The Hong Kong 2022-23 Budget – Key Updates on Real Estate Sector

February 28, 2022

1 INTRODUCTION

The 2022-23 Budget was delivered by Paul Chan, the Financial Secretary of the HKSAR Government (the "**Government**") on 23 February 2022, in the midst of the rapid worsening of this fifth wave of the COVID-19 pandemic in the Territory. With the aim of stabilising the economy and maintaining public confidence, the Government is proposing to roll out fiscal policies to spend over HK$170 billion on counter-cyclical measures and other infrastructure projects. Major updates on the real estate sector are highlighted below.

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1.1 Rental enforcement moratorium for small and medium-sized enterprises ("SMEs") tenants

To help relieve the immediate pressure for Hong Kong's SMEs in the context of the extreme adverse business environment, the Government proposes a short-term form of rental relief for SMEs in "specified sectors" to defer rent payment for three months but this may be extended up to six months starting from January 2022. The Government will introduce new legislation to prevent landlords from terminating the tenancy of, or not providing services to, these SME tenants for failing to settle rents on schedule, or taking relevant legal action against such tenants for the prescribed period. The legislation will automatically lapse after six months.

There are concerns about the implementation of the plan, including whether landlords have sufficient cash flow to pay their mortgages and interest fees during the deferral period, or whether tenants can pay rents in instalments after the period.

A few days after the announcement of this new plan, the Government has clarified that this policy will only target prominent commercial property owners and land developers, instead of small landlords. The Government further proposes to offer interest-free loans to landlords with cash flow issues. The Government will provide advanced rent payments of up to three months to landlords on tenants' behalf, subject to a ceiling of HK$100,000. Landlords will then reimburse the Government once they have collected the rents from tenants. The Hong Kong Monetary Authority will issue guidelines for banks to handle mortgage repayments flexibly, in case the repayment ability of the landlords is affected by the new policy.

The Government also calls on land developers to shoulder their social responsibility by offering rent concessions to SMEs tenants, while the Government will speed up the drafting process for the rent deferment bill.

Similar rent moratorium schemes have been implemented in the United Kingdom and Singapore in 2020. Landlords and tenants will know that this is not panacea. It reduces financial pressure for some while potentially increasing financial pressures for others. The implementation details are not yet known and will need to be reviewed carefully. Please note this is a targeted approach for specific tenant types and landlords rather than a blanket benefit for all tenants. The intention is to encourage landlords and tenants to have sensible negotiations to settle appropriate payment terms.

1.2 Tax deduction for domestic rental expenses

Starting from the year of assessment 2022-23, the Government has introduced tax deductions for domestic rental expenses, capped at HK$100,000 for this year of assessment. The proposed deduction is offered to taxpayers who are not owners of domestic properties to ease their burden of renting a private property.

1.3 Change in rules for first-time homebuyers

To boost demand for larger-sized and more affordable homes, the Government has further relaxed the mortgage cap to assist first-time homebuyers and families seeking self-occupied "flat for flat". The available mortgages on homes with a loan-to-value ratio of 80% will increase from HK$10 million to a maximum of HK$12 million. For first-time homebuyers, the available mortgages on homes with the higher loan-to-value ratio of 90% will now increase from HK$8 million to a maximum of HK$10 million. However, interested buyers should be aware of the more stringent income requirements under the stress test to qualify for the higher loan-to-value ratio. Buyers should also consider their ability to service debt repayments given that interest rates are of course expected to increase several times during the course of this year.

1.4 Rating system reform for domestic properties

The Government will introduce a progressive rating system in 2024-25 for domestic properties to reflect the “affordable users pay” principle. Currently, rates are charged at a flat rate of 5% of the rateable value. Depending on the annual rateable value of the domestic property, the revised rates will progress from 5% to 8% and then to 12%.

The Government also proposes to grant future rates concession only to natural persons and on only one residential property under the name of that individual. Owners with multiple properties will not be entitled to multiple rates concession, and companies that own properties will not be able to apply for these rates concessions.

The Government expects that the progressive rating system will not have a wide-ranging impact on property owners, and middle-class properties will unlikely be effected by the reform.

1.5 Land Supply

1.5.1 Short Term Supply

The Land Sale Programme for 2022-2023 will include 13 residential sites and 4 commercial sites. Combined with MTR, URA and private developer and redevelopment projects, the land supply is expected to have a capacity of 18,000 residential units.

1.5.2 Medium Term Supply

Government expects to secure approximately 103 hectares of land in the coming 5 years for the production of 57,000 units. However, this number excludes URA and other private land development projects which should result in an average completion of 19,000 units annually in the next 5 years with accelerated numbers reaching new highs over the next 3 years.

1.5.3 Public Housing Supply

The Government has identified 350 hectares of land for about 330,000 public housing units to meet demands over the next 10 years. It is expected that approximately 1/3 of these units are scheduled for completion in the next 5 years and the balance in the 2nd five year period.

1.5.4 Longer Term Land Supply

See Section 1.6 below on the Northern Metropolis and Lantau Tomorrow.

1.6 Northern Metropolis and Lantau Tomorrow

Interesting to note that both of these mega projects continue to be highlighted to create longer term growth of land supply in Hong Kong. The budget goes on to commit HK$100 billion from the Future Fund to set up a dedicated fund to expedite the implementation of infrastructure works relating to land, housing and transportation in the Northern Metropolis. Studies are also underway in relation to the proposed Lantau Tomorrow project so this project continues to move forward. The Government intends to consider financing options such as Bond Issuances and PPP approaches for these large scale developments.

1.7 Streamlining Statutory Procedures

The Government is proposing a much-needed overhaul of land development legislation. The plan is to streamline procedures to accelerate the time needed "for land creation". Clearly, this will include land reclamation work and creation of New Development Areas. Query if this will also create a tension with the Government's objectives of building "green cities". Let's see how this evolves.

2 END NOTE

Implementation timeline and details of the proposed measures are still to be developed. Our team in Hong Kong will continue to monitor the legal developments around these issues and provide further updates on these points as they become clearer.

This article was co-written with Trainee Solicitor Veronica Ma.

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