

LEGISLATIVE COUNCIL BRIEF

Optimising the Use of Industrial Buildings to Meet Hong Kong's Changing Economic and Social Needs

INTRODUCTION

At the meeting of the Executive Council on 22 September 2009, the Council ADVISED and the Chief Executive ORDERED that the following policy proposals should be implemented to –

- (a) facilitate **redevelopment** of industrial buildings situated in non-industrial zones through –
 - (i) allowing the majority owners of industrial buildings aged 30 years or above situated in non-industrial zones to apply under the Land (Compulsory Sale for Redevelopment) Ordinance (LCSRO) for a compulsory order to sell the whole lot for redevelopment, if the majority owners own not less than 80% of the undivided shares of the lot;
 - (ii) approving, at the sole discretion of the Director of Lands (D of Lands), applications for tailor-made lease modification (including land exchange) of industrial lots located in non-industrial zones so that the land premium payable will be assessed according to the optimal use and proposed intensity of the redevelopment (i.e. pay for what you build), instead of the maximum development intensity permitted under the relevant statutory town plan or the Buildings Ordinance (BO), if there is no such limit under the statutory town plan; and
 - (iii) allowing applicants for lease modification in (ii) above to opt for payment of 80% of the premium by annual instalments for up to five years at a fixed rate of interest of 2% per annum above the average best lending rate of the three note-issuing banks prevailing at the time when the binding basic terms offer for the proposed lease modification is issued (or at the time of a revised offer following premium appeal), each instalment payable in arrear.

(b) facilitate **conversion** of the entire existing industrial buildings (i.e. wholesale conversion) in “Industrial”, “Commercial” and “Other Specified Uses” annotated “Business” (“OU(B)”) zones by agreeing D of Lands to charge, at her sole discretion, a **nil** waiver fee for the change of use of these industrial buildings for the lifetime of the existing buildings or until expiry or determination of the current lease, whichever is earlier. Only industrial buildings meeting the following criteria will be considered –

- (i) the age of the industrial buildings should be not less than 15 years, counting from the issue date of the occupation permit at the time of application;
- (ii) the proposed uses of the buildings to be covered by the waiver should be uses always permitted in the respective planning zones or uses approved by the Town Planning Board (TPB);
- (iii) the application for waiver should be submitted by the owner of the building or, if it is in multiple ownership, jointly submitted by all existing owners of the building;
- (iv) the owners must retain the original building frame after the conversion, and there should not be any increases in building height; building bulk; or vertical extension, horizontal extension or additional floor within the original building envelope which is accountable for gross floor areas (GFA) and there should not be any increase in GFA in excess of the GFA specified in the lease or the statutory town plan, if there is such a limit;
- (v) the planning, design and alteration of the converted building should comply with the current provisions of the BO; and
- (vi) the proposed conversion works, if any, should be completed within three years after the waiver for change in uses of the building is given.

2. All of the above proposed measures, except (a)(i) (which is intended to be permanent and implemented through subsidiary legislation under the LCSRO approved by the Chief Executive in Council to specify a lower threshold for applications to the Lands Tribunal for compulsory sale of three classes of lots, including lots with the eligible industrial buildings), will be applicable to eligible applications submitted within three years from 1 April

2010. Apart from all new cases that are submitted between 1 April 2010 and 31 March 2013, the proposed measures will also apply to all outstanding applications under processing if the eligible applicants opt for such options. The proposed measures at sub-paragraph (b) above will also be applicable to existing waivers with fees payable annually or periodically in respect of industrial buildings meeting the specified criteria. The building owners may choose to terminate the existing waivers and apply for the new waivers at a nil waiver fee.

JUSTIFICATIONS

Vacancy and under-utilisation of industrial buildings¹

3. As a result of Hong Kong's economic restructuring and relocation of traditional manufacturing activities to the Mainland, many private flatted industrial buildings are now vacant or under-utilised. This is a serious waste of our precious land resources. The TPB, with assistance from the Planning Department (PlanD), has adopted a two-pronged approach to promote optimum use of our land resources: broadening the permissible uses in industrial buildings² and rezoning surplus and suitable industrial land for non-industrial uses. In 2001, TPB introduced a new OU(B) zone, which allows a mix of office, commercial and non-polluting industrial uses. During the past two decades, about 500 hectares of industrial land have been rezoned for non-industrial uses, including about 200 hectares to OU(B) use.

4. Although the official vacancy rate of industrial buildings is not particularly high (6.5% at end 2008, compared with 8.4% for office buildings and 4.9% for residential buildings), the total vacant industrial floor areas is still considerable at 1.13 million m². This vacancy rate does not reflect the actual extent of the problem because it has not taken into account the existence of non-compliant uses (which we believe to be widespread) and the fact that many industrial premises are now occupied but not optimally utilised.

5. Due to continual rezoning of industrial land for other uses (including OU(B), commercial and residential uses), there were 1 026 private

¹ Such industrial buildings include flatted factory buildings, other buildings covered by leases specifying for industrial and/or godown use, and industrial-office buildings.

² For example, training, design, research and development related to industrial process are now considered industrial use; 'Office relating to Industrial Use', 'Design and Media Production', 'Audio-visual Recording Studio', and 'Information Technology and Telecommunications Industries' are now uses always permitted in "Industrial" zones. Other business uses such as 'Eating Place', 'Office', 'Exhibition or Convention Hall', and 'Shop and Services' are now uses always permitted in the purpose-designed non-industrial portion on lower floors of buildings in "Industrial" zone, provided that the uses are separated by a non-hazardous buffer floor from the industrial uses located above.

industrial buildings³ situated in various types of non-industrial zones in the metro and new town areas in early 2009, and about 80% (818 buildings) of them are situated in OU(B) zones. In the four years between 2005 and 2008, LandsD approved only 32 cases of lease modifications (including land exchange) in respect of industrial buildings which involved change of use. Another survey conducted by PlanD in 2005 revealed that 28% of the industrial building spaces in OU(B) were used for warehouse and storage, 16% for offices ancillary to factories, 13% for manufacturing activities, and 6% for workshop. These industrial and related uses together accounted for around 65% of the existing floor areas in these industrial buildings, implying that the remaining 35% were non-industrial uses or vacant.

6. The above demonstrate that despite the large scale rezoning and relaxation of uses by the TPB over the years, not that many owners of industrial buildings have responded by redeveloping or converting their industrial buildings for higher value-added uses.

Non-compliant uses in industrial buildings

7. Non-compliance may stem from failures to follow the permitted uses for the zone or in the lease conditions. They are inter-linked but not the same. For example, many production processes may be included as permitted uses in an industrial building from town planning's point of view, but they may not be regarded as industrial or godown uses under the land leases governing the industrial buildings, which normally restrict the uses to industrial purposes and other uses ancillary to industrial operations.

8. Another prevalent non-compliant use is operations by cultural and creative industries in industrial buildings such as production studios, arts galleries, etc. From a town planning's point of view, these uses fall under "Shop and Services", "Office" or "Exhibition or Convention Hall" which require TPB approval unless their premises are located in purpose-designed lower floors of industrial buildings where fire safety concerns are adequately addressed. But in practice, most of these cases are found amongst mixed uses (industrial and commercial) in the same building and the increase in fire risks would make it difficult for them to obtain the necessary approvals, even if they applied. The non-compliance status of these cultural and creative uses has another drawback: the operators are prohibited from publicising their existing operations in industrial buildings for fear of triggering enforcement actions by the authorities. This is not conducive to further development of these business ventures.

³ They include flatted factories, industrial-office buildings, and godown buildings. Special factories such as those located in industrial estates, storage premises in container terminals and flatted factories built by the Housing Authority are excluded.

9. We do not have detailed statistics on the extent of non-compliant uses in industrial buildings, but believe it to be widespread – for instance, LandsD collected waiver fees at an average of \$124 million a year from industrial buildings during the past four years (from 2005 to 2008). As at March 2009, LandsD managed 441 temporary waivers for industrial buildings; such waivers involved a total internal floor area of 202 331m², which is just slightly over 1% of the stock of industrial premises. This appears to be much too low if we consider that about 30% of existing industrial spaces in OU(B) zones are used for non-industrial purposes, which would require some form of lease modification or temporary waivers. That said, LandsD only affords to take lease enforcement action upon complaint or during inspections at a very limited number of target buildings as referred to in paragraph 11 below.

10. The problem of non-compliant uses would likely exacerbate in the coming years. The bulk of OU(B) zone is found in former industrial areas such as Kwun Tong, Kwai Chung, Kowloon Bay, Cheung Sha Wan, San Po Kong and Aberdeen in the Metro Area. The implementation of planned urban regeneration programmes and public infrastructure projects in their neighbouring areas (e.g. Kai Tak Development, the Kwun Tong Town Centre Redevelopment and the new rail links) will increase the incentives for changing the existing industrial premises in these areas for other uses, whether legally or not; early actions by the Government are required to facilitate a smooth transformation of these premises to higher value-added uses.

11. Enforcement against non-compliance with Outline Zoning Plans (OZPs) in the urban and new town areas may be carried out through lease conditions only if the lease contains conditions specifying the uses and development parameters as permitted under the statutory town plans or through the Buildings Ordinance. LandsD has put in place inspection programmes covering a small number of target buildings selected generally on the basis of complaints received, the extent of non-conforming uses and safety risks. Otherwise, District Lands Offices will mainly act on complaints against non-compliant uses. It is neither practical nor effective for LandsD or BD to inspect all existing industrial buildings on a regular basis.

Fire safety considerations

12. The Fire Services Department (FSD) is concerned about the presence of commercial activities in industrial buildings because industrial activities, in general, tend to carry higher risks in terms of fire and other hazards (e.g. loading, storage and use of dangerous goods), thus posing unacceptable risks to commercial patrons in the same building. Commercial activities that would attract a large number of customers to industrial buildings of mixed uses are considered unacceptable because the customers

are generally not familiar with the potential fire risks in such buildings. In assessing the potential risks of mixed uses in an industrial building, FSD will consider the permissible uses rather than actual existing uses, as industrial premises changed to other non-industrial uses may be converted back to industrial uses any time without planning permission. This is understandable as units in an industrial building may be licensed to store dangerous goods and hazardous chemicals even if the storage is inactive, or units currently used for non-intrusive industrial process may be re-let to a different, more intrusive user.

13. The most common type of planning applications involving change in uses of industrial buildings in OU(B) zones is “Shop and Services” use, and the major reason for rejecting these applications has been fire safety concerns. FSD would normally accept commercial or certain other non-residential uses in industrial buildings in the following circumstances –

- (a) partial change of use from industrial to commercial on the ground floor level – subject to a cap on the aggregate commercial floor areas of 460m² (with sprinklers) and 230m² (without sprinklers);
- (b) total change of use on lower floors below a buffer floor – no restriction on the area and nature of commercial activities so long as there is a buffer floor of non-hazardous nature (i.e. car park, E&M plant room, or an empty floor for refuge use) completely separating such portion from the upper portion where industrial uses may continue to be present;
- (c) non-industrial uses for office purposes not involving direct provision of customer services or goods to the general public⁴ on any floor;
- (d) total change of use of the entire building to non-industrial uses – all uses in the building will then carry the same lower level of fire risks. **Annex A** shows possible non-industrial uses of industrial buildings in various planning zones.

14. Given the fragmentation of ownership in industrial buildings, it is evident that individual owners wishing to convert their premises into alternative uses would have difficulties in complying with 13(a), (b) and (d) above, whilst the range of uses permitted in 13(c) is rather limited. Redevelopment and wholesale conversion are, therefore, the most practical

⁴ Some of these uses include headquarters or back-office operations, information technology and telecommunications industries, freight forwarding services centres, audio-visual recording studios, offices for professional consultants, offices for business services, etc.

ways to revitalise industrial premises in suitable locations because there is no need to worry about potential fire risks due to mixed uses in the building and there will be least restrictions on the potential new uses of the buildings. Economically, the major works to ensure fire safety, air conditioning, etc. that are likely to be needed to convert an industrial building to other uses would only be viable on an overall building basis.

Support to development of the six economic areas

15. The Task Force on Economic Challenges (TFEC) has identified six economic areas⁵ where Hong Kong enjoys clear advantages and recommended that the Administration should consider policy initiatives to facilitate the conversion or redevelopment of under-utilised industrial buildings to provide more land and usable floor space for the cultural and creative industries and other suitable economic areas. **Annex B** shows the possible uses in OU(B) and Commercial zones corresponding to these six economic areas. As can be seen, with the exception of a few (such as hospitals), uses pertaining to these economic activities are “uses always permitted” and require no prior planning approval.

16. The availability of suitable land and premises at affordable price would be a key factor influencing the pace of development of these six economic areas. Industrial buildings, with their usually higher ceiling height, higher floor loading and more flexible floor layouts, have good potentials for conversion to other economic uses. The existing stock of industrial buildings in former industrial areas have particularly good potentials as they are usually conveniently located (in city centres or along the waterfront) and are well served by existing and planned public infrastructure, including new rail lines⁶.

Challenges in revitalising existing industrial buildings

17. We believe that the owners of industrial buildings in non-industrial zones are reluctant or unable to carry out redevelopment, wholesale conversion or even temporary change of use for these buildings because –

- (a) the multiple ownership in flatted industrial buildings makes it difficult for all owners to reach a decision to convert or redevelop the buildings;
- (b) the owners are deterred by the requirement to pay full market

⁵ These six economic areas are: testing and certification, medical services, innovation and technology, cultural and creative industries, environmental industry and educational services.

⁶ For example, the OU(B) zone in Hung Hom is near the proposed Whampoa Station of the Kwun Tong Line extension, and the OU(B) zone in Wong Chuk Hang is near a proposed station of the South Island Line.

premium for lease modification⁷ for redevelopment to other uses, or full waiver fees⁸ in the event of conversion to other uses;

- (c) the building owners may be reluctant to be the “first mover” to convert or redevelop their buildings for non-industrial uses before similar uses emerge in the neighbourhood;
- (d) owners may find it difficult to raise funds for redevelopment.

PROPOSED MEASURES TO FACILITATE REDEVELOPMENT

Assembly of titles in industrial buildings with multiple owners

18. The multiple ownership in flatted factory buildings is often a hurdle to their redevelopment. Under the current provision of the LCSRO, the majority owners (owning not less than 90% of the undivided shares) of a lot may apply to the Lands Tribunal for a compulsory order to sell the entire lot for redevelopment. The majority owners will have to satisfy the Lands Tribunal that redevelopment of the lot is justified on the ground of age or state of repair of the existing buildings and that the majority owners have taken reasonable steps to acquire all the undivided shares of the lots.

19. The LCSRO provides that the Chief Executive in Council may designate a lower application threshold of not less than 80% for specified classes of lots. We propose that an application threshold of 80% be designated for lots with existing industrial buildings aged 30 years or above situated in non-industrial zones. About half of the existing industrial buildings in Hong Kong are at least 30 years old; as these buildings are relatively old and their current uses are often not entirely in line with the long-term planning intention for the lots, they should be given priority for redevelopment. This proposal leaves the decision of whether and when to redevelop the existing industrial buildings to the market.

Premium arrangements for lease modification for redevelopment

20. Redevelopment of existing industrial buildings in non-industrial zones will help materialise certain planning gains and upgrade these former industrial areas. For example, PlanD has introduced setback requirements in

⁷ Building owners may apply to the District Lands Office for lease modification (i.e. a permanent modification of lease conditions) and, upon payment of land premium, may demolish the industrial buildings for redevelopment or convert the whole building to other uses.

⁸ Building owners may also apply for temporary waivers (i.e. temporary variations to the lease conditions) and they will be required to pay waiver fees reflecting the enhancement in the values of the premises. The waiver may cover an entire industrial building or just part of it, and waiver fees may be paid on an annual or periodic basis or a lump sum for waiver for the lifetime of the building.

the OZPs for some OU(B) zones, e.g. Kwun Tong, Cheung Sha Wan, Kowloon Bay. These planning gains can be materialised only upon redevelopment of the existing industrial buildings there. Redevelopment of industrial buildings may also encourage early removal of sources of environmental concerns, e.g. disused chimneys of old industrial buildings, which often inhibit revitalisation of the surrounding areas.

21. Our land policy established over the years has been to optimise land use to the full extent allowed under the statutory town plans or the Buildings Ordinance, if there is no such limit under the statutory plan, not only to enhance revenue but also to ensure full utilisation of our scarce land resources. The lease conditions normally allow for all permissible uses and maximum development intensity, and LandsD will assess the land premium payable based on the maximum development potential of the lots. In respect of OU(B) zones, the permitted plot ratios are often as high as 12 or 9.5 or that of the existing buildings. We believe that the Government can help facilitate early redevelopment of industrial buildings in non-industrial zones by charging a premium based on the optimal use which reflects the proposed intensity of redevelopment⁹ (i.e. pay for what you build), rather than a maximum premium based on the maximum permissible development intensity (but as a general rule, a minimum development intensity, say at 60% of the maximum permitted intensity, may need to be adhered to). D of Lands, acting in the private landlord capacity, may exercise her discretion to approve such tailor-made lease modification applications.

22. We also propose to allow the payment of land premium for these cases by instalments within five years at a fixed rate of interest, if the premium for the lease modification exceeds \$20 million. This will reduce the owners' initial capital outlay and may provide greater incentives to speed up the redevelopment of existing industrial buildings in non-industrial areas for higher value-added uses.

23. LandsD will incorporate the following safeguards into the modified lease conditions for these cases –

- (a) the redevelopment will be completed within five years, but extension may be accepted at premium if there are valid grounds;
- (b) the lot owner should pay 20% of the premium as down payment (10% upon acceptance of the binding basic term offer and another 10% on execution of the lease modification); and

⁹ The proposed development intensity should not exceed the GFA or plot ratio permitted on the relevant statutory town plans or Buildings Ordinance.

- (c) application for consent to sell or assign¹⁰ will not be considered by LandsD until the lot owner has paid all the outstanding premium plus interest, or provided a bank guarantee for the outstanding premium.

24. We do not propose to restrict the new uses of the redevelopment that may be eligible under the “pay for what you build” scheme, so long as they comply with the uses always permitted in the current zones or that specified in the planning permission granted by the TPB¹¹. We have considered whether we should also allow tailor-made lease modification with respect to particular land uses (e.g. cultural and creative industries), but decided not to pursue it further because this would be difficult to enforce and we do not wish to over-complicate the proposed scheme. We also wish to encourage the land owners to put the land to the best economic uses permissible.

25. This proposal might be criticised for encouraging under-utilisation of our scarce land resources because the land owners are encouraged not to build to the maximum intensity permissible under the relevant statutory town plans. The plot ratio permitted in these former industrial areas could be as high as 12; this rather high figure was decided many years ago and would unlikely be supported in today’s environment. Although we do not know how many owners would choose to build below the maximum permissible GFA, we are prepared to provide a choice. This may encourage owners to take into account the public aspirations for lower development intensity in the metro area and add impact to the proposed package of measures.

26. Since the objective of this proposal is to encourage early transformation of existing industrial buildings in non-industrial areas, we believe the “pay for what you build” concept should be extended to redevelopment of industrial buildings currently situated in OU(B), “Residential”, “Commercial” as well as “CDA” zones, so long as the uses are permitted under the relevant statutory town plans or planning permissions have been obtained, and the applications are submitted within the above-mentioned three-year period.

27. There may be concerns that even big developers could stand to benefit from this instalment option thus enabling them to divert their capital to other forms of investment. But it would be difficult to apply this measure only to SMEs owning industrial units without over-complicating a scheme which is intended to create early visible impact. Also, big developers could

¹⁰ In accordance with the normal practice, restriction on alienation before compliance needs to be imposed in the lease modification.

¹¹ The user clause in the lease modification document will not be worded as the uses always permitted in the current zones. It would be in the usual lease form such as “non-industrial (excluding godown, petrol-filling station or where applicable, residential)”.

easily circumvent any such rule by setting up subsidiary companies to implement their redevelopment projects.

PROPOSED MEASURES TO FACILITATE WHOLESale CONVERSION

28. The existing stock of industrial buildings is not that old (about half were built during the past 30 years); for these younger buildings that are structurally sound, wholesale conversion may be a better alternative. The idea is to retain the existing building frame (i.e. no increase in height, bulk and maximum GFA) of the buildings but allow major alteration of the interior and upgrade of building facilities to meet the safety requirements and special needs associated with the intended new uses. Successful examples of wholesale conversions of redundant industrial or warehouse buildings can be found overseas and, more recently, locally, such as the Hong Kong Jockey Club Creative Arts Centre converted from a former Housing Authority flatted factory building. In some cities, they have become not simply usable space but catalysts for regeneration in an urban area.

29. Compared with redevelopment, wholesale conversion can be completed within a shorter time and involves lower building costs. It will generate less construction wastes and can incorporate green features which will make them a more environmentally friendly alternative. It will also be a more effective job creation initiative, as conversion projects can normally start within a relatively short time. Furthermore, wholesale conversion would generate relatively little local objections in regard of building bulk and building height.

30. To encourage owners of private industrial buildings to be “first movers” in converting their buildings for higher value-added uses and addressing the potential fire safety problems due to co-existence of incompatible uses, we propose to charge a nil waiver fee for the change of use of existing industrial building for the lifetime of the existing building or until the current lease expires, whichever is earlier. In other words, the waiver will cease to have effect when the building is redeveloped or when the lease term expires or determines, and by then premium at full market value will be payable for a lease modification to uses other than those industrial or other uses specified in the lease. The full market value premium will be assessed on the basis of the difference between the “Before” value and “After” value. The “Before” value is for industrial use or those uses specified in the lease i.e. without the benefit of the waiver. Given that our conventional waiver allows for co-existence of the uses permitted under the lease, the waiver will require the applicant to undertake not to revert to the industrial uses permitted by the lease during the validity period of the waiver so as to overcome the possible

mixed use problem. This notwithstanding, if all the owners of the building subsequently ask to revert the use to those permitted in the lease, the waiver can be cancelled or terminated. The waiver will also contain a covenant to the effect that upon termination of the waiver, all the terms and conditions of the lease shall apply.

31. We believe a building age limit is needed to ensure that the concession is targetted at buildings with real needs of substantial conversion works and consider an age limit of 15 years or above appropriate (covering about 90% of all existing industrial buildings). In recommending this age limit, we have taken into account that new fire safety requirements for all buildings including industrial buildings were introduced by BD in 1996. We believe that industrial buildings developed in the recent past should have no major difficulties in accommodating the new business uses allowed in OU(B) zones. The design of these newer industrial buildings should also have taken into account Hong Kong's economic restructuring in the 1980s and early 1990s, so there may not be an imminent need for them to undergo conversion.

32. We have considered whether the proposed nil waiver fee should be confined to conversion of industrial buildings for uses supporting the cultural and creative industries, but decided that this would unnecessarily complicate this time-limited scheme. More importantly, we estimate that the demand by the cultural and creative industries alone would not be large enough to encourage conversion of a useful portion of all eligible industrial buildings. We need a sizeable demand for converted building spaces to create the necessary momentum to make this initiative a success and believe that the building owners will work out the most suitable uses of the converted buildings within the relevant planning parameters. Moreover, given the density and limited area of built accommodation per capita in Hong Kong, this scheme to regenerate surplus or under-utilised industrial buildings into less expensive gross floor area would also be welcomed by many as providing additional space for working and playing.

33. We consider that this incentive should be extended to all industrial buildings in OU(B), Commercial and Industrial zones. Whilst the TPB has broadened the permitted uses in Industrial zones, many new permitted planning uses may not be allowed by the existing lease conditions of the industrial buildings. The proposed nil waiver fee will encourage owners of these industrial buildings to regularise those uses which breach land leases at one go.

34. We require joint applications by all owners for industrial buildings in multiple ownerships and execution of the waiver document (also by the mortgagees, if any), if it is approved, to ensure that the conversion plans are

properly authorised by owners and subsequent enforcement of the waiver conditions can be taken against them. Apart from the necessary safeguards on the Government's rights and against abuses, there may be consequential changes to the lease conditions required, e.g. subject to not exceeding the maximum GFA specified in the lease, the number of parking spaces may need to be revised as a result of change of use and alteration of the building; or if there is no maximum GFA in the lease, it may be necessary to stipulate in the waiver document such that the existing building refers to the approved building plans of the existing building and the GFA shown thereon. We do not have readily available statistics on the current ownership status of industrial buildings, but in promulgating the scheme, we would stress that owners' participation is conducive to its success.

EVALUATION OF THE MEASURES

35. We will review the market response to the proposed measures facilitating wholesale conversion or redevelopment within one year after its introduction. In the longer term, pending any needed repositioning of the role of the Urban Renewal Authority (URA) arising from the Urban Renewal Strategy Review under way, we may consider inviting URA to facilitate wholesale conversion or redevelopment of selected industrial buildings, particularly those buildings whose redevelopment would produce substantial planning gains but the individual owners there have difficulties in pursuing it themselves.

36. With the facilitating measures in place, we will encourage building owners to regularise their existing non-compliance. The relevant departments will continue their enforcement efforts to prevent mixed uses in industrial buildings.

IMPLICATIONS OF THE PROPOSALS

37. The proposal has financial and civil service, economic, environmental and sustainability implications as set out at **Annex C**. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no productivity implications.

PUBLIC CONSULTATION

38. Revitalisation of industrial buildings has been a topical issue across the political spectrum and in certain District Councils. Two motion debates on the subject took place in 2007 and 2008 with Legislative Council (LegCo) Members urging the Administration to be more creative in coming up with

solutions. The LegCo Development Panel was consulted on 23 June 2009 on the proposed designation of a lower application threshold for industrial buildings aged 30 or above situated in non-industrial zones, and a special panel meeting was convened on 16 July 2009 to hear the views of deputations. Panel members and the deputations did not raise any major objections to this proposal.

PUBLICITY

39. The Development Bureau (DEVB) plans to mount extensive publicity and briefings for LegCo, DCs, professional institutes, commerce and industry organisations, etc. to explain the proposed measures in greater details after the Policy Address. We would exercise care in explaining the “pay for what you build” approach and the charging of a nil waiver fee to make it clear that this is an exercise of discretion on the part of D of Lands, acting in her private landlord capacity.

OTHERS

40. Enquiries on this brief may be directed to Mr Laurie Lo, Head of Development Opportunities Office, at 2186 8911.

Development Bureau
15 October 2009

**Non-Industrial Uses in Existing Industrial and
Industrial-Office Buildings within “Industrial” Zone**
(Excluding Government Uses/Facilities and Utility Installations)

Note: Non-industrial uses other than the below are not allowed under the Outline Zoning Plan.

Uses Always Permitted	Uses Subject to Planning Permission from Town Planning Board
Any Floors	
<p><u>Office Uses</u></p> <ul style="list-style-type: none"> • Audio-visual Recording Studio • Design and Media Production • Office Related to Industrial Use <p><u>Commercial Uses</u></p> <ul style="list-style-type: none"> • Eating Place (‘Canteen’ and ‘Cooked Food Centre’ only) • Shop and Services (‘Motor-vehicle Showroom’ on ground floor, and ‘Service Trades’ only) 	<p><u>Office Uses</u></p> <ul style="list-style-type: none"> • Office (<i>other than those which are always permitted</i>) <p><u>Commercial Uses</u></p> <ul style="list-style-type: none"> • Ancillary Showroom (>20% of the total usable floor area of an industrial firm in the same premises/building) • Broadcasting, Television and/or Film Studio • Exhibition or Convention Hall • Off-course Betting Centre • Shop and Services on G/F only (other than those which are always permitted) • Wholesale Trade <p><u>Recreation and Leisure Uses</u></p> <ul style="list-style-type: none"> • Place of Recreation, Sports or Culture • Private Club
Purpose-designed Non-industrial Portion on Lower Floors with Buffer Floor(s) Separating the Industrial Uses Located Above	
<p><u>Commercial Uses</u></p> <ul style="list-style-type: none"> • Eating Place • Exhibition or Convention Hall • Off-course Betting Centre • Shop and Services <p><u>Office Uses</u></p> <ul style="list-style-type: none"> • Office <p><u>Recreation and Leisure Uses</u></p> <ul style="list-style-type: none"> • Place of Entertainment • Place of Recreation, Sports or Culture • Private Club <p><u>Educational and Religious Uses</u></p> <ul style="list-style-type: none"> • Educational Institution • Religious Institution • Training Centre <p><u>G/IC Uses</u></p> <ul style="list-style-type: none"> • Institutional Use 	<p><u>G/IC Uses</u></p> <ul style="list-style-type: none"> • Social Welfare Facility (excluding those involving residential care)

**Non-Industrial Uses in Buildings other than Industrial or
Industrial-Office Buildings within “OU(Business)” Zone**
(Excluding Government Uses/Facilities and Utility Installations)

Note: Non-industrial uses other than the below are not allowed under the Outline Zoning Plan.

Uses Always Permitted	Uses Subject to Planning Permission from Town Planning Board
<p><u>Office Uses</u></p> <ul style="list-style-type: none"> • Office <p><u>Commercial Uses</u></p> <ul style="list-style-type: none"> • Commercial Bathhouse/Massage Establishment • Eating Place • Exhibition or Convention Hall • Off-course Betting Centre • Shop and Services <p><u>Recreation and Leisure Uses</u></p> <ul style="list-style-type: none"> • Place of Entertainment • Place of Recreation, Sports or Culture • Private Club <p><u>Educational and Religious Uses</u></p> <ul style="list-style-type: none"> • Educational Institution • Library • Religious Institution • School (excluding free-standing purpose-designed building and kindergarten) • Training Centre <p><u>G/IC Uses</u></p> <ul style="list-style-type: none"> • Institutional Use 	<p><u>Commercial Uses</u></p> <ul style="list-style-type: none"> • Broadcasting, Television and/or Film Studio • Hotel • Wholesale Trade <p><u>Educational Use</u></p> <ul style="list-style-type: none"> • School (kindergarten or school in free-standing purpose-designed building) <p><u>G/IC Uses</u></p> <ul style="list-style-type: none"> • Social Welfare Facility (excluding those involving residential care)

**Non-Industrial Uses in Buildings
within “Commercial” Zone**

(Excluding Government Uses/Facilities and Utility Installations)

Note: Non-industrial uses other than the below are not allowed under the Outline Zoning Plan.

Uses Always Permitted	Uses Subject to Planning Permission from Town Planning Board
<p><u>Office Uses</u></p> <ul style="list-style-type: none"> • Office <p><u>Commercial Uses</u></p> <ul style="list-style-type: none"> • Commercial Bathhouse/Massage Establishment • Eating Place • Exhibition or Convention Hall • Hotel • Market • Off-course Betting Centre • Shop and Services • Wholesale Trade <p><u>Recreation and Leisure Uses</u></p> <ul style="list-style-type: none"> • Place of Entertainment • Place of Recreation, Sports or Culture • Private Club <p><u>Educational and Religious Uses</u></p> <ul style="list-style-type: none"> • Educational Institution • Library • Religious Institution • School • Training Centre <p><u>G/IC Uses</u></p> <ul style="list-style-type: none"> • Institutional Use • Social Welfare Facility (excluding those involving residential care) 	<p><u>Residential Uses</u></p> <ul style="list-style-type: none"> • Flat • House • Residential Institution <p><u>Commercial Uses</u></p> <ul style="list-style-type: none"> • Broadcasting, Television and/or Film Studio <p><u>G/IC Uses</u></p> <ul style="list-style-type: none"> • Hospital

**New Economic Pillars Identified by
Task Force on Economic Challenges (TFEC)
and Possible Corresponding Uses in “OU(B)” and “Commercial” Zones**

New Economic Pillars Identified by TFEC		Related Use Terms Used in Statutory Plans	Whether Planning Application is Required in “OU(B)” Zone (for redevelopment and conversion⁽¹⁾ only)	Whether Planning Application is Required in “Commercial” Zone
Economic Areas	Possible Specific Uses Involved			
Testing and certification	Food testing ⁽²⁾	Research, Design and Development Centre - Laboratory, inspection and testing centre	The uses are always permitted.	Application for amendment of plan under section 12A of the Town Planning Ordinance (TPO) is required.
Medical services	Private hospital ⁽²⁾	Hospital	Application for amendment of plan under section 12A of the TPO is required.	Application for permission under section 16 of TPO is required.
	Healthcare services ⁽²⁾	Shop and Services - Clinical laboratory - Medical consulting room	The uses are always permitted.	
Innovation and technology	---	Information Technology and Telecommunications Industries		
		Research, Design and Development Centre - Laboratory, research, design and development centre - Research, design and development centre related to industrial, information technology and telecommunications uses - Workshop of high technology products	The uses are always permitted.	Application for amendment of plan under section 12A of TPO is required.

Cultural and creative industries	Advertising ⁽³⁾	Office	The uses are always permitted.		
	Architecture ⁽³⁾	Office			
	Arts, antiques and crafts ⁽³⁾	Exhibition or Convention Hall			
		Place of Recreation, Sports or Culture - Arts centre - Arts gallery - Art studio - Museum			
		Shop and Services - Retail shop - Showroom			
		Training Centre			
		School (non-free-standing purpose-designed building)			
		School (free-standing purpose-designed building)	Application for permission under section 16 of TPO is required.	The use is always permitted.	
	Design ⁽³⁾	Office		The uses are always permitted.	
		Training Centre			
		School (non-free-standing purpose-designed building)			
			School (free-standing purpose-designed building)	Application for permission under section 16 of TPO is required.	The use is always permitted.
Digital entertainment ⁽³⁾	Office		The use is always permitted.		
	Research, Design and Development Centre - Laboratory, research, design and development centre		The uses are always permitted.	Application for amendment of plan under section 12A of TPO is required.	
Film and video ⁽³⁾	Broadcasting, Television and/or Film Studio		Application for permission under section 16 of TPO is required.		

		Office - Audio-visual recording studio	The use is always permitted.	
		Place of Entertainment		
Music ⁽³⁾ Performing arts ⁽³⁾		Office - Audio-visual recording studio	The uses are always permitted.	
		Place of Entertainment		
		Place of Recreation, Sports or Culture - Art studio - Civic centre - Concert hall - Cultural complex - Rehearsal room for art performance		
		Training Centre		
		School (non-free-standing purpose-designed building)		
		School (free-standing purpose-designed building)		
	Publishing ⁽³⁾	Non-polluting Industrial Uses (excluding industrial undertakings involving the use/store of Dangerous Goods)	The uses are always permitted.	Application for amendment of plan under section 12A of TPO is required.
Software and computing ⁽³⁾		Office	The uses are always permitted.	
		Information Technology and Telecommunications Industries - Computer/Data processing centre		
		Office		
		Training Centre		
		School (non-free-standing purpose-designed building)		

		School (free-standing purpose-designed building)	Application for permission under section 16 of TPO is required.	The uses are always permitted.
	Television and radio ⁽³⁾	Broadcasting, Television and/or Film Studio	Application for permission under section 16 of TPO is required.	
		Office - Audio-visual recording studio	The uses are always permitted.	
Environmental industry	Environmental technology and product ⁽²⁾	Non-polluting Industrial Uses (excluding industrial undertakings involving the use/store of Dangerous Goods)	The uses are always permitted.	Application for amendment of plan under section 12A of TPO is required.
		Office	The uses are always permitted.	
	Shop and Services - Retail shop - Showroom			
	Waste recovery and recycling ⁽²⁾	Non-polluting Industrial Uses (excluding industrial undertakings involving the use/store of Dangerous Goods) - Industrial-based material recovery/recycling facility	The uses are always permitted.	Application for amendment of plan under section 12A of TPO is required.
Environmental services ⁽²⁾	Non-polluting Industrial Uses (excluding industrial undertakings involving the use/store of Dangerous Goods)			
		Office	The uses are always permitted.	
Education services	Post-secondary education ⁽²⁾	Educational Institution	The uses are always permitted.	
		Office		
		School (non-free-standing purpose-designed building)		

		School (free-standing purpose-designed building)	Application for permission under section 16 of TPO is required.	The use is always permitted.
		Residential Institution - Student hostel	Application for amendment of plan under section 12A of TPO is required.	Application for permission under section 16 of TPO is required.

- (1) It means that existing industrial building is to be redeveloped or wholly converted into a building other than industrial or industrial-office building.
- (2) The use is found in the Paper “Developing New Economic Pillars” discussed by TFEC on 3.4.2009.
- (3) The use is based on the categorization adopted in the Central Policy Unit’s Baseline Study on Hong Kong Creative Industries undertaken in 2003.

Implications of the Policy Measures

Financial and Civil Service Implications

The granting of tailor-made lease modifications on a case by case basis would not necessarily result in a real loss of revenue. If an application is approved, the modified lease would clearly prescribe the less than maximum development potential approved and that the premium will be assessed on the basis of the modified lease conditions. Should the present or future lessees later decide to develop beyond the modified lease parameters, they will need to apply for further lease modifications and pay premiums to reflect the enhancements in land value so resulted.

2. On the other hand, the potential loss in revenue due to charging a nil waiver fee for change of uses of existing industrial buildings after wholesale conversion depends on the market response to the scheme and cannot be estimated at this stage. There will also be loss in revenue from those current fee-paying waivers in respect of buildings eligible to benefit from wholesale conversion, as their owners would naturally terminate the existing waivers and apply for new waivers at a nil waiver fee. The amount involved will again depend on market response and cannot be estimated at this stage.

3. LandsD will set up a dedicated team to handle centrally the additional workload to be generated from processing of applications for lease modification for redevelopment and waivers for change of use of industrial building after wholesale conversion. DEVB and the relevant departments will have to conduct extensive briefings, entertain large number of enquiries and process additional applications where approval is required as a result of this package of initiatives. DEVB will provide additional resources to the relevant departments as needed through internal redeployment of resources within the operating expenditure envelope.

Economic Implications

4. Redevelopment or wholesale conversion of eligible industrial buildings would allow better uses of our valuable land resources and could potentially provide useful support to higher value-added economic activities including those falling under the six economic areas where Hong Kong enjoys clear advantages as identified by the TFEC. Revitalisation of these buildings would bring about new economic activities and employment opportunities.

Environmental Implications

5. The environmental implications of redevelopment or wholesale conversion of individual industrial buildings will be dealt with in accordance with the requirements of relevant environmental legislation and applicable environmental standards and guidelines.

6. In view of the major infrastructure projects in the pipeline, we are running out of local capacity to accommodate the surplus inert materials generated from construction and demolition works. The proposal to facilitate wholesale conversion of industrial buildings, as opposed to demolition and redevelopment, would help reduce the generation

of such materials. This would help extend the lifespan of our landfills and public-fill banks, all of which are approaching their full capacity.

Sustainability Implications

7. The proposal would make better uses of valuable land resources, help create employment and inject vibrancy in former industrial areas. The adoption of a “pay for what you build” basis for assessment of premium for redevelopment would encourage developers to go for less than maximum development intensity. The facilitation of wholesale conversion would defer the need for redevelopment of some existing industrial buildings, thus reducing construction waste and extending the lifespan of landfills.