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Report of Subcommittee on Issues Relating to Policy on Industrial Buildings

Purpose

This paper reports on the work of the Subcommittee on Issues Relating to Policy on Industrial Buildings ("the Subcommittee").

Background

2. There are about 1 500 industrial buildings¹ ("IBs") in Hong Kong, with a vacancy rate of 5.9% as at end of 2019. According to the Administration, the relatively low vacancy rate is partly attributed to infiltration of non-industrial uses which may not be compatible with the statutory planning regime and/or land lease conditions. Given that many old IBs do not meet the modern-day fire safety standards, such a mix of industrial and non-industrial uses in IBs has posed serious fire safety risk.

¹ Such industrial buildings ("IBs") refer to flatted factory buildings, industrial-office buildings and other buildings built for industrial uses where the leases governing the lots on which the buildings stand specify industrial and/or godown uses, or are unrestricted in terms of uses permitted under lease. They do not include special factories such as those located in industrial estates, storage premises in container terminals and flatted factories built by the Hong Kong Housing Authority, and those buildings on lots supporting specific industries such as cargo handling uses, ship building and repairing, oil storage and refining and production of associated chemical by-product, manufacture of polystyrene plastics, manufacture and storage of chlorine, hydrogen and textile chemicals, etc.

3. The Town Planning Board ("TPB") has over the years reviewed and broadened the scope of permissible uses in IBs² for better utilization of industrial land, and rezoned surplus and suitable industrial land to "Other Specified Uses" annotated "Business" ("OU(B)") zones (i.e. allowing a mix of office, commercial, and non-polluting industrial uses) or other zonings. Moreover, after a review of the effectiveness of the previous IB revitalization scheme,³ the Chief Executive announced in her 2018 Policy Address the reactivation of the scheme to facilitate the market to optimize the use of existing industrial stock and the valuable land resources to meet the changing social and economic needs, and to address more effectively the issues of fire safety and non-compliant uses in IBs.

4. The new round of revitalization scheme includes six key measures facilitating the wholesale conversion, redevelopment and non-industrial uses of existing IBs. While some of these measures are to facilitate transitional housing and other specific uses (such as those in relation to the arts and cultural sectors, creative industries, and innovation and technology industries) in wholesale-converted IBs, some others are related to the use of existing IBs by certain sectors (namely the arts and cultural sectors, creative industries, and innovation and technology sectors) or certain uses (namely telecommunications exchange centres and computer/data processing centres on buffer floors; and cargo handling and forwarding operation and recyclable collection centre for "godown" use).

² The Town Planning Board has reviewed and amended the definition of "Industrial Use" under the planning regime from time to time in accordance with social and economic development needs. For example, training, design, research and development related to industrial process are now considered "Industrial Use". "Art Studio", "Office related to Industrial Use", "Design and Media Production", "Audio-visual Recording Studio", and "Information Technology and Telecommunications Industries" (all excluding those involving direct provision of customer services or goods) are now uses that are always permitted in "Industrial" zones.

³ Government implemented a series of measures during the six years starting from April 2010 to March 2016 to encourage owners to revitalize IBs by way of wholesale conversion or redevelopment. As at end-March 2020, excluding those subsequently withdrawn/terminated cases, 14 redevelopment applications and 140 wholesale conversion applications were approved under the previous round of the revitalization scheme. Among the wholesale conversion applications, about 67 of them were approved for a basket of non-industrial uses including, for example, "Place of Recreation, Sports or Culture" and "Research, Design and Development Centre" in the wholesale-converted premises that may serve tenants or occupants in relevant sectors, including the arts and cultural sectors, creative industries, or innovation and technology sectors (as the case may be).

The Subcommittee

5. At the House Committee meeting held on 6 October 2017, Members agreed to appoint the Subcommittee under the House Committee to examine the issues relating to policy on IBs in detail. The Subcommittee commenced work on 17 December 2019. The terms of reference and membership of the Subcommittee are given in **Appendices I and II** respectively.

6. Under the chairmanship of Mr Jeremy TAM, the Subcommittee has held four meetings to exchange views with the Administration on various issues relating to policy on IBs and measures on addressing these issues. The Subcommittee has received views on related issues from 25 attending deputations/individuals at one of its meetings and written submissions from five other deputations/individuals. A list of the deputations and individuals which/who have provided views to the Subcommittee is in **Appendix III**.

Declaration of interest

7. Mr SHIU Ka-chun declared interest as a director of an arts group operating in an IB.

Deliberations of the Subcommittee

8. The deliberations of the Subcommittee on the following major issues are set out in the ensuing paragraphs:

- (a) wholesale conversion and redevelopment of IBs;
- (b) relaxation of waiver application policy for five permitted non-industrial uses in existing IBs;
- (c) other measures facilitating non-industrial uses in existing IBs, including, particularly, uses by the arts and cultural sectors, creative industries, and innovation and technology sectors; and
- (d) enforcement actions against non-industrial and non-conforming uses, as well as fire safety of IBs.

The Subcommittee has passed three motions related to the permitted temporary use of IBs as transitional housing, enforcement actions against subdivided units ("SDUs") in IBs, and regulation of non-industrial uses in IBs respectively. The wording of the motions passed by the Subcommittee is in **Appendix IV**.

Wholesale conversion and redevelopment of IBs

Market response to the new round of revitalization scheme

9. Noting that there were only two applications for wholesale conversion of IBs as at end of 2019, members have expressed concerns about the seemingly lukewarm market response to the new round of revitalization scheme. Some members have commented that the scheme could only succeed if sufficient financial incentives, such as a generous increase in plot ratio or a low enough land premium concession, are provided for IB owners. Others have suggested that the current three-year application period for wholesale conversion and redevelopment of IBs under the new round of revitalization scheme should be extended to attract more IB owners.

10. The Administration has informed members that the overall response to the revitalization scheme is positive. Following over a hundred of wholesale conversion applications already approved under the previous revitalization scheme, the current scheme is focused on incentivizing redevelopment of IBs. In this regard, as at 3 January 2020, of the 37 applications for IB redevelopment received by TPB (including three withdrawn), 12 applications were approved, whereas a total of 14 applications (excluding subsequently withdrawn/terminated cases) for IB redevelopment were approved during the six-year period from 2010 to 2016. In addition, lease modification has to be completed within three years after the planning approval under this new round to expedite redevelopment.

District-wide and territory-wide revitalization plans

11. Some members have expressed concerns over the low vacancy rate among IBs (about 6%) and the uncertain supply of IBs in the future. Members have asked whether the Administration might disallow revitalization of IBs in peripheral industrial districts so as to ensure an adequate supply of affordable industrial premises in the territory, as certain sectors such as the logistics trade need cheaper storage space. Some other members have enquired whether the Administration would proactively engage owners or resume certain IBs next to residential or commercial areas for redevelopment. Referring to some industrial parks in the Mainland which have been revitalized into established arts and cultural hubs, members have also asked whether the Administration would consider devising a district-based IB revitalization policy, so that clusters of several IB blocks with shared purposes could be transformed into arts villages fostering the creation, exhibition and trade of local arts products.

12. The Administration has expressed that all IBs in the territories should be allowed to undergo revitalization according to their respective zonings under the relevant Outline Zoning Plans ("OZPs"). The Administration holds the view that the land shortage problem faced by the logistics industry could be addressed in the context of future land-use planning (see paragraph 24 below). As regards district-wide revitalization plans, the Administration has replied that it might review internally whether supporting certain industries in IBs at a district level was feasible and whether any suitable lots are available.

Wholesale conversion for use by the arts and cultural sectors

13. Noting that the Jockey Club Creative Arts Centre ("JCCAC") at Shek Kip Mei was converted from a flatted factory of the Hong Kong Housing Authority ("HA") for use by the arts and cultural sectors, members have pointed out that JCCAC began operation more than a decade ago but there seems to be no other similar conversion for similar uses. Some members have suggested converting some of the existing flatted factory estate buildings into arts space.

14. The Administration has informed members that in addition to using IBs for provision of arts space, the Administration has explored the use of other types of premises for use by the arts and culture groups, in accordance with actual situation. The Tai Po Arts Centre, retrofitted from the former Tai Po Government Secondary School and launched in 2019, is an example of conversion of a school premises into arts space. Apart from the Tai Po Arts Centre, dozens of arts studios have been/will be made available by the Hong Kong Arts Development Council ("HKADC") under the Space Sharing Scheme for Youth and the development project at ex-Aberdeen Fire Station site to be launched in 2022. Regarding the idea of using flatted factory estates under HA as arts space, the Administration has explained that the existing flatted factory estates might be planned for other uses, including the study to redevelop them for public housing use as announced in the 2019 Policy Address.

Wholesale conversion for transitional housing use

15. Noting that there has not been any application for waiver for provision of transitional housing units in wholesale-converted IBs, members have asked whether the Administration has looked into the possible causes of the poor response. The Administration has advised that the liaison between

the Task Force on Transitional Housing ("Task Force") under the Transport and Housing Bureau and interested IB owners is on-going, and it is expected that the current facilitating measures, together with the Funding Scheme to Support Transitional Housing Projects by Non-government Organizations ("NGOs") would lead to some successful cases in the near future.

16. Members note that transitional housing projects coordinated by the Task Force in designated IBs have been regarded as a temporary use which is always permitted under OZP in the urban and new town areas, if such projects run for a period of five years or less. Members have asked whether the project period could be extended to enable more transitional housing projects to be implemented. The Administration has explained that the five-year period is renewable. No planning application would be required for the first and subsequent uses of eligible IBs for transitional housing projects coordinated by the Task Force, if such projects are for a period of five years or less each time and in the urban and new town areas. The Subcommittee has passed a motion (see **Appendix IV**) urging the Administration to extend the five-year limit to 10 years as soon as possible.

17. Members have referred to the Funding Scheme to Support Transitional Housing Projects by NGOs and queried whether the funding ceiling of \$0.55 million per transitional housing unit could fully cover the cost of the conversion and yield a reasonable profit for the owners. They have also asked whether IB owners would be able to earn more by developing their IB flats into mini-storages or SDUs instead of transitional housing. The Administration has replied that the funding ceiling was formulated with reference to the cost estimates of renovating transitional housing units. Although the return of converting an IB flat into transitional housing may not be high, the Administration believes that IB owners who participate in the transitional housing projects would value the social benefits of the initiative more than the expected economic return.

Designation of certain floor area for prescribed uses upon wholesale conversion

18. The Administration has explained that as a measure to facilitate wholesale conversion of IBs under the revitalization scheme, waiver fees would be exempted to incentivize conversion of IBs aged 15 years or above in certain zones, with the condition that 10% of the converted floor space should be designated for specific uses prescribed by Government. Members have queried what such "specified uses" are, and by what criteria the Administration would prescribe the specific use(s) for each application.

Some members have expressed concerns that the measure may be open to abuse if other uses are packaged as the prescribed uses.

19. The Administration has explained that the specified uses may include those uses in relation to the arts and cultural sectors, creative industries, innovation and technology industries, social service facilities, or sports and recreational uses which will bring about wider community benefits. All applications for wholesale conversion of IBs would be considered on a case-by-case basis taking into account the locations of the IBs concerned and the relevant district needs. In liaison with relevant bureaux/departments ("B/Ds"), the Development Bureau would evaluate the owner's proposal about the intended specific uses and the preliminary parameters of the relevant designated floor space, etc. Upon a member's request for the written reference of the above elaboration, the Administration has pointed out that details are set out at Lands Department ("LandsD")'s Lands Administration Office Practice Note No. 6/2019 which is available at LandsD's website.

20. Some members have expressed the view that since the layout of the designated floor space is to be proposed by the IB owners, bottom floors (which are usually the most valuable ones for an IB) would unlikely be reserved for the prescribed uses. Meanwhile, those uses which require a Places of Public Entertainment Licence (such as live music performances) are usually on the ground floor. Members suggest that the Administration should take this into account when implementing this policy.

Relaxation of waiver application policy for five permitted non-industrial uses in existing IBs

21. Members have noted that the Administration is relaxing the waiver application policy, initially for five years starting from 1 February 2019, to permit five uses⁴ in individual units within existing IBs. The prerequisite has been that such uses are permitted under the land use zoning of the site on the relevant OZP as "Column 1" (i.e. always permitted) uses. In addition, for the sake of public safety, the relaxation would not cover any premises that involve direct provision of services or goods.

22. Some members are concerned that the definitions of the five permitted uses are unclear. They have requested the Administration to

⁴ These five uses are: (i) "Art Studio"; (ii) "Office (Audio-visual Recording Studio)"; (iii) "Office (Design and Media Production)"; (iv) "Office" (used by "specified creative industries" only); and (v) "Research, Design and Development Centre".

clarify the meaning of these uses to the public and asked whether certain uses, such as band practice or film studios, are covered under these five uses. Members have also asked whether the Administration would further extend the permission to cover other low-risk non-industrial uses in IBs which may be difficult to locate elsewhere, such as party rooms.

23. The Administration has replied that the definitions of the five uses are described in detail on the LandsD's and Development Bureau's websites and District Lands Offices are ready to handle related enquiries. The Administration has also briefed the trade proactively about their relevance to the relaxation policy. Specifically, while most existing IBs have been restricted to industrial uses, venues for practice or rehearsal for art performance and film studios may fall within the scope of the relaxed waiver application policy (subject to relevant prerequisites being satisfied) for art studio and office (audio-visual recording studio), so long as they do not involve direct provision of services or goods. However, band performance which would attract outside visitors (hence creating potential safety concerns) is not covered by the permission.

Supportive measures for the logistics industry and data centres

24. Some members have expressed concerns over the land shortage problem faced by the logistics industry and enquired whether courier service might qualify as one of the five permitted uses under the relaxation of waiver application policy. The Administration has responded that courier service has been regarded as a "Shop and Services" use and is not covered under the waiver relaxation policy for the five specific uses. However, subject to the planning permission from TPB and a temporary waiver from LandsD, courier service counter could be permitted on the ground floor of IBs. The Administration has added that in order to resolve the land shortage problem faced by the logistics industry, one solution may be to increase the amount of land to be designated for warehouse and open storage in future land-use planning.

25. Members have commented that it would take time to solve the problem by modifying land-use planning. Members have suggested that certain processes supporting courier services not attracting visiting members of the general public should be allowed to operate above the ground floor of existing IBs where the rental cost would be lower. The Administration has undertaken to examine if this logistics operation may be covered in the current "godown" use under lease.

26. Noting that a number of concessionary measures have been introduced since 2012 to facilitate the development of data centres in Hong Kong, members have enquired whether the number of applications for converting parts of existing IBs for data centre use had risen in recent years. The Administration has responded that the number of applications received in recent years has remained steady.

Premises involving direct provision of services or goods

27. Members have noted that the relaxation on the waiver application policy has not covered any premises involving direct provision of services or goods. Some members have expressed concerns that this would limit the activities that could be carried out in existing IBs. They have queried how the Administration would address the fire safety concerns so that premises such as arts exhibition space, arts education centres, and venues for band performance, e-sports training and competition, etc. could be covered by the waiver relaxation policy. As a suggestion, members have also asked whether certain low-risk non-industrial uses could be individually permitted in some flats of an existing IB on the condition that users could meet all fire safety requirements.

28. The Administration has responded that without compromising public safety there is not much room to relax the restrictions imposed on premises involving direct provision of services or goods. There would be fire safety concerns if members of the public were attracted to these IBs or if industrial and non-industrial activities are allowed to co-exist. Imposing more stringent fire safety requirements in certain parts of an IB could not eliminate the hazards posed to visitors due to the existence of the risk of fire and other accidents arising from the industrial activities. The Administration has introduced the Fire Safety (Industrial Buildings) Bill into the Legislative Council ("LegCo") in 2018 to mandate owners and occupiers of IBs constructed before 1987 to upgrade the requirements of fire service installations and equipment ("FSI") and fire safety construction of their buildings up to present-day standards, for better protection of life and property of the public. The Bill was passed by LegCo on 11 June 2020.

Assessing the effectiveness of the relaxation of waiver application policy

29. According to the Administration, while the five permitted uses are not in line with the lease restrictions for most old IBs specified for "industrial and/or godown purposes", LandsD would not take any enforcement action so long as the waiver relaxation policy remains in effect and the breach of lease

restrictions are within the scope of the permission. Members have enquired whether the Administration has compiled statistics on arts and cultural uses in revitalized IBs. Noting that LandsD does not require relevant owners to apply for a temporary waiver, members have also asked how the Administration could assess the effectiveness of the policy.

30. The Administration has advised that it has not kept statistics on various current uses in existing IBs covered by the waiver relaxation policy. Nonetheless, the Planning Department's latest round of on-site survey for the 2019 Area Assessments of Industrial Land in the Territory, which started in late 2019 to survey the latest distribution of industrial and non-industrial uses in IBs, may shed light on the effectiveness of the policy later. The survey findings would also help the Administration formulate rezoning proposals, if any, to transform suitable industrial land to non-industrial uses as appropriate.

Other measures facilitating non-industrial uses in existing IBs

Relaxation of non-industrial uses in IBs to regular visitors

31. Acknowledging that temporary visitors of IBs might not know the exit routes nor understand the potential risks involved in the IBs they were visiting, members have suggested relaxing non-industrial uses in IBs to regular visitors instead. Members have commented that some non-industrial regular activities (e.g. sports clubs, adult education centres, etc.) should be allowed in IBs, on the conditions that the activities are restricted to training or education courses, and the visitors concerned should be registered via a membership system and be well briefed of the safety risks and the exit routes of the relevant IBs.

32. The Administration has expressed concerns over potential abuse of the suggested membership system which would in turn lead to difficulties in enforcement and failure in safeguarding public safety. The Administration has added that if such non-industrial activities are open only to well-regulated organizations such as statutory bodies, there might be more room for the Administration to explore the feasibility of the suggestion. The Subcommittee has passed a motion (see **Appendix IV**) urging the Administration to study the suggested relaxation of IBs for non-industrial uses on a "membership" basis.

Promulgating a broader definition for "godown" use under lease provisions

33. Members have been informed that the interpretation of "godown" has been broadened to cover "cargo handling and forwarding" and "recyclable collection centre". They enquired whether "third-party logistics services" are covered in the expanded interpretation.

34. The Administration has advised that according to the Definition of Terms used in Statutory Plans ("DoT"), "Cargo Handling and Forwarding Facility" use means any premises or structure which provides facilities for the processing of inbound, transshipment and outbound cargo and/or freight forwarding facilities including the necessary logistics support such as packaging, labelling and final assembly of goods for distribution. Provided that a "third-party logistics services" use in any industrial premises could fit in the DoT, that there is primarily storage of goods/material in the premises, and that the storage carries attendant consequences, such a use is considered in line with the "godown" user clause under the land lease of the industrial premises concerned.

Tenancy control on IBs

35. Members have requested that control of rent level be implemented on IBs to protect vulnerable businesses, such as small arts groups, operating there. Some members have commented that control on rents is a better policy option than the relaxation of waiver application policy for selected non-industrial uses, because the latter could be abused more easily. The Administration has explained that a study on tenancy control of SDUs is in the pipeline, but SDUs in IBs is a clear breach of land lease which should not be encouraged. The Administration has also explained that eligible arts group facing high rents in IBs might consider applying for funding support under the Funding Scheme to Support the Use of Vacant Government Sites by NGOs for repairing and using vacant school premises.

Promoting the development of the arts and cultural sectors, creative industries and indoor sports in IBs

36. The Chairman has pointed out that the Administration is often rather passive in making use of IBs to promote the development of the arts and cultural sectors, creative industries and indoor sports. The Home Affairs Bureau ("HAB") would rely on initiatives from community organizations to put forward proposals concerning the use of IBs for new projects, and the

Development Bureau would then consider whether such uses in IBs would be supported.

37. Members have considered that the Administration should develop strategic plans that would facilitate the implementation of certain initiatives involving the arts and cultural sectors, creative industries and indoor sports which are now infeasible due to the lack of space, either through collaboration with IB owners or even through the acquisition of suitable properties by the Administration. The Chairman has suggested, for example, that the Administration may consider giving incentives, perhaps under a new round of revitalization scheme, allowing IB owners to make available floor space in a revitalized IB to HAB, which would then lease the premises to eligible organizations for implementing the said initiatives. Alternatively, subsidies could be provided for these organizations to lease the premises for such purposes.

Arts and Culture Sector Subsidy Scheme under Anti-epidemic Fund

38. Members have observed that many arts workers based in IBs had not been eligible for the \$150 million Arts and Culture Sector Subsidy Scheme under the Anti-epidemic Fund nor the \$50 million Support Scheme for Arts and Cultural Sector implemented under the Subsidy Scheme. Members have enquired whether rental subsidies could be provided to them. The Administration has responded that in addition to the rent waiver/discount given to tenants of JCCAC and arts space operated by HKADC, a direct subsidy of \$80,000 has been arranged for each HKADC year grantee. The arts organizations concerned may make use of the subsidy to settle their rents.

Water quality in IBs

39. Members have requested the Administration to follow up on the problem of discoloured water in an IB raised by one of the deputations.

Enforcement actions against non-industrial and non-conforming uses, as well as fire safety requirements

Deterrent effect of different enforcement measures

40. Members have been advised that apart from illegal domestic use in IBs, the Buildings Department ("BD") handles non-industrial uses in IBs by assessing whether there is obvious hazard or imminent danger to life or property, serious health hazard or environmental nuisance. If so, BD will

require the removal of actionable unauthorized building works ("UBWs") in the premises, cessation of the uses and rectification of dangerous situations by the owners concerned under sections 24(1), 25(2) and 26(1) of the Buildings Ordinance (Cap. 123) respectively. Prosecution or application to the court for a closure order will also be instigated in cases of non-compliance.

41. Members have also been informed that the Fire Services Department ("FSD") carries out regular inspections and follows up on fire safety-related irregularities in IBs. If any contravention of the Fire Services Ordinance (Cap. 95) or the Dangerous Goods Ordinance (Cap. 295), or their subsidiary legislation (such as obstruction to or locking of means of escape, defective FSI, over-storage of dangerous goods, etc.) is identified, FSD will take enforcement actions in accordance with the relevant legislation, including prosecution and issuing of Fire Hazard Abatement Notices ("FHANs") requiring the recipient to abate the fire hazard within a specified period. Members have noted that the operators/owners of premises in IBs have usually complied with FHANs fairly quickly to avoid prosecution.

42. Members have noted that LandsD has found it impracticable and inefficient to patrol every piece of private land (including IBs) regularly, and therefore, it acts on complaints, referrals or enquiries about suspected lease breaches instead. While LandsD would escalate its lease enforcement actions to re-entry or vesting actions against obvious safety risks posed to the public,⁵ it handles other lease breaches in IBs by issuing warning letters to the owners requiring them to rectify the breach of uses within a specified period. Failure to do so leads to the registration of the warning letters in the Land Registry ("LR"), commonly known as "imposing an encumbrance", and the warning letters are copied to the bank(s) from which mortgage(s) were taken out of the property.

43. Members have pointed out that LandsD's lease enforcement policy has no practical effect on deterring lease breaches such as the erection of UBWs or illegal domestic use in IBs. For instance, occupiers could enjoy

⁵ These safety risks refer to lease breaches in IBs matching two conditions: (i) there are other premises in the same IB currently issued with Licences for Manufacture and/or Storage of Dangerous Goods by the Fire Services Department; and (ii) the breach of uses attracts the flow of people. For cases meeting the above two criteria, the Lands Department ("LandsD") escalates its enforcement action and deals with the case stringently by issuing warning letters to the owners of these IB units requiring rectification of the breach of uses within 14 days. LandsD will proceed with re-entry or vesting action under the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126) if the breaches are not rectified in time.

the extra space provided by UBWs without having to worry about the warning letters registered in LR until they want to sell their properties. Illegal domestic use in IBs would not lead to LandsD's re-entry or vesting actions if it does not meet the two conditions set out by LandsD for taking such actions. In response, the Administration has advised that it is reviewing the related policies, in particular whether it should take re-entry or vesting actions against a property that has had warning letters persistently registered in LR. In fact, LandsD has the right to take further lease enforcement actions in the light of the circumstances of each case and its enforcement priorities.

Illegal domestic premises in IBs

44. In light of the potential risk of illegal domestic use in IBs, BD has taken stringent enforcement actions against such use through large-scale operations in recent years. IBs which are more likely to be used as illegal domestic premises would be selected as target buildings. If illegal domestic premises are identified, BD will issue statutory orders requiring the cessation of domestic use of the premises and rectification of dangerous situations. If actionable UBWs are identified, BD will at the same time issue orders requiring the owners to remove the UBWs. If the statutory orders have not been complied with, BD may instigate prosecution against the owner to ensure compliance with the orders as soon as possible, or apply to the court for a closure order to close down the premises depending on the actual circumstances. At the same time, BD's in-house social services teams in liaison with relevant departments will provide social welfare assistance and counselling services for owners and occupiers affected by BD's enforcement actions.

45. Members have expressed concerns over the treatment received by the residents of illegal domestic premises in IBs during and after enforcement actions. Members note that, in the event that the occupiers are evicted by landlords when statutory removal orders are issued by BD, they would not be entitled to HA's rehousing arrangement because they are not regarded as being rendered homeless as a result of a closure order or a writ of possession, which would not be issued until a later stage. Some members have also noted that the number of admittance into transit centres has been low compared to the number of residents affected by Government's enforcement actions against illegal domestic premises in IBs. Members have called into question whether the assistance provided by BD's in-house social services teams to the residents has been adequate and easily accessible. The Subcommittee has also passed a motion (see **Appendix IV**) urging the Administration to, pending the introduction of a comprehensive resettlement

policy, suspend enforcement actions against SDUs in IBs involving domestic use which does not pose any immediate risks.

46. The Administration has explained that its policy is to ensure that no one would be rendered homeless as a result of its enforcement action. BD's in-house social services teams have been taking a "people-focused" approach in providing social welfare assistance and counselling services for owners and occupiers affected by BD's enforcement actions. To address the concerns over the services provided by the social services teams, the Administration would internally review its work and look into the need of setting up a joint B/D working group. The Administration would examine such enforcement actions in an attempt to ensure that people with pressing housing needs would receive appropriate support from the Social Welfare Department as early as possible.

47. Some members have suggested that LandsD should take re-entry and vesting actions against lease breaches involving illegal domestic use in IBs. Other members have suggested that in order to formulate an appropriate policy to handle illegal domestic premises in IBs, the Administration must first get hold of the statistics of these residents. The Administration has explained that the Census and Statistics Department ("C&SD") had conducted regular surveys to understand the profile of the population, including those living in IBs. Nonetheless, surveys by C&SD should be differentiated from freezing surveys aiming to determine eligibility of affected persons for re-housing or other assistance.

Relocation allowance for residents of illegal domestic premises in IBs

48. Members have referred to the small total disbursement amount (\$530,000) of the "Relocation Allowance for Residents of Illegal Domestic Premises in Industrial Buildings Who Have to Move out as a Result of the BD's Enforcement Action" under the Community Care Fund between December 2011 and December 2018, and questioned whether the eligibility criteria are too strict. Some members have expressed concern over an eligibility criterion of the Relocation Allowance which requires applicants to be living in an IB the former occupiers of which had never received the Allowance before.

49. The Administration has explained that the eligibility of the Relocation Allowance is comparable to other major financial assistance schemes, such as Comprehensive Social Security Assistance Scheme. It stresses that it has made available to the public a list of IBs which have, for BD had previously

taken enforcement actions against illegal domestic premises therein, become illegible for the Relocation Allowance. Owners of these premises have the responsibility to cease the illegal domestic use of the premises.

Factory canteens and other retail shops on the ground floor of IBs

50. Members have pointed out that although factory canteen legally refers to a food business in a factory building which supplies food and drinks for consumption on the premises by persons employed in any factory in that factory building, it has been a fact of life that customers of factory canteens, especially those located on the ground floor, have not been all employed in the factory buildings concerned. Members have questioned whether the regulations laid down by the factory canteen licence have become obsolete, and asked whether the relevant regulations could be relaxed, in particular for those less risky factory canteens on the ground floor with direct access to a street.

51. The Administration has stressed that enforcement actions have been taken regularly against factory canteens which provide catering services to persons not employed in the factory building concerned. According to the Administration, as the types of food provided by factory canteens and their mode of operation are relatively simple, they are subject to less stringent requirements than general restaurants with regard to the provision of food room and sanitary fitments. In view of food safety and the risks of fire hazards and accidents associated with factory canteens, the Administration would not issue any type of food business licences other than Factory Canteen Licence to any food business located in an IB, regardless on which floor they are located.

52. Noting that certain commercial premises, e.g. electrical shop, bank, etc., are permitted to operate on the ground floor of an IB without buffer floor, members queried the rationale from a fire safety perspective for permitting the selected businesses but not other retail uses. In particular, members have challenged the Administration's notion that banks would not attract a large number of public members to stay for a long period of time. The Administration has responded that the permitted uses were considered ancillary to or for the purposes of supporting the industrial activities and the routine activities of the workers in IBs, and each of the waiver applications would be considered on a case-by-case basis in consultation with relevant government departments.

53. The Subcommittee has requested the Administration to cover its policies on factory canteens and retail shops on the ground floor of IBs in future reviews. Members have added that it is undesirable, in terms of maintaining a favourable business environment, if there are no objective criteria for qualifying "commercial premises which do not attract a large number of public members to stay for a long period of time".

Presentation of views by deputations and individuals

54. At its meeting on 6 June 2020, the Subcommittee received public views on issues relating to policy on IBs. Many deputations have remarked that the IB policy has not moved with the times to cater for modern uses of IBs. Regulations imposed on the arts and cultural sectors and factory canteens, for example, have restricted the progress of revitalization. The Administration has been requested to assume a leading role in the revitalization process, increase the incentives to IB revitalization (particularly for transitional housing use, and in terms of the calculation of waiver fees for redevelopment proposals), provide suitable ancillary facilities and infrastructure in revitalized industrial areas, and strike a balance between industrial and non-industrial needs in land-use planning. There has also been comments that the regulation on and enforcement actions against non-conforming (e.g. domestic) uses in IBs should be more lenient, and the support to occupiers affected by enforcement actions should be strengthened.

55. The Administration has explained that while the definition of "industrial use" under the planning regime has been expanded, most existing IBs are still confined by their land leases which have specified them for "industrial and/or godown" purpose. To address this, the waiver application policy has been relaxed to accommodate certain non-industrial uses in IBs and the scope of relaxation could be expanded if the uses concerned are permitted under the land use zoning of the sites concerned on the relevant OZPs as "Column 1" (i.e. always permitted) uses, and the proposal is supported by relevant policy bureaux, and could fully address the public safety issue. Meanwhile, the Task Force would continue to facilitate community-led transitional housing proposals through an array of measures. The Administration has added that TPB would scrutinize, inter alia, the traffic impact of a planning application to make sure that an IB revitalization proposal is feasible in terms of its ancillary facilities and infrastructure.

56. As regards those non-conforming uses which cannot be allowed in existing IBs in light of the serious safety risk they pose to the occupiers, the

Administration has been encouraging them to relocate into redeveloped or wholesale-converted IBs. The Administration would see if stronger support could be rendered to those affected by its enforcement actions against these uses, but it would also be cautious about the relevant rehousing arrangements to avoid creating an illegal avenue leading to public housing acquisition.

Recommendations

57. The Subcommittee has recommended that the Administration should consider the following:

- (a) to explore ways, such as developing district-wide plans, to promote the revitalization of IBs while satisfying the market demand for affordable industrial premises (paragraphs 9 and 11);
- (b) to increase the incentives for wholesale conversion of IBs for transitional housing use by, for example, extending the project period (paragraph 16);
- (c) to support the arts and cultural sectors by initiating more wholesale-conversion projects of existing IBs into arts space, relaxing the use of existing IBs by these sectors, and devising revitalization measures to allow for performance arts to stage on bottom floors of IBs (paragraphs 11, 13, 20, 22 and 27);
- (d) to permit other low-risk non-industrial uses, such as certain process supporting courier services which do not attract visiting members of the general public, to operate above the ground floor of existing IBs (paragraphs 22, 24-25 and 27);
- (e) to study and provide a paper, in due course, the suggested relaxation of IBs for non-industrial uses by regular visitors on a membership basis (paragraphs 31 and 32);
- (f) to strengthen the enforcement against breaches of land lease conditions such as the erection of UBWs and illegal domestic use in IBs (paragraphs 43 and 47);
- (g) to review the level of support available to residents of illegal domestic premises in IBs, and to suspend enforcement actions against them unless a comprehensive rehousing policy is

formulated for them or in case of immediate safety threats (paragraphs 45 and 48);

- (h) to examine with a view to duly relaxing the policies on factory canteens and retail shops on the ground floor of IBs in coming reviews (paragraph 53);
- (i) to exercise tenancy control in IBs to facilitate legal non-industrial uses (paragraph 35); and
- (j) to ensure the water quality in an IB (paragraph 39).

58. Furthermore, the Subcommittee has requested the Administration to provide more detailed **written response** to explain:

- (a) whether it has developed a long term plan to promote initiatives involving the arts and cultural sectors, creative industries and indoor sports which are now infeasible due to the lack of space (paragraph 37); and
- (b) the possible reasons why so many applicants have not been successful in receiving support from the Arts and Culture Sector Subsidy Scheme under the Anti-epidemic Fund, as well as the "Relocation Allowance for Residents of Illegal Domestic Premises in Industrial Buildings Who Have to Move out as a Result of the BD's Enforcement Action" under the Community Care Fund (paragraphs 38 and 48).

Advice sought

59. The Subcommittee has concluded its work. Members are invited to note the deliberations and recommendations of the Subcommittee set out above.

Subcommittee on Issues Relating to Policy on Industrial Buildings

Terms of reference

To study and follow up issues relating to the policy on industrial buildings, including the effectiveness of "revitalization of industrial buildings", usage of the existing industrial buildings, details of future policy support and other related issues.

Subcommittee on Issues Relating to Policy on Industrial Buildings

Membership List*

Chairman Hon Jeremy TAM Man-ho

Members Hon WONG Ting-kwong, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Frankie YICK Chi-ming, SBS, JP
Hon YIU Si-wing, BBS
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, BBS, JP
Hon SHIU Ka-chun
Hon LAU Kwok-fan, MH
Hon KWONG Chun-yu
Hon Tony TSE Wai-chuen, BBS

(Total : 14 members)

Clerk Mr Daniel SIN

Legal Adviser Ms Vanessa CHENG

* Changes in membership are shown in Annex to Appendix II.

Subcommittee on Issues Relating to Policy on Industrial Buildings

Changes in membership

Member	Relevant date
Hon Frankie YICK Chi-ming, SBS, JP	Since 21 January 2020
Hon Tanya CHAN	Up to 17 May 2020
Hon HO Kai-ming ¹	Up to 31 May 2020

¹ Pursuant to section 15(1)(a) of the Legislative Council Ordinance (Cap. 542), HO Kai-ming ceases to hold office as a member of the Legislative Council upon his resignation on 1 June 2020.

Subcommittee on Issues Relating to Policy on Industrial Buildings

**List of organizations/individuals which/who have given views
to the Subcommittee**

List of deputations/individuals which/who have given oral representation to the
Subcommittee

1. Civic Party
2. Democratic Alliance for the Betterment and Progress of Hong Kong
3. DTPL (HK) Company Limited
4. Hong Kong Institute of Surveyors
5. Hong Kong Professionals and Senior Executives Association
6. Hong Kong Take the Lead Institute
7. Kwai Chung Industrial Building Displaced Household Concern Group
8. Kwai Chung Industrial Building Subdivided Flat Concern Group
9. Kwai Chung Subdivided Flats Neighbourhood Alliance
10. Kwai Chung Subdivided Housing Household Alliance
11. Liberal Party
12. Miss WONG Tsz-yan
13. Mr CHOW Hiu-laam
14. Mr POON Chi-kin
15. Mr TSANG Kin-shing
16. Mr SO Ho-yat
17. Mr WAN Chi-chung
18. Mr YUEN Ho-lun
19. Office of Leslie Chan KL, District Councillor, Yau Tsim Mong District
20. Our Hong Kong Foundation
21. Public Transportation Think Tank of Hong Kong
22. Society for Community Organization
23. The Lion Rock Institute
24. Wong Tai Sin District Council
25. 香港社區組織協會工廈居民關注組

List of deputations/individuals which/who have provided written views to the Subcommittee only

1. Federation of Hong Kong Industries
2. Hong Kong Party Room Association
3. Self Storage Association Asia
4. 梁伯豪先生
5. 關注安置政策連線

Subcommittee on Issues Relating to Policy on Industrial Buildings

Motions passed at the meetings

<u>Meeting date</u>	<u>Motion</u>
6.6.2020	<p>Receiving public views on policy issues related to industrial buildings</p> <p>(1) Existing industrial buildings ("IBs") can be converted for use as transitional housing for a period of five-year only. This is not attractive enough for owners. This Subcommittee urges the Government to expedite the relaxation of temporary waivers and extend the duration to a ten-year term to motivate owners for greater engagement.</p> <p>(2) The policy of the Buildings Department against subdivided flats ("SDUs") in industrial buildings ("IBs") is ineffective in suppressing IBs owners to undertake unauthorized sub-division of their premises, but such policy has significant impact on grassroots households. Given the above, this Subcommittee urges that, pending the introduction of a comprehensive resettlement policy, the Government should suspend enforcement actions against SDUs in IBs involving domestic use which does not pose any immediate risks in order not to force tenants affected by such enforcement actions to seek abode in other illegal premises.</p> <p>(3) This Subcommittee requests the Government to conduct a study on relaxing non-industrial uses in industrial buildings and permitting the operation of trades that are subject to the regulation by the Government or statutory bodies or specific trades, operating on a membership basis with monthly subscription fees. The relevant companies or organizations will have to conduct emergency evacuation drills for their members on a regular basis.</p>