

CHAPTER 3

**Lands Department
Rating and Valuation Department
Civil Engineering and Development Department**

**Management of squatter and
licensed structures**

**Audit Commission
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MANAGEMENT OF SQUATTER AND LICENSED STRUCTURES

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MANAGEMENT OF SQUATTER AND LICENSED STRUCTURES

Executive Summary

1. From mid-1940s to late 1970s, mainly due to the influx of Mainland immigrants, thousands of people erected squatter structures on undeveloped and unleased government land or private agricultural land. In 1982, the Housing Department (HD)'s territory-wide survey (the 1982 Squatter Survey) revealed that there were 1,049 squatter areas comprising 578,000 squatter structures in Hong Kong. During the Survey, each surveyed squatter structure (SS structure) was assigned a squatter survey number. In 1984 and 1985, the HD's territory-wide squatter occupancy survey registered the personal particulars of 477,184 persons residing in SS structures. Since April 2006, the Lands Department (Lands D) has taken over the squatter control (SC) responsibilities from the HD. According to the Lands D, mainly due to the Government's clearance operations, the number of squatter areas had decreased to 772 and SS structures to 388,497 as of March 2016.

2. Under the Lands D's SC Policy, new squatter structures and unauthorised extensions of squatter structures are not allowed to be erected on government land or private agricultural land after the 1982 Squatter Survey, and SS structures are allowed to remain in existence on a "temporary" basis, provided that the location, dimensions, building materials and use of each structure are the same as those recorded in the 1982 Squatter Survey, and until they are cleared for development, safety or environmental reasons, or until they are phased out through natural wastage. Repairs of SS structures and rebuilding of domestic SS structures using temporary building materials in the New Territories areas are allowed so long as government approval is first obtained. Unauthorised squatter structures erected or rebuilt after the 1982 Squatter Survey and SS structures not complying with the SC Policy are subject to the Lands D's enforcement actions, such as requiring the occupants to carry out rectification works, cancelling the squatter survey numbers and demolishing the pertinent structures.

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3. Under the Land (Miscellaneous Provisions) Ordinance (Cap. 28 — the Cap. 28 Ordinance), on payment of a prescribed fee, the Lands D may issue a Government Land Licence (GLL) permitting a licensee to erect structures of specified dimensions, for specified purposes and for a specified period of time on a piece of unleased government land. A GLL is not transferable, and the Lands D may cancel a GLL if there is a breach of any licence conditions. Prior to mid-1970s, the Government had issued GLLs for erection of some domestic and non-domestic structures on government land. Since then, the Lands D has not issued new GLLs. As of March 2016, 15,214 GLLs (comprising 10,481 domestic and 4,733 non-domestic GLLs) were in force. The structures covered under GLLs are referred to as licensed structures in this Audit Report. The Audit Commission (Audit) has recently conducted a review to examine the Government's management of squatter and licensed structures (S&L structures).

Monitoring of squatter and licensed structures

4. The seven Squatter Control Offices (SCOs) of the Lands D had a total of 347 staff as of March 2016. They were responsible for monitoring and patrolling squatter structures to ensure their compliance with the SC Policy. The seven SCOs kept information in individual case files on SS structures that did not comply with the SC Policy and the follow-up actions taken, and no centralised database to record the information was readily available for effective monitoring by the Lands D's management. Under a tri-colour system adopted for SCO routine-patrol purposes, squatter areas in the territory were classified into red, yellow and green areas in descending order of vulnerability to new squatting activities. Of the 388,497 SS structures as of March 2016, 4,170 SS structures (1%) were located in red areas under the tri-colour system. As all red patrol areas were located on Hong Kong Island and in Lei Yue Mun, Audit selected the SCO/Hong Kong and Lei Yue Mun (HK&LYM) of the Lands D for carrying out a review of the SCO's SC work (paras. 2.4, 2.6 to 2.8, 2.10 and 2.38).

5. ***Non-compliant SS structures not detected.*** In December 2016, Audit visited a village located on Hong Kong Island which was classified as a red patrol area, and found that 50 structures might not have complied with the SC Policy. Subsequent to the site visit, the suspected cases were referred to the Lands D for investigations. As of January 2017, the Lands D's investigations revealed that the structures of 5 cases located on private land were not SS structures. For the remaining 45 cases: (a) the SS structures of 19 cases were confirmed to be not complying with the SC Policy. Of the 19 cases, 12 non-compliant cases had been

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noted by the Lands D before Audit's site visit and enforcement actions on these structures were in progress, the other 7 cases were new non-compliant cases; (b) the SS structures of 5 cases did not involve non-compliance with the SC Policy; and (c) investigations of the remaining 21 cases were still ongoing and the Lands D had not confirmed as to whether or not they complied with the SC Policy (para. 2.11).

6. Audit's review of 2 of the 7 new non-compliant cases mentioned in paragraph 5(a) revealed that, in one case, the total area of two SS structures had expanded from 690 square feet (ft²) to 800 ft² (a 16% increase), and the height of the two structures had increased from 11 feet (ft) and 9 ft respectively to 27 ft (on average a 170% increase). In another case, the total area of two SS structures had increased from 230 ft² to 460 ft² (a 100% increase), and the height of the two structures had increased from 5 ft and 6 ft respectively to 12 ft (on average a 118% increase). Additionally, the use of the structures had been changed from storage to domestic, and the building materials had been changed from wood to concrete/wood. Furthermore, Audit's review of 1 of the 12 non-compliant cases of which the Lands D's follow-up actions were in progress as mentioned in paragraph 5(a) revealed that the Lands D's investigation was made in response to a public complaint. In this case, the height of an SS structure had increased from 11 ft to 19 ft (a 73% increase). In all the three cases reviewed by Audit, the SCO's routine patrols had not detected the significant irregularities of the SS structures (para. 2.12).

7. *Non-compliant SS structures mainly identified through complaints or referrals.* From January 2015 to September 2016, SC staff of the seven SCOs had identified 939 confirmed cases of non-compliance with the SC Policy. However, of the seven SCOs, only one (namely SCO/New Territories East (1)) maintained information on the source of identifying non-compliant SS structures, of which 181 (88%) of the 206 cases originated from public complaints or referrals from other government bureaux or departments (B/Ds), and only 25 cases (12%) were detected during SC patrols. Moreover, according to the SCO/HK&LYM's Case Monitoring Report of October 2016, of the 35 cases of non-compliant SS structures with enforcement actions in progress: (a) 28 cases (80%) originated from public complaints (including media enquiries) or B/D referrals; and (b) the remaining 7 cases (20%) were detected during SC patrols (paras. 2.15, 2.16 and 2.18).

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8. Audit examination of 4 of the 28 cases mentioned in paragraph 7(a) revealed that some of the SS structure occupants had claimed hardship in rectifying the non-compliances with the SC Policy, and: (a) as of February 2017, a de-registered SS structure was being re-occupied but, mainly due to unclear responsibilities among different Lands D units, enforcement actions had not been taken on the structure since July 2015; (b) repeated control actions taken on a non-compliant SS structure in 2013 and 2014 had failed to deter the recurrence of unauthorised works and extension of the structure; (c) the height of two SS structures had increased from 11 ft and 7 ft respectively to 18 ft (on average a 100% increase), and despite repeated actions taken from November 2015 to October 2016, the irregularities had not been rectified; and (d) despite the cancellation of squatter survey numbers and issuance of demolition notices in August/September 2016 on three SS structures due to their non-compliance with the SC Policy, demolition works had not commenced as of January 2017 (para. 2.19).

9. ***Ineffective squatter structure monitoring system.*** The Lands D's seven SCOs with 312 operation staff conducted patrols of the squatter areas on a routine basis. Audit selected two patrol teams responsible for patrolling two patrol areas in the SCO/HK&LYM for review. From January 2015 to September 2016 (comprising 432 working days), the two patrol teams had respectively conducted patrols to the two patrol areas on 257 and 208 working days respectively. Audit examination revealed that only 2 of the 465 (257 + 208) daily patrol reports recorded irregularities found during the patrols, and the patrol teams often spent a short time at each of the 49 designated check-points in the two patrol areas. Moreover, the SCOs did not maintain a centralised database to record the time of inspecting each SS structure, the irregularities observed and the follow-up actions taken, and the information was kept in individual case files. Therefore, there is no assurance that SS structures have satisfactorily complied with the SC Policy (paras. 2.20 to 2.28, 2.38 and 2.40).

10. ***Licensed structures not complying with licence conditions.*** The Lands D's 12 District Lands Offices (DLOs) are responsible for monitoring licensed structures to ensure their compliance with the licence conditions. The DLOs kept information in individual case files on licensed structures that did not comply with the licence conditions and the follow-up actions taken. In January 2017, Audit visited 30 licensed structures located on an outlying island and noted that the structures of two cases might not have complied with the licence conditions. Audit examination of their case files revealed that, in one case, despite a warning letter issued in February 2005 to a licensee requiring him to demolish an unauthorised

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rooftop structure constructed on a licensed structure, after 12 years in January 2017, the unauthorised structure had not been demolished. In another case, up to January 2017, despite the death of the licensee of a licensed structure made known to the DLO/Islands in November 2011, and in the absence of an application and approval of a transfer of the GLL concerned, the Lands D had not taken the necessary enforcement actions (paras. 2.46 and 2.47).

11. *Lack of inspection programmes and inspection information on licensed structures.* Pursuant to the Lands D's instructions, each licensed structure should be inspected at least once a year, and the inspection interval may be changed subject to not less than once every three years after considering work priorities. However, the 12 DLOs did not compile inspection programmes for inspecting licensed structures, and they did not maintain a centralised database to record the time of inspecting each licensed structure, the irregularities observed and the follow-up actions taken. Therefore, there is no assurance that licensed structures have satisfactorily complied with the licence conditions (paras. 2.48 and 2.49).

Rates, government rent and licence fees on squatter and licensed structures

12. *Omissions in charging rates and government rent on S&L structures.* Under the Rating Ordinance (Cap. 116), subject to certain exemptions, rates are chargeable on squatter structures erected on private agricultural land and on licensed structures. In addition, under the Government Rent (Assessment and Collection) Ordinance (Cap. 515), subject to certain exemptions, government rent is chargeable on squatter structures erected on private agricultural land. However, Audit noted that the Lands D had not provided the Rating and Valuation Department (RVD) with information on all the 262,128 SS structures erected on private agricultural land and all the licensed structures covered under 15,214 GLLs as of March 2016 for the latter to assess and charge rates and government rent as appropriate (paras. 1.6, 1.14, 3.2 to 3.4 and 3.7).

13. Regarding SS structures erected on private agricultural land, owing to the fact that the RVD's database did not maintain information on the squatter survey numbers of SS structures (which did not normally bear proper addresses for rates and government rent assessment purposes), and that data matching between records of the RVD and the Lands D had not been carried out, there is no assurance that

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rates and government rent have been properly charged on all pertinent SS structures. Regarding licensed structures, Audit noted that, of the total 15,214 GLLs, as of March 2017, the RVD's database only maintained the rates assessment records of structures covered under 6,659 GLLs (44%). Audit's sample-check of licensed structures covered under 30 GLLs (1%) of the 3,326 GLLs under the monitoring of the DLO/Islands revealed that the RVD had not assessed and charged rates on the licensed structures covered under 18 (60%) GLLs. According to the RVD, these 18 cases related to premises located in remote areas involving relatively low rateable values (paras. 3.6, 3.8 and 3.10).

14. ***Lack of review and revision of GLL fees since 1972.*** Audit noted that licence fees for licensed structures had not been revised since the enactment of the Cap. 28 Ordinance in 1972. Audit also noted that the licence fees for licensed structures were very low. For example, the licence fee for a domestic licensed structure located in the New Territories was only \$0.3 per square metre a year (para. 3.19).

Clearance of squatter and licensed structures

15. Occupants of S&L structures affected by the Government's development clearance operations may be re-housed to public rental housing (PRH), subject to meeting certain eligibility criteria. From 2012 to 2016, 5,606 structures had been cleared under the Government's development clearance operations. Among these operations, a works project (Project A) involved clearance of the largest number of 1,669 (30% of 5,606) structures, and \$211 million had been approved for Project A clearance. Audit selected Project A for examination. Under Project A, 147 households were provided with various re-housing arrangements and/or ex-gratia allowances (paras. 4.4, 4.5, 4.7 and 4.8).

16. ***Household not meeting PRH re-housing criteria referred to HD for allocation of PRH flat.*** In one case, Audit noted that, while the household did not meet one of the requirements for re-housing to PRH (namely, residing in an affected structure for two years immediately before the announcement of the clearance under Project A), the Lands D forwarded the case to the HD which eventually allocated a PRH flat to the household (para. 4.10).

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17. *Need to monitor and report progress of upgrading works for public slopes affecting S&L structures.* As of February 2017, of the 1,582 government man-made slopes posing landslide risks to S&L structures, the Civil Engineering and Development Department (CEDD) had not commenced upgrading works for 940 (59%) slopes. Moreover, as of January 2016, while 199 squatter structures were prone to landslide risks posed by natural terrains, the CEDD had not conducted related natural terrain hazard studies to identify required mitigation measures (paras. 4.25 and 4.27).

18. *Need to strengthen actions to upgrade private slopes posing landslide risks to S&L structures.* Under the Buildings Ordinance (Cap. 123), the Buildings Department may issue a Dangerous Hillside Order (DHO) to a private-slope owner requiring him to carry out slope upgrading works within a specified period. However, as of January 2017, 210 DHOs on private slopes posing landslide risks to S&L structures had not been satisfactorily complied with. Of these 210 DHOs, 34 (16%) had been outstanding for 10 to 21 years (paras. 4.28 and 4.30).

Audit recommendations

19. **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 Government should:**

Monitoring of S&L structures

- (a) **take appropriate enforcement actions on non-compliant SS structures in a timely manner (para. 2.42(a));**
- (b) **take measures to prevent recurrence of delays in taking enforcement actions due to unclear responsibilities among different Lands D units (para. 2.42(c));**
- (c) **based on available staff resources, formulate an inspection programme for every inspection team covering all SS structures within an inspection area over a certain period of time (para. 2.42(g));**

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- (d) **conduct a review of the effectiveness of the systems for monitoring S&L structures and consider implementing improved systems for monitoring these structures (paras. 2.42(j) and 2.54(e));**
- (e) **take effective measures to ensure that licensed structures comply with licence conditions (para. 2.54(a));**

Rates, government rent and licence fees on S&L structures

- (f) **take actions to charge rates and government rent on pertinent S&L structures, and recover rates and government rent on such structures for which charging has been omitted in the past (para. 3.12(b));**
- (g) **expedite actions on conducting a review of the GLL fee levels (para. 3.25(a));**

Clearance of S&L structures

- (h) **take measures to ensure that only eligible households affected by a clearance operation are referred to the HD for PRH re-housing (para. 4.14(a));**
- (i) **monitor and periodically inform the Legislative Council of the progress of implementing upgrading works for government man-made slopes and natural terrains posing landslide risks to S&L structures (para. 4.33); and**
- (j) **strengthen actions on private slopes for which the required upgrading works specified in DHOs have not been satisfactorily carried out over a long period of time (para. 4.34).**

Response from the Government

20. The Government agrees with the audit recommendations.

PART 1: INTRODUCTION

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

Background

Squatter structures

1.2 From mid-1940s to late 1970s, due to the influx of Mainland immigrants and the rising birth rate, housing supply was unable to cope with the surge in demand. As a result, thousands of people erected squatter structures (see Photograph 1) on undeveloped and unleased government land or private agricultural land.

Photograph 1

**Squatter structures in Sham Tseng
(February 2017)**



Source: Photograph taken by Audit Commission in February 2017

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1.3 In 1982, with a view to controlling the number of squatter structures, the Housing Department (HD) conducted a territory-wide survey on squatter structures being erected on unleased government land and private agricultural land (hereinafter referred to as the 1982 Squatter Survey), during which each surveyed squatter structure (SS structure) was assigned a squatter survey number. Squatter structures erected on government land or private agricultural land without squatter survey numbers are subject to the Lands Department (Lands D — Note 1) enforcement actions. As revealed in the 1982 Squatter Survey, as of June 1982, there were 1,049 squatter areas comprising 578,000 SS structures in Hong Kong. Mainly due to the Government's clearance operations, the number of squatter structures has decreased over the years. Since April 2006, the Lands D has taken over the squatter control (SC) responsibilities from the HD. According to the Lands D's Squatter Control Quarterly Statistics, as of March 2016, there were 772 squatter areas comprising 388,497 SS structures erected on unleased government land and private agricultural land. Details are shown in Table 1.

Table 1
SS structures in Hong Kong
(March 2016)

Use	SS structures erected on		
	Government land (No.)	Private agricultural land (No.)	Total (No.)
Domestic use	32,575	51,794	84,369
Non-domestic use	93,794	210,334	304,128
Total	126,369	262,128	388,497

Source: Lands D records

Note 1: Before December 1981, the then New Territories Administration was the land authority in the New Territories. With the re-organisation of the Government Secretariat in December 1981, the then City and New Territories Administration became the land authority. Since its establishment in April 1982, the Lands D has been responsible for all land administration matters. For simplicity, the New Territories Administration and the City and New Territories Administration are also referred to as the Lands D in this Audit Report.

1.4 In 1984 and 1985, the HD conducted a territory-wide squatter occupancy survey (hereinafter referred to as the 1984/85 Occupancy Survey) to register the personal particulars of persons residing in SS structures covered in the 1982 Squatter Survey. The 1984/85 Occupancy Survey revealed that there were 477,184 squatter occupants at that time. Thereafter, no territory-wide squatter occupancy survey has been conducted for the purpose of implementing the SC Policy (see paras. 1.7 to 1.9).

Licensed structures

1.5 Under the Land (Miscellaneous Provisions) Ordinance (Cap. 28 — the Cap. 28 Ordinance (Note 2)), on payment of a prescribed fee, the Lands D may issue a Government Land Licence (GLL — Note 3) permitting a licensee to occupy a piece of unleased government land. Under the Ordinance, a GLL is valid for a specified period and may be renewed or terminated at the Lands D's discretion. Prior to mid-1970s, the Government had issued GLLs for erection of some domestic and non-domestic structures on government land. The structures covered by GLLs are hereinafter referred to as licensed structures in this Audit Report.

1.6 According to the Lands D, some of the licensed structures were also covered in the 1982 Squatter Survey, but the Lands D has not maintained records on the number and details of such licensed structures. Since mid-1970s, except for cancellation and re-issue cases, the Lands D has not issued new GLLs. Instead, the Lands D has issued short-term tenancies (STTs) for temporary use of unleased government land. As of March 2016, 15,214 GLLs (comprising 10,481 domestic and 4,733 non-domestic GLLs) were in force.

Note 2: *Before July 1997, the Cap. 28 Ordinance was named "Crown Land Ordinance". In July 1997, the Ordinance was renamed "Land (Miscellaneous Provisions) Ordinance". For simplicity, the Crown Land Ordinance (before July 1997) and the Land (Miscellaneous Provisions) Ordinance (since July 1997) are referred to as the Cap. 28 Ordinance in this Audit Report.*

Note 3: *Before July 1997, GLLs were known as "Crown Land Licences" issued under the then Crown Land Ordinance. For simplicity, GLLs and Crown Land Licences are collectively referred to as GLLs in this Audit Report.*

Lands D's Squatter Control Policy

- 1.7 According to the Lands D's SC Policy published on its website:
- (a) SS structures constitute unauthorised occupation of government land or erection of unauthorised structures on private agricultural land, and these acts are temporarily tolerated by the Government. Such tolerance does not create any legal rights or interests or obligations, and does not confer on any person the right of occupation of the land involved;
 - (b) although there is no legal restriction on the sale or renting of squatter structures, members of the general public are advised not to purchase or rent squatter structures given their “temporarily tolerated” nature;
 - (c) SS structures are allowed to remain in existence on a “temporary” basis:
 - (i) provided that the location, dimensions, building materials and use of each structure are the same as those recorded in the 1982 Squatter Survey (hereinafter referred to as the 1982 Survey Records); and
 - (ii) until they are cleared for development, safety or environmental reasons, or until they are phased out through natural wastage (e.g. when they are not occupied or cease to exist); and
 - (d) new squatter structures erected after the 1982 Squatter Survey and SS structures having their locations, dimensions, building materials or use being at variance with the 1982 Survey Records are subject to enforcement actions taken by the Lands D. For those erected on unleased government land, the Lands D may take enforcement actions under the Cap. 28 Ordinance (e.g. demolishing unauthorised structures on government land). For those erected on private agricultural land, the Lands D may take lease enforcement actions (Note 4).

Note 4: *According to the Lands D, such actions might include registering warning letters at the Land Registry and, for serious cases, re-entry of the private land.*

1.8 In June 2016, the Lands D informed the public through a press release that it would improve its SC measures, including:

- (a) tightening its discretionary arrangements to allow the occupants to rectify irregularities for SS structures with unauthorised extensions. If there was evidence showing that a new extension had been completed after 22 June 2016, actions would be taken such as cancelling the squatter survey number instantly and demolishing the whole unauthorised structure erected on government land immediately upon detection without giving the occupant any opportunity to rectify, or taking lease enforcement actions against cases involving newly extended structures erected on private land as appropriate; and
- (b) stepping up its investigation and information gathering efforts through the use of unmanned aerial systems and aerial photographs to actively identify suspected illegal extensions or rebuilding of SS structures.

The progress of implementing the Lands D's improved SC measures since June 2016 is shown in Appendix A.

1.9 According to the Lands D, under the prevailing SC Policy, the Government does not exercise controls over occupants residing in SS structures.

Conditions of licensed structures

1.10 The licence conditions of a GLL include:

- (a) the Lands D permits the licensee to occupy a piece of government land for a specified temporary period, and only structures complying with the purposes and dimensions specified in the GLL are allowed to be erected on the piece of government land concerned;
- (b) the Lands D may cancel a GLL if there is a breach of any licence conditions. With the cancellation of a GLL, the related structures erected on the government land concerned have to be removed at the licensee's cost; and

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- (c) a GLL is not transferrable, and the Lands D may at its discretion cancel a GLL by giving three months' notice to the licensee.

Re-housing of occupants upon clearance of squatter and licensed structures

1.11 It has been the Government's policy not to render anyone homeless as a result of its clearance operations. The Government primarily makes use of the records of the 1982 Squatter Survey for exercising controls over squatter structures, and the 1984/85 Occupancy Survey for determining the eligibility of occupants for re-housing and allowances upon clearance of squatter and licensed structures (S&L structures).

1.12 In December 2002, in relation to clearance operations, the Hong Kong Housing Authority (HA — Note 5) adopted a policy for re-housing occupants of SS structures not having been covered in the 1984/85 Occupancy Survey, under which occupants who have lived in affected SS structures for two years prior to the date of announcement of a clearance operation are eligible for the HA's re-housing scheme, provided that other public rental housing (PRH) eligibility criteria are met.

Key responsible government bureau and departments

1.13 The Development Bureau (DEVB — Note 6) is responsible for the policy matters on the control of S&L structures. Vested with the statutory power under the

Note 5: *The HA is a statutory body established in April 1973 under the Housing Ordinance (Cap. 283). As the executive arm of the HA, the HD provides secretarial and executive support for the HA.*

Note 6: *In July 2007, the DEVB was formed to take up the policy matters on S&L structures. Before July 2007, the policy responsibility had been taken up by the then Housing, Planning and Lands Bureau (July 2002 to June 2007). Before July 2002, the policy responsibility on squatter structures had been taken up by the then Housing Bureau (July 1997 to June 2002), whereas the policy responsibility on licensed structures had been taken up by the then Planning and Lands Bureau (January 2000 to June 2002) and the then Planning, Environment and Lands Bureau (July 1997 to December 1999). For simplicity, all previous policy bureaux responsible for the policy matters on S&L structures are referred to as the DEVB in this Audit Report.*

Cap. 28 Ordinance, the Lands D is responsible for discharging SC functions (through its SC Unit), carrying out clearance of affected structures (through its Clearance Unit, Non-development Clearance Unit and 12 District Lands Offices (DLOs)) and administering licensed structures (through its 12 DLOs). Appendix B shows an extract of the organisation chart of the Lands D relevant to the management of S&L structures.

1.14 Squatter structures erected on private agricultural land are chargeable to rates under the Rating Ordinance (Cap. 116) as well as to government rent under the Government Rent (Assessment and Collection) Ordinance (Cap. 515 — hereinafter referred to as the Rent Ordinance). Moreover, licensed structures are chargeable to rates under the Rating Ordinance. The Rating and Valuation Department (RVD) is responsible for the assessment and charging of rates and government rent on pertinent S&L structures.

1.15 The Civil Engineering and Development Department (CEDD — Note 7) is responsible for assessing and improving the safety of slopes, and for making recommendations to the Lands D on clearance of S&L structures on slope-safety grounds.

Audit review

1.16 In 1996, the Audit Commission (Audit) conducted a review of the HD's SC operations, the results of which were included in Chapter 12 of the Director of Audit's Report No. 26 of March 1996. In 1997, Audit conducted a follow-up review of the same subject, the results of which were included in Chapter 9 of the Director of Audit's Report No. 29 of October 1997. In 2012, Audit conducted a review of unlawful occupation of government land including, among others, a case study relating to S&L structures, the results of which were included in Chapter 7 of the Director of Audit's Report No. 58 of March 2012.

Note 7: *The CEDD was formed in July 2004 upon the merging of the former Civil Engineering Department (including the Geotechnical Engineering Office) and the former Territory Development Department. For simplicity, the former Civil Engineering Department is referred to as the CEDD in this Audit Report.*

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1.17 In recent years, there have been media reports and public complaints on unauthorised extensions and alterations of S&L structures, as well as conversions of non-domestic structures into domestic ones. Furthermore, some squatter areas situated near hillsides are prone to landslide risks, and landslides had resulted in serious casualties in some squatter areas in the past decades.

1.18 In October 2016, Audit commenced a review to examine the Government's management of S&L structures. The review focuses on the following areas:

- (a) monitoring of S&L structures (PART 2);
- (b) rates, government rent and licence fees on S&L structures (PART 3); and
- (c) clearance of S&L structures (PART 4).

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

Acknowledgement

1.19 Audit would like to acknowledge with gratitude the full cooperation of the staff of the DEVB, the Lands D, the RVD, the HD, the CEDD and the Buildings Department (BD) during the course of the audit review.

PART 2: MONITORING OF SQUATTER AND LICENSED STRUCTURES

2.1 This PART examines the Lands D's actions in monitoring S&L structures, focusing on:

- (a) monitoring of squatter structures (see paras. 2.2 to 2.44); and
- (b) monitoring of licensed structures (see paras. 2.45 to 2.56).

Monitoring of squatter structures

Lands D's SC Policy

2.2 From 2002 to 2006, the Lands D took over SC responsibilities from the HD in two phases, with the first phase involving the transfer of SC work in the urban areas and the Islands District effective from April 2002, and the second phase involving the transfer of SC work in the New Territories from April 2006. In April 2006, the Lands D set up the SC Unit comprising 421 staff (actual staff strength), which were transferred from the HD and through the Lands D's internal staff redeployment, to monitor squatter structures.

2.3 The salient elements of the Lands D's SC Policy (see para. 1.7) as published on its website include the following:

- (a) after the 1982 Squatter Survey, new squatter structures or unauthorised extensions of squatter structures are not allowed to be erected on either government land or private agricultural land;
- (b) all squatter structures existing on unleased government land and private agricultural land covered under the 1982 Squatter Survey are temporarily tolerated to exist until such time as they are cleared for development, safety or environmental reasons, or until they are phased out through natural wastage;
- (c) the locations, dimensions, building materials and use of the SS structures cannot be changed without government approval;

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- (d) repairs of SS structures are allowed so long as government approval is first obtained, and the locations, dimensions, building materials and use of the repaired SS structures are in conformity with the 1982 Survey Records; and
- (e) in the urban areas (Note 8), rebuilding of both domestic and non-domestic SS structures is not allowed. In the New Territories areas, rebuilding of non-domestic SS structures is not allowed while rebuilding of domestic SS structures using temporary building materials is allowed provided that government approval is first obtained, and the locations, dimensions, building materials and use of the rebuilt SS structures are in conformity with the 1982 Survey Records.

According to the Lands D, the above SC Policy aims to phase out SS structures over a period of time.

2.4 New squatter structures erected after the 1982 Squatter Survey or SS structures that are in breach of the SC Policy are subject to enforcement actions taken by the Lands D. The Lands D may require the occupants to carry out rectification works, cancel the squatter survey number of an SS structure in breach of the SC Policy and order the structure to be demolished. From January 2015 to September 2016, the Lands D had cancelled the squatter survey numbers of 2,432 SS structures due to various reasons, including SS structures not complying with the SC Policy and squatter clearance for development or safety reasons. The Lands D had not maintained statistics on the 2,432 SS structures showing those related to non-compliance with the SC Policy and other reasons.

2.5 From January 2015 to September 2016, the Lands D had received 57 applications for the repair of SS structures, of which 53 applications were approved and 4 applications were rejected. During the same period, the Lands D did not receive any application for the rebuilding of SS structures. According to the Lands D, the time normally required for processing an application for repairing an SS structure was about 10 working days, and that for rebuilding an SS structure was about 48 weeks.

Note 8: *For SC purposes, Hong Kong areas are classified into urban and New Territories areas, and the latter include Tuen Mun, Yuen Long, Fanling, Sheung Shui, Tai Po, Sha Tin, Sai Kung and Islands.*

Lands D's monitoring of squatter structures

2.6 The approved staff establishment of the SC Unit as of April 2006 and March 2016 were 434 staff and 426 staff respectively. As of March 2016, the SC Unit comprised a Headquarters Office and seven Squatter Control Offices (SCOs) with 358 staff (actual staff strength — including 11 staff in the Headquarters Office and 347 staff (comprising 35 clerical staff and 312 operation staff) in the seven SCOs). In 2016-17, the estimated personal emoluments of the SC Unit amounted to \$120.9 million. The seven SCOs were responsible for monitoring 99 patrol areas, which covered 388,497 SS structures as of March 2016 (see Table 2).

Table 2

**Number of SC staff, patrol areas and SS structures
(March 2016)**

SCO	Clerical staff (No.)	SC operation staff (No.)	Patrol area (No.)	SS structure (No.)
Hong Kong and Lei Yue Mun (HK&LYM)	4	37	13	5,642
Kowloon, Tsuen Wan and Kwai Tsing (K,TW&KT)	5	46	12	11,115
Islands	5	35	9	23,004
New Territories East (1)	5	58	19	56,856
New Territories East (2)	6	49	16	108,863
New Territories West (1)	4	38	12	65,827
New Territories West (2)	6	49	18	117,190
Total	35	312	99	388,497

Source: Lands D records

2.7 SC operation staff of the SCOs are responsible for patrolling squatter areas and taking control actions against illegal squatting activities on unleased government land and private agricultural land. A total of 97 patrol teams are responsible for patrolling 99 patrol areas, with each team responsible for patrolling one area except for two teams in the SCO/HK&LYM. Each patrol team is headed

Monitoring of squatter and licensed structures

by a Squatter Control Officer and comprises one to two Workmen/Artisans. According to the Squatter Control Operational Manual included in the SC Unit Technical Memorandum of August 2006, there are two types of patrols, namely routine patrols and hut-to-hut checks (Note 9).

2.8 ***Routine patrols.*** According to the Squatter Control Operational Manual, staff presence is crucial to deter any attempts in carrying out new squatting activities, and the purpose of routine patrols is to detect any new illegal structures and unauthorised extensions to SS structures. As stipulated in the Manual, a tri-colour system should be adopted to determine the level of control over different squatter areas. Under the tri-colour system, squatter areas are classified into red, yellow and green areas in descending order of vulnerability to new squatting activities, and the time of completing a cycle of routine patrol ranges from one to four working days. Details are shown in Appendix C.

2.9 ***Hut-to-hut checks.*** According to the Squatter Control Operational Manual, the purpose of hut-to-hut checks is to detect any irregularities (e.g. change of use or dimensions) of SS structures, and the time of completing a cycle of check ranges from 12 to 24 months, depending on the number of SS structures in each patrol area. Details are shown in Appendix C.

2.10 As of March 2016, according to Lands D records, of the 388,497 SS structures erected on unleased government land or private agricultural land, 4,170 SS structures (1%) were located in red areas under the tri-colour routine-patrol system. As all red areas under the system were located on Hong Kong Island and in Lei Yue Mun, Audit selected the SCO/HK&LYM for carrying out a review of the SCO's SC work.

Note 9: *In March 2017, the Lands D informed Audit that, following the transfer of SC responsibilities from the HD to the Lands D by phases from 2002 to 2006, the Lands D had adopted a revised SC approach for SC monitoring actions (see para. 2.33(b) and (c)).*

Non-compliant SS structures not detected

2.11 In December 2016, Audit conducted a site visit (covering about 200 SS structures) together with the Lands D staff to a village (Village A) on Hong Kong Island, which was classified as a red area under the tri-colour system according to Lands D records, to observe the routine patrols carried out by two patrol teams (namely Teams A and B) of the SCO/HK&LYM. During the site visit, Audit noted that 50 structures might not have complied with the SC Policy and referred them to the Lands D for investigations. According to the Lands D, of the 50 cases, the structures of 5 cases located on private land were not SS structures. As of January 2017, the Lands D's findings on the remaining 45 cases were as follows:

- (a) 7 new non-compliant cases (15%): the Lands D was not aware of these irregularities before Audit's site visit in December 2016. SC staff's further site inspections and on-site measurements of the SS structures confirmed that these SS structures did not comply with the SC Policy;
- (b) 12 existing non-compliant cases (27%): the Lands D was aware of these non-compliant SS structures (through SC patrols, public complaints or referrals from other government bureaux or departments (B/Ds)) before Audit's site visit, and was taking enforcement actions on these SS structures;
- (c) 5 cases (11%): no irregularities were found in respect of these SS structures; and
- (d) 21 cases (47%): the Lands D's investigations on these SS structures were still ongoing and the Lands D had not confirmed as to whether or not they complied with the SC Policy.

Monitoring of squatter and licensed structures

2.12 Each of the 19 (7 + 12) cases involved non-compliance with one or more requirements of the SC Policy. Details are shown in Appendix D. Audit selected 2 of the 7 cases mentioned in paragraph 2.11(a) and 1 of the 12 cases mentioned in paragraph 2.11(b) for review. Details of the 3 selected cases are as follows:

Related to paragraph 2.11(a)

- (a) unauthorised rebuilding of SS structure (see Case 1);
- (b) unauthorised change of use, dimensions and building materials of SS structure (see Case 2); and

Related to paragraph 2.11(b)

- (c) unauthorised extension of SS structure (see Case 3).

Case 1

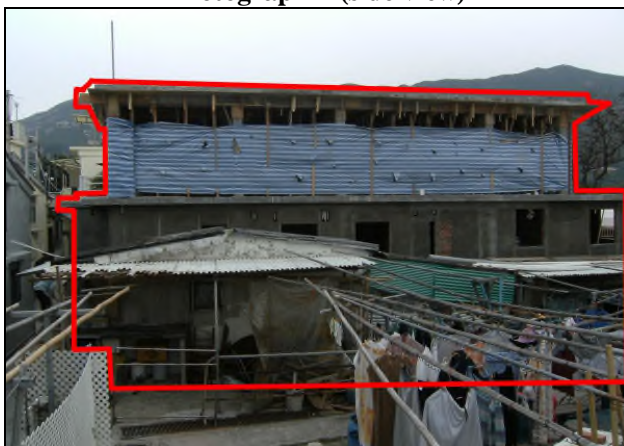
Unauthorised rebuilding of SS structure (SS Structure A) (December 2014 to January 2017)

1. During the preliminary audit planning work in December 2014, Audit's site visit to Village A noted that construction works at a squatter structure (SS Structure A — see Photographs 2 and 3) were in progress. SS Structure A was located adjacent to a promenade.

Photographs 2 and 3

SS Structure A (December 2014)

Photograph 2 (side view)



Photograph 3 (front view)



Source: Photographs taken by Audit in December 2014

2. In December 2016, Audit conducted another site visit to SS Structure A and noted that the construction works had been completed (see Photographs 4 and 5).

Photographs 4 and 5

SS Structure A (December 2016)

Photograph 4 (side view)



Photograph 5 (front view)



Source: Photographs taken by Audit in December 2016

Monitoring of squatter and licensed structures

Case 1 (Cont'd)

3. In January 2017, upon Audit's referral, the SCO/HK&LYM found that, according to the 1982 Survey Records, SS Structure A consisted of two squatter survey numbers (SS Structures A1 and A2). Hence, SS Structure A should originally be two structures instead of one. The SC staff also conducted a site inspection and carried out an on-site measurement of SS Structure A. The on-site measurement revealed that there had been extensions and heightening of SS Structure A as compared with the aggregate dimensions of SS Structures A1 and A2 as indicated in the 1982 Survey Records. Details of the 1982 Survey Records and the Lands D's inspection results in January 2017 are as follows:

Particulars	1982 Survey Records		Lands D's inspection results in January 2017
	SS Structure A1	SS Structure A2	SS Structure A
Dimension:			
- Length (foot)	19	18	16
- Width (foot)	24	13	50
- Height (foot)	11	9	27
Use	Bath/storage	Domestic	Domestic
Building materials	Brick/wood	Concrete/brick	Concrete/brick

Audit comments

4. According to Lands D records, SS Structure A was located on government land and in the urban area. According to the SC Policy, rebuilding of SS Structure A, which is located in the urban area, is not allowed (see para. 2.3(e)). However, the photographs taken during Audit's site visit in December 2014 showed that construction works were in progress at SS Structure A. Audit noted that the Lands D had not maintained records on the number of SC patrols covering SS Structure A in recent years. Audit considers it unsatisfactory that:

- (a) the total area of SS Structures A1 and A2 had expanded from 690 square feet (ft²) (19 feet (ft) × 24 ft + 18 ft × 13 ft) to 800 ft² (16 ft × 50 ft), representing a 16% increase, and the height of the two structures of 11 ft and 9 ft respectively had increased to 27 ft, on average representing a 170% increase; and

Case 1 (Cont'd)

- (b) despite the significant construction works being carried out in late 2014 (see Photographs 2 and 3 in para. 1), the responsible patrol team was unable to detect the unauthorised construction works of SS Structures A1 and A2 during its routine patrols. It was not until Audit's referral in December 2016 that the SC staff started an investigation into the case.

5. According to the Lands D, if rebuilding of SS structures without government approval is found, the squatter survey numbers of these structures will be cancelled instantly and enforcement actions will be taken. Audit considers that the Lands D needs to:

- (a) take appropriate enforcement actions on SS Structures A1 and A2 in a timely manner; and
- (b) take actions to investigate why the responsible patrol team was unable to detect the unauthorised construction works in late 2014 and the unauthorised extensions and heightening of SS Structures A1 and A2 during its routine patrols, and take necessary improvement measures.

Source: Lands D records and Audit's site visits

Case 2

Unauthorised change of use, dimensions and building materials of SS structure (SS Structure B) (December 2016 to January 2017)

1. In December 2016, Audit's site visit to Village A revealed that a squatter structure was associated with suspected changes of building materials (SS Structure B — see Photograph 6). SS Structure B was located adjacent to a promenade.

Photograph 6

SS Structure B (December 2016)



Source: Photograph taken by Audit in December 2016

2. In January 2017, upon Audit's referral, the SCO/HK&LYM found that, according to the 1982 Survey Records, SS Structure B consisted of two squatter survey numbers (SS Structures B1 and B2). Hence, SS Structure B should originally be two structures instead of one. The SC staff also conducted a site inspection and carried out an on-site measurement of SS Structure B. The inspection results revealed that the dimensions, use and building materials of the structure did not conform with those of SS Structures B1 and B2 in the 1982 Survey Records. Details are as follows:

Monitoring of squatter and licensed structures

Case 2 (Cont'd)

Particulars	1982 Survey Records		Lands D's inspection results in January 2017
	SS Structure B1	SS Structure B2	SS Structure B
Dimension:			
- Length (foot)	10	16	23
- Width (foot)	7	10	20
- Height (foot)	5	6	12
Use	Storage	Storage	Domestic
Building materials	Wood	Wood	Concrete/wood

Audit comments

3. According to the SC Policy, the dimensions, building materials and use of SS structures cannot be changed as compared with those in the 1982 Survey Records without government approval (see para. 2.3(c)). According to Lands D records, SS Structure B was located on government land and in the urban area. Audit noted that the Lands D had not maintained records on the number of SC patrols covering SS Structure B in recent years. Audit considers it unsatisfactory that:

- (a) the total area of SS Structures B1 and B2 had significantly expanded from 230 ft² (10 ft × 7 ft + 16 ft × 10 ft) to 460 ft² (23 ft × 20 ft), representing a 100% increase, and the height of the two structures had increased from 5 ft and 6 ft respectively to 12 ft, on average representing a 118% increase;
- (b) use of the structures had been changed from storage to domestic; and
- (c) building materials of the two structures had been changed from wood to concrete/wood.

However, the responsible patrol team was unable to detect the above unauthorised changes during its routine patrols. It was not until Audit's referral in December 2016 that the SC staff started an investigation into the irregularities of SS Structures B1 and B2.

Case 2 (Cont'd)

4. Audit considers that the Lands D needs to:
 - (a) take appropriate enforcement actions on SS Structures B1 and B2 in a timely manner; and
 - (b) take actions to investigate why the responsible patrol team was unable to detect the irregularities of SS Structures B1 and B2 during its routine patrols, and take necessary improvement measures.

Source: Lands D records and Audit's site visit

Case 3

Unauthorised extension of SS structure (SS Structure C) (December 2014 to January 2017)

1. During the preliminary audit planning work in December 2014, Audit's site visit to Village A noted a squatter structure (SS Structure C — see Photograph 7). SS Structure C was adjacent to a main road and opposite to a bus terminal.

Photograph 7

SS Structure C (December 2014)



Source: Photograph taken by Audit in December 2014

Case 3 (Cont'd)

2. In April 2015, the SCO/HK&LYM received a complaint on suspected unauthorised extensions of SS Structure C. According to the complainant (Complainant A), the suspected unauthorised building works had been carried out in 2014 and 2015, and two photographs showing the situations of SS Structure C before and after the building works were provided. According to the photographs supplied by Complainant A:

- (a) before the building works, SS Structure C comprised a ground floor and a rooftop where the latter did not have any enclosed structures; and
- (b) after the building works, SS Structure C became a two-floor structure. The original rooftop had become the second floor which was an enclosed concrete structure with windows, and a new rooftop with glass and metal railings was constructed.

3. In May 2015, the SC staff conducted site inspections of SS Structure C. According to the results of inspections, a small brick-built structure had been erected on the new rooftop.

4. In June 2015, the SCO/HK&LYM issued a warning letter informing the occupant that SS Structure C did not conform with the 1982 Survey Records and requested him to rectify the irregularities. In the same month, the SCO/HK&LYM received a complaint from another complainant (Complainant B) claiming that a new floor had been constructed on SS Structure C. In November 2015, the SC staff conducted a site inspection of SS Structure C. According to the results of inspection, the small brick-built structure on the new rooftop had been demolished. Accordingly, the case was closed.

5. In June 2016, Complainant A lodged another complaint raising a query on the lack of actions taken against the irregularities of SS Structure C over the years. In the same month, the SC staff conducted a site inspection of SS Structure C. According to the results of inspection, the SC staff reminded the occupant that the enclosed concrete structure on the second floor constituted an unauthorised extension. The SCO/HK&LYM issued a warning letter to the occupant requesting him to rectify the irregularities.

Case 3 (Cont'd)

6. In September 2016, the Lands D's Survey and Mapping Office provided the SCO/HK&LYM with aerial photographs and measurements of SS Structure C.

7. In December 2016, Audit conducted another site visit to SS Structure C, and noted that the enclosed concrete structure located on the second floor had not yet been removed (see Photograph 8).

Photograph 8

**SS Structure C
(December 2016)**



Source: Photograph taken by Audit in December 2016

8. In January 2017, the SCO/HK&LYM issued a warning letter to the occupant requesting him to rectify the irregularities of SS Structure C by February 2017.

9. According to the 1982 Survey Records, SS Structure C consisted of two squatter survey numbers (SS Structures C1 and C2). Details of SS Structures C1 and C2 as shown in the 1982 Survey Records and January 2017 are as follows:

Monitoring of squatter and licensed structures

Case 3 (Cont'd)

Particulars	1982 Survey Records		Lands D's inspection results in January 2017	
	SS Structure C1	SS Structure C2	SS Structure C1	SS Structure C2
Dimension:				
– Length (foot)	43	30	43	30
– Width (foot)	28	11	28	11
– Height (foot)	19	11	19	19
Use	Domestic/shop	Shop	Domestic/shop	Shop
Building materials	Wood/tin/brick	Concrete/wood/tin	Wood/tin/brick	Concrete/wood/tin

Audit comments

10. According to Lands D records, SS Structure C was located on government land and in the urban area. Audit noted that the Lands D had not maintained records on the number of SC patrols covering SS Structure C in recent years. Audit considers it unsatisfactory that:

- (a) despite a warning letter issued in June 2016, the irregularities had not been rectified up to January 2017; and
- (b) the height of SS Structure C2 had increased from 11 ft to 19 ft, representing a 73% increase, and it was situated at a prominent location adjacent to a main road. However, the responsible patrol team was unable to detect the irregularities during its routine patrols.

11. In Audit's view, the Lands D needs to:

- (a) take appropriate enforcement actions on SS Structure C2 in a timely manner;
- (b) step up actions against squatter occupants not complying with warning letters issued by the Lands D; and
- (c) take actions to investigate why the responsible patrol team was unable to detect the irregularities of SS Structure C2 during its routine patrols, and take necessary improvement measures.

Source: Lands D records and Audit's site visits

Monitoring of squatter and licensed structures

2.13 In late February 2017, Audit extended the audit work to conduct site visits to the following two squatter areas:

- (a) a squatter area under the monitoring of SCO/K,TW&KT, which was classified as a yellow area under the tri-colour system according to Lands D records; and
- (b) a squatter area under the monitoring of SCO/New Territories East (2), which was classified as a green area under the tri-colour system according to Lands D records.

2.14 During the site visits, Audit noted that 40 structures might not have complied with the SC Policy (30 cases for SCO/K,TW&KT and 10 cases for SCO/New Territories East (2)) and referred them to the Lands D for investigations. According to the Lands D, of the 40 cases, the structures of 3 cases were not SS structures. Of these 3 cases, the structure of one case was located on government land and covered by a GLL, and the structures of the other two cases were located on private land. As of March 2017, the Lands D's findings on the remaining 37 cases were as follows:

- (a) 9 new non-compliant cases (24%): the Lands D was not aware of these irregularities before Audit's site visit in February 2017. SC staff's further site inspections and on-site measurements of the SS structures confirmed that these SS structures did not comply with the SC Policy;
- (b) 5 cases (14%): no irregularities were found in respect of these SS structures; and
- (c) 23 cases (62%): the Lands D's investigations on these SS structures were still ongoing and the Lands D had not confirmed as to whether or not they complied with the SC Policy.

In Audit's view, given that the SCO patrol teams were unable to detect some significant non-compliances with the SC Policy during their patrols, the Lands D needs to conduct a review of the effectiveness of the squatter structure monitoring system.

***Non-compliant SS structures mainly identified
through complaints or referrals***

2.15 Upon receipt of complaints from the public or referrals from other B/Ds, SC staff will conduct site inspections of the concerned squatter structures to ascertain if any non-compliance with the SC Policy exists. From January 2015 to September 2016, after conducting site inspections, SC staff of the seven SCOs had identified 939 confirmed cases of SS structures not complying with the SC Policy. Details are as follows:

SCO	Confirmed cases of SS structures not complying with SC Policy (No.)
(a) HK&LYM	164
(b) K,TW&KT	117
(c) Islands	44
(d) New Territories East (1)	206
(e) New Territories East (2)	168
(f) New Territories West (1)	34
(g) New Territories West (2)	206
Total	939

2.16 Of the seven SCOs, only the SCO/New Territories East (1) maintained information on the source of identifying the 206 cases (see para. 2.15(d)) associated with non-compliant SS structures. Of these 206 cases:

- (a) 181 cases (88%) were originated from public complaints or B/D referrals;
and
- (b) 25 cases (12%) were detected during SC patrols.

Monitoring of squatter and licensed structures

2.17 In Audit's view, for each SS structure case reported by the public or referred by other B/Ds which was subsequently confirmed to be not complying with the SC Policy, the Lands D needs to take actions to investigate why the responsible patrol team was unable to detect the non-compliance during its routine patrols, and take necessary improvement measures. The Lands D also needs to require SCOs to maintain management information on the number of cases arising from different sources leading to identifying non-compliant SS structures.

2.18 Since June 2016, each SCO has been required to hold bi-monthly Case Monitoring Meetings and prepare Case Monitoring Reports for monitoring the progress of enforcement actions taken on SS structures not complying with the SC Policy. Audit examination of the SCO/HK&LYM's Case Monitoring Report of October 2016 revealed that enforcement actions on 35 cases involving non-compliant SS structures were in progress. Of these 35 cases:

- (a) 28 cases (80%) were originated from public complaints (including media enquiries) or B/D referrals; and
- (b) 7 cases (20%) were detected during SC patrols.

2.19 Audit selected 4 of the 28 cases mentioned in paragraph 2.18(a) for review. Details of the 4 selected cases are as follows:

- (a) a de-registered SS structure being re-occupied (see Case 4);
- (b) repeated complaints on a non-compliant SS structure (see Case 5);
- (c) lack of action taken on non-compliant SS structures (see Case 6); and
- (d) de-registered SS structures not being demolished (see Case 7).

Case 4

De-registered SS structure (SS Structure D) being re-occupied (January 2001 to February 2017)

1. In July 2015, the SCO/HK&LYM received a complaint on illegal re-occupation of a de-registered SS structure (SS Structure D) located in a village (Village B) in Kowloon, which should have been vacated and boarded up during a non-development clearance (NDC) exercise in 2001. In the same month, the SCO/HK&LYM conducted a site inspection which revealed that SS Structure D was illegally re-occupied.
2. According to Lands D records:
 - (a) SS Structure D was located on government land and in the urban area;
 - (b) the SCO/HK&LYM considered that the control and management of the NDC structures, including the illegal re-occupation activity, were outside its purview; and
 - (c) the Lands D Clearance Unit considered that its core business was to re-house clearances affected by an NDC exercise and it had never been its business to deal with illegal re-occupation of vacant structures.
3. Audit's site visit in February 2017 noted that there were signs of re-occupation of SS Structure D (see Photograph 9).

Case 4 (Cont'd)

Photograph 9

SS Structure D (February 2017)



Source: Photograph taken by Audit in February 2017

Audit comments

4. Audit considers it unsatisfactory that the Lands D had not taken enforcement actions to rectify the illegal re-occupation of SS Structure D since July 2015. In this regard, the Lands D needs to:

- (a) take appropriate enforcement actions on SS Structure D in a timely manner; and
- (b) take measures to prevent recurrence of delays in taking enforcement actions due to unclear responsibilities among different Lands D units.

Source: Lands D records and Audit's site visit

Case 5

Repeated complaints on a non-compliant SS structure (SS Structure E) (May 2013 to March 2017)

1. In May 2013, the SCO/HK&LYM received a complaint on unauthorised building works at an SS structure (SS Structure E) situated in Village A. The building works ceased upon the request of the SCO/HK&LYM.
2. In August 2014, the SCO/HK&LYM received another complaint on unauthorised building works at SS Structure E. In the same month, the SCO/HK&LYM conducted a site inspection and issued a warning letter to request the occupant to rectify the irregularities. According to Lands D records, the irregularities were rectified in May 2015.
3. In July 2016, during its routine patrols, the SCO/HK&LYM noted an unauthorised structure on the second floor of SS Structure E (see Photograph 10). In August 2016, the SCO/HK&LYM issued a warning letter to the occupant of SS Structure E requesting him to rectify the irregularities within 28 days.

Photograph 10

SS Structure E (July 2016)



Unauthorised
structure

Source: Lands D records

Case 5 (Cont'd)

4. In December 2016, noting that the irregularities of SS Structure E were not rectified, the SCO/HK&LYM issued a warning letter to the occupant stating that SC action, including de-registering the squatter survey number, would be taken if no rectification works were taken, and if the squatter survey number was cancelled, the structure would not be allowed to exist on government land. However, as of January 2017, the irregularities were still not rectified.

5. Details of SS Structure E as shown in the 1982 Survey Records and January 2017 are as follows:

Particulars	1982 Survey Records	Lands D's inspection results in January 2017
Dimension:		
- Length (foot)	26	26
- Width (foot)	22	22
- Height (foot)	8	14
Use	Shop	Shop
Building materials	Wood/tin/brick	Wood/tin/brick

Lands D responses

6. In March 2017, the Lands D informed Audit that:

- (a) an occupant of SS Structure E was interviewed by the SCO/HK&LYM staff in December 2016. In January 2017, the occupant raised a request for a suspension of enforcement action on the grounds of financial hardship, and the difficulty in taking care of her 93-year-old father (who was one of the occupants); and
- (b) in February 2017, the SCO/HK&LYM turned down the request of the occupant, and the occupant raised another request for an extension of time to August 2017 owing to financial hardship. The SCO/HK&LYM rejected the request again in mid-February 2017.

Case 5 (Cont'd)

Audit comments

7. Audit noted that SS Structure E was situated at a prominent location (near a public carpark and a store) in Village A. According to Lands D records, SS Structure E was located on government land and in the urban area. Audit noted that the Lands D had not maintained records on the number of SC patrols covering SS Structure E in recent years. Audit considers it unsatisfactory that:

- (a) the repeated control actions taken in 2013 and 2014 had failed to deter the recurrence of the unauthorised works and extension of SS Structure E; and
- (b) irregularities detected in July 2016 had not been rectified up to February 2017.

8. Audit considers that the Lands D needs to:

- (a) take effective enforcement actions on SS Structure E in a timely manner; and
- (b) strengthen actions on SS structures associated with repeated complaints and Lands D warning letters.

Source: Lands D records

Case 6

Lack of action taken on non-compliant SS structures (October 2015 to March 2017)

1. In October 2015, the SCO/HK&LYM received a complaint on unauthorised building works of an SS structure (SS Structure F) situated in Village A. In response, the SCO/HK&LYM conducted a site inspection which revealed that an unauthorised rooftop structure was built on SS Structure F and the dimensions of the structure did not conform with the 1982 Survey Records. In November 2015 and January 2016, the SCO/HK&LYM issued warning letters to the occupant requiring him to rectify the irregularities.

2. In February 2016, the occupant of SS Structure F complained that he was being treated differently from his neighbours who had similar irregularities. In this connection, the occupant informed the SCO/HK&LYM of these cases and provided photographs relating to squatter structures adjoining and adjacent to SS Structure F.

3. In June and October 2016, noting that the progress of rectification works of SS Structure F was not satisfactory, the SCO/HK&LYM issued warning letters to the occupant requiring him to complete all the rectification works, failing which SC action (including de-registering the squatter survey number) would be taken. However, as of January 2017, the irregularities were still not rectified.

Case 6 (Cont'd)

4. According to the 1982 Survey Records, SS Structure F consisted of two squatter survey numbers (SS Structures F1 and F2). Details of SS Structures F1 and F2 as shown in the 1982 Survey Records and January 2017 are as follows:

Particulars	1982 Survey Records		Lands D's inspection results in January 2017	
	SS Structure F1	SS Structure F2	SS Structure F1	SS Structure F2
Dimension:				
– Length (foot)	13	4	13	4
– Width (foot)	16	9	16	9
– Height (foot)	11	7	18	18
Use	Domestic	Storage	Domestic	Domestic
Building materials	Brick	Brick	Brick	Brick

Lands D responses

5. In March 2017, the Lands D informed Audit that:
- (a) for SS Structure F, the concerned occupants (an elderly couple aged over 87) were seeking advice from a structural engineer on rectification works with a view to meeting the SC Policy requirements; and
 - (b) Village A had been designated as a black spot for patrolling, and the SCO/HK&LYM had commenced intensive investigations of the SS structures in the village by phases. Since SCO/HK&LYM's investigations would eventually cover all SS structures in Village A, it had not responded to the general complaint made by the occupant of SS Structure F.

Case 6 (Cont'd)

Audit comments

6. According to Lands D records, SS Structure F was located on government land and in the urban area. Audit noted that the Lands D had not maintained records on the number of SC patrols covering SS Structure F in recent years. Audit considers it unsatisfactory that:

- (a) the height of SS Structures F1 and F2 had increased from 11 ft and 7 ft respectively to 18 ft, on average representing a 100% increase. However, the responsible patrol team was unable to detect the irregularities during its routine patrols;
- (b) despite being informed of the suspected irregularities of squatter structures adjoining and adjacent to SS Structure F in February 2016, the SCO/HK&LYM did not conduct investigations of the aforementioned squatter structures in a timely manner; and
- (c) notwithstanding repeated actions taken in November 2015 as well as January, June and October 2016, the irregularities had not been rectified.

7. Audit considers that the Lands D needs to:

- (a) conduct investigations of the squatter structures referred by the occupant of SS Structure F to ascertain if non-compliances with the SC Policy exist and take necessary enforcement actions; and
- (b) take effective enforcement actions on SS Structures F1 and F2 in a timely manner.

Source: Lands D records

Case 7

De-registered SS structures (SS Structures G, H and I) not being demolished (July 2016 to March 2017)

1. In July 2016, the SCO/HK&LYM received a media enquiry on some squatter structures (operating as restaurants) located along the seafront in Kowloon. After site inspections conducted by the SC staff, three SS structures (SS Structures G, H and I) were confirmed to have been rebuilt without the Lands D's approval. In the event, the Lands D cancelled the squatter survey numbers of these SS structures and issued demolition notices. Details are as follows:

SS structure	Date of cancellation of squatter survey number	Action taken under the Cap. 28 Ordinance		
		Date of issuing demolition notice	Date of expiry of demolition notice	Position as of January 2017
G	30.8.2016	30.8.2016 (see Photograph 11)	31.10.2016	Demolition not yet carried out
H	8.9.2016	8.9.2016 (see Photograph 12)	8.11.2016	
I	8.9.2016	8.9.2016 (see Photograph 13)	8.11.2016	

Photograph 11

**SS Structure G (a structure located on an upper level of a restaurant)
(August 2016)**



Lands D
demolition
notice

Source: Lands D records

Case 7 (Cont'd)

Photograph 12

**SS Structure H (operating as a restaurant)
(September 2016)**



Lands D
demolition
notice

Source: Lands D records

Photograph 13

**SS Structure I (operating as a restaurant)
(September 2016)**



Lands D
demolition
notice

Source: Lands D records

2. Audit's site visit in February 2017 found that the two restaurants operating at SS Structures H and I were open for business. (Audit could not get access to the upper level of the restaurant relating to SS Structure G.)

3. From August to December 2016, in the light of the irregularities of SS Structures G, H and I, the Lands D conducted site inspections of 133 SS structures occupied for commercial purposes along the seafront at which SS Structures G, H and I situated. The results of inspection of the 133 SS structures as of December 2016 were as follows:

Monitoring of squatter and licensed structures

Case 7 (Cont'd)

Inspection results		SS structure (No.)
Confirmed having irregularities:	Rebuilt without approval	29
	Change of dimensions	8
	Change of use	11
		} 48
Confirmed having no irregularities		8
Inspection not yet carried out due to cooperation not rendered by occupants		77
Total		133

Lands D responses

4. In March 2017, the Lands D informed Audit that:
- (a) in October 2016, a Legislative Council (LegCo) Member requested the Government to formulate appropriate policies to allow the continued operation of the existing shops and restaurants located along the seafront in Kowloon; and
 - (b) the Lands D considered that, in addition to a land-control issue, Case 7 was also related to tourism, local development and people's livelihood.

Audit comments

5. According to Lands D records, SS Structures G, H and I were located on government land and in the urban area. Audit noted that the Lands D had not maintained records on the number of SC patrols covering SS Structures G, H and I in recent years. Audit considers it unsatisfactory that, during the routine patrols, the SC staff were unable to detect the unauthorised rebuilding of SS Structures G, H and I, as well as the irregularities of the other 48 SS structures located along the seafront in Kowloon. Moreover, the demolition notices issued by the Lands D in August/September 2016 had not been complied with up to January 2017. In Audit's view, the Lands D needs to expedite:

- (a) enforcement actions on SS Structures G, H and I in accordance with the demolition notices, as well as the 48 SS structures located along the seafront at which SS Structures G, H and I situate; and
- (b) inspections of the 77 SS structures located along the seafront at which SS Structures G, H and I situate.

Source: Lands D records

Ineffective squatter structure monitoring system

2.20 The Lands D's seven SCOs with 312 operation staff conducted patrols of the squatter areas on a routine basis. To facilitate the SC work, the Lands D has implemented an Electronic Team Patrol Monitoring System (ETPM System) to record details of routine patrols conducted in squatter areas. Under the ETPM System, a number of check-points at strategic locations in each patrol area are installed with electronic devices. When a patrol team visits a check-point, it would apply a control clock to the electronic device and the ETPM System would record the time of the patrol team visiting the check-point. The ETPM System would generate a daily patrol report of each patrol team showing the time of visiting each check-point, and the team is required to indicate in the report whether or not new illegal structures were noted during the patrol and document in the report any new illegal structures noted.

2.21 One of the seven SCOs, namely the SCO/HK&LYM, had 11 patrol teams (each comprising two to three staff) which were responsible for patrolling 13 patrol areas. Audit selected 2 of the 13 patrol areas which were patrolled by Teams A and B (see para. 2.11) for review. Details are shown in Table 3.

Table 3

**Patrol work of Teams A and B of SCO/HK&LYM
(March 2016)**

Team	Patrol Area	Check-point (a) (No.)	SS structure (b) (No.)	Average number of SS structures covered by each check-point (c) = (b) ÷ (a)
A (2 staff)	A	24	454	19
B (3 staff)	B	25	442	18
Overall		49	896	18

Source: Audit analysis of Lands D records

Monitoring of squatter and licensed structures

2.22 According to Lands D records, Patrol Areas A and B were located in the red area under the tri-colour system in the urban area. From January 2015 to September 2016 (21 months with 432 working days), according to the ETPM System records, Teams A and B together paid 2,502 visits to the 49 check-points. Details are as follows:

Team	Visit to check-point (No.)
A	1,406
B	1,096
Total	2,502

2.23 Accordingly, each check-point on average should have been visited 51 times ($2,502 \div 49$) by the two teams during the 21-month period. However, Audit examination revealed that the number of visits to each of these 49 check-points during the 21-month period varied significantly. Details are shown in Table 4.

Table 4

**Number of visits to each check-point in
Patrol Areas A and B
(January 2015 to September 2016)**

Number of times a check-point was visited during the 21-month period	Number of check-points involved
5	1
17 to 20	5
21 to 30	12
31 to 40	10
41 to 50	4
51 to 100	11
101 to 130	6
Total	49

Source: Audit analysis of Lands D records

Monitoring of squatter and licensed structures

2.24 Audit could not find records showing the justifications for the significant variations in the frequency of patrol visits among different check-points conducted by Teams A and B during the 21-month period. For example, during the 21-month period, while one check-point was only visited 5 times, six check-points were each visited 101 to 130 times. In March 2017, the Lands D informed Audit that:

- (a) infrequent visits to some check-points were due to:
 - (i) the check-points being located in remote areas. The Lands D had adopted a risk-based approach for SC patrols and some areas being not prone to illegal squatting activities due to their remoteness would not be patrolled frequently; and
 - (ii) electronic devices installed at some check-points had broken down resulting in the time of patrol visits not being recorded in the ETPM System;
- (b) frequent visits to some check-points were due to the check-points being located in areas subject to frequent in-depth investigations (see para. 2.33(d)); and
- (c) the presence of the SC patrol teams had a deterrent effect against illegal squatting activities, similar to the police patrol on the street aiming to deter crimes.

2.25 Regarding paragraph 2.24(a)(i), given that all the 49 check-points under the patrol of Teams A and B were located in the red area under the tri-colour system which were most vulnerable to new squatting activities (see para. 2.8), each of the 49 check-points should be subject to the same level of monitoring, and the remoteness of a check-point should not be a factor for consideration in taking land-control enforcement actions. Regarding 2.24(a)(ii), given that the objective of the ETPM System was to monitor the site attendance of patrol teams (see para. 2.29(a)), any breakdown of a check-point electronic device not being timely repaired would defeat the objective of the System. In Audit's view, the Lands D needs to take improvement measures on the above shortcomings. The Lands D also needs to, based on available staff resources, formulate an inspection programme for every inspection team covering all SS structures within an inspection area over a certain period of time.

Monitoring of squatter and licensed structures

2.26 According to the Lands D, the daily patrol reports recording the time of visiting each check-point and irregularities observed were kept by individual teams. From January 2015 to September 2016 (comprising 432 working days), Teams A and B had conducted routine patrols to Patrol Areas A and B on 257 and 208 working days respectively. Based on the 465 (257 + 208) daily patrol reports provided by the SCO/HK&LYM, Audit noted that only two of the reports recorded irregularities found during the patrols. Details are as follows:

Date of patrol	Team	Non-compliant SS structure detected	Follow-up action taken
27 June 2016	B	J	<ul style="list-style-type: none"> • Issuing warning letter in August 2016 • Irregularities not yet rectified as of January 2017
		K	<ul style="list-style-type: none"> • Issuing warning letters in August and December 2016 • Irregularities not yet rectified as of January 2017
15 July 2016	B	L	<ul style="list-style-type: none"> • Irregularities rectified by the occupant in August 2016
		E	(see Case 5 in para. 2.19) <ul style="list-style-type: none"> • Issuing warning letters in August and December 2016 • Irregularities not yet rectified as of February 2017
		M	<ul style="list-style-type: none"> • Issuing warning letters in August and November 2016, cancelling the squatter survey number and issuing demolition notice in December 2016 (requesting rectification by March 2017)

2.27 Audit examination of the daily patrol reports also revealed that the patrol teams normally spent little time at each check-point. Examples are shown in Table 5.

Monitoring of squatter and licensed structures

Table 5

Time of visiting check-points

Date	Team	Time of departing office	Time recorded at check-point									Time of returning office
			1	2	3	4	5	6	7	8	9	
10 April 2015	A	9:59	10:25	10:29	10:30	10:34	10:35	10:36	10:37	10:39	-	11:34
18 November 2015	A	9:51	10:19	10:20	10:22	10:25	10:26	10:27	10:28	10:30	-	10:54
22 April 2016	A	10:26	10:43	10:44	10:45	10:48	10:48	10:49	10:50	10:51	-	11:31
24 February 2015	B	10:00	10:24	10:25	10:27	10:28	10:29	10:30	-	-	-	10:53
2 November 2015	B	9:54	10:22	10:24	10:26	10:27	10:28	10:29	-	-	-	11:20
29 September 2016	B	10:05	10:22	10:24	10:27	10:28	10:29	10:30	10:34	10:34	10:36	10:55

Source: Lands D records

2.28 According to the Squatter Control Operational Manual, staff presence is crucial to deter any attempts in carrying out new squatting activities, and the purpose of routine patrols is to detect any new illegal structures and unauthorised extensions to SS structures (see para. 2.8). As shown in Table 5 in paragraph 2.27, Teams A and B often spent one to two minutes between visiting two check-points. Given the short time spent on conducting inspections of areas covered by check-points (on average one check-point covered 18 SS structures — see Table 3 in para. 2.21), it was unlikely that the patrol teams could effectively carry out their patrol functions.

2.29 In March 2017, the Lands D informed Audit that:

- (a) the ETPM System was implemented in 1996 to monitor the site attendance of patrol teams according to the Squatter Control Operational Manual. The daily patrol reports recorded the site attendance of patrol teams and plausible new squatting activities. These reports did not record suspected irregularities observed during patrols;
- (b) any suspected irregularity found during a patrol was subject to verification against the 1982 Survey Records, plans and other related documents. If a non-compliant case was confirmed, a case file would be opened for keeping records of detailed investigations and follow-up actions. The patrol teams seldom recorded such suspected irregularities in daily patrol reports; and

- (c) the set up of check-points was to provide patrol data for analysis of site attendance of patrol teams. The patrol time and pattern could not fully reflect all the field work. In practice, the route, sequence and frequency of visiting check-points were arranged by the patrol team leader of a team for accomplishment of his/her daily objectives in order of priority. The duration of a patrol between check-point visits depended on the daily job target, the nature and scale, the distance between check-points, the visiting sequence of different targeted spots, geographical limitations, the visit priority and safety concern.

2.30 Regarding paragraph 2.29(a) and (b), according to the standard daily patrol report, each patrol team was required to indicate in the report whether or not new illegal structures were noted during a patrol, and document in the report any new illegal structures noted (see para. 2.20). In Audit's view, the patrol teams should be knowledgeable about structures not complying with the SC Policy and they should have recorded all suspected illegal structures in the daily patrol reports for follow-up actions, including checking against the 1982 Survey Records and issuing warning letters.

2.31 According to the Government policy on SS structures, all SS structures need to comply with the SC Policy (see para. 2.3) and the Lands D would take enforcement actions on all SS structures associated with non-compliances with the SC Policy (see para. 2.4). In Audit's view, the deployment of 312 operation staff (in the seven SCOs as of March 2016) to conduct patrols and other squatter structure monitoring work but many non-compliant SS structures were not detected is unsatisfactory. Cases 1 to 7 in paragraphs 2.12 and 2.19 illustrate that the patrol teams had not been effective in detecting significant non-compliances with the SC Policy during their visits to check-points. The Lands D needs to review the objective, approach and effectiveness of the squatter structure monitoring system.

2.32 According to the Squatter Control Operational Manual, the time of completing a cycle of routine patrol under the tri-colour system ranges from one to four working days (see para. 2.8), and the time of completing a cycle of hut-to-hut check for SS structures located in each patrol area ranges from 12 to 24 months (see para. 2.9).

Monitoring of squatter and licensed structures

2.33 In December 2016, Audit requested the Lands D to advise whether the requirements under the tri-colour routine-patrol system and the hut-to-hut checks as stipulated in the Squatter Control Operational Manual had been complied with by each SCO and to provide information about the actual practice if it was different from the requirements as stipulated in the Manual. In March 2017, the Lands D informed Audit that:

- (a) following the transfer of SC responsibilities from the HD to the Lands D by phases from 2002 to 2006, the number of SC staff was reduced from 658 to 358 (as of March 2016);
- (b) due to the large reduction in manpower when the Lands D took over the SC responsibilities from the HD and the onerous workloads, the tri-colour system used to be adopted by the HD could no longer be adopted, and the hut-to-hut check previously adopted by the HD was considered no longer sustainable;
- (c) the Lands D had over the years adopted a different approach where routine patrols were deployed to deter and detect new illegal structures as well as unauthorised extensions to SS structures, while a proactive inspection of an SS structure was mainly conducted upon receipt of a public complaint or B/D referral. Moreover, the number of complaints and referral cases had increased over the years, and much effort was needed to establish whether a squatter structure under a complaint was in breach of the SC Policy;
- (d) the Lands D's checking of SS structures was conducted mainly through patrol teams' regular patrols in the squatter areas by visual inspections and taking immediate SC actions when noting illegal structures, extensions of SS structures or related works-in-progress. In addition, when a public complaint or B/D referral was received, the patrol team would carry out an in-depth investigation and at the same time conduct routine patrols;
- (e) the Lands D adopted a risk-based approach to combat breaches of the SC Policy. Some squatter areas vulnerable to illegal squatting activities were selected as black spots for intensive checking and bi-monthly progress reports had to be submitted to the Lands D's Headquarters. From time to time, the management would review the conditions of a

patrol area and if the conditions deteriorated (as reflected by the number of complaints and illegal structures detected), the area would be classified as a black spot until the conditions had been improved and under control. As of February 2017, there were 15 designated black-spot areas;

- (f) following the announcement of implementation of strengthened and improved SC measures in June 2016, the SCOs were required to hold bi-monthly Case Monitoring Meetings and report each individual case associated with SC actions in the Case Monitoring Reports for checking by the responsible manager and the Lands D's Headquarters. The said monitoring system ensured that all patrol teams would report and follow up promptly all cases associated with SC actions; and
- (g) the Squatter Control Operational Manual should have been updated to reflect the development.

2.34 However, the Lands D could not provide Audit with records showing the time and details of adopting the revised patrol practice for monitoring squatter structures (see para. 2.33(b) and (c)). Audit considers it unsatisfactory that the Lands D has adopted a patrol practice which is significantly different from the requirements stipulated in the Squatter Control Operational Manual, and the revised practice has not been properly promulgated and documented. Regarding patrol teams' regular patrols (see para. 2.33(d)) and intensive checking conducted at black-spot areas (see para. 2.33(e)), the Lands D could not provide Audit with information on the frequency of regular patrols conducted at individual squatter areas and inspections conducted at individual black-spot areas in recent years.

2.35 According to the Lands D, some squatter areas had been selected as black spots for intensive checking (see para. 2.33(e)). Audit noted that the black-spot system was introduced in April 2012. Although Village A had been designated as a black-spot area since July 2013, Cases 1 to 3 in paragraph 2.12 illustrated that the black-spot system had not been effective in detecting significant non-compliances with the SC Policy. Audit considers that the Lands D needs to conduct a review of the effectiveness of the squatter structure monitoring system with a view to improving the system.

Complaint register not maintained by SCO

2.36 Under the Lands D's instructions, each SCO needs to maintain a complaint register recording dates and details of complaints received. However, Audit noted that the SCO/HK&LYM did not maintain such a register. Audit considers that the Lands D needs to take measures to ensure that each SCO maintains a complaint register.

Omissions in reporting cases of non-compliance with SC Policy

2.37 Since June 2016, each SCO has been required to prepare bi-monthly Case Monitoring Reports for submission to the Lands D's Headquarters showing follow-up actions taken on cases of non-compliance with the SC Policy. Each SCO also holds bi-monthly Case Monitoring Meetings to follow up actions on non-compliant cases. However, the Case Monitoring Report of the SCO/HK&LYM of October 2016 only included 35 cases but omitted to include 3 cases (3 of the 12 cases noted by the Lands D before Audit's site visit (see para. 2.11(b))). Audit considers that the Lands D needs to take measures to ensure that SCOs include all outstanding cases in the bi-monthly Case Monitoring Reports.

Need to adopt a better system for ensuring compliance with SC Policy

2.38 The 1982 Survey Records are maintained in manual form, and the Lands D's Headquarters and each SCO separately maintains one set of the pertinent manual survey records. The daily patrol reports (also recorded any irregularity in manual form) only recorded the time of visiting each check-point. Owing to the limitation of the ETPM System, the time of inspecting each SS structure located in a patrol area was not available. According to the Lands D, information on SS structures not complying with the SC Policy and the follow-up actions taken was kept in individual case files by the seven SCOs, and before June 2016 (see para. 2.37) centralised information was not readily available for review by the Lands D's Headquarters or for Audit examination.

2.39 Furthermore, the daily patrol reports only show the check-points visited but not the SS structures inspected. Hence, a patrol team might not be fully held accountable for irregularities subsequently found on SS structures located in its patrol area. This arrangement is not conducive to good management and accountability.

2.40 Given the above-mentioned system limitations, the Lands D's system on monitoring compliance of SS structures with the SC Policy is not effective and efficient, and there is no assurance that the SC Policy has been satisfactorily complied with. Therefore, the Lands D needs to improve the system and consider implementing a new system, which includes, for example, the following salient features:

- (a) each inspection team should be assigned to monitor designated SS structures within an inspection area for ensuring compliance with the SC Policy;
- (b) based on the available staff resources, an inspection programme should be formulated for each inspection team such that each SS structure is subject to inspection within a specified period of time, with the inspection interval being determined taking into account the risks of non-compliance with the SC Policy;
- (c) details of each SS structure in the 1982 Survey Records should be uploaded onto a computer database which would be used to check against each SS structure during an inspection;
- (d) details of and irregularities observed during each inspection, with photographs, should be recorded in the database for future reference, together with details of follow-up actions taken;
- (e) details of public complaints and B/D referrals relating to individual SS structure should be recorded in the database, together with details of follow-up actions taken; and

Monitoring of squatter and licensed structures

- (f) periodic management reports should be generated to highlight SS structures not having been inspected for a specified period of time, and long-outstanding cases where follow-up actions on irregularities have not been completed within a specified period of time.

2.41 The Lands D may also consider providing hand-held computers storing the inspection programmes and details of each SS structure to facilitate the inspection teams' inspections as well as recording and updating onto the database results of inspections and follow-up actions taken. The Lands D also needs to strengthen guidance to operation staff on following up and dealing with long-outstanding non-compliant cases.

Audit recommendations

2.42 Audit has *recommended* that, in monitoring squatter structures, the Director of Lands should:

- (a) **take appropriate enforcement actions on SS Structures A1, A2, B1, B2, C2, D, E, F1, F2, G, H and I as well as the 48 SS structures located along the seafront in Kowloon in a timely manner;**
- (b) **require SCOs to maintain management information on the number of cases arising from different sources leading to identifying non-compliant SS structures;**
- (c) **take measures to prevent recurrence of delays in taking enforcement actions due to unclear responsibilities among different Lands D units;**
- (d) **strengthen actions on SS structures associated with repeated complaints and Lands D warning letters;**
- (e) **expedite actions to inspect the 77 SS structures located along the seafront at which SS Structures G, H and I situate;**
- (f) **take measures to ensure that any breakdown of a check-point electronic device is repaired in a timely manner;**

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- (g) based on available staff resources, formulate an inspection programme for every inspection team covering all SS structures within an inspection area over a certain period of time;**
- (h) take measures to ensure that each SCO maintains a complaint register;**
- (i) take measures to ensure that SCOs include all outstanding cases in the bi-monthly Case Monitoring Reports;**
- (j) conduct a review of the effectiveness of the squatter structure monitoring system and consider implementing an improved system, which includes, for example, the following salient features:**
 - (i) each inspection team should be assigned to monitor designated SS structures within an inspection area for ensuring compliance with the SC Policy;**
 - (ii) based on the available staff resources, an inspection programme should be formulated for each inspection team such that each SS structure is subject to inspection within a specified period of time, with the inspection interval being determined taking into account the risks of non-compliance with the SC Policy;**
 - (iii) details of each SS structure in the 1982 Survey Records should be uploaded onto a computer database which would be used to check against each SS structure during an inspection;**
 - (iv) details of and irregularities observed during each inspection, with photographs, should be recorded in the database for future reference, together with details of follow-up actions taken;**
 - (v) details of public complaints and B/D referrals relating to individual SS structure should be recorded in the database, together with details of follow-up actions taken; and**

Monitoring of squatter and licensed structures

- (vi) **periodic management reports should be generated to highlight SS structures not having been inspected for a specified period of time, and long-outstanding cases where follow-up actions on irregularities have not been completed within a specified period of time;**
- (k) **consider providing hand-held computers storing the inspection programmes and details of each SS structure to facilitate the inspection teams' inspections as well as recording and updating onto the database results of inspections and follow-up actions taken; and**
- (l) **strengthen guidance to operation staff on following up and dealing with long-outstanding non-compliant cases.**

Response from the Government

2.43 The Director of Lands agrees with the audit recommendations. She has said that:

- (a) the Lands D will strengthen monitoring of SCOs' routine patrols and assess their effectiveness, taking into account the high percentage of cases involving irregularities being detected through public complaints and B/D referrals;
- (b) regarding paragraph 2.42(h), all SCOs have now maintained complaint registers;
- (c) regarding paragraph 2.42(i), the Lands D has reminded case officers to include all confirmed non-compliant cases in the Case Monitoring Reports within two weeks, and will continue to ensure that SCOs will include all outstanding cases in the Case Monitoring Reports within the designated timeframe;
- (d) the Lands D promulgated SC instructions in September 2016 to set out clearly the SC actions and the related timeframes. The introduction of a new computer-based system will involve considerable resources in terms of manpower and time. The Lands D will consider implementing a system to maintain information of 1982 Survey Records on SS structures

and to digitise maps showing locations of SS structures to facilitate site patrolling; and

- (e) since June 2016, the Lands D has implemented a strengthened strategy on SC monitoring work, and will continue to look for ways to improve the work and follow-up actions on cases with irregularities.

2.44 The Secretary for Development has said that the Lands D has deployed available resources to tackle the relevant work since it took over the SC responsibilities, and the Lands D has put in sincere efforts to strengthen related work in recent years.

Monitoring of licensed structures

2.45 Under the Cap. 28 Ordinance, on payment of a prescribed fee, the Lands D may issue a GLL permitting a licensee to occupy a piece of unleased government land, and a GLL is valid for a specified period and may be renewed or terminated at the Lands D's discretion. Prior to mid-1970s, the Government had issued GLLs for erection of some domestic and non-domestic structures on government land. Under the licence conditions, only licensed structures complying with the purposes and dimensions specified in a GLL are allowed to be erected on a piece of designated government land, and the Lands D may cancel a GLL if there is a breach of any licence conditions.

2.46 The Lands D's Lands Administration Office oversees 12 DLOs (Note 10), which are responsible for, among others, administering unleased and unallocated government land, including licensed structures situated on government land within their districts. As of March 2016, 216 staff in 12 DLOs were responsible for land administration duties including monitoring of structures covered under 15,214 GLLs to ensure their compliance with the licence conditions.

Note 10: *The 12 DLOs are DLO/Hong Kong East, DLO/Hong Kong West and South, DLO/Kowloon East, DLO/Kowloon West, DLO/Islands, DLO/North, DLO/Sai Kung, DLO/Shau Tin, DLO/Tai Po, DLO/Tsuen Wan and Kwai Tsing, DLO/Tuen Mun and DLO/Yuen Long.*

Licensed structures not complying with licence conditions

2.47 According to the Lands D, information on licensed structures not complying with licence conditions and follow-up actions taken was kept in individual case files by the 12 DLOs, and centralised information was not readily available for Audit examination. Given the absence of a centralised database on licensed structures, Audit selected an outlying island and scrutinised case files of licensed structures covered under 30 GLLs located on the island. Based on the addresses, uses and dimensions of the licensed structures as recorded in the 30 GLLs, Audit conducted a site visit in January 2017 to the structures of 30 cases and noted two cases of suspected non-compliance with the licence conditions (see Cases 8 and 9).

Case 8

Lack of effective enforcement actions on licensed structure (Licensed Structure A) (January 2005 to January 2017)

1. In 1993, a licensee (Licensee A — Note) was permitted to use a piece of government land (of 15.6 square metres (m²)) on an outlying island for erecting a licensed structure (Licensed Structure A) for the following purposes:

Use	Dimension		
	Length (metre)	Width (metre)	Height (metre)
Accommodation	5.18	2.44	4.11
Latrine	1.22	1.07	4.11
Balcony	1.22	1.37	4.11

2. In January 2005, the DLO/Islands received a complaint on an unauthorised erection of a rooftop structure on Licensed Structure A. In February 2005, the DLO/Islands issued a warning letter to Licensee A to require him to demolish the unauthorised structure as soon as possible, and would consider cancelling the GLL if the requirement was not complied with.

3. In March and July 2005, the DLO/Islands carried out site inspections and noted that no rectification works had been conducted on Licensed Structure A.

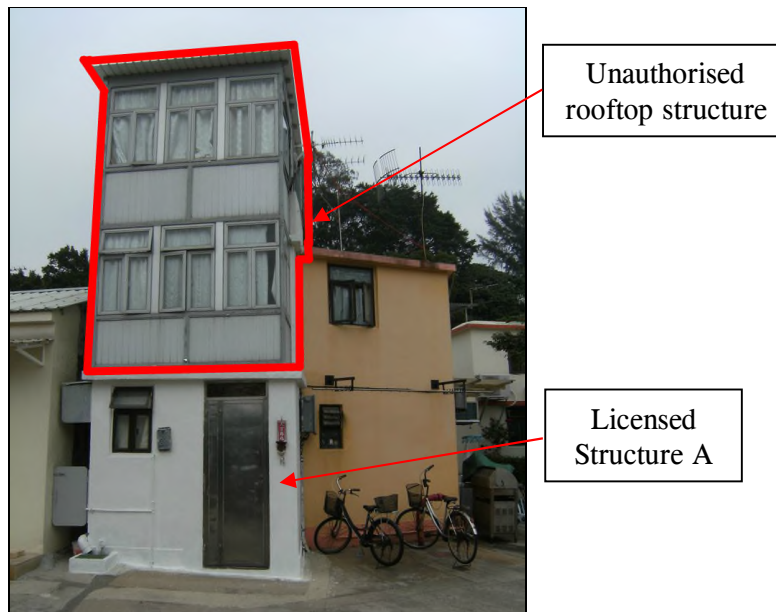
Case 8 (Cont'd)

4. In February 2009, the DLO/Islands received another complaint on an unauthorised erection of a rooftop structure on Licensed Structure A. In March 2009, the DLO/Islands issued a warning letter to Licensee A to require him to demolish the unauthorised structure as soon as possible, and would consider cancelling the GLL if the requirement was not complied with.

5. From August 2005 to January 2009 (42 months) and from April 2009 to January 2017 (94 months), Audit could not find records showing that the DLO/Islands had taken any follow-up actions on the case. As of January 2017, Audit's site visit noted that the unauthorised rooftop structure had not been demolished (see Photograph 14).

Photograph 14

**Unauthorised rooftop structure on Licensed Structure A
(January 2017)**



Source: Photograph taken by Audit in January 2017

Case 8 (Cont'd)

Audit comments

6. According to the Lands D's instructions, the licensee of a licensed structure being found to have constructed unauthorised structures and violating the licence conditions should be informed in writing of the need to rectify the irregularities within a certain period, normally in 28 days, failing which the licence may be cancelled and actions would be taken to clear the licence area. Audit considers it unsatisfactory that, despite a warning letter being issued in February 2005, after 12 years in January 2017, the DLO/Islands had not taken effective actions on Licensed Structure A which had breached a licence condition by constructing an unauthorised rooftop structure. In Audit's view, the Lands D needs to:

- (a) take effective enforcement actions on Licensed Structure A, such as cancelling the relevant licence in a timely manner; and
- (b) take effective measures to ensure that licensed structures comply with licence conditions.

Source: Lands D records and Audit's site visit

Note: In 1993, a licence for Licensee A was issued to replace a cancelled licence issued in 1975.

Case 9**Occupation of licensed structure without Lands D approval
(Licensed Structure B)
(September 2000 to January 2017)**

1. In 1969, a licensee (Licensee B) was permitted under a GLL (GLL B) to use a piece of government land (of 313.5 ft²) on an outlying island for erecting a licensed structure (Licensed Structure B) for the following purposes:

Use	Dimension		
	Length (foot)	Width (foot)	Height (foot)
Accommodation	19.0	10.5	12.0
Kitchen	6.0	8.5	12.0
Kitchen	6.0	10.5	12.0

2. In November 2011, upon enquiry by the DLO/Islands, the Immigration Department confirmed that Licensee B had passed away in September 2000. According to the Lands D's instructions, a GLL may be cancelled upon the death of a licensee is made known to the Lands D unless a licensee's immediate family member has applied and being approved to become a new licensee. However, Audit could not find records showing an approved transfer of GLL B to another person. In January 2017, Audit's site visit noted that there were signs of occupation of Licensed Structure B (see Photograph 15).

Case 9 (Cont'd)

Photograph 15

Licensed Structure B (January 2017)



Source: Photograph taken by Audit in January 2017

Audit comments

3. Audit considers it unsatisfactory that, despite the death of Licensee B in September 2000 being made known to the DLO/Islands in November 2011, and in the absence of an application and approval of a transfer of GLL B, the Lands D had not taken licence enforcement actions up to January 2017. The Lands D needs to take appropriate enforcement actions on Licensed Structure B. It also needs to take measures to cancel a GLL upon the death of a licensee being made known to the Lands D if there is no approved transfer of the GLL. The Lands D also needs to, in collaboration with the Immigration Department, ascertain whether any of the GLL licensees has passed away and take necessary licence enforcement actions.

Source: Lands D records and Audit's site visit

Lack of inspection programmes and inspection information on licensed structures

2.48 Pursuant to the Lands D's instructions, each licensed structure should be inspected at least once a year, and the inspection interval may be changed subject to not less than once every three years after considering work priorities. According to the Lands D:

- (a) none of the 12 DLOs has prepared an inspection programme on inspecting licensed structures. Licensed structures would be inspected on a need basis, such as upon receipt of a complaint, an application for transfer of a GLL, and an application for repair or rebuilding of a structure; and
- (b) none of the 12 DLOs has maintained a centralised database to record the time of inspecting each licensed structure, the irregularities observed and follow-up actions taken.

2.49 The absence of a system to consolidate the information on inspections conducted on licensed structures and follow-up actions taken on licensed structures not complying with licence conditions has impeded the Lands D management's monitoring of the DLO's inspection actions and Audit's examination of the efficiency and effectiveness of the Lands D's monitoring actions on licensed structures. Therefore, there is no assurance that the structures covered under the 15,214 GLLs have satisfactorily complied with the licence conditions. To improve the situation, the Lands D needs to consider implementing a system for monitoring licensed structures, which includes, for example, the following salient features:

- (a) based on the available staff resources, an inspection programme should be formulated for each DLO such that each licensed structure is subject to inspection within a specified period of time, with the inspection interval being determined taking into account the risks of non-compliance with the licence conditions;
- (b) details of each licensed structure and its licence conditions should be uploaded onto a computer database which would be used to check against each licensed structure during an inspection;

Monitoring of squatter and licensed structures

- (c) details of and irregularities observed during each inspection, with photographs, should be recorded in the database for future reference, together with details of follow-up actions taken;
- (d) details of public complaints and B/D referrals relating to individual licensed structure should be recorded in the database, together with details of follow-up actions taken; and
- (e) periodic management reports should be generated to highlight licensed structures not having been inspected for a specified period of time, and long-outstanding cases where follow-up actions on irregularities have not been completed within a specified period of time.

The Lands D may also consider providing hand-held computers storing the inspection programmes and details of each licensed structure to facilitate the inspection teams' inspections as well as recording and updating onto the database results of inspections and follow-up actions taken.

Need to expedite actions on setting up Central Action Team

2.50 In December 2005 and March 2006, before the second phase of the transfer of SC responsibilities from the HD to the Lands D (see para. 2.2), the then Housing, Planning and Lands Bureau and the Lands D informed (through submission of information papers) the then Panel on Planning, Lands and Works of LegCo that:

- (a) the transfer arrangement would benefit from unity of command over land control and lease enforcement which were often related, thus achieving greater efficiency and effectiveness in land control work and in dealing with enforcement cases straddling both government land and private land;
- (b) the Lands D planned to set up a Central Action Team to tackle land control, including SC and lease enforcement work for the whole territory, as soon as possible; and
- (c) the effectiveness of the new arrangement would be reviewed after its implementation.

2.51 However, Audit noted that, as of January 2017:

- (a) monitoring of squatter structures was carried out by the 7 SCOs while monitoring of licensed structures by the 12 DLOs; and
- (b) the proposed Central Action Team (see para. 2.50(b)) had not been set up.

2.52 In Audit's view, there could be synergy in integrating the carrying out of monitoring work of squatter structures by the 7 SCOs and licensed structures by the 12 DLOs. Therefore, the Lands D needs to expedite actions on setting up the Central Action Team.

2.53 In March 2017, the Lands D informed Audit that:

- (a) the proposed Central Action Team was a concept and any proposed changes in the staff establishment and redeployment were subject to staff consultations; and
- (b) the Lands D would consider to give serious thoughts to setting up the Central Action Team.

Audit recommendations

2.54 Audit has *recommended* that, in monitoring licensed structures, the Director of Lands should:

- (a) **take effective measures to ensure that licensed structures comply with licence conditions;**
- (b) **take effective enforcement actions on Licensed Structures A and B in a timely manner;**

Monitoring of squatter and licensed structures

- (c) take measures to cancel a GLL upon the death of a licensee being made known to the Lands D if there is no approved transfer of the GLL;**
- (d) in collaboration with the Director of Immigration, ascertain whether any of the GLL licensees has passed away and take necessary licence enforcement actions;**
- (e) consider implementing an improved system for monitoring licensed structures, which includes, for example, the following salient features:**
 - (i) based on the available staff resources, an inspection programme should be formulated for each DLO such that each licensed structure is subject to inspection within a specified period of time, with the inspection interval being determined taking into account the risks of non-compliance with the licence conditions;**
 - (ii) details of each licensed structure and its licence conditions should be uploaded onto a computer database which would be used to check against each licensed structure during an inspection;**
 - (iii) details of and irregularities observed during each inspection, with photographs, should be recorded in the database for future reference, together with details of follow-up actions taken;**
 - (iv) details of public complaints and B/D referrals relating to individual licensed structure should be recorded in the database, together with details of follow-up actions taken; and**
 - (v) periodic management reports should be generated to highlight licensed structures not having been inspected for a specified period of time, and long-outstanding cases where follow-up actions on irregularities have not been completed within a specified period of time; and**

- (f) **consider providing hand-held computers storing the inspection programmes and details of each licensed structure to facilitate the inspection teams' inspections as well as recording and updating onto the database results of inspections and follow-up actions taken.**

Response from the Government

2.55 The Director of Lands agrees with the audit recommendations. She has said that the Lands D will consider asking DLOs to set up District Review Boards to set priorities and work plans for GLL patrol work and follow-up enforcement actions.

2.56 The Director of Immigration has said that the Immigration Department has been timely acceding to the Lands D's requests for death-record checks on GLL licensees and will continue to assist the Lands D as far as practicable.

PART 3: RATES, GOVERNMENT RENT AND LICENCE FEES ON SQUATTER AND LICENSED STRUCTURES

3.1 This PART examines the actions taken by the RVD and the Lands D in the assessment and collection of rates, government rent and licence fees on S&L structures, focusing on:

- (a) rates and government rent on S&L structures (see paras. 3.2 to 3.14); and
- (b) licence fees on licensed structures (see paras. 3.15 to 3.27).

Rates and government rent on squatter and licensed structures

3.2 Under the Rating Ordinance and the Rent Ordinance, a tenement refers to any land or any building or structure or a part of a building or structure, which is held or occupied as a distinct or separate tenancy or holding or under any licence. In this connection:

- (a) under the Rating Ordinance, rates are charged at a percentage (currently at 5% per annum — Note 11) of the rateable value which is the estimated annual rental value of a tenement; and
- (b) under the Rent Ordinance, government rent is charged at 3% per annum of the rateable value of a tenement situated on a piece of leased land chargeable to government rent (i.e. land held under a land lease: (i) extended under the New Territories Leases (Extension) Ordinance (Cap. 150); or (ii) under which there is an express obligation to pay that annual rent).

According to the RVD, the chargeability of S&L structures to rates and government rent is shown in Table 6.

Note 11: *This percentage, subject to LegCo's approval under the Rating Ordinance, has remained unchanged since April 1999.*

**Rates, government rent and licence fees
on squatter and licensed structures**

Table 6

**Chargeability of S&L structures to
rates and government rent**

Chargeability	Squatter structures erected on		Licensed structures erected on	
	Government land	Private agricultural land (Note 1)	Government land	Private agricultural land
Rates	Not chargeable	Chargeable (Note 2)	Chargeable (Note 2)	Not applicable (Note 4)
Government rent	Not chargeable	Chargeable (Note 3)	Not chargeable	Not applicable (Note 4)

Source: Audit analysis of RVD records

Note 1: According to the RVD: (a) if a squatter structure is partly erected on private agricultural land and partly on government land, the RVD would assess the rateable value of the entire structure for the purposes of charging rates and government rent; and (b) if a squatter structure being erected on private agricultural land is transient in nature, it would not be chargeable to rates and government rent.

Note 2: Under the Rating Ordinance, certain tenements are exempted from assessment to rates, including: (a) non-domestic S&L structures erected on agricultural land used for agricultural purposes; (b) domestic S&L structures in the New Territories occupied as dwellings by persons engaged in carrying out agricultural operations; and (c) S&L structures where the estimated rateable value does not exceed the prescribed amount (currently at \$3,000 per annum).

Note 3: Under the Rent Ordinance, subject to meeting specified criteria, an indigenous villager is exempted from the liability to pay government rent for an interest in land held by him. An indigenous villager is a male person at least 18 years old who is a descendent through the male line from a resident in 1898 of a recognised village.

Note 4: No licensed structure is erected on private agricultural land.

***Omissions in charging rates and government rent on
S&L structures***

3.3 As shown in Table 6:

- (a) squatter structures erected on private agricultural land are chargeable to both rates and government rent (subject to some exemptions — see Notes 2 and 3 to Table 6); and
- (b) licensed structures erected on government land are chargeable to rates (subject to some exemptions — see Note 2 to Table 6).

3.4 According to the Lands D and the RVD:

- (a) the Lands D has not provided the RVD with information on 262,128 SS structures erected on private agricultural land (see Table 1 in para. 1.3) for the latter to assess and charge rates and government rent; and
- (b) while Lands D records have maintained the squatter survey number of each SS structure (which does not normally have a proper address), the RVD's computer system has not maintained information on such squatter survey numbers because such numbers are not relevant to assessment and charging of rates. For the purposes of assessing and charging rates and government rent on 262,128 SS structures erected on private agricultural land, the RVD and the Lands D need to carry out manual matching of addresses of the SS structures.

3.5 In early 2017, with a view to assessing the quantum of rates assessments relating to the 262,128 SS structures erected on private agricultural land, the RVD selected 3 squatter areas (namely Tai O, Lei Yue Mun and Kau Wa Keng) for investigation. In response to the RVD's request, the Lands D randomly selected 10 SS structures in each of the 3 squatter areas and provided the RVD with the addresses and map locations of the 30 SS structures. Based on the Lands D information, the RVD found that, of the 30 SS structures:

Rates, government rent and licence fees on squatter and licensed structures

- (a) 27 SS structures had been assessed to rates with the median rateable value being \$27,120 per annum and the median rates collectable being about \$680 per annum in 2015-16. Majority of these structures were not subject to payment of rates in 2016-17 because of rates concessions;
- (b) the remaining 3 SS structures were either for agricultural purposes or of a rateable value not exceeding the prescribed amount (currently at \$3,000 per annum), and were therefore exempted from assessment to rates under the Rating Ordinance; and
- (c) all the 30 structures had been either assessed to government rent or exempted from payment of government rent under the Rent Ordinance.

3.6 Owing to the fact that the RVD's database has not maintained information on the squatter survey numbers of SS structures (which do not normally bear proper addresses for rates and government rent purposes), and that data matching between records of the RVD and the Lands D has not been carried out, there is no assurance that rates and government rent have been properly charged on all pertinent SS structures.

3.7 Regarding licensed structures, according to the Lands D:

- (a) since 2000, it has provided the RVD with information on licensed structures for the latter to assess and charge rates; and
- (b) however, given time constraints, the Lands D could not readily compile and provide Audit with information on licensed structures which has been provided to the RVD over the years for assessing and charging rates.

Rates, government rent and licence fees on squatter and licensed structures

3.8 In February 2017, Audit selected 30 (1%) of the 3,326 GLLs associated with licensed structures under the monitoring of DLO/Islands (Note 12) and forwarded these cases to the RVD for verification as to whether or not rates had been properly charged on these structures. After conducting verifications, the RVD found that, as of March 2017, of the licensed structures covered under the 30 GLLs, the structures of:

- (a) 7 (23%) GLLs were exempted from rates assessment (see Note 2 to Table 6 in para. 3.2);
- (b) 5 (17%) GLLs had already been assessed and charged rates; and
- (c) 18 (60%) GLLs were chargeable to rates, but rates had not been assessed and charged on these structures. According to the RVD, these 18 cases related to tenements located in remote areas involving relatively low rateable values and were accorded a lower priority for assessment and charging of rates. Details of these 18 cases are shown in Table 7.

Note 12: *As of March 2016, the DLO/Islands was responsible for managing the highest number of GLLs (3,326 (22%) of the total 15,214 GLLs).*

**Rates, government rent and licence fees
on squatter and licensed structures**

Table 7

**Omissions in charging rates on structures under 18 GLLs
(March 2017)**

GLL	Location	Use of licensed structure	Size (m²)	RVD estimated annual rates
C	Tai O, Lantau Island	Accommodation	47	\$492
D	Tung O, Lamma Island		44	\$264
E	Mui Wo, Lantau Island		44	\$462
F	Tai O, Lantau Island		38	\$294
G	Tai O, Lantau Island		37	\$288
H	Mui Wo, Lantau Island		35	\$510
I	Tai O, Lantau Island		33	\$216
J	Tong Fuk, Lantau Island		32	\$246
K	Tung Chung, Lantau Island		31	\$372
L	Tai O, Lantau Island	Accommodation and storage	29	\$228
M	Tai O, Lantau Island	Accommodation	28	\$216
N	Tai O, Lantau Island		26	\$204
O	Tai O, Lantau Island		24	\$186
P	Tai O, Lantau Island		23	\$180
Q	Tai O, Lantau Island		23	\$180
R	Tai O, Lantau Island		22	\$174
S	Tai O, Lantau Island		20	\$156
T	Tai O, Lantau Island		17	\$132

Source: Lands D and RVD records

Remarks: According to the RVD, after allowing for rates concessions, the estimated average rates collectable from the structures covered under each of the 18 GLLs in 2015-16 was about \$135.

Rates, government rent and licence fees on squatter and licensed structures

3.9 In March 2017, the RVD informed Audit that:

- (a) the RVD's computer system had maintained information on tenements (based on building addresses and land-lot details) chargeable to rates and government rent. As of March 2017, its computer system maintained the rates assessment records of structures covered by 6,659 GLLs. In 2015-16, the median rateable value of each of these 6,659 GLLs was about \$24,000 per annum and the median rates of each GLL collectable was about \$600 per annum after allowing for rates concession. In 2015-16, the RVD collected a total revenue of \$22,733 million from rates, and the rates revenue from GLLs was \$7.6 million (0.03% of \$22,733 million). As the Government waived rates for four quarters of 2016-17 (subject to a ceiling of \$1,000 per quarter for each rateable property), majority of GLLs were not subject to payment of rates in that year. For those GLLs that were not included in the RVD's system, some of the licensed structures might be exempted from rates assessment under the Rating Ordinance (e.g. see Note 2 to Table 6 in para. 3.2), some might involve ruined structures without beneficial occupation and hence not liable to assessment to rates, some might involve structures having been assessed together with adjoining tenements, and some were of low rateable values and hence being accorded a lower priority for the RVD's action;
- (b) the RVD had to prioritise its work in order not to compromise the performance of its various statutory functions, including the updating of the Valuation List and the Government Rent Roll from time to time (involving about 32,000 new assessments in 2015-16), as well as the annual General Revaluations (involving some 2.5 million assessments). Valuations of structures located in remote areas covered by GLLs having low rateable values would be accorded a lower priority;
- (c) to make the best use of the RVD's available resources and protect the Government's revenue, it had been the RVD's established practice to give priority to structures of a relatively higher rateable value when assessing the rates and/or government rent of licensed structures erected on government land and squatter structures erected on private agricultural land; and

- (d) based on the RVD's findings in paragraph 3.5 and the historical background of squatter structures, data matching between the records of the Lands D and the RVD on the 262,128 SS structures erected on private agricultural land would unlikely be a cost-effective exercise where the resource requirement would not be justified by the expected outcome. The RVD had to ascertain the addresses or the exact locations of these structures before checking their rating records. The additional workload arising from the matching exercise was significant given the huge volume of records involved. The RVD needed to seriously evaluate the cost-effectiveness of obtaining the information on these structures for matching before committing to any follow-up action.

3.10 Audit noted that, of the 15,214 GLLs managed by the Lands D, the RVD's computer system only maintained the rates assessment records of 6,659 (44% of 15,214) GLLs as of March 2017 (see para. 3.9(a)). Moreover, of the 262,128 SS structures erected on private agricultural land, the RVD has conducted investigation on only 30 (0.01% of 262,128) SS structures (according to the RVD and the Lands D, these 30 structures were selected on a random basis) to ascertain whether rates and government rent had been assessed on them (see para. 3.5). Therefore, there is a risk that relevant rates and government rent on S&L structures have not been fully assessed and charged. With a view to ensuring proper charging of rates and government rent on S&L structures, Audit considers that the Lands D needs to provide the RVD with information of all pertinent S&L structures for the latter to assess and charge rates and government rent where appropriate. The RVD also needs to take actions to recover and charge rates and government rent on pertinent S&L structures for which charging of such rates and rent has been omitted in the past.

Audit recommendations

3.11 Audit has *recommended* that the Director of Lands should provide the Commissioner of Rating and Valuation with information of all pertinent S&L structures for the latter to assess and charge rates and government rent where appropriate.

Rates, government rent and licence fees on squatter and licensed structures

3.12 **Audit has *recommended* that the Commissioner of Rating and Valuation should:**

- (a) **take actions to charge rates on licensed structures covered under 18 GLLs identified by Audit (see para. 3.8(c)); and**
- (b) **based on information on S&L structures provided by the Lands D, take actions to charge rates and government rent on pertinent S&L structures, and recover rates and government rent on such structures for which charging has been omitted in the past.**

Response from the Government

3.13 The Director of Lands agrees with the audit recommendation in paragraph 3.11. She has said that the Lands D will follow up with the RVD on the issue accordingly.

3.14 The Commissioner of Rating and Valuation agrees with the audit recommendations in paragraph 3.12. He has said that:

- (a) the RVD has been closely monitoring the rates assessments of licensed structures covered by GLLs. In 2003, the RVD set up a computer system to monitor the assessment of licensed structures in the New Territories based on information provided by the Lands D. Up to March 2017, the RVD had received information on 2,650 GLLs (relating to structures located in the New Territories) from the Lands D and had taken follow-up action on these GLLs. Having regard to resource availability and work priority, the RVD will assess the outstanding licensed structures by phases based on the Lands D's information, including the 18 cases identified by Audit (see para. 3.8(c)); and
- (b) upon receipt of the addresses, locations and boundaries of the 262,128 SS structures erected on private agricultural land from the Lands D, the RVD will be able to conduct data matching and check whether the pertinent SS structures have been assessed or exempted from assessment to rates and/or government rent.

Licence fees on licensed structures

3.15 In October 1972, upon enactment of the Cap. 28 Ordinance, licence fees for occupying government land for erecting different types of licensed structures were specified in the Ordinance. For example:

- (a) licence fees for occupying government land were stipulated for 18 types of specific structures in the urban areas (e.g. \$3,000 per annum for a petrol filling station located in the city centre), and 17 types in the New Territories;
- (b) licence fees for occupying government land were stipulated for other types of structures including domestic structures. For domestic licensed structures, the licence fee for occupying land located in:
 - (i) the urban areas ranged from \$0.1 to \$1 per ft² per annum; and
 - (ii) the New Territories was \$0.03 per ft² per annum; and
- (c) the minimum licence fee in the urban areas was \$10 and that in the New Territories was \$5.

3.16 In January 1977, the Cap. 28 Ordinance was amended to give effect to the adoption of the metric system. As a result, the licence fees for occupying government land for erecting licensed structures were revised. For domestic structures, the licence fee for occupying land located in:

- (a) the urban areas ranged from \$1 to \$10 per m² per annum; and
- (b) the New Territories was \$0.3 per m² per annum.

3.17 As of March 2016, 15,214 GLLs (comprising 10,481 domestic GLLs and 4,733 non-domestic GLLs) were in force (see para. 1.6). In 2015-16, the total revenue collected in respect of GLL fees was \$445,000.

Lack of review and revision of GLL fees since 1972

3.18 According to the Lands D:

- (a) the licence fees set up under the Cap. 28 Ordinance in 1972 were based on the fees of the then Crown Land Permits which had been set up under the previous Summary Offences (Licences and Fees) Regulations. From 1950s to early 1970s, the fees of Crown Land Permits and the licence fees under the Cap. 28 Ordinance were intended to be relatively nominal compared to the land value, and were charged as a means to control land use rather than for the purpose of raising revenue. Such fees were intended to become obsolete gradually when Crown Land Permits or GLLs were being replaced by STTs which would have proper tenancy arrangements and charges; and
- (b) based on the Lands D's research on the market rent in the New Territories in 1970s (i.e. around the time when the Cap. 28 Ordinance was enacted in 1972), the licence fees prescribed under the Cap. 28 Ordinance represented about 1% or less of the prevailing market rent of the exempted houses in the New Territories.

3.19 Audit noted that licence fees for occupying government land for erecting licensed structures had not been revised since enactment of the Cap. 28 Ordinance in 1972. The licence fee revisions in January 1977 were merely to give effect to the adoption of the metric system to replace the previous non-metric system. Based on RVD records on the average annual rent of tenement premises and village-type houses in the third quarter of 2016, Audit noted that the licence fees for domestic licensed structures were significantly lower than the market rent of similar premises (see Table 8).

**Rates, government rent and licence fees
on squatter and licensed structures**

Table 8

**Licence fees for occupying land for erecting domestic licensed structures
vis-a-vis market rent
(third quarter of 2016)**

Location	Licence fee (per m² per annum)	Market rent (per m² per annum) (Note)
Urban areas	\$1 to \$10 (depending on districts)	\$2,844
New Territories	\$0.3	\$1,896

Source: Cap. 28 Ordinance and RVD records

Note: According to the RVD, market rent in the urban areas and the New Territories refers to the average annual rent of tenement premises and village-type houses respectively.

3.20 Audit examination revealed that the subject on the review of the licence fees had been brought up on the following occasions:

- (a) in 1972, when proposing the enactment of the Cap. 28 Ordinance, the then Director of Lands and Survey said that the Government would consider revision of the licence fees in 12 months' time;
- (b) in 1977, when reporting the progress of converting non-domestic licensed structures into STTs (see para. 3.22), the Government said that considerable number of licensees paying low licence fees had enjoyed rents from sub-lessees which should have accrued to public revenue;
- (c) in June 1999, the Lands D proposed to the then Planning, Environment and Lands Bureau that the fees prescribed under the Cap. 28 Ordinance should be updated. In August 1999, the Bureau requested the Lands D to advise which items of the prescribed fees should be deleted, updated and retained; and

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- (d) in December 2006, the Lands D informed the then Housing, Planning and Lands Bureau that, since the Lands D was working on the legislative amendment to increase the penalties under the Cap 28 Ordinance, the updating of licence fees prescribed under the Ordinance was not recommended as the problems of outdated prescribed fees could be overcome by the issue of STTs.

3.21 In Audit's view, given that 10,481 domestic GLLs and 4,733 non-domestic GLLs had not been converted into STTs as of March 2016, the Lands D needs to expedite actions on conducting a review of the licence fee levels.

Need to convert suitable non-domestic GLLs into STTs

3.22 According to the Lands D:

- (a) since the mid-1970s, the Government has adopted a policy to convert non-domestic GLLs into STTs for effecting better control and securing a better financial return for the Government;
- (b) for STTs in urban areas converted from GLLs, the rents are charged at fair market rent and reviewed once every three years; and
- (c) for STTs in the New Territories converted from GLLs, the rents are generally charged at the prevailing STT standard rates, which are determined with reference to the STT locations and the coverage of buildings on the STT sites. The STT standard rates were derived originally from market rents reflecting the average rental level for temporary occupation of land. Such rates have been reviewed regularly to reflect market changes.

3.23 While the Government has adopted a policy to convert non-domestic GLLs into STTs since mid-1970s, as of March 2016, 4,733 non-domestic GLLs had not been converted into STTs. According to the Lands D's instructions, certain types of non-domestic GLLs (such as agricultural land and associated structures, playgrounds and mobile boat kiosks) need not be converted into STTs. However, of the 4,733 non-domestic GLLs, the Lands D has not maintained information on the number of GLLs suitable for conversion into STTs. In this connection, Audit noted

Rates, government rent and licence fees on squatter and licensed structures

that the licence fees for non-domestic licensed structures were significantly lower than the STT standard rates. For example, as of January 2017:

- (a) the STT standard rates ranged from \$68.8 to \$771.1 per m² per annum; and
- (b) the corresponding licence fees under the Cap. 28 Ordinance only ranged from \$0.1 to \$0.3 per m² per annum.

3.24 In Audit's view, the Lands D needs to conduct a review to ascertain non-domestic GLLs suitable for conversion into STTs, and take conversion actions in a timely manner.

Audit recommendations

3.25 **Audit has *recommended* that the Director of Lands should:**

- (a) **expedite actions on conducting a review of the GLL fee levels; and**
- (b) **ascertain non-domestic GLLs suitable for conversion into STTs, and take conversion actions in a timely manner.**

Response from the government

3.26 The Director of Lands agrees with the audit recommendations. She has said that, in 2015, the Lands D commenced internal discussions and research into the need for a review of the licence fee levels under the Cap. 28 Ordinance.

3.27 The Secretary for Development has said that the licence fee levels under the Cap. 28 Ordinance are relatively low compared to market values due to various historical reasons, reflecting the policy intention when the fees were first introduced, and the Lands D will expedite the process of reviewing the licence fee levels.

PART 4: CLEARANCE OF SQUATTER AND LICENSED STRUCTURES

4.1 This PART examines actions taken by the Lands D, the CEDD and the BD on S&L structures subject to clearance and prone to landslide risks, focusing on:

- (a) development clearance of S&L structures (see paras. 4.4 to 4.15); and
- (b) dangerous slopes posing landslide risks to S&L structures (see paras. 4.16 to 4.36).

Government's clearance operations

4.2 In general, clearance of S&L structures involves:

- (a) development clearance to make land available for public works projects; and
- (b) NDC on slope-safety grounds.

4.3 For each clearance operation, the Lands D is responsible for:

- (a) conducting a pre-clearance survey to ascertain the Government's commitments on re-housing and ex-gratia allowances;
- (b) checking re-housing eligibility of occupants of the affected S&L structures;
- (c) processing and payment of ex-gratia allowances to eligible persons; and
- (d) undertaking works on affected S&L structures to render them uninhabitable.

Development clearance of squatter and licensed structures

4.4 The general compensation and re-housing arrangements under the Government's development clearance operations include the following:

- (a) ***Re-housing to PRH.*** Affected occupants meeting the following criteria may be re-housed to PRH upon clearance of S&L structures:
 - (i) a household affected by a clearance operation should have been covered in the pre-clearance survey;
 - (ii) the affected household should have resided in a domestic SS structure covered in the 1982 Squatter Survey and it should be covered in the 1984/85 Occupancy Survey, or have resided in a domestic licensed structure;
 - (iii) if the affected household is not covered in the 1984/85 Occupancy Survey, in case it could provide evidence of 2-year residence in the premises in (ii) above immediately preceding the announcement date of clearance, it would be allotted a notional PRH application number with a 2-year waiting time; and
 - (iv) the affected household has to meet other eligibility criteria for PRH (e.g. having lived in Hong Kong for at least 7 years, not owning any domestic property in Hong Kong and satisfying the comprehensive means test);
- (b) ***Village Resites.*** An indigenous villager (see Note 3 to Table 6 in para. 3.2) affected by a clearance operation may be provided with a village resite; and
- (c) ***Ex-gratia allowance for permitted occupiers.*** Permitted occupiers residing in domestic licensed structures or domestic SS structures for at least 10 years immediately preceding the date of a pre-clearance survey are eligible for the ex-gratia allowance.

Clearance of squatter and licensed structures

4.5 From 2012 to 2016, 5,606 structures were cleared under the Government's development clearance operations (Note 13). Among these operations, a works project (Project A) involved clearance of the largest number of 1,669 (30% of 5,606) structures. Audit selected Project A for examination.

4.6 In 2012, when seeking funding approval from LegCo Finance Committee (FC), the DEVB informed the FC that Project A would have strategic significance for Hong Kong's future development, and to ensure smooth clearance of land for the timely completion of Project A, special arrangements would be offered to affected households on top of the general compensation and re-housing arrangements (see para. 4.4), including:

- (a) ***Cottage House Option.*** Eligible non-indigenous villagers (see key eligibility criteria at Appendix E) residing in a domestic structure located in one of two villages affected by Project A would be offered a right to build a two-storey domestic cottage house (with a maximum roofed-over area of 500 ft²) on a piece of leased private agricultural land in an adjoining resite area on a "structure-for-structure" basis by way of an in-situ land exchange (subject to the payment for additional land premiums);
- (b) ***Special Ex-gratia Cash Allowance (SEGCA).*** To meet the special re-housing needs of affected persons, a qualified household affected by the clearance operation for Project A might be offered an SEGCA up to a maximum amount of \$600,000, subject to meeting the stipulated eligibility criteria (see key criteria at Appendix E). Persons eligible for the Cottage House Option (see (a) above) may also be eligible for SEGCA provided that the pertinent eligibility criteria were also met; and

Note 13: *According to the Lands D, 68 operations were conducted from 2014 to 2016. The Lands D has not maintained information on the number of operations conducted in 2012 and 2013.*

- (c) *Secretary for Development's discretion.* To provide flexibility in this clearance operation to address the special re-housing needs of households who did not fully meet the eligibility criteria for the Cottage House Option and/or SEGCA, on the advice of an Inter-departmental Advisory Panel (IDA Panel — Note 14), the Secretary for Development was authorised to determine whether a reduced SEGCA and/or the Cottage House Option would be provided to the concerned persons.

4.7 In July 2012, the DEVB informed the FC that 344 households would be affected by Project A clearance operation and that the total estimated cost of SEGCA would be \$206.4 million. In the same month, the FC approved funding of \$211 million for Project A clearance operation, including \$206.4 million for SEGCA.

4.8 In September 2016, Project A clearance operation was completed, under which 1,669 structures (comprising 178 domestic and 1,491 non-domestic structures) had been cleared. Of the total 221 households affected (claimed to be residing in the 178 domestic structures), 147 were provided with various re-housing arrangements and/or ex-gratia allowances (see Table 9), and the remaining 74 households were not provided with any compensation or re-housing because they did not meet the related requirements.

Note 14: *The IDA Panel, chaired by the Permanent Secretary for Development (Planning and Lands), comprised representatives from the DEVB, the CEDD, the Home Affairs Department and the Social Welfare Department.*

Clearance of squatter and licensed structures

Table 9

**Re-housing arrangements and/or ex-gratia allowances
provided to 147 households under Project A clearance operation**

Re-housing arrangements and/or ex-gratia allowances provided	Households (No.)	
(a) PRH flat (see para. 4.4(a))	65	
(b) SEGCA only (see para. 4.6(b))	31	} 60
(c) Cottage House and SEGCA (see para. 4.6(a) and (b))	29	
(d) Resited village house (only for indigenous villagers — see para. 4.4(b))	12	
(e) Cottage House only (see para. 4.6(a))	8	
(f) Ex-gratia allowance for permitted occupiers (see para. 4.4(c))	2 (Note)	
Total	147	

Source: Audit analysis of Lands D records

Note: Under the Government's general compensation re-housing arrangements, for permitted occupiers of a domestic squatter covered in the 1982 Squatter Survey or a domestic licensed structure, if they are not eligible for PRH flats but being offered interim housing by the HD, they may opt for ex-gratia allowance in lieu of interim housing. The two households opted for this allowance.

4.9 SEGCA granted to 60 households totalled \$32.18 million, representing 16% of the FC-approved amount of \$206.4 million (see para. 4.7). According to the Lands D, the fact that only 16% of the approved fund was spent on SEGCA might be due to 65 households choosing to be re-housed to PRH flats instead of applying for SEGCA, and not all the affected persons being eligible for SEGCA.

***Household not meeting PRH re-housing criteria
referred to HD for allocation of PRH flat***

4.10 Audit examination revealed that a household had been allocated a PRH flat although it did not meet the PRH re-housing criteria (see Case 10).

Case 10

**A household not meeting PRH re-housing criteria
referred to HD for allocation of PRH flat
(November 2010 to March 2014)**

1. In the pre-clearance survey conducted for Phase 2 of Project A on 12 November 2010, the Lands D officers omitted to identify a squatter structure within the clearance boundary which had been assigned a squatter survey number. In April 2011, the Lands D officers re-inspected the site and identified this squatter structure, and found that the structure was vacant and dilapidated.

2. In July 2012, a 2-person household (Household A) submitted an application to the Lands D for SEGCA and provided copies of electricity bills as evidence of residence in the SS structure.

3. According to the DEVB records, in January 2013, the IDA Panel for Project A (see para. 4.6(c)) noted that: (a) Household A was not covered in the 1984/85 Occupancy Survey; (b) there was no documentary proof to support Household A's claim of residence in the squatter structure from 1984 to 2008; and (c) the electricity bills issued from 2008 to 2010 indicated that there was no electricity consumption during that period. The IDA Panel: (a) concluded that Household A had not resided in the squatter structure from 1984 to 2010; (b) considered that there were no other special circumstances warranting special consideration on Household A's application for SEGCA; and (c) recommended that the Secretary for Development should not offer SEGCA to Household A. In the same month, the Secretary for Development rejected Household A's SEGCA application.

Case 10 (Cont'd)

4. In October 2013, Household A made an application to the Lands D for re-housing to PRH. According to the Lands D: (a) the responsible officers noted from Household A's letters that the squatter structure had been damaged by a landslide in 1997, and Household A had been advised not to rebuild the structure because it had been covered within the clearance boundary of a development project; and (b) considering that the structure was not fit for occupation after the landslide in 1997 (which was beyond the control of Household A), the Lands D officers considered that Household A had fulfilled the 2-year residence requirement under the PRH re-housing criteria (see para. 4.4(a)(iii)), and forwarded the case to the HD for further checking on other eligibility criteria for PRH (see para. 4.4(a)(iv)). In March 2014, based on the Lands D's information and checking results on other eligibility criteria, the HD allocated a PRH flat to Household A.

Audit comments

5. Based on the meter readings recorded in electricity bills kept in the Lands D's case file, there was no electricity consumption at the squatter structure from December 2007 to March 2012. Given that the IDA Panel for Project A concluded that Household A had not resided in the squatter structure from 1984 to 2010, Household A did not meet the requirement on 2-year residence immediately before the announcement date of clearance under Project A on 12 November 2010, thus not fulfilling the eligibility criteria for re-housing to PRH (see para. 4.4(a)(iii)).

6. In Audit's view, the Lands D needs to take measures to ensure that only eligible households affected by a clearance operation are referred to the HD for PRH re-housing.

Lands D responses

7. In March 2017, the Lands D informed Audit that:

- (a) the Lands D officers processing the application for PRH re-housing were unaware of the reasons based on which the SEGCA application was rejected by the Secretary for Development (see para. 3 above); and
- (b) with hindsight, given the peculiar history of the case and the DEVB's decision to reject the SEGCA application, the application for PRH re-housing should have been escalated to a higher-level Lands D officer for consideration.

Source: DEVB, Lands D and HD records

Affected structures not being identified in pre-clearance surveys

4.11 The clearance operation for Project A was implemented in three phases. The Lands D's Clearance Unit and SC Unit (see Appendix B) conducted the pre-clearance surveys in September 2008, November 2010 and September 2011 respectively in order to ascertain the Government's commitments on re-housing and ex-gratia allowances. However, Audit noted that, of the 1,669 structures having been cleared under Project A, the two Lands D units had not identified 68 (4%) affected structures during the pre-clearance surveys from September 2008 to September 2011 (these structures were subsequently identified). Audit examination revealed that, of the 68 affected structures not being identified in pre-clearance surveys, 8 (12%) had been recorded in the 1982 Squatter Survey and each being assigned with a squatter survey number, the records of which were maintained by the Lands D's SC Unit. Case 10 in paragraph 4.10 is an example of the 8 cases.

4.12 According to the Lands D's internal review, some affected structures were not identified in the pre-clearance survey because they had been covered by overgrown grass, and they could only be identified after grass cutting. In March 2017, the Lands D informed Audit that:

- (a) Project A was a very large-scale project involving around 60 hectares of land and about 1,700 structures. In addition, the structures were scattered and some of them were in inconspicuous position. Owing to these circumstances and the target to complete the pre-clearance survey within one day, some structures were not identified; and
- (b) there were no practical implications as all claims for re-housing were subject to eligibility checking.

4.13 Audit considers that the Lands D needs to take measures to ensure that all structures covered by a clearance operation are identified during pre-clearance surveys.

Audit recommendations

4.14 **Audit has *recommended* that the Director of Lands should, in carrying out a clearance operation for S&L structures in future:**

- (a) **take measures to ensure that only eligible households affected by the clearance operation are referred to the HD for PRH re-housing; and**
- (b) **take measures to ensure that all structures covered by the clearance operation are identified during pre-clearance surveys.**

Response from the Government

4.15 The Director of Lands agrees with the audit recommendations. She has said that doubtful cases for PRH re-housing will be referred to the Lands D's senior-level officers for consideration in future.

Dangerous slopes posing landslide risks to squatter and licensed structures

4.16 From mid-1940s to late 1970s, with the growing population and shortage in housing supply, thousands of people erected squatter structures for accommodation purposes on hillsides. According to the CEDD:

- (a) cutting steep into hillsides and dumping of loose excavated soils to form building platforms for constructing squatter structures was normal at that time and virtually without any control, resulting in the illegal formation of sub-standard man-made slopes and disturbance of steep natural terrain;
- (b) there were hardly any surface drainage provisions and surface protection to the illegally formed slopes and disturbed natural terrain, which have been particularly prone to landslide risks; and
- (c) having been constructed with scrap materials, many squatter structures were flimsy, and in some cases their floors and rear walls were constructed from bare excavated earth. Therefore, even relatively minor landslides could be very damaging.

4.17 In past decades, landslides had resulted in serious casualties at some squatter areas (see Photograph 16), causing 30 deaths since 1980s.

Photograph 16

**A landslide destroying a squatter structure at Kau Wa Keng, Lai Chi Kok
(4 June 1997)**



Source: CEDD records

Clearance of squatter and licensed structures

4.18 From 1997 to 2016, 5 fatal landslides had occurred in the territory, with 4 of them related to S&L structures (see Table 10).

Table 10

**Fatal landslides affecting S&L structures
(1997 to 2016)**

Date of landslide	Landslide location	Casualties
4 June 1997	Kau Wa Keng, Lai Chi Kok	1 death and 5 injuries
23 August 1999	Sham Tseng, Tsuen Wan	1 death and 13 injuries
20 August 2005	Fu Yung Shan, Tsuen Wan	1 death
7 June 2008	Cafeteria Old Beach, Tuen Mun	2 deaths

Source: CEDD records

NDC programme on slope-safety grounds

4.19 In 1984, owing to the flimsy nature of squatter structures and the serious casualties of squatter occupants caused by landslides, the Government implemented the NDC programme on slope-safety grounds for clearing squatter structures prone to landslide risks. Under the NDC programme, if the CEDD's inspections revealed landslide risks to squatter structures, the Lands D (or the HD before 2006) would advise the affected squatter occupants of the landslide risks and propose re-housing arrangements for them. From 1984 to 1992, 64,200 squatter occupants who had been recommended to move out from squatter structures on slope-safety grounds were re-housed to PRH flats or interim housing.

Clearance of squatter and licensed structures

4.20 In October 1995, the Government adopted a new NDC policy for the following two categories of cases:

- (a) ***Compulsory clearance.*** Squatter structures under this category were exposed to immediate and obvious danger such that the CEDD would recommend the HD/Lands D to initiate compulsory clearance of the related structures; and
- (b) ***Voluntary clearance.*** Squatter structures under this category were especially vulnerable to landslides, and clearance of the related structures would be implemented on a voluntary basis through persuasion.

4.21 In early 2015, of the total 772 squatter areas, 472 (61%) had been inspected by the CEDD to assess the landslide risks which had made recommendations for improvement. In June 2015, the CEDD engaged a consultant for conducting inspections of the remaining 300 (772 less 472) squatter areas, with the consultancy targeted for completion in April 2020.

4.22 Table 11 shows the progress of re-housing squatter occupants prone to landslide risks.

Table 11

**Progress of re-housing squatter occupants prone to landslide risks
(October 2016)**

Squatter inspections conducted by CEDD	No. of squatter occupants			Percentage of squatter occupants opting not to relocate (Note 2) $(d) = \frac{(c)}{(a)} \times 100\%$
	recommended for re-housing (a)	being re-housed (Note 1) (b)	opting not to relocate (c) = (a) – (b)	
Jan 1993 to Sep 1995	8,798	7,344	1,454	17%
Oct 1995 to Dec 2000	11,063	5,209	5,854	53%
Jan 2001 to Dec 2005	3,693	107	3,586	97%
Jan 2006 to Dec 2010	598	28	570	95%
Jan 2011 to Oct 2016	626	6	620	99%
Overall	24,778	12,694	12,084	49%

Source: Audit analysis of Lands D records

Note 1: Squatter occupants were normally offered PRH re-housing if they met the relevant eligibility criteria (see para. 4.4(a)).

Note 2: Before October 1995, most squatter occupants were compelled to move out from squatter structures prone to landslide risks. From October 1995, clearance of some squatter structures vulnerable to landslides has been implemented on a voluntary basis (see para. 4.20(b)).

***Need to monitor and report progress of upgrading works for
public slopes affecting S&L structures***

4.23 In October 2009, the DEVB informed LegCo that:

- (a) for compulsory clearance cases, as the danger was self-evident, there had been no major problem in clearing squatter structures under this category;
- (b) for voluntary clearance cases, great difficulty had been encountered in clearing squatter structures under this category, as the vast majority of

occupants had opted not to relocate from the affected squatter structures, especially for those who were ineligible for PRH re-housing;

- (c) to better address public concerns on slope safety, there was a need to carry out landslide prevention works to government man-made slopes (Note 15) affecting squatter structures. The DEVB and the CEDD estimated that about 1,600 government man-made slopes would require upgrading works to be carried out to deal with landslide risks on voluntary clearance cases, as follows:
 - (i) with necessary access and working space, upgrading works could be carried out on about 800 government man-made slopes affecting some 2,400 squatter structures. The related works would be implemented under the Landslip Prevention and Mitigation Programme (LPMit Programme — Note 16) to be launched in 2010, and the estimated works cost was in the order of \$1 billion; and
 - (ii) for the other 800 government man-made slopes where carrying out of works was difficult due to the lack of access or working space, the Government would strive to seek the cooperation of the squatter occupants to facilitate the implementation of slope upgrading works in order to mitigate the landslide risks; and
- (d) for squatter structures prone to landslide risks of both government man-made slopes and natural terrain hazards (Note 17), flexibility could be built into the LPMit Programme to enable the CEDD to exercise professional judgement to tackle the problem from a cost-effectiveness viewpoint pursuant to the “react-to-known-hazard” principle.

Note 15: *According to the CEDD, man-made slopes are slopes having been significantly modified by human activities, such as installation of drainage channels, weepholes and impermeable cover on the slope surface.*

Note 16: *According to the CEDD, the LPMit Programme is implemented on a rolling basis with the following annual targets: (a) upgrading 150 government man-made slopes; (b) conducting safety-screening studies for 100 private man-made slopes; and (c) implementing risk mitigation works for 30 natural hillside catchments.*

Note 17: *Natural terrain is natural ground that has not been modified significantly by human activities.*

Clearance of squatter and licensed structures

4.24 In November 2015, the DEVB informed LegCo Panel on Development that a review of the LPMit Programme had been completed and the Programme was found to be implementing in a satisfactory manner.

4.25 The progress of implementing upgrading works for 1,582 government man-made slopes (see para. 4.23(c)) as of February 2017 is shown in Table 12.

Table 12

Progress of upgrading works for 1,582 government man-made slopes posing landslide risks to S&L structures (February 2017)

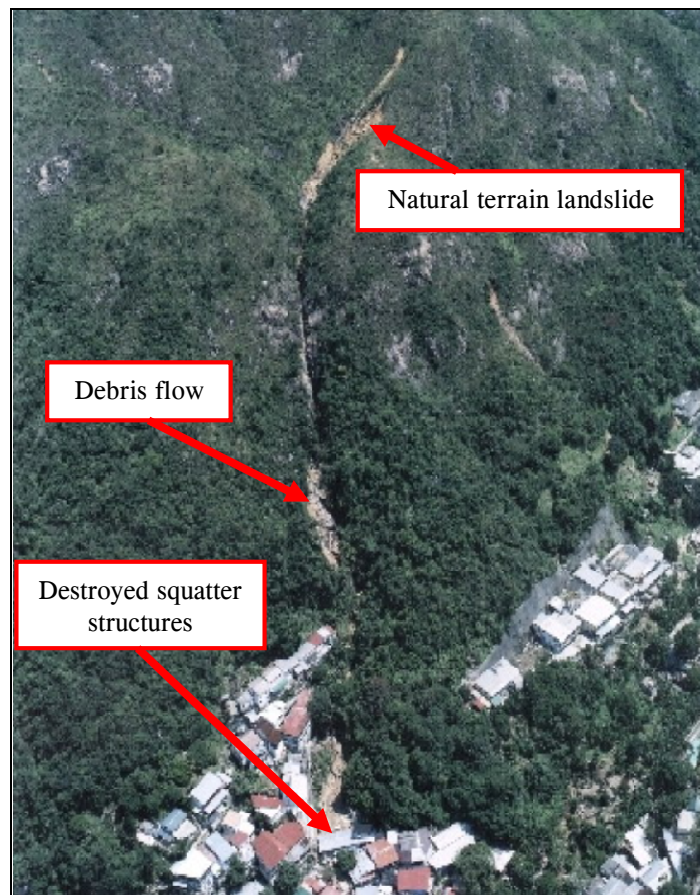
Progress of upgrading works	Government man-made slope (No.)
Works completed or in progress	
(a) Works completed under other government projects	372
(b) Works completed under LPMit Programme	133
(c) Works in progress under LPMit Programme	16
(d) Works in progress under other government projects	15
Study in progress	
(e) Study in progress under LPMit Programme	73
(f) Study in progress under other government projects	33
Works not yet commenced	
(g) Works to be carried out under LPMit Programme pending confirmation that voluntary clearance is not successful (see para. 4.23(b))	32
(h) Works might be carried out under other government projects	3
(i) Awaiting selection under LPMit Programme	905
Total	1,582

Source: CEDD records

4.26 Moreover, from 1980 to 2016, of the 16 fatalities arising from natural terrain landslides, 13 (81%) occurred at squatter areas (see photograph 17).

Photograph 17

**A natural terrain landslide
destroying squatter structures at Sham Tseng, Tsuen Wan
(23 August 1999)**



Source: CEDD records

4.27 Audit noted that, as of January 2016, natural terrains were posing potential landslide risk to 199 squatter structures which had been recommended by the CEDD for clearance on slope-safety grounds, but the related squatter occupants had opted not to relocate from the affected areas. Natural terrain hazard studies had not been conducted for these squatter structures to identify any required mitigation measures. While the LegCo paper in November 2015 (see para. 4.24) reported the overall progress of the LPMit Programme, the paper did not specifically report the

Clearance of squatter and licensed structures

progress of implementing upgrading works for government man-made slopes and natural terrains posing landslide risks to S&L structures. Given the landslide risks being posed to S&L structures, Audit considers that the DEVB and the CEDD need to monitor the progress of upgrading works for public slopes affecting S&L structures and periodically report the pertinent works progress to LegCo.

Need to strengthen actions to upgrade private slopes posing landslide risks to S&L structures

4.28 Under the Buildings Ordinance (Cap. 123), the BD (Note 18) may issue a Dangerous Hillside Order (DHO) to a private-slope owner requiring him to conduct an investigation, submit an upgrading works proposal for approval and carry out slope upgrading works within a specified period. As of January 2017, owners of 165 private slopes posing landslide risks to S&L structures had been issued with 210 DHOs (Note 19) which had not been satisfactorily complied with (see Table 13).

Table 13

**210 outstanding DHOs relating to private slopes
posing landslide risks to S&L structures
(January 2017)**

Number of years since issue of DHO	Number (Percentage) of DHOs
< 5 years	119 (57%)
5 to < 10 years	57 (27%)
10 to < 15 years	24 (11%)
15 to < 20 years	9 (4%)
21 years	1 (1%)
Total	210 (100%)

Source: Audit analysis of BD and CEDD records

Note 18: *Under the Buildings Ordinance, the authority to issue a Dangerous Hillside Order is vested in the Building Authority, who is the Director of Buildings. For simplicity, the Building Authority is referred to as the BD in this Audit Report.*

Note 19: *A private slope may be divided into two or more distinct portions owned by different persons, and a DHO would be issued to the owner of each portion of a private slope.*

4.29 Under the Buildings Ordinance, the BD may take the following DHO enforcement actions:

- (a) if a private-slope owner does not carry out the required tasks by the dates specified in a DHO, the BD may, under the Buildings Ordinance, carry out the investigation and any subsequent works (namely default works) and recover the costs plus supervision charges and surcharges from the owner; and
- (b) a person who fails to comply with the requirements under a DHO without reasonable justifications may be subject to prosecution under the Buildings Ordinance. The person is liable, on conviction, to a maximum fine of \$50,000 and to imprisonment for one year, and to a daily maximum fine of \$5,000 for each day during which the failure to comply with the DHO has continued.

4.30 Regarding the 34 DHOs being outstanding for 10 to 21 years (see Table 13 in para. 4.28), Audit examination revealed that, as of January 2017:

- (a) regarding slope upgrading works relating to 18 DHOs undertaken by the private-slope owners, works relating to 2 DHOs were in progress and 16 DHOs had not commenced; and
- (b) the BD had taken actions to arrange default works relating to the remaining 16 DHOs, of which slope upgrading works relating to 2 DHOs were completed, 2 DHOs in progress and the remaining 12 DHOs at the investigation and design stage.

Case 11 shows the progress of actions on a DHO that has been outstanding for 21 years (see Table 13).

Case 11

A long-outstanding DHO (January 1996 to January 2017)

1. In January 1996, the BD issued a DHO (covering 11 private slopes posing landslide risks to 15 squatter structures) requiring a land-lot owner to submit an upgrading works proposal for the private slopes by May 1996 to the BD for approval. However, the owner did not submit the works proposal by the specified time.
2. In July 1997, landslides occurred at 2 private slopes covered under the DHO. In October 1999, the BD initiated default-works actions and engaged a consultant to carry out the design for the required slope works. From 2000 to 2004, the private-slope owner requested the BD to withhold the default works on the grounds that legal proceedings on the ownership of the land (Note) with the land-lot occupants were in progress.
3. In June 2005, landslides occurred at 2 other private slopes covered under the DHO, causing damage to 2 squatter structures. In December 2005, the BD engaged another consultant to update the remedial works proposals and take up the required slope works. According to the BD, despite repeated liaisons with the land-lot occupants, they refused to provide access for the BD to carry out the slope upgrading works. In January 2014, the BD informed the CEDD that the occupants of the land lot objected to the slope works and the BD was exploring ways to solicit their cooperation.
4. As of January 2017, the DHO was still outstanding and the related slope upgrading works had not been satisfactorily carried out. According to the BD, the prolonged legal proceeding on the ownership of land, uncooperative land-lot occupants and unexpected changes in the remedial works proposal had adversely affected the carrying out of the default works.

Case 11 (Cont'd)

Audit comments

5. The slope upgrading works under the DHO had not been satisfactorily carried out during 21 years from January 1996 to January 2017. In the meantime, two landslides occurred each involving 2 private slopes covered under the DHO, causing damage to 2 squatter structures. These incidents indicate that slopes found to be requiring upgrading works could pose high landslide risks to nearby S&L structures.

Source: BD and CEDD records

Note: According to the BD, the result of legal proceeding might invalidate the DHO issued by the BD.

4.31 In 2011, Audit conducted a review of the safety and maintenance of private slopes, including the administration of DHOs by the BD. The results of the review were included in Chapter 11 of the Director of Audit's Report No. 57 of October 2011. In response to Audit's recommendations, the BD agreed to consider carrying out default works or taking prosecution action (see para. 4.29(a) and (b)) on long-outstanding DHO cases at an earlier time, and it would endeavour to make the best use of its available resources to instigate enforcement action as far as possible.

4.32 In view of the high landslide risks posed to S&L structures (see paras. 4.16 to 4.18), Audit considers that the BD needs to strengthen actions on private slopes for which the required upgrading works specified in DHOs have not been satisfactorily carried out over a long period of time.

Audit recommendations

4.33 Audit has *recommended* that the Secretary for Development and the Director of Civil Engineering and Development should monitor and periodically inform LegCo of the progress of implementing upgrading works for government man-made slopes and natural terrains posing landslide risks to S&L structures.

4.34 Audit has *recommended* that the Director of Buildings should strengthen actions on private slopes for which the required upgrading works specified in DHOs have not been satisfactorily carried out over a long period of time.

Response from the Government

4.35 The Secretary for Development and the Director of Civil Engineering and Development agree with the audit recommendation in paragraph 4.33. They have said that the CEDD has planned to report the progress of related upgrading works for slopes and natural terrains in the Controlling Officer's Report of the CEDD, which forms part of the annual Estimates submitted to LegCo.

4.36 The Director of Buildings agrees with the audit recommendation in paragraph 4.34. He has said that:

- (a) for long-outstanding DHOs, the BD will continue to closely monitor the progress of upgrading works undertaken by private-slope owners, as well as default works undertaken by the BD's consultants and term contractors; and
- (b) should there be unreasonable delays in carrying out upgrading works by private-slope owners, the BD will consider taking appropriate enforcement actions under the Buildings Ordinance, including prosecution.

**Lands Department's progress in implementing
improved squatter control measures since June 2016
(June 2016 to March 2017)**

In March 2017, the Lands D informed the Audit Commission that, since the announcement of the improved SC measures on 22 June 2016:

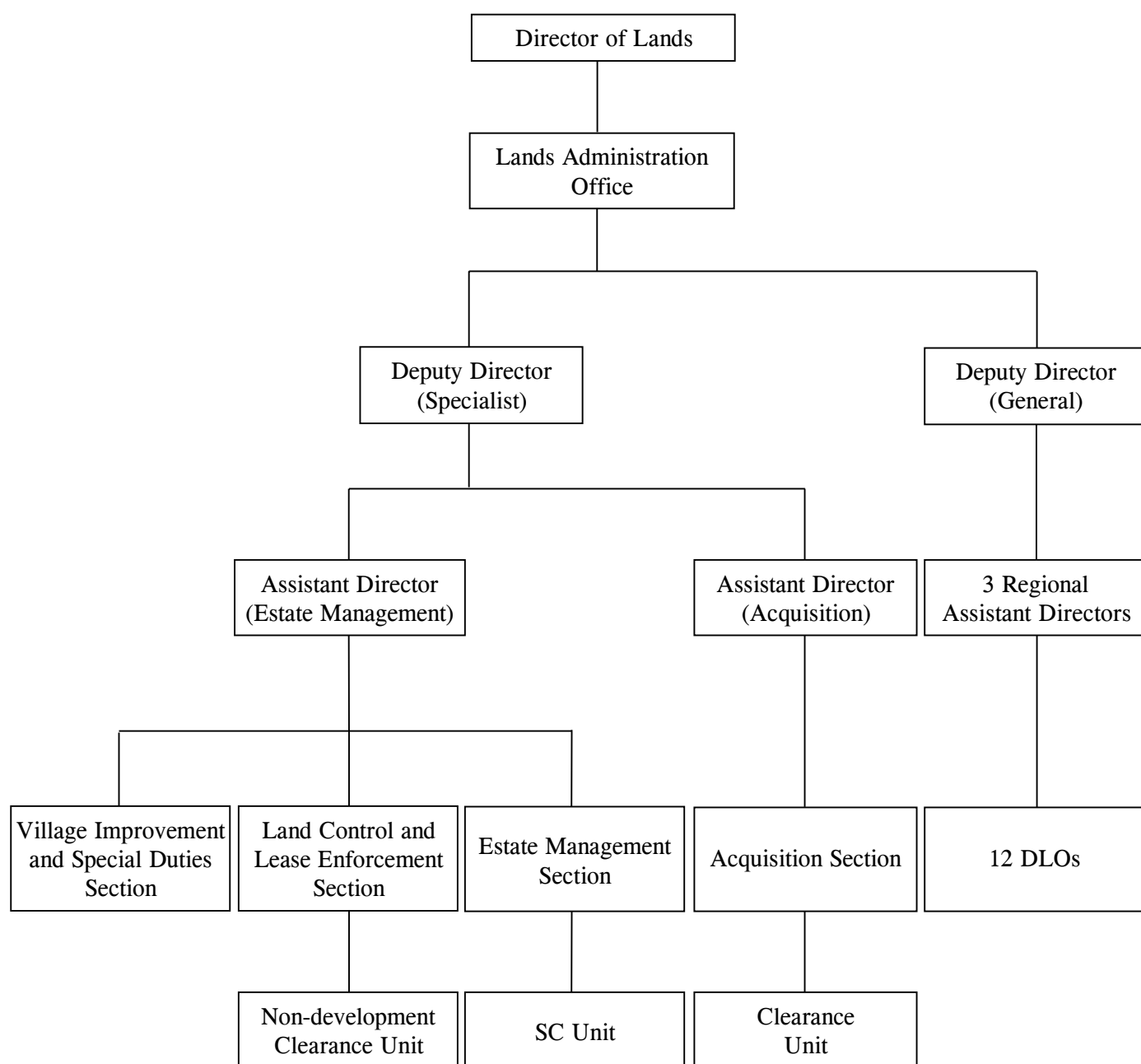
- (a) all Squatter Control Offices and District Lands Offices had taken actions to implement the improved SC measures (see para. 1.8(a) and (b));
- (b) as of February 2017, the Lands D had cancelled the squatter survey numbers of 21 SS structures in Tai Po and Yuen Long, which were found to have constructed with unauthorised extensions after 22 June 2016;
- (c) the Lands D had drawn up a specific timetable for the enforcement work. In this connection, in September 2016, the Lands D's instructions were updated to include a "Squatter Control Workflow Chart", under which SS structure occupants having unauthorised extensions completed on or before 22 June 2016 would in general be given a period of 28 days to rectify the irregularities. Approvals from Lands D supervisors (e.g. Assistant Manager, Manager or Senior Estate Surveyor) had to be obtained for any discretionary extension of the 28-day period;
- (d) all Squatter Control Offices were required to hold bi-monthly Case Monitoring Meetings and report to the Lands D's Headquarters regularly on the progress of their SC actions through submissions of Case Monitoring Reports;
- (e) since June 2016, the Lands D had used unmanned aerial systems and large-format digital aerial cameras to take photographs of squatter areas by phases with a view to stepping up investigations and information collection. These photographs, which were helpful to Squatter Control Offices in verifying whether detected unauthorised structures were newly constructed, would facilitate the implementation of the initiatives mentioned in paragraph 1.8(a) and (b). As of March 2017, the Survey and Mapping Office had completed the first round of aerial-photograph taking work and the photographs had been dispatched to Squatter Control Offices for follow-up actions;

Appendix A
(Cont'd)
(para. 1.8 refers)

- (f) the Survey and Mapping Office had taken initiatives to actively identify squatter structures with irregularities by comparing aerial photographs of different periods. In November 2016, the Survey and Mapping Office found a total of 16 suspected illegal structures on government land in Tuen Mun and the information had been referred to the concerned Squatter Control Office for investigation; and
- (g) since 22 June 2016, the Squatter Control Offices had started to keep records on the number of cases with non-compliant SS structures detected during SC patrols, and the SC patrols had detected 104 related cases from 22 June 2016 to 28 February 2017.

Source: Lands D records

**Lands Department:
Organisation chart (extract)
(December 2016)**



Source: Lands D records

Time of completing a cycle of routine patrol and hut-to-hut check

(A) Routine patrol

According to the Squatter Control Operational Manual, under the tri-colour system, squatter areas are classified into red, yellow and green areas in descending order of vulnerability to new squatting activities, and the time of completing a cycle of routine patrol is as follows:

Area classification	Area in hectare (or number of SS structures)	Time of completing a cycle of routine patrol
Red	150 to 300 hectares	<ul style="list-style-type: none"> • Daily for black spots • Two working days for others
Yellow	301 to 550 hectares (or more than 2,500 SS structures if the size of a patrol area is below 301 hectares)	<ul style="list-style-type: none"> • Two working days for black spots • Three working days for others
Green	Above 550 hectares	<ul style="list-style-type: none"> • Four working days

(B) Hut-to-hut check

According to the Squatter Control Operational Manual, the time of completing a cycle of hut-to-hut check ranges from 12 to 24 months, depending on the number of SS structures in each patrol area. Details are as follows:

Number of SS structures within a patrol area	Time of completing a cycle of hut-to-hut check
Not exceeding 2,500	12 months
Between 2,501 and 4,000	18 months
Exceeding 4,000	24 months

Source: Lands D records

**Non-compliant surveyed squatter structures
identified in December 2016**

SS structure	Non-compliance with SC Policy		
	Unauthorised rebuilding	Unauthorised change of use, dimensions or building materials	Unauthorised extension
<i>New cases detected during Audit's site visit</i>			
A (see Case 1 in para. 2.12)	✓	✓	✓
B (see Case 2 in para. 2.12)	✓	✓	✓
N		✓	✓
O		✓	✓
P	✓	✓	
Q		✓	✓
R		✓	
<i>Cases under enforcement actions of Lands D before Audit's site visit</i>			
C (see Case 3 in para. 2.12)		✓	✓
E (see Case 5 in para. 2.19)	✓	✓	✓
F (see Case 6 in para. 2.19)		✓	✓
S	✓	✓	✓
T		✓	✓
U		✓	✓
V	✓	✓	✓
W		✓	✓
X		✓	✓
Y	✓	✓	✓
Z	✓	✓	✓
AA	✓	✓	

Source: Audit analysis of Lands D records

**Key eligibility criteria for Cottage House Option and
Special Ex-gratia Cash Allowance under Project A**

Key eligibility criteria	Applicable to	
	Cottage House Option	SEGCA
The affected domestic structure was located in one of two villages affected by Project A and the occupants were non-indigenous villagers.	✓	
The affected occupants resided in an affected structure at the date of the pre-clearance survey.	✓	✓
The affected structure was either a domestic structure covered in the 1982 Squatter Survey or a domestic licensed structure.	✓	✓
The affected occupants were covered by the 1984/85 Occupancy Survey, or could produce evidence showing that they had resided in an affected structure from 1984/85 to the date of the pre-clearance survey.	✓	✓
No occupants should own or co-own any domestic property in Hong Kong.	✓	✓
No occupants should be enjoying any form of subsidised housing or related benefits at time of application.	✓	✓

Source: DEVB records

Acronyms and abbreviations

Audit	Audit Commission
BD	Buildings Department
B/Ds	Government bureaux or departments
CEDD	Civil Engineering and Development Department
DEVB	Development Bureau
DHO	Dangerous Hillside Order
DLO	District Lands Office
ETPM System	Electronic Team Patrol Monitoring System
FC	Finance Committee
ft	Feet
ft ²	Square feet
GLL	Government Land Licence
HA	Hong Kong Housing Authority
HD	Housing Department
HK&LYM	Hong Kong and Lei Yue Mun
IDA Panel	Inter-departmental Advisory Panel
K,TW&KT	Kowloon, Tsuen Wan and Kwai Tsing
Lands D	Lands Department
LegCo	Legislative Council
LPMit Programme	Landslip Prevention and Mitigation Programme
m ²	Square metres
NDC	Non-development clearance
PRH	Public rental housing
RVD	Rating and Valuation Department
SC	Squatter control
SCO	Squatter Control Office
SEGCA	Special Ex-gratia Cash Allowance
S&L structures	Squatter and licensed structures
SS structure	Surveyed squatter structure
STTs	Short-term tenancies