

立法會
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Panel on Development

Meeting on 26 November 2019

Background brief on the Land Sharing Pilot Scheme

Purpose

This paper provides background information on the Land Sharing Pilot Scheme ("LSPS"), and a brief account of the views and concerns expressed by Legislative Council Members on the subject.

Background

Tapping into private agricultural land reserve in the New Territories

2. As cited in the Chief Executive ("CE")'s 2018 Policy Address ("PA"),¹ some open information and rough guestimates showed that private developers held altogether no less than 1 000 hectares ("ha") of agricultural land in the New Territories ("NT").

3. At present, there are two main approaches to unlock the potential of large-scale private agricultural land in NT, namely, (a) submission of planning applications to the Town Planning Board ("TPB") and lease modifications or land exchange applications to the Government by developers seeking to change the use of their land in NT and enhance the site's development potential; and (b) statutory resumption of the land by the Government under the Lands Resumption Ordinance (Cap. 124) ("LRO").²

¹ Source: Chapter III. Housing and Land Supply of [CE's 2018 PA](#)

² Source: https://www.landforhongkong.hk/en/supply_analysis/private_land.php

4. According to the Administration, when land is required to be resumed and cleared for development projects such as public works projects, affected owners or legal tenants of private land may claim compensation (commonly referred to as "statutory compensation") in accordance with the relevant laws of Hong Kong (including LRO, Roads (Works, Use and Compensation) Ordinance (Cap. 370), etc.).

5. Apart from statutory compensation, the Government offers various types of non-statutory ex-gratia compensation, rehousing arrangements and ex-gratia land compensation to eligible affected parties.³ For owners of private agricultural land, ex-gratia compensation may be offered at the applicable zonal rates in full and final settlement of all statutory claims under the respective applicable ordinances. Under this system, NT is divided into four compensation zones (i.e. Zones A, B, C and D)⁴ which are shown on the Zonal Plan for Calculation of Compensation Rates available for inspection at all NT District Lands Offices. The compensation rates for different zones are expressed in terms of varying percentages of the basic rate for agricultural land,⁵ and take into account

³ Relevant arrangements are outlined in a pamphlet (available at https://www.landsd.gov.hk/en/rehouse/pamphlet_e.pdf) published by the Lands Department ("LandsD").

⁴ This four-zone system was approved by the Finance Committee ("FC") in 1985 and reviewed and improved in 1996 (please see [FCR\(96-97\)79](#)) by FC. The definitions of the four zones are as follows:

Zone A – New Town Development Areas (namely areas within the New Town boundaries as shown on gazetted outline zoning plans for new towns), and those areas that are affected by essential projects with territory-wide significance;

Zone B – Areas that may be brought under urban development in the near future, either by extensions to the adjoining layout areas due to their proximity to such areas or by reason of their known potential for urban development;

Zone C – Areas in which no urban development is planned and which are unlikely to be affected by later extension to layout areas, but where resumptions are required sometimes for purposes directly connected with urban layout development and sometimes for local improvement schemes; and

Zone D – Areas not included in other zones.

⁵ The basic rate for agricultural land (from 1 October 2019) is \$1,158 per square foot ([G.N. 6048](#)). The ex-gratia compensation rates for different zones are as follows:

Zone A –	120% of basic rate
Zone B –	75% of basic rate
Zone C –	50% of basic rate
Zone D –	30% of basic rate

the potential use of the land, its location and proximity to New Town Development Areas to reflect the fair land value.

The Chief Executive's 2018 Policy Address

6. According to the Administration,⁶ in the five years before 2018, TPB processed some 20 rezoning applications for private housing development in NT involving about 40 ha of land in total. Due to inadequate infrastructure support, planning considerations or local objections, only seven applications, covering an area of about 18 ha with an estimated supply of about 2 800 housing units, were approved. Meanwhile, it was the Government's long-established policy that if the private land was covered by the Government's plans for public housing development or provision of infrastructure facilities, the Government would continue to resume the private land concerned pursuant to LRO.

7. To make better use of those privately-owned land parcels not covered by the Government's planned development and unleash earlier their development potential, CE announced in her 2018 PA the formulation of a framework for LSPS that was based on fairness and high transparency so as to meet the needs for both public and private housing in the short-to-medium term through public-private partnership ("PPP"). CE's 2018 PA suggested, among others, that a range of not less than 60% to 70% of the additional gross floor area ("GFA") of an application under LSPS should be dedicated for public housing, and that the cost of justified infrastructural works might be deducted from the land premium. The Development Bureau was tasked to formulate feasible arrangements for LSPS with reference to the report to be submitted by the Task Force on Land Supply ("TFLS").⁷

⁶ Sources: Chapter III. Housing and Land Supply of [CE's 2018 PA](#) and [LC Paper No. CB\(1\)15/18-19\(01\)](#)

⁷ TFLS was appointed by CE in August 2017 for a term of 18 months starting from 1 September 2017 to take an overall macro-review of land supply options, engage the community in discussions on the pros and cons of different options and their priorities thereby facilitating consensus-building. On 26 April 2018, TFLS launched a five-month public engagement exercise to solicit views from all sectors of society on 18 land supply options it had identified as well as other land supply-related issues. The report of TFLS is available at: <https://www.landforhongkong.hk/en/views/index.php>.

Recommendation of the Task Force on Land Supply and the Administration's response

8. In its report submitted to the Government on 31 December 2018, TFLS recommended, among others, that the Government should formulate a detailed mechanism for PPP that was open, fair and transparent to realize the potential of private land in NT. Specific benchmarks should be set for the proportion of public housing in PPP projects, with the benefits accrued to the community being no less than the amount of public money invested by the Government in infrastructural upgrading for the subject projects.

9. In response to TFLS's recommendations, the Administration advised that based on the directional pointers in CE's 2018 PA and TFLS's recommendations, the Administration was drawing up more specific criteria and other details of the implementation framework for LSPS, with a view to inviting applications in the second half of 2019 after seeking the endorsement of CE-in-Council.

The Chief Executive's 2019 Policy Address

10. In CE's 2019 PA,⁸ more implementation details for LSPS were released. According to the Administration, LSPS was aimed at tapping the market force in planning and construction, with a view to releasing as soon as possible private lots with consolidated ownership but not yet covered by the Government's development studies supporting the use of land intended for public purposes, so as to speed up short- and medium-term housing supply. The key features are summarized below:

- (a) *implementation timeframe* – the Administration would gauge the views of stakeholders in the ensuing months, with the target of accepting applications in early 2020. LSPS would receive applications over a limited period of three years;
- (b) *a cap on the area to be handled and areas to be excluded* – the area of private land to be approved under LSPS would altogether be capped at 150 ha. Country parks

⁸ Sources: Chapter III. Land Supply of [CE's 2019 PA](#) and [LC Paper No. CB\(1\)38/19-20\(01\)](#)

and six environmentally sensitive zonings,⁹ and areas covered by the list of 12 priority sites for enhanced conservation under the New Nature Conservation Policy,¹⁰ would not be eligible for LSPS. Also, applications involving sites overlapping with the areas covered by the Government's completed, ongoing or about-to-commence development studies supporting the use of land intended for public purposes would not be accepted;

- (c) *land sharing arrangement* – the project in question should be fairly sizeable and capable of delivering an additional GFA of 50 000 square metres and a minimum of 1 000 additional housing units. The Government would facilitate infrastructural improvement to allow higher development intensity. At least 70% of the additional GFA gained should be allocated for public housing or Starter Homes as intended by the Government, while the remainder of the site could be retained for private housing development. The land owners would be responsible for providing infrastructure and other community facilities necessary to support the housing development projects, and the associated construction cost would be deducted from the land premium; and
- (d) *vetting and approval mechanism* – applications would be subject to examination by a multi-disciplinary team of government officers, and a newly established Panel of Advisors comprising members with credibility in society would provide advice. The applications would then be submitted to CE-in-Council for approval. All town planning and other statutory and administrative procedures would continue to apply, including the requirement for land owners to pay the land premium at full market value for the private housing development and ancillary commercial facilities. To speed up development, lease modification

⁹ The six environmentally sensitive zonings include Conservation Area, Coastal Protection Area, Other Specified Uses ("OU") (Comprehensive Development to include Wetland Restoration Area), OU (Comprehensive Development and Wetland Enhancement Area), OU (Comprehensive Development and Wetland Protection Area) and Sites of Special Scientific Interest.

¹⁰ The 12 priority sites are: Ramsar Site; Sha Lo Tung; Tai Ho; Fung Yuen; Luk Keng Marsh; Mui Tsz Lam and Mau Ping; Wu Kau Tang; Long Valley and Ho Sheung Heung; Deep Bay Wetland outside Ramar Site; Cheung Sheung; Yung Shue O; and Sham Chung.

(including premium negotiation) should be completed within 18 months after completion of the statutory planning process.

Major views and concerns expressed by members

11. Issues relating to LSPS were discussed at meetings of the Panel on Development ("the Panel"). The major views and concerns expressed by members are summarized in the ensuing paragraphs.

Concerns over government-business collusion

12. Some members expressed concerns about potential government-business collusion and transfer of benefits to private developers that might arise from the implementation of LSPS. Some members were worried that the arrangement would encourage land hoarding by private property developers. They called upon the Administration to implement LSPS under a highly transparent mechanism so as to allay public concerns in this regard. As many privately-owned land parcels were scattered, some members were doubtful about the effectiveness of LSPS from the overall planning perspective. There was a view that, instead of introducing LSPS, the Administration should make wider use of LRO to resume private land for implementation of New Development Area ("NDA") projects.

13. The Administration emphasized that in working out the suitable mode of PPP to help unleash the development potential of private agricultural land in NT, the Administration would strive to maximize the public interest, explain to the public the basis of the proposal and duly address concerns over transparency. Meanwhile, the Administration hoped that the society would keep an open mind to PPP, which had been adopted in taking forward a number of major housing developments in the past such as Mei Foo Sun Chuen, Whampoa Garden and Taikoo Shing. As regards the application of LRO, the Administration had all along been acting prudently in accordance with the spirit and provisions of LRO when triggering the statutory power to resume land after establishing the "public purpose", such as taking forward NDA projects and development of public rental housing.

Implementation details

14. Members were keen to know the implementation details of LSPS, including the application procedures, mechanism for determining land premium with the cost of infrastructure facilities to be deducted, whether

the locations of the public housing developed through LSPS would be remote, etc. Some members also suggested that the Administration should review the criteria for determining the land premium in the lease modification/land exchange applications, with a view to increasing transparency, avoiding disputes and expediting the application handling process. On the allocation of the additional GFA for public housing, some members considered public rental housing, instead of subsidized sale flats, should be developed.

15. The Administration advised that, while the implementation details of LSPS were being formulated, there was an established mechanism for the determination of land premium. Furthermore, the Pilot Scheme for Arbitration on Land Premium¹¹ had been introduced to provide an additional avenue to settle the land premium payable for lease modification/land exchange applications. The effectiveness of this Pilot Scheme would be reviewed when more cases were concluded through arbitration. As regards the types of public housing to be provided, it would depend on factors like subsidized housing policies, site location and provision of supporting facilities.

16. Given that the existing Land and Development Advisory Committee ("LDAC")¹² comprised representatives of many large developers, some members considered it not appropriate for LDAC to be involved in the consideration process of development projects proposed under PPP. They considered that the Administration should follow the tradition of public administration and exercise its role in initiating land development projects.

¹¹ The Pilot Scheme for Arbitration on Land Premium was introduced in October 2014 to provide an additional avenue for both the applicant in lease modification/land exchange cases and LandsD to expedite the conclusion of land premium negotiations. According to the Administration, the arbitration mechanism would allow an independent and impartial third party to adjudicate the premium payable based on the arbitration terms and conditions agreeable to both sides, which in turn would help speed up land supply for housing and other uses. In October 2018, the Administration announced the extension of the Pilot Scheme for two years from October 2018 to October 2020

¹² LDAC, the current term of which is from 1 July 2018 to 30 June 2021, was appointed by CE to advise the Government, through the Secretary for Development, on (a) policies and procedures in relation to planning, land, and buildings matters; (b) specific development proposals and projects initiated by non-governmental organizations or private sector proponents which carry broader economic or social merits; (c) policies, measures and specific development proposals conducive to Energizing Kowloon East; and (d) any other development matters in relation to (a) to (c) above.

17. According to the implementation details released in CE's 2019 PA, the Administration would establish a new Panel of Advisors to provide advice on the examination of the LSPS applications by a multi-disciplinary team of civil servants.

Quality of infrastructure works

18. Some members considered LSPS a quicker option to increase land supply comparing with some other land supply options identified by TFLS. Yet, they were concerned about the quality of the infrastructure works to be delivered by the participating private developers under LSPS.

19. Regarding the quality of construction works, the Administration advised that it had worked with the Construction Industry Council to strengthen the construction manpower training.

Council questions

20. At the Council meetings of 13 and 27 June 2018 and 8 May 2019, Members raised questions relating to LSPS. The hyperlinks on the questions and the Administration's replies are provided in the **Appendix**.

Latest development

21. At the Panel meeting to be held on 26 November 2019, the Administration will brief members on the implementation details of LSPS.

Relevant papers

22. A list of relevant papers is in the **Appendix**.

Land Sharing Pilot Scheme

List of relevant papers

Committee	Date of meeting	Paper
Panel on Development	29 May 2018	<p>The Administration's paper — Public Engagement of the Task Force on Land Supply [LC Paper No. CB(1)996/17-18(04)]</p> <p>Updated background brief on initiatives to increase land supply prepared by the Legislative Council Secretariat [LC Paper No. CB(1)996/17-18(05)]</p> <p>Minutes of meeting [LC Paper No. CB(1)55/18-19]</p>
Panel on Development	19 September 2018	<p>The Administration's paper — Land Supply [LC Paper No. CB(1)1389/17-18(01)]</p> <p>Updated background brief on initiatives to increase land supply prepared by the Legislative Council Secretariat [LC Paper No. CB(1)996/17-18(05)]</p>
--	10 October 2018	The Chief Executive's 2018 Policy Address
Panel on Development	23 October 2018	<p>Administration's paper — Initiatives of Development Bureau on the Chief Executive's 2018 Policy Address and Policy Agenda [LC Paper No. CB(1)15/18-19(01)]</p> <p>Minutes of meeting [LC Paper No. CB(1)455/18-19]</p> <p>Administration's response to the motion in relation to the initiatives of</p>

Committee	Date of meeting	Paper
		Development Bureau on the Chief Executive's 2018 Policy Address [LC Paper No. CB(1)191/18-19(01)]
Panel on Development	1 March 2019	<p>Report of the Task Force on Land Supply</p> <p>The Administration's paper — Government's response to Report of Task Force on Land Supply [File Ref. DEVB(PL-CR)13/2006]</p> <p>Paper on the public engagement by the Task Force on Land Supply prepared by the Legislative Council Secretariat (Updated background brief) [CB(1)639/18-19(01)]</p> <p>Minutes of meeting [LC Paper No. CB(1)1371/18-19]</p>
--	16 October 2019	The Chief Executive's 2019 Policy Address
Panel on Development	--	Administration's paper — Initiatives of Development Bureau in the Chief Executive's 2019 Policy Address and Policy Address Supplement [LC Paper No. CB(1)38/19-20(01)]

Hyperlinks to relevant Council questions and the Administration's written replies:

Date	Council question
13 June 2018	Question raised by Hon Andrew WAN on " Tapping into private agricultural land reserve in New Territories "
27 June 2018	Question raised by Hon LAM Cheuk-ting on " Use of Lands Resumption Ordinance by Government "
8 May 2019	Question raised by Hon KWONG Chun-yu on " Land Sharing Pilot Scheme "