



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**

This Practice Note varies and supplements Lands Department (“LandsD”) Lands Administration Office (“LAO”) Practice Note Nos. 1/2010 and 1/2010A with effect from 4th February 2014. Except as varied and supplemented by this Practice Note, all other information and provisions in LAO Practice Note Nos. 1/2010 and 1/2010A remain valid. The Checklist attached to this Practice Note supersedes the Checklist in Appendix I to LAO Practice Note No. 1/2010A with effect from 4th February 2014. This Practice Note and LAO Practice Note Nos. 1/2010 and 1/2010A are hereafter collectively referred to as “the Practice Notes”. For the avoidance of doubt, the expiry date for submitting an application to LandsD for either a lease modification or land exchange under caption (a) above or a special waiver under caption (b) above for the purpose of the Practice Notes remains as 31st March 2016 (this date inclusive). 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.

Special Arrangement for a Lease Modification (or Land Exchange) for Redevelopment of an Industrial Lot

2. The option 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, as specified in paragraph 5 of LAO Practice Note No. 1/2010 will be extended to applications for lease modification to redevelop industrial lots in non-industrial zones specifically for hotel use only subject to the requirements and provisions set out in paragraphs 5 and 6 of LAO Practice Note No. 1/2010 where the premium exceeds \$20 million. For the avoidance of doubt, and continuing with the current practice, for applications for lease modification to redevelop industrial lots in non-industrial zones specifically for hotel use only, redevelopment for 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”) will not be allowed.

3. If a lease modification application (“Original Lease Modification Application”) is in the course of being processed prior to 4th February 2014, the applicant may choose to withdraw the Original Lease Modification Application and submit a new application for redeveloping the industrial lot specifically for hotel use only with an option as mentioned in paragraph 2 above on or after 4th February 2014. An applicant should note that:

- (a) the administrative fee paid for the Original Lease Modification Application will not be refunded in any case;
- (b) an administrative fee for the new application will be payable as and when demanded by LandsD following submission of the new application; and
- (c) the administrative fee for the new application will not be refunded if
 - (i) the applicant withdraws the new application; or
 - (ii) he rejects LandsD’s offer in respect of the new application; or
 - (iii) he is unable to duly execute the documentation for the new application to the satisfaction of LandsD for any reason; or
 - (iv) in any of the circumstances rendering the administrative fee non-refundable as set out in any letter demanding payment of the administrative fee.

Special Waiver for Conversion of an Entire Existing Industrial Building

4. For applications for special waiver submitted on or after 4th February 2014, paragraph 10(a) of LAO Practice Note No. 1/2010 as varied by paragraph 3(a), (b) and (c) of LAO Practice Note No. 1/2010A is deleted and replaced as follows :-

- “(a) (i) the total accountable gross floor area (GFA) permitted under the building plans of the existing building last approved by the Building Authority before the application (the “last approved building plans”) shall not be exceeded after the conversion and no bonus GFA as provided for in the relevant building regulations due to the building works shall be applicable; and

- (ii) no change to the external building structures, increase in building height or increase in building bulk will be permitted except for the following :
- (I) demolition of any of the external building structures of the existing building (including any change involving demolition works), which are accountable for GFA in the last approved building plans, up to a maximum of 10% of the total accountable GFA of the existing building as set out in the last approved building plans;
 - (II) the recovery of the total accountable GFA that is lost in demolition of any of the external building structures of the existing building under (I) above, by vertical extensions (i.e. building on top of the existing building) and/or horizontal extensions to the external building structures within the lot boundary (e.g. outside the building or on the podium) provided that the following conditions are met: -
 - (1) the site coverage of the converted building will not exceed the site coverage permitted under the BO; and
 - (2) the building height will not exceed the building height restriction specified on the Outline Zoning Plan or any relevant planning permission for minor relaxation of the building height restriction approved by the Town Planning Board;

For the avoidance of doubt, the exceptions under paragraph 4(a)(ii)(I) and (II) above do not cover internal building works (including demolition works) that do not involve any change to the external building structures ("internal conversion works"). Continuing with the current practice, any internal conversion works within the existing building envelope will continue to be permitted provided that they do not involve any change (including vertical and/or horizontal extensions) to the external building structures, and/or increase in building height, and/or increase in building bulk and subject always to the overriding condition that the total accountable GFA in the last approved building plans will not be exceeded after the conversion. Paragraph 4(a)(i) of this Practice Note shall apply to all kinds of building works including demolition works, irrespective of whether such works may involve change(s) to the external building structures.

- (III) the erection or placement of machine rooms, air-conditioning units, water tanks, stairhoods and similar roof-top utility structures on the main roof of the existing building provided that they are exempted from

the calculation of GFA under the BO, any regulations made thereunder and any amending legislation and they do not occupy more than 50% of the roof area of the floor immediately below;

- (IV) the addition of claddings or curtain walls to the outer face of the external building structures within the lot boundary that are exempted from the calculation of GFA under the BO, any regulations made thereunder and any amending legislation. In the event that such claddings or curtain walls protrude beyond the lot boundary upon Government land, LandsD may at its sole discretion approve a lease modification (or other suitable form of documentation) subject to such conditions as may be considered necessary including but not limited to the payment of an administrative fee and with the payment of premium being waived.

For the avoidance of doubt, the building height restriction, if any, under the lease conditions must be observed, save that where the building height is exceeded solely for reasons of the recovery of the GFA loss under (II) above and/or the erection or placement of roof-top utility structures as permitted in (III) above, LandsD may at its sole discretion waive the non-compliance with the building height restriction under the lease conditions in the special waiver at nil waiver fee.”

5. For the avoidance of doubt, paragraph 10(b), (c), (d) and (e) of LAO Practice Note No. 1/2010 shall remain valid for the grant of a special waiver and LandsD acting in its capacity as private landlord, may, at its sole and absolute discretion, approve or reject any such application on such terms, covenants and conditions as may be imposed.

6. For applications for special waiver submitted on or after 4th February 2014, paragraph 4 of LAO Practice Note No. 1/2010A is deleted and replaced as follows:

“Upon submission of the application, the applicant shall indicate in the attached Checklist whether the conversion proposal involves changes mentioned in Items (I), (II), (III), (IV) in paragraph 4(a)(ii) above, or any combination thereof. If such conversion proposal would be in breach of the lease conditions (other than the user restriction to which the special waiver relates, or the height restriction to the extent as permitted under Items (II) and (III) in paragraph 4(a)(ii) above), a separate lease modification¹ is required. LandsD will complete processing the lease modification, if approved, before proceeding to execute the special waiver.”

¹ 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 as appropriate.

7. For the avoidance of doubt, upon cancellation, termination or cessation of the effect of the special waiver the lot shall be subject to the original uses and height restrictions, if applicable, under the lease. Lot owners may apply for a lease modification (or other suitable form of documentation) for any subsisting uses or erected structures in breach of the lease conditions after the cancellation, termination or cessation of effect of the special waiver.

8. Save for the situation referred to in paragraph 9 of this Practice Note, paragraph 6 of LAO Practice Note No. 1/2010A is deleted and replaced as follows:

“If a special waiver application (“Original Waiver Application”) is in the course of being processed prior to 4th February 2014, the applicant may choose to withdraw the Original Waiver Application and submit a new application with conditions of the special waiver as mentioned in paragraph 4 above on or after 4th February 2014. A lot owner who has already obtained a special waiver for conversion of use of an industrial building may apply for a new special waiver to benefit from the conditions mentioned in paragraph 4 above on or after 4th February 2014. If the new special waiver is executed, the existing special waiver will be cancelled or terminated simultaneously. In either of these cases, an applicant should note that:

- (a) the administrative fee paid for the Original Waiver Application or the existing special waiver (as the case may be) will not be refunded in any case;
- (b) an administrative fee for the new application will be payable as and when demanded by LandsD following submission of the new application; and
- (c) the administrative fee for the new application will not be refunded if
 - (i) the applicant withdraws the new application; or
 - (ii) he rejects LandsD’s offer in respect of the new application; or
 - (iii) he is unable to duly execute the documentation for the new application to the satisfaction of LandsD for any reason; or
 - (iv) in any of the circumstances rendering the administrative fee non-refundable as set out in any letter demanding payment of the administrative fee.”

9. For special waiver applications submitted on or after 1st April 2012 and prior to 4th February 2014, the conditions in LAO Practice Note No. 1/2010 as varied by LAO Practice Note No. 1/2010A will continue to be imposed in the special waiver.

Other Points to Note

10. For the avoidance of doubt and the purpose of the Practice Notes, an industrial lot or an industrial building does not include any special factories such as those located in industrial estates, storage premises in container terminals and flatted factories built by the Housing Authority, or special industries such as cargo handling uses, ship building and repairing, oil storage and refining and production of associated chemical by-product, manufacture of polystyrene plastics, manufacture and storage of chlorine, hydrogen and textile chemicals, etc.

11. Every application submitted to LandsD pursuant to the Practice Notes will be considered on its own merits by LandsD at its absolute discretion acting in its capacity as a landlord. The Practice Notes 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.

12. This Practice Note is issued for general reference purposes only. All rights to modify the whole or any part of the Practice Notes are hereby reserved.

(Ms Bernadette Linn)
Director of Lands
29 January 2014