

LEGISLATIVE COUNCIL BRIEF

Mid-term Review on Measures to Facilitate Redevelopment and Wholesale Conversion of Older Industrial Buildings

INTRODUCTION

At the meeting of the Executive Council on 20 September 2011, the Council ADVISED and the Chief Executive ORDERED that the following changes to the existing package of measures to facilitate redevelopment and wholesale conversion of older industrial buildings (hereafter referred to as the “revitalisation measures”) should be made that –

- (a) placing of utility installations on the main roof level of a wholly converted industrial building shall not be regarded as increase in building height under the revitalisation measures, if the utility installations are exempted from calculation of gross floor area (GFA) under the Buildings Ordinance and do not exceed 50% of the roof area of the floor below. Similarly, addition of claddings or installation of curtain walls on the exterior of a wholly converted building shall not be regarded as increase in building bulk under the revitalisation measures. But the above-mentioned installations will have to comply with the relevant requirements of the Buildings Ordinance and regulations, the land lease conditions and the Town Planning Ordinance, in particular the requirements under the approved plans, where applicable.
- (b) minor changes to the existing building frame be allowed including variations to the internal and external building structures and number of floors within the existing building envelope on the conditions that –
 - (i) changes to existing external building structures (including structural elements) shall involve no more than 10% of the total GFA of the existing building, and the total GFA of the building after conversion shall not exceed the total GFA of the existing building as shown on its last approved building plans; and

- (ii) the changes shall comply with the relevant requirements of the Buildings Ordinance and regulations, the development restrictions of the Outline Zoning Plan (OZP) and land lease conditions, and no bonus GFA for planning gains as provided in the relevant building regulations shall be applicable to such wholesale conversion.
- (c) applications for wholesale conversion of industrial buildings should be encouraged to procure certification of the conversion works by the Building Environmental Assessment Method (BEAM) Plus Assessment conferred by the Hong Kong Green Building Council (but applicants will not be required to obtain a mandatory rating and such certification will not be made a condition under the special waiver for obvious difficulties in lease enforcement).
- (d) the provisions in (a) to (c) above be applied to all eligible applications for wholesale conversion submitted on or after 1 April 2012.
- (e) those revitalisation measures endorsed by ExCo on 22 September 2009 originally for three years, subject to the changes proposed in (a) to (d) above, should be extended by a further three years, i.e. the end of the application period will be extended from 31 March 2013 to 31 March 2016.

JUSTIFICATIONS

Placing GFA-exempted utility installations on the roof top of converted buildings

2. The present revitalisation scheme requires that there should not be any increase in building height or building bulk after wholesale conversion. The objective is to distinguish wholesale conversion from redevelopment, but not to exclude wholesale conversion works that may otherwise be allowed if the owners do not apply under the revitalisation measures.

3. Many industrial buildings, especially those situated in the eastern part of Kowloon and built before relocation of the airport, are subject to stringent building height control. As a result, the utility installations (e.g. machine room for lifts, plants and water tanks) in many of these buildings are not placed on the roof top and hence their top floor is not accessible by lift at present. To meet today's building regulations and provide barrier-free access after wholesale conversion, applicants have to move the machine room for lift to

the roof top so that the top floor will be accessible by lift. So long as these utility installations are placed on the main roof level of a wholly converted industrial building and do not exceed 50% of the roof area of the floor below, they should not be regarded as increase in building height under the revitalisation measures. On the other hand, installation of claddings or curtain walls on the exteriors of building, being a common design for industrial buildings undergoing wholesale conversion, should not be regarded as increase in building bulk.

4. Although we did not intend to prohibit such installations in our revitalisation measures, such flexibility was not made clear in the current revitalisation measures, which merely referred to no increase in building height. In practice, many building owners and professionals involved in wholesale conversion are harbouring doubts on this. We consider it useful to remove the uncertainty when we publicise the results of our mid-term review. Notwithstanding this clarification, if there is an absolute building height restriction in the land lease of the building, the applicant will still have to apply for a lease modification separately to relax the height limit and may be required to pay land premium for such lease modification in accordance with established practices. Similarly, if the proposed claddings or curtain walls will result in the GFA limit as specified in the lease governing the lot concerned being exceeded, the lot owner has to apply for a lease modification to increase the GFA limit separately.

Minor changes to the original building frame

5. The present revitalisation measures require that the original building frame shall be retained after wholesale conversion and that there shall not be any increase in building height, building bulk or total number of floors in the converted building. There are comments from the industry that the requirement to retain the original building frame may be over-restrictive and may inadvertently discourage creative conversion schemes or even potential wholesale conversion projects. The requirement may also be in conflict with the practical needs of some wholesale conversion projects: for example, demolition of part of the existing building structures may be required to create more suitable space for the new use after conversion (e.g. more prominent building entrance or higher ceiling for hotel lobby); demolition of part of the external building structures may also be necessary for voluntary setback at street level or connection to elevated pedestrian walkway at above-ground level to improve access.

6. We believe that applicants for wholesale conversion should be allowed to demolish and vary part of the existing building frame so long as the converted building complies with the requirements of the Buildings Ordinance

and its relevant regulations and the variations will not result in the addition of new floor spaces outside the existing building envelope. To provide additional control and maintain a clear distinction between wholesale conversion and redevelopment¹, we will require that any change to the existing external structures of the building shall not involve more than 10% of the total GFA of the existing building as shown on its last approved building plans and shall not contravene the plot ratio, GFA, site coverage and building height restrictions of the OZP and that the total GFA of the building after its conversion shall not exceed the total GFA as shown on the last approved building plans of the existing building. We believe controlling the total GFA after conversion is a simpler, more flexible and yet more effective control on wholesale conversion applications. The threshold of 10% is set to ensure that any demolition of the existing external building structures would be minor.

Green Building Assessment

7. The conversion of vacant or under-utilised industrial buildings for other more gainful uses is itself a sustainable way to reduce waste and conserve natural resources. We would like to take the opportunity to go one step further by encouraging these conversion projects to receive certification by BEAM Plus Assessment conferred by the Hong Kong Green Building Council (HKGBC). The BEAM Plus is Hong Kong's unique assessment system for green building certification to enhance building environmental sustainability. The assessment would contribute to promoting healthy indoor environments, and reducing energy, water and resource consumption as well as carbon footprint of the proposed conversion projects. This is in line with the Government's policy direction to promote adoption of green building design and features. Noting the constraints faced by existing industrial buildings in adopting green building design and features, we will not mandate a minimum rating to be obtained by wholesale conversion projects under our revitalisation measures. Nor do we intend to make the certification a condition in the special waiver, given the practical difficulties in enforcing this requirement. But we believe a clear statement of encouragement, coupled with special efforts of HKGBC in producing guidelines on the retrofitting of industrial buildings will be welcome by professional and environmental groups.

Extension of the valid application period

8. During our mid-term review, we received requests from building owners and other stakeholders, asking for extension of the period for submissions of applications. Since many industrial buildings are currently

¹ Such distinction is necessary as compared with redevelopment which is subject to payment of land premium, exempting wholesale conversion from waiver fee is a very substantial incentive and we would therefore guard against conversions taking the form of redevelopment in disguise.

leased out, the building owners will need more time to make alternative arrangements for the existing tenants and work out conversion schemes before they apply for wholesale conversion under our revitalisation measures. This is because successful applicants will have to complete the proposed conversion works within three years from the date of the special waiver. The Hong Kong General Chamber of Commerce, the Federation of Hong Kong Industries and the Chinese Manufacturers' Association of Hong Kong have also made formal submissions regarding an extension of the application period for the revitalisation measures.

9. Compared with the economic conditions in 2009 when we conceived the revitalisation measures, there is now a greater demand for offices and commercial spaces in meeting Hong Kong's business and social needs. On the other hand, despite generally satisfactory progress (the existing measures, results of implementation, and movement in prices and rentals of industrial buildings are set out at **Annex A**), there remains a large stock of old industrial buildings in Hong Kong that will benefit from the measures, particularly with the proposed refinements mentioned above. We therefore consider it necessary and justified to meet the above request and extend the application period of the revitalisation measures for three years, i.e. for applications submitted up to 31 March 2016.

10. The proposed refinements to facilitate wholesale conversions will take effect on or after 1 April 2012 and applications submitted before that date will continue to be processed under the existing revitalisation measures as announced in the Practice Note No. 1/2010 issued by the Lands Department. However, the applicants are free to withdraw their original applications and submit new applications on or after 1 April 2012 to benefit from the refined measures if they so wish². For the avoidance of doubt, applicants who have already obtained a special waiver for change in use of an industrial building under the prevailing revitalisation measures may choose to apply for a new special waiver when the above changes become effective. The new special waiver³ if approved and executed will necessitate termination of the existing special waiver for the building concerned⁴. Further, the extended validity period will also apply to revitalisation measures applicable to redevelopment, except that related to the Land (Compulsory Sale for Redevelopment) Ordinance which is now a permanent measure.

² Administrative fee will be charged on the new application, while the administrative fee for the withdrawn application will not be refunded.

³ Administrative fee will be charged on the new application.

⁴ The fees paid for the execution of the terminated special waivers will not be refunded.

OTHER SUGGESTIONS CONSIDERED

Recovery of GFA loss due to wholesale conversion by adding new floor space outside the existing building envelope

11. Applicants for wholesale conversion sometimes may have to give up existing GFA-accountable floor space to meet mandatory requirements imposed by authorities, e.g. giving up some existing GFA-accountable floor space to provide the loading/unloading and car parking spaces required by the Transport Department (TD). Further, the implementation of certain building designs, e.g. building setback for widening of roads or pedestrian pavements, would likely result in GFA losses.

12. During the mid-term review, we received a lot of suggestions that we should allow redistribution of existing floor space to outside the existing building envelope for wholesale conversion cases so long as the additions comply with the relevant statutory town planning or building requirements and there is no net increase in GFA. Put simply, owners and their architects want the GFA lost to be “compensated”. We have carefully considered this suggestion, but have decided against introducing such a provision to the revitalisation measures because we need to maintain a clear distinction between wholesale conversion and redevelopment. We have set a clear line at present by requiring all wholesale conversion cases not to build outside the existing building envelope (save the utility installations and claddings or curtain walls mentioned in paragraph 1 above). We do not wish to blur this line because the suggestion above might resemble and be seen as allowing redevelopment indirectly without charging the building owners land premium for lease modification for redevelopment to uses other than those specified in the existing lease.

Further relaxation in the requirements of loading/unloading and car parking spaces in converted buildings

13. The requirements on provision of car parking spaces in office and commercial buildings are generally four times of those required for industrial buildings⁵. Owing to constraints imposed by specific sites and the existing building structures, many industrial building owners find it difficult to provide car parking spaces through wholesale conversion strictly according to the requirements of the Hong Kong Planning Standards and Guidelines (HKPSG). Furthermore, as the HKPSG requirements evolve over time, many applicants for wholesale conversion have come across difficulties in providing

⁵ Under the HKPSG, the requirement for car parking spaces are –

- Industrial buildings – one car parking space per 600-1 200m² GFA;
- Commercial buildings – one car parking space per 150-300m² GFA.

loading/unloading and car parking spaces according to today's standards⁶.

14. The Development Bureau has developed, in consultation with TD, guidelines on provision of loading/unloading and car parking spaces for industrial buildings applying for wholesale conversion under the revitalisation measures. In essence, the applicants should at least be able to provide loading/unloading spaces according to the lower-end HKPSG requirements. As for car parking spaces, TD is prepared to exercise discretion to accept a lower provision of car parking spaces (than that stipulated in the HKPSG) in the converted building, based on some objective criteria about the local traffic conditions. The guidelines would be revisited in about 18 months based on experience gained in processing actual applications.

15. The initial results of the revitalisation measures suggest that these special arrangements are effective, as demonstrated by the fact that none of the wholesale conversion applications approved so far could meet the prescribed car parking space requirements in full and TD has exercised discretion to accept the proposed car parking provisions. In fact, TD has also exercised flexibility in the requirement for loading/unloading spaces: some applications with less than the lower HKPSG requirements have been accepted. Nevertheless, according to comments received from the industry, the provision of loading/unloading and car parking spaces is still perceived as a difficult hurdle by potential applicants for wholesale conversion where the buildings have serious site constraints, and considerable time was spent on sorting out the issue with TD. There is also room for TD to clarify its requirements for applications and considerations in exercising its discretion.

16. We have discussed with TD whether there is room for improving the current practices. TD noted that some applicants did not actively pursue their proposals or provide sufficient information to address traffic concerns. Nonetheless, in the light of experience, TD is prepared to develop a checklist to set out more clearly the scope of the traffic studies or assessments that the applicants may be required to do. TD will also revise the guidelines in relation to the flexibility in the provision of loading/unloading spaces in converted buildings, and to set out more clearly the considerations for accepting less-than-standard provision of car parking spaces. We will continue to work out with TD improved guidelines that will facilitate the application process and allow more viable conversion projects to proceed.

⁶ For example, the dimensions for heavy goods vehicle are growing over time, and it would be extremely difficult for some older industrial buildings to provide additional headroom to meet today's requirements on the physical dimension of loading/unloading spaces for heavy goods vehicle without modifying the structures of existing buildings and possible demolition of some existing GFA-accountable floor space.

Allow residential uses in converted industrial buildings

17. Some existing industrial buildings are situated in areas that have been rezoned by the Town Planning Board (TPB) from “Industrial” to other zonings allowing residential use. There are suggestions that Government should consider allowing these industrial buildings to be converted to residential use.

18. Under the current revitalisation measures, only existing industrial buildings situated in “Other Specified Uses” annotated “Business” (“OU(B)”) “Industrial” and “Commercial” zones may apply for wholesale conversion and the new uses of the building after conversion must comply with the planning intention of these zones. The majority of existing industrial buildings are located within “OU(B)” and “Industrial” zones, where residential use is not allowed. As a related issue, it should be noted that an application for special waiver will be rejected if the zoning of the lot is changed to one outside the above three eligible zones before execution of the special waiver.

19. Further, despite rezoning of some former industrial areas to “Residential” use, there may still be active industrial activities in the neighbourhood and further environmental assessment and provision of mitigation measures may be required before residential developments can proceed. This is why industrial sites are rezoned to either “Comprehensive Development Area” or “Residential (Group E)”, and residential use in either of these zonings requires permission from the TPB. We are therefore of the view that redevelopment which enables developers to address the potential industrial-residential interface problems is the only viable option.

20. On the other hand, under the Building (Planning) Regulations (“B(P)R”), buildings that are built for residential use (i.e. domestic buildings) are subject to more stringent restrictions on their plot ratio and site coverage than their non-domestic counterparts. Substantial demolition of existing floor space would probably be required in order for a converted building to meet the B(P)R requirements on plot ratio, site coverage and prescribed window, if the industrial building is to be converted for residential use. Such large scale demolition required may render the conversion financially not feasible due to the substantial reduction in GFA after conversion and much higher conversion costs.

Expand the definition of industrial use to enable proper use of existing industrial premises by the arts and cultural sector

21. At present, many individual artists as well as arts and cultural organisations are using industrial premises for their creative work, rehearsal for performance, support offices, and even exhibition and performance venues.

Some of them may be non-compliant uses. The Hong Kong Arts Development Council suggested that the Government should consider expanding the definition of industrial uses to enable proper use of existing industrial premises by the arts and cultural sector.

22. From the perspective of town planning, offices related to audio-visual recording studio, design and media production, and information technology and telecommunication industries are always permitted in “Industrial” and “OU(B)” zones. Some other uses such as broadcasting; television and film studios; and place of recreation, sports or culture may also be permitted on application to the TPB. Nevertheless, from fire safety’s point of view, while artistic creation, production and rehearsal for performance may be allowed in industrial buildings if they would not attract large number of visitors, some other arts and cultural activities such as training courses, seminars, arts exhibition and performances should not be conducted in industrial buildings that are still in active industrial uses. It is therefore prudent to maintain control over arts and cultural uses in industrial premises through the planning permission system. There is also a land lease consideration because many arts and cultural activities are not permitted under the lease which restricts the use of the lot to industrial purposes.

23. Indeed, the objective of the revitalisation measures is not only to meet business and office needs, but also some of the new economic activities, including creative industries and the needs of the arts and cultural sector. But in order to address the potential fire safety concern due to mixed uses, an industrial building has to undergo wholesale conversion before it can provide suitable premises to support these various social needs.

IMPLICATIONS OF THE PROPOSAL

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

PUBLIC CONSULTATION

25. Since introduction of the revitalisation measures, we have been meeting various stakeholders, including owners of industrial buildings, professional bodies and practitioners involved in wholesale conversion projects, to collect their views and comments on the current measures. While they

generally appreciate the revitalisation measures, they have also suggested some areas where further relaxation may encourage more creative design and more applications for wholesale conversion. Their suggestions have been carefully studied during the mid-term review.

26. We have consulted the Land and Development Advisory Committee, the Legislative Council Panel on Development and the Pre-construction Task Force under the Business Facilitation Advisory Committee on the implementation of the revitalisation measures and possible directions of the review. The committees generally agreed that the revitalisation measures are useful in releasing the under-utilised industrial premises for more gainful uses. They suggested that further relaxation would be necessary in the requirements of retaining the original building frame and providing loading/unloading and car parking spaces according to today's HKPSG so as to facilitate more wholesale conversion applications.

PUBLICITY

27. The decision to extend the application period of the revitalisation measures for another three years and the proposed refinements of the existing revitalisation measures will be disclosed when we announce the outcome of the mid-term review. Appropriate publicity will be arranged by the Development Bureau.

OTHERS

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

Development Bureau

12 October 2011

BACKGROUND

The current revitalisation measures

In his 2009-2010 Policy Address, the Chief Executive announced a package of measures to optimise the use of industrial buildings through facilitating redevelopment and wholesale conversion of vacant or under-utilised industrial buildings. The details of the revitalisation measures were set out in the Legislative Council Brief entitled “Optimising the Use of Industrial Buildings to Meet Hong Kong’s Changing Economic and Social Needs” dated 15 October 2009. 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 industrial buildings. These industrial buildings 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 industrial buildings situated in non-industrial zones;
 - (c) Allow owners who modify land lease for redevelopment of industrial buildings 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 industrial buildings during the lifetime of the building or until expiry of the current lease, whichever is earlier. The industrial buildings must be at least 15 years old and situated in “Other Specified Uses” annotated “Business”, “Industrial” or “Commercial” zones.
2. The subsidiary legislation designating a lower application threshold for compulsory sale of industrial building came into effect on

1 April 2010. The other measures have also become effective on the same date and will be applicable to all valid applications received by Lands Department (LandsD) between 1 April 2010 and 31 March 2013.

3. LandsD has set up a dedicated team in its headquarters to process applications submitted under the revitalisation measures. The relevant government bureaux and departments have also introduced supporting initiatives to facilitate wholesale conversion of industrial buildings, e.g. adoption of green building design and features, simplified requirements for establishment of Place of Entertainment, continued operation of mini-warehouse, and flexibility on provision of loading/unloading and car parking spaces.

Results of implementation

4. Up till the end of September 2011, LandsD had received 63 applications under the new initiatives, including 52 applications for wholesale conversion and 11 for redevelopment. Among them, 35 applications have been approved, including 26 for wholesale conversion and nine for redevelopment. So far, eight of the approved conversion cases have been executed.

5. Of the 52 applications for wholesale conversion received, LandsD has approved 26 of them and is processing another 21. There were five applications rejected or withdrawn before completion of processing. Most of the approved conversion cases are situated in Kwun Tong and Kowloon Bay. The proposed new uses for the converted buildings include office, eating place, shop and services, and hotel.

6. Of the 11 applications for redevelopment, nine have been approved and LandsD is processing the remaining two. The approved redevelopment cases are situated mainly in Yau Tong and Kwun Tong, and the proposed new uses after redevelopment include residential, commercial and hotel. So far, three of the approved cases have their premium amount agreed.

Movement in prices and rentals of industrial buildings

7. Notwithstanding Hong Kong's transformation from manufacturing to a service-based economy, there is still a large stock of industrial premises. As at the end of 2010, the total stock of private flatted factories was about 17.2 million square metres, excluding private industrial-office buildings and private storage buildings.

8. Since announcement of the revitalisation measures in October 2009, there have been more active transactions of flatted factories: 15 294 cases¹ in the 21 months between October 2009 and June 2011, compared with 9 381 cases in the 21 months before October 2009. Between October 2009 and June 2011, the average price of flatted industrial properties increased by 72%, while the average rental increased by 19%. The price level in June 2011 actually exceeded the previous peak in 2008 before the financial tsunami by 58%, while the rental level exceeded the previous peak in 2008 by 6%.

9. Nevertheless, we do not think the hikes in prices and rentals of industrial buildings during the above period are purely due to the introduction of the revitalisation measures. In fact, they represented a rebound from the sharp correction in the midst of the global financial crisis, and were caused by a combination of factors including abundant liquidity, low interest rates and the solid domestic economic growth.

¹ They include transactions of both individual industrial units and entire industrial buildings. Most of them are individual units.

IMPLICATIONS OF THE PROPOSALS

Financial and Civil Service Implications

The proposed changes to the existing package of revitalisation measures involve no changes to the approach to assessing the land premium payable for lease modification/land exchange under the revitalisation measures. Lands Department (LandsD) will continue to charge the applicable administrative fees for the lease modifications/land exchanges or special waivers under the revitalisation measures.

2. When compared with the current package of revitalisation measures which are available for application up till 31 March 2013, the proposal of extending the scheme for three more years may entail additional losses in potential revenue due to charging a nil waiver fee for the special waivers for change of uses of the entire existing industrial buildings. While the proposal may facilitate more wholesale conversion applications, its actual effect would depend on market response and the revenue implication cannot be estimated at this stage.

3. LandsD has set up a dedicated team at its headquarters to centrally process all applications under the new measures since 1 April 2010. Development Bureau will absorb any additional resources requirements (including the extension of this dedicated team) from within its envelope provisions arising from the extension of the application period for the revitalisation measures for three years.

Economic Implications

4. The existing package of revitalisation measures aim to facilitate better use of the existing stock of industrial buildings to meet Hong Kong's changing social and economic needs. The proposed changes and extension of the period for submission of applications will facilitate more applications and hence provide more suitable premises to support higher value-added economic activities from various industries and bring about additional employment opportunities.

Environmental Implications

5. The environmental implications of wholesale conversion of individual industrial buildings will continue to be dealt with in accordance with the requirements of relevant environmental legislation and applicable environmental standards and guidelines. While more construction waste may be generated due to allowing alterations to existing building frame, the additional construction waste produced due to the proposal would be limited because we will impose a threshold of 10% of the total gross floor area on the proposed alterations to external structures. On the other hand, the physical life of these existing old buildings will be extended and their facilities upgraded upon completion of the renovation and conversion works, which will enhance the environmental performance of the buildings and help reducing demolition waste. The encouragement of new wholesale conversion applications under the revitalisation measures to go through Building Environmental Assessment Method (BEAM) Plus assessment would promote the use of green building design and features in the conversion projects and may further enhance the environmental performance of the converted buildings.

Sustainability Implications

6. As the proposals would facilitate more industrial buildings to apply for wholesale conversion, they would make better uses of valuable land resources, help create employment and inject vibrancy in former industrial areas. This would defer the need for redevelopment of those old industrial buildings, thus reducing construction waste and extending the lifespan of landfills. The encouragement of wholesale conversion applications to go through BEAM Plus assessment would help building owners identify ways to improve the environmental performance of the converted building and would contribute to a more sustainable built environment.