APPENDIX 49

Sir David Akers-Jones

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5 January 2005

Dr. the Hon Philip Wong, GBS
Chairman,
Public Accounts Committee
Legislative Council, HKSAR

Dear Sir,

Response to Public Accounts Committee (PAC) Queries
Chapter 6, Director of Audit Report No.43

Further to the letter from the Clerk of the PAC dated 14 Dec 2004, I submit my response in two parts as attached:

Part 1 – a general statement setting out the historical background to the Discovery Bay development.

Reading the transcripts of the public hearings, it seems to me that some of the expressed views on the matter lack an understanding of the period. They also reflect an apparent mistrust in the government which facilitated Hong Kong's economic development during those years. The information I have provided to the best of my knowledge and memory is due to my belief that the issues must be looked at against the whole background of the seventies and eighties during which time the developments took place.

Part 2 includes a point-to-point response to questions raised in the letter.

I have answered your questions & those raised by members of the PAC to the best of my ability and there is nothing I can usefully add to what I have written. You will appreciate that with limitation of memory, at the age of 77 and 25 years later, I cannot recall detail of the discussions on the issues. However after having read my response, if members have supplementary questions, I should be grateful if they

050105 DAJ final reply to Cover ltr & Part i

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would let me know what they are and I shall be glad to try to answer them.

I have arranged for this submission to be translated into Chinese and shall send it to you by 7 January.

Yours faithfully,

David Akers-Jones
Encl.

050105_DAJ_final reply to Cover ltr & Part i

Part 1

Hong Kong in 1970's to 1980's

Surrender & Re-grant of Land

The Discovery Bay development originated in 1973 when Exco authorized the Government to proceed with a scheme at Discovery Bay proposed by Mr. Edward Wong who planned to embark on a holiday resort and residential/commercial development at Discovery Bay. In 1976, Exco approved an exchange of land to Mr. Wong's company, Hong Kong Resort Company Limited. The exchange was partly land he owned and partly a Letter B exchange ie a surrender and re-grant of land he owned which he wished to develop in a certain way rather than a fresh private treaty grant.

Normally land exchanges or surrenders and re-grants do not need to go to Exco for approval because the developer is, in effect, developing his own land in accordance with a relevant Zoning Plan. On this occasion, it went to Exco probably because it involved breaking ground in the New Territories and was a very large innovative project. I was familiar with the area having first visited it as long ago as 1958 to inspect an abattoir.

In 1977, when Mr. Wong's business went into liquidation and the development was in the hands of the mortgagee bank, another developer (a joint venture) took over the development (by buying Mr. Wong's shares in his company) with the encouragement of the Hong Kong Government which feared that this huge project would founder. Understandably the Government did not want the land to remain under the control of the mortgagee.

Economic Growth in 1970's

In 1966 and 1967, Hong Kong was hit by riots and strikes. Social problems, housing shortages, unemployment were general while the economy was weak – in Christopher Howe's *The Political Economy of Hong Kong Since Reversion to China*, real GDP growth between 1973 to 75 was recorded as 1.3% on average per annum only. This was followed by a period of accelerating growth which presented government officials with a challenge of a different nature

Hong Kong enjoyed this period of rapid economic growth in the 70's under the

governorship of the late Lord Murray MacLehose. His administration saw him moderating the traditional attitude of disinterest in community problems and foresaw the need for a more balanced, progressive and proactive social development regime. Lord MacLehose's 10-year reign contributed to many achievements by Hong Kong, most notably the following:

- An ambitious housing and new town development programme which provided homes for the great number of immigrants and refugees.
- Development of the New Territories to provide sites both for huge housing developments and industrial parks. Tsuen Wan, Kwai Chung, Tai Po, Tuen Mun and Shatin were all 'products' of this era.
- An enviable transport infrastructure with the construction of the MTR system.
- Thorough Government reforms to reduce red-tape and optimize efficiency to meet spiraling community development and infrastructure demands.
- Forceful and effective combat against widespread corruption by the introduction of the ICAC which answered direct to the then Governor of Hong Kong.

Administrative Procedures

It is against this background that from as long ago as 1960 when public housing and urban development was extended to the New Territories, the NT Administration greatly strengthened its land administration with the attachment of professional chartered surveyors and lawyers to oversee land transactions with technical knowledge and expertise to ensure the public interest was properly safeguarded. As development proceeded, the number of estate surveyors seconded by the Director of Land and Survey increased dramatically while the staff of lawyers was commensurately increased.

In 1973, at the time of government's initiative to build homes for 1.5m people in the New Territories and new towns, I was appointed as the Secretary for the New Territories (SNT). This was a new post replacing the former District Commissioner. The SNT was on all fours with other government Secretaries, and he was responsible for implementing government policies and development in the New Territories. I remained in this post for an unprecedented period of twelve years. It is curious, to say the least, that the matters raised by the Director of Audit about the seventies and eighties are raised after a period of 20 –25 years and were not raised at the time or in subsequent years.

Among my staff during those years was a team of estate surveyors headed by a Principal Government Land Agent (PGLA) responsible to me as Secretary. The policies and practices of the urban area were applied to the New Territories.

Because of the relatively small number of large development sites, there were few Master Layout Plans (MLPs) in the 1970's. The practice for dealing with these plans, including the question of whether a premium should be charged, involved examination by experienced chartered surveyors to see if each complied with the underlying lease and with the appropriate development criteria. Thus the Discovery Bay MLP and changes to it emphatically required professional officers to take premium considerations of the lease into account.

For the approval of MLPs for the New Territories, the process would have the applicant typically sending the MLP to the District Office (DO), headed by an Administrative Grade Officer. The Estate Surveyor in the district, a chartered surveyor, would examine it and consult other departments where necessary before putting it with other land cases to the monthly District Conference (later the District Land Conference (DLC)) headed by the DO and attended by the Senior Estate Surveyor (SES), later a Chief Estate Surveyor (CES), and representatives of other departments. The views of all departments were taken into account.

When the District Conference or DLC approved the MLP, it would go to New Territories Administration Headquarters to PGLA/NT (via a senior officer such as a Chief Estate Surveyor) and my recollection is that PGLA/NT would table it either at the monthly New Territories Lands Meeting (NTLM) or at a similar meeting of senior administrative officers, estate surveyors and lawyers. Only when NTLM or the group of officers recommended its approval would PGLA/NT put the recommendation by a minute on the file to me as SNT for formal approval. PGLA's recommendation therefore would represent the collective view of the professional estate survey staff.

I would not have approved a MLP or changes to a MLP or any land transaction that had to be dealt with by me without a full discussion with the PGLA. If the PGLA/NT thought a premium or other conditions of approval were justified, he would have recorded it and action would have been taken.

For valuations, there was also a set procedure. A Valuation Committee met each month in HQ and was made up of Senior Estate Surveyors and Estate Surveyors from all districts. Valuations for premium etc. were made by the District Estate

Surveyors and then discussed and approved by the central Valuation Committee. If an estate surveyor in a district was uncertain whether a MLP had a valuation implication he would put it to the Valuation Committee, after discussing it with his senior. The MLP then went to PGLA/NT and NTLM or to other senior officers. Appeals by developers from Valuation Committee in NTA/HQ would go to urban area Valuation Committee.

While there were few MLPs processed in this period, the question of premium for a change for MLP was always actively considered. These were well known procedures understood by the staff. And as will be gathered from this description well established administrative procedures were in place to ensure that decisions could not be made by a single officer.

The description above is how things worked. It should inspire confidence that there was a due process to which we were all bound and which provided the ultimate safeguard for the public interest as well as the integrity of the individuals involved.

As the Secretary, I was tasked to see to it that the Governor's intention to achieve his objectives was followed, while ensuring that proper checks and balances were in place to ensure that the public interest was protected. I was authorized to make judgments but, since I was not a valuer or a professional land person, always based them on the input of my executive and professional colleagues. Thus decisions when they were made always had the benefit and support of sound professional advice and recommendations.

When the Discovery Bay project was put to Exco in 1976, the Exco Memorandum proposed that, "the land at Discovery Bay should be granted to Developer A for a holiday resort and limited residential/commercial development...." (2.7, Chapter 6, Director of Audit Report No.43). However the decision of Exco, after having considered the contents of the memorandum and the lease conditions attached to it, gave the following advice and the Governor ordered that land should be granted to the Developer for the purposes of "a holiday resort and residential/commercial development at the premium of $61.5 million" (2.7, Chapter 6, Director of Audit Report No.43). This represents a significant change from which all subsequent developments followed. The Secretary for the New Territories, myself, would normally have been present during the discussion of this memorandum by Exco.

This Exco decision became the parameter within which the subsequent development took place and it had to conform to this decision. Did changes

conform with the development of a resort with residential/commercial development? Were they soundly based and well supported? The authority to ensure this was placed in the hands of the Secretary for the New Territories. In 1978 the Secretary for the New Territories was appointed to Exco.

Throughout its thirty years of history the development of Discovery Bay has conformed with the description that it was a resort, is a resort and will continue to be a resort . This is even reflected in the Explanatory Statement in the Discovery Bay Outline Zoning Plan of 27 years later in 2003. "It is primarily a car-free environment evolved from the original concept of a holiday resort approved in 1973. This intention [*of a resort*] is still maintained by the existing and planned provision ..."

A resort can take many forms but essentially it is a place where people go to get away from crowded urban living. All the residents of Discovery Bay are there for that reason and it is noteworthy that even when there is currently access by motor vehicles to Discovery Bay private transport vehicles have to stop at the perimeter!

The development of Discovery Bay was the first large-scale project of its kind in Hong Kong and development has continued over a period when dramatic changes in Hong Kong's socio economic environment have taken place. Changes to a MLP to reflect this were therefore inevitable. The important thing is that, as and when changes were proposed, they were dealt with properly by well-defined and understood procedures and were not taken by one person acting alone and autocratically.

It is noteworthy that to avoid public expenditure on the wild and rocky landscape of Discovery Bay the Developer was asked to shoulder the provision of public services and facilities which would normally be provided by the Government. These included the ferry service, building of a reservoir, provision of water and sewage treatment to the development, access roads, a fire service and police station, urban management services including cleaning and security, and to go to considerable extra expense at the request of government to provide a water supply to surrounding villages. Despite having to make these provisions which normally fall to the Government to provide the Developer was assessed and paid rates as if in the urban area.

XXX

The matter of my invitation to become a non-executive director of Mingly was mentioned during the PAC hearing. Mingly is principally an investment company. The invitation was made in year 2000, 13 years after my retirement as Chief Secretary.

Part 1 ends

Replies to Specific Items
Public Account Committee's letter dated 14 December 2004

Item (a)

2.8 (L1)

Question

On 10 September 1976, the Secretary for the New Territories executed the lease for the Discovery Bay development. However, the lease conditions did not specify the maximum and minimum gross floor area (GFA), and the gross site area of the facilities (such as the resort accommodation) to be provided by Developer A. In addition, the lease conditions did not restrict the owners to use their flats only as holiday homes. In April 1977, Exco was informed that the conditions allowed for low density development which, at the maximum, would provide over 401,342 square metres of residential resort accommodation and 140,284 square metres of hotel accommodation (Note 3).

Response

The lease was drafted by a lawyer of the Registrar General's Department. Instructions to the lawyer on what was to go into the lease conditions would have been given in the usual scrutiny by all the various interested departments, both within and outside the then Public Works Department and the New Territories Administration. There were standard clauses (then known as FG Clauses) which the various departments could direct to go into lease conditions.

I do not know why it was decided to specify the exact extent of development permitted by a master plan rather than in the lease conditions but I believe that because a master plan would combine control with flexibility. It would not then be necessary to modify the lease every time there was a change to the development. I note that para. 2.7 of the Audit Report said that the lease conditions were considered by Exco.

I cannot recall the details of the referred 1977 Exco paper. Nevertheless, the residential development of Discovery Bay development does not depart from "residential resort accommodation" which is elaborated further in my reply to item (b) below.

Note 3 (L1) in para. 2.8

Question

According to the then prevailing MLP 3.5 approved by the Secretary for the New Territories on 3 December 1975, the Discovery Bay development would provide resort accommodation of about 401, 342m² GFA and hotel accommodation of about 140,284m² GFA.

Response

Presumably, this was decided after inter-departmental consideration of the submission by the developer.

2.10 (L1)

Question

In September 1977, MLP 4.0 was submitted for the Secretary for the New Territories' consideration. Under MLP 4.0:

(a) the hotel GFA was reduced from 140,284 square metres to 32,000 square meters;
(b) the resort accommodation GFA of 401,342 square metres was deleted; and
(c) housing accommodation GFA of 524,000 square metres (including garden houses GFA of 301,000 square metres and holiday flats GFA of 223,000 square metres) was added.

Response

The developer would have made a formal application for approval of this MLP and the changes from the previous MLP would have been justified by the developer in such an application.

As explained by the Director of Lands at the second hearing, the total residential, commercial & hotel GFA did not increase beyond the maximum 608510 m^2 approved at the outset of the development. Whether or not premium was payable would have been given full consideration not by one official acting on his own but together with his

colleagues and superiors. It seems that no premium was charged after this proper consideration, no doubt taking into account the drastic slump in the property market.

2.13 (L1)

Question

In late October 1977, Developer A wrote to the Secretary for the New Territories (Note 6) to elucidate certain key concepts in the revised MLP 4.0. As Hong Kong worker would be entitled to an annual seven-day holiday with effect from January 1978, a new group of potential visitors to Discovery Bay had arisen and ways should be sought to bring the facilities within the reach of such people in addition to those who were better off. The holiday flat concept in MLP 4.0 was to build high-rise condominiums containing fully furnished units of various sizes. The units would be sold to buyers either for their own use or for leasing. Developer A was aware that, under the lease conditions, he had to provide the facilities (including the public golf course) without which the Discovery Bay development would not be complete. The facilities would only be financially viable when the housing development was reasonably advanced.

Response

This would be the justification I referred to in my response under 2.10(L1). To me, it shows clearly the intention of the developer to meet the intention of the original resort concept and to make appropriate planning changes to meet socio-economic development in Hong Kong at that time.

2.14 (L1)

Question

Approval of MLP 4.0. In November 1977, the Secretary for the New Territories accepted MLP 4.0 for the following reasons:

(a) the basic concept of building a resort was continued;
(b) substantial recreational facilities were brought forward in MLP 4.0;
(c) furnished holiday flats were substituted partly for the hotel rooms and partly for the more spacious and expensive residential accommodation (Note 7) in MLP *3.5.* This would open up the area to more people; and

(d) MLP 4.0 conformed with the approved lease conditions which had been submitted to Exco.

In January 1978, the Secretary for the New Territories approved and signed MLP 4.0.

Response

The Secretary for the New Territories had authority under the lease conditions to give consent to alterations of master plans. Refer to the reply to item (b) below regarding the general procedures for processing master layout plans at that time.

I am not sure where these reasons quoted above have been extracted from, e.g. from a minute on a file? However, they appear to me at this distance of time to be adequate reasons for my decision at the time. I have no other comment as I have no other specific recollection.

As at today, I still consider that the present Discovery Bay is, in effect, a large seaside resort. This is elaborated in my reply to item (c) below.

3.5 (L3)

Question

In July 1977 (i.e. less than one year after the land grant), Developer A proposed to change the public golf course to some other form of public recreational use which would provide for more people and be a greater attraction. The Secretary for the New Territories said that he would consider quite favorably such a change if Developer A would meet that criteria. In March 1979, based on the argument that it was **not economically viable to provide a public golf course**, Developer A sought the Secretary for the New Territories' approval in principle:

(a) to abandon the concept of a public golf course; and
(b) instead, to locate within the site suitable areas for active public recreation.

Response

I understand the developer applied to waive the requirement to create a public golf course by demonstrating that such a facility with maximum usage would only accommodate a small number of players per day. Players would also incur

considerable extra expenditure and a costly ferry trip. In the early days, golf was not the popular game it has since become but even now by the nature of the game it cannot cater for mass participation. The decision not to go ahead with a full-blown public golf course at that time was supported by the responsible department for recreation - the then Recreation & Culture Department. (The strange intervention by the unrelated Highways Department was no doubt inspired by that individual's personal enthusiasm and background). No doubt, too, the department's recommendation was made because of an unwillingness on the part of the government possibly to take on the management and maintenance responsibility for something that would be a drain on resources. It should be mentioned that the membership golf course has been available to members of the public on weekdays since its completion.

The reference to Kau Sau Chau brings out a case in point. It was built with a philanthropic expenditure of charitable funds of $500 million from the Jockey Club with the management responsibility left with the Jockey Club not the Government.

The public golf course was replaced by the much more extensively used 700m long man-made beach built with I understand some 300,000 m3 sand transported by barges from the Mainland. Both residents and visitors alike are free to use the public beach. It is enjoyed by rich and poor alike with altogether different usage from a golf course whether public or not. Compare both sides of the road at Deep Water Bay: few people on the golf course, masses on the beach. Other recreational facilities which have been provided by the developer are described in paras. 4.7 – 4.10 in the Audit Report. No doubt these developments were the subject of discussion between the developer and the Government in fulfillment of the pledge to provide an alternative to the public golf course.

3.17 (L4)

Question

In 1973, when Exco agreed that the Discovery Bay development could proceed, Exco was informed that a public golf course would be built and that 90% of the recreational facilities would be available to the public. In addition to the public golf course, a 36-hole membership golf course was included. In September 1976, the Secretary for the New Territories granted the land to the developer. However, in February 1982, after consideration of Developer A's proposal, the Secretary for City and New Territories Administration approved MLP 5.0 and the public golf course had been deleted.

Response

See previous answers.

4.2 (L1)

Question

In 1979, Developer A agreed with the Secretary for the New Territories to replace the public golf course by some active public recreational facilities in the same area or elsewhere within the Discovery Bay site. It was said that the provision of active public recreational facilities would be more appealing to the majority of the local population than a golf course. In December 1982, when the deletion of the public golf course and the cable car system was discussed, the then Recreation and Culture Department welcomed the proposal that other recreational facilities would be provided in place of the public golf course.

Response

This shows that other departments of the Government supported the deletion of the golf course. As to the cable car, which has caused considerable attention, I would like to comment as well.

Cable Car

At Discovery Bay, the land slopes quite steeply from the foreshore. Leading to the North is a steep hill and to the south an extensive undulating plateau. The cable car was to provide access to the plateau. However when the reservoir was built and further extended, the paved construction roads provided an easy and more useful access to the plateau and the cable car was deleted and the landscape and environment incidentally spared this ugly and unnecessary intrusion. It was an imaginative idea but totally unnecessary and useless hence its deletion.

5.6 (L8)

Question

In August 1976 (one month before the execution of the lease conditions), the then Government Land Surveyor of the Public Works Department said that the boundary

corners of the Discovery Bay site would be pegged by interpretation of position of points from ground features shown on Developer A's plans. He also said that no boundary dimensions would be provided as a survey would be done after fencing of the site. In May 1977, the Government Land Surveyor said that although considerable preparation for the boundary pegging was made, the pegging itself had not yet been done in order to avoid possible abortive work. The Secretary for the New Territories also agreed that such setting out would not be required at that time. In July 1977, the then District Office/Islands of the New Territories Administration informed the Government Land Surveyor that no further work should be done until Developer A had decided on the type of fence to be provided and was ready to let the fencing contract.

Response

Boundary pegging was the duty of the Government Lands Surveyor. It may have been the practice at that time that boundary pegging would be carried out upon completion of a large development to avoid abortive works. In any case, as the boundaries of this lot were very long and extended over very rough and steep terrain and this Crown Land area had never been properly surveyed (indeed I believe there was not even one proper survey for any area of Lantau at the time) it would have made good sense for the developer to proceed on indicative boundaries and to do the exact boundary fixing after development was completed. This seems to have been a reasonable explanation of what happened.

Mr McGraw referred to by the Director of Audit would have been either a Senior or Chief Estate Surveyor in New Territories Administration Headquarters with delegated authority to deal with this sort of thing.

5.15 (L5)

Question

In September 1982, Developer A submitted a Supplementary MLP 5.0 (Note 24) for the south golf course and clubhouse development to the Lands D for approval. The route plan for the 18-hole south golf course showed that the fourth and fifth holes were on government land at Wong Chuk Long. Developer A said that the extension of the area for the fourth and fifth holes had been agreed in prior meetings with the Secretary for the New Territories.

Response

Most probably there were meetings on this, but I cannot recall details of the discussions. There would have been meetings with my staff. I do not read the reference in the developer's letter as meaning necessarily that the developer had meetings with me. The developer may well have been referring to meetings with the headquarters staff of the New Territories which may not have involved meetings with me at all. Nevertheless it seems from the decision taken that the extensions into the hillside to complete the golf course onto Crown Land hillside which did not conflict with any public use at the time were seen as something which could be sorted out at a later date, which indeed they were and rent duly charged and backdated.

2.21 (L2)

Question

In a DPC meeting held on 14 November 1985, the Secretary for Lands and Works reported that the Chief Secretary considered that "there was no need to go to Exco or the Land Development Policy Committee as the .... development followed on from the development so far approved (i.e. resort development) and did not represent a major change in principle".

Response

The Development Progress Committee (DPC) was chaired by the Secretary for Lands and Works and consisted of senior officials relevant to this objective. It included the Principal Assistant Financial Secretary. In other words, it was a most senior and responsible organ of government. The year was 1985. The Joint Declaration had just been approved. HE the Governor and the Executive Council were very occupied. The Governor himself was beginning a long period of shuttling between Beijing and London. On the Chief Secretary, myself, fell additional administrative responsibilities. I accepted DPC's advice that it was unnecessary to refer to Exco since the resort concept was maintained and the changes did not represent a major change in principle.

Please refer to my reply to item (c) below.

3.7 (L1)

Question

Despite the above comments [from PGLA], in February 1982, the then Secretary for City and New Territories Administration (Note 18) approved MLP 5.0 which removed the requirement for the provision of the public golf course (295,000 square metres gross site area). In September 1982, Developer A said that:

(a) the public golf course had limited use and was for the more wealthy people; and
(b) some modifications had been made to public recreation aspects, encompassing a whole range of activities which appeal to all ages and income groups.

Response

I do not recall the details of the discussions relating to replacement of the public golf course with public recreation facilities. (See my response under 3.5 (L3)) My officers would have considered the matter on a collective basis at the time and would have consulted all the necessary departments.

Even with hindsight and the relevant information furnished in the Audit Report, I consider that this was a right decision at that time because

(a) golfing was a game for the elite at that time. It did not have wide popular appeal;
(b) more people, particularly blue and white collar workers, could enjoy the replacement public recreation facilities including the beach; and
(c) the replacement public recreation facilities had the same gross site area as and even greater gross floor area than the public golf course (Table 2 of Audit Report refers)..

It should again be mentioned that the membership golf course has been available to members of the public on weekdays since the completion.

3.17 (L6)

Question

In 1973, when Exco agreed that the Discovery Bay development could proceed, Exco was informed that a public golf course would be built and that 90% of the recreational

facilities would be available to the public. In addition to the public golf course, a 36-hole membership golf course was included. In September 1976, the Secretary for the New Territories granted the land to the developer. However, in February 1982, after consideration of Developer A's proposal, the Secretary for City and New Territories Administration approved MLP 5.0 and the public golf course had been deleted.

Response

The public golf course was replaced with public recreation facilities of the same gross site area and even greater gross floor area as explained in above response under. 3.7.

4.3 (L1)

Question

In December 1981, when submitting MLP 5.0 for the Secretary for City and New Territories Administration's approval, Developer A submitted a proposal on the provision of "replacement public recreational facilities" for day visitors with a much wider range of pursuits.

Response

See previous answers. This proposal would have been part of the overall package of amendments to the MLP the developer was putting forward.

4.4 (L1)

In February 1982, the Secretary for City and New Territories Administration approved MLP 5.0. Compared with MLP 4.0, there were changes in MLP 5.0, as follows:

Response

Based on Table 2 of Audit Report, it is noted that there was a net increase in gross floor area of recreation facilities from MLP 4.0 to MLP 5.0. Although the gross site area of the recreation facilities was shown to be reduced, the public beach in Discovery Bay was not included in the Table.

Item (b)

Question

According to paragraph 2.14 of the Audit Report, the Secretary for the New Territories accepted Master Layout Plan (MLP) 4.0 in November 1977, and approved and signed it in January 1978. According to paragraph 3.7 of the Audit Report, the Secretary for City and New Territories Administration approved MLP 5.0 in February 1982. The PAC would like to know whether you had consulted any government departments/officials or held any relevant meetings before approving MLPs 4.0 and 5.0 and, if so, details of the discussion.

Response

I was the Secretary for the New Territories from 1973 to 1985, an unprecedented period of twelve years. It is curious, to say the least, that the matters raised by the Director of Audit about the seventies and eighties are raised after a period of 20 –25 years and were not raised at the time or in subsequent years.
Among my staff during those years was a team of estate surveyors headed by a Principal Government Land Agent (PGLA) responsible to me as Secretary. The policies and practices of the urban area were applied to the New Territories.

Because of the relatively small number of large development sites, there were few Master Layout Plans (MLPs) in the 1970's. The practice for dealing with these plans, including the question of whether a premium should be charged, involved examination by experienced chartered surveyors to see if each complied with the underlying lease and with the appropriate development criteria. Thus the Discovery Bay MLP and changes to it emphatically required professional officers to take premium considerations of the lease into account.

For the approval of MLPs for the New Territories, the process would have the applicant typically sending the MLP to the District Office (DO), headed by an Administrative Grade Officer. The Estate Surveyor in the district, a chartered surveyor, would examine it and consult other departments where necessary before putting it with other land cases to the monthly District Conference (later the District Land Conference (DLC)) headed by the DO and attended by the Senior Estate Surveyor (SES), later a Chief Estate Surveyor (CES), and representatives of other departments. The views of all departments were taken into account.

When the District Conference or DLC approved the MLP, it would go to New Territories Administration Headquarters to PGLA/NT (via a senior officer such as a Chief Estate Surveyor) and my recollection is that PGLA/NT would table it either at the monthly New Territories Lands Meeting (NTLM) or at a similar meeting of senior administrative officers, estate surveyors and lawyers. Only when NTLM or the group of officers recommended its approval would PGLA/NT put the recommendation by a minute on the file to me as SNT for formal approval. PGLA's recommendation therefore would represent the collective view of the professional estate survey staff.

I would not have approved a MLP or changes to a MLP or any land transaction that had to be dealt with approved by me without a full discussion with the PGLA. If the PGLA/NT thought a premium or other conditions of approval were justified, he would have recorded it and action would have been taken.

As such, I am sure that other government departments would have been consulted and relevant meetings held prior to the approval of MLP 4.0 and 5.0. However, with limitation of memory and at the age of 77 and 25 years later, I cannot recall detail of the discussions at that time related to these master layout plans.

Item (c)

<u>**Question**</u>

The PAC would like to know the rationale for the Chief Secretary's view in October/November 1985 that there was no need to go back to the Executive Council or the Land Development Policy Committee regarding the change in the concept of the Discovery Bay development (paragraph 2.21 of the Audit Report refers).

<u>***Response***</u>

When the Discovery Bay project was put to Exco in 1976, the Exco Memorandum proposed that, "the land at Discovery Bay should be granted to Developer A for a holiday resort and <u>limited</u> residential/commercial development...." (2.7, Chapter 6, Director of Audit Report No.43). However the decision of Exco, after having considered the contents of the memorandum and the lease conditions attached to it, gave the following advice and the Governor ordered that land should be granted to the Developer for the purposes of "a holiday resort and residential/commercial

development at the premium of $61.5 million" (2.7, Chapter 6, Director of Audit Report No.43). This represents a significant change from which all subsequent developments followed. The Secretary for the New Territories, myself, would normally have been present during the discussion of this memorandum by Exco.
This Exco decision became the parameter within which the subsequent development took place and it had to conform to this decision.

As pointed out in para. 2.21 of the Audit Report, I considered that there was no need to go to Exco or the Land Development Policy Committee because the development up to that time did not represent a major change in principle.

Throughout its thirty years of history the development of Discovery Bay has conformed with the description that it was a resort, is a resort and will continue to be a resort . This is even reflected in the Explanatory Statement in the Discovery Bay Outline Zoning Plan of 27 years later in 2003.

"It is primarily a car-free environment evolved from the original concept of a holiday resort approved in 1973. This intention [*of a resort*] is still maintained by the existing and planned provision ..."

A resort can take many forms but essentially it is a place where people go to get away from crowded urban living. All the residents of Discovery Bay are there for that reason and it is noteworthy that even when there is currently access by motor vehicles to Discovery Bay private transport vehicles have to stop at the perimeter!

The lease conditions, which had been presented to Exco, expressed the development concept by the terms "leisure resort facilities" in the user clause S.C. 7 and "leisure resort and associated facilities" in S.C. 5(b). The scope of the words "leisure resort and associated facilities" can only be understood by reference to the Master Layout Plan and the whole of the user condition.

The lease conditions, being a practical blueprint for the development, allow flexibility in that "such recreational, residential and commercial purposes and uses ancillary thereto as may be approved in writing by the Secretary" are also permitted. The changes were therefore evolutions of the original concept in the developer's thinking as the practical difficulties in developing this huge site in a viable way emerged and the need to adjust the balance between residential and commercial facilities and the leisure resort facilities became more evident.

Seaside resorts in other places, e.g. Port Grimaud in France, Blackpool in the U.K., Gold Coast in Australia, Miami in the U.S.A. cater for both permanent residents and temporary residents who come to use the resort facilities. Indeed, without a permanent population, these resort towns could not operate.

Part 2 ends

DAJ 5/1/05.