

For information

**Additional Information Provided to the
Legislative Council Panel on Security
as Requested by Members at Its Meeting Held on 6 November 2007**

Purpose

At the meeting held on 6 November 2007, Members of the Panel on Security requested that additional information be provided on matters relating to the land development cost of the Hong Kong Clearance Area of the Shenzhen Bay Control Point. This paper aims to provide the relevant information.

Reclamation and Soft Ground Treatment Works Costs

2. *The Panel would like the Administration to provide more information on the total cost of reclamation and soft ground treatment works and the component of the fee for use of waters.*

3. Please see paras. 11 to 14 of the paper for the meeting held on 6 November 2007 for detailed information on reclamation and soft ground treatment works. The total cost of the works is around RMB 2,480.7 million, of which the Hong Kong Special Administrative Region Government (HKSARG) has to pay RMB 909.0 million.

4. The fee for use of waters is collected in accordance with the provisions of the “Notice Issued by the Guangdong Province on Tentative Management Measures Regarding Collection and Use of Fee for Use of Waters”¹ (《印發廣東省海域使用金徵收使用管理暫行辦法的通知》(粵府【2005】92號))². Units using particular area of waters in Guangdong Province for three months or above for development purposes are required to pay a fee. The applicable rate is RMB 90,000 per hectare

¹ The English titles of the Mainland regulations cited in this paper are translated by the HKSARG for reference, subject to verification.

² The reclamation works relating to Shenzhen Bay Port were on-going in 2005.

(RMB 9 per m²). The Hong Kong side has to pay the fee of around RMB 5.1 million calculated based also on the area of the requisitioned land (1 773 314m²) and the reclamation proportion (32.04%).

Land Requisition Cost

5. *The Panel would like the Administration to provide more information on the law and area relating to the various items of land requisition cost.*

6. The whole of Shenzhen Bay Port (SBP) is situated on reclaimed land. The development process required the requisition of waters (including sea-bed). In accordance with the relevant Mainland regulations, the requisition works would require compensation to affected persons.

7. Moreover, the reclamation works at the SBP required rocks and sand. For this purpose, the Shenzhen Municipal Government (SZG) had designated resource points for rocks and sand. In excavating rocks and sand at the points, the SZG would have to compensate for the requisition of the mountain forest and orchards there in accordance with the Mainland law and regulations.

8. After discussions, the HKSARG and SZG agreed to adopt the principle of replacement cost in the calculation of land requisition cost. Replacement cost refers to the cost needed to re-purchase or re-construct the same assets or services at a particular time. In the calculation of land requisition cost, the two sides agreed to adopt November 2002 (i.e. the date when the Central Government agreed to construct the SBP using the clearance mode of co-location) as the time reference of the replacement cost proposal. When calculating the land requisition cost of the SBP, the rates as prescribed in the relevant Mainland law and regulations prevailed in November 2002 were adopted. The principle of replacement cost was adopted because the land requisition process had taken a long time and involved many relevant units and unsettled applications for and disputes over compensation to be handled. The adoption of the said principle in calculating the cost can avoid the difficulties of arriving directly at the actual cost (say the tracking of all

compensation payments and the long time in awaiting the settlement of the disputes).

9. *The Panel would also like the Administration to explain in more details the content, calculation method and applicable rates of the item of “returned land”.*

10. The mechanism of “returned land for requisitioned land” is a part of the Mainland’s compensation and settlement for land requisition. It aims to resolve the hardship in production faced by farmers whose land is requisitioned. The Government is required to reserve, for the requisitioned unit for production and development, an area of land amounting to a specific proportion³ of the size of the requisitioned land. In returning the reserved land to the requisitioned unit, the Government charges only 10% of the prevailing market land premium for the returned land⁴. The premium foregone is 90%. The HKSARG and SZG agreed that the premium foregone is part of the land development cost.

11. Under the principle of replacement cost, the item of returned land under the land requisition cost of the SBP is calculated using 10% of the total requisitioned land area (1 773 314 m²), i.e. the area of returned land is 177 331 m².

³ A Member raised the applicability of the “Notice by the Guangdong Provincial Land and Resources Department Regarding Matters Relating to Launching Reform of Land Requisition System” (《廣東省國土資源廳關於深入開展徵地制度改革有關問題的通知》(粵國土資發【2005】51號)). In accordance with the relevant provisions of the “Guangdong Province Land Requisition Management Regulations” (《廣東省徵地管理規定》(粵府(1993)94號)), the ratio of returned land is 10%. In accordance with the “Notice by the Guangdong Provincial Land and Resources Department Regarding Matters Relating to Launching Reform of Land Requisition System”, the ratio of returned land is 10 to 15%. In negotiating on the principle of replacement cost, the two sides have agreed to adopt the earlier rate (i.e. 10%).

⁴ “Decision of Shenzhen Municipality People’s Government Regarding Enhancing Land Market Management and Vitalising and Regulating the Property Market”(《深圳市人民政府關於加強土地市場化管理進一步搞活和規範房地產市場的決定》(深府【2001】94號))

12. In calculating the cost of reserved land, the two sides agreed to adopt the premium of all the residential land⁵ (calculated according to land area) of the district of the SBP (Nanshan district) auctioned by the government in 2001 and 2002 as the basis. The average land premium is RMB 9,534 m², based on the actual sold prices and land area.

13. The amount of land requisition cost arising from returned land payable by the HKSARG is RMB 487.5 million [i.e. RMB 9,534/m² (market land premium) x 177 331 m² (area of returned land) x 90% (percentage of the land premium foregone for the returned land) x 32.04% (percentage of reclaimed land area)].

14. Information on land requisition cost is in para. 16 and Annexes B and C of the paper for the meeting held on 6 November 2007. The information is presented in tabular form below –

	Items	Descriptions	Relevant Regulations ⁶	Standard rate (in RMB)	Area	Amount to be borne by the HKSARG ⁷ (in RMB)
(a)	Compensation for new construction land	a statutory fee to be paid to the higher-level government for land requisition or	“Notice Regarding the Issue of ‘Management Measures of the Collection and Use of Compensation for New Construction Land’” (《關於印發〈新增建	50 per m ²	1 578 302 m ²	about 25.3 million

⁵ A Member asked the HKSARG about the planned use and development scale of the three pieces of land of which the premium were used to calculate the premium level of the returned land. There are three pieces of such land and their details are as follows -

- a) land area of 81 920.3 m² with an auctioned price of RMB 755 million;
- b) land area of 75 101.8 m² with an auctioned price of RMB 780 million;
- c) land area of 14 993.3 m² with an auctioned price of RMB 105 million.

Each of the piece of land in (a) and (b) includes 3 000 m² of community integrated service centre and 3 000 m² of nursery.

The land returned to the requisitioned units is land for production and development. That means the land can be for commercial or residential uses. In terms of providing compensation to units affected by land requisition, Mainland authorities would not take into account the future planned use, plot ratio, coverage rate, building height etc for the land.

⁶ Copies of the relevant regulations are kept at the Secretariat.

⁷ In all items, the amount to be borne by the HKSARG is calculated on the basis of the ratio (32.04%) of the reclaimed land area.

		change in land use	設用地土地有償使用費收繳使用管理辦法》的通知》(財綜字【1999】117 號))			
(b)	Compensation for requisition of land	the compensation payable by the SZG for requisition of land	“Implementation Measures of Shenzhen Municipality on Requisition of Land” (根據《深圳市徵用土地實施辦法》(深圳市人民政府令第 121 號))	24,000 per mu ⁸ (i.e.36 per m ²)	2659.971 mu (1 773 314 m ²)	about 20.5 million
(c)	Compensation for requisition of land for source of rock fill for the reclamation works	the compensation for the requisition of land for the area where rocks and sand were needed to be taken for reclamation works	“Implementation Measures of Shenzhen Municipality on Requisition of Land” (《深圳市徵用土地實施辦法》(深圳市人民政府令第 121 號))	the rate for mountain forest is according to that for land at 8,000 per mu (i.e.12 per m ²) and that for woods at 1,000 per mu (i.e.1.5 per m ²) the rate for orchards is according to that for hills at 12,000 per mu (i.e.18 per m ²) and that for fruit tree nurseries at 60,000 per mu (i.e. 90 per m ²)	10 382.343 mu of mountain forest and 1 118.199 mu of orchards According to the agreements for compensation for the closing of quarries, the amounts are RMB 10.9 million and RMB 14.02 million respectively.	about 63.7 million

⁸ 1 Mu (畝) equals to 0.0667 hectare.

				in addition, the compensation for the two closed quarries is 24.92 million according to the agreements of the contracting parties.	
(d)	Waters clearance fee ⁹	the compensation for removal of fishing vessels, oyster breeding rafts, etc and the fee for waters clearance.	the amount depends on the actual cost incurred	the actual amount paid by the SZG was RMB 23 million for 1999 and 2002 .	about 7.4 million

⁹ A member would like the Administration to clarify the difference between waters clearance fee and the fee for use of waters. Waters clearance fee comprises fees and compensation paid for the clearance of facilities including fishing vessels and oyster breeding rafts etc prior to the reclamation works. The fee level payable depends on the actual cost incurred; while the fee for the use of waters is payable to the government in accordance with regulations because of reclamation works (use waters for three months or above for development purposes)

(e)	Management fee for the requisitioned land	The lands management departments on behalf of the land users are responsible for the coordination of matters in relation to land requisition for construction works. This management fee is charged as a prescribed proportion of the land requisition cost and paid by the land users.	“Letter Regarding the Adjustment of Rates of Management Fee for the Acquired Land” (《關於調整徵用土地管理費提取標準問題的函》(粵辦函【1991】915 號))	3% of the compensation amount for land requisition (compensation amount for land requisition is the sum of items (b) to (d) above)		about 2.7 million
(f)	Forest restoration fee	If any construction works require requisition of woodland, a forest restoration fee will be charged in accordance with the	“Notice Issued by the Ministry of Finance and National Forestry Bureau on Tentative Management Measures Regarding Collection and Use of Forest Restoration Fee” (《財政部 國家林業局關於印發〈森林植被恢復費徵收使用管理暫行辦	the applicable rate for afforestation land is 8 per m ² and that for economic forest land is 12 per m ²	the area of afforestation land is 6.92 million m ² and that of economic forest land is 0.75 million m ²	about 20.6 million

		existing regulations. The reclamation works of the SBP required rocks and sand. Woodland should be restored in the area providing such rocks and sand.	法》的通知》(財綜【2002】73號))			
(g)	Loss of value of returned land	According to the right-listed regulations, the SZG is required to reserve for the requisitioned unit an area of land amounting to a specific proportion of the size of the requisitioned land, and charges only 10% of the prevailing	“Decision of Shenzhen Municipality People’s Government Regarding Enhancing Land Market Management and Vitalising and Regulating the Property Market” (《深圳市人民政府關於加強土地市場化管理進一步搞活和規範房地產市場的決定》(深府【2001】94號)) “Notice by the Guangdong Provincial Land and Resources Department Regarding Matters	the market land premium is 9,534 per m ² .	the actual area of the reserved land is 177 331 m ² (i.e. 10% of the total requisitioned land, the area of which is 1 773 314 m ²)	about 487.5 million

	market land premium for the returned land. Since the SZG can only charge 10% of the prevailing market premium, the HKSARG and SZG have agreed that the 90% premium foregone is regarded as part of the LDC to be borne by both sides in proportion.	<p>Relating to Launching Reform of Land Requisition System” (《廣東省國土資源廳關於深入開展徵地制度改革有關問題的通知》(粵國土資發【2005】51號))</p> <p>“Guangdong Province Land Requisition Management Regulations” (《廣東省徵地管理規定》(粵府(1993/94)號))</p>			
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Oyster Breeding Rafts in Lau Fau Shan

15. *The Panel asked the Administration whether for the locations of the existing oyster breeding rafts in Lau Fau Shan, there was any other planned development.*

16. According to information from the Planning Department, there is no planned development for the Lau Fau Shan district that requires the clearance of oyster breeding rafts. And according to the

Civil Engineering and Development Department, its improvement works to the existing Hang Hau Tsuen channel will be carried out to the south of Lau Fau Shan. The scope of the project is not related to the locations of the oyster breeding rafts.

Advice Sought

17. According to the views of the Panel at the meeting held on 6 November 2007, we will submit a funding application for the land development cost to the Public Works Subcommittee of the Finance Committee.

Security Bureau
December 2007