

**Economic and Employment Council
Pre-construction Task Force**

Summary of recommendations on land matters

Purpose

This paper summarizes the recommendations and views of the Pre-construction Task Force and the initial comments of the Lands Department on land matters, as discussed at the meetings of 18 and 31 March, for Members' reference.

Simplification of lease conditions

2. In simple terms, “simplification of lease conditions” is to question whether there is a need to put into the lease the many levels of requirements, details and controls which now exist. The recommendations of the Pre-construction Task Force are as follows, LandsD's initial comments are in [/] –

- ❑ To remove lease conditions which cover too much detail or simply make these conditions subject to the approval of the respective authority. To issue PNs or JPNs to provide the latest standards (which may be changed from time to time for public good) for reference by practitioners and developers.

[LandsD: Many of the lease conditions serve as a safety net to ensure that government requirements are met. LandsD does not agree that such lease conditions have necessarily resulted in excessive time being taken in the pre-construction process. There is a balance required between simplification and certainty. PNs or JPNs offer no substitute for lease conditions as they are not contractually binding on the lessee.]

- ❑ To re-examine the role of LandsD as landlord and gate-keeper to ensure compliance with government requirements.

[LandsD: LandsD represents the HKSAR Government as landlord in various land matters and must protect government interests including revenue and the reversionary interest upon lease expiry or termination.]

- ❑ To do away the minor modifications.

[LandsD: Modifications are needed to capture any enhancement in land value through the collection of premium when there is a subsequent change in the development parameters.]

- ❑ To eliminate the overlapping roles of departments in development control.

[LandsD: LandsD's role as the landlord's agent is different to other departments' role performed under various ordinances.]

Improving the lease modification mechanism

3. There is reason to believe that the current system is now causing a blockage in the redevelopment process and is discouraging urban renewal and redevelopment. The Pre-construction Task Force recommends the following to improve the lease modification process –

- ❑ To introduce an enquiry system to advise on the criteria to be adopted in assessing the “before-value” of a piece of land.

[LandsD: No objection in principle noting that these cases would be very few and it would be best for LandsD to provide the required information on an individual case basis.]

- ❑ To publish land instructions for improved transparency. This would help the public and practitioners know how a proposal should be prepared and the process more predictable. LandsD may start with releasing some parts of the land instructions.

[LandsD: The Land Instructions are the internal administrative guidelines of the department, contain reference to other internal meetings, legal advice and documents, and are frequently updated. It is not appropriate to disclose this information. This proposal also has potentially serious implications because it would bring land administration into the purview of JR. LandsD has no problem with releasing certain relevant information and clarifications through Practice Notes but not the detailed administrative procedures which should not be in the public domain.]

- ❑ To impose fixed time limits for lease modification to speed up processes. LandsD may start with introducing time limits for a few processes and further improve the system as time goes on. Consideration could also be given to setting a time limit based on existing performance pledges as LandsD's record has shown an achievement rate of over 90%.

[LandsD: LandsD is concerned if the intention is that non-compliance with a time limit would mean a 'deemed approval' since this is not acceptable in the context of lease modifications. Also such a fixed time limit could not be realistically achieved and enforced bearing in mind the complexity of the process the involvement of many parties and the possibility of delay on the part of the applicant.]

- ❑ To take parallel action in processing the modification and ordinance-related issues.

[LandsD: LandsD has no problem with the proposal in principle and would consider the earliest point at which this could commence. Regarding gazetting of roads/foreshore and seabed while documentation is being processed, LandsD agrees that this could be done following DLC approval and should be a

consistent approach among all District Lands Offices. LandsD would check that this is done.]

- ☐ To introduce an expert determination system to expedite the determination of premium.

[LandsD: Open-minded at this stage subject to full and careful consideration by the Administration. Its fundamental concerns are protection of public revenue and whether the Government should relinquish a fundamental part of its role as landlord.]

- ☐ To delete the DDH clause in Special Conditions.

[LandsD: The control provided through DDH approval is very important and necessary. LandsD has already published a PN to explain how it would normally exercise such control.]