

立法會
Legislative Council

LC Paper No. CB(1)2599/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/PL/DEV/1

Panel on Development

Minutes of meeting
held on Thursday, 28 June 2012, at 8:30 am
in Conference Room 2 of the Legislative Council Complex

Members present : Prof Hon Patrick LAU Sau-shing, SBS, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon WONG Yung-kan, SBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon LEE Wing-tat
Hon CHEUNG Hok-ming, GBS, JP
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon Tanya CHAN
Hon Albert CHAN Wai-yip

Members absent : Hon LAU Wong-fat, GBM, GBS, JP (Deputy Chairman)
Hon Timothy FOK Tsun-ting, GBS, JP

Public officers attending : **Agenda item III**

Mrs Carrie LAM CHENG Yuet-ngor, GBS, JP
Secretary for Development

Mr Thomas CHOW Tat-ming, JP
Permanent Secretary for Development
(Planning and Lands)

Ms Winnie SO Chui-ying
Principal Assistant Secretary (Planning and
Lands)⁴
Development Bureau

Agenda item IV

Mrs Carrie LAM CHENG Yuet-ngor, GBS, JP
Secretary for Development

Mr Thomas CHOW Tat-ming, JP
Permanent Secretary for Development
(Planning and Lands)

Ms Brenda AU Kit-ying
Principal Assistant Secretary (Planning and
Lands)⁵
Development Bureau

Mr Raymond WONG Wai-man
Acting Deputy Director of Planning/Territorial

Ms Amy CHEUNG Yi-mei
Chief Town Planner/Studies and Research
Planning Department

Mr WONG Ming-to, JP
Project Manager (New Territories North & West)
Civil Engineering and Development Department

Mr HUNG Yat-ping
Acting Chief Engineer/Project Division 2
(New Territories North & West)
Civil Engineering and Development Department

Agenda item V

Mrs Carrie LAM CHENG Yuet-ngor, GBS, JP
Secretary for Development

Mr Thomas CHOW Tat-ming, JP
Permanent Secretary for Development
(Planning and Lands)

Ms Judy CHUNG Sui-kei
Principal Assistant Secretary (Planning and
Lands)¹
Development Bureau

Miss Annie TAM Kam-lan, JP
Director of Lands

Mr Graham Martin ROSS, JP
Deputy Director of Lands (Specialist)

Ms Olga LAM Wai-ha
Assistant Director (Kowloon)
Lands Department

Mrs Maria LAM LEUNG Man-wah
Assistant Director/Legal/
Kowloon & New Territories West
Lands Department

Mr Tony MOYUNG Hon
Chief Estate Surveyor (Valuation Section)
Lands Department

Mr John LAI Kai-tai
District Lands Officer (District Lands Office,
Kowloon West)
Lands Department

Agenda item VI

Mrs Carrie LAM CHENG Yuet-ngor, GBS, JP
Secretary for Development

Mr Thomas CHOW Tat-ming, JP
Permanent Secretary for Development
(Planning and Lands)

Mr Tony LI Yeuk-yue
Principal Assistant Secretary (Planning & Lands)²
Development Bureau

Ms Phyllis LI Chi-miu
Assistant Director/Special Duties
Planning Department

Mr Tom MING Kay-chuen
Executive Secretary (Antiquities & Monuments)
Leisure and Cultural Services Department

Agenda item VII

Mrs Carrie LAM CHENG Yuet-ngor, GBS, JP
Secretary for Development

Mr Thomas CHOW Tat-ming, JP
Permanent Secretary for Development
(Planning and Lands)

Mr Rex CHANG Wai-yuen, JP
Deputy Secretary for Development
(Planning and Lands)²

Mr Ryan CHIU Pit-ming
Principal Assistant Secretary (Planning & Lands)³
Development Bureau

Mr AU Choi-kai, JP
Director of Buildings

Mr HUI Siu-wai
Deputy Director of Buildings

Miss Annie TAM Kam-lan, JP
Director of Lands

**Attendance
by invitation**

: Agenda item III

Mr Barry CHEUNG Chun-yuen, GBS, JP
Chairman
Urban Renewal Authority

Mr Quinn LAW Yee-kwan, JP
Managing Director
Urban Renewal Authority

Ir Calvin LAM Che-leung
Executive Director (Operations & Project Control)
Urban Renewal Authority

Ms Iris TAM Siu-ying, JP
Executive Director (Planning & Project Control)
Urban Renewal Authority

Mr G Rasul BUTT
General Manager (Corporate Planning)
Urban Renewal Authority

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)4

Staff in attendance : Ms Sharon CHUNG
Senior Council Secretary (1)4

Miss Lilian MOK
Council Secretary (1)4

Ms Christina SHIU
Legislative Assistant (1)4

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- I Confirmation of minutes**
(LC Paper No. CB(1)2208/11-12 -- Minutes of meeting on 27 March 2012)

The minutes of the meeting held on 27 March 2012 were confirmed.

- II Information papers issued since the last meeting**
(LC Papers No. CB(1)2043/11-12(01), -- Letters from Hon Albert CHAN and Hon LEE Wing-tat about the new organization structure of the Government Secretariat in relation to the planning, lands and works portfolios proposed by the Chief Executive-elect and the Panel Chairman's replies
(02), (03) and (04)
- LC Paper No. CB(1)2114/11-12(01) -- Referral memorandum dated 1 June 2012 from the Complaints Division regarding the relocation of Sha Tin Sewage Treatment Works to caverns
- LC Papers No. CB(1)2121/11-12(01) -- Referral memoranda dated 31 May and 4 June 2012 from the Complaints Division regarding issues related to small houses in the New Territories
and (02)
- LC Paper No. CB(1)2165/11-12(01) -- Issues raised at the meeting between Legislative Council Members and Wong Tai Sin District Council members on 24 May 2012 relating to long-term development plan for squatter areas in Ngau Chi Wan Village

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- LC Paper No. CB(1)2210/11-12(01) -- Administration's paper on progress report on the HKSAR's work in support of reconstruction in the Sichuan earthquake stricken areas
- LC Paper No. CB(1)2207/11-12(10) -- Administration's paper on Tung Chung New Town Development Extension Stage One Public Engagement
- LC Paper No. CB(1)2207/11-12(11) -- Paper on Tung Chung New Town Development Extension prepared by the Legislative Council Secretariat (Background brief)
- LC Paper No. CB(1)2207/11-12(12) -- Administration's paper on Planning Study on Future Land Use at Anderson Road Quarry -- Draft Recommended Outline Development Plan
- LC Paper No. CB(1)2207/11-12(13) -- Paper on future land use at the Anderson Road Quarry site prepared by the Legislative Council Secretariat (Background brief)
- LC Papers No. CB(1)2246/11-12(01) and (02) -- Letter dated 5 June 2012 from Hon KAM Nai-wai to the Panel Chairman on archaeological discoveries excavated at the Central Police Station Compound and the Administration's response)

2. Members noted that the above information papers had been issued since the meeting on 22 May 2012.

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III Work of the Urban Renewal Authority

(LC Paper No. CB(1)2207/11-12(01) -- Administration's paper on work of the Urban Renewal Authority

LC Paper No. CB(1)2207/11-12(02) -- Paper on the work of the Urban Renewal Authority prepared by the Legislative Council Secretariat (Updated background brief))

3. The Secretary for Development ("SDEV") said that over the past year, the Urban Renewal Authority ("URA") had put into full implementation all the major initiatives under the new Urban Renewal Strategy ("URS") which was promulgated on 24 February 2011 after a two-year review exercise with public engagement. In 2012-2013, as announced by the Financial Secretary in his Budget Speech, URA would launch redevelopment projects of industrial buildings upon the Administration's invitation in the form of a pilot scheme. The redevelopment of under-utilized industrial buildings would release more land for residential and commercial use. The acquisition policy for industrial buildings and the approach to deal with domestic residents therein, which was approved by the URA Board, were given in Appendix II of the Annex to the Administration's paper. URA would take into account any views that members of the Panel might have and proceed with the pilot scheme in accordance with the aforesaid policy and approach to implement one to two redevelopment projects of industrial buildings in 2012-2013.

4. The Chairman of URA ("Chairman/URA") briefed members on URA's work in the year ending 31 March 2012 ("2011-2012"). He highlighted the following points --

Redevelopment

- (a) URA had initiated and commenced two new redevelopment projects during 2011-2012, namely, the Kowloon City Road/Sheung Heung Road project and the Reclamation Street/Shantung Street project. To recapitulate, since its establishment in 2001, URA had carried out or continued to implement a total of 55 redevelopment projects that would provide 19 700 new flats, 75 000 m² of space for Government,

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Institution or Community use, 37 000 m² of public open space, and 120 000 m² for other uses. Through the redevelopment projects, URA had improved the living conditions of about 34 000 households previously living in substandard housing.

Rehabilitation

- (b) In 2011-2012, URA had assisted the rehabilitation of around 300 buildings under the Integrated Building Maintenance Assistance Scheme which was co-managed with the Hong Kong Housing Society ("HKHS"). URA would continue to collaborate with the Government and HKHS to implement the Operation Building Bright. Under this programme, URA would provide technical and financial assistance for the rehabilitation of around 1 300 aged buildings in the year ahead, benefitting about 60 000 property owners.

Preservation and revitalization

- (c) For the Central Oasis, which was formerly the Central Market, URA awarded a comprehensive design consultancy in November 2011 based on public views collected on the design of the project, the findings of a structural survey and the outcome of studies on the market building's character-defining elements. At Mallory Street/Burrows Street, URA was implementing a preservation-cum-revitalization project. To maintain the vibrancy of the market abutting the Peel Street/Graham Street redevelopment project, URA had launched a series of promotion-cum-branding exercises with the participation of about 90 shop operators and hawkers. In Mong Kok, URA was enhancing the local characteristics of five themed streets. It would also continue its acquisition of property interests in the two shophouse preservation projects at Prince Edward Road West/Yuen Ngai Street and Shanghai Street/Argyle Street.

Initiatives under the new Urban Renewal Strategy

- (d) URA launched the "Demand-led Redevelopment Project Pilot Scheme" in July 2011. Under the Scheme, property owners could initiate redevelopment by submitting an application to URA to invite it to redevelop their proposed site. URA had

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received 25 applications in that first round of applications and selected three, all of which had been commenced in April 2012. Invitation for applications for the second round of projects had started in June 2012.

- (e) Apart from being an "implementer", URA was required under the new URS to take up a "facilitator" role to help owners of buildings in multiple-ownership to assemble titles for redevelopment. URA had set up the Urban Redevelopment Facilitating Services Company Limited to undertake the related work under the "Facilitating Services Pilot Scheme". Since the launch of the pilot scheme in July 2011, the company had received five applications of which two had been taken up, while the remaining three had failed to meet the application requirements.
- (f) URA had launched the Flat-for-Flat ("FFF") Scheme under which domestic owner-occupiers in URA-implemented redevelopment projects commencing after the promulgation of the new URS on 24 February 2011 could have FFF units as an additional option to cash compensation and ex-gratia payment. These owner-occupiers could purchase a unit in the future development in the form of in-situ FFF or a unit at the Kai Tak Development ("KTD") earmarked for the FFF Scheme. The first two projects accorded with this option were the Pak Tai Street/San Shan Road project and the Fuk Wing Street project. The FFF units at KTD were targeted for pre-sale in 2014-2015 and occupation in 2016-2017. As the FFF Scheme needed time to mature, it was expected that the interest of owner-occupiers in the Scheme would develop near the time of completion of the first batch of the FFF units at KTD.
- (g) URA had set up the first Urban Renewal Resource Centre in Tai Kok Tsui. Commencing operation in April 2012, the Centre would help URA promote its building rehabilitation and redevelopment initiatives, in particular, to enhance URA's supporting services to owners' corporations and owners who wished to organize rehabilitation works for their buildings, to provide more customized services to owners applying for various subsidies, loans and grants under the Integrated Building Maintenance Assistance Scheme, and to supply information on URA's other programmes.

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- (h) To enhance the vibrancy of the old urban areas, the "Arts and Cultural Partnership Programme in Old Urban Districts: Pilot Scheme" had been launched in October 2011 to encourage non-government organizations ("NGOs") to partner with URA to stage arts events with the active involvement of the community. A vacant shop at Prince Edward Road West acquired by URA had been licensed to an NGO to provide arts learning service to the community. In addition, URA had reserved one acquired block on Wing Lee Street for the Authority's first "Artists-in-residence" programme.
- (i) The Urban Renewal Trust Fund was established in August 2011 with a \$500 million endowment from URA. It provided an independent source of finance for the planning and related studies to be conducted by the District Urban Renewal Forums ("DURFs"), the social service teams that rendered support to affected residents in URA redevelopment projects, and NGOs and other stakeholders involved in heritage preservation and district revitalization initiatives.

5. On URA's work plan for 2012-2013, Chairman/URA advised that URA would continue to strive to implement its vision of creating a quality and vibrant urban living environment in Hong Kong by carrying out the various initiatives under the new URS. To meet the costs of all redevelopment, rehabilitation, preservation and revitalization projects contained in its 2012-2013 to 2016-2017 Corporate Plan, it was estimated that a total expenditure of about \$25 billion would be incurred. The five-year Corporate Plan included 10 new redevelopment projects and, on an annual basis, one to two each of "demand-led projects" and "facilitator projects". On the rehabilitation front, URA would play an expanded role. It would take over the rehabilitation work from HKHS progressively by first taking on rehabilitation responsibilities in Kowloon in 2013, and then the urban areas in the whole territory in 2015. URA would also participate in the implementation of the Government's Mandatory Building Inspection Scheme by subsidizing the full cost of the first building inspection fee, subject to a cap, to owners of eligible buildings located in URA's Rehabilitation Scheme Areas who had received the Inspection Notice issued by the Buildings Department. Upon request, URA would offer a range of technical support and advice to owners in need who wished to organize inspections and repair works for compliance with the statutory requirements. In this respect, provision had been made by URA to subsidize about 270

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buildings or 8,640 units in 2012-2013. As mentioned by SDEV, URA would launch a pilot scheme in the coming year to commence one or two redevelopment projects for industrial buildings.

6. Managing Director of URA ("MD/URA") briefed members on the financial position of URA. He said that as at 31 March 2012, URA's net asset value stood at \$21.8 billion, comprising a capital injection totalling \$10 billion from the Government and an accumulated surplus from operations of \$11.8 billion. He highlighted that URA was exempted by the Government from paying land premium. If not for this exemption, URA's total accumulated surplus would have been reduced by \$5.5 billion. On annual operating surpluses/deficits, a net operating surplus of \$2.6 billion was recorded in 2011-2012, mainly attributable to the favourable property market. However, high property prices had an impact on URA's financial commitment to purchase properties in redevelopment sites. While the estimated expenditure for the extensive work programme to be implemented in the next five years would amount to \$25 billion, URA would continue to exercise due care and diligence in handling its finances. Where necessary, it would make new external financing arrangements.

Redevelopment of dilapidated buildings

7. Mr Albert CHAN was glad to see improvement in URA's work in implementing urban redevelopment since completion of the review of URS. In particular, he supported the FFF Scheme and URA's efforts in increasing community facilities and organizing cultural/arts events to enhance the quality of life of residents in dilapidated urban areas. However, he expressed concern that the living environment of old residential areas not covered by URA's redevelopment plans continued to deteriorate. He suggested that URA should collaborate with relevant Government departments to implement beautification and improvement works at these areas.

8. SDEV responded that in addition to undertaking URA-initiated redevelopment projects, URA had taken up new roles to assist "demand-led projects" and "facilitator projects" to meet the need of owners of dilapidated buildings in redeveloping their properties. For URA-initiated projects, the Administration aimed to work out urban renewal plans at district level before proceeding new individual redevelopment projects. In this connection, the first DURF had been set up in Kowloon City. DURF would advise the Administration on district-based urban renewal initiatives from a holistic and integrated perspective, including advice on regeneration and redevelopment areas, preservation targets, and implementation models. DURF would

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engage members of the community and conduct various planning and related studies, including social impact assessments during the process. SDEV supplemented that, as community work relating to rehabilitation of dilapidated areas involved the efforts of different Government departments, the Administration should study how to strengthen the Home Affairs Department's coordination role in this respect.

9. Mr CHAN Kam-lam and Mr WONG Yung-kan expressed appreciation for URA's efforts in pursuing regeneration for old urban districts and were delighted to note that such efforts had gained increasing support from the public. Recognizing the main concern of property owners in old urban areas was to have a safe living place, Mr WONG further asked how URA could address this concern.

10. MD/URA replied that URA would continue to launch various types of redevelopment projects to improve the living conditions of property owners in old urban areas. For the tenants affected by such projects, subject to their meeting the eligibility criteria and the assistance from the Hong Kong Housing Authority and HKHS, arrangement would be made to re-house them in public rental housing. Mr WONG Yung-kan stressed the need for the Administration to accelerate the supply of public housing in urban areas to meet public demand and the need of residents affected by urban renewal projects.

11. SDEV thanked members for their support to URA's work. She said that the review of URS, which placed emphasis on a "people first, district-based, public participatory" approach to urban renewal, had brought increased public support to URA's work in recent years. Besides, the private sector had also contributed to urban regeneration in the past two years by actively acquiring aged properties for redevelopment.

12. Ir Dr Raymond HO opined that urban dilapidation was a common issue faced by all advanced cities. He was pleased to see that urban renewal in Hong Kong was progressing well. Pointing out that there had been a lot of successful examples of public-private partnership ("PPP") in implementing urban redevelopment projects in overseas cities, he urged the Administration and URA to widely adopt this approach.

13. Chairman/URA said that PPP had been applied to many URA redevelopment projects. After acquisition of the property interests for a redevelopment site, URA would invite tenders from developers to develop the site with a view to sharing out the developing costs and making use of the

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private sector's experience in design, construction and sale of the new properties. Moreover, the private sector took part in URA's revitalization, preservation and cultural projects. He assured members that URA would continue to pursue the PPP approach in implementing its projects.

14. The Chairman commended URA on its work, in particular, after the adoption of the new URS and in relation to rehabilitation of old buildings. He enquired about the reasons for the small number of projects taken up under the "Demand-led Redevelopment Project Pilot Scheme" and the "Facilitating Services Pilot Scheme", and whether the Administration had any plans to review the compensation and Home Purchase Allowance ("HPA") rate which were based on a notional 7-year-old replacement flat.

15. SDEV advised that for both URA and private developers, the major hurdle encountered in a redevelopment project was the difficulty in acquiring sufficient property interests, due to fragmented ownership in a building/lot. In fact, out of the five applications received under the "Facilitating Services Pilot Scheme", three had failed to meet the application requirements in terms of the ownership share. Very often, while the owners of residential units at the upper floors of a building welcomed developers' acquisition of their properties for re-development to improve their living environment, shop owners/tenants at the ground level objected the acquisition or requested for very high prices. URA had strived to address the concerns of shop owners/tenants, such as assisting them to identify suitable premises in the same district as far as practicable to enable them to continue their operation.

16. As regards cash compensation to property owners, noting that there was general support from stakeholders during the two-year public engagement exercise on the review of URS to continue with the existing compensation arrangements, SDEV said that there was no urgent need to review the matter at this stage. She further explained that under the new URS, owner-occupiers affected by URA-implemented redevelopment projects commencing on or after 24 February 2011 could opt to join the FFF Scheme as an alternative to accepting cash compensation. Furthermore, URA had introduced the "Compassionate Allowance for Elderly Domestic Owner-Landlords" which allowed eligible owner-landlords who relied on rental income to sustain their livelihood to receive compensation that was close to 80% of HPA, as opposed to the normal Supplementary Allowance that was 50% of HPA.

Building management

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17. Mr Albert CHAN stressed the need for URA to strengthen its role in assisting property owners of aged buildings without owners' corporations and building management services in carrying out maintenance works for their buildings, such as coordinating owners to collect funds for undertaking urgent repair works. Mr CHAN Kam-lam strongly recommended that the Administration should consider introducing legislation to require building owners to engage service providers to properly manage and maintain their buildings. He also believed that URA had capability in providing building management services to such buildings. The Chairman added that, to achieve economy of scale, the same service provider could be commissioned to manage a group of buildings within the same area.

18. Acknowledging that the multi-pronged measures adopted by the Administration in 2010 to enhance building safety mainly focused on building works, SDEV agreed that it was necessary to explore high-level cross-bureaux collaboration in pursuing proper management of residential buildings without owner corporations. As regards the provision of assistance to property owners in arranging urgent repair works, she considered that NGOs could have a role to play by operating as social enterprises and this could be further explored at DURFs.

Redevelopment of industrial buildings

19. The Chairman welcomed the Administration's new initiative of inviting URA to devise a pilot scheme for redeveloping industrial buildings. In his view, this measure would not only accelerate urban renewal, but also achieve better utilization of land resources. In response, SDEV said that in assembling property interests in industrial buildings for redevelopment, URA would face difficulties caused by multiple-ownership. To provide economic incentives to owners of industrial properties to accept URA's acquisition, URA would make compensation to these owners based on the "existing use value" of their properties, which would be assessed by reference to the comparable transaction prices in the open market. Further details of the pilot scheme were given in the Administration's paper. SDEV stressed that the Administration and URA would take into account members' views and launch the scheme as soon as possible.

IV North East New Territories New Development Areas Planning and Engineering Study -- Recommended Outline Development Plans and Stage Three Public Engagement

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- (LC Paper No. CB(1)2207/11-12(03) -- Administration's paper on North East New Territories New Development Areas Planning and Engineering Study -- Recommended Outline Development Plans and Stage Three Public Engagement
- LC Paper No. CB(1)2207/11-12(04) -- Paper on New Development Areas in North East New Territories prepared by the Legislative Council Secretariat (Updated background brief))

20. SDEV stressed that the Government was committed to expanding land resources for various types of developments for Hong Kong over the past few years. The efforts included the conduct of land use studies and reviews involving about 2 500 hectares of land to increase land supply in the medium and long terms, as well as short term measures to release industrial land, "Government, Institution or Community" ("G/IC") sites, and green belt areas in the New territories that had been devegetated for housing and other uses. A total of some 30 G/IC sites were under study for rezoning and release for housing development.

21. SDEV briefed members on the latest progress of the North East New Territories ("NENT") New Development Areas ("NDAs") Planning and Engineering Study ("the Study"). The Study, which covered three NDAs namely, Kwu Tung North ("KTN"), Fanling North ("FLN") and Ping Che/Ta Kwu Ling ("PC/TKL"), had adopted a three-stage Public Engagement ("PE") Programme. PE1 to solicit public views on the visions and aspirations for the NDAs and PE2 to consult the public on the Preliminary Outline Development Plans of the NDAs were completed in early 2009 and early 2010 respectively. PE3 was launched in mid-June 2012 to end of August 2012 to gauge public views on the Recommended Outline Development Plans ("RODPs") for the NDAs. RODPs reflecting the proposed land uses in the NDAs had been developed taking into account the public views collected in PE1 and PE2. SDEV highlighted the following salient points in RODPs --

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- (a) Compared with the Preliminary Outline Development Plans ("PODPs") promulgated under PE2, the plot ratios of the "Residential Zone 2" and "Residential Zone 3" sites in KTN and FLN NDAs had been increased from 3 to 3.5 and from 1 to 2 respectively. With this increase and other changes to the PODPs, 8 000 more housing flats could be provided thus bringing the total flat supply to 53 800 units to accommodate about 151 600 persons in the three NDAs. For PC/TKL NDA, there would be room for increasing its development intensity should the area be served by railway in the long term.
- (b) In view of the close proximity of the NDAs to a number of existing and new boundary control points and Shenzhen, the areas could be developed to support a wide range of economic activities and could provide about 52 100 new employment opportunities to support the local needs.
- (c) Some 43% of the new residential units were planned for public rental housing ("PRH") and the remaining 57% was for various types of private housing, thereby achieving a balanced housing mix in the NDAs. Suitable sites for the new Home Ownership Scheme ("HOS") developments would be identified among the sites planned for private housing.
- (d) To create a green living environment in the NDAs, comprehensive measures in respect of town planning, urban design, and transportation would be adopted. These included designating some 37 hectares of land in the core area of Long Valley which had high ecological value as a Nature Park to be implemented by the Government. It would be managed by the Agriculture, Fisheries and Conservation Department ("AFCD") after completion.
- (e) On the approach for the development of the NDAs, the Administration had studied the feasibility of adopting a public-private partnership ("PPP") model. However, after careful consideration of the public comments received during PE1 and PE2 and balancing all relevant considerations, the Administration considered the Conventional New Town Approach, which had been used in the development of existing new towns, more desirable. This approach would ensure timely implementation of various developments to enable

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synchronization of developments with provision of supporting infrastructure and public facilities. Under this approach, the Government would resume and clear all the private land planned for public works projects, public housing and private developments. It would also carry out site formation works and provide infrastructure before allocating land for various purposes including disposal of the land planned for private developments in the market.

- (f) To help maintain the social fabric of the existing communities and to provide more re-housing options, a site of about 3.2 hectares in the KTN NDA had been reserved for development of public housing (which might include subsidized housing) to facilitate local re-housing of eligible households affected by the NDAs project. In parallel, the Administration was reviewing the existing compensation and re-housing arrangements to facilitate smooth clearance of sites for implementation of major public works projects such as NDAs and associated infrastructure developments. It planned to complete the review exercise by the end of 2012 prior to the commencement of the advanced works of the NDAs.
- (g) The three NDAs would be developed in phases. Upon completion of the required statutory and funding approval procedures, construction works were anticipated to commence in 2017, with the first population intake in 2022. The entire NDAs project was expected to complete by 2031.

Development approach for the implementation of the New Development Areas

22. Mr CHEUNG Hok-ming appreciated the Administration's effort in organizing different PE activities to reach out to the public, and hoped the Study would set a good example for other land use studies to be conducted in the New Territories. He was also pleased to note that the Administration had made appropriate amendments to the planning and implementation of the NDAs in response to views received from the public and stakeholders. These included increasing the development intensity of the NDAs to achieve better utilization of land resources and preserving the natural environment which were put forth by the Democratic Alliance for the Betterment and Progress of Hong Kong and Heung Yee Kuk ("HYK"), maintaining a balanced mix of public and private housing developments in the NDAs, and

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reserving a portion of land in Long Valley of high ecological value for developing a Nature Park. Given that over 50% of land in the NDAs was under private ownership, Mr CHEUNG asked why the Administration had decided not to adopt a PPP approach to attract private sector participation in the NDAs project.

23. Mr Abraham SHEK said that he supported the development of the three NDAs in principle but opined that the Administration should respect private property rights as enshrined in the Basic Law and explore with various stakeholders/land owners to understand their aspirations in the development of the NDAs as well as study the feasibility to allow private participation in the NDAs project.

24. Sharing the views, Dr Priscilla LEUNG also opined that the Government should foster communication with different stakeholders involved in the NDAs project so as to avoid future litigations arising from land acquisition. She further suggested that the Administration should consider setting up an expert group comprising different stakeholders and legal professionals to look into concerns over land resumption matters in pursuing public works projects in the New Territories.

25. Mr Albert CHAN expressed support for development of the three NDAs. While taking note that the Conventional New Town Approach might enable timely development of the NDAs, he was concerned that such an approach might turn the NDAs into another Hoi Pa Village in Tsuen Wan under which the Government had resumed and cleared private land for commercial developments at the expense of private land owners' interests. Referring to the PE3 Digest, Mr CHAN further pointed out that a large piece of land in KTN planned for private housing development was owned by a large real estate developer. He commented that such land use planning might give rise to public suspicions of Government policies being tilted in favour of property developers and "collusion or transfer of benefits between the Government and individual property developers or consortia". To strike an appropriate balance among the interests of different sectors, Mr CHAN enquired whether the Administration would consider inviting property developers/land owners to implement part of the NDAs project jointly with the Government and set a requirement of PRH flats to be produced by the private developers.

26. Mr WONG Yung-kan opined that the Administration should strive to maintain a fine balance between private and public interests. He was concerned that if the PPP approach was adopted for the development of the

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NDA's project, the Government might be blamed for fault if eventually private developers failed in acquiring the private land required for the development in the project.

27. Mr James TO said that it was not uncommon that there would be conflicts between public interest and individual's interests in land use planning and resumption matters. While he expressed support for adopting the Conventional New Town Approach for the NDAs project, to achieve a balance between individual's interests and public interest, he enquired whether the Administration would consider ascertaining the interest of the developers/land owners who acquired/owned significant property interest in the NDAs to participate in the project if their development proposals closely matched with the proposed land use in RODPs. To facilitate the making of decision on the development approach, he also suggested that the Administration should compare the implementation timeframes of the conventional approach and the PPP approach.

28. Ir Dr Raymond HO considered the conventional approach appropriate for the development of the NDAs project. He opined that the Administration should avoid conflicts and disputes with land owners in resuming land for development, and stressed the importance to provide reasonable compensation to land owners and affected persons.

29. Mr Frederick FUNG said that he was against compulsory resumption of private land, which would deprive land owners of rights in pursuing their own development for the land. He pointed out that the Conventional New Town Approach for the development of the NDAs project under which the Government would resume the private land and dispose of the sites planned for private developments in the market was no difference as the Government was in fact transferring benefits among different developers/land owners. In respect of compensation for affected land owners, Mr FUNG was of the view that this should take into account the potential development value of the land.

30. As the Study had come to the final stage of public consultation and the implementation arrangements had been set out in the PE3 Digest, Mr LEE Wing-tat cautioned that should the Administration consider introducing changes to the development approach for the NDAs project, there should be high transparency in the process and further public consultation on the approach to be adopted. Otherwise, the Government would be accused of transferring benefits to developers or consortia. In view of public controversies over the development approach for the NDAs project,

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Mr LEE further urged the Administration to explain to the public the merits and demerits of different implementation models or approaches for land developments in the New Territories to allay public concerns about possible collusion between the Government and individual property developers or consortia.

31. On the development approach for the NDA project, Permanent Secretary for Development (Planning and Lands) ("PS/DEV(P&L)") re-iterated that having regard to the large area of private land in the three NDAs and the views collected in PE1 and PE2, the Administration considered the conventional approach more desirable for implementing the project. He explained that under the conventional approach, the Government would take the lead in the development, resume the required private land and clear and form the sites for various developments. The approach would ensure more timely and balanced development with appropriate mix of housing and timely provision of infrastructure facilities in the NDAs. The Government would also compensate and/or re-house eligible affected clearers in accordance with relevant legislation and policies to ensure fairness to all and the development of the project would be on schedule.

32. As regards concerns about land use planning and resumption of private land, PS/DEV(P&L) said that the Government would consider the most appropriate and suitable use for a site in accordance with the Town Planning Ordinance (Cap. 131) ("the TPO") and the compatibility of the proposed development project with the surrounding land uses. Land ownership by which developer or consortium was not a relevant consideration in the process. He added that in implementing the NDAs project under the Conventional New Town Approach, the private land resumed and cleared by the Government would be disposed of by way of tender or open auction in the market as appropriate. With the above, there should be no question of "collusion between the Government and individual property developers or consortia" nor any "transfer of benefits" taking place.

33. With regard to the option of private developers developing the sites that they owned in the NDAs, SDEV advised that the implementation would then largely depend on the decision of the individual developers/land owners while the Government could play no part in terms of timing of implementation. In pursuing a private development project, developers/land owners would first acquire a potential site for development which might comprise a few pieces of land held by different owners and zoned for different uses under the relevant Outline Zoning Plan ("OZP"). The developers would also be responsible for the development of infrastructure

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facilities to support the developments. Moreover, developers might not be able to acquire a whole site and development of his land with pockets of land still under others' ownership would be difficult. If the development project required changes in the land use, the developer would also need to obtain approval from the Town Planning Board ("TPB"). Having regard to the long lead time required for developers/land owners to go through the statutory town planning process and the other problems, the Administration considered the PPP approach not appropriate for the development of the NDAs project since the Government would have no control over the timeframe in the implementation of private developments to ensure completion of the project on schedule. SDEV said that while there were risks that the Conventional New Town Approach might meet legal challenge from private land owners, the majority view collected in PE1 and PE2 was supportive of this approach. Developers/land owners would be offered compensation for the resumption of their land. As regards Mr James TO's suggestion for the Administration to invite developers/land owners who had acquired/owned certain amount of land in the NDAs to participate in the NDAs project, SDEV said that there would be difficulty in setting an appropriate threshold of property interest in this respect. Given the sensitivity and complexity involved in the development of private land in the New Territories, she cautioned that the suggestion of the Administration making use of its land resumption power to assemble land for PPP might give rise to public suspicion about "transfer of benefits" between the Government and the business sector and would unlikely be acceptable to the community at large.

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34. SDEV advised that under the Lands Resumption Ordinance (Cap. 124), the Administration could resume a land for a public purpose and the land resumption exercise to be launched in the NDAs project would be an example. Whether some kind of flexibility could be built in for PPP in implementing the NDAs project would depend on how such mechanism could address the need for timing provision of housing supply including new HOS units, and that it would not lead to a public perception of collusion between the Government and the developers. She said that the Administration would consider members' views in pursuing the NDAs project including the development approach to be adopted. To address members' concerns, SDEV said that the Administration would prepare an information paper on the subject including the development approach for the NDAs project and revert to the Panel in due course.

Preservation of agricultural land

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35. On the proposal of developing the core area of Long Valley into a Nature Park, Mr WONG Yung-kan enquired how the Administration would ensure the sustainable development of the local agriculture industry within the area including continuation of the organic farming activities therein.

36. SDEV advised that the Nature Park would be a project to be implemented by the Government after resumption of the private land and to be managed by AFCD in future. As the ecological value of Long Valley was closely related to the existing wet farming practice, the Administration would conduct further studies on how the Nature Park could support farming activities and enhance the ecological value of the area.

"Green Belt" zone

37. Mr CHEUNG Hok-ming pointed out that there were no provisions in the TPO for compensation to land owners whose developments were affected as a result of planning decisions under the ordinance, and compensation was only available to land owners in the case of land resumption. Noting that quite a large area of land was zoned Green Belt ("GB") in the NDAs to promote conservation of the natural environment, Mr CHEUNG expressed concern about the impact of GB zoning on land owners.

38. Acting Deputy Director of Planning/Territorial advised that the GB zone in the NDAs covered a total area of about 117 hectares, of which 111 hectares were located in KTN and 6 hectares in PC/TKL. The land was Government land and comprised mainly hilly terrains. Any change in the land use of the GB zone was subject to approval of TPB in accordance with the TPO.

Extension of public consultation period

39. Mr CHEUNG Hok-ming pointed out that the private land in the NDAs might be under fragmented ownership with some owners residing overseas. He suggested that the Administration should extend the PE3 consultation period to allow ample time for land owners to express their views. Mr Frederick FUNG considered that a well-structured and comprehensive engagement programme crucial to the smooth implementation of such a large and complicated project. Mr CHAN Kam-lam agreed that a longer consultation period would facilitate more detailed deliberations on controversial issues, such as the provision of compensation and re-housing arrangements for clearers, and

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prepare for a smooth implementation of the NDAs project in future but opined that there should not be delay in the procedures for obtaining statutory and funding approvals for the project.

40. In response, SDEV advised that PE1 and PE2 had focused mainly on the visions and aspirations for the NDAs and PODPs while PE3 put emphasis on the development proposals set out in RODPs and the implementation details. She said that as the Study comprised land use planning and preparation for engineering infrastructure works and in view of the statutory requirements that the project was required to comply with, the project was under a tight schedule. SDEV considered the current consultation period lasting for about two and a half months until 31 August 2012 appropriate. Acknowledging that the Study involved interests of different stakeholders, the Administration would continue to listen to views after completion of PE3 and consider arranging separate discussion with stakeholders on issues relating to the implementation of the NDAs. It would liaise with HYK and related Rural Committees on subsequent arrangements in due course.

Development intensity in the New Development Areas

41. Mr CHAN Kam-lam enquired whether the Administration would consider relaxing the plot ratio for private developments in the NDAs to, say 5.5 or 6, in order to enhance developers' interests in the project. In response, SDEV advised that as most of the private land in the NDAs was currently abandoned farmland and being used for open storage, the proposed plot ratios in RODPs would provide adequate incentives for private developments in the NDAs.

42. In response to Mr CHAN's further enquiry on whether issuing development entitlements, similar to the previous Letters A and B system, to private land owners would be considered in pursuing the NDAs project, PS/DEV(P&L) advised that the Administration had no plan to revive the development entitlement mechanism as there would not be adequate land available within the NDAs for redemption. He re-iterated that the Government, under the conventional new town approach, would resume and clear all the private land planned for development, and compensate/re-house affected parties according to the prevailing policy.

Construction of small houses in the New Development Areas

43. Mr Alan LEONG enquired about possible impact of the construction

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of small houses by eligible indigenous villagers in the NDAs on the NDAs project. SDEV advised that there were more than 600 recognized villages in the New Territories and village environs ("VE") referred to a specified distance surrounding a recognized village within which the construction of small houses was restricted to. She said that there were three recognized villages in the NDAs all of which were not affected by the NDA works. Whilst the size of the "Village Type Development" ("V") zone of Ho Sheung Heung Village had been slightly extended within the bounds of its "VE", the "V" zone of the other two recognized villages remained largely unchanged.

44. The Chairman concluded the discussion on the item and requested the Administration to consider members' views expressed and keep them informed of the progress of the development of the three NDAs in NENT.

V Policy relating to the land exchange involving the Ocean Terminal Lot

- (LC Paper No. CB(1)2207/11-12(05) -- Administration's paper on policy relating to the land exchange involving the Ocean Terminal Lot
- LC Paper No. CB(1)2207/11-12(06) -- Letter dated 6 June 2012 from nine Legislative Council Members
- LC Paper No. CB(1)2207/11-12(07) -- Letter dated 8 June 2012 from Hon LEE Wing-tat
- LC Paper No. IN33/11-12 -- Paper on background information concerning the re-grant of the Ocean Terminal Lot as well as the views and concerns raised by various sectors in Hong Kong on the incident prepared by the Legislative Council Secretariat (Information note))

45. SDEV drew members' attention to the oral question raised by Mr LI Wah-ming regarding the land exchange involving the Ocean Terminal lot ("the OT Lot") at the Legislative Council ("LegCo") meeting held on 20 June 2012 and the Administration's response. SDEV and Director of Lands

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("D of L") remarked that it would not be appropriate for the Administration to disclose the details of the negotiations with Wharf on the land exchange involving the OT Lot, in particular the details of Lands Department ("LandsD")'s assessment on the premium, as this would prejudice the Government's position acting in the lessor's capacity.

Policy on extension of non-renewable leases and land premium assessment mechanism

46. Mr CHAN Kam-lam enquired about the prevailing policy governing the extension of non-renewable leases and the mechanism for assessing land premium on the renewal of land leases. SDEV stressed that the assessment of land premium payable to the Government was conducted by a team of professional staff in LandsD. To ensure the land premium would reflect the market value of the land involved, LandsD would take into account a number of factors relating to the cost and revenue aspects of the subject site and the development/buildings on the site, as well as monitor closely situations and changes in the market. D of L supplemented that LandsD had in place a well-established arrangement for handling modifications of land leases including land exchanges under which two separate groups of staff were deployed for formulating the terms and conditions of the new lease and assessment of the land premium to be payable by the lessee respectively in order to safeguard the independence and credibility of LandsD's work in this regard.

47. As regards the existing policy on extension of non-renewable leases, D of L advised that a land lease was a contract between the Government in the capacity of lessor (i.e. landlord) and a lessee (i.e. land owner) and contained terms and conditions including, the use and development of a site. If the lessee applied for extension of a lease upon its expiry, the Government acting in the lessor capacity would exercise its sole discretion to renew or not to renew it. During the term of the existing lease, if a lessee wished to change the use of a leased site or develop it to the extent beyond the terms and conditions allowed in the current lease, it had to apply for a modification of the lease. The Government as the landlord might exercise its sole discretion in granting modifications to the lease, subject to the terms and conditions including premium if applicable as imposed by the Government. D of L further explained that in a modification case which did not involve changes to or realignment of the boundaries of the lot covered by the lease concerned, the Government would normally grant lease modification by issuing a modification letter, stipulating the conditions being modified and other lease conditions generally remained unchanged. As regards those

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cases involving re-adjustment of lot boundaries or amalgamation of lots, modification of lease conditions would be effected by surrender/regrant (i.e. land exchange) and the new lease term would normally be 50 years from the date of regrant.

48. In connection with the OT Lot, D of L said that in 2008, Wharf had formally submitted an application to LandsD for an in-situ land exchange by surrendering the lot for the regrant of the same together with a piece of land leased to Wharf since 1995 under a Short Term Tenancy (the land had been used by Wharf for a spiral vehicular ramp as an alternative vehicular access to the Ocean Terminal carpark for better traffic circulation in the areas). In the application, Wharf made it clear that such a land exchange application was without prejudice to Wharf's view that it had an entitlement, upon the expiry of the Ocean Terminal lease ("the OT Lease") on 16 June 2012, to a renewal of the lease for a term of 50 years at nil premium. The Government made it clear that it did not agree to Wharf's view that it had an entitlement to the renewal of the lease. LandsD was only prepared to consider a land exchange for a term of 21 years.. Wharf and LandsD then went into protracted negotiations. At the end, Wharf accepted LandsD's offer on 4 June 2012 to pay full market premium of \$7,900 million plus an annual rent payable at 3% of the rateable value of the OT Lot regranted under the land exchange for a term of 21 years. D of L added that Wharf had preferred a 50-year term, but this had been rejected by LandsD, taking into consideration that a 50-year term was too long as the cruise industry was undergoing development and change.

Disposal of land by tender or auction

49. Mr LEE Wing-tat said that the land exchange involving the OT Lot had aroused much public controversies, and the public had raised serious doubt on the Administration's decision of not putting the OT Lot for tender or auction but entered into a land exchange with Wharf. While respecting the professionalism of LandsD staff in premium assessment, Mr LEE was concerned that the matter could be rather subjective and judgmental, and the Administration should arrange tender or auction for the OT Lot to enhance transparency in the disposal process and dispel any public suspicion about transfer of interests between the Government and Wharf on the matter. Noting from a media report that in 2005, the former D of L had proposed the Government to put the OT Lot for tender upon the expiry of the lease, Mr LEE enquired whether the Administration had considered the proposal.

50. In response, D of L said that LandsD had looked into its records but

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could not find any showing that the former D of L had ever openly proposed the disposal of the OT Lot by open tender upon the expiry of the lease. The media report mentioned by Mr LEE might have probably made reference to information in the legal documents relevant to the judicial review case filed by Wharf in 2005 on its claim for an entitlement to a renewal of the OT Lease for 50 years at nil premium. D of L clarified that the proposed disposal of the OT Lot by open tender was found in a correspondence in October 2004 from a then Assistant Director of Lands (acting in the lessor capacity) to Wharf. A developer (not Wharf) wrote to LandsD in February 2005 enquiring about the proposed tender as reported by the media. The Department of Justice ("DoJ") formally responded to the developer on behalf of LandsD pointing out that the renewal of the OT Lot had been brought to the court and the Government would not comment on the matter, while reserving its right to do so as and when it considered appropriate. At the hearing in July 2007, the counsel representing the Government in the judicial review case of the lease renewal of the OT Lot pointed out that the proposed disposal of the lot by open tender was not a decision of the Government. Rather, it was "an intimation" made by the then D of L.

51. Mr James TO shared Mr LEE Wing-tat's views that the OT Lot should be disposed of by tender or auction as there were prospective cruise terminal operators in the market and the lucrative profits derived from the operation of the Ocean Terminal would be attractive to real estate developers. He also expressed concern that the land exchange of the OT Lot would set a bad example for other lessees to make use of protracted legal proceedings as a tactic to prevent the Government from putting lots for tender or auction, and might arouse public suspicion that policies of the Government were tilted in favour of property developers or consortia.

52. SDEV stressed that when dealing with the land exchange of the OT Lot, the Government had considered other options including open tender, and finally concluded that the land exchange for a 21-year term was appropriate as it could remove the cruise industry's worries about any possible disruption to the operation of the Ocean Terminal and ensure the continuity of the Ocean Terminal's operation. In addition, the new 4-storey building to be constructed by Wharf would provide government accommodation and better cruise terminal facilities including immigration and customs offices, quarantine areas as well as baggage hall, etc.

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53. D of L added that given that the Ocean Terminal remained the only cruise terminal before the commissioning of the first berth of the new terminal at Kai Tak in mid 2013, that the Lot had been leased to Wharf until 16 June 2012 and that Wharf had not only got sitting shop tenants at the shopping arcade but cruise operators using the cruise terminal and related facilities, if the OT Lot were to be disposed of by tender or auction, it might not be possible for the Government to ensure that there would be no gap in the provision of cruise terminal service between mid June 2012 and mid 2013. Since the Government was committed to developing Hong Kong into a leading regional cruise hub, temporary suspension of cruise terminal service would have a disastrous impact on the tourism industry.

54. Noting that the Government had examined options including open tender for the OT Lot, Mr KAM Nai-wai asked at which stage the Administration finally considered that the land exchange with Wharf for a 21-year term was more appropriate than other options.

55. Referring to paragraph 7 of the Administration's paper, D of L re-iterated that Wharf had submitted in July 2008, on a basis without prejudice to its position that it had an entitlement to a renewal of the OT Lease for 50 years at nil premium, to LandsD an application for the surrender of the OT Lot for the regrant of the lot together with a piece of adjoining Government land. Subsequently, there had been without prejudice discussions between Wharf and relevant Government bureaux/departments on the terms and conditions of the land exchange of the OT Lot and other obligations of Wharf. The application and the comments from relevant Government bureaux/departments were also discussed at the District Lands Conference in late 2009 and early 2010. Later on in July 2010, LandsD offered Wharf the provisional basic terms and conditions for the land exchange and the parties then continued to negotiate on the land premium. Wharf did not accept LandsD's binding basic terms offer, which included the detailed terms and conditions and the premium amount, until 4 June 2012.

56. D of L stressed that during the prolonged negotiations, the Administration had all along insisted that a full market value premium be paid by Wharf. When considering Wharf's negotiating power, it should be borne in mind that Wharf had been aware of the expiry of the OT Lease on 16 June 2012 and Wharf had naturally been more concerned about giving certainty to its sitting shop tenants and to the cruise operators when approaching closer to the expiry date. D of L dismissed the allegations that the Administration had put itself in a less advantageous position in the negotiations with Wharf and the judicial review filed by Wharf had affected

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Government's decision on the OT Lease.

57. Mr KAM Nai-wai was not convinced of the Administration's explanation. He maintained the view that the concern over possible disruption to the operation of the Ocean Terminal bringing adverse impact on the local tourism industry had undermined the Government's position in the negotiations with Wharf. D of L disagreed and stressed that Wharf with its existing tenants at the Ocean Terminal and other commercial considerations was anxious to conclude the land exchange. The bargaining power of the Government was evidenced by the acceptance of the offer by Wharf on 4 June 2012.

58. Mr Albert CHAN acknowledged that the case of the OT Lot involved sensitive and complicated issues and the Administration had encountered difficulties in handling the case. He recalled that during the discussion on the construction of the Kai Tak cruise terminal at the Panel on Economic Development ("EDEV Panel") some years ago, Panel members had expressed the views that the OT Lot should be put for open tender upon expiry of the lease with Wharf. It was his impression then that the Government was inclined to invite international tenders for the OT Lot with a view to enhancing Hong Kong's cruise terminal services and its competitiveness in the global cruise industry. As such, Mr CHAN said that he was disappointed that the Administration had reached an agreement with Wharf to renew the OT Lease for another 21 years.

59. SDEV said that the deliberations of the EDEV Panel on the operation and leasing arrangements for both the Ocean Terminal and the new Kai Tak cruise terminal were not the considerations for the land exchange of the OT Lot. Nonetheless, the Administration had taken into account the views of the Commissioner for Tourism that the cruise terminal facilities at the Ocean Terminal should be enhanced including improvements to the immigration and customs offices, quarantine areas as well as baggage halls after the land exchange of the OT Lot.

Appeal mechanism for terms and conditions in land leases

60. Mr Abraham SHEK, who was returned from the Real Estate and Construction Functional Constituency ("the FC"), declared that Wharf was one of the voters in the FC. Referring to paragraph 6 of the Administration's paper, Mr SHEK noted that negotiations between the Government and Wharf commenced in June 2003, it was Wharf's second renewal of the OT Lease with the Government, and similar arrangements were made in other

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land leases. In his view, there was no evidence to substantiate the allegation that the Administration had deliberately chosen not to put the OT Lot for open tender so as to re-grant the lease to Wharf. Noting that Wharf was required to pay the full market premium of \$7,900 million, Mr SHEK enquired whether there was any appeal mechanism for lessees regarding the terms and conditions of leases, such as the market premium to be paid to the Government.

61. D of L advised that in 1991, Wharf had paid a lump sum of \$400 million for a renewal of the OT Lease for a period of 21 years till 16 June 2012. Although Wharf had expressed the view that it had been entitled to renew the lease for 50 years at nil premium, LandsD had rejected its application for a lease renewal, and had only agreed to enter into negotiations on a land exchange. Given the Government's insistence on a 21-year lease term on a full market premium basis under the land exchange, the negotiations had as expected been protracted. Approaching to the expiry of the lease, Wharf had agreed to pay the full market premium of \$7,900 million together with an annual rent payable at 3% of the rateable value of the lot re-granted under the new lease of land exchange. D of L further advised that LandsD had in place an internal appeal system and Wharf's appeal against the \$7,900 million land premium had failed. Noting the Administration's explanation, Mr Abraham SHEK suggested that the Administration should consider developing a mediation scheme to assist the Government and lessees in reaching consensus on land premium..

Adjoining land of the Ocean Terminal lot

62. Miss Tanya CHAN noted from paragraph 5.5 of the information note prepared by the LegCo Secretariat, which summarized the views and concerns on the land of exchange of the OT Lot raised by various sectors, that Wharf owned a piece of land adjoining to the OT Lot with a lease term of 999 years and the public had to pass through this piece of land to the Ocean Terminal. She expressed concern about public access to the land upon execution of the new lease of land exchange.

63. With reference to the Deeds of Grant of Rights of Way as attached to the Administration's paper, D of L assured members that the Administration had settled with Wharf that during the 21-year term under the Conditions of Exchange the public would be granted uninterrupted access at all times to the adjoining land for the purposes of access to and egress from the Ocean Terminal.

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Granting of land leases by open tender

64. Mr LEE Wing-tat opined that the land exchange case of the Ocean Terminal had demonstrated the need for the Government to develop a more comprehensive policy on the granting of land leases. To ensure sufficient time for the Government to make preparations for putting a lot for tender or auction after the expiry of the current lease and for the existing lessee to make transitional arrangements, he urged that the Administration should take the expiry date of the lease as the baseline in working out a suitable time-table for the preparatory work.

65. Mr James TO was of the view that profits to be generated from the commercial premises in the Ocean Terminal were far more attractive to Wharf than those from operation of the cruise terminal. He remarked that if the Government planned to invite open tender for the OT Lot in future, adequate time should be provided for the new operator to take up the operation of the Ocean Terminal in order to minimize the disturbance to tourists and cruise terminal service as far as practicable.

66. D of L re-iterated that the Government had all along insisted that Wharf must pay a full market value premium for the 21-year new lease under the land exchange and the premium for the OT Lease was assessed by professional staff of LandsD staff in accordance with professional valuation principles. Other alternatives to land exchange, including an open tender, had been considered but the land exchange had been considered to be the appropriate route having regard to the relevant considerations and the circumstances, including among others the fact that the OT Lot had been leased to Wharf until 16 June 2012 and that the first berth of the new terminal at Kai Tak would not be commissioned until mid 2013. The circumstances would not necessarily be the same in future when the 21-year term lease under the land exchange expired.

(The Chairman ordered a break of five minutes.)

(The meeting resumed at 11:40 am.)

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VI Redevelopment of West Wing of former Central Government Offices

- (LC Paper No. CB(1)2207/11-12(08) -- Administration's paper on redevelopment of West Wing of former Central Government Offices
- LC Paper No. CB(1)2207/11-12(09) -- Letter dated 12 June 2012 from Hon KAM Nai-wai
- LC Paper No. FS27/11-12 -- Paper on a summary of press reports on conservation of the Central Government Offices from 1 May to 25 June 2012 prepared by the Legislative Council Secretariat (Fact sheet)
- LC Paper No. CB(1)2215/11-12(01) -- Paper on redevelopment of the West Wing of the former Central Government Offices prepared by the Legislative Council Secretariat (Updated background brief))

67. To allow ample time for members to discuss the item, the Chairman proposed and members agreed that the meeting would proceed directly to the question and answer session. Members noted that a number of submissions from organizations including the Government Hill Concern Group expressing views on the redevelopment of the former Central Government Offices ("CGO") were tabled at the meeting.

Announcement of the revised implementation plan for redeveloping the West Wing of the former Central Government Office

68. Mr KAM Nai-wai queried why SDEV had chosen to announce the revised implementation plan for redeveloping the West Wing of the former CGO in the morning of 14 June 2012 before the Antiquities Advisory Board ("AAB") met in the afternoon on the same day to discuss proposed gradings recommended by its assessment panel on the heritage value of the three buildings of the former CGO, namely the Main Wing, the East Wing and the West Wing. He considered that the Administration's action had pre-empted

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the decision of AAB on the matter, and expressed concern that AAB might eventually become a rubber stamp of the Administration.

69. Mr LEE Wing-tat shared a similar view. He said that since a public consultation was underway to seek views on AAB's proposed gradings for the former CGO site and the three buildings, he considered it inappropriate for the Administration to announce its final plan for redeveloping the West Wing at the present stage. He commented that the incident of grading for the former CGO site and the three buildings ("the incident") had shown a lack of respect by the Administration on AAB's work and that the Administration was not receptive to public views on the redevelopment of the former CGO.

70. SDEV considered it unfortunate that there had been mistrustful and smearing remarks in the community about the redevelopment of the West Wing. She said that there had been public discussions on the redevelopment of the former CGO since 2009 and referred members to the chronology of major events relating to the redevelopment project (Annex B of the Administration's paper). She highlighted that the Government's position to preserve the Main Wing and East Wing for use by the Department of Justice as well as to demolish and redevelop the West Wing had been made known as early as in October 2009 when the Chief Executive announced the "Conserving Central" initiative in his 2009-2010 Policy Address. Since then, the Administration had been re-iterating this established position and repeatedly explained its stance on related issues to the Panel and members of the public on a number of occasions. As such, she stressed that there was no question that the Government would attempt to pre-empt any decision of AAB on the proposed gradings of the former CGO site and the three buildings.

71. SDEV also refuted the allegation against the Administration exercising undue pressure on AAB in the incident. She explained that the timely disclosure of the revised implementation plan for the redevelopment scheme of the West Wing on 14 June 2012 was intended to address recent concern expressed by some members of the public about Government giving up the ownership of the West Wing site. She affirmed that preserving the integrity of the ownership of the entire CGO site was the main consideration of the Government in retaining the ownership of the West Wing site.

72. As regards the redevelopment for the West Wing, SDEV stressed that the Administration had made appropriate refinements to the implementation plan in response to major public views. These included enlarging the area of the public open space ("POS"), which would be

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managed and maintained by the Leisure and Cultural Services Department after completion, deleting the proposed shopping centre from the redevelopment scheme and reducing the number of parking spaces in the new office block. Furthermore, the Government had dropped its earlier proposal to rezone part of the "Government, Institution or Community" site to "Comprehensive Development Area" and would retain the ownership of the West Wing site for office development, thereby preserving the integrity of the entire CGO site. She advised that relevant professional bodies including the Hong Kong Institute of Urban Design, the Hong Kong Institute of Planners, the Hong Kong Institution of Engineers and the Hong Kong Institute of Landscape Architects were supportive to the demolition and redevelopment of the West Wing and considered that the project was in the overall public interest of Hong Kong and had struck a reasonable balance among heritage conservation, economic development and community facility needs.

73. According to the revised redevelopment scheme for the West Wing site, SDEV pointed out that the site coverage of the West Wing (existing about 2 520 m²) would be reduced by 46% to 1 350 m² so that an enlarged POS would be created to serve as a "city lung" in the upper part of Central. It was planned that the enlarged POS would link up the natural green hillside from Battery Path all the way up to the Government House to form an integral part of an extensive greenery network in Central.

Proposed grading of the former Central Government Offices

74. Mr KAM Nai-wai asked why the three buildings which all located at the former CGO site were given individual gradings and why a separate grading was given to the former CGO site instead of giving a single grading for the entire Government Hill. He pointed out that the grading for the former CGO was different from the grading exercises of other historic buildings in Hong Kong where only one grading was given to the entire group of buildings at a site.

75. SDEV advised that it was not unusual for AAB to assess historic buildings/structures within a site individually. For example, each single historic building/structure in the Central Police Station Compound and the Sheng Kung Hui Compound had been assessed on their own merits and accorded different gradings subject to their heritage value. The same also applied to the gradings of the Old Lei Yue Mun Barracks (now the Lei Yue Mun Park and Holiday Village). For the site with only a grading for the whole compound such as King Yin Lei and Ho Tung Gardens, alternative

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means including renovation, redevelopment and demolition would be considered for the buildings/structures therein of relatively low heritage value.

Adoption of a Build-Operate-Transfer approach

76. Mr KAM Nai-wai noted from the revised implementation plan that the Administration would adopt the Build-Operate-Transfer ("BOT") approach to partner with the private sector in redeveloping the West Wing. He enquired whether BOT, which was common in the development of transport infrastructures and used in the development of four major toll tunnels in Hong Kong, had been adopted for implementing building projects.

77. SDEV advised that while the BOT approach was mainly adopted for developing transport infrastructures, there were other BOT examples involving land development projects. For instance, the redevelopment of the Hong Kong Club Building ("the Building") was implemented by the private sector using the BOT approach whereby the Hong Kong Club granted a contract to a private developer for the construction and operation of the Building. The contractor was responsible for the operation of the Building in exchange for financial benefits (e.g. rental income) for a specified period of time. The BOT contract had expired and the Building had been returned to the Hong Kong Club.

78. Mr Abraham SHEK said that he supported demolishing the West Wing and adopting the BOT approach to redevelop the site. He opined that heritage conservation should be the recognition of traditions and culture of the past, and should not prohibit demolition of historic buildings and construction of new buildings across the board. While he was aware that the community was very concerned about "real estate hegemony", he hoped that the public and the LegCo Members would focus their attention on the potential economic merits of the redevelopment project. According to his past experience with AAB, Mr SHEK affirmed that AAB was autonomous in carrying out its work and had been handling the redevelopment of the West Wing in a fair and impartial manner.

79. Mrs Sophie LEUNG was also supportive of the redevelopment of the West Wing. Given that the development intensity in Central was already very high, she considered it necessary to provide more open space and greenery areas for enjoyment by the public and those working in the district. By reducing significantly the coverage of the West Wing site to release more area for the POS, Mrs LEUNG was of the view that the Government had

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proactively responded to the concerns of some in the community. It might not be possible for the Government to meet all aspirations and interests of the community which were divergent at times. Mr IP Kwok-him who was also a member of the Central and Western District Council ("C&W DC") said that majority of members of C&W DC was in support of the redevelopment project.

80. Miss Tanya CHAN expressed disappointment with the Administration's position to demolish and redevelop the West Wing. Referring to the submissions tabled at the meeting, Miss CHAN pointed out that different conservation concern groups and representatives of professional bodies had been sparing no effort in urging the Government to preserve the Government Hill and the former CGO in its entirety which was a symbol of the Hong Kong Government for over 100 years and the three buildings had distinct architectural style and historic significance. However, the Administration did not listen to the public views. While appreciating the Administration's efforts in promoting heritage conservation in the past few years, Miss CHAN strongly urged the Government to re-consider the redevelopment plan for the West Wing to retain the West Wing site and drop the redevelopment plan for the entire CGO site.

81. SDEV thanked members for their recognition of the Administration's efforts in pursuing heritage conservation. She highlighted that pursuant to the Chief Executive's policy statement on heritage conservation announced in 2007, the Government was obliged to protect, conserve and revitalize as appropriate historical and heritage sites and buildings through relevant and sustainable approaches for the benefit and enjoyment of present and future generations. She re-iterated that the demolition and redevelopment of the West Wing was not a real estate development project but had struck the right balance in providing more and better open space for public enjoyment and preserving the more valuable architectural features of the CGO site with over 100-year history. The redevelopment project offered a unique opportunity to create a new POS in the upper part of Central, to enhance the green neighbourhood and to provide a new building to meet office and community needs. With the Government retaining the ownership of the West Wing site, the ownership of the entire Government Hill would be preserved in its integrity. Citing the preservation of the Former Married Police Quarters and the Central Market as examples, SDEV stressed that the Administration had been listening to the views of various concern groups carefully and made amendments to respective conservation plans as appropriate.

Public engagement in the redevelopment of the West Wing

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82. Mr CHAN Kam-lam was in support of the redevelopment for the West Wing and considered that the revised scheme had struck an appropriate balance among preservation, economic development and supply of Grade A offices in Central. He agreed with the Administration that the demolition of the West Wing which was of relatively lower heritage value could provide a larger and more spacious POS for public enjoyment in Central and would enhance the green neighbourhood of the Main Wing and East Wing. Noting that the Administration planned to invite public tender for the BOT in the first half of 2013, Mr CHAN enquired whether it would consider organizing public engagement activities, such as design competition, for the redevelopment of the West Wing.

83. Sharing a similar view, Mr Abraham SHEK urged the Administration to make reference to the practice of the Singapore government to organize a design competition for the redevelopment scheme of the West Wing before inviting tender for the project, and stressed the need for the Administration to engage the public closely so that people of Hong Kong from all walks of life could share their aspirations for the planning and design of the West Wing site.

84. SDEV advised that the Government had attached great importance to the planning and design of public works projects and the "Design-and-Build" ("D&B") approach had been adopted in implementing a number of public works projects, under which the design work and construction works for a project were tendered in one package. One recent example of the D&B approach was the development of the new CGO and the LegCo Complex at Tamar under which selected tenderers were invited to propose design schemes for public consultation with an aim to develop the Tamar site into an icon of prime civic core of Hong Kong. SDEV stressed that as profit-making was not among the objectives in the redevelopment of the West Wing, the quality and technical aspects of the project would be given due weight in the tendering exercise. As regards the suggestion of organizing a design competition for the redevelopment of the West Wing, the Administration would study the feasibility of the suggestion and, if pursued, work out detailed arrangements (e.g. the setting up of an adjudication mechanism) for further consideration.

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The motion

85. The Chairman drew members' attention to the following motion tabled at the meeting which was proposed by Mr KAM Nai-wai and seconded by Mr James TO --

"本事務委員會要求政府不應拆卸前中區政府合署西座，以全面保育政府山。"

(Translation)

"That the Panel demands that the Government should not demolish the West Wing of former Central Government Offices for the conservation of the Government Hill in its entirety."

86. The Chairman ruled that the motion was directly related to the agenda item and invited members present to consider whether the motion should be proceeded with. Members agreed to proceed with the motion and put it to vote. Mr Abraham SHEK requested that members be notified of the voting by ringing the voting bell for five minutes. Mr James TO claimed a division on the votes. Except for the Chairman who did not exercise his voting right, of the other members present, 7 voted for and 6 voted against the motion. The Chairman declared that the motion was carried. The voting results of individual members were as follows --

For:

Mr LEE Wing-tat

Mr James TO

Mr Frederick FUNG

Mr KAM Nai-wai

(7 members)

Mr Alan LEONG

Ms Cyd HO

Miss Tanya CHAN

Against:

Mr Abraham SHEK

Mrs Regina IP

Mr LAM Tai-fai

(6 members)

Mr CHAN Kam-lam

Mr IP Kwok-him

Mrs Sophie LEUNG

(Post-meeting note: The wording of the motion was circulated to members vide LC Paper No. CB(1)2282/11-12 on 29 June 2012.)

Action

87. In response to some members' enquiries about the conduct of voting by a Panel, the Clerk referred members to paragraph 3.24 of the Handbook for Chairmen of Panels ("the Handbook") which provided that "A question put to vote will be regarded as agreed to if more members voted in favour of it than those who voted against it. It is the normal practice to record the number of members who abstained from voting, but the number of abstentions is not counted for the purpose of determining the result of the vote." As regards the voting right of Chairman, the Clerk advised that paragraph 3.31 of the Handbook provided that "If the Chairman or the member presiding wishes to exercise his/her original vote on a matter before the Panel, the vote must be exercised at the same time as other members of the Panel exercised their votes; otherwise, the Chairman or the member presiding will be regarded as having given up his/her right to vote on the relevant matter." (The provision in the Handbook was adopted from rule 79A(3) of the Rules of Procedure of LegCo.)

(The Chairman proposed and no members objected, the meeting would be extended for 15 minutes to end at 1:15 pm.)

VII Enforcement strategy in relation to recent unauthorized building works cases with major public concerns

(LC Paper No. CB(1)2245/11-12(01) -- Administration's paper on enforcement strategy in relation to recent unauthorized building works cases with major concern

LC Paper No. CB(1)2245/11-12(02) -- Letter dated 22 June 2012 from Hon LEE Wing-tat to the Panel Chairman

LC Paper No. CB(1)2245/11-12(03) -- Letter dated 25 June 2012 from Hon LEE Wing-tat to the Director of Buildings

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LC Paper No. FS28/11-12

-- Paper on a summary of press reports on unauthorized building works cases with major public concerns from 21 to 26 June 2012 prepared by the Legislative Council Secretariat (Fact sheet)

88. The Chairman said that as the agenda item involved controversial issues, the deliberations on the item would be recorded in the form of verbatim transcript. Members agreed.

(The verbatim transcript of the deliberations is at the **Appendix**.)

VIII Any other business

89. There being no other business, the meeting ended at 1:15 pm.

Council Business Division 1
Legislative Council Secretariat
19 September 2012

(此份紀錄本業經政府當局審閱)
(This transcript have been seen by
the Administration)

**2012年6月28日發展事務委員會會議
議程項目VII —— 就公眾近日極為關注的
違例建築工程個案採取的執法策略
的逐字紀錄本**

**Meeting of the Panel on Development on 28 June 2012
Verbatim Transcript of Agenda Item VII --
Enforcement strategy in relation to
recent unauthorized building works cases with major public concerns**

主席：因為這項議題將討論公眾極為關注的事項，為了令會議有一套完整的文字紀錄，如果議員沒有異議，此項紀錄將會以逐字紀錄本的形式編製。首先請政府代表就文件作簡短介紹，好嗎？多謝。

周秘書長。

發展局常任秘書長(規劃及地政)：主席，就議員提出這項課題，因為主席同意在今天討論，所以我們花了一點時間，急忙準備了一份文件，今天才分發到委員手上，不好意思。這個案的主要調查工作及有關的執法工作，都由署方全權處理，局方只是瞭解個案的整體情況。文件特別為今次的個案制訂了一個事件的時序表，大家從文件的附件便能看到，這裏詳列了包括署方最近數天的工作，以及有關我們如何向外界公布等情況，都詳細在這裏列出了。且看看委員是否需要由署長解釋，如果不需要，其實文件也相當清晰.....

主席：OK，那麼我們便直接提問。甘乃威議員。

不是嗎？

李永達議員：我先舉手的。

主席：你先舉手，對不起，OK.....OK，李永達議員先提問，多謝。

李永達議員：主席，我想，部門很理解公眾關注這件事。公眾很多時候都會問約道，即唐英年先生的大宅的檢查，屋宇署今次對梁振英貝璐道大宅的做法是不是一致。我想社會最重要的說法是要"一視同仁"，署方是一個專業的部門，不會因為那人是未來的行政長官，所以做法會有所不同，我希望屋宇署的做法會沿用這個原則。

我想問的問題主要是甚麼呢？如果我沒有記錯，去年在唐英年大宅事件，屋宇署，第一是要求該業主暫時不要填平地庫。我似乎也記得，屋宇署也提過，希望接觸業主甚至那位認可人士，瞭解一下那些資料。其實，那目的.....當然，屋宇署想瞭解裏面是否有人違反了《建築物條例》，甚至是否有人串謀詐騙的可能性。這些工作是屋宇署做的，而不是我們做的。

當然，有些人說，梁振英先生這個大宅的事件沒甚麼理由會有串謀詐騙的可能性，一定不是他入伙後才建造的。我覺得，屋宇署要表現的是，在未有所有物證，以及接觸有關人士取得所有口供前，同時覺得100%放心作出結論時，千萬不要現在便作出未經調查的結論。

任何可能性都有機會發生，包括：第一，那地庫是發展商興建的；第二，那地庫是第一個用家興建的；第三，那地庫真的是梁振英先生或其家人興建的。除非屋宇署現時已經100%排除了梁振英，一定一定不是他興建那地庫，我覺得，第一，它應該盡量保留那些證據及作出紀錄；第二，就像唐英年先生的大宅事件一樣，它是否已經跟公眾.....同樣處理，接觸那些可能興建這地庫的人士，包括發展商、用家及梁振英的家人或他本人，使屋宇署給公眾的印象是怎樣呢？它是完全一視同仁的，在完全搜集了所有證據及證供後，才作最後結論，誰沒有份參與興建這地庫。這樣公眾才會釋疑。

主席，我現在未對屋宇署作任何評論，我只是要求以最謹慎的方式，做好那些事情，不要給人的印象是：4位專業人士看過，認為他沒事，現在便讓他封那地庫。他沒事，真的沒有興建。我對那4位專業人士的其中兩位是有意見的，因為是有關係的。我對屋宇署沒有意見，我相信屋宇署能作出獨立的、完完全全的調查。問題是它會否接觸梁振英、他的家人、發展商及用家，向他們取資料。即使不是錄口供，取資料也行吧。多謝主席。

主席：好，將會怎樣處理呢？

發展局常任秘書長(規劃及地政)：首先，讓我說少許吧。我們在處理違例建築物，肯定 —— 也重申了很多次 —— 一定是一視同仁的，即按照法例辦事。至於這個個案，其實屋宇署已到過有關地點，除了視察外，還作出紀錄，詳情或者請署長或同事說說。

主席：好。哪位？署長吧？OK，多謝。

屋宇署署長：多謝主席，屋宇署在處理這些一般僭建物的舉報時，正如常任秘書長剛才所說，我們會一視同仁，依法辦事。但是，每個個案都有不同的性質及情況，不可以這樣相比。我們會根據每個個案的情況，決定我們應該怎樣做。

在貝璐道的僭建物個案來說，我們收到舉報後……其實，我們第一次知道這件事，是在6月20日收到傳媒的查詢，關於在貝璐道5號屋發現僭建。第一次是在6月20日下午收到。當時的查詢並沒有說明業主的身份。但在第二天，即6月21日，傳媒便報道了，報道傳媒所查詢的僭建物。在報道時也提及該業主是候任行政長官。

我們去年已制訂了機制，一些涉及政府高級官員或社會知名人士的個案，我們會優先處理。所謂的優先處理是，我們會第一時間前往視察，確認究竟有沒有僭建。所以，我們當天便立即派出職員到該地點視察。視察後發覺，傳媒查詢的在5號屋花園的僭建物已經拆除。但是，我們根據一般的程序處理，除了視察這個僭建物，也會在該地點的外圍作整體巡視。

在6月22日，傳媒又報道了另一項僭建，就是在4號屋的。於是我們也在22日立即派職員到4號屋視察。根據兩天視察的結果，我們在4號屋及5號屋都發現了一些僭建物。我們之前也向傳媒說過，包括在5號屋來說，有一個先前傳媒所報道在花園的花棚，已經拆除了。

此外，在5號屋的停車位，在地下那層的停車位，原本是沒有上蓋的，沒有被圍封的，我們發現被圍封了，加了一個頂蓋。同時，我們發現，在停車位之下，因為建築物是依山而建，所以有高低

水平，停車位下方至花園的水平，正正是停車位對下的位置，被改建成樓面空間，裏面間了一些房間，以及廁所設備。

至於4號屋那邊，除了傳媒報道在花園有花棚之外，在花棚旁邊，也有一個大約兩米乘兩米的單層構築物。此外，在4號屋旁邊的通道加建了鐵閘。我們所發現的僭建物便是這幾個，我們會根據我們所得的資料評估，以及根據僭建物執法政策，在剛才所說的僭建物當中，除了4號屋路旁的鐵閘之外，其他的僭建物全都是在我們的政策下，需要優先取締的。

根據我們的程序，我們需要向業主發出勸諭信。業主如果在.....通常我們在勸諭信會指定30天內，如果在30天內，他沒有自行清拆，我們便會發出清拆令。

在這個個案來說，因為業主已經主動自行安排清拆，所以我們暫時無須發出清拆令。但是，我們亦在22日當天，向業主發出勸諭信。

主席：好。

李永達議員：.....因為地庫是誰人興建，現時眾說紛紜。我只是問，屋宇署會否接觸發展商、用家和現時作為業主的梁振英，以取得資料呢？

主席：屋宇署知不知道，究竟那是否發展商興建的？

屋宇署署長：這方面我們沒有資料，而且一般處理這類僭建物的個案，一般來說，我們都不會主動進行刑事調查。除非我們有資料顯示，一些比較實質的資料顯示，發展商在興建這間屋時，已經做了這些僭建而沒有在獲批准的圖則顯示。除非有這些實質資料，我們才會考慮是否需要進行刑事調查。

李永達議員：主席，很簡短。那個地庫不會自己生出來，一定是有人掘出來的，發展商、用家或梁振英，如果這3個人也不接觸，不去取資料，你又不作出決定.....

主席：你稍後再問，再排隊……

李永達議員：……我不太明白，我稍後會再問，我不太明白為何不取資料，不接觸。

主席：甘乃威議員。

甘乃威議員：主席，李永達議員說得很客氣。我看過上次政府就唐英年事件給立法會的文件，他說刑事調查，為何要進行刑事調查呢？很簡單，在上次的文件第13段："因應近日傳媒報道，約道7號僭建物的地庫可能是在該房屋於2007年獲發入伙紙之前已預備興建……"OK？

根據傳媒報道，你便已經進行刑事調查了。署長，梁振英先生昨天找了4位"自己友"，對該地下室進行調查，說不是梁振英興建的。很明顯，如果不是梁振英興建，即是發展商興建，因為根據報道，發展商在那裏居住。現時只是根據報道，我想問署長，你會否進行刑事調查？

因為現時的報道指出，根本不是梁振英興建的，有可能是發展商興建。根本不知道發展商在何時興建，為何你不去搜證呢？你剛才說要根據一些事實，你是否已經有事實證明，不是在入伙之前或在何時興建？你是否已掌握這些資料？如果你掌握，請你告訴公眾，你因此不進行刑事調查。究竟你是否"大細超"呢？

主席：OK，已聽到了。或者署長解答，其實情況是怎樣？

屋宇署署長：多謝主席，凡是僭建物一定有人興建的(眾笑)，它不會自己生出來的，所以，我們處理僭建物時，不會每一個個案也調查是由誰人興建。

在九龍塘約道的個案，議員可能忘記了當時傳媒所報道的是甚麼。我們所說，根據傳媒的報道，這是一般的說法，但是，我們所指的當時傳媒所報道的內容。如果大家記得，當時傳媒報道，傳媒找到當時參與建造這間新屋時，一些人士，那些人士自己提出，他

們當時參與那項工作，當時已經興建所謂僭建的地庫。亦有向傳媒提供了一些圖則，甚至相片，即當時在建造之中所拍攝的相片，而該相片顯示現時所發現的僭建，當時已存在。

所以，這些是一些比較實質的表面證供，牽涉到當時參與建造這間新房屋的註冊專業人士和註冊承建商，而這些註冊專業人士和註冊承建商，是向屋宇署註冊，所以我有責任規管……

甘乃威議員：主席，我剛才的問題是，到目前這一刻，他取得甚麼資料呢？屋宇署的職員，人家那4個"自己友"，專業人士，去到看一個多小時……我不知道多久，我今早聽到是1小時，便已得出結論。究竟屋宇署搜集了甚麼資料呢？這些資料是否可以公開讓公眾知道，一如你剛才說，你沒有圖則，你根本不知道，你是否找了建築商商討，瞭解那件事呢？你會否這樣做？

主席：署長。

屋宇署署長：我們暫時不可以很肯定地說，我們會做甚麼或者不會做甚麼。我們會根據我們所得到的資料再作分析，然後才決定下一步的行動。我只不過說，在有實質的證據時，才能引致我需要考慮作出刑事調查。如果完全沒有這些證據，我也要考慮的話，每一個僭建個案我也要考慮了。正如我剛才所說，每個僭建也是人興建的，如果我對每個僭建物都進行刑事調查，我不用做其他事了。

主席：我們去到15分便夠鐘，有4位議員尚在輪候發問，陳淑莊議員、涂謹申議員、陳鑑林議員和石禮謙議員。這樣吧，每人……因為這樣真的不夠時間，你們先說完，然後讓署長總括地回應。

陳淑莊議員：主席，那麼你要mark低全部題目……

主席：好。

陳淑莊議員：……你要肯定署長回答每條問題。

主席：會、會、會，我都聽到了。

陳淑莊議員：我盡量扼要，主席。

主席：梁家傑議員，請等等，陳淑莊議員先提問。

陳淑莊議員：主席，這件事引起公眾的廣泛關注，每天也上"頭條"，我希望署長不要採取如此被動的方式來做。當然，我們理解，同事會有很大的壓力，因為做完市區又要做新界等。但是，這件事如果調查清楚，很可能可以還某些人公道，對嗎？梁振英先生也認為昨天我們就西九發表的報告還他一個公道，還他一個清白，對嗎？我不大認為他是"白"的，不過他要這樣說便由他這樣說。

但是，我真的認為，署長要明白，那是我們的候任特首，還差數天便要上任，我認為這件事如果秉公辦理，而且可以公道、公開地調查，其實到頭來，不會有人說你多餘，亦不會有人說你浪費公帑等等，我認為公道處理最重要。希望候任局長——因為現時要銜接——還有署長可以秉公辦理，以及要採取比較主動、果敢的方式來處理。

還有，就文件.....第二件事，我們沒有那個附件，主席，我看了文件很多頁，我們也沒有剛才Thomas所說的那個附表，我不知道是否只得他有，我們沒有，還是怎樣.....

主席：放在你檯上，是嗎？那些文件在檯上.....

陳淑莊議員：.....檯上沒有附表啊.....

主席：.....是嗎？附表嗎？

陳淑莊議員：.....我們的附表，很多是關於西座那些而已，我不知道是否.....我稍後再問秘書。此外，就第15段，因為其實該處也說得頗清楚，有些物件"撮"聲便消失了——其實大部分物件已"撮"聲便消失了——但有一樣物件在報道前已拆除了，就是關於.....但這些.....說這些豁免的.....即有簡化規定的嘛。那麼，我想問.....想請

教，雖然這條例是在我們這一屆審議的.....這個小型工程，根據條例，其實它要 —— 你這裏也寫了 —— 要向屋宇署提交所需文件作備存，但據瞭解，你現在尚未收到相關文件。我想確認一下，是否就第12段(a)、(b)、(c)和(d)，你尚未收到相關文件呢？如果是的話，他應該.....誰應受到一些甚麼懲罰呢，主席？即我想根據該項條例，因為我都看過一下，應該是第六部分，第123N章，就小型工程方面，我希望署長可以清楚回答，如果沒有在適當時候提交相關文件，甚麼人會受到甚麼懲罰，會否殃及池魚，主席？

主席：OK，涂謹申議員。

涂謹申議員：主席，兩件事而已。

主席：OK。

主席：是這樣的，因為我聽到署長剛才說，他們當然不會就每宗個案都進行刑事調查，我也明白。但是，因為確實近期每一天，不同報章，也包括.....我覺得你發出的這一份文件，即那天的inspection後，真是多了很多、很多資料，我不知道署長是否會因應近期的發展所取得的資料，作出覆檢，看看是不是有需要作出刑事調查呢？我覺得這也頗公道。

第二，我知道在.....即是否所謂一視同仁的問題，據瞭解，在唐英年先生那宗案件裏，屋宇署保留了一些稱為"石屎"，然後用X-ray來探測，看看究竟它那個所謂建造年份等方面，屬於一項關鍵證據。但是，我不知道今次.....譬如說，你們有沒有權或有沒有這麼做，就是保留一些已拆卸或即將拆卸.....譬如第15段.....最後那數段指出，那個車位對下，樓面空間的糾正工程其實是要你們同意的，那你會不會在那個時間，以及有沒有權，保留一些"石屎"或物料，以進行謹慎的處理？如果真的需要時，可以用相同的方法，譬如甚麼X-ray —— 我也不懂 —— 那些來dating，即看看是何時興建的？會不會這樣做？

主席：OK，好。陳鑑林議員。

陳鑑林議員：主席。我十分同意剛才有同事提到，在這件事上，我們要秉公辦理，一視同仁。其實這點很重要。另外一點是，我們必須在處理這類僭建的問題時，也有一項完整的制度。主席，你也知道，我家裏亦有一項僭建，去年也引起軒然大波……

主席：很多人都有……是。

陳鑑林議員：……但有時候，亦因為政治化了，這些原本很普遍的事情不應該弄到這樣，但現在弄到這樣，我覺得其實很不幸。即使在我們立法會、議會內，我們有很多議員同樣也有僭建物。如果說要追究刑事方面，那我不知道以前屋宇署有沒有同樣追究我們議員那方面的刑事責任。因為事實上，即使是僭建物……這些所謂構築物也好，按照現有制度都會分類，是嗎？即危險程度，各方面也有一個優先次序去處理。此外，就是有大有細，有些……譬如說這一次CY家中發現有四、五個僭建物，我們有些同事也一樣，五、六個也有，大至泳池、花棚，甚麼也有，如果說要刑事檢控，那我想知道，是否真的有類似情況呢？是否一致是這樣呢？我覺得，最重要是有一套制度存在。

主席，我想問的是，第16段……

主席：第16段。

陳鑑林議員：……有關地契事宜方面，即最後那句，它指有關地段的地契由1988……1888年起計算，年期150年，這份地契並沒有總樓面面積或上蓋面積的條款，那我想問一問，除了它在建成之前的有關建築圖則及同意工程這些入了紙，要得到有關當局審批之外，譬如說已完成了的這個建築，我現在已居住了10年、8年，我又想再加建少許東西，我入紙申請，是否沒有問題？因為它不受到總樓面面積的限制……

主席：是的，應該是的。

陳鑑林議員：……是否可以……這樣的情況？

主席：OK，好。最後一個問題了，梁家傑議員。

梁家傑議員：主席，我相信大家不要誤會了，我相信那個所謂刑事調查，一定是指那些稱為認可人士或屋主，是否明知那套圖跟屋宇署驗樓時的實情不同，這才稱為刑事嘛。我相信梁振英那幢樓現在最有可能涉及刑事調查的，都是地庫而已，因為你屋宇署.....如果你在發出入伙紙之前看到那個地庫，一定不會批准，或那些認可人士如果入的圖則是有地庫的，根本你也不會批准。所以，現在實際上，在梁振英那間屋有地庫，那這個地庫，究竟會不會有人在圖則上做了"手腳"呢，這方面就是要進行刑事調查的理由。對嗎？我的理解一直是這樣的。

主席：OK，好。

梁家傑議員：我不知道，或署長稍後說說，究竟他需要一些甚麼更實在的證據，才會開始刑事調查呢，因為剛才我已說了，那個地庫.....據我理解——我可能錯，不過，如果是，或許稍後回答我時可指出——就是若有地庫，根本你就不會批圖則。那麼，如果有地庫你就不批圖則，即是說，圖則應該沒有地庫，但卻有一個地庫存在，這個會不會是.....即需要.....已經有足夠資料進行刑事調查呢？

此外，第二點，我想問，你並非說拆便拆的，你拆的時候，地庫——根據第15段所指——都是屬於非小型工程嘛。那麼，非小型工程，我想局長.....署長可以說說，你可否提供一個大概時間表給我們，即如果他入紙是要作出一個建議，如何去填回那個地庫，需時多久呢，你會用甚麼原則來決定是否批准他進行這個填土工程呢？

至於另外那些稱為小型工程，文件第15段也說："屋宇署至今尚未收到就相關小型工程所提交的文件"。其實最遲要何時提交那些文件呢？多謝主席。

主席：好的。一併回答，好嗎？陳淑莊議員也有問及這點。

發展局常任秘書長(規劃及地政)：好的，先回答兩點吧。

主席：好的，好的。

發展局常任秘書長(規劃及地政)：首先，說回附件.....我先說明，不是附件，即是說，我們把那個時序表列在文件裏，是由第8段至第15段，即列出來而已。第二，我也想回應陳議員，就是說那個執法程序，正如我們在文件第7段最後那句也提到，"我們不會因為業主的身份而就執法行動作出任何特別安排"。我們所謂的特別安排只是指如果有些政府高官或社會知名人士，如果有關個案令公眾有很大的憂慮，我們會優先去看看他的個案。至於執法方面，我們是一視同仁的。其他細節，或者請署長交代。

主席：好的，謝謝。署長。

屋宇署署長：好的，多謝主席。正如剛才所說，我們對任何個案都會秉公辦理。就這個個案來說，正正就是我們需要一視同仁，秉公辦理。我不會特別因為業主的身份，而進行一些特別調查。正如其他僭建個案，每一個的業主都希望還他一個公道。很多時那些業主都說不是他們興建的，買入時已有。那是否每個個案，我們都要幫他調查一下，確定真的不是他興建呢？

至於對僭建物來說，最大可能引起的刑事責任，就是他在明知的情況之下，而違反了需要事先得到建築事務監督批准，才能進行的那些工程，是違反了.....最大可能是違反了刑事責任。其實在每一個僭建個案，都有這個可能的。但是，如果一般來說，只是牽涉業主，他未必是一個明知的情況。所以，在九龍塘約道的個案來說，因為有證據顯示，牽涉到一些註冊專業人士及註冊承建商。而這些註冊專業人士及註冊承建商，一定知道不可以在未得到批准之下就進行建築工程。所以，如果這些未得到批准而進行的工程牽涉到這些人士，他們就有很大的機會犯了刑事案。所以，在那些情況之下，有這樣的資料，我們就需要啟動刑事調查。情況就是這樣。

再說貝璐道的僭建物的情況，就是它有6項，其中1項已經清拆。剛才我亦說過，在我們的執法政策之下，有5項屬於優先取締。就清拆工程來說，除了停車位對下的樓面空間之外，其餘5項的清拆都屬於小型工程。小型工程的程序，他無需得到我們事先批准便可以做。只要他在完工後14日內提交一份文件，證明他做了這個工程.....

主席：14日。

屋宇署署長：……交給我們。

主席：好，最主要的是那個地庫。

屋宇署署長：至於停車位下面的空間，因為它不屬於小型工程，所以他不可以隨意做修復工程。業主有需要，他亦已委聘了一個專業人士幫他處理，我們亦曾與該專業人士溝通。我們已提醒他，他需要做一些勘察工程，看看現時建造的情況是怎樣，然後提出一個……

主席：方法嘛。

屋宇署署長：……補救的方案給我們，我們同意後，他才可以做。

主席：好。

陳鑑林議員：地契的問題。

主席：地契的問題，對不起，地契的問題，即再重建是否沒有限制？謝謝。

是否這個問題，陳議員？OK，謝謝。

陳鑑林議員：加建……

主席：加建，譬如說……

屋宇署署長：關於加建方面，雖然地契中沒有總樓面面積的限制，但是在這個……

主席：《建築物條例》嗎？

屋宇署署長：……地盤來說，根據分區計劃大綱圖，是有一個地積比率的限制……

主席：……有限制嗎？

屋宇署署長：……是0.5。他現時已興建的建築物，地積比率已經達到0.5……

主席：OK，已經用盡了。

屋宇署署長：……所以任何加建而需要計算樓面面積的，都會超出限制。

主席：OK，明白。清楚了嗎？

時間又到了，很好，剛剛可以完成所有議程，很多謝大家的合作。今日是發展事務委員會最後一次會議，我很多謝各位委員。

立法會秘書處
議會事務部1
2012年9月19日