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### Reply to supplementary question raised by Finance Committee Members in examining the Estimates of Expenditure 2017-18

**Director of Bureau : Secretary for Development**

**Session No. : 2**

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**CONTROLLING OFFICER'S REPLY****S-DEVB(PL)01****(Question Serial No. S0007)**

Head: (138) Government Secretariat: Development Bureau  
(Planning and Lands Branch)

Subhead (No. & title): (000) Operational expenses

Programme: (2) Buildings, Lands and Planning

Controlling Officer: Permanent Secretary for Development (Planning and Lands)  
(Michael W L WONG)

Director of Bureau: Secretary for Development

Question:

From time to time, farmers or land owners in the New Territories have relayed to me that the ex-gratia compensation for resumption of private land is relatively low in value and this is a hindrance to the Government's effort on resuming land for the development of public projects. Please set out, in tabular form, the respective amount of each ex-gratia compensation granted and the land area involved over the past three financial years. Please also set out the respective change in the basic rate of ex-gratia compensation under each half-yearly review over the past five years, as well as the reasons for the relevant factors considered.

Asked by: Hon MAK Mei-kuen, Alice

Reply:

The area of private land resumed in the New Territories and the total amount of ex-gratia land compensation payment for the land resumed between 2014-15 and 2016-17 are shown below:

<b>Financial year</b>	<b>Total area of private land resumed in the New Territories (hectares) (about)</b>	<b>Total amount of ex-gratia land compensation payment for the land resumed (up to 31 March 2017) (million) (about)</b>
2014-15	11.0	448
2015-16	4.0	35
2016-17	1.8	26

The basic rates of ex-gratia land compensation between 2012-13 and 2016-17 are shown below:

<b>Financial year</b>	<b>Effective Period</b>	<b>Basic rate for agricultural land per square foot (\$)</b>	<b>Basic rate for building land per square foot (\$)</b>	<b>Adjustment by comparing with the previous basic rate (percentage) (about)</b>
2012-13	April 2012 to September 2012	655	1,297.5	-5% *
	October 2012 to March 2013	710	1,407.5	+8%
2013-14	April 2013 to September 2013	790	1,565	+11%
	October 2013 to March 2014	808	1,600	+2%
2014-15	April 2014 to September 2014	808	1,600	-
	October 2014 to March 2015	808	1,600	-
2015-16	April 2015 to September 2015	883	1,747.5	+9%
	October 2015 to March 2016	927	1,835	+5%
2016-17	April 2016 to September 2016	927	1,835	-
	October 2016 to March 2017	862	1,707.5	-7%

\* For the period from October 2011 to March 2012, the basic rates of ex-gratia land compensation for agricultural land per square foot and building land per square foot are \$687 and \$1,360 respectively.

As in the past, the ex-gratia compensation rates for resumed land promulgated in the past five financial years were determined according to the mechanism approved in December 1985, and last reviewed and refined in 1996 by the Finance Committee of the Legislative Council. Based on the mechanism, the ex-gratia compensation rates for resumed land are reviewed and adjusted half-yearly. The Lands Department adjusts the basic ex-gratia compensation rates in the light of the prevailing market transaction records and related property price indices to reflect changes in market values.

**CONTROLLING OFFICER'S REPLY****S-DEVB(PL)02****(Question Serial No. S0008)**

Head: (138) Government Secretariat: Development Bureau  
(Planning and Lands Branch)

Subhead (No. & title): (000) Operational expenses

Programme: (2) Buildings, Lands and Planning

Controlling Officer: Permanent Secretary for Development (Planning and Lands)  
(Michael W L WONG)

Director of Bureau: Secretary for Development

Question:

Please provide the land area reserved by the Government for the Small House Policy at present. Has adjustment been made to the land area reserved for small house development under the current land use planning? If yes, what are the details and reasons? If not, what are the reasons? Has any land been reserved for small house development in the additional developable land made available under the "Hong Kong 2030+"? If yes, what is the land area involved? Has the Government made any forecast on the potential land demand for building of small houses in the future? If yes, what are the details? If not, what are the reasons?

Asked by: Hon YIU Chung-yim

Reply:

As a general rule, Village Environ (VE) refers to a 300-foot radius from the edge of the last village type house built before the introduction of the Small House Policy on 1 December 1972. Applications for building small houses within this area by eligible indigenous villagers may be considered. Consideration may also be given to an application if the site concerned lies outside a VE but is located within a "V" zone in the relevant statutory plan, provided that the "V" zone concerned encircles or overlaps with the VE. As regards sites within a VE but outside a "V" zone, depending on the specific requirements of the land use zone on which the small house site lies, an applicant may apply for planning permission from the Town Planning Board and the small house application may also be considered if a planning permission is granted.

Nonetheless, applications in relation to sites located within neither a VE nor a "V" zone will generally not be considered. In addition, applications for small house development within "V" zones that do not encircle or overlap with VEs at all will generally not be considered either.

It is worth noting that not all of the land in VEs or “V” zones is suitable for building small houses. Besides, since the topography, geographical situation, size and distribution of individual lots, etc. would also directly affect the use of land, the Government is unable to provide the area of private and government land suitable for building small houses.

At present, the implementation of the small house policy is subject to the availability of land for building small houses, but does not aim at providing adequate land for applications by the estimated number of eligible indigenous villagers. As a matter of fact, the demand for small houses may change with factors such as birth and growth of indigenous villagers. Whether or not an indigenous villager would apply for a small house grant is dependent on his own circumstances and wishes, and not all eligible indigenous villagers aged 18 years or above will submit an application. It is thus impossible for the Government to accurately estimate the land requirement for small house development.

The conceptual spatial framework proposed under the Hong Kong 2030+ study has not proposed any major changes to the planning intention for existing “V” zones on statutory plans and has not accounted for small house development in the assessment of land requirements.

- End -

**CONTROLLING OFFICER'S REPLY**

**S-DEVB(PL)03**

**(Question Serial No. S0011)**

Head: (138) Government Secretariat: Development Bureau  
(Planning and Lands Branch)

Subhead (No. & title): (000) Operational expenses

Programme: (2) Buildings, Lands and Planning

Controlling Officer: Permanent Secretary for Development (Planning and Lands)  
(Michael W L WONG)

Director of Bureau: Secretary for Development

Question:

With reference to the Development Bureau's verbal response to my enquiry on the Government's reply to DEVB(PL)069, the review on the Small House Policy initiated by the Government in 1997 was conducted with public funds and the study report was a public document. There is no question of the report's open access to the public disregarding the Government's views on the report. In this connection, will the Government release the subject report to this Committee? If not, what are the reasons?

Asked by: Hon YIU Chung-yim

Reply:

The small house policy has been in operation for a long time. Any review inevitably involves complicated issues in various aspects such as legal, environment, land use planning and demand on land, all of which would require careful examination. The review on small house policy is still ongoing and a report on its outcome is not available.

- End -

**CONTROLLING OFFICER'S REPLY**

**S-DEVB(PL)04**

**(Question Serial No. SV004)**

Head: (82) Buildings Department  
Subhead (No. & title): (-) Not Specified  
Programme: (1) Buildings and Building Works  
Controlling Officer: Director of Buildings (CHEUNG Tin-cheung)  
Director of Bureau: Secretary for Development

Question:

With reference to Reply Serial No. DEVB(PL)090:

In connection with cases in which mini-storages have been issued removal orders/repair orders by the Buildings Department, please provide the number of cases where such orders have been issued over 6 months and have not been complied with, but the Department has not yet taken further actions, including prosecution.

Asked by: Hon TAM Man-ho, Jeremy

Reply:

As at 31 March 2017, there were 64 mini-storages which had not complied with the removal orders/repair orders issued by the Buildings Department (BD) for over six months. Amongst these cases, three were under appeal; 25 had been granted with an extension of time for complying with the relevant orders mainly due to the time required for completing rectification works; and applications for an extension of time for complying with the relevant orders were being processed for 21 cases. For the remaining 15 cases, the BD is closely monitoring the compliance status and will consider instigating prosecution against the relevant parties.

- End -

**CONTROLLING OFFICER'S REPLY**

**S-DEVB(PL)05**

**(Question Serial No. S0006)**

Head: (91) Lands Department  
Subhead (No. & title): (-) Not Specified  
Programme: (1) Land Administration  
Controlling Officer: Director of Lands (Ms Bernadette LINN)  
Director of Bureau: Secretary for Development

Question:

As a follow-up question on Reply Serial No. DEVB(PL)138, under what circumstances does the Lands Department (Lands D) grant a piece of land by way of private treaty? Will Lands D take the initiative to grant land by this means? Will a premium be definitely charged?

Asked by: Hon CHAN Tanya

Reply:

When government land is granted directly to an applicant (instead of to the successful bidder after a competitive tender process/auction), the land is granted by way of a private treaty grant (PTG). Under the Small House Policy, the Lands Department may consider a PTG application submitted by an eligible indigenous villager who has no suitable private land within the village environs to build his small house and who therefore wishes to apply for government land for the purpose. Such PTGs, if approved, will be subject to the payment of premium set in accordance with criteria laid down for the implementation of the Small House Policy.

- End -

**CONTROLLING OFFICER'S REPLY**

**S-DEVB(PL)06**

**(Question Serial No. SV005)**

Head: (91) Lands Department  
Subhead (No. & title): (-) Not Specified  
Programme: (1) Land Administration  
Controlling Officer: Director of Lands (Ms Bernadette LINN)  
Director of Bureau: Secretary for Development

Question:

A follow-up question on Reply Serial Nos. DEVB(PL)131, 135, 153 and 165:

In reply to the question on small houses in the New Territories raised by the Hon LEE Wing-tat, the then Legislative Council (LegCo) Member, at the LegCo meeting on 11 January 2012, the Government provided figures on planning permission applications for building small houses by land use zoning (including “Village Type Development” zone, “Agriculture” zone, and “Green Belt” zone). However, the Government now advises that, without a clear definition of “brownfield sites”, it is unable to provide the relevant figures and those on short term tenancies by land use zoning.

With reference to the response to that LegCo question, please provide further response as a follow-up on the replies quoted above.

(Time question raised: 4:24 pm on 31 March 2017)

Asked by: Hon KWOK Ka-ki

Reply:

The reply to a question raised at the Legislative Council sitting on 11 January 2012 as cited by the Hon KWOK Ka-ki at the Special Finance Committee on 31 March 2017 was in respect of planning permission applications involving small houses. That reply had not touched on “brownfield sites”.

The Development Bureau/the Planning Department (PlanD) in the Special Meeting of Finance Committee on 31 March 2017 advised the Committee that PlanD would commission the Study on Existing Profile and Operations of Brownfield Sites in the New Territories in 2017 (the Study) to survey the distribution and uses of brownfield sites in the New Territories and thereafter to arrive at a definition of brownfield sites. Pending the completion of the Study, and in consequence the possible emergence of a consensus on

a more precise working definition of “brownfield sites” which enables the Lands Department (Lands D) to compile statistics in respect of specific sites on the basis of whether they constitute “brownfield sites”, Lands Department (Lands D) would not be in a position to provide the number of the “brownfield sites” on government land granted with short term tenancy (STT). Even if Lands D were to disregard what is meant by “brownfield sites” and proceed to take stock of the zoning of all STT sites, given the sheer number of STTs involved (the total number of STTs granted in the past 5 years alone is more than 1 000), Lands D is not able to check the zoning use of all these STTs and to compile a list of those sites within the "Village Type Development", "Agriculture" and "Green Belt" zones within the limited time.

- End -

**CONTROLLING OFFICER'S REPLY**

**S-DEVB(PL)07**

**(Question Serial No. S0003)**

Head: (91) Lands Department  
Subhead (No. & title): (-) Not Specified  
Programme: (1) Land Administration  
Controlling Officer: Director of Lands (Ms Bernadette LINN)  
Director of Bureau: Secretary for Development

Question:

Regarding the reply DEVB(PL)140 made by the Controlling Officer, when was the Village Environ (VE) policy introduced? Before 1993, was it necessary for a proposed small house under application to be situated within the VE for the application to be considered?

Asked by: Hon LAW Kwun-chung, Nathan

Reply:

The requirement that a proposed small house site needs to be situated within the village environs (VE) has been in force since the introduction of the Small House Policy in 1972. If the site is within the VE, the small house application may be considered. With the implementation of the amendments to the Town Planning Ordinance in 1993, consideration may also be given to a small house application if the proposed small house site lies outside the relevant VE but is located within a "Village Type Development" zone ("V" zone) on the relevant statutory plan, provided that the "V" zone encircles or overlaps with the VE.

- End -

**CONTROLLING OFFICER'S REPLY**

**S-DEVB(PL)08**

**(Question Serial No. S0004)**

Head: (91) Lands Department  
Subhead (No. & title): (-) Not Specified  
Programme: (1) Land Administration  
Controlling Officer: Director of Lands (Ms Bernadette LINN)  
Director of Bureau: Secretary for Development

Question:

- (1) In the Controlling Officer's reply DEVB(PL)134 regarding the New Territories Small House Policy, the Government said, "We have no plan to keep statistics on this particular aspect, as the timing of removal of restriction on alienation is not relevant to the processing work. It also does not serve as a useful indicator of abuse, given that the restriction on alienation may be lifted upon application any time during the restriction period subject to premium payment." Please inform this Committee of the following:
- a. The same small house, for which an application for removal of alienation restriction (AR) was received, had been granted a free building licence/land by way of land exchange/private treaty grant some years ago. Otherwise it could not have been built and the application for removal of AR been made. Why was the Government unable to advise on the time elapsed between granting free building licences/land by way of land exchange/private treaty grant and the receipt of applications for removal of ARs?
  - b. The Government said that keeping statistics also does not serve as a useful indicator of abuse. Does the Government have other ways to monitor and curb the abuse?
  - c. As there were hundreds of applications for removal of ARs approved in the past few years, please further provide by district the figures on the approved applications for removal of ARs from 2012 to 2016.
  - d. What are the factors and conditions considered by the Government in approving applications for removal of ARs? Generally speaking, under what circumstances will an application be approved and under what circumstances will it be rejected? What were the figures on applications rejected and the ratios in each of the past five years?

- (2) Regarding the Controlling Officer's reply DEVB(PL)134, the Lands Department (Lands D) was asked how many cases of small house applications in a single submission involved more than five small houses in an adjoining location (within 20 metres) there were in the past five years. Please inform this Committee of the number of small house applications received by the Lands D in the past five years, in which the submission including more than five small houses in an adjoining location (within 20 metres) was made by different applicants.

Asked by: Hon LAW Kwun-chung, Nathan

Reply:

- (1) a & b Each small house grant contains an alienation restriction (AR) clause. The owner of a small house has the right to sell his small house provided that he complies with the provision stipulated in the AR clause in his small house grant document. For a small house grant by way of a free building licence, when the licensee transfers ownership of his small house within the five-year AR period after the issue of Certificate of Compliance (CC), he is required to make an application to the Lands Department (Lands D); and if approved, subject to payment of the necessary land premium before selling his small house. A small house licensee is free to transact his small house upon expiry of the five-year AR period of the building licence without the need to make an application to Lands D. No land premium is involved in such a case. If a small house on government land is granted by way of a private treaty grant, the small house grantee is required to make an application to Lands D for removal of the perpetual AR clause in the grant when he, at any time after the issue of CC, transfers ownership of his small house. If the application is approved, he is required to pay the necessary land premium before selling his small house.

Selling a small house in accordance with the AR clause is not an abuse. Furthermore, when buying a property (including a small house) one would normally engage the service of a solicitor to check whether the title of the concerned property is in order. A solicitor would not consider the title of a small house in order unless the vendor has shown that the consent as required by the AR clause has been given by Lands D or the transaction is made after the expiry of the AR period. In this connection, there is no need for Lands D to keep statistics of the time elapsed between the small house granted by way of free building licence, private treaty and land exchange and the receipt of applications for removal of restriction on alienation clause for the purpose of monitoring abuse of the policy intent in respect of AR.

- c. The number of applications for removal of restriction on alienation approved by Lands D in the past five years (2012 to 2016) is set out below:

District \ Year	2012	2013	2014	2015	2016
Islands	4	10	8	11	10
North	51	64	41	42	3
Sai Kung	29	19	40	11	32
Sha Tin	2	9	2	0	0
Tai Po	62	81	99	67	67
Tsuen Wan and Kwai Tsing	0	0	6	2	0
Tuen Mun	68	36	32	29	41
Yuen Long	188	266	349	300	256
Total	404	485	577	462	409

- d. For handling an application for removal of the AR clause after the issue of CC, Lands D will examine whether there is any irregularity which would constitute a breach of small house grant conditions. If no irregularity is found, the application will be approved subject to payment of the necessary land premium. However, if there is an irregularity found, e.g. breach of development conditions, the application will be rejected and lease enforcement action will be taken.

The number and ratio of applications rejected in the past five years (2012 to 2016) are set out below:

Year	Number of applications rejected	Ratio of approved applications to rejected applications
2012	122	404 : 122
2013	64	485 : 64
2014	57	577 : 57
2015	81	462 : 81
2016	73	409 : 73

- (2) Under the Small House Policy, an individual eligible indigenous villager may apply for building his small house on suitable private or government land within the Village Environs (VE) or “Village Type Development” zone which encircles or overlaps with the VE. It is therefore not uncommon for small houses to be situated close to one another. Lands D does not keep statistics or conduct analyses on small house applications involving more than five small houses in adjoining locations.

- End -

**CONTROLLING OFFICER'S REPLY**

**S-DEVB(PL)09**

**(Question Serial No. SV007)**

Head: (91) Lands Department  
Subhead (No. & title): (-) Not Specified  
Programme: (1) Land Administration  
Controlling Officer: Director of Lands (Ms Bernadette LINN)  
Director of Bureau: Secretary for Development

Question:

As a follow-up question on Reply Serial No. DEVB(PL)156, please advise on the total area of the "Agriculture" zone involved in the approved small house applications.

(Time question raised: 5:15 pm on 31 March 2017)

Asked by: Hon WAN Siu-kin, Andrew

Reply:

Whilst each small house should have a roofed-over area of not exceeding 65.03 square metres, the area of government land granted for individual small houses may be smaller due to site constraints, while that of private land on which approved small houses are built varies from case to case. The Lands Department has no readily available information on the total area of the "Agriculture" zone involved in the approved small house applications.

According to Planning Department, planning applications for small house development in the "Agriculture" zone approved by the Town Planning Board in 2014, 2015 and 2016 involved total areas of 1.4 hectares, 1 hectare and 0.7 hectare respectively.

- End -

**CONTROLLING OFFICER'S REPLY****S-DEVB(PL)10****(Question Serial No. SV008)**

Head: (91) Lands Department

Subhead (No. & title): (-) Not Specified

Programme: (1) Land Administration

Controlling Officer: Director of Lands (Ms Bernadette LINN)

Director of Bureau: Secretary for Development

Question:

As a follow-up question on Reply Serial Nos. DEVB(PL)074 and 166, please advise on the total number of cases approved for small house development on government land.

(Time question raised: 5:18 pm on 31 March 2017)

Asked by: Hon YIU Chung-yim

Reply:

Based on cases approved and executed, the number of small houses granted by way of private treaty in the past five years (2012 to 2016) is set out below:

Year	Number of small houses granted by way of private treaty
2012	84
2013	100
2014	128
2015	146
2016	78
Total	536

- End -

**CONTROLLING OFFICER'S REPLY****S-DEVB(PL)11****(Question Serial No. S0010)**

Head: (118) Planning Department  
Subhead (No. & title): (-) Not Specified  
Programme: (2) District Planning  
Controlling Officer: Director of Planning (Raymond LEE)  
Director of Bureau: Secretary for Development

Question:

According to the Planning Department's Reply Serial No. DEVB(PL)185, the Government announced in the 2014 Policy Address that it had identified some 150 potential housing sites, most of which could be made available in the five years of 2014-15 to 2018-19 for housing development. Of these, some 70 sites fall within "Green Belt" ("GB") zoning. In this connection, will the Government inform this Committee of the specific situation concerning rezoning of these 70 sites within GB zoning so far? How many of them have been rezoned? How many of them are being rezoned? When will the statutory process in relation to all these sites be completed? How many of them have been included in the ten-year housing programme?

Asked by: Hon LO Wai-kwok

Reply:

Out of the some 150 potential housing sites announced in the 2014 Policy Address, some 70 sites fall within "Green Belt" ("GB") zoning (accounting for about 1% of the total area of land zoned "GB" over the whole territory) and would be capable of providing over 80 000 flats (over 70% for public housing). As at end-February 2017, 19 of these some 70 sites had been rezoned for residential use<sup>1</sup>. Four out of these 19 sites are for public housing development which are planned for completion in the coming ten years. Another two out of the 70 GB sites have their statutory rezoning procedures initiated.

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<sup>1</sup> After consideration of the representations, the Town Planning Board (TPB) decided to revert the zoning of two proposed residential sites in Tai Po (i.e. west of Nethersole Hospital and near Fung Yuen) to "GB", and "GB" and "Government, Institution or Community" respectively. The proposed amendments to meet the representations were notified in the Gazette under the Town Planning Ordinance (Cap. 131) (TPO) on 13 March 2015. Also, TPB decided on 27 February 2015 not to rezone the GB site at East of Wong Ma Kok Road, Stanley, for private housing development. Hence, the corresponding plan amendment was not gazetted. These three sites, not being counted in the 19 "GB" sites already rezoned, have been excluded for calculation of the total potential flat production.

As with the established practice, we will consult the District Councils and relevant stakeholders on the development of individual sites as and when ready, and will submit the rezoning proposal for consideration by the TPB. In accordance with the TPO, amendments to outline zoning plans will be exhibited for public inspection for a period of two months and submitted to the Chief Executive in Council for approval within nine months after the expiry of the plan exhibition period. An extension of up to six months may also be required depending on individual circumstances.

- End -

**CONTROLLING OFFICER'S REPLY**

**S-DEVB(PL)12**

**(Question Serial No. SV006)**

Head: (118) Planning Department  
Subhead (No. & title): (000) Operational expenses  
Programme: (-) Not Specified  
Controlling Officer: Director of Planning (Raymond LEE)  
Director of Bureau: Secretary for Development

Question:

Further to Reply Serial No. DEVB(PL)188, will the Government inform this Committee:

- i) of the transfer arrangements for the incumbents of the time-limited non-directorate posts created for various initiatives and to be lapsed as mentioned in the reply; and
- ii) whether the Government will consider setting up a pool to retain the aforesaid posts in the Planning Department to ensure steady provision of manpower resources for short-term projects undertaken by various departments?

Asked by: Hon MAK Mei-kuen, Alice

Reply:

- i) Officers holding time-limited posts which were lapsed have been redeployed to fill other vacancies in the Planning Department (PlanD).
- ii) Time-limited posts are created to meet short-term manpower requirements of PlanD for implementing various initiatives. As with the established practice, PlanD will critically review the continued need for the time-limited posts before they lapse. Since creation of posts is need-based, we have no plan to set up a pool to retain these posts on a continual basis.

- End -