

REVIEW OF THE DRAFT KWAI CHUNG OUTLINE ZONING PLAN NO. S/KC/26

1. Introduction

1.1 This paper is to brief Members on:

- (a) the review of building height restriction (BHR) in respect of a representation site (the Site) on the draft Kwai Chung Outline Zoning Plan (OZP) No. S/KC/26 (the subject OZP) (**Annex A1**) following the Court of First Instance (the Court)'s judgment on the Judicial Review (JR) applications lodged by the Tung Chun Company Limited (Tung Chun) against the Town Planning Board's (the Board) decision not to amend the OZP to meet its representation; and
- (b) the re-hearing arrangement of the subject representation which will be remitted to the Board for re-consideration pursuant to the Court's judgment.

2. Background

- 2.1 The Site is located at No. 1-7, Cheung Wing Road, Kwai Chung (Kwai Chung Town Lot No. 432) at the fringe of an industrial area (**Plans 1a to 1d**). It is currently occupied by a soy sauce factory (**Plans 1d and 2**). The Site was rezoned to "Comprehensive Development Area" ("CDA") on 3.7.1992 without development restrictions on Plot Ratio (PR) and BH. A PR of 6.36 was imposed for the subject "CDA" zone on 26.9.2003 to reflect the development intensity of an approved planning application¹.
- 2.2 On 20.4.2012, the subject OZP, which incorporated amendments including the imposition of BHR on various development zones and stipulation of non-building area (NBAs)/building gaps (BGs) as well as rezoning proposals to reflect the existing uses/planned developments in the Kwai Chung area, was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). A BHR of 120mPD was imposed on the Site as a result of the comprehensive BHR review conducted for the whole Kwai Chung Area.
- 2.3 After exhibition of the subject OZP, the lot owner, Tung Chun submitted a representation (namely R9) opposing the BHR imposed on the Site, and proposed to remove the BHR of 120mPD or increase the BHR to 169mPD. On 12.10.2012, the Board considered R9, together with the 169 comments (i.e. C1758 - C1926) which also supported R9 and objected to the imposition of BHR on R9's site.

¹ The approved development proposal under Application No. A/KC/241 comprised a service apartment block (169mPD) and hotel block (95.5mPD) which was approved on 17.3.2000. A set of related building plans was also approved by the Building Authority (BA) on 20.2.2003 but not implemented.

After hearing the representation and related comments, the Board decided not to propose amendment to the OZP to meet the representation.

- 2.4 On 11.1.2013, Tung Chun lodged a JR (1st JR) against the Board's decision not to propose amendment to the subject OZP to meet its representation. The draft Kwai Chung OZP Nos. S/KC/27 (OZP 27), S/KC/28 (OZP 28) and S/KC/29 (OZP 29 at **Annex A2**) were subsequently exhibited under section 7 of the Ordinance on 9.5.2014, 13.6.2014 and 19.1.2018 respectively over the years to incorporate rezoning amendments mainly to facilitate the proposed residential/commercial/ columbarium developments in the area. The amendments incorporated in the OZP 27, OZP 28 and OZP 29 are not related to the Site and the land use zoning and development restrictions in relation to the Site remain the same as those on the subject OZP (i.e. BHR of 120mPD with a PR of 6.36). On 8.8.2014 and 23.2.2018, Tung Chun further lodged two JR applications against the Board's decision to gazette OZP 27, OZP 28 and OZP 29 with identical restrictions in relation to the Site introduced by the subject OZP.
- 2.5 Subsequently, the Court handed down a judgment allowing the 1st JR and ordered that the Board's decision on R9 in respect of the subject OZP 26 be quashed². Pursuant to the Court's order, R9 will be remitted to the Board for re-consideration. As for the two JRs in respect of OZP 27, OZP 28 and OZP 29, the Court has instructed both parties to work out the appropriate form of the orders to give effect to the Judgment³.
- 2.6 To follow up on the Court's judgment, a planning review (the Review) to take into account the guiding planning principles and considerations for formulating the BHR imposed for the Site and BHRs/NBAs/BGs for the Kwai Chung area as a whole, the updated assessments on the visual and air ventilation aspects, the latest planning circumstances and relevant requirements on the "Sustainable Building Design Guidelines" (SBDG) has been undertaken. Subject to Members' agreement on the findings of the Review, R9 will be re-considered by the Board in accordance with section 6B(3) of the Ordinance.

3. Background of Review of BH of the Kwai Chung OZP

- 3.1 In order to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for better living condition and greater certainty and transparency in the statutory planning system, the Planning Department (PlanD) has reviewed various OZPs with a view to incorporating BHRs for development zones to guide future development/redevelopment. The BHRs serve to achieve a good urban form and will help to ensure satisfactory air ventilation condition, which are for the public good and in the interest of the community. Priority has been given to areas subject to great and imminent development/redevelopment pressure and areas around Victoria Harbour.

² The Court ruled against the Board that : (a) it was ultra vires for the Board to have stated in the Decision Letter that the Applicant could proceed with the building development in accordance with the approved building plans, which should be a matter of BA's discretion; (b) the Board had taken into account irrelevant consideration, i.e. the possibility of minor relaxation of the BHR under section 16 of the Ordinance, in reaching its decision; and (c) the Board's decision was tainted by procedural unfairness as there was no evidence to show that two Members were apprised of the oral representations made by the Applicant's representative during their absence at the hearing meeting.

³ Agreement cannot be reached by both parties so far. Written submissions from both sides will be made to the Court for its ruling on the orders for the two JRs.

- 3.2 The Kwai Chung Planning Scheme Area (the Area) is located to the northwest of Kowloon, comprising a mix of residential, commercial, industrial and Government, institution or community (GIC) developments, as well as major territorial facilities such as the container port (**Plans 1a and 1b**). Rambler Channel and the mountainous backdrop of Golden Hill and Tai Mo Shan provide a natural setting for the developments in the Area. Developed as part of Tsuen Wan New Town in the 1960s, Kwai Chung has about half of its buildings aged over 30 years and many of them, particularly the residential and industrial ones, are ripe for redevelopment. Prior to the review of the OZP in 2012, statutory BHRs had been incorporated only in development zonings of “Residential (Group B)1” (“R(B)1”) for Chung Shan Terrace at Lai King Hill Road and “Village Type Development” (“V”) for Ha Kwai Chung Village at Kwai Chung Road. There was a need to incorporate BHRs in the OZP to provide proper guidance for developments in the Area. In the absence of statutory BH control under the OZP, there could be a proliferation of out-of-context buildings competing for better view and hence a degradation in the overall visual quality of the Area.
- 3.3 It has been recognized that it is insufficient to rely solely on administrative measures or the lease conditions to control development to achieve a good urban form. The stipulation of BHR on the OZP is considered a more open and effective measure to regulate the height profile of the built environment. Besides, it involves the setting out of the rationale for the restrictions more clearly, making it more transparent and open to public scrutiny. The mechanism will ensure that all stakeholders have the opportunity to express their views on the BHR in the statutory plan-making process.

Amendments shown on the Subject OZP

- 3.4 The amendments incorporated in the subject OZP, which mainly included the imposition of BHRs on various development zones, designation of NBAs/BGs and rezoning of sites to reflect the as-built condition/planned development, were considered and agreed by the Metro Planning Committee (MPC) of the Board on 30.3.2012. The relevant MPC Paper No. 6/12 and the minutes of the MPC meeting, which are available at the Board’s website⁴, are deposited at the Board’s Secretariat for Members’ inspection.

The Kwai Chung Area and Rationale of the Imposition of BHRs on the Subject OZP

The Area (Plans 1a and 1b)

- 3.5 The Kwai Chung area (about 1,025 ha) is situated to the northwest of Kowloon, stretching from Tsuen Wan on the north to Lai Chi Kok on the south, and from Golden Hill on the east to the Rambler Channel on the west. Tsing Yi is located to the further west across the Channel. The northern boundary of the Area is delimited by Tsing Tsuen Road, Texaco Road, Castle Peak Road, Wo Yi Hop Road and Cheung Pei Shan Road, and the southern boundary by Ching Cheung Road.

⁴ The MPC Paper No. 6/12 is available at https://www.info.gov.hk/tpb/en/papers/MPC/463-mpc_6-12.pdf and the extract of the minutes of the MPC meeting is available at https://www.info.gov.hk/tpb/en/meetings/MPC/Minutes/m463mpc_e1.pdf.

- 3.6 Topographically, the Area is a southwest-facing valley defined by the foothills of Golden Hill to the east, the outcrop at Kwai Shing to the northwest and the water body of the Rambler Channel to the southwest. The valley floor, now home to Kwai Fong, was originally a cove known as Gin Drinker's Bay (醉酒灣) which was subsequently reclaimed for development in the 1960s. The Area is largely developed as high-rise public and private residential developments. The industrial/business areas located along Castle Peak Road/Kwai Chung Road in the central and Tsuen Wan Road in the southwest of the Area collectively is one of the major providers of industrial floorspace in the metro area of Hong Kong.
- 3.7 The general planning intention is to enhance the vibrancy of the urban core, maintain the existing general land use patterns and create a more discernible townscape by exemplifying the valley-like topography. This would also enhance the visual amenity and air ventilation of the Area.

The Current BHRs

Considerations for Formulating the BHRs

- 3.8 In conducting the BH review for the Area, relevant planning considerations have been taken into account, including the topography, foothill setting, waterfront setting, site levels, local character, existing predominant land uses and BH profile, areas of local attractions or historic significance, BHRs under the lease and the compatibility in terms of BH with the surrounding areas, the local wind environment and measures suggested for ventilation improvements, the need to balance between public aspirations for a better living environment and private development potential, stepped BH concept, permissible development intensity under the OZP, and the broad urban design principles set out in the Urban Design Guidelines (UDG) in Chapter 11 of the Hong Kong Planning Standards and Guidelines (HKPSG).
- 3.9 While the mountainous backdrop of the Area provides visual interest to the cityscape, it is also a valuable visual relief to the densely populated urban area. Besides, the BH control in the Area serves to safeguard the ridgeline from further urban intrusion and to ensure the ventilation in the hinterland.
- 3.10 An Urban Design Appraisal (UDA) for the Area at **Annex D** (Attachment VI of MPC Paper No. 6/12 mentioned in para. 3.4 above) was conducted and the broad urban design principles are adopted⁵.
- 3.11 Air ventilation was one of the major planning considerations in the OZP review. In 2010, PlanD commissioned an expert consultant to undertake an Air Ventilation Assessment (AVA) by Expert Evaluation (EE) of the Area (Attachment VI of MPC Paper No. 6/12 and available at PlanD website⁶). The purpose of the AVA

⁵ The Broad Urban Design Principles include: (a) the green mountain backdrop on the northwest, north, and east should be preserved; (b) a stepped BH concept that respects the natural topographic profile should be adopted; (c) excessively tall buildings should be avoided in the waterfront area in order to preserve the sea breezes to the inland and views to the greenery hillsides; (d) the views to/within the Area from major vantage points and local vantage points should be taken into account as far as possible; (e) the BH profile should be sympathetic and compatible in scale and proportion with the topographical and landscape setting; (f) the setting and views towards existing / proposed heritage buildings should be protected; and (g) existing vistas and major air paths should be preserved. Open spaces and low-rise GIC and "Other Specified Uses" ("OU") sites should be retained to serve as visual and spatial relief and breathing space.

⁶ The AVA (EE) is available at https://www.pland.gov.hk/pland_en/info_serv/ava_register/ProjInfo/AVRG68_ExpReport.pdf

(EE) is to provide a qualitative assessment of the wind environment within the Area, to identify problem areas and propose the required mitigation measures. Based on the initial planned scenario regarding the proposed BHRs for the Area, the existing/planned wind condition/problem areas of the Area were assessed/identified, and possible mitigation measures (including provision of NBAs and BGs) for improving the air ventilation were recommended.

- 3.12 According to the findings of the AVA (EE), the annual prevailing wind of the Area comes from the northeast, east and southeast, whereas the summer prevailing wind from the southeast to southwest (**Plan 3**). As far as air ventilation is concerned, the summer wind is very important and beneficial to the pedestrian thermal comfort of the Area. It is therefore important to plan to benefit from the annual wind characteristics and, at the same time, to maximise the penetration of the summer wind (mainly from the southeast to southwest) into the Area. Currently, the higher grounds of the foothill of Golden Hill and Kwai Shing Knoll rely on open space and green belt for wind penetration, while the lower grounds of the urban core rely on open space, low-rise GIC buildings and major carriageway for wind flow (**Plan 3**). In order to address the air ventilation issues, measures including the stepped height profile and imposition of NBA/BGs are adopted.
- 3.13 In formulating the BHRs for the Area (**Plan 5**), it would be ensured that upon incorporation of the restrictions, private development sites (except “G/IC” and some “Other Specified Use” (“OU”) sites) would be able to accommodate the maximum PR/Gross Floor Area (GFA) as stipulated on the OZP, taking into account the development restrictions under the lease. A stepped height concept is generally adopted to exemplify the valley-like terrain, with lower height bands in the central urban core and gradually increasing height bands towards the foothill of Golden Hill on the east and the knoll at Kwai Shing on the west. Developments near the Kwai Fong and Kwai Hing MTR stations (**Plan 5**) can reinforce the nodal developments around the stations. The BH bands help preserve views to the ridgelines and achieve a stepped height profile for visual permeability and wind penetration and circulation (**Plan 6**). The height profile is sympathetic and compatible in scale and proportion with the surrounding developments. The BH bands ensure that the urban design principles will not be negated while still optimising the development intensity as provided under the current OZP.
- 3.14 Taking account of the topography, local character, land uses, existing building heights and street pattern, the Area can be divided into 6 sub-areas (**Plans 4 and 5**). The characteristics and rationales for the BHRs of the Eastern Sub-area (in which the Site is situated) (**Plan 6**) are described below.

Eastern Sub-area

- 3.15 The Site is located within the Eastern Sub-area, which is situated at ascending terrain overlooking the Central Sub-area. The proposed height bands in this sub-area seek to respond to the upwardly sloping foothill. For the gently rising land bounded by Castle Peak Road/Cheung Wing Road and Wo Yi Hop Road, a BHR of 120mPD is proposed for both the private residential developments in “Residential (Group A)” (“R(A)”) zone and the “CDA” zone, a BHR of 130mPD for the industrial/business development under “OU” annotated “Business” (“OU(B)”) zone and a BHR of 190mPD for The Apex under “C(2)” zone. Rings of progressively increasing height bands of 150mPD, 160mPD, 170mPD, 180mPD, 190mPD, 200mPD, 210mPD and 220mPD corresponding to the

contours are assigned to the residential developments on steeper topography to the east of Wo Yi Hop Road.

The Tung Chun Site and Its Surroundings (Plans 1c, 1d, 2 and 8)

- 3.16 The Site with an area of about 12,340m² is located on the fringe of the Eastern Sub-area, with Cheung Wing Road to its west, Kwok Shui Road to its south, Tai Yuen Street to its east and an industrial building to its north. The planning intention of “CDA” zone for the Site is for comprehensive development/redevelopment of the area for residential and/or commercial uses with provision of open space and other supporting facilities. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of the environmental, traffic, infrastructure and other constraints.
- 3.17 The Site is currently occupied by a low-rise (1 to 3-storey) industrial plant operated as a soy sauce factory of the Tung Chun (Soy & Canning) Company. It is accessible via Kwok Shui Road. To its north, east and southeast are industrial/business buildings under “OU(B)” zone subject to a BHR of 130mPD. Further south beyond Kwok Shui Road is a knoll zoned “Open Space” (“O”) which is yet to be implemented. Further northwest and west beyond Cheung Wing Road are an established industrial/business area zoned “OU(B)” subject to a BHR of 120mPD, another area zoned “O” which is not yet implemented and Yau Ma Hom Resite Village under “V” zone, all within the Tsuen Wan OZP (**Plan 1c**).
- 3.18 The Site is subject to previous planning applications (No. A/KC/97, 127, 197, 241, 298 and 444⁷) and building plan approvals. Among others, Application No. A/KC/241 was proposed for a comprehensive development of hotel (95.5mPD), service apartment (169mPD) and commercial uses at a PR of 6.36 which was approved with conditions by the MPC on 17.3.2000. Subsequently, the General Building Plans for the development were approved by the BA on 20.2.2003⁸.

⁷ Application No. A/KC/97 for relaxation of PR of a proposed industrial building was rejected by the MPC on 10.5.1991 on the grounds that the relaxation sought would not be minor vis-a-vis the restriction under the “I” zone of the OZP No. S/KC/7. Applications No. A/KC/127 and 197 for factory/godown development with a PR of 15 were approved with conditions by the Board on 4.6.1993 and 26.1.1996 respectively. Application No. A/KC/298 was for minor amendment of the approved scheme under Application No. A/KC/241 to relocate the proposed refuge floor approved by the Director of Planning under the delegated authority of the Board on 19.1.2005 subject to the same conditions stipulated under Application No. A/KC/241. The latest Application No. A/KC/444 for a composite office, retail and residential development with a BH of 145mPD, was considered by the MPC on 26.1.2018, and the decision was deferred pending submission of further information by the applicant.

⁸ The approved PR 6.36 in relation to Application No. A/KC/241 was subsequently incorporated in the “CDA” zone on the draft Kwai Chung OZP No. 20 on 26.9.2003. As the relevant building plan of the approved scheme was approved by the BA on 20.2.2003, the proposed development was deemed commenced according to the TPB’s Guidelines (TPB PG) No. 35B. While the last GBP was approved on 31.1.2007, Buildings Department advised on 24.7.2012 that given the lapse of time since the last building plan approval, consent application may be refused under Buildings Ordinance (BO) s16(3)(d) noting that certain provisions of the Buildings Ordinance and allied regulations have been revised (e.g. Barrier Free Code 2008) since the last approval. Notwithstanding that, if the Authorized Person could successfully demonstrate that the proposals are in compliance with the latest statutory requirements by submissions of amendment plans for approval, the BA may then consider the granting of consent for the approved plans.

4. Review of BHR on the Site and the Kwai Chung Area

Scope of Review

- 4.1 On the subject OZP, BHRs were stipulated in the development zones where NBAs/BGs were also designated in various zones. To respect the ascending topography from Castle Peak Road in the south to Kwok Shui Road and Wo Yip Hop Road in the north, BHRs of 105mPD, 120mPD⁹ and 130mPD are assigned to the business/industrial areas on both sides of Cheung Wing Road (**Plans 1c and 6**). The land use zoning (“CDA”) and development restrictions in relation to the Site on the extant OZP are the same as those on subject OZP. To follow up on the Court’s decision, R9 would be remitted to the Board for re-consideration in respect of the BHR imposed for the Site in the overall context of the Eastern Sub-area at **Plan 6** by taking into account the SBDG requirements. Besides, opportunity is also taken to review the SBDG implications on the development intensities permissible for sites stipulated with BHR and NBAs/BGs under the relevant zonings within the whole Kwai Chung OZP.
- 4.2 The Review has taken into account the SBDG requirements and updated assessment on the visual/air ventilation aspects in relation to the Site. A preliminary assessment has also been conducted to take into account the implications of SBDG on the development intensities permissible for sites under various development zones within the whole OZP. It attempts to estimate the absolute BH required to accommodate the permissible PR for individual development sites mainly within the “Commercial” (“C”), “OU(B)”, “R(A)”, “Residential (Group E)” (“R(E)”), “CDA” and “Industrial” (“I”) zones¹⁰ on the OZP and the details of assessment are in **Annex C2**. For GIC developments and other “OU” sites, they have special functional and design requirements with a great variation in floor-to-floor height or open air design to suit operational needs. As they provide spatial and visual relief amidst the densely built environment, their current BHRs mainly reflect their existing BHs unless there is known committed redevelopment proposal with policy support. As there has been no substantial change in the planning circumstances since 2012, a general review of the BHRs for the “G/IC” and “OU” sites other than “OU(B)” sites is considered not necessary. The “R(B)” zone is also not covered by the Review as it is intended for medium to low-density developments, where the current PR/BH ranging from about 1.15 to 3.3 and 70mPD to 290mPD respectively for the zone would generally not hinder future redevelopments in complying with SBDG requirements.

Findings of the Review

- 4.3 The Review concludes that the current BHR for the Site as well as the BHRs and NBAs/BGs requirements stipulated on respective zones should generally be able to accommodate the PR/GFA permitted under the OZP after taking into account the SBDG requirements. In light of the above, no amendment to the proposed BHR at the Site and other land use zones is recommended after considering the implications of SBDG, the NBAs/BGs requirements, the findings of updated

⁹ BHR of 120mPD is assigned to the “OU(B)” and “R(E)” zones on the west of Cheung Wing Road in Tsuen Wan OZP.

¹⁰ The maximum PR is 9.5 for “C”, “OU(B)” and “I” zones and 5 for “R(E)” and Kau Wa Keng “CDA” zones. The maximum domestic/non-domestic PR for “R(A)” and “R(A)2” zones are 5/9.5 and 6/9.5 respectively or PR calculated on composite formula for a mixed development.

technical assessments and relevant planning considerations. The key findings are summarized as follows:

(a) SBDG Requirements

- 4.3.1 SBDG has established three key building design elements i.e. building separation, building setback and site coverage of greenery, with the objectives to achieve a better built environment. The relevant Buildings Department Practice Notes are in **Annexes B1** and **B2** and a summary of the implications of SBDG are set out in **Annex C1**.
- 4.3.2 Since the specific and relevant building design requirements under SBDG can only be determined at detailed building design stage and there are different options or alternative approaches to meet the requirements, it would be difficult to ascertain at early planning stage precisely the implications on individual development. The extent of implications of SBDG on the building profile can only be estimated in general terms by adopting typical assumptions.
- 4.3.3 With the assumed parameters set out in **Annex C3** (including site classification, and corresponding site coverage under Building (Planning) Regulations (B(P)R), GFA concession, podium height and floor-to-floor height), in order for a typical composite (i.e. the lower portion for non-residential use and upper portion for residential use)/pure domestic/pure non-domestic building within the “CDA” zone to achieve a total PR of 6.36 by taking into account SBDG requirements, an absolute BH of about 61m/60m/55m will be required respectively. Based on the site formation levels of the Site ranging from about 13mPD to 18mPD, the BHR of 120mPD should be able to accommodate the maximum total PR of 6.36 permissible under the OZP with the scope for redevelopment, which can satisfy the SBDG requirements and respect the surrounding context.
- 4.3.4 Opportunity has also been taken to assess the implication of SBDG on the development intensity for sites subject to the current BHRs on respective zones under the Kwai Chung OZP as a whole (**Annex C2**¹¹). A typical non-domestic building within “C”, “OU(B)”, “I”, “CDA” and “R(E)” zones¹² will have a BH ranging from about 39m to 79m for incorporating building setback requirement and from about 43m to 83m for incorporating both building setback and building separation requirements, where applicable, depending on site classification under the Buildings

¹¹ Assumptions used in the assessment include the types of building (domestic, non-domestic or composite building), site classification and corresponding permissible PR and SC under B(P)R, possible GFA concessions, podium height up to 15m, floor-to-floor height of 3.15m/4m/5m (residential/commercial/podium), provision of carpark at basement level and refuge floor requirement.

¹² Regarding the three sites within the “R(E)” zones, only the Kerry TC Warehouse site is under review since the other two sites (i.e. Kwai Chung Estate and Kwai Tsui Estate) are public housing estates which would not be redeveloped in near future.

Ordinance. A composite building (with the lowest three floor for non-residential use and upper portion for residential use) / domestic building within “R(A)” and its sub-zones, as well as “R(E)” and “CDA” zones will have a BH ranging from about 43m to 69m for incorporating building setback requirement and from about 47m to 72m for incorporating both building setback and building separation requirements. Taking into account the site formation levels, the current BHR ranging from about 90mPD to 225mPD for “C” zones; 105mPD to 150mPD for “OU(B)” zones; 90mPD to 140mPD for “I” zones; 90mPD to 260mPD for “R(A)” and its sub-zones; 130mPD for “R(E)” zone; and 120mPD for “CDA” zone, should generally be able to accommodate the PR/GFA permitted under the OZP, which is summarized at **Annex C4**.

(b) Visual Impact

4.3.5 A simulated model indicating the BH profile of the Site at the maximum of 120mPD and the buildings developed to their respective maximum BHRs in the Eastern Sub-area is at **Plan 9**. The simulated model of the Site indicating the BH profile of the Site and those developments with higher redevelopment potential¹³ in the Eastern Sub-area is at **Plan 10**. As shown in **Plan 9**, over the years there are only two developments in the Eastern Sub-area completed since 2012 that have slightly exceeded the OZP BHRs (edged red on **Plan 6**) given that these buildings had their building plans approved prior to the gazettal of the subject OZP on 20.4.2012¹⁴. There is no change in planning circumstances in the Eastern Sub-area and all of the new developments generally conformed with the BHRs on OZP, with the exception of the aforesaid two developments¹⁵, which appear to have no significant visual impact and implication on the intended BH profile.

4.3.6 As shown in the simulated model at **Plan 9**, two viewing points (VPs) were selected, i.e. from the south along the major road and from the west above the Kwai Shing area. As illustrated in the images for the proposed development on the Site viewing from these VPs, the proposed development if restricted to 120mPD would not induce substantial visual impact to the surrounding areas and it is not visually incompatible with the character of the townscape and would provide appropriate transition in height that respects the surrounding context.

¹³ Developments with a building age of 30 years or over, and BH of 15 storeys or below are assumed to have greater potential for redevelopment.

¹⁴ The first development is an industrial-office development at BH of about 139mPD against BHR of 130mPD. Another one is Shek Foon House in the Shek Lei II public housing development at BH of about 188mPD against BHR of 180mPD.

¹⁵ There is no planning application for minor relaxation of BHR within the Eastern Sub-area.

(c) Air Ventilation

4.3.7 According to the AVA (EE) completed in 2012, Cheung Wing Road abutting the Site is identified as an important air path for the northeasterly/southwesterly wind penetration (Air Path A on **Plan 3**). As the building-to-building width of the road is over 40m, the potential impact due to the redevelopment of the Site is less significant. The “O” zone to the south of the Site would act as a ventilation relief to alleviate the potential impact of the redevelopment. It is noted that the 2004 wind data¹⁶ was adopted in the 2012 AVA (EE) and an updated set of wind data was launched in 2013¹⁷. The annual and summer prevailing wind directions of the two sets of wind data are basically tallied with each other. Moreover, there is no change in planning circumstances including the BHRs, topographical characteristics and street patterns. As such, the assessment of 2012 AVA (EE), undertaken on the basis of northeasterly/southeasterly annual prevailing wind and southeasterly summer prevailing wind, and its recommendations on the proposed mitigation measures, e.g. NBAs/BGs, are still valid.

(d) Building Height Profile

4.3.8 With respect to the natural configuration of the Kwai Chung area, the valley-like terrain can be exemplified through the respective BH bands. The BH bands help preserve views to the ridgelines and achieve a stepped height profile for visual permeability and wind penetration and circulation. Having regard to the BH profile of the neighbouring Tsuen Wan (**Plan 1c**), the setting and planning intention of the Site, it was considered in 2012 that a BHR of 120mPD on the Site would be more congruous with the overall BH profile exemplifying the natural valley-like topography. Imposition of a 169mPD BHR at the Site as requested by the representer R9 would affect the integrity of the BH bands of the Eastern Sub-area and render the development standing out of the adjoining height bands, which would be out-of-scale with the surrounding developments. The existing BHR of 120mPD at the Site can avoid excessively tall and out-of-context building, and is in line with the stepped height concept intended for the Kwai Chung area. It is also considered sympathetic and compatible in scale and proportion with the surrounding developments.

(e) NBAs and BGs

4.3.9 NBAs and BGs were stipulated on the OZPs taking into account recommendation in the AVA (EE). The former can facilitate air

¹⁶ The 2004 MM5 (short form for Fifth-Generation Penn State/NCAR Mesoscale Model) is a regional mesoscale model used for creating weather forecasts and climate projections with wind data covering the whole year of 2004.

¹⁷ The 2013 RAMS (short form for Regional Atmospheric Modeling System) is also a regional meso-scale numerical model with wind data of 2000-2009 integrated.

ventilation of the Area while the latter plays a key role in creating air paths by appropriate design and disposition of building blocks. The ten NBAs and five BGs stipulated within the OZP are at **Plans 7, 7a and 7b**. In general, the NBAs and BGs are stipulated following the alignment of existing major roads in the area and serve to extend/widen these breezeways. These NBAs and BGs are stipulated to provide design guidance upon redevelopment of the sites and existing development would not be affected. The assessment in **Annex C4** indicates that the permissible PR/GFA under the respective zoning are attainable after taking into account the BHRs, NBAs/BGs as well as SBDG requirements. Since these NBAs and BGs are stipulated based on the recommendations of the AVA (EE) to facilitate and enhance air ventilation and that there is no change in planning circumstances since then, they are recommended to be retained.

5. Recommendation

- 5.1 The purpose of imposing BHRs in the Area is to provide better planning control on the BH upon development/redevelopment and to meet public aspirations for greater certainty and transparency in the statutory planning system, to prevent excessively tall or out-of-context buildings, and to instigate control on the overall BH profile of the Area. In formulating the BHRs for individual sites in the Area in 2012, all relevant factors including the UDG, the UDA for the Area, existing topography, stepped BH concept, local characteristics, existing BH profile, site formation level and site constraints, the zoned land uses of the sites, compatibility with the surrounding developments, development potential, the wind performance of the existing condition and the recommendations of the AVA (EE), have been taken into consideration.
- 5.2 In terms of the redevelopment potential of the Site, the maximum total PR of 6.36 permissible under the OZP is still achievable under the BHR of 120mPD. Besides, the imposition of BHR of 120mPD for the Site can avoid excessively tall and out-of-context buildings which would adversely affect the overall valley-like and foothill setting of the Area. It helps maintain the integrity of the stepped height concept and is more appropriate for the Site to be congruous with the overall BH profile exemplifying the natural valley-like topography.
- 5.3 The stipulation of BHR of 120mPD at the Site is intended to provide a clear planning intention in respect of the permissible BH at an early stage of the planning process, allowing the restriction to be more transparent and open to public scrutiny. A BHR of 120mPD can still allow a comprehensive development to be pursued at the Site without compromising its development potential. Given the proposed BHR of 120mPD at the Site is sufficient to accommodate the permissible development intensity even after considering the SBDG requirements, there is no need nor relevant to rely on the clause of the minor relaxation of BHR under the Notes of the “CDA” zone to achieve the permissible development intensity for the Site. Yet, the representer may choose to pursue a development proposal with a higher BH by seeking planning permission for minor relaxation of BHR with justifications on design merits. In any event, the provision for minor relaxation of BHR under the Notes of the OZP is not considered a relevant consideration in the imposition of 120mPD BHR for

the Site under the OZP amendment. In respect of the two sets of building plans approved on 20.2.2003 and 31.1.2007 respectively, the representer can decide to implement the proposal in accordance with these building plans subject to BA's discretion and approval.

- 5.4 Based on the Review after taking into account the guiding planning principles and considerations for formulating the BHR imposed for the Kwai Chung area/Sub-area, the updated assessments on visual and air ventilation aspects and that there is no change of planning circumstances in relation to the Site and its surrounding developments, it is considered that stipulation of BHR of 120mPD for the Site is appropriate. It has also been demonstrated that the permissible PR under the "CDA" zoning for the Site is achievable with reference to the SBDG requirements where the scope for development would not be jeopardized. The Review also indicates that the BHRs, NBAs and BGs requirements stipulated under the subject OZP should be able to accommodate the PR/GFA permitted under the OZP with reference to the SBDG requirements. The NBAs and BGs requirements stipulated on the basis of the recommendations of the 2012 AVA (EE) are still valid given no change in the planning circumstances. Hence, it is recommended that the 120mPD BHR stipulated for the Site can be maintained from planning, urban design and development control perspectives.

6. Hearing Arrangement for the Subject Representation

- 6.1 Subject to the Board's agreement on the result of the Review, it is recommended that Tung Chun should be invited for the rehearing of R9 under section 6B(3) of the Ordinance and a period of two months should be allowed for Tung Chun to submit supplementary information (SI) before the reconsideration. The SI, if received, would be deposited at PlanD's Planning Enquiry Counters for public inspection.
- 6.2 As there were 169 comments on R9, it is considered appropriate to invite these commenters to the re-consideration meeting so that they can make their views known to the Board. Should SI be received from R9, it is also recommended that a period of 3 weeks should be allowed for these commenters to provide comments on the submission of R9, if any. Both R9 and related commenters will be invited to the meeting to be arranged. Should the Board decide to propose any amendment to the OZP after reconsideration of R9, such proposed amendment should be published under s.6B(8) of the Ordinance, and the public would have an opportunity to submit further representation on the proposed amendment.

7. Departmental Consultation

- 7.1 The general findings of the Review and the proposal of not amending the OZP after taking account of the SBDG for the Site have been circulated to relevant government bureaux and departments for comment.
- 7.2 All government bureaux/departments consulted had no objection to the findings of the Review that there is no need to amend the OZP:

- (a) Chief Town Planner/Urban Design and Landscape, PlanD;
- (b) District Lands Officer/Tsuen Wan and Kwai Tsing, Lands Department;
- (c) Chief Building Surveyor/New Territories West, Buildings Department;
- (d) Chief Highway Engineer/New Territories West, Highways Department;
- (e) Director of Environmental Protection;
- (f) Commissioner for Transport;
- (g) Chief Engineer/Mainland South, Drainage Services Department;
- (h) Chief Engineer/Construction, Water Supplies Department;
- (i) Project Manager (New Territories West), Civil Engineering and Development Department;
- (j) Director of Fire Services;
- (k) Chief Architect/Central Management Division 2, Architectural Services Department;
- (l) Director of Leisure and Cultural Services; and
- (m) District Officer (Kwai Tsing), Home Affairs Department.

8. Decision Sought

8.1 Members are invited to:

- (a) note the findings of the Review that the BHR stipulated for the Site should be maintained having regard to the latest circumstances and updated planning assessments;
- (b) on the basis of (a) above, agree to invite Tung Chun and related commenters to a meeting convened for re-consideration of R9 under section 6B of the Ordinance according to the hearing arrangement as recommended in para. 6.1 and 6.2; and
- (c) subject to the Board's agreement on (b) above, agree to allow a period of two months for R9 to submit supplementary information to the Board, if any, prior to the reconsideration of R9, and three weeks for the related commenters to provide comments on R9's submission, if any.

9. Attachments

Annex A1	Draft Kwai Chung Outline Zoning Plan No. S/KC/26 (reduced size)
Annex A2	Draft Kwai Chung Outline Zoning Plan No. S/KC/29 (reduced size)
Annex B1	APP-151 "Building Design to Foster a Quality and Sustainable Built Environment"
Annex B2	APP-152 "Sustainable Building Design Guidelines (SBDG)"
Annex C1	Implications of SBDG
Annex C2	Basic Assumptions and Implications of Sustainable Building Design Guidelines adopted in the Review for the Kwai Chung area
Annex C3	Basic Assumptions adopted in the Review for the Site
Annex C4	Review of Development Restrictions on Kwai Chung Outline Zoning Plan
Annex D	Urban Design Appraisal for Proposed Amendments to the Approved Kwai Chung Outline Zoning Plan No. S/KC/25 (previously as Attachment VI of MPC Paper No. 6/12)

Plan 1a	Kwai Chung Planning Scheme Area
Plan 1b	Aerial Overview of Kwai Chung and Surrounding Area
Plan 1c	Location Plan of the Representation Site
Plan 1d	Site Plan of the Representation Site
Plan 2	Site Photo of the Representation Site
Plan 3	Existing Air Path Network
Plan 4	Sub-areas of Kwai Chung Planning Scheme Area
Plan 5	Building Height Profile of Kwai Chung Planning Scheme Area
Plan 6	Building Height Profile of the Eastern Sub-area
Plan 7	Non-Building Areas and Building Gaps of the Kwai Chung Area
Plan 7a	Non-Building Areas and Building Gaps of Eastern Sub-area
Plan 7b	Non-Building Areas and Building Gaps of Central Sub-area
Plan 8	Site Context of the Representation Site
Plan 9	The Representation Site and Building Height Profile in Eastern Sub-area
Plan 10	The Representation Site and Building Height Profile of Development with Redevelopment Potential in Eastern Sub-area