

**CONSIDERATION OF FURTHER REPRESENTATIONS
 NO. F1 TO F45 AND F50 TO F70 ON PROPOSED AMENDMENTS TO
 THE DRAFT CENTRAL DISTRICT OUTLINE ZONING PLAN NO. S/H4/17
 ARISING FROM THE CONSIDERATION OF REPRESENTATIONS AND
COMMENTS ON THE DRAFT OUTLINE ZONING PLAN**

Subject of Further Representations	Further Representers (No. TPB/R/S/H4/17-)
<p><u>Item A</u> Revision to the building height restriction (BHR) stipulated for the northern portion of “Government, Institution or Community (1)” (“G/IC(1)”) zone at the Hong Kong Sheng Kung Hui Compound (HKSKH Compound) at Lower Albert Road from 135mPD to 80mPD.</p> <p><u>Amendments to the Notes of the Outline Zoning Plan (OZP)</u> Revision to the Remarks of the Notes for the “G/IC” zone by adding a requirement specifying that on land designated “G/IC(1)”, any new development or redevelopment of existing building(s) requires permission from the Town Planning Board (the Board/TPB) under section 16 of the Town Planning Ordinance (the Ordinance).</p>	<p>Total: 66</p> <p><u>Oppose (30)</u> F1: Hong Kong Sheng Kung Hui Foundation (HKSKH) F2 to F30: Individuals</p> <p><u>Support (15)</u> F31: Central and Western District Council (C&WDC) Member CHEUNG Kai Yin F32: C&WDC Member YIP Kam Lung Sam F33: C&WDC Member LEUNG Fong Wai Fergus F34 to F45: Individuals</p> <p><u>Providing Views (21)</u> F50 to F70: Individuals</p>

Note: The names of all further representers are attached at **Annex III**. Soft copy of their submissions is sent to the TPB Members via electronic means; and is also available for public inspection at the TPB’s website at https://www.info.gov.hk/tpb/en/whats_new/Website_S_H4_17.html. A set of hard copy is deposited at the TPB Secretariat for Members’ inspection and the Planning Enquiry Counters of the Planning Department (PlanD) in North Point and Sha Tin for public inspection.

1. Introduction

1.1 On 24.5.2019, the draft Central District OZP No. S/H4/17 was exhibited for public inspection under section 5 of the Ordinance. The amendments mainly involve rezoning of the HKSKH Compound at Lower Albert Road from “G/IC” to “G/IC(1)” with stipulation of BHRs of 135mPD (northern portion) and 80mPD (southern portion). Amendments were also made to the Notes of the “G/IC” zone to set out the restrictions applicable to the “G/IC(1)” zone together with a minor

relaxation clause. During the two-month exhibition period, a total of 33 valid representations were received. On 6.9.2019, the representations were published for public comments for three weeks and a total of 22 valid comments were received.

- 1.2 After considering the representations and comments under section 6B(1) of the Ordinance, the Board decided on 6.12.2019 to partially uphold 30 representations (**R1 to R30**) by proposing amendment to the BHR stipulated for the northern portion of the concerned “G/IC(1)” zone from 135mPD to 80mPD (**Amendment Item A**), and the Notes of the OZP to require planning permission from the Board under section 16 of the Ordinance on any new development or redevelopment of existing building(s) on land designated “G/IC(1)” zone (i.e. the HKSKH Compound, which hereinafter is referred as the further representation (FR) site (**Plan FH-1**)). The relevant TPB Paper No. 10599 and the minutes of the TPB meeting are deposited at the Board’s Secretariat for Members’ inspection. They are also available at the Board’s website¹. On 10.1.2020, the Board considered and agreed to the wording of the proposed amendments and that the proposed amendments were suitable for publication for FR under section 6C(2) of the Ordinance.
- 1.3 On 13.3.2020, the proposed amendments to the draft OZP No. S/H4/17 were exhibited for public inspection under section 6C(2) of the Ordinance. A copy of the Schedule of Proposed Amendment, Amendment Plan No. R/S/H4/17-A1 and Proposed Amendments to the Notes and Explanatory Statement (ES) of the draft OZP is attached at **Annex I**. Upon expiry of the three-week exhibition period which ended on 3.4.2020, a total of 70 FRs were received, including one from HKSKH (i.e. **F1**) which also lodged a judicial review (JR) in respect of the proposed amendments on 26.3.2020 as detailed in paragraph 2.9 below.
- 1.4 Among the 70 FRs, four (**F46 to F49**) were submitted by the original commenters that had made comments on the representations which were partially upheld by the Board. On 22.5.2020, the Board decided that **F46 to F49** were considered invalid and should be treated as not having been made under section 6D(1) of the Ordinance². The Board also decided to hear the remaining 66 valid FRs (i.e. **F1 to F45** and **F50 to F70**) collectively in one group as they were all related to the proposed amendment item.
- 1.5 This paper is to provide the Board with information for the consideration of the valid FRs. A summary of the FRs with PlanD’s responses, in consultation with the concerned government departments, is at **Annex II**. The location of the FR site is shown on **Plan FH-1**.
- 1.6 In accordance with section 6F(3) of the Ordinance, the original representers/commenters who have made representations/comments on which the

¹ TPB Paper No. 10599 and the minutes of the TPB meeting are available at the Board’s website at https://www.info.gov.hk/tpb/en/whats_new/Website_S_H4_17.html and https://www.info.gov.hk/tpb/en/meetings/TPB/Minutes/m1214tpb_e.pdf respectively.

² Pursuant to section 6D(1) of the Ordinance, any person, other than that who has made any representation or comment and after consideration of which the proposed amendments have been made, may make FR to the Board in respect of the proposed amendments.

proposed amendments have been made and the further representers (i.e. **F1 to F45** and **F50 to F70**) have been invited to the meeting.

2. **Background**

Preservation-cum-development Proposal of HKSKH

- 2.1 A preservation-cum-development project was proposed for the HKSKH Compound (i.e. the FR site) as one of the eight projects under the “Conserving Central” initiative announced by the Chief Executive in the 2009-10 Policy Address. The Chief Executive in Council (CE in C) approved the land lease modification of the HKSKH Compound in 2011 to facilitate the implementation of the said project. According to the proposal, HKSKH would preserve all four historic buildings within the HKSKH Compound, namely the Bishop’s House (Grade 1), the Old Sheng Kung Hui (SKH) Kei Yan Primary School (Grade 2) at the northern portion, the St. Paul’s Church (Grade 1), and the Church Guest House (Grade 1) at the southern portion of the HKSKH Compound (**Plan FH-2b**). The other existing buildings would be replaced by new ones (with building height (BH) of 108mPD at the northern portion and 103mPD at the southern portion) to provide the needed space for HKSKH’s religious and community services as well as a medical centre.
- 2.2 Having taken into account the relocation of a public hospital (i.e. Alice Ho Miu Ling Nethersole Hospital) to another district and the growing population arising from developments in the Central and Western District in recent years, HKSKH revisited the project and decided to build a non-profit-making private hospital within the northern portion of the FR site (hereinafter referred as HKSKH’s proposal). The aim is to provide the community, particularly residents in the Central and Western District, with alternative healthcare services other than the public ones. The proposed hospital will be of 25 storeys high (including three levels of basement) up to 134.8mPD, with a total gross floor area (GFA) of about 46,659m² providing 293 beds. With a view to conserving the historic buildings, the new hospital block can only be built basically upon the site of what was once the Hong Kong Central Hospital (HKCH). The three Grade 1 historic buildings will be fully preserved, while the facades of the Old SKH Kei Yan Primary School will be retained and its interior altered slightly and appropriately as necessary. HKSKH has also agreed to open up the HKSKH Compound, which is not open to the public currently. As advised by the Commissioner for Heritage’s Office (CHO) and the Antiquities and Monuments Office (AMO), from the heritage conservation perspective, the treatments to the four graded historic buildings are commensurate with their heritage value.
- 2.3 HKSKH has been exchanging views with the C&WDC since 2013 on the latest proposal. Members of C&WDC generally supported the proposal of developing a non-profit-making private hospital whilst some individual members raised comments on the design of the new buildings and traffic arrangements. HKSKH also consulted the Antiquities Advisory Board (AAB) on its proposal in June 2018 and obtained AAB’s general support for the proposal, with individual members offering comments on the design of the hospital and the conservation proposal of the four historic buildings. Separately, the Food and Health Bureau (FHB) has confirmed its policy support for the proposed hospital upon HKSKH’s acceptance of the minimum requirements, which include, inter alia, a minimum number of 274

hospital beds (which in turn has implications on the necessary GFA), set out by FHB. Already at a very advanced stage of developing the proposal and in view of the great demand for healthcare services from the community, HKSKH is in the process of finalising the detailed design and technical assessments and intended to proceed with the development upon completion of the land lease modification.

Section 12A application submitted by the Government Hill Concern Group

- 2.4 On 10.8.2018, the Board considered a s.12A application (No. Y/H4/12) submitted by the Government Hill Concern Group proposing to rezone the HKSKH Compound and a number of other sites in the area occupied by Government House, Former Central Government Offices, Former French Mission Building, St. John's Cathedral and Battery Path in Central, from "G/IC" to "Other Specified Uses" ("OU") annotated "Heritage Precinct" or "G/IC(1)" and to stipulate BHRs for the zone in terms of mPD or number of storeys, or restrict any development to the height of the existing building³. According to the applicant, the main purpose of the s.12A application was to protect the historical significance of the area.
- 2.5 Members of the Board had a thorough deliberation on the existing development control mechanism for heritage conservation, the Board's role in heritage conservation, HKSKH's private property rights, public consultation process for the HKSKH's proposal, the need for private hospital and the urban design aspect of the HKSKH's proposal. Members of the Board considered that the existing mechanism through the AAB was adequate in heritage conservation and the Board's scrutiny or interference on the heritage conservation aspect might not be necessary. Members also generally did not agree with the Government Hill Concern Group's proposal to restrict the BH of any new development to the height of existing building within the application site and considered that preservation of privately owned historic buildings without regard to private property rights would not be in line with the Government's heritage conservation policy. After deliberation, the Board decided not to agree to the application.
- 2.6 Whilst not agreeing with the s.12A application, Members were generally concerned about the urban design aspect of HKSKH's proposal and considered some form of planning control was necessary. The Board thus requested PlanD to consider suitable amendment to the OZP to ensure that the urban design aspect of any redevelopment proposal on the HKSKH Compound would be given due consideration under the planning regime.

Amendments to the Approved Central District OZP No. S/H4/16

- 2.7 To follow up the Board's decision, PlanD prepared two BHR options for the HKSKH Compound after taking into account the BH profile of the site, the surrounding site context, the BHRs currently in force in the surrounding area, the HKSKH's proposal, the heritage conservation implication and visual impact of the BHRs, and Members' concern on urban design aspect of the HKSKH Compound redevelopment proposal. The two options included stipulating a BHR of 135mPD and 80mPD (Option 1) and a BHR of 120mPD and 80mPD (Option 2) for the

³ Under the s.12A application, the proposed BHR for the "OU" annotated "Heritage Precinct" zone is the height of the existing building, while for the "G/IC(1)" zone, the applicant proposed to stipulate BHR in terms of mPD or number of storeys, or restrict any development to the height of the existing building.

northern and southern portion of the HKSKH Compound respectively. Under both options, the proposed BHR of 80mPD for the southern portion of the HKSKH Compound was to reflect the maximum BH of the existing buildings therein and to maintain the current BH profile along this section of Upper Albert Road having regard to the surrounding site context and open public views from the Hong Kong Zoological and Botanical Gardens across the road. Under Option 1, the proposed BHR of 135mPD for the northern portion of the HKSKH Compound for the proposed hospital development was comparable with the BHRs of the surrounding areas, ranging from 120mPD to 150mPD. Noting that HKSKH's proposal was already at a very advanced stage, Option 1 would enable HKSKH's hospital development to proceed as planned and facilitate early implementation of the proposed development to provide the much-needed healthcare services to the community, while giving the planning regime the locus to gatekeep based on the prescribed BHRs. For Option 2, the BHR of 120mPD for the northern portion would be an extension of the existing BHR covering the area along Wyndham Street to the west of Glenealy on the Sai Ying Pun and Sheung Wan OZP and would also be compatible with the existing BHs along Ice House Street to the north and northeast of the HKSKH Compound.

- 2.8 On 10.5.2019, the Board considered the two BHR options presented in TPB Paper No. 10536⁴. After deliberation, the Board decided to adopt Option 1 as the basis for amending the Central District OZP. On 24.5.2019, the draft Central District OZP incorporating the amendments was exhibited for public inspection as detailed in paragraph 1.1 above.

Judicial Review

- 2.9 On 26.3.2020, a JR was lodged by HKSKH against the Board's decision on 6.12.2019 to propose amendments to the draft OZP to partially meet some of the representations and the Board's decision on 10.1.2020 to confirm the wording of the proposed amendments for publication for FR (paragraph 1.2 above). The Court granted leave for the JR application on 1.4.2020 while dismissing on 16.4.2020 the HKSKH's application for interim stay of the two said decisions or alternatively the Board's consideration of FRs. The date of the substantive hearing of the JR is yet to be fixed.

3. The FR Site and its Surrounding Areas

3.1 The FR Site and its Surrounding Areas (Plans FH-1 to FH-4b)

- 3.1.1 The HKSKH Compound, the FR site, is the entire HKSKH Compound, which is bounded by Lower Albert Road and Ice House Street to the north/northeast, the Government House to the southeast, Upper Albert Road and Albany Road to the south and Glenealy to the west. The FR site is a sloping site with the lowest site level at 30.5mPD near Lower Albert Road and the highest site level at 62.5mPD near Upper Albert Road.

⁴ TPB Paper No. 10536 is available at the Board's website at https://www.info.gov.hk/tpb/en/papers/TPB/1200-tpb_10536.pdf

- 3.1.2 The BHs and gradings of the existing buildings within the FR site (**Plan FH-2b**) are as follows:

Northern Portion

- (a) Bishop's House (**Grade 1**) (51.6mPD);
- (b) Old SKH Kei Yan Primary School (**Grade 2**) (51mPD);
- (c) Hong Kong Central Hospital (60.3mPD);
- (d) HKSKH Welfare Council (52.3mPD);
- (e) HKSKH Ming Hua Theological College (60.2mPD); and
- (f) SKH Kindergarten (59.6mPD);

Southern Portion

- (g) St. Paul's Church (**Grade 1**) (54.9mPD);
- (h) Church Guest House (also known as Martin House) (**Grade 1**) (71.3mPD);
- (i) Vicarage (52.7mPD);
- (j) Alford House (71.9mPD); and
- (k) Ridley House (78.2mPD).

- 3.1.3 The area to the west of the FR site across Glenealy is covered by the draft Sai Ying Pun and Sheung Wan OZP No. S/H3/33 where BHRs are imposed. As shown on **Plan FH-2a**, the northern part of the street block along Glenealy adjoining the FR site is zoned "Commercial" ("C") with a BHR of 120mPD, while the southern part of the street block is zoned "Residential (Group A)" ("R(A)") with a BHR of 150mPD. The area to the immediate north of the FR site is mainly zoned "C" on the Central District OZP comprising largely medium to high-rise commercial developments with existing BHs ranging from about 40mPD to 144mPD, with no BHR on the OZP. To further north, the existing BHs of the commercial developments are even higher.

3.2 Planning Intention

The "G/IC" zone is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments.

4. The Further Representations

4.1 Subject of FRs

- 4.1.1 There are a total of 66 valid FRs, including 15 supportive FRs (**F31 to F45**), 30 adverse FRs (**F1 to F30**), and 21 providing views (**F50 to F70**) on the proposed Amendment Item A and/or the related amendments to the Notes of the OZP.

- 4.1.2 Among the 15 supportive FRs, three (**F31 to F33**) are submitted by C&WDC Members, while the remaining 12 FRs (**F34 to F45**) are submitted by individuals. All the supportive FRs are in the form of standard proforma.
- 4.1.3 Among the 30 adverse FRs, **F1** is submitted by the HKSKH and the remaining FRs (**F2 to F30**) are submitted by individuals. 27 of the adverse FRs submitted by individuals (**F4 to F30**) are in the form of standard proforma.
- 4.1.4 All 21 FRs (**F50 to F70**) providing views are submitted by individuals, of which 18 (**F53 to F70**) are in the form of standard proforma.
- 4.1.5 The major grounds and proposals of FRs and PlanD's responses, in consultation with the relevant government departments, are at **Annex II** and summarised in paragraphs 4.2 to 4.3 below.

4.2 Major Grounds and Responses to Supportive FRs

F31 to F45 indicate their support for the proposed amendment A and the related amendments to the Notes of the OZP without providing any reason. The supportive views of **F31 to F45** are noted.

4.3 Major Grounds/Proposals of and Responses to Adverse FRs and FRs Providing Views

- 4.3.1 **F1 to F30** are adverse FRs opposing the proposed amendments, while **F50 to F70** provide views on the proposed amendments.
- 4.3.2 **F1** raises its disagreement with the Board's interpretation of section 6B(8) of the Ordinance regarding its entitlement to submit FR, but indicates that if it is entitled to submit FR, the grounds of JR against the Board's decisions on 6.12.2019 and 10.1.2020, as set out in the relevant JR documents⁵ served to the Board and the Director of Planning, should be treated as its FR. While **F1**'s challenge regarding its entitlement to submit FR would be dealt with by the Court under the JR proceedings as mentioned in paragraph 2.9 above, HKSKH, be it a further representer (**F1**) or, as claimed by HKSKH, an original representer (**R31**) is eligible to attend the hearing meeting under the Ordinance.
- 4.3.3 Whilst the allegations of **F1** against the Board's decisions of 6.12.2019 and 10.1.2020 encompass some legal issues which will be dealt with separately under the JR proceedings, its major grounds of FR relating to land use planning issues together with those of **F2 to F30** and **F50 to F70** as well as PlanD's responses are summarised as follows.

⁵ The Notice of Application for Leave to Apply for JR (O. 53 r. 3(2)) [Form 86], Affidavits and Affirmation documents are attached under **F1** and are available for public inspection at the TPB's website at https://www.info.gov.hk/tpb/en/whats_new/Website_S_H4_17.html.

4.3.4 *Illegality – Exercise of Power outside Specified Purposes*

Major Grounds	FRs
(1) The Board’s decision of 6.12.2019 was <i>ultra vires</i> as it was made solely on the basis of heritage conservation considerations which was outside the Board’s plan-making powers conferred under the Ordinance.	F1
(2) The proposed amendment to the “G/IC(1)” zone on the requirement of s.16 application under section 6B(8) of the Ordinance was not within the scope of the representers’ proposals.	F1
Responses	
<p>(a) In response to (1) above, it should be noted that the Board’s power and function is to promote the health, safety, convenience and general welfare of the community through the systematic preparation of plans. Conservation of buildings/structures of heritage significance for the purpose of preserving cultural traditions of the community is considered as part of “<i>the general welfare of the community</i>” referred to in the long title and section 3(1) of the Ordinance.</p> <p>(b) In the plan-making process, the Board’s duty is to determine appropriate land use zonings and appropriate development restrictions and such a duty is also applicable to sites of heritage significance. The Board may take into account the surroundings and the urban design perspective with a view to creating an appropriate physical setting to promote conservation, enhance the environment of historic buildings and facilitate integration of the buildings with the surrounding developments through responsive design.</p> <p>(c) In response to (2) above, under section 6B(8) of the Ordinance, the Board shall decide whether or not to propose amendments to the draft plan in question either “in the manner proposed in the representation or otherwise in the manner that, in the opinion of the Board, will meet the representation”. Hence, the proposed amendments made by the Board are not limited to those in the representations received, but may also include other amendments that, in the opinion of the Board, will address the concerns expressed in the representations.</p> <p>(d) At the meeting on 6.12.2019, many representers and commenters were concerned about the building bulk and footprint of HKSKH’s proposal, which they considered as incompatible with and detrimental to the historic character of the FR site and its surrounding area. Some representers had proposed to tighten the BHR and/or impose control on the building bulk or to confine the development to the footprint of the former HKCH. In particular, one representer (R1) proposed, among others, to require permission</p>	

under section 16 of the Ordinance for any demolition of, or addition, alteration and/or modification of the buildings. Having considered the concerns of the representers and commenters as well as taking account of the urban design aspect in a wider context, the Board agreed that the FR site was located in a prime location and formed part of a historical and culturally important precinct. HKSKH should be required to submit development scheme for any new development or redevelopment of existing building(s) through the s.16 application mechanism in order to ensure that the proposed development would be compatible, in urban design term, with the historic buildings within the FR site and the surrounding areas.

- (e) Indeed, the requirement for s.16 application was not uncommon for sites considered to have special circumstances, such as heritage importance. Some examples of such sites, covering both government and privately-owned sites, include:
- (i) Murray Building (zoned “OU” annotated “Building with Architectural Merits Preserved for Hotel Use”) where planning permission is required for any new development or any demolition of the existing building;
 - (ii) Central Market (zoned “OU” annotated “Building with Historical and Architectural Interests Preserved for Commercial, Cultural and/or Community Uses”) where planning permission is required for any new development or major addition, alteration and/or modification to, or any demolition of the facades and special architectural features of the building;
 - (iii) Tai Kwun (zoned “OU” annotated “Historical Site Preserved for Cultural, Recreational and Commercial Uses”) where planning permission is required for any new development at the site;
 - (iv) Hong Kong News-Expo (zoned “OU” annotated “Historical Site Preserved for Cultural and Recreational Uses”) where planning permission is required for any new development at the site;
 - (v) PMQ (zoned “OU” annotated “Heritage Site for Creative Industries and Related Uses”) where planning permission is required for any new development or redevelopment at the site;
 - (vi) London Mission Building at 80 Robinson Road and Ohel Leah Synagogue at 70 Robinson Road (zoned “OU” annotated “Residential Development with Historical Building Preserved (1) and (2)” respectively) where planning permission is required for any demolition of, or addition, alteration and/or modification to (except minor alteration and/or modification works) any of the existing historic buildings; and
 - (vii) Bethel Bible Seminary at 45-47 Grampian Road (zoned “G/IC(12)”) where planning permission is required for any major addition, alteration and/or modification to the historic building (except minor alteration and/or modification works), and any new development or redevelopment of the other

buildings.

The s.16 requirement would enable the Board to scrutinize the development scheme so that relevant planning concerns could be addressed. With justifications, such requirement has also been applied to sites involving private land.

4.3.5 *Decision internally inconsistent / Wednesbury Unreasonable*

Major Grounds	FRs
(1) The Board's decision to impose BHR of 80mPD for the northern portion of the FR site was <i>Wednesbury</i> unreasonable because the decision lacked any basis and was inconsistent with the Board's earlier stance since there had not been any relevant or material change in circumstances.	F1
Responses	
(a) It should be noted that the Board's key concerns have consistently been the urban design issues arising from the preservation-cum-development proposal at the FR site. On 10.5.2019, the BHR of 135mPD was adopted by the Board as the basis for amending the Central District OZP for the northern portion of the FR site and for inviting representations/comments from relevant stakeholders. The Board's decision was based on the understanding that HKSKH's proposal was already at an advanced stage, the BHR of 135mPD in the northern portion of the FR site was not incompatible with the surrounding BH profile, and the visual impact was not significantly different from the alternative BHR of 120mPD under another option examined. However, at the meeting on 6.12.2019, after looking into HKSKH's written and oral submissions, the Board considered that HKSKH had not provided sufficient information including design scheme and technical assessments to show that the proposed development was already at an advanced stage and was indeed visually compatible with the surrounding environment and technically feasible. The Board considered that there was legitimate reason to reconsider the appropriate BHRs for the northern portion of the FR site. Taking into account the views provided by the representers/commenters, the Board considered that it was premature to allow a BHR of 135mPD for the northern portion of the FR site without submission of a detailed development scheme by HKSKH. Moreover, giving due weight to the strong public sentiments attached to the preservation of the historical ambience of the area and after considering relevant planning considerations including heritage conservation matter in the planning context, the Board considered that the development bulk as permitted under the BHR of 135mPD would be regarded as incompatible with the historic setting of the FR site as well as the surrounding areas.	

(b) It is acknowledged that, as mentioned in paragraphs 2.1 above, BHs of 108mPD (for the northern portion) and 103mPD (for the southern portion) for the FR site had been accepted by the Government to facilitate the preservation-cum-development project originally proposed by the HKSKH in 2011. Had HKSKH proceeded with the redevelopment and obtained approval of building plans on the basis of those BHs before 24.5.2019 when the current draft Central District OZP was exhibited, the latest BHR of 80mPD would not have been applicable to the redevelopment project. While the Board considered at the meeting on 6.12.2019 that the BHR of 135mPD for the northern portion was on the high side (response (a) in paragraph 4.3.5 above refers), arguably there may be a case to review whether it must be reduced to as low as 80mPD, taking into account the history of the redevelopment project notably the Government’s acceptance of a BH of up to 108mPD for the northern portion under HKSKH’s preservation-cum-development project in 2011, the fact that the Board had initially accepted during the discussion on 10.5.2019 that the BHR for that portion could be higher than the 80mPD proposed for the southern portion, and the fact that the Board would already be given the opportunity to consider the acceptability of the urban design of the new development or redevelopment project by imposing the s.16 application requirement (if that requirement is upheld). Besides, CHO and AMO also advised that HKSKH might need to revisit the design if a more stringent BHR was imposed (i.e. 80mPD for the entire FR site and not just for the southern portion), which would further delay the implementation of HKSKH’s proposal. The more stringent BHR would also lead to the reduction in the number of hospital beds to be provided as well as the community’s much needed medical services. From heritage conservation perspective, CHO and AMO also consider that the HKSKH’s proposal has obtained the AAB’s general support.

4.3.6 *Breach of Tameside Duty*

Major Grounds	FRs
(1) The Board did not articulate any reasons as to why the s.16 application requirement should be applicable to the HKSKH Compound. Such requirement has effectively converted the zoning to “Comprehensive Development Area” (“CDA”).	F1
Responses	
(a) During the representation hearing on 6.12.2019, there were concerns over the possible impacts that might arise from the HKSKH’s proposal, but HKSKH had not provided sufficient information to ascertain the visual compatibility and technical feasibility of its proposed development. As mentioned in response (e) in paragraph 4.3.4 above, the s.16 requirement was not an uncommon requirement for sites considered to have heritage	

	<p>importance as well as sites with other concerns that warrant such requirement. The s.16 requirement would enable the Board to further scrutinize a specific development scheme and to consider whether relevant assessments have sufficiently addressed the planning concerns. Similar s.16 requirement was also mentioned in R1's proposal for demolition or addition & alteration works at the FR site.</p>
(b)	<p>In general, the designation of "CDA" zone is intended to achieve such objectives as to facilitate urban renewal, restructuring/optimization of land uses, providing opportunities for site amalgamation, and/or ensuring better planning arrangements and provision of community facilities through comprehensive planning and integrated development/design. Through the requirement of a Master Layout Plan submission, the "CDA" zone serves as a means of planning control whereby the development mix, scale, design and layout of the development would be vetted by the Board to ensure comprehensive planning and technical acceptability. On the other hand, the s.16 requirement for the FR site is to ensure that the proposed development would be compatible, in urban design term, with the historic buildings within the FR site and the surrounding areas. Hence, F1's allegation that the s.16 requirement equates a "CDA" zoning is unfounded.</p>
(c)	<p>It should also be noted that the focus of the s.16 requirement for the FR site is not to vet the acceptability or otherwise of that BHR which is already imposed on the "G/IC(1)" zone, but to consider the layout/urban design of the proposed development which takes account of that BHR.</p>

4.3.7 *Failure in the Proportionality Analysis*

Major Grounds	FRs
(1) The restrictions of the proposed amendments were a disproportionate infringement of HKSKH's property rights.	F1
Responses	
(a)	<p>In preparing the two BHR options for the rezoning of the HKSKH Compound as mentioned in paragraph 2.7 above, PlanD was fully aware of the HKSKH's property rights and sought to balance it against the wider public interests and concerns. The Board also carried out the relevant balancing exercise at its meeting on 10.5.2019 in adopting Option 1 proposed by PlanD as the basis for amending the OZP.</p>
(b)	<p>The FR site is located in a prime location and formed part of a historical and culturally important precinct. The Board has taken into account a host of factors, including the local planning context, the unique heritage value of the FR site, the overall historic ambience of the area, the urban design implications etc., in</p>

imposing a suitable BHR for the northern portion of the FR site. At the meeting on 6.12.2019, the Board was clearly apprised of the terms of the lease for the FR site, HKSKH’s development rights thereunder, and HKSKH’s proposal. The Board asked HKSKH (i.e. **R31**) and other representers’ questions on how various issues such as BHR or conservation concerns might impact on HKSKH’s proposal. It is also evident that the Board bore in mind HKSKH’s property rights and performed the requisite balancing exercise before reaching the decision on the proposed amendments. In particular, the Board rejected the more aggressive or stringent proposals by other representers⁶ (**R1, R2, R4, R6 to R24, R26 and R28**) on the basis that the proposals would disproportionately affect the HKSKH’s private property rights.

- (c) As mentioned in response (b) in paragraph 4.3.5 above, taking into consideration the planning history of the FR site and that the s.16 application requirement would already allow the Board to consider the urban design aspect of the proposed development, there may be scope to review whether the proposed BHR has to be as low as 80mPD for the northern portion of the FR site.

4.3.8 *Breach of Natural Justice / Deprivation of Fair Opportunity to be heard*

Major Grounds	FRs
(1) HKSKH was not aware of the possibility of, or practice relating to the s.16 requirement, and was deprived of the opportunity to make representations on the matter, or any FR under s.6D of the Ordinance.	F1
Responses	
(a) It should be noted that similar s.16 requirement was mentioned in R1 ’s proposal for demolition or addition & alteration works at the FR site. HKSKH was entitled to submit a comment in relation to the said representation, but did not choose to do so.	
(b) As mentioned in paragraph 4.3.2 above, HKSKH, be it in the capacity of F1 or, as claimed by HKSKH, as the original representer (i.e. R31), has the right to attend the further hearing to make its views known to the Board and will have the opportunity to amplify points it considers to be important. Therefore, the claim that HKSKH was deprived of the opportunity to be heard is unfounded.	

⁶ **R1, R4, R6 to R24 and R28** proposed, inter alia, to rezone the FR site together with other historical sites in the vicinity to “OU” annotated “Historical Site Preserved for Government and Religious Uses” with the imposition of specific BHRs similar to the height of existing buildings at the FR site. **R1** further proposed to amend the Notes of the OZP such that any demolition of, or addition, alteration and/or modification of the buildings (except minor alterations and/or modifications always permitted under OZP covering Notes) would require planning permission and subject to restrictions: (i) only minor increase to the height of the existing building; (ii) the historic buildings should have an appropriate separate distance from the new development / redevelopment; and (iii) new development / redevelopment should be restricted to follow the site coverage of the existing buildings at the FR site. **R2** proposed to restrict the development area to that of the former HKCH and a piece of land to its north, and to restrict the BH to that of the Ming Hua Theological College (i.e. 60.2mPD). **R26** proposed to retain the BH and building bulk of the existing buildings in the FR site.

4.3.9 *Stipulation of Stringent BHR and Need for s.16 Planning Application*

Major Grounds / Proposal	FRs
(1) The proposed amendment of BHR from 135mPD to 80mPD is equivalent to aborting the proposed hospital development.	F2
(2) There are insufficient reasons to justify the reduction of BHR of the northern portion of the FR site from 135mPD to 80mPD.	F3
(3) Relevant technical assessments (e.g. traffic impact assessment or district-wide comprehensive BH review) should be conducted to justify the imposition of more stringent development restrictions on the FR site.	F2 and F3
(4) The proposed amendment to require the submission of s.16 planning application for the proposed hospital development at the HKSKH Compound has deviated from the nature of the original amendment to the OZP (i.e. the stipulation of BHR).	F3
Responses	
<p>(a) In response to (1) to (3) above, the Board has taken into account relevant considerations including the existing BH profile of the FR site, the surrounding site context, the BHRs currently in force in the surrounding areas, heritage conservation implication and visual impact of the BHR, the strong public sentiment attached to the preservation of the historical ambience of the area, and the balance between the need for heritage conservation and respect for private property rights as well as between preservation and development. Responses (a) and (b) in paragraph 4.3.5 and responses (a) and (c) in paragraph 4.3.6 above are also relevant.</p> <p>(b) In response to (4) above, given the unique history and character of the FR site, which formed part of a historical and culturally important precinct in the Central District, the Board considered that development control by BHR alone for the FR site might not be adequate to address urban design concerns such as blocking and massing of buildings in the proposed development, as well as its implication on the historical and cultural ambience of the FR site. Besides, for sites with specific concern or might cause adverse impacts on the surrounding area, it was also the Board's established practice to request project proponents to submit detailed development scheme for the Board's scrutiny through the planning application mechanism. Hence, the Board deliberated and agreed that the requirement to submit a development scheme for any new development or redevelopment of existing building(s) through the planning application mechanism for the Board's consideration should be specified for the FR site so as to ensure that the proposed</p>	

development would be compatible, in urban design term, with the historic buildings within the FR site and the surrounding areas. Responses (c) to (e) in paragraph 4.3.4 above are also relevant.

4.3.10 *Balance between Development Needs and Heritage Conservation*

Major Grounds	FRs
<p>(1) Under the Government’s heritage conservation policy, on the premise of respecting private property rights, there is a need to provide economic incentives to encourage landowner to preserve privately-owned historic buildings. Given the various site constraints, HKSKH’s proposal has balanced development needs and heritage conservation.</p>	<p>F2</p>
<p>Responses</p>	
<p>(a) Under the prevailing heritage conservation policy, as advised by CHO and AMO, the Government recognises the need to provide economic incentives in order to encourage and facilitate private owners to preserve their historic buildings. In implementing this policy, the Government aims to strike a balance between preservation of historic buildings and respect of private property rights. The requisite economic incentive to achieve the policy objective would be considered on a case-by-case basis.</p> <p>(b) As far as HKSKH’s latest proposal is concerned, the four graded historic buildings within the FR site will be properly preserved at its own cost and will be re-used and open to the public while the rest of the FR site will be utilised for providing non-profit-making medical services to the community. From the heritage conservation perspective, the treatments to the four graded historic buildings are commensurate with their heritage value. CHO and AMO also agree that the historical connection of the FR site and its surrounding area in a wider context has been kept.</p> <p>(c) CHO and AMO agree that there is a need to respect the property rights of the owners of privately-owned graded buildings and to provide appropriate economic incentives to encourage private owners to conserve their historic buildings through a preservation-cum-development approach. To this end, allowing certain flexibility for development is necessary to support the preservation of historic buildings.</p> <p>(d) From planning point of view, the proposed “G/IC(1)” zone for the FR site with appropriate BHR(s) and the s.16 requirement for new development or redevelopment within the FR site does not rule out the possibility of a preservation-cum-development proposal. It is possible to have a design scheme that balances heritage conservation and development needs as well as addresses the Board’s concern on urban design aspect. Comparatively speaking,</p>	

the proposed BHR of 135mPD may have more design flexibility to enable more economic incentives to achieve the policy objective of heritage conservation. The issue is on striking a fine balance between providing sufficient incentives to facilitate heritage preservation and prescribing an appropriate BHR (80mPD, 135mPD, or other appropriate mPD level) to address the urban design concern. Response (e) in paragraph 4.3.4 and responses (a) and (b) in paragraph 4.3.5 above are also relevant.

4.3.11 *Acute Need for Private Hospital*

Major Grounds / Proposals	FRs
(1) There is an acute need for affordable, high quality hospital services in the private sector to complement and alleviate the pressure on public healthcare service.	F2 to F30
(2) The proposed hospital at the FR site will be beneficial to the residents of Central and Western District.	F3 to F30
(3) The proposed hospital development, which is a legitimate use in the “G/IC” zone, is merely a re-provision of the closed Hong Kong Central Hospital at the FR site.	F3
(4) Its proposal with 290 beds is of reasonable scale.	F4 to F30
(5) It is proposed that ‘Hospital’ use should be kept as an always-permitted use in the “G/IC(1)” zone without the need for the submission of s.16 planning application, and the BHR of 135mPD for the northern portion of the FR site should be retained.	F4 to F30
(6) There is a deficit supply of hospital beds in the Central and Western District.	F53 to F70
Responses	
(a) In response to (1) to (6) above concerning the need for private hospital at the FR site, whether the government, institution and community (GIC) facility on site is a hospital or not is not crucial in determining the appropriate BHR for the FR site. While ‘Hospital’ use is always permitted under the concerned “G/IC(1)” zone, there are other permitted uses under the “G/IC(1)” zone. As regards the proposed retention of BHR of 135mPD and the deletion of the requirement to submit a s.16 planning application, responses (a) and (b) in paragraph 4.3.5 and responses (a) and (b) in paragraph 4.3.9 above are relevant. The FRs’ proposal at (5) above is therefore not supported.	

4.3.12 *Adaptive Reuse of the Hong Kong Central Hospital*

Major Grounds	FRs
(1) Major development on the FR site will have irreversible detrimental impact on the fabric, ambience and historic value of the FR site and its neighbourhood. Adaptive reuse of the HKCH should be considered in view of its hidden historical and architectural value.	F50 to F52
Responses	
(a) According to the proposed amendments, HKSKH is required to submit a development scheme for any new development or redevelopment of existing building(s) through the planning application mechanism for the Board's consideration to ensure that the proposed development would be compatible, in urban design term, with the historic buildings within the FR site and the surrounding areas. HKSKH is also required to submit a conservation management plan at the lease modification stage, which would set out the general guidelines for preserving heritage and proposed mitigation measures to minimize the adverse heritage impact.	
(b) Regarding the suggestion of adaptive reuse of HKCH, given the building is a private property and it is neither a declared monument nor a graded historic building, it would be up to HKSKH to consider whether such a suggestion would be taken forward.	

5. Departmental Consultation

The following government departments have been consulted and their comments have been incorporated in paragraph 4 and **Annex II**, where appropriate:

- (a) Secretary for Development;
- (b) Secretary for Food and Health;
- (c) Commissioner for Heritage, DEVB;
- (d) Executive Secretary, AMO, DEVB;
- (e) Commissioner for Transport;
- (f) Chief Highway Engineer/Hong Kong, Highways Department;
- (g) District Lands Officer/Hong Kong West & South, LandsD;
- (h) Director of Environmental Protection; and
- (i) Chief Town Planner/Urban Design and Landscape, PlanD.

6. Planning Department's Views

6.1 The supportive views of **F31 to F45** are noted.

6.2 Based on the assessment in paragraph 4 above, whilst the BHR of 80mPD for the northern portion of the FR site has taken into account various relevant

considerations, the Board may consider whether there is scope to review this BHR given the planning history of the site and the s.16 requirement which can ensure that the proposed development would be compatible, in urban design term, with the historic buildings within the FR site and the surrounding areas. The Board may consider whether **F1 to F3** could be partially upheld by relaxing the BHR of 80mPD for the northern portion of the FR site to an appropriate level. In this regard, the considerations in response (b) in paragraph 4.3.5 above are relevant.

6.3 For the following reasons, PlanD does not support the remaining parts of **F1 to F3** as well as **F4 to F30** and **F50 to F70** and considers that the draft OZP should be amended by the proposed amendments:

- (a) heritage conservation, which encompasses conservation of buildings/structures with the purpose of preserving culture and traditions of the community, is considered to be a planning consideration or purpose that is within the purview of the Board under the Ordinance (**F1**);
- (b) the requirement to obtain planning permission from the Board for any new development or redevelopment of existing building(s), together with the submission of all necessary technical assessments in support of its proposal, is not an uncommon requirement for sites considered to have heritage importance as well as sites with other concerns that warrant such requirement. For the FR site, it is to ensure that the proposed development would be compatible, in urban design term, with the historic buildings within the FR site and the surrounding areas and not to vet the acceptability or otherwise of the BHR already imposed on the “G/IC(1)” zone on the OZP (**F1, F3** and **F50 to F52**);
- (c) whether the GIC facility on site is a hospital or not is not crucial in determining the appropriate BHR for the FR site. While ‘Hospital’ use is always permitted under the concerned “G/IC(1)” zone, there are other permitted uses under the “G/IC(1)” zone (**F2 to F30** and **F53 to F70**); and
- (d) given HKCH is a private property, it would be up to HKSKH to decide whether it would take forward the suggestion of adaptive reuse of HKCH (**F50 to F52**).

7. **Decision Sought**

- 7.1 The Board is invited to give consideration to the FRs taking into consideration the points raised in the further hearing, and decide whether to amend the draft OZP by the proposed amendments or by the proposed amendment(s) as further varied during the hearing.
- 7.2 Members are also invited to agree that the draft OZP (amended by the proposed amendments or the proposed amendment(s) as further varied), together with their respective Notes and updated ES, are suitable for submission under section 8 of the Ordinance to the CE in C for approval.

8. Follow-up Action

- 8.1 Should the Board decide to amend the draft OZP by the proposed amendments or the proposed amendment(s) as further varied, such amendment(s) shall form part of the draft Central District OZP No. S/H4/17. In accordance with section 6H of the Ordinance, the OZP shall thereafter be read as including the amendment(s). The amendment(s) shall be made available for public inspection until the CE in C has made a decision in respect of the draft OZP in question under section 9 of the Ordinance.
- 8.2 Administratively, the Building Authority and relevant government departments will be informed of the decision of the Board and will be provided with a copy/copies of the amendment(s).

9. Attachments and Annexes

Plan FH-1	Location Plan of FR Site
Plans FH-2a and 2b	Site Plans of FR Site
Plan FH-3	Aerial Photo of FR Site
Plans FH-4a and 4b	Site Photos of FR Site
Annex I	Schedule of Proposed Amendment, Amendment Plan and Proposed Amendments to the Notes and ES of the draft OZP
Annex II	Summary of valid FRs and PlanD's Responses
Annex III	List of Further Representers

**PLANNING DEPARTMENT
AUGUST 2020**