



Buildings Department



Lands Department



Planning Department

Joint Practice Note No. 7

Development Control Parameters Site Coverage Restriction

Introduction

This joint practice note (JPN) promulgates the streamlined arrangements in imposing and ensuring compliance of site coverage (SC) restriction as a development control parameter amongst the Buildings Department (BD), Lands Department (LandsD) and Planning Department (PlanD). This JPN 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) (BO). It should be read in conjunction with the LandsD Lands Administration Office (LAO) Practice Note (PN) Issue No. 3/2020A on “Design, Disposition and Height Clause under Lease (Site Coverage)”.

SC Restriction in the Current Control Regimes

2. SC restriction is imposed for the purpose of controlling building bulk under the building control regime and for specific planning purposes such as preserving local character, enhancing air ventilation, visual quality as well as permeability under the planning control regime. It is also stipulated in some leases¹ under the land administration regime.

/3. Under...

¹ Unless stated otherwise, all references to “lease” in this JPN shall include Government Lease or Conditions of Sale/Grant/Exchange etc. (as the case may be) and “leases” shall be construed accordingly. There are leases under which roofed-over area restriction was imposed and served as de-facto restriction over SC. The streamlined arrangements in this JPN shall apply to such leases subject to paragraph 5.

3. Under the building regime, SC² is a measure to control the building bulk for every development by virtue of the Building (Planning) Regulations (Cap. 123F) (B(P)R). The maximum SC permissible is stipulated under the First Schedule to the B(P)R, and depends on the classification of sites³ under regulation 18A of the B(P)R, as well as the height and the use (domestic or non-domestic) of the building. By virtue of regulation 20(3) of the B(P)R, up to 100% SC is allowed for the non-domestic part of a building to a height not exceeding 15 metres above ground level.

4. Under the planning regime, SC restriction is imposed on selected sites in the statutory plan in tandem with the above-mentioned SC requirement under the B(P)R.

5. Under the land administration regime, maximum SC or roofed-over area permissible together with building height limit were imposed in some old leases to control development intensity, unlike the practice in modern leases of controlling the same through maximum gross floor area (GFA)/plot ratio (PR) clause. For leases which contain provision on maximum GFA/PR, maximum SC permissible may have been included in some of these leases on the advice of another bureau or department for achieving specific objectives. Given the different contexts in application of SC control, the guidelines and streamlined arrangements set out in paragraphs 8 and 9 below are only applicable to leases which contain provision(s) on maximum GFA and/or PR. Reference should be made to the LandsD LAO PN referred to in paragraph 1 above for leases which do not contain a maximum GFA or PR restriction.

Streamlined Arrangements

6. As a general guideline, the maximum SC permissible stipulated in the B(P)R continues to apply. If it is necessary for PlanD to impose a more stringent SC restriction than that stipulated in the B(P)R for the specific planning purposes in selected sites, it will be specified clearly on the new or amended statutory plan⁴ the applicability of SC restriction, for example, to a particular level of the building only, whilst the rest of the building would continue to follow the applicable SC restriction stipulated under the B(P)R.

/7. Under...

² According to regulation 2 of Building (Planning) Regulations, “site coverage” means “the area of the site that is covered by the building that is erected thereon and, when used in relation to a part of a composite building, means the area of the site on which the building is erected that is covered by that part of the building”.

³ Regulation 19(3) of the B(P)R provides that “the height of a building or buildings on a site that is not a class A site, class B site or class C site, and the maximum SC and maximum plot ratio permitted in respect of such a building or buildings, shall be determined by the Building Authority”.

⁴ The streamlined arrangements are only applicable to site(s) subject to new or amended SC control on the new or amended statutory plans gazetted on or after the effective date of this JPN.

7. Under the streamlined arrangements, in addition to its statutory duty to check compliance of the SC restriction under the building control regime, BD is designated as the single agency responsible for determining the accountability of facilities and features for the purpose of SC calculation when assessing compliance with SC restriction. For new or amended statutory plans gazetted on or after the effective date of this JPN, PlanD would adopt BD's treatment of facilities and features for SC control when formulating the appropriate maximum SC permissible for individual site/land use zone, if needed. For the existing statutory plans, PlanD would also generally follow BD's treatment of facilities and features when checking compliance with the SC restriction in those statutory plans, unless the statutory plans provide otherwise.

8. With the B(P)R and the statutory plans becoming the lead regimes for the control of SC as set out in paragraphs 6 and 7 above, SC restriction, if any, will not be set out in new or modified leases, except in special circumstances. In such special circumstances where new or modified leases include a provision on maximum SC permissible, BD's treatment of facilities and features on SC accountability would be adopted by LandsD when formulating the provision on maximum SC permissible and compliance under lease would be verified accordingly. Likewise, for existing leases carrying the SC restriction, LandsD would follow BD's treatment of facilities and features for SC accountability when checking compliance with that SC restriction, unless explicit lease conditions prohibit LandsD from doing so. For those who wish to apply for lease modifications to remove the SC restriction in existing leases, the applications may be submitted to LandsD for consideration. Such applications, if approved, will be subject to such terms and conditions including payment of premium and administrative fee.

9. In connection with the streamlined arrangements set out in paragraphs 7 and 8, for the avoidance of doubt, unless the statutory plan and/or lease state otherwise, PlanD and LandsD will adopt BD's treatment of underground structures in dealing with SC accountability, i.e. BD does not count underground structures for the purpose of administering SC control. Also, irrespective of any exemption provision under the existing lease, minor projecting features⁵ from the face of a building may be disregarded by LandsD (without modification of the existing lease) from SC calculation under the existing lease provided that such minor projecting features are also disregarded by the Building Authority. For those projecting features which are not minor but are nonetheless disregarded by the BA through granting modification under section 42 of the BO, LandsD is also prepared to exercise its discretion to follow BD's practice, subject to lease modification (if necessary) and payment of premium and administrative fee. If there is no increase in permissible development intensity under lease, a minor lease modification is normally applicable.

/Application...

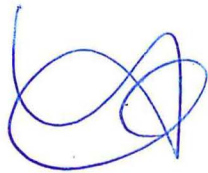
⁵ As listed in BD's Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers APP-19.

Application

10. This JPN shall not in any way fetter, affect or prejudice the rights of the Government, the Director of Lands and their officers under the leases or the Government's rights as lessor/landlord, and all such rights are hereby reserved. Nothing in this JPN (including any words and expressions used) shall in any way be construed as any waiver of any provisions under the leases or affect or bind the Government regarding the interpretation or enforcement of the terms and conditions of the leases or otherwise.

Effective Date

11. This JPN takes effect from 23 August 2021. All rights to modify the whole or any part of this JPN are hereby reserved.



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