

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

Processing of Building Plan Submissions for Approval under Lease

1. LandsD acts as the Government's land agent and exercises the role as a private landlord on behalf of the Government in scrutinizing building plan submissions to ensure compliance with all the special conditions and requirements as stipulated in the conditions of the land grant.
2. LandsD recognizes that the building plan approval process is an important step in the whole development process, hence, over the past years, considerable efforts have been made to put in place various measures to facilitate the plan preparation and approval process. These include the following : -
 - (a) Practice Notes (PN) covering a wide spectrum of issues commonly encountered have been published. These include the following : -

	Scope	Practice Note No.
(i)	Interpretation of certain specific covenants in lease conditions	3/2000 – Number of Houses Restrictions under Government Leases
(ii)	How control would normally be exercised in respect of certain commonly encountered covenants/development control parameters in lease conditions.	1/1999 – Design, Disposition and Height Clause (DDH) under Lease Conditions
(iii)	Practices relating to accountability of GFA calculations under lease.	1/1998 – Accountable and Non-accountable GFA under Lease 4/1999 – Gross Floor Area and Curtain Walling Systems 5/2000 – The Provision of Owners' Corporation or Owners' Committee Office in Residential Development

	Scope	Practice Note No.
(iv)	Guidelines for preparation of building plan and MLP submissions.	1/1991 – Master Layout Plans 1/1994 – Processing of General Building Plans under Lease Conditions 3/1994 – Processing of MLP Submissions under Leases 6/1996 – Processing of MLP Submissions under Leases – Amendment Submissions 4/2000 – Recreational Facilities in Domestic Development 7/2002 – Provision of Swimming Pools in Garden Lots

(b) To further assist the industry, we have also introduced a practice for making enquiries regarding compliance with a particular basic term in an offer once provisional basic terms for a lease modification have been offered i.e. without waiting further for the completion of the lease modification transaction. To help expedite the approval process, we have also advised that LandsD will be prepared to examine the whole set of building plan submission once a binding contract on the lease modification has been entered into by acceptance of the basic terms offer. Please refer to PN 2/2002 for the details.

(c) In addition, the following pledges have also been publicized in June 2002 : -

(i)	Processing time of general building plan submissions	● 8 weeks for cases dealt with by DLOs ● 10 weeks for cases dealt with by Building Committee III
(ii)	Processing time of Master Layout Plan submissions	

3. LandsD has been maintaining regular contacts with the property industry and the professional bodies, through various channels and venues. We are always ready to respond to ideas and suggestions to help facilitate the development process. In this regard, for Members' information, some of the measures currently under consideration either by us or in conjunction with BD and PlanD etc. include the following : -

(a) **Guidelines on Storey Heights**

A Working Group led by PlanD comprising representatives from BD, ArchSD and LandsD has been formed to look into this. The findings and deliberation of this Working Group will be referred to the Task Force on Re-engineering of the Development Process which is an inter-departmental committee chaired by BD with membership drawn from PlanD and LandsD. It is expected that a Joint Practice Note may be issued.

(b) **Direct Submission of Building Plans**

There has been suggestion for adopting a direct submission procedure to speed up the plan checking process such that APs will submit plans direct to departments concerned. Whilst we acknowledge the need to expedite the approval process, LandsD favours maintaining the integrity of the current Centralized Processing System (CPS) but would wish to explore the scope of shortening the time lag between the time when plans are submitted to BD under the CPS and plans are actually received by DLOs. Further discussions amongst departments concerned are continuing.

(c) **Computerization for checking of the mathematical calculations of floor areas**

To align with the practice adopted by BD since July 2002 for the use of computer for checking of GFA and SC calculations for general plan submissions, LandsD has already set up a Working Group comprising representatives from HKIA, Computer Services Section and Building Plan Unit of LandsD to formulate our own requirements regarding the electronic format and submission drawing standards to facilitate the plan checking process on our part. Within LandsD,

customized checking tools are also being developed by our Computer Services Section. The latest position is that we have conducted testing of sample cases provided by HKIA and a preliminary draft PN has been drawn up and we are about to engage HKIA and other related professional bodies who are involved in the building plan preparation process in further consultation. We aim to launch this initiative at the earliest opportunity.

4. In respect of the specific issues and areas of concern referred to in the discussion paper PCTF/14, we have the following preliminary comments : -

(a) **Handling of amendment plans to building plan submissions**

We have reviewed the practice adopted by DLOs. To address the concern of the industry and to rationalize and standardize the current practice amongst DLOs, a guideline on the basis of the following will be promulgated: -

(i) Practice to be adopted for new cases

DLOs will do their utmost to have the first set of general building plan submission to be checked, in full, within the pledged time limit. Amendment plans received during this period will be ignored temporarily. To ensure the APs know the first set of general building plan submission will be checked within the pledged time, case officers in DLOs will issue a standard reply letter acknowledging receipt of this first set of general building plan with the pledged reply date expressly indicated and informing them that any amendments received within the period will be ignored when considering the first set of general building plan submission.

When this first “full” set of plans has been checked, DLOs will continue with the current arrangement such that the set of plans under checking will deem to have been superseded by the latest set of amendment plans received and the pledge period will start to count again each time a set of such amendment plans is received. To facilitate the case officers in DLOs to clear the amendment plans, DLOs may ask the APs to color all previous amendments on the updated amendment

plans for approval. If required, the APs will be invited by the case officers to explain the amendments to expedite the approval process.

(ii) Transitional Arrangement for on-going cases

DLOs will concentrate their efforts in checking the latest set of the full building plan submission (either the first submission, the re-submission or the major revision) that has already been received. Once such has been done, the arrangement outlined at (i) above will also apply.

(iii) Situations where Master Layout Plan Submissions are required under lease

If a full set of general building plan submission is received before the Master Layout Plan (MLP) required under the lease is approved or considered acceptable subject to conditions, this full set of general building plan submission will not be vetted.

After the approval/acceptance of the MLP, APs will be requested to “consolidate” all previous submissions and amendments approved by the BD into a full set of general building plan submission for approval by LandsD via the centralized processing system. This first consolidated full set of general building plan submission would be vetted by the DLO concerned within the pledged time limit.

(iv) Situations where lease modification has yet to be completed at the time the first set of building plan submission is required to be processed

Similar to item (iii) above, after a binding contract has been entered into by acceptance of the basic terms offer, for the lease modification between the applicant and the Government, APs will be requested to “consolidate” all previous submissions and amendments approved by the BD into a full set of general building plan submission for approval by LandsD via the centralized processing system. The first

consolidated set of general building plan submission, in full, would be vetted by LandsD within the pledged time limit.

Whilst it is hoped that the above efforts to be made by LandsD should help address the concern of the industry, it has also to be pointed out that construction work on site should not be started without the relevant prior approval having been obtained from LandsD in respect of the general plan submissions. This would amount to a breach of the grant conditions.

(b) **Core-Points System for checking of Building Plan Submissions**

It is not clear as to whether it is suggested that LandsD's role in the checking of general building plans under the above proposal should be restricted to checking of MLP submissions only i.e. LandsD should not perform any checking of any general building plan submissions. If so, such suggestion is totally unacceptable.

*(Note : It is not known if such suggestion has in mind that LandsD should delegate its authority under the land grant conditions for the detailed checking of building plan submissions to BD. If so, Members are requested to refer to a paper **DP/008** discussed at a recent meeting of the **Task Force to Review the Construction Stage of the Development Process** held on 26.4.2006. We have set out there some of the main reasons as to why we consider that such proposal is totally unacceptable. An extract of the relevant part of the paper is at **Annex** herewith).*

LandsD acting in its role as land agent of the Government as landlord must ensure that all building plan submissions do comply with all the terms and conditions of the land grant conditions governing the development of the lot including any specific requirements as stipulated in the conditions. This means that the plans must be checked to ensure, inter alia, that they do not contravene the user restrictions, building height restrictions, site coverage restrictions, the anti-stilting restriction etc. stipulated in the grant.

Of equal importance, there is also the need for us to ensure that the maximum GFA stipulated in grant conditions will not be exceeded because of the financial and premium implication involved since LandsD is charged with the responsibility to protect public revenue under the Public Finance Ordinance in carrying out its land

administration duties and these include the vetting of building plan submissions under land grants. In this regard, issues of concern would include matters relating to bonus GFA or exempted or non-accountable GFA etc. The exercising of maximum GFA control through lease conditions is also of relevance for developments subject to development density below that permitted under B(P)R.

Other areas of concern for which LandsD's involvement in the building plan checking process is essential include situations involving the provision of GI/C facilities as part of the requirement in the development of the lot or the connection of internal public walkways with the existing or future footbridge network outside the lot etc.

Under the DD&H Clause in most land grant conditions, specific approval of building plan submissions from the Director of Lands is required. LandsD would also require a set of plans specifically approved by us to form the basis of future lease enforcement action.

In so far as MLP submissions are concerned, we are agreeable that normally, the level of details as required in the case of general building plan submissions would not be necessary for MLP submissions. In this regard, reference to the precise wording of the MLP clause in the lease conditions would be appropriate. Reference to PN APSRSE 1/1991 would also be useful for a brief guideline as to how MLP submissions should be prepared.

(c) **Electronic Submissions**

LandsD is prepared to explore how modern technology can assist and expedite our plan checking process. However, it has to be acknowledged that any such new initiative has to be led by BD because of the role they play under the Centralized Processing System and it is more effective to have a common software to suit both the requirements of BD and LandsD. Preliminary feedback obtained from BD is that they have indicated that they have experienced difficulties in checking plan electronically as they have yet to identify an IT software that can perform the function of plan checking for compliance with the Buildings Ordinance.

With regard to the BIM system, again preliminary feedback from BD is that in their view, presently, BIM is merely a tool to transform 2D data into 3D model so as to help the design work during the plan preparation stage. In other words, its capability in performing the plan checking function has yet to be demonstrated.

LandsD is prepared to explore this subject further in consultation with BD, HKIA and other concerned professional bodies.

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12. Lands D considers that it would not be appropriate to delegate its authority for checking of building plans to BD for a number of reasons including those set out below. Firstly, approval under the lease is required to ensure that the intended development will comply with provisions stipulated in lease conditions on various aspects such as the user restriction of the lot, the maximum GFA restrictions, the building height or number of storey restriction, the provision of any required GIC facilities, public walkways and footbridge connections within

and outside the lot, the anti-stilting clause, requirements for carparking etc. For lease conditions which contain the Design Disposition and Height (DD&H) clause, specific approval from Lands D is required. These approvals are given in Lands D's role as the agent of Government as landlord, in which it acts in a private law capacity.

13. Secondly, whereas BD is the competent authority to administer the Buildings Ordinance which provides standard criteria against which building plans are considered, the interpretation of lease conditions is governed by common law and BD simply has no expertise in this area. It should also be pointed out that lease conditions, by their very nature, have evolved over the years and unlike the Buildings Ordinance, the precise wording relating to any particular development parameter may vary from lease to lease, hence, each set of lease conditions will have to be examined critically with legal advice sought as necessary on a case-by-case basis when building plan submissions are being checked for compliance.

14. Thirdly, whilst the Building (Planning) Regulations (B(P)R) are the vehicle for BD in controlling building density, lease conditions provide an effective vehicle for controlling developments that are subject to density control below the statutory provisions of B(P)R. This means that a development could be in breach of the GFA or site coverage restrictions stipulated in lease conditions for which premium has to be paid, yet it could be well within the statutory approvable limits of B(P)R. Hence, what constitutes accountable GFA or site coverage under the lease conditions could be crucial considerations especially if such should have premium implication.

15. Finally, Lands D is charged with the duty to protect public revenue under the Public Finance Ordinance in carrying out its land administration duties and these include the vetting of building plan submissions for approval under lease. On the other hand, BD exercises its power within the ambit of the Buildings Ordinance and is usually concerned largely with building safety and sanitation.