

Frequently-asked Questions (FAQs) on
1st batch of Streamlining Arrangements for Development Control

(I) Joint Practice Note (JPN) No. 3 & Planning Department (PlanD)'s Practice Note 1/2019

(A) Landscape Requirements

Q1: Does the revised JPN No. 3 apply to projects whose Landscape Master Plan (LMP) or Landscape Proposal (LP) approved before the effective date if I need to make amendment after that?

A1: Yes, the new streamlined arrangement is applicable for new or revised LMP/LP submissions submitted after the effective date.

Q2: Do I need to make my LMP/LP submission under PlanD's Practice Note (PN) 1/2019 along with the General Building Plan (GBP) submission if I am required to do so as a planning approval condition? Who may prepare the LMP/LP submission?

A2: Under the new streamlined arrangement, prior to or at the time of GBP submission, only a Landscape Layout Plan (LLP) (instead of LMP/LP) demonstrating that the landscape provisions would not be unduly compromised by the proposed building design to PlanD is required. For LLP requirement, please refer to PlanD's PN 1/2019.

LMP submission should be made by a Registered Landscape Architect (RLA) while LP submission may be made by an RLA or any other competent person.

Q3: Should I submit the landscape submission to Lands Department (LandsD) if there is such a requirement under lease?

A3: For existing leases, if the landscape submission (i.e. LMP/LP) is required also for compliance with planning conditions, submission should be made to PlanD. Otherwise, they should be submitted to LandsD.

For new or modified leases, landscape submission should be submitted to PlanD or the concerned bureau/department (B/D) as specified in the lease condition.

Q4: Will LMP/LP be circulated to other departments (such as Highways Department / Transport Department) under new streamlined arrangement?

A4: Under the new streamlined arrangement, landscape submission if stipulated under lease will only be circulated to PlanD or the B/D specified in the lease for approval. However, as with the prevailing practice, for individual cases where the proposed landscape works may affect other restrictions and/or requirements imposed under lease (e.g. landscaping works encroaching on waterworks reserve area), views from relevant departments will also be sought.

Q5: Any guidelines for compliance with open space provision as part of the planning approval condition?

A5: The applicants should follow the requirements in Chapter 4 of Hong Kong Planning Standard and Guidelines (HKPSG) on design and provision of open space for their developments, particularly the sections on the standards for provision of open space and calculation towards open space standards.

Q6: Where should the RLA sign on the LMP submission?

A6: The RLA may put his/her name, registration number, signature and membership chop on the first page of the LMP submission.

Q7: What is the definition of “Landscape Plan” stated in the existing lease?

A7: The provision of greenery area through landscape submission, e.g. “Landscape Plan” and LMP, was previously imposed under leases following the promulgation of Sustainable Building Design Guidelines (SBDG) as set out in the Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers (PNAP) APP-152 issued by the Buildings Department (BD) in April 2011. The submission of a Landscape Plan is required under existing leases should show the location, disposition and layout of the provision of greenery area as landscaping works within lot.

Q8: Would LandsD vet SCC under the new practice?

A8: Under the new streamlined arrangement, LandsD does not play any role in vetting SCC for landscape requirement as imposed in new or modified leases upon the request of PlanD or another B/D as specified under the lease condition. As for existing leases where the SCC is submitted to comply with the lease requirement only, LandsD will follow existing practice of randomly selecting 10% of the SCC for compliance checking as stated in Lands Administration Office (LAO) PN 6/2003.

Q9: Can a Self-Certification of Compliance (SCC) for LMP/LP be submitted by the applicant but not by an RLA?

A9: Yes. An SCC may be submitted by the applicant or his/her representative yet the SCC should be certified and signed by an RLA.

Q10: Can I submit an SCC for LP submission? Will PlanD's Landscape Unit (LU) verify compliance of every project?

A10: SCC is also applicable for LP submissions but it is not a mandatory requirement. For cases whereby an RLA is appointed for SCC, LU of PlanD will randomly select SCC submissions for full compliance checking of the works completed. For cases whereby an RLA is not appointed, the landscape works completed would be subject to full compliance checking by LU of PlanD.

Q11: Why do I need to submit an SCC to both LU and District Planning Office (DPO)?

A11: DPO is the contact point of PlanD. The purpose of providing a copy of SCC submission to LU of PlanD in parallel is to facilitate LU to take prompt action for compliance checking on implementation of LMP/LP in view of the tight timeframe of processing SCC by LU.

Q12: For deemed approval of LMP, will LandsD vet the SCC?

A12: No. For LMP submission for compliance with planning condition as well, PlanD will process the SCC for compliance checking.

Q13: Does PlanD have any time pledge to process new LMP submission?

A13: According to PlanD's PN 1/2019, the RLA or the applicant/his representative will be notified of the results of their landscape submission within six weeks from the date of receipt.

Q14: Is there any time pledge for LandsD to perform the streamlined arrangements?

A14: Same as the current arrangement, LandsD has a performance pledge of eight weeks for processing landscape plan submissions as required under lease.

(B) Site Coverage of Greenery (SCG)

Q15: Please clarify whether fulfilling the PNAP APP-152 requirements would deem to fulfill the lease requirement despite any discrepancies? For existing leases, will LandsD follow or agree with BD's decision on the greenery area shown on GBP when vetting the LP?

A15: The site coverage of greenery (SCG) requirement imposed in new or modified leases will be considered met if it is accepted by BD per BD's PNAP APP-152 if no other B/D has imposed more stringent requirement. Separate submission to LandsD is not required. For more stringent SCG requirement specified under lease on the request of other B/D, the SCG provisions should still be computed and shown on the GBP submission for BD's comment according to PNAP APP-152. BD will comment on the SCG provisions within the parameters under PNAP APP-152 while the concerned B/D would be responsible for deciding if the SCG are acceptable both at design and completion stages.

For existing leases, the lot owner or his Authorized Person may choose to demonstrate compliance through showing the SCG provisions on the GBP for BD's acceptance. LandsD is prepared to regard SCG submission accepted by BD acceptable under lease subject to any prescriptive requirements (e.g. in terms of differences in lot or site area calculations) already specified in the relevant lease condition. For avoidance of doubt, submission of LMP or landscape plan incorporating such SCG provisions will still be required to fulfill the SCG submission requirement stipulated under existing lease. Such SCG provision would be subject to LandsD's scrutiny.

Q16: Do the SCG provisions need to be included in LMP/LP submission under new streamlined arrangement?

A16: No. As a streamlined measure, the SCG requirement and the LMP/LP requirement (if needed) would be under separate clauses in the new or modified leases.

Q17: Developers not seeking GFA concession need not to comply with SCG requirement under new/modified leases?

A17: No. SCG requirement, as one of the three key building design elements under SBDG to promote green buildings for a quality and sustainable built environment, has been imposed in new or modified leases since 2011. Details have been promulgated vide the Legislative Council Brief “Measures to foster a quality and sustainable built environment” (https://www.devb.gov.hk/filemanager/en/Content_3/LegCoBriefGFA_eng.pdf). The JPN No. 3 only intends to clarify the authority for interpreting, accepting and checking compliance of the SCG requirement in private developments but would not alter the requirement.

(C) Other Matters

Q18: Any streamlined arrangement for tree requirements?

A18: The streamlining exercise seeks to avoid double-handling of one control parameters and to align, or if not practicable, clarify the standards and requirements as far as possible. Tree requirement is not covered in the streamlining exercise as it is by and large being handled by LandsD under leases and there are already “deemed approval” mechanism between LandsD and PlanD as stated in LAO PN Nos. 7/2007 and 7/2007A.

Q19: Please advise how JPN No. 3 (and JPN No. 5) should be read together with the LandsD’s LAO) PN such as 6/2003 (and 3/2014), which contains superseded contents while other contents may still apply.

A19: The revised JPN No. 3 would supersede the relevant landscape arrangements as stated in LAO PN 6/2003 provided that it would not contravene with the prescriptive requirements contained in the relevant leases. The new JPN No. 5 on building height measurement (including the height of roof-top structures) would be incorporated, where appropriate, in the LAO PN 3/2014. Both LAO PNs 6/2003 and 3/2014 will be updated in due course.

(II) JPN No. 5 & BD's PNAP APP-5

(A) Interpretation

Q20: Please clarify whether determination of building height under Building (Planning) Regulations (B(P)R) is still referencing to mean street level instead of site formation level.

A20: Yes. The determination of building height under the B(P)R is used for determining other control parameters under the building regime such as development intensities and minimum provisions of fire safety measures. Being in different contexts and serving different purposes, the guidelines in JPN No. 5 do not apply to BD's interpretation of building height under the B(P)R.

Q21: Why mean site formation level should include basements if building bulk is the main concern?

A21: There are situations that the basement of a building may have one or more sides open to air due to a sloping site. Basement may therefore still have visual implication and thus the height of a building should be measured from the mean site formation level. For clarity under the streamlined arrangements, however, whether a basement floor should be counted towards building height under building height restriction (BHR) would in future be specified in the new or amended Outline Zoning Plans (OZPs). For example, a basement floor that is fully submerged may be disregarded from counting of BHR in new or amended OZPs given that it would not create visual impact on the locality. For details, please refer to paragraph 7 of JPN No. 5.

Q22: Please elaborate on the definition of lowest site formation level in terms of interpretation of BHR under lease.

A22: If BHR under lease has made reference to certain specified height above "site formation level" of the land on which the building stands, it means the land on which any part of the building stands and that lift pits, localised sunken structures (e.g. sump pits, man-holes, sunken planters and sunken trenches for toilets and utilities) and the level of these localised slabs would not be counted as the "site formation level" as reflected in LAO PN 3/2014 and as agreed in LandsD's discussion with stakeholders.

Q23: How to define main roof, and the level of main roof? What about BHR for non-domestic building?

A23: As stated in paragraph 5 of JPN No. 5, the height of a building, regardless of its building type, is measured up to the highest level of the main roof which is the roof over the highest usable floor space. As stipulated in B(P)R 2, usable floor space means any floor space other than staircases, staircase halls, lift landings, the space used in providing water-closet fittings, urinals and lavatory basins and the space occupied by machinery for any lift, air-conditioning system or similar service.

Q24: Will roof-top labour safety facilities for maintenance and repair purpose be counted toward the building height under BHR?

A24: As mentioned in paragraph 11 and footnote 10 of JPN No. 5, the open-air labour safety facilities for maintenance and repair purposes such as working platforms, cat-ladders, parapets, gondolas including associated facilities e.g. screens, plinths and railway would not be counted towards the building height for the purpose of administering BHR, as long as they are of reasonable sizes commensurate with the scale of the development.

Q25: How would PlanD exercise discretion towards the determination of roof-top structures? Any appeal or review mechanism?

A25: PlanD would administer BHR on the statutory town plans in accordance with JPN No. 5 in making recommendation to the Building Authority (BA) in assessing building plans. As set out in JPN No. 5, if the proposed height of structures on roof-top of buildings exceeds the specified height, or the total areas of all the enclosed (and covered) structures on roof-top of buildings, regardless of their height, exceed 50% of the roof area of the floor below, the structures would be counted towards the height of the building for the purpose of administering BHR. For any special circumstances on interpretation of BHR on the statutory town plans that the JPN No.5 may not cover, or any ambiguity in the interpretation of BHR as stipulated in JPN No. 5, enquiries should be made to PlanD. If the proposed building height exceeds the BHR on the statutory town plans, a section 16 planning application for minor relaxation of the BHR can be submitted to the Town Planning Board for consideration.

Q26: Is there any form of waiver that I could seek to relax the building height limit imposed under lease?

A26: Application to modify BHRs under leases may be submitted to LandsD for consideration. Such application, if approved, will be subject to payment of premium and administrative fee. Please refer to paragraphs 14 and 15 in JPN No. 5.

Q27: Given LandsD LAO PN 3/2014 and the latest BD's PNAP APP-5, what are the roles of LandsD and BD on the scrutiny of transfer plate?

A27: Under the new streamlined arrangements for development control effective from 15 May 2019, BD is designated as the authority in interpreting compliance and handling enquiries on the thickness of transfer plates for new building plans or major revision of building plans submitted to the BA for approval on or after 15 May 2019. For avoidance of doubt, the existing guidelines and/or requirements stipulated in LandsD's LAO PN 3/2014 and 4/2014 are still applicable to all new GBP or major revision of GBP for development proposals submitted to BD for approval before 15 May 2019.

Q28: Can BD provide guidelines on storey heights and transfer plate for non-domestic building, similar to those requirement stipulated in PNAP APP-5 for domestic buildings?

A28: PNAP APP-5 clarifies the design requirements on storey height and transfer plate in different types of domestic developments. There is a wide range of non-domestic uses including commercial, industrial, institutional, place of assembly, etc., each with different functional requirements. It is therefore impractical to provide an exhaustive list of storey height for all non-domestic uses. To allow design flexibility and cater for different types of non-domestic uses, BD will continue its current practice to consider each case based on individual merits. Under the streamlined arrangement, BD has no intention to impose additional restrictions in storey height for non-domestic uses.

Disclaimer

The information contained in the FAQs is for general reference only. In case of doubt, readers are advised to seek clarification from the appropriate departments direct and such decision of the departments shall be final.

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