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**Panel on Food Safety and Environmental Hygiene**

**Report of the Subcommittee on  
Issues Relating to Public Markets**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Issues Relating to Public Markets ("the Subcommittee").

**Background**

2. Following the dissolution of the former Municipal Councils on 1 January 2000, the Food and Environmental Hygiene Department ("FEHD") has taken over the responsibility for managing public markets. As at 31 December 2018, FEHD was managing 99 public markets and over 60% of them were built before 1990s.<sup>1</sup> Issues relating to public markets have always been a concern of the Panel on Food Safety and Environmental Hygiene ("the Panel"). In the Fifth Legislative Council ("LegCo"), the Panel formed a subcommittee to study issues relating to the policy and business environment of public markets managed by FEHD and follow up issues relating to the retrofitting of air-conditioning ("A/C") facilities in public markets ("the former Subcommittee"). The former Subcommittee completed its work in September 2015 and put forward a number of recommendations in its report to the Panel.<sup>2</sup> Among its recommendations is that the Panel should follow up various issues studied by the former Subcommittee with the Administration.

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<sup>1</sup> The 99 public markets managed by FEHD comprised 35 wet markets, 39 wet markets and cooked food centres ("CFCs"), as well as 25 standalone cooked food markets. There were a total of more than 14 000 stalls.

<sup>2</sup> For the recommendations of the former Subcommittee, please see paragraphs 36 and 37 of its report (CB(2)2142/14-15(01)).

## **The Subcommittee**

3. At its meeting on 8 November 2016, the Panel agreed to establish a subcommittee to study and review issues relating to the policy and business environment of public markets; assess the demand for public markets according to the district-based principle; examine the Administration's proposals for the rental adjustment mechanism and A/C charging arrangement for public market stalls and relevant issues; and make timely recommendations. The terms of reference and membership of the Subcommittee are set out in **Appendices I and II** respectively.

4. Under the chairmanship of Hon Wilson OR, the Subcommittee has held a total of seven meetings since its activation in March 2018. The Subcommittee has received views from deputations on issues relating to the positioning and management of public markets and the Market Modernization Programme ("MMP") for improving the operating environment of existing FEHD public markets as well as issues relating to the planning and provision of public markets at two of these meetings. A list of the deputations which have given views to the Subcommittee is in **Appendix III**. In order to facilitate members of the Subcommittee to learn more about the present operating environment of public markets, the Subcommittee conducted a visit to Shui Wo Street Market and CFC, Aberdeen Market and CFC and Wan Chai Market on 3 July 2018.

## **Deliberations of the Subcommittee**

5. The Subcommittee has focused its deliberations on the following areas:

- (a) positioning and functions of public markets;
- (b) planning and provision of public markets;
- (c) launching and implementation of MMP;
- (d) issues relating to provision of A/C systems in public markets;
- (e) vacancy situation in public markets;
- (f) management reform of public markets; and
- (g) rental adjustment mechanism for public market stalls.

### Positioning and functions of public markets

6. Members in general share deputations' view that public markets are to provide convenient access to affordable and diversified food items for the benefit of the public. Many members have pointed out that many new towns (including Tin Shui Wai, Tung Chung, Ma On Shan and Tseung Kwan O) do not have public markets managed by FEHD and the fresh provision retail outlets in these areas are mostly monopolized by Link Real Estate Investment Trust ("Link") and the prices of food items sold in these outlets are generally higher than those sold in public markets. In their view, public markets may facilitate healthy competition with the Link markets and allow the public to buy fresh provisions at affordable prices.

7. The Administration has affirmed that as stated in the report of the consultancy study commissioned by the Food and Health Bureau ("FHB") on ways to improve the operating environment of public markets issued in 2015<sup>3</sup>, public markets are positioned to be one of the major sources of fresh provisions for the general public, and should be kept reasonably decent, clean, neat and tidy without being unduly upmarket. The Administration has further advised that the Administration does not control the price of the products sold in public markets. The general perception that products sold in FEHD markets must be cheaper than other outlets may not be true. According to the findings of a price survey conducted by a consultant in 2016<sup>4</sup>, prices of some products in FEHD markets were in fact higher than other markets or retail outlets.

### Planning and provision of public markets

#### *Hong Kong Planning Standards and Guidelines ("HKPSG")*

8. Members note that prior to the amendments made in April 2009 to those parts concerning public markets in HKPSG, provision of new public markets was based on the population size of the areas (i.e. one public market stall should be provided for every 55 to 65 households or approximately 40 to 45 stalls per 10 000 persons). Members share deputations' view that the Administration should review the current planning standards for the provision of public markets and set clear and objective criteria for building public markets, such as the population size

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<sup>3</sup> For the final report of the consultancy study, please refer to LC Paper No. CB(2)1815/14-15(01).

<sup>4</sup> For the detailed findings of the survey, please refer to LC Paper No. CB(2)1580/16-17(05).

in a district. They also hold the view that the Administration should consider building multi-storey municipal complexes to incorporate public markets and CFCs as well as other community facilities. The Subcommittee has passed a motion urging the Administration to review the planning standards for public market facilities as set out in HKPSG, and another motion urging the Administration to, among others, identify suitable sites for building new public markets, including the building of municipal complexes for incorporating public market facilities in line with the "single site, multiple use" principle.<sup>5</sup>

9. The Administration has advised that it will study the need and feasibility of providing new public markets in districts where relevant facilities are alleged to be insufficient, having regard to factors set out in HKPSG including population and demographic mix, community needs, the availability of market facilities and the number of fresh provision retail outlets in the vicinity. To maximize the land resources that may be earmarked for the development of new public markets and to better meet the needs of the local community, the Administration will consider ways to facilitate the implementation of a "single site, multiple use" model<sup>6</sup> in multi-storey development on Government land in order to consolidate and provide more Government, Institution or Community facilities. In response to members' view on HKPSG, the Administration has subsequently advised that if warranted in future, the relevant guidelines will be reviewed as appropriate.

#### *New public markets under planning*

10. When receiving a briefing by the Administration on the progress of development of new public markets in November 2018, members were advised that local consultation on two new public market projects in Tin Shui Wai and Tung Chung Town Centre respectively was underway. A site at a section of Tin Fuk Road outside Tin Shui Wai MTR Station has been identified for building a new public market in Tin Shui Wai, and the new public market in Tung Chung Town Centre will be built at the lower floors of a commercial building in Area 6, adjacent to Tung Chung MTR Station. In addition, a number of new markets projects in various areas/districts are at different stages of planning, including Tseung Kwan O, Kwu Tung North New Development Area, Hung Shui Kiu New

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<sup>5</sup> These two motions were passed at the Subcommittee meeting on 10 April 2018 and 10 July 2018 respectively.

<sup>6</sup> As announced in the 2017 and 2018 Policy Agenda, the Government will pursue more vigorously "single site, multiple use" in multi-storey developments on government land in order to consolidate and increase the provision of Government, Institution or Community facilities, and make optimal use of limited land resources.

Development Area and Tung Chung New Town Extension. According to the Administration, new design features will be introduced to facilitate modern management and meet the expectations of patrons in today's retail environment in building a new generation of public markets. One of the new design features is that the market should be provided at the lower floors with stalls spreading over at most two floors with easy access to pedestrian traffic. The design and site parameters of a new generation of public markets are in **Appendix IV**.

11. Some members have suggested that new public markets in Tung Chung Town Centre and Tin Shui Wai under planning should be provided with CFC and/or other community facilities to meet the community needs. Some other members share the view of some deputations that the site near the Tin Shui Wai MTR Station selected for building the new public market cannot fully satisfy the needs of all residents in Tin Shui Wai given its geographical spread. They are of a strong view that the Administration should consider providing one more public market in the northern part of Tin Shui Wai. The Administration has responded that when taking forward the two public market projects, FEHD will carefully consider the views of relevant District Councils ("DCs") and local residents, taking into account actual situation in the districts.

*Provision of public markets in the developed districts/areas*

12. Many members share the view of some deputations that the Administration should consider providing new public markets in the developed districts/areas where fresh provision retail outlets are monopolized by private enterprises or Link. The Administration has advised that given that the provision of a new public market requires the use of scarce land resources and entails public financial commitment (both capital and recurrent), in considering whether a public market should be built, the Administration has to duly assess the need for the market and cost effectiveness and to ensure proper and prudent use of public resources. Given land scarcity in the developed areas, the difficulty in identifying suitable sites for providing public markets in these areas cannot be underestimated.

13. Some members have suggested that FEHD should explore options to increase the number of fresh provision retail outlets in the developed districts/areas, such as by providing temporary markets and giving permission for trucks/vans to sell fruits and vegetables. The Administration has responded that as in the case of permanent markets, relevant hygiene and safety requirements will need to be fulfilled for the operation of temporary markets and trucks/vans selling fresh provisions.

Considerable amount of resources will be required to provide the basic facilities for temporary markets, if they are to be built. Therefore, the difficulty in planning and providing temporary markets cannot be underestimated and FEHD presently has no plans to provide temporary markets. Notwithstanding the Administration's response, these members have maintained their view that the Administration should actively consider their suggestion of providing temporary markets.

### Launching and implementation of MMP

#### *Funding of MMP*

14. As promulgated by the Chief Executive in her Policy Address in October 2017, the Government will, apart from building new public markets, conduct a comprehensive review of existing public markets and formulate specific improvement measures for both the facilities and their management in a systematic manner. In the 2018-2019 Budget Speech, the Financial Secretary announced earmarking \$2 billion (in money-of-the-day prices) for launching a 10-year MMP as a pledge to improve the operating environment of existing public markets. According to the Administration, the \$2 billion may be deployed flexibly in the 10-year period to cover various types of hardware improvement projects of the public markets.

15. In response to members' enquiry about the six representative markets which are provided with improvement proposals in the consultancy study completed in 2015, the Administration has advised that funding has been approved for two markets (i.e. Lockhart Road Market and Sheung Fung Street Market) and the remaining four markets (i.e. Ngau Chi Wan Market, Tsuen Wan Market, Yau Ma Tei Market and Wing Fong Street Market) will be followed up as far as practicable in the context of MMP.

16. Pointing out that the retrofitting of A/C system in Tai Wai Market will cost about \$100 million,<sup>7</sup> members are concerned whether the funding earmarked for MMP will be sufficient for improving the operating environment of all existing public markets managed by FEHD. Stressing that sufficient funding should be provided to improve the operating environment of the public markets, the Subcommittee has passed a motion urging the Administration to introduce a "dedicated-

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<sup>7</sup> The funding proposal for the retrofitting of A/C system in Tai Wai Market was considered at the Panel meeting on 13 March 2018 and approved by the Finance Committee at its meeting on 22 June 2018. As advised by the Administration, the proposal is not an improvement project under MMP.

funds-for-dedicated-uses" mechanism with injection of adequate capital to provide the Government with sufficient resources to expedite MMP.<sup>8</sup>

*Scope of the improvement projects under MMP*

17. According to the latest information provided by the Administration, the improvement projects under MMP may generally be categorized into the following two types: (a) fundamental overhaul and (b) refurbishment and minor upgrading works. The project scope may include A/C systems, re-design and re-zoning of stalls, lifts and escalators, etc.<sup>9</sup> Members have requested the Administration to provide information on the estimation of the funding to be spent on different types of works, and the number of public markets whose improvement works will be funded by MMP.

18. The Administration has advised that there is no pre-set limit on the number of markets that may benefit from the dedicated funding, which will depend on the actual circumstances of individual markets, scope and complexity of works proposed, and the mix of projects agreed over time. The Administration has stressed that the funding earmarked for MMP will provide flexibility for taking forward improvement projects in an efficient and effective manner. It will not rule out seeking further funding support for MMP if a clear momentum has been generated to bring more existing public markets into the modernization programme in a cost-effective manner to benefit the community.

19. Some members consider that the Administration should conduct a strategic analysis (e.g. a Strengths-Weaknesses-Opportunities-Threats analysis) of existing public markets in contemplating which type of improvement projects will best suit individual public markets. There is also a suggestion that the Administration should consider in-situ redevelopment of public markets instead of fundamental overhaul, where appropriate, in order to achieve greater cost-effectiveness and optimize the use of land resources in line with the "single site, multiple use" model promulgated by the Administration.

20. Members are advised that the Administration would identify candidate projects of different scales under MMP in a holistic manner

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<sup>8</sup> The motion was passed at the Subcommittee meeting on 10 April 2018.

<sup>9</sup> According to the Administration, the project scope may include A/C, re-design and re-zoning of stalls, re-configuring the layout, drainage improvement, upgrading works for fire services installations, electricity supply, toilet facilities, ventilation, lighting, signage, replacement of floor tiles, provision of barrier free access, façade and external wall decoration, lifts and escalators, etc. as appropriate.

with regard to the public markets' geographical location and distribution, physical condition of facilities, business viability, tenants' readiness as well as the community needs. While cost-effectiveness is an important consideration, other factors, such as the presence of other co-located facilities have to be taken into account. In identifying public markets for fundamental overhaul and in-situ redevelopment, FHB and FEHD will coordinate with other relevant bureaux and departments, and optimize the use of land resources in line with the "single site, multiple use" principle. The Administration will also conduct minor improvement works where necessary.

*Public markets to be included in MMP*

21. Members have urged the Administration to provide information on the list of public markets that will be given priority for inclusion in MMP. The Administration advised the Subcommittee at its meeting on 21 January 2019 that FEHD had preliminarily assessed the situation of its 99 existing public markets. The Administration considers that there are 20 markets having the potential for being accorded priority for inclusion in MMP. The distribution is as follows:

	<b>No. of existing FEHD markets</b>	<b>No. of markets preliminarily assessed to have potential</b>
Hong Kong Island	27	6
Kowloon	27	8
New Territories	45	6
<b>Total</b>	<b>99</b>	<b>20</b>

22. The Administration has also proposed that in the first phase of MMP, a fundamental overhaul will be carried out for four markets, including Aberdeen Market which is the pioneering project of MMP and will set the prototype for future projects. After the particulars of the Aberdeen Market MMP project are finalized, the Administration will kick-start these overhaul projects progressively from 2019 onwards as far as practicable, including ascertaining the scopes of works, conducting technical feasibility studies, consulting DCs and the Panel, seeking funding approval from the Finance Committee, etc. Apart from Aberdeen Market, the Administration is planning to overhaul three markets in Kowloon and the New Territories to ensure a reasonable distribution of overhauled markets to benefit the public. The Administration also plans to kick-start the refurbishment and minor upgrading works for at least three markets in different districts across the territory in 2019.



23. While welcoming the Administration's plan to kick-start at least seven MMP projects in 2019, members consider that a much larger number of FEHD markets in various districts should be overhauled or refurbished. Members have expressed concern about the time taken to take forward improvement projects in public markets from initial conception to final completion and the impact on stall tenants. Some members have also expressed worries that the Administration will take longer than expected time to garner sitting tenants' support for taking forward MMP projects.

24. The Administration has advised the Subcommittee that FEHD has been actively liaising with relevant stakeholders (including market tenants) and responding to their concerns with appropriate follow-up actions, so as to embark on the first project under the MMP as soon as possible. The Administration will liaise with stakeholders as appropriate having regard to the progress of the works. The Administration has also explained that to join MMP, tenants will need to come to terms with the new management rules to be made in the reform directions while some flexibility may be allowed.<sup>10</sup>

25. The Subcommittee has passed a motion urging the Administration to, among others, expedite the progress of implementing MMP, devise specific proposals for MMP expeditiously and inform the public on the progress of MMP on a regular basis. The Subcommittee has also passed another motion urging the Administration to maintain the monthly rental payment of those affected stall tenants who are required to be relocated to other markets at the original level.

#### Issues relating to provision of A/C systems in public markets

##### *80% threshold of tenants' support ("the 80% Threshold")*

26. In response to members' enquiry raised at the Subcommittee meeting on 12 June 2018, the Administration has advised that there were 11 markets which have reached the 80% Threshold for retrofitting of A/C systems in public markets. In members' view, provision of A/C systems is essential nowadays and the availability of A/C systems in public markets is important in attracting patronage. Members have strongly urged the Administration to consider lowering the 80% Threshold.

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<sup>10</sup> As advised by the Administration, some flexibility to those sitting tenants may be allowed. For example, sitting tenants wishing to return to the overhauled market may benefit from a certain restricted auction but there may be no guarantee of a stall in some cases. Returning tenants must pay for a new rental reflecting the full economic value of the new stalls, but a certain concession may be possible for the first three-year tenancy.

27. There is a suggestion that the Administration may consider installing A/C systems for particular areas of public markets (e.g. for stalls selling fish and meat which are more prone to deterioration because of heat) and installing evaporative air coolers for the floor selling vegetables, fruits and dry goods. The Subcommittee has passed a motion urging the Government to, among others, communicate with the stakeholders of various markets on matters relating to the installation of A/C systems such as the installation of closed A/C systems for meat stalls and depending on the actual circumstances, for stalls selling vegetables, fruits and dried goods.<sup>11</sup>

28. In response to members' repeated call for lowering the 80% Threshold, the Administration has advised the Subcommittee at its meeting on 21 January 2019 that as fundamental overhaul includes retrofitting of A/C systems, the Administration will no longer set a threshold of tenants' support for such works. For those public markets having the support threshold reached earlier and preliminarily planned to have A/C systems retrofitted, they will have more potential to be accorded priority for inclusion in MMP for an overhaul as their tenants are more ready for the improvement works. Members are also advised that with the implementation of MMP, Tai Wai Market will be the last public market to have the retrofitting of A/C system as the major part of the project.

*Financial assistance to the stall tenants affected by the retrofitting works*

29. While noting that the full-closure period of Tai Wai Market for the A/C retrofitting works can be shortened from eight months to not more than seven months, members have pointed out that wet markets managed by Link only need about three months for similar retrofitting works. Expressing concern about the impact on the stall tenants affected by the relevant works, members in general consider that appropriate assistance and concessionary packages should be offered to them when the relevant works are carried out and during the closure of the market. Some members have suggested that to allow the affected stall tenants to continue their business during the closure of the market, FEHD should let vacant stalls in other public markets to them at a concessionary rental.

30. Members note that the tenants of Tai Wai Market affected by the A/C retrofitting works have grave concern about the concessionary packages during the closure of the market. The Administration informed

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<sup>11</sup> The motion was passed at the Subcommittee meeting on 10 July 2018.

the Subcommittee at its meeting on 21 January 2019 that FEHD had been maintaining communication with the affected tenants of Tai Wai Market and sought to work out an agreeable concessionary arrangement with them before commissioning the A/C retrofitting works. According to the latest concessionary arrangement, for the first 10-month period where only a few stall tenants will be directly affected, a 50% rental waiver will be granted to all stall tenants, and there will be no rental payable for the seven-month period of full market closure. Three-month full rental plus A/C charges waiver will be granted to all tenants after re-opening of the market. Noting that the Administration has not yet reached an agreement with the market tenants, members have urged the Administration to be more accommodating to the requests of the affected tenants of Tai Wai Market.

#### *A/C charges*

31. Members in general share the view that the retrofitting of A/C systems in public markets is for the benefit of the public and the "user-pays" principle should not be adopted in recovering the A/C charges. In members' view, the A/C charges attributable to common areas of markets and the maintenance cost of A/C systems should be borne by the Administration while stall tenants should only pay A/C charges according to the actual size of their stall areas. The Subcommittee has passed a motion requesting the Government to bear the A/C charges attributable to the common areas of markets.<sup>12</sup>

32. The Administration has reiterated that it is the Government policy to adopt the "user-pays" principle in setting fees and charges, and that the high capital costs of retrofitting of A/C facilities and major maintenance, for instance, replacement of key equipment, are already borne entirely by the Government. Unlike landlords in private commercial venues, who seek to recover such capital costs through rental adjustments, the Government does not recover the capital costs. As tenants in public markets are in fact engaging in commercial operations, further Government subsidy in the form of A/C charges may give rise to unfair competition between stalls in public markets and similar retail operators in private commercial retail premises, especially those in areas nearby. Besides, the Administration is of the view that the common areas in public markets are integral parts of the trading environment and are used by patrons of the stalls, and it will be reasonable for tenants to pay for the relevant A/C charges. Despite the Administration's reiteration of its explanation, members maintain their view that the Administration

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<sup>12</sup> The motion was passed at the Subcommittee meeting on 10 April 2018.

should consider bearing the A/C charges for common areas in the public markets, as well as the maintenance costs of A/C systems.

### Vacancy situation in public markets

#### *Measures to enhance the vibrancy of public markets*

33. Although the Administration has advised that the overall let-out rate of public market stalls is about 90%, members have pointed out that many stalls are either not operating or used for storage only. In members' view, vibrancy and patronage of public markets should be enhanced by, for example, diversifying the trade mix in public markets. There is a suggestion that vacant space in public markets can be better utilized, for example, by converting them into community facilities, public clinics and/or planters, which can increase patronage to the markets.

34. According to the Administration, the vibrancy of each public market depends on various factors including prevailing economic situation, demographic changes of the areas where the market is located, the impact of new development/redevelopment projects, shopping habits of the public, market location and competition from fresh provision retail outlets in the vicinity, etc. In its view, hardware and management issues should be dealt with in parallel, in a bid to break the longstanding logjam and find concrete solutions to the problems. Members are also advised that to boost the let-out rate of public markets, FEHD has, since February 2009, introduced an arrangement whereby long-standing vacant stalls are put up for auction at concessionary upset prices.<sup>13</sup> Starting from October 2010, stalls which have been left vacant for eight months or more and are not leased out for a three-year tenancy in the first round of auctions at 60% of the upset prices, will be put up for auction for a short term tenancy for three months in the second round at the same upset prices. FEHD has introduced service trades, light refreshment and bakery stalls since July 2009 so as to improve the operating environment of public markets, widen the trade mix and better utilize vacant stalls.

35. Some members have raised grave concern that FEHD, starting from June 2018, has suspended the open auction of public market stalls. The Administration has explained that having regard to operational needs, when there are improvement works in individual public markets, FEHD will reserve some stalls as appropriate for affected stall operators to

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<sup>13</sup> Under the arrangement, FEHD reduces the upset auction prices for stalls having been vacant for six months and eight months or more to 80% and 60% of the original upset prices respectively and lets out the stalls through a three-year tenancy agreement.

continue their business. Also, some market stalls may be frozen and withheld from letting out due to consolidation programmes. There is also a need to reserve or freeze some vacant stalls to support the implementation of MMP and the conduct of the review of public markets with high vacancy rates.<sup>14</sup>

36. In response to members' concern and suggestion, the Administration has advised that it will study the feasibility of different arrangements, such as letting out vacant market stalls through short-term tenancy so as to allow flexibility in meeting operational needs, such that sufficient number of vacant stalls can be maintained to meet the needs of sitting tenants for relocation while vacant stalls can be put to good use in a flexible manner. The Administration will also step up enforcement against sitting tenants for inactive operation or unauthorized change of the use of stalls. While members are pleased that the Administration is willing to take forward members' suggestion, they have urged the Administration to announce and put in place the above arrangements as soon as possible and engage the stakeholders throughout the process.

#### *Closure of public markets*

37. As advised by the Administration, a comprehensive review of the usage and development potential of existing public markets is underway. The Administration will consider the need for consolidation of public markets to release precious land resources for more gainful use to better serve the community. When considering whether individual under-utilized public markets are to be closed, FEHD will take into account a host of factors (including vacancy rate, prospects for improvement and availability of alternative sources of fresh provision retail outlets in the vicinity, etc.) and the views of the relevant DCs. Where a market is closed and the premises are no longer required by FEHD, the vacated building space will be handled according to the established procedures. Depending on the circumstances, FEHD may hand over the sites to relevant Government bureaux/departments for proposals to put the premises to gainful long-term use.

38. In response to members' enquiries, the Administration has advised that FEHD closed down two under-utilized markets in 2017-2018 (i.e. Tsuen King Circuit Market and Shau Kei Wan Market), and has plans to close down three public markets with consistently high vacancy

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<sup>14</sup> As set out in CE's 2018 Policy Address, FEHD is conducting a comprehensive review of the usage and development potential of existing markets, with a view to formulating appropriate development plans for fulfillment of policy objectives of optimizing land uses, benefitting the public and promoting district development.

rates (including Tui Min Hoi Market in Sai Kung District) in the near future. Tsuen King Circuit Market, which was closed down in March 2018, will be converted to other community uses.

39. Concern has been raised about the use of the site of Mong Kok Market which was closed in 2010. Some members share the view of some deputations and consider that the Administration should explore the possibility of putting the site to other uses before it is redeveloped, such as for organizing bazaars. The Administration has reiterated that where a market is closed and the premises are no longer required by FEHD, the vacated building space will be handled according to the established procedures. As regards the redevelopment of the site of Mong Kok Market, the Administration has advised that the relevant statutory planning procedures and preparatory works are underway. The Administration adopts a positive attitude towards bottom-up and district-led proposals for organizing bazaars, and the proposals will be handled and considered by relevant bureaux and departments according to their established procedures and vetting criteria.

#### Management reform of public markets

40. Members note that The Ombudsman released in August 2018 a direct investigation report on FEHD's regulation of market stalls.<sup>15</sup> As advised by the Administration, enforcement actions are conducted to ensure that tenants will comply with the tenancy agreements and relevant legislative provisions, namely the Public Health and Municipal Services Ordinance (Cap. 132) and the Public Market Regulation made thereunder. Tenancy can be terminated for tenants who have breached the tenancy agreement or are repeatedly convicted.

41. In the Administration's view, MMP will provide a prime opportunity for the Administration to review the management issues and offer new running models in the new market setting with complete new hardware and stall design. For instance, FEHD will explore, during the comprehensive review, the feasibility of outsourcing the day-to-day management of new public markets, where appropriate. It will also consider whether it will be feasible to separate stall tenants by the types of goods they are selling, and also consider disallowing multiple tenancies in general.

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<sup>15</sup> Separately, The Ombudsman released a direct investigation report in August 2018 on FEHD's rental management of market stalls. The Ombudsman's major findings and recommendations, as well as the Administration's response are summarized at Annex to the Administration's paper for the Subcommittee meeting held on 6 November 2018 (LC Paper No. CB(2)186/18-19(03)).

42. Members also note that in taking forward management reform of public markets, FEHD will abide by the following reform principles: (a) public markets should principally be operating on a commercial basis allowing market forces to play in full swing; (b) individual stalls should be allowed to compete on a level playing field; (c) public markets as municipal infrastructure should ultimately serve the public interest benefitting the community at large. One of the reform directions is to introduce a fair mechanism for tenancy renewal to promote healthy turnover of tenants and admission of new small traders, taking into account past performance of sitting tenants.<sup>16</sup> The Administration has pointed out that hardware improvement will only be effective if taken together with management improvement measures and new operation modes. The dedicated team set up in FEHD to improve the operating environment of existing public markets is conducting a review and developing ideas for translation into concrete management measures for implementation in public markets. A new management model will be implemented in new public markets to be commissioned in future and public markets overhauled under MMP. For public markets waiting for their MMP turn, the Administration would consider certain management measures that are feasible for standalone implementation with prospect of quick results.

43. Stressing that the Administration should give due consideration to the social functions of public markets, many members have expressed the view that the management of public markets should not be outsourced and should not adopt the "Single Operator Market" model. Many members have expressed reservation as to whether public markets should "principally be operating on a commercial basis allowing market forces to play in full swing". Some members have also expressed concern about the direction of management reform of public markets in respect of tenancy renewal mechanism and tenancy agreement. The Administration is also urged to consider enhancing the functions of the Market Management Consultative Committees ("MMCCs") of the public markets to facilitate the implementation of improvement measures for both the facilities and the management of public markets. The Administration has undertaken to look into ways to enhance the functions of MMCCs.

#### Rental adjustment mechanism for public market stalls

44. Members have all along stressed that as public markets can serve the function of providing fresh provisions for the general public at

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<sup>16</sup> As advised by the Administration, it seeks to pursue a new operation mode primarily along several directions which is set out in **Appendix V**.

affordable prices, the Administration should regard the provision of public markets as public services and subsidize the operation of market stalls. Members do not fully subscribe to the direction of management reform of public markets in respect of rental adjustment mechanism. Some members hold the view that rental concessions should be provided to stall tenants who are operating small business activities, thereby preventing large corporations from gaining a predominant market presence in fresh provision retail outlets and ensuring that fresh food in public markets will be sold at affordable prices.

45. The Administration has assured members that public markets should be one of the major sources of fresh provisions for the general public. In this context, stall tenants should remain to be individuals in the capacity of small traders. FEHD will enter into tenancy with an individual, but not a limited company nor a partnership. In taking forward management reform of public markets, FEHD will abide by the reform principles as mentioned in paragraph 42. The Administration has also advised that the new rental determination and adjustment mechanism should in principle ensure a level reflecting the full economic value of stalls, in order to nurture a fair business environment and encourage active operation of market tenants.

46. Concern has been raised as to whether the rental level of new market stalls of those overhauled public markets under MMP will be set higher than the reference rental assessed by the Rating and Valuation Department ("RVD"). An enquiry has also been raised about the assessment of the reference rental by RVD. Members are advised that RVD, in assessing the reference rental, will make reference to the auction results of similar stalls in the same market and other FEHD markets, the location and facilities of the market, as well as the permitted trade, size, layout and position of the stalls within the market. The reference rental only serves as a reference for determining upset price for auction, and the actual rentals will be based on the outcome of auction, which is the fair price the market is willing to pay for use of the market stall. Some members have expressed the view that patronage and vibrancy of the relevant public market should be one of the important factors in assessing the reference rental of stalls. The Administration is of the view that the auction results of similar stalls would have reflected those factors.

47. Some members consider that when contemplating the rental adjustment mechanism of public market stalls, due consideration should be given to the relevant historical background of public markets and the livelihoods of stall tenants. Prior to taking forward management reform in relation to rental adjustment mechanism, FEHD should take measures to improve the vibrancy of public markets and ensure a proper trade mix in these markets. Considering that various issues relating to public



markets are interrelated (e.g. rental adjustment mechanism and operating environment, etc.), the Subcommittee has passed a motion urging the Administration to conduct a comprehensive public consultation exercise prior to formulation of policies and measures in respect of the management of public markets and full implementation of MMP.<sup>17</sup>

## **Recommendations**

48. The Subcommittee has passed six motions urging the Administration to take actions on various matters relating to public markets. A list of motions passed by the Subcommittee is in **Appendix VI**. The Subcommittee urges the Administration to take into account the views and concerns expressed by members on various issues in relation to the implementation of MMP and management reform of public markets.

49. The Subcommittee recommends that the Administration should:

- (a) inject adequate funding into the dedicated fund for the implementation of the 10-year MMP, and provide sufficient funding and resources to increase the provision of new public markets in the newly developed districts/areas as well as the developed districts/areas with a view to meeting the needs of the local community;
- (b) ensure that in consultation with DCs, suitable sites will be identified for building new public markets, and that where feasible and appropriate, municipal complexes will be built for incorporating public market facilities and other community facilities, so as to be in line with the "single site, multiple use" principle;
- (c) consider how to better utilize the vacant space in public markets, for example, by converting them into community facilities, public clinics and/or planters, with a view to fully utilizing land resources;
- (d) ensure that there will be transparency in the policy making process, consult DCs, the public as well as the stall tenants on the details of MMP in a proactive manner, and inform the public on the progress of MMP on a regular basis. In this respect, the Administration should consider conducting a comprehensive public consultation prior to

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<sup>17</sup> The motion was passed at the Subcommittee meeting on 21 January 2019.

the formulation of policies and measures in respect of the management of public markets and full implementation of MMP;

- (e) enhance the communication and coordination between FEHD and other relevant government departments (e.g. the Architectural Services Department and the Electrical and Mechanical Services Department) with a view to expediting the implementation of various types of hardware improvement projects of public markets;
- (f) consider how to enhance the functions of MMCCs of public markets with a view to facilitating the implementation of improvement measures for both the facilities and the management of public markets;
- (g) ensure that appropriate assistance and concessionary packages will be offered to the sitting stall tenants who are affected by the works projects under MMP and required to suspend or cease operation when the relevant works are carried out;
- (h) consider reviewing the current planning standards for public market facilities as set out in HKPSG, with a view to ensuring an adequate provision of public markets to meet the needs of the community; and
- (i) give due consideration to the suggestion of bearing the A/C charges for the common areas in public markets as well as the maintenance costs of A/C systems and charging stall tenants A/C charges based on their stall areas only.

50. The Subcommittee also recommends that the Panel should follow up the issues on the implementation of MMP and the management reform of public markets with the Administration.

### **Advice sought**

51. Members are invited to note the deliberations and recommendations of the Subcommittee.

**Panel on Food Safety and Environmental Hygiene**

**Subcommittee on Issues Relating to Public Markets**

**Terms of Reference**

To study and review issues relating to the business environment of public markets; assess the demand for public markets according to the district-based principle; examine the Administration's proposals for the rental adjustment mechanism and air-conditioning charging arrangement for public market stalls and relevant issues; and make timely recommendations.

**Subcommittee on Issues Relating to Public Markets**

**Membership list\***

<b>Chairman</b>	Hon Wilson OR Chong-shing, MH
<b>Deputy Chairman</b>	Hon HO Kai-ming
<b>Members</b>	Hon Claudia MO Hon Steven HO Chun-yin, BBS Hon CHAN Han-pan, BBS, JP Dr Hon KWOK Ka-ki Hon KWOK Wai-keung, JP Dr Hon Elizabeth QUAT, BBS, JP Dr Hon CHIANG Lai-wan, SBS, JP Hon Andrew WAN Siu-kin Hon CHU Hoi-dick Hon SHIU Ka-fai Hon SHIU Ka-chun Hon YUNG Hoi-yan Hon LAU Kwok-fan, MH Hon Jeremy TAM Man-ho Hon AU Nok-hin
	(Total : 17 members)
<b>Clerk</b>	Ms Alice LEUNG
<b>Legal Adviser</b>	Ms Wendy KAN

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

## Annex to Appendix II

### Subcommittee on Issues Relating to Public Markets

#### Changes in membership

<b>Member</b>	<b>Relevant date</b>
Hon Tanya CHAN	Up to 8 March 2018
Hon AU Nok-hin	Since 22 March 2018
Hon Alice MAK Mei-kuen, BBS, JP	Up to 8 April 2018 Rejoined on 31 October 2018 Up to 21 January 2019
Hon LEUNG Yiu-chung	Up to 9 October 2018
Hon LEUNG Che-cheung, SBS, MH, JP	Up to 15 October 2018
Dr Hon Helena WONG Pik-wan	Up to 30 October 2018

**Panel on Food Safety and Environmental Hygiene**

**Subcommittee on Issues Relating to Public Markets**

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

1. Association of Yue Wan Market Stall Holder
2. Miss Anita CHAN Wai-sum
3. Miss CHAU Man-yuk
4. Miss CHEN Yu-ting
5. Miss CHU Lam
6. Democratic Alliance for the Betterment and Progress of Hong Kong
7. Democratic Party
8. Development Owners' Committee of the Tung Chung Crescent
9. Federation of Hong Kong Kowloon New Territories Hawker Associations
10. Ms HO Loy
11. Hong Kong & Kowloon & Merchants & Hawkers Association
12. Labour Party
13. Mr LAI Wai-tong
14. Mr LAU Chin-pang
15. Mr LAU Wing-yin
16. Mr LEE Kin-chung
17. Dr LEUNG Chi-yuen

18. Liberal Party
19. Luen Wo Hui Market Association
20. Mr LUI Man-kwong
21. Mr MAK Ip-sing, Yuen Long District Council Member
22. Momentum 107
23. Mr NG Ka-kei
24. Mr NG Kim-sing, Kwai Tsing District Council Member
25. Ms NG Siu-fung
26. Mr POON Cheuk-bun
27. Residential Owners' Sub-committee of the Tung Chung Crescent
28. Sai Wan Ho Commercial Union
29. Tai Wai Market Mutual Aid Committee
30. Mr Anfield TAM Ching-hin
31. The Association of Aberdeen Complex Merchandiser & Hawkers
32. The Association of the Residents of Private Buildings of Kwai Fong District
33. The Civic Party
34. Tin Shui Wai Community Development Alliance
35. Tin Shui Wai New Force
36. Mr TO Ka-lun, Yuen Long District Council Member
37. Miss TSUI Ho-yee
38. Tsz Lok Estate Resident Association
39. Tsz Wan Shan Constructive Power

40. Tsz Wan Shan Market Residents Concern Group
41. Mr WONG Chun-kit
42. Mr WONG Ho-ming
43. Mr WONG Yat-yuk, Wong Tai Sin District Council Member
44. Mr WU Chi-kin
45. Mr YIP Pui-kei
46. 大成街街市檯商協會
47. 工聯會新界東辦事處
48. 天水圍社區發展網絡
49. 天晴社區服務處
50. 吳堃廉先生
51. 改善東涌居民組
52. 改善東涌居民關注組
53. 東涌公眾街市關注組
54. 東涌社區發展陣線
55. 爭取北葵涌街市重建關注組
56. 社區前進
57. 社區發展陣線
58. 政府應立即做街市地區公眾諮詢關注組
59. 富東街市關注組



60. 黃遠康先生
61. 葵芳區私樓居民關注街市小組
62. 實政圓桌
63. 監察公營街市發展聯盟
64. 關注葵芳榮芳街街市重建小組
65. 鰂魚涌街市樓商會

List of deputations/individuals which/who have provided written submissions only

1. A group of Tung Chung residents
2. Resident of Tung Chung for 5 years
3. Miss Rita WONG
4. 東涌一居民
5. 爭取天水圍食環署街市關注組
6. 胡嘉兒小姐
7. 馬鞍山利安邨麥潤培區議員
8. 蔡樺女士
9. 霍錦華

**Extract from the Administration's paper entitled  
"Development of a New Generation of Public Markets"**

X X X X X X X X X X X X X

**Design and Site Parameters**

8. In building a new generation of public markets, we need to introduce new design features to facilitate modern management and meet the expectations of patrons in today's retail environment. Notably –

- (a) The market should be positioned as one serving a wide community in the district, which should be kept reasonably decent, clean, neat and tidy without being unduly upmarket, with a reasonably large number of stalls and the proper trade mix offering choices and varieties of fresh provisions to attract patrons near and far.
- (b) Each of the stalls should be reasonably large such that stall operators can conduct all the business operation, including storage, preparation, sale, and cleaning (floor drainage inside), within the boundary of the stall to prevent obstruction and keep the passageway dry.
- (c) The stall passageways for patrons should be generous to allow pleasant strolling and shopping as well as easy access by strollers and wheelchairs.
- (d) Universal accessibility provisions must be provided up to contemporary standards.
- (e) More space should be reserved for general circulation, communal areas, creating a cleaner and enticing environment for a better shopping experience.
- (f) The market should be provided at the lower floors with stalls spreading over at most two floors<sup>2</sup> with easy access to pedestrian traffic, or in other words, be located on the ground and first floors as far as possible.
- (g) The frontage of the market building should be made best use of to attract patrons in the street.

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<sup>2</sup> In the case of also providing a cooked food centre in the new public market, a 3-storey facility is considered acceptable.

9. The design parameters would translate into specific site and location requirements. In terms of site selection in individual districts, the following parameters will become pertinent –

- (a) The site, and in turn each floor of the building erected upon, should be reasonably large in size to accommodate the wet market in one or two floors.
- (b) The site itself should bestow heavy pedestrian traffic on the future market, which should best be achieved by a location next to a major transport hub where commuters frequent every day.
- (c) Where possible, the site should best be part of, or adjacent to, a retail and catering cluster in a commercial setting, for synergy effect to boost business.
- (d) In line with Government policy, where the site is zoned for "Government, Institution or Community" purposes, we will pursue the "single site, multiple use" model in multi-storey developments and welcome collaboration with other public agencies to accommodate compatible use.

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Source: The Administration's paper entitled "Development of a New Generation of Public Markets" [LC Paper No. CB(2)186/18-19(01)] for the meeting of the Subcommittee on Issues Relating to Public Markets on 6 November 2018.

**Extract from the Administration's paper entitled  
"Management Reform of Public Markets"**

X X X X X X X X X X X X X

**Directions for Management Reform**

6. Given the above market positioning and reform principles, we seek to pursue a new operation mode primarily along the following directions —

- (a) A proper trade mix should be achieved in future wet markets and be subject to review from time to time to ensure that sufficient choices for fresh provisions are provided.
- (b) Tenancy should continue to be open to individuals as small traders, but multiple tenancies should in general be disallowed.
- (c) In general, open auction should be adopted to admit stall tenants on commercial terms with Government as the landlord.
- (d) There should be a healthy rental adjustment mechanism that would ensure a level reflecting the full economic value of stalls. For instance, rental level for renewal should be premised upon a market reference rental assessed at the time by the Government or be determined through the market force.
- (e) Tenants should shoulder reasonable outgoings in the running of a market on par with a commercial setting (such as air conditioning charges, rates and management fees).
- (f) Renewal of tenancy should not be taken for granted, which should be underpinned by a fair mechanism to promote healthy turnover of tenants and admission of new small traders, taking into account past performance of sitting tenants.
- (g) There should be no succession or transfer of tenancies based on family ties or otherwise.
- (h) Management rules in the daily operation of markets should be vigorously enforced.

- (i) The management terms should be clearly spelt out before open auctions and in the tenancy agreement to be entered into by the successful bidders.

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Source: The Administration's paper entitled "Management Reform of Public Markets" [LC Paper No. CB(2)186/18-19(03)] for the meeting of the Subcommittee on Issues Relating to Public Markets on 6 November 2018.

## Appendix VI

### Subcommittee on Issues Relating to Public Markets

#### Motions passed at the meetings

<u>Meeting date</u>	<u>Motion</u>
10.4.2018	<p><b>Agenda item I - Market Modernization Programme</b></p> <p>(1) That, given the keen demand in the society for public market facilities, including demand for improvement to be made to existing market facilities and building new public markets, the \$2 billion that the Government has earmarked for the Market Modernization Programme and the proposed number of new markets to be built are apparently unable to meet the needs of the present day society, and, in order to expedite the Market Modernization Programme and increase the provision of new public markets, this Subcommittee urges the Administration to introduce a "dedicated-funds-for-dedicated-uses" mechanism with injection of adequate capital to provide the Government with sufficient resources to take forward the following initiatives:</p> <ol style="list-style-type: none"><li>1. in consultation with the District Councils, identifying suitable sites for building new public markets, including the building of municipal complexes, instead of the proposed community complexes, for incorporating public market facilities in line with the "single site, multiple use" principle; and</li><li>2. launching a 10-year Market Modernization Programme to support the hardware improvement works for existing public markets.</li></ol>
	<p>(2) That, in order to facilitate market modernization, this Subcommittee is of the view that, regarding the arrangements on air-conditioning charges in markets, the air-conditioning charges attributable to the common areas of markets should be borne by the Government, and not by stall operators of the markets.</p>

10.7.2018	<b>Agenda item I - Issues relating to the positioning and management of public markets and the Market Modernization Programme</b>
	<p>(3) That, given \$2 billion will be earmarked for implementing a Market Modernization Programme ("MMP") over the next 10 years, which will entail a comprehensive review of nearly 100 existing markets and improvement works including early installation of air-conditioning ("A/C") systems, major overhaul or redevelopment as mentioned in the 2018-2019 Budget, this Subcommittee urges the Government to:</p> <ol style="list-style-type: none"><li>1. expedite the progress of implementing MMP, devise specific proposals for MMP expeditiously, ensure reasonable progress in different stages of the project including design, funding approval, tendering and construction etc., and inform the public on the progress of MMP on a regular basis;</li><li>2. review the planning standards for public market facilities as set out in the Hong Kong Planning Standards and Guidelines, with a view to ensuring an adequate supply of market stalls for the community;</li><li>3. consult members of the public and stall tenants on the details of MMP in a proactive manner and ensure that views from all stakeholders will be fully reflected; and</li><li>4. charge stall tenants A/C charges only for the actual floor area of their stalls, whereas A/C charges attributable to public areas of markets and other maintenance fees should be borne by the Government when determining A/C charges of public markets.</li></ol> <p>(4) That, on issues relating to the positioning and management of public markets and the Market Modernization Programme ("MMP"), this Subcommittee urges the Government to:</p> <ol style="list-style-type: none"><li>1. conduct a comprehensive review on issues such as the utilization rate of markets and the lack of air-conditioning ("A/C") systems therein, and expeditiously submit a timetable for implementing MMP, with a view to benefiting the tenants of various markets and the public as early as possible;</li></ol>

	<ol style="list-style-type: none"><li>2. instruct the officials concerned to communicate with the stakeholders of various markets on matters relating to the installation of A/C systems such as the installation of closed A/C systems for meat stalls and depending on the actual circumstances, for stalls selling vegetables, fruits and dried goods;</li><li>3. conduct a study on setting up planters, gym centres, public clinics, etc. in markets where there are space that has been left vacant for a long period of time, with a view to fully utilizing land resources; and</li><li>4. consult the stakeholders of various markets on a policy of re-allowing the keeping of cats in markets, with a view to alleviating rodent problem.</li></ol>
21.1.2019	<p><b>Agenda item III - Further discussion on the modus operandi of the Market Modernization Programme</b></p> <p>(5) That, for stall tenants affected by the Market Modernization Programme who need to be relocated to other markets, this Subcommittee urges the Government to maintain their monthly rental payment at the original level.</p> <p>(6) That this Subcommittee requests government departments to formulate and implement expeditiously specific policies and measures on rental of public market stalls, vacancy problems and full implementation of the Market Modernization Programme, etc, that can get to the heart of the matter, resolve the overall problems and avoid further aggravation of the current unsatisfactory situation, and, prior to the formulation of such specific policies and measures, conduct comprehensive public consultation to improve upon the current practice of selective consultation, with a view to increasing the transparency and enhancing the effectiveness of the policy making process.</p>