

CHAPTER 3

**Education Bureau
Lands Department**

Use and disposal of vacant school premises

**Audit Commission
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USE AND DISPOSAL OF VACANT SCHOOL PREMISES

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USE AND DISPOSAL OF VACANT SCHOOL PREMISES

Executive Summary

1. Vacant school premises (VSP) mean premises of schools that have ceased to operate for various reasons such as closing the schools and reprovisioning the schools to other premises, including VSP resulted from the Government's policy on consolidation of under-utilised primary schools implemented since the 2003/04 school year. For VSP suitable for school or other educational uses, the Education Bureau (EDB) aims to put them to gainful use in the shortest possible time. For other VSP, the EDB aims to return them to relevant departments, mainly the Lands Department (LandsD), in an expeditious manner for consideration of alternative uses. According to EDB records, there were 105 VSP not being used as at 30 April 2015. The Audit Commission (Audit) has recently conducted a review of the use and disposal of VSP.

Identifying VSP

2. The EDB has an established mechanism for handling VSP, including identifying them and allocating suitable ones for school or other educational uses. Under the mechanism, the EDB has since July 2005 maintained a database on VSP mainly based on information provided by its Regional Education Offices. Between July 2005 and 30 April 2015, the database recorded a total of 234 VSP. About 80% of the schools concerned were primary schools and the remaining were mainly secondary schools (paras. 2.2 and 2.6).

3. *VSP not identified and handled in accordance with established mechanism.* The EDB maintains a school registration database containing records of schools registered/deregistered by the EDB at various times, which could be used for identifying VSP. Using such information in the school registration database up to 30 April 2015, Audit sample check revealed 14 VSP not included in the 234 VSP recorded in the EDB's database on VSP. The EDB should review these 14 cases and the mechanism for handling VSP (paras. 2.7 and 2.10).

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4. ***Room for enhancing transparency on uses of VSP.*** In response to Legislative Council Members' questions about uses of VSP, the EDB mainly provided information on primary schools that had ceased operation due to the Government's policy on consolidation of under-utilised primary schools since 2003/04. The information provided did not cover all VSP in the EDB's database on VSP, such as primary schools that had ceased operation due to other reasons. For example, in March 2015, the EDB disclosed that since 2003/04 the VSP of primary schools that had ceased operation due to the Consolidation Policy and the VSP of secondary schools that had ceased operation or merged with other schools were 88 and 20 respectively, when its database on VSP recorded a total of 234 VSP. There was a significant number of VSP of schools that had ceased operation due to reasons other than the Consolidation Policy (paras. 2.15 to 2.17).

5. ***VSP having undergone improvement works.*** Of the 234 VSP in the EDB's database on VSP, 79 were included in the EDB's School Improvement Programme implemented between 1994 and 2007, which intended to benefit the students for at least five years. However, 26 of the 79 schools concerned vacated the premises within five years of completion of improvement works, mainly due to drop in student enrolment. The average cost of the improvement works for the 26 schools was \$19 million per school (paras. 2.20 to 2.24).

Allocating VSP for educational or other uses

6. The EDB's database on VSP showed that, as at 30 April 2015, of the 234 VSP, 105 (45%) were not being used, 102 (44%) were being used and 27 (11%) had been or would be demolished for housing or other developments (para. 3.5).

7. ***29 VSP under EDB's purview not being used.*** The 105 VSP not being used as at 30 April 2015 included 29 that had not been returned by the EDB to the Government. The 29 VSP, mostly located in Hong Kong Island and Kowloon, comprised: (a) 8 VSP that had not been earmarked for any use. The 8 schools concerned had ceased operation for 1.6 to 10.6 years (averaging 6.4 years); (b) 9 VSP that had been earmarked for school uses for 0.1 to 6.3 years (averaging 3.9 years) but had yet to be allocated for such uses. The 9 schools concerned had ceased operation for 1.6 to 15.6 years (averaging 6 years); and (c) 12 VSP that had been allocated for school or other educational uses for 0.3 to 7.8 years (averaging 2.2 years) but had not yet been put to such uses. The 12 schools concerned had ceased operation for 1.6 to 11.6 years (averaging 6.4 years). The EDB needs to put the 29 VSP to good use expeditiously (paras. 3.6 to 3.11).

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8. ***73 VSP under LandsD's purview not being used.*** The 105 VSP not being used as at 30 April 2015 also included 73 considered by the EDB as not suitable for educational uses which had been returned to the LandsD for consideration of alternative uses. The 73 VSP were mostly located in the New Territories. The 73 schools concerned had ceased operation for 0.6 to 35.6 years (averaging 12.1 years). Audit found that there was room for improvement in the LandsD's arrangements for providing interested parties with ready access to updated and complete information about VSP available for short-term uses (paras. 3.13 to 3.16).

9. ***VSP partially utilised or allocated for temporary uses for a long period.*** The 102 VSP being used as at 30 April 2015 included 77 that were under the EDB's purview. Audit found that 4 of the 77 VSP were only partially utilised for the allocated uses, including 3 VSP each having about half of the floors/blocks not being used. Audit also found that another 14 of the 77 VSP had not been earmarked for any specific long-term educational uses. The 14 VSP were allocated for temporary uses only, including 4 VSP that had been allocated for temporary uses to various parties for over six years (paras. 3.26 to 3.28).

Handling cases of VSP not surrendered

10. Upon cessation of school operation, school premises on government land are required to be returned to the Government. For school premises on private land, where the LandsD had granted the land to the school sponsoring body (SSB) by land lease containing a cessation/diminution of user clause (usually private treaty grant at nil or nominal premium), the Government has the right to re-enter the site (para. 4.2).

11. ***Physical possession of 71 VSP not delivered to the Government.*** As at 30 April 2015, physical possession of 71 VSP had not been delivered to the Government after cessation of school operation, comprising 9 on government land and 62 on private land. For the 9 VSP on government land, the 9 schools concerned had ceased operation for 6.6 to 18.6 years (averaging 11.2 years). For the 62 VSP on private land, the land leases of at least 34 VSP contain a cessation/diminution of user clause. Among the 71 VSP, 41 were not being used. The uses of the remaining 30 VSP were mainly arranged by the SSBs but not through the EDB's or LandsD's

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established mechanism for handling VSP and, therefore, such VSP might not have been put to optimal uses for the effective implementation of the EDB's education policies. There is a need to review the handling of the 71 cases of VSP and expedite action to take appropriate actions (paras. 4.3 to 4.10).

12. *Need to improve handling of school reprovisioning cases.* In reprovisioning a school on private land, EDB staff were required to include in the service agreement with the SSB a surrender clause specifying that the SSB should voluntarily surrender the existing school site and premises. Audit case studies revealed that: (a) in one case, the surrender clause was omitted from the service agreement; (b) in another case, the surrender clause in the service agreement was nullified by a side agreement between the EDB and the SSB; and (c) in yet another case, the surrender clause in the service agreement required the SSB to carve out only a portion from the private treaty grant site for returning to the Government, but road access and utility connection problems made it difficult for the Government to use the carved-out site (paras. 4.14 to 4.18).

Property management of VSP

13. *Contracts awarded to a supplier not on the EDB supplier lists.* In the two quotation exercises conducted by the EDB in 2014-15 for procuring property management services for VSP, contracts were awarded to the only bidder, which was the contractor of the existing contract and not on the EDB's supplier lists. The EDB needs to widen the pool of potential service providers which may be invited to submit quotations (paras. 5.9 and 5.11).

14. *Inadequacies in monitoring contractor performance.* The EDB conducted inspections on an ad-hoc basis to the VSP managed by contractors. However, the inspection officer did not keep comprehensive records of all inspections. Moreover, the EDB did not follow the requirement of the Stores and Procurement Regulations to evaluate the performance of contractors upon completion of the contract (paras. 5.16 and 5.17).

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Audit recommendations

15. Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Secretary for Education should:

Identifying VSP

- (a) follow up VSP not identified and handled in accordance with the established mechanism, and improve the mechanism for maintaining a comprehensive database on VSP (para. 2.18(a) and (b));
- (b) enhance transparency on uses of VSP arising from all kinds of reasons (para. 2.18(e));
- (c) critically evaluate all relevant factors in planning for and approving school improvement/extension works in the future (para. 2.26);

Allocating VSP for educational or other uses

- (d) review the 29 VSP not being used and take measures to improve the mechanism for handling VSP (para. 3.19(a));
- (e) review whether the eight VSP not earmarked for any use should be returned to the Government for consideration of alternative uses (para. 3.19(b));
- (f) regularly review the need to retain the earmarked VSP and closely monitor the follow-up actions after allocation of a VSP to avoid unnecessary delay in putting the VSP to use (para. 3.19(c) and (d));
- (g) explore ways to maximise the utilisation of the under-utilised VSP and regularly review the need to retain those VSP that had been allocated only for temporary uses for a long period of time (para. 3.29);

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Handling cases of VSP not surrendered

- (h) in conjunction with the Director of Lands, expedite action to take appropriate actions on the 71 VSP the physical possession of which has not been delivered to the Government after cessation of school operation, and review the recording and monitoring mechanism (para. 4.11(a) and (c));
- (i) strengthen the control over school reprovisioning cases to prevent recurrence of incidents of omitting a surrender clause in the service agreement or deviating from the standard surrender arrangement (para. 4.19(a) and (b));
- (j) for the school reprovisioning case in which the SSB was required to surrender only a portion of the old school premises, consult the LandsD on how to take forward the carving out and surrender of the school so as to make the surrendered site accessible and usable (para. 4.19(c));

Property management of VSP

- (k) maintain a comprehensive list of service providers of property management services for procuring property management services for VSP (para. 5.12); and
- (l) review the mechanism for inspecting VSP managed by contractors and evaluate the contractor's performance upon completion of a contract (para. 5.19(a) and (b)).

16. Audit has *recommended* that the Director of Lands should ensure that interested parties have ready access to updated and complete information about VSP available for application for short-term uses (para. 3.20).

Response from the Government

17. The Secretary for Education and the Director of Lands agree with the audit recommendations.

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Primary and secondary education

1.2 Primary schooling in Hong Kong starts at the age of around six and there are six years of schooling at the primary level. Since the implementation of a new academic structure in September 2009, students completing primary education can further their studies in six years of secondary education (i.e. three years of junior secondary and three years of senior secondary education).

1.3 The Education Bureau (EDB — Note 1) is responsible for formulating policies on education and overseeing the effective implementation of educational programmes. In respect of primary and secondary education, the Government's policy objectives are to provide nine years' free and universal primary and junior secondary education to all children attending public sector schools. Starting from the 2008/09 school year, senior secondary education has been provided free through public sector schools.

1.4 Public sector schools comprise:

- (a) government schools, which are operated by the Government;
- (b) aided schools, which are fully subvented by the Government and managed by the incorporated management committee (IMC) or school management committee; and

Note 1: *In January 2003, the then Education Department was merged with the then Education and Manpower Bureau. In July 2007, the Bureau was renamed as the EDB upon the reorganisation of the Government Secretariat.*

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- (c) caput schools, which are non-profit-making private secondary schools in receipt of government subsidy since 1971 when the Government introduced a Bought Place Scheme.

Apart from public sector schools, ordinary local schools also include Direct Subsidy Scheme schools and private schools, some of which receive financial assistance from the Government. Table 1 shows an analysis of the ordinary local schools in operation as at mid-September of the 2014/15 school year (i.e. 15 September 2014).

Table 1
Number of ordinary local primary and secondary schools
and student enrolment
(15 September 2014)

Type of schools		No. of schools	No. of students
<i>Primary schools</i>			
Public sector schools	Government	34 (6%)	21,131 (7%)
	Aided	418 (80%)	245,022 (79%)
Direct Subsidy Scheme schools and private schools		74 (14%)	42,954 (14%)
Total		526 (100%)	309,107 (100%)
<i>Secondary schools</i>			
Public sector schools	Government	31 (6%)	23,540 (7%)
	Aided	362 (76%)	277,105 (78%)
	Caput	2 (<0.5%)	1,465 (<0.5%)
Direct Subsidy Scheme schools and private schools		84 (18%)	54,579 (15%)
Total		479 (100%)	356,689 (100%)

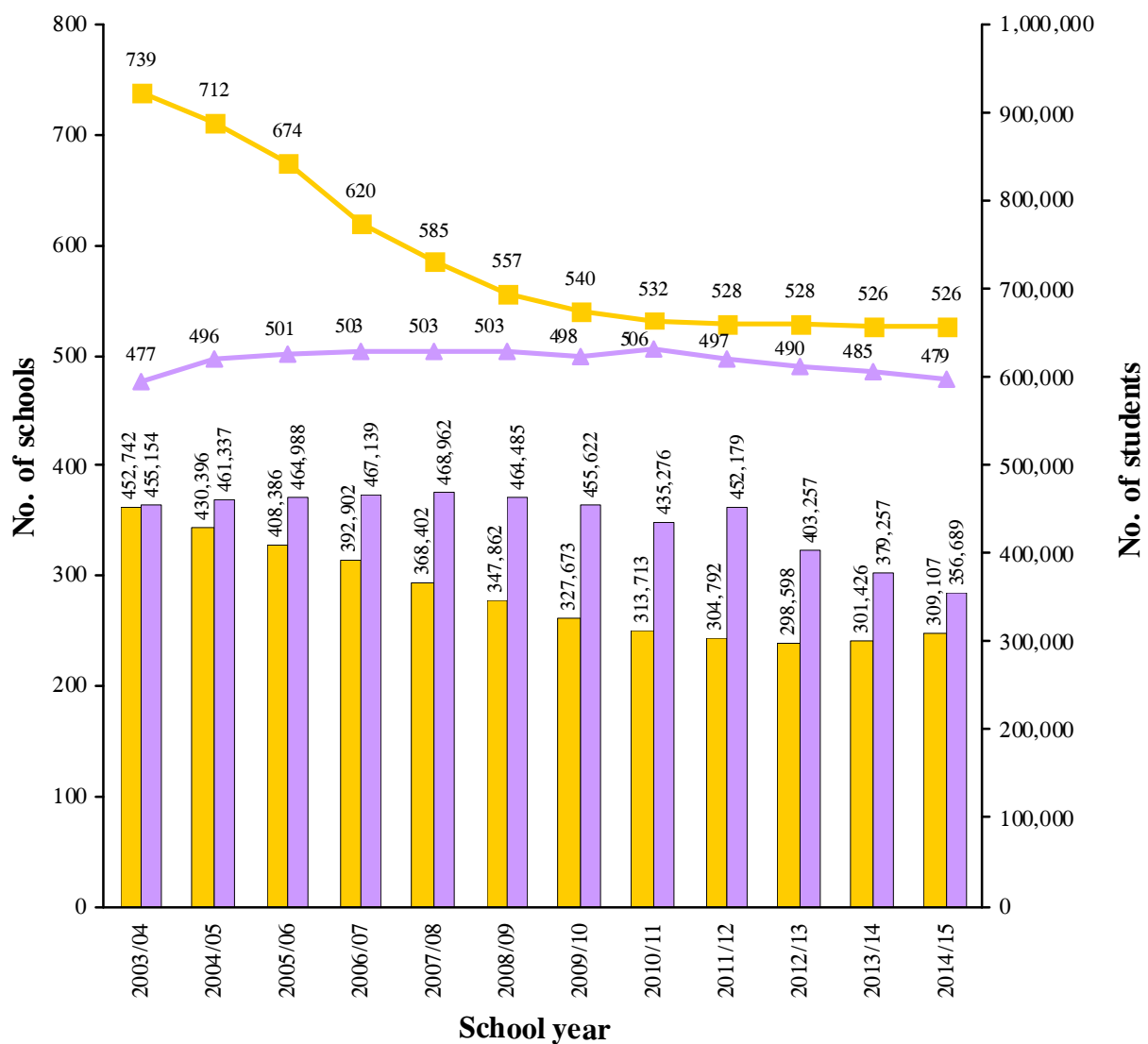
Source: EDB records

Remarks: 1 government and 3 aided primary schools had a.m. and p.m. sessions, and 1 aided primary school had p.m. and full-day sessions. Each of them was counted as two schools.

1.5 In the past 12 years, the number of students in ordinary local primary schools decreased by 32% from 452,742 in 2003/04 to 309,107 in 2014/15. The number of students in ordinary local secondary schools also decreased by 22% from 455,154 to 356,689. Figure 1 shows the details.

Figure 1

Number of ordinary local primary and secondary schools and student enrolment (2003/04 to 2014/15)



- Legend:
- Ordinary local primary schools
 - ▲ Ordinary local secondary schools
 - Ordinary local primary school students
 - Ordinary local secondary school students

Source: EDB records

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Special education

1.6 Hong Kong provides special education services for children with special educational needs (e.g. visual impairment, hearing impairment, physical disability and intellectual disability). Under the prevailing policy, subject to the assessment and recommendation of the specialists and with parents' consent, children with more severe or multiple disabilities are placed in special schools for intensive support. Other children with special educational needs may attend ordinary schools.

1.7 The EDB is responsible for the planning, development, monitoring and operation of all special education services. There are 60 public sector special schools in the 2014/15 school year, providing special education services for 7,643 students. These 60 special schools are aided schools receiving subvention from the Government.

Vacant school premises

1.8 Public sector and Direct Subsidy Scheme schools generally operate at government-built premises (Note 2). The EDB conducts School Allocation Exercises from time to time to invite school sponsoring bodies (SSBs) to apply for new or vacant school premises for operating such schools (and other schools such as international schools). The School Allocation Committee (Note 3) considers applications in accordance with a set of criteria. It recommends suitable SSBs to the Permanent Secretary for Education for allocation of the school premises.

1.9 When SSBs cease to use their existing school premises located on government land (or in public housing estates under the Hong Kong Housing Authority) to operate their schools for various reasons such as closing the schools, re-provisioning the schools to other premises and merging with other schools, they have to cease to occupy and relinquish possession of the existing premises.

Note 2: *According to the Hong Kong Planning Standards and Guidelines, the reference site area of a 30-classroom primary school is 6,200 square metres (m²) and that of a 30-classroom secondary school is 6,950 m².*

Note 3: *The Committee, established in 1999, is chaired by a Deputy Secretary for Education and consists of both official and non-official members.*

1.10 As regards schools with existing school premises located on private land (including land granted under private treaty grant (PTG)), if they are reprovisioned to other premises through School Allocation Exercises, the SSBs are required to return their existing school premises to the Government as a condition of reprovisioning under the EDB's service agreement with the SSBs. If the schools cease to operate for reasons other than reprovisioning, the SSBs are required to handle the existing premises in accordance with the conditions of the land lease, including returning them to the Government if so required under the land lease.

1.11 According to the EDB, the premises of schools that have ceased to operate for various reasons such as closing, reprovisioning and merger are referred to as vacant school premises (VSP). The schools involved were mainly public sector, Direct Subsidy Scheme and private ordinary local primary and secondary schools. Subsequent to the cessation of school operation, the VSP would be reallocated to suitable SSBs for operating schools, redeployed for other educational uses or returned to the Government for consideration of alternative uses if it is confirmed that they are no longer required for school or other educational uses.

1.12 In 2003, the EDB estimated that the total school age population aged 6 to 11 would decrease by 17% from 493,000 in 2002 to 410,600 in 2010, which would result in a sharp decrease in the demand for primary schools. Under the policy on consolidation of under-utilised primary schools (Consolidation Policy) implemented since the 2003/04 school year, public sector primary schools not meeting the minimum threshold number of primary one students (Note 4) will not be allocated primary one class and may subsequently cease operation. The Consolidation Policy has resulted in a number of VSP.

1.13 Since July 2005, the Infrastructure and Research Support Division (IRSD) under the Planning, Infrastructure and School Places Allocation Branch of the EDB (see Appendix A) has been tasked to handle VSP. The IRSD, headed by a Principal Assistant Secretary for Education, is responsible for:

Note 4: *The minimum threshold number was 23 between 2003/04 and 2007/08, 21 for 2008/09 and 16 starting from 2009/10.*

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- (a) processing proposals of using VSP;
- (b) management of VSP under the EDB's purview;
- (c) handling land administration matters of VSP (in particular, liaison with the Lands Department (LandsD));
- (d) handling enquiries from the public, the Housing Department (HD) and other government bureaux and departments (B/Ds); and
- (e) planning School Allocation Exercises and providing secretarial support to the School Allocation Committee, including processing of applications and preparation of papers.

1.14 The EDB has established a mechanism for handling VSP. For VSP suitable for educational uses, the EDB aims to put them to gainful use in the shortest possible time. For other VSP, the EDB aims to return them to relevant departments (mainly the LandsD and the HD) in an expeditious manner for consideration of alternative uses.

1.15 As at 30 April 2015, the IRSD record showed that there were 105 VSP not being used. The record maintained by the IRSD between July 2005 and April 2015 comprised a total of 234 VSP, including the 105 VSP that were not being used as at 30 April 2015 and other 129 VSP that were being used or had been or were going to be demolished for housing or other developments.

Audit review

1.16 In January 2015, the Audit Commission (Audit) commenced a review of the use and disposal of VSP contained in the IRSD's database on VSP. The review has focused on the following areas:

- (a) identifying VSP (PART 2);
- (b) allocating VSP for educational or other uses (PART 3);

- (c) handling cases of VSP not surrendered (PART 4); and
- (d) property management of VSP (PART 5).

Audit has found room for improvement in the above areas and has made a number of recommendations to address the issues.

Acknowledgement

1.17 Audit would like to acknowledge with gratitude the assistance and full cooperation of the staff of the EDB and the LandsD during the course of the audit review.

PART 2: IDENTIFYING VACANT SCHOOL PREMISES

2.1 This PART examines the identification of VSP and related issues, focusing on the following areas:

- (a) identifying VSP (paras. 2.2 to 2.19); and
- (b) VSP having undergone improvement works (paras. 2.20 to 2.27).

Identifying vacant school premises

EDB's mechanism for handling VSP

2.2 The EDB has established a mechanism for handling VSP to facilitate advance planning with a view to putting VSP to gainful use in the shortest possible time and early disposal of VSP not required by the EDB. The mechanism is summarised below (see Appendix B for a flow chart):

- (a) ***Identifying VSP.*** After taking on the responsibilities for handling VSP in July 2005, the IRSD has maintained a database on VSP. A list of VSP was compiled based on information available in July 2005 and updated over the years mainly based on information of vacant/to-be-vacated school premises provided by the Regional Education Offices (REOs — Note 5);

Note 5: *The EDB set up four REOs in July 2000 to provide support services to schools and the public at the district level, including handling of matters relating to the closure and reprovisioning of schools. The REOs are located in Hong Kong, Kowloon, New Territories East and New Territories West.*

- (b) **Screening VSP.** Every six months the IRSD issues a list of VSP not yet earmarked for any use and a list of VSP with earmarked uses to subject EDB Divisions (Note 6) requesting them to make proposals on the long-term or short-term uses of the VSP for delivering policy objective under their respective purview. The size, location and physical conditions of the VSP will be considered in determining whether they are suitable for allocation for mainstream school uses (i.e. primary schools, secondary schools and special schools, including international schools) or other educational uses (e.g. post-secondary education);

- (c) **VSP suitable for mainstream school uses or other educational uses.** The IRSD will conduct School Allocation Exercises to allocate such VSP to suitable SSBs. Since October 2011, clearance from the Planning Department (PlanD) needs to be obtained before allocating VSP for educational uses other than mainstream school uses (see paras. 2.3 to 2.5); and

- (d) **VSP not suitable for mainstream school uses or other educational uses.** The IRSD will return the VSP to the relevant departments (mainly the LandsD and the HD) for their consideration of alternative uses. Since October 2011, the EDB needs to inform the PlanD of such VSP beforehand for clearance purposes (see paras. 2.3 to 2.5 — Note 7).

Note 6: *The subject EDB Divisions comprise Higher Education Division, Further Education Division, Education Commission and Planning Division, Professional Development and Training Division, Special Education and Kindergarten Education Division, School Administration Division, School Development Division, Curriculum Development Institute, Quality Assurance and School-based Support Division, Education Infrastructure Division and Administration Division.*

Note 7: *According to the EDB, “return” of VSP by the EDB to the Government means that the EDB has decided that the VSP are not suitable for mainstream school uses or other educational uses and has informed the PlanD and other relevant departments to consider alternative uses in accordance with the prevailing applicable arrangements. Some school premises remain in possession with the private lot owners/SSBs and some have been reallocated for alternative use after cessation of school operation by the SSBs. The return of VSP as referred to in various PARTS of this Audit Report does not necessarily mean that a VSP has been returned physically in all cases.*

Identifying vacant school premises

Central clearing house mechanism

2.3 In November 2005, an inter-departmental meeting convened by a Deputy Secretary of the EDB was held to discuss how the Government as a whole should make the best use of VSP. It was agreed that the EDB would pass the list of VSP not suitable for educational uses to the PlanD to identify long-term uses of the sites and to the Government Property Agency (GPA) to study the potential uses of the premises concerned. The management responsibility of such VSP was discussed but no conclusion was reached (see Appendix C).

2.4 In October 2011, at a meeting held by the then Steering Committee on Housing Land Supply (Note 8), the Members agreed that supply of land for housing was a top policy priority. The EDB, in passing vacant or to-be-vacated school sites directly to other departments for alternative uses, should report all such sites to the PlanD in the first instance so that the PlanD could serve as a central clearing house. The PlanD could consider suitable alternative uses for the sites in an efficient and coordinated manner. However, this would not make the PlanD the management agent for the sites before their reallocation (see Appendix C).

2.5 From October 2011 onwards, following the introduction of the central clearing house mechanism, the EDB only retains premises for mainstream school uses and reports to the PlanD the VSP not required for mainstream school uses. Should the EDB need any VSP for educational uses other than mainstream schools, the EDB, like any other B/Ds, has to submit its application for the proposed use with sound justifications for the PlanD's consideration.

Note 8: *The Committee, chaired by the Financial Secretary, was set up in October 2010 to coordinate the efforts of B/Ds in making available land for housing development. It has been reorganised into the Steering Committee on Land Supply since February 2013 to coordinate the overall plans for development and supply of land in Hong Kong for different types of land uses.*

Master list of VSP

2.6 In May 2015, Audit requested the IRSD to provide a master list of VSP. The IRSD provided Audit with a list of 234 VSP known to it between July 2005 and 30 April 2015, based on the database on VSP maintained by it since July 2005 (see para. 2.2(a)). As can be seen in Table 2, 188 (80%) of the 234 schools concerned were primary schools. Figure 2 shows an analysis of the school years in which the 234 schools ceased operation.

Table 2
Record of 234 VSP kept by the IRSD
(July 2005 to 30 April 2015)

		Type of school				
		Primary school	Secondary school	Special school	Post-secondary institution	Total
Public sector schools	Government	4	6	–	–	10
	Aided	177	22	5	–	204
	Caput	–	2	–	–	2
Direct Subsidy Scheme schools and private schools		4	7	–	–	11
Others (Note 1)		1	1	–	2	4
Unknown (Note 2)		2	–	–	1	3
Total		188 (80%)	38 (17%)	5 (2%)	3 (1%)	234 (100%)

Source: Audit analysis of EDB records

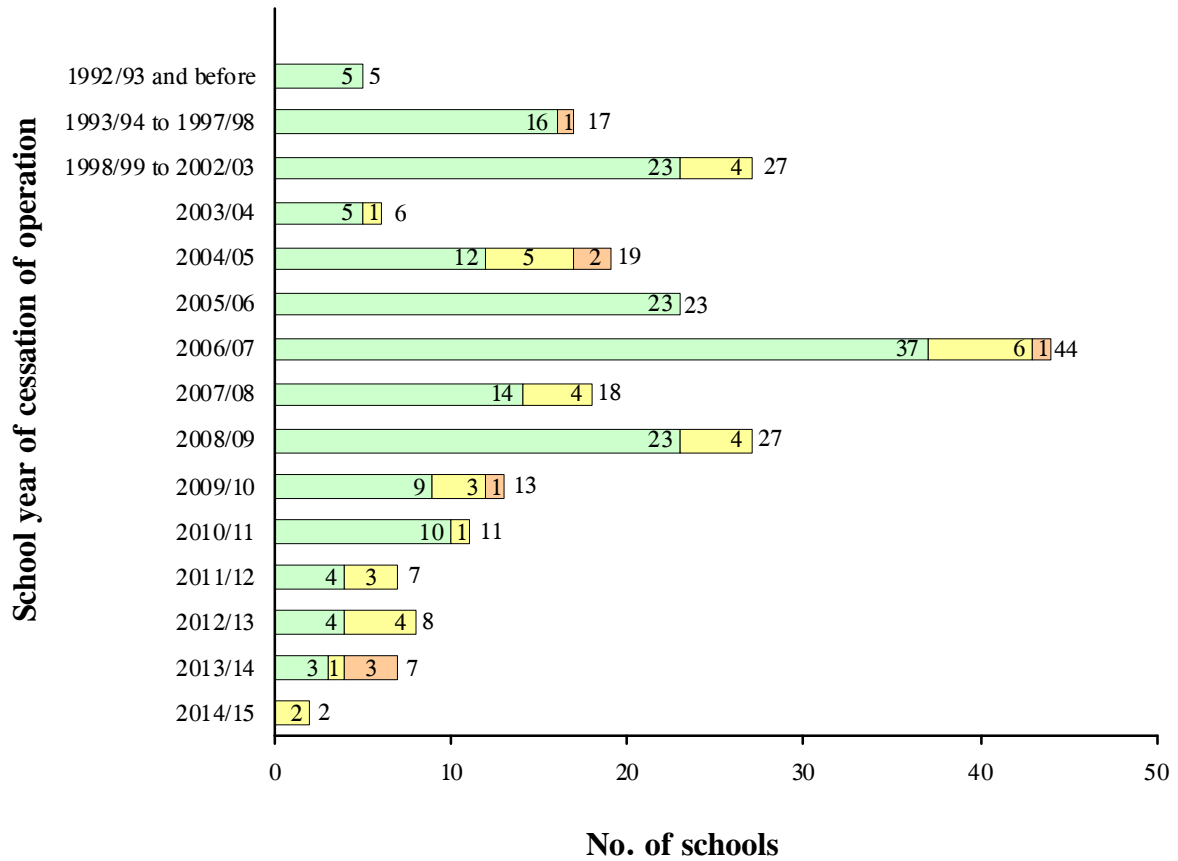
Note 1: They include schools of English School Foundation and Bought Place Scheme (now obsolete).

Note 2: The information was not shown in EDB records.

Identifying vacant school premises

Figure 2

Analysis of 234 VSP by school year of cessation of operation



Legend: Primary schools
 Secondary schools
 Special schools and post-secondary institutions

Source: *Audit analysis of EDB records*

Some VSP not identified and handled in accordance with established mechanism

2.7 As mentioned in paragraph 2.2(a), the IRSD maintains a database on VSP mainly based on information provided by the REOs. The EDB also maintains a school registration database (Note 9) to record details of registered/de-registered schools containing information about their cessation of operation, which could be used for identifying VSP. Using such information in the school registration database up to 30 April 2015, Audit sample check revealed 14 VSP not included in the list of 234 VSP kept by the IRSD. Of the 14 schools, 1 ceased operation in 1946 and 12 ceased operation between 1989 and 2011 (date of cessation of operation of the remaining school not shown in the database).

2.8 The IRSD confirmed in July 2015 that it was not aware of the 14 VSP until enquired by Audit. It indicated that 8 VSP were premises of private schools.

2.9 For private schools with premises built on sites granted by the Government, like aided schools on private land, the SSBs concerned may be required to surrender the sites to the Government upon cessation of school operation if the leases contain a cessation/diminution of user clause (see para. 4.2(b)). The VSP of the 8 private schools should have been handled in a way similar to aided schools. In fact, the list of 234 VSP kept by the IRSD between July 2005 and 30 April 2015 included a number of private schools (Note 10).

Note 9: *The School Registration and Compliance Section under the Curriculum and Quality Assurance Branch is responsible for inputting data of schools such as name, address, finance mode, course details and classroom accommodation into the school registration database. The database system is maintained by the Education Information System Section under the Corporate Services Branch.*

Note 10: *Upon enquiry, the LandsD informed Audit in October 2015 that the leases of the 8 private schools did not contain a cessation/diminution of user clause. Similarly, the LandsD also informed Audit that for 30 VSP on the IRSD list of 234 VSP which were on private land, the leases did not contain a cessation/diminution of user clause (see para. 4.7).*

Identifying vacant school premises

2.10 In Audit's view, the EDB should review the 14 VSP not included in the IRSD's database on VSP and find out whether there were other cases of VSP that had not been included, and take appropriate follow-up action. The EDB should also review the existing mechanism in compiling the database on VSP and take improvement measures.

2.11 In this connection, Audit notes that the EDB has not issued a comprehensive manual to lay down requirements and provide guidelines on the identification, screening, allocation and management of VSP. In Audit's view, such manual will help ensure that all relevant units including the IRSD, subject EDB Divisions and REOs understand the requirements clearly and handle VSP properly.

Delay in conducting half-yearly exercises to determine uses of VSP

2.12 Under the EDB's mechanism for handling VSP, the IRSD is required to issue a list of VSP not yet earmarked for any use and a list of VSP with earmarked uses to subject EDB Divisions half-yearly, and request them to make proposals on the uses of the VSP (see para. 2.2(b)). The IRSD has so far conducted 16 such exercises since 2005 (see para. 2.2(a)). Table 3 shows the details.

Table 3

16 half-yearly exercises conducted to determine uses of VSP

Exercise	Date exercise commenced	Time elapsed since preceding exercise (Month)
1	August 2005	N/A
2	May 2006	9
3	December 2006	7
4	July 2007	7
5	January 2008	6
6	August 2008	7
7	January 2009	5
8	September 2009	8
9	May 2010	8
10	December 2010	7
11	July 2011	7
12	May 2012	10
13	April 2013	11
14	October 2013	6
15	August 2014	10
16	April 2015	8

Source: Audit analysis of EDB records

2.13 As shown in Table 3, most of the exercises were conducted more than six months after the preceding exercise. In particular, three of the latest five exercises were conducted 10 or 11 months after the preceding exercise. Upon enquiry, the IRSD informed Audit in August 2015 that the half-yearly updating exercise was not the only channel for the EDB to determine the uses of VSP. There were also ongoing internal discussions within the EDB on the uses of VSP throughout the year outside the context of the half-yearly updating exercises

Identifying vacant school premises

(e.g. when the same VSP was earmarked by different divisions for competing uses). In Audit's view, the EDB should ensure that the exercises are conducted half-yearly in accordance with the mechanism to facilitate putting VSP to gainful use in the shortest possible time.

Room for enhancing transparency on uses of VSP

2.14 After the implementation of the Consolidation Policy in 2003/04 (see para. 1.12), in view of the increasing number of VSP and concerns about the use of VSP, the EDB has submitted two papers on the use and disposal of VSP to the Legislative Council (LegCo) Panel on Education for discussion on 14 May 2007 and 11 June 2012 respectively. In both papers, the EDB provided information mainly on primary schools that had ceased operation under the Consolidation Policy.

2.15 From time to time, at LegCo meetings, LegCo Members have raised questions about uses of VSP. It has also become a regular question since 2005-06 when the annual Estimates of Expenditure of the Government were submitted to LegCo Finance Committee for examination. For some questions, LegCo Members specifically requested information on schools that had been closed because of under-enrolment. Other questions included those asking for information on VSP as at a specified date.

2.16 In response to questions about VSP, the EDB has mainly provided information on uses of the following VSP:

- (a) VSP of primary schools that had ceased operation due to the Consolidation Policy since 2003/04;
- (b) VSP of secondary schools that had ceased operation due to various reasons since 2003/04; and
- (c) VSP of secondary schools that had merged with other schools since 2003/04.

For example, in March 2015, the EDB disclosed that the numbers of VSP in (a), (b) and (c) above were 88, 17 and 3 respectively (i.e. 108 VSP in total).

2.17 Audit noted that the information mentioned in paragraph 2.16(a) to (c) did not cover all VSP in the database maintained by the IRSD (234 VSP known to the IRSD between July 2005 and 30 April 2015 — see para. 2.6). For example, the information did not cover school premises vacated before 2003/04 or primary schools that had ceased operation due to reasons other than the Consolidation Policy since 2003/04. In Audit's view, the EDB should consolidate information on VSP arising from all kinds of reasons, and enhance transparency on uses of VSP.

Audit recommendations

- 2.18 **Audit has recommended that the Secretary for Education should:**
- (a) **review the 14 cases of VSP that had not been brought to the IRSD's attention before as found by Audit and find out whether there were other similar cases, and take follow-up action on the VSP concerned according to the established mechanism;**
 - (b) **take measures to improve the mechanism for identifying VSP and maintaining a comprehensive database on VSP;**
 - (c) **consider issuing to all sections concerned a comprehensive manual to lay down requirements and provide guidelines on the identification, screening, allocation and management of VSP;**
 - (d) **conduct exercises to determine uses of VSP half-yearly in accordance with the established mechanism; and**
 - (e) **enhance transparency on uses of VSP arising from all kinds of reasons.**

Response from the Government

2.19 The Secretary for Education agrees with the audit recommendations. He has said that the EDB would:

Identifying vacant school premises

- (a) review the 14 cases of VSP not brought to the IRSD's attention through searching records within the EDB, as well as consulting the LandsD and the HD about the land status, lease conditions and the current use of the VSP and, subject to the advice of the LandsD and the HD, take follow-up action according to the established mechanism. The EDB would also check whether there are other similar cases and take follow-up action accordingly;
- (b) improve the maintenance of the database on VSP to make it more comprehensive and systematic as far as practicable;
- (c) issue a comprehensive internal manual covering the requirements and guidelines on the identification, screening, allocation and management of VSP to ensure understanding of the requirements and procedures involved by all related EDB sections;
- (d) ensure that future exercises would be conducted every half year to invite proposals from all sections on uses of VSP; and
- (e) endeavour to enhance transparency on the use of VSP.

Vacant school premises having undergone improvement works

School Improvement Programme

2.20 The School Improvement Programme was a policy initiative implemented between 1994 and 2007 to bring up the facilities of all government and aided primary, secondary and special schools to the prevailing standards in-situ as far as practicable. The improvement works included provision of additional space and facilities for teaching, out-of-class activities and supporting services for teachers and students.

2.21 The EDB, among other considerations from the education perspective, set a general principle that if the school premises could be used for five years or more after completion of the improvement works, the school would be included in the Programme. Between 1994 and 2007, the Programme covered some 740 schools.

79 VSP included in School Improvement Programme

2.22 Audit noted that, of the 234 VSP in the IRSD’s database, 79 had been included in the School Improvement Programme. Of the 79 schools concerned, 4 vacated the premises before completion of improvement works and 22 vacated the premises within five years after. These 26 schools did not meet the criteria set by the EDB for including schools in the Programme (see para. 2.21). Table 4 shows the reasons for vacating these 26 school premises after approval of improvement works.

Table 4
26 school premises vacated before or within 5 years after completion of improvement works

Reasons for vacating the premises after approval of works	No. of school premises vacated				
	Before completion of works	Less than 1 year after	1 to less than 3 years after	3 to less than 5 years after	Total
Drop in student enrolment	-	1	2	11	14
Reprovisioning of the school	2	-	1	2	5
School merger	1	-	-	1	2
Others (e.g. redevelopment of the housing estate)	1	-	1	3	5
Total	4	1	4	17	26

Source: Audit analysis of EDB records

2.23 Table 4 shows that the main reason for the schools to vacate the premises before or within 5 years after completion of improvement works was drop in student enrolment (14 out of 26 cases). Audit conducted a case study on one of these 14 cases (see Case 1) and found that the school was already seriously under-enrolled when improvement works commenced.

Case 1

Improvement works conducted for an under-enrolled school

1. In 2000/01, School A had 24 classrooms but was operating only nine classes.
2. The school was included in the School Improvement Programme. The scope of works included building a new six-storey annex block with lift tower. The new annex provided a number of additional rooms, a covered playground and a flat roof, increasing the total floor area by about 1,400 m². The preliminary study started in 2001. The works commenced in July 2003 and completed in July 2005 at a cost of about \$33 million funded by the Government.
3. After failing to meet the minimum threshold number of 23 students for primary one class for 2003/04, the school was closed in September 2006 under the Consolidation Policy. The school premises was used for only one year after completion of the improvement works.
4. The school premises was allocated to two non-governmental organisations (NGOs) in 2009. After further renovation works, one NGO used the premises as office and the other for other educational use.
5. Upon enquiry, the EDB informed Audit in August 2015 that as at September 2001, School A was operating a full primary curriculum of primary one to six and there was no sign that the school would be closed within a few years. However, with the implementation of the Consolidation Policy in 2003/04, School A ceased to operate classes of primary one level which was unforeseen when the EDB decided to arrange improvement works for it.

Source: Audit analysis of EDB records

2.24 The average cost of the improvement works for the 26 schools that ceased operation before or within five years after completion of works was about \$19 million per school. As at 30 April 2015, of the 26 VSP, 12 had been reallocated for school uses. Of the other 14 VSP, 5 had been reallocated for office or other uses, 3 had been demolished and 6 were not being used. Therefore, the improvement works could benefit the students for only a short period before the school premises were vacated.

2.25 While the School Improvement Programme was completed in 2007, the EDB provides school improvement works or school extension works for schools from time to time. In planning for and approving future school improvement/extension works, the EDB should critically evaluate all relevant factors such as decline in the student population, school reprovisioning plans and housing redevelopment plans, in order that the works can deliver fully the intended benefits for the students.

Audit recommendation

2.26 **Audit has *recommended* that the Secretary for Education should critically evaluate all relevant factors, including continued use of the premises concerned, in planning for and approving school improvement/extension works in the future.**

Response from the Government

2.27 The Secretary for Education agrees with the audit recommendation. He has said that the EDB will continue to critically evaluate all relevant factors in planning for and approving school improvement/extensions in the future.

PART 3: ALLOCATING VACANT SCHOOL PREMISES FOR EDUCATIONAL OR OTHER USES

3.1 This PART examines the allocation of the 234 VSP known to the IRSD between July 2005 and 30 April 2015 (see para. 2.6) for educational or other uses, focusing on the following two categories of VSP:

- (a) school premises not being used (paras. 3.6 to 3.24); and
- (b) school premises being used (paras. 3.25 to 3.30).

3.2 The EDB has an established mechanism for handling VSP (see para. 2.2). For VSP suitable for educational uses, the EDB aims to put them to gainful use in the shortest possible time. For other VSP, the EDB aims to return them to relevant departments (mainly the LandsD and the HD) in an expeditious manner for consideration of alternative uses.

3.3 To achieve these objectives, the EDB planned ahead on the use of to-be-vacated school premises so that they might be reused as soon as possible after cessation of school operation. However, for some school premises, the EDB and the LandsD had to deal with related legal and land matters, including the problem of SSBs unwilling to surrender the school premises to the Government after cessation of school operation in accordance with the land documents.

3.4 This PART reports the audit findings on the allocation of the 234 VSP for educational or other uses. PART 4 reports the audit findings on the handling of cases of VSP not surrendered by SSBs.

Allocating vacant school premises for educational or other uses

- 3.5 The status of the 234 VSP as at 30 April 2015 is summarised as follows:
- (a) 105 (45%) premises not being used (29 under EDB, 73 under LandsD and 3 under HD);
 - (b) 102 (44%) premises being used (77 under EDB, 17 under LandsD and 8 under HD, GPA or Home Affairs Department); and
 - (c) 27 (11%) premises having been or going to be demolished for housing or other developments.

School premises not being used

- 3.6 The 105 VSP that were not being used as at 30 April 2015 comprised:
- (a) 29 VSP under the EDB's purview. They had not been returned to the Government (see paras. 3.7 to 3.11); and
 - (b) 76 VSP considered by the EDB as not suitable for educational uses. They had been returned to the Government (see paras. 3.12 to 3.18).

VSP under EDB's purview and not being used

3.7 The 29 VSP under the EDB's purview and not being used as at 30 April 2015 were mostly located in Hong Kong Island and Kowloon. The site areas of 27 of the 29 VSP ranged from 660 to 6,424 m² (averaging 2,650 m² — Note 11). Table 5 shows the status of these 29 VSP.

Note 11: *The EDB had no records about the site areas of the other 2 VSP.*

Allocating vacant school premises for educational or other uses

Table 5

**29 VSP under EDB's purview and not being used
(30 April 2015)**

Status	No. of VSP	
Not earmarked for any use	8	
Earmarked for mainstream school use	5	9 not yet allocated
Earmarked for temporary school use	4	
Allocated for mainstream school use	6	12 not yet put to use
Allocated for temporary school use (Note)	4	
Allocated for education centre use	1	
Allocated for office use	1	
Total	29	

Source: Audit analysis of EDB records

Note: 3 VSP were allocated for operation of time-limited schools and 1 for kindergarten.

Remarks: Physical possession of 9 of the 29 VSP had not been delivered to the Government after cessation of school operation (comprising the 8 VSP not earmarked for any use and 1 of the 4 VSP allocated for temporary school use). The 9 VSP were on private land (see Table 11 in para. 4.3).

Allocating vacant school premises for educational or other uses

3.8 *8 VSP not earmarked for any use.* Of the 29 VSP that were not being used as at 30 April 2015, eight had not been earmarked for any use. According to EDB records, 1.6 to 10.6 years (averaging 6.4 years) had elapsed since the cessation of operation of the eight schools concerned (see Table 6 — Note 12). The EDB should review whether these eight VSP should be returned to the Government for consideration of alternative uses (see also para. 4.18 regarding School H).

Table 6

**8 VSP under EDB's purview and not being used
and had not been earmarked for any use
(30 April 2015)**

School	District	Site area (m ²)	Year of cessation of school operation	Time elapsed since cessation of school operation (Year)
B	Southern	2,390	2004	10.6
C	Yuen Long	No record	2004	10.6
D	Central and Western	1,631	2005	9.6 (Note)
E	Wan Chai	2,660	2008	6.6 (Note)
F	Sham Shui Po	No record	2008	6.6
G	Shatin	6,424	2012	2.6
H	Southern	6,070	2012	2.6
I	Kowloon City	3,239	2013	1.6

Source: Audit analysis of EDB records

Note: According to EDB records, Schools D and E had been deployed for temporary uses for 4.8 years and 4.7 years respectively (see Note 12 to para. 3.8).

Note 12: *According to the EDB, the IRSD's database on VSP did not contain comprehensive records showing the actual periods of vacancy of the 234 VSP known to the IRSD between July 2005 and 30 April 2015 including periods, if any, that the premises have been deployed for temporary uses, in particular those that had been returned to the Government.*

Allocating vacant school premises for educational or other uses

3.9 **9 VSP not yet allocated for earmarked uses.** Five VSP earmarked for mainstream school use and four for temporary school use had not yet been allocated for such uses as at 30 April 2015. The nine VSP had been so earmarked by subject EDB Divisions for about 0.1 to 6.3 years (averaging 3.9 years — Note 13). Audit noted that since October 2013, subject EDB Divisions had been required to critically review their need for the earmarked VSP and provide concrete timeline and justifications for using the premises in the half-yearly exercises (see para. 2.2(b)). Audit considers that the EDB should continue to exercise stringent control on the earmarking of VSP for uses and regularly review the need to retain the earmarked VSP.

3.10 **12 VSP not yet put to allocated uses.** Six VSP allocated for mainstream school use, four for temporary school use, one for education centre use and one for office use had not yet been put to such uses as at 30 April 2015. The 12 VSP had been so allocated for about 0.3 to 7.8 years (averaging 2.2 years — Note 14). Audit conducted a case study (see Case 2) and found delays in taking necessary follow-up actions for putting the VSP concerned to the allocated use. In Audit's view, the EDB should closely monitor the follow-up actions after allocation of a VSP to avoid unnecessary delay in putting the VSP to use.

Note 13: *According to EDB records, 1.6 to 15.6 years (averaging 6 years) had elapsed since the cessation of operation of the nine schools concerned.*

Note 14: *According to EDB records, 1.6 to 11.6 years (averaging 6.4 years) had elapsed since the cessation of operation of the 12 schools concerned.*

Case 2

Delay in putting an allocated VSP to use

1. School J was closed in August 1995. The VSP was used as temporary accommodation from April 1999 to August 2003 and from March 2006 to February 2008 by three different educational organisations.

2. In July 2007, the VSP was allocated to the adjacent School K as its extension. School K was verbally informed of the allocation and that the VSP would be handed over after completion of renovation works.

3. Between 2008 and June 2012, the preliminary work performed included feasibility study, funding application, appointment of project consultant, project design and preparation of building plans. In June 2012, the EDB noticed that the renovation works could not be continued without issuing a written notification of the allocation of the VSP (the Offer Letter) to School K and the formal taking-over of the VSP by School K. In August 2012, the EDB formally issued the Offer Letter to School K, which confirmed its acceptance in October 2012.

4. The formal allocation of the VSP to School K also required the execution of a service agreement and a tenancy agreement between the Government and the operator of School K (Note). The service agreement and the tenancy agreement were executed in August and October 2014 respectively. As at June 2015, the on-site renovation works had not yet started. According to the service agreement, School K shall commence operation at the VSP in October 2016 or on a date to be mutually agreed between the Government and the IMC.

Audit comments

5. While the preliminary work started in 2008, the on-site renovation works had not started as at June 2015. The EDB should examine the causes of the delay and exercise closer monitoring for similar cases in future.

Source: Audit analysis of EDB records

Note: As a general requirement, a school operator receiving substantive infrastructural support from the Government shall enter into a service agreement with the Government, and a tenancy agreement for the school site/premises owned by the Government. The tenancy agreement is required to be executed as soon as practicable with a view to facilitating the submission of building plans of the renovation works to the appropriate authority.

Allocating vacant school premises for educational or other uses

3.11 *Need to maximise the use of VSP.* As land resources are valuable in Hong Kong, it is important to maximise the use of VSP in both the short term and the long term. Where there are sound justifications for earmarking any VSP for long-term educational uses, they should be put to short-term gainful use as far as practicable. The EDB has a mechanism in place to provide relevant information on suitable VSP available for short-term uses to other B/Ds for consideration. In Audit's view, the EDB should consider whether other possible interested parties (e.g. NGOs and community organisations) may also be provided with such information so that they may apply through the subject B/Ds.

VSP returned to the Government which were not being used

3.12 Under the central clearing house mechanism (see para. 2.4), for VSP not suitable for educational uses, the EDB should report them to the PlanD in the first instance before returning the VSP to relevant departments for alternative uses. The PlanD will review the VSP to determine whether the sites should be retained for the provision of Government, Institution and Community facilities or released for other uses such as housing development. Generally, the PlanD will consult all concerned B/Ds on land use review or specific land use changes.

3.13 As at 30 April 2015, 76 VSP considered by the EDB as not suitable for educational uses and returned to the Government were not being used. The 76 VSP comprised 73 under the LandsD's purview and 3 under the HD's purview.

3.14 *71 VSP under LandsD's purview which were not allocated for any use.* For VSP returned to it, the LandsD will arrange for their disposal according to the planned long-term uses (see para. 3.12) or for suitable temporary uses as appropriate (see para. 3.16). Audit noted that:

- (a) 73 VSP under the LandsD's purview were not being used as at 30 April 2015. According to EDB records, 0.6 to 35.6 years (averaging 12.1 years) had elapsed since the cessation of operation of the 73 schools concerned (see Note 12 to para. 3.8); and

Allocating vacant school premises for educational or other uses

- (b) of the 73 VSP, 2 had uses identified and formalities to implement the uses were in progress. The other 71 VSP had not been allocated for any use. These 71 VSP were mostly located in the New Territories (see Table 7). Of these 71 VSP, 60 had site areas ranging from 72 to 16,138 m² (averaging 3,204 m² — Note 15).

Table 7

**71 VSP under LandsD's purview which were not allocated for any use
(30 April 2015)**

District	No. of VSP
Yuen Long	22
North	18
Tai Po	10
Islands	7
Tuen Mun	5
Sai Kung	3
Shatin	2
Tsuen Wan	2
Wong Tai Sin	1
Yau Tsim Mong	1
Total	71 (Note)

Source: Audit analysis of EDB and LandsD records

Note: Physical possession of 32 of the 71 VSP had not been delivered to the Government after cessation of school operation. The 32 VSP comprised 8 VSP on government land and 24 VSP on private land (see Table 11 in para. 4.3).

Note 15: *Information on the site areas of the other 11 VSP was not available from EDB records.*

Allocating vacant school premises for educational or other uses

3.15 Upon enquiry, the LandsD informed Audit in September/October 2015 that among the 71 VSP:

- (a) 21 (30%) VSP were on the lists of vacant government sites available for application on short-term basis for greening and community uses pending implementation of the long-term planned uses (see para. 3.16). However, some were unattractive due to their remote locations with poor access, or due to the dilapidated building structures requiring substantial renovation works before the premises could be gainfully used;
- (b) 22 (31%) VSP (including 2 on government land and 2 on private land with physical possession not delivered to the Government) were being planned/considered/processed for other uses;
- (c) action was being taken or would be taken for recovering possession of 10 (14%) VSP (comprising 6 on government land and 4 on private land). Some concerned parties had raised objections (see para. 4.5); and
- (d) 18 (25%) VSP with physical possession not delivered to the Government were on private land where the private parties had no obligation to deliver possession of the VSP to the Government under the terms of the land documents (see para. 4.7).

3.16 ***Room for improving LandsD's arrangements for short-term uses of VSP.*** According to the LandsD:

- (a) where the long-term use of a VSP (with physical possession returned to the LandsD) is yet to be implemented or determined, the LandsD will try to put it to appropriate temporary uses such as renting it out on short-term tenancy on application or allocating it for use by other B/Ds (Note 16);

Note 16: *According to the LandsD, starting from July 2015, the list of vacant government sites (including VSP therein) available for temporary uses has been circulated bi-annually to all policy bureaux for their consideration in conjunction with departments (and other interested parties known to them) for possible use.*

Allocating vacant school premises for educational or other uses

- (b) if the LandsD has not received any expression of interest from outside parties or other B/Ds for using the VSP, the LandsD will add the VSP to a list of vacant government sites available in the relevant district for application on short-term basis for greening and community uses by any interested parties; and
- (c) the list is available for public inspection at the District Lands Offices (DLOs) and would be circulated to the relevant District Councils and copied to the relevant District Offices and District Social Welfare Offices on a regular basis. Both District Offices and District Social Welfare Offices are encouraged to share the lists with the NGOs or community groups looking for sites for greening or community uses on a temporary basis.

Audit enquiries with each of the 12 DLOs and visits to 2 DLOs (Note 17) revealed that there was room for improvement in the arrangements (see Table 8). In Audit's view, the LandsD needs to ensure that interested parties have ready access to updated and complete information about VSP.

Table 8

Audit findings on information about VSP provided by DLOs

Enquiries of the 12 DLOs by phone	Replies from DLOs
<ul style="list-style-type: none">• Is there a list of vacant premises for short-term use that is available for inspection?	11 of the 12 DLOs replied "Yes". An officer of DLO/North who answered the phone enquiry said on 10 July 2015 that there was no list for public inspection, and an applicant should state clearly the location of the site in the application (Note 1).
<ul style="list-style-type: none">• What is the procedure for inspecting the list?	The procedure varied among the 11 DLOs. The different requirements included making appointment, submitting business certificate and filling in form with personal particulars.

Note 17: *Both the enquiries and the visits were made by Audit staff in their capacity as members of the public in July 2015.*

Allocating vacant school premises for educational or other uses

Table 8 (Cont'd)

Audit visits to 2 DLOs	Audit findings
<ul style="list-style-type: none"> Visited DLO/Islands on 10 July 2015 	<p>After the phone enquiry in the morning on 10 July 2015, Audit staff paid a visit in the afternoon. An officer said that there was no such list for public inspection, despite the fact that Audit staff emphasised that the officer answering the phone in the morning said that there was such a list (Note 2).</p>
<ul style="list-style-type: none"> Visited DLO/Yuen Long on 15 July 2015 	<p>Audit staff obtained records of vacant government land available for temporary use.</p> <p>According to the EDB's master list that had been released to the LandsD, there were 22 VSP not being used in Yuen Long District (see Table 7 in para. 3.14). However, the DLO records provided to Audit staff showed only 6 of the 22 VSP (Note 3).</p>

Source: Audit enquiries and visits (made by Audit staff in July 2015 in their capacity as members of the public)

Note 1: Upon enquiry, the LandsD informed Audit in October 2015 that the phone enquiry was first received by the General Registry which referred it to a member of the Land Team for reply who was not aware of the list because it was the Estate Team which compiled the list for public inspection. To prevent recurrence of such incidents, DLO/North has informed the General Registry and Land Team members that in future, all such enquiries should be directed to the Estate Team that is responsible for reply.

Note 2: Upon enquiry, the LandsD informed Audit in October 2015 that the officer who met the Audit staff in the afternoon had only been deployed to the Tenancy Team since May 2015. He was not aware of the list in the office which was arranged for public inspection by the Land Control Team. The relevant officer has since been briefed.

Note 3: Upon enquiry, the LandsD informed Audit in October 2015 that some VSP in Table 7 were not included for different reasons: (i) the VSP involved private land; (ii) the VSP intermingled with private land; or (iii) applications had been received and under processing for use of the VSP.

Allocating vacant school premises for educational or other uses

3.17 *1 VSP under HD's purview not allocated for any use.* Of the three VSP under the HD's purview and not being used as at 30 April 2015 (see para. 3.13), two were under the Social Welfare Department's review for conversion to provide rehabilitation services. The remaining VSP, with a vacancy period of 4.6 years, had not been allocated for any use. The HD needs to review the case, with a view to putting the VSP to gainful use as soon as possible.

3.18 *Inter-departmental efforts to put VSP to gainful use.* Land resources in Hong Kong are valuable. Leaving ex-school premises and sites vacant for a long period is a waste of land resources and does not meet public expectation. While the inter-departmental meeting in October 2011 (see para. 2.4) did introduce a central clearing house mechanism, the meeting made clear that the PlanD was not the management agent for unallocated VSP. Upon enquiry, the Development Bureau informed Audit in October 2015 that:

- (a) the Development Bureau/PlanD are responsible for identifying and allocating land resources with a view to meeting the land requirements justified and substantiated by relevant B/Ds;
- (b) in accordance with the established mechanism, only VSP that are confirmed by the EDB as no longer required for education purposes and could be released by the EDB would be referred to the PlanD. The PlanD would then be responsible for considering suitable alternative uses of the sites in question. The objective of this arrangement is to ensure that such VSP sites could be put to optimal use; and
- (c) the Committee on Planning and Land Development is currently the inter-departmental forum for discussing and deciding on issues relating to land use planning and related matters. Review of the use of VSP returned by the EDB is among the matters that would be submitted to the Committee for consideration and endorsement. If necessary, the matters relating to land supply may be escalated to the Steering Committee on Land Supply (see Note 8 to para. 2.4) for resolving inter-bureau/inter-departmental differences.

Audit recommendations

- 3.19 **Audit has *recommended* that the Secretary for Education should:**
- (a) **review the 29 VSP not being used as at 30 April 2015, especially those having been left idle for a long period of time, with a view to taking appropriate measures to improve the mechanism for handling VSP;**
 - (b) **for the eight VSP that had not been earmarked for any use, review whether they should be returned to the Government for consideration of alternative uses;**
 - (c) **continue to exercise stringent control on the earmarking of VSP for educational uses and regularly review the need to retain the earmarked VSP;**
 - (d) **closely monitor the follow-up actions after allocation of a VSP to avoid unnecessary delay in putting the VSP to use; and**
 - (e) **where there are sound justifications for earmarking VSP for long-term educational uses and the VSP concerned are available for application for short-term uses, continue to provide other B/Ds with relevant information of the VSP through the existing mechanism and consider whether other possible interested parties such as NGOs and community organisations may also be provided with such information so that they may apply through the subject B/Ds.**
- 3.20 **Audit has *recommended* that the Director of Lands should ensure that interested parties have ready access to updated and complete information about VSP available for application for use for community, institutional or non-profit-making purposes on a short-term basis.**
- 3.21 **Audit has *recommended* that the Director of Housing should put the VSP with a vacancy period of 4.6 years (see para. 3.17) to gainful use as soon as possible.**

Response from the Government

3.22 The Secretary for Education agrees with the audit recommendations in paragraph 3.19. He has said that:

- (a) the EDB would review the 29 VSP not being used and consider returning the VSP that are not suitable for educational uses to the Government as appropriate. The EDB would also expedite the return of VSP not earmarked for any educational use to the Government as far as practicable;
- (b) as the eight VSP not earmarked for any use are located on private land, the EDB would consult the LandsD if they should be returned to the Government in accordance with the land lease for consideration of alternative uses;
- (c) the EDB would continue to exercise stringent control in the earmarking of VSP for educational uses. The relevant EDB Divisions which have earmarked the VSP for such uses will regularly review the need to retain the earmarked VSP and the timeline of use as appropriate;
- (d) while there are uncontrollable or unforeseeable factors such as local concerns which are beyond the EDB's control and may affect the use of VSP even after allocation, the EDB would closely follow up to avoid unnecessary delay in putting a VSP to use as far as practicable; and
- (e) the EDB would continue to closely liaise with other B/Ds through the existing mechanism to facilitate other B/Ds' consideration of the VSP for short-term uses including organisations under their purview.

3.23 The Director of Lands agrees with the audit recommendation in paragraph 3.20. She has said that:

- (a) the LandsD would continue to include the VSP, available for application on short-term use for greening and community uses, in the list of vacant government sites circulated to relevant District Councils/District Offices/District Social Welfare Offices regularly, and make the list for public inspection in the relevant DLO; and

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- (b) appropriate guidelines for arrangement for public inspection of the list at DLO would be issued to all DLOs.

3.24 The Director of Housing agrees with the audit recommendation in paragraph 3.21. He has said that the HD will follow up with the PlanD, as the central clearing house, for consideration of alternative use of the VSP.

School premises being used

Long time taken before putting some VSP to current use

3.25 As mentioned in paragraph 3.5(b), as at 30 April 2015, 102 (44%) of the 234 VSP were being used. According to EDB records, on average 3.1 years had elapsed since the cessation of operation of the 102 schools concerned when they were put to the current use (see Note 12 to para. 3.8). In particular, for 21 of the 102 VSP, the periods that had elapsed when they were put to the current use ranged from 5 to 15 years. As stated in the examination of VSP not being used as at 30 April 2015, Audit considers that VSP should be put to gainful use in the shortest possible time. The audit recommendations on VSP not being used are detailed in paragraphs 3.19 to 3.21.

VSP under EDB's purview

3.26 Of the 102 VSP being used, 77 were under the EDB's purview and 17 were under the LandsD's purview (the other 8 VSP were under HD, GPA or Home Affairs Department). The 17 VSP under the LandsD's purview (Note 18) were put to various temporary or short-term uses (see para. 3.16). Table 9 shows the uses of the 77 VSP under the EDB's purview.

Note 18: *Physical possession of 7 of the 17 VSP had not been delivered to the Government after cessation of school operation. The 7 VSP comprised 1 VSP on government land and 6 VSP on private land (see Table 11 in para. 4.3).*

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Table 9

**Uses of 77 VSP under EDB's purview
(30 April 2015)**

Use	No. of VSP
<i>Mainstream school uses</i>	
Primary school (Note)	22
Secondary school	7
Special school	4
International school	7
<i>Other educational uses</i>	
Education and resource centre	5
Post-secondary education	13
Vocational training	3
<i>Other uses</i>	
Office of NGO or statutory body	2
Temporary uses (see Table 10 in para. 3.28)	14
Total	77

Source: Audit analysis of EDB records

Note: 12 VSP were used for converting half-day primary schools to whole-day primary schools.

Remarks: Physical possession of 23 of the 77 VSP had not been delivered to the Government after cessation of school operation. The 23 VSP were on private land (see Table 11 in para. 4.3).

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3.27 *Under-utilised VSP.* Audit found that four VSP were only partially utilised for the allocated uses. Their site areas and the types of use are as follows:

- (a) one VSP of 2,150 m² for secondary school;
- (b) one VSP of 6,224 m² for education and resource centre;
- (c) one VSP of 1,800 m² for special school; and
- (d) one VSP of 5,350 m² for office use.

On EDB records, these four VSP have been put to gainful uses. However, Audit noted that for the premises in (a) to (c) above, about half of the floors/blocks were not being used. For the premises in (d) above, the covered playground and staff quarters were not being used. In Audit's view, the EDB should consider exploring ways to maximise the utilisation of the four VSP.

3.28 *Some VSP allocated for temporary uses for a long period.* Table 9 (see para. 3.26) shows that 14 VSP were, according to EDB records, allocated for temporary uses. Audit noted that the EDB had not earmarked the 14 VSP for any specific long-term educational uses for the time being. Audit analysis revealed that some of the 14 VSP had been allocated for temporary uses for a long period, including four VSP that had been allocated for temporary uses for over six years (see Table 10). In Audit's view, the EDB should regularly review the need of such VSP for temporary uses.

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Table 10

**Temporary uses of 14 VSP under EDB's purview
(30 April 2015)**

Period of use (Year)	No. of VSP	Use
1 or below	3	1 for decanting of school undergoing in-situ redevelopment 1 for EDB storage 1 for education and resource centre
Over 2 to 3	5	1 for post-secondary school 1 for primary school 2 for decanting of schools undergoing in-situ redevelopment 1 for office use
Over 3 to 4	1	For decanting of an international school
Over 4 to 5	1	For decanting of an international school
Over 6 to 7	1	For primary school
Over 7 to 8	1	For international school
Over 10 to 15	2	1 for decanting of an international school 1 for education and development centre
Total	14	

Source: Audit analysis of EDB records

Audit recommendations

- 3.29 **Audit has *recommended* that the Secretary for Education should:**
- (a) **consider exploring ways to maximise the utilisation of the four VSP that were partially utilised for their current uses; and**
 - (b) **regularly review the need to retain those VSP that had been allocated only for temporary uses for a relatively long period of time.**

Response from the Government

3.30 The Secretary for Education agrees with the audit recommendations. He has said that:

- (a) the EDB would assess the utilisation of the VSP and include the VSP in the half-yearly exercises for circulation to EDB Divisions with a view to maximising the utilisation of the VSP as far as practicable. The EDB would also inform other B/Ds of the availability of VSP that were not fully utilised; and
- (b) some VSP play an important role in providing temporary decanting premises for schools during their redevelopment or renovation works. The EDB would regularly review the VSP for temporary uses as appropriate.

PART 4: HANDLING CASES OF VACANT SCHOOL PREMISES NOT SURRENDERED

4.1 This PART examines the handling of cases of VSP not surrendered by SSBs in accordance with the relevant provisions. The following issues are discussed:

- (a) surrendering of school sites and premises upon cessation of operation (paras. 4.2 to 4.13); and
- (b) school reprovisioning cases (paras. 4.14 to 4.20).

Surrendering of school sites and premises upon cessation of operation

4.2 When a school ceases to operate at a premises for reasons such as school closure, merging with another school and reprovisioning to another location, depending on the land status and conditions in the relevant land document governing individual VSP, the VSP (i.e. the school site together with the premises thereon) is usually required to be returned to the Government according to the relevant provisions. The main provisions are as follows:

- (a) *School premises on government land.* These include school premises built on land allocated by the LandsD to the EDB by permanent government land allocation (PGLA). The EDB allocates the school premises by entering into a tenancy agreement with the SSB/IMC. On cessation of school operation, the SSB/IMC is required under the tenancy agreement to return the school premises to the EDB. Apart from PGLA cases, some school sites are held on government land licences or short-term tenancies. The LandsD is responsible for taking back such school sites on cessation of school operation if the licence or tenancy does not permit other uses or the site is required for long-term use or priority use;

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- (b) *School premises on private land.* Some school premises are built on private land. For these cases, some involve land granted by the Government under PTG and some involve land acquired privately by the SSB. Where the LandsD has granted the land to the SSB by land lease containing a cessation/diminution of user clause (usually PTG granted at nil or nominal premium), the Government has the right to re-enter the site if it is no longer used for the permitted purposes or if there is a substantial diminution of user. On cessation of school operation, the land could be re-entered by the Government by exercise of the right under the clause, especially if voluntary surrender cannot be reached with the grantee.

Granting of land to the SSB by PTG or other forms of land grant was mainly a practice in the past. The current practice for public sector and Direct Subsidy Scheme schools is mainly to allocate the land to the EDB by PGLA.

4.3 Of the 234 VSP, 27 premises have been or would be demolished for housing or other developments (see para. 3.5(c)). The other 207 VSP comprised 137 premises on government land and 70 premises on private land. As at 30 April 2015, physical possession of 71 (34%) of these 207 VSP had not been delivered to the Government after cessation of school operation. Table 11 shows the details.

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Table 11

**Physical possession status of 207 VSP
(30 April 2015)**

Responsible B/D	Use of VSP	No. of VSP		
		Physical possession delivered to Government	Physical possession not delivered to Government	Total
<i>VSP on government land</i>				
EDB	Not being used	19	–	19
	Being used	47	–	47
LandsD	Not being used	41	8	49
	Being used	10	1	11
Others (Note 1)	Not being used	3	–	3
	Being used	8	–	8
Sub-total	Not being used	63 } 128	8 } 9	71 } 137
	Being used	65 }	1 }	66 }
<i>VSP on private land (Note 2)</i>				
EDB	Not being used	1	9	10
	Being used	7	23	30
LandsD	Not being used	–	24	24
	Being used	–	6	6
Sub-total	Not being used	1 } 8	33 } 62	34 } 70
	Being used	7 }	29 }	36 }
<i>Overall</i>	Not being used	64 } 136	41 } 71	105 } 207
	Being used	72 }	30 }	102 }

Source: Audit analysis of EDB and LandsD records

Note 1: Others comprised the HD (9), GPA (1) or Home Affairs Department (1). While the 9 VSP vested in/held by the Hong Kong Housing Authority (managed by the HD) did not actually belong to the Government, they were classified as VSP on government land for simplicity.

Note 2: VSP on private land included those wholly on private land and those partly on private land and partly on government land.

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Physical possession of 9 VSP on government land not delivered to the Government

4.4 Table 11 shows that, as at 30 April 2015, physical possession of nine VSP on government land had not been delivered to the Government after cessation of school operation. The nine VSP had been considered by the EDB as not suitable for educational uses and returned by the EDB to the LandsD. According to EDB records, 6.6 to 18.6 years (averaging 11.2 years) had elapsed since the cessation of operation of the nine schools concerned (see Table 12).

Table 12

9 VSP on government land with physical possession not delivered to the Government (30 April 2015)

School	District	Site area (m²)	Year of cessation of school operation	Time elapsed since cessation of school operation (Year)
L	Tai Po	4,000	1996	18.6
M	Tai Po	1,382	1996	18.6
N	Islands	800	2003	11.6
O	North	7,839	2005	9.6
P	Tuen Mun	1,854	2005	9.6
Q	North	16,138	2006	8.6
R	Tuen Mun	4,458	2006	8.6
S	North	878	2006	8.6
T	North	6,874	2008	6.6

Source: Audit analysis of EDB and LandsD records

Remarks: School N was being used by a rural committee as a youth and elderly centre. The other 8 VSP were not being used.

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4.5 LandsD records indicated that the nine SSBs concerned had previously been granted with government land licences to use the school sites. As mentioned in paragraph 4.2(a), the LandsD is responsible for taking back such school sites on cessation of school operation. In September 2015, Audit visited three DLOs (namely Islands, North and Tai Po DLOs) that handled seven of the nine VSP (i.e. Schools L to O, Q, S and T). Audit examination of case files kept by the three DLOs revealed that:

- (a) for School L, prior to 9 September 2015, the LandsD had not taken action to take back the school site. On 9 September 2015, the LandsD liaised with the concerned party by phone with a view to taking back the site. The concerned party raised objection because the VSP was an iconic and memorial building of the village; and
- (b) for the other six schools (i.e. Schools M to O, Q, S and T), the LandsD had requested the SSBs to demolish the structures and hand back the sites. However, one SSB had not responded to the LandsD's request and the other five SSBs had raised objections for reasons such as the school premises had been constructed at their costs.

The LandsD needs to review and follow up the cases.

Physical possession of 62 VSP on private land not delivered to the Government

4.6 Table 11 in paragraph 4.3 also shows that, as at 30 April 2015, physical possession of 62 VSP on private land had not been delivered to the Government after cessation of school operation. The 62 VSP comprised:

- (a) 32 VSP under the EDB's purview which had not been returned to the Government. Of the 32 VSP, 9 were not being used and 23 were being used; and
- (b) 30 VSP considered by the EDB as not suitable for educational uses which had been returned by the EDB to the LandsD. Of the 30 VSP, 24 were not being used and 6 were being used.

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The uses of the 23 VSP under the EDB's purview mentioned in (a) above were mainly arranged by the SSBs concerned but not through the EDB's established mechanism for handling VSP, which would involve inviting SSBs to submit applications for the use of VSP (see para. 2.2). As such, the 23 VSP might not have been put to optimal uses for the effective implementation of the EDB's education policies. Similarly, the uses of the 6 VSP under the LandsD's purview mentioned in (b) above were arranged by the SSBs concerned.

4.7 At Audit's request, the LandsD checked the land leases and informed Audit in September/October 2015 that for only 32 of the 62 VSP on private land with physical possession not delivered to the Government, the land lease contains a cessation/diminution of user clause specifying that the Government has the right to re-enter the site (see para. 4.2(b)). However, of the remaining 30 VSP, Audit sample check of 10 VSP revealed that 2 VSP also have land leases containing a cessation/diminution of user clause. The LandsD needs to recheck the cases. For VSP whose land leases do not contain a cessation/diminution of user clause, there is a need to consider on a case-by-case basis any appropriate actions that may be taken. For example:

- (a) while the land lease of School H does not contain a cessation/diminution of user clause, the SSB concerned is required by the service agreement signed with the EDB to surrender the VSP (see para. 4.18); and
- (b) for another VSP without a cessation/diminution of user clause, the land documents provide that the lot shall not be used for any purpose other than those specified in the land documents (e.g. for a church or a non-profit-making school).

Right to re-enter not exercised

4.8 The EDB had all along relied on voluntary surrender of VSP on private land by SSBs. The EDB had no right to require possession of VSP on private land under the land lease. The LandsD on the advice and directive of relevant policy bureau can exercise the right to re-enter where such provision has been provided under the land lease. It is also a policy that no application of grantee of private lots for modifying the user under lease either by way of lease modification or a short-term waiver may be processed without the policy support of the EDB or with objection from any other relevant departments. As the EDB maintained close

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working relationships with SSBs and treated them as the EDB's partners in the implementation of various education policies and measures, the EDB seldom approached the LandsD for advice on the follow-up actions such as re-entry to be enforced by the LandsD. Audit considers that there is a need to review the handling of cases of VSP on private land where the Government has a contractual right to require possession of the school and improve the mechanism for recovering possession of the VSP.

4.9 The EDB has been keeping records on cases of VSP not surrendered by SSBs but did not produce summarised information for the LandsD's action on a regular basis. In Audit's view, the EDB should review the recording and monitoring mechanism and share information with the LandsD to facilitate their follow-up action under the lease regime. To enhance transparency and accountability, there is a need to consider releasing information on such cases.

4.10 Audit also noted that some of these VSP were put to temporary uses only and the EDB was still negotiating with the SSBs for possession of the premises for deployment for educational uses. An example is shown in Case 3. Audit considers that the EDB should continue its efforts in liaising with the SSBs and seeking advice from the LandsD on the appropriate actions that can be taken by the LandsD under the lease regime.

Case 3

Unsurrendered VSP of School U put to temporary uses only

1. School U was situated on a site of about 2,000 m² granted to the SSB under a PTG for a non-profit making primary school with 24 classrooms in 1967 for 75 years. With the cessation of user clause in the land lease, the LandsD has the right to re-enter if the site is no longer used for the permitted purpose.

2. School U was closed in September 2006 under the Consolidation Policy. After school closure, the SSB refused to surrender the school premises. In 2007, the SSB submitted proposals to the EDB on running a Direct Subsidy Scheme primary school on the site. The EDB did not support the proposal as it intended to use the school premises for conversion of a nearby bi-sessional primary school into a whole-day primary school, and there were surplus primary school places in the district at that time.

3. In December 2008, the SSB arranged the school premises for temporary school decanting use in order to fulfil the land lease requirement of school use. As at July 2015, the school premises was being used as the decanting site of an international school. The use was arranged after obtaining a waiver on the non-alienation clause of the land lease from the LandsD with the EDB's policy support. The term is up to July 2016 and thereafter quarterly.

4. There were on-going discussions between the EDB and the SSB on voluntary surrender of the school premises. However, in view of the reluctance of the SSB and the need for a decanting premises for the international school (see para. 3 above), which would facilitate its redevelopment project and meet the demand for international school places, the EDB has not discussed with the LandsD about the appropriate actions that can be taken by the LandsD under the lease regime in this case.

Audit comments

5. In view of the SSB's reluctance to surrender voluntarily, the EDB should consult the LandsD about the appropriate actions, including exercising the right to re-enter under the land lease at an appropriate time. The EDB should also in parallel assess whether the VSP is considered suitable for educational uses and, if so, consider applying to the LandsD for a PGLA after the VSP has been returned from the ex-lot owner, either by voluntary surrender or re-entry action.

Source: Audit analysis of EDB records

Audit recommendations

4.11 **Audit has recommended that the Secretary for Education and the Director of Lands should:**

- (a) **expedite action to take appropriate actions on the 71 VSP the physical possession of which has not been delivered to the Government after cessation of school operation;**
- (b) **review the handling of cases of VSP located on private land that are required to be but not yet surrendered to the Government under the land lease and improve the mechanism for recovering possession of the VSP; and**
- (c) **review the recording and monitoring mechanism of VSP the physical possession of which has not been delivered to the Government, and consider releasing information on such cases.**

Response from the Government

4.12 The Secretary for Education agrees with the audit recommendations. He has said that the EDB would:

- (a) follow up relevant cases with the LandsD in accordance with the “Protocol on Responsibility-sharing in Private Treaty Grants” promulgated by the LandsD in July 2014. The EDB would also take a more proactive role to enhance communication with the LandsD on VSP not surrendered by the SSBs; and
- (b) enhance communication with the LandsD including sharing information known to the EDB to facilitate the LandsD’s follow-up action on those VSP the physical possession of which has not been delivered to the Government. The EDB would also, in consultation with the LandsD, consider releasing the information to enhance transparency and accountability.

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4.13 The Director of Lands agrees with the audit recommendations. She has said that the LandsD is ready to work with the EDB on its policy advice and directive.

School reprovisioning cases

4.14 For VSP on private land arising from reprovisioning of a school to a new premises, the EDB has devised an additional measure to require the SSB to surrender the VSP. In the service agreement signed between the EDB and the SSB for the operation of the school in the new premises, the EDB includes a surrender clause specifying that the SSB should voluntarily surrender the existing school site and premises to the Government upon relocation to the new premises, and that the EDB can terminate the service agreement if the SSB does not do so.

4.15 *Audit case studies.* Of the 207 VSP shown in Table 11 (see para. 4.3), 7 involved VSP on private land arising from school reprovisioning. As at 30 April 2015, the SSBs in 5 of the 7 cases had not surrendered the VSP. Audit conducted case studies on 2 of the 5 cases of not surrendering VSP after school reprovisioning and another case study on a school premises which had been demolished after school reprovisioning to determine whether there are lessons to be learned. The audit findings are in paragraphs 4.16 to 4.18.

Omission of surrender clause from the service agreement

4.16 In one school reprovisioning case, the standard surrender clause was omitted from the service agreement. After the school was relocated to the new premises, the SSB applied for lease modification and changed the site of the old premises to church use (see Case 4).

Case 4

Unsurrendered school premises of School V changed to church use

1. In September 2006, School V was reprovisioned to a new site and premises. School V's existing site (the VSP) occupied a private lot of about 2,200 m².

2. In 2007, the SSB applied to the LandsD for lease modification to change the use of the site from primary school use to church use. The LandsD sought the EDB's advice on whether the site was still necessary for educational purposes. In processing this request, the EDB found out that, for unknown reasons, the service agreement for school reprovisioning, signed in August 2006, had not included the standard surrender clause as a condition of allocating the new school premises. In the event, the EDB responded to the LandsD that, after careful consideration, the VSP was of little potential for future school/educational use and had no problem releasing the site.

3. In 2010, the lease modification was completed with the SSB paying a premium to the Government. The VSP is now used as a church.

Audit comments

4. It is the EDB's policy to require the SSB to surrender the existing school site upon school reprovisioning and the surrender clause is a standard clause to be included in the service agreement. Upon enquiry, the EDB informed Audit in August 2015 that it failed to locate any records showing why the surrender clause had not been included. In Audit's view, the EDB should strengthen the control and exercise caution in preparing service agreements to prevent leaving out the surrender clause in future.

Source: Audit analysis of EDB records

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Surrender clause in service agreement nullified by a side agreement

4.17 In another school reprovisioning case, while the standard surrender clause was included in the service agreement, the EDB and the SSB had reached a side agreement which was inconsistent with the surrender clause (see Case 5).

Case 5

VSP of School W retained by SSB under a side agreement

1. In 1999, the SSB of School W (a secondary school) was allocated a new premises for reprovisioning the school. The old school premises was located on a PTG site granted to the SSB for a term of 75 years commencing from 1960 for operating a non-profit-making secondary school. There is a cessation and diminution of user clause under the lease which gives a right of re-entry to the Government if the site or building has ceased to be used for the purposes of a school, or the extent of the user for such purposes has so diminished that the retention of the demised premises or any part thereof for such purposes is no longer justified.

2. In July 2000, the EDB and the SSB signed a service agreement with the standard clause for surrendering the old school premises. However, before the signing of the agreement, in June 2000, an EDB officer had agreed in writing with the SSB that the surrender clause in the service agreement would not be applicable to the old school premises, and the SSB was not required to surrender the premises to the EDB, with the condition that the SSB would allow the EDB to use the premises for a period of 10 years for educational purposes.

3. This side agreement was inconsistent with the surrender clause in the service agreement and rendered it difficult for the Government to require surrender of the VSP under the service agreement. In the side agreement, it was stated that the SSB had explained to the EDB the limitation of the premises and the wish of the SSB to use the premises to provide other appropriate forms of educational services. According to the EDB, the officer making the side agreement had retired and there were no other records detailing the rationale or intention for making the side agreement with the SSB before the signing of the service agreement.

Case 5 (Cont'd)

4. In 2005, after consulting the LandsD and the Department of Justice, the EDB noted that the side agreement had made it difficult for the Government to require surrender of the VSP. The LandsD also advised in light of circumstances of the case including the grant of a waiver for the lot to be used as a primary school at that point in time, which the EDB had not objected, that this was not the type of case that re-entry of the site should be considered, i.e. during the term of the waiver granted. It was apparently not opportune to invoke the cessation of user clause when a primary school was operating under a valid waiver granted for the amended use. Instead, the EDB could hold the SSB strictly to the service agreement and invoke the surrender clause without regard to the side agreement. In the event, the EDB considered that it was more practical to steer the SSB towards the operation of a school at the VSP which the EDB supported instead of enforcing the surrender clause of the service agreement despite the side agreement.

5. School W ceased operation at the old premises in September 2004. The VSP had been used for school decanting up to August 2012. Since then, the VSP has been used for operating a private primary school, as arranged by the SSB.

Audit comments

6. Upon enquiry, the EDB informed Audit in August 2015 that there were practical difficulties in rectifying the situation. Audit considers that the EDB should strengthen the control and exercise caution in handling future cases and put in place suitable measures to prevent side agreement overriding the surrender clause without proper justification and documentation.

Source: Audit analysis of EDB records

Carving out of VSP not thoroughly considered

4.18 There was one school reprovisioning case in which only part of the VSP was proposed to be carved out from the PTG site for returning to the Government. However, there were road access and utility connection problems making it difficult for the Government to make use of the carved-out site (see Case 6).

Case 6

Only part of the VSP of School H required to be surrendered

1. An SSB set up School X (a primary school) and School H (a secondary school) on a PTG site (about 6,070 m²). In 1988, School X was relocated to a new premises. School H then used the vacated premises of School X for extension.
2. In 2006, the EDB allocated a new premises (about 5,950 m²) to the SSB to re-provision School H. In March 2012, the SSB signed a service agreement with the EDB, including a surrender clause requiring the SSB to surrender the secondary school portion to the Government.
3. In September 2012, School H started operation in the new premises. In considering the arrangement to carve out the secondary school portion from the PTG site (the surrendered part) for returning to the Government, the SSB informed the EDB that it would not allow access to the surrendered part (School H site) through the remaining part (School X site) that it would retain. It would also disconnect all utilities from the surrendered part. As such, after consulting the Transport Department, the Highways Department, the Drainage Services Department and the Electrical and Mechanical Services Department, the EDB found that there would be road access and utility connection problems for the surrendered part as it was blocked from the main road. The other side of the surrendered part was connected to a narrow service road not intended for road traffic and utility connection. This rendered it impractical for the Government to make use of the surrendered part.
4. In March 2014, the SSB wrote to the EDB and proposed to retain the surrendered part for providing social or educational services.

Audit comments

5. As mentioned in paragraph 3 above, School H site was blocked from the main road and there would be road access and utility connection problems if only School H site was carved out for returning to the Government. Audit considers that the EDB needs to consult the LandsD on how to take forward the carving out and surrender of School H so as to make the surrendered site accessible and usable.

Source: Audit analysis of EDB records

Audit recommendations

- 4.19 **Audit has *recommended* that the Secretary for Education should:**
- (a) **for Case 4 in paragraph 4.16 in which a surrender clause was omitted from the service agreement, strengthen the control and exercise caution in preparing service agreements to prevent recurrence of similar incidents in future;**
 - (b) **for Case 5 in paragraph 4.17 in which a side agreement was entered into with the SSB to the effect of nullifying the surrender clause in the service agreement, strengthen the control and exercise caution in handling future cases involving deviation from the standard surrender arrangement for reprovisioning cases and put in place suitable measures to prevent recurrence of similar incidents;**
 - (c) **for Case 6 in paragraph 4.18, consult the LandsD on how to take forward the carving out and surrender of School H so as to make the surrendered site accessible and usable; and**
 - (d) **review other cases of VSP arising from school reprovisioning but not surrendered to the Government and take appropriate follow-up actions.**

Response from the Government

4.20 The Secretary for Education agrees with the audit recommendations. He has said that:

- (a) regarding Cases 4 and 5, the EDB would exercise caution in handling future preparation of service agreements to prevent recurrence of similar incidents. It is now a well-established step of the service agreement preparation procedures to include the site surrender clause in a service agreement where applicable;

Handling cases of vacant school premises not surrendered

- (b) regarding Case 6, the EDB has been consulting the LandsD on how to take forward the carving out and surrender of School H. The EDB would explore the possibility of requiring the SSB to surrender the old premises of School X as well. The EDB would also exercise caution to prevent recurrence of similar incidents in future; and

- (c) the EDB would review the other cases and take appropriate improvement measures and follow-up actions, including seeking legal advice about the enforcement of the surrender clause (if any) where necessary.

PART 5: PROPERTY MANAGEMENT OF VACANT SCHOOL PREMISES

5.1 This PART examines the EDB's property management work for VSP that have not been put to use, focusing on the following areas:

- (a) procuring property management services (paras. 5.2 to 5.13); and
- (b) monitoring contractor performance (paras. 5.14 to 5.20).

Procuring property management services

5.2 In general, when VSP are considered not suitable/required for educational uses and their physical possession is delivered to relevant departments, the management responsibility of the VSP rests with the relevant departments. For VSP located on private land of SSBs, the management responsibility of the VSP rests with the relevant SSBs.

5.3 The EDB is responsible for the management of VSP in its possession (Note 19). Since 2005, the EDB has adopted a centralised approach for the management of VSP, with the IRSD taking on the management responsibility (see para. 1.13(b)).

5.4 Since 2008, the EDB has outsourced the property management services of VSP to local property management companies. The services include security patrol and inspections, pest control, removal of litter, cleansing and weeding. The services are provided on a daily, weekly or bi-weekly basis, depending on the EDB's assessment of the need, value and condition of VSP, and the cost involved. Staff of the IRSD are responsible for preparing service requirements, managing the outsourcing process, and monitoring contractor performance.

Note 19: *In accordance with the conditions of PGLA, the LandsD has requested the EDB to continue managing the VSP located on sites under PGLA to the EDB until the next user has been identified and the PGLA is terminated. As at 30 April 2015, five such VSP were managed by the EDB.*

Property management of vacant school premises

5.5 In 2014-15, the EDB awarded two property management service contracts (both for one year) for 16 VSP, with a total contract value of \$1.2 million. Other than the property management services, the EDB has also outsourced one-off services for managing VSP, such as removing graffiti, weeding of overgrown vegetation and removal of tree branches, when necessary. In 2014-15, the cost for such one-off services was about \$100,000.

Contracts awarded to a supplier not on the EDB supplier lists

5.6 When procuring services, the EDB is required to comply with the requirements of the Government's Stores and Procurement Regulations. EDB Divisions also have to adhere to the procedural requirements laid down in the EDB's internal circular.

5.7 The EDB's Supplies Section maintains lists of suppliers of common type of services. According to the EDB's internal circular on quotation procedures for procurement of services, EDB Divisions should refer to the supplier lists to select service providers by rotation for inviting quotations for procurement of common types of services. For procurement of non-common types of services, EDB Divisions may maintain their own list of service providers and forward them to the EDB's Supplies Section for posting onto EDB intranet for reference and sharing with others. If there is a last successful supplier, the last successful supplier should always be invited subject to satisfactory performance.

5.8 Audit scrutinised records of the quotation exercises conducted by the IRSD for procuring property management services during the period from 2010-11 to 2014-15. Audit noted that at least five service providers were invited by the IRSD in each exercise, in compliance with the requirement of the Stores and Procurement Regulations and the EDB's internal circular. However, some of the invited service providers were not on the EDB's supplier lists.

Property management of vacant school premises

5.9 Audit further examined in detail the two quotation exercises conducted for procuring property management services in 2014-15. Audit noted that:

- (a) six service providers were invited to submit quotations in each exercise, comprising four on the EDB's supplier lists and two not on the lists. The two not on the lists were the contractors of the existing or previous contracts;
- (b) both exercises received only one quotation from the same service provider, which was not on the EDB's supplier lists, namely the contractor of the existing contract; and
- (c) the IRSD awarded both contracts to the only bidder, after evaluating that the bids met the service requirements and the price proposals were at a reasonable level.

5.10 Upon enquiry, the EDB informed Audit in August 2015 that:

- (a) property management services were not common type services in the EDB and the EDB's supplier lists did not contain service providers of property management services; and
- (b) among the service providers invited by the IRSD to submit quotations, most were security guard service providers and cleaning service providers from the EDB's supplier lists. The invited bidders not on the EDB's supplier lists were the service providers either of the existing contract or previous contracts which provided satisfactory property management services.

5.11 Audit is concerned that the two quotation exercises conducted by the IRSD for procuring property management services in 2014-15 each received only one quotation from the same service provider. In Audit's view, the EDB should maintain a comprehensive list of service providers of property management services so as to widen the pool of potential providers which may be invited to submit quotations in future exercises for procuring property management services for VSP.

Audit recommendation

5.12 **Audit has *recommended* that the Secretary for Education should maintain a comprehensive list of service providers of property management services for procuring property management services for VSP.**

Response from the Government

5.13 The Secretary for Education agrees with the audit recommendation. He has said that the EDB would consider conducting wider research about the availability of other service providers for property management services so as to compile a more comprehensive list of service providers for property management. The list would also be posted onto EDB intranet for sharing within the EDB in accordance with the relevant EDB internal circular.

Monitoring contractor performance

5.14 From time to time, there were incidents of VSP having been broken-in or damaged (graffiti, broken windows and damaged fences) and with poor hygienic conditions. Photographs 1 to 4 show examples of such incidents. In 2014-15, there were 15 cases involving break-ins, vandalism or public complaints at VSP managed by the EDB.

Photographs 1 to 4

Examples of reported incidents at VSP

Photograph 1



Broken windows

Photograph 2



Graffiti on the wall

Photograph 3



Scorched wall

Photograph 4



Weeds on the playground

Source: EDB records

Inadequacies in monitoring contractor performance

5.15 Though the property management services of the VSP have been outsourced to the contractor, the responsibility for effective service provision still rests with the EDB. Audit noted that complaints including vandalism, poor hygienic conditions and unauthorised entries into the VSP had been raised by the locals and District Council Members on some VSP covered by outsourced contracts.

Property management of vacant school premises

5.16 Upon enquiry, the EDB informed Audit in June 2015 that the EDB conducted inspections on an ad-hoc basis to the VSP managed by contractors. However, the inspection officer did not keep comprehensive records of all inspections as evidence of inspections conducted and for management review. Audit considers that the EDB should review the inspection mechanism and take improvement measures.

5.17 According to the Stores and Procurement Regulations, B/Ds should devise an effective monitoring mechanism to ensure that a contractor performs to standard and complies with the terms of a contract. B/Ds should evaluate the performance of their contractors upon completion of the contract for contracts lasting a year or less. The requirements are applicable to the property management service contracts on VSP. However, the EDB did not compile reports on the performance of the contractors. Audit considers that the EDB should evaluate the performance of its contractors upon completion of the contract.

Contractors not required to submit reports

5.18 According to the contract specifications, contractors shall produce a monthly written report, in such form as the EDB may prescribe within the timeframe as specified, showing in detail the services performed at VSP. Such requirement could confirm whether services of the contractors such as routine security inspections, pest control, cleansing and weeding, and manpower requirements are delivered in accordance with the contracts. Regarding the two property management service contracts awarded in 2014-15, Audit noted that monthly reports were not submitted for one contract and the monthly reports for the other contract did not show in detail the services performed. Audit considers that the EDB needs to enhance its monitoring role on the contractors' performance by requiring preparation of comprehensive reports on work done.

Audit recommendations

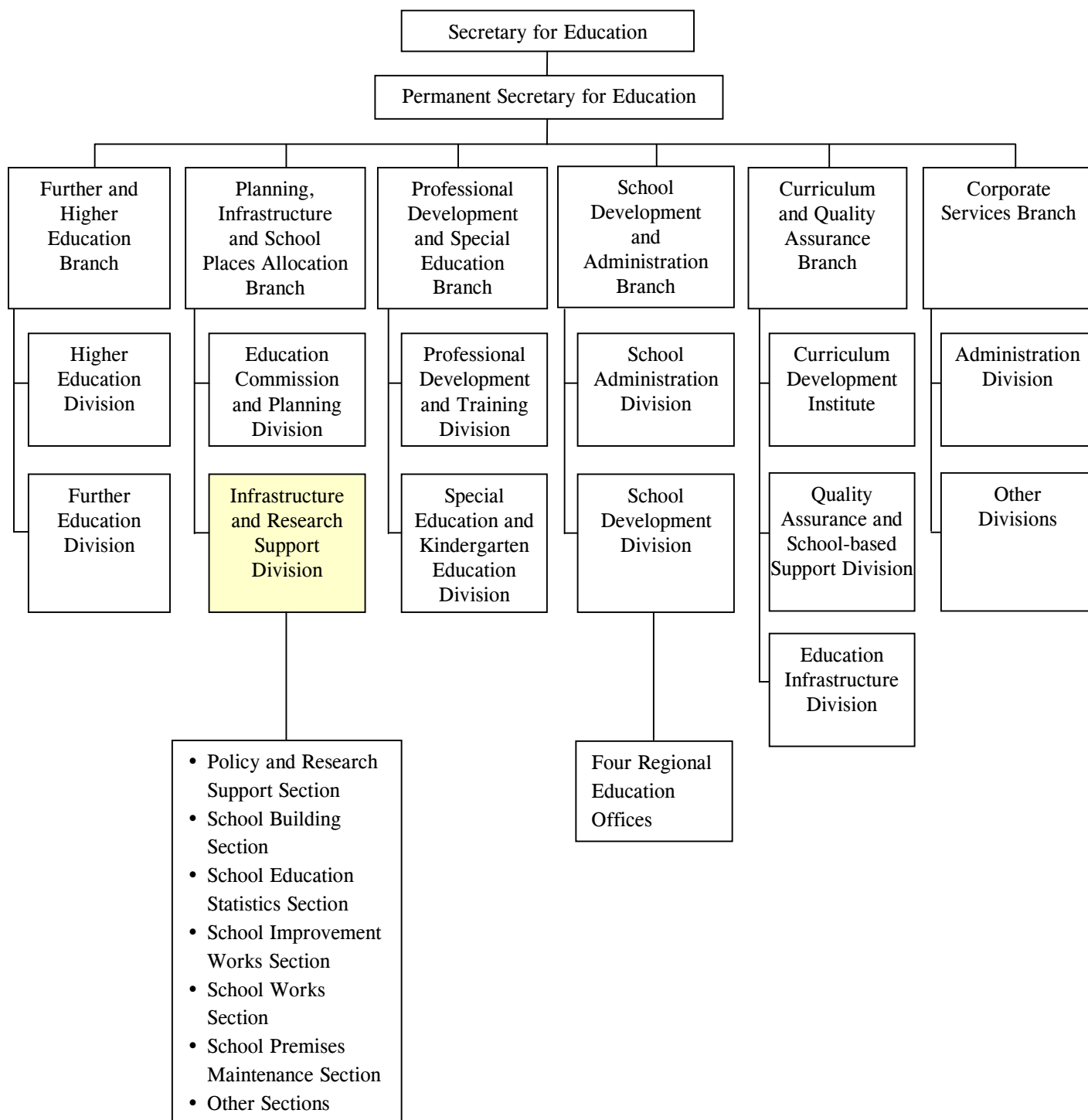
- 5.19 **Audit has *recommended* that the Secretary for Education should:**
- (a) **review the inspection mechanism, requiring EDB staff to properly document the results of inspections to VSP managed by contractors;**
 - (b) **evaluate the contractor's performance upon completion of a property management service contract on VSP; and**
 - (c) **require the property management service contractors to prepare comprehensive monthly reports on their work done in accordance with the contracts.**

Response from the Government

5.20 The Secretary for Education agrees with the audit recommendations. He has said that:

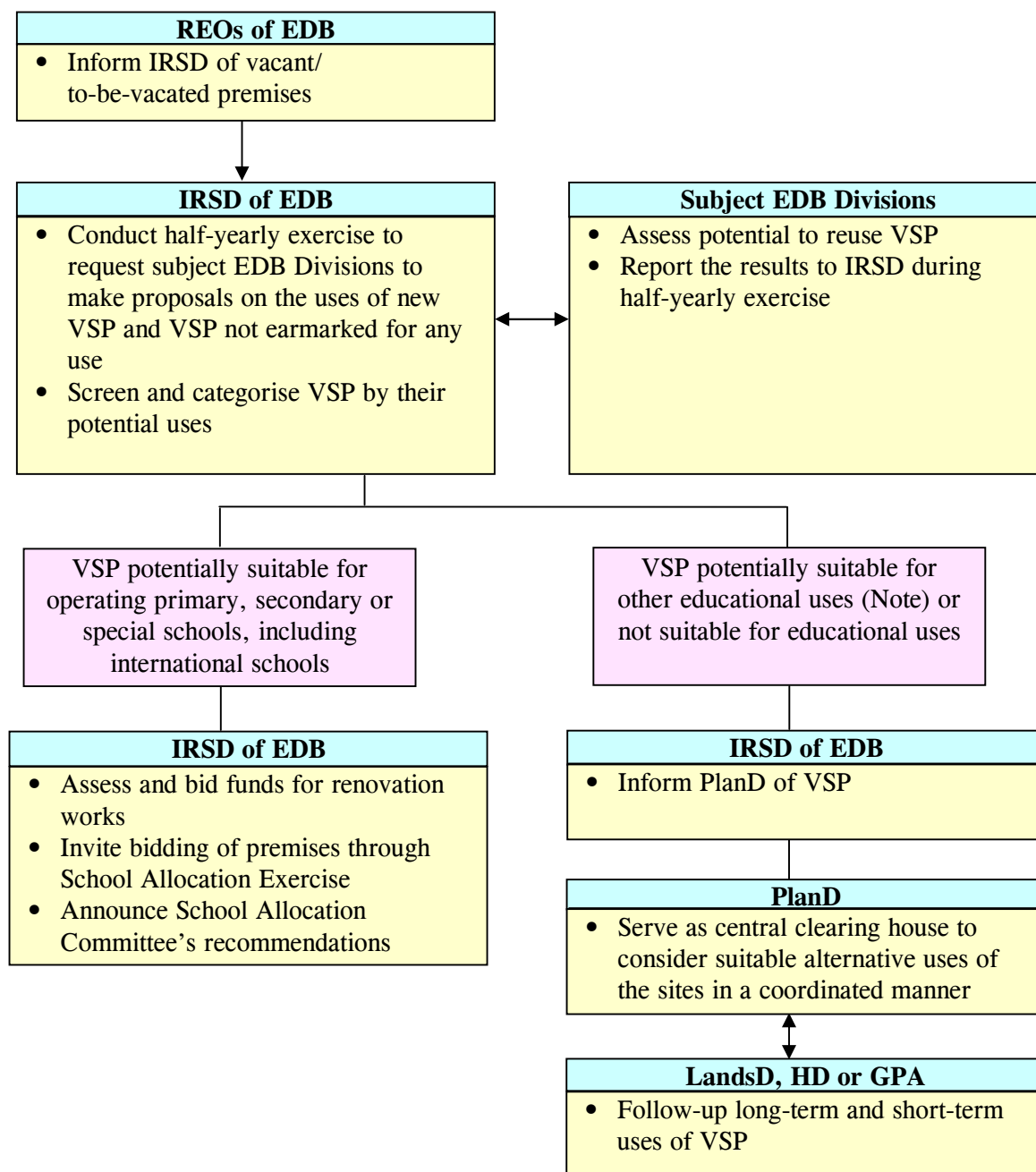
- (a) the EDB would review the inspection mechanism and require relevant staff to properly document the results of inspections to VSP managed by contractors;
- (b) starting from the current property management service contracts, the EDB would properly conduct an evaluation on the performance of the contractor upon completion of the contracts; and
- (c) the EDB would improve the reporting system by requiring the contractors to prepare more comprehensive monthly reports on their work done.

**Education Bureau
Organisation chart (extract)
(30 June 2015)**



Source: EDB records

Education Bureau’s mechanism for handling vacant school premises



Source: *Audit analysis of EDB records*

Note: *If the EDB needs any VSP for educational uses other than mainstream schools, the EDB, like any other B/Ds, has to submit its application for the proposed use with sound justifications for the PlanD’s consideration.*

Two inter-departmental meetings

	Meeting on 25 November 2005	Meeting on 10 October 2011
Purpose	To determine how best the Government as a whole should handle VSP since the implementation of Consolidation Policy	To note the position regarding the handling and disposal of VSP and the review of reserved school sites under the established mechanisms adopted by EDB
Participating B/Ds	Financial Services and the Treasury Bureau, GPA, the then Housing, Planning and Lands Bureau, LandsD, PlanD	Development Bureau, Transport and Housing Bureau, EDB, Environment Bureau, Financial Services and the Treasury Bureau, HD, Environmental Protection Department, LandsD, PlanD, Transport Department, Civil Engineering and Development Department
Agreed actions for VSP not suitable for educational uses	<ul style="list-style-type: none"> • Pass the list to PlanD which would circulate the list to identify any proposal on long-term uses of the sites • Also pass the list to GPA to advise on the potential uses of vacant premises on the sites • EDB would handle enquiries/requests for using the VSP for education and manpower-related purposes • For requests outside EDB's purview, interested parties should approach the policy B/D direct 	<ul style="list-style-type: none"> • PlanD serves as a central clearing house to consider suitable alternative uses for sites in an efficient and co-ordinated manner • EDB is only to retain VSP for mainstream educational uses and report to PlanD on the availability of VSP ready to be returned to the relevant B/Ds • These VSP should be put up for bidding by all B/Ds
Management responsibility for VSP not suitable for educational uses	The management responsibility of such VSP was discussed but no conclusion was reached. It was agreed that the matter should be considered further when the proposed use was clear	For clarity, the PlanD would not be the management agent before reallocation

Source: Audit analysis of EDB records

Acronyms and abbreviations

Audit	Audit Commission
B/Ds	Bureaux and departments
DLOs	District Lands Offices
EDB	Education Bureau
GPA	Government Property Agency
HD	Housing Department
IMC	Incorporated management committee
IRSD	Infrastructure and Research Support Division
LandsD	Lands Department
LegCo	Legislative Council
m ²	Square metres
NGOs	Non-governmental organisations
PGLA	Permanent government land allocation
PlanD	Planning Department
PTG	Private treaty grant
REOs	Regional Education Offices
SSBs	School sponsoring bodies
VSP	Vacant school premises