

Imposition of Plot Ratio Restrictions in Kowloon and New Kowloon

Background

At the Bills Committee meeting held on 26.4.2000, Members requested the Administration to provide information relating to the imposition of plot ratio (PR) restrictions in Kowloon and New Kowloon through amendments to 16 Outline Zoning Plans (OZPs).

Amendments to 16 OZPs

2. On 24.12.1993, the Town Planning Board (TPB) gazetted 16 OZPs which incorporated the amendments recommended in the "Review of Building Density and Height Restrictions in Kowloon and New Kowloon" ("KDS"). The KDS was commissioned to establish a new basis for the control of development intensities following the expiry of the Temporary Control of Density of Building Development (Kowloon and New Kowloon) Ordinance (TCO) at the end of 1993 and the ultimate lifting of all airport height restrictions after the relocation of the Kai Tak Airport.

3. The amendments incorporated into the 16 OZPs are in general as follows :

a uniform density control is generally applied throughout the Kowloon built-up area for each category of land use, i.e. a PR of 12 for both commercial and industrial sites;

a two-tier PR system for "Residential (Group A)" sites to encourage site amalgamation and improve local traffic conditions (i.e. a domestic PR of 7.5 for sites over 400m² with adequate internal provision of parking and loading/unloading facilities, and a domestic PR of 6 for sites less than 400m² or where parking and loading/unloading facilities cannot be provided). The total permissible PRs, combining domestic and non-domestic uses, are 9 on large sites and 7.5 as of right;

redevelopment is permitted up to the existing bulk or the new permissible PR, whichever is the greater; and

sites designated "Commercial/Residential" ("C/R") are redesignated either "Commercial" ("C") or "Residential" ("R") so as to provide certainty in infrastructure planning and provision of facilities.

Impact of the Restrictions Imposed

4. As a result of the imposition of the PR restrictions, there would be a modest amount of additional development in most areas (or at least no loss when compared to the existing bulk). When compared with the PRs permissible under the TCO, 79% of residential sites and 86% of industrial sites would have a gain in development potential. Given that the average existing PRs of many of the old residential districts are relatively low, e.g. 5.5 for To Kwa Wan and 6.2 for Hung Hom, there should be sufficient incentives for residential redevelopment even with imposed PR restrictions. About 69% of the commercial sites would have a lower permissible PR, but the difference would be less than 1 for the majority. Moreover, the provision for redeveloping sites up to the existing bulk does allow redevelopment to come to fruition as in the case of redevelopment at the Ambassador Hotel site for a commercial building with a PR of 15. The KDS Report concluded that the recommended density control would in general allow a moderate level of redevelopment activity. A major obstacle to redevelopment would in fact be the problem of multiple ownership.

5. A specific question was raised at the Bills Committee meeting held on 26.4.2000 with regard to Chungking Mansions at Nathan Road. For Members' information, Chungking Mansions falls within a "C" zone on the approved Tsim Sha Tsui OZP No. S/K1/11 and redevelopment is subject to a maximum PR of 12 or the PR of the existing building, whichever the greater.---

Challenge to the Restrictions Imposed

6. The Real Estate Developers Association of Hong Kong ("REDA") lodged an objection on 14.1.1994 against the restrictions on development intensities and other general planning principles embodied in the 16 OZPs. The TPB on 21.4.1995 decided not to propose any amendment to the 16 OZPs to meet the objection mainly because the restrictions imposed were in line with the recommendations of the KDS, which had given rational and balanced consideration to various factors such as infrastructural capacity constraints, shortfalls in Government, institution or community facilities, development rights under the existing controls, the need for incentive for redevelopment and other relevant matters including territorial and sub-regional studies.

7. The REDA subsequently lodged a judicial review (JR) against the TPB's decision on its objection. The grounds for the relief included, inter alia, the TPB's power to impose PR restrictions on buildings being ultra vires. The JR was dismissed by the High Court on 8.6.1996. In the judgment, the decision of the Court of Appeal in *Attorney-General v. C.C. Tse (Estates) Ltd.* [1982] HKLR 7 was cited, which held that the Board does have power to impose PR control because under section 3 of the Ordinance it has power to make plans for "types of building" and PR is an attribute which is sufficient to make buildings of the same PR fall into a type. Since the High Court is bound by the Court of Appeal, the High Court rejected the REDA's submission in this respect.

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