

'\$100m could have been lost on project'

By Michael Smith

THE government would have lost \$100 million if a controversial building site on Garden Road had been re-tendered in favour of a low-rise development.

The government yesterday defended a legislative loophole which saw a 31-storey complex developed on a prime commercial site in Central, instead of the low-rise building intended by the government.

The Audit Report revealed last week that government officials had refused to call new tenders although they were aware of the loophole.

Director of Lands Robert Pope told legislators the decision was based on financial reasons as the government would have lost \$100 million if it had re-tendered the site.

"Almost certainly we would have received substantially less money because the lowest tender was \$66 million and the highest was \$153 million," Pope said.

"It is our view that had it been re-tendered we would have got possibly even lower than that again."

The government planned for a six- or seven-storey development on the commercial site on the junction of Garden Road and McDonnell Road.

Under the tender conditions the new building could only be used for non-industrial purposes and the total floor

Officials defend loophole in legislation

area for retail shops was limited to 2,271 square metres.

But through a loophole the developer, Hutchison Whampoa, could exceed the limit by building for "non-industrial" businesses such as doctors' surgeries and beauty parlours.

The government only received a verbal commitment from the developer that the site would be limited to a supermarket, one store and a restaurant.

Pope said there was no restriction in the area's planning scheme to legally stop the development exceeding the government's preferred requirements.

He said Lands Department officials believed the development would not exceed the requirements because it would not be economical to have so much space for non-retail accommodation. "We realised there was ambiguity but it was our view that the development was uneconomical," he said.

"We would assume people bidding for a site a long way out of Central in a poor shopping location would have put a low-rise bid in."

Pope said the government would have approved the tender even if it was aware of the loophole.

"There was no reason to re-tender with the possibility of losing \$100 million," he said.

But he admitted it was a mistake not to inform the Central Tender Board of the loophole in the conditions of sale.

"Perhaps with hindsight it would have been better for us to have advised the Central Tender Board of this ambiguity and the reason we had come to our recommendation to accept the tender," he said.

"But our recommendation would not have changed."

Pope said it was the only incident he was aware of where a business had taken advantage of the loophole.

He said it was impossible to point a finger at an individual for making the mistake because of the large number of people involved.

The government has accepted the Director of Audit Brian Jenney's recommendations.

Jenney recommended that the government's planning intention should reflect the conditions of sale of a site, a site should be re-tendered if a loophole was discovered, and major decisions should be based on written confirmation.

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