

DESCRIPTION: PRESIDENT FILE/CORRESPONDENCE REF: TONY TSE DATE 1: 2004 DATE 2:



THE HONG KONG INSTITUTE OF
SURVEYORS



9 July 2004

BY FAX & POST
#2894 9502

Your ref.: K-R/AIR/31

District Planning Officer/Kowloon
Kowloon District Planning Office
Planning Department
14/F., North Point Government Offices
333 Java Road
North Point
Hong Kong

Attn: Mr Raymond Lee

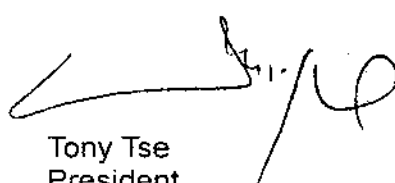
Dear Mr Lee

Building Height Restrictions for Kwun Tong and Kowloon Bay Business Area Public Consultation

Thank you for your letter of 13 May 2004 and we are pleased to submit our views on the Building Height Restrictions for Kwun Tong and Kowloon Bay Business Area as attached.

Should you require further information, please contact the undersigned or our Secretary-General, Mr Gordon Ng on 2526 3679.

Yours sincerely



Tony Tse
President

Encl.

b.c.c. Mr. Gordon Ng
Mr. Bernard Chan

**Building Height Restrictions for Kwun Tong and Kowloon Bay Business Areas Public Consultation Digest -
Comments from the Hong Kong Institute of Surveyors**

The Over-riding Principles

1. In May 2004, the Planning Department invited the public to comment upon the proposed building height restrictions to be imposed within the Kwun Tong and Kowloon Bay Business Areas. This Paper summarizes the views and opinions of the Hong Kong Institute of Surveyors ("HKIS").
2. Prior to reviewing the Public Consultation Digest, the HKIS would like to highlight three important principles in considering any public measures proposed to be implemented by the authorities:
 - a) **PROTECTION OF THE RIGHTS OF INDIVIDUALS:**
This principle is widely accepted to be the backbone of the economy of Hong Kong.
 - b) **"DE-REGULATION":**
For the market mechanism to operate effectively and efficiently, development controls should be introduced if, and only if, such controls are considered absolutely essential. This is in line with the recent announcement of the HKSAR Government to withdraw itself from the property market.
 - c) **CERTAINTY:**
Any development controls, if implemented, should be clear, certain and preferably with limited rooms for subjective judgment to be exercised by the authorities or the individuals involved.
3. It is under these three overriding principles that HKIS would offer our comments in connection with the proposed height restrictions in the following paragraphs.

"De-Regulation" and the Need for the Proposed Height Restrictions

4. The Consultation Digest stipulates the proposed height restrictions are the result of the recommendations of the consultancy study on "Urban Design Guidelines for Hong Kong" commissioned in 1999.
5. In September 2001, in response to the consultation in connection with the "Urban Design Guidelines for Hong Kong", the HKIS commented that there should be a set of clear criteria in determining the vantage points, including, for examples, vantage point(s) from the Central Business District; from existing or planned tourist districts, or from existing or planned landmarks. In this context, the HKIS commented that the vantage points

from Quarry Bay Park and Sun Yat Sen Memorial Park are considered to be of low importance and were recommended to be deleted.

6. Whilst there remain no clear criteria in determination of the vantage points, the vantage points from Sau Mau Ping Estate and from Shun Lee Disciplined Services Quarters, as quoted within the Public Consultation Digest, are NOT amongst the seven vantage points specified in the "Urban Design Guidelines for Hong Kong". If these two vantage points are to be deleted, corresponding changes to the proposed height restrictions are required accordingly.
7. **Given that views to the ridgelines will be different from different vantage points, it is considered important to specify a set of criteria in the determination of the vantage points.** This is to ensure that there will be a clear rationale behind the imposition of additional development control, which is in the form of further height restrictions, as currently proposed by the HKSAR Government. In view of the lack of the above, **we would question the need and the requirement for additional development control to be introduced.** This is also against the overriding principle of the HKIS towards "de-regulation".

Certainty

8. The general principles in setting the height control, as stipulated within the Public Consultation Digest, include "...*taking the 20% to 30% building-free zone as a starting point in the consideration of preservation of views to ridgelines, allowing punctuation effects at suitable locations and preservation of mountain backdrop with distinguished identity.*"
9. Assuming that there is a clear rationale for imposition of the proposed height restrictions (which is in doubt already), the provisions whereby punctuation effects are allowed at suitable locations would inevitably result in subjective judgment as to where the "suitable locations" should be situated. Whilst the example as shown at Figure 2 of the Digest would appear to be an easy choice, there are deemed to be situations where the location(s) for the "punctuation" effects to take place is less obvious.
10. **The lack of certainty and, potentially, the need for subjective judgment to be exercised by the authorities could lead to question about fairness of the system.**

Protection of the Rights of the Individuals

11. After responding to the two issues as raised above, and in the event that it remains the intention of the authorities to impose the proposed height restrictions, we would emphasize further that any proposed height restrictions should not affect the prevailing rights of the individual owners of property.

12. Accordingly, it is proposed that projects or lands having secured approval pursuant to the various development control system of Hong Kong should be exempted from the proposed additional height restrictions:
- a) Existing buildings where the heights already exceed the proposed height restrictions;
 - b) any projects having secured approval pursuant to the Town Planning Ordinance (including both Section 16 application and rezoning request);
 - c) projects/ lands with building plans approved by the Building Authority pursuant to the Buildings Ordinance. Furthermore, owners who wish to apply for major amendments, via the submission of a new set of building plans for the same site, should be permitted to follow the height as previously included in the set of building plans approved by the Building Authority;
 - d) projects/ lands having secured approval for land exchange/ lease modification which, under the prevailing regulations prior to imposition of the proposed new height restrictions, would permit the land to build to a height in excess of the proposed height restrictions.
13. The above should be clearly documented as part of the Notes to the Outline Zoning Plan or other mechanism as appropriate, to ensure that the protection of private interests has been stated and documented clearly.
14. There is no mention of the proposed implementation system within the Consultation Digest. With the growing emphasis on transparency of Government policy, we trust that further public consultation will be undertaken upon formulation of the proposed implementation system.

Urban Design and Height

15. Good urban design may not necessarily mean low-rise building developments. Different building height profile may also produce good urban design. Apart from building height, density of developments is also one major factor affecting the urban design. Developments particularly at the waterfront create the so called "wall effect" would certainly not be welcomed.

Conclusion

16. The success of the Hong Kong lies, to a large extent, the certainty of the system and the willingness of the Administration to constrain itself from intervening the market. With the good intentions behind various new measures, the trend towards increasing control, and therefore the increasing "policy risk" in connection with property development, would be a major deviation from the successful experience of Hong Kong.