

## Guidance Note

### **Incentive Scheme to Encourage Provision of Residential Care Homes for Persons with Disabilities Premises in New Private Developments**

#### **Background**

In pursuance of the announcement in the 2023-24 Budget and 2023 Policy Address, the Government would introduce the “Incentive Scheme to Encourage Provision of Residential Care Homes for Persons with Disabilities in New Private Developments” (“the Incentive Scheme for RCHDs”), with a view to encouraging private developers to provide RCHDs in new private developments.

#### **Details of the Incentive Scheme for RCHDs**

2. With effect from 20 December 2023, the following enhanced features will be introduced, on a three-year pilot basis, to the Incentive Scheme for RCHDs –

- (a) one or more eligible RCHD premises in each development project will be exempted from payment of land premium for land transactions relating to lease modification, land exchange or private treaty grant for new private developments (excluding industrial developments)<sup>1</sup>, subject to a total maximum gross floor area (GFA) of the RCHD premises of 12 000 m<sup>2</sup> or 10% of the total permissible GFA under lease, whichever is the greater; and
- (b) when calculating the total GFA of the entire project, the total GFA of the eligible RCHD premises in private development project will be exempted under lease and will not be counted in the original total permissible GFA of the entire project under lease, allowing the developers to use the original permissible GFA for other purposes.

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<sup>1</sup> Addition to or alteration or conversion of existing building(s) will not be considered as constituting a new private development.

3. Subject to review of the three-year pilot and any separate arrangements as may be announced, after the expiry of the three-year pilot on 19 December 2026, the following features will apply under the Incentive Scheme for RCHDs –

- (a) one eligible RCHD premises in each development project will be exempted from payment of land premium for land transactions relating to lease modification, land exchange or private treaty grant for new private developments (excluding industrial developments)<sup>2</sup>, subject to a total maximum GFA of the RCHD premises of 5 400m<sup>2</sup>, and
- (b) no exemption of GFA of the eligible RCHD premises from the total permissible GFA under lease.

4. The developer is required to bear the construction cost of the RCHD premises. As long as the premises are used as an RCHD, subject to the approval of SWD, the developer may lease or sell the premises as one whole unit, or operate the RCHD concerned by themselves.

5. The RCHD premises have to be incorporated in new buildings, i.e. RCHD premises resulting from the alterations of or additions to existing buildings will not be eligible. The proposed RCHD premises have to comply with the Town Planning Ordinance (Cap. 131) (“TPO”) and the Buildings Ordinance (Cap. 123) (“BO”), among others<sup>3</sup>.

6. To ensure delivery of the RCHD premises and that the premises built are not used for other purposes without authorisation:

- (a) the requirement to provide the RCHD premises will be stipulated as a condition in the lease;
- (b) the lease conditions will prohibit the assignment or sub-letting of the RCHD premises except as one whole unit; and

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<sup>2</sup> Addition to or alteration or conversion of existing building(s) will not be considered as constituting a new private development.

<sup>3</sup> The relevant authorities will consider giving support based on the merits of the individual development if the total GFA of the project exceeds the limit imposed by relevant statutory control (such as the Town Planning Ordinance (Cap. 131) or the Buildings Ordinance (Cap. 123)) after including the eligible RCHD premises.

- (c) the unauthorised change in use of the premises<sup>4</sup> or leaving the premises vacant for a period of more than 12 months will give rise to a breach of the lease conditions and a cause for lease enforcement action.

Annex 1 In addition, RCHDs are regulated by SWD's licensing regime. The basic requirements for the RCHD premises are at Annex 1.

7. To ensure the RCHD premises under the Incentive Scheme for RCHDs fulfils the policy objective of setting up quality RCHD premises in better locations, premium exemption and GFA exemption will only be granted with the support of SWD. When considering to support or not the developer's proposal to provide a RCHD premises in a particular site, SWD will take into account relevant factors, including the demand for residential care service for the persons with disabilities in the district, the accessibility of the site, whether the proposal contains elements that bars the premises from obtaining a RCHD licence, etc.

## **Application**

8. To be eligible for the concessions under the Incentive Scheme for RCHDs, developers should apply to LandsD when submitting the relevant land transaction application. LandsD will consult SWD and other relevant Government departments in accordance with existing mechanism. If the relevant development project requires planning permission from the Town Planning Board, developers should state to the Planning Department (PlanD) the intention to join the Incentive Scheme for RCHDs when submitting the relevant planning application. PlanD will consult SWD and other relevant Government departments in accordance with existing mechanism. Developers are not required to submit a separate application to SWD.

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<sup>4</sup> If the premises have not been left vacant and if no licence has been issued under section 7 or renewed under section 8 of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613), then any use of such premises shall be deemed to be a change of use to a use other than that of RCHD.

## **Best Practices in Design and Operation of RCHD**

9. SWD has prepared a set of “Best Practices in Design and Operation of Residential Care Homes for the Persons with Disabilities” and “Best Practices Guideline: Basic Provision Schedule for Basic Building Works, Building Services Installation and Kitchen and Laundry Equipment List for RCHDs” for the reference of developers. These documents can be obtained at SWD website ([https://www.swd.gov.hk/en/pubsvc/rehab/rehab\\_info/docreport/isrchd/](https://www.swd.gov.hk/en/pubsvc/rehab/rehab_info/docreport/isrchd/))

### **Other References**

10. SWD currently maintains a list of all licensed RCHDs at its website ([https://www.swd.gov.hk/en/pubsvc/lr/rchd/rchd\\_info/](https://www.swd.gov.hk/en/pubsvc/lr/rchd/rchd_info/)).

11. Developers interested in the Incentive Scheme for RCHDs should also refer to Lands Department Lands Administration Office Practice Note Issue No. 10/2023.

**Annex 2** 12. The calculation method of GFA for RCHD premises is at Annex 2.

### **Enquiry**

13. For enquiries on the Incentive Scheme for RCHDs, please contact the Rehabilitation and Medical Social Services Branch of SWD at 3586 3371.

Social Welfare Department  
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## Annex 1

	<i>Item</i>	<i>Description</i>	<i>Reference</i>
<b>a)</b>	Location	An RCHD must not be situated in any part of a building with incompatible use.	<ul style="list-style-type: none"> <li>• Residential Care Homes (Persons with Disabilities) Regulation Part 6 Section 20</li> <li>• Code of Practice for Residential Care Homes (Persons with Disabilities) paragraph 5.2</li> </ul>
<b>b)</b>	Height Restriction	An RCHD, including any part of it, must not be situated at a height more than 24m above the street level unless otherwise approved by the Director of Social Welfare.	<ul style="list-style-type: none"> <li>• Residential Care Homes (Persons with Disabilities) Regulation Part 6 Section 21</li> <li>• Code of Practice for Residential Care Homes (Persons with Disabilities) paragraph 5.3</li> </ul>
<b>c)</b>	Ceiling Height	The ceiling (the ceiling slab or suspended false ceiling) of every room must, unless otherwise permitted by the Director of Social Welfare, be situated at a height not less than 2.5 m measuring vertically from the floor or 2.3 m measuring vertically from the floor to underside of any beam.	<ul style="list-style-type: none"> <li>• Residential Care Homes (Persons with Disabilities) Regulation Part 6 Section 22(c)</li> <li>• Code of Practice for Residential Care Homes (Persons with Disabilities) paragraph 4.4.3</li> </ul>
<b>d)</b>	Access	Barrier free access for the disabled is to be provided. The RCHD shall be accessible by emergency services.	<ul style="list-style-type: none"> <li>• Residential Care Homes (Persons with Disabilities) Regulation Part 6 Section 22 and 24</li> <li>• Code of Practice for Residential Care Homes (Persons with Disabilities) paragraphs 4.4.1, 4.4.6 and 4.6</li> </ul>

	<i>Item</i>	<i>Description</i>	<i>Reference</i>
e)	Basic Facilities and Floor Space	The basic facilities of an RCHD include bedroom, dining/sitting room, toilet/bathroom/shower room, kitchen, laundry, office and isolation facility/room. The minimum area of floor space for each resident is 6.5 sq.m. <sup>5</sup>	<ul style="list-style-type: none"> <li>• Residential Care Homes (Persons with Disabilities) Regulation Part 6 Section 23</li> <li>• Code of Practice for Residential Care Homes (Persons with Disabilities) paragraphs 4.5 &amp; Chapter 6</li> </ul>
f)	Toilet Facilities	Adequate provision of toilet facilities.	<ul style="list-style-type: none"> <li>• Residential Care Homes (Persons with Disabilities) Regulation Part 6 Section 26</li> <li>• Code of Practice for Residential Care Homes (Persons with Disabilities) paragraph 7.5</li> </ul>
g)	Heating, Lighting and Ventilation	Adequate heating, lighting and ventilation provisions.	<ul style="list-style-type: none"> <li>• Residential Care Homes (Persons with Disabilities) Regulation Part 6 Section 25</li> <li>• Code of Practice for Residential Care Homes (Persons with Disabilities) paragraphs 4.9, 7.3, 7.5 &amp; 7.6</li> </ul>
h)	Water Supply and Ablutions	Adequate and wholesome supply of water, adequate washing and laundering and bathing facilities.	<ul style="list-style-type: none"> <li>• Residential Care Homes (Persons with Disabilities) Regulation Part 6 Section 27</li> <li>• Code of Practice for Residential Care Homes (Persons with Disabilities) paragraph 4.11 &amp; Chapter 7</li> </ul>

<sup>5</sup> The developer/operator should take note of the upward adjustment of the statutory minimum area of floor space per resident for different care levels of RCHDs in the Residential Care Homes Legislation (Miscellaneous Amendments) Ordinance 2023 (i.e the statutory minimum area of floor space per resident for the "High Care Level Homes" will be increased from 6.5m<sup>2</sup> to 9.5m<sup>2</sup>, whereas the statutory minimum area of floor space per resident for the "Medium and Low Care Level Homes" will be enhanced from 6.5m<sup>2</sup> to 8m<sup>2</sup>) and the relevant effective date.

	<i>Item</i>	<i>Description</i>	<i>Reference</i>
i)	Fire Service Installations and Equipment	Comply with legislative requirements against fire risks.	<ul style="list-style-type: none"> <li>• Residential Care Homes (Persons with Disabilities) Regulation Part 7 Sections 30 &amp; 31</li> <li>• Code of Practice for Residential Care Homes (Persons with Disabilities) paragraphs 5.4 &amp; 5.5</li> </ul>

**Note**

The design and construction of the RCHD shall comply with all relevant statutory requirements including but not limited to the following:

- Buildings Ordinance (Cap. 123) and Regulations
- Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) and Regulation
- Code of Practice for Residential Care Homes (Persons with Disabilities) January 2020 (Revised Edition)

### General Guideline on Calculation of GFA for RCHD premises

GFA of eligible RCHD premises includes the following areas as illustrated in Figure 1:

- (a) Areas of RCHD(s) (including the enclosing wall(s) of and structure(s) within the premises) (i.e. the areas of RCHD 1 and RCHD 2 – coloured yellow in Figure 1); and
- (b) Staircases, lift shafts, lobbies and corridors solely serving the RCHD(s) (i.e. the areas of Staircase 1, Staircase 2, Lift 1 and Corridor 1 – coloured orange in Figure 1) including horizontal areas of such staircases and lift shafts passing through the RCHD floor and serving RCHD only at that floor.

#### Remarks:

- (1) RCHD's GFA does not include horizontal areas of staircases, lift shafts, lobbies and corridors shared by other uses on the same floor (i.e. the areas of Staircase 3, Staircase 4, Lift 2, Lift 3 and Corridor 2 shown in Figure 1).
- (2) During the RCHD licensing process under the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613), the enclosing wall(s) and structure(s) within RCHD(s) are excluded from the calculation of area of floor space per resident<sup>6</sup>.
- (3) Plant rooms, car parking spaces, loading and unloading areas of the development may be disregarded from GFA calculation according to the prevailing GFA concession mechanism except for (4) below.
- (4) Non-mandatory and non-essential plant rooms and horizontal areas of vertical ducts solely serving the RCHD are not subject to 10% overall cap of GFA concession under Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers APP-151 issued by the Buildings Department ("BD").
- (5) PlanD and LandsD will rely on BD's verified computation of GFA for the RCHD(s) as shown on the general building plans when exercising their authority to check compliance with the requirements/conditions imposed under their respective regimes.
- (6) This Guideline provides general guidance on the computation of GFA for the purposes of Lands Department Land Administration Office Practice Note No. 10/2023. Whether any areas will be included or omitted from the calculation of GFA for RCHD premises will be considered on a case-by-case basis.

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<sup>6</sup> In determining the area of floor space per resident, the area of any staff dormitory, open space, podium, garden, flat roof, bay window, staircase, column, walls, staircase hall, lift, lift landing, any space occupied by machinery for any lift, air-conditioning system or any similar service provided for the building, or any other area in the RCHD which the Director of Social Welfare considers unsuitable for the purposes of an RCHD shall be disregarded.



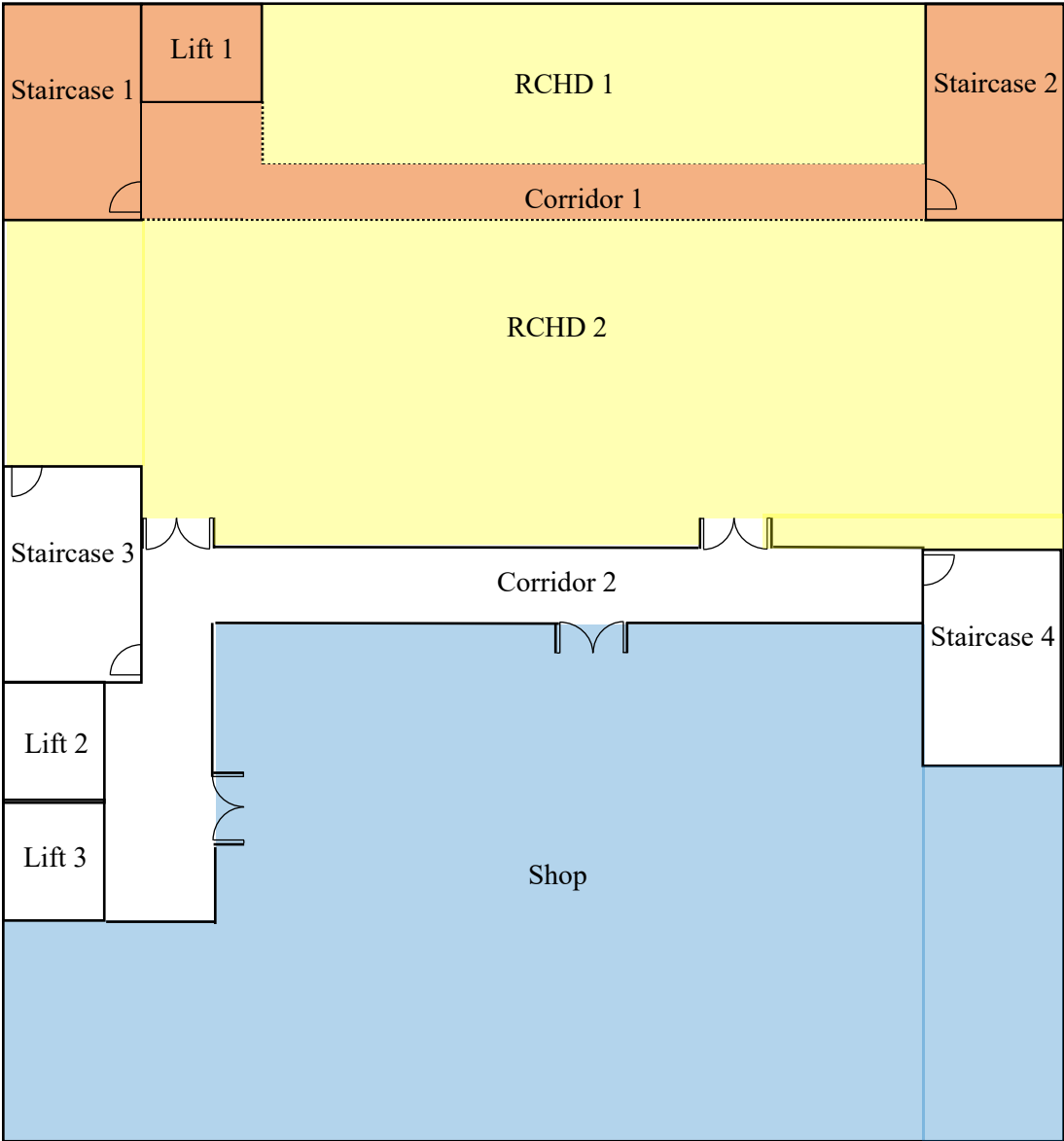


Figure 1

(December 2023)