



**Lease Modification (or a Land Exchange) for
Redevelopment of an Industrial Lot
(Special time-limited arrangement for application
for relaxation of development intensity)**

A lot owner of a pre-1987 industrial building¹ who wishes to apply for a lease modification or an in-situ land exchange for the redevelopment of an industrial lot² at a non-domestic plot ratio not exceeding 20% more than the maximum development intensity permitted under the relevant statutory town plans may wish to refer to this Practice Note before submitting an application to the Lands Department (“LandsD”). 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.

2. This special time-limited arrangement for application to LandsD for relaxation of non-domestic plot ratio under a lease requires that the planning approval from the Town Planning Board (“TPB”) has to be obtained. During the three-year period commencing from 10 October 2018, the owners of pre-1987 industrial buildings erected on industrial lots located outside “Residential” (“R”) zone in the Main Urban Areas and New Towns³ (“Applicable pre-1987 IBs”), may submit application to TPB for planning approval of the redevelopment above the maximum development intensity permitted under the relevant statutory town plans. Provided that such approval is given or will be given by TPB and the increased non-domestic plot ratio as approved by TPB shall not result in exceeding the maximum non-domestic plot ratio allowed under the Building (Planning) Regulations of the Buildings Ordinance, the owners may apply for lease modification in the manner set out below.

3. The application for lease modification in respect of the Applicable pre-1987 IBs to increase the maximum non-domestic plot ratio to the maximum development intensity as approved by TPB, if approved by LandsD, shall be subject to such terms and conditions, including payment of a premium and administrative fee, as may be imposed by LandsD. The lease modification letter shall be executed no later than three years from the date of the TPB’s

¹ A pre-1987 industrial building refers to building built on an industrial lot (see FN 2 below) which was wholly or partly constructed on or before 1 March 1987, or was constructed in accordance with building plans first submitted to the Building Authority for approval on or before 1 March 1987.

² 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. For the purpose of this Practice Note, a lot with a pre-1987 industrial building erected thereon under a land grant that does not contain specific user restriction and with a lease modification application submitted under this Practice Note could also be regarded as an industrial lot.

³ According to the Hong Kong Planning Standards and Guidelines, “Main Urban Areas” comprise Hong Kong Island, Kowloon and New Kowloon, Tsuen Wan, Kwai Chung, and Tsing Yi; and “New Towns” comprise Sha Tin, Tai Po, Fanling/Sheung Shui, Tuen Mun, Yuen Long, Tin Shui Wai, Tseung Kwan O and Tung Chung.

approval letter and no extension of time would be granted unless LandsD shall consider that there are strong and valid justifications. In this regard, the decision of LandsD on whether or not there are strong and valid justifications is final and conclusive.

4. Among other terms and conditions, the maximum development intensity for redevelopment allowed under the lease as approved by LandsD and the modified building covenant will be specified as part of the terms and conditions of the lease modification letter. The building covenant will normally specify that the redevelopment shall be completed within five years from the date of the execution of the lease modification letter.

5. An administrative fee⁴ 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 payable on the acceptance of the binding basic terms offer. Where applicable, a fee charged for services rendered by the Legal Advisory and Conveyancing Office of LandsD for processing the application will also be payable as and when demanded (“LACO Fee”)⁵. The administrative fee and (where applicable) LACO Fee will not be refunded in any of the circumstances rendering such fees non-refundable as set out in any letters demanding payment thereof.

Other Points to Note

6. The application for lease modification should be submitted to the LandsD at Units 07-11, 27/F, CDW Building, 382-392 Castle Peak Road, Tsuen Wan, for the attention of the Industrial Buildings Revitalization Unit (“IBRU”). 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.

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

8. In cases where an Applicable pre-1987 IB or an industrial lot with an Applicable pre-1987 IBs is in multiple ownership, the owners shall appoint a firm of solicitors to arrange execution by all interested parties of the lease modification letter and to confirm the up-to-date ownership status for the lot, unless LandsD specifically dispenses with any such requirement.

9. If a lease modification application (“Original Application”) for the redevelopment of an Applicable pre-1987 IB is in the course of being processed prior to the date of this Practice Note, the lot owner may, upon obtaining TPB’s approval referred to in paragraph 2 of this Practice Note, submit a fresh application (the “New Application”) for redevelopment of the lot for the maximum development intensity as approved by TPB referred to in paragraph 3 with a request that LandsD will defer processing the Original Application pending the outcome of the New Application. Should the New Application be rejected, not pursued by the lot owner for any reason or the lease modification letter cannot be executed within the three years from the date of the TPB’s approval letter as specified in paragraph 3 of this Practice Note, LandsD will resume processing the Original Application unless such application is withdrawn by the applicant. If the New Application is approved and the relevant

⁴ The amount of administrative fee will be determined by LandsD from time to time.

⁵ The amount of LACO Fee will be determined by LandsD from time to time.

documentation is formally executed within the said three years, the Original Application will be deemed withdrawn by the applicant. An applicant should also note that:-

- (i) the administrative fee and LACO Fee paid for the Original Application will not be refunded in any case;
- (ii) an administrative fee and LACO 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 withdraws the New Application, or rejects LandsD's offer in respect of the New Application, or is unable to duly execute the documentation for the New Application for any reason to the satisfaction of LandsD, or shall in any of the circumstances rendering such fees non-refundable as set out in any letters demanding payment thereof.

10. 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 other authorities or give rise to any expectation on the part of the applicant that any application submitted to the LandsD will be processed or approved.

11. 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
18 February 2019