



**New Arrangements for
Applications for Lease Modification including Land Exchange
under the “Enhanced Conventional New Town Approach”**

To take the lead in implementing the New Development Areas (“NDAs”) while capitalising on the private sector to speed up development through land exchange, the Government has adopted the “Enhanced Conventional New Town Approach” (“ECNTA”) for the Kwu Tung North (“KTN”) and Fanling North (“FLN”) NDA. Under this government-led development approach, the Government, as a general principle, resumes and clears all the private land planned for developments within an NDA, and allocates the resumed land for various purposes, including disposal of land for private developments. Prior to the resumption and clearance of private land, however, the Government allows lease modifications including land exchange (collectively “land exchange”) from private lot owners for sites earmarked for private developments if they meet prescribed criteria and conditions. If the land exchange application falls through, the private land will be resumed by the Government and disposed of through public tender or other means.

2. To further facilitate the implementation of NDAs, the Government has decided to extend ECNTA to all NDAs and modify the implementation details of ECNTA. This Practice Note (“PN”) sets out the general application requirements and new arrangements for land exchange applications under the ECNTA.

Application Requirements

3. Land exchange under the ECNTA is only applicable to sites earmarked for private developments within an NDA. Prior to the resumption and clearance of private land for implementing an NDA, the Lands Department (“LandsD”) will announce the specific sites that are open for application for land exchange (“designated development sites”) at an opportune time. With immediate effect, the designated development sites will be broadened to include not only residential and commercial sites, but also sites earmarked for other uses, such as land for development of industries and privately-run community or welfare facilities, as considered appropriate by the Government. LandsD will announce the locations and boundaries of these designated development sites by subsequent PNs, and reference plans will be uploaded onto LandsD’s website. Given the different development progress of NDAs, the timing for such announcement varies among them.

4. Owner(s) of private lot(s) falling within the designated development sites (“Applicant”) may apply to LandsD for a land exchange for development of the private lot(s) for the purposes as permitted under the relevant statutory town plan(s) or the Town Planning

Board or as advised by the Government. The merits of any application received will be considered according to the general criteria in **Appendix I**. Applicant will be informed in writing whether or not the application has been accepted for further processing. Approval of the application is also subject to fulfilment of the land administration criteria as set out in **Appendix II** and relevant PNs.

5. Applicant should note that LandsD will publish on its website general information about the applications accepted for further processing, including a plan showing the boundaries of the private lot(s) involved in an application. Occupant(s) on the concerned private lot(s) will also be notified.

6. If an application is approved by LandsD, it will be subject to such terms and conditions, including payment of a premium, as may be imposed or required by LandsD. As announced by the Government in March 2022, the use of standard rates for premium assessment would be offered as an option to the Applicant. The applicable standard rates for each NDA are to be announced via separate PNs around the time when lease modification applications are invited for the NDA in question. Besides, under certain circumstances (including but not limited to the application of the relaxed land ownership criterion in paragraph 9 below), such terms and conditions may also include the requirement to construct public facilities in the relevant NDA in such manner with such materials and to such standards as may be required by the Government in its absolute discretion and specified in the land grant documents. These public facilities may include but not limit to public transport interchanges, roads, open space or welfare/recreational facilities. If the Government in its absolute discretion considers it appropriate, the construction cost of the public facilities may be premium deductible. The public facilities and their standards required for construction by the Applicant and the associated construction cost for premium deduction (if applicable) will be determined by the relevant Government departments and their determination shall be final and binding on the Applicant.

Specific Points to Note

Relaxed Land Ownership Criterion

7. As one of the general criteria, the private lot(s) owned by the Applicant to be surrendered for land exchange will be subject to a minimum size, in order to ensure that the proposed development would be of a reasonable scale and accord with Government's planning intention. Such size requirement will be determined by the Government as appropriate, and may vary among different designated development sites and among different NDAs (i.e. the requirement in paragraph 3 of **Appendix I**).

8. Subject to meeting the minimum size requirement as well as other necessary criteria, to further optimise land potential and enable a more integrated development layout in an NDA, if the Applicant has acquired 90% or more of all private land within a designated development site, he may opt to apply for a relaxed land ownership criterion ("relaxed land ownership criterion") to his application for land exchange. For any application accepted under the relaxed land ownership criterion, the Government may resume all the remaining private land within a designated development site for granting to the Applicant to develop the entire designated development site. It shall be at the absolute discretion of the Government to consider whether to grant any resumed private land within a designated development site to the Applicant.

9. As a condition for opting for the relaxed land ownership criterion, the Applicant shall be required to construct public facilities in the relevant NDA. As stated in paragraph 6 above, such terms and conditions, including the public facilities and their standards required for construction by the Applicant and the associated construction cost for premium deduction (if applicable), will be determined by the relevant Government departments and their determination shall be final and binding on the Applicant.

10. If the Applicant has opted for the relaxed land ownership criterion and the application has been accepted and the Government decides to resume the remaining private land within the designated development site, the resumed land would be granted to the Applicant through a 2-stage land grant process or such other land grant process as LandsD shall in its absolute discretion decide. The 2-stage land grant process is outlined below :

- (i) Stage one – surrender of all private land owned by the Applicant within a designated development site to the Government, in exchange for the grant of a new lot comprising the Applicant’s land and Government land (if any) (“**the Initial Land Grant**”), subject to the payment of land premium (“**the Initial Premium**”). The Initial Premium to be charged for the new lot would reflect a pro-rata value of the current market value of the whole designated development site, to be assessed at the time the binding basic terms offer (“**BBTO**”) of the Initial Land Grant is issued. The Applicant shall be required, at the time of accepting the BBTO of the Initial Land Grant, to enter into an agreement with the Government agreeing and undertaking to take up and develop the remaining private land within the designated development site after resumption of the land by the Government (“**the Agreement**”). The Agreement shall be in such form and contain such terms and conditions as LandsD shall in its absolute discretion decide. Contemporaneous with signing of the Agreement, the Applicant shall pay an **upfront deposit** equivalent to the difference in value between the current market value of the whole designated development site to be assessed at the time the BBTO is issued and the Initial Premium.
- (ii) Stage two – after resumption of the remaining private land within the designated development site (“**the resumed land**”), the resumed land would be granted to the Applicant or (if the Government decides in its absolute discretion) the Applicant would be required to surrender the land granted under the Initial Land Grant in exchange for a grant of a new lot comprising the surrendered land and the resumed land (“**the Complete Land Grant**”), subject to the payment of a further premium (“**the Top-Up Premium**”) or (as the case may be) with a **partial refund** by Government of the upfront deposit paid for the Agreement, to reflect the difference in value for the resumed land between the upfront deposit and the pro-rata value of the current market value of the whole designated development site, to be assessed by LandsD at the time the BBTO of the Complete Land Grant is issued, of which assessment shall be binding on the Applicant. Any Top-up Premium shall be payable upon the Applicant accepting the BBTO of the Complete Land Grant, while any partial refund of the upfront deposit will be arranged by Government without interest within 30 days upon completion of the Complete Land Grant.
- (iii) The form of land grant documents to be adopted for the 2-stage land grant process (or such other land grant process as LandsD shall decide) and the terms

and conditions contained in them shall be determined by the Government whose determination shall be binding on the Applicant.

Comparable Compensation or Rehousing Offer(s)

11. As a general requirement, the Applicant should demonstrate that all eligible occupant(s) affected by a proposed land exchange (i.e. occupants occupying the private lot(s) to be surrendered as at the date when LandsD conducts a pre-clearance survey or thereafter) have accepted the Applicant's offer or offers of compensation or rehousing ("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 II**).

12. To address the concern of the occupant(s) of the private lot(s) to be surrendered who may wish to receive the Government's compensation or rehousing arrangement, with immediate effect, the Government will allow eligible occupant(s) affected by a land exchange to opt for the Government's provision of compensation and rehousing arrangement. In the event that an eligible occupant affected by a land exchange application has applied for and accepted the Government's compensation or rehousing arrangement, the Applicant is required to reimburse the Government against all the costs so paid or incurred by the Government for the compensation or rehousing arrangement of the occupant. 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. When determining the costs of the rehousing arrangement provided to the occupant, the Government will use a non-means-tested subsidised sale flat in a dedicated rehousing estate as the cost assessment basis, irrespective of the actual rehousing option chosen by the occupant in a particular case. This is to simplify the cost assessment process, enhance certainty on the cost to be charged, and incentivise land exchange applicants to provide a package to occupants on par with the Government's best option. The amount will be required to be reimbursed to Government in conjunction with the land premium for the proposed land exchange.

13. The Government will implement the policy intent in paragraphs 11 and 12 by the following procedures :

- (i) Before a BBTO is issued for a proposed land exchange, the Applicant is required 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 11, 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 as referred to in paragraph 12).
- (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, the Applicant should 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 :
 - (a) 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;

- (b) 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 II** shall have been obtained, or until the occupant has opted for and accepted the Government's compensation or rehousing arrangement, within 3 years from the execution of the land exchange application; and
 - (c) undertake to reimburse the Government forthwith all the costs (including the compensation paid and/or cash value of the rehousing element and administrative cost to be assessed by the Government in accordance with paragraph 12, 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 and at any time accept the Government's compensation or rehousing arrangement ("the Reimbursement Sum").
- (iii) For securing the Applicant's performance of the Undertaking, he should deposit with the Government upon execution of the Undertaking an amount equivalent to all the costs 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 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 time¹ accept the Government's compensation or rehousing arrangement, the Government shall have the right to deduct the Reimbursement Sum directly from the deposit.
- (iv) 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 :
- (a) the eligible occupant's acceptance to the Offer(s) or any further offers meeting the comparability requirement in paragraph 2 of **Appendix II** shall have been obtained with documentary evidence provided to the Government to demonstrate such acceptance;
 - (b) for cases where the eligible occupant shall accept the Government's compensation or rehousing arrangement, the reimbursement as mentioned above shall have been fully settled by the Applicant; or
 - (c) 3 years have lapsed from the time that the land exchange application is executed.
- (v) In addition, before a BBTO is issued for the proposed land exchange, the

¹ Including the time after execution of the land exchange, if approved, provided that the acceptance is within 3 years from the execution of the land exchange application.

Applicant should submit documentary evidence to prove that actual vacant possession of the private lot(s) to be surrendered for the land exchange has been or will be secured by a reasonable timing, to which LandsD shall decide in its absolute discretion on whether the requirement is considered fulfilled.

14. The Applicant should further note that, notwithstanding the acceptance of the provisional basic terms offer, the proposed land exchange will not be further processed until and unless the requirements stated in paragraph 13 above have been complied with.

Time Limit

15. All land exchange applications received and processed under the ECNTA will be subject to a specific time limit, including a deadline for submission of applications and another deadline for the acceptance of the BBTO (with premium). The deadlines will be determined by the Government with reference to the Government's land resumption programme for the relevant NDA, which is final and non-negotiable. Late applications will not be considered. Any accepted applications will also cease to be processed if a BBTO (with premium) cannot be issued and accepted on or before the specified deadline. The administrative fee or any other fee paid will not be refunded upon cessation of processing the applications in such circumstances or in any of the circumstances set out in any letter from the Government demanding payment of administrative fee.

16. Lot owners who wish to apply for land exchange under the ECNTA should refer to the general application requirements and arrangements detailed in this PN, as well as other specific application criteria and conditions applicable to individual NDAs to be announced via subsequent PNs. Lot owners are also advised to engage competent professionals to assist them in making the applications.

17. 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 PN 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 LandsD will be processed or approved.

18. This PN is issued for general reference purposes only. All rights to modify the whole or any part of this PN are hereby reserved.



(Andrew LAI)
Director of Lands
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**General Criteria for Consideration of
Applications for Lease Modification including Land Exchange
under the “Enhanced Conventional New Town Approach”**

1. **Location** – confined to sites planned for private developments in a New Development Area (“NDA”). The private development sites that may be open for application for land exchange (“designated development sites”) will be determined by the Government as appropriate, which may include sites earmarked for private residential, commercial, industry, community, welfare or other land uses.
2. **Confinement within the planned private development site** – only surrender of private lot(s) lying within a designated development site in an NDA will be considered. Surrender of lot(s) lying outside the designated development site will not normally be accepted.
3. **Size and ownership** – the private lot(s) to be surrendered will be subject to a minimum size, in order to ensure that the proposed development would be of reasonable scale and accord with the Government’s planning intention. Such size requirement will be determined by the Government as appropriate, and may vary among different designated development sites and among different NDAs. All private lots contained therein should be under the ownership of a single owner or joint venture owners as the applicant.
4. **Configuration** – the application site should be reasonably regular in shape. Private lot(s) to be surrendered comprising the application site should be contiguous and fragmented lots will not be accepted.
5. **Compliance with the relevant Outline Zoning Plan(s) / Outline Development Plan(s) / other plan(s) as specified by the Government** – proposed use and development parameters of the application site should comply with the relevant Outline Zoning Plan(s), Outline Development Plan(s) or other plan(s) as specified by the Government.
6. **Access** – the provision of proper vehicular access to the application site is feasible.
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 prepared on the basis of meeting the minimum size requirement (see paragraph 3 above), submission of layout plan is required to demonstrate the feasibility of decent and practical development(s) fully utilising the land of the designated development site, without resulting in any loss of the development potential as planned.

**Requirements for Processing Applications
for Lease Modification including Land Exchange
under the “Enhanced Conventional New Town Approach”**

1. **Unification, proof of land titles and vacant possession** – application may be submitted by a single owner or joint venture with unified land titles. Private lot(s) to be surrendered should be subject to vacant possession by a specified deadline (or will be secured by a reasonable timing) and free from encumbrances before execution of the lease modification / land exchange if the application is approved.
2. **Comparable compensation or rehousing package** – the lot owner(s) as the applicant should demonstrate that all eligible occupant(s) affected by a proposed land exchange (i.e. occupants occupying the private lot(s) to be surrendered as at the date when the Lands Department conducts a pre-clearance survey or thereafter) have accepted the compensation or rehousing offer(s) from the applicant (save for those occupants who have accepted Government’s compensation or rehousing arrangement, see paragraph 3 below). In the case of compensation offer(s) 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 offer(s) 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 occupant(s) 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 occupant(s). The Government would deem the case as settled if the applicant is able to deliver documentary evidence indicating that the eligible occupant(s) have accepted the compensation or rehousing package offered by the applicant.
3. **Reimbursing the Government with compensation and/or rehousing costs** – In case the eligible occupants have opted for and accepted the Government’s compensation or rehousing arrangement, 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 required to be reimbursed to the Government in conjunction with the land premium for the lease modification including land exchange.
4. **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’s land resumption programme, unless it is extended by the Government at its absolute discretion.

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. It should be noted that the Government would not normally make available government land adjoining or intervening the private land within a designated development site to enable the re-grant site conforming to the boundaries of the site 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.