



**Charging Land Premium
at Standard Rates on Lease Modification including Land Exchange
for Development of Land within the Remaining Phase of
Kwu Tung North and Fanling North New Development Areas**

The Government announced on 31 March 2022 the arrangement of providing an option of charging land premium at standard rates (as an alternative to the conventional premium assessment mechanism) for lease modification including land exchange (collectively as “land exchange”) for development of land within New Development Areas (“NDAs”) to enhance certainty on the premium amount and expedite processing of the applications for land exchange. This Practice Note (“PN”) promulgates details of the arrangement applicable to applications for land exchange for sites in the remaining phase of the Kwu Tung North NDA and Fanling North NDA (“Remaining Phase”) under the Lands Department (“LandsD”) Lands Administration Office Practice Note No. 1/2022 (“PN 1/2022”).

2. As stated in paragraph 13 of PN 1/2022, any accepted application for land exchange for sites in the Remaining Phase should have the binding basic terms offer (with premium) accepted on or before 30 June 2023, failing which the application will cease to be processed. For the purpose of this PN, an applicant may **opt** for the premium for the eligible land exchange to be charged at standard rates (“the Option”) **not later than** the acceptance of the Provisional Basic Terms Offer (“PBTO”) for the proposed land exchange by completing the Option Form at **Appendix I** (“Option Form”). As the Option is irreversible upon the acceptance of the PBTO, no appeal against the premium to be offered at standard rates under the Binding Basic Terms Offer (“BBTO”) for the proposed land exchange will be provided for or considered and fees paid for the application will be forfeited if the applicants decide not to proceed with the land exchange. Any re-application after the deadline for application referred to in paragraph 13 of PN 1/2022, i.e. 15 August 2022, will not be considered.

Standard Rates

3. The applicable standard rates will be based on the following in accordance with the respective NDAs where the lot(s) is/are situated. These rates will be valid throughout the processing period of the applications, i.e. up to **30 June 2023** according to paragraph 13 of PN 1/2022 (“the Period”).

New Development Areas	Uses <u>Before</u> Land Exchange			Uses <u>After</u> Land Exchange	
	Agricultural Use	Non-residential Building Use [^]	Residential Building Use	Non-residential Use [#]	Residential Use
Kwu Tung North	\$4,000/m ²	\$20,000/m ²	\$45,000/m ²	\$35,000/m ²	\$60,000/m ²
Fanling North	\$4,000/m ²	\$20,000/m ²	\$45,000/m ²	\$30,000/m ²	\$55,000/m ²

Note: All standard rates are expressed on a per gross floor area (“GFA”) basis, except those for agricultural use which are expressed on a per site area basis.

[^] including industrial uses. The decision of LandsD as to the type of non-residential building use applicable for standard rates is final and binding on the applicant.

[#] including commercial and modern industrial uses but excluding columbarium, petrol filling station, storage of dangerous goods or offensive trades use, for which the stated standard rates are not applicable. For the avoidance of doubt, hotel and hotel ancillary use will be treated as commercial use. The decision of LandsD as to the type of non-residential use applicable for standard rates is final and binding on the applicant.

Premium Calculation

4. The premium to be charged at standard rates¹ is not negotiable. It is the **difference** between the product of A and B **and** the product of C and D **less** E, i.e. $\text{premium}^2 = A \times B - C \times D - E$, where –

- (i) **A** is the maximum total GFA after the land exchange as stipulated in the land exchange document(s)³ to be determined by LandsD at its absolute discretion;
- (ii) **B** is the applicable standard rate(s) for use(s) after land exchange as per paragraph 3 above in accordance with the geographical location of the lot(s) under application. In respect of the use(s) after the land exchange, the rate for residential use is applicable to all GFA not prohibiting private residential use, whereas the rate for non-residential use is applicable to the remainder of the GFA;

¹ In the event that the land exchange applications involve eligible pre-1987 IBs as referred to in LandsD Land Administration Office (“LAO”) Practice Note No. 1/2021, the applicants shall only be allowed to opt for the standard rates under this PN but not those under LandsD LAO Practice Note No. 1/2021.

² In case the premium as calculated is negative, no premium will be charged.

³ In determining the maximum total GFA for the purposes of paragraph 4(i) above, any floor space that is constructed or intended for use solely as Government Accommodation may be disregarded. If the Net Operation Floor Area (“NOFA”) of the Government Accommodation is stated in the land exchange document(s), for the purpose of this PN, the conversion ratio of the NOFA to GFA of the Government Accommodation is 1:1.8, (e.g. 100m² NOFA = 180m² GFA). For other floor space, only those which is expressly exempted from the calculation of GFA under the land exchange document will be disregarded. If no maximum total GFA is stipulated in the land exchange document, the arrangement in this PN is not applicable.

- (iii) C is the total site area of the Agricultural land⁴ to be surrendered and/or the total permissible GFA of the Building land⁵ to be surrendered. The site area of Agricultural land and/or the GFA figure of Building land (as the case may be) for “C” will be determined by LandsD taking into account any supporting information provided by the applicant as per paragraph 5 below;
- (iv) D is the applicable standard rate(s) for use(s) before land exchange as per paragraph 3 above in accordance with the geographical location of the lot(s) under application. In respect of Building land, the rate for residential building use is applicable to all GFA not prohibiting residential use, whereas the rate for non-residential building use is applicable to the remainder of the GFA; and
- (v) E is a deductible being construction cost of Government Accommodation required to be constructed by the applicant under the land exchange document(s), to be assigned or handed back to the Government (either upon completion or upon demand) or to be operated, managed and maintained on behalf of the Government for public use. Such construction cost will be assessed by proponent Government department and conveyed, if practicable, to the applicant before the deadline of making the Option. In the absence of such conveying, there will not be such deductible for the premium to be charged at standard rates under this paragraph. The definition of Government Accommodation for the purpose of this PN and whether any Government Accommodation is eligible for the deduction from the premium shall be at the sole and absolute discretion of LandsD.

Submission of Documents

5. To facilitate timely determination by LandsD of the site area of the Agricultural land to be surrendered and/or the GFA figure of the Building land to be surrendered for premium calculation at standard rates (i.e. “C” as referred to in paragraph 4(iii) above) (“the site area and/or GFA figure for “C”), the applicant shall provide to LandsD (i) Survey Submission⁶ of the land boundary survey carried out by an Authorised Land Surveyor⁷

⁴ Agricultural land refers to old schedule and new grant lots demised for agricultural use, and the agricultural land portion within mixed lots (i.e. lots with portions designated for agriculture and building purposes respectively). Agricultural land will be assessed using the standard rates on site area basis.

⁵ Building land refers to land on which building structure(s) is allowed, and the building land portion within mixed lots (as defined under footnote 4 above). Regarding the old schedule lots, the descriptive terms mentioned in the Schedules to the Block Government Leases must be one or more of the following so as to be regarded as Building land: house, building, mat shed, boat hut, temple, nunnery, latrine, shop, cow shed, cattle shed, duck shed, cow byre, pigsty, school or such other uses as to be determined by LandsD at its absolute discretion; and such old schedule lots will be regarded as Building land for residential building use (as residential use is not prohibited). The total permissible GFA shall refer to those GFA specified in the lease(s) or land grant document(s). In the absence of express permissible GFA under the lease(s) or land grant document(s), a plot ratio of 1.33 will be adopted. In case the lease(s) or land document(s) of the lots to be surrendered are untraceable, the use and the site area of these lots will be determined by LandsD at its absolute discretion.

⁶ Survey Submission includes Survey Record Plan, Land Boundary Plan and Survey Report prepared in accordance with the requirements of the latest Code of Practice under the Land Survey Ordinance (Cap 473).

⁷ Authorised Land Surveyor is professional land surveyor registered under Part IV of the Land Survey Ordinance (Cap 473). The list of practising authorised land surveyor is available at: <https://www.landsd.gov.hk/en/survey-mapping/authority/als.html>

showing (a) the areas (surveyed and registered areas) and boundaries of the lots to be wholly surrendered; (b) the proposed areas and boundaries of the lots to be partially surrendered; (c) the proposed area and boundary of the application site to be regranted; and (ii) the title deeds/documents of all the lot to be surrendered. Based on the above submission and documents provided by the applicant **not later than** the settlement of initial administrative fee as demanded by LandsD for the proposed land exchange application or two months from the date of this PN for applications already accepted for further processing before the date of this PN, LandsD will inform the applicant of the site area and/or GFA figure for “C” for premium calculation at standard rates at the time of the issuance of the PBTO by a separate letter so as to facilitate the applicant’s choice of the premium assessment option. In case the applicant chooses not to provide the above submission and documents by the said timeframe and opts to assess premium at standard rates, LandsD will determine the site area and/or GFA figure for “C” according to the information known to the department and issue the BBTO accordingly. LandsD reserves the right to require the applicant to provide additional supporting documents to facilitate processing and the applicant shall within such time as required by LandsD to provide such documents. The decision of LandsD on the site area and/or GFA figure for “C”⁸ will be final and binding on the applicant under the Option.

6. In the event that the duly completed Option Form as per Appendix I is not received by LandsD on or before the acceptance of the PBTO during the Period, the premium will be assessed in accordance with the established case-by-case basis. If the applicant decides not to accept the BBTO and not to proceed with the land exchange with the premium assessed in accordance with the established case-by-case basis, any fees paid for the application will be forfeited. No re-application will be considered after the deadline for application, i.e. 15 August 2022.

7. Each Option Form submitted to LandsD pursuant to this PN will be considered on its own merits by LandsD acting in its capacity as a landlord and LandsD has the absolute discretion to decide whether to accept the Option. This PN shall not constitute any representation on the part of the Government or other authorities or give rise to any expectation on the part of the applicant that any land exchange application or the Option submitted to LandsD will be processed or approved. The premium for a land exchange is to be determined by LandsD at its absolute discretion. The decision by LandsD as to whether a land exchange application is eligible for opting the premium to be charged at standard rates shall be final and binding on the applicant.

8. This PN is issued for general reference purpose only. All rights to modify the whole or any part of this PN are hereby reserved.



(Andrew LAI)
Director of Lands
31 March 2022

⁸ The site area and/or GFA figure for “C” as determined by LandsD may not be the same as that shown on the Block Government Lease or other land document(s).

OPTION FORM

To : Chief Estate Surveyor/New Development Areas, Lands Department
Fax : 3547 0756
Email : cesnda@landsd.gov.hk

Date : _____

Lot No.: _____ (“the Lot”)

Address: _____

Proposed *Lease Modification/Land Exchange

Pursuant to the Lands Department (“LandsD”) Land Administration Office Practice Note No. 3/2022 (“PN”), *I/we hereby opt for the land premium payable for the proposed *lease modification/land exchange transaction (“proposed transaction”) to be assessed at standard rates.

2. *I/We understand and acknowledge that :-
- (i) the relevant site area and/or gross floor area (“GFA”) figures will be determined by LandsD at its absolute discretion;
 - (ii) LandsD has the absolute discretion to decide whether to accept *my/our application for opting the premium to be charged at standard rates;
 - (iii) if *my/our application for opting the premium to be charged at standard rates is not accepted by LandsD, the premium will be assessed in accordance with the established case-by-case basis; and
 - (iv) *my/our application for opting the premium to be charged at standard rates is irreversible upon acceptance of Provisional Basic Term Offer. If such application is accepted by LandsD, *I/we will no longer be entitled to appeal against the premium to be offered under the Binding Basic Terms Offer for the proposed transaction. Fees paid for the application of the proposed transaction will be forfeited if *I/we decide not to proceed with it.

3. *I/We have read and understood the attached Note on Use of Personal Information.

Yours faithfully,

Signature(s) of the *Applicant / authorized officer(s) for and on behalf of the Applicant(s) : _____

Name(s) of the Applicant(s) in Block Letters: _____

*Name(s) and capacity of the authorized officer(s) of the Applicant(s): _____

Address of the Applicant(s): _____

Telephone Number of the Applicant(s): _____

Date: _____

* Delete as appropriate

c.c. Chief Estate Surveyor/Valuation, Lands Department (email : cesv@landsd.gov.hk)
(Fax : 2523 1620)

Note on Use of Personal Information

Purpose of Collection	<p>The personal data provided in this Option Form will be used by the Lands Department for the purpose of considering and processing this Option Form.</p> <p>The provision of personal data as required in this Option Form is obligatory. If you do not provide the personal data, the Lands Department may not be able to process this Option Form.</p>
Class of Transferees	<p>The personal data you provided in this Option Form may be disclosed to other Government bureaux / departments for the purpose mentioned above.</p>
Access to Personal Data	<p>The individual who is the subject of the personal data has a right of access and correction with respect to personal data as provided for in Sections 18 and 22 and Principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance. Such right of access includes the right to obtain a copy of the personal data provided in this Option Form upon payment of the applicable charge.</p>
Enquiries	<p>Enquiries concerning the personal data collected, including the request for access and corrections, should be addressed to:</p> <p>Departmental Personal Data Controlling Officer of the Lands Department 20/F., North Point Government Offices 333 Java Road, North Point Hong Kong</p>