



**Application for Waivers for
Buffer Floor and Lower Floors
of an Existing Industrial Building**

Buffer floor may be required in an existing industrial building¹ in order to completely separate non-industrial uses (which require a waiver or modification of the user restriction under lease²) in the lower floors from industrial uses in the upper floors. Under the prevailing fire safety requirements, the buffer floor may be used for the parking or for the loading or unloading of motor vehicles or for occupation by electrical and mechanical plant rooms or be left vacant for refuge use.

2. As announced in the 2018 Policy Address, with due regard to public safety, the permissible uses of buffer floor may be widened to improve the prospect of partial conversion. In this regard, an owner of a buffer floor (existing or to be converted) may apply for a waiver (“the Waiver”) for temporary change of use of such floor under lease to allow it to be used as telecommunications exchange centre³ and computer or data processing centre⁴ and the temporary change of use of the floors immediately below it⁵ for non-industrial use *en bloc* (the

¹ An industrial building refers to a flatted factory building, industrial-office building and other building built for industrial use where the lot on which the building stands, under the terms of its lease, shall not be used for any purpose other than for industrial or godown purposes or both. Such industrial buildings do not include special factories such as those located in industrial estates, storage premises in container terminals and flatted factories built by the Hong Kong Housing Authority, and those buildings on lots supporting specific 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.

² All references to “lease” in this Practice Note cover Government Lease or Conditions of Sale / Grant / Exchange, etc. (as the case may be) and “leases” shall be construed accordingly.

³ Telecommunications exchange centre means any place or premises where telecommunications exchange equipment and facilities are installed for the provision of public telecommunications services such as fixed telephone services and mobile telephone and data services. The determination of the Director of Lands as to whether a particular use falls within the meaning of “telecommunications exchange centre” shall be final.

⁴ Computer or data processing centre means any premises for computing or data processing with a functional relationship with business activities. It is a facility for housing computer systems, servers, telecommunications equipment, and associated support components in a secured and controlled environment. The associated support components, depending on scale, generally include electrical and mechanical facilities such as uninterruptible power supply, power distribution, standby power generation, heat rejection, computer room air-conditioning, fire suppression, environmental control and security control. The determination of the Director of Lands as to whether a particular use of the Premises or any part thereof falls within the meaning of “computer or data processing centre” shall be final.

⁵ For the purpose of this Practice Note, any waiver application of an existing industrial building for conversion of the buffer floor shall include application for conversion of all the floors immediately below it (subject to a

buffer floor and all the floors immediately below the buffer floor (existing or to be converted) are collectively referred to as “the Premises”) provided that:

- (a) the proposed use of the Premises is permitted by the current land use zoning of the lot where the existing industrial building situates under the statutory plans, or by planning permission given by the Town Planning Board;
- (b) the conversion of the Premises shall, in all respects comply with the fire safety requirements of the Fire Services Department (“FSD”) contained in FSD Circular Letter No. 2/2019, or any documents issued by FSD amending, varying or substituting the same; and
- (c) the Premises is under single ownership held by the same owner who submitted the application⁶.

3. For the avoidance of doubt, the temporary change of use of the buffer floor (existing or to be converted) as telecommunications exchange centre and computer or data processing centre shall not include any provision of customer services or sale of goods in whatever form whether involving the physical attendance of the customers or the public or otherwise. Uses for general commercial and office purposes are also excluded notwithstanding that such uses may adopt, in their process of working or operation, equipment or facilities that fall within the meaning of telecommunications exchange centre and computer or data processing centre (such as, the operation of computer hardware or application of computer software). In determining whether a particular use is a use referred to in this paragraph, the decision of the Director of Lands shall be final.

4. An owner shall pay an administrative fee as and when demanded by Lands Department (“LandsD”) upon submission of an application. The administrative fee for the application for the Waiver is not refundable, including but not limited to where the owner subsequently withdraws the application, or rejects LandsD’s offer in respect of the application, or is unable for any reason to duly execute the legal document effecting the Waiver in all respects to the satisfaction of LandsD or shall in any of the circumstances rendering such administrative fee non-refundable as set out in any letters demanding payment thereof.

5. Approval for the grant of the Waiver is subject to such terms and conditions, including payment of waiver fee and deposit, as may be imposed by LandsD, including but not limited to the following:

- (a) the conversion of and the Premises shall, in all respects comply with the fire safety requirements of FSD contained in FSD Circular Letter No. 2/2019 or any documents issued by FSD amending, varying or substituting the same;
- (b) the Waiver shall be personal to the owner of the Premises and shall be deemed to have been terminated upon change of ownership of the Premises or any part(s) thereof;

maximum of three lower floors) for non-industrial uses for the compliance of Fire Services Department’s fire safety requirements. In determining the qualifying requirements and what constitute the buffer floor and lower three floors of an existing industrial building, the decision of the Director of Fire Services shall be final.

⁶ For the avoidance of doubt, the registered owner of the buffer floor (existing or to be converted) and the registered owner of all the floors immediately below the buffer floor (subject of the application) must be the same person or entity (as the case may be).

- (c) during the validity period of the Waiver, no part of the Premises may be used for uses other than those specified in the Waiver;
- (d) the Premises, after conversion, shall not result in plot ratio for the existing industrial building exceeding the maximum development intensity as permitted under the Buildings Ordinance (“the BO”), any regulations made thereunder and any amending legislation; and
- (e) the total gross floor area (“GFA”) or site coverage of the Premises, after conversion, calculated under the BO, any regulations made thereunder and any amending legislation or under lease (as the case may be), shall not exceed the total GFA or site coverage of the Premises, before conversion, as set out in the latest building plans of the existing industrial building approved by the Building Authority under the BO and the Director of Lands under lease. For the avoidance of doubt, no additional or bonus GFA (if any) provided for under the BO, any regulations made thereunder and any amending legislation or otherwise due to the conversion shall be applicable.

For the avoidance of doubt, the Waiver will not be granted for the lifetime of the existing building pursuant to this Practice Note.

6. LandsD Lands Administration Office (“LAO”) Practice Note Issue Nos. 5/2001 and 5/2001A as varied by LandsD LAO Practice Note Issue No. 1/2015 or any Practice Note amending, varying or substituting the same should be referred to insofar as the waiver fee for using the Premises (including but not limited to the buffer floor) for telecommunications exchange centre is concerned save and except the standard rates of lump sum fee payable upfront for waiver for the lifetime of the concerned building. Regarding the waiver fee for using the Premises (including but not limited to the buffer floor) for computer or data processing centre, owners are advised to refer to LandsD LAO Practice Note Issue No. 3/2012 or any Practice Note amending, varying or substituting the same. The waiver fee for other uses will be assessed according to established practices.

7. The Waiver, if approved by LandsD will only be a temporary waiver of the user restriction under lease. Owners are reminded of the need to approach other relevant authorities and departments, such as FSD and the Building Authority to ensure compliance with all applicable requirements and to obtain all necessary approvals, permits, permissions 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 required or permitted under the Waiver would involve any alteration, structural or otherwise, to the existing building. The issue of the Waiver should not be construed as any guarantee by LandsD on the feasibility of the proposed uses of the Premises nor accepting any liability on the expenses the owners may or had incurred.

Other Points to Note

8. The application should be submitted to LandsD at Units 07 – 11, 27/F, CDW Building, 382–392 Castle Peak Road, Tsuen Wan for the attention of Industrial Buildings Revitalisation Unit (“IBRU”). An applicant may wish to refer to Appendix I for a sample of the format of such application and Appendix II for a note on use of personal information provided in the application.

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

10. Notwithstanding that there is an existing waiver in respect of any parts of the Premises of the existing industrial building (“Existing Waiver”), an application for the Waiver for or including those parts may be submitted under this Practice Note and the applicable administrative fee shall be paid as and when demanded by LandsD. The Existing Waiver shall be deemed to be have been cancelled or terminated simultaneously upon execution of the legal document effecting the Waiver, and notwithstanding any conditions governing the Existing Waiver to the contrary, no waiver fees and administrative fees paid for the Existing Waiver will be refunded and no notice of termination will be given or required.

11. 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.

12. 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.



(Thomas Chan)
Director of Lands
21 March 2019

Sample of an application

Application for Waiver for
Buffer floor and Lower floors of an Existing Industrial Building

To : Chief Estate Surveyor/Development Control,
Industrial Buildings Revitalisation Unit,
Lands Department

Dear Sirs,

(Address of the Buffer floor and the Lower floors (not exceeding three floors) of an Existing Industrial Building and lot number being subject of the application) (“the Premises”)

*I/We, _____ (name of the Applicant) _____, as the Sole Owner of the Premises hereby apply for a waiver in respect of the Premises held in relation to the *Lease/ Special Condition No. _____ of Conditions of _____ / Special Condition No. _____ of New Grant No. _____) under which *Lot No. _____ / Lots Nos. _____ *is/are held. Details of the proposal are provided on separate sheet(s) attached to this application.

*I / We hereby expressly confirm and declare that :

- (a) the proposed use of the Premises is permitted by the current land use zoning of the lot where the existing industrial building situates under the statutory plans, or by planning permission given by the Town Planning Board;
- (b) the conversion of Premises (including the buffer floor and the floors immediately below it (not exceeding three lower floors) of the existing building) *en bloc* shall, in all respects comply with the fire safety requirements of Fire Services Department (“FSD”) contained in the FSD Circular Letter No. 2/2019 or any documents issued by FSD amending, varying or substituting the same;
- (c) the Premises (including the buffer floor and the floors immediately below it (not exceeding three lower floors) of the existing industrial building) are held under my / our single ownership ;
- (d) the Premises, after conversion, shall not result in plot ratio for the existing industrial building exceeding the maximum development intensity as permitted under the Building (Planning) Regulations of the Buildings Ordinance (“the BO”); and
- (e) the total gross floor area (“GFA”) or site coverage of the Premises, after conversion, calculated under the BO, any regulations made thereunder and any amending legislation or under lease (as the case may be), shall not exceed the total GFA or site coverage of the Premises, before conversion, as set out in the latest building plans of the existing industrial building approved by the Building Authority under the BO and the Director of Lands under lease. For the avoidance of doubt, no additional or bonus GFA (if any) provided for under the BO, any regulations made thereunder and any amending legislation or otherwise due to the conversion shall be applicable.

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 understand that if *I / we do not provide sufficient documents / information including, without limitation, the above required documents / information, the Lands Department may not be able to process *my / our application. *I/We hereby acknowledge that you may nevertheless request for further relevant information or convening of meetings to clarify any aspects of this application as appropriate and necessary.

*I / We hereby expressly declare, confirm, acknowledge and agree that all the particulars and the information provided herein and in support of *my / our application are true and correct in all respects. *I / We have not withheld any information required in the application, nor have *I/we provided any misleading information.

*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 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 Signature: _____
(H.K.I.D. Card Number: _____)

Name of the Applicant in Block Letters : _____

Address: _____

Telephone Number: _____

Date: _____

Notes :

- (1) Details of the proposed use(s) under application must be provided on separate sheet(s) and attached to this application.
- (2) This application and the separate sheet referred to in Note (1) above should be submitted in triplicate.

Checklist of Basic Requirements
for Application for Waiver for
Buffer Floor and Lower Floors of an Existing Industrial Building

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

General :

- | | | |
|--------|---|--------------------------|
| (i) | 2 copies ⁽²⁾ of a complete set of Government Lease or Conditions of Sale / Grant / Exchange, etc.(including all executed modification letters, no objection letters, waiver letters and extension letters, if any) affecting the Premises ⁽³⁾ . | <input type="checkbox"/> |
| (ii) | 2 copies ⁽²⁾ of a computer printout containing the historical and current ownership particulars of the Premises. | <input type="checkbox"/> |
| (iii) | (a) If the owner of the Premises 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. | <input type="checkbox"/> |
| | (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 waiver. | <input type="checkbox"/> |
| (iv) | If submitted by a prospective purchaser ⁽⁵⁾ , a written consent from the registered owners of the Premises confirming that they have no objection to the submission and processing of this application. | <input type="checkbox"/> |
| (v) | If submitted by an agent, a written authorization from the registered owner and prospective purchaser (if applicable) of the Premises. | <input type="checkbox"/> |
| (vi) | A copy of an up-to-date location / site plan on an appropriate scale (normally 1:1000) showing the Premises. | <input type="checkbox"/> |
| (vii) | A copy of the Town Planning Board permission letter for the proposed uses of the Premises, if applicable. | <input type="checkbox"/> |
| (viii) | 2 copies of a complete set of the latest building plans ⁽⁶⁾ approved by the Building Authority for the Premises and a schedule showing the total gross floor area and total internal floor area ⁽⁶⁾ of the Premises. | <input type="checkbox"/> |
| (ix) | 2 copies of all occupation permits ⁽⁶⁾ issued by the Building Authority for the Premises under application | <input type="checkbox"/> |
| (x) | Proposed new uses of the Premises under application.
(please provide details on separate sheet) | <input type="checkbox"/> |

(xi) 4 copies of floor plans ⁽⁷⁾ showing the Premises on an appropriate scale (but not larger than A3 size). Each of the floor plan(s) shall clearly indicate the extent of the Premises in coloured pink and specify the internal floor area of the Premises with breakdown for the respective uses, if appropriate

(xii) Details of the proposed operation of computer/data processing centre in the buffer floor of the existing industrial building under the application with reference to footnote 4 of LAO Practice Note Issue No. 3/2019, including but not limited to the conceptual design of the computer/data processing centre

(xiii) If applicable, 2 copies of any building works proposal ⁽⁷⁾ for the Premises or part(s) thereof and, irrespective of whether any building works proposal is involved, there should be certification :-

(a) of any change in gross floor area, site coverage, number of storeys and height of the Premises;

(b) compliance with the fire safety requirements of Fire Services Department (“FSD”) in the FSD Circular Letter No. 2/2019 or any documents issued by FSD amending, varying or substituting the same; and

(b) that no other non-compliance with the lease conditions.

(xiv) Does the applicant for waiver also wish to modify other lease restrictions (other than the user restriction) in association with the proposed new use(s)?

Yes

No

(please provide details on separate sheet if necessary)

(xv) An energy saving plan if data centre with reference to footnote 4 of LAO Practice Note Issue No. 3/2019 is proposed on the buffer floor⁽⁸⁾

B. Information / Documents that will facilitate the processing of the application ⁽⁹⁾ :

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

(xvii) 2 sets of sketch plans⁽⁷⁾ illustrating the proposed change in use for the premises, if available.

- (xviii) 2 copies of any submissions approved by other relevant authorities relating to the proposal or other relevant study assessment reports, if applicable (e.g. Environmental / Traffic / Drainage Impact Assessment Reports etc.)

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) The Premises include all premises of the existing industrial building under the waiver application. It shall include the buffer floor (existing or to be converted) and all the floors immediately below the buffer floor.
- (4) IBRU Unit refers to the Industrial Buildings Revitalisation Unit of the Lands Department at Units 07-11, 27/F, CDW Building, 382-392 Castle Peak Road, Tsuen Wan, New Territories.
- (5) A prospective purchaser is an intending purchaser under an existing Agreement for Sale and Purchase registered in the Land Registry.
- (6) The plans and documents should be certified by the Authorized Person (as defined in the Buildings Ordinance (Cap. 123) and any amending legislation) acting for the applicant.
- (7) The proposal should be prepared and submitted by the Authorized Person or other competent professionals acting for the applicant.
- (8) Applicant should make reference to the “Green Data Centre Practice” published by the Office of Government Chief Information Officer (http://www.ogcio.gov.hk/en/business/tech_promotion/green_computing/doc/Green_Data_Centre_Practices.pdf).
- (9) 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

Purpose of Collection	<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>
Class of Transferees	<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>
Access to Personal Data	<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>
Enquiries	<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>