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### Replies to supplementary questions raised by Legislative Council Members in examining the Estimates of Expenditure 2024-25

Director of Bureau : Secretary for Development

Session No. : 11

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**CONTROLLING OFFICER'S REPLY**

**(Question Serial No. S019)**

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)  
(Ms Doris HO)

Director of Bureau: Secretary for Development

Question:

As mentioned in the reply, under the review and re-prioritisation of capital works by the Government, for some works projects which are at a comparatively mature stage of planning (e.g. already completed relevant statutory procedures or conducted relevant public consultations), they will continue to be taken forward as planned; as for some works projects that are currently at the preliminary planning or conceptual stage, the implementation schedule will be adjusted with due regard to the priority and importance of these projects. In this connection, please inform this Committee of the following:

Given that the above reply has provided only a guiding principle which is sketchier than the information provided in paragraph 230 of the Budget Speech, will the Government give a more detailed account of how the review and re-prioritisation will be manifested in the planning of capital works?

Asked by: Hon KAN Wai-mun, Carmen

Reply:

As part of the fiscal consolidation programme announced in the Budget Speech, the review and re-prioritisation of capital works is a Government-wide exercise which involves capital works projects overseen by various bureaux and departments. As far as the Development Bureau is concerned, we have reviewed the pace of implementation of the works projects in the pipeline, having regard to factors such as the impact on land supply and urgency.

For some works projects which are at a comparatively mature stage of planning, they will continue to be taken forward as planned. They include the site formation and infrastructure works for the Northern Metropolis.

For Kau Yi Chau Artificial Islands project, we will continue to press ahead with the preparatory work, with a view to formulating a pragmatic works schedule for the project and commencing the reclamation works within the term of the current Government.

For other works projects that are currently at the preliminary planning or conceptual stage, the implementation schedule will be suitably adjusted with due regard to the priority and their importance. For instance, the implementation schedule of some harbourfront enhancement projects for sites already connected and opened might have to be slightly adjusted.

- End -

**CONTROLLING OFFICER'S REPLY**

**(Question Serial No. S020)**

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

Question:

Pursuant to the replies, each year, there is a certain number of buildings that fail to comply with the mandatory orders issued by the Government in respect of unauthorised building works (UBWs), such as fire safety directions/fire safety improvement directions and removal orders against UBWs. In this connection, will the Government inform this Committee of the following:

1. How will the regulatory departments step up enforcement following the issuance of mandatory orders?
2. Will the Government increase the deterrent effect by raising the penalties against non-compliance with mandatory orders?
3. How will the Government adjust the management strategies and statutory requirements for UBWs and buildings with irregularities? Will the Government consider requiring particular types of buildings of a certain age to undergo inspection within a specified period, regardless of whether they have been issued with notices under the Mandatory Building Inspection Scheme?
4. Will the regulatory departments be empowered to carry out relevant default works within this year, as mentioned by the Chief Executive at a media session before the Executive Council meeting on 16 April, and recover the costs from or even impose a fine on the owners of the units concerned afterwards?

Asked by: Hon KAN Wai-mun, Carmen

Reply:

1. The Buildings Department (BD) will continue to step up enforcement and prosecution against non-compliant statutory orders/directions on various fronts, including streamlining procedures and strengthening prosecution to enhance deterrence. Priority

in prosecution will be given to unauthorised building works (UBWs) and buildings with higher safety risk, such as single-staircase buildings, those with more guesthouses and subdivided flats, and those with non-complied mandatory building inspection notices and have yet to appoint a registered inspector.

2. BD and the Development Bureau (DEVB) are working together on the review of the Buildings Ordinance (Cap. 123) (BO), with a view to empowering BD to take enforcement action more effectively so as to ensure building safety. Among others, we will consider lowering the prosecution threshold, increasing penalties, prioritising enforcement and setting penalty levels according to the risk and severity of offences, in order to enhance deterrence against violations of the BO and boost early compliance with statutory orders/notices. DEVB/BD will put forward the amendment proposals for consultation with the public and stakeholders in 2024, with a view to kick-starting the legislative amendment exercise as soon as possible.
3. In the context of the above-mentioned legislative review, DEVB/BD will also review the enforcement strategy for UBWs, including prioritising enforcement against UBWs of a higher safety risk or of a more serious nature. With regard to building inspection, we may also explore the suggestion of requiring owners to carry out building inspections when the building reaches a certain age without being issued a statutory notice. We should however be mindful of the possible implications brought to owners (e.g. financial burden and causing nuisance).
4. The Security Bureau has been proactively providing various kinds of support to old building owners with a view to assisting them in carrying out fire safety improvement works. As some owners, in particular the owners of “three-nil” buildings, may still have difficulties in complying with the requirements of the Fire Safety (Buildings) Ordinance (Cap. 572) (FSBO) due to the lack of co-ordination capability, the Security Bureau proposes to amend the FSBO in order to empower the enforcement authorities (i.e. the Fire Services Department and BD) to carry out fire safety improvement works in default of owners, and to recover the relevant costs and surcharge from the owners upon completion of the default works. The Government is stepping up the relevant work and will shorten the time required for submitting the proposed amendment bill by two to three months, with a view to submitting it to the Legislative Council for scrutiny as soon as possible.

- End -

**CONTROLLING OFFICER'S REPLY****S-DEVB(PL)003****(Question Serial No. S018)**

Head: (82) Buildings Department

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

Programme: (1) Buildings and Building Works

Controlling Officer: Director of Buildings (Ms Clarice YU)

Director of Bureau: Secretary for Development

Question:

Regarding unauthorised building works (UBWs) in single-family houses and New Territories Exempted Houses (NTEHs), please provide in the table below the respective total numbers of removal orders yet to be complied with, UBWs yet to be removed/rectified, and non-compliant cases despite prosecutions as at the end of 2023, broken down by overdue period of less than one year, one to three years, three to five years, five to ten years and over ten years (if any) since the expiry of removal orders/instigation of prosecutions.

Single-family houses/NTEHs

Overdue period since the expiry of removal orders/instigation of prosecutions	Number of outstanding removal orders yet to be complied with	Number of UBWs yet to be removed or rectified	Number of non-compliant cases despite prosecutions
Less than 1 year			
1-3 years			
3-5 years			
5-10 years			
Over 10 years			

Asked by: Hon ZHANG Xinyu, Gary

Reply:

As at end of 2023, regarding enforcement action against unauthorised building works (UBWs) in single-family houses of not more than three storeys (single-family houses) and New Territories Exempted Houses (NTEHs), the number of outstanding removal orders which have expired and yet to be complied with and the number of UBWs yet to be removed/rectified broken down by overdue period since the expiry of the removal orders are tabulated below –

**Single-family houses**

<b>Overdue period since the expiry of removal orders</b>	<b>Number of outstanding removal orders yet to be complied with <sup>(Note)</sup></b>	<b>Number of UBWs yet to be removed or rectified</b>
Less than 1 year	132	532
1 to less than 3 years	96	358
3 to less than 5 years	110	371
5 to less than 10 years	136	469
10 years or more	310	756

**NTEHs**

<b>Overdue period since the expiry of removal orders</b>	<b>Number of outstanding removal orders yet to be complied with <sup>(Note)</sup></b>	<b>Number of UBWs yet to be removed or rectified</b>
Less than 1 year	1 321	1 651
1 to less than 3 years	625	839
3 to less than 5 years	462	522
5 to less than 10 years	272	341
10 years or more	103	123

Note: The outstanding removal orders include orders that are currently subject to appeals, prosecutions, removal or rectification works being carried out by the owners, default works being carried out by the Buildings Department (BD), etc.

BD does not compile statistics on the number of non-complied cases despite prosecutions.

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**CONTROLLING OFFICER'S REPLY**

**(Question Serial No. SV018)**

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)  
(Ms Doris HO)

Director of Bureau: Secretary for Development

Question:

Will the Government provide the following information:

- (a) Regarding the Government's indication of its plan to promulgate a circular in 2024 to encourage bureaux and departments to adopt a "facilitator" mindset when handling development-related work, please provide the current progress of drawing up the circular and the expected time of its promulgation in 2024.
- (b) Will the Government consider updating the formulae for calculating ex-gratia compensation for owners whose land is required to be resumed for government development projects under the current Ex-gratia Zonal Compensation System, so as to reflect more accurately the market value of the resumed land?
- (c) Under the current arrangements for charging land premium at standard rates for lease modifications involving agricultural land in the New Territories outside the New Development Areas (NDAs), if an agricultural site is used for non-residential purposes upon lease modification, the applicant has to pay the land premium to the Government at a flat rate, irrespective of the uses concerned. Will the Government set different premium rates to commensurate with the types of non-residential uses (e.g. grade A offices or logistics sites) in respect of agricultural land upon lease modification, so as to reflect more accurately the value of the land upon lease modification?
- (d) In the event of lukewarm response to the applications for in-situ land exchange in the Second Phase development area of Hung Shui Kiu/Ha Tsuen NDA, will the Government adjust the development parameters of the logistics sites in the NDA, so as to solicit participation from private developers?

Asked by: Hon LAU Kwok-fan



Reply:

- (a) A circular to encourage bureaux and departments to adopt a “facilitator” mindset when handling development-related work is being prepared. We are in the process of consulting internal government departments as well as external stakeholders to finalise the circular for promulgation in Q3 2024.
- (b) The Ex-gratia Zonal Compensation System (Zonal System) for land in the New Territories serves as an alternative to statutory compensation with an aim to allow land compensation claims to be processed in a more timely and user-friendly manner by adopting standard compensation rates. The ex-gratia compensation rates for agricultural land reflect the value of agricultural land concerned with an additional ex-gratia element. Based on the cases involving New Territories agricultural land heard at the Lands Tribunal in recent years, statutory compensation decided by the court based on land value was generally lower than the compensation based on ex-gratia compensation rates. This shows that the ex-gratia compensation rates are able to compensate, if not more than compensate, landowners for the value of the land.

Under the prevailing mechanism, the ex-gratia compensation rates are adjusted bi-annually (on 1 April and 1 October respectively each year, with the latest adjustment effected on 1 April 2024) in accordance with the change in the land value of developed land of residential, commercial and industrial uses in new towns in the New Territories. At each review, the Lands Department (LandsD) would consider the relevant data on changes in property prices, interest rate and construction costs since the last review and assess the appropriate adjustment based on professional valuation.

In May 2022, in response to public calls for rationalising the compensation arrangements for similar “intended uses” of the resumed land (e.g. for new development areas and public housing projects), the Government merged the four zones under the Zonal System into two zones, namely “Tier One zone” for land required for development uses and “Tier Two zone” for land required for non-development uses (mainly for rural improvement and conservation uses). On that occasion, the Government also rationalised the components in the regular adjustment formula of the rates, by including two existing new towns of Yuen Long and Fanling/Sheung Shui within the catchment of the Northern Metropolis, within which most land resumption would take place in the coming years. Moreover, we updated the relative weightings of land for residential, commercial and industrial uses in each of the three new towns originally featured in the formula before rationalisation, namely, Sha Tin, Tuen Mun and Tsuen Wan based on the area of different land uses in the prevailing outline zoning plans (and likewise for the two new towns mentioned above). We consider that the rationalised formula has better represented the land value in the developed areas of the New Territories for their intended purposes, and facilitated more comprehensive assessment in subsequent regular adjustments of the compensation rates. The Government will continue to keep in view the implementation of the enhanced mechanism and consider if it is necessary to make further adjustments in light of operational experience.

- (c) The standard rates arrangement for charging land premium is an alternative to the conventional premium assessment mechanism in lease modification applications, and it aims to provide certainty and expedite completion of such modifications. To unlock

the development potential of agricultural lots and increase the speed of land supply, the Government announced in December 2023 a new pilot scheme to extend the standard rates arrangement to agricultural land in the New Territories outside New Development Areas (NDAs) in Yuen Long, North and Tuen Mun districts. LandsD published the first set of applicable standard rates on 2 April 2024 and will review them on a yearly basis.

LandsD formulates the level of standard rates with reference to relevant market comparables including land sale records, premium agreed in lease modifications, market transactions, etc., of the relevant types of land uses. Separate rates are set for different uses before and after lease modification to reflect the land value of different land uses. Currently, separate rates are set for three “Before Uses” (i.e. agricultural, non-residential, residential) and two “After Uses” (i.e. non-residential, residential uses). This is the same as the categorisation of standard rates applicable to the Kwu Tung North and Fanling North NDAs under the Enhanced Conventional New Town Approach (ECNTA) launched in March 2022. Whether to further break down the land uses into more refined categories for setting separate standard rates would depend on the availability of relevant market data, the differential in land values between the different land uses within the original broader categorisation, and how common the more specific land uses are involved in the lease modification applications. As the standard rates for non-NDA agricultural lots has just been published, LandsD will keep in view the implementation of the pilot scheme and consider whether further adjustments are necessary to better achieve the policy objectives of the standard rates arrangement.

- (d) LandsD issued on 1 February 2024 a practice note for inviting in-situ land exchange applications for designated development sites within the Second Phase and Remaining Phase developments of the Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA). In accordance with the in-situ land exchange arrangements for the Enhanced Conventional New Town Approach as revised and promulgated in end 2023, the scope for land exchange applications this time covers some of the sites planned for private residential development, commercial development and mixed residential and commercial development within the NDA, as well as some modern industry sites mainly for logistics and storage uses, etc. The deadline for submitting land exchange applications in respect of the Second Phase development is 30 April 2024, while the deadline for acceptance of binding basic terms offer (with premium) is 31 March 2025. If there is no in-situ land exchange application for any of the sites concerned by the deadline on 30 April 2024, in order not to delay the works programme of the NDA, the Government will immediately commence the land resumption procedures, and then clear and form the relevant sites for subsequent land disposal through tender or otherwise. Now that land exchange applications are being processed, it would not be appropriate to adjust the development parameters of the sites concerned. In the end, whether there will be eligible applications is dependent on a number of factors, including whether there are applicants owning land enough to meet the minimum requirement.

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