

TOWN PLANNING BOARD

TPB Paper No. 10833

**For Consideration by the
Town Planning Board on 27.5.2022**

DRAFT YAU MA TEI OUTLINE ZONING PLAN NO. S/K2/23

**CONSIDERATION OF
REPRESENTATIONS NO. TPB/R/S/K2/23-R1 TO R3
AND COMMENT NO. TPB/R/S/K2/23-C1**

**DRAFT YAU MA TEI OUTLINE ZONING PLAN NO. S/K2/23
CONSIDERATION OF REPRESENTATIONS NO. TPB/R/S/K2/23-R1 TO R3
AND COMMENT NO. TPB/R/S/K2/23-C1**

Subject of Representations (Amendment Items)	Representers (No. TPB/R/S/K2/23-)	Commenter (No. TPB/R/S/K2/23-)
<p><u>Item A</u> Revision of the building height restriction (BHR) for the “Commercial” (“C”) zones on the two sides of Nathan Road from 100mPD to 110mPD</p> <p><u>Item B1</u> Revision of the BHR for the “Residential (Group A)” (“R(A)”) zone from 80mPD to 100mPD</p> <p><u>Item B2</u> Rezoning of “R(A)2” to “R(A)” and revision of the BHR from 80mPD to 100mPD</p> <p><u>Amendments to the Notes of the Plan</u></p> <ul style="list-style-type: none"> Revision to the Remarks of the Notes for “R(A)” zone to delete the provision for sites with an area of 400m² or more with permitted maximum BHR of 100mPD and to delete the “R(A)2” sub-zone. Revision to the Remarks of the Notes for “Government, Institution or Community (2)” (“G/IC(2)”) zone to delete the building setback (SB) requirement. 	<p>TOTAL: 3</p> <p><u>Support Amendments to the Notes of the Plan related to “R(A)” zone and Oppose to Items A, B1 and B2</u> R1: The Real Estate Developers Association of Hong Kong (REDA)</p> <p><u>Oppose Item B2</u> R2: Wong Wai Chun</p> <p><u>Oppose Items A, B1 & B2 and Amendments to the Notes of the Plan related to “R(A)” and “G/IC(2)” zones</u> R3: Mary Mulvihill</p>	<p>TOTAL: 1</p> <p><u>Provide Views on R1</u> C1: Mary Mulvihill (Also R3)</p>

Note: A set of soft copy of their submissions has been sent to the Town Planning Board (the Board) Members via electronic means; and is also available for public inspection at the Board’s website at https://www.info.gov.hk/tpb/en/Website_S_K2_23_ENG.html and the Planning Enquiry Counters of the Planning Department in North Point and Sha Tin. A set of hard copy is deposited at the Board’s Secretariat for Members’ inspection.

1. **Introduction**

- 1.1 On 15.10.2021, the draft Yau Ma Tei (YMT) Outline Zoning Plan (OZP) No. S/K2/23 (OZP 23) (**Annex I**) was exhibited for public inspection under section 7 of the Town Planning Ordinance (the Ordinance). The Schedule of Amendments setting out the amendments is at **Annex II** and the locations of the amendment items are shown on **Plan H-1**.
- 1.2 During the two-month exhibition period ending on 15.12.2021, a total of three representations were received. On 7.1.2022, the representations were published for three weeks for public comments. Upon expiry of the publication period on 28.1.2022, one comment was received.
- 1.3 On 8.4.2022, the Board agreed to consider all the representations (**R1 to R3**) and comment (**C1**) (also **R3**) collectively in one group. This paper is to provide the Board with information for consideration of the representations and comment. The representation sites are shown on **Plans H-2 and H-2a**. The representers/ commenter have been invited to attend the meeting in accordance with section 6(B)3 of the Ordinance.

2. **Background**

- 2.1 On 29.10.2010, the draft YMT OZP No. S/K2/21 (OZP 21) was amended to incorporate BHRs and air ventilation measures (i.e. non-building area (NBA) and building SB). A total of nine representations were received, including REDA's objections to these restrictions/requirements with specific proposals (a) to relax the BHRs by 20m to 40m in general and to apply a more generous BHR of between 120mPD and 180mPD for those sites at or near transport nodes; and (b) to delete the NBA and SB requirements. As the Board decided not to uphold REDA's representation on 13.5.2011, REDA lodged a Judicial Review (JR) against the Board's decision on 25.7.2011. Methodist Church Hong Kong (MCHK) also lodged another JR in respect of the BHRs imposed to its four sites in YMT area.
- 2.2 On 3.2.2015, the Court of First Instance (CFI) allowed REDA's JR and ordered that the Board's decision on REDA's representation in respect of OZP 21 be quashed and that the decision be remitted to the Board for reconsideration. On 19.4.2021, CFI allowed the other JR lodged by MCHK and quashed the Board's decision of not upholding MCHK's representation. However, CFI did not order the Board to reconsider MCHK's representation, having considered that circumstances have changed and that the subsequent OZP 22¹ was prepared and exhibited after commencement of the subject JR proceedings. In response to the Court's rulings on the JRs, a review on BHRs, NBA and SB taking into account the permissible development intensity, implications of the Sustainable Building Design Guidelines (SBDG)², and planning and design aspects was conducted for the YMT Area (the Area). Details on the review were provided in paragraphs 3.10 to 3.28 of TPB Paper

¹ MCHK submitted a redevelopment proposal of the "G/IC" site at 54 Waterloo Road in order to expand the services. PlanD then proposed and the Metro Planning Committee of the Board agreed the "G/IC" site be rezoned to "G/IC(2)" with BHR relaxed from five storeys to 57mPD, together with a requirement of minimum SB of 3m from the lot boundary abutting Waterloo Road, as proposed by MCHK to allow for streetscape improvement and amenity planting.

² Details of SBDG requirements are provided in Annexes C1 and C2 of TPB Paper No. 10773.

No. 10773 at **Annex III**.

- 2.3 Taking into account the review findings, the BHR of “C” zones along the two sides of Nathan Road was proposed to be revised from 100mPD to 110mPD and that for all the “R(A)” and “R(A)2” zones to be revised from the two-tier system of 80mPD for site area of below 400m² or 100mPD for site area of 400m² or above to 100mPD disregarding the site area. Regarding REDA’s proposals, it was considered that there was no strong justification for further relaxing the BHRs up to 180mPD because it would result in proliferation of excessively tall buildings; and with reference to the Air Ventilation Assessment (AVA) (Expert Evaluation) conducted in 2018 (AVA 2018), the air ventilation measures, i.e. the NBA and SB requirements, should be retained as they had beneficial effects on air ventilation. However, the 3m SB requirement of “G/IC(2)” was proposed to be deleted as the site does not fall within any existing air path as identified in AVA 2018.
- 2.4 On 17.9.2021, the Board considered the amendments to the draft YMT OZP No. S/K2/22 (OZP 22) and agreed that the amendments are suitable for public inspection under section 7 of the Ordinance. The relevant TPB Paper No. 10773 and the minutes of the Board meeting are available at the Board’s website and are enclosed at **Annexes III and IV**. Accordingly, OZP 23 was gazetted on 15.10.2021.

3. Consultation with the Yau Tsim Mong District Council (YTMDC)

The current OZP amendments are mainly the results of follow-up actions consequential to the Court’s rulings on the relevant JRs. As such, no separate consultation with YTMDC was conducted. Upon gazettal of OZP 23, YTMDC members were invited to submit their comments on the amendments in writing to the Secretary of the Board during the statutory exhibition period but no representation or comment from them was received during that period.

4. The Representation Sites

4.1 The Representation Sites (Plans H-2 to H-2c)

Item A – The “C” zones on the two sides of Nathan Road (Plans H-2 and H-2a)

- 4.1.1 These “C” zones are located on the two sides of Nathan Road and enjoy high accessibility with easy access to various public transport services. A mix of commercial, including offices, hotels and shopping centres, and residential developments could be found. The maximum PR restriction of the “C” zones is 12. BHR for the “C” zones on the two sides of Nathan Road has been relaxed from 100mPD to 110mPD under OZP 23.

Items B1 and B2 – The “R(A)” and “R(A)2” zones of the Area (Plans H-2 and H-2a)

- 4.1.2 The “R(A)” zones are located across the OZP and the concerned “R(A)2” zones, which have been rezoned to “R(A)” are located at the south-western part of the OZP. These zones are intermixed with mainly medium to high-rise residential developments. Commercial/retail uses are commonly found on the

lowest three floors of the “R(A)” zones. The “R(A)” zones are subject to a maximum PR restriction of 9 and maximum domestic PR of 7.5. BHR for all the “R(A)” zones have been relaxed from 80mPD/100mPD to 100mPD disregarding the site area under OZP 23.

Site related to the deletion of the 3m SB requirement - “G/IC(2)” zone (Plans H-2 to H-2c)

- 4.1.3 The “G/IC(2)” zone is located at 54 Waterloo Road and occupied by the Ward Memorial Methodist Church and Yang Memorial Methodist Social Service Centre (**Plans H-2, H-2b and H-2c**). It is subject to a maximum BHR of 57mPD. The previous requirement of provision of a minimum SB of 3m from the lot boundary abutting Waterloo Road for the “G/IC(2)” subzone has been deleted as stated in paragraph 2.2 above. No building plan or application for lease modification for the redevelopment scheme was received so far.

4.2 Planning Intentions

- 4.2.1 The planning intentions of the relevant zones in relation to the representations and comment are as follows:
- (a) the “C” zone is intended primarily for commercial developments, which may include shop, services, place of entertainment and eating place, functioning mainly as local shopping centres serving the immediate neighbourhood;
 - (b) the “R(A)” zone is intended primarily for high-density residential developments. Commercial uses are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building; and
 - (c) the “G/IC(2)” zone is intended primarily for the provision of Government, institution or community (GIC) 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.

5. The Representations

5.1 Subject of Representations (Plan H-2)

- 5.1.1 There are a total of three representations. **R1** partly supports the amendments to the Notes of the OZP related to “R(A)” zone but partly opposes Items A, B1 and B2. **R2** opposes Item B2 only. **R3** opposes Items A, B1 and B2, and the amendments to the Notes of the OZP related to “G/IC(2)” zone.

- 5.1.2 The major grounds of representations as well as their major proposals, and the Planning Department (PlanD)'s responses, in consultation with the relevant Government bureaux/departments (B/Ds), are summarised in the following paragraphs.

5.2 Major Grounds and Response to Supportive Representation

Supportive Representation

- 5.2.1 **R1**'s supportive view is as follow:

Major View
The amendments to the Notes of the OZP for the "R(A)" zone regarding the deletion of the provision to permit BHR of 100mPD only for sites with an area of 400m ² or more and deletion of the "R(A)2" subzone are supported.
Response
The supportive view is noted.

Adverse Representations

- 5.2.2 **R1** to **R3**'s major grounds of adverse representations and proposals (if any) and PlanD's responses, in consultation with relevant B/Ds, are summarised in paragraphs 5.2.3 to 5.2.8 below.

5.2.3 **Assumptions adopted in Building Height (BH) Assessment**

Major Grounds		Rep. No.
(1)	The adopted floor-to-floor height (FTFH) do not conform to the current standards for top quality development, i.e. 5m (podium) and 4.5m (typical commercial floors) for "C" sites; and maximum 6m (podium) and 3.5m (typical floors) for "R(A)" sites.	R1
(2)	The adopted site coverage (SC) (above 15m) for the typical floors is the maximum permissible SC under the Building (Planning) Regulation (B(P)R), which is overly restrictive and does not allow flexibility for innovative design that could further enhance the environmental quality of the building.	
(3)	The impact of the SBDG requirements for sites with larger site area has not been taken into account as a larger proportion of the site area will be designated to meet such SBDG requirements (i.e. SB and building gap), resulting in smaller buildable site area in that could not accommodate the permissible PR under OZP within BHRs.	
(4)	The PR of existing old buildings, which are greater than that specified under the current OZP, has not been taken into account.	

Major Proposals		
(5)	<p>(i) To further relax BHR for “C” zones on two sides of Nathan Road from 110mPD to 130mPD and that for “C” zones at strategic locations next to MTR stations from 110mPD to between 150mPD and 180mPD as shown in Plan H-6.</p> <p>(ii) To further relax BHR for “R(A)” zones from 100mPD to between 120mPD and 125mPD.</p>	R1
Responses		
(a)	<p>In response to (1) to (4) above:</p> <p>(i) In assessing BHRs for “C” and “R(A)” zones, all relevant planning considerations including the existing BH profile, committed development, topography, site formation level, local characteristics, the views to ridgelines/mountain backdrops from the strategic viewing points/important public viewing points, compatibility with surroundings, predominant land use and development intensity, visual impact, air ventilation, the SBDG requirements and a proper balance between public interest and private development right as well as the public aspirations for a better living environment have been duly taken into account. According to the findings of the assessment, the estimated BH required for a typical commercial building of PR 12 is about 91m to 103m, while that for a typical composite building of domestic PR 7.5 and non-domestic PR 1.5 is not more than 93m, both incorporated with SBDG requirements as detailed in paragraphs 3.6 to 3.10 of TPB Paper No. 10773. As such, the BHRs of 110mPD for “C” zone and 100mPD for “R(A)” zone are considered reasonable and appropriate, and could achieve permitted PR under the OZP.</p> <p>(ii) The assumptions for determining BHRs are derived from relevant building control requirements and suitably generalized for the purpose of formulating overall urban design frameworks. It is also necessary to ensure that the maximum PR stipulated under the OZP could be suitably incorporated within the proposed BHRs. For instance, the adopted FTFH of 3m for domestic floor and 4m for commercial floor have well met the minimum height of storey of 2.5m as stipulated under B(P)R³ and the adopted SC is the respective maximum SCs permitted under B(P)R for domestic and non-domestic buildings. The FTFH assumption (i.e. 3m for domestic floor and 4m for commercial floor) is considered reasonable.</p> <p>(iii) Building design is determined by the interplay of various factors, including PR, SC, BH, FTFH, design and disposition of building, etc. Different assumptions are entirely a design choice to be made by the project proponent, having taken into account all the relevant factors including the development restrictions on the OZP. BHRs <i>per se</i> would not impose undue constraint on the design flexibility of developments.</p>	

³ According to B(P)R, every room used or intended to be used for the purpose of an office or for habitation in any building shall have a head room of not less than 2.5m measured from floor to ceiling.

	<p>(iv) There are some old buildings built under the previous volume-based building restrictions in the Area. Some of the buildings do not have any approved PR under BO <i>per se</i> as the existing building bulk were calculated based on a volume approach⁴. In this regard, the PR of these existing buildings are yet to be determined. Notwithstanding this, the Notes of the OZP states that development/redevelopment is subject to the maximum PR stipulated on the OZP or the PR of the existing building, whichever is the greater. The development right of the existing buildings is respected.</p> <p>(v) For those existing buildings with approved PR under BO, some of them were completed before the incorporation of PR restrictions under OZP in 1993 with a development intensity exceeding OZP restrictions. It has been assessed that the prevailing BHRs of the respective “C” and “R(A)” zones can still generally accommodate the existing PR as well as the SBDG requirements in view of the design flexibility allowed under BHRs of the OZP. Depending on the proposed type of use, individual site context, and design and layout of the proposed development, adjustments on some development assumptions (e.g. FTFH) may be required to achieve the existing PR.</p>
(b)	<p>In response to (5) above:</p> <p>The rationales for the current BHRs under OZP 23 have been duly explained in the response under paragraph 5.2.3(a) above. There is no strong justification to further relax the BHRs as there is no corresponding technical assessment to support the proposal and hence the potential impacts arising from the further relaxation of BHRs cannot be ascertained. On the contrary, it has been demonstrated by relevant technical assessments (including the assessment on BH, AVA 2018 and Visual Appraisal (VA)) that BHRs of 110mPD for “C” zone along Nathan Road and 100mPD for “R(A)” zone are able to accommodate both the SBDG requirements and the permissible development intensity on the OZP, while without generating adverse visual and air ventilation impacts.</p>

5.2.4 Redevelopment Incentive and Development Right

Major Grounds		Rep. No.
(1)	The revised BHRs are insufficient to incentivize private sector participation in urban renewal and enhance the redevelopment potential of old existing buildings, and will adversely affect the value of properties and development right. District Study for Yau Ma Tei and Mong Kok (YMDS) has proposed further relaxation of PR and BHRs; amalgamation of sites; planning tool of transfer of PR, and rezoning various areas from “R(A)” to “Other Specified Uses” annotated “Mixed Use” “OU(MU)”	R1

⁴ The volumetric building control system was applied before the enactment of current PR/SC control under B(P)R in 1962.

	zone. Urban Renewal Authority (URA)'s proposals will help increase the potential for redevelopment, and allow flexibility for building design and mixture of uses to meet the property market trend.	
(2)	A detailed planning study and a comprehensive land use review with a forward-looking approach should be undertaken. Opportunity should also be taken to explore visual and physical linkages with open space in the eastern part of the YMT area, and enhance accessibility to the waterfront and connectivity.	
Major Proposal		
(3)	To introduce "OU(MU)" zone at the "R(A)" zone one to two street blocks from Nathan Road and those along Jordan Road, in particular those close to the MTR stations, to encourage the extension of a mixed use/commercial spine and form an important part of the character of YMT.	R1
Responses		
(a)	<p>In response to (1) to (3) above:</p> <p>(i) There are various factors affecting redevelopment of old buildings, such as ownership pattern, site context, prevailing economic circumstances and market conditions, etc. BHR is only one of the considerations in development. The current BHRs under OZP 23 would allow design flexibility for future developments in meeting SBDG requirements and accommodate the PR as permitted under the OZP. The development potential of development sites will not be adversely affected.</p> <p>(ii) The recommendations of YMDS are well noted. The Board was briefed about these recommendations on 7.1.2022 and the Board Members generally considered that the YMDS was comprehensive and had provided some good recommendations to tackle urban renewal issues in the Yau Mong areas and incentivise private sector participation in the urban renewal process. Subject to the completion of detailed supporting technical assessments by URA and acceptance by concerned B/Ds, the first batch of OZP amendments for some of the recommendations of YMDS such as increasing PR for the Nathan Road commercial spine, and incorporating interchangeability between domestic and non-domestic uses for residential zone might be initiated in 2022. Other proposals would be further explored down the road.</p> <p>(iii) The current OZP amendments are mainly in response to the Court's ruling on JRs to review the BHRs taking into account all relevant planning considerations, the SBDG requirements, urban design guidelines, the AVA 2018 and the permitted development intensity under the OZP.</p>	

5.2.5 Urban Design, Visual and Air Ventilation

Major Grounds		Rep. No.
A. For Relaxation of BHR and Deletion of NBA/SB Requirements		
(1)	The revised BHRs are still too restrictive and results in insufficient design flexibility for innovative and holistic quality developments. There is a need to allow optimal relaxation of BHR to reduce SC so that there is more space created around the building at the pedestrian level, and thus provide more greening and greater air ventilation, in particular in the post-COVID era.	R1
(2)	The revised BHRs for a blanket relaxation of about 2 storeys have not improved the BH profile of the area. The variation or stepped BH from the commercial spine dropping down to the residential buildings to the west is subtle and ineffective. This creates a monotonous BH profile, which is an undesirable and poor urban design effect. The BH profile also lacks any landmark buildings to designate strategic locations of public transport or commercial nodes.	
(3)	The VA has not provided any alternative scenarios or consideration to the proposed BHRs of 120mPD to 180mPD. Besides, the photomontages show that there are already existing and committed developments that nearly breach the 20% building free zone below the ridgeline. The major consideration of having BHR of 130mPD for the “C” sites at strategic locations along Nathan Road in Mong Kok OZP was that the proposed BHR did not protrude and was only close to the ‘20% building free zone. A similar approach should be adopted for YMT.	
(4)	On the Mong Kok OZP, the “C” zones along Nathan Road is assigned with mostly a BHR of 110mPD, while at strategic locations that are next to MTR stations are assigned with a BHR of 130mPD. Given YMT and Mong Kok areas are next to each other with similar urban characteristics, the justifications for a higher BHR along the commercial spine in the YMT OZP should be equally applicable.	
(5)	The application process for minor relaxation is not an incentive as it has become a general barrier to good design and minor changes. Increasingly a minor relaxation to enable better design through relaxation of BH is seen as an opportunity for government departments to include requirements for irrelevant matters. There is therefore a need to set the BHRs beyond the framework of the minor relaxation clause, in order to achieve good quality developments and urban design of the wider area as a right.	

Major Proposal		
(6)	To delete all the NBA and SB requirements impose on the OZP so as to avoid infringement on the private development rights and redevelopment potential.	R1
B. For Tightening of BHR and NBA/SB Requirements		
(7)	Imposition of BHRs on “G/IC” zones to reflect the existing and planned BHs is meaningless as every GIC redevelopment needs/has been granted expensive increase in both PR and BHR.	
(8)	Nathan Road is a main pedestrian thoroughfare. It is unacceptable that the existing wall effect be further increased through relaxation of BHR. Pedestrians want to see the sky and enjoy natural light penetration to the pavement.	
(9)	Although the updated AVA conducted in 2018 concluded that redevelopments with incorporation of the design measures of SBDG would enhance the building permeability, the redevelopments have podiums so there will be no improvement to air quality at street level.	
(10)	More SB and NBA should be provided as the AVA 2018 stated that the grid street pattern of the area serves as an important wind path system and should be preserved as far as possible.	R3
Major Proposal		
(11)	To retain the SB requirement in the Notes of the OZP for “G/IC(2)” zone.	
Responses		
(a)	In response to (1), (2), (3), (8) and (9) above: (i) The key objective of BH control is to provide better planning control in guiding developments to avoid excessive tall and out-of-context development, which would adversely affect the quality of the living environment including air ventilation. The current BHRs and NBA/SB requirements have struck a proper balance between public interest and private development right as well as the public aspirations for a better living environment. (ii) A stepped BH concept is generally adopted for YMT OZP with BH profiles of 110mPD along Nathan Road and stepping down to 100mPD towards the eastern and western parts of the OZP. Subject to the use, size, configuration and classification of individual sites and building design considerations, redevelopments may not necessarily be built up to the maximum BH limit. Thus, this would contribute to varieties in BH and outlook over the Area (Plans H-5a to H-5h). In overall terms, the relaxed BHRs will not result in unacceptable visual impact and the stepped BH profile in the OZP is considered appropriate.	

	<p>(iii) The objectives of the VA for the BHR review of is to assess the visual impacts of the BHRs in the area, examine whether the relaxed BHRs are acceptable from urban design/visual perspectives and visualise the future visual context upon imposition of the BHRs. The VA is not supposed to, and not practicable to, exhaust all possible BHR options. The VA has demonstrated that the resultant BH profile would not affect the ridgelines and mountain backdrops of Beacon Hill and Lion Rock when viewed from strategic viewpoints.</p> <p>(iv) The relaxed BHRs would allow design flexibility for future developments in meeting SBDG which is intended to improve building permeability, wind condition and visual amenity for a better pedestrian environment. It is unlikely that the change in BHRs will cause significant effect on the established YMT townscape and its surroundings comprising mainly compact and mixed high-rise developments of varying BHs and forms as illustrated in the photomontages of the visual appraisal, taking into account the redevelopment propensity and site classification/considerations.</p>
(b)	<p>In response to (4) above:</p> <p>(i) According to the AVA conducted in 2010 for Mong Kok OZP, some variation of BHRs would create or amplify downwash effect in Mong Kok area because it is located in more inland area and cannot be benefited by sea breeze from western side. However, the YMT OZP area is closer to the western seashore and the area in-between is generally unobstructed. There are also existing air paths (i.e. Jordan Road and Waterloo Road) and open areas (or area with low-rise buildings) fronting the western boundary of YTM OZP which can facilitate westerly wind penetration to inland. Therefore, given the different local context, it is considered not essential to provide the same variation of BHRs in YMT OZP as in Mong Kok OZP.</p> <p>(ii) Besides, no technical assessment is provided in the representation to demonstrate that further relaxation of BHRs would improve air ventilation performance. There is no strong justification for supporting the proposed further revision of BHRs for “C” and “R(A)” zones.</p>
(c)	<p>In response to (5) above:</p> <p>It has been demonstrated by relevant technical assessments including the assessment on BH, AVA 2018 and VA that BHRs of 110mPD for “C” zone along Nathan Road and 100mPD for “R(A)” zone are able to accommodate both the SBDG requirements, which cover building separation, building SB and site coverage of greenery requirements, and the permissible development intensity on the OZP. The current BHRs for the representation sites are considered appropriate and have already allowed design flexibility for greenery and/or design features on ground and at podium levels to improve both living and pedestrian environment.</p>

(d)	<p>In response to (7) above:</p> <p>The BHRs on “G/IC” sites are to reflect the existing BHs and planned/committed developments to meet the functional requirements of the development therein. Any amendment to the current BHR requires strong justifications. If site owners/NGOs come up with any redevelopment proposal for a specific site with strong justifications, and have demonstrated that there are no significant adverse impacts, review and amendments to the BHR will be carried out.</p>
(e)	<p>In response to (6) and (10) above:</p> <p>(i) AVA 2018 concluded that the relaxation of BHR in OZP 23 is unlikely to have any significant difference in air ventilation impacts when compared with OZP 22. With the relaxed BHRs, any development is still required to comply with other relevant legislation and government requirements, such as the BO in respect of the natural lighting requirement.</p> <p>(ii) The OZP amendments do not involve any change to the NBA and SB requirement under the OZP, except for the SB for the “G/IC(2)” zone. According to the AVA 2018, the district-wide air ventilation measures such as SB requirement at concerned narrow streets with a width less than 15m are recommended to be retained to increase the width of the north-south air paths within the existing street canyons to allow penetration of southerly wind and facilitate air movement to flow further into the western half of YMT area. By making reference to AVA 2018, and having considered the public aspirations for a better living environment and the constraints imposed on the design flexibility of future development, the current air ventilation measures imposed in OZP 23 are considered appropriate and should not affect the achieving of permitted PR under the OZP for the relevant sites.</p>
(f)	<p>In response to (11) above:</p> <p>The 3m SB requirement on the “G/IC(2)” site was imposed with reference to MCHK’s proposed redevelopment scheme at that time for streetscape and amenity purpose. In view that the “G/IC(2)” site does not fall within any existing air path as identified in AVA 2018 and there is no SB requirement imposed to other adjacent “G/IC” sites along Waterloo Road, it is considered appropriate to delete the 3m SB requirement to allow more design flexibility.</p>

5.2.6 Amendments to the Notes of the Plan

Major Ground		Rep. No.
(1)	The minor relaxation clause to provide incentives for development/redevelopment with design merits/planning gain and to address specific site constraints is not effective as the proponent would ultimately fail to provide the design merits/planning gains, such as better streetscape, tree preservation and innovative design.	R3

Major Proposals		
(2)	To incorporate a relaxation clause on BHR for “C” zone for sites with an area not less than 1,800m ² similar to the one adopted in Tsim Sha Tsui (TST) OZP.	R1
(3)	To consider minor relaxation of all restrictions or requirements based on individual merits instead of ‘exceptional circumstances’.	
Responses		
(a)	<p>In response to (1) above:</p> <p>The minor relaxation clause is intended to cater for site specific circumstances and schemes with planning and design merits. Each application will be considered by Board on its individual merits and a set of criteria for consideration of such applications has been set out in the Explanatory Statement (ES) of the OZP including provision of innovative building design, separation between buildings, better streetscape and good quality street level public urban space. The design merits and planning gain form part of the approved scheme will be scrutinised in the building plan/lease requirements.</p>	
(b)	<p>In response to (2) above:</p> <p>TST is a high-rise commercial node recognised in the Urban Design Guidelines under the Hong Kong Planning Standards and Guidelines. In order to provide incentive for amalgamation of small sites, a relaxation clause in respect of BHRs is incorporated into the Notes for the “C” zone for sites with an area not less than 1,800m² under the TST OZP⁵. In applying such relaxation of BHR, there is also a set of stringent criteria for consideration of such relaxation as stated in paragraph 8.1.19 of the ES of the TST OZP⁶. Such specific control is based on unique context of TST and should not be taken as a general reference for other OZPs.</p> <p>However, YMT is an old urban area predominantly residential in nature with commercial uses mainly concentrated along Nathan Road, which is very different in character from TST. As such, the ordinary minor relaxation clause is considered appropriate for YMT OZP and there is no strong reason to impose the proposed relaxation clause that is tailor made for TST OZP.</p>	
(c)	<p>In response to (3) above:</p> <p>The ‘under exceptional circumstances’ requirement is only applied to the minor relaxation clause for SB requirements stipulated under the OZP for “C” and “R(A)” zones. It should be noted that according the AVA 2018, the SB requirements are good and important features for air ventilation and beneficial to the wind environment in the context of the concerned area with narrow streets less than 15m wide. As such, the more stringent ‘under exceptional</p>	

⁵ According to the Notes of TST OZP for “C” zone, relaxation of BHRs may be considered by the Board on application under section 16 of the Town Planning Ordinance for sites with an area not less than 1800m² on individual merits, except “C(7)”, “C(8)” and “C(10)” sub-zones.

⁶ The ES of TST OZP is available at https://www2.ozp.tpb.gov.hk/plan/ozp_plan_notes/en/S_K1_28_e.pdf

	circumstances' requirement is justified so that any application for minor relaxation of SB requirement must demonstrate the exceptional circumstances with strong justifications.
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5.2.7 Procedural Matters

Major Grounds		Rep. No.
(1)	The representer was not consulted on the review process or outcome, and PlanD did not arrange any meetings or rehearing for the representer's representation of the OZP 21. The only opportunity so far provided is through the current representation process.	R1
(2)	There is no general paper and district plans providing full details on the composition of the district, the location of SB etc. There is no information on GIC and open space provision.	R3
Responses		
(a)	<p>In response to (1) above:</p> <p>In accordance with the Court's order regarding REDA's JR in respect of OZP 21, a review of the development restrictions including the BHRs, and the requirements on SB and NBA on the OZP was conducted accordingly. The grounds and proposals of the opposing representation submitted by REDA on the amendment items to then OZP 21, and PlanD's responses in consultation with relevant government bureau/departments are at Annex I of TPB Paper No. 10773. As soon as the Board agreed that the proposed amendments to the OZP were suitable for exhibition under the Ordinance on 17.9.2021, REDA was informed on 18.10.2021 about the Board's decision and invited to submit representations and comments in respect of the amendments upon gazettal on 15.10.2021. The exhibition of OZP amendments is a statutory process for public consultation, where REDA is allowed to make representation to the Board. During the statutory plan exhibition period, REDA had submitted representation (R1) accordingly. As such, all the relevant Court's order and statutory plan-making procedures, including public consultation, have been complied with.</p>	
(b)	<p>In response to (2) above:</p> <p>TPB Paper No. 10773 for proposed amendments to the draft YMT OZP 22 has provided details of the planning area, including general context, GIC and open space provision, and location of the proposed SBs and NBA. Plans indicating the previous and current BHRs, SBs and NBA in colour are also included in the Paper (in Plans 2 to 3D, 4 and 6A to 8 of the Paper). The full set of Paper (including Plans and Annexes) has been uploaded to the Board website⁷ for public inspection.</p>	

⁷ <https://www.info.gov.hk/tpb/en/papers/papers.html>

5.2.8 Not the Subject of the OZP Amendments

Major Grounds		Rep. No.
(1)	The PR of “R(A)” zone should be increased to more than 5 so as to optimise utilisation of land for providing housing.	R2
(2)	The design flexibility for future development to comply with SBDG could be achieved through reduction of PR in the “R(A)” and “C” zones.	R3
Responses		
(a)	<p>In response to (1) and (2) above:</p> <p>The current OZP amendments are based on a review of the BHRs and NBA and SB requirements in response to the Court’s ruling as mentioned in paragraphs 2.1 and 2.2 above and do not involve any change to the PR restrictions. There is no strong justification to amend the PR restrictions.</p>	

6. COMMENTS ON REPRESENTATIONS

C1, also submitted by **R3**, provides comments on **R1** and the major comments are summarised below:

Major Comments	
(1)	Innovative design, visual interest and landmark building through relaxation of BHRs as advocated by R1 will result in unacceptable development bulk.
(2)	YMDS, which is supported by R1 , will evict the existing residents and small business at Man Wah Sun Chuen. The ridgeline will also be adversely affected.
Responses	
(a)	<p>Response to (1) above:</p> <p>PlanD’s response under paragraph 5.2.3(a) above is relevant.</p>
(b)	<p>Response to (2) above:</p> <p>Any proposals under YMDS which involve amendments to OZP, if proceed, will be considered by the Board separately based on individual planning and design merits. The issues related to impact on existing residents and business are outside the ambit of the Ordinance and purview of the Board.</p>

7. DEPARTMENTAL CONSULTATION

- 7.1 The Chief Town Planner/Urban Design and Landscape, Planning Department has been consulted and her comments have been incorporated in the above paragraphs where appropriate.
- 7.2 The following B/Ds have no comment on the representations and comment:
- (a) Secretary for Development;
 - (b) Secretary for Transport and Housing;
 - (c) Executive Secretary (Antiquities and Monuments), Development Bureau;
 - (d) Chief Building Surveyor/Kowloon, Buildings Department;
 - (e) Chief Architect/Central Management Division 2, Architectural Services Department;
 - (f) Chief Highways Engineer/Kowloon, Highways Department;
 - (g) Chief Engineer/Railway Development 2-2, Railways Development Office, Highways Department;
 - (h) Chief Engineer/Mainland South, Drainage Services Department;
 - (i) Chief Engineer/Kowloon, Water Supplies Department;
 - (j) Chief Engineer/South(2), Civil Engineering and Development Department;
 - (k) Commissioner of Police;
 - (l) Commissioner for Transport;
 - (m) District Lands Officer/Kowloon West, Lands Department;
 - (n) District Officer (Yau Tsim Mong), Home Affairs Department;
 - (o) Director of Environmental Protection;
 - (p) Director of Fire Services;
 - (q) Director of Electrical and Mechanical Services;
 - (r) Director of Leisure and Cultural Services;
 - (s) Director of Agriculture, Fisheries and Conservation;
 - (t) Director of Food and Environmental Hygiene;
 - (u) Director of Social Welfare; and
 - (v) Director of Health.

8. PLANNING DEPARTMENT'S VIEWS

- 8.1 The supportive view of **R1** (part) is noted.
- 8.2 Based on the assessments in paragraphs 5 and 6 above, PlanD does not support **R1** (part), **R2** and **R3**, and considers that the OZP should not be amended to meet the representations for the following reasons:
- (a) the BHRs of the “C” and “R(A)” zones are considered appropriate taking into account all relevant considerations including the existing BH profile, committed development, topography, site formation level, local characteristics, compatibility with surroundings, predominant land use and development intensity, visual impact, air ventilation, the SBDG requirements and a proper balance between public interest and private development right. The revised BHRs could accommodate the permitted PR of the relevant zones under the OZP with incorporation of SBDG requirements which could enhance air permeability and greenery, and would not generate adverse visual and air ventilation impacts

on the surrounding areas. There is no strong justification and assessment for supporting the proposed further revision of BHRs for the “C” and “R(A)” zones (**R1 and R3**);

- (b) YMT is an old urban area predominantly residential in nature with some commercial uses concentrated along Nathan Road which is very different in character from TST, which is a high-rise commercial node recognised in the Urban Design Guidelines under HKPSG. It is considered not appropriate to incorporate a relaxation clause for BHRs for site area not less than 1,800m² in the YMT OZP similar to that tailor made for the TST OZP (**R1**);
- (c) the SB requirements as stipulated under the OZP is an important air ventilation measures to improve the pedestrian wind environment at the concerned area with narrow streets less than 15m wide. It is considered necessary to specify ‘under exceptional circumstances’ requirement so that any application for minor relaxation of SB requirement must demonstrate the exceptional circumstances with strong justifications (**R1 and R3**);
- (d) as the “G/IC(2)” zone does not fall within any existing air path, the 3m SB requirement has been deleted to allow design flexibility for the future redevelopment of community facilities, similar to other adjacent “G/IC” sites along Waterloo Road that are also not falling within air path (**R3**); and
- (e) the amendments to OZP involve mainly revisions to BHRs and there is no revision to the PR restrictions. There is no strong justification for amending the current PR control (**R2 and R3**).

9. **DECISION SOUGHT**

- 9.1 The Board is invited to give consideration to the representations and comment, and decide whether to propose/not to propose any amendment to the Plan to meet/partially meet the representations.
- 9.2 Should the Board decide that no amendment should be made to the draft OZP to meet the representations, Members are also invited to agree that the draft OZP, together with their respective Notes and updated ES, are suitable for submission under section 8 of the Ordinance to the Chief Executive in Council for approval.

10. **ATTACHMENTS**

Annex I	Draft Yau Ma Tei OZP No. S/K2/23 (reduced size)
Annex II	Schedule of Amendments to the Draft Yau Ma Tei Outline Zoning Plan No. S/K2/23
Annex III	TPB Paper No. 10773 (without attachments)
Annex IV	Minutes of TPB Meeting held on 17.9.2021
Plan H-1	Amendments incorporated in the Draft Yau Ma Tei Outline Zoning Plan No. S/K2/23
Plan H-2	Location Plan of Representations and Comment Sites

Plan H-2a	Aerial Photo showing location of Representations and Comment Sites
Plans H-2b and H-2c	Site Plan and Site Photo of “G/IC(2)” Site
Plan H-3	Existing BHRs on Yau Ma Tei OZP
Plans H-4, H-4a to H-4h	Location Plan and Site Plans of Current NBA and SBs on Yau Ma Tei OZP
Plans H-5a to H-5f	Viewing Points of Photomontages and Photomontages of Building Height Profile (Based on Site Classification)
Plan H-6	Location Plan of R1’s Proposal

**PLANNING DEPARTMENT
MAY 2022**