LEGISLATIVE COUNCIL BRIEF

Further Measures to Facilitate Redevelopment and Wholesale Conversion of Industrial Buildings

INTRODUCTION

At the meeting of the Executive Council on 15 October 2013, the Council ADVISED and the Chief Executive ORDERED that the following further refinements to the existing revitalisation measures for industrial buildings (IBs) should be introduced –

Wholesale Conversion

(a) Subject to the current limit on demolition of the external building structure of up to 10% of the total gross floor area (GFA) as shown on the last approved building plan of an existing IB (10% GFA limit) before application for special waiver, allow recovery of the amount of GFA loss in such demolition where feasible by building on top of the existing building and outside the existing building frame (e.g. on the podium) within lot boundary on the conditions that, after conversion –

(i) there will be no increase in total GFA as set out in the last approved building plan of the existing building¹;

(ii) the site coverage of the converted building will not exceed the site coverage permitted under the Buildings Ordinance (BO); and

(iii) the building height restriction in the planning regime will not be exceeded, save for minor relaxation allowable by application to and approval of the Town Planning Board (TPB).

If there is a building height restriction in the land lease, any non-compliance with such height restriction due to the construction on top of the existing building for recovery of the allowable GFA loss will be waived in the special waiver at nil waiver fee, such that no separate lease modification will be required.

¹ Calculation of the total GFA after conversion excludes any exempted/disregarded GFA but includes the amount of GFA loss due to demolition to be recovered and, where applicable, any bonus GFA in accordance with regulation 22 of the Building (Planning) Regulations (Cap.123F) arising from the conversion works (e.g. set-back area for public passage at ground level consented by the Government).
(b) For the placing of GFA-exempted roof-top utility installations not exceeding 50% of the roof area of the floor below, allow the building height restriction under land lease be waived in the special waiver at nil waiver fee, if needed, such that no separate lease modification will be required.

(c) For the installation of claddings or curtain walls protruding beyond the lot boundary upon Government land, the Director of Lands may, at her sole discretion, approve lease modification (or other suitable form of documentation), where appropriate, subject to such conditions considered necessary and with the payment of premium being waived.

Redevelopment

(d) Extend the option of premium payment by annual instalments up to five years, currently applicable to lease modifications of industrial lots on non-industrial zones for the optimal use as permitted under the town planning zoning concerned, to lease modifications (including land exchanges) of industrial lots on non-industrial zones where the lot owners apply specifically for “hotel only” use.

The above further refinements will be applied to all eligible applications submitted between an effective date to be determined\(^2\) and 31 March 2016 (i.e. the expiry date of the revitalisation measures). All other eligibility requirements under the existing revitalisation measures will remain unchanged.

JUSTIFICATIONS

2. The revitalisation measures for IBs\(^3\) (summarised at Annex A) were introduced in April 2010 with the objective of optimising the use of existing vacant or under-utilised IBs through facilitating their redevelopment or wholesale conversion. In September 2011, the Government completed a mid-term review and subsequently introduced a number of refinements in April 2012 to allow more flexibility for wholesale conversion of IBs. Up to end

\(^2\) The effective date will be further determined having regard to the lead time for publicising the changes and preparatory work. For applications submitted prior to the effective date, applicants may choose to withdraw their original applications with administrative fee forfeited and submit new applications on or after the effective date. By doing do, they would benefit from the further refinements.

\(^3\) Such IBs refer to flatted factory buildings, other buildings where the leases governing the lots on which the buildings stand specify industrial and/or godown uses, and industrial-office buildings. Such IBs do not include special factories such as those located in industrial estates, storage premises in container terminals and flatted factories built by the Housing Authority, and 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.
September 2013, the Lands Department (LandsD) had received 110 applications under the revitalisation measures, of which 76 applications had been approved.

3. While the aforesaid refinements to the revitalisation measures have been generally supported by various stakeholders, there are feedbacks that some IB owners still face difficulties in certain aspects in pursuing wholesale conversion and redevelopment under the revitalisation measures. This may have inadvertently discouraged them from revitalising their IBs. As announced in the 2013 Policy Address, we are prepared to further refine the existing revitalisation measures to better facilitate revitalisation of IBs in appropriate land use zonings. The further refinements would provide more incentive for owners to revitalise their IBs and are in line with the initiative in the 2013 Policy Address.

Recovery of GFA loss due to demolition of external building structures for wholesale conversion cases

4. Under the current revitalisation measures, owners of IBs aged 15 years or above and situated in “Industrial”, “Other Specified Uses (Business)” or “Commercial” zones may apply at nil waiver fee for change of use of the entire existing buildings for their lifetime or until expiry or termination of the leases, whichever is earlier, where variations to the existing external building structure of an IB involving no more than the 10% GFA limit\(^4\) are allowable. So long as it will not result in a net increase in total GFA after conversion, any GFA loss due to demolition could be compensated by building within the existing building frame, subject to technical feasibility. There should be no addition of new floor space outside the existing building frame. The restriction of requiring all wholesale conversion cases not to build outside the existing building frame is meant to draw a clear line between wholesale conversion and redevelopment (the latter requires payment of premium). Nonetheless, in practice, it may have posed in some cases limitations and, because of them, owners may find it strenuous or even financially not viable to pursue wholesale conversion and to implement certain building designs or planning requirements (e.g. building setback for widening of roads or pedestrian pavements).

5. There are merits to provide greater flexibility for IB owners to pursue wholesale conversion, while maintaining a clear line between wholesale conversion and redevelopment. In this regard, we will allow, within the current 10% GFA limit for demolition of the external building structure of an IB, recovery of such amount of GFA loss outside the existing building frame and within lot boundary, subject to no increase in the total GFA and no excessive

\(^4\) In calculating the 10% GFA limit, those external building structures originally not accountable for GFA calculation are excluded.
site coverage under the BO after conversion. This will, however, still be subject to the building height restriction under the planning regime but the owner may make use of the minor relaxation mechanism to apply to and seek the approval of the TPB for height relaxation. Same as the present arrangements, applications for special waiver for wholesale conversion of IB are regarded as valid if they are submitted by all owners of the industrial lot on which the building is situated and planning approvals have been obtained as the cases may require. If the IB has an existing plot ratio higher than the stipulated plot ratio restriction under the relevant Outline Zoning Plan (OZP), the IB will be allowed to maintain the existing plot ratio after the conversion without the need for the owner to apply to TPB for minor relaxation in this respect. This is provided for under the Remarks of the OZP notes.

6. With the above limit on the maximum amount of GFA allowed for demolition, no increase in total GFA and no excessive site coverage after conversion, as well as the building height restriction under the planning regime, we consider that cases under this further refinement should fall under the aegis of wholesale conversion. It would be justified to allow the application for special waiver at nil waiver fee to be equally applicable in such cases. In processing future applications for special waiver which involve a change in height or bulk of the existing IB under this further refinement, LandsD would consult the relevant departments, including the District Offices concerned which would advise on whether local consultations would be necessary for the individual cases, as well as duly ensure that the applications would comply with all other relevant lease conditions and applicable requirements. If the recovery of GFA loss allowable under this further refinement on top of the existing building is within the building height restriction under the planning regime but would exceed the height restriction stipulated in the land lease (e.g. specific building height limit/level or number of storey), any such non-compliance with the height restriction under lease will be waived in the same special waiver at nil waiver fee following the policy objective to facilitate wholesale conversion of IBs under the revitalisation measures.

5 If no GFA or site coverage is shown in the last approved building plans of the existing building, authorised persons of the applicant should provide information on the existing and proposed GFA, plot ratio and site coverage in support of the planning application, special waiver application and building plan submission where appropriate.

6 Under the remarks of the OZP Notes, no new development or redevelopment of an existing building shall exceed a stipulated plot ratio, or the plot ratio of the existing building, whichever is the greater. If the plot ratio of the existing IB is higher than the stipulated plot ratio under the relevant OZP, no extension of the existing building would be allowed to accommodate facilities which may be exempted from GFA calculation by the Building Authority.

7 For the avoidance of doubt and pursuant to the arrangement for wholesale conversion of IBs under the existing revitalisation measures, if the special waiver is cancelled/terminated or ceases to have effect (e.g. when the IB is demolished or when the lease term expires/determines), a lease modification to relax the height restriction under lease may be processed subject to payment of a premium, of which the “Before” value will be assessed on the basis of the existing lease terms (i.e. without the benefit of any special waiver).
7. In addition, the Building Authority (BA) would continue to adopt a pragmatic approach in handling the alteration and addition proposals for wholesale conversion of IBs under this further refinement. Following the prevailing building regulations and standards, the BA will consider the granting of modification of or exemption from certain specific requirements, including those under the Sustainable Building Design guidelines, as appropriate on a case-by-case basis.

**Facilitation for placing GFA-exempted roof-top utility installations and addition of claddings or curtain walls for wholesale conversion cases**

8. Placing GFA-exempted utility installations on the main roof not exceeding 50% of the roof area of the floor below and installation of claddings or curtain walls are allowed for wholesale conversion applications under the existing revitalisation measures. Nonetheless, owners are still required to apply for a separate lease modification with payment of premium and administrative fee\(^8\) as appropriate if the building height restriction in the lease is exceeded or the proposed claddings or curtain walls are beyond the lot boundary. While this requirement basically follows the established practices under the land administration regime, we consider that there is room for streamlining the process to further facilitate such wholesale conversion cases.

9. Insofar as placing GFA-exempted roof-top utility installations is concerned, similar to the above further refinement for recovery of the amount of GFA loss outside the existing building frame, we consider it feasible and will waive the building height restriction under land lease, if so needed, in the same special waiver for the wholesale conversion. In this regard, no separate application for lease modification will then be required. For claddings or curtain walls, we affirm that their addition on the exterior of a wholly converted IB may protrude beyond the lot boundary upon Government land, subject to Director of Lands’ approval at her sole discretion of such application by suitable land documentation in consultation with relevant departments as appropriate and with the premium payment being waived\(^9\), in view that it may not always be technically feasible to add such structures within the lot boundary. This will be subject to no encroachment onto other private lots and that any parts of the proposed claddings or curtain walls outside the lot boundary are not accountable for GFA under the BO and related building regulations.

10. These further refinements as set out in paragraphs 4 to 9 will address

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\(^8\) LandsD will review the administrative fee in accordance with the “user pays” principle with a view to attaining full cost recovery.

\(^9\) An administrative fee is payable.
possible inconvenience currently faced by applicants for wholesale conversion of IBs.

**Premium Payment by Instalments for “Hotel Only” Redevelopment**

11. Applications for lease modification (including redevelopments of IBs) for “hotel only” use are currently subject to a separate scheme introduced in the 2008-09 Budget as an initiative to facilitate hotel developments, with modification premium assessed on the basis of “hotel only” use (instead of the optimal use pursuant to the broader uses under the town planning zoning) and the maximum development intensity permissible. This is different from the premium assessment adopted for redevelopment of IBs for other uses under the revitalisation measures, which is on the basis of the optimal use as permitted under the town planning zoning and the proposed development intensity of the redevelopment (i.e. “pay for what you build”). In addition, applicants of lease modification of industrial lots for “hotel only” use under the scheme are currently ineligible for the option of premium payment by instalments, which is applicable to other redevelopment of IBs under the revitalisation measures, allowing applicants to opt for payment of 80% of the lease modification premium by annual instalments up to five years at a fixed rate of interest, if the premium exceeds $20 million.

12. We recognise and will maintain the different approaches of premium assessment under the “hotel only” scheme and the revitalisation measures. Nonetheless, following the objective to facilitate redevelopment of IBs on non-industrial zones in general under the revitalisation measures, we consider it reasonable to extend the scope of the option of premium payment by instalments to cover also those lease modifications of industrial lots on non-industrial zones where the lot owners apply for “hotel only” use. This will enhance the cash flow of redevelopment of IBs for hotel use, on par with other redevelopment of IBs for optimal uses as permitted under the town planning zoning.

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10 Under the scheme, the reserve price of sites on the Application List designated for “hotel only” use is assessed on a “hotel only” basis instead of their maximum development potential permissible. On parity grounds and for the same policy objective, similar arrangements are applied to hotel developments subject to lease modification (including land exchange) whereby the premium is charged on a “hotel only” basis. The scheme helps foster the development of inbound tourism, as well as facilitate the organisation of conventions, exhibitions and other activities in Hong Kong that can enhance international business contacts and networking.

11 Under the existing revitalisation measures, owners have to pay 20% of the premium as down payment, including 10% upon acceptance of the binding basic term offer and another 10% on execution of the lease modification. The rate of interest for the annual instalments is fixed at 2% per annum above the average best lending rate of the three note-issuing banks prevailing at the time when the binding basic term offer for the lease modification is issued (or at the time of a revised offer following premium appeal).

12 For the avoidance of doubt, the “pay for what you build” option under the revitalisation measures would not be applicable to “hotel only” redevelopments in industrial lots on non-industrial zones.
IMPLICATIONS OF THE PROPOSALS

13. The proposals have financial and civil service, economic, environmental and sustainability implications as set out at Annex B. The proposals are in conformity with the Basic Law, including the provisions concerning human rights. They have no productivity implications.

PUBLIC CONSULTATION

14. During and after the mid-term review on the revitalisation measures, we had met various stakeholders, including IB owners and professional bodies and practitioners, to collect their views and comments on the existing revitalisation measures. The further refinements to the existing revitalisation measures, which were announced in the 2013 Policy Address, are largely formulated in response to their suggestions to further facilitate more wholesale conversion and redevelopment projects.

PUBLICITY

15. Appropriate publicity will be arranged, including the issue of this Legislative Council Brief and updating the dedicated government website on the revitalisation measures, to promulgate the further refinements in detail.

BACKGROUND

16. The Government announced in October 2009 a set of revitalisation measures to facilitate the redevelopment and wholesale conversion of older IBs. These revitalisation measures came into effect on 1 April 2010. They aim at providing more floor space for suitable uses to meet Hong Kong’s changing social and economic needs. Following a mid-term review on the revitalisation measures completed in September 2011, several refinements to the measures were introduced and the deadline of application was extended for three years, from 31 March 2013 to 31 March 2016.

OTHERS

17. Enquiries on this brief may be directed to Mr Law Kin-wai, Principal Assistant Secretary for Development (Planning and Lands), at 3509 8830.

Development Bureau
16 October 2013
SUMMARY OF THE EXISTING REVITALISATION MEASURES AND REFINEMENTS FOLLOWING MID-TERM REVIEW

THE REVITALISATION MEASURES

The package of revitalisation measures to facilitate redevelopment and wholesale conversion of vacant or under-utilised IBs was announced in the 2009-2010 Policy Address, which came into effect on 1 April 2010. The key measures include –

(a) Lower the application threshold for compulsory sale orders under the Land (Compulsory Sale for Redevelopment) Ordinance from 90% to 80% of ownership for IBs. These IBs should be at least 30 years old and situated in non-industrial zones;

(b) Allow lease modification/land exchange for redevelopment at “pay for what you build” premium (i.e. based on the optimal use and proposed development intensity) for redevelopment of IBs situated in non-industrial zones;

(c) Allow owners who modify land lease for redevelopment of IBs in non-industrial zones to opt for payment of 80% of the lease modification premium by annual instalments up to five years at a fixed rate of interest, if the premium for the lease modification exceeds $20 million; and

(d) Allow owners to apply at a nil waiver fee for change in use of the entire existing IBs during the lifetime of the building or until expiry of the current lease, whichever is earlier. The IBs must be at least 15 years old and situated in “Other Specified Uses” annotated “Business”, “Industrial” or “Commercial” zones.

REFINEMENTS FOLLOWING MID-TERM REVIEW

Following the completion of a mid-term review on the revitalisation measures in September 2011, the following refinements to the revitalisation measures were introduced and came into effect on 1 April 2012 –
(a) Affirm that, for the purpose of applying for wholesale conversion under the revitalisation measures, placing GFA-exempted utility installations (e.g. machine room for lifts) on the main roof not exceeding 50% of the roof area of the floor below would not be regarded as increase in building height, while installation of claddings or curtain walls on the exterior of the building would not be regarded as increase in building bulk;

(b) Allow minor changes to the existing building frame, including variations to the internal and external structures, on the conditions that demolition of external building structures should involve no more than 10% of the total GFA of the existing building and that there is no net increase in GFA after conversion;

(c) Encourage new applicants for wholesale conversion to obtain certification by the BEAM Plus Assessment, but they would not be required to obtain a mandatory rating; and

(d) Extend the application period for the revitalisation measures for three years, i.e. extending the deadline of application from 31 March 2013 to 31 March 2016.

- End -
IMPLICATIONS OF THE PROPOSALS

Financial and Civil Service Implications

The proposals would waive the need for payment of modification premium for recovery of GFA loss outside the existing building frame, placing GFA-exempted roof-top utility installations, and addition of claddings or curtain walls for wholesale conversion of IBs and would result in potential revenue forgone. Nonetheless, not all wholesale conversion cases would have a need to draw on these further refinements and the extent of resulting possible loss in revenue in those cases would depend on their individual circumstances. In addition, the potential loss in revenue will depend on the market response to the further refinements and cannot be reasonably estimated at this stage. Other than the above, the further refinements would involve no change to the current approaches to assessing premium payable for lease modifications/land exchanges, charging nil waiver fees for special waivers, and charging the applicable administrative fees for such applications under the revitalisation measures.

2. LandsD has set up a dedicated team at its headquarters to centrally process all applications under the revitalisation measures since 1 April 2010. To tie in with extended deadline of application from 31 March 2013 to 31 March 2016, an annual additional funding is provided to LandsD for three years from 2013-14 to 2015-16 for the continued operation of the dedicated team. The Development Bureau and relevant departments involved in the implementation of the further refinements will absorb any additional workload and resources requirements from within the existing resources.

Economic Implications

3. The existing revitalisation measures aim at encouraging better use of the existing stock of IBs to meet Hong Kong’s changing social and economic needs. The further refinements to the existing revitalisation measures will provide greater flexibility for wholesale conversion and redevelopment of IBs, encouraging more applications and hence providing more floor space to support various economic activities and bringing about new employment opportunities.
Environment Implications

4. The environmental implications of redevelopment and wholesale conversion of individual IBs will continue to be dealt with in accordance with the requirements of relevant environmental legislation and applicable environmental standards and guidelines.

Sustainability Implications

5. The further refinements would facilitate revitalisation of existing IBs and hence make better use of valuable land resources and inject vibrancy in former industrial areas. The facilitation for wholesale conversion, particularly allowing recovery of GFA loss due to demolition of external building structures, would defer the need for redevelopment of some existing IBs, thus leading to less construction waste.

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