

立法會
Legislative Council

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Finance Committee of the Legislative Council

Minutes of the 37th meeting
held at Conference Room 1 of the Legislative Council Complex
on Tuesday, 17 July 2018, at 9:01 am

Members present:

Hon CHAN Kin-por, GBS, JP (Chairman)
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Hon Abraham SHEK Lai-him, GBS, JP
Hon Tommy CHEUNG Yu-yan, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, SBS, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, BBS, JP

Hon LEUNG Che-cheung, SBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP
Hon Dennis KWOK Wing-hang
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, SBS, JP
Ir Dr Hon LO Wai-kiwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LUK Chung-hung, JP
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon AU Nok-hin
Hon Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS

Members absent:

Hon Michael TIEN Puk-sun, BBS, JP (Deputy Chairman)
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Elizabeth QUAT, BBS, JP
Hon CHAN Chun-ying, JP

Public officers attending:

Ms Alice LAU Yim, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Ms Carol YUEN, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) 1
Mr Mike CHENG Wai-man	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
Dr Bernard CHAN Pak-li, JP	Under Secretary for Commerce and Economic Development
Mr Gary POON Wai-wing	Deputy Secretary for Commerce and Economic Development (Commerce and Industry) 2
Ms Sabrina LAW Chung	Principal Assistant Secretary for Commerce and Economic Development (Single Window)
Ms Bernadette LINN Hon-ho, JP	Permanent Secretary for Development (Planning and Lands)
Mr Joey TANG Chun-yin	Acting Principal Assistant Secretary for Development (Planning and Lands) 6
Mr Thomas CHAN Chung-ching, JP	Director of Lands
Ms Lily CHIU Lee-lee	Chief Estate Surveyor (Acquisition Section), Lands Department
Mr Stephen LAI Yue-hong	Senior Agricultural Officer (Agri-Park and Land), Agriculture, Fisheries and Conservation Department

Clerk in attendance:

Ms Anita SIT	Assistant Secretary General 1
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Staff in attendance:

Ms Ada LAU	Senior Council Secretary (1)7
Mr Raymond SZETO	Council Secretary (1)5
Miss Queenie LAM	Senior Legislative Assistant (1)2
Mr Frankie WOO	Senior Legislative Assistant (1)3
Miss Yannes HO	Legislative Assistant (1)6

Action

The Chairman said that at the meetings of the Finance Committee ("FC") held on 13 and 16 July 2018, FC completed deliberations on four items on the agenda (i.e. agenda for FC meetings on 13, 16, 17 and 18 July 2018). FC would continue to deal with the remaining 19 items on the agenda at today's meeting.

2. The Chairman reminded members of the requirements under Rule 83A and Rule 84 of the Rules of Procedure.

Item 5 — FCR(2018-19)42

**RECOMMENDATION OF THE ESTABLISHMENT
SUBCOMMITTEE MADE ON 20 JUNE 2018**

EC(2018-19)10

**HEAD 152 — GOVERNMENT SECRETARIAT :COMMERCE
AND ECONOMIC DEVELOPMENT BUREAU
(COMMERCE, INDUSTRY AND TOURISM
BRANCH)**

Subhead 000— Operational Expenses

3. The Chairman said that this item sought the approval of FC for the recommendation of the Establishment Subcommittee ("ESC") made at its meeting on 20 June 2018, i.e. the recommendation set out in EC(2018-19)10 to create one supernumerary post of Chief Systems Manager (D1) and to retain one supernumerary post of Administrative Officer Staff Grade C ("AOSGC") (D2) in the Commerce, Industry and Tourism Branch of the Commerce and Economic Development Bureau to take forward the development of a Trade Single Window ("TSW") in Hong Kong. Some members had requested separate voting on this recommendation at the FC meeting. ESC had spent about one hour 40 minutes on discussion of this staffing proposal. The Administration had also submitted a supplementary information paper.

Engagement with the trade

4. Mr YIU Si-wing was concerned about the readiness of the trading community in using TSW, and enquired about consultation and engagement with the trades, as well as the support and training provided to relevant stakeholders. In this regard, Under Secretary for Commerce and Economic Development ("USCED") advised that :

- (a) six User Consultation Groups with membership covering different stakeholders in the trading and logistics sectors had been set up in January 2018;
- (b) the Customs and Excise Department ("C&ED"), being the TSW operator, would provide support by way of service counters, customer support, 24-hour hotline service, outreach and training; and
- (c) prior to the launch of Phase 1 of TSW, representatives of the relevant trades had been invited to participate in the functionality tests in December 2017. Stakeholders in the logistics sector were briefed in January 2018. In the light of their comments and those from participating government agencies, the Phase 1 system was being refined to better meet users' needs.

5. Mr Gary FAN sought confirmation on whether public consultation would be conducted in respect of the mandatory requirements proposed to be implemented under Phases 2 and 3. In reply, USCED and Deputy Secretary for Commerce and Economic Development (Commerce and Industry)2 ("DS(C&I)2") advised that :

- (a) the previous consultation in 2016 aimed to gauge views on the overall direction and framework for the development of a centralized platform for trade declaration and customs clearance;
- (b) as the implementation of TSW would have a direct bearing on the operation of the trading community and other stakeholders, further consultation would be conducted on specific issues when more detailed arrangements and legislative proposals were worked out; and
- (c) the Administration would consult the Panel on Commerce

and Industry before finalizing the legislative and related proposals.

Facilitation measures

6. Noting that currently, Import and Export Declarations ("TDEC") for online purchase of certain goods had to be lodged electronically through three service providers appointed by the Government, Mr AU Nok-hin commented that the current arrangement was not user-friendly, and asked whether the process would be simplified after implementation of TSW.

7. USCED and DS(C&I)2 explained that upon full implementation, the TSW system would replace the existing Government Electronic Trading Services ("GETS") and traders could lodge their trade declarations directly through TSW. The latest contracts with the three GETS service providers would end in 2024. The Government would ensure a smooth transition from GETS to TSW upon the latter's full implementation.

8. Mr AU Nok-hin enquired on the feasibility of local residents using their electronic identity ("eID") to lodge trade declarations in future. Principal Assistant Secretary for Commerce and Economic Development (Single Window) said that the Single Window Project Management Office ("PMO") was working closely with the Office of the Government Chief Information Officer with a view to enabling traders to use their eID to submit trade documents via TSW when Phase 3 was rolled out.

9. Mr YIU Si-wing enquired about the interface, if any, between TSW and comparable platforms in other jurisdictions, and whether interfacing arrangements with Hong Kong's major trading partners could be expedited to facilitate the trading community in seeking clearance. In response, USCED said that :

- (a) when developing their respective platforms, individual jurisdictions would need to consider their own needs and circumstances and, for Hong Kong, the future TSW would have technical capability to facilitate the connection with single-window systems of other economies;
- (b) the proposed Chief Systems Manager (Single Window) would keep in view global developments and examine technical options where necessary; and
- (c) given that the Mainland was Hong Kong's top trading partner, the Administration had been liaising with relevant

authorities on possible interfacing arrangements between TSW of Hong Kong and similar systems of the Mainland.

Privacy concerns

10. Mr CHAN Chi-chuen and Mr AU Nok-hin expressed concern about possible implications of the General Data Protection Regulation ("GDPR") of the European Union ("EU") on the operation of TSW. Mr AU also noted with concern that certain requirements under GDPR were not specified in the existing Personal Data (Privacy) Ordinance (Cap. 486) ("PDPO"). He was of the view that the Department of Justice ("DoJ") and the responsible bureaux should look into the legal issues and proactively seek advice from relevant EU authorities.

11. In response, USCED and DS(C&I)2 explained that :

- (a) the data collected through TSW were mainly cargo-related although some personal information (e.g. personal data of the trader) would inevitably be collected during the process;
- (b) the Administration attached great importance to strict adherence to PDPO and relevant guidelines issued by the Office of the Privacy Commissioner for Personal Data ("PCPD");
- (c) in taking forward the TSW project, the Administration would conduct privacy impact assessment and adopt necessary measures to safeguard personal data privacy; and
- (d) as regards GDPR which came into force on 25 May 2018, the Administration was working in close consultation with relevant parties, in particular DoJ and PCPD, to examine and address its possible implications on the TSW project.

Security and enforcement issues

12. Mr CHU Hoi-dick noted that in response to the concerns raised during consultation in 2016, the Administration had maintained the existing post-shipment submission of TDEC while encouraging submission of TDEC at the pre-shipment stage voluntarily. Given that a pre-shipment regime was said to be the international best practice, Mr CHU questioned whether enforcement effort would be compromised if pre-shipment submission of documentation was not mandated. Mr AU Nok-hin was concerned whether the existing post-shipment TDEC regime would pose

any security risks, and asked whether this was the prevailing practice adopted by other jurisdictions.

13. On the members' concerns, USCED and DS(C&I)2 advised that :
- (a) when Phase 3 of TSW was implemented, traders, forwarders and carriers would be mandated to submit Advance Cargo Information and Cargo Reports through TSW for cargo clearance purposes. The cargo data contained in the said documents would be sufficient for C&ED to conduct effective risk profiling;
 - (b) individual economies would need to design and implement their trade declaration and customs clearance systems in the light of their actual needs and circumstances, such as the requirement for tariff payment in some economies;
 - (c) since Hong Kong was a free port and did not charge any tariff, the existing post-shipment TDEC regime was considered more fitting; and
 - (d) despite the post-shipment TDEC regime, C&ED had all along been adopting a risk-based and intelligence-led approach in enforcement, which had proven to be effective in combating illegal practices.

14. Mr AU Nok-hin maintained his concern about possible security risks, and urged the Administration to ensure that the existing regime would not give rise to any loopholes, such as unscrupulous traders being able to avoid trade sanctions or embargoes under the United Nations Sanctions Ordinance (Cap. 537).

15. Mr CHU Hoi-dick queried the deterrent effect of the existing penalty for failure to comply with trade declaration requirements under the Import and Export Ordinance (Cap. 60) ("IEO"). In response, DS(C&I)2 said that most traders in Hong Kong lodged trade declarations within the required timeframe. Late lodgement would be liable to penalty under the existing legislation. The implementation of TSW was expected to further facilitate compliance. At the request of Mr CHU, the Administration would provide information on the number of cases in which enforcement action had been taken against traders for belated submission of TDEC in the past three years.

[*Post-meeting note*: The supplementary information provided by the Administration was issued to members vide LC Paper No. FC 320/17-18(01) on 10 August 2018.]

Implementation approach

16. Noting that Phase 2 and 3 of TSW were scheduled for completion by 2022 and 2023 respectively, Mr CHAN Chi-chuen was concerned whether Hong Kong would lag behind neighbouring territories in the development of TSW. USCED said that, when developing their respective platforms, different economies would need to take into account their own needs and circumstances. At present, while Hong Kong was developing its TSW, Hong Kong remained very competitive in respect of cargo trade facilitation and was internationally acclaimed for its efficiency in cargo clearance.

17. Mr CHAN Chi-chuen sought update on the legislative exercise to underpin the establishment and use of TSW. USCED said that the legislative exercise was of a mega scale and highly complex, involving the formulation of a new piece of enabling legislation and legislative amendments to over 40 pieces of existing legislation including IEO and its subsidiary legislation. The Administration had been working on the preparation work for the legislative exercise, including the drafting of a new enabling bill for the TSW, and would consult the relevant Panel on the proposals when ready.

Non-directorate support in Single Window Project Management Office

18. Mr MA Fung-kwok expressed support for the implementation of TSW and the proposed creation/retention of directorate posts. However, he questioned the justification for the proposed creation of eight additional time-limited non-directorate posts for five years up to 2023 in PMO. He also enquired on the manpower savings which could be achieved as a result of TSW.

19. In response, USCED and DS(C&I)2 advised that :

- (a) a large volume of IT-related tasks had to be carried out in the next five years to enable timely launch of Phases 2 and 3 of TSW. Such tasks included, for example, the exercise to collate and incorporate relevant user's requirements into tender requirements;
- (b) there was an ongoing need to engage the trades on specific

issues arising from the phased implementation of TSW and to work closely with over 10 government agencies participating in the development of the system;

- (c) it was anticipated that, upon the full implementation of the TSW scheduled for 2023, the manpower requirement of PMO would be reduced. The Government would review PMO's manpower requirement nearer the time; and
- (d) an assessment on anticipated savings in manpower and administrative cost in the Government and across the industry would be conducted, the outcome of which would need to be reported to Members when the Government sought funding approval for Phases 2 and 3 of the TSW project.

Scrutiny arrangement for this item

20. At about 9:38 am, the Chairman reminded members that there remained less than 7.5 hours for FC to complete deliberation on the remaining agenda items, including a number of controversial items. He said that he would end the discussion and put this item to vote after all members on the wait-to-speak list had spoken.

Voting on FCR(2018-19)42

21. At 9:48 am, the Chairman put item FCR(2018-19)42 to vote. At the request of members, the Chairman ordered a division, and the division bell was rung for five minutes. The Chairman declared that 35 members voted in favour of and no member voted against the item. The votes of individual members were as follows:

For:

Mr Tommy CHEUNG Yu-yan	Prof Joseph LEE Kok-long
Mr WONG Ting-kwong	Ms Starry LEE Wai-king
Dr Priscilla LEUNG Mei-fun	Mr WONG Kwok-kin
Mrs Regina IP LAU Suk-yee	Mr Paul TSE Wai-chun
Mr Frankie YICK Chi-ming	Mr YIU Si-wing
Mr MA Fung-kwok	Mr CHAN Chi-chuen
Mr LEUNG Che-cheung	Ms Alice MAK Mei-kuen
Dr KWOK Ka-ki	Mr Dennis KWOK Wing-hang
Dr Fernando CHEUNG Chiu-hung	Mr IP Kin-yuen
Mr POON Siu-ping	Mr Alvin YEUNG

Mr Andrew WAN Siu-kin	Mr CHU Hoi-dick
Mr HO Kai-ming	Mr Holden CHOW Ho-ding
Mr SHIU Ka-chun	Dr Pierre CHAN
Ms Tanya CHAN	Mr CHEUNG Kwok-kwan
Mr LUK Chung-hung	Dr CHENG Chung-tai
Mr Jeremy TAM Man-ho	Mr Gary FAN Kwok-wai
Mr AU Nok-hin	Mr Vincent CHENG Wing-shun
Mr Tony TSE Wai-chuen	
(35 members)	

22. The Chairman declared that this item was approved.

Item 6 — FCR(2018-19)48
CAPITAL WORKS RESERVE FUND
HEAD 701 — LAND ACQUISITION

- (a) **Ex-gratia Allowance for Permitted Occupiers of Licensed Domestic Structures and Surveyed Domestic Squatter Structures Affected by Clearance**
- (b) **Domestic Removal Allowance**
- (c) **Ex-gratia Allowance for Shops, Workshops, Godowns, Slipways, Schools, Churches and Ornamental Fish Breeding Undertakings**
- (d) **Ex-gratia Allowance for Open-air/Outdoor Business Undertakings**

HEAD 701 — LAND ACQUISITION

Civil Engineering — Land acquisition

37CA — Special Ex-gratia Cash Allowance for the Kwu Tung North and Fanling North New Development Areas Project

38CA — Special Ex-gratia Cash Allowance for the Hung Shui Kiu New Development Area Project

23. The Chairman said that this item invited FC to approve the proposed ex-gratia compensation and removal allowance for government clearance and development exercises as set out in FCR (2018-19)48. Members noted that the Administration had consulted the Panel on Development on 23 May 2017 and 29 May 2018 on the proposed arrangements.

24. At the invitation of the Chairman, Mr Tommy CHEUNG, Chairman of the Panel on Development, reported on the gist of the Panel discussions that at the meetings held on 23 May 2017 and 29 May 2018, the Panel had discussed proposed enhancements to the general ex-gratia compensation and rehousing ("C&R") arrangements to be offered to eligible domestic occupants in squatters and to business undertakings affected by government development clearance exercises. Whilst welcoming the enhanced measures announced on 10 May 2018, members urged for further refinements. At the meeting held on 29 May 2018, the Panel passed four motions urging the Administration, inter alia, to ensure that households already registered in the Pre-clearance Survey ("PCS") but subsequently evicted by the lot owners would still be eligible for ex-gratia C&R arrangements; and to provide interim housing for clearerees before the Dedicated Rehousing Estates ("Dedicated Estates") were ready for population intake.

Scope and financial implications of the proposals

25. Noting that FC was not being asked to approve a quantified financial commitment, Mr CHAN Chi-chuen sought clarification on the following :

- (a) the specific issues for which FC's approval was required and the circumstances under which FC's approval would need to be sought in future;
- (b) the effective date of the enhanced measures (if approved) and the consequences, if any, if FC did not approve this item; and
- (c) a ballpark estimate of the financial implications arising from the enhancement proposals for ex-gratia allowance ("EGA").

26. In response, Permanent Secretary for Development (Planning and Lands) ("PS(P&L)) explained that :

- (a) FC had previously approved the eligibility criteria, scope and basis of assessment for various forms of EGA payable to eligible clearerees affected by government clearance exercises. Any changes to those previously approved key elements would need to be approved by FC;
- (b) the authority to approve changes to the rates of EGA calculated in accordance with the formula approved by FC

had been delegated to the Secretary for Financial Services and the Treasury;

- (c) if approved, the unified and enhanced ex-gratia C&R package would apply to eligible domestic households and business operators of all ongoing and future land resumptions/clearances, including those who had not yet received government EGA or rehousing as of the date on which the enhanced package was announced (i.e. 11 April 2017 for open-air/outdoor business undertakings, and 10 May 2018 for domestic households residing in and business undertakings operating from surveyed/licensed structures). If this item was not approved, the prevailing arrangements would continue to apply;
- (d) it was not possible to advise accurately on the financial implications at this stage as the number of domestic/business occupants varied among projects. Besides, information related to assessment of eligibility, such as the length of residence/occupation by affected households/business undertakings etc. could not be ascertained until completion of the detailed eligibility screening by the Lands Department; and
- (e) the cashflow requirements for EGAs attributable to individual public works projects would be included in the relevant Subheads of the Capital Works Reserve Fund Estimates for approval by FC. The estimated EGAs for individual projects, if applicable, would also be included in the respective funding proposals.

Implementation arrangements

Publicity and stakeholder engagement

27. Ms Alice MAK considered that the Administration should step up publicity on the enhanced ex-gratia C&R package as she had observed that many affected squatter residents were unaware of the arrangements and their entitlements, if any. Dr Fernando CHEUNG said that the proposed ex-gratia C&R package was an improvement but still fell short of the "people-oriented" objective. He considered the current proposals highly complicated, and the Administration should explain them to stakeholders thoroughly. FC should not be asked to approve the item in haste.

28. In response, PS(P&L) advised that following the announcement of the proposals on 10 May 2018, the Administration had held briefings for stakeholders, including those to be affected by government development clearances in the pipeline, and would continue its effort to keep relevant parties well-informed. Meanwhile, the Lands Department would step up publicity on the one-off voluntary registration exercise for domestic occupants in non-domestic structures covered in the 1982 Squatter Control Survey ("SCS") or licensed before 1982, which would be conducted after obtaining FC's approval of the current item.

29. Dr CHENG Chung-tai recalled that as recent as 10 January 2018 when Mr Kenneth LAU raised a related question at the Council meeting, no mention was made by the Administration of the proposed ex-gratia C&R package. Dr CHENG queried the underlying reasons for its abrupt announcement on 10 May 2018.

30. In response, PS(P&L) advised that :

- (a) the proposed ex-gratia C&R package was not an abrupt move, but had been formulated to address the concerns previously raised by local stakeholders on different occasions over their need for non-means tested rehousing, as well as relaxed eligibility criteria for ex-gratia C&R arrangements; and
- (b) given the relatively sensitive nature of EGA, premature announcement of details might give rise to possible abuse or speculation over the price or transfer of squatter units.

Discretionary considerations

31. Mr Holden CHOW sought further information on the mechanism to allow eligible households registered in PCS but subsequently evicted by lot owners before the actual clearance to apply to the Director of Lands ("D of Lands") for ex-gratia C&R arrangements on compassionate grounds. In response, PS(P&L) confirmed that under the discretionary mechanism, consideration could be given for the concerned households to apply for ex-gratia C&R arrangements on par with other eligible households cleared by Government if they could demonstrate to the satisfaction of D of Lands that their eviction was due to circumstances beyond their control and that they had not received other forms of compensation/rehousing, such as compensation from the lot owners.

32. Mr LAM Cheuk-ting urged the Administration not to take an overly strict implementation approach in order not to deprive a household of its eligibility for ex-gratia C&R arrangements. In response, PS(P&L) said that in administering the discretionary mechanism, D of Lands would handle relevant cases in a considerate and proper manner.

33. Mr LAM Cheuk-ting recalled that as submitted by the trade association "馬草壟商會", about 30 business undertakings could not be registered in the 1982 SCS due to reasons beyond their control. He called on the Administration to consider their eligibility for EGA on compassionate grounds. In response, PS(P&L) said that each case would need to be considered on its own merits, such as whether any licences had been issued for the structures, or whether the business undertaking had any outdoor operations.

34. On the exceptional arrangement to include a finite number of domestic households residing in non-domestic structures under the enhanced ex-gratia C&R package, Mr CHU Hoi-dick called on the Administration not to resort to demolish any unauthorized structure upon receiving the slightest complaint. PS(P&L) took note of Mr CHU's view and said that each case would need to be considered on its own merits.

Timetable for development projects

35. Mr LAU Kwok-fan thanked the Development Bureau for formulating the enhanced ex-gratia C&R package after years of negotiation with local stakeholders, in particular the flexibility in implementation which was conducive to the "people-oriented" philosophy. In reply to Mr LAU's enquiry about the implementation timetable in respect of the developments in New Territories North, PS(P&L) said that the Administration planned to seek funding approval for the main works of the Advance and First Stage in the first half of 2019. Subject to FC's funding approval for the works, land acquisition and clearance would take place in the latter half of 2019. If the present item was approved, the Lands Department would commence preparatory work in parallel, such as detailed eligibility screening of the affected households, pending securing FC's funding approval for the works.

36. As regards the enquiry of Mr Andrew WAN and Mr KWONG Chun-yu on the timetable for the clearance exercise at Wang Chau, PS(P&L) advised that the Transport and Housing Bureau aimed to submit the funding proposal on the relevant main works to FC by the end of 2018. After funding approval, the Lands Department would prepare for clearance.

Projects for which Pre-clearance Survey had been completed

37. Dr CHENG Chung-tai sought clarification on the special arrangement applicable to affected households in the Kwu Tung North/Fanling North ("KTN/FLN") and Hung Shui Kiu ("HSK") New Development Areas ("NDAs") projects, and whether PCS would be conducted on them again. In response, PS(P&L) and D of Lands advised that :

- (a) for the KTN/FLN NDAs, HSK NDA, Wang Chau development Phase 1 and other development projects for which PCS had already been completed before 10 May 2018, flexibility would be exercised in determining the duration of continuous residence/occupation for the purpose of assessing the eligibility of ex-gratia C&R arrangements, by taking into account not only the period before the date of PCS but also that after the date of PCS but before 10 May 2018; and
- (b) as all affected households, including "locked-and-out" cases in which notices had been served, had been captured in the completed PCSs, there was no plan to conduct a second-round PCS.

Calls for "rehousing before clearance"

38. Mr SHIU Ka-chun referred to the requests of many deputations not to commence clearance works until all affected households were rehoused, as they would not wish to live in the vicinity of works sites. Dr Junius HO sought further information on the proposed mechanism to allow eligible households affected by later phases of development projects to surrender their squatter structures early and apply for the ex-gratia C&R package.

39. In response, PS(P&L) advised that :

- (a) rehousing arrangements would be made in respect of several hundreds of eligible households affected by Advance Works and First Stage Works of the KTN/FLN NDA project prior to the commencement of clearance in 2019;
- (b) in response to concerns by households affected by later phases of large-scale development projects to be implemented by phases over an extended period of time about their having to stay in the vicinity of works areas once

the earlier phases of construction had commenced and disrupting a coherent community, a mechanism would be worked out to allow those eligible households to voluntarily apply for early surrender of and departure from their squatter structures and in turn early application for the ex-gratia C&R package;

- (c) for practical considerations, whether and if yes how applications received in the context of (b) above would be entertained had to be subject to factors such as the availability of rehousing units; and
- (d) it would not be practicable to proceed with rehousing of all eligible households affected in different phases of a project in one go. Eligible households that were more immediately affected (i.e. those closer to the initial phase(s)) would be given priority over those affected in relatively later phases.

40. Dr Fernando CHEUNG shared some members' view that the objectives of "rehousing before clearance" and "rehousing within the same district" could not be fully achieved under the current proposal.

Other assistance

41. Dr KWOK Ka-ki was concerned about the arrangement, if any, for households which could not meet any of the eligibility criteria for the enhanced ex-gratia C&R package. In this connection, PS(P&L) advised that given the nature of Domestic Removal Allowance ("DRA") as a modest cash assistance for removal, the Administration would propose to extend DRA to all households affected by government development clearances and covered in PCS, including those households :

- (a) whose squatters were totally unauthorized;
- (b) which were not eligible for EGA for permitted occupiers of licensed domestic structures and surveyed squatters affected by clearances ("EGAPO") or any form of rehousing by virtue of their having domestic properties in Hong Kong; and/or
- (c) residing in surveyed/licensed non-domestic structures with less than two years of continuous residence immediately preceding the date of PCS (as well as surveyed/licensed domestic structures pursuant to existing policy).

Issues related to EGA

42. Mr CHU Hoi-dick was concerned that the rates of EGA payable to domestic households affected by government clearances might not be realistic as they had never been adjusted in tandem with inflation. Mr KWONG Chun-yu shared similar concern. Mr LEUNG Yiu-chung questioned the adequacy of the Special Ex-gratia Cash Allowance ("SEGCA") for eligible households affected by the KTN/FLN and HSK NDA projects as its amount had not been reviewed or adjusted since 2009.

43. In this regard, PS(P&L) explained that :

- (a) all along, inflation was not the approved basis for computing the amount of EGAPPO;
- (b) EGAPPO rates were determined by reference to the latest rental data available to the Rating and Valuation Department on the average unit rental of village type houses and/or tenement buildings of the same size in the same area, and would be updated every six months accordingly;
- (c) under the current arrangement as well as the enhancement measures, both the size of the relevant structure and the length of continuous residence would be taken into account in computing the amount of EGAPPO;
- (d) before the proposed enhancement, the maximum amount of EGAPPO payable was capped at \$600,000, whereas under the revised formula, the \$600,000 cap would be replaced by a size cap at 100m² for the purpose of calculating EGAPPO amount payable (e.g. about \$1.2 million at the prevailing New Territories rate); and
- (e) SEGCA was a special arrangement offered exclusively to eligible households affected by the KTN/FLN and HSK NDA projects up to a maximum of \$600,000 regardless of the area occupied by the relevant structure. Hence, the basis of the EGA rate was different between SEGCA and EGAPPO. To qualify for the maximum SEGCA amount in KTN/FLN NDAs and HSK NDA projects, at least 26 years of continuous residence immediately preceding the date of PCS in a surveyed/licensed domestic structure was normally required without regard to the area occupied by the relevant

structure. In contrast, EGAPO was calculated based on the size of a surveyed/licensed structure as well as the duration of continuous residence immediately preceding the date of PCS.

44. Noting that under the enhanced calculation of EGAPO, a size cap of 100 m² was introduced thereby raising the maximum amount of EGAPO payable to some \$1.2 million as opposed to the existing \$600,000, Mr CHU Hoi-dick enquired about the number of squatter structures with an area of 100 m² or more. In reply, PS(P&L) said that the actual number was not available but the Administration had adopted a larger area in the formula to enhance the maximum amount of EGAPO payable.

45. Mr SHIU Ka-chun remarked that under the revised formula, very few affected households would be able to receive the maximum EGAPO of \$1.2 million as most squatter structures were only about 40 m². Mr Andrew WAN and Ms Claudia MO considered that the amount of EGAPO should be increased so as to provide greater incentive for speedy delivery of land for development purposes. Mr WU Chi-wai and Dr Fernando CHEUNG asked whether it was feasible to use the existing \$600,000 as the lower limit, with incremental increases commensurate with the size of the structure up to a maximum of \$1,209,600.

46. Mr LAU Kwok-fan did not fully subscribe to the Administration's revised formula in computing the amount of EGAPO, and enquired whether consideration could be given to adjusting the existing maximum of \$600,000 without including other factors.

47. In explaining the Administration's policy stance, PS(P&L) highlighted that :

- (a) while the non-means tested rehousing option would cater for the rehousing needs of eligible squatter occupants with at least seven years of continuous residence in surveyed/licensed structures, the EGAPO was meant to assist those occupants who could not meet the aforesaid continuous residence requirement;
- (b) under the enhanced EGAPO, it was estimated that the amount received by an affected eligible household with less than seven years' residence at the squatter would be sufficient to cover about three years' rental for village type houses and/or tenement buildings of a similar size; and

- (c) it was necessary to strike a reasonable balance between addressing the expectations of those affected by government development clearances and accounting for the prudent and justifiable use of public money and public housing resources.

Rehousing arrangements

48. Ms Alice MAK noted with concern that one of the eligibility criteria for the non-means tested rehousing option for domestic squatter occupants was the "no-domestic-property" requirement, meaning that an affected household would become ineligible even if only one of its family members owned a domestic property in Hong Kong. Ms MAK asked whether it was feasible to introduce appropriate measures, such as allowing the deletion of the property-owning family member from the household in order that its eligibility for rehousing would not be affected. PS(P&L) responded that in administering the "no-domestic-property" requirement, reference would be made to arrangements under the existing policy of the Hong Kong Housing Authority ("HKHA").

49. Mr CHU Hoi-dick and Mr KWONG Chun-yu considered it unfair that domestic households relocating to Dedicated Estates would have to pay rental at the rates of Group B rental estates operated by the Hong Kong Housing Society ("HKHS"), which was much higher than that of public rental housing ("PRH") units of HKHA. Dr Fernando CHEUNG raised similar concern and highlighted the difficulty which might be faced by vulnerable groups such as the elderly and disabled persons. In response, PS(P&L) explained that :

- (a) the current means-tested rehousing option offered by HKHA would still be available to eligible households. Non-means tested rehousing to Dedicated Estates was offered as an additional option to address stakeholders' concerns;
- (b) the proposed arrangement of applying HKHS's Group B rental was considered reasonable, given that currently, such rental was already applicable to applicants of HKHS's Group B estates on a means-tested basis;
- (c) the rental for Dedicated Estates operated by HKHS was about 50% of the prevailing market rental. HKHS had also put in place measures to assist tenants, such as elderly tenants, who encountered financial difficulty; and

- (d) affected eligible domestic occupants in surveyed/licensed domestic structures who could not afford units in Dedicated Estates could opt for rehousing to PRH units subject to meeting HKHA's eligibility criteria, including the comprehensive means test.

50. Mr Andrew WAN asked whether consideration could be given to rehousing all affected domestic households to PRH estates of HKHA. In response, PS(P&L) said that this might not be appropriate, given the large number of applicants currently waiting for allocation of PRH units. Nevertheless, to cater for the needs of affected eligible households pending completion of the Dedicated Estates, vacant units of HKHS and HKHA rental estates would be offered to them as transitional housing units.

51. Mr SHIU Ka-chun sought the Administration's view on an earlier suggestion to construct prefabricated buildings near KTN to accommodate former households in the same locality. In response, PS(P&L) said that the Administration took note of the suggestion, but considered the provision of Dedicated Estates a better option to optimize the use of land resources while addressing the rehousing needs of eligible households deeply rooted in a locality.

52. Dr KWOK Ka-ki said that he would not object to the current item. In response to his enquiry about households to be relocated to transitional units provided by HKHA/HKHS and subsequent arrangements for Dedicated Estates, PS(P&L) advised that :

- (a) subject to the availability of rental units and where practicable, arrangements could be made by HKHA/HKHS for affected eligible households to apply to HKHA/HKHS for relocation to transitional units in the same locality if they so wished; and
- (b) a second-round DRA would be offered to eligible households which opted to relocate from the transitional units to the Dedicated Estates when the latter were ready for population intake.

53. Dr CHENG Chung-tai and Mr CHAN Chi-chuen also stressed the importance of rehousing households in the same locality in close proximity to each other. In reply to Mr CHAN's enquiry, PS(P&L) confirmed that land in Area 24 of KTN had been reserved for construction of Dedicated Estates scheduled for completion in 2027 or 2028 at the earliest subject to the progress of land resumption and clearance for phase 1 of KTN/FLN

NDA's project. Eligible households affected by the Advance and First Stage Works of the KTN/FLN NDAs project could opt for rehousing to units in Dedicated Estates in KTN Area 24.

54. Mr AU Nok-hin asked whether sufficient units would be available in Dedicated Estates for eligible households of the KTN/FLN, HSK NDA projects and Wang Chau development Phase 1, and whether the households could be rehoused within the same district. Mr Steven HO expressed concerns about the sufficiency of the number of units at Dedicated Estates. In response, PS(P&L) advised that :

- (a) land had been earmarked for Dedicated Estates in the New Territories East and West to provide about 6 000 units (including both rental and subsidized sale flat units) for eligible households;
- (b) it was estimated that about 8 000 domestic households in squatters would be affected by development projects in the pipeline, including more than 3 000 affected households in the KTN/FLN, HSK NDA and Wang Chau development Phase 1 projects; and
- (c) the provision of some 6 000 Dedicated Estate units was considered adequate as not all of the 8 000 domestic households could fulfil the eligibility criteria for non-means tested rehousing.

55. On transitional units, PS(P&L) supplemented that they would be offered to eligible households pending population intake of the Dedicated Estates in 2023-2024 and 2027-2028. The actual number of eligible households requiring transitional units could not be ascertained at this juncture pending the detailed eligibility screening by the Lands Department and the number of eligible households affected by later phases of large-scale development projects but opted to surrender their squatter structures ahead of the land resumption/clearance for the concerned phase.

56. In reply to Mr AU Nok-hin, PS(P&L) confirmed that eligible households could stay in their transitional units if they did not wish to relocate to the Dedicated Estates.

57. On the questions of Mr SHIU Ka-chun and Dr CHENG Chung-tai about rehousing affected households in the KTN/FLN NDA project to Po Shek Wu ("PSW") Estate under HKHA, PS(P&L) advised that :

- (a) the PSW Estate was scheduled for completion in 2019. Under the means-tested rehousing option, eligible households affected by the said project and indicating their preference to be relocated in the district might be allocated units in PSW Estate or other PRH units in the district;
- (b) pending completion of the Dedicated Estates, HKHS and HKHA would make use of their vacant rental units (including those in PSW Estate under HKHA) to provide transitional housing; and
- (c) for prudent use of public housing resources, HKHA would not be mandated to reserve units in PSW Estate specifically for the affected eligible cleartees.

58. Mr WU Chi-wai enquired whether a similar option of Dedicated Estates would be available to those affected by other land resumption/clearance exercises, such as those carried out for urban renewal purposes. In response, PS(P&L) said that the first Dedicated Estate would be developed in New Territories. In the light of operational experience, there might be plans to develop similar estates in other districts and the Administration would engage the Urban Renewal Authority and HKHS where appropriate.

59. As regards Mr WU Chi-wai's concern about the home ownership needs of the affected households, PS(P&L) said that subsidized sale flat units were available in Dedicated Estates for purchase at a discounted rate. Mr WU further asked whether it was feasible to provide an additional option of allowing the affected households to apply for Home Ownership Scheme flats using green application forms. PS(P&L) confirmed that at present, the Administration had no plan to provide such an option. If this option was to be pursued, the views of the Transport and Housing Bureau and HKHA would need to be sought.

60. Dr Junius HO expressed support for the current item, which had taken into account the main concerns raised over the years. He considered that the existing "Well-off Tenants Policies" should not apply to households rehoused under the enhanced ex-gratia C&R package. In this regard, PS(P&L) said that the implementation of "Well-off Tenants Policies" was a measure to safeguard the prudent use of public/subsidized housing resources. Nevertheless, it would not affect the eligibility of households in government clearances for means-tested or non-means tested rehousing at the time of clearance.

Concerns about reprovisioning

61. Despite the proposed enhancements, Mr CHU Hoi-dick said that he could not support the present item, and considered the revised package defective due to some major omissions, the absence of any option for village reprovisioning being one. Mr Andrew WAN also queried why village reprovisioning could not be considered.

62. In response, PS(P&L) explained that under the existing policy, squatter structures remained unauthorized in nature and were only "tolerated" on a temporary basis until they had to be cleared for development, environmental improvement or safety reasons, or until the surveyed structure was phased out through natural wastage. Although such "tolerance" did not create any legal rights or interests or obligations, and did not confer on any person the right of occupation of land, C&R arrangements were offered to eligible occupants on an ex-gratia basis as a means to assist them. It was also considered that reprovisioning the entire village in its existing form might not be the optimal land use option.

63. Mr LEUNG Che-cheung was of the view that individual households should have the option to acquire their own land to rebuild their homes and/or resume farming. If such an option was ruled out, he said that members of the Democratic Alliance for Betterment and Progress of Hong Kong might not support this item. Mr LEUNG urged the Administration to favourably consider such cases if they did not cause any impediment to the Government's development projects. Mr CHU Hoi-dick shared Mr LEUNG's view and said that he would move a motion under paragraph 37A of the Finance Committee Procedure ("FCP 37A motion) to this effect.

64. In this connection, PS(P&L) highlighted that :

- (a) the options proposed by the members might not be conducive to optimizing land resources to meet housing and development needs; and
- (b) the Administration had put in place measures to assist farmers affected by government development projects. For instance, under the Special Agricultural Land Rehabilitation Scheme, the Development Bureau was working closely with Agriculture, Fisheries and Conservation Department ("AFCD") to assist eligible farmers affected by the KTN/FLN NDAs project in identifying suitable land in the New Territories.

65. Mr CHU Hoi-dick and Mr CHAN Chi-chuen did not fully subscribe to the Administration's view. Recalling his experience in the re-provisioning of Choi Yuen Tsuen (菜園村), Mr CHU said that while 27 hectares of land had been resumed, the re-provisioned Choi Yuen Tsuen only occupied an area of 1.5 hectares. He further opined that in implementing a unified policy, due consideration should also be given to local needs as articulated by stakeholders such as Heung Yee Kuk Councillors and District Council members.

66. Mr CHU Hoi-dick expressed his view that the existing town planning and development policies were heavily skewed towards those in power, such as golf club members, indigenous inhabitants in the New Territories and large property developers, while non-indigenous inhabitants were disadvantaged. Ms Claudia MO was of the view that instead of merely distributing resources evenly, the Administration should deploy resources by giving priority consideration to people's needs.

Issues related to business undertakings

67. Mr AU Nok-hin was concerned that upon their being evicted, business undertakings situated on brownfield sites might simply transfer their operations elsewhere, resulting in proliferation of illegal occupation of brownfield sites. He urged the Administration to step up enforcement action against such abuse, and asked whether unused sites would be earmarked for use by the evicted undertakings.

68. In response, PS(P&L) explained that :

- (a) the new type of EGA to be offered to open-air/outdoor business undertakings would not apply to business undertakings which illegally occupied government land. Moreover, to be eligible for the new type of EGA, the undertakings must have been operating for at least seven years immediately before the date of PCS;
- (b) in line with existing practice, enforcement action would be taken against illegal occupation of government land where necessary; and
- (c) currently, the Administration did not reserve sites for evicted business undertakings. While it was the responsibility of individual operators to look for new sites, they could approach the Administration for appropriate assistance if

difficulties were encountered.

69. In response to Mr Steven HO, D of Lands said that for the past few years, on average about 1 000 squatters were de-registered per year as a result of government development clearance and/or enforcement actions. In this connection, Mr Steven HO recalled a number of cases in which the farmers or fish pond owners were required to demolish part or all of a squatter structure for reasons mostly beyond their control. Mr CHU Hoi-dick supplemented that in some cases of demolition of structures, it might be the lot owner who lodged complaints with the Lands Department.

70. In response, PS(P&L) remarked that where business undertakings operating on private agricultural land or government land breached the relevant lease or short-term land instruments, it was incumbent upon the Lands Department to take enforcement actions. Whether flexibility should be exercised on account of historical or other reasons would need to be considered in the circumstances of individual cases.

71. As regards school, churches and other community facilities, Dr KWOK Ka-ki opined that the Administration should consider the feasibility of providing interim accommodation and/or reprovisioning them so that they could continue to serve the local community.

Arrangements for domesticated animals affected by clearances

72. Noting that keeping domesticated animals such as dogs was quite common among squatter occupants, Ms Alice MAK remarked that they might no longer be permitted to do so upon relocation to Dedicated Estates operated by HKHS. She was concerned about massive abandonment of domesticated animals. Ms Claudia MO raised concern about the households' liberty to keep animals upon rehousing. Mr CHU Hoi-dick found it difficult to support the present item because no funding had been earmarked for handling domesticated animals upon clearances and household removals. Mr CHAN Chi-chuen and Mr SHIU Ka-chun urged for serious attention on this issue as according to their observation, many squatter occupants were deeply attached to their animals.

73. In response to members' concerns, PS(P&L) and Senior Agricultural Officer (Agri-Park and Land), Agriculture, Fisheries and Conservation Department advised that :

- (a) the Administration would continue to engage HKHS in discussion on how best to cater for animal-keeping needs

without adversely affecting the management of Dedicated Estates;

- (b) a variety of measures were implemented by AFCD to deal with stray dogs/cats, such as stepping up public education and arranging neutering of animals awaiting adoption;
- (c) as far as dogs were concerned, their owners were advised to contact AFCD via the government hotline in order that AFCD could take stock of the situation and render appropriate assistance; and
- (d) at present, AFCD was working closely with a network of 19 animal welfare organizations and would seek to increase the number of partnering organizations with a view to enhancing services.

74. Given that more government development projects in the New Territories were in the pipeline, Ms Claudia MO deplored the absence of a clear policy on how domesticated animals affected by such projects would be handled. In this regard, the Chairman asked AFCD to provide a written response to Ms MO's concerns.

[Post-meeting note: The supplementary information provided by the Administration was issued to members vide LC Paper No. FC 334/17-18(01) on 9 October 2018.]

Compensation for crops and fish loss

75. Mr LEUNG Che-cheung enquired about the compensation payable to farmers for losses caused to their crops and fish stock due to government development clearances, and considered that relevant information on the computation method should be disclosed to the affected parties. Mr Andrew WAN asked whether compensation for losses caused to crops would also be enhanced. In this regard, PS(P&L) clarified that compensation for such losses was outside the scope of the current item. Nevertheless, she agreed to relay members' concerns to relevant authorities for consideration.

[Post-meeting note: The supplementary information provided by the Administration was issued to members vide LC Paper No. FC 334/17-18(01) on 9 October 2018.]

76. Mr CHU Hoi-dick was of the view that the existing method of compensating crop loss as a result of land resumption was highly anomalous. Instead of making a holistic assessment on business/profits loss, compensation was computed on the basis of the quantity of crops grown as of a specified date. Mr CHU referred to Long Valley (壟原) where rice fields had been replaced by banana trees in order to attract a higher amount of compensation upon resumption. He urged the Administration to engage the farming sector in discussing how the existing compensation for crop loss should be revamped.

77. Mr CHAN Chi-chuen questioned the rationale for registering farmers only at the time of actual clearance but not earlier, as in the case of occupants of squatters. In response, PS(P&L) explained that this was due to the need to confirm the incumbent farmers, given the relatively fluid nature of agricultural activities. Nevertheless, the Administration maintained an open position on the matter as long as there was no duplication of compensation paid to the same farmer. PS(P&L) supplemented that more flexible arrangements were currently adopted in AFCD's agricultural rehabilitation efforts under which assistance would still be provided to farmers who had moved out of the site concerned.

Arrangement for scrutiny of the item

78. The meeting was suspended at 11:00 am and resumed at 11:07 am.

79. At about 12:10 pm, the Chairman reminded members that the current item had been discussed for over three hours. He had also received two FCP 37A motions. Whilst appreciating the concerns of individual members over specific cases, he called on them to pursue the cases with the Administration through other channels. In view of the large number of important funding proposals, including those related to the Third Runway System, proposed injection into the Gifted Education Fund, Electricity Charges Relief Scheme and eight staffing proposals, the Chairman said that he would conclude discussion on the current item at this meeting, in order that FC could proceed to vote and deal with the remaining items at tomorrow's four-hour meeting. At about 1:00 pm, Dr CHIANG Lai-wan expressed her view that FC should strive to approve the proposed injection into the Gifted Education Fund within the current legislative session. At 12:51 pm, the Chairman directed to extend the meeting for 15 minutes.

80. After all members on the wait-to-speak list had spoken, the Chairman summed up that FC had completed deliberation on the current

Action

item. He would proceed to deal with the FCP 37A motions proposed by members at the start of the meeting tomorrow.

81. The meeting ended at 1:15 pm.

Legislative Council Secretariat
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