



## **Design, Disposition and Height Clause under Lease (Site Coverage)**

The streamlined arrangements in imposing and ensuring compliance of Site Coverage<sup>1</sup> (SC) restriction as a development control parameter amongst the Buildings Department (BD), Lands Department (LandsD) and Planning Department promulgated in Joint Practice Note (JPN) No. 7 take effect from 23 August 2021. To effect the streamlined arrangements, this practice note (PN) varies and supplements paragraph 7(a)(i) of Lands Administration Office (LAO) PN Issue No. 3/2020 in so far as the accountability of underground structures in SC calculation concerns.

2. The streamlined arrangements are premised on the objective of giving the lot owner greater flexibility in the use of underground space within the lot and in turn in planning the overall design of a development, with other development parameters set out in the lease remaining unchanged. It is not intended to give the lot owner an increase in development intensity that would otherwise not be achievable under existing lease conditions.

3. With the above objective in mind, under the streamlined arrangements as promulgated in JPN No. 7, for leases<sup>2</sup> which contain provision on maximum gross floor area (GFA) or plot ratio or both and provision on SC restriction, LandsD would generally adopt BD's treatment of facilities and features for SC accountability, unless explicit lease conditions prohibit LandsD from doing so.

4. For leases which do not contain provision on maximum GFA nor provision on maximum plot ratio but contain provision on SC restriction (hence the SC restriction and height limit clauses have been relied upon to control development intensity and which has not exempted underground building or structures from calculating SC accountability), the Director of Lands (the Director) may, unless otherwise stated in the statutory town plan, flexibly consider to disregard underground structures<sup>3</sup> when checking compliance with the SC restriction for development, redevelopment or alteration and addition works provided that the

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<sup>1</sup> There are leases under which roofed-over area (ROA) restriction was imposed and served as de-facto restriction over SC. In checking compliance with ROA restriction, the Director of Lands would adopt the same approach as that in checking compliance with SC restriction.

<sup>2</sup> All references to "lease" in this PN shall include Government Lease or Conditions of Sale/ Grant/ Exchange, etc. as the case may be and "leases" shall be construed accordingly.

<sup>3</sup> The Director's decision as to what constitutes underground structures shall be final and binding.

lot owner could demonstrate in all respects to the satisfaction of the Director that the development intensity, upon development, redevelopment or alteration and addition works would not exceed that achievable under existing lease conditions. In other words, when the flexible arrangement to disregard the underground structures for the proposed development in SC calculation would result in an increase in development intensity which would not have been achievable without the flexibility, the lot owner will have to apply for a lease modification should he wish to pursue with such development, redevelopment or alteration and addition works.

5. This PN is not applicable to any building which, by reason of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121), is exempted from the provisions of the Buildings Ordinance (Cap. 123).

6. In reading this PN, reference may be made to LAO PN Issue No. 1/2004 regarding the procedures for introduction of flexibility into the SC restriction clause in the lease condition.

7. It must be noted that nothing in this PN shall in any way fetter or affect or prejudice the rights of the Government, the Director and their officers under the relevant lease or the Government's rights as lessor/ landlord, and all such rights are hereby reserved, and that nothing in this PN including any words and expressions used shall in any way be construed as any waiver of any provisions under lease or affect or bind the Government in relation to interpretation or enforcement of the terms and conditions of the relevant lease or otherwise. All rights to modify the whole or any part of this PN are hereby reserved.



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