

**For discussion
on 19 December 2018**

**LEGISLATIVE COUNCIL
PANEL ON DEVELOPMENT**

Measures to Revitalise Industrial Buildings

PURPOSE

This paper briefs Members on the measures to reactivate the revitalisation scheme for industrial buildings¹ (IBs), as announced by the Chief Executive in her 2018 Policy Address.

BACKGROUND

2. As a result of Hong Kong's economic restructuring, many industrial premises are occupied but not optimally utilised. The Town Planning Board (TPB) has over the years reviewed and broadened the scope of permissible uses in IBs², and rezoned surplus and suitable industrial land to "Other Specified Uses" annotated "Business" ("OU(B)") zones (allowing a mix of office, commercial, and non-polluting industrial uses) or other

¹ Such IBs refer to flatted factory buildings, industrial-office buildings and other buildings built for industrial uses where the leases governing the lots on which the buildings stand specify industrial and/or godown uses, or are unrestricted in terms of uses permitted under lease. They 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 those buildings on lots supporting specific industries such as cargo handling uses, ship building and repairing, oil storage and refining and production of associated chemical by-product, manufacture of polystyrene plastics, manufacture and storage of chlorine, hydrogen and textile chemicals, etc.

² Over the years, the TPB has reviewed and amended the definition of "Industrial Use" under the planning regime from time to time in accordance with the social and economic development needs of Hong Kong. For example, training, design, research and development related to industrial process are now considered "Industrial Use". "Arts Studio", "Office related to Industrial Use", "Design and Media Production", "Audio-visual Recording Studio", and "Information Technology and Telecommunications Industries" (all excluding those involving direct provision of customer services or goods) are now uses always permitted in "Industrial" zones. Such amendments under the planning regime and the Outline Zoning Plans do not affect the land user restriction (mainly for industrial and / or godown purposes) already stipulated in the land leases for old industrial lots. The land leases, being private contracts executed between Government and owners of private lots, have to be construed according to the established legal principles governing contracts.

zonings. The vacancy rate of IBs is not high (6.1% at end 2017³), but this is partly due to infiltration of non-industrial uses which may not be compatible with the statutory planning regime and/or land lease conditions. In addition, many old IBs do not meet modern-day fire safety standards, and the fire safety risk in some IBs is further aggravated by the presence of mixed industrial and non-industrial uses.

3. To give this transformation greater impetus, Government introduced a package of revitalisation measures in April 2010 to encourage owners to undertake wholesale conversion for, or redevelop, their IBs. By the close of the six-year scheme in March 2016, the Lands Department (LandsD) received 172 applications⁴. So far, 129 were approved (with 109 of the approved applications executed), accounting for about 8% of the overall IB stock. These approved applications (upon completion of the conversion or redevelopment works) would provide more than 2 100 000 square metres of floor area to meet Hong Kong's changing social and economic needs. Having reviewed the effectiveness of the previous revitalisation scheme, Government has decided to reactivate the scheme to optimise utilisation of the existing industrial stock and make better use of our valuable land resources, while addressing more effectively the issues of fire safety and non-compliant uses.

SUMMARY OF THE MEASURES

4. The new scheme includes the following six measures -

Wholesale Conversion

- (a) offer a three-year time-limited exemption of waiver fees for applications made to LandsD for wholesale conversion of existing IBs aged 15 years or above in “Commercial” (“C”), “OU(B)” and “Industrial” (“I”) zones for uses permitted under the relevant Outline Zoning Plans (OZPs), with an additional condition that 10% of the converted floor space should be designated for specific uses prescribed by Government;

Redevelopment

- (b) as a policy direction, but subject to approval of the TPB on a case-by-case basis and the maximum non-domestic plot ratio

³ Source: Rating and Valuation Department.

⁴ These excluded applications withdrawn and terminated by applicants.

(PR) allowed under the Buildings (Planning) Regulations, allow relaxation of the maximum permissible non-domestic PR by up to 20% to incentivise redevelopment of IBs constructed before 1987 (pre-1987 IBs⁵) for sites located outside “Residential” (“R”) zones in Main Urban Areas and New Towns⁶;

For the avoidance of doubt, the measures in (a) and (b) above are also applicable to applications in respect of wholesale conversion or redevelopment of existing IBs in “I” zones into IBs meeting present-day building standards for conventional “industrial/godown uses” and/or “modern industrial uses”⁷, not just for non-industrial uses which may also be permitted under the relevant OZPs for the “I” zones.

Facilitate Transitional Housing in Wholesale-converted IBs without Industrial Uses

- (c) facilitate proposals from the community for providing transitional housing in portions or entire blocks of IBs (without any age limit) located in “C”, “Comprehensive Development Area” (CDA), “OU(B)” and “R” zones which have already undergone or will pursue wholesale conversion into non-industrial uses, by exercising flexibility in the application of planning, land lease, and building design requirements, including charging a nil waiver fee for this specific use of transitional housing;

⁵ Pre-1987 IBs refer to those eligible IBs which were wholly or partly constructed on or before 1 March 1987, or those constructed with their building plans first submitted to the Building Authority for approval on or before the same date. The Code of Practice for Minimum Fire Service Installations and Equipment was revised by the Fire Services Department in 1987 to govern fire service installations and equipment of buildings built thereafter, including extending the requirement of installing automatic sprinkler systems to all IBs constructed after 1 March 1987 or with building plans first submitted for approval after that date.

⁶ Main Urban Areas comprise Hong Kong Island, Kowloon and New Kowloon, Tsuen Wan, Kwai Chung, and Tsing Yi. New Towns comprise Sha Tin, Tai Po, Fanling / Sheung Shui, Tuen Mun, Yuen Long, Tin Shui Wai, Tseung Kwan O, and Tung Chung.

⁷ In this context, “modern industrial uses” include a full range of uses which are currently permitted in “I” zones in OZPs, such as office in direct support of an industrial operation; information technology and telecommunications industries; research, design and development centre; laboratory (except clinical laboratory), inspection and testing centre; audio-visual recording studio; design and media production; workshop for laundering or dry cleaning, tailoring, repair of goods; vehicle repair workshop, vehicle inspection centre and vehicle testing centre; cargo handling and forwarding facilities; showroom ancillary to factory; motor vehicle showroom on the ground floor; recyclable collection centre, etc. The lease conditions for industrial sites sold in recent years include such “modern industrial uses”, apart from the conventional industrial/godown uses.

Other Measures Permitting Non-industrial Uses in Existing IBs

- (d) in respect of individual units in existing IBs, relax the waiver application policy on a time-limited basis, initially five years, to permit certain uses for the arts and cultural sectors, creative industries, and innovation and technology sectors in an orderly manner (without the need for owners making separate waiver applications and paying waiver fees), provided that such uses are permitted under the planning regime in the first place;
- (e) broaden the permissible use of buffer floors, with due regard to public safety, to cover (among other permitted uses at present) “telecommunications exchange centres” and “computer/data processing centres”, to facilitate partial conversion of lower floors of IBs into non-industrial uses; and
- (f) promulgate a broader definition for “godown” use under lease provisions, covering (among other permitted uses at present) “cargo handling and forwarding operation” and “recyclable collection centre” uses.

KEY PARAMETERS OF THE MEASURES

(A) Wholesale Conversion of IBs Aged 15 Years or above in “C”, “OU(B)” and “I” zones

5. The community is witnessing successful examples of wholesale conversion of IBs into a host of non-industrial uses including commercial, offices, retail and food and beverage facilities, as well as hotels. As at September 2018, LandsD has approved and executed 95 wholesale conversion applications received under the previous scheme (out of the 109 approved and executed applications mentioned in paragraph 3 above). We would follow the same conditions prescribed in the last scheme expired on 31 March 2016, so that waiver fees would be exempted during the lifetime of the buildings or until expiry of the current leases (whichever is earlier) for change of use upon wholesale conversion of IBs which are at least 15 years old and situated in “C”, “OU(B)”, and “I” zones⁸. LandsD would start receiving applications in early 2019 for a period of three years.

⁸ We estimate that over 1 160 IBs in the territory under these three zonings may be eligible, of which around 330 are under single ownership.

6. Currently, some non-industrial sectors are used to operating in conventional IBs to take advantage of relatively lower commercial rent. To help address concerns of some non-industrial sectors which may be affected by IB conversion works or may not be able to afford the higher rental level afterwards, exemption of waiver fees would be granted on an additional condition of requiring owners to designate 10% of converted gross floor area (GFA) for specific policy-driven uses which are consistent with the relevant deed of mutual covenant. Specifically, the special waiver condition would prescribe that the designated GFA must support specific uses (such as those in relation to the arts and cultural sectors, creative industries, innovation and technology industries, social service facilities, or sports and recreational uses, etc.) to be decided by Government⁹, while the rent payable by the tenants of those uses and other terms and conditions of the tenancy (such as the duration of the tenancy) are to be freely negotiated between the owners and tenants. This designation would facilitate the supply of reasonably affordable space for specific sectors. For any approved applications, LandsD would impose suitable waiver conditions to facilitate enforcement against substantiated breach and idling of the designated GFA.

(B) Relaxing Maximum Permissible PR by Up to 20% as a Policy Direction to Incentivise IB Redevelopment

7. Redevelopment of existing IBs helps materialise certain planning gains and upgrade old industrial areas. Having regard to public safety, we accord priority to encouraging redevelopment of pre-1987 IBs without modern fire service installations¹⁰. Therefore, apart from incentivising wholesale conversion, we see merits of encouraging redevelopment so as to utilise a higher PR where feasible, increase design and building flexibility to better support land uses, and expedite transformation of some former industrial areas.

8. In January 2014, Government announced a planning policy for

⁹ To this end, the Development Bureau would chair an inter-departmental Committee, comprising representatives from relevant bureaux and departments, to assess the “designated uses” proposed by applicants for wholesale conversion of their IBs. The Committee would assess the use(s) proposed by an applicant in respect of the designated 10% of the converted GFA, co-ordinate the overall use priorities indicated by bureaux/departments, and decide on the exact parameters about “designated uses” as a condition to be imposed by LandsD on an approved application. In so doing, the Committee would have regard to the positioning, permissible planning uses, location and neighbouring environment, building configuration, zoning, market demand, and relevant policy considerations.

¹⁰ At present, there are about 1 000 pre-1987 IBs in the territory, of which around 280 are under single ownership.

determining the maximum domestic PR for sites located in “R” zones in some parts of the Main Urban Areas and New Towns, such that the maximum domestic PR may be increased by up to 20%¹¹. We have decided to extend a similar treatment of relaxing PR to incentivise redevelopment of pre-1987 IBs located outside “R” zones in Main Urban Areas and New Towns, subject to the maximum non-domestic PR allowed under the Building (Planning) Regulations¹² and TPB’s consideration of each application. In respect of those lots located outside “R” zones for which the PR restriction is specified in an OZP¹³, TPB may approve a higher non-domestic PR for individual sites for redevelopment of pre-1987 IBs into industrial/commercial uses, subject to technical assessments confirming the feasibility of allowing such in terms of infrastructure capacity, technical constraints, as well as relevant planning principles and considerations. Individual applications must be made to the TPB within three years starting from 10 October 2018, and the modified lease should be executed (with full land premium charged) within three years after the town planning approval.

9. For the avoidance of doubt, the exemption of waiver fee upon wholesale conversion and relaxation of PR for redevelopment (as outlined in paragraphs 5-8 above) are to apply also to applications in respect of IBs in “I” zones for wholesale conversion or redevelopment for conventional “industrial/godown uses” and/or “modern industrial uses”, not just for non-industrial uses which may also be permitted under the relevant OZPs for the “I” zones. This would help preserve some industrial floor-space in “I” zones to support industrial development.

¹¹ As announced in the 2014 Policy Address, subject to TPB’s approval on an individual-site basis, the maximum domestic PR of some sites with existing IBs currently zoned for residential use can now be increased by up to 20%.

¹² For the avoidance of doubt, any bonus floor area claimed under section 22(1) or (2) of the Building (Planning) Regulations is not to be counted towards the proposed increase of non-domestic PR by 20% for redevelopment projects of pre-1987 IBs.

¹³ At present, the usual range of permissible non-domestic PR prescribed under the Hong Kong Planning Standards and Guidelines is 5.0-12.0 (for Main Urban Areas) and 3.5-9.5 (in New Towns), as far as the industrial land use types supporting general industrial or business use is concerned. Redevelopment on IB sites is allowed in non-residential zonings up to a maximum PR as specified in the Notes of the OZP, or the PR of the existing building, whichever is greater. The PR of an existing building refers to the PR as shown on the approved building plans for the building existed on site before redevelopment takes place. The PR restriction specified in an OZP can be lower than the PR of an existing building in some sites, for example, if the PR restriction under OZP was imposed after the approval of the building plans of that building.

(C) Facilitating Community-led Transitional Housing Proposals for Wholesale Conversion of IBs in “C”, “CDA”, “OU(B)” and “R” Zones

10. As announced by the Chief Executive as one of the six housing initiatives on 29 June 2018, the Transport and Housing Bureau (THB) is chairing a task force to provide one-stop, co-ordinated support to assist non-government organisations (NGOs) in pursuing not-for-profit transitional housing projects in different types of premises including old IBs, so as to provide more suitable accommodation for people yet to be allocated public rental housing or other grassroots citizens with housing needs.

11. If these transitional housing projects supported by the THB-led task force are to take place in portions or entire block of any IBs (located in “C”, “CDA”, “OU(B)” and “R” zones) which have undergone wholesale conversion into non-industrial uses or are going to be so converted, Government would, without compromising public safety, exercise flexibility in the application of planning and building design requirements, and charge a nil waiver fee for the specific use of transitional housing. Specifically, for those transitional housing projects endorsed by the THB-led task force –

- (a) the TPB has agreed that such transitional housing projects in permanent buildings, including wholesale-converted IBs in these four zonings in the urban and new town areas, would be regarded a temporary use always permitted under the relevant OZP, if they are for a period of five years or less¹⁴;
- (b) the Building Authority may exercise his powers under the Buildings Ordinance to exempt transitional housing units provided through wholesale conversion of IBs from certain domestic building requirements in relation to site coverage, PR, open space, service lane, natural ventilation and lighting, etc., so long as undertakings are secured from the NGOs or social

¹⁴ For the avoidance of doubt, the TPB’s permission is still required for the use of land in the rural areas for transitional housing, unless the use is always permitted in the Notes of the relevant zone, following the provisions as set out in the Notes of the OZPs for the rural areas. The TPB’s announcement is accessible via <https://www.info.gov.hk/gia/general/201811/26/P2018112600305.htm>.

enterprises to ensure proper management and implementation of other compensatory measures¹⁵; and

- (c) waiver fees would be exempted for special waivers¹⁶ to be issued in connection with such not-for-profit transitional housing projects in wholesale-converted IBs.

(D) Relaxing the Waiver Application Policy to Permit Uses for Arts and Cultural Sectors, Creative Industries, and Innovation and Technology Sectors

12. As mentioned above, the use of many existing industrial lots are restricted under lease for “industrial and/or godown purposes” only. Although some commonly-found uses on parts of IBs may be permitted as Column 1 uses (requiring no planning application) in most zonings under the planning regime, they are non-compliant uses in the context of land leases with the above-mentioned user restrictions. To support the development of certain emerging sectors (including the arts and cultural sectors, creative industries, and innovation and technology sectors) and address the demand of current users for safe and lawful space, we are relaxing the waiver application policy to permit three categories of uses in individual units within existing IBs, provided that such uses are permitted under the land use zoning of the site on the relevant OZP as “Column 1” (i.e. always permitted) uses. These three categories of prescribed uses include (a) “Arts Studio”, and (b) “Office (Audio-visual Recording Studio)”, “Office (Design and Media Production)”, and “Office related to Industrial Use (for specified creative industries only)”, as well as (c) “Research, Design and Development Centre”. For the avoidance of doubt, the prescribed uses under this permission do not cover

¹⁵ The Buildings Department (BD) issued a circular letter to the industry in October 2018 (https://www.bd.gov.hk/english/documents/circular/CL_GMEBPTH1e.pdf), indicating that it may grant modification or exemption under the Buildings Ordinance for eligible transitional housing projects in old domestic buildings with building design constraints. That said, project proponents must take compensatory measures to provide residents with a safe and reasonable living space. For instance, the Buildings (Planning) Regulations require a domestic flat to have windows for natural ventilation and lighting. If any eligible transitional housing project is unable to comply fully with this requirement due to building design constraints, BD may consider granting an exemption on the condition that the project proponents must provide artificial lighting and mechanical ventilation facilities to meet the natural ventilation and lighting requirements for shared living rooms. BD would also require the project proponents to appoint an authorised person to conduct an annual inspection to ensure effective operation of the compensatory measures. These also apply to projects supported by THB-led task force for providing transitional housing in portions or entire blocks of wholesale-converted IBs.

¹⁶ The term of a special waiver would also be five years or less to tie in with the “temporary” nature of transitional housing under the planning regime.

any premises used to conduct activities involving direct provision of customer services or direct sale of goods, which would cause the physical attendance of customers or visiting members of the public¹⁷.

13. If –

- (a) the use of any individual units within an IB is permitted under the land use zoning of the site occupied by the IB stated in the relevant OZP as a “Column 1” (i.e. always permitted) use; and
- (b) the use also falls within one of the prescribed uses set out in paragraph 12 above;

such use would be deemed as permitted without the need for owners making separate waiver applications and paying waiver fees. LandsD would only act on complaints and seek advice from the relevant bureaux in respect of the occurrence of substantiated breach of non-compliant uses outside the scope of the permission. To provide certainty for owners and tenants of individual IB units, this relaxation arrangement is valid initially for five years starting from early 2019 (exact date to be prescribed in an upcoming announcement), and would be reviewed towards the end of the five-year period.

(E) Broadening the Permissible Uses of Buffer Floors

14. At present, if there is a “buffer floor” (normally used as a car park, an electrical and mechanical plant room, or an empty floor) in an IB completely separating the lower floors from the upper portion with industrial uses, we accept converting the premises on the lowest three floors to other non-industrial uses, including shops and services, restaurants, or arts and cultural activities, subject to the waiver fees payable and the meeting of planning and other relevant requirements.

15. Along the objective of accommodating compatible non-industrial uses in IBs as far as possible, we are relaxing, in the aforesaid case of partial conversion of a buffer floor and the floors below it *en bloc*, the user restrictions of the buffer floor to improve the prospect of partial conversion. In essence, for applications made to LandsD for a temporary waiver for change of uses of a buffer floor and the three floors immediately below it in any IB, the permitted use of the buffer floor can cover

¹⁷ Take “Arts Studio” as an example, the intention is to cover premises used by artists themselves as their own working space. Arts exhibition space or arts education centres attracting outside visitors (hence potential safety concerns) would not be covered by the permission.

“telecommunications exchange centres” or “computer/data processing centres”, provided that certain conditions prescribed by the Fire Services Department (FSD) and relevant authorities are met¹⁸. We would also work with FSD to keep in view the possibilities of widening the scope of uses permissible in a buffer floor within IBs, and where warranted introduce changes in accordance with the prevailing mechanism.

(F) Promulgating a Broader Definition for “Godown” Use under Lease Provisions

16. After reviewing the case law to see whether and to what extent the interpretation of the “godown” use under existing land leases could be suitably extended to cover some existing uses in IBs, LandsD would shortly issue a Practice Note on a broader interpretation of “godown” use under lease to cover “cargo handling and forwarding” and “recyclable collection centre”¹⁹.

17. LandsD has also reviewed the possibility of adopting a more liberal interpretation of the “industrial” use under the older land leases, but the case law does not lend support to the arrangement. That said, the relaxation of the waiver policy recommended under measure (D) (paragraphs 12-13 above) should serve the purpose of accommodating, without application procedures and payment of fees, some of the uses which are not normally regarded “industrial” under lease.

IMPLEMENTATION

18. So far, Government has already issued the aforesaid circular letter and made the announcement in respect of measure (C). For the other

¹⁸ For instance, the use in the buffer floor should be of a low fire load and occupant load acceptable to FSD, and is permitted by the current land use zoning of the site or granted with planning permission by the TPB. If necessary, conditions may be imposed in respect of the means of access/escape. Once a floor is designated as a buffer floor, any further change to the use of the buffer floor should only be allowed upon approval by the relevant authorities. Direct provision of customer services or direct sale of goods (e.g. sales centres of telecommunications companies) is not allowed on the buffer floor. Any waiver application in relation to a buffer floor must include the lowest three floors from the same owner, and upon approval would be subject to restriction of alienation as a whole to ensure compliance with fire safety measures throughout the term of the temporary waiver.

¹⁹ Currently, owners may apply for lease modification (for whole lot) or a waiver (for individual units) to permit “industrial” and “godown” uses in industrial-only premises. If lease modification or a waiver for godown use is approved, this extension for “godown” use (i.e. “cargo handling and forwarding” and “recyclable collection centre”) would also be permitted.

measures, we aim to issue relevant Practice Notes and implementation documents by early 2019.

Development Bureau
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