

Executive Summary

Our work

- 1.1 This Final Report provides our findings and recommendations as a result of the consultancy review of the processing of lease modification and land exchange applications commissioned by the Economic Analysis and Business Facilitation Unit (EABFU).
- 1.2 The key objective of this consultancy has been to make recommendations to speed up the processing of lease modification and land exchange applications which are administered by the Lands Department. This has required a review of existing arrangements, identifying bottlenecks and causes of delay under the present system and the scope for making improvements. In the light of this analysis we have developed a range of recommendations for making change in the short, medium and longer term.

Key findings and observations

- 1.3 Our key findings and observations can be summarised as:
 - 1.3.1 The system of lands administration as administered in Hong Kong is unique amongst advanced developed economies of the world.
 - 1.3.2 The revenue raised from the premiums paid for land exchanges and lease modifications is a significant source of income for the Hong Kong Government.
 - 1.3.3 There could be potential conflicts in the Lands Department playing a role as an agent of the landlord (the Government) and as a government department in seeking to achieve land use, development control and public policy objectives on behalf of other departments.
 - 1.3.4 Over the years the differing roles have become blurred with the result that there may be perceived to be overlapping areas of administration as between Lands Department and other departments.
 - 1.3.5 These could lead to duplication of effort with development projects being subject to repetitive circulations between relevant Government departments at different stages.
 - 1.3.6 In processing lease modifications and land exchanges Lands Department has been relied upon to reflect the public policy aims and development control requirements of many departments and seeks to resolve any conflicts or inconsistencies as they arise on each individual case. This has created real complexity in the lease modification and land exchange application process and placed a significant burden on Lands Department as it seeks to expedite applications where many other departments are also involved.
 - 1.3.7 Lands Department has a series of performance pledges and internal targets about the time it will take to complete various steps. Lands Department's four pledges relating to lease modifications are three weeks to reply to an application, 22 weeks from valid application to making a Provisional Basic Terms Offer or issuing a rejection; 12 weeks for issue of legal document

after binding basic terms acceptance and 12 weeks for completion of a technical modification. Lands Department meets these pledges and targets, or comes close to meeting them, in most cases. The average time taken to complete applications over the last three years is 296 days if the counting is limited to the steps where the action rests with Lands Department (this is the mean average total time on counting days for all cases, including technical and non-technical cases, executed in the calendar years of 2003-2005).

- 1.3.8 However, these pledges and the reporting of performance, exclude many 'non-counting days' when action rests with other departments or the applicant. Based on the last three years, the average time taken to complete the processing of applications can be very long: on average 719 calendar days (for non-technical cases executed in the financial years of 2003-2005), with a great deal of variation and some cases taking much longer. Comparing these two numbers suggests that on average 'non-counting days' account for approaching 60% of the time taken for such applications, though given the different basis for the figures 50-60% may be closer to the real situation.
- 1.3.9 There is real concern amongst the property sector and the relevant professions that this length of time taken in lease modifications and land exchanges could hamper the efficient operation of the property market and indeed Hong Kong's attractiveness as a place for investment.
- 1.3.10 Lands Department currently sees itself as only able to take responsibility for those elements of the lease modification and land exchange process which fall within its direct control (in effect the 'counting days') but not for the events outside its control. These non-counting events include where another government department is in the lead (e.g. when Lands Department circulates an application for comments and is awaiting a department's reply) or where the Government is waiting for the applicant to provide information, or where an application is changed, or where the applicant is negotiating with the Lands Department on the terms of the offer. Lands Department has highlighted that there is a relationship between the time taken in reaching agreement on an offer and the state of the property market, as applicants will be quick to action issues when the market is rising.
- 1.3.11 We believe the limited ability of Lands Department to control non-counting days means there is a mismatch in expectations because the applicants are concerned about the total elapsed time taken by Government for their applications, whilst the main agency in Government for this process, Lands Department, sees itself as only able to be accountable for that part of the process in its direct control.
- 1.3.12 We believe this mismatch is all the more serious because the staff within the District Land Offices (DLOs) who are responsible for processing land exchange/lease modification applications are not dedicated to it as their sole duty, but have to balance this duty alongside many other priorities, some of which can be seen as more urgent and pressing. The other activities include: disposal of Government land through auctions, tenders, private treaty grants; issuing and renewal of short term tenancies, waivers, and licences; landscaping plans, tree preservation plans; issuance of

Certificates of Compliance; statutory compensation assessments; valuations for lease enforcement actions; advising on planning applications, town plans and planning studies; public works projects; control of Government land; and lease enforcement work.

- 1.3.13 The staff resources devoted to the processing of land exchanges and lease modifications is estimated to be around 107 full-time equivalents out of the 2,470 Lands Department staff complement (staff directly handling Lands Department business but excluding general grades and supporting staff), i.e. only 4 % of the total. Of the 107 Full-Time Equivalents (FTEs), 71 of the FTEs are within the Lands Administration Office (LAO) and take the main responsibility for processing. Of the 71 FTEs, 24.5 are Estate Surveyors (ESs), the key officers handling this work.
- 1.3.14 There is a consistent view from Lands Department Management and staff that the level of resources available for lease modifications and land exchanges is not adequate and that this is a major cause that undermines Lands Department in making further improvements to the performance pledges, or coordinating the work of government departments more effectively. Lands Department has indicated that a previous study showed that there were 127 FTEs from LAO engaged in this work in 1995. This suggests there has been a reduction in staff resources spent on these land transactions as a result of heightened levels of activities in many other areas of work which have been made subject to performance pledges since then.

Main conclusions

- 1.4 Our main conclusions flowing from these findings are:
- 1.4.1 The overall elapsed time it takes to complete lease modifications and land exchanges is very long and many stakeholders believe this could be a barrier to the efficient operation of the market in Hong Kong.
- 1.4.2 We believe there is considerable scope for reducing the amount of time taken to process land exchange and lease modifications if the relevant departments and bureaux were prepared to adopt a range of short, medium and long-term changes to the system.
- 1.4.3 The most fundamental change would be for the Lands Department to confine its lease conditions to purely landlord and tenant matters leaving other departments to seek to achieve their policy aims through their specific policies and powers derived from their own Ordinances: such a change would cut down considerably on the amount of consultation that Lands Department currently carries out with other departments and the time spent seeking to resolve differences amongst those departments.
- 1.4.4 This would represent a significant change in the way the Hong Kong Government has traditionally carried out its land administration; it would take time to consider, prepare and introduce.
- 1.4.5 Pending such a change, the next element of significant change we propose is to set up dedicated teams with an integrated management structure, and improved case management and tracking, to handle lease modifications and land exchanges. We would also want to see a shift in the ethos in this team

so that it takes a responsibility for driving and speeding the whole process for lease modification and land exchanges, including when the primary action rests with other departments/bureaux and with applicants. Of course, even if this is achieved, performance measurement will need to distinguish clearly where the time is being taken and where delays are occurring.

- 1.4.6 We have also proposed important changes to the way that valuations are carried out and then audited – an area which contributes to the long time taken to consider lease modifications and land exchanges.

Recommendations

- 1.5 Our recommendations involve a variety of areas.
 - 1.5.1 Confining the lease conditions to landlord and tenant issues so as to simplify and expedite the processing of lease modification and land exchange applications. By landlord and tenant issues we mean those issues directly affecting the landlord's and tenant's interests such as controlling land use to protect the asset the land represents, and agreeing the financial terms rather than addressing broader regulation and public policy issues which should be governed by relevant legislation.
 - 1.5.2 Creating an integrated, dedicated team within Lands Department, reducing the potential for conflicting priorities on staff time, by setting up dedicated teams for processing lease modification and land exchange applications up to lease execution, coupled with enhanced case management and monitoring of the progress of applications by management.
 - 1.5.3 Streamlining the land premium valuation work by limiting the role of the dedicated teams to developing the background element of valuation notes and centralising the actual valuation at Lands Department Headquarters. We have presented two options for meeting the requirements for checks and balances – either maintaining the current separate audit at headquarters prior to submission to the Valuation Conference (VC), or preferably doing away with this step and relying upon the VC – which we believe is the practical arrangement today.
 - 1.5.4 Empowering Lands Department, though the support of both Housing Planning and Lands Bureau (HPLB) and Environment Transport and Works Bureau (ETWB), to improve co-ordination and responsiveness when Lands Department circulates applications for comment.
 - 1.5.5 A range of other measures designed to improve the quality of applications through pre-application consultation and further guidance on the content required for applications, to speed and simplify the process.
 - 1.5.6 We have recommended significant changes in the way that resources are managed and directed, but the recommendations will not be fully successful if the dedicated teams and Valuation Section are not adequately resourced. We have sought to estimate the level of resources required to implement these recommendations, given the limited information currently available. It has not been possible to develop a bottom up estimate of staff required to process lease modifications and land exchanges because the cases are very varied and there is no reliable information as yet on the average effort per case. However, we have looked at the staffing structures that might be

necessary to implement our recommendation for dedicated teams to handle lease modification and land exchange applications in five of the districts and also our recommendation to centralise valuations. Our estimates for the five districts suggest the addition of 10 to 19 staff depending on the assumptions made, and 4 staff for centralisation of valuations (with potentially up to 12 staff if the audit role needs to be retained, and more if the team were to be enhanced and the requirement for 100% audit was retained). We have also highlighted the potential need for a number of other posts to implement other aspects of our recommendations.

- 1.5.7 We have proposed that the way forward to implementing the dedicated teams would be to pilot the use of the teams in two districts. This would have the benefit of allowing the best practical approach to be tested and would also provide an opportunity to test the level of resources actually required on a more limited scale. Lands Department has emphasised that it would require additional resources to pilot the approach if it is to be effective. We have included in our detailed report an outline of the level of resources that might be applied on a pilot basis – which would be between 4 and 7 additional staff.
- 1.5.8 In the mid term, once our recommended integrated approach is in place, together with much improved management information, it will be possible for Lands Department to assess much more robustly the optimum level of resources required and adjust resources in tandem with caseloads in future.

- 1.6 Of all the recommendations, it is the introduction of dedicated teams and the centralisation of valuations that we believe has the greatest potential for speeding processing time in the short-term, provided the teams are adequately resourced. DLO professional staff currently handles a range of functions of which the processing of modifications/ land exchanges is just one. Consequently there are conflicting demands on their time, which adversely impacts on the actual time spent on modifications/exchanges. Perhaps more importantly, creating such a team would provide an integrated, dedicated management structure and team focussed on improving performance in this area. As Lands Department has emphasised, it is important to ensure that other work will not be adversely affected.

Benefits – reductions in processing times

- 1.7 We consider that our recommendations have the potential to reduce substantially the processing time from valid application to completion. In our view it is as important to target a reduction in the overall elapsed time taken for applications alongside focusing on the Lands Department performance pledges which cover only a proportion of the time. Of course the extent to which Lands Department can deliver a reduction in other elements of the process will depend on support from HPLB and ETWB and other bureaux, and support and cooperation from other departments, and indeed applicants.
- 1.8 Given the nature of the management changes we recommend, and the need to review resource levels, it is difficult to calculate exact targets today for improvement based on quantified data. The full potential for reducing processing

times will only become clear once all of our recommendations are in place and the integrated management team for the new dedicated team is able to assess performance, and the opportunities for further improvement, using much improved management information.

- 1.9 Nevertheless, we believe that setting quantified targets for improvement has an important part to play in making it clear that Government, and Lands Department in particular, is committed to delivering real improvements in the processing times for lease modifications and land exchanges. We see this as a necessary response to the significant level of concern amongst the industry and relevant professions about the current processing times. Our view is that provided our recommendations are implemented fully (including our recommendations on streamlining valuation and audit), and adequate resources are made available, it ought to be possible to deliver a reduction of around 20% in the counting days element of the overall time taken. Because our recommended improvements are largely focused on more effective management of the processes rather than process change, this estimate is based upon our judgement of the level of improvement possible, taking into account other environments where similar management changes have been implemented. The actual reduction achieved will depend upon experience of the detailed implementation and we would suggest that Lands Department proceeds through a progressive reductions in targets as the recommendations are implemented – aiming for on-going improvements over time. Specific targets will need to be set in the light of the Government's decisions on our recommendations and the pace of implementation.
- 1.10 In addition, as we have said above, equipping Lands Department to coordinate inter-departmental consultation more effectively, and to provide effective guidance and support to applicants, offers the opportunity to reduce some of the non-counting elements which account for an estimated 50-60% of the total elapsed time, though ultimately this will depend on the co-operation of other departments and applicants.

Detailed recommendations

- 1.11 We set out below a list of our detailed recommendations and the broad timeline over which they should be pursued. In doing so we have categorized the recommendations into short (within 1 year), medium (within 2 years), and long term (within 3 years, with some steps proceeding thereafter).
- 1.12 As an overarching recommendation, we propose that Lands Department should consider and implement our recommendations as an integrated change programme driven from the senior levels of the Department with a clear commitment to delivering substantial reductions in the time taken to process lease modifications and land exchanges. This recommendation is repeated in the list below so that it can be used as a checklist for full implementation.
- 1.13 We have listed our recommendations under seven broad areas
- 1.13.1 Confining the lease conditions to landlord and tenant issues

- 1.13.2 Setting up dedicated teams for processing lease modification and land exchange applications
- 1.13.3 Enhancing the monitoring and management of the progress of applications
- 1.13.4 Centralisation of premium assessment work at Headquarters
- 1.13.5 Improving inter-departmental coordination
- 1.13.6 Other process recommendations
- 1.13.7 Organisational, skill and cultural factors to be addressed as part of implementation

	Confining the lease conditions to landlord and tenant issues
Short term	1 Government to consider the arguments and recommendations set out in this report and decide whether to proceed to limit the lease conditions to landlord and tenant issues (consider visit to the Australian Capital Territory). This will require the creation of a specific mechanism to consider this longer term recommendation and to pursue recommendations 2 and 3 if appropriate. (8.13)
Medium term	2 Review the nature and objectives of the other policy and regulatory issues built into the lease conditions to see if other mechanisms for approval and enforcement exist, whether such mechanisms need to be created, and to ensure that these mechanisms operate in a timely fashion so that the overall process is shortened. (8.16)
Long term	3 Implement the agreed changes over a planned timetable to limit the lease conditions to landlord and tenant issues. (8.16)

Setting up dedicated teams for processing lease modifications and land exchange applications	
Short term	<p>4 Lands Department to consider the options set out in this report for the structuring of dedicated teams and decide on the most appropriate operational arrangements. We recommend the creation of such teams in the four urban districts plus one New Territories district – which currently have the caseloads to justify such teams, but that Lands Department should have the flexibility to decide the optimum organisation and configuration for the teams (8.25 and 8.29)</p> <p>5 Based on the estimated additional requirements set out in our report (between 10 and 19 staff for the five districts), Lands Department to further examine the resource requirements and seek agreement to the required increases in resources within Government. (8.42)</p> <p>6 Consider and run a pilot for dedicated teams handling land exchanges and lease modifications in one urban area DLO and in one DLO in the New Territories. This will require additional resources as described in our report (between 4 and 7 staff for the two districts). (8.30 and 8.42)</p> <p>7 If Lands Department decides not to proceed with the establishment of full dedicated teams or a pilot, consider the creation of a dedicated team at the centre to monitor and chase the progress of lease modifications and land exchange applications – working with the staff in DLOs who would still be performing a range of duties. (8.31)</p>
Medium term	<p>8 Fully implement the dedicated teams to handle land exchanges and lease modifications from application to execution of lease documents (taking account of the lessons from the pilot). (8.30 and 8.42)</p>

Enhancing monitoring and management of the progress of applications	
Short term	<p>9 Establish a more detailed and rigorous case management and tracking approach so that the management of the new dedicated teams will have a significantly improved ability to manage the practical operation of the land exchange and lease modifications processes. (8.32)</p> <p>10 Change the regular case monitoring meetings to a one to one (SES:ES) or two to one (DLO:SES:ES) basis. (8.33)</p> <p>11 Make full use of the current Case Management System (CMS) to support enhanced case management and monitoring. (8.43)</p> <p>12 Define the full case monitoring and tracking requirements in detail and assess whether the current CMS system can meet them now if more effectively used, or requires enhancement or replacement. (8.43)</p> <p>13 If enhancement or replacement is required, assess the work and costs involved in enhancing or replacing the system. (8.43)</p> <p>14 Assess the feasibility, need, level of interest and support amongst applicants for permitting applicants access to the on-line case tracking by means of creation of a web-based system. (8.34 and 8.44)</p>
Medium term	<p>15 Consider and plan implementation of a web-based system to permit applicants access to the on-line case tracking (subject to the feasibility issues being addressed as part of recommendation 14). (8.34 and 8.44)</p>

	Centralization of premium assessment work at Headquarters
Short Term	<p>16 Agree to centralise the valuation process to overcome the current approach where the Valuation Section at Lands Department Headquarters effectively carries out another assessment after the initial assessment by the DLO. (8.49)</p> <p>17 Consult the Independent Commission Against Corruption (ICAC) on our recommended option that the Valuation Conference (VC) be treated as the check and balance for process and probity of valuations (which is in effect the position now). (8.51)</p> <p>18 Lands Department to further examine the resource requirements for centralization, taking account of our estimate of 4 additional staff (or 12 if the 100% audit requirement is retained and potentially more if the team has to be strengthened), and seek agreement to the increase in resources within Government. (8.54)</p>
Medium term	<p>19 Implement the new valuation process with the following elements (8.52)</p> <ul style="list-style-type: none"> ▪ New dedicated teams (see above) to produce the background element of the Valuation Notes (i.e. not the actual valuation) ▪ An enhanced Valuation Section, with an Assessment Team, to carry out the actual valuation ▪ VC to validate the valuation and ensure process and probity. <p>20 If ICAC are not able to agree on the adequacy of the proposed safeguards and checks and balances, consider setting up an Assessment Team within the Valuation Section to deliver the valuations and a separate Valuation Audit Team (with additional resource requirements and a reduction in the benefits in terms of time savings). Our hope would be that even if some element of audit is required separate from the role of the VC this should not be a 100% audit so as to limit the impact of this requirement on the costs and benefits of the move to centralised valuations. (8.51)</p>

	Improving inter-departmental co-ordination
Short term	<p>21 Issue a joint letter by HPLB and other relevant bureaux including ETWB (or other central authorities) to all affected departments emphasising the need to give priority to lease modifications and land exchanges, to send representation at an adequate level and with case knowledge to DLC, and to participate actively in the implementation of the recommendations of this review. (8.58.1)</p> <p>22 Impose a time limit after which a valid application must either go to DLC or the applicant must be given a letter with a full explanation of the issues and cause for the case not being mature for discussion at DLC. The actual time limit requires further consideration within Lands Department and should be reviewed over time as performance improves. We suggest at the outset that Lands Department should write to the applicant after fourth months from validation of the application if a DLC discussion has not happened and will not happen within the next month.(8.62.1)</p> <p>23 Update and strengthen the role of the DLC as the forum for resolving issues. (8.62.3)</p>

	Improving inter-departmental co-ordination
Medium term	<p>24 Work with other departments to review the target time within which departments will respond to circulated applications. (8.58.2)</p> <p>25 The enhanced tracking of cases recommended above should include tracking the dates when cases are initially circulated to departments and the dates when they respond. (8.58.3)</p> <p>26 Analyse the data to show the relative performance of departments in responding to Lands Department, and circulate the results to all the departments which are regularly involved in the lease modification and land exchange process to provide feedback on performance against the pledges. (8.58.4, 8.58.5)</p> <p>27 Escalate through the heads of departments and if necessary the policy bureau if another department consistently fails to meet the agreed targets. (8.58.6)</p> <p>28 If the tightening of targets and monitoring of departmental responses does not succeed, consider imposing a cut-off for responses and contributions, and put the case to DLC. The departments that have not responded would be asked to either provide their views before the Conference when the DLC notes are issued, or to present their comments at the Conference. The aim would be to take a failure to comment as acceptance, though there are practical limits to this approach where an issue needs to be settled for a binding contract to be entered into. (8.59)</p> <p>29 Seek to identify scenarios where inter-departmental differences regularly occur and agree a policy line among departments, rather than tackling all such cases on a case by case basis. (8.64).</p>

	Other process recommendations
Short term	<p>30 As an overarching recommendation, Lands Department should consider and implement our recommendations as an integrated change program driven from the senior levels of the Department with a clear commitment to delivering substantial reductions in the time taken to process lease modifications and land exchanges (9.5).</p> <p>31 Consider establishing an informal mechanism for pre-submission consultation between the applicants and key departments on more complex applications to identify the key issues and agree how best to handle them. Initial contact would be with Lands Department. (8.69.1)</p> <p>32 Lands Department to provide a framework or checklist for applicants to follow in providing information in support of applications, detailed approach and format to be developed in consultation with the industry. (8.69.2)</p>
Medium term	<p>33 Lands Department to examine the potential to standardize further the terms and conditions imposed in lease modifications and land exchanges. (8.72.1)</p> <p>34 Codify precedents on terms and conditions and make them readily available to staff preparing terms and conditions for new lease modifications and land exchanges. (8.72.2)</p>

	Organisational, skill and cultural factors to be addressed as part of implementation
Short term	<p>35 Examine and agree how to address any skill and cultural factors important to facilitating the success of the recommendations and the delivery of the planned benefits. (8.36 and 8.37)</p> <p>36 Conduct on-going surveys and focus groups with staff to understand the issues which staff experience and perceive in progressing lease modification and land exchange cases. (8.37)</p> <p>37 Conduct on-going surveys and focus groups with applicants to understand their priorities and concerns. (8.37)</p>
Medium term	<p>38 Examine the scope for more guidance and readier access to precedents to assist staff in carrying out their duties. (8.37)</p> <p>39 Strengthen the skill sets of staff in the new dedicated teams through intensive staff training specifically focusing on lease modification and land exchange matters, and on customer service training. (8.36)</p> <p>40 Establish a knowledge management system to share best practice and precedents more easily within the team. (8.37)</p> <p>41 Devise innovative approaches to training and knowledge sharing within the new dedicated team. (8.37)</p> <p>42 Once these approaches to addressing the organisational and cultural issues are agreed, develop and communicate plans for an integrated programme to provide staff with the support and tools they need to deliver their challenging role as expeditiously as is possible whilst ensuring probity and robustness. (8.37)</p>

Quick wins

Our full recommendations represent a comprehensive set of proposals to secure a substantial reduction in the time taken for lease modifications and land exchanges. However, some of these recommendations will take some time to carry forward and we agree with the stakeholders we consulted that it is important to establish an early momentum for improvement. We therefore propose the following recommendations, drawn from the full listing above, be pursued as quick wins within two months of the completion of this study:

- 1.14.1 In advance of piloting / implementation of the dedicated team, consider establishing a more detailed and rigorous case management and tracking approach at Headquarters so that management will have significantly improved ability to manage the practical operation of the land exchange and lease modifications processes (8.29)
- 1.14.2 Issue a joint letter by HPLB and other relevant bureaux including ETWB (or other central authorities) to all affected departments emphasising the need to give priority to lease modifications and land exchanges, to send representation at adequate level to DLC, and to participate actively in the implementation of the recommendations of this review. (8.53.1)
- 1.14.3 Impose a time limit after which a valid application must either go to DLC or the applicant must be given a letter with a full explanation of the issues and cause for the case not being mature for discussion at DLC. The actual time limit requires further consideration within Lands Department and should be reviewed over time as performance improves. We suggest at the outset that Lands Department should write to the applicant after fourth months from validation of the application if a DLC discussion has not happened and will not happen within the next month.(8.62.1)
- 1.14.4 Lands Department to provide a framework or checklist for applicants to follow in providing information in support of applications. (8.69.2)