



Applications for Lease Modification including Land Exchange for Development of Land within the Remaining Phase of Kwu Tung North and Fanling North New Development Areas

With immediate effect, this Practice Note supersedes the Lands Department (“LandsD”) Lands Administration Office (“LAO”) Practice Note Nos. 1/2014, 1/2014A and 1/2014D.

2. The LAO Practice Note No. 1/2014, as varied and supplemented by subsequent LAO Practice Notes Nos. 1/2014A and 1/2014D¹, set out the application requirements for lease modification including land exchange (collectively “land exchange”) for sites planned for private developments on the Kwu Tung North Outline Development Plan and Fanling North Outline Development Plan (collectively “ODPs”). The distribution of the said sites was shown on a reference plan uploaded onto LandsD’s website. The ODPs are available for sale at the Map Publications Centres and for inspection at the Planning Enquiry Counters of the Planning Department. The aforesaid Practice Notes stated that priority would be given to process those land exchange applications involving and falling within sites earmarked for development on sites denoted as sites planned for private development in Phase 1 on the said reference plan (“Phase 1 development”), and the deadline for application and acceptance of binding basic terms offer (with premium) in respect of the Phase 1 sites was on 30 November 2014 and 30 September 2017 respectively. The deadlines applicable to sites falling within other development phases shown on the reference plan would be promulgated as and when determined.

3. With the completion of Phase 1 development applications, this Practice Note sets out the arrangements in respect of applications for land exchange for sites in the remaining phase of the Kwu Tung North New Development Area and Fanling North New Development Area (“Remaining Phase”) planned for private developments in the ODPs. The requirements set out herein are modelled on those of Phase 1 development applications, with certain refinements set out in paragraphs 9, 10(a)(ii)(II) and 13.

Application requirements

4. Updated reference plans showing those sites (hatched thereon) open for application for land exchange in the Remaining Phase have been uploaded onto LandsD website. Please note that the locations and boundaries of these sites as shown on the said reference plans are for illustration only and may be changed or amended as necessary.

¹ LAO Practice Notes Nos. 1/2014B and 1/2014C were superseded by LAO Practice Note No. 1/2014D.

5. Owners of private lots falling within the sites in the Remaining Phase as mentioned in paragraph 4 above may, from the date of this Practice Note and before the prescribed deadline, apply with the LandsD for a land exchange for development of their lots for the purposes as permitted under the relevant statutory town plan or as may be permitted by the Town Planning Board (“TPB”). Lot owners who wish to apply or have applied for such a land exchange should refer to this Practice Note and the approved Kwu Tung North Outline Zoning Plan No. S/KTN/2 and Fanling North Outline Zoning Plan No. S/FLN/2 (collectively “OZPs”) and/or on any subsequent amendment plans thereof. Information in respect of the OZPs may be obtained from the TPB website: <http://www.ozp.tpb.gov.hk/>. Copies of the plans are also available for sale at the Map Publications Centres.

6. Applications should be submitted to LandsD New Development Area Section for the attention of the Chief Estate Surveyor/NDA, which is located in Unit 1501-10, 15/F, Landmark North, 39 Lung Sum Avenue, Sheung Shui, New Territories. Applicant should follow the checklist of basic submission requirements in Appendix I in preparing and submitting their applications and acknowledge the Note on Use of Personal Information Required in the Application in Appendix II for any personal information provided in the application. The merits of applications will be considered according to the General Criteria as set out in Appendix III. Applicant will be informed in writing whether or not their applications have been accepted for further processing. Approval of the applications will be subject to fulfilment of the land administration criteria as set out in Appendix IV.

7. Applicant should note that LandsD will publish on its website general information about the applications accepted for processing, such as a plan showing the boundaries of the private land involved in an application. The occupants on the concerned site will also be notified.

Specific points to note

8. As a general requirement, applicant should demonstrate that all eligible occupants affected by the proposed land exchange, i.e. individuals occupying the lots to be surrendered as at 4 July 2013 or thereafter as registered in LandsD’s pre-clearance survey, have accepted the applicant’s offer or offers of compensation or rehousing² (“the Offer(s)”) that are comparable to one that would have been offered by the Government to the occupants concerned had the private land been resumed and cleared by the Government (i.e. the requirement in paragraph 2 of Appendix IV).

9. To address the concerns of occupants affected by the Remaining Phase about having to stay in the vicinity of the works areas of Phase 1 development and the breaking up of a coherent community, the Government has also allowed occupants affected by the Remaining Phase to opt for early departure and surrender of squatter structures on a voluntary basis in return for receiving Government’s early provision of compensation and rehousing package, if eligible, under the “Scheme on Early Surrender of and Departure from Squatter Structures” (“the Early Departure Scheme”). In the event that an eligible occupant affected by a land exchange application has opted for and accepted Government’s compensation or

² Consequential to the Government’s enhancement in May 2018 of the general compensation and rehousing arrangements for occupiers affected by Government development clearance exercises (which resulted in the introduction of a new non-means-tested rehousing option to eligible occupiers), the criterion on an applicant to offer comparable compensation package to eligible occupants (as applied under Phase 1 development applications) has been updated to the effect that the package should be a comparable compensation or rehousing package. Further details in paragraph 2 of Appendix IV.

rehousing arrangement, the applicant's obligation in paragraph 8 does not apply to the occupant concerned, but the applicant shall reimburse the Government with all the costs so paid or incurred by the Government for the compensation or rehousing arrangement³ of the occupant.

10. The Government will implement the intent in paragraphs 8 and 9 by the following procedures:

- (a) After LandsD has issued a provisional basic terms offer and before a binding basic terms offer is issued for the proposed land exchange, the applicant is required:
 - (i) to demonstrate that all eligible occupants affected by the proposed land exchange have accepted the Offer(s) made by the applicant as referred to in paragraph 8, e.g. an acknowledgment signed by the eligible occupant signifying his acceptance of the Offer(s) (save for those occupants who have opted for and accepted Government's compensation or rehousing arrangement under the Early Departure Scheme as referred to in paragraph 9);
 - (ii) where the acceptance as mentioned in (i) above has not yet been secured despite the applicant having made the Offer(s), or where the securing of acceptance is not practicable due to difficulties encountered by the applicant in locating and making the Offer(s) to the eligible occupants:
 - (I) to submit an undertaking to the Government in all respects to the satisfaction of LandsD for each such eligible occupant ("the Undertaking"), in which the applicant will:
 - (1) confirm that the Offer(s) have been made by the applicant to the eligible occupant or, in case of difficulties encountered by the applicant in locating the eligible occupant, undertake that the Offer(s) shall be made by the applicant to the eligible occupant forthwith when the eligible occupant is located;
 - (2) undertake to keep the Offer(s) open for acceptance by the eligible occupant until the eligible occupant's acceptance of the Offer(s) or any further offers meeting the comparability requirement in paragraph 2 of Appendix IV shall have been obtained, or until the occupant has opted for the Early Departure Scheme and accepted the Government's compensation or rehousing arrangement, within 3 years from the execution of the land exchange application; and
 - (3) undertake to reimburse the Government forthwith all the costs (including the cash value of the rehousing element and administrative cost to be assessed by the Government

³ The costs will be assessed on a cost-recovery basis, comprising the amount of compensation paid and/or the cash value of the rehousing element based on the market value of the land and the construction cost of a comparable rehousing unit, and the administrative cost.

whose assessment shall be final and binding on the applicant) which shall have been incurred or paid by the Government to the eligible occupant in case the eligible occupant has or shall have opted for the Early Departure Scheme and shall at any time accept the Government's compensation or rehousing arrangement ("the Reimbursement Sum"); and

- (II) for securing the applicant's performance of the Undertaking, to deposit with the Government upon execution of the Undertaking an amount equivalent to all the costs (including the cash value of the rehousing element and administrative cost) which would be incurred or payable by the Government to the eligible occupant in case the occupant concerned shall accept the Government's compensation or rehousing arrangement ("the Deposit") under the Early Departure Scheme. The amount of the Deposit to be paid will be assessed by the Government whose assessment shall be final and binding on the applicant. In case the eligible occupant shall at any time ⁴ accept the Government's compensation or rehousing arrangement as mentioned in (I)(3) above, the Government shall have the right to deduct the Reimbursement Sum directly from the Deposit; and
 - (iii) to submit documentary evidence to prove that actual vacant possession of the private land involved has been or will be secured by a reasonable timing (having regard to the expectation in paragraph 12 below).
- (b) The applicant may apply to the Government for consent to release the Undertaking and refund of the Deposit (without interest) under any of the following situations (which consent may be given on such terms and conditions as the Government sees fit or be refused at the Government's absolute discretion):
- (i) the eligible occupant's acceptance to the Offer(s) or any further offers meeting the comparability requirement in paragraph 2 of Appendix IV shall have been obtained with documentary evidence provided to the Government to demonstrate such acceptance;
 - (ii) for cases where the eligible occupant shall accept the Government's compensation or rehousing arrangement, the reimbursement as mentioned in (a)(ii)(I)(3) above shall have been fully settled by the applicant; or
 - (iii) 3 years have lapsed from the time that the land exchange application is executed.

⁴ Including the time after execution of the land exchange, if approved, and until the Government's clearance for the Remaining Phase project, provided that the acceptance is within 3 years from the execution of the land exchange application.

- (c) Applicant should further note that, notwithstanding the acceptance of the provisional basic term offer, the proposed land exchange will not be further processed until and unless the requirements stated in (a) above have been complied with.
11. If an application is approved by LandsD, it will be subject to such terms and conditions, including payment of a premium⁵, as may be imposed or demanded by LandsD.
12. Actual vacant possession of the private land involved should be obtained no later than the date the binding basic terms offer (with premium) is accepted by the applicant.
13. The deadline for any land exchange application pursuant to this Practice Note is 15 August 2022 and any accepted application will cease to be processed if a binding basic terms offer (with premium) cannot be issued and accepted on or before 30 June 2023, taking into account the requirement for setting a time limit with reference to the Government's land resumption programme for the relevant phase of development. The administrative fee or any other fee paid will not be refunded upon cessation of processing the applications in this circumstance or in any of the circumstances set out in any letter demanding payment of administrative fee. Late applications will not be considered.
14. Owners are advised to engage competent professionals to assist them in making the applications.
15. Please note that LandsD acting in its capacity as private landlord may, at its sole and absolute discretion, approve or reject any such application. This Practice Note shall not constitute any representation on the part of the Government or give rise to any expectation on that part of the applicant that any application submitted to the LandsD will be processed or approved.
16. This Practice Note is issued for general reference purposes only. All rights to modify the whole or any part of this Practice Note are hereby reserved.



(Andrew LAI)
Director of Lands
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⁵ The Government will provide an option for assessment of premium at standard rates to land exchange applications in New Development Areas. Details are expected to be announced before the end of March 2022. For the avoidance of doubt, the Pilot Scheme for Charging Land Premium at Standard Rates on Lease Modifications for Redevelopment of Industrial Buildings in LAO Practice Note No. 1/2021 does not apply to the land exchange applications pursuant to this Practice Note.

**Checklist of Basic Requirements for Submission of an Application for a Land Exchange for
Development of Land within the Remaining Phase of
Kwu Tung North and Fanling North New Development Areas**

A. Information / Documents that must be submitted ⁽¹⁾ :

General :

- (i) 2 copies ⁽²⁾ of a complete set of Government Land Grant documents (including all executed lease modification letters and extension letters, if any) affecting the property ⁽³⁾.
- (ii) A copy of an up-to-date location / site plan on an appropriate scale (normally 1:1000) showing the property.
- (iii) 2 copies ⁽²⁾ of a computer printout containing the historical and current ownership particulars of the property.
- (iv) (a) If any of the registered owners is a limited company, 2 sets of certified true copies of its Certificate of Incorporation, Certificate of Change of Name (if applicable) and Notice of Situation of Registered Office. For overseas companies, documents equivalent to the above should be produced.

(b) If there are any chargees/mortgagees, letter(s) from chargees/mortgagees confirming that they have no objection to / agree to enter into the proposed Conditions of Exchange.

(c) In the event of the lot being in multiple ownership and unless otherwise consented to by Lands Department, a summary list (in duplicate) certified by the solicitor acting for the applicants containing the names of all registered owners/chargees/mortgagees/purchasers who have entered into an Agreement for Sale and Purchase of a unit or units (“purchasers”) (if any) of the property together with details of number of undivided shares held by each owner and an undertaking by the solicitor to inform the Lands Department of any change in the names of the registered owners/chargees/mortgagees/purchasers between the date of application up to the date of the Conditions of Exchange;
- (v) A copy of the Town Planning Board approval letter for the proposed uses or development, if applicable.
- (vi) If submitted by an agent, a written authorization from all the registered owners and purchasers (if applicable) of the property.
- (vii) Details of the application clearly identifying the property concerned.

B. Information / Documents that will facilitate the processing of the application ⁽⁴⁾ :

- | | | |
|--------|---|--------------------------|
| (viii) | A copy of an extract of the relevant Outline Zoning Plan (together with the explanatory notes, as appropriate) showing the property. | <input type="checkbox"/> |
| (ix) | For an application which involves portion(s) of a lot, or sub-divisions of any lots, to assist the verification of site areas and site boundaries, all relevant assignment plans or Deed Poll plans should be provided together with any relevant information relating to the delineation of the boundaries of these sub-divisions. | <input type="checkbox"/> |
| (x) | 2 sets of sketch plans illustrating the proposed development and the development parameters of the proposed development. | <input type="checkbox"/> |
| (xi) | A schedule showing the details of any existing occupants on the lots to be surrendered including the name and number of occupants, nature of occupation, length of occupation and any tenancy agreement. | <input type="checkbox"/> |
| (xii) | A schedule showing the details of all occupants on the lots to be surrendered as at 4 July 2013 or thereafter but have subsequently moved out including the name and number of such occupants, nature of occupation, length of occupation and any tenancy agreement. | <input type="checkbox"/> |
| (xiii) | A proposed development programme for the proposed development. | <input type="checkbox"/> |

Notes :

- (1) Please put a tick in the relevant box if applicable unless otherwise specified; and delete as appropriate.
- (2) One set of documents should be certified by the Land Registry or by the solicitor acting for the applicant, while the other set may be a photocopy of the certified documents. Certification of the documents should be done not more than one month before submission of the application.
- (3) Property includes all lots involved in a land exchange application.
- (4) Any other information or additional information as required may be supplied in duplicate on separate sheet(s) attached to the application.

Note on Use of Personal Information Required in the Application

Purpose of Collection	The personal data provided in application pursuant to this Practice Note and Appendix I will be used by the Lands Department for the purpose of considering and processing the application. The provision of the personal data is obligatory. If you do not provide the personal data, the Lands Department may not be able to process your application.
Class of Transferees	The personal data you provided may be disclosed to other Government bureaux / departments for the purpose mentioned above.
Access to Personal Data	The individual who is the subject of the personal data has a right of access and correction with respect to personal data as provided for in Sections 18 and 22 and Principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance. Such right of access includes the right to obtain a copy of the personal data provided upon payment of the applicable charge.
Enquiries	Enquiries concerning the personal data collected, including the request for access and corrections, should be addressed to: Departmental Personal Data Controlling Officer of the Lands Department 20/F., North Point Government Offices 333 Java Road, North Point Hong Kong

**General Criteria for Consideration of Lease Modification
including Land Exchange Applications within the Remaining Phase of Kwu Tung
North and Fanling North New Development Areas**

1. **Location** – confined to sites planned for private developments in the adopted Kwu Tung North Outline Development Plan and Fanling North Outline Development Plan (which plans including any amended version(s) collectively “ODPs”)¹.
2. **Size and ownership** – the proposed site to be surrendered (i.e. the Proposed Site) should have an area of not less than 4,000 m² (which is a reasonable size to achieve a decent development with supporting facilities) and all private lots contained therein should be under the ownership of a single owner or joint venture owners as the applicant.
3. **Configuration** – the application site should be reasonably regular in shape with no intervening private lots not owned by the applicant. Lots to be surrendered comprising the application site should be contiguous and fragmented lots will not be accepted.
4. **Confinement within the planned private development site** – only lots lying within a planned private development site on the two ODPs (confined to those sites hatched on the reference plan) will be considered. Surrender of lots lying within an area planned for public use such as road, Government, Institution or Community use, open space, green belt, public/subsidised housing will not normally be accepted.
5. **Access** – the provision of proper vehicular access to the application site is feasible.
6. **Compliance with the Kwu Tung North Outline Zoning Plan and Fanling North Outline Zoning Plan** – proposed use and development parameters of the application site should comply with the two Outline Zoning Plans.
7. **No adverse implications** – the proposed development at the application site should not cause insurmountable problems to the planning, layout and urban design of the surrounding area, and will not jeopardize or hamper the development potential or vehicular access of adjacent lands under different ownership. For application not including all private land within the corresponding development site shown in the

¹ Apart from the adopted ODPs, applicant should also refer to their subsequent amended version(s) uploaded to the Planning Department website.

ODPs², submission of layout plan is required to demonstrate the feasibility of decent and practical development(s) fully utilising the land of the concerned development site as shown on the ODPs, without resulting in any loss of the development potential as planned under the ODPs.

² The boundary of individual development sites may be subject to adjustment after the Government has carried out the detailed design for the New Development Areas.

**Requirements for Processing Applications
for Lease Modification including Land Exchange within the Remaining Phase of
Kwu Tung North and Fanling North New Development Areas**

1. **Unification, proof of land titles and vacant possession** – application may be submitted by a single owner or joint venture with unified land titles. Lots to be surrendered should be subject to vacant possession by a specified deadline and free from encumbrances before execution of the lease modification/ land exchange if the application is approved.
2. **Comparable compensation or rehousing package** – the landowner(s) as the applicant **should** demonstrate that eligible occupants affected by the proposed land exchange (i.e. individuals occupying the lots to be surrendered as at 4 July 2013 or thereafter as registered in LandsD’s pre-clearance survey) have accepted the compensation or rehousing offers from the applicant (save for those occupants who have accepted Government’s compensation or rehousing arrangement, see paragraph 4 below). In the case of compensation offers made by the applicant, it should be the prevailing monetary ex-gratia compensation that would have been offered by the Government to eligible occupants had the private land been resumed and cleared by Government under the New Development Areas development. In the case of rehousing offers made by the applicant, it should be comparable to the prevailing non-means tested rehousing that would have been offered by the Government to eligible occupants had the private land been resumed and cleared by Government under the New Development Areas development. As set out in the paper issued to the Legislative Council in May 2018, this comparable rehousing element may take the form of comparable rehousing in kind (e.g. accommodation charged at the rental level for a non-means tested rental unit) or cash-equivalent of such rehousing element. Compensation or rehousing to eligible occupants provided by the applicant in securing fulfilment of this requirement is not a premium-deductible item. The offer and acceptance of such a comparable package is a matter between the applicant and the eligible occupants. The Government would deem the case as settled if the applicant is able to deliver vacant possession with documentary evidence indicating that the eligible occupants have accepted the compensation or rehousing package offered by the applicant.
3. **Time limit** – the lease modification/ land exchange application (if approved) has to be concluded within a specified time period and in any event earlier than the government land resumption programme. In case there are any disputes between the occupants on site and the applicant, Lands Department may suspend the processing of the applications until the disputes have been satisfactorily resolved. The specified time period will remain unless it is extended by the Government at its absolute discretion.
4. **Reimbursing Government with compensation and/or rehousing costs** – In case the eligible occupants have opted for the “Scheme on Early Surrender of and Departure from Squatter Structures”¹ (“the Early Departure Scheme”) where Government’s

¹ This scheme is for occupants within the boundary of the Remaining Phase of the subject New Development Areas to voluntarily apply for early surrender of and departure from their squatter structures and in turn early processing for compensation or rehousing from the Government.

compensation or rehousing arrangement has been offered and accepted, the applicant shall reimburse the Government with all the costs paid or incurred, including the cash value of the rehousing element and administrative cost, to be assessed by the Government whose assessment shall be final and binding on the applicant. The amount will be demanded in conjunction with the land premium for the lease modification including land exchange.

5. **Government land** – the site to be re-granted for a lease modification/ land exchange application may include adjoining or intervening government land which is incapable of reasonable separate alienation or development. Please note that Government would not normally make available government land adjoining or intervening the private land within the development site to enable the re-grant site conforming to the development site layout as shown in the ODP if the government land is capable of reasonable separate alienation or development.
6. Compliance with other general lease modification/land exchange application criteria and requirements (as may be revised) promulgated by the Lands Department from time to time.