



Policies and programmes on land requisition for urban development in Guangzhou Municipality and Shenzhen Municipality

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1. Introduction

1.1 An economic and land development paradigm that favours the south over the north in Hong Kong has long been a concern. While it is generally agreed that Hong Kong faces land shortage, many sites in the New Territories (“NT”) are still left idle or under-utilized due to various reasons. As the SAR Government proposes the Northern Metropolis strategy and plans to resume at least 700 hectares of land for development in NT in the next few years, NT land development issues have once again come under the spotlight.¹ Many residents holding land in NT have long been concerned about land resumption by the Government, especially about compensation-related issues, and some of them believe that they have not fully enjoyed the fruits of land development in NT. Moreover, there are views that the low-density development of NT rural villages cannot reap the full potential from land use, while others are concerned over how ageing villages can be integrated into the new economic and housing development in the Northern Metropolis.

1.2 At the request of Ir Hon Gary ZHANG Xinyu to explore policies and programmes on land requisition for development in Mainland cities, this *Information Note* has selected Guangzhou Municipality and Shenzhen Municipality in the Guangdong-Hong Kong-Macao Greater Bay Area for study. The first section gives an overview of the policy on rural land resumption in NT and its development,² followed by a summary of different sectors’ views about the policy. As the existing policies on land requisition in Mainland cities are mainly governed by the national Land Administration Law (“LAL”), this Note also briefly introduces the salient features of LAL, including purposes of land requisition and compensation measures. Finally, this Note examines land requisition and relevant policies of Guangzhou and Shenzhen in three main aspects, namely, policies in relation to **compensation standards, types of compensation** and **other means of**

¹ It is expected that 500 hectares of private land will be resumed from 2022-2023 to 2026-2027 and another 200 hectares beyond 2026-2027. See Finance Committee (2022).

² The SAR Government envisages that the development impetus of Hong Kong economy may shift northward in the future. As such, this Note focuses on discussing matters related to land resumption in NT.

promoting urban development.³ Overall speaking, despite the marked differences between the Mainland and Hong Kong in respect of the land system, rural institutions and rules, many Mainland cities, like Hong Kong, are experiencing land shortage amid their accelerated urbanization. Their diverse types of compensation for land resumption and practical experience in redeveloping old villages may, to some extent, provide Hong Kong with some insights.

2. Overview of rural land resumption and development in Hong Kong

2.1 Hong Kong has 1 100 sq km of land, of which nearly 90% is located in NT (including outlying islands). Due to topographical, historical and other factors, developed land only constitutes about a quarter of Hong Kong's land area and is concentrated in urban areas on both sides of the harbour. While relying on reclamation to provide land for economic and housing development, the Government has also resumed private land⁴, particularly rural land in NT, for developing new towns, infrastructure and public facilities, among others. Land ownership in NT is traditionally fragmented. Many of such land lots are held by indigenous residents⁵ individually or collectively (such as Tso/Tong⁶). Through sale, purchase and transfer in the land market over the years, some of the land lots are now held by developers for private developments or as their land reserves. The uses of such rural land are generally subject to respective land leases and statutory plans⁷, and permitted uses may include agriculture, open storage, village type development, conservation, among others⁸.

³ Hong Kong and the Mainland use different terms to describe the government act of taking back land. The terms “resumption” (收回) and “acquisition” (徵收) are commonly used in Hong Kong, while on the Mainland, “requisition” (徵用) and “expropriation” (徵收) are often used. Depending on the place referred to, this Note uses the relevant local term for each case, i.e. “resumption”, “acquisition”, “requisition”, or “expropriation” to broadly refer to the compulsory transfer of land/property to the governments.

⁴ Land within Hong Kong is owned by the State and managed by the SAR Government. “Private land” refers to land leased under government land leases for a term of 50 years generally. See Legislative Council Secretariat (2016a).

⁵ “Indigenous residents of the New Territories” refer to indigenous villagers who resided there before the British implemented colonial rule over Hong Kong.

⁶ It was estimated that as many as 2 400 hectares of land were held in the name of Tso/Tong. The transfer of Tso/Tong land shall comply with the requirements under the New Territories Ordinance (Cap. 97), such as no objection from all members of the Tso/Tong concerned. See Legislative Council Secretariat (2022).

⁷ The New Territories Outline Zoning Plans and/or Development Permission Area Plans cover an area of about 75 200 hectares.

⁸ Over 2 300 hectares of village type development sites have been used (out of a total planned area of 3 361 hectares). Among a total of around 1 600 hectares of brownfield sites, about 60% will be developed for housing and other uses. Moreover, as at end-2019, according to the Agriculture, Fisheries and Conservation Department, Hong Kong had 3 900 hectares of farmland, though 80% of which had been abandoned. See GovHK (2013, 2022c).

2.2 As private land in rural areas has fragmented ownership and lacks infrastructure facilities, large-scale developments are usually led by developers and/or the Government. The former may acquire private land (including Tso/Tong land) available in the market for rezoning for development, or directly bid for government land (including land requisitioned by the Government for New Development Areas); the latter may pursue resumption of private land for public project development in addition to developing unleased government land. Currently, the Government resumes private land in NT mainly by invoking, among others, the **Lands Resumption Ordinance (Cap. 124)** (“LRO”).⁹ The salient features of LRO are as follows:

- (a) **Purposes of land resumption and policy principles:** LRO stipulates that land resumed shall be used **for public purposes** only, namely for, as specified by LRO, **sanitary improvement, improving ventilation of buildings or addressing any issues arising from buildings in a condition unfit for human habitation or dangerous to health, any purpose connected with the Hong Kong Garrison, and any purpose of whatsoever description which the Chief Executive in Council may decide to be a public purpose.**¹⁰ In previous cases where LRO was invoked, specific public purposes covered public works projects, such as road schemes, public housing and New Development Areas/New Towns. The Government shall ensure that land resumption arises from a need and only the minimum amount of land will be resumed, but any land, including land for village houses, may be resumed.¹¹
- (b) **Compensation arrangements and standards for land resumption:** according to LRO, the owner of land resumed may make a **claim for statutory compensation** to the Lands Department in writing. However, in order to shorten the land resumption process, the Government will invariably first adopt the administrative measure of

⁹ Other legislation for land resumption includes the Roads (Works, Use and Compensation) Ordinance (Cap. 370), the Railways Ordinance (Cap. 519), the Land Acquisition (Possessory Title) Ordinance (Cap. 130), the Land Drainage Ordinance (Cap. 446) and the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276). Moreover, the Urban Renewal Authority may, under the Urban Renewal Authority Ordinance (Cap. 563), file an application to the Secretary for Development requesting him/her to recommend to the Chief Executive in Council the invocation of the Lands Resumption Ordinance (Cap. 124) for the land and property resumption in the urban areas.

¹⁰ The Government has recently proposed to amend LRO, among other ordinances, to streamline development process. These proposed amendments include allowing changes to the use of land already resumed either on a permanent or temporary basis, and adjustments to the land resumption procedures such as eligibility to raise objections, etc. See Development Bureau (2022).

¹¹ See Planning and Lands Bureau (2000) and GovHK (2022b).

offering **ex-gratia compensation** to the land owner upon issuing a notice of resumption. The process of compensation for land resumption is completed if the owner accepts the offer. An owner who refuses to accept the ex-gratia compensation may make a claim for statutory compensation, for which there are no specific standard rates. In this case, the Lands Department will assess the compensation on an open market value basis with reference to the existing use value or redevelopment value of the affected interest.¹² If the owner is not satisfied with the compensation, the case may be referred to the Lands Tribunal for determination.

Unlike statutory compensation, there are clearer standards for ex-gratia compensation. Previously, four compensation zones were delineated (from Zone A/B for New Town Development Areas and its vicinity to Zone C/D for areas without development plans and potentials), and the Government also compiled a Zonal Plan for ex-gratia compensation for Land in NT to reflect past decisions on ex-gratia compensation zones. However, the distinction between these zones became increasingly blurred as NT was continuously urbanized. Since April 2021, the Government has changed the zonal arrangement system to the existing two zones (see **Figure 1**), and has since ceased the publication of the Zonal Plan for ex-gratia compensation for Land in NT. The compensation rate is determined by the land type (agricultural land or building land) and whether development uses are involved (two-tier zones). If land resumption involves the construction of New Development Areas, the compensation rate is 100% (Tier One zone); otherwise, the compensation rate is 50% (Tier Two zone). The compensation rates are announced by the Government **half-yearly** based on professional valuation¹³, while the compensation rate for building land is higher than that for agricultural land. As for the resumption of building land involving NT indigenous residents¹⁴, owners may be compensated with an alternative site or resite house, and/or cash allowances, but the ex-gratia compensation is not payable to them if they have selected this option.

¹² Redevelopment value will be considered only if there is a single title for the property likely to be redeveloped. See Development Bureau and Lands Department (2015).

¹³ The compensation rates are computed by a formula, which considers the value of developed land in five new towns/development areas in NT and covers three categories of developed land. See Finance Committee (2022).

¹⁴ Covering also non-indigenous villagers who have continuously owned building land before 25 December 1941 or by succession.

**Figure 1 – Ex-gratia compensation rates (per square foot)
(October 2022)**

Zone	Agricultural land	Building land
Tier One zone (Land for development uses) ^(a)	HK\$1,457	HK\$2,889 + Valuation
Tier Two zone (Land for non-development uses) ^(b)	HK\$729	HK\$1,445 + Valuation

Notes: (a) Including New Development Areas and other development uses covering residential/economic development (including their ancillary purposes) or provision of public facilities beyond rural improvements for local villages.

(b) Including uses related to rural improvement and conservation.

Source: Lands Department.

- (c) **Other compensation arrangements:** apart from providing compensation to land owners, the Government also compensates and rehouses land occupiers and business operators, including:
- (i) **eligible residents in squatters:** they will be provided with an ex-gratia allowance (“EGA”) based on their living area (with a size cap of 100 sq m) and residence duration, the maximum amount of which is HK\$1.2 million (but they are to be barred from applying for subsidized housing for a period of two years), along with removal allowance;
 - (ii) **business operators:** the Government may consider providing business operators¹⁵ with EGAs according to their types of business undertakings, including open-air/outdoor business undertakings¹⁶ (with operation duration of not less than two years), subject to conditions such as no breach of the lease or the tenancy conditions, or pre-clearance rectification works undertaken proactively; and
 - (iii) **eligible farmers and other occupants:** they may be provided with EGAs, including crop compensation, disturbance allowance (also known as “compensation for open ploughing”), EGA for cultivators, and allowance for agricultural buildings on private land, as well as allowance for miscellaneous permanent improvements to farms. Other eligible occupants may also be allocated public rental housing units without being subject to any means test.

¹⁵ Including shops, workshops, godowns, schools and churches.

¹⁶ In 2022, the Government removed the payment ceiling for open areas under EGA for application by open-air/outdoor business operators.

2.3 According to the publicly available data of the Lands Department, a total of 13 and 9 notices of land acquisition for public housing programmes and New Development Areas were issued respectively from 2009 to 2022.¹⁷ Moreover, the annual data of the Lands Department also indicates that from 2009 to 2022, about 290 hectares of land, mainly located in Yuen Long and the North District, were resumed with the total amount of all compensation reaching HK\$20.5 billion (the area of land resumed and land compensation therefor over the recent five years are shown in **Figure 2**). The Development Bureau expects at least 700 hectares of land in NT to be resumed in the next few years.¹⁸

Figure 2 – Area of land resumed and compensation

Year	Land resumed under public works projects (hectares)	Land compensation (HK\$ billion)
2022	22.00	4.734
2021	28.00	3.084
2020	23.81	3.312
2019	68.04	0.264
2018	0.24	0.529

Source: Budget (various years).

Concerns about land resumption by the Government

2.4 Land resumption in NT is an issue of great concern in the community. In recent years, the Government has not only streamlined ex-gratia compensation rates for land owners but also relaxed compensation and/or rehousing arrangements for squatter occupants and business operators. However, there remain different public views over the land resumption policy and land use planning, including: (a) **compensation system**: the current ex-gratia compensation system was introduced in 1983 in place of the old land exchange entitlements system, which permitted the exchange of land in another zone for development at a certain ratio by issuing Land Exchange Entitlements (i.e. Letters A/B).¹⁹ Despite the long operation of the current system, there remain views that the former system should be reinstated, so that land owners can share the economic benefits brought by land

¹⁷ See Lands Department (2022a).

¹⁸ See GovHK (2022a).

¹⁹ The Government abolished the system after the accumulated entitlements hit 138 hectares, providing cash compensation for land resumption instead. In 1997, the Government enacted legislation stipulating that for outstanding entitlements yet to be redeemed, claims shall only be made to the Government for cash compensation. See 規劃環境地政事務委員會 (1996).

development;²⁰ and (b) **planning system**: dissatisfaction with land resumption by the Government may partly arise from land use planning. At present, most agricultural land lots in NT may not be developed due to lease restrictions, and some are also subject to the restrictions on land uses under Outline Zoning Plans (OZPs) or Development Permission Area (DPA) Plans. The development potential of some land lots has thus been suppressed, pending land resumption by the Government for development in compliance with planning requirements.²¹

2.5 While many NT residents are very concerned about the policy on and compensation for land resumption, refusal to accept ex-gratia compensation has not appeared to be common according to the Government.²² Data from the Lands Tribunal also shows that the number of “compensation cases”²³ involving land resumption was likewise on the low side, which peaked at 36 in 2008 before dropping substantially to one in 2019.²⁴ That said, the figure rebounded in 2021, but remained in the single digits. The Government has recently indicated that there would be a need to resume several hundred hectares of land in NT in the coming years, and this, coupled with the implementation of the Northern Metropolis strategy, will draw public attention as to how to expedite releasing land for economic and housing development.

2.6 Recently, there have also been proposals for redeveloping village houses²⁵ to release land, including rezoning some village type development sites with development potential into **residential use** and the development of **multi-storey village buildings**.²⁶ Others have suggested that the Government resume **low-density village type development** for high-density public housing development. Yet, the Development Bureau considers that an across-the-board approach is not applicable when it comes to land for housing development. Factors including adequate infrastructure provisions, the environmental impact and the planning principle of “urban-rural integration” ought to be considered.²⁷

²⁰ See 持續智庫(2021b) and 文匯報(2019).

²¹ See NOW財經(2022).

²² See Planning and Lands Bureau (2002a, 2002b).

²³ Compensation cases refer to cases where the Lands Tribunal determines the amount of compensation payable by the Government to a person whose land has been compulsorily resumed or has suffered a reduction in value because of public developments pursuant to the relevant ordinances. See Judiciary (2022).

²⁴ See Judiciary (various years).

²⁵ Village houses broadly refer to village-type houses approved by the Government in different periods by various means, including small houses under the small house policy and village houses approved under block leases. Some village houses are subject to alienation restriction. See Legislative Council Secretariat (2016b).

²⁶ See 明報(2021) and 頭條日報(2022).

²⁷ See GovHK (2022b).

3. Provisions on land requisition and compensation under the Land Administration Law of the Mainland

3.1 The Mainland's land administration system is unique due to historical reasons. As regards **land ownership**, under the Constitution of China and relevant legislation, land is publicly owned. Specifically, land in the urban areas of cities is **owned by the State**, and land in rural and suburban areas is **owned by peasant collectives** (農民集體所有).²⁸ Both urban residents and rural villagers only have the right to the use of land and the right of ownership of structures on the land. Generally, land on the Mainland can be broadly divided into three categories, namely (a) land for agriculture; (b) non-agricultural land for construction (i.e. building/development land) and (c) unused land (**Figure 3**).²⁹ In the past, except through requisition by the government, land owned by peasant collectives could not be easily used for non-agricultural (urban development) purposes.³⁰ Since the reform and opening-up of the Mainland, requisition by the government of a large amount of land owned by peasant collectives for development has triggered many social conflicts involving, for example, unlawful land expropriation by local authorities, inadequate compensation, failure to protect peasants' livelihood and unauthorized development.³¹

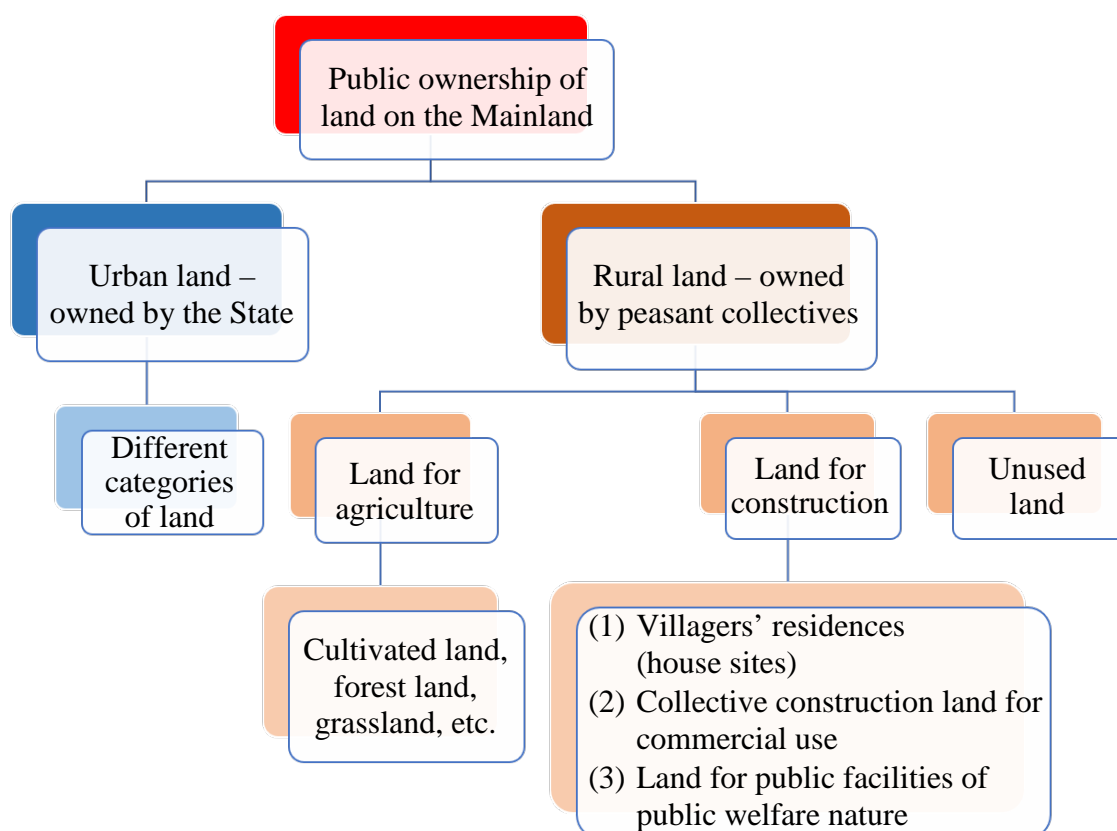
²⁸ See Article 8 of LAL. There is no specific legal definition for peasant collectives, which generally refer to "rural collective economic organizations" (formerly people's communes serving as both government agencies and social organizations) or villagers' committees/groups.

²⁹ Land for agriculture is land directly used for agricultural production, including cultivated land, forest land, grassland, land for irrigation and water conservancy, and aquaculture. Besides, there is also rural land for construction, including "land for public facilities of public welfare nature", "collective construction land for commercial use" (i.e. land for industrial/commercial undertakings operated by village collectives) and "house sites" (i.e. land allocated to each rural household for construction of their residences). See 中央人民政府(2007).

³⁰ Except through requisition by the State, land for agriculture shall not be converted to non-agricultural land for construction. It was generally considered that this practice had in effect given local governments control over land supply and made them overly reliant on land revenue. In addition, stricter restrictions were even imposed on the transfer of house sites, which could only be transferred among peasants.

³¹ See 中央人民政府(2001, 2004), 文匯報(2012) and 蔡樂渭(2017).

Figure 3 – Ownership and categories of land on the Mainland



Source: Prepared by the Research Office through making reference to the Land Administration Law.

3.2 Currently, the policy on land requisition and compensation is subject to LAL and its relevant implementation regulations. As “**a fundamental land administration institution founded upon public ownership of land, established towards protecting cultivated land, and with control over the purposes of use of land as its core**”, LAL protects industrial and urban development in addition to safeguarding peasants’ interests in land. Since the enactment of LAL in 1986, a number of amendments and revisions have been made, including permitting the right to the use of non-agricultural land for construction to be transferred directly on the land market in compliance with planning requirements. The latest amendments in 2019 further established the definition of land requisition in the public interest and the principles on compensation for requisition of peasants’ land. Broadly speaking, LAL is also applicable to land administration institutions at the local level. The salient features of the legislation are outlined below:

- (a) **Protection of cultivated land:** to ensure food supply, LAL exercises strict control over the development of cultivated land in many ways including applying **a system of capital farmland (永久基本農田)** and **a system of compensation for farmland**, thereby maintaining the area and quality of cultivated land. The administrative regions

shall designate at least 80% of their respective total cultivated land as capital farmland. The conversion of use³² and requisition of capital farmland are subject to the approval by the Central Government.

- (b) **Purposes of land requisition:** Article 45 of LAL sets out the **public interests**³³ for which land owned by peasant collectives can be expropriated, including (i) **military and diplomatic purposes**; (ii) **constructing infrastructure projects** (including energy, transport, water conservancy, communications and postal services); (iii) **public causes** (including technology, education, culture and hygiene)³⁴; (iv) **poverty alleviation relocation and affordable housing projects**; (v) **tract development**³⁵ within the extent of urban construction land; and (vi) **public interest as defined by other laws**.
- (c) **Land requisition procedure:** the government shall conduct investigation on the current status of the land to be expropriated and assessment on social stability risks, publish the information on land requisition, such as the scope and purpose of expropriation, compensation standards and resettlement methods, at the requisitioned sites for 30 days at a minimum, and collect feedback. It shall also hold hearings with stakeholders when necessary and among others, revise the plan in accordance with the law.³⁶

³² Such uses include “State Key Construction Projects” involving, for example, energy, transport, water conservancy and military facilities.

³³ Article 10 of **the Constitution** stipulates that “The state may, in order to meet the demands of the public interest and in accordance with the provisions of law, expropriate or requisition land and furnish compensation”, but provides for no definition of “demands of the public interest”. When amending LAL in 2019, the Mainland provided for the definition of “the interest of the public” in detail. It is noted that the national **Property Law** also stipulates that for public interest, land owned by the collectives, and the houses and other immovables of organisations and individuals may be expropriated, but this law likewise offers no definition of public interest.

³⁴ Other public causes include ecology, environment and resource protection, disaster prevention and mitigation, cultural relic protection, comprehensive community services, social welfare, municipal utilities, veteran benefits and placement, and protection of heroes and martyrs.

³⁵ Tract development areas basically refer to comprehensive development areas arranged by local governments in urban development zones. See 自然資源部(2020).

³⁶ For the detailed procedure, see Article 47 of LAL.

- (d) **Policy on compensation for land requisition:** LAL provides that **fair and reasonable** land requisition compensation should be paid to ensure that “**the current standard of living**” of peasants whose land has been expropriated “**is not lowered and their long-term livelihood is guaranteed**”. Compensation can range from monetary compensation for land requisition, resettlement subsidies, to monetary compensation for rural villagers’ houses, other fixtures on land and crops, and peasants’ **pension/social insurance premiums**³⁷.

3.3 Detailed **compensation standards** are prescribed by local governments. At present, local governments set the standards for **zonal comprehensive land prices** (“zonal land prices”), under which land compensation and resettlement subsidies are offered for **agricultural land requisition**, with a uniform price within the same zone. In setting zonal land prices, a host of factors, including the original purpose of land, land resource conditions, land output value, land location, relationship between land supply and demand, population, and level of economic and social development, shall be taken into account. Zonal land prices are **adjusted and published every three years**. Furthermore, if peasants’ residences are involved in land requisition, compensation is offered under the principle of **improving living conditions and respecting the will of villagers**. Various measures may be adopted, including arranging for new house sites for building houses³⁸, providing resettlement houses or monetary compensation, and bearing relocation and temporary resettlement expenses.

4. Land requisition policies in Guangzhou Municipality and Shenzhen Municipality

4.1 Following the reform and opening-up of the Mainland in 1978, **Shenzhen** (formerly the town of Shenzhen in Bao’an County, Guangdong Province) was established as a municipality in the ensuing year and further became one of the first special economic zones (“SEZs”) on the Mainland in 1980, marking the beginning of its rapid urbanisation. As the Constitution and LAL stipulate that urban land belongs to the State, urban development must be undertaken on State-owned land.

³⁷ For example, in Guangdong Province, social insurance premiums are computed at a certain ratio of the zonal land price (10% to 20%) and paid on behalf of all villagers aged above 16 by entities in charge of land requisition. See 廣東省人民政府(2021b).

³⁸ Under the relevant requirements, houses in Longgang District, Shenzhen Municipality are built under the principle of “one building (house site) for one household”, subject to a land area cap of 100 sq m and a gross floor area cap of 480 sq m per house. As for Guangzhou Municipality, based on its standards, a house of no more than three storeys with a gross floor area of no more than 280 sq m may be built on a site of no more than 80 sq m. See 廣州市人民政府(2020) and 深圳市人民政府(2006).

Accordingly, collectively-owned agricultural land in the city was **uniformly requisitioned/converted to state-owned** and compensated for. At the same time, peasants were converted to urban residents and rural collective economic organizations (農村集體經濟組織) (“rural collectives”) were demutualized. The process could be broadly divided into two phases, the first of which began in 1992 and focused on areas within SEZ³⁹, and the second of which began in 2004 and covered areas outside SEZ⁴⁰. However, the second phase of land requisition was not as smooth as the first phase, as some villagers considered that the compensation failed to meet their expectations of land appreciation⁴¹, and some village collectives and villagers had built unauthorized structures for rent or business purposes before land requisition⁴². This led to the so-called “historical” land problems (i.e. the compensation procedure for some land remained incomplete, leaving the land still under the control of the villagers) and hindered urban development.

4.2 As for **Guangzhou Municipality**, its land area is more than three times that of Shenzhen⁴³, and it still has a large amount of agricultural land, including about 80 000 hectares of cultivated land in use (based on 2018 data). Guangzhou Municipality has seen the continuous outward expansion of its urban areas to Huadu in its northern outskirts and Panyu in the south.⁴⁴ Today, requisition of land owned by peasant collectives is still ongoing for various types of development. The following is a broad overview of the **standards for and types of compensation for land requisition** and **other means of promoting urban development** in Guangzhou and Shenzhen.

³⁹ Some 40 000 villagers from nearly 240 villages were converted to urban residents and the land owned by peasant collectives was expropriated, but the land use rights of existing developments and house sites remained unchanged.

⁴⁰ Involving Bao'an and Longgang districts, which were only incorporated into the SEZ in 2010. See 深圳市人民政府 (2004).

⁴¹ The compensation for land requisition is generally based on relevant measures formulated in 1989 in accordance with LAL and provincial regulations, having regard to the city's own circumstances. See 深圳市人民政府 (1989).

⁴² There were an estimated 380 000 illegal structures in 2011. See 中國農業信息網 (2012).

⁴³ It amounts to 7 400 sq km, out of which the total developed area is only 1 300 sq km.

⁴⁴ Panyu and Huadu abolished their status as cities and were incorporated into Guangzhou Municipality in 2000. Among them, Panyu was formerly a county/district within Guangzhou Municipality and was re-established as a city in 1992.

Improving compensation standards for agricultural land requisition – zonal comprehensive land prices

4.3 Following the amendment of LAL and related implementation regulations in 2019, Mainland provinces and municipalities are required to formulate and publish a **zonal comprehensive land price** as the compensation standard for agricultural land requisition, replacing the previous practice of using a multiple of the “average annual output value” as the standard.⁴⁵ The new method is considered to be more reasonable, fair and transparent, as it standardizes the compensation rate and provides for a uniform price within the same zone, after taking into account various factors mentioned in paragraph 3.3 above. In particular, in the course of price setting, the authorities of **Guangzhou Municipality** consulted various parties, particularly the rural collectives directly affected, and published in early 2021 a comprehensive land price list related to land requisition, under which the city is divided into 18 zones (see **Appendix 1**), and for each zone, the total amount of land compensation and rehousing compensation and the ratio between them are set.⁴⁶ The land prices in the 18 zones range from a minimum of RMB90,000/mu⁴⁷ (RMB135/sq m) (northern Zengcheng District) to a maximum of RMB510,000/mu (RMB765/sq m) (in Yuexiu, Liwan and Tianhe districts in the city centre)⁴⁸, and apply uniformly to all types of agricultural land.⁴⁹ However, there are views that the zonal land prices are still based on the original use of the land without taking into account of the future use, and the overall land prices are still on the low side.⁵⁰ As for fully urbanized **Shenzhen Municipality**, no zonal comprehensive land prices have been set for agricultural land requisition.⁵¹

⁴⁵ The average annual output value is measured on the basis of the average output, price and additional gains of main agricultural products in the previous three years, and the compensation multiplier is determined having regard to local economic development and living standards. See 國土資源部(2005). To protect peasants’ rights and interests, the multiplier for land compensation and resettlement compensation has been gradually increased to 6-10 times and 4-6 times respectively. If the compensation cannot guarantee peasants’ long-term livelihood, the government may increase it to up to 30 times the sum of the two compensation types. In 2013, that 30 times-limit was also abolished.

⁴⁶ See 廣州市規劃和自然資源局(2021).

⁴⁷ One mu on the Mainland is equivalent to approximately 666.7 sq m.

⁴⁸ In comparison, in 2017 the compensation rate in Yuexiu District, calculated as a multiple of the output value, was RMB400,000 per mu. See 廣州市人民政府(2017).

⁴⁹ Province-wide, zonal land prices in Guangdong Province are even more diverged, ranging from RMB31,800 to RMB510,000 per mu, with an average of RMB65,100 per mu. See 廣東省自然資源廳(2021).

⁵⁰ See 上海市律師協會(2020).

⁵¹ According to the platform of Public Information on Zonal Comprehensive Land Prices for Land Requisitions Nationwide, there is no indication that Shenzhen Municipality has formulated a list for zonal land prices within the city. See 自然資源部(2021).

Other types of compensation – arrangements on “reserved land” (留用地)

4.4 Guangzhou Municipality and Shenzhen Municipality are among the first to explore the use of “**reserved land**” as part of the compensation for requisition of land.⁵² Rural collectives are compensated with land for developing the township and rural economy (for permitted uses such as renting out property/land/joint or independent development of industries and commerce). Land is allocated by the authorities in a certain proportion to the area of land requisitioned. The objective of this policy is to enable the rural collectives and peasants to **maintain, or even improve, their living standards and provide employment** after land requisition by **sharing land gains arising from development**.⁵³ **Guangzhou Municipality** started to explore the feasibility of the land reservation policy on a pilot basis in the early 1980s. Subsequently, the first pilot programme was introduced in Panyu, setting a land reservation ratio of 15%-20% of total land area requisitioned.⁵⁴ Under the current policy, the proportion of reserved land in Guangzhou is standardized at **10% of the area of land requisitioned**. While the Guangzhou Municipal Government encourages independent or joint development of reserved land by rural collectives, it also strictly restricts the development of private residential projects for sale, and the development intensity (i.e. similar to plot ratio) shall not be higher than 2.5 in general. The reserved land so compensated also includes the land earmarked for infrastructure such as public facilities, and the size usually stands at about 20% of the reserved land.⁵⁵

4.5 As for **Shenzhen Municipality**, in the late 1980s, the municipal government allocated land by means of “returning land for requisitioned land” (徵地返還) to rural collectives for development in compliance with planning requirements. These reserved land lots were allocated at a certain ratio, subject to the size of the village, the area of the land requisitioned and the village’s estimated scale of investment in developing the reserved land, with specific criteria based on

⁵² At the national level, there is no uniform policy or law on reserved land, while at the local level, such as in Guangdong Province, there are local regulations on reserved land, such as the Notice on Management Measures for Reserved Land for Rural Collective Land Requisition in Guangdong Province (for Trial Implementation) (廣東省徵收農村集體土地留用地管理辦法的通知(試行)) of 2009.

⁵³ The proceeds can be used to raise the income of villagers, pay into their pension and health insurance premium, and provide other benefits. See 廣州市人民政府(2008).

⁵⁴ The land reservation policy was subsequently extended to the whole city, and the ratio was gradually increased to 8%-12% in 1995. However, in order to comply with the national policy on construction land, the policy was suppressed for a while until 2005, when, in response to growing concerns about protecting the rights and interests of peasants, Guangdong re-established the policy and implemented it across the province, with the ratio further increased to 10%-15% and the exact figure to be determined by local governments. See 吳軍等(2020).

⁵⁵ See 廣州市人民政府(2018a, 2018b).

the population and number of households in the community.⁵⁶ In addition, the current “land consolidation” (土地整備) policy in Shenzhen also provides for the allocation of reserved land for indigenous rural collectives, the area of which stands at a certain ratio of area of the project site (in principle, not exceeding 55% of the planned area of land for construction). The land may be developed in accordance with the relevant regulations, **with land premiums to be paid if commercial development is involved**. In addition, part of the reserved land shall be used for the provision of public facilities in the community, the ownership of which shall be vested in the government upon completion.⁵⁷

4.6 While Guangdong Province had a long history of instituting the land reservation policy in its cities, many villagers who had their land requisitioned still have not actually been allocated reserved land due to factors such as inadequacies of the system and supervision, and lack of developable land.⁵⁸ According to statistics available, as at 2017, **Guangzhou Municipality** had not made committed allocations in respect of 23 000 mu (1.53 million sq m) of reserved land. In recent years, Guangzhou Municipality improved its land reservation policy and sought to honour its compensation pledge, including, among others, allowing cash and property compensation as substitutes, pooling reserved lands in designated areas, and increasing development density to offset part of the reserved land area. As for Shenzhen Municipality, between 2015 and 2020, over 1.9 million sq m of previously committed, but unallocated, reserved land were eventually honoured. The city attempted to address the issue by providing additional incentives to promote cash compensation as a substitute and incorporate the reserved land into urban renewal projects.⁵⁹ However, there were also concerns that some of the reserved sites are either being used ineffectively or left idle.

Other means of promoting urban development

4.7 Due to the bottleneck in land supply through requisition of land owned by peasant collectives, Guangzhou and Shenzhen have found alternative ways to promote urban development, such as “secondary development” (二次開發) (i.e. urban renewal) of land aimed at boosting land supply for development and/or better utilizing the existing land to their full potential. A key strategy is “urban village transformation” (城中村改造), i.e. redeveloping the sites of **urban villages**. **Land occupied by these urban villages is primarily “non-agricultural land for construction” (for residential or industrial/commercial use by villagers) which**

⁵⁶ For each person, 100 sq m of land for industrial and commercial development; for each household, 100 sq m of residential land on average; and 200 sq m of land for public infrastructure facilities. See 劉芳等(2014).

⁵⁷ See 深圳市人民政府(2018a).

⁵⁸ See 吳軍等(2020).

⁵⁹ See 深圳市規劃和自然資源局(2020).

is under the control of and used by indigenous rural collectives.⁶⁰ For various reasons, such as unauthorized building works and poor living conditions, many urban villages are incompatible with new developments in the vicinity⁶¹. They are hence considered to be inefficient in land use, and become the target of urban renewal.

4.8 As urban villages are fraught with complex problems involving history and land ownership, both Guangzhou and Shenzhen have accordingly formulated various policies and measures to take forward urban village transformation so that land interests can be rationalized and urban renewal completed. These policies and measures could involve relocation of villagers/residents, demolition of houses and offering compensation. Broadly speaking, the current policy mainly **hinges on market participation**, that is, developers and villagers negotiate and reach agreements on demolition and resettlement compensation and development proposals, **while the role of the government is mainly to coordinate and approve projects, and oversee and provide appropriate complementary policies and financial incentives** (see **Appendices 2 and 3**). The following is a brief overview of some representative examples and programmes of urban village redevelopment in the two urban villages.

Liede Village (獵德村) in Guangzhou

4.9 Liede Village in Tianhe District was the first pilot project of urban village transformation with developer participation in Guangzhou. In this project, **the government, without providing funding, limited its role to approval and oversight**, including setting the requirement to **raise development funds through land auctions** on a government-designated platform, the official Guangzhou Land Development Centre. The demolition of Liede Village began in October 2007, with one-third of the land vacated used for developing a resettlement area for villagers, one-third for commercial development and the remainder for rural collective economic development. It was reported that the investment capital for the project came from the sale of one of the village sites (with a permitted gross floor area of 570 000 sq m), which was successfully bid by two developers for

⁶⁰ In the process of urban expansion, in order to avoid considerable expenses and resistance associated with land compensation and resettlement of villagers, authorities usually choose to requisition agricultural land first, and avoid villagers' residential or other construction land, resulting in the so-called "urban villages" (rural villages surrounded by urban areas). See 魏立華及閻小培 (2005) and 深圳市規劃和自然資源局 (2004).

⁶¹ Urban villages usually have residential units for rent. Yet, many of which fail to comply with the law or urban planning requirements, and therefore have poor living conditions and supporting infrastructure and public facilities. Due to the relatively low rents, urban villages used to provide housing for a large number of migrant workers, which was to a certain extent beneficial to the city's economy and enabled villagers to earn a stable and substantial rental income.

RMB4.6 billion, of which RMB2.5 billion was used for demolition and resettlement compensation and development of in-situ resettlement housing, and another RMB1 billion was used for hotel development for operation by the village collective. Although the government did not contribute funds to the project, it was responsible for coordinating demolition work. Under its leadership, compensation for demolition was agreed on the basis of “full compensation for every square metre demolished”, subject to a ceiling of four storeys; for temporary buildings, the compensation was provided at RMB1,000 per square metre. As for the temporary accommodation prior to in-situ resettlement, villagers had to make their own arrangements but were provided with a monthly rehousing subsidy of RMB20 per square metre.⁶²

Yumin Village (漁民村) and Tianxia Village (田廈村) in Shenzhen

4.10 **Yumin Village**, located in Luohu District and near the border, took charge of its own redevelopment on a **self-financing** basis, but the government also provided support such as **paying interest on bank loans for the villagers**. The village was demolished in 2001 and redevelopment and in-situ resettlement were completed in 2004.⁶³ At that time, each village household was reportedly required to raise RMB500,000, and the village joint-stock company used its collective assets as collateral to borrow nearly RMB100 million from banks under the coordination of the government. The loan obligation was shared according to the number of shares and households, and was converted into home mortgage upon completion of the project. The government also helped pay the loan interest during the construction period.⁶⁴ Yumin Village aside, **Tianxia Village** was redeveloped by a joint venture between its joint-stock company and a developer, and villagers subscribed shares through the transfer of land (house sites) use rights. It was reported that in addition to the funds raised by the villagers and the village joint-stock company, **the government also subsidized the development costs and**

⁶² With a history of over 800 years, Liede Village before demolition occupied an area of nearly 340 000 sq m, with a total gross floor area of approximately 690 000 sq m, housing more than 7 000 villagers and 8 000 other residents. After its redevelopment, Liede Village has 37 high-rise residential buildings and ancillary facilities such as shopping malls and hotels. In fact, in order to develop the Zhujiang New Town (珠江新城), Guangzhou Municipality requisitioned land for economic development held by the village in early 1990, but house sites were not requisitioned at that time. See 自然資源部(2018) and 深圳市城市更新和土地整備局(2022).

⁶³ Before its redevelopment, Yumin Village had 33 houses with a total of 66 households and about 190 indigenous villagers. After its redevelopment, there are 12 multi-storey buildings, one of which is 20 storeys high. The new total gross floor area has also increased by half while the average living space of villagers has risen by 43% to 1 400 sq m.

⁶⁴ See 劉筱(2006).

demolition compensation, and the total investment amount reached RMB500 million to RMB600 million.⁶⁵

5. Observations

5.1 The development of the Northern Metropolis in NT may involve the resumption of massive private land by the Government. This has attracted public attention towards the purposes of land resumption and the standards for and types of compensation. At the same time, there are preliminary suggestions on exploring the future use of village house sites in NT. On the Mainland, agricultural land requisition has facilitated rapid urbanization in many places, and land requisition policies have been changing over the past few decades. The observations are as follows:

- (a) In terms of the purposes of land requisition, the national Land Administration Law has set out various public interest purposes, which **are generally the same as those in Hong Kong in principles**;
- (b) Both the Mainland and Hong Kong have likewise updated their compensation standards for land requisition. The former adopts a zonal approach with a uniform price within the same zone while the latter adopts a two-tier mechanism based on the nature of land development. **The standards used in both approaches are mostly based on considerations of a host of factors.** Although the systems and rules of Mainland cities and those of Hong Kong are not directly comparable, the Mainland offers **more diverse types of compensation**, such as the provision of social security contributions. It is also legally stipulated that the living standard of people (peasants) whose land is requisitioned shall not get worse;
- (c) Apart from direct compensation in monetary terms, Guangzhou and Shenzhen also make use of **benefit-sharing** models, such as the compensation policy of reserved land, to support the sustainable economic development of rural collectives. Under the joint stock system of rural collectives, villagers holding shares are entitled to dividends derived from operating income of the collectives; and

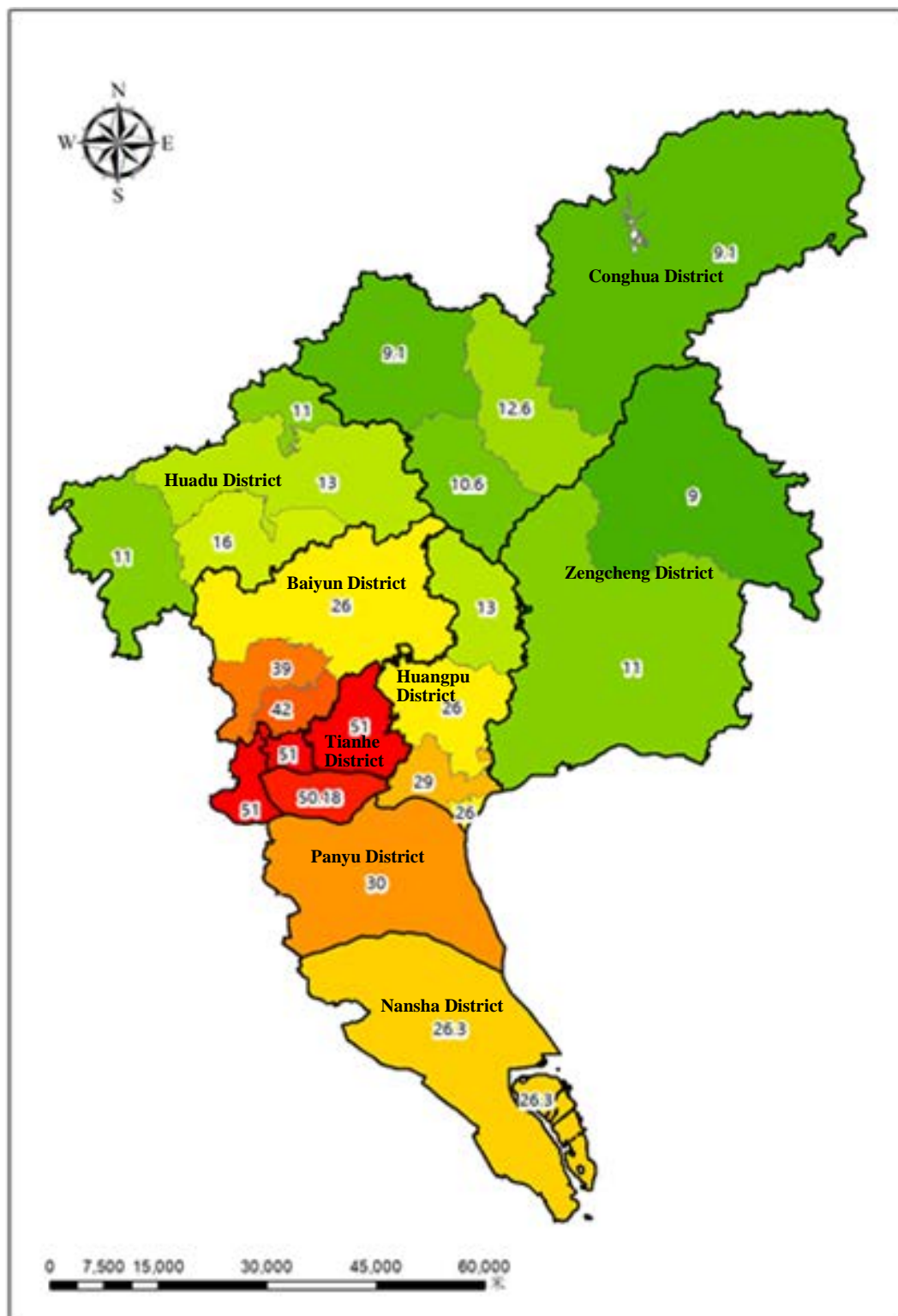
⁶⁵ The project consisted of commercial, office and residential premises. Upon completion, villagers of Tianxia Village were allocated residential premises and other proceeds were distributed in proportion to their shares in the village collective joint-stock company. See 新浪財經(2006) and 戴勇堅及周誌芳(2009).

- (d) Urban village transformation is one of the alternative means towards urban development. Subject to the consent of the villagers, authorities in Guangzhou and Shenzhen usually rely on **direct market participation in the redevelopment of urban villages**, including demolition and resettlement, and less on direct involvement in the requisition of the properties concerned.

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Distribution of zonal comprehensive land prices per mu for agricultural land requisition in Guangzhou Municipality (RMB10,000)



Source: Guangzhou Municipal People's Government (廣州市人民政府).

Urban village transformation in Guangzhou Municipality – development and major forms

- In 2000, the developed areas of **Guangzhou Municipality** had 138 urban villages identified for transformation.⁽¹⁾ Initially, the municipal government required village collectives to act as the “principal body” responsible for the transformation and raise funds on their own while restricting the participation of private developers. The government did not provide any direct funding except other supports deemed appropriate.⁽²⁾ That policy eventually failed to drive the transformation of urban villages.
- In 2004, Guangzhou Municipality was awarded the right to host the 2010 Asian Games, prompting the government to be more determined to transform urban villages. However, it was not until the demolition and redevelopment of **Liede Village** in 2007 that a breakthrough was made.
- In 2009-2010, Guangzhou Municipality implemented the “Three-Old Transformation Scheme” (三舊改造) and created an urban renewal office. The policy principle on government leadership and market operation was established to allow developers to participate in urban renewal.⁽³⁾
- In 2015-2016, Guangzhou Municipality introduced urban renewal measures, adopting the modes of “**land banking**” (by the government)⁽⁴⁾, **independent transformation** (by old villages) or **joint transformation** (by old villages and developers) to promote the renewal of old villages.
- The pace of transforming old villages has accelerated in recent years, as the government aims to complete the redevelopment of 33 villages and the in-situ resettlement of villagers by 2023. While accelerating the pace of transformation, the government has also issued guidelines on the minimum requirements for members of rural collectives to vote on preferences for redevelopment, implementation plans and partners to protect the interests of villagers.⁽⁵⁾

⁽¹⁾ For those located in key functional urban areas (such as those with sources of water) and those having an impact on the industrial structure, priority will be given to them for demolition and redevelopment. See 廣州市人民政府(2009).

⁽²⁾ See 廣州市人民政府(2002) and 葉林(2013).

⁽³⁾ See 廣州市人民政府(2009).

⁽⁴⁾ “Land banking” refers to land and property requisition, compensation, resettlement, and clearance and open sale of land by the government, but rural collectives may not share the proceeds of such sale. See 廣州市人民政府(2016).

⁽⁵⁾ See 廣州市人民政府(2021).

Urban village transformation in Shenzhen Municipality – development and major forms

- **Interim measures for transforming urban villages (old villages)** (城中村(舊村)改造暫行辦法) have been implemented as early as 2004, and the main points are as follows:
- As long as **the public interest** is served⁽¹⁾, a district government (or as proposed by the demutualised rural collectives to the authorities) may incorporate urban villages into the transformation plan of the government. The plan must be consistent with improving the quality of life and environment in the village;
 - The measures support the transformation project to be taken forward through **market operation, by the villages independently or jointly with developers**; reasonable compensation and resettlement arrangements, including the provision of resettlement units and/or cash compensation, are also required if demolition and resettlement are involved; and
 - **The government will play the role of organizing and coordinating the implementation of projects** to ensure compliance with land planning requirements and regulations, and provide **preferential policies**, such as allowing the payment of land premium by instalments and the return of land premium to the district for constructing infrastructure facilities in urban villages;⁽²⁾ according to the Planning Outline⁽³⁾, priority will be given to the transformation of urban villages in serious contravention of town planning requirements.

⁽¹⁾ The public interest includes: the need for constructing infrastructure and public facilities; deterioration of the village's living conditions seriously threatening the safety of residents' lives, property, and personal health; environmental pollution and deterioration of law and order, among others, in the village seriously hindering the normal operation and life of the units and residents in the surrounding areas; and the adjustment of industrial structure and the introduction of major projects that warrant transformation.

⁽²⁾ See 深圳市規劃和自然資源局(2004).

⁽³⁾ Master Planning Outline for Transforming Urban Villages (Old Villages) in Shenzhen Municipality (2005-2010) (《深圳市城中村(舊村)改造總體規劃綱要(2005-2010)》). See 新浪新聞(2005).

**Urban village transformation in Shenzhen Municipality –
development and major forms**

- In 2009, Shenzhen Municipality implemented the **Urban Renewal Measures of Shenzhen** (深圳城市更新辦法) for the transformation of old districts (not limited to urban villages). Apart from complete demolition and redevelopment, urban villages can also undergo “comprehensive management” (綜合整治)⁽⁴⁾ to improve their environment, safety and infrastructure and public facilities. The overall strategy remains government leadership and market operation. Upon consent of the shareholders of the village collective joint-stock company through voting in accordance with the relevant regulations, the village collective may undertake the transformation independently or jointly with the market, and the government may provide appropriate support, including the use of the proceeds from land sale to develop infrastructure and public facilities and concessionary land premium.
- In 2021, Shenzhen Municipality implemented the **Regulations on Urban Renewal** (城市更新條例), which stipulates, among others, the choice of property and/or cash compensation for owners, and the threshold for compulsory requisition of property by the government.

⁽⁴⁾ The cost of comprehensive management shall be borne jointly by the local district government, the rights holder or other relevant parties. See 深圳市人民政府(2009).

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Note: ^ Internet resources listed in this section were accessed in March 2023.