



**Buildings Department**



**Lands Department**



**Planning Department**

Joint Practice Note No. 5

## **Development Control Parameters**

### **Building Height Restriction**

#### **Introduction**

This joint practice note (JPN) promulgates the streamlined arrangements in imposing and ensuring compliance of building height restriction (BHR) as a development control parameter amongst the Buildings Department (BD), Planning Department (PlanD) and Lands Department (LandsD).

#### **BHR in the Current Control Regimes**

2. BHR is imposed as a development control parameter to achieve visually compatible urban form, enhance visual quality and natural air ventilation as well as control building bulk in the vertical dimension. BHR of a building is usually defined in maximum permissible (a) metres above the Principal Datum (mPD), (b) metres, or (c) number of storeys. While (a) is usually adopted in contexts for protection of the public's views to ridgelines or visual features, and for maintaining a varying building height profile to preserve visual permeability, (b) and (c) are usually adopted where control in the form of a prescribed mPD is less appropriate taking into account the local character and natural topography. Currently, BHRs are imposed in the statutory town plans and Government Leases (which, for the purpose of this JPN, shall include Conditions of Sale/Grant/Exchange) for purposes in relation to and under the respective jurisdictions of PlanD and LandsD.

3. BD, on the other hand, does not impose BHR as a development control parameter. That said, the determination of height of buildings is essential in controlling the maximum building development intensities and minimum provision of fire safety measures therein according to the Building (Planning) Regulations (B(P)R) under the Buildings Ordinance (Cap. 123) (BO). Given the different contexts, the guidelines in this JPN do not apply to BD's interpretation of building height under the B(P)R.

## **Streamlined Arrangements**

4. Under streamlined arrangements, BHR, if it is necessary for it to be imposed, shall be controlled under the statutory town plans, and such control would generally not be included in new leases and modified leases except in special circumstances.

## *Interpretation of Terms*

5. Save for the roof-top structures mentioned in paragraph 10 below, the top of a building for the purpose of measuring height of the building is the highest level of the main roof<sup>1</sup>, unless otherwise specified in the statutory town plans<sup>2</sup> and/or Government Leases.

6. When BHRs are represented in maximum permissible metres, the height of a building should be, unless otherwise specified in the statutory town plans and/or Government Leases, measured from the mean site formation level. Mean site formation level means the average of the sum of the highest and lowest formation levels of the land on which any part of the building stands including basement floors. Where there is more than one building in a development project and the buildings are located on different formed sites at various levels, the measurement of the mean site formation level of each building should be confined to the part of the formed site upon which the building stands, rather than the entire site of the development project.

7. When BHRs are represented in maximum number of storeys, the definition of “storey” of the B(P)R should be followed<sup>3</sup> unless otherwise specified in the Government Leases. Basement floor(s), irrespective of their uses, should be counted unless otherwise specified in the statutory town plans and/or Government

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<sup>1</sup> In determining the highest level of the main roof, i.e. the roof over the highest usable floor space, reference is made to the usable floor space under the B(P)R. According to regulation 2 of the B(P)R, “usable floor space means any floor space other than staircases, staircase halls, lift landings, the space used in providing water-closet fitments, urinals and lavatory basins and the space occupied by machinery for any lift, air-conditioning system or similar service”.

<sup>2</sup> Such explicit specifications on the Outline Zoning Plans could be for serving special purposes e.g. not to exceed the level of Tai Tam Road, Island Road or Repulse Bay Road, for which the total building height including the roof-top structures should not exceed the stipulated BHR.

<sup>3</sup> According to regulation 2 of the B(P)R, “storey means the space between the upper surface of every floor and the upper surface of the floor next above it where such a floor exists and in the case of a top storey the space between the upper surface of that floor and the mean height of the ceiling or roof”.

Leases as in some existing cases, for which BHR is also needed as an instrument to control development intensity. For clarity, whether basement floor(s) for individual sites should be counted towards building height (where building height is represented in maximum permissible metres or number of storeys) would in future be specified in 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. In addition, the B(P)R's definition of "basement" should be followed<sup>4</sup>.

8. When BHRs are specified with reference to carports levels, the predominant use of the carport level should be for car parking purpose with not less than 50% of the carport level areas dedicated for car parking use (including carpark associated uses such as driveways and ramps) unless otherwise specified in the Government Leases. Depending on the circumstances of each case, the remaining areas of the carport level may be occupied by other ancillary equipment and facilities serving the building as long as they are of reasonable sizes commensurate with the scale of the development.

#### ***Structures on Roof-top of Buildings Not Normally Counted for Purpose of BHR***

9. Subject to paragraph 10 below, the following types of structures on roof-top of buildings would normally not be counted towards the height of the buildings for the purpose of administering BHR –

- (a) any building works<sup>5</sup> as defined in the BO constructed or to be constructed on or above the main roof level of a building. Common roof-top structures include those for housing ancillary equipment and facilities (roof-top ancillary structures)<sup>6</sup>;

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<sup>4</sup> According to regulation 41C(5) of the B(P)R, "basement means any storey of a building below the ground storey and from which any exit route required by or under the B(P)R is in an upward direction".

<sup>5</sup> According to section 2 of the BO, building works includes, inter alia, any kind of building construction and every kind of building operation. Building works should be shown on general building plans of the development for demonstration of compliance with, among others, the B(P)R and BHR.

<sup>6</sup> Ancillary structures include but are not limited to structures serving the building. Examples are plant rooms, water tanks, lift machine rooms, electrical and mechanical plants (e.g. chiller plant, and cooling tower) and sustainable or renewable energy facilities (e.g. solar panel and wind turbine). They also include structures and features for housing and screening the facilities or plants. Installation of telecommunications radio base station should follow the provisions under the statutory town plans and/or Government Leases.

- (b) roof-top architectural features; and
- (c) roof-top signboards<sup>7</sup>.

10. The types of structures set out in paragraph 9 above would, however, also be counted towards the height of the buildings for the purpose of administering BHR under the following situations -

- I. 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, and/or
- II. the height of structures on roof-top of buildings, regardless of whether they are enclosed, covered or open, is higher than those set out below –
  - (a) roof-top ancillary structures for all building types –
    - (i) for building with height of not more than 30 metres : exceed 3 metres (or 5.2 metres<sup>8</sup> for lift provision)
    - (ii) for building with height exceeding 30 metres : exceed 10% of the building height or 15 metres (whichever is the less)
  - (b) roof-top architectural features –
    - (i) for residential and composite (commercial & residential) buildings : exceed 15% of the building height or 7 metres (whichever is the less)
    - (ii) for all other building types :
      - for building with height of not more than 35 metres : exceed 7 metres
      - for building with height exceeding 35 metres : exceed 20% of the building height, and additional spire<sup>9</sup> also up to 20% of the building height

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<sup>7</sup> Signboards in this context include LED screens. Erection of signboards is subject to the building safety requirements under the BO and shall not breach the Government Lease concerned, if any. Besides, erection of signboards is also subject to the requirements of other relevant authorities. BD has issued a practice note (PNAP APP-126) providing guidelines for erection of signboards.

<sup>8</sup> For the avoidance of doubt, the same lift provision applies to building exceeding 30 metres but not more than 52 metres.

<sup>9</sup> A single slender spire or antenna feature may extend for a further 20% of the main building height, provided that the cross-section of such a feature does not exceed 5m x 5m.

- (c) roof-top signboards for all building types -
  - (i) for building with height of not more than 30 metres : exceed 3 metres
  - (ii) for building with height exceeding 30 metres : exceed 10% of the building height or 15 metres (whichever is the less)

11. Open-air roof-top labour safety facilities for maintenance and repair purpose<sup>10</sup> as well as lightning pole would not be counted towards the height of the building for the purpose of administering BHR, as long as they are of reasonable sizes commensurate with the scale of the development.

#### ***Range of Permissible Storey Heights and Thickness of Transfer Plates***

12. The height of storeys and the thicknesses of transfer plates contribute to building height. BD is the authority in interpreting compliance and handling enquiries in these regards. Designs will be checked by BD in the building plan approval process to maintain minimum safety and health standards as well as to prevent abuse. A range of storey heights permissible in different types of residential developments and the guidelines for acceptable transfer plate designs are set out in Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers (PNAP) APP-5.

#### ***Authority***

13. Save for matters stated in paragraphs 3, 11, 12, 14, 15 and 16, PlanD is the authority on BHR as a development control parameter. PlanD would administer BHR on the statutory town plans in accordance with this JPN in recommending to the Building Authority to refuse any building plans under section 16(1)(d) or section 16(1)(da) of the BO as appropriate. For any special circumstances on interpretation of BHR on the statutory town plans that this JPN may not cover, or any ambiguity in the interpretation of BHR as stipulated in this JPN, enquiries should be made to PlanD. PlanD will assess the individual merits of each case.

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<sup>10</sup> Labour safety facilities for maintenance and repair purpose serving the building include but are not limited to working platforms, cat-ladders, parapets and gondolas (including associated facilities such as screens, plinths and railway).

## **Application**

14. 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 BO.

15. The determination of building height in accordance with this JPN would be followed by LandsD, except (a) where the terms and conditions in the Government Leases concerned explicitly stipulate different specifications or require different interpretation; or (b) where the Government Leases concerned do not contain any other provisions for the purpose of controlling the development intensity, such as maximum gross floor area provision, on which the decision of the Director of Lands shall be final. Taking into account the streamlined arrangement in paragraph 4 above, applications for lease modifications to remove BHRs in existing leases may be submitted to LandsD for consideration. Such applications, if approved, will be subject to payment of premium (if the modification for a particular case is assessed to carry premium implications) and administrative fee.

16. 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 Government 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 Government Leases, or affect, or bind the Government in relation to, the interpretation or enforcement of the terms and conditions of the Government Leases or otherwise.

## **Effective Date**

17. This JPN takes effect from 15 May 2019. It will apply to all new building plans or major revision of building plans for development proposals submitted to the Building Authority for approval on or after 15 May 2019. All rights to modify the whole or any part of this JPN are hereby reserved.

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