

## **ITEM FOR PUBLIC WORKS SUBCOMMITTEE OF FINANCE COMMITTEE**

### **HEAD 701 – LAND ACQUISITION**

#### **Civil Engineering – Land acquisition**

#### **36CA – Special ex-gratia payments in relation to the Liantang/Heung Yuen Wai Boundary Control Point Project**

Members are invited to recommend to Finance Committee the creation of a new subhead **36CA** under **Head 701 – Land Acquisition** for the payment of special ex-gratia allowance, comprising special ex-gratia cash allowance and domestic removal allowance, at an estimated total cost of \$211 million to households affected by land resumption and clearance required under the Liantang/Heung Yuen Wai Boundary Control Point Project.

### **PROBLEM**

To make way for the implementation of the Liantang/Heung Yuen Wai Boundary Control Point and its connecting road (the BCP Project<sup>1</sup>) for commissioning by 2018, we need to clear Chuk Yuen Village in Ta Kwu Ling and other structures located along the alignment of the connecting road (CR) in the Ta Kwu Ling/Ping Yeung area, Loi Tung North and the Kau Lung Hang/Kiu Tau area in a timely manner.

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<sup>1</sup> The BCP Project comprises the BCP proper, which includes the passenger terminal building, immigration kiosks, public transport interchange and other ancillary facilities, and the connecting road between the BCP proper and Fanling Highway.

## PROPOSAL

2. The Secretary for Development proposes to provide special ex-gratia allowance, comprising special ex-gratia cash allowance (EGCA) and domestic removal allowance (DRA), exclusively for eligible households affected by the BCP Project. The total cost of the proposed special ex-gratia allowance is estimated at \$211 million.

## JUSTIFICATION

3. The Liantang/Heung Yuen Wai BCP will be the seventh land crossing between Shenzhen and Hong Kong. It will bring significant benefits to Hong Kong. It will connect the Shenzhen Eastern Corridor<sup>2</sup> in Shenzhen and provide an efficient access to eastern Guangdong and the adjacent provinces via the Shenzhen-Huizhou and Shenzhen-Shantou Expressways (Enclosure 1). This will significantly shorten the travelling time between Hong Kong/Shenzhen and eastern Guangdong, and southern Fujian and Jiangxi Provinces, and greatly facilitate future regional cooperation and development. The BCP has strategic significance for a closer integration of Hong Kong and Shenzhen, which is in line with the policy to consolidate Hong Kong's status in the Pearl River Delta regional development. From the local perspective, the BCP would help redistribute the cross-boundary vehicular traffic amongst the crossings in the east. This would alleviate the frequent traffic congestion at Man Kam To Control Point and provide room for improvement at Man Kam To and Sha Tau Kok Control Points. The resultant overall handling capacity and the quality of service of these boundary crossing points would be greatly enhanced. This major infrastructure project has strategic significance for Hong Kong's future development. It is featured in the Framework Agreement on Hong Kong/Guangdong Cooperation signed in April 2010 and included as one of the major cooperation projects in the National 12<sup>th</sup> Five-Year Plan.

4. As agreed with the Shenzhen side, the new BCP is scheduled for commissioning no later than 2018. The CR should also be completed by then to tie in with the commissioning of the BCP. To meet this timetable, works for the BCP Project would have to start by December 2012 at the latest. It is therefore critical to clear Chuk Yuen Village to make way for the BCP proper as well as the domestic squatter structures located along the alignment of the CR without which the BCP Project would not be functional.

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<sup>2</sup> The Shenzhen Eastern Corridor aims to realise the Shenzhen Municipal Government's transport planning principle of "East in East out" for goods vehicles. It is a dual three-lane expressway linking up the BCP at Liantang with the existing Shenzhen-Huizhou Expressway to Huizhou and Shenzhen-Shantou Expressway to Shantou.

5. To ensure the smooth clearance of land for the timely completion of the BCP Project, as we reported to the Panel on Development on 22 November 2011 (Panel Paper No. CB(1)346/11-12(04)), we have previously decided to offer the following special arrangements, in addition to the compensation and rehousing arrangement available under existing policy (as outlined at Enclosure 2), for the resumption and clearance of Chuk Yuen Village –

- (a) the 15 Small House applications submitted by indigenous villagers (IVs)<sup>3</sup> of Chuk Yuen Village before the announcement of the BCP Project be dealt with under a special arrangement by reserving a site for each of them in the Resite Village and requiring them to pay the concessionary land premium without inclusion of the resumption, clearance, site formation and engineering costs associated with the Resite Area; and
- (b) eligible non-IVs<sup>4</sup> residing within the village environs (VE) of Chuk Yuen Village be offered a “Cottage House Option”<sup>5</sup> as an alternative to the existing rehousing arrangement and be given a choice in the method of payment of land premium.

The “Cottage House Option” is justified to provide an alternative to the non-IVs residing within the VE of Chuk Yuen Village in satisfying their rehousing needs such that the special circumstances of a closely-knitted village community located in the remote Frontier Closed Area (FCA) can be preserved<sup>6</sup>.

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<sup>3</sup> “Indigenous villager”(IV) means a male person at least 18 years old who is a descendent through the male line from a resident in 1898 of a recognised village.

<sup>4</sup> “Non-indigenous villager” (Non-IV) means a villager other than an IV. Moreover, female descendents of IV who are not entitled to Small House grant under the existing Small House Policy would also be regarded as non-IV.

<sup>5</sup> Under the “Cottage House Option”, the non-IV may be allowed to build in the adjoining area to the Chuk Yuen Resite Area a two-storey domestic structure with a maximum roofed-over area of 500 square feet on a “structure-for-structure” basis, subject to the condition that he/she is to purchase a suitable piece of agriculture land within the Extended Village Area for an in-situ land exchange to be executed by the Government.

<sup>6</sup> Both the IVs and non-IVs are long-term residents of Chuk Yuen Village and desire to continue residing together to maintain the traditional and historical social ties and coherence of the village community which will otherwise be destroyed. Also, suitable private agricultural land adjoining the Chuk Yuen Resite Area is available for village type development.

6. While the affected villagers of Chuk Yuen Village generally welcomed the special arrangements, representatives of the non-IVs indicated that they would not have the financial means to realise the “Cottage House Option” for which they have to buy a piece of agricultural land for building the Cottage House through a land exchange and pay for the premium for the land exchange, in addition to paying for the construction cost of the Cottage House. They requested the Government to provide them with a special cash allowance of \$600,000. Some of them further requested that the Government provide them with low interest loan. Some of the villagers residing outside the VE of Chuk Yuen Village, in Chuk Yuen South, requested the same “Cottage House Option” and claimed that they also have close ties with their fellow villagers residing within the VE of Chuk Yuen Village<sup>7</sup>. On another front, villagers outside Chuk Yuen Village whose domestic squatter structures would have to be cleared to make way for the construction of the CR had also raised objection under the road gazetting procedure for the CR and demanded that a special cash allowance be provided to them to help meet their rehousing needs.

7. As pointed out in paragraph 3 above, the BCP Project is a strategically important one which will bring significant benefits to Hong Kong, and the smooth and timely clearance of Chuk Yuen Village and the structures located along the alignment of the CR is critical to meeting the committed commissioning date of 2018. We therefore consider that, in addition to the special arrangements as mentioned in paragraph 5 above, a special ex-gratia allowance should also be provided. It should be emphasised that the intention of the special ex-gratia allowance is not to compensate for the land on which the squatter structures currently stand, but rather to provide special ex-gratia assistance for long-term residence having regard to the circumstances surrounding the residents at the areas affected by the land resumption and clearance under the BCP Project. The proposed special ex-gratia allowance will facilitate smooth clearance of Chuk Yuen Village and other relevant sites, thereby enabling the timely implementation and completion of the BCP Project.

### **Proposed Special Ex-gratia Allowance for households affected by the BCP Project**

8. The proposed special ex-gratia allowance comprises the following two components (details are provided at Enclosure 3) –

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<sup>7</sup> We have later decided to extend the “Cottage House Option” to non-IVs residing in Chuk Yuen South outside the VE of Chuk Yuen Village. Details are provided in paragraph 25 below.

- (a) Special EGCA for “Qualified Households”  
To meet the special rehousing needs, “Qualified Households” affected by the clearance exercise for the BCP Project will be offered a special EGCA at a maximum amount of \$600,000, subject to their satisfying the eligibility criteria described in paragraph 10 below.
- (b) DRA for all affected households  
Under the current policy, occupiers of domestic structures surveyed for dwelling purpose in the 1982 Squatter Structure Survey are eligible for a DRA ranging approximately from \$3,000 to \$12,000, depending mainly on the size of the family, to help them meet the initial cost of moving. We propose that all households affected by the BCP Project and covered by the pre-clearance surveys may be eligible for DRA in view of the disturbance caused to them as a result of the clearance.

9. The proposed special ex-gratia allowance exclusively for households affected by land resumption and clearance of sites required for the BCP Project would go beyond the present compensation and rehousing arrangements under the existing policy. Recipients of the special EGCA would have to give up their entitlement to other forms of rehousing under the prevailing policy including rehousing to public rental housing (PRH) or interim housing (IH), and receipt of ex-gratia allowance for permitted occupiers (in lieu of IH) and rehabilitation allowance. They will be barred from applying for any form of subsidised housing or related benefits for three years from the date of receipt of the special EGCA (details are provided in paragraphs 12 and 13 of the note at Enclosure 3).

### **Eligibility Criteria for Special EGCA**

10. The two cornerstone requirements of the squatter control policy (i.e. “the 1982 domestic structure requirement” and “the 1984/85 occupancy requirement”) will be adhered to in determining the eligibility for the special

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EGCA<sup>8</sup>. Details of the eligibility criteria for being a “Qualified Household” to receive the special EGCA are provided in paragraphs 7 to 10 of the note at Enclosure 3. In gist, a “Qualified Household” eligible for the special EGCA should meet the following conditions –

- (a) the household should reside in an affected structure at the date of the pre-clearance survey;
- (b) the affected structure should be either a domestic structure covered by the 1982 Squatter Structure Survey (“1982 surveyed domestic squatter”) or a structure licensed for domestic usage which is not built on a piece of building land;
- (c) the household should be covered by the 1984/85 Squatter Occupancy Survey or can produce evidence proving that it has resided in the affected structure for at least the same duration;
- (d) no household member should own or co-own any domestic properties in Hong Kong, or own more than 50% share in any company that owns domestic property in Hong Kong, or have entered into any agreement to purchase domestic property from the date of the pre-clearance survey up to the date of receipt of the special EGCA;
- (e) no household member should be granted any other form of ex-gratia allowance in respect of the same structure upon receipt of the special EGCA, except for the DRA as referred to in paragraph 8(b) above;

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<sup>8</sup> To contain the squatter problem, the Government conducted territory-wide surveys on squatter structures in 1982 and their occupiers in 1984/85. The occupation of these squatter structures is tolerated until they are subject to clearance because of a public project, safety or environmental concerns. As a matter of principle, tolerated squatter structures for residential purpose should be domestic structures covered by the 1982 Squatter Structure Survey (“the 1982 domestic structure requirement”). Domestic squatter structures occupiers should be covered by the 1984/85 Squatter Occupancy Survey (“the 1984/85 occupancy requirement”). The two requirements are the cornerstones of the prevailing squatter control policy. At present, there are over 300 000 surveyed non-domestic squatter structures and over 85 000 surveyed domestic squatter structures all over the territory.

- (f) no household member should at present be enjoying any form of subsidised housing or related benefits, or be subject to debarment as a result of previous enjoyment of any form of subsidised housing or related benefits;
- (g) all members of the household choosing the special EGCA should undertake not to apply for any form of subsidised housing and related benefits for a period of three years counting from the date of receipt of the special EGCA<sup>9</sup>; and
- (h) households should apply for the special EGCA and move out of the clearance site before specified deadlines.

11. If more than one household reside in one licensed domestic structure or 1982 surveyed domestic squatter, they will be collectively considered as one “Qualified Household”. On the other hand, a nucleus family, comprising parents and their dependent children, will be considered as one household even if it occupies more than one licensed domestic structure or one 1982 surveyed domestic squatter, unless the Director of Lands considers otherwise based on the circumstances of the household(s) involved.

### **Discretion of Secretary for Development**

12. As mentioned in paragraph 10 above, “the 1982 domestic structure requirement” and “the 1984/85 occupancy requirement”, which are the cornerstone requirements of the squatter control policy, will be adhered to in determining the eligibility for the special EGCA. However, to provide flexibility in this clearance exercise to address the special rehousing needs of households that do not fully comply with the eligibility criteria, the Secretary for Development is authorised to determine whether such households may be offered a reduced special EGCA. The amount of special EGCA granted to these households would range from \$300,000 to \$600,000. To this end, the Secretary for Development will decide, at her discretion on a case-by-case basis, in respect of an application of a household on –

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<sup>9</sup> The proposal of barring recipients of special EGCA from applying for any form of subsidised housing and related benefits is subject to Housing Authority’s consent as with previous cases.

- (a) whether it should be eligible to receive the special EGCA notwithstanding that it does not fully meet the requirements to be a “Qualified Household”; and
- (b) if such a household is so eligible, whether and to what extent the amount of special EGCA to be offered to the household should be reduced.

13. We will set up an Inter-departmental Advisory Panel to advise the Secretary for Development on exercising the above discretion. The households will be given the opportunity to make written representation to the Secretary for Development for consideration. The decision of the Secretary for Development shall be final. Details of the discretion of the Secretary for Development and mechanism for her to exercise the discretion are set out in paragraphs 15 to 19 of the note at Enclosure 3. Paragraph 24 of Enclosure 3 also gives a list of factors that the Secretary for Development and the Inter-departmental Advisory Panel may take into consideration before the Secretary for Development exercises her discretion. In exercising the discretion, the Secretary for Development may consider, but is not bound by, such factors.

#### **Adequacy of Assistance to be Provided to Affected Clearees**

14. We believe that the special ex-gratia allowance and rehousing arrangements, together with the existing compensation and rehousing arrangement under the existing policy, should provide suitable, flexible and adequate assistance to all the clearees affected by the BCP Project in meeting their rehousing needs. Depending on whether they meet the relevant eligibility criteria, the clearees affected by the BCP Project may have various choices to meet their special rehousing needs –

- (a) clearees who are owners of agricultural/building land – the applicable ex-gratia zonal compensation rate would be upgraded from Zone C and Zone D rate to Zone A rate (details are provided in PWSC(2012-13)26 on the proposed works for the BCP Project);
- (b) clearees who are IVs eligible for village removal terms – they may be rehoused in resite houses and/or receive cash compensation under the New Territories Village Removal Policy;

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- (c) clearees who are genuine farmers – they may apply for a short-term waiver to build a two-storey domestic structure not exceeding a height of 5.18 metres (17 feet) with 37.1 square metres (400 square feet) on agricultural land purchased on their own under the prevailing agricultural resite policy and may also receive Rehabilitation Allowance under the existing compensation arrangement;
- (d) clearees who prefer to live in PRH – if they meet the Comprehensive Means Test, the 1982 domestic structure and 1984/85 occupancy requirements and other PRH criteria, they would have priority in rehousing to PRH;
- (e) clearees who prefer private accommodation in a rural environment – if they are “Qualified Households” for the special EGCA, the allowance will assist them in renting/buying such an accommodation in the private market;
- (f) clearees who are eligible for “Cottage House Option” – if they are also “Qualified Households” for the special EGCA, the allowance will assist them to meet the cost for building the cottage house; and
- (g) clearees who do not fully meet the eligibility criteria of “Qualified Household” for the special EGCA – the Secretary for Development may exercise discretion to consider whether they should be granted the special EGCA.

15. We consider that the special ex-gratia allowance will be conducive to achieving a smooth clearance and resumption of the land required for the BCP Project. The discretion of the Secretary for Development will provide sufficient flexibility to handle households with special circumstances. We will emphasise to the affected households that the terms and conditions in the special assistance are non-negotiable and it is strictly offered on an ex-gratia basis.

**/FINANCIAL .....**

## FINANCIAL IMPLICATIONS

16. By making reference to 1982 Squatter Structure Survey record and the pre-clearance surveys undertaken on 18 September 2008, 12 November 2010 and 9 September 2011, the number of households affected by the BCP Project is estimated at 344<sup>10</sup>. We estimate that the total cost of the special ex-gratia allowance (comprising both the special EGCA and DRA) to be \$211 million, broken down as follows –

	<b>\$ million</b>
(a) DRA <sup>11</sup>	4.13
(b) Special EGCA <sup>12</sup>	206.40
	210.53
(c) Provision for contingency	0.47
	211.00

17. The proposed provision of special EGCA and DRA carries no recurrent implications.

## PUBLIC CONSULTATION

18. Since the announcement of the BCP Project in 2008, we have been engaging the affected villagers of Chuk Yuen Residents Village Removal Committee (RVRC) with the participation and assistance of Heung Yee Kuk. When we briefed the RVRC on 2 April 2012 on the proposed special ex-gratia

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<sup>10</sup> It is assumed that there would be one “Qualified Household” in each of the affected structures.

<sup>11</sup> Assuming that all affected households would get the maximum amount of domestic removal allowance (i.e. \$12,000) without netting off those who are already eligible under the existing package.

<sup>12</sup> Assuming that all qualified households would get the maximum amount of special EGCA (i.e. \$600,000).

allowance, for which we would seek funding approval from the Finance Committee, and the enhancement to the Cottage House Option, the RVRC strongly supported them and has subsequently written to the Legislative Council Panel on Development appealing to the support of Members of the Finance Committee for the Government's funding application for the special ex-gratia allowance (see Enclosure 4). The chairmen of the Ta Kwu Ling, Sha Tau Kok and Tai Po Rural Committees have been informed of the special arrangements for land resumption and clearance. They generally welcomed the proposed special ex-gratia allowance.

19. We consulted the Legislative Council Panel on Development on 24 April 2012. Members had no objection to the proposal.

### **ENVIRONMENTAL IMPLICATIONS**

20. While the proposed provision of special EGCA and DRA carries no environmental implications, construction of the new BCP is a designated project under the Environmental Impact Assessment Ordinance (EIAO). To mitigate the environmental impacts of the construction and implementation of the BCP Project, effective control and mitigation measures will be implemented in accordance with the statutory and administrative requirements including those under EIAO. Details are provided in PWSC(2012-13)26 on the proposed works for the BCP Project.

### **HERITAGE IMPLICATIONS**

21. The proposed provision of special EGCA and DRA carries no heritage implications. The heritage implications arising from the BCP Project have been elaborated in PWSC(2012-13)26 on the proposed works for the BCP Project.

### **LAND ACQUISITION**

22. To make way for implementation of the BCP Project, we will resume a total of about 417 681 square metres (m<sup>2</sup>) of private land and cleared 513 500 m<sup>2</sup> of government land for the proposed site formation and infrastructure works. The land resumption and clearance will affect 772 lots (including 723 agricultural lots and 49 building lots) involving 585 persons, and 19 commercial/industrial undertakings. Apart from the proposed \$211 million special ex-gratia payments, the cost of land resumption and clearance for the BCP Project is estimated at \$4,062.37 million, of which a detailed breakdown is provided in PWSC(2012-13)26 on the proposed works for the BCP Project.

**/BACKGROUND .....**

## BACKGROUND INFORMATION

### Cooperation between Hong Kong and the Mainland

23. At the first meeting of the Hong Kong-Shenzhen Joint Task Force on Boundary District Development (the Joint Task Force) on 10 March 2008, both sides agreed to set up a Working Group to expedite the related planning work. A preliminary planning study jointly commissioned by the HKSAR Government and Shenzhen Municipal Government confirmed in June 2008 the need for a new BCP at Liantang/Heung Yuen Wai. At the second Joint Task Force meeting on 18 September 2008, both sides agreed to proceed with the new BCP Project. Following this, it was agreed at the meeting of the Hong Kong-Shenzhen Joint Task Force on 23 November 2009 that both sides would work towards the target of opening the new BCP by 2018. This target was included in the 2010 Work Plan of the Framework Agreement on Hong Kong/Guangdong Co-operation signed by Guangdong and Hong Kong on 7 April 2010.

### “Cottage House Option”

24. Chuk Yuen Village, which is a pre-1898 recognised village located within the FCA with entry restrictions, will be cleared for construction of the BCP. The IVs and non-IVs of the village have been living there together for a long time and have expressed a strong wish to continue living together after relocation of the village. In view of these unique circumstances, we have decided to provide a special arrangement of “Cottage House Option” to non-IVs residing within the VE of Chuk Yuen Village as an alternative to satisfying their rehousing needs under the prevailing policy<sup>13</sup> such that the special circumstances of a closely knitted community located in the remote FCA can be preserved. Under the “Cottage House Option”, the non-IVs may, on a “structure-for-structure” basis (rather than on a household basis), purchase suitable agricultural land in the Extended Village Area adjoining the Village Resite Area and apply to Lands Department for building a 2-storey domestic structure (originally of 17 feet high) with a maximum roofed-over area of 500 square feet per floor on their purchased private agricultural land by way of an in-situ land exchange, subject to their paying full market value premium for the land exchange. The Secretary for Development will exercise her discretion on a case-by-case basis whether a non-IV residing within the VE of Chuk Yuen Village who does not fully meet the eligibility criteria should be granted the “Cottage House Option”.

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<sup>13</sup> Under the prevailing policy, the non-IVs who do not own any building land are not entitled to the New Territories Village Removal Policy and are only eligible for rehousing to PRH upon meeting the comprehensive means test, or IH or an ex-gratia allowance for permitted occupiers in lieu of IH, or in the case of genuine farmers, the agriculture resite arrangement.

25. Taking account of the villagers' responses to the "Cottage House Option", we have decided to enhance the Option by extending it to eligible non-IVs residing in Chuk Yuen South<sup>14</sup>, subject to the determination by the Secretary for Development at her discretion on a case-by-case basis, provided that their claim of strong social ties could be established and recognised by the Chuk Yuen Village community. Their eligibility criteria for the "Cottage House Option" are the same as their fellow non-IVs residing within the VE of Chuk Yuen Village and the Secretary for Development's discretion on whether a non-IV, who does not fully meet the eligibility criteria, should be granted the "Cottage House Option" is also applicable to them. We have also agreed to relax the maximum building height of the Cottage House from 17 feet to 19 feet in response to the villagers' request for taking into account the requirement for installation of ceiling fans.

26. Non-IVs opting for the "Cottage House Option" would need to pay upfront for the costs for acquiring agricultural land, paying full market value premium for the land exchange and constructing the cottage house. To help ease their financial hardship, we have also agreed to offer choices in the method of payment of the land premium. The non-IV household can –

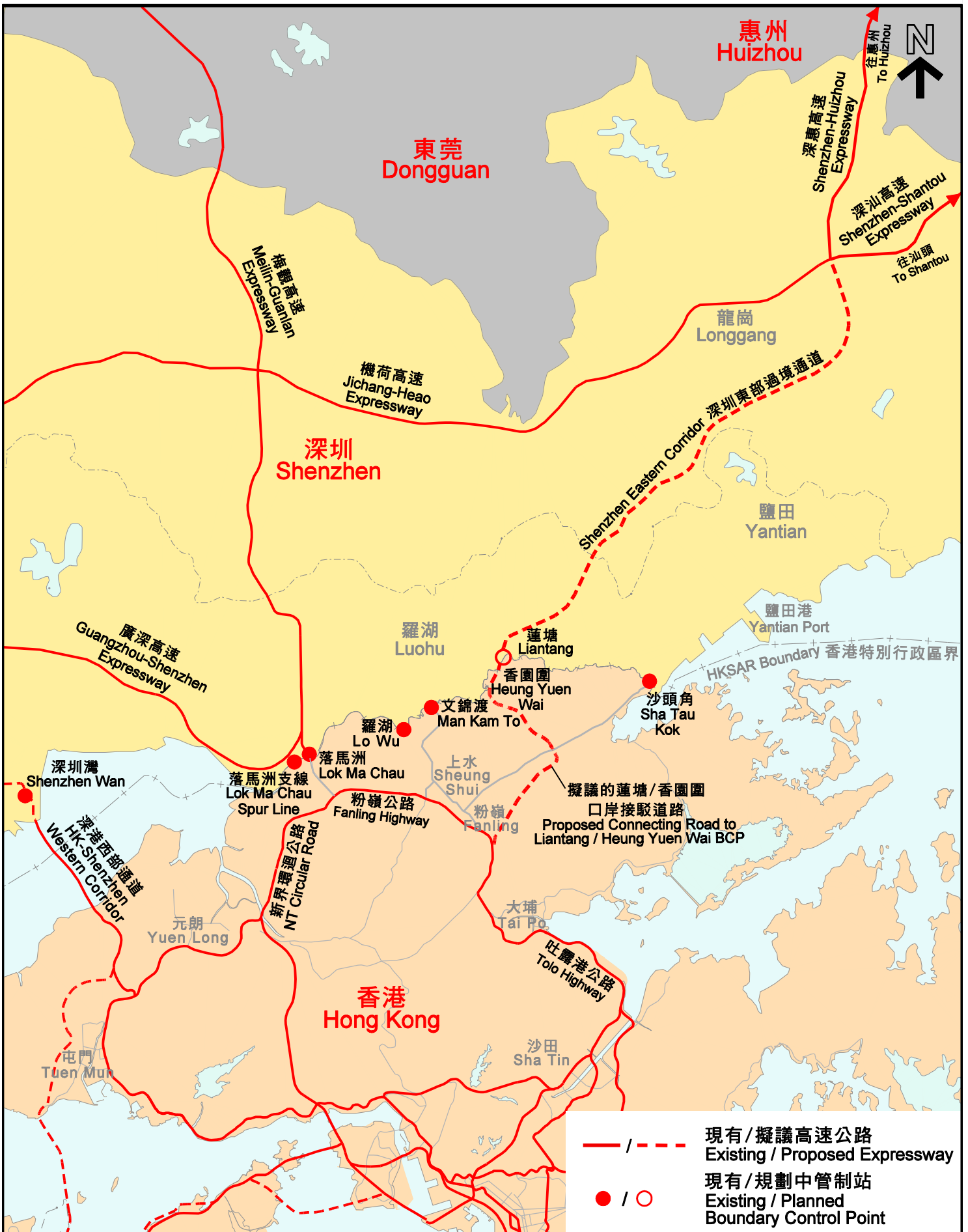
- (a) pay the land premium in full upfront upon the land exchange;
- (b) pay 20% of the land premium upfront upon the land exchange and pay the remaining 80% of the land premium by annual instalments up to three years at the prevailing No-Gain-No-Loss interest rate; or
- (c) pay a nominal premium at \$1,000 upon execution of the land exchange and then the land premium in full when they apply for removal of the non-assignment clause in the conditions of exchange for selling their cottage houses while such applications may only be approved after three years from the issuance of the Certificate of Compliance under the conditions of exchange.

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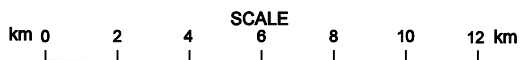
**Development Bureau**  
**May 2012**

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<sup>14</sup> Chuk Yuen South is an existing cluster of domestic structures in Ta Kwu Ling which lies outside the VE of Chuk Yuen Village but within the village representative election boundary of Chuk Yuen Village (as at the pre-clearance survey date on 12 November 2010) and is affected by the BCP Project. Non-IVs residing in Chuk Yuen South claim that they have strong social ties with their fellow villagers residing in the VE of Chuk Yuen Village.



**蓮塘 / 香園圍口岸及深圳東部過境通道**  
Liantang / Heung Yuen Wai  
Boundary Control Point and  
Shenzhen Eastern Corridor



PLANNING DEPARTMENT 規劃署



Plan No. 圖則編號: M/CID/12/100

PLAN

Date 日期: 16-04-2012

**PRESENT COMPENSATION AND REHOUSING  
ARRANGEMENTS UNDER EXISTING POLICY  
FOR LAND RESUMPTION AND SITE CLEARANCE  
IN THE NEW TERRITORIES**

This note summarises the present compensation and rehousing arrangements under existing policy for land resumption and site clearance in the New Territories.

**Village Removal**

2. Under the existing New Territories Village Removal Policy, village removal exercises are carried out by negotiations wherever possible. Where land resumption is required to facilitate implementation of public works, the affected indigenous villagers (IVs) who own building lots or non-IVs who have owned building lots pre-war (prior to 25 December 1941) or by succession may be provided with village resites when their building lots are resumed. The resite house entitlements, taking into account the site area involved, would either be in the form of resite houses built by Government or a site (without a house on it) plus a building allowance equivalent to the building costs of a Government-built resite house, or in cash, known as house allowance which is equivalent to the full market value of a resite house. When post-war New Grant building lots including Small Houses granted under Small House Policy are resumed, eligible IV owners would be compensated by the grant of resite houses in the Resite Area provided that the building development has been completed. Where the building development has not been completed, the IV owner would be given a building site only in the Resite Area.

**Ex-gratia Allowances for Farmers/Agricultural Resite**

3. Ex-gratia allowances (EGA) are payable to genuine farmers in the New Territories affected by resumption or clearance. These include, amongst others, crop compensation, assessed on the basis of the market value of the crops under cultivation; disturbance allowance to assist them to re-establish elsewhere; EGA for qualified farm structures on private land, assessed at standard rates with reference to the type and floor area less depreciation value which makes references to the condition of the affected farm structures; and EGA for miscellaneous permanent improvements to farms relating to farm installations and fixtures such as water ponds, wells, fences, irrigation pipes/ditches, boundary walls, gates, bunds and other minor annexures to agricultural land, assessed at standard rates which are based on the standard replacement rates of the items less their depreciated value.

4. If a genuine farmer, certified by Agriculture, Fisheries and Conservation Department (AFCD), chooses to continue farming elsewhere, he would be eligible for agricultural resite, i.e. to rent (or purchase) private agricultural land to continue farming and as such may apply for a short-term waiver to permit erection of a 2-storey domestic structure of a height of 5.18 metres (m)/17 feet (ft) and a maximum roofed-over area of 37.16 m<sup>2</sup>/400 ft<sup>2</sup> on their purchased private agricultural land at a rate of \$52 per m<sup>2</sup> per annum. An EGA in the form of Rehabilitation Allowance may also be payable to eligible farmers based on a standard rate calculated with reference to removal expenses and construction cost of a replacement temporary building.

### **Land compensation**

5. Owners of private land, either building land or agricultural land, affected by resumption in the New Territories are eligible for the ex-gratia zonal land compensation as an alternative to statutory claims under the relevant resumption ordinance. The New Territories is divided into 4 compensation zones (i.e. A, B, C and D) which are shown on the Zonal Plan for Calculation of Compensation Rates. The compensation rates for different zones are expressed in terms of varying percentages of the basic rates for agricultural and building land. For owners of building land, compensation offers may be made based on professional valuation plus an ex-gratia compensation at the relevant zonal rate. For owners of agricultural land, compensation may be offered on the relevant ex-gratia compensation rates. If owners are dissatisfied with the ex-gratia compensation offered by Government, they may opt for statutory compensation.

### **Structures**

6. The following structures are not eligible for compensation or EGA:
- (a) temporary licensed structures on unleased Government land or on private agricultural land, which were built or have existed in compliance with a licence, modification of tenancy, or other similar form of Government permission issued by the Lands Department; or
  - (b) tolerated unauthorised squatters covered by 1982 Squatter Structure Survey; or
  - (c) simply unauthorised structures.

### **Occupiers**

#### *Rehousing to Public Rental Housing (PRH) or Interim Housing (IH)*

7. To meet genuine housing needs, the following types of occupiers may be eligible for rehousing to PRH or IH:

- (a) occupiers of legal/permitted domestic properties resumed by Government if they satisfy the eligibility criteria for PRH or IH and can produce evidence that they have been living in the area since and before the date of the pre-clearance survey;



- (b) permitted occupiers of a licensed domestic structure on unleased Government land or on private agricultural land if they satisfy the eligibility criteria for PRH or IH; and
- (c) permitted occupiers of a surveyed domestic structure on private agricultural land or unleased Government land (i.e. the structure was covered by the 1982 Squatter Structure Survey and the occupiers were registered in the 1984/85 Squatter Occupancy Survey) if they satisfy the eligibility criteria for PRH or IH.

*Domestic Removal Allowance*

8. Occupiers of squatter structures surveyed for domestic purpose in the 1982 Squatter Structure Survey are eligible for a Domestic Removal Allowance to help them meet the initial cost of moving. The amount payable to each household depends mainly on the size of the family.

*Ex-gratia allowance for permitted occupiers (EGAPO)*

9. For permitted occupiers of a licensed domestic structure or a surveyed domestic structure, if they are not eligible for PRH but offered IH, they may opt for EGAPO in lieu of IH. Clearees receiving EGAPO will not be eligible for any other EGAs (including Domestic Removal Allowance) in respect of the same structure and they will be ineligible to apply for any form of public housing or related benefits for the next two years. For example, for a one-storey domestic structure with an area of 400 ft<sup>2</sup>, the EGAPO will be about \$140,000.

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**SPECIAL EX-GRATIA ALLOWANCE  
EXCLUSIVELY FOR HOUSEHOLDS AFFECTED BY LAND  
RESUMPTION AND SITE CLEARANCE REQUIRED UNDER  
THE LIANTANG/HEUNG YUEN WAI  
BOUNDARY CONTROL POINT PROJECT**

**BACKGROUND**

The new Boundary Control Point (BCP) at Liantang /Heung Yuen Wai and its associated connecting road in the North-eastern New Territories (“the BCP Project”<sup>1</sup>) is a major infrastructure project with strategic territory-wide significance for Hong Kong’s future development. Timely and smooth clearance of sites affected by the BCP Project is essential to enable the commencement of construction in order to meet the target commissioning the BCP in 2018.

2. The special ex-gratia allowance is offered exclusively to households residing at the sites to be resumed and cleared under the BCP Project (“affected households”). This is a special arrangement to assist them to meet their rehousing needs, so that the sites required for the BCP Project can be cleared as soon as possible for the timely implementation of the BCP Project.
3. For the avoidance of doubt, this special ex-gratia allowance is not intended to be applicable to squatters or other residents of temporary structures who may be affected by any other resumption and clearance exercises.
4. The terms and conditions of the special ex-gratia allowance set out in the paragraphs below are non-negotiable.

**INTERPRETATION**

5. Unless the context suggests otherwise –
  - a. “licensed domestic structure” means a domestic structure on unleased Government land or on private agricultural land, which was built or has existed in compliance with a licence, modification of tenancy, or other similar form of Government permission issued by the Lands Department (LandsD);

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<sup>1</sup> The BCP Project comprises the BCP proper, which includes the passenger hall building, immigration kiosks, transport interchange and other ancillary facilities, and the connecting road between the BCP proper and Fanling Highway.

- b. “1982 surveyed squatter” means a domestic structure covered by the 1982 Squatter Structure Survey;
- c. “registered occupier” means an occupier of a 1982 surveyed squatter who was registered in the 1984/85 Squatter Occupancy Survey;
- d. “date of pre-clearance survey” means, as the case may be applicable, 18 September 2008 for structures affected by the BCP proper, and 12 November 2010 for structures affected by the Connecting Road;
- e. “Secretary” means Secretary for Development;
- f. “Director” means Director of Lands.

**SPECIAL EX-GRATIA ALLOWANCE**

- 6. This special ex-gratia allowance consists of –
  - a. Special ex-gratia cash allowance (EGCA) for “Qualified Households”; and
  - b. Domestic Removal Allowance (DRA) for all affected households.

**(A) Special Ex-gratia Cash Allowance for Qualified Household**

**Eligibility Criteria for the Special EGCA**

- 7. A household is regarded as a Qualified Household to receive special EGCA (as described in paragraph 11 below) if –
  - a. it was residing in one of the clearance sites under the BCP Project and was covered by the pre-clearance survey conducted by LandsD;
  - b. the affected structure, in which the household is residing, is either a 1982 surveyed squatter or a licensed domestic structure;
  - c. the affected structure is not built on building land; and
  - d. the household is a registered occupier or can produce evidence showing that it has resided in the affected structure mentioned in sub-paragraph (b) above for at least the same duration prior to the date of pre-clearance survey applicable to the affected structure.

8. A household cannot be a Qualified Household for the special EGCA if any members of the household, from the date of pre-clearance survey applicable to the affected structure up to the date of granting of the special EGCA –

- a. own or co-own any domestic property in Hong Kong;
- b. own more than 50% share in any company that owns domestic property in Hong Kong;
- c. has entered into any agreement to purchase domestic property; or
- d. is enjoying any form of subsidised housing or related benefits, or subject to debarment as a result of previous enjoyment of subsidised housing or related benefits.

9. If more than one Qualified Household reside in a licensed domestic structure or 1982 surveyed squatter, they will be considered as one Qualified Household for the purpose of the special EGCA.

10. A nucleus family, comprising parents and their dependent children, is considered as one household even if it occupies more than one licensed domestic structure or 1982 surveyed squatter, unless the Director considers otherwise.

#### **Details of the Special Ex-gratia Cash Allowance**

11. Each Qualified Household may receive a special EGCA of \$600,000 as a special assistance to help meet its special rehousing needs.

#### **Avoidance of Double Benefits**

12. A Qualified Household for the special EGCA must give up its eligibility for Public Rental Housing (PRH) (including Singleton and Doubleton Allowances in lieu of rehousing), Interim Housing (IH) and Ex-gratia Allowance for Permitted Occupiers (EGAPO) and Rehabilitation Allowance (RA) for genuine farmers under the existing compensation and rehousing policy.

13. A Qualified Household for the special EGCA is also barred from applying for any form of subsidised housing or related benefits, including but not limited to PRH, for a period of three years counting from the date of receipt of the special EGCA.

#### **(B) Domestic Removal Allowance for All Affected Households**

14. All affected households covered by the pre-clearance survey, irrespective of whether they are qualified for the special EGCA in paragraph 11 above, are eligible for the Domestic Removal Allowance. Notwithstanding there were pre-clearance surveys carried out on different dates, the highest DRA rate prevailing as at the concerned pre-clearance survey would be adopted.

**The Secretary's Discretion**

15. Solely for the purpose of implementing the special ex-gratia allowance approved by the Chief Executive in Council, the Secretary shall, on application of a household, decide at her discretion –

- a. whether a household which does not meet the requirements to be a Qualified Household in paragraphs 7 to 10 above should be eligible for the special EGCA; and
- b. if such a household is so eligible, whether and to what extent the amount of special EGCA to be offered to the household should be reduced.

16. The Secretary's decision shall be final.

**Limits of the Secretary's Discretion**

17. The Secretary shall not offer a special EGCA to a Qualified Household in excess of the amount prescribed in paragraph 11 above.

18. The Secretary's discretion set out in paragraph 15 above shall only be exercised in respect of the households affected by the land resumption and clearance under the BCP Project.

19. For the avoidance of doubt, the Secretary has no discretion in respect of households affected by land resumption and site clearance arising from other public projects.

**Inter-departmental Advisory Panel**

20. In the exercise of the discretion in paragraph 15 above, the Secretary shall consult an Inter-departmental Advisory Panel comprising of officers of appropriate rank from the Development Bureau and other concerned departments.

21. The Inter-departmental Advisory Panel shall give advice to the Secretary as regards her decision on matters in paragraph 15.

22. The Inter-departmental Advisory Panel does not have any role to play in respect of other public projects.

**Considerations to be taken into account by the Secretary and the Inter-departmental Advisory Panel**

23. Each application made to the Secretary under paragraph 15 above shall be considered by the Secretary taking into account the supporting materials provided by the household and the advice given by the Inter-departmental Advisory Panel.

24. The Secretary and the Inter-departmental Advisory Panel may also take into consideration the following factors before a decision in paragraph 15 above is made by the Secretary –

- a. the duration for which the household has been living in the clearance site – in general, a longer duration may suggest that the household has stronger connection or attachment to the site. More favourable consideration should be given;
- b. status of the structure in which the household is residing – in general, less favourable consideration will be given to a household occupying a structure converted from a non-domestic structure. Applications from households occupying structures erected after 1982 for the special EGCA should not be approved by the Secretary unless under very exceptional circumstances;
- c. the size of the household – in general, a large household size may require a larger accommodation and a smaller household may require a smaller one;
- d. the age profile of the household members – in general, elderly members may find it more difficult to adapt to a new environment. More favourable consideration should be given to such household;
- e. the household's existing living conditions;
- f. the circumstances that may deserve compassion (if any); and
- g. any other factors that the Secretary and the Inter-departmental Advisory Panel may consider relevant.

**Mode of Operation and Procedures**

25. Notice of the resumption will be served on the affected households after the making of the resumption order.

26. A household should, not later than two weeks from the date of the notice of resumption order mentioned above, complete an application form prescribed by LandsD together with all supporting materials to substantiate its claim as a Qualified Household for the special ex-gratia cash allowance to the Director.

27. The household will be given the opportunity on the application form to indicate whether it wishes to have its application referred to the Secretary for consideration of substantiating its eligibility for the special EGCA if it fails to meet the criteria of a Qualified Household under paragraphs 7 to 10.

28. The Director shall inform a household in writing whether it meets the criteria of a Qualified Household for the special EGCA within six weeks from receiving the last piece of supporting materials from the household.

29. If a household does not meet the criteria as a Qualified Household for the special EGCA and has indicated its wish to have its application referred to the Secretary for further consideration under paragraph 15, the Director shall refer its application to the Secretary and the Inter-departmental Advisory Panel.

30. The Secretary would decide the eligibility of a household for the special EGCA and, if affirmative, the amount of special EGCA to be granted in consultation with the Inter-departmental Advisory Panel within three weeks upon referral from the Director.

31. For the purpose above, the Inter-departmental Advisory Panel will convene meetings to consider the applications. The applicant households will not attend the relevant meetings.

32. The Development Bureau will inform the household of the Secretary's decision(s) within one week after the Secretary makes the decisions.

33. A household submitting the above application(s) may be required to give further materials to support its application at the request of the Director, the Inter-departmental Advisory Panel and/or the Secretary.

**Forfeiture of Eligibility to the Special EGCA**

34. A household must submit the application form to the Director by the deadline specified in paragraph 26. Otherwise the household will be considered as giving up its eligibility for the special EGCA and the opportunity to apply for the Secretary to substantiate its eligibility as a Qualified Household for the special EGCA.

35. A household receiving the special EGCA must vacate from the clearance site by a date appointed by the Director ("the appointed date"). Any failure to vacate the clearance site by the appointed date will entitle the Government to recover from the household any amount of allowance already paid to the household.

36. Notwithstanding paragraphs 34 and 35, the household's entitlement(s) under the existing compensation and rehousing policy are not affected.

**LETTER TO LEGISLATIVE COUNCIL  
PANEL ON DEVELOPMENT FROM CHUK YUEN RESIDENTS  
VILLAGE REMOVAL COMMITTEE**

致：立法會發展事務委員會主席  
暨各立法會議員

劉秀成主席：

有關受「蓮塘/香園圍」口岸工程影響  
竹園村臨時牌照屋居民「特設特惠」撥款事宜

蓮塘/香園圍口岸建設，竹園村被遷拆，就有關的搬遷安置，我們一班居住在臨時牌照屋的低下層貧苦村民，三年多來一直和平理性地與局方商討，幸得到發展局局長林鄭月娥女士的體恤，於日前提出將發放 60 萬「特設特惠」資助村民重建家園，村民都表示歡迎，會盡力配合新口岸工程的搬遷時間。

為了新口岸工程能夠順利上馬，懇請尊貴的主席及各位議員也能體諒村民被拆村，失去家園的苦況，通過是次遷拆臨屋的「特設特惠」撥款，謝謝！

竹園村居民搬遷委員會主席：



劉杰輝

二零一二年四月十八日