

Chapter 5

Section 1 - Excavation Permit Administration Procedure for Infrequent Excavation Permit Applicants

1.0 Introduction

1.1 Under section 10A of the Land (Miscellaneous Provisions) Ordinance (LMPO), the Director of Highways (DHy) or his delegated officers may issue an excavation permit (XP) authorizing the making and maintaining of excavations in streets in unleased land and maintained by Highways Department (HyD).

1.2 As stipulated in paragraph 1.2 of Chapter 1 of this manual, only the promoter of the excavation works can apply for an XP. A promoter of the excavation works means the company/person who finances the project in relation to the XP application. For example, if the proposed excavation work is initiated by a property development/maintenance work, the owner of the land/property is regarded as the promoter. The authorized person/consultant/construction company employed by the promoter would not be eligible to apply for an XP. Nevertheless, it does not mean that an authorized person/ a consultant/ a construction company can never apply for an XP. Under the situation that the authorized person/consultant/construction company can provide supporting document to prove that he/she/it indeed is the promoter of the excavation works, he/she/it is also eligible to apply for an XP.

2.0 Excavation Permit Application Methods

2.1 Apart from the traditional way of XP application (*i.e. by submitting hard copy XP application and related documents for approval*), an XP applicant may open an ad hoc Excavation Permit Management System (XPMS) account to apply for and process XP applications through Internet. With an ad hoc XPMS account, the XP applicant can process the entire procedure (*i.e. from registration to report completion*) through Internet with full autonomy. Since this is an environmentally friendly and efficient method, all infrequent XP applicants are strongly recommended to apply for an ad hoc XPMS account. For details, please refer to paragraph 3.0 below.

2.2 If XP applicants prefer to adopt the traditional way to apply for XPs, they

can skip paragraph 3.0 and follow the procedures stated in paragraph 4.0 and those paragraphs followed to apply for XPs.

3.0 Opening an XPMS Account for Ad hoc Users

3.1 To apply for an XPMS account, the XP applicant should refer to the location of his/her proposed excavation works and contact the respective HyD Regional Office for consideration. For contact phone numbers, please see **Appendix 5.1.3**.

3.2 If the respective HyD Regional Office agrees that the applicant is the promoter of the excavation works, a guest user account and the hyperlink to XPMS user registration homepage will be given to the applicant via e-mail. The applicant should fill in the company particulars in the registration homepage and upload a scan copy of the Business Registration Certificate for registration. The respective Regional Office of HyD can then verify and approve the ad hoc user account application in XPMS. If the application is accepted by the respective Regional Office, XPMS will generate a “User ID” and send it to the applicant via e-mail automatically. The “Password” of the ad hoc user account will be sent to the applicant’s official address by post separately by the respective Regional Office. If the application is denied, the respective Regional Office will notify the applicant the result and reason(s) by e-mail.

3.3 With a valid XPMS account, the applicant can follow the procedure stated in this Excavation Permit Processing Manual (XPPM) Chapter 4, Section 1 to start the XP application process.

4.0 Registration (*Note: The paragraphs hereafter only applicable to applicants without an ad hoc XPMS account.*)

4.1 Before applying for XPs, all applicants are required to firstly register their proposed excavation works in XPMS by creating a plan. In order to satisfy this requirement, for those applicants who have no XPMS/ad hoc XPMS account, they should refer to paragraph 4.3 below to provide the required information to the respective HyD Regional Office for registration.

[Note: A plan of proposed excavation works is allowed to have more than one excavation item. Each item represents an excavation on

carriageway, footway, back/side lane, verge, cycle track or roadside slope maintained by HyD.]

- 4.2 Regarding the plan registration step, XP applicants should be aware that the lead time requirement of plan registration varies according to the locations and duration of the proposed excavation works. For details, please refer to the following table.

Category		Minimum Lead Time
(i)	(a) Works on carriageway of trunk roads/primary distributors; or (b) Works on any carriageway exceeding 3 months	6 months
(ii)	(a) Works on carriageway (other than trunk roads/primary distributors) not exceeding 3 months; or (b) Works not on carriageway but exceeding 3 months	2 months
(iii)	Works not on carriageway and not exceeding 3 months	1 months

Any plan that does not meet the registration lead time requirement and XP needs not be issued urgently should be handled in accordance with the UTLC Paper No. 1/98 – “Excavation Permit Applications that Do Not Satisfy the Lead Time Requirement for Registration” which is attached at the “Related Documents” of the Manual for reference.

- 4.3 If the XP applicant does not have an XPMS account, he/she should -
- (i) obtain a registration **Form HYD 97** from HyD’s web site or any one of the HyD Regional Offices;
 - (ii) submit by post or by hand the completed Form HYD 97 together with the following to the permit section of the respective HyD Regional Office:-
 - (a) 2 copies of layout plan(s) in A4/ A3 in 1:1000 scale showing the full extent of the excavation works (*The layout plan should quote the corresponding map sheet number assigned by the Lands Department under the 1:1000 map series*);

- (b) permit period assessment with details of the programme of the proposed excavation works;
- (c) a copy of the applicant's official identity certificate (*if the applicant is a company, a copy of the company's business registration certificate should be provided; if the applicant is a joint venture company, copy of all partners' business registration certificates should be provided; if the applicant is a corporation or an organization, e.g. the Incorporated Owners of a Building, a Registered Charitable Organization, a Registered Non-profit-making Organization, or an organization gazetted under Ordinance, a copy of the Certificate of Registration or gazetted document should be provided or if the applicant is a person, a copy of his/her identity card should be provided*); and
- (d) a copy of the proposed contractor's business registration certificate (*if the contractor is a joint venture company, copy of all partners' business registration certificates should be provided*).

4.4 The respective HyD Regional Office should input the following into XPMS for the applicant:

- (i) all the mandatory textual information, such as location and proposed start date;
- (ii) the alignment of the proposed excavation where the XP is to cover; and
- (iii) the information for creating the Gantt chart of works programme.

4.5 When the plan is registered, XPMS will perform spatial check immediately. If anyone of the following restrictions is violated, the plan registration will be rejected by XPMS. The respective Inspector of Works (IOW) should inform the applicant to revise the proposed start date, the plan alignment with reference to the rejection reason, in order to avoid violation of the restriction again during resubmission of the plan.

- (i) Road Opening Restriction
- (ii) Repeated Opening Restriction
- (iii) Registration Lead Time
- (iv) Non Highway Reserve

- 4.6 The IOW should assess the permit period calculated by the applicant with reference to the plan details. The IOW can either accept or amend with reasons the permit period proposed by the applicant. If necessary, the IOW may request the applicant to submit more information before accepting or amending the permit period proposed by the applicant. For a good quality submission, the IOW will normally complete the permit period assessment and inform the applicant the result of his assessment via e-mail in 10 working days for standard works and 20 working days for non-standard works.

5.0 Seek Traffic Advice

- 5.1 When the plan has passed the spatial check, the responsible IOW should inform the applicant to proceed the following:

- (i) seek the agreement of Transport Department (TD) to any proposals to relocate temporarily traffic signs and traffic light signals, bus stops or other facilities. For simple cases, TD normally replies within about 2 weeks. For cases involving the relocation of bus stops or the installation of no stopping restriction zone, a much longer time will be required. TD may require the provision of hard copy of site photos showing the existing street furniture including traffic signs and road markings prior to excavation;
- (ii) seek the agreement of TD and Hong Kong Police Force (HKPF) to the temporary traffic management (TTM) proposal if the proposed works involve-
 - (a) opening on carriageway of Traffic Impact Assessment/ Day-Time Ban routes;
 - (b) closure of any lane of a carriageway;
 - (c) change of traffic flow directions of a carriageway; or
 - (d) diverting pedestrian traffic onto carriageway.

TD and HKPF normally reply within 1 month. The applicant should follow the procedures stipulated in HyD Guidance Notes No. *RD/GN/021 - Guidelines on Traffic Impact Assessment & Day-Time Ban Requirements for Road Works on Traffic Sensitive Routes* which may be downloaded from HyD's web site. For works involving night work only or with minimal anticipated traffic impact, the applicant may apply to TD for exemption;
- (iii) submit the lighting, signing and guarding (LSG) proposal to HKPF for agreement if the proposed works will not affect traffic;

- (iv) obtain a Construction Noise Permit (CNP) from the respective Local Control Office of the Environmental Protection Department (EPD) if the works will be carried out during restricted hours and exceed the noise level requirements. EPD normally replies to a good quality application within 14 working days. For detailed information, please refer to “Checklist to explore the feasibility of Daytime Roadwork” which can be downloaded from EPD web site <http://www.epd.gov.hk>;
- (v) check if the works will affect-
 - (a) road side trees; obtain approval for tree planting/ felling/ transplanting, etc. from Leisure and Cultural Services Department (LCSD); and
 - (b) unleased government land other than streets maintained by HyD; obtain XP from Lands Department (LandsD).

The applicant should approach the corresponding party to resolve the issue if any. TD, HKPF & LCSD should give their agreements in XPMS with reference to the registered plan number of the proposed excavation works.

6.0 Coordination of Works

6.1 To avoid occurrence of repeated opening at the location of the proposed work, the responsible IOW should check whether:-

- (i) any other UU has carried out excavation at that location not more than 3 months before the intended commencement date of the proposed work;
- (ii) any other UU will carry out excavation at that location within 3 months after the intended completion date of the proposed work;
- (iii) the applicant has ever carried out excavation at that location not more than 6 months before the intended commencement date of his proposed work (*Note: Trial hole/trench excavations should not be taken into account as repeated openings*); and
- (iv) the applicant will carry out excavation at that location again within 6 months after the intended completion date of his proposed work.

If repeated opening is identified, the IOW should inform the applicant to adjust the proposed start date of his plan.

6.2 If the IOW confirms no repeated opening, he should determine whether the proposed work is in conflict with any other work which is within 30m

from the proposed work. If the IOW determines that the proposed work is in conflict with other works, he should group the plan into an “uncoordinated” case for the concerned applicants’ actions.

6.3 The applicant shall cooperate with other parties within the “uncoordinated” case with reference to the guidelines as stated in **Appendix 4.1.2 of this manual** to work out a coordinated programme. If the applicant has agreed to change his/her programme in order to form a coordinated programme, the applicant should inform the respective IOW to update his/her agreed new programme. Once the updating of all the affected plans is done, the leading applicant of the “uncoordinated” case (who takes the lead in coordination) can then put forward the case to HyD for acceptance through the system. If the coordinated programme is found satisfactory, the IOW should update the case status to “coordinated”. Otherwise, the leading applicant should be informed of any deficiency requiring rectification.

6.4 If no conflict is found, a new case should be formed to contain the plan and the IOW should set the case status to “coordinated”.

7.0 Permit Application

7.1 After the "Coordinated" status is given **and** the TTM and/or LSG proposal(s) have been accepted by TD/HKPF, the IOW can send an XP application form by e-mail to the applicant for XP application. The maximum lead time for XP application prior to commencement of works is 120 days.

7.2 The applicant should submit the following for XP application:

- (i) the duly signed XP application **Form HYD 14**; and
- (ii) a crossed cheque payable to “The Government of the Hong Kong Special Administrative Region” for the amount of prescribed fee calculated on the XP application form.

7.3 Upon receipt of the completed application form and the cheque, the Engineer/Chief Technical Officer (E/CTO) of the respective HyD Regional Office should pass the cheque to the Account Section within 1 working day. The Account Section should deposit the cheque for the applicant with a covering Demand Note (DN) to Post Office within 1

working day upon receipt of the cheque. The receipt of the settlement of DN should be returned to the applicant within 3 working days.

7.4 After the settlement of DN, the E/CTO should issue the XP.

8.0 Nomination of Nominated Permittee

8.1 Upon receipt of the XP, the permittee may nominate his contractor to be the nominated permittee in order to take up some of the responsibilities stipulated in the permit conditions. A complete nomination process is described below:

- (i) firstly, the permittee nominates his contractor to be the nominated permittee by completing Part I of the Form HYD 83 (*which may be downloaded from HyD's web site*);
- (ii) secondly, the nominated contractor consents the nomination and agrees to comply with the conditions in the permit by completing Part II of the Form HYD 83;
- (iii) thirdly, the permittee submits the Form HYD 83 (*i.e. the signed original*) together with the required evidence to the respective HyD Regional Office (*which can substantiate that the nominated contractor satisfies the requirements stipulated in Chapter 4 Section 7, para. 3.4 and 3.5 or the nominated contractor satisfies the requirement stated in Chapter 4 Section 7, para. 3.8*) for assessment; and
- (iv) finally, the HyD Regional Office notifies the permittee and the nominated permittee (if approved)/nominated contractor (if rejected) the result of the nomination assessment by returning the completed Part III of the Form HYD 83 by fax (*note: the original of the Form HYD 83 will be kept by HyD for record*).

8.2 Details of-

- (i) minimum requirements for a contractor to be a nominated permittee;
 - (ii) assessment procedure by the Authority; and
 - (iii) withdrawal of nominated permittee
- are described in Chapter 4, Section 7, para. 3.2 to 6.1.

9.0 Preparation Work and Precautions Prior to Excavation

9.1 When the applicant has obtained an XP, he/she should-

- (i) locate the alignments of all underground utilities in the vicinity of the works;
- (ii) take all precautionary measures and follow relevant codes of practice to ensure that existing utilities installations especially the gas mains and power cables are not damaged when excavation works are carried out; and
- (iii) follow paragraph 10.1 and 10.2 to submit advance notification (AN).

10.0 Advance Notification of Commencement of Works

10.1 For each XP under which works are about to commence, the permittee shall complete the standard form of AN (*i.e. Form HYD 91, which may be downloaded from HyD website*) and submit it by fax not more than 14 working days but not less than 2 working days, excluding Sunday and Public Holiday, in advance of the intended commencement date. Those permittees who fail to comply with this requirement will be considered contravening the permit conditions and may be prosecuted.

10.2 If an AN has been submitted and later it turns out that the intended commencement date must be postponed, the permittee should cancel the AN immediately, and then submit a new AN once the commencement date is ascertained. Both the cancellation of previous AN and resubmission of a new AN can be done by submitting the Form HYD 91. The new AN is allowed to be submitted less than 2 working days prior to the commencement of works.

11.0 Excavation Permit Extension

11.1 When it becomes clear that the excavation works cannot be completed before the approved end date or the approved extended end date of the XP, the applicant should apply for an extension of permit period and submit by post or by hand a completed permit extension application form HYD16 not fewer than 18 working days before the expiry date of the permit. An application which is lodged shorter than this period shall be regarded as a late application in accordance with section 10F of the LMPO. The applicant shall also submit the following documents to substantiate the extended period applied for:

- (i) updated works programme showing the extension period; and
- (ii) plan alignment of the outstanding works.

In addition, if any change on the LSG/TTM is required owing to the extension, the applicant shall immediately approach HKPF/TD to seek their agreement on the updated LSG/TTM after the submission of the permit extension application.

- 11.2 The E/CTO of the respective HyD Regional Office shall consider if extension of permit period shall be given or not with due regard to the circumstances. Generally, the E/CTO will approve the application for extension of permit period except in some special circumstances. Some circumstances in which the E/CTO may refuse to issue an extension to the permittee are listed below for reference only-
- (i) the extension will affect the subsequent excavation works by other parties and an agreed revised works programme cannot be reached;
 - (ii) the contractor has not diligently carried out the work resulting in slow progress and failure to complete the works within the permit period, etc.
- 11.3 If an extension is accepted, the E/CTO shall
- (i) assess the permit period extension duration;
 - (ii) arrange to verify the permittee's declaration of category of street affected;
 - (iii) arrange to input the updated works programme and the plan alignment representing the works to be done during the extension into XPMS.
- 11.4 The E/CTO can either accept or amend (*with reasons*) the permit extension period proposed by the permittee. Account section of the respective HyD Regional Office will issue a DN to the permittee. Upon confirmation of payment, the E/CTO will issue an extension of permit to the permittee by fax, by post or by e-mail.
- 11.5 If the permittee does not agree with the permit extension assessment made by the E/CTO, he can appeal, within 28 days from the date of service of notice of result of the E/CTO's permit extension assessment, to the Chief Highway Engineer (CHE) of the respective HyD Regional Office under section 10M of the LMPO.

11.6 The permittee should pay the prescribed permit fees by settling the DN issued by the Account Section of the respective HyD Regional Office. If the application for extension is refused by the E/CTO, a rejection letter stating the reason of refusal will be sent in hard copy to the permittee. If an extension is not accepted, the E/CTO shall assess the time required to reinstate the trench and issue an XP extension if the remaining period of XP is inadequate.

12.0 Late Application for Excavation Permit Extension

12.1 As gazetted under section 18C of the LMPO, an application which is lodged fewer than 18 working days before expiry of the permit shall be regarded as a late application and be processed in accordance with section 10F of the LMPO.

12.2 The permittee should submit by hand to the E/CTO of the respective HyD Regional Office the latest by noon of the date one working day before the expiry date of the permit-

- (i) a duly completed application form HYD16. The permittee should state in the form the duration of the period applied for and the category of street affected if the excavation works will affect street. For cases in which more than one category of streets will be affected, the permittee shall declare the category of street with the most expensive daily economic cost; and
- (ii) necessary documents to substantiate the duration of period applied for which must include an updated works programme showing the extension period and the plan alignment of the outstanding works. The information is for the subsequent detailed permit period assessment by the E/CTO.

12.3 The permittee should pay the prescribed permit fees by settling the DN issued by the Account Section of the respective HyD Regional Office.

12.4 Once the permittee has paid the appropriate prescribed fee, the permit is deemed to be extended up to the expiry of the period applied for by him.

12.5 After receipt of an application form and appropriate prescribed fee for permit extension, the respective HyD Regional Office should input the works programme and the plan alignment into XPMS. If carriageway is

affected, XPMS will perform spatial check to determine the category of streets affected. For cases in which more than one category are affected, the most expensive daily economic cost will be charged. If it is found that the category of street affected declared by the permittee is less expensive than that really affected on site, the E/CTO should check how many days of extension the prescribed fee paid by the permittee can sustain based on the category of street really affected on site. The E/CTO should send by fax, by post or by e-mail a DN to the permittee and request the permittee to pay for the difference within 2 working days from the date of the E/CTO's notification but no later than the expiry date of the extension calculated based on the category of street really affected on site and the prescribed fee paid by the permittee. The permittee should settle the DN at Post Office. If it is found that the category of street affected declared by the permittee is more expensive than that really affected on site, the E/CTO should arrange refund any extra prescribed fee to the permittee without interest.

- 12.6 At the same time, the E/CTO should determine the period for which an XP deemed to be extended shall be valid and may revise the expiry date of the permit to a date which is earlier than the expiry date deemed to be extended.
- 12.7 The E/CTO should consider both the prescribed fee paid by the permittee and the result of his extension period assessment as described in para. 12.5 and 12.6 above before issuing a permit extension to the permittee. If the permittee fails to pay the outstanding prescribed fee, the E/CTO should issue a permit extension with expiry date not beyond the date calculated based on the category of street really affected on site and the prescribed fee paid by the permittee no matter the result of the E/CTO assessment on the period of extension is. The E/CTO should serve a notice of his determination to the permittee and issue a permit extension to the permittee with the period determined by him and subsequently arrange to refund the extra prescribed fee to the permittee without interest (*if required*).
- 12.8 Before issue of the permit extension by the E/CTO, the permittee shall keep both a copy of his application and the certificate of payment/ the receipted DN displayed on site as a proof of fulfilling the requirement of

section 10F(1) of the LMPO. Upon issue of the permit extension, the permittee shall within next working day replace both the copy of his application form and the certificate of payment/ the receipted DN by a copy of the permit extension.

- 12.9 If the permittee does not agree with the permit extension assessment made by the E/CTO of the respective HyD Regional Office, he can appeal, within 28 days from the date of service of notice of result of the E/CTO's permit extension assessment, to the CHE of the respective HyD Regional Office under section 10M of the LMPO.

13.0 Site Audit Inspection of Excavation Sites

- 13.1 Upon receipt of an AN, the Audit Inspection Team (AIT) will arrange audit inspections for the excavation site. Details of site audit inspection are described in Chapter 9 Audit Inspection.

- 13.2 If the permittee has provided a contact e-mail address on his XP application form, the AIT would inform the permittee by e-mail if any non-compliance (NC) has been observed after each site audit inspection. The permittee should check the site audit inspection results through internet and rectify all NCs immediately. For details of checking site audit inspection results through internet, the permittee shall refer to the procedure shown in Appendix 5.1.1. In case contact e-mail address is not available, the permittee is obliged to check whether the AIT has carried out any site audit inspection and marked any NC of his XP site through internet daily.

- 13.3 In accordance with Clause 6 of the Conditions of Excavation Permit, the permittee shall report to the Authority within two working days after the NC has been rectified. To fulfill this requirement, the permittee shall complete the form shown in Appendix 5.1.2 and fax the completed form to the Research and Development Division of HyD within two days after the NC has been rectified.

14.0 Completion of Works

- 14.1 If the whole duration of an XP/XP extension is completely used to finish up the planned works and the reinstatement works, the permittee is not required to submit completion notice (CN). The respective HyD

Regional Office will arrange a reinstatement inspection between 14 to 21 working days after the permit expiry date. However, if the following situations is encountered, the permittee should submit CN, *i.e. Form HYD 18 (which may be downloaded from HyD's website)*, to the E/CTO of the respective HyD Regional Office within 14 working days from the permit expiry date by fax:

- (a) the permanent reinstatement (PR) will be carried out by others;
- (b) the PR will be carried out by HyD at the permittee's own cost;
- (c) temporary structure(s)/installation(s) will be removed at a certain period after the expiry of the XP; and
- (d) no excavation has been carried out on site.

In addition, if the actual excavated alignment(s) are significantly shorter/smaller than the approved plan alignment(s), the permittee should submit a sketch/sketches showing the actual excavated alignment(s) within 14 working days after the permit expiry date to the respective HyD Regional Office for their reference in order to avoid unnecessary argument on quality and extent of reinstatement area(s). Furthermore, in case of early completion of works, the permittee is also required to submit the CN to the E/CTO of the respective HyD Regional Office by fax immediately after completion of works.

14.2 As mentioned in the above, when submitting the CN, the permittee has to specify the reinstatement type which should be one of the following:-

- (i) Permanent reinstatement (PR) carried out by the permittee.
- (ii) PR carried out by others. If PR is carried out by other permittee or HyD's contractor (*e.g. works in conjunction with HyD projects*), the permittee has to specify the XP number or HyD works order/contract number under which the PR is carried out, and his contact person. If PR is carried out by another XP of the permittee, the permit number of that XP should be specified (*e.g. defect of reinstatement is rectified by a new XP*).
- (iii) PR carried out by HyD at the permittee's own cost. Only select this reinstatement type if the PR is carried out by HyD's contractor at the permittee's own cost.
- (iv) Apart from temporary structure/ installation pending removal, the excavation(s) has/have been backfilled and temporary reinstated. If the permittee has carried out erection of temporary structure or installation of equipment which will only be removed a certain

period after the expiry of the XP, then this reinstatement type should be chosen. The permittee has to indicate the date when such temporary structure/ equipment/ installation will be removed.

- (v) The last reinstatement type is “No excavation works has been carried out on site”. This item should only be selected when the permittee has not carried out any excavation works on site. Since cancellation of an issued XP is not permitted, those permittees who want to cancel their XPs should select this item for calling off their XPs.

14.3 On receipt of the CN, the E/CTO of the respective HyD Regional Office should arrange site inspection to confirm completion of works and acceptance of reinstatement within 7 working days. After site inspection, the responsible IOW will inform the permittee by fax, by post or by e-mail (*if the applicant has stated his e-mail address on the applicant form*) whether he agrees or disagrees that the works have been satisfactorily completed. If the IOW disagrees that the works have been satisfactorily completed, he will inform the permittee which items do not comply with the requirements/specifications and request the permittee to rectify.

14.4 The E/CTO should keep record of photographs taken by the site staff at the time of inspection, checklist completed by the site staff and any report prepared by the site staff.

14.5 The permittee shall keep all as-built records in respect of level and alignment of the underground services and installations laid or placed on footpaths and carriageways for 5 years and 7 years respectively from the date of submission of CN / the permit expiry date (*whichever is the earlier*). These records shall be certified by a recognized professional. The permittee shall provide the certified as-built records upon request by the E/CTO of the respective HyD Regional Office. The professional qualifications recognized by the Authority to certify the as-built records include-

- (i) member of the Hong Kong Institution of Engineers or equivalent professional qualification;
- (ii) member of the Hong Kong Institute of Architects or equivalent professional qualification;

- (iii) member of the Hong Kong Institute of Landscape Architects or equivalent professional qualification; and
- (iv) member of the Hong Kong Institute of Surveyors or equivalent professional qualification

The permittee shall submit to the E/CTO, on or before the date of submission of CN / the permit expiry date (*whichever is the earlier*), the details of such professional (*i.e. the name, professional qualification, membership number, his relation with the permittee, etc.*).

- 14.6 Apart from as-built records, the permittee shall submit to the E/CTO, within 2 months from the date of submission of CN / the permit expiry date (*whichever is the earlier*), the original copy or certified true copy of the necessary soil/ others materials test certificate/ report as required under the permit conditions unless exempted in the approved work list by the Authority.

15.0 Refund for Economic Cost

- 15.1 Under section 10L of the Land (Miscellaneous Provisions) Ordinance (LMPO), DHy as the Authority or his delegated officers may refund the whole or any part of the economic costs paid for extension of an XP caused by reasons stipulated in section 10L(1)(b) of the LMPO.

- 15.2 The permittee shall make an application by fax or post for a refund of the whole or any part of the economic costs within 1 month from the date of the notification of the result of the application for an extension of the XP.

- 15.3 The permittee shall state the reasons and setting out the evidence in support of the application.

- 15.4 Upon receipt of the application for a refund from the permittee, the E/CTO of the respective HyD Regional Office shall assess whether he is satisfied that the extension is caused by reasons other than the fault of the permittee, its contractors and employees, including but not limited to the following-

- (i) inclement weather which includes the hoisting at the Hong Kong Observatory of the No.3 visual storm warning or above or rainstorm warning (*i.e. Amber, Red or Black rainstorm warning issued by the Director of the Hong Kong Observatory*); or

- (ii) suspension of excavation on order of the Government which is not due to the fault of the permittee, its contractors or employees; or
- (iii) physical condition of the unleased land to which the permit relates and which is not in existence at the time of the application of the permit,

and whether the above reasons hindered the progress of an excavation to which the permit relates.

15.5 If the E/CTO of the respective HyD Regional Office is satisfied that the extension is caused by reasons other than the fault of the permittee, its contractors, or employees and progress of the excavation is hindered, he shall assess how many days of extension which the permittee is entitled. The E/CTO should sign and forward the refund instruction to his Account Section for arranging the refund, without interest, to the permittee. After receipt of the refund instruction, the Account Section will request Treasury to refund a fixed amount to the permittee. Normally, Treasury will send a bank cheque to the permittee.

15.6 The E/CTO of the respective HyD Regional Office shall inform the permittee of the result of his assessment by fax, by post or by e-mail (*if the permittee has stated his e-mail address on the application form*) within 28 days from the date of receipt of the application whether he agrees wholly or partially, or disagrees with the amount claimed by the permittee. If the permittee appeals in accordance with section 10(M)(3) and (7) of the LMPO, the amount of refund may be revised subject to the result of the review. If further refund is required, the E/CTO should arrange the refund following the procedure as stated in para. 12.5 above. If the amount of refund calculated based on the result of the review is less than the amount already refunded, the E/CTO should request his Account Section to issue a DN to the permittee for the payment difference.

16.0 Refund for Early Completion of Works

16.1 Under section 10L(2) and (3) of the LMPO, the E/CTO of the respective HyD Regional Office as the delegated officer may refund a sum, without interest, which is equivalent to the daily fee and economic costs (*if any*) paid in respect of the period commencing from the date next following the date of notification of the completion of the excavation and expiring on the expiry date of the permit or the extended period of the permit, as the

case may be.

- 16.2 The permittee is not required to make an application for the refund for early completion of excavation works. The permittee shall notify the E/CTO of the respective HyD respective Regional Office upon the completion of excavation works. The E/CTO should initiate the refund process as stated below when he confirms that the excavation works have been satisfactorily completed before the expiry date of the permit or the extended period of the permit.
- 16.3 Upon receipt of notification of completion from the permittee, the E/CTO of the respective HyD Regional Office shall check the following conditions to see whether the permittee is entitled to any refund-
- (i) the permittee of an XP has completed an excavation to which the permit relates before the expiry date of the permit or the extended period of the permit; and
 - (ii) he is satisfied that the permittee has reinstated the land to which the permit relates as required by the permit conditions.
- 16.4 To make refund to the permittee, the E/CTO should sign and forward the refund instruction to the Account Section for arranging the refund, without interest. After receipt of the refund instruction, the Account Section will request Treasury to refund a fixed amount to the permittee. Normally, Treasury will send a bank cheque to the permittee.
- 16.5 The E/CTO of the respective HyD Regional Office shall inform the permittee of the result of his assessment on whether the permittee has satisfied the matters in section 10L(2)(a), (b) and (c) of the LMPO by fax, post or e-mail within 28 days from the date of the completion of excavation works. If the permittee appeals in accordance with section 10(M)(3) and (7) of the LMPO, the amount of refund may be revised subject to the result of the review. If further refund is required, the E/CTO should arrange the refund following the procedure as stated in para. 16.4 above. If the amount of refund calculated based on the result of the review is less than the amount already refunded, the E/CTO should request his Account Section to issue a demand note to the permittee for the payment difference.

17.0 Extension of Permit Period without Payment

17.1 Under section 10A(4) of the LMPO, where-

- (i) DHy as the Authority or his delegated officer issued an XP for an excavation; and
- (ii) the permittee of the permit is unable to have access to-
 - (a) a reasonably substantial portion of the street concerned for the purpose of making or maintaining the excavation, after the commencement of the period for which the permit is valid but the commencement of the excavation, for reason other than the fault of the permittee, the contractor for the excavation or their employees; or
 - (b) a reasonably substantial portion of the land concerned other than a street, for the purpose of making or maintaining the excavation, after the commencement of the period for which the permit is valid, for reason other than the fault of the permittee, the contractor for the excavation or their employees.

DHy or his delegated officers may, without payment of any prescribed fee or any part thereof (other than that paid under sections 10A(1) and (3) of the LMPO), extend that period by the number of days for which the permittee is so unable to have access to the land. Subject to section 10L of the LMPO, any prescribed fee paid for issue of an XP is not refundable.

18.0 Reinstatement of Works within Defects Liability Period

18.1 In the case of permanent reinstatement by the Authority, the permittee shall remain fully responsible for the maintenance of the backfilling and the temporary reinstatement until a period of 14 working days has elapsed from the date of submission of CN. In the case of subsidence of the permanently reinstated pavement (*permanent reinstatement by either the Authority or the permittee*) or deterioration in the permanent reinstatement itself (*permanent reinstatement by the permittee*) within 12 months from the date of submission of CN / the permit expiry date (*whichever is the earlier*), the permittee shall carry out the necessary remedial works at his own expense, unless the permittee can prove that the defect was caused by a third party. Where necessary, the Authority will carry out the remedial work and the permittee shall pay all expenses incurred by the Authority pursuant to section 10Q of the LMPO. The responsible IOW of the respective HyD Regional Office should arrange inspection to identify any

defects associated with the reinstatement before the end of the liability period. The permittee will be required to make good the defects if any.

- 18.2 If the permittee declines to make good the defects, the E/CTO of the respective HyD Regional Office will issue a Works Order to the HyD term contractor to rectify the defects. In accordance with section 10Q of the LMPO, the respective HyD Regional Office will recover the cost from the permittee.

19.0 Termination of Excavation Permit

- 19.1 Under section 10K of the LMPO, DHy as the Authority or his delegates may terminate the permit if there is a breach of any condition of an XP especially when the permittee and/or its nominated permittee fail(s) to perform and such course of action is in the interest of the public. Details are described in Chapter 4 - Section 8 “Termination of Excavation Permit or Emergency Excavation Permit Procedure”.

20.0 Cancellation of Excavation Permit or Extension of Excavation Permit

- 20.1 Cancellation of an issued XP or an issued extension of XP is not allowed. To abandon an issued XP or an issued extension of XP, the permittee should submit a completed Form HYD 18 (*i.e. the standard form of CN*) to the E/CTO of the respective HyD Regional Office for checking and approval. The relevant procedure of reporting completion of works is described in paragraph 14.0. Regarding the refund of economic costs and refund of daily fee, the procedures stated in paragraphs 15.0 and 16.0 are applicable.

21.0 Review of Assessment

- 21.1 Under section 10M(3) of the LMPO, the permittee may appeal to the E/CTO’s assessment as defined in section 10M(1). Details are described in Chapter 8 - Section 1 “Assessment Review Procedure”.

22.0 Refusal of Issue of Excavation Permit

- 22.1 The E/CTO of the respective HyD Regional Office may refuse to issue an XP in accordance with section 10E(1) of the LMPO if-
- (i) he reasonably believes that the applicant-
 - (a) is not a fit and proper person to make or maintain any excavation in unleased land;

- (b) cannot comply with the conditions imposed under the permit;
or
 - (c) does not have sufficient financial resources to make or maintain an excavation to which the permit relates. If there is any doubt, the E/CTO may request by fax, by post or by e-mail (*if the applicant has stated his e-mail address on the application form*) the applicant to provide evidence to prove his financial situation.
- (ii) in his opinion, the application to which the permit relates is unreasonable. Some unreasonable applications are listed below for reference only-
- (a) The applicant submits application for an XP without providing sufficient information or supporting documents;
 - (b) The applicant submits application for an XP without written approval from relevant authority such as laying a drainage pipe illegally from his house to a roadside gully or somewhere and constructing illegal structures;
 - (c) Excavation which will likely cause hazards to the public;
 - (d) Shallow cover installation without waiver;
 - (e) Proposed works is unclear, e.g. without clear dimension of works; or
 - (f) Excavation location falls within the site area of a major project without prior consent from the subject party, e.g. West Rail Boundary.

The E/CTO should carefully assess each application and make decision with his own discretion.

- (iii) having regard to the circumstances of the case, the issue of the permit is, in the opinion of the E/CTO, inappropriate in such circumstances. Some inappropriate circumstances are listed below for reference only-
- (a) When a special event is to be held at or nearby the location of excavation proposed by the applicant, the E/CTO may refuse to issue an XP to the applicant if he considers that such excavation will probably affect such event. The event may include:-
 - celebration events for Hong Kong Special Administrative Region Establishment Day;
 - celebration events for some great festivals such as:- New Year, Easter, Christmas, Ching Ming Festival, Lunar New

Year, etc.

- (b) Where the location of excavation proposed by the applicant is very close to the open examination centers in the period from April to June, the E/CTO may refuse to issue an XP to the applicant if he considers that such excavation will create serious noise problem.

The E/CTO should carefully assess each application and consider any other alternatives proposed by the applicant.

22.2 In addition to the grounds specified in paragraph 22.1 above, the E/CTO may, on reasonable grounds-

- (i) refuse to issue an XP or EXP if-
 - (a) the applicant fails to submit the application at least 18 working days before his intended commencement date of works specified by the DHy, by notice published in Gazette, under section 18C of the LMPO; or
 - (b) the street to which the permit relates is a newly constructed street specified by the DHy, by notice published in Gazette, under section 18C of the LMPO;
- (ii) refuse to extend the period for which an XP is valid if the permittee fails to submit an application for extension in accordance with section 10F of the LMPO.

22.3 Where the E/CTO refuses to issue a permit or extend the period for which a permit is valid, he shall notify the person by notice in writing.