road.

Item F – Stipulation of BHR of 200mPD for a 5m wide strip of land along the lot boundary of Hysan Place fronting Lee Garden Road.

11.2 Opportunity is taken to include the road/tunnel reserve for the proposed Central Wan-Chai Bypass and the railway reserve for the proposed Shatin to Central Link in accordance with the respective Road Scheme and Railway Scheme authorised by CE in C on the Plan for information.

Amendments to the Notes of the OZP

11.3 Amendments to the Notes are proposed as follows:

NBA/BG

(a) Deletion of the Remark under "C" zone requiring the provision of NBA along Yun Ping Road.

(b) Deletion of the Remark under "C" zone requiring the provision of BG between 280 and 281 Gloucester Road.

(c) In relation to Amendment Item E3 on the Plan, and paragraphs (a) and (b) above, corresponding revision to the minor relaxation clause under the "C" zone.

Clarification of GFA/PR Exemption Clause

(d) Revisions to the exemption clause on maximum GFA/PR in the Remarks for the "R(B)", "R(C)" and "OU" annotated "Residential Development with Historical Site Preserved In-situ" zones to clarify that exemption of caretaker's quarters and recreational facilities are only applicable to those facilities for the use and benefit of all the owners or occupiers of the domestic building or domestic part of the building.

11.4 The proposed amendments to the Notes of the OZP (with additions in ***bold and italics*** and deletions in 'cross-out') are at **Annex B2** for Members' consideration.

12. Revision to the Explanatory Statement of the OZP

The ES of the OZP is proposed to be revised to take into account the proposed amendments as mentioned in the above paragraphs. Opportunity has been taken to update the general information for various land use zones to reflect the latest status and planning circumstances. The proposed amendments to the ES of the OZP (with additions in ***bold and italic*** and deletions in 'cross-out') are at **Annex B3** for Members' consideration.

13. Plan Number

Upon exhibition for public inspection, the Plan will be renumbered as S/H6/16.

14. Consultation

Departmental Consultation

14.1 The proposed amendments to the draft Causeway Bay OZP No. S/H6/15 have been circulated to relevant government bureaux and departments for comment. Representations No. **R146 to R152** have also been circulated to relevant bureaux and departments for re-examination.

14.2 Comments of the Commissioner for Transport, Chief Building Surveyor/Hong Kong East and Heritage Unit of Buildings Department, Chief Town Planner/Urban Design and Landscape of PlanD and the District Lands Officer/Hong Kong East of Lands Department have been incorporated in the above paragraphs and **Annexes H1 and H2** where appropriate.

14.3 The Director of Environmental Protection advises that adverse environmental impact is not anticipated for the proposed OZP amendments because the relaxation of BHR is minor. He has no objection to the proposed amendments.

14.4 The following government bureaux and departments have no objection or no comment on the proposed amendments and representations:

(a) Lands Unit, Development Bureau;
(b) Planning Unit, Development Bureau;
(c) Chief Highway Engineer/Hong Kong, Highways Department (HyD);
(d) Major Works Project Management Office, HyD;
(e) Chief Engineer/Railway Development 2-2, Railway Development Office, HyD;
(f) Commissioner of Police;
(g) Chief Engineer/Hong Kong & Islands, Drainage Services Department;
(h) Chief Engineer/Construction, Water Supplies Department;
(i) Project Manager (Hong Kong Island & Islands), Civil Engineering and Development Department (CEDD);
(j) Chief Engineer/Land Works, CEDD;
(k) Head of Geotechnical Engineering Office, CEDD;
(l) Direct of Fire Services;
(m) Chief Architect/Central Management Division 2, Architectural Services Department;
(n) Director of Electrical and Mechanical Services;
(o) Director of Food and Environmental Hygiene;
(p) Director of Agriculture, Fisheries and Conservation;
(q) Director of Leisure and Cultural Services;
(r) Antiquities and Monuments Office; and
(s) District Officer (Wan Chai), Home Affairs Department.

Consultation with Wan Chai District Council and Public Consultation

14.5 The proposed amendments to the OZP are mainly a follow up consequential to the Court's rulings on the JRs and related appeals in respect of the draft Causeway Bay OZP No. S/H6/15. Subject to agreement of the proposed amendments by the Board for gazetting under section 7 of the Ordinance, the Wan Chai District Council will be consulted during the 2-month statutory plan exhibition period. Members of the public can submit representations on the OZP to the Board during the same statutory plan exhibition period.

15. Decision Sought

Members are invited to:

(a) agree to the proposed amendments to the draft Causeway Bay OZP and that the draft Causeway Bay OZP No. S/H6/15A (**Annex B1**) (to be renumbered as S/H6/16 upon exhibition) and its Notes (**Annex B2**) are suitable for exhibition under section 7 of the Ordinance; and

(b) adopt the revised ES at **Annex B3** for the draft Causeway Bay OZP No. S/H6/15A as an expression of the planning intentions and objectives of the Board for the various land use zonings of the OZP and the revised ES will be published together with the draft OZP.

Attachments

Annexes A1a & 1b	Draft Causeway Bay OZP No. S/H6/15 (reduced to A3 size) together with Schedule of Amendments to the approved Causeway Bay OZP No. S/H6/14
Annexes A2a & 2b	Amendment Plan No. R/S/H6/15-A2 together with Schedule of Amendments made under Sections 6F(8) and 6G of the Ordinance
Annex B1	Draft Causeway Bay OZP No. S/H6/15A
Annex B2	Revised Notes for the draft Causeway Bay OZP No. S/H6/15A
Annex B3	Revised Explanatory Statement for the draft Causeway Bay OZP No. S/H6/15A
Annexes C1	APP-151 "Building Design to Foster a Quality and Sustainable Built Environment"
Annex C2	APP-152 "Sustainable Building Design Guidelines"
Annexes D, D1a & 1b	Implications of SBDG
Annex D2	Basic Building Profile – Commercial Building
Annex D3	Basic Building Profile – Composite Building
Annex E1	Assessment of Building Height – Commercial and Mixed Use Sites
Annex E2	Assessment of Building Height – Residential (Group A) 1 Sites
Annexes F1 & F2	Notional Schemes for the Lee Garden Two site
Annex G1	Air Ventilation Assessment by Expert Evaluation (2017)
Annex G2	Visual Appraisal
Annex H1	Summary of Representations No. R146 to R152 and Responses
Annex H2	Lease Particulars
Annexes H3-a1 & a2	Representation No. R146
Annexes H3-b1 to b12	Representations No. R147 to R152
Annex H4	Comment No. C1
Annex J1	TPB Paper No. 8762 for Consideration of Group 1 Representations and Comments to Draft Causeway Bay OZP No. S/H6/15 (main paper, plans and Annex V only)
Annex J2	Extract of the Confirmed Minutes of the TPB Meeting on 11.3.2011
Plan 1	Aerial Photo of Causeway Bay
Plan 2A	Current Building Height Restrictions
Plan 2B	Building Height Restrictions imposed in 2001
Plan 2C	Building Height Restrictions imposed in 2010
Plan 3A	Current Non-building Area, Building Gap and Setback Requirements
Plans 3B, B1 to B3	Footpath Widening Requirements in Commercial and Mixed Use Sites
Plans 3C, C1 & C2	Footpath Widening Requirements in Residential (Group A) 1 Sites
Plan 4	Sites with Building Height Restrictions under Review
Plans 5A	Proposed Building Height Restrictions
Plans 5B1 to 5B4	Proposed Revision to Non-building Area/Building Gap Requirements
Plan 6A	Consolidated Building Height Restrictions

Plan 6B	Consolidated Non-building Area/Setback Requirements
Plan 6C	Consolidated Proposal of Development Restrictions
Plans 7, 7A to 7F	Viewing Points and Photomontages of Building Height Profile
Plans 8A & 8B	Site Photos
Plans 9, 9A to 9G	Representations No. R146 to R152 – Location Plan, Site Plan and Site Photos
Drawing 1	Proposed Building Heights submitted by Representers No. R147 to R152

PLANNING DEPARTMENT
November 2017

TPB Paper No. 10415
For Consideration by the
Town Planning Board
on 13.4.2018

Proposed Amendments to
The Draft Wan Chai Outline Zoning Plan No. S/H5/27

1. Introduction

This paper is to brief Members on the review of development restrictions for the Wan Chai Area (the Area) and to seek Members' agreement that:

(a) the proposed amendments to the draft Wan Chai Outline Zoning Plan (OZP) No. S/H5/27 as shown on the draft Wan Chai OZP No. S/H5/27A (**Annex B1**) (to be renumbered as S/H5/28 upon exhibition) and its Notes (**Annex B2**) are suitable for exhibition for public inspection under section 7 of the Town Planning Ordinance (the Ordinance); and

(b) the revised Explanatory Statement (ES) of the OZP (**Annex B3**) is an expression of the planning intentions and objectives of the Town Planning Board (the Board) for the various land use zonings of the draft OZP No. S/H5/27A (to be renumbered as No. S/H5/28 upon exhibition) and is suitable for exhibition together with the draft OZP.

2. Background

2.1 The Area is characterised by a mix of commercial/residential uses with open space, recreation facilities and government, institution and community (GIC) facilities **(Plan 1)**.

2.2 In 1994, building height restriction (BHR) of 12 storeys together with plot ratio (PR) restriction of 5 were first imposed on the Wan Chai OZP for the "Residential (Group C)" ("R(C)") zone covering the sites in the Sau Wa Fong area with an aim to control intensive redevelopment. Apart from the "R(C)" zone, BHRs were not incorporated for other development zones on the Wan Chai OZP. In 2010, a comprehensive review on the building height (BH) of the entire Wan Chai OZP was conducted aiming to achieve good urban form and to prevent excessively tall and out-of-context development. Having considered the findings of the review and the proposed amendments on the OZP, the Board agreed to incorporate BHRs for the development zones including "Commercial" ("C"), "Residential (Group A)" ("R(A)"), "Residential (Group B)" ("R(B)"), "Government, Institution or Community" ("G/IC") and relevant "Other Specific Uses" ("OU") zones on the draft Wan Chai OZP No. S/H5/26 which was gazetted on 24.9.2010 (**Annexes A1 & A1a**).

2.3 Apart from BHRs, non-building area (NBA), setback (SB) and building gap (BG) requirements were designated on the OZP to facilitate air ventilation along air

corridors and creating air paths (**Plans 3 to 3H**). Provision for minor relaxation of these development restrictions has been incorporated in the Notes.

2.4 During the statutory exhibition period of the draft Wan Chai OZP No. S/H5/26 in 2010 (**Annex A1**), a total of 106 representations and 293 comments were received. After giving consideration to the representations and comments on 26.4.2011, the Board decided to propose amendments to the OZP to partially meet three representations submitted by Swire Properties Limited (R98), Sino Flagship Investments Limited (R99) and Super Gear Investment Limited (R100) respectively. The proposed amendments were published under section 6C(2) of the Ordinance on 20.5.2011. Two further representations were received and, after giving consideration to the further representations on 29.7.2011, the Board decided to further vary the proposed amendments which shall form part of the draft OZP under section 6H of the Ordinance (**Annexes A2 & A2a**).

2.5 On 25.7.2011, four judicial review applications (JRs) were respectively filed by the Real Estate Developers Association of Hong Kong (REDA) (R34), Leighton Property Company Limited and Lee Theatre Realty Limited (LLT) (R97) and two church organisations namely the Trustees of the Church of Christ in China, Wan Chai Church (WCC) (R15) and the Methodist Church, Hong Kong (MIC) (R17) against the Board's decisions on their representations. Orders of stay were granted by the Court on the submission of the draft OZP to the Chief Executive in Council (CE in C) for approval pending resolution of the JRs. While the hearings of the JRs submitted by WCC and MIC have not been fixed, the OZP has been amended as shown on the draft Wan Chai OZP No. S/H5/27 exhibited in 2012 (**Annexes A3 & A3a**) to facilitate the redevelopment proposals of both WCC and MIC.

2.6 On 13.11.2014, the Court of Appeal quashed the Board's decision made on 26.4.2011 on LLT's representation (R97) in respect of the draft Wan Chai OZP and remitted the decision to the Board for reconsideration. On 26.9.2016, the Court of Final Appeal (CFA) handed down its judgment on the appeals lodged by the Hysan Development Company Limited and its subsidiaries including LLT (the Hysan Group) against the draft Causeway Bay OZP and the draft Wan Chai OZP[1]). Following the CFA judgment, the Board's decision dated 26.4.2011 remained quashed and was to be remitted to the Board for reconsideration.

2.7 In considering the appeals arising from the Hysan Group's JR, Court of Appeal (CA) stated that although Sustainable Building Design Guidelines (SBDG) and measures of the OZP belong to two different regimes, SBDG could have an effect on the working assumptions in respect of gross floor area (GFA) concession. There was no reason why the possible impact of SBDG in combination with the proposed restrictions under the draft OZP should not be acknowledged on a general level in the overall assessment of the adverse impact on redevelopment intensity. CA also ruled that it was not open for the Board to rely on the minor relaxation mechanism as one of the substantive reasons for rejecting the representations.

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[1] Hysan Group's JR on the Causeway Bay OZP and the related appeals were heard by the Courts together with another JR lodged by the Hysan Group in respect of the draft Wan Chai OZP.

2.8 For REDA's JR[2], the Court of First Instance (CFI) handed down its judgment on 3.2.2015 allowing the JR, and ordered that the Board's decisions on REDA's representations in respect of the four concerned OZPs were quashed and that the decisions be remitted to the Board for reconsideration. With reference to the CA's judgment on the appeals arising from the JRs lodged by the Hysan Group Companies, CFI ruled that the Board did not take into account the potential combined effect of SBDG and the restrictions under the four draft OZPs on the development potential of the sites[3]. Both the Board and REDA have submitted appeals against CFI's judgment and the parties are attending to the formalities regarding the disposal of the appeals.

3. Implication of Sustainable Building Design Guidelines on Building Profile

3.1 SBDG was first promulgated through practice notes for building professionals issued by the Buildings Department in 2011. It establishes three key building design elements i.e. building separation, building setback and site coverage (SC) of greenery, with the objectives to achieve better air ventilation, enhance the environmental quality of living space, provide more greenery particularly at pedestrian level; and mitigate heat island effect. Compliance with SBDG is one of the pre-requisites for granting GFA concessions for green/amenity features and non-mandatory/non-essential plant rooms and services by the Building Authority **(Annexes C1 and C2)**. Such requirement would also be included in the lease conditions of new land sale sites or lease modifications/land exchange.

3.2 SBDG and OZP are two different regimes. The former is mainly concerned with detailed building design, while OZP is to illustrate broad land use zonings and planning principles to guide development and redevelopments. For OZPs, in general, restrictions on PR, BH, and/or SC will be stipulated where appropriate in order to control the development intensity having regard to the local settings and other relevant planning considerations including air ventilation. Stipulation of BHRs on the OZP is an important means to prevent excessively tall and out-of-context developments, especially for Hong Kong Island where there is generally no statutory planning control on PR for "C" and "R(A)" zones. OZP is more concerned with the general building bulk/mass, public space and major air path in a wider district context. Hence, the implications of SBDG on the building profile, particularly BH, and air ventilation of an area would be the focus in the review of development restrictions on the OZP.

3.3 Since the specific and relevant building design requirements under SBDG can only be determined at detailed building design stage and there are different options or alternative approaches to meet the requirements, it would be difficult to ascertain at early planning stage precisely the implications on individual

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[2] Against the Board's decision to its four decisions not to proposed amendments respectively to four draft OZPs respectively for the draft Wan Chai OZP, draft Mong Kok OZP, draft Yau Ma Tei OZP and draft Ngau Tau Kok and Kowloon Bay OZP.

[3] REDA's JR was also allowed on grounds related to procedural unfairness, taken minor relaxation into account in rejecting the representations, and breach of *Tameside* duty in respect of the air ventilation and building height profile issues.

development. The extent of implications of SBDG on the building profile can only be estimated in general terms by adopting typical assumptions.

3.4 In brief, amongst the three key building design elements under SBDG, the SC of greenery requirement is unlikely to have significant implication on the BH of a building as greenery can be provided within the setback area, at podium floors or in the form of vertical greening, etc. The implementation of the building setback and building separation requirements may lead to a reduction in SC of the podium/lower floors of a building (at Low Zone (0-20m)) and the GFA so displaced has to be accommodated at the tower portion of the building, which would result in increase in the number of storeys and thus BH. Details are set out in **Annexes D, D1a and D1b**.

3.5 With assumptions[4] set out in **Annexes D2 and D3**, a typical commercial building will have a height ranging from 118m to 126m for incorporating building setback requirement and from 122m to 130m for incorporating building setback cum separation requirements, whereas a composite building within "R(A)" zone (with the lowest three floors for non-residential use and upper portion for residential use) will have a height ranging from 90m to 93m and from 93m to 96m for implementing building setback and building setback cum separation requirements respectively.

4. Scope of Review of Development Restrictions

4.1 To follow up on the Court's rulings, a review of the development restrictions including BHRs and requirements of NBA, BG and SB has been conducted for all commercial, "R(A)" (and its subzones), "R(B)", "R(E)" as well as "OU" annotated "Mixed Use" ("OU(MU)") zones on the OZP (**Plan 4**).

4.2 For GIC developments and other "OU" sites, they have special functional and design requirements with a great variation in floor-to-floor height (FTFH) or open air design to suit operational needs. As they provide spatial and visual relief amidst the densely built environment, their current BHRs mainly reflect their existing BHs unless there is known committed redevelopment proposal with policy support. As there has been no substantial change in the planning circumstances since 2010, a general review of the BHRs for the "Government, Institution or Community" ("G/IC") and "OU" sites other than "OU(MU)" sites is considered not necessary.

4.3 The "R(C)" zone for sites in the Sau Wa Fong area, which is a well-preserved terraced area located to the south of Queen's Road East, is not covered by the current review as the current BH restriction on the OZP, i.e. PR of 5 and 12 storeys was not part of the BHR review in 2010.

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[4] Including types of building (domestic, non-domestic or composite building), site classification and corresponding permissible PR and SC under Building (Planning) Regulations (B(P)R), possible GFA concessions, podium height up to 15m, floor-to-floor height (FTFH), provision of carpark at basement level and refuge floor requirement.

5. Building Height Concept on Current OZP

5.1 Set against the background of high redevelopment pressure in the area and the tendency for developers to propose high-rise buildings to maximise views of the harbour, the main purpose of BHRs is to provide better planning control on the BH of development/redevelopments and to avoid excessively tall and out-of-context developments which will adversely affect the visual quality of the area.

5.2 The current BHRs were formulated based on a number of relevant considerations including existing BH profile, topography, site formation level, local characteristics, the waterfront and foothill setting, compatibility with surroundings, predominant land use and development intensity, preservation of views to the ridgelines, mountain backdrops and harbour, air ventilation, and a proper balance between public interest and private development right.

5.3 The major principle for the current BHRs are to preserve the view to ridgelines and mountain backdrops from the vantage points at the Cultural Complex in Tsim Sha Tsui, West Kowloon Cultural District and Kai Tak Cruise Terminal Park as well as the view to harbour from the Peak and Stubbs Road Lookout Point. These are either strategic vantage points or important viewing point frequented by the public. Given the existing high-rise developments in Wan Chai North (Planning Area H25), and the northern part of the Area i.e. north of Johnston Road/Hennessy Road, as well as the presence of residential developments with relatively lower development intensity and BH in the inland area to the south of Johnston Road/Wan Chai Road, the stepped height concept ascending from the harbour and gradually arising towards landward side would not be achievable. In general, height bands which commensurate with the planning intention of the various land use zones as well as reflecting the majority of the existing buildings/committed development are adopted (**Plan 2A**). Major height bands are:

(a) For the "C" sites to the north of Johnston Road/Hennessy Road and to the west of Tonnochy Road and around Times Square, **130mPD** is stipulated taking into account the high concentration of existing high-rise developments in the Area and in Wan Chai North. Having regard to the open amenity area near the Cross Harbour Tunnel and the low-rise GIC cluster in the Wan Chai Sports Ground area, a more stringent BHR of **110mPD** is imposed for "C" sites between Tonnochy Road and Percival Street, so as to minimise the impact on the view of the harbour from the Stubbs Road Lookout Point without adversely affecting the maximum permissible development intensity of this area.

(b) For the existing commercial developments covered by the sub-zones of "C", including Wu Chung House, Times Square, QRE Plaza, Hopewell Centre, and Three Pacific Place, the BHRs mainly reflect their existing BHs. For the Ex-Wan Chai Police Married Quarters site covered by "C(4)", the future development is restricted to PR of 12 and BHR of 80mPD, taking into account the recommendations of the Air Ventilation Assessment (AVA) undertaken in 2010 (see paragraph 7 below) and the need to ensure

compatibility with the adjacent Ex-Wan Chai Police Station, which is a Grade 2 historic building to be preserved in-situ for adaptive re-use.

(c) **110mPD** is stipulated for the "OU(MU)" zone bounded by Johnston Road/Hennessy Road, Canal Road West, Morrison Hill Road and Wan Chai Road in consideration of the general building height of composite buildings with mixed residential and commercial uses.

(d) For the residential sites, **110mPD** and **100mPD** are stipulated for those to the north and south of Queens' Road East respectively to maintain the generally medium-rise residential character of the area and to provide a stepped height profile compared with the developments at Kennedy Road which has a higher ground level and the high-rise commercial buildings to the north of Johnston Road. BHRs of **120mPD** and **140mPD** are stipulated for the residential sites in the southern part of the Area, taking into account the topography of the locality and/or the as-built condition.

6. Proposed Building Height Restrictions

6.1 Having considered the principles/concept of the current BHRs as set out in paragraph 5 above as well as the implications of the SBDG requirements and the updated working assumptions as mentioned in paragraph 3 above, the proposed revisions to the BHRs are set out below.

6.2 For **"C"** sites:

"C" sites currently subject to BHR of 130mPD – BHR to be relaxed to 135mPD (Plan 5)

(a) As demonstrated in **Annex D2**, the estimated BH requirement for a typical commercial development is about 118m to 130m with the incorporation of SBDG requirements. Taking into account the existing site level (around 4mPD), it is proposed to relax the BHR of the "C" sites bounded by Johnston Road in the south and Tonnochy Road in the east, and the "C" sites bounded by Hennessy Road in the north and Percival Street (i.e. around Times Square) in the east to **135mPD (Annex E1)**.

"C" sites currently subject to BHR of 110mPD – current BHR to be maintained (Plan 5)

(b) The "C" sites bounded by Tonnochy Road/ Hennessy Road/ Percival Street/ Gloucester Road are currently subject to BHR of 110mPD. Despite the estimated BH requirement about 118m to 130m for typical commercial buildings (**Annex D2**) and the existing site levels (around 4mPD), the BHR of these sites is proposed to be maintained at 110mPD so as to minimise the impact on the view to harbour from Stubbs Road Lookout Point (**Plans 6 and 9E**). For the future redevelopments thereat, design approach and/or lower FTFH would need to be adopted for the future redevelopment without breaching the BHR of 110mPD (**Annex E2**). This is to achieve a balance between development rights and public interest.

"C(4)" Site currently subject to BHR of 80mPD – BHR to be relaxed to 110mPD (Plan 5)

(c) The "C(4)" site, which is located to the south of the historic building of Ex-Wan Chai Police Station across Jaffe Road, is subject to a maximum PR of 12. It is classified as a Class A site under the Building (Planning) Regulations (B(P)R) and will be subject to the building setback requirement under SBDG but not building separation[5]. Taking into account the existing site level about 4mPD, a BHR of 110mPD would be required. With the relaxation of the BHR from 80mPD to 110mPD, it would allow greater flexibility for incorporation of various good building designs in the future development to maintain wind permeability and improve the overall built environment. In particular, through building setback, it will free up the space at street level thereby offering the opportunity for improving the existing pedestrian environment. Schematic illustration showing possible improvements to the pedestrian environment is at **Plans 12A and 12B**.

Other "C" Subzones – current BHR to be maintained (Plan 5)

(d) For the existing commercial developments covered by the sub-zones of "C" (mentioned in paragraph 5.3(b) and except "C(4)" as detailed in paragraph 6.2(c) above as well as sub-area (b) of "C(6)" as explained below), relaxation of the BHRs is not required as the BHRs have already reflected their existing building heights. The sub-area (b) of "C(6)" zone (adjoining Pacific Place Phase 3) is subject to the current BHR of 120mPD. Taking into account its mean site level of about 11mPD and the estimated BH requirement for a typical commercial development is about 122m (classified as a Class C site together with Third Pacific Place) with the incorporation of SBDG requirements, it is proposed to relax the BHR of the sub-area (b) of "C(6)" zone from 120mPD to 135mPD to align with other "C" zones as recommended in paragraph 6.2(a).

6.3 For **"OU(MU)"** sites:

West of Hennessy Road Playground at Junction of Tonnochy Road and Hennessy Road – BHR to be relaxed from 110mPD to 135mPD (Plan 5)

(a) As demonstrated in **Annex D2**, the estimated BH requirement for a typical commercial development is about 118m to 130m with the incorporation of SBDG requirements. Taking into account the existing site levels (around 4mPD-8mPD), it is proposed to relax the BHR to **135mPD (Annex E3)**. However, two sites[6] with a site level of about 8mPD may result in a commercial building with maximum BH of 138mPD (i.e. 8mPD+130mPD) which is 3m taller than the proposed BHR. These sites may need to adopt

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[5] The concerned sites are all less than 2ha and the maximum length of the street blocks is less than 60m, which do not meet the criteria requiring building separation under SBDG (i.e. site area of ≥ 2 ha; or proposing continuous building façade ≥ 60m).

[6] Depending on the calculation of the mean site formation level, the two sites at 298 Hennessy Road/188 Wan Chai Road and 302-308 Hennessy Road (existing building height (at main roof) are about 50mPD/82mPD and 105mPD respectively) may have a maximum mean site formation level of around 8mPD.

design approach and/or lower FTFH for their future commercial redevelopment so as not to breach the proposed BHR of 135mPD (**Annex E3**).

East of Hennessy Road Playground – BHR to be relaxed from 110mPD to 135mPD (Plan 5)

(b) As demonstrated in **Annex D2**, the estimated BH requirement for a typical commercial development is about 118m to 130m with the incorporation of SBDG requirements. Taking into account the existing site levels (around 4mPD-9mPD), it is proposed to relax the BHR to **135mPD (Annex E3)**. However, a few sites[7] with a site level of about 9mPD may result in a commercial building with maximum BH of 139mPD (i.e. 9mPD+130mPD) which is 4m taller than the proposed BHR. These sites may need to adopt design approach and/or lower FTFH for their future commercial redevelopment so as not to breach the proposed BHR of 135mPD (**Annex E3**).

6.4 For **"R(A)"** sites:

"R(A)" sites subject to BHR of 100mPD to the South of Queen's Road East – BHR to be relaxed to 110mPD (Plan 5)

(a) These sites are located at small street blocks and future redevelopment thereat will be subject to the building setback but not building separation requirement under SBDG[5]. As demonstrated in **Annex D3**, the estimated BH requirement for a typical "R(A)" composite building to incorporate building setback to comply with SBDG is ranging from 90m to 93m. Taking into account the site levels (around 6mPD-19mPD), it is proposed to relax the BHR for the sites to **110mPD (Annex E4)**. Only two sites[8] with site level exceeding 17mPD may need to adopt design approach and/or lower FTFH for their future redevelopment so as not to breach the BHR of 110mPD.

"R(A)" site at 21-23A Kennedy Road – BHR to be relaxed from 120mPD to 140mPD (Plan 5)

(b) The existing level of the site is about 51.5mPD for the part abutting Kennedy Road. To accommodate a typical composite building with building setback requirement, it is proposed to relax the BHR to **140mPD**.

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[7] The six sites 220, 222-228, 230, 232, 234-236 and 238-240 Wan Chai Road (existing building height (at main roof) are ranging 32mPD-90mPD) may have a maximum mean site formation level of around 9mPD.

[8] The two sites include 11A-11 Kennedy Street and 15-17 Kennedy Street (existing building heights (at main roof) are about 38mPD) have site formation level ranging from around 18mPD to 19mPD, the required building height for complying with SBDG requirements is about 112mPD.

"R(A)" and "R(A)5" sites at Oi Kwan Road – BHR to be relaxed from 90mPD to 110mPD (Plan 5)

(c) The current BHR for the two sites is 90mPD, which was imposed to reflect the as-built condition. Taking into account the existing site levels (about 6mPD-7mPD) and the estimated BH requirement of 90m to 93m for a typical "R(A)" composite building with incorporation of building setback as required under SBDG[5] (**Annex E4**), it is proposed to relax the BHR of the sites to **110mPD** to allow scope for incorporation of good design features and more open and spacious environment at pedestrian level together with the GIC cluster at Morrison Hill.

"R(A)" sites to the South of Queen's Road East (to the south of Third Pacific Place) and to the North of Queen's Road East subject to BHR of 120mPD and 110mPD respectively – current BHR to be maintained (Plan 5)

(d) The existing levels of the sites subject to BHR of 120mPD to the south and those subject to BHR of 110mPD to north of Queen's Road East are about 16mPD and about 4mPD-7mPD respectively. Taking into account the estimated BH requirement of 90m to 96m for typical "R(A)" composite buildings (**Annex D3**), no relaxation of the current BHRs for these "R(A)" sites is required.

6.5 The two **"R(B)"** zones at Kennedy Road are subject to 120mPD (surrounding Phoenix Court at 39 Kennedy Road) and 140mPD (surrounding Monmouth Terrace) respectively, with existing maximum sites level of about 37mPD and 64mpD respectively. They are Class A sites as classified under B(P)R and will be subject to the building setback or both the building setback/building separation requirements under SBDG[5]. As demonstrated in **Annex E5**, a BH of about 86m is required to cater for a pure residential development with permissible GFA under B(P)R. For the "R(B)" sites at Monmouth Terrace, it is proposed to relax the BHR to 150mPD. For the "R(B)" sites of Phoenix Court and the sites surrounding Phoenix Court, no relaxation of the BHR of 120mPD is required, but two sites[9] with a site level of about 37mPD may result in a domestic building with a BH of 123mPD (i.e. 37mPD + 86mPD) which is 3m taller than the current BHR. These sites may need to adopt design approach and/or lower FTFH in its future redevelopment in order not to breach the current BHR of 120mPD.

6.6 The **"R(E)"** sites at Queen's Road East and Kennedy Road are subject to a maximum BH of 100mPD and maximum domestic PR of 6.5 and non-domestic PR of 1.0. They are Class B and Class A sites under B(P)R respectively and will be subject to the setback but not building separation requirement under SBDG[5]. The current BHR is able to accommodate the composite building meeting the SBDG requirement. No relaxation of the current BHR is therefore required.

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[9] The two sites are 33-35 Kennedy Road and 39 Kennedy Road (Phoenix Court). Their existing building heights (at main roof) are about 53mPD and 71mPD respectively. Since the site formation level for the two sites are ranging from about 35mPD to 37mPD at Kennedy Road, the required building height for complying with SBDG requirements is about 123mPD.

7. Review of Air Ventilation Measures

Air Ventilation Assessment

7.1 The air ventilation measures, including NBA, SB and BG requirements, on the current OZP were formulated during the course of the BH review in 2010 before SBDG was put in place. An updated AVA (EE) has been undertaken to assess the air ventilation implications should the proposed revisions to BHRs mentioned in paragraph 6 above be incorporated into the OZP to facilitate future redevelopments in complying with SBDG. A copy of the AVA (2018) is at **Annex F1**. Its major findings are as follows –

(a) Despite OZP and SBDG being two different regimes, they both contribute to a better built environment. SBDG is an administrative means to promote sustainable building design by granting of GFA concessions. It mainly aims to enhance building porosity to avoid screen wall effect and promote air movement between developments to achieve better dispersion and air mixing. While the adoption of SBDG in any buildings is entirely a commercial decision of the developers, such requirement will be included in the lease conditions of new land sale sites or lease modifications/land exchanges. It is anticipated that the general wind environment of the city would be improved in the long run when the number of redeveloped buildings following SBDG increases gradually.

(b) Relying on SBDG alone, however, would not be sufficient to ensure good air ventilation at the district level as concerned building design measures are drawn up on the basis of and confined to individual development sites. The beneficial effect could be localised and may not have taken into account the need of a wider area (e.g. building setback may not be aligned or building separation may not be at the right location to enhance air flow). Hence, incorporating air ventilation measures (such as NBA/BG/ SB) at strategic locations on the OZP to maintain major air paths or create inter-connected air paths of district importance is still considered necessary. Otherwise, provision of well-connected air paths of district importance which is important to such densely developed area with poor wind environment as Wan Chai could not be ensured.

(c) Wind penetration and circulation in the Area mainly follow the existing road networks and major open areas. The Wan Chai North area serves as one of the major wind entrances to the Area for the sea breezes from the north and the annual prevailing winds from the northern and eastern quarters. Wind would enter the Area via several major open areas like Wan Chai Sports Ground, Cross Harbour Tunnel portal, Fleming Road Garden and penetrate through the Area via the existing major roads in north-south alignment such as Fleming Road and Percival Street, as well as those in east-west alignment such as Gloucester Road, Hennessy Road and Leighton Road. For the annual and summer prevailing winds as well as valley winds from the eastern and southern quarters, the Happy Valley Recreation Ground to the southeast and the vegetated slopes to the south of the Area form the major wind entrance and the wind then penetrate through the Area via existing major roads like Canal Road East

& West, Morrison Hill Road and Percival Street, as well as the existing relatively low-rise GIC cluster at Morrison Hill. Some of the existing local streets in north-south alignment could also facilitate the wind circulation within the densely developed neighbourhood despite their limited widths.

(d) It is identified that the areas bounded by Hennessy Road to the north, Wan Chai Road to the east and Queen's Road East to the south are the problematic areas due to the higher development density with tall buildings and narrow streets. Under such high BH to street width (H/W) ratio, it is difficult for wind from the roof top level to reach the street level. Under such circumstances, BH alone ceases to be the key consideration for the pedestrian wind environment of the area. However, a general increase in BH for the commercial, mixed uses and residential sites on the OZP would further elevate the already high urban canopy created by tall buildings. A larger wind shadow would inevitably be created in the downstream areas. Yet, the adoption of SBDG's design measures within the Area in future would enhance building permeability, particularly around the low zone. Together with the existing and future wind penetration along major air paths following the road network and open areas, impact of the wind shadow on the pedestrian wind environment would be alleviated. Hence, relaxing the BHRs could allow flexibility for the incorporation of various design elements including SBDG.

(e) In general, to improve the wind environment at street level, widening of narrow streets, reducing ground coverage, improving permeability among buildings and developments and ensuring effective air paths of 15m wide would be more relevant. The measures recommended in SBDG are working towards this end and when implemented could serve the similar purposes. While it is ideal that the width of air paths can be as wide as possible, it is the prevailing practice that an effective air path should be at least 15m in width for wind penetration. Such principle is in line with the building setback and building separation requirements stipulated in SBDG. Notwithstanding, for densely developed area such as Wan Chai, widening of narrow streets at some locations, even with a final width of less than 15m, could still benefit not only the local pedestrian environment, but also the area in a wider context if the widening could be implemented collectively.

SB Requirements for Narrow Streets Perpendicular to Queen's Road East – to be maintained

(f) The south-western part of the Area between Johnston Road and Kennedy Road is identified as an area of concern in respect of air ventilation. Measures are required to provide and/or strengthen air passages. The current SB requirements along (i) Wing Fung Street/Anton Street, (ii) St. Francis Street/Gresson Street, (iii) Spring Garden Lane and (iv) Tai Yuen Street/Yen Wah Steps could widen the existing local air paths which also form part of the connected passages for penetration of south-southwest and southwest summer prevailing winds (**Plans 3, 3A to 3C**). While it is

preferable that existing air paths are widened to a minimum width of 15m, this would impose severe constraints on the future redevelopment of the sites along these narrow streets and, without the redevelopment, it would in turn hinder the implementation of the SB requirements. Taking into account the above practical situation, the current SB requirements for 1m to 2m from the lot boundary along these narrow streets are still considered essential to benefit not only the local pedestrian environment, but also the area in a wider context.

NBA at the junction of Oi Kwan Road and Tak Yan Street

(g) The NBA at the junction of Oi Kwan Road and Tak Yan Street is essential as it would provide a connected air path facilitating penetration of winds from the south and sea breezes from the north between Morrison Hill area and Gloucester Road via Tonnochy Road and Tak Yan Street (**Plans 3 and 3D**). The NBA should be retained as it is beneficial to the district-wide wind environment.

NBAs and BGs between Fleming Road and Stewart Road

(h) The NBAs designated along the eastern and western boundaries of the Ex-Wan Chai Police Station site, Ex-Wan Chai Police Married Quarter site and BGs imposed on the eastern and western boundaries of Lockhart Road Municipal Services Building site and the eastern boundary of Hennessy Road Government Primary School site can break up the line of building blocks along those streets upon redevelopment to facilitate some penetration of sea breeze and localised air movement. However, these NBAs and BGs are quite narrow and the wind entrance to these air paths has been partially blocked by the existing high-rise developments in the north (e.g. China Resources Building and Causeway Centre). They may not be able to serve as district air paths in the Area. There are alternative building design measures under SBDG (e.g. ventilated communal gardens) that could serve similar air ventilation purpose for the locality. Consideration should also be given to incorporate effective building design measures such as minimisation of podia, greater building permeability and suitable building disposition, etc. in the future development/redevelopments at the Ex-Wan Chai Police Married Quarters site, Lockhart Road Municipal Services Building site and Hennessy Road Government Primary School site to facilitate wind penetration in the north-south direction.

BG to the north of Ruttonjee Hospital

(i) The BG above 19mPD designated to the north of Ruttonjee Hospital (i.e. parts of sites at 93-99 and 101 Wan Chai Road) is narrow and elevated, and it does not fully align with Fleming Road, which is one of the major air paths in the Area (**Plans 3 and 7**). Hence, its effectiveness for wind penetration is rather limited. Alternatively, the objective of having better permeability along the street block for air movement could similarly be met by incorporation of measures under SBDG. Hence, it can be deleted.

Proposed Revisions to Air Ventilation Measures

7.2 Based on the above findings as detailed in paragraph 7.1(a) to (i) above, the air ventilation measures on the OZP are proposed to be revised as follows **(Plans 5 and 7)**:

(a) to delete the NBAs along the eastern and western boundaries of the "OU (Historical Building Preserved For Hotel, Commercial, Community and/or Cultural Uses)" zone and along the eastern and western boundaries of the "C(4)" zone;

(b) to delete the BG requirements along the eastern and western boundaries of the "G/IC" zone (Lockhart Road Municipal Services Building) between Stewart Road and Fleming Road, and along the eastern boundary of the "G/IC" zone between Hennessy Road and Thomson Road; and

(c) to delete the BG requirement at the "R(A)" sites at 93-99 and 101 Wan Chai Road to the north of Ruttonjee Hospital.

8. Urban Design and Visual Consideration

8.1 In formulating the proposed BHRs, as mentioned in paragraph 5 above, the broad urban design principles set out in the Urban Design Guidelines under the Hong Kong Planning Standards and Guidelines (HKPSG) have been taken into account. These include compatibility of the BH profile with the surroundings and preserving the views to ridgelines/mountain backdrops and harbour from the strategic vantage points/important public viewing point. As demonstrated in the Visual Appraisal (**Annex F2**), with the proposed relaxation of BHRs, the resultant BH profile would not affect the ridgelines and mountain backdrops of Mount Cameron, Mount Nicholson, Mount Gough and The Peak. Though the building bulk of the future redevelopments near the waterfront with the relaxed BHR would be greater, blocking part of the view to harbour from Stubbs Road Lookout Point, it is still considered not incompatible in scale with the surroundings comprising mainly compact and mixed high-rise developments of varying BHs and forms as illustrated in **Plans 9, 9A to 9E**. Moreover, the visual impact in particular on the view to harbour from Stubbs Road Lookout Point has been minimised by maintaining a BHR of 110mPD for the "C" sites bounded by Tonnochy Road/Hennessy Road/Percival Street/Gloucester Road as mentioned in paragraph 6.2(b) above.

8.2 In the long term, the BH profile of the area will mainly follow the BHRs on the OZP, except for those existing and committed developments (such as approved building plans) already exceeding the respective BHRs. When assessing the propensity of redevelopment, developments having fewer number of storeys and therefore smaller number of units would more likely undergo ownership assembly. Besides, older buildings would have a greater opportunity for redevelopments (especially for sites that have not been fully developed to the maximum development potential). As such, developments with a building age of 30 years or over and with a BH of 15 storeys or below are assumed to have high redevelopment propensity. Hence, in order to illustrate the possible

maximum impact on the skyline of the Wan Chai area, sites which have high redevelopment propensity is assumed to be redeveloped up to the BHRs in the photomontages shown in **Plans 9, 9A to 9E**.

8.3 In reality, however, subject to the use, size, configuration and classification of individual sites and building design considerations, redevelopments may not be necessarily be built up to the maximum BH limit. In this regard, further sets of photomontages has been prepared to illustrate the possible visual impact of the proposed BHR relaxation for (i) if the redevelopments are built according to their individual BHs (i.e. rather than applying a unified BHR for all sites in preparing the photomontage) required for accommodating the SBDG requirement and the permissible intensity based on their site classification/considerations **(Plans 10A to 10E)** and (ii) if the "OU(MU)" sites are to be redeveloped into a mix of both commercial and residential developments based on the estimation of individual site's likelihood of redevelopment into these two uses **(Plans 11A to 11E)**.

9. Responses to Representations No. R34 and R97

9.1 To follow up on the court orders, Representations R34 and R97 have been re-examined with reference to the proposals set out in paragraphs 6 and 7 above, Court's rulings on the JRs and related appeals, and the prevailing circumstances of the representation sites.

9.2 **R34** (by the REDA) is a general representation mainly against the BHR/NBA/BG/SB requirements and the rezoning of "C/R" sites, whereas **R97** (by the LLT) is against the restrictions of specific sites within the "C" zone particularly to the sites of No. 77 Leighton Road (Leighton Centre) & No. 99 Percival Street (Lee Theatre Plaza) **(Plans 13, 13A and 13B)**.

9.3 The specific proposals raised by Representers include to delete the NBA, BG and SB requirements from the Plan **(R34)**; to relax the BHRs for the area north and south of Hennessy Road to generally 130mPD and 150mPD respectively **(R34)**; and to relax BHR of surrounding neighbourhood to 200mPD or relax the BHR of the Leighton Centre to 200mPD to reflect the approved building plans **(R97)** **(Plans 14A to 14E)**. Full set of the representations are at **Annexes G1 and G2**.

9.4 Under the current BHR relaxation proposals, the BHRs for commercial site to the north of Johnston Road/Wan Chai Road to the east of Tin Lok Lane (except the sites within the street blocks bounded by Gloucester Road, Percival Street, Hennessy Road and Tonnochy Road with BHR of 110mPD, and the site of Times Square with BHR of 200mPD) will generally be relaxed to 135mPD.

Representation No.	Representers' Specific Proposal	Current OZP Proposal
R34 (REDA)	• Relax the BHRs for the area north and south of Hennessy Road to generally 130mPD and 150mPD respectively	• BHR of 135mPD (relaxed from 130mPD) for the "C" sites bounded by Johnston Road in the south and Tonnochy Road in the east;

	• Delete NBA, SB and BG requirements	bounded by Hennessy Road in the north and Percival Street in the east; and sub-area (b) of "C(6)". BHR of 110mPD (relaxed from 80mPD) for the "C(4)" site. • BHR of 135mPD (relaxed from 110mPD) for the "OU(MU)" sites bounded by Wan Chai Road /Morrison Hill Road/ Canal Road West/ Hennessey Road. • NBA/BG requirements deleted for the row of four sites zoned "OU", "C(4)" and "G/IC" between Fleming Road and Stewart Road, and for the "R(A)" site to north of Ruttonjee Hospital. • NBA and SB requirements retained for street corner at the junction of Oi Kwan Road/Tak Yan Street and the narrow streets perpendicular to Queen's Road East respectively.
R97 (LLT)	• Relax BHR of the Leighton Centre/Lee Theatre Plaza and their surrounding neighbourhood to 200mPD or relax the BHR of the Leighton Centre to 200mPD to reflect the development as shown on the approved building plans	• BHR of 135mPD (relaxed from 130mPD) for the concerned "C" sites (including Leighton Centre/ Lee Theatre Plaza).

9.5 The relaxed BHRs have taken into account the SBDG requirements and permissible development intensity. There is no strong justification to further relax the BHR to 150mPD for the area to the south of Hennessy Road and to 200mPD for the commercial sites of Leighton Centre/Lee Theatre Plaza and their surrounding neighbourhood as it would result in the proliferation of excessively tall buildings and affect the view to harbour from Stubbs Road Lookout Point. The approved building plans could still be implemented subject to the provision of the Buildings Ordinance.

9.6 In relation to air ventilation measures, it has been explained in paragraph 7 above that the current SB requirements at the south-western part of the Area between Johnston Road and Kennedy Road and the NBA at the junction of Oi Kwan Road

and Tak Yan Street could enhance the air ventilation and are still required. These measures are to be retained for benefitting the pedestrian wind environment.

9.7 A summary of the representation grounds, including those related to issues other than BHRs and air ventilation measures, and the responses of the Planning Department (PlanD) in consultation with relevant government departments is at **Annexes H1 and H2**.

9.8 During the publication of the representations in 2010, two comments i.e. Commenter No. **C1 and C2** were received from Designing Hong Kong Limited and Mr. NG Yin Keung respectively opposing to Representations No. R34 and R97. **C1** does not contain any views on the specific matters raised in these representations. **C2** expresses the proposals made by **R34** and **R97** are solely for benefit of the private or individual company. The comments are at **Annexes G3 and G4**.

9.9 Should the Board agree to the proposed amendments to the OZP as detailed in paragraph 10 below, Representers No. **R34** and **R97** and Commenters No. **C1** and **C2** will be informed accordingly. Representers No. **R34** and **R97** may submit representations on the OZP for the Board's consideration under section 6 of the Ordinance if they so wish.

Proposed Amendments to OZP

10. Amendments to Matters Shown on the Plan

10.1 Based on paragraphs 6 and 7 above, the following amendments to matters shown on the draft Wan Chai OZP No. S/H5/27A **(Annex B1)** are proposed:

Item A – Revision of the BHR for the "C" zones bounded by Johnston Road in the south and Tonnochy Road in the east, and the "C" zone bounded by Hennessy Road in the north and Percival Street in the east from 130mPD to 135mPD;

Item B – Revision of the BHR for the "C(4)" zone at Jaffe Road/Lockhart Road from 80mPD to 110mPD;

Item C – Revision of the BHR for the sub-area (b) of the "C(6)" zone at Wing Fung Street from 120mPD to 135mPD;

Item D – Revision of the BHR for the "OU(MU)" zone bounded by Wan Chai Road/Morrison Hill Road/Canal Road West/Hennessey Road from 110mPD to 135mPD;

Item E1 – Revision of the BHR for the "R(A)" zone to the south of Queen's Road East from 100mPD to 110mPD;

Item E2 – Revision of the BHR for the "R(A)" zone at 21-23A Kennedy Road from 120mPD to 140mPD;

Item E3 – Revision of the BHR for the "R(B)" zone at Monmouth Terrace from 140mPD to 150mPD;

Item E4 – Revision of the BHR for the "R(A)" and "R(A)5" zones at Oi Kwan Road from 90mPD to 110mPD;

Item F1 – Deletion of the NBA requirements to the two sides of the "OU (Historical Building Preserved for Hotel, Commercial, Community and/or Cultural Uses)" zone at Gloucester Road/Jaffe Road and stipulation of BHR of 4 storeys for the area concerned;

Item F2 – Deletion of the NBA requirements to the two sides of the "C(4)" zone at Jaffe Road/Lockhart Road and stipulation of BHR of 110mPD for the area concerned;

Item G1 – Deletion of the BG requirement to the two sides of the "G/IC" zone of Lockhart Road Municipal Services Building at 225 Hennessy Road and revision of the BHR from 19mPD to 12 storeys for the area concerned;

Item G2 – Deletion of the BG requirement to the side of the "G/IC" zone of Hennessy Road Government Primary School at 169 Thomson Road and revision of the BHR from 19mPD to 8 storeys for the area concerned; and

Item G3 – Deletion of the BG requirement to the "R(A)" zone at parts of sites at 93-99 and 101 Wan Chai Road and revision of the BHR from 19mPD to 110mPD for the area concern.

11. Amendments to the Notes of the OZP

11.1 Amendments to the Notes are proposed as follows:

NBA/BG

(a) Deletion of the Remark under "C" zone relating to the provision of the NBA of the site of "C(4)" at Jaffe Road/Lockhart Road;

(b) Deletion of the Remark under "R(A)" zone relating to the provision of BG to the parts of sites at 93-99 and 101 Wan Chai Road;

(c) Deletion of the Remark under "G/IC" zone requiring the provision of BG to parts of the Lockhart Road Municipal Services Building at 225 Hennessy Road and Hennessy Road Government Primary School at 169 Thomson Road;

(d) Deletion of the Remark under "OU(Historical Building Preserved For Hotel, Commercial, Community and/or Cultural Uses)" at Gloucester Road/Jaffe Road requiring the provision of NBA; and

Clarification of GFA/PR Exemption Clause

(e) Revisions to the exemption clause on maximum GFA/PR in the Remarks for the "R(C)" zone to clarify that exemption of caretaker's quarters and recreational facilities are only applicable to those facilities for the use and benefit of all the owners or occupiers of the domestic building or domestic part of the building.

11.2 The proposed amendments to the Notes of the OZP (with additions in ***bold and italics*** and deletions in 'cross-out') are at **Annex B2** for Members' consideration.

12. Revision to the Explanatory Statement of the OZP

The ES of the OZP is proposed to be revised to take into account the proposed amendments as mentioned in the above paragraphs. Opportunity has been taken to update the general information for various land use zones to reflect the latest status and planning circumstances. The proposed amendments to the ES of the OZP (with additions in ***bold and italic*** and deletions in 'cross-out') are at **Annex B3** for Members' consideration.

13. Plan Number

Upon exhibition for public inspection, the Plan will be renumbered as S/H5/28.

14. Consultation

Departmental Consultation

14.1 The proposed amendments to the draft Wan Chai OZP No. S/H5/27 have been circulated to relevant government bureaux and departments for comment. Representations No. **R34 and R97** have also been circulated to relevant bureaux and departments for re-examination.

14.2 The following government bureaux and departments have no objection to or no adverse comments on the proposed amendments and representations:

(a) Planning Unit, Development Bureau;
(b) Harbour Unit, Development Bureau;
(c) District Lands Officer/Hong Kong East of Lands Department;
(d) Comments of the Commissioner for Transport
(e) Chief Building Surveyor/Hong Kong East and Heritage Unit of Buildings Department
(f) Chief Highway Engineer/Hong Kong, Highways Department (HyD);
(g) Major Works Project Management Office, HyD;
(h) Chief Engineer/Railway Development 2-2, Railway Development Office, HyD;
(i) Commissioner of Police;

(j) Chief Engineer/Hong Kong & Islands, Drainage Services Department;
(k) Chief Engineer/Construction, Water Supplies Department;
(l) Project Manager (Hong Kong Island & Islands), Civil Engineering and Development Department (CEDD);
(m) Chief Engineer/Land Works, CEDD;
(n) Head of Geotechnical Engineering Office, CEDD;
(o) Direct of Fire Services;
(p) Chief Architect/Central Management Division 2, Architectural Services Department;
(q) Director of Electrical and Mechanical Services;
(r) Director of Food and Environmental Hygiene;
(s) Director of Agriculture, Fisheries and Conservation;
(t) Director of Leisure and Cultural Services;
(u) Antiquities and Monuments Office;
(v) Chief Town Planner/Urban Design and Landscape of PlanD; and
(w) District Officer (Wan Chai), Home Affairs Department.

Consultation with Wan Chai District Council and Public Consultation

14.3 The proposed amendments to the OZP are mainly a follow up consequential to the Court's rulings on the JRs and related appeals in respect of the draft Wan Chai OZP No. S/H5/26. Subject to agreement of the proposed amendments by the Board for gazetting under section 7 of the Ordinance, the Wan Chai District Council will be consulted during the two-month statutory plan exhibition period. Members of the public can submit representations on the OZP to the Board during the same statutory plan exhibition period.

15. Decision Sought

Members are invited to:

(a) agree to the proposed amendments to the draft Wan Chai OZP and that the draft Wan Chai OZP No. S/H5/27A (**Annex B1**) (to be renumbered as S/H5/28 upon exhibition) and its Notes (**Annex B2**) are suitable for exhibition under section 7 of the Ordinance; and

(b) adopt the revised ES at **Annex B3** for the draft Wan Chai OZP No. S/H5/27A as an expression of the planning intentions and objectives of the Board for the various land use zonings of the OZP and the revised ES will be published together with the draft OZP.

Attachments

Annex A1 & A1a	Draft Wan Chai OZP No. S/H5/26 (reduced to A3 size) together with Schedule of Amendments to the approved Wan Chai OZ No. S/H5/25
Annex A2 & A2a	Amendment Plan No. R/S/H5/26–A2 together with Schedule of Amendments
Annex A3 & A3a	Draft Wan Chai OZP No. S/H5/27 (reduced to A3 size) together with Schedule of Amendments to the draft Wan Chai OZ No. S/H5/26

Annex B1	Draft Wan Chai OZP No. S/H5/27A
Annex B2	Revised Notes for the draft Wan Chai OZP No. S/H5/27A
Annex B3	Revised Explanatory Statement for the draft Wan Chai OZP No. S/H5/27A
Annex C1	APP-151 "Building Design to Foster a Quality and Sustainable Built Environment"
Annex C2	APP-152 "Sustainable Building Design Guidelines" (SBDG)
Annex D	Implications of SBDG on Building Profile
Annexes D1a & D1b	Illustration on Implications of SBDG
Annex D2	Basic Building Profile – Commercial Building
Annex D3	Basic Building Profile – Composite Building
Annex E1	Assessment of Building Height – Commercial Sites in Wan Chai (Building Height Restriction (BHR) to be relaxed to 135mPD)
Annex E2	Assessment of Building Height – Commercial Sites in Wan Chai (BHR to be maintained at 110mPD)
Annex E3	Assessment of Building Height – Mixed Use Sites in Wan Chai
Annex E4	Assessment of Building Height – Residential (Group A) Sites in Wan Chai
Annex E5	Assessment of Building Height – Residential (Group B) Sites in Wan Chai
Annex F1	Air Ventilation Assessment by Expert Evaluation (2018)
Annex F2	Visual Appraisal
Annexes G1 & G2	Representation No. 34 and Representation No. 97
Annexes G3 & G4	Comment No. C1 and Comment No. C2
Annexes H1 & H2	Summary of Representations and Responses to Representation No. 34 and Representation No. R97
Annex J1	TPB Paper No. 8764 for Consideration of Group 1 Representations and Comments to Draft Wan Chai OZP No. S/H5/26 (Paper, Annex V and Plans only)
Annex J2	Extract of the Confirmed Minutes of the TPB Meeting on 26.4.2011

Plan 1	Aerial Photo of Wan Chai
Plan 2A	Current Building Height Restrictions
Plan 2B	Building Height Restrictions imposed in 2010
Plan 3	Current Non-building Area, Building Gap and Setback Requirements
Plan 3A	Site Plan of Set-Back Requirement at Wing Fung Street/Anton Street
Plan 3B	Site Plan of Set-Back Requirement at St. Francis Street/Gresson Street
Plan 3C	Site Plan of Set-Back Requirement at Spring Garden Lane/Tai Yuen Street/Yen Wah Steps/Wan Chai Gap Road
Plan 3D	Site Plan of Non-Building Area at Oi Kwan Road
Plans 3E to 3H	Site Photos of Current Non-building Area, Building Gap and Setback Requirements
Plan 4	Sites with Building Height Restrictions under Review
Plan 5	Proposed Building Height Restrictions
Plan 6	Photomontages of "C" sites (110mPD/135mPD) and "OU(MU)" sites (135mPD) from Stubbs Road Lookout Point
Plan 7	Proposed Deletion of Non-building Area and Building Gap Requirements
Plan 8	Consolidated Proposals of Development Restrictions
Plan 9	Viewing Points for Photomontages

Plans 9A to 9E	Photomontages of Building Height Profile Based on Maximum Building Height Limit
Plans 10A to 10E	Photomontages of Building Height Profile Based on Site Classification
Plans 11A to 11E	Photomontages of Building Height Profile with Mixed Commercial and Residential Developments
Plans 12A and 12B	Illustrations of Potential Commercial Development at Jaffe Road
Plans 13, 13A and 13B	Location Plan, Site Plan and Photos Representations No. R34 and R97 and C1 and C2
Plans 14A to 14E	Proposed Building Heights submitted by Representers No. R34 and R97

PLANNING DEPARTMENT
APRIL 2018

香港地產建設商會
THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG
香港中環德輔道中19 號環球大廈1403 室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

18 April 2019

The Secretary
Town Planning Board
15/F North Point Government Offices
333 Java Road
North Point
Hong Kong

Attention: Mr. Raymond Kan

Dear Sir

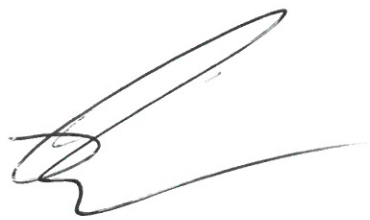
Representation No. R2 in Relation to the Amendments shown on the Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26

Supplementary Information (2019)

I refer to the TPB letter dated 20 February 2019 related to the draft Ngau Tau Kok and Kowloon Bay OZP No. S/K13/26 (the OZP). The letter made reference to a TPB Paper No. 10515 which further reviews the development restrictions shown on the OZP by conducting an updated Air Ventilation Assessment (AVA).

It is considered that the TPB Paper has neither addressed the issues nor responded to main points of the court judgements included in our Supplementary Information submitted in 2018, except for including an updated AVA. REDA therefore considers that this review fails to respond to the judgement of the Court. For more details, please refer to the enclosed Supplementary Information.

Yours sincerely



Louis Loong,
Secretary General

Representation No. R2
in Relation to the Amendments shown on the
Draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26

The Real Estate Developers Associations of Hong Kong (REDA)

Supplementary Information (2019)

1 Introduction

1.1 This Supplementary Information (SI 2019) is related to the representation (Representation No. R2) made to the draft Ngau Tau Kok and Kowloon Bay Outline Zoning Plan, Plan No. S/K13/26 (OZP 26) back in 2011.

1.2 R2 opposed to the imposition of Building height Restrictions (BHR's), Non-building Areas (NBAs) and Building Gaps (BGs) shown on OZP 26. None of the points of the representation were up-held by the Town Planning Board (TPB, the Board). REDA filed a Judicial Review (JR) of the TPB's decisions in 2011. The Court of First Instance (CFI) remitted the OZP to the TPB for reconsideration in 2015.

1.3 Before the rehearing of R2, TPB Paper No. 10397 (Paper 10397) dated 9 March 2018 was prepared to review the planning restrictions imposed on OZP 26, and REDA was invited to submit supplementary information.

1.4 After reviewing Paper 10397, REDA made a submission on 28 May 2018 (SI 2018). In the SI, REDA raised a number of concerns which were not addressed in the paper and considered that it was premature for the Board to re-consider R2.

1.5 Another review paper, namely, TPB Paper No. 10515 dated 25 Jan 2019 was issued (Paper 10515). This submission has reviewed the paper and provides supplementary information to R2.

2 Inadequacies of The TPB Paper No. 10515

2.1 Paper 10515 states that its purpose is to further review the planning restrictions. However, this paper has neither addressed the issues nor responded to the main points of the court judgements included in SI 2018, except for including an updated Air Ventilation Assessment Expert Evaluation (AVA 2019). REDA therefore

considers that this review even with an updated AVA fails to respond to the judgement of the Court. This will be discussed in the following paragraphs.

3 AVA 2019, Two Scenarios but No Alternative Options

3.1 According to the report of AVA 2019, assessment for two scenarios has been undertaken:

1. The Baseline Scenario: This is the scenario of the OZP 29, with planning restrictions of NBA's and BG's same as those introduced on OZP 26 and were recommendations of AVA 2010.

2. The Initial Scenario: In terms of the planning restrictions of the planning area, they are same as OZP 29. This scenario also takes account of the anticipated changes which might be brought about by the Preliminary Outline development Plan (PODP) of Kowloon Bay Action Area (KBAA) which is located south of the Kowloon Bay Business Area (KBBA).

3.2 The AVA has explored two scenarios. However, the planning restrictions already shown on OZP are exactly the same under the two scenarios. No alternative options as suggested by REDA of the planning restrictions have been explored.

4 Not Follow the Directives of Court

4.1 The Oriental Generation Limited (OGL) court judgement which relates to the Kai Tak Mansion site criticised the AVA 2010 in that it did not explore other options to improve air ventilation. This has been stated in Para 5.7(2) of SI 2018.

4.2 Therefore, at the outset, the methodology of the AVA 2019 is fundamentally flawed and does not comply with the judgement of the court.

5 Forgo Opportunity of Adjusting Unreasonable Height Profile of the Planning Area

5.1 All along, stepped height profile has been generally adopted in various parts of the SAR. However, in this planning area, the height profile is like a deep valley. Taking a cross section from the KBBA to Choi Ha Estate and Choi Fook Estate, the waterfront KBBA is generally of BHR of 120mPD to 170mPD, Telford Gardens and Telford Plaza (60mPD and 100mPD), Amoy Gardens (120mPD), Choi Ha Estate (140mPD) and Choi Fook Estate (170mPD).

5.2 The updated AVA should have assessed the wind performance of the option with more relaxed BHRs for Telford Gardens and Telford Plaza, such as 100mPD and 120mPD. These BHR's were proposed by REDA in R2.

6 Forgo Opportunity of Reinforcing a Landmark Focal Point around the MTR Station

6.1 As stated above, the Telford Gardens and Telford Plaza are imposed with the most stringent BHR's, more or less reflecting the existing building heights. The imposition of the BHR's has totally ignored the important location of the sites which are immediately adjacent to the MTR Station and connect the KBBA and the residential areas east of Kwun Tong Road. The site is a focal point of the planning area and has the potential to be further enhanced if more relaxed BHRs are adopted. More relaxed BHRs would mean less towers, thereby freeing up more space on ground or podium level depending on future design of redevelopment. If this is done, there would be no need to impose the very rigid and extensive BGs at 22mPD on the area.

6.2 Furthermore, freeing up the space offers opportunities for better pedestrian circulation, landscaping, passive and leisure function as well as for holding special festival/cultural events. This would reinforce the focal point function around the MTR Station. It would also encourage redevelopment.

6.3 The AVA 2019 has neither explored the air ventilation performance of the proposed option for the Telford Gardens and Telford Plaza put forward by REDA nor any other option. The opportunity of improving this special area is not being grasped.

7 Expert View defies Comprehension

7.1 Taking the Mega Box Site as an example, AVA 2019 justifies the 15m wide BGs at 22mPD by providing a simple figure showing the flow of wind and states that there would be a wake area in the leeward side. Is this really the case even with two big open spaces and a wide road in the immediate vicinity of the site? The statement made by the Expert defies comprehension. The Expert only focuses on the blockage of wind by the slab of building but has ignored the wind that could flow through adjacent space.

7.2 There is also no evidence that the imposition of the planning restrictions on the Mega Box site had undertaken the four-step proportionality analysis stated under the Hysan case. (Please refer para 5.16 of SI 2018)

8 Conclusions

8.1 The TPB review papers have totally ignored site characteristics, urban design considerations and the flexibility that the development industry needs to respond to market changes.

8.2 The concerns raised in the SI 2018 have not been properly responded. The AVA 2019 has neither explored alternative planning restrictions imposed on the sites of the planning areas, nor undertaken proportionality analysis to balance the impacts on private property rights against public benefits, a step which should been taken before planning restrictions are imposed on the sites. This is against the court judgements.

8.3 Are the planning restrictions something good to have or are they really necessary for the wind conditions of the planning area? AVA 2019 appears to have been used as a tool to justify the unnecessary stringent controls.

The Real Estate Developers Association of Hong Kong
April 2019