For discussion on 26 November 2019

Legislative Council Panel on Development

Land Sharing Pilot Scheme

PURPOSE

This paper seeks Members' views on the proposed Land Sharing Pilot Scheme (LSPS).

BACKGROUND

2. In its report to the Government in December 2018¹, the Task Force on Land Supply (TFLS) has identified "Unleashing development potential of private agricultural land in the New Territories (NT)" as one of the three priority options to boost land supply in the short- to medium-term. Specifically, TFLS recommended that the Government formulate a detailed mechanism for public-private partnership (PPP) that is open, fair and transparent to realise the potential of private land in the NT.

3. Taking account of the policy directions outlined in her Policy Address in 2018 and TFLS's recommendations, the Chief Executive (CE) unveiled details of the proposed LSPS in the Policy Address released on 16 October 2019. The following set out the details, criteria and proposed implementation arrangement of LSPS.

POLICY OBJECTIVES

4. The LSPS is aimed at tapping the market force in planning and construction, with a view to releasing as soon as possible the development potential of private lots with consolidated ownership but not falling within areas

¹ TFLS's recommendations are in paragraphs 5.29 - 5.34 of its report released on 31 December 2018.

covered by Government's development studies supporting the use of land intended for public purposes, so as to speed up short- to medium-term housing Essentially, the Government will facilitate infrastructural improvement supply. that will enhance the development intensity of the private lots under application, with the condition that LSPS applicants should hand over to the Government part of the lots they own, in the form of formed land, capable of delivering at least 70% of the additional gross floor area (GFA) gained for public housing or Starter Eligible developer-lot owners can develop private housing on the Homes (SH). remaining part of the lots to accommodate 30% of the additional GFA gained plus any GFA originally permissible for the lots. The developer-lot owners will also be responsible for developing the necessary infrastructure and other community facilities to support the whole public and private housing development, and the associated construction costs as well as the cost of forming land for public housing or SH will be deducted from the land premium.

5. In working out the details of LSPS, we pay heed to the following key principles –

- (a) The LSPS aims to complement, but not replace, government-led planning of private land for a specified public purpose.
- (b) It seeks to **make timely and meaningful impact**, by processing applications with a reasonably high yield of both public and private housing in short- to medium-term.
- (c) It will **accelerate and facilitate** the development process, with Government providing advisory and facilitation services under a compressed programme, subject to applicants' agreement to be bound by a time limit on lease modification and premium negotiation.
- (d) It endeavours to **ensure efficiency in land development and control costs**, with the developer-lot owner delivering the formed land for public housing, as well as necessary infrastructure and other community facilities for the entire development, while the construction costs to be offset through land premium will be subject to vetting by Government.
- (e) It strives to **build confidence and safeguard public interest**, with transparent mechanism involving third-party opinion.

KEY FEATURES

6. The LSPS comprises the following key features.

Geographical Limit

- (a) Under the LSPS, areas within Government's completed, ongoing or soon-to-commence development studies supporting the use of land intended for public purposes, particularly the New Development Area (NDA)/New Town Extension projects in Kwu Tung North/Fanling North, Tung Chung, Hung Shui Kiu/Ha Tsuen, Yuen Long South and New Territories North, are to be excluded. Private lots covered by Government's studies supporting public housing development, such as those among the some 210 sites identified for housing purpose, would also be ineligible. The Government will continue to resume private land for these developments in accordance with the promulgated plan.
- (b) To strike a balance between development and conservation, private lots falling within country parks², six environmentally sensitive zonings³ and areas covered by the list of 12 priority sites for enhanced conservation under the New Nature Conservation Policy (NNCP)⁴ will not be eligible for LSPS.
- (c) The above "no-go" areas are listed at <u>Annex A</u>. Since Government's planning and conservation efforts are ongoing, the list will be subject to updates and verification at the time of application.

² Country parks include those designated under the Country Parks Ordinance (Cap. 208) as well as those under consultation.

³ The six environmentally sensitive zonings are Conservation Area (CA), Coastal Protection Area (CPA), Other Specified Uses (OU) (Comprehensive Development to include Wetland Restoration Area), OU (Comprehensive Development and Wetland Enhancement Area), OU (Comprehensive Development and Wetland Protection Area) and Site of Special Scientific Interest (SSSI).

⁴ The NNCP aims to regulate, protect and manage natural resources that are important for the conservation of biological diversity of Hong Kong in a sustainable manner, taking into account social and economic considerations. Under the pilot scheme of NNCP, two new measures have been implemented, viz. management agreements with landowners and public-private partnership to help enhance the conservation of the 12 identified priority sites concerned. The 12 sites are: Ramsar Site, Sha Lo Tung, Tai Ho, Fung Yuen, Luk Keng Marsh, Mui Tsz Lam and Mau Ping, Wu Kau Tang, Long Valley and Ho Sheung Heung, Deep Bay Wetland outside Ramsar Site, Cheung Sheung, Yung Shue O, and Sham Chung.

Time Bar & Cap on Total Area

(d) To bring impact and realise early the potential housing yield from approved projects, the LSPS is time-limited for receiving applications within three years, subject to a cap of 150 hectares (ha) on the total area of private land to be approved.

Minimum Housing Gain

- (e) The total housing yield to be derived under the LSPS should be maximised for value-for-money. We therefore propose that each project under LSPS should be capable of delivering an increased GFA of no less than 50 000 square metres (sqm) in total and at least 1 000 additional housing units (assuming an average flat size of 50 sqm), being the total GFA attainable by the project net the original scale of development of the private lots in the absence of LSPS. The methodology in calculating the increased GFA is set out at <u>Annex B</u>.
- (f) No less than 70% of the increased GFA made possible by virtue of LSPS should be set aside for public housing or SH as intended by the Government. This is in line with the prevailing policy guideline of allocating 70% of the housing units on Government's newly developed land for public housing. The additional GFA for public housing should be handed over to the Government in a form of formed land to be carved out from the developer-lot owner's site. The Government will decide how the land so carved out should be developed for public housing or SH. The remainder of the site can be retained for private housing development.

Provision of Infrastructure and GIC Facilities

(g) LSPS applicants should substantiate, with supporting assessments, the proposed scale of the whole public and private housing development and justify the types and costs of infrastructure required in their proposals. Depending on the scale of development and the resultant

additional population, generally speaking, infrastructure to support housing development would include road works improvement (e.g. road widening and/or junction improvement), upgrading or provision of sewage and drainage facilities. Construction costs of these infrastructures, after vetting and acceptance by Government to ensure that they are essential to the proposed development (including the portion for public housing) and cost-effective, would be offset through premium deduction as applicable. These facilities upon construction will be handed back to the Government for subsequent maintenance.

- (h) In addition to infrastructure, a well-planned housing development especially those of larger-scale ones would involve provision of supporting Government, Institution or Community (GIC) facilities to meet the needs generated from the additional population. These may include open space, public transport interchange, welfare facilities and/or other facilities with reference to the Hong Kong Planning Standards and Guidelines and/or advice by relevant bureaus and Applicants under LSPS should include these GIC departments. facilities that are necessary to support the development in the proposals for more holistic and integrated planning. The construction costs would be offset through premium deduction as applicable. The supporting GIC facilities, if required, may be accommodated outside the application site if suitable land is indeed available outside and if so doing would free up space within the lots for a meaningful supply of additional housing units.
- (i) LSPS applicants would be responsible for consolidating the ownership of private lots under application, be they for public or private housing development. The Government would not resume private land to enlarge the site area for deriving additional GFAs for housing development under LSPS. Should government land be required to rationalise the site boundary of private housing development, Government may, as per established practice, consider acceding to such request through land exchange, subject to the government land involved being incapable of reasonable separate alienation or development; having no foreseeable public uses; and being subject to payment of full market value premium. As for the provision of infrastructure and supporting GIC facilities involving private land outside the lots under application, the Government may invoke relevant

legislation⁵ to resume private land according to the established practice for the specified public purposes, with appropriate compensation for the affected landowners in accordance with the established mechanism (at <u>Annex C</u>). Occupants on the land so resumed or cleared, including domestic occupants of squatters, would be suitably compensated or rehoused according to the prevailing arrangements of which were significantly enhanced in 2018. Government may also make available government land that may be required to support essential infrastructure and GIC facilities, or facilitate larger-scale public housing or SH development.

(j) Following the requirements introduced in recent years for land exchange/lease modification applications in the NDAs, applicants under LSPS should duly compensate or address other reasonable requests of the existing occupants on the site, by making reference to prevailing Government's compensation and rehousing arrangements for domestic households, business operators and others affected by the Government's development clearance exercises.

Workflow, Procedures & Transparency

(k) Not only the number of housing units matters, so does the speed of delivery. We are keen to ensure that the yield can be realised quicker to provide relief to the housing shortage in the short- to medium-term. To compress the process, the Development Bureau (DEVB) will set up a dedicated team to provide one-stop advisory and facilitation services for LSPS applications (please see item (l)). LSPS applicants are required to submit at the outset a full-fledged development proposal with such level of details to enable the applications to be vetted by Government in a meaningful manner. Specifically, the proposal should provide sufficient planning, land, design, technical, land title and implementation details with supporting assessments substantiating the proposed scale of development and extent of infrastructure works amongst others, not less comparable to what is normally required to be submitted in a planning or rezoning application to be considered by the Town Planning Board (TPB).

⁵ Such legislations include but are not limited to the Land Resumption Ordinance (Cap. 124) and the Roads (Works, Use and Compensation) Ordinance (Cap. 370).

- (1) To act as one-stop helpdesk to the applicants and streamline administrative procedures, DEVB will set up a multi-disciplinary team of government officers for the LSPS (Central Team) for effective coordination and advisory services. Applications received under LSPS will first be vetted by the Central Team in consultation with relevant bureaux and departments prior to seeking advice of the Panel of Advisors (see paragraphs 7-8 below). While the Central Team will make best endeavours to expedite processing, there will be no compromise on the planning, environmental and other relevant considerations, as well as established standards. For proposals receiving support of the Panel of Advisors and endorsement in principle by the Chief Executive in Council (CE-in-C), approval from TPB for changing the land use and/or increasing development intensity will be sought as and when necessary.
- (m)We will not cut corners on LSPS projects all statutory procedures, including amendments to statutory town plans, land resumption and authorisation for infrastructure works, etc. shall continue to apply. These statutory procedures will proceed as soon as the project has secured CE-in-C's in-principle agreement.
- (n) The established land administration procedures will remain applicable. To expedite delivery of LSPS projects, the land administration process, specifically discussions on lease modification and/or land exchange applications (including assessment of land premium), will commence back-to-back after the statutory planning process, subject to a time limit of 18 months for executing the lease modification and/or land exchange based on agreed premium. To focus resources on worthy and viable projects and as an administrative rule, for those LSPS cases which have through statutory planning process but with lease gone modification/land exchange eventually not executed, further application for lease modification for the same private lots will not be processed for a period of five years after this 18-month period.
- (o) The developer-lot owner is required to pay at full market value the land premium for the portion of private housing and the ancillary commercial facilities.

- (p) To uphold transparency, information on LSPS, applications received and progress of each case would be released to the public at different stages. We would publish details of the applications upon receipt⁶ and opinions of the Panel of Advisors on individual cases after its deliberation. The existing public participation channels under various statutory procedures in the planning, environment, land resumption and/or works authorisation regimes, etc. would continue as applicable. Also, key details of the lease modification including land premium payable would be uploaded onto the website of the Lands Department.
- (q) The indicative workflow for processing LSPS applications and implementing these projects is at <u>Annex D</u>. Depending on the readiness of individual proposals and their approval progress, we expect the land from LSPS projects to come on stream and be ready for housing construction in about four to six years after receipt of the application at the earliest.

Panel of Advisors for LSPS

7. We note public concerns over PPP as an option to boost the supply of housing land during the public engagement of TFLS. To instill greater public confidence in LSPS, we propose setting up a dedicated Panel of Advisors to –

- (a) advise the Government on the operation of LSPS and recommend area(s) for improvement; and
- (b) advise the Government on the acceptability of each application received under the LSPS, taking into account the LSPS features as promulgated and the analyses provided by the Central Team on each application.

8. As independent counsel and impartial third party, we recommend the Panel of Advisors appointed by the CE comprise only non-official members who are individuals with credibility in society from different fields and sectors. Initially, we propose a Panel of no more than 10 members (including Chairman), covering expertise and wealth of experience from probably the legal, housing, development-related (e.g. planning, surveying, engineering, architecture),

⁶ Publishing application details upon receipt has the additional function of inviting other developer-lot owners owning land in the same locality as that of the received application to consider whether to join the LSPS, so as to enable all potential applications to be considered and dealt with in a holistic manner.

environment, social services and financial sectors. In considering appointments to the Panel of Advisors and devising the operational arrangement, we will put in place the necessary arrangements to avoid conflict of interest. The Panel will be supported by the Central Team as secretariat.

Implementation Programme

9. We will brief relevant stakeholders on the proposed LSPS and listen to their views before finalising the proposals for endorsement by CE-in-C. Our target is to launch the LSPS and receive applications in early 2020.

ADVICE SOUGHT

10. Members are invited to note and offer comments on the proposed LSPS.

Development Bureau November 2019

<u>Annex A</u>

Land Sharing Pilot Scheme Areas subject to Geographical Limit

Geographical Limit (Note 1)	Total Area (Notes 2&4)			
		%		
I. Environmentally Sensitive Zonings (Note 3)	I. Environmentally Sensitive Zonings (Note 3)			
- Conservation Area (CA)	5 770	≈ 70%		
- Coastal Protection Area (CPA)	836	≈ 10%		
- Site of Special Scientific Interest (SSSI)	1 139	≈ 14%		
 Other Specified Uses (Comprehensive Development to Include Wetland Restoration Area) 	121	≈1%		
 Other Specified Uses (Comprehensive Development and Wetland Enhancement Area) 	405	≈ 5%		
 Other Specified Uses (Comprehensive Development and Wetland Protection Area) 	8	≈ 0.1%		
Total :	8 279	100%		
II. Country Parks / Special Areas (Note 3)				
- Country Parks / Special Areas	44 312	100%		
(For further information, please visit AFCD's website: <u>https://www.afcd.gov.hk/english/country/cou_lea/cp_sa.html</u>)				
Total :	44 312	100%		
III. 12 Priority Sites for Enhanced Conservation				
- 12 Priority Sites for Enhanced Conservation	3 332	100%		
(For further information, please visit AFCD's website: <u>https://www.afcd.gov.hk/english/conservation/con_nncp/con_nncp_list/con_nncp_list.html</u>)				
Total :	3 332	100%		

Geographical Limit (Note 1)		Total Area (Notes 2&4)	
	hectares	%	
IV. Areas Under Planning			
		70/	
- Tung Chung New Town Extension	235	≈7%	
(For further information, please visit Tung Chung New Town Extension's website: <u>https://www.tung-chung.hk/about.php</u>)			
- Kwu Tung North/ Fanling North New Development Area (NDA)	612	≈ 18%	
(For further information, please visit Kwu Tung North/Fanling North NDA's website: <u>https://www.ktnfln-ndas.gov.hk/en/</u>)			
- Hung Shui Kiu/Ha Tsuen NDA	714	≈21%	
(For further information, please visit Hung Shui Kiu NDA's website: <u>https://hsknda.hk/</u>)			
- Yuen Long South	224	≈7%	
(For further information, please visit Yuen Long South's website: <u>http://www.yuenlongsouth.hk/)</u>			
 New Territories North (NTN) (NTN New town, Man Kam To(MKT) Logistics Corridor and San Tin (ST)/ Lok Ma Chau (LMC) Development Node) 	1 412	≈ 41%	
(For further information, please refer to the booket of HK2030+:			
https://www.hk2030plus.hk/document/NTN_EN.pdf			
 Potential Areas Intended for Public Housing Development outside NDAs and NTN 	232	≈7%	
(Including remainder of some 210 sites to be rezoned for public housing, area in Kam Tin South intended for public housing development, and 3 squatter areas in Kowloon East to be replanned for public housing development, i.e. Cha Kwo Ling Village, Ngau Chi Wan Village and Chuk Yuen United Village)			
Total :	3 429	100%	

Remarks:

Note 1: The figures have not offset possible overlapping of area among the four groups, such as land covered by environmentally sensitive zonings within Country Parks and priority sites.

Note 2: The figures and total area of land subject to geographical limit are snapshot as of November 2019. Since government's planning and conservation efforts are ongoing, these figures are subject to updates.

Note 3: Gazatted areas as of November 2019 are adopted.

Note 4: The total percentage may not add up to 100% due to rounding.

Annex B

Calculation of "Increased Gross Floor Area" under the Land Sharing Pilot Scheme

Under the Land Sharing Pilot Scheme (LSPS), each project should be capable of delivering an increased gross floor area (GFA) of 50 000 square metres (sqm) and at least 1 000 additional housing units (assuming an average flat size of 50 sqm). No less than 70% of the increased GFA should be set aside for public housing or Starter Home (SH) development as intended by the Government; the GFA for public housing or SH development should be handed over to the Government in a form of formed land to be carved out from the developer-lot owner's site.

2. "Increased GFA" generally refers to the difference between the GFA proposed under the LSPS application and eventually approved by the Town Planning Board (TPB) (i.e. **New Figure "Y"**) and the GFA currently permissible under the Outline Zoning Plan (OZP) and/or the planning approval given by TPB (i.e. **Base Figure "X"**).

3. Take an example of a privately owned lot that is currently capable of delivering a maximum GFA of 20 000 sqm. Assuming approval under the LSPS and by TPB, the maximum GFA attainable by the private lots is increased to 80 000 sqm. In such case, the increased GFA is 60 000 sqm. With an average flat size of 50 sqm, the project can bring about an additional 1 200 housing units. Since at least 70% of increased GFA has to be allocated for public housing or SH development, in this case the Government would receive 42 000 sqm (about 840 units), while the developer-lot owner would retain its original GFA (20 000 sqm) and gain 30% of the increased GFA (18 000 sqm), i.e. total of 38 000 sqm for private housing development.

4. The following further illustrate how the increased floor area would be calculated in different scenarios.

	Scenario 1	Scenario 2	Scenario 3
Applicable	Sites falling within	Sites falling within	Sites currently
Site	development	development	zoned for non-
	zones on OZP (e.g.	zones on OZP (e.g.	residential uses
	"Residential"	"R" or "CDA")	such as

	Scenario 1	Scenario 2	Scenario 3
	Scenario 1 ("R") or "Comprehensive Development Area" ("CDA")), and are not subject to any planning permission by TPB that revised/increased the permissible	Scenario 2 and are subject to planning permission by TPB which revised/increased the permissible development intensity	Scenario 3 "Government, Institution or Community" ("G/IC"), "Green Belt" ("GB"), "Road", etc.
Base Figure "X"	development intensity Permissible GFA calculated by the Plot Ratio (PR) or	Permissible GFA calculated by the PR or the	0 (i.e. no permissible GFA
New Figure	the maximum GFA as stipulated under the relevant OZP GFA proposed in	maximum GFA as approved by TPB GFA proposed in	for residential purpose) GFA proposed in
"Y"	the development scheme vide LSPS and eventually approved by TPB	the development scheme vide LSPS and eventually approved by TPB	the development scheme vide LSPS and eventually approved by TPB
Increased Floor Area	Y-X	Y-X	Y
Hypothetical Example for illustration	A residential site of 2 hectare (ha) has a PR 0.5 as	A residential site of 2 ha has a PR 1 as previously	An agricultural site of 2 ha has been approved by
purpose only	stipulated under the extant OZP, and has been approved by TPB for increasing the development intensity vide	approved by TPB, and has been approved by TPB for further increasing the development intensity vide	TPB for changing the zoning from "Agriculture" to "R" vide LSPS for a PR 3. The increased
	LSPS at a PR 3. The increased	LSPS at a PR 3.5. The increased	floor area would be based on a PR 3 (3-0) and

Scenario 1	Scenario 2	Scenario 3
floor area would	floor area would	multiplied by site
be based on a	be based on a	area, i.e. GFA
PR 2.5 (3-0.5) and	PR 2.5 (3.5-1) and	60 000 sqm (Y) –
multiplied by site	multiplied by site	$0 \operatorname{sqm}(X) =$
area, i.e. GFA	area, i.e. GFA	
60 000 sqm (Y) –	70 000 sqm (Y) –	Increased GFA
$10\ 000\ \text{sqm}(X) =$	$20\ 000\ \text{sqm}(X) =$	60 000 sqm
		(approximately
Increased GFA	Increased GFA	1 200 housing
50 000 sqm	50 000 sqm.	units of 50 sqm
(approximately	(approximately	each).
1 000 housing	1 000 housing	
units of 50 sqm	units of 50 sqm	Public housing =
each).	each).	GFA 42 000 sqm
		(approximately
Public housing =	Public housing =	840 public
GFA 35 000 sqm	GFA 35 000 sqm	housing units of
(approximately	(approximately	50 sqm each)
700 public	700 public	
housing units of	housing units of	
50 sqm each)	50 sqm each)	

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Annex C

Compensation for land owners under land resumption

The law provides for payment of compensation for the private land resumed under statutory powers (commonly referred to as "statutory compensation"). The relevant Ordinances¹ set out the entitlements to compensation, the procedures involved, the basis and principles of assessment of the compensation, as well as the authority for final determination of compensation which is the Lands Tribunal.

2. Statutory Compensation aside, the Government has also put in place an ex-gratia compensation system for resumption of land as an alternative arrangement and a simplified mechanism for handling land compensation matters. Insofar as the New Territories is concerned, the ex-gratia compensation system categorizes land into four compensation zones, namely Zones A to D. The definition and compensation rate (set at different percentages of the basic rates for agricultural and building land) of each zone are set out below –

Zone	Definition	Ex-gratia compensation rates (per square foot)	
		Agricultural Land	Building Land
A	New Town Development Areas (namely areas within the New Town boundaries as shown on gazetted outline zoning plans for new towns), and those areas that are affected by essential projects with territory-wide significance.	120% of basic rate	Valuation ^(Note) + 120% of basic rate
В	Areas which may be brought under urban development in the near future, either by extensions to the adjoining layout areas due	75% of basic rate	Valuation ^(Note) + 75% of basic rate

¹ These include the Land Resumption Ordinance (Cap. 124), the Roads (Works, Use and Compensation) Ordinance (Cap. 370), the Railways Ordinance (Cap. 519) etc.

Zone	Definition	Ex-gratia compensation rates (per square foot)	
		Agricultural Land	Building Land
С	to their proximity to such areas or by reason of their known potential for urban development Areas in which no urban development is planned and which are unlikely to be affected by later extension to layout areas, but where resumption are required sometimes for purposes directly connected with urban layout development and sometimes for local improvement schemes.	50% of basic rate	Valuation ^(Note) + 50% of basic rate
D	Areas not included in other zones.	30% of basic rate	Valuation ^(Note) + 30% of basic rate

Note: This element represents a compensation amount assessed by valuation of the affected building land (including any legal building(s) thereon) at open market value.

3. The current basic rates (effective from 1 October 2019 to 31 March 2020) for agricultural land and building land are \$1,158 per square foot and \$2,298 per square foot respectively. The rates are revised twice a year to take into account changing property and land prices, and the revised rates take effect on 1 April and 1 October each year.

4. As and when a development project necessitates resumption of private land, the Committee on Planning and Land Development $(CPLD)^2$ of the Government will consider the applicable compensation zone for the affected land before the Government commences the land resumption procedures, taking into account the nature of the development project and the location of the affected land. For example, a site that is originally

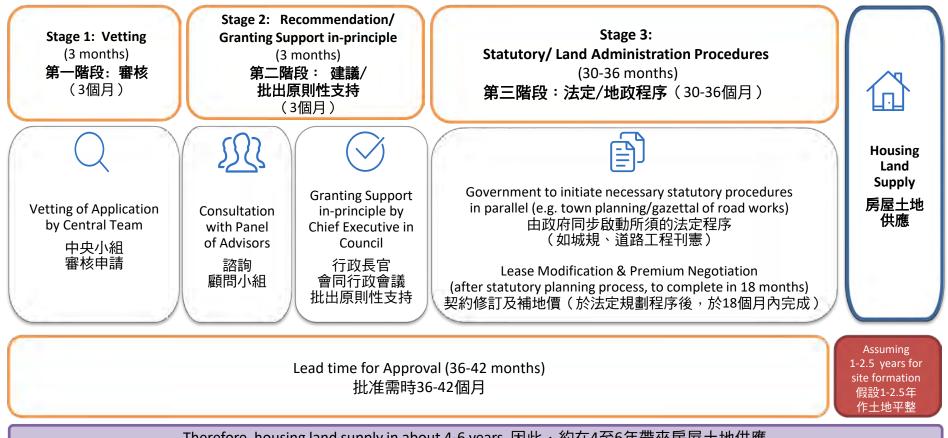
² A committee chaired by the Secretary for Development and comprising representatives from the relevant bureaux and departments.

situated in Zone D may be upgraded to Zone A if the project is New Town Development Areas or essential with territory-wide significance.

5. Procedure-wise, the Lands Department starts processing the compensation for landowners after commencing the statutory land resumption procedures by way of affixing a Government Notice on the land to be resumed and publishing the same in the Gazette. It begins with a standard offer letter for ex-gratia compensation to the registered landowners. If a landowner does not accept the ex-gratia compensation offer, he may submit claims for statutory compensation to the Lands Department. If the amount of the claim cannot be agreed, either party may refer the claim to the Lands Tribunal for a final determination³.

³ Once the compensation amount is determined by the Lands Tribunal, the decision shall be final irrespective of whether the amount is higher or lower than the original ex-gratia compensation offer.

Indicative Timeline for LSPS 先導計劃的參考時序 MHPD



Therefore, housing land supply in about 4-6 years 因此,約在4至6年帶來房屋土地供應