

**Business Facilitation Advisory Committee
Pre-construction Task Force**

Building Plans under the Lease

Problems identified in processing of Building Plans under the lease:

There is no guideline on approval of building plans under the lease except two LAO Practice Notes (No. APSRSE 1/99 & NO. APSRSE 1/98). Lands Department has internal guidelines on processing of building plans. However, such guidelines are not available to private practitioners and the industry. In the preparation of these internal guidelines, the industry was not consulted. As such, the transparency of the building plan processing system is very low.

2. In the consideration of building plans under the design, disposition and height clause, the Lands Department has very wide discretionary power to reject plans on such aspects as excessive headroom, excessive roof top projection, etc. It can reject building plans without the need to give reasons, relying on its special role as landlord. This power should be restricted to avoid abuse.

3. The recent draft JPN on development control parameters exemplifies the discrepancy in the interpretation of the lease conditions between the Lands Department and the industry. Lands Department's interpretation is also different from the interpretation of the Buildings Department and Planning Department. However, there is no attempt from the Lands Department to align the development control parameters, so that a consistent approach easily understood by the industry can be adopted.

4. The matter is complicated by the Lands Department proposed combination of tree felling approval with building plan approval, making it a pre-requisite that every tree to be felled or replanted must be justified.

5. The Lands Department has introduced a new Master Layout Plan clause in the lease requiring assessment of a premium for amendment to the MLP. As it is a lease condition that building plans will not be approved unless the MLP has been approved, the new procedures with premium assessment will inevitably delay the building plan approval.