

LEGISLATIVE COUNCIL BRIEF

**REVISED ARRANGEMENTS
UNDER ENHANCED CONVENTIONAL
NEW TOWN APPROACH**

INTRODUCTION

At the meeting of the Executive Council on 14 November 2023, the Council **ADVISED** and the Chief Executive **ORDERED** that –

- (a) the applicability of Enhanced Conventional New Town Approach (“ECNTA”) should be extended to all New Development Area (“NDA”) projects, and the sites within an NDA project to be eligible for ECNTA should be broadened to include not only residential and commercial sites, but also sites earmarked for other uses such as sites for industries and privately-run community or welfare facilities as determined by the Government; and
- (b) the implementation details of ECNTA should be modified, with the following adjustments –
 - (i) allow minority third-party land to be resumed by the Government for granting to land exchange applicants for their consolidated developments in the NDAs, on the conditions that the applicants –
 - already own 90% or above of the private land within a designated development site (and also own a minimum area if the designated development site is a residential site); and
 - will be required to provide public facilities as specified by the Government;

- (ii) where land exchange applicants provide public facilities as specified by the Government, allow the costs to be funded through premium deduction; and
- (iii) allow affected occupants on the land involved in land exchange applications to opt for the Government's compensation and rehousing ("C&R") package, with full costs including administrative costs to be reimbursed by the land exchange applicants to the Government upon conclusion of the applications.

BACKGROUND

2. The Government announced the adoption of ECNTA for the Kwu Tung North/Fanling North ("KTN/FLN") and Hung Shui Kiu/Ha Tsuen ("HSK/HT") NDAs in 2014 and 2017 respectively. Under this government-led development approach, the Government will, as a general principle, resume and clear all the private land planned for developments, before allocating the land for various purposes, including disposal of land for private developments. Prior to the resumption and clearance of land, however, the Government may allow in-situ land exchange applications from owners of sites earmarked for private developments if they meet certain criteria and conditions. If the land exchange applications fall through, the land will be resumed by the Government, and disposed of through public tender or other means.

3. In the 2023 Policy Address, the Chief Executive announced that the Government will extend ECNTA to all NDAs and improve its operational arrangements, such as applying the land exchange arrangements to designated sites for industries and private community/welfare facilities, and facilitating landowners owning 90% or above of private land within a development site to carry out consolidated development.

JUSTIFICATIONS

4. With more NDA projects adopting an "infrastructure-led" approach coming on stream, the extension of ECNTA to other NDAs within the Northern Metropolis with an expanded scope for land exchange will bring about the following advantages –

- (a) **enhancing speed** – as compared with the scenario where the Government resumes and then forms the land for disposal by tender, the delivery of private developments through land exchange may be speedier. This is because given the large scale of NDA developments, the Government would often adopt a phased implementation approach with sites being formed by batches, and sites earmarked for individual private developments may not necessarily be prioritised over those for other uses such as public housing and basic infrastructure;
- (b) **reducing upfront burden on public finance** – if a land exchange application is successful, the Government will not have to incur cost for land resumption whereas costs for land clearance and site formation will be borne by the land exchange applicant upfront (though the site formation costs would be taken into account in land premium assessment). This will help improve the Government’s cashflow by reducing upfront public works spending. The arrangement for applicants to first pay full market premium will also allow the Government to receive premium revenue earlier; and
- (c) **addressing lot owners’ aspiration** – many lot owners aspire to participate in the development of the NDAs in the Northern Metropolis. The adoption of ECNTA will allow lot owners to participate more widely in NDA developments in a manner complying with the Government’s planning requirements.

REVISED ARRANGEMENTS

(A) Extension of ECNTA to all NDA projects and broadening of scope for ECNTA

5. With the considerations in paragraph 4 above, in addition to KTN/FLN and HSK/HT NDA, the Government will apply ECNTA to all other NDA projects, such as Yuen Long South, San Tin Technopole, New Territories North New Town, Ngau Tam Mei, Ma Tso Lung, as well as Lau Fau Shan, Tsim Bei Tsui and Pak Nai areas, with sites open for land exchange to be determined by the Government.

6. At present, land exchanges under ECNTA are confined to general residential and commercial sites. To realise the industry-driven land use planning in a more timely manner, as a matter of principle and

subject to policy support in individual cases, designated development sites such as those earmarked for industries as well as sites suitable for private community or welfare facilities, may in future also be open for land exchange under ECNTA to allow lot owners to take forward the developments subject to specified conditions, which may include minimum size requirements and the exact uses allowed for the development sites.

7. In preparing the land exchange arrangements under ECNTA for individual NDAs, we will take into account the actual circumstances of each NDA as well as the policy considerations of the subject policy bureau(x) in determining the sites that may be open for land exchange and the detailed requirements or criteria.

(B) Modification of the implementation details of ECNTA

8. To further leverage market forces to expedite the developments in the NDAs while safeguarding the interests of the affected occupants, the following implementation arrangements of ECNTA will be modified –

I. Allow minority third-party land to be resumed for granting to land exchange applicants

9. Land exchange applications under ECNTA have to meet specific size and land ownership criteria. According to the criteria announced for land exchange in KTN/FLN and HSK/HT NDA, for sites earmarked for residential uses, applicants have to own a minimum area of not less than 4 000m² within the designated site, in order to achieve a decent size of residential development. As for sites earmarked for commercial and mixed commercial/residential uses in HSK/HT NDA, land exchange applicants have to own all private land within the designated site so that the site can be developed holistically with an appropriate scale.

10. From experience, however, the existing criteria may have posed the following difficulties for land exchange applicants to complete their applications, or to accomplish a development with a more comprehensive layout –

- (a) given the generally large size of the commercial or mixed commercial/residential sites in HSK/HT NDA and the prevalent existence of other third-party land, including Tso/Tong land, it is not always easy for land exchange applicants to acquire all the

private land within the designated development site for land exchange; and

- (b) in respect of residential sites, we note that most land exchange applicants would attempt to acquire land for land exchange well beyond the minimum criteria of 4 000m² for developing a larger site as far as possible. This is worthy of our support as the resultant larger-scale development can better optimise the land potential and enable a more integrated and better layout. However, the larger the site area, the more difficult it will be for applicants to acquire all the private land, again due to the presence of other third-party land including Tso/Tong land. There are cases where applicants' failure to acquire all of the private land within a designated development site may leave behind small pockets of residual third-party land which are not capable of separate disposal by the Government after resumption. In such cases, depending on where such residual third-party land is located, the application may either have to be rejected¹, or the applicant may have to substantially reduce the area of his development in order that the Government may have a residual site of a reasonable size for disposal. In the latter case, the site would have to be arbitrarily divided into two portions, preventing an otherwise more reasonable and coordinated layout of housing development even if the applicant has already consolidated land titles for the majority of the site.

11. To facilitate early delivery of development through land exchange and for achieving a better scale and layout of development, the above criteria will be relaxed by allowing minority third-party land to be resumed by the Government for granting to land exchange applicants to develop the whole site², subject to the following two conditions³ :

¹ For example, if the location of the residual third-party land occupies the only viable vehicular access point to the site.

² This assumes that Government land within the sites, if any, is also considered suitable for granting to the land exchange applicants for development.

³ Other prevailing criteria (e.g. availability of access, any adverse implications for development in surrounding areas, presence of Government land capable for separate alienation, etc.) under land exchange of ECNTA would continue to apply.

Condition One – ownership of 90% or above of the private land within the designated development site

12. For commercial and mixed commercial/residential sites, the above criteria will be relaxed such that a land exchange application may proceed at the Government's discretion if the applicants could acquire 90% or above of the private land within a designated development site. The remaining 10% or less of the third-party private land will be resumed by the Government and granted to the applicants for development covering the whole site. The land exchange applicants will be required to pay full market premium for the development site including the 10% or less to be resumed by Government.

13. For residential sites, similarly, if the land exchange applicants acquire 90% or above of the private land within a site and can also meet the existing requirement for owning not less than 4 000m² of land, the Government may at its discretion resume the remaining 10% or less of the third-party land for granting to the applicants for developing the whole site in a consolidated manner. In other words, under the revised arrangements, an applicant can develop the whole residential site if both the 90% ownership threshold and 4 000m² minimum requirement are met. If only the 4 000m² minimum requirement is fulfilled, the applicant can still pursue a smaller scale development occupying the not less than 4 000m² area forming part of the site, subject to other prevailing criteria.

14. Going forward, the discretion for the Government to resume 10% or less of minority third-party land in a development site for granting to a land exchange applicant may also apply to designated development sites other than general residential and commercial land, such as sites for industries and private community or welfare facilities, subject to discussion on detailed application criteria with the relevant bureau(x).

15. The delivery of the NDAs involving comprehensive and balanced development of a new town, including land intended for private developments, serves the general interest of the community and can be regarded as a "public purpose" under the Land Resumption Ordinance. Section 16 of the Land Resumption Ordinance also empowers the Government to grant land so resumed for development by private contract (and land exchange is a form of private contract). In other words, the resumption of third-party land to help deliver a NDA through land exchange is in compliance with the Land Resumption Ordinance. The above relaxed land ownership criteria allows the Government to better capitalise on the private sector to increase the speed in the delivery of the

NDAAs. Given the shortage of land supply in Hong Kong, earlier supply of land parcels with better layouts for different uses in NDAs also serves the public interest. The threshold is pitched at a relatively high level of 90% in order to strike a balance between the interests of land exchange applicants and those of the minority owners.

Condition Two – provision of public facilities as specified by the Government

16. For land exchange applicants benefiting from the relaxed land ownership criteria, they will also be required to provide public facilities as specified by the Government, such as adjoining open space, road or other public facilities (e.g. public transport interchange, welfare and recreational facilities, etc.).

17. The Development Bureau will work with relevant bureau(x)/ department(s) to identify suitable public facilities to be constructed by the land exchange applicants. The scale of such facilities will not be disproportionate to the scale of the development. We will also take into account construction costs involved, community's expectations and needs, and availability of resources for meeting the recurrent costs. The land lease documents will contain provisions to ensure that the applicants will perform the obligation of construction as per the Government's requirement within a specified timeframe. The public facilities would generally be handed back to the Government for operation upon completion.

II. Allow deduction of costs for constructing public facilities from land premium payable by land exchange applicants

18. In order to tap into the market forces and expedite the provision of public facilities, there has been a long-standing mechanism under which the Government may require private developers to provide public facilities as part of their development/redevelopment projects.

19. Where land exchange applicants are required to construct public facilities under ECNTA (whether as a requirement for applications under the relaxed land ownership criteria mentioned in paragraph 16 above, or in other cases where the Government sees such a need), we will allow such facilities to be funded through premium deduction. This would enable the Government to timely process the land exchange applications under ECNTA within a specified timeframe (i.e. completion before the

Government proceeds to land resumption). The delivery of the facilities can thus be advanced and available for public enjoyment earlier.

20. As per the established mechanism, the relevant bureau(x)/department(s) will carefully examine the construction costs to be deducted from the land premium. The lease documents will contain provisions to ensure completion of the facilities in accordance with the set requirement and within a specified timeframe.

21. The prevailing practice is to require land exchange applicants to provide public facilities within or adjoining the development sites. Looking ahead, we may further explore whether such an approach can be extended to other public facilities within the same NDA yet farther away from the land exchange sites, thereby benefiting a wider catchment.

III. Allow affected land occupants to opt for the Government's C&R package, with all costs to be reimbursed by the land exchange applicants to the Government

22. Under the existing arrangement, to safeguard the interests of land occupants affected by the land exchange applications, land exchange applicants are required to offer compensation to occupants (including households and business operators) that is comparable to that offered by the Government under land clearance arising from development by the Government. This ensures that the occupants would not be worse-off when compared with the scenario of resumption by the Government. With the enhancement of the Government's C&R package in mid-2018 to provide non-means-tested rehousing option in dedicated rehousing estates operated by the Hong Kong Housing Society ("HKHS") (in addition to the long-standing means-tested rehousing option for rehousing in public rental housing estates of the Hong Kong Housing Authority ("HA")), land exchange applicants are also required to provide comparable rehousing arrangements or its monetary equivalent as well.

23. While clearance of the occupants is a responsibility of the land exchange applicants as the proponent of the development projects, some occupants, especially affected households, may find that the compensation offered by land exchange applicants cannot be directly compared with the Government's rehousing arrangement which specifically include a physical rehousing option at HKHS/HA's estates. There may be concerns, therefore, that the occupants of the site which could have been subject to land resumption might become worse-off if the site is developed through

land exchange instead and resumption by Government is no longer necessary.

24. To address this concern, for land exchange applications under ECNTA, we will allow eligible occupants to opt for either the land exchange applicants' compensation, or the Government's C&R package, after the land exchange applications have been accepted for further processing. If the occupants opt for the latter, the land exchange applicants will be required to reimburse the Government for all the costs involved in the provision of C&R to the eligible occupants on a cost recovery basis (including administrative costs).

IMPLICATIONS

25. The extension of ECNTA to all NDA projects and the revised implementation arrangements has economic, financial, sustainability and family implications as set out at **Annex**. The arrangements are in conformity with the Basic Law, including the provisions concerning human rights, and has no legal, civil service, environmental, gender or Mainland relations implications.

PUBLIC CONSULTATION

26. Since the announcement of the adoption of ECNTA for KTN/FLN and HSK/HT NDA, we have received comments from relevant stakeholders in various contexts, including request for relaxing the size and land ownership criteria. The arrangements would be welcomed by the stakeholders while striking a balance between the interests of land exchange applicants and those of the minority owners.

PUBLICITY

27. We will issue a press release and a Practice Note on the revised arrangements as discussed in paragraphs 5 to 24 above on the same day as this Legislative Council Brief. We will also issue Practice Notes for land exchange applications under different NDAs in due course to announce the application details⁴.

⁴ For example, the Government will soon be issuing Practice Note setting out the designated sites in HSK/HT NDA to be eligible for ECNTA and the application period. Separately, the Government is processing the in-situ land exchange applications within the Remaining

ENQUIRIES

28. Enquiries relating to this brief can be directed to Ms. Apple Lau, Head, Planning & Development Team (1) (Atg.), at 3509 8846.

**Development Bureau
December 2023**

Phase Development of the KTN/FLN NDA. The above revised arrangements are applicable to those applications already received but not yet rejected and for which Binding Basic Terms Offer for land exchange has not yet been issued. The Lands Department will contact the applicants concerned for follow-up.

Implications of the Revised Arrangements under Enhanced Conventional New Town Approach

Economic Implications

The extension of ECNTA to all NDA projects and the revised implementation arrangements would likely facilitate the conclusion of more land exchange applications and allow the Government to leverage on private initiatives to speed up the delivery of the NDA projects. This will in turn expedite the provision of residential units, non-residential floor space supply and public facilities for meeting the various socio-economic needs of Hong Kong. That said, the relaxation on land ownership requirement may affect the negotiation process between some minority lot owners and land exchange applicants. However, we consider that the expected public interests are the more important consideration.

Financial and Civil Service Implications

2. With the large number of NDA projects in the Northern Metropolis coming on stream, additional expenditures and manpower resources may be required to undertake land resumption and clearance, C&R, site formation works and construction works of public facilities, etc. The conclusion of more land exchange applications under ECNTA would reduce the area of land that need to be resumed and formed by the Government. The number of occupants that would need to be cleared by the Government may also be reduced. Besides, the requirement for land exchange applicants to provide public facilities will also save the Government's manpower in performing the works. All the above will relieve the Government from incurring expenditure upfront hence provide relief for cashflow. It will also relieve some of the additional manpower resources required for the upcoming projects. The move will facilitate the Government to implement the projects in a timely and efficient manner.

3. Certain costs incurred for the land exchange applicants to provide public facilities can be suitably deducted from the land premium to be charged for the land exchange, leading to a reduction in land revenue. That said, the overall financial implications would be broadly the same as

the premium deducted would more or less equate the costs of delivering such facilities as Public Works Programme item under the prevailing mechanism. The construction costs to be deducted from the land premium will be carefully examined by relevant bureau(x)/department(s).

4. For civil service implication, on present showing, it is expected that impact to the civil service is insignificant overall. Additional manpower resources, if required in future, will be sought with justifications in accordance with the established mechanism.

Environmental and Sustainability Implications

5. The revised arrangements have no environmental implications. Any environmental implications of the developments under the approved land exchange applications under ECNTA will continue to be dealt with in accordance with the relevant environmental legislation, standards and guidelines. As far as sustainability implications are concerned, the revised arrangements will facilitate the completion of more land exchange applications and expedite land supply for meeting the need for residential, economic and other land uses.

Family Implications

6. The revised arrangements will expedite land supply including that for residential use, with a view to better addressing the keen demand for housing land in Hong Kong, hence conducive to promoting family harmony in society in general.

7. Besides, the offering of the Government's C&R package as an option to the eligible affected land occupants would better safeguard the interest of them, including a physical rehousing option at HKHS/HA's estates for the eligible affected households.