



**Application for**  
**(a) Special Arrangement for a Lease Modification (or a Land Exchange)**  
**for Redevelopment of an Industrial Lot; or**  
**(b) Special Waiver for Conversion of an Entire Existing Industrial**  
**Building**

A lot owner who wishes to apply for :

- (a) a lease modification or a land exchange for the redevelopment of an industrial lot in a non-industrial zone; or
- (b) a special waiver for conversion of an entire existing industrial building situated in a zone designated for use as either “Industrial”, “Commercial” or “Other Specified Uses (Business)” (“OU(B)”) according to the statutory town plans prepared pursuant to the Town Planning Ordinance (“TPO”)

may wish to refer to this Practice Note before submitting an application to the Lands Department (“LandsD”). Applications for the purpose of this Practice Note may only be submitted<sup>1</sup> to LandsD during the period 1<sup>st</sup> April 2010 to 31<sup>st</sup> March 2013 (both dates inclusive). Applications made outside the said period will not be considered for the purpose of this Practice Note. Where the proposed use applied for under the arrangements set out below requires planning permission from the Town Planning Board (“TPB”), such TPB permission must be obtained before the relevant application is submitted to LandsD and the owner must submit proof of such permission at the time of application. Further information may be obtained in respect of the relevant Outline Zoning Plans from the TPB website: <http://www.ozp.tpb.gov.hk/> .

**Special Arrangement for a Lease Modification (or a Land Exchange) for Redevelopment of an Industrial Lot**<sup>2</sup>

2. An owner of an industrial lot in a non-industrial zone<sup>3</sup> may apply for a lease modification (or a land exchange, as the case may be) for redevelopment of the lot for non-industrial use as permitted under the relevant statutory town plan or as may be permitted

<sup>1</sup> For an application by post, the date on the postal chop shall be taken as the date of submission to LandsD. For other means of submission, the date of receipt by LandsD will be taken as the date of submission.

<sup>2</sup> An industrial lot refers to a lot which, under the terms of its land grant, shall not be used for any purpose other than for industrial or godown purposes or both, or for industrial-office purposes.

<sup>3</sup> Examples of non-industrial zones include those which have been designated for use as “OU(B)”, “Residential”, “Commercial” or “Comprehensive Development Area” (“CDA”) according to the statutory town plans prepared pursuant to the TPO.

by TPB. For the purpose of this Practice Note, any reference to a lease modification shall include a land exchange and any reference to a lease modification letter shall include Conditions of Exchange, where the context so admits or requires.

3. An application may be made for redevelopment of the lot concerned for non-industrial uses up to or less than the maximum permissible development intensity permitted under the relevant statutory town plan or, if there is no such limit under the statutory town plan, the Buildings Ordinance (“BO”). An application will generally not be approved if the proposed development intensity for the redevelopment is less than 60% of the maximum permissible development intensity permitted under the relevant statutory town plans or (if applicable) the BO. Any such application, irrespective of whether the proposed development intensity for the redevelopment will be the same as or less than the maximum permissible development intensity as mentioned above, if approved by LandsD, would be subject to such terms and conditions, including payment of a premium, as may be imposed or demanded by LandsD. The Building Covenant to be included in the terms and conditions of the lease modification letter will normally specify that the redevelopment shall be completed within five years from the date of the execution of the lease modification. For the avoidance of doubt, LandsD acting in its capacity as private landlord may, at its sole and absolute discretion, approve or reject any such application.

4. The maximum development intensity for the redevelopment as approved by LandsD, whether it is the same as or less than the maximum permissible development intensity permitted under the relevant statutory town plans or (if applicable) the BO as referred to in paragraph 3 above, will be specified as part of the terms and conditions of the lease modification letter. The land premium payable by the lot owner for the lease modification, to be assessed by LandsD, will be an amount equivalent to the difference between the value of the land under the previous lease conditions and its value under the modified lease conditions.

5. If the premium exceeds \$20 million, a lot owner may opt for payment of 80% of the premium by annual instalments, payable in arrears, over a period of up to five years subject to payment of interest at the rate specified below<sup>4</sup>. In the event that a lot owner has opted for payment of the premium by instalments, 20% of the premium shall be paid as a down payment, that is, 10% of the premium being payable upon acceptance of the binding basic terms offer and the remaining 10% on execution of the lease modification letter.

6. Where a lot owner has opted to pay the premium by instalments, an application for consent to sell or assign the lot or any part thereof or the building or any part of the building thereon will not be considered until all outstanding premium plus interest has been paid or an irrevocable bank guarantee (in such form and containing such terms as LandsD requires) has been provided to guarantee the payment of the outstanding instalments plus interest.

7. Where a lot owner does not opt to pay the premium by instalments, 10% of the premium shall be paid upon acceptance of the binding basic terms offer and the balance of the premium shall be paid upon the execution of the lease modification letter.

8. An administrative fee<sup>5</sup> will be payable in two instalments to LandsD for processing the application. The initial instalment will be payable as and when demanded by LandsD upon submission of the application, the balance of the administrative fee being

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<sup>4</sup> The rate of interest payable will be at a fixed rate of 2% per annum above the average best lending rate of the three note-issuing banks, namely, Hong Kong & Shanghai Banking Corporation, the Bank of China (HK) and the Standard Chartered Bank, prevailing at the date of issue of the binding basic terms offer for the proposed lease modification (or at the date of any revised offer following an appeal against premium.)

<sup>5</sup> The amount of administrative fee will be determined by LandsD from time to time.

payable on the acceptance of the binding basic terms offer. The administrative fee or any other fee paid will not be refunded in any of the circumstances set out in the letter demanding the initial administrative fee and the binding basic terms offer.

### **Special Waiver for Conversion of an Entire Existing Industrial Building**<sup>6</sup>

9. An owner of an industrial building, located in a zone designated for “Industrial”, “Commercial” or “OU(B)” uses according to the statutory town plans prepared pursuant to the TPO, may apply for a special waiver at nil waiver fee for the change of use of the entire existing industrial building, for the lifetime of the existing building or until expiry or termination of the current lease, whichever is the earlier, if:-

- (a) at the time of the application, the age of the existing industrial building is not less than 15 years, calculated from the date of issue of the occupation permit for the entire building. If more than one occupation permit has been issued for the same building or for buildings on the same lot which are the subject of the application, the age of the building will be calculated from the date of issue of the latest occupation permit;
- (b) the application is submitted by the owner of the lot on which the building is erected or, if the building is in multiple ownership, jointly submitted by all existing owners of the lot, together with the consent from all mortgagees, chargees and purchasers who have entered into an agreement for the sale and purchase of the lot or building or any part thereof (the “mortgages, chargees and purchasers”); and
- (c) the proposed uses of the building to be covered by the special waiver fall within either the categories of uses always permitted in the respective planning zones (such uses may include a non-polluting industrial use as may be approved by LandsD) or the categories which require planning permission from the TPB. Such proposed uses should not include, among others, residential use.

10. Approval for the grant of a special waiver may be subject to such terms, covenants and conditions as may be imposed, including the following:-

- (a) the existing building frame<sup>7</sup> must be retained after the conversion. No variation in building height or building bulk will be permitted. Any vertical extensions, horizontal extensions or additional floors or levels to be constructed within the existing building shall not exceed the accountable gross floor area (“GFA”) permitted under the building plans last approved for the existing building by the Building Authority before the application (the “last approved building plans”). In any case, the GFA of the existing building after the conversion shall not exceed the GFA permitted under the last approved building plans;
- (b) the conversion works required to enable the existing building to be used for the permitted uses under the special waiver shall in all respects comply with the current provisions of the BO;

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<sup>6</sup> An industrial building here refers to a flatted factory building, a building subject to a lease granted for industrial and/or godown uses, or an industrial-office building.

<sup>7</sup> I.e. the existing building frame excluding any unauthorized structures.

- (c) any such required conversion works arising under or in relation to the special waiver must be completed within three years from the date of the special waiver letter. The owner shall provide documentary proof of completion of the conversion works (if any) (e.g. Form BA 14 or completion of works contract documents), which should be certified by an Authorized Person (AP) or other competent professionals;
- (d) in the event that an owner of a unit in the existing building shall sell, assign or otherwise dispose of the same or any interest therein or enter into any agreement so to do, the owner shall, upon the completion of the assignment, procure and submit to LandsD an undertaking under seal in favour of the Government from the purchaser or assignee of such unit (the "Purchaser") that the Purchaser shall observe, comply with and be bound by all the terms, conditions and covenants in the special waiver; and
- (e) during the validity period of the special waiver, no part of the building may be used for any uses other than those specified in the special waiver.

For the avoidance of doubt, LandsD acting in its capacity as private landlord may, at its sole and absolute discretion, approve or reject any such application.

11. The special waiver, if approved by LandsD, shall be executed in the form of a special waiver letter by the lot owner (if the building is in single ownership) or jointly by all existing lot owners (if the building is in multiple ownership) as well as by the mortgagees, chargees and purchasers. Applicants should also note that the special waiver, if approved, will primarily waive the Government's right to enforce the user restriction in the lease conditions for the existing building. If a lot owner wishes to modify any other terms contained in the land grant as a result of the special waiver application, a separate lease modification<sup>8</sup> application will have to be made and will be processed by LandsD separately.

12. The applicant shall pay an administrative fee<sup>9</sup> as and when demanded by LandsD upon submission of an application. There will be no refund of the administrative fee paid if the applicant withdraws the application, rejects LandsD's offer or is unable to execute the special waiver letter for any reason.

13. Owners are reminded of the need to approach other relevant authorities and departments, such as TPB, Fire Services Department and the Building Authority, regarding any other approvals or licences that may be required under any Ordinances, by-laws or regulations that are in force from time to time, whether or not the proposed uses that may be permitted under the special waiver would involve any alteration, structural or otherwise, to the existing building.

14. If an owner of a lot wishes to revert, after execution of the special waiver, to any of the original uses permitted under the lease but which were not specified in the special waiver, he should submit an application to cancel the special waiver to LandsD. Where the lot is in multiple ownership, an application for cancellation of the special waiver will need to be submitted jointly by all the existing owners of the lot to LandsD, together with the consent of the mortgagees, chargees and purchasers.

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<sup>8</sup> The lease modification may take such form and contain such conditions as LandsD may consider appropriate for the case, including, among others, payment of a premium.

<sup>9</sup> The amount of administrative fee will be determined by LandsD from time to time.

15. For the avoidance of doubt, the special waiver, if approved and formally executed, will have effect only for the lifetime of the building in existence at the date of issue of the special waiver or until the lease term of the lot expires or is terminated, whichever is the earlier. During the validity of, or upon the cessation of, the special waiver, a premium at full market value (i.e. assessment will be made without the benefit of the special waiver) will be payable if any modification of any lease condition is applied for or required or approved. During the validity of the special waiver, if a lot owner wishes to change any of the special waiver conditions, including any change of the uses permitted under the special waiver, he should submit an application to LandsD, which may, at its sole and absolute discretion, approve or reject and any approval granted may be made upon such terms and conditions (including the payment of any premium or charge) as it may impose. Where the lot is in multiple ownership, the application should be submitted jointly by all existing lot owners together with the consent of the mortgagees, chargees and purchasers.

### **Other Points to Note**

16. The application should be submitted to the LandsD Headquarters at North Point Government Offices, 19/F, 333 Java Road, North Point, Hong Kong, for the attention of the Redevelopment and Conversion of Industrial Buildings Team (“RCIB”). An applicant may wish to refer to Appendix I for a sample of the format of such an application and Appendix II for information on the use of the information provided in the application.

17. Owners are advised to engage competent professionals to assist them in making the applications.

18. In cases where an industrial building or an industrial lot is in multiple ownership, the owners shall appoint a firm of solicitors to arrange execution by all interested parties of the lease modification letter or special waiver letter (as the case may be), and to confirm the up-to-date ownership status for the lot, unless LandsD specifically dispenses with any such requirement.

19. If a lease modification application (the “original application”) for the redevelopment of an industrial lot in a non-industrial zone is in the course of being processed (i.e. the original application has been submitted prior to 1<sup>st</sup> April 2010), the lot owner may, within the three-year period specified in paragraph 1 of this Practice Note, submit an application (the “new application”) for either (I) redevelopment of the lot for less than the maximum permissible development intensity referred to in paragraph 3 or (II) a special waiver under paragraph 9 (if applicable) with a request that LandsD will defer processing the original application pending the outcome of the new application. Should the new application be rejected or not pursued for any reason, LandsD will resume processing the original application unless such application is withdrawn by the applicant. If the new application is approved and the relevant documentation is formally executed,

- (a) where the new application is made under item (I) above, the original application will be treated as withdrawn by the applicant; or
- (b) where the new application is made under item (II) above, LandsD will continue processing the original application upon receipt of a written request from the applicant.

An applicant should note that:-

- (i) the administrative fee paid for the original application will not be refunded in any case;
- (ii) an administrative fee for the new application will be payable as and when demanded by LandsD following submission of the new application; and
- (iii) the administrative fee for the new application will not be refunded if the applicant either withdraws the new application, rejects LandsD's offer in respect of the new application, is unable to duly execute the documentation for the new application for any reason to the satisfaction of LandsD or in any of the circumstances set out in any letter demanding payment of an administrative fee.

20. Notwithstanding that there is an existing waiver in respect of any unit in the same building (the "Existing Waiver"), an application for a special waiver under paragraph 9 of this Practice Note may be submitted and the applicable administrative fee shall be paid as and when demanded by LandsD. If the special waiver is executed, the Existing Waiver will be deemed to have been cancelled or terminated simultaneously and notwithstanding any conditions in the Existing Waiver to the contrary, no refund of any waiver fees will be paid and no notice of termination will be given or required. There will be no refund of any administrative fees paid under the Existing Waiver.

21. An application for a lease modification as referred to in paragraph 3 hereof and a special waiver as referred to in paragraph 9 may not be submitted concurrently.

22. Every application submitted to LandsD pursuant to this Practice Note will be considered on its own merits by LandsD at its absolute discretion acting in its capacity as a landlord. This Practice Note shall not constitute any representation on the part of the Government or give rise to any expectation on the part of the applicant that any application submitted to the LandsD will be processed or approved.

23. 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.

(Miss Annie TAM)  
Director of Lands  
19 March 2010

**Sample of an Application**

Application (in triplicate) for

- (a) Special Arrangement for a Lease Modification (or a Land Exchange)  
for Redevelopment of an Industrial Lot; or
- (b) Special Waiver for Conversion of an Entire Existing Industrial Building

To : Chief Estate Surveyor/Headquarters,  
Redevelopment and Conversion  
of Industrial Buildings Team,  
Lands Department

Dear Sirs,

(Address of the building or lot, Lot number)

I/We, \_\_\_\_\_ (name of the Applicants) \_\_\_\_\_, [as the (Sole Owner / Owners)\* of (Lot \_\_\_\_\_ / Lots \_\_\_\_\_ / Premises \_\_\_\_\_)\*] hereby apply for a (please specify [*and note paragraph 1 of Practice Note Issue No. 1/2010*]) in respect of the Lease/ Special Condition No. \_\_\_\_\_ of Conditions of \_\_\_\_\_ / Special Condition No. \_\_\_\_\_ of New Grant No. \_\_\_\_\_) under which the Lot No(s). \_\_\_\_\_ is/are held. Details of the proposal are provided on separate sheet(s) attached to the application.

In order to facilitate consideration of my / our application, I / we attach the Checklist of Basic Requirements together with the required documents / information for your reference.

I / We hereby expressly warrant and declare that the above information provided in support of my / our application is correct and genuine and I / we expressly acknowledge that I am / we are aware and accept that the decision on the application will be made by the Lands Department on the basis of the information supplied by me / us and may be immediately cancelled in the event that such information is found to be false or misleading.

I / We further expressly acknowledge that the personal data provided by me / us in this application will be used by the Lands Department in connection with the processing of my / our application. The provision of any personal data requested in the application form is voluntary. I / We understand that if I / we do not provide sufficient information, the Lands Department may not be able to process my / our application.

I / We hereby authorize the Lands Department to disclose my / our personal data in the application and the attached documents to such Government Departments and any other body, organization or person(s) as it may see fit at its absolute discretion to obtain such information which is deemed relevant to my / our application, whether on policy or any other grounds.

I / We further authorize and direct and request any Government Department or other body which may be approached by the Lands Department to supply any and all information which it may require.

\* *Delete as appropriate*

Yours faithfully,

Applicant(s)'s Signature: \_\_\_\_\_  
(H.K.I.D. Card Number(s): \_\_\_\_\_ )

Name of the Applicant(s) in Block Letters: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date: \_\_\_\_\_

Notes :

- (1) Details of the proposed redevelopment or proposed uses under application will need to be provided on separate sheet(s) attached to the application.
- (2) All owners must sign in the capacity of applicants.
- (3) This application and the separate sheet referred to in Note (1) above should be submitted in triplicate.

**Checklist of Basic Requirements**  
**for Submission of an Application for**  
**(a) Special Arrangement for a Lease Modification (or a Land Exchange) for**  
**Redevelopment of an Industrial Lot; or**  
**(b) Special Waiver for Conversion of an Entire Existing Industrial Building**

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

***General :***

- (i) 2 copies <sup>(2)</sup> of a complete set of Government Land Grant documents (including all executed lease modification letters and extension letters, if any) affecting the property <sup>(3)</sup>.
- (ii) A copy of an up-to-date location / site plan on an appropriate scale (normally 1:1000) showing the property.
- (iii) 2 copies <sup>(2)</sup> 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 special waiver letter/lease Modification Letter/Conditions of Exchange.
- (c) In the event of the lot being in multiple ownership and unless otherwise consented to by LandsD, 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 RCIB <sup>(4)</sup> of 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 special waiver letter/lease Modification Letter/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.

***For Lease Modification (including a Land Exchange) only :***

(vii) Details of the application clearly identifying the property concerned, the variations being sought in respect of any terms and conditions of the existing lease conditions including the modification of any restrictions and development parameters included in the existing lease conditions (e.g. proposed user, maximum gross floor area (GFA), site coverage, number of storeys/building height, etc.); and indicating :-

(a) whether the proposed redevelopment intensity is less than the maximum permissible intensity, and if yes, the proposed amount of GFA and the percentage in terms of the maximum permissible development intensity; and

Yes

No

(please provide detail)

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(b) in the event that the premium exceeds \$20 million, whether the applicant wishes to pay the premium for the proposed lease modification (if approved) by annual instalments and by how many instalments (not exceeding 5 annual instalments).

Yes

No

(please specify  
no. of  
instalments)

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***For Special Waiver only :***

(viii) 2 copies of a complete set of the building plans<sup>(5)</sup> last approved by the Building Authority for the existing building under application and a schedule showing the total accountable GFA<sup>(5)</sup> of the existing building.

(ix) 2 copies of all occupation permits<sup>(5)</sup> issued by the Building Authority for the existing building under application.

(x) Proposed new use(s) of the building under the application.  
(please provide details on separate sheet)

(xi) 2 sets of schematic plans <sup>(6)</sup> indicating the layout of the manoeuvring, parking, loading and unloading, picking up and setting down spaces to be provided for motor vehicles, motor cycles, good vehicles, taxis, buses and coaches (if applicable) of the building after conversion.

(xii) 2 copies of any conversion works proposal <sup>(6)</sup> for the existing building, which should include certification :-

- of any change in GFA, site coverage, number of storeys and building height to the existing building; and
- that no other non-compliance with the lease conditions.

(xiii) If applicable, a certified copy of the Deed of Mutual Covenant (“DMC”) of the building and a written confirmation by the solicitor acting for the applicants as to whether there are any inconsistencies between the provisions of the DMC and the proposed new use(s). If so, a proposal as to how they are going to deal with the inconsistencies should also be submitted.

(xiv) Does the proposed uses under the special waiver cover among others non-polluting industrial use?

Yes

No

(Please clearly specify the type of non-polluting industrial use)

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(xv) Does the applicant for special waiver also wish to modify other lease restrictions (other than the user restriction) in association with the proposed new uses?

Yes

No

(Please provide detail on separate sheet if necessary)

**B. Information / Documents that will facilitate the processing of the application <sup>(7)</sup> :**

(xvi) A copy of an extract of the relevant Outline Zoning Plan (together with the explanatory notes, as appropriate) showing the property.

- |         |   |                          |
|---------|---|--------------------------|
| (xvii)  | 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"/> |
| (xviii) | 2 sets of sketch plans illustrating the proposed redevelopment or the converted building, if available.   | <input type="checkbox"/> |
| (xix)   | 2 copies of any submissions approved by other relevant authorities relating to the development proposal or other relevant study assessment reports, if applicable (e.g. Approved Master Layout Plans under the Town Planning Ordinance, Environmental / Traffic / Drainage Impact Assessment Reports etc.)                          | <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 lease modification, land exchange or special waiver application.
- (4) RCIB refers to the Redevelopment and Conversion of Industrial Buildings Team of the Lands Department at 19/F, North Point Government Offices, 333 Java Road, North Point.
- (5) The plans and documents should be certified by the Authorized Person acting for the applicant.
- (6) The proposal should be prepared and submitted by the Authorized Person or other competent professionals acting for the applicant.
- (7) Any other information may be supplied in triplicate on separate sheet(s) attached to the application.

**Note on use of Personal Information Required in the Application**

<p>Purpose of Collection</p>	<p>The personal data provided by means of this form will be used by the Lands Department for the purpose of considering and processing the application.</p> <p>The provision of personal data by means of this form is voluntary. If you do not provide sufficient information, the Lands Department may not be able to process your application.</p>
<p>Class of Transferees</p>	<p>The personal data you provided by means of this form may be disclosed to other Government bureaux / departments for the purpose mentioned above.</p>
<p>Access to Personal Data</p>	<p>The applicants have 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 on this form.</p>
<p>Enquiries</p>	<p>Enquiries concerning the personal data collected, including the request for access and corrections, should be addressed to:</p> <p style="text-align: center;">The Office Personal Data Controlling Officer of the Lands Department</p>