

立法會
Legislative Council

LC Paper No. CB(1)640/13-14
(These minutes have been seen by
the Administration)

Ref : CB1/PL/DEV/1

Panel on Development

Minutes of special meeting
held on Tuesday, 22 July 2013, at 9:00 am
in Conference Room 3 of the Legislative Council Complex

Members present : Dr Hon LAU Wong-fat, GBM, GBS, JP (Chairman)
Hon Tony TSE Wai-chuen (Deputy Chairman)
Hon James TO Kun-sun
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, GBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon Michael TIEN Puk-sun, BBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon WU Chi-wai, MH
Hon Gary FAN Kwok-wai
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP

Members attending : Hon Ronny TONG Ka-wah, SC
Hon WONG Yuk-man
Hon Steven HO Chun-yin

Members absent : Hon CHAN Kam-lam, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Claudia MO
Hon CHAN Han-pan
Hon LEUNG Che-cheung, BBS, MH, JP
Dr Hon KWOK Ka-ki

Public officers attending : **Agenda item I**

Mr Paul CHAN Mo-po, MH, JP
Secretary for Development

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

Mr Thomas CHAN Chung-ching, JP
Deputy Secretary for Development
(Planning and Lands) 1

Ms Bernadette LINN, JP
Director of Lands

Mr LAW Hin-wing, JP
Assistant Director (Acquisition)
Lands Department

Ms Phyllis LI
Deputy Director of Planning/Territorial
Planning Department

Ms Amy CHEUNG Yi-mei
Acting Assistant Director/Territorial
Planning Department

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

Agenda item II

Mr Thomas CHAN Chung-ching, JP
Deputy Secretary for Development
(Planning and Lands) 1

Mr LAW Kin-wai
Principal Assistant Secretary for Development
(Planning and Lands)7

Ms Bernadette LINN, JP
Director of Lands

Mr LAW Hin-wing, JP
Assistant Director (Acquisition)
Lands Department

Clerk in attendance : Ms Sharon CHUNG
Chief Council Secretary (1)6

Staff in attendance : Senior Assistant Legal Adviser 3
Mr KAU Kin-wah

Mr Anthony CHU
Senior Council Secretary (1)6

Mr Fred PANG
Council Secretary (1)6

Ms Alice CHEUNG
Senior Legislative Assistant (1)1

Ms Christina SHIU
Legislative Assistant (1)6

I North East New Territories New Development Areas Planning and Engineering Study

(LC Paper No. CB(1)1461/12-13(01) -- Administration's paper on North East New Territories New Development Areas Project

LC Paper No. CB(1)1543/12-13(01) -- Administration's paper on increasing land supply

LC Paper No. CB(1)1461/12-13(02) -- Paper on the proposed North East New Territories New Development Areas prepared by the Legislative Council Secretariat (Updated background brief)

LC Paper No. CB(1)1509/12-13(01) -- Letter dated 10 July 2013 from Dr Hon Fernando CHEUNG Chiu-hung on a motion to be moved at the meeting on 15 July 2013)

The Chairman declared that he owned land in the North East New Territories ("NENT") and was a member of the Hong Kong Golf Club.

2. The Chairman drew members' attention to a motion proposed by Dr Fernando CHEUNG on the inclusion of the Fanling golf course and the site of the Chief Executive's Fanling Lodge in the planning of the NENT New Development Areas ("NENT NDAs"), which had been circulated to members vide LC Paper No. CB(1)1509/12-13(01) on 12 July 2013 and tabled at the meeting. The Chairman said that he would deal with the motion at around 10:10 am, before proceeding to the second agenda item.

The interests of the family of the Secretary for Development in land in the North East New Territories

3. The Secretary for Development ("SDEV") said that it had come to his attention that there had been media reports about his wife and her family owning land in NENT. He requested the Chairman to allow him to make a statement on the issue at the meeting. The Chairman acceded to SDEV's request.

The statement of the Secretary for Development

4. SDEV stated that in 1994, a company co-owned by his wife and her family members ("the Company") had purchased a piece of farmland of about 20 000 square feet in Kwu Tung North, Sheung Shui ("the Farmland") for leisure purposes. His wife was a director and minority shareholder of the Company. About 2 000 square feet of the Farmland had been resumed by the Government in 2008. His wife had sold her entire shareholding in the Company in early October 2012 and had resigned from the directorship of the Company. She no longer had any interests in the Company which was currently wholly-owned by her family members. The Company, its directors and shareholders were not engaged in property business.

5. SDEV said that in handling the issues related to the proposed NENT NDAs project and in the Executive Council ("ExCo") meeting approving the development proposals, he had duly observed the requirements in the Code for Officials under the Political Appointment System as well as the System of Declaration of Interests by Members of the Executive Council and made the declaration accordingly. SDEV advised that he did not own any land or property in Hong Kong. Apart from holding through a limited company a residential unit with two car parking spaces in Happy Valley and two connected office apartments in Causeway Bay for self-use, his wife did not hold any other land or property in Hong Kong.

6. SDEV went on to highlight the following points:

- (a) *Declaration of interests* - As for the media queries about whether he had made omissions in his declaration of registrable interests upon his appointment as an ExCo member in July 2012, he had strictly adhered to the requirements under the System of Declaration of Interests by Members of the Executive Council. Under the System, he was not required to declare interests in respect of his wife's land or property which was not actually owned by him.
- (b) *Reporting his wife's interests to the Chief Executive* - As soon as he had been aware in September 2012 of the proposed plan for NENT NDAs, which covered the Farmland, he had taken the initiative to report to the Chief Executive ("CE") about his wife's stake in the land.

Afterwards, his wife sold her entire stake in the Company in early October 2012 to her family member. Since it was a usual practice for a company to report the transfer of its shares in its annual return and it might not yet be the time for the Company to file the annual return, it was likely that the records available at the Companies Registry for public inspection had not reflected the change in the shareholders of the Company. However, his wife's resignation from the directorship of the Company in October 2012 had been reflected in the Companies Register.

- (c) *Special ex-gratia compensation* - The Farmland was uninhabited and was originally purchased for leisure. Hence, the proposed special ex-gratia compensation package under the revised development proposal of the NENT NDAs project ("the Revised Proposal") would not apply to the owner of the Farmland.
- (d) *Ex-gratia Compensation for land resumption* - The amount of compensation for land owners affected by the Administration's resumption of land for development purposes was made in accordance with the mechanism approved by the Legislative Council ("LegCo") in the 1980s. The compensation rates were reviewed by the Lands Department ("LandsD") and published in the Government Gazette on a half-yearly basis. Since August 2012, the Committee on Planning and Land Development had not discussed the amount of compensation to be paid to land owners affected by land resumption exercises for the NENT NDAs project.

(*Post-meeting note: SDEV's speaking note on the above statement was tabled at the meeting and circulated to members by email vide LC Paper No. CB(1)1594/12-13(01) on 23 July 2013.*)

7. The Chairman reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP") of LegCo, they should disclose the nature of any direct or indirect pecuniary interest relating to the subjects under discussion at the meeting before they spoke on the subjects.

Purchase and ownership of the Farmland at Kwu Tung North

8. Mr James TO said that according to media reports, SDEV had signed an agreement in 1994 in his own name for the purchase of the Farmland, the ownership of which had been subsequently transferred to the Statement Industries Limited. Based on the statement just made by SDEV, his wife had held beneficial interest in the Farmland until she sold all her stake in the Company (the Statement Industries Limited) to her family in October 2012. Mr TO opined that it was not clear from what SDEV had said and the speaking note he had tabled whether he had purchased the Farmland in 1994 using his own money, whether he had been a shareholder of the Company, whether his wife's stake in the Farmland was sold to family members at full consideration in October 2012, what the purpose of the sale had been, etc. Mr TO held the view that SDEV should disclose all relevant information in the meeting to address the above queries. Dr Kenneth CHAN also enquired whether the purchaser of the Farmland in 1994 was SDEV.

9. SDEV clarified that in 1994, he had signed on behalf of the Company a provisional sale and purchase agreement for the purchase of the Farmland through an agent; and in May of the same year, the Company, which was then co-owned by his wife and her family, signed the formal sale and purchase agreement. In response to Mr James TO's and Dr Kenneth CHAN's queries on the purpose of the sale of the stake of SDEV's wife in the Company in October 2012, SDEV advised that the purpose was to ensure that he himself, his wife and their children were absolutely free of any interests in land in NENT. He added that since its establishment in 1994, the Company had been co-owned by his wife, who was a minority shareholder, and her family members. In September 2012, when he was aware that the location of the Farmland was within the proposed NENT NDAs, he took the initiative to report his wife's stake in the Farmland to CE.

Sale of stake in the company holding the Farmland

10. Mr James TO considered that, to allay the concern that SDEV or his wife still held any interest in the Farmland, he should clarify whether his wife had sold her stake in the Farmland to her family members at full consideration or in the form of a trust. SDEV responded that the sale of his wife's stake in the Farmland to her family member was a genuine business deal. The relevant sale and purchase agreement had been submitted to the Inland Revenue Department and the stamp duty had been paid.

11. Regarding the sale of the stake of SDEV's wife in the Company in October 2012, Mr Kenneth LEUNG enquired: (i) whether the Company was registered locally or overseas; (ii) the proportion of the shares of the Company held by his wife before they had been sold in October 2012; (iii) whether all her shares in the Company had been sold; (iv) the relation between the buyer of the shares and his wife; and (v) the selling price of the shares. Dr Kenneth CHAN also asked about the profits made by SDEV's wife in the selling of her stake in the Farmland. SDEV replied that the Company was a company registered in Hong Kong and his wife had held three-eighth of the share capital of the Company before it was entirely sold in October 2012 to her family member. As he did not have the authorization of the members of his wife's family, he could not reveal the selling price.

12. Mr Kenneth LEUNG emphasized the need for SDEV to disclose the selling price of his wife's shares, which, in his opinion, was an issue of public concern. He considered SDEV's refusal to do so unacceptable. He further enquired whether the sale of those shares was an arm's-length transaction, i.e. made between parties who were independent of one another and on equal footing. SDEV replied in the affirmative.

Disclosure by the Secretary for Development of his wife's interests in the Farmland

13. Dr Fernando CHEUNG expressed regrets that SDEV had not taken the initiative to disclose the interests of his wife and her family in the Farmland until they were exposed by the media. He held the view that SDEV should have done so as soon as he was appointed to the post, when he was aware that he would be in charge of the proposed NENT NDAs project and other land development projects.

14. Ms Emily LAU and Mr Frederick FUNG concurred with the view of Dr Fernando CHEUNG. Ms LAU found it unacceptable that SDEV had only disclosed the relevant information in a piecemeal approach after the incident had been reported by the media. She opined that the incident, together with the criticisms against SDEV upon his assumption of office due to his involvement in the leasing of sub-divided units, had already led to a view among the public that SDEV was not a suitable person to take charge of the proposed NENT NDAs project. She queried why SDEV had not made a declaration about his wife's interests in the Company upon his assumption of office but had later made a report to CE about the interests in September 2012. Dr Kenneth CHAN had the same query. Ir Dr LO Wai-

kwok asked SDEV to clarify whether he had made the declaration as soon as he was appointed a member of ExCo.

15. SDEV replied that he had made declaration on the interests of his wife in the Farmland when ExCo vetted and approved the development proposals on NENT NDAs. He explained that he was only required to declare his own investments and interests in the ExCo declaration form but not his spouse's holdings provided that he had no beneficial interest in the latter. He had reported his wife's interests in the Farmland to CE in September 2012 under the relevant requirements applicable to politically appointed officials. SDEV reiterated that the Farmland had been purchased by his wife and her family members 19 years ago, a long time before his appointment as a Principal Official. However, his wife had taken the initiative to sell her entire stake in the Company and resign from the directorship in early October 2012 in order not to arouse any misunderstanding. Ms Emily LAU strongly requested that SDEV should provide a paper setting out a detailed account of whether his disclosure of interests in respect of the Administration's discussion on the NENT NDAs proposals had met the requirements concerning declaration of interests for Principal Officials.

(Post-meeting note: The Administration's response was issued to members on 22 October 2013 vide LC Paper No. CB(1)124/13-14(01) and CB(1)126/13-14(01).)

16. Dr Kenneth CHAN queried why SDEV, having disclosed the information about the properties owned by his wife upon his assumption of office in July 2012, had not revealed his wife's stake in the Company at the same time. In reply, SDEV said that he had disclosed his wife's stake in a residential unit in Happy Valley in the ExCo declaration form because he was one of the occupiers of the property. He was not required to make declaration in the form about his wife's stake in other businesses as long as he did not have any beneficial interest in them.

17. Mr Frederick FUNG held the view that the ownership of the Farmland held by the family members of SDEV's wife would still constitute a conflict of interests or give rise to suspicion of transfer of benefits. He said that SDEV, as a politically appointed official, should not simply follow the rules to declare interests but also take into account the expectation of the public for his integrity. Mr FUNG considered that, given the general distrust in SDEV, he should either resign from the post or

at least refrain from being involved in the work for the proposed NENT NDAs project.

18. SDEV disagreed with Mr FUNG and said he would not take either option. He reiterated that he had made declaration of interests according to the Code for Officials under the Politically Appointment System as well as the System for Declaration of Interests by Members of the Executive Council and had fully complied with the relevant requirements. He further explained that since the Company was a private company, his wife could either sell her stake to other shareholders of the Company or seek other shareholders' unanimous consent for selling it to other people. Given that his wife was an independent person as well as a professional, it was unfair to expect him to be able to fully grasp all the details about her finances and those of her family members for disclosure to the public.

19. Mr Frederick FUNG remained of the view that as SDEV was currently in charge of a multi-billion-dollar development project, he must make known to the public any direct, indirect or perceived conflicts of interests involving himself, his family members and relatives. Mr Ronny TONG said that until SDEV's family or his wife's family ceased to hold the Farmland, SDEV would be considered to be involved in a conflict of interests.

20. Mr LEUNG Kwok-hung enquired whether SDEV had requested the Director of Lands not to include the Farmland in the NDAs, given that it was owned by his wife's family members. SDEV replied that the Planning Department ("PlanD") had worked out the proposed development plans for NENT NDAs taking into account a set of objective factors such as the geographical features and locational requirements, without regard to the identities of the owners. He stressed that he had never given instructions to PlanD and the Lands Department ("LandsD") about the planning of any specific piece of land in NENT NDAs as well as the compensation arrangements for resumption of land in the areas.

Compensation for land resumption

21. Dr Kenneth CHAN noted that the Farmland in question was uninhabited and therefore the proposed special ex-gratia compensation package under the Revised Proposal for NENT NDAs would not apply. He, however, cautioned the Administration that there would be public concerns if the land owners of the Farmland, being relatives of SDEV, would be eligible to other compensation packages once the Farmland was resumed by the Administration for development. Mr Albert CHAN pointed

out that public concerns lay in the possibility that the value of the Farmland would continue to increase following any new decisions of the Administration on the implementation of the proposed NENT NDAs project.

22. With reference to SDEV's statement that since August 2012, the Committee on Planning and Land Development of DEVB had not discussed the amount of compensation for land owners affected by land resumption exercises, Ms Emily LAU enquired whether SDEV would make declaration on his family's interests, if any, in the Farmland when the Committee discussed the amount of compensation in future. She asked the Administration to provide written information to address her enquiry.

(Post-meeting note: The Administration's response was issued to members on 22 October 2013 vide LC Paper No. CB(1)124/13-14(01) and CB(1)126/13-14(01).)

Suitability of SDEV to remain in the post

23. Mr Albert CHAN said that he and Mr CHAN Chi-chuen would move a motion at the meeting requesting SDEV to resign. Since SDEV, a professional accountant who had served large business conglomerates before, was appointed to the post, he had expressed strong reservation about his suitability. In his view, accountants were good at hiding or concealing one's financial interests, looking for legal loopholes as well as using taxation techniques to help business conglomerates evade tax. He opined that it would be very difficult for the Administration to proceed with the existing and upcoming development projects as long as members of the public did not have trust in SDEV. They would also have concerns on whether SDEV held any other interests in conflict with his job through companies registered in British Virgin Islands. SDEV requested to put on record that Mr Albert CHAN's accusations about accountants were unfair and misleading.

24. Mr WU Chi-wai said that the lack of public confidence in SDEV had all along affected the outcome of the discussions on some good proposals on land development made by the Administration. He considered that SDEV should seriously consider from the perspective of the Administration whether there were merits for him to stay in the post.

25. Dr Kenneth CHAN said that since SDEV had assumed office in July 2012, a lot of discussions about possible conflicts of interests or transfer of benefits involving him and his suitability to the position had

been made at the meetings of LegCo and the Panel, including a motion debate on vote of no confidence against him. He considered that SDEV should not stay in the post.

26. Mr CHAN Chi-chuen considered that even though SDEV had followed the rules to declare interests, members of the public would hardly be convinced that there was no conflict of interests between the Farmland and his job. Mr CHAN and Mr Gary FAN held the view that SDEV was no longer suitable for dealing with issues related to the proposed NENT NDAs project and should seriously consider whether he should stay in the post.

27. SDEV stated that the allegations against him about conflict of interests and transfer of benefits were unfair and misleading.

The Fanling golf course

28. Dr Fernando CHEUNG and Mr Gary FAN urged the Administration to study carefully a proposal worked out in six months by a community group comprising architects, town planners and experts in the transportation field on developing two-thirds of the land where the Fanling golf course was located with a view to accommodating a population of 80 000 ("the Community Proposal"). With the aid of a powerpoint presentation, Mr FAN briefed members on the highlights of the Community Proposal. He said that if the Administration accepted the proposal as a substitute for the NENT NDAs proposal, it would not have to make compensation to land owners in NENT, thus saving public spending of \$30 billion. Moreover, the adoption of the Community Proposal would meet the aspiration of the existing residents for "no relocation and no demolition". If the Administration rejected the proposal, it should provide full justifications.

29. SDEV expressed thanks to members of the public who had worked out the Community Proposal. He said the Administration had carefully considered it. He explained that given the size of the area to be studied under the proposal, it would take several years for the Administration to complete the relevant environmental impact and other technical assessments, such as those relating to traffic and infrastructure, as well as the necessary public engagement exercises. If the commissioning of the NENT NDAs project was required to tie in with the completion of such assessments, the planning for the NDAs would continue to drag on for a number of years. He reiterated his advice made at previous meetings that

even if the golf course site was subsequently proved to be suitable for housing development, it was no substitute for the NENT NDAs project.

30. Mr Frederick FUNG considered it necessary for the Administration to assess the suitability of the golf course site for developing housing. He queried why the Administration had not embarked on a planning study on the site at the outset when it commissioned the planning and engineering study for the proposed NENT NDAs project ("the NENT NDAs Study").

31. Mr Ronny TONG said that the NENT NDAs project was against social justice. While acknowledging the need to develop land in Hong Kong, he considered it unacceptable for the Administration to oppress the underprivileged in NENT, in particular the tenant farmers, in the name of bringing overall benefits to the Hong Kong society. He enquired about the Administration's position towards the Community Proposal.

32. In reply, SDEV said that the suggestion to develop the Fanling golf course site had been raised around August or September 2012, when the Stage 3 public engagement exercise of the NENT NDAs Study was coming to an end. He reiterated that the development potential of the site would be examined as part of the New Territories North ("NTN") planning study. As said at the Panel meeting on 15 July 2013, the Administration had informed the Hong Kong Golf Club that a site of 1.5 hectares ("ha") being used as a plant nursery near the golf course site granted on short-term tenancy would be taken back by the Government. The 1.5-ha site had already been included in the Land Sale Programme of 2013-2014. In parallel, the Home Affairs Bureau ("HAB") had started a review on the policy on private recreational leases.

33. Mr CHAN Chi-chuen opined that the Administration should admit that it was a negligence of the Government of the previous term to have failed to conduct a study on the feasibility of developing the Fanling golf course site for housing in parallel with the NENT NDAs Study. He considered that, compared with the size of the 170-ha golf course site, the plant nursery site was insignificant. The resumption of this small site had no effect on the public's impression that the Administration was unwilling to consider the suggestion of resuming the golf course site. He proposed that, given the Administration would include the golf course site in the NTN planning study, it should meanwhile shelve the NENT NDAs project and start a public consultation afresh upon the completion of the study.

34. Mr Michael TIEN said that he objected to the motion proposed by Dr Fernando CHEUNG on the inclusion of the Fanling golf course and

CE's Fanling Lodge in the planning of NENT NDAs, having regard to the fact that the Administration had already undertaken to include the two sites in the NTN planning study. Mr TIEN said that he was not a member of the Hong Kong Golf Club. However, he considered that, with a view to maintaining Hong Kong's position as an international metropolis and providing diversified facilities in the community, it was not sensible to arbitrarily resume land already in use for specified purposes to develop housing. He suggested that the Administration should retain the venue but make one of three golf courses therein open to the general public all the time at an affordable charge.

35. Dr CHIANG Lai-wan said that she was not a member of the Hong Kong Golf Club but she had reservation about the motion proposed by Dr Fernando CHEUNG. She said there were views that since the Fanling golf course was the only golf course in Northeast and Northwest New Territories, instead of resuming the golf course site, the Administration should make the facility accessible to the general public.

36. SDEV responded that it was natural for members of the public to hold diverse views on the priority for the use of limited land resources. Before the Administration made a decision on whether to take back the Fanling golf course site, there should be full discussions in the society having regard to the relevant factors to be considered, such as the shortage of housing land, the need to promote different sports and recreational activities in the community, etc. Dr CHIANG proposed that DEVB should liaise with HAB to look into the existing operation of golf courses in Hong Kong and explore the possibility of making these facilities accessible to all. SDEV undertook to convey Dr CHIANG's views to HAB.

37. Mr James TIEN declared that he was engaged in property development business. He said he was not a member of the Hong Kong Golf Club but he did not support the motion proposed by Dr Fernando CHEUNG. He was concerned about the adverse effect on Hong Kong's international image in the event of the resumption of the golf course site. He considered that the Fanling golf course should be retained, though he was told that the quality of it was far below the international standard. He said that the operation of the Fanling golf course needed improvement in respect of the high membership fee and the lack of transparency in the handling of membership applications. He supported Mr Michael TIEN's suggestion that one of the three component golf courses be made open for public use.

38. Mrs Regina IP declared that she was a member of the Hong Kong Golf Club. She remarked that the retention of the Fanling golf course would help foster diversified developments in Hong Kong. She also said that the Club's facilities were not for the exclusive use of Club members. Indeed, some of the facilities were also made available for use by approved outside bodies. She also relayed the concern of a member of the Hong Kong Golf Club that the society should protect the right of private ownership of property which also included the golf club membership. Mrs IP said that anti-rich sentiment was not conducive for Hong Kong development and would not facilitate upward movements along the social ladder. While raising no objection to the views urging the Administration to review the rent payable by the Hong Kong Golf Club and to require the Club to make the Fanling golf course facilities more accessible to the public, she expressed disagreement to the proposal for the Administration to resume the golf course site for housing development.

39. SDEV undertook to convey members' suggestions about improving the operation, transparency and openness of the Fanling golf course to HAB for consideration in its review of the policy on private recreational leases.

40. Dr Priscilla LEUNG disagreed to making the development of the golf course site a condition for developing NENT. She considered the suggestion of developing housing at the golf course site not practicable as it would take almost a decade to complete the technical studies and to have all the funds needed approved by LegCo. She considered it undesirable for the discussion on NENT NDAs to be influenced by the anti-rich sentiment in the society.

41. Mr Gary FAN said that the public request for the Administration to resume the golf course site for housing development was induced by the Administration's unfair distribution of land resources. He did not see that there was any connection between the request and the "anti-rich" sentiment or equalitarianism/communism. He considered that as a matter of justice, it was more important for the Administration not to evict villagers from their homes in NENT than to preserve a golf course to safeguard the privilege of a group of 2 500 rich people.

42. Mr Frederick FUNG opined that it was inappropriate for individual members to put a label such as "anti-rich", "equalitarianism" or "communism" on the views demanding the Administration to resume the Fanling golf course site. He emphasized that the site was Government land

and expressed disagreement to any allegation that the resumption of the site would amount to confiscation and sharing of a private property.

43. Dr Kenneth CHAN considered it unreasonable and rude on the part of the Administration to say that the Community Proposal was not practicable merely because it would take time to undertake the relevant studies and assessments. He held the view that no matter what the voting result on the motion proposed by Dr Fernando CHEUNG would be, the Panel should hold a meeting to discuss the Community Proposal. Dr CHAN stated that the Civic Party respected the right to private property. He disagreed to the view that the proposal to resume the golf course site for development was a kind of "anti-rich" sentiment.

44. SDEV responded that the Fanling golf course site was considered not a practicable substitute of NENT NDAs not only because it would take time to conduct planning and technical studies to ascertain its suitability for development, but also because Kwu Tung North and Fanling North NDAs were geographically more suitable for developing a new town.

45. Mrs Regina IP clarified that she had not put any label on the views demanding the Administration to resume the golf course site. She supplemented that it was misleading for some academics to say that each member of the Hong Kong Golf Club held about 7 000 square metres of the land, given that the land title of the site was not held by any Club member.

46. Dr Fernando CHEUNG requested that, to avoid conflict of interests, Panel members who were members of the Hong Kong Golf Club should abstain from voting on the motion to be moved by him. If these members voted on the motion, he would propose to disallow their votes pursuant to Rule 84(4) of RoP.

The revised development proposal of the North East New Territories New Development Areas project

Agricultural development in the North East New Territories

47. The Panel noted from the Revised Proposal that 34 ha of fallow agricultural land in Kwu Tung South had been found to be suitable for agricultural rehabilitation/resite after a survey. However, interested farmers would have to discuss with the concerned land owners the rental arrangements; and of these 34 ha of land, only five ha were Government land. Taking into consideration that the private land owners might have purchased the agricultural land in earlier years in the anticipation that the

land could be used for non-agricultural development, the Deputy Chairman enquired whether the Administration would consider the requests, if any, of these owners for selling the land to the Administration to facilitate agricultural resite/rehabilitation; and whether the acquisition prices, if offered by the Administration, would be comparable with the compensation packages for agricultural land owners affected by the NENT NDAs project. Pointing out that it was difficult for individual farmers to negotiate with the landlords for favourable terms such as a longer tenancy period and an affordable rent, he further enquired whether the Administration would consider renting agricultural land from the owners and leasing it to farmers for agricultural rehabilitation or to the public for eco-farming. The Administration undertook to provide a written response to address the Deputy Chairman's enquiries.

(Post-meeting note: The Administration's response was issued to members on 22 October 2013 vide LC Paper No. CB(1)124/13-14(01).)

48. Mr WU Chi-wai opined that, with a view to achieving urban-rural integration and given that the coverage of the proposed NENT NDAs was large, it should be practicable for the Administration to allow the existing rural activities to co-exist with the new developments in the area. He was particularly concerned whether the Administration could work out a better alternative proposal to preserve the agricultural land currently located at some core parts of the Kwu Tung North NDA and the Fanling North NDA.

49. Deputy Director of Planning/Territorial, Planning Department replied that in formulating the NENT NDAs proposal, the Administration had attached great importance to achieving urban-rural integration. In this connection, under the Revised Proposal, about 95 ha of agricultural land had been retained, including the provision of the Long Valley Nature Park with 37 ha of existing agricultural land. She said that the Administration would enhance the future management and operation of the Nature Park with a view to preserving and enhancing its ecological value through conserving in-situ the existing wet agricultural land which constituted important wetland. Two areas of existing agricultural land to the north and the south of the Nature Park in Kwu Tung North NDA, as well as an area of existing agricultural land in Fanling North had been reserved as "Agriculture" zones. However, some agricultural land at certain locations could not be preserved because it was situated at the proposed town centre of the NDAs or at the area where some major infrastructure developments would be undertaken.

Provision of employment opportunities and ancillary facilities

50. Ir Dr LO Wai-kwok supported the Administration's efforts in drawing up long-term land development plans to address the rising housing demand and to facilitate the sustainable development of Hong Kong. He considered it necessary to move ahead with the NENT NDAs project but was concerned how the relevant policy bureaux would ensure that the target of offering 37 700 job opportunities in 2031 for local residents of the NDAs could be achieved. He requested the Administration to provide the detailed plan for introducing economic activities in the NDAs.

(Post-meeting note: The Administration's response was issued to members on 22 October 2013 vide LC Paper No. CB(1)124/13-14(01).)

51. The Deputy Chairman stressed the importance for the Administration to ensure that the target number of job opportunities set out in the Revised Proposal could be achieved within the planned timeframe. On creating a green living environment, he suggested that the Administration should take the lead to implement environmentally friendly initiatives such as waste reduction at source, green building design etc. in its public housing developments in the two NDAs. As regards town planning, he asked the Administration to provide information on the projection of the population structure in the proposed NENT NDAs and the preliminary plans, if any, for the provision of community facilities in the NDAs to cater for the needs of future residents of various demographic features.

(Post-meeting note: The Administration's response was issued to members on 22 October 2013 vide LC Paper No. CB(1)124/13-14(01).)

52. Mr Michael TIEN supported adjusting the public-private housing ratio in the NENT NDAs from 43:57 (under the Recommended Outline Development Plans ("RODPs")) to 60:40 (under the Revised Proposal). However, he expressed concern on the change of the population-to-job ratio from 1:3 to 1:5. Pointing out that the population-to-job ratio for the proposed Hung Shui Kiu NDA was about 1:2 and it was essential to create a self-sufficient community for a new town, he enquired about the rationale for increasing the population-to-job ratio for NENT NDAs. He opined that without compromising the public-private housing ratio, the Administration

might consider housing less people and creating more economic activities, such as retail business, so as to provide more job opportunities in the area. Mr James TIEN shared the views of Mr Michael TIEN and suggested that the Administration should reconsider whether the population-to-job ratio of 1:5 was adequate. Mrs Regina IP held the view that the Administration should set aside land resources in the NDAs to develop various industries for the economic development of Hong Kong and to generate local job opportunities.

53. In response, SDEV explained that since the northwestern part of the Kwu Tung North NDA including some of the land originally planned for generating employment opportunities had been replanned under the Revised Proposal to minimize the number of existing village houses to be affected, the number of job opportunities had therefore been reduced. He advised that about 80% of the population in the NDAs would reside within 500 metres of the proposed Kwu Tung North Railway Station of the Lok Ma Chau Spur Line or the public transport interchanges at the eastern and western parts of the Fanling North NDA. Therefore, the majority of the future local residents should find it easy to travel to work in areas outside the two NDAs, in particular the Lok Ma Chau Loop Area and Hung Shui Kiu NDA, which were in proximity to NENT NDAs and were planned to provide about 29 000 and 100 000 jobs respectively.

54. Mr James TIEN sought clarification from the Administration on whether the gross floor area of private residential developments in NENT NDAs under the Revised Proposal was the same as that in the RODPs, and whether there was also no change to the gross floor area of commercial developments. SDEV advised that under the Revised Proposal, about 24 100 private housing units, which was about 100 units less than the number proposed in the RODPs, would be provided in NENT NDAs.

Impacts of the NDAs development on existing residents

55. Mrs Regina IP shared the views of some members, including Ir Dr LO Wai-kiwok and Mr Michael TIEN, about the need to develop land in Hong Kong. Citing past new town developments in the New Territories as examples, she considered that land resumption by the Administration was inevitable for the development of an area. She expressed disagreement to the view that development projects which would result in clearance of villages must be stopped. However, it was pivotal that the Administration must offer reasonable compensation and rehousing arrangements for affected residents and uphold the principle of fairness in the implementation of development projects.

56. While supporting developing NENT, Dr Priscilla LEUNG urged the Administration to actively communicate with the affected residents to allay their concerns and work out acceptable rehousing and compensation arrangements with them.

57. SDEV noted members' views. He said that in working out the Revised Proposal, the Administration had strived to minimize the number of local residents and farmers to be affected. He assured members that the Administration would provide compensation as well as assistance in rehousing and agricultural rehabilitation to them. In response to Mr Ronny TONG's comments that the Administration had not seriously taken care of the needs and interests of the affected households having regard to the fact that the amount of special ex gratia compensation under the Revised Proposal was only up to \$600,000, SDEV said that the Administration understood the difficulties faced by the residents living in squatter structures in the affected areas. However, some squatter occupiers did not own land titles in the NDAs. They were therefore not entitled to the compensation package to be offered to land owners. The Administration would provide as much assistance to the affected households as practicable and in a fair manner, while ensuring that public money would be used properly.

58. Mr Gary FAN said he had requested the Administration in December 2012 to withdraw the NENT NDAs proposal and conduct a bottom-up consultation to fully engage members of the public in the planning for the area. He still held the view that a fresh consultation on the development of NENT was necessary. Mr CHAN Chi-chuen remarked that the Revised Proposal was not ready for implementation. It should not be taken by the Administration as the final proposal.

Issues arising from the meeting on 15 July 2013

59. Mr Ronny TONG said he had stated at the meeting on 15 July 2013 that there were some misleading points in the Administration's paper and SDEV had requested him to point them out. He remarked that he had identified the misleading points in the paper which had been set out in a press release issued by the Civic Party in the previous week. He urged the Administration to provide a response to the press release. SDEV undertook to accede to Mr TONG's request.

Motion proposed by Dr Fernando CHEUNG

60. Dr Fernando CHEUNG moved a motion on the inclusion of the Fanling golf course and the site of CE's Fanling Lodge in the planning of the NENT NDAs. The motion was seconded by Mr Albert CHAN and the wording was as follows:

(Translation)

"The planning of the North East New Territories development areas will affect many local residents with their homes and farmland destroyed, and some of the villages will even be demolished. This Panel considers that damage to the homes of local residents and their way of living should be avoided in the course of land development and the provision of housing. This Panel urges the Government to include the Fanling Golf Course and the site of the Chief Executive's Fanling Lodge in the planning of the North East New Territories development areas and conduct consultation afresh thereafter."

61. Being a member of the Hong Kong Golf Club, Mrs Regina IP enquired whether she should not vote on the motion proposed by Dr Fernando CHEUNG. At the invitation of the Chairman, the Clerk advised that pursuant to Rule 84(1) of RoP, in any committee or subcommittee, a Member should not vote upon any question in which he had a direct pecuniary interests except where his interests was in common with the rest of the population of Hong Kong or a sector thereof or his vote was given on a matter of Government policy. The Chairman suggested that for the sake of prudence, individual Panel members who were members of the Hong Kong Golf Club should consider abstaining from voting on the motion. He added that he would not vote on the motion.

62. The motion was put to vote. Mr CHAN Kin-por requested a division and the voting bell was rung for five minutes. Twelve members voted for, 9 members voted against and 1 member abstained from voting. The voting results were as follows:

For

Mr James TO

Mr Frederick FUNG

Mr LEUNG Kwok-hung

Mr WU Chi-wai

Mr CHAN Chi-chuen

Ms Emily LAU

Ms Cyd HO

Mr Albert CHAN

Mr Gary FAN

Dr Kenneth CHAN

Mr Kenneth LEUNG

Dr Fernando CHEUNG

(12 members)

Against

Mr Tony TSE (the Deputy Chairman)	Mr CHAN Hak-kan
Mr CHAN Kin-por	Dr Priscilla LEUNG
Mr IP Kwok-him	Mr Michael TIEN
Mr James TIEN	Dr CHIANG Lai-wan
Ir Dr LO Wai-kwok	

(9 members)

Abstain

Mrs Regina IP

(1 member)

63. The Chairman declared that the motion was carried.

Motion proposed by Mr Albert CHAN and Mr CHAN Chi-chuen

64. Mr Albert CHAN and Mr CHAN Chi-chuen proposed to move a motion requesting SDEV to resign. The wording of the motion, which was tabled at the meeting, was as follows:

(Translation)

"Given that Mr Paul CHAN Mo-po has been involved in a series of scandals since he took up the post of the Secretary for Development, including drink driving, operation of subdivided units and reaping exorbitant profits from plots of agricultural land owned by him in Kwu Tung, the public has lost confidence in his handling of matters relating to land use planning. To ensure that the Development Bureau can carry out its work smoothly and to restore public confidence in the Development Bureau, this Panel urges Mr Paul CHAN Mo-po to resign from the post of Secretary for Development immediately. "

65. Mr IP Kwok-him queried whether the motion fell within the terms of reference of the Panel. Mr James TO suggested that in order to make the motion directly related to the agenda item under discussion, consideration

might be given to adding "including the planning for NENT NDAs" after "matters relating to land use planning". Mr Albert CHAN explained that the substance of the motion was about "public confidence in the Development Bureau" as well as "issues relating to land use planning", which included the matters on the planning for NENT NDAs.

66. Mr IP Kwok-him suggested that the Chairman should invite the legal adviser to the Panel ("the legal adviser") to give advice on his query. Members raised no objection to Mr IP's suggestion. The Chairman ordered that the meeting be suspended for five minutes for him to seek legal advice.

[The meeting resumed after five minutes. The Chairman ordered that the meeting be suspended for three more minutes to allow more time for consulting legal advice. The meeting resumed at 11:12 am.]

67. The Chairman said that having considered the advice of the legal adviser, and taking into account that the Panel was a forum for the exchange and dissemination of views on policy matters, he ruled that the motion proposed by Mr Albert CHAN and Mr CHAN Chi-chuen which was related to matters about the integrity of SDEV should not be dealt with at the meeting.

68. Mr Albert CHAN said that as far as he could recall, some LegCo committees had passed motions urging Government officials to resign. He stressed that the Chairman's ruling and the advice given by the legal adviser should be made in accordance with the relevant rules and practices. He requested to put on record that he disagreed to the advice of the legal adviser and the Chairman's ruling.

69. Dr CHIANG Lai-wan, Mr CHAN Kin-por and Mr IP Kwok-him agreed that the Panel should not deal with the motion. Dr CHIANG said that the matters raised in the proposed motion were not related to the agenda item under discussion. Mr IP opined that the Panel should deal with policy matters related to development. He and Mr CHAN held the view that as long as the Chairman had made a ruling on the motion, the ruling was final and the Panel should proceed to the next agenda item.

70. Ms Cyd HO considered that given the Chairman had allowed SDEV to speak on the perceived conflict of interest arising from his family's stake in land in NENT, which was related to the integrity of SDEV, he should allow the meeting to deal with the motion.

71. Mr LEUNG Kwok-hung opined that SDEV had requested to make a statement at the meeting about the interests of his family in land in NENT because he considered it necessary to head off the allegations about conflict of interests against him. In his opinion, the motion proposed by Mr Albert CHAN and Mr CHAN Chi-chuen urging SDEV to resign was a result of SDEV's failure to answer members' queries about his integrity. He considered it unreasonable to disallow the meeting to vote on the motion.

72. Ms Emily LAU, Mr CHAN Chi-chuen and Mr Albert CHAN suggested that the Secretariat should provide the legal advice, together with the supporting arguments, in writing for members' further discussion at the Panel's next meeting on 25 July 2013.

73. Mr CHAN Chi-chuen and Mr Albert CHAN further proposed that the legal adviser should give the Panel a verbal account of the advice that he had given to the Chairman. At the invitation of the Chairman, the legal adviser made the following points:

- (a) Whether or not the motion was in order was to be decided by the Chairman.
- (b) The motion was non-legally binding and was an expression of views.
- (c) Given that the terms of reference of the Panel were concerned with Government policy, if the Chairman considered that the motion was about Government policy, he should allow members to vote on the motion; if he considered that the motion was only about SDEV's integrity, it might or might not be related to Government policy.

74. Mr Albert CHAN said that he concurred with the advice of the legal adviser. He held the view that the Chairman had misinterpreted the legal adviser's opinion when he made a ruling on the motion.

75. The Chairman said he had made a ruling on the motion and it was final. If members did not agree with his ruling, they might take follow-up action against it. They might pursue the suggestions in the motion at other forums. He ordered that the meeting should proceed to the next agenda item.

II Proposed enhancements to the general ex-gratia compensation and rehousing arrangements for development clearance exercises

(LC Paper No. CB(1)1543/12-13(02) -- Administration's paper on proposed enhancements to the general ex-gratia compensation and rehousing arrangements for development clearance exercises)

76. With reference to the Administration's paper (LC Paper No. CB(1)1543/12-13(02), Deputy Secretary for Development (Planning and Lands) 1 ("DS/DEV(P&L)1") briefed members on the Administration's proposal, following a review on the current arrangements, to enhance certain aspects of the general ex-gratia compensation and rehousing ("C&R") arrangements to be offered to eligible clearerees affected by the Administration's development clearance exercises. The proposed enhancements did not cover the ex-gratia zonal land compensation system payable to land owners and various ex-gratia allowances ("EGAs") for village house removals, occupiers of legal properties and farmers.

77. Director of Lands ("D of L") said that subject to members' views, the Administration intended to make a submission to the Finance Committee ("FC") to seek approval of the proposal after the commencement of the next session. Subject to the approval of FC, the Administration's intention was to apply the proposed enhancements to all on-going and future land resumption and clearance exercises as of 15 July 2013. The proposed enhancements would be made in respect of four existing EGAs, namely:

- (a) EGA for Permitted Occupiers ("EGAPO");
- (b) Domestic Removal Allowance;
- (c) EGA for Shops, Workshops, Godowns, Slipways, Schools, Churches, and Ornamental Fish Breeding Undertakings; and
- (d) EGA for the Clearance of Graves, Kam Taps and Shrines.

She said that the eligibility criteria of the above EGAs would be relaxed and some of the rates would be increased so that more people would be eligible for a higher amount of compensation. Furthermore, the

Administration also proposed to enhance the existing rehousing arrangements by allowing eligible clearerees to either choose to be rehoused to public housing units, or to substitute it by EGAPO. Details of the proposed enhancements were set out in Annex A to the Administration's paper.

Rehousing before clearance

78. Mr Albert CHAN pointed out that in previous development projects, rehousing of affected residents had not been completed before the clearance of their homes, giving rise to lots of grievances. He pointed out that before the commencement of the works of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") project, the villagers of Choi Yuen Tsuen, who were affected by land resumption for the project, had requested rehousing before clearance but the Administration had not acceded to their request, leading to strong reaction from the villagers. He asked if the Administration could adopt a policy of rehousing before clearance to ensure a smoother clearance for the timely implementation of public works projects.

79. D of L said that, subject to the development timeframe of a works project, the Administration would strive to address the concerns of the clearerees and arrange the clearerees to be rehoused before clearance as far as practicable and provided that the progress of the relevant works would not be adversely affected. She added that, to improve the situation whereby a more up-to-date EGA rate would be applied at the time of clearance, the Administration had proposed that, as one of the enhancements, the calculation of the amount of the applicable EGA would be based on the prevailing rate on the date of posting of the resumption notice for that project if land resumption was involved, or the date which was six months before the first scheduled clearance date for that project if only Government land was involved, as opposed to the date of the Pre-clearance Survey ("PCS"), which was applied at present.

80. Mr Albert CHAN said that it was imperative that the Administration should set out clearly a policy of rehousing before clearance to address the housing needs of the clearerees.

Agricultural rehabilitation/site

81. While welcoming the Administration's proposal to enhance the EGA rates as the existing figures were on the low side, Mr LEUNG Kwok-hung suggested that the Administration should conduct a survey on

available farmland in the New Territories ("NT") to address the problem of insufficient land for agricultural rehabilitation. For the farmland owned by private land owners, the Administration could set a deadline by which the land would be resumed by the Administration if the land was not used for farming. He opined that the policy of rehousing before clearance was feasible if the Administration had a land reserve in the NT and asked if the Administration would start building up such a land reserve by resuming fallow farmland. He also enquired if the Administration had conducted a review on the resite exercise for Choi Yuen Tsuen.

82. Mr WU Chi-wai stressed the importance for the Administration to first formulate an agricultural policy before developing the NT. He was disappointed that the Administration had not provided the details of such a policy in its paper. In the latest proposal on the North East New Territories ("NENT") New Development Areas ("NDAs") project, the Administration indicated that it would only provide assistance in matching up the affected farmers with land owners who were willing to lease out/sell their farmland in NENT. Citing the case of Choi Yuen Tsuen as an example, he said that villagers and farmers had encountered a lot of difficulties in finding new sites for village and agricultural resite. In view of such difficulties experienced by other villagers, the farmers to be affected by the NENT NDAs project would have doubt on the efficacy of the Administration's agricultural rehabilitation scheme. He enquired how the Administration could ensure that the owners of the land to be designated as "Agriculture" in Kwu Tung South under the latest proposal on the NENT NDAs project would be willing to lease out their land for farming, given that in the past such land had been used for storage of containers or as carparks. He further asked if it was legally viable for the Administration to resume private farmland under the Land Resumption Ordinance ("LRO") (Cap. 124) for the purpose of leasing it out for farming.

83. DS/DEV(P&L)1 explained that the Administration's paper submitted for discussion focused on the proposed enhancements to the general C&R arrangements. Under the prevailing agricultural resite policy, affected genuine farmers could purchase or rent farmland elsewhere to continue farming. They could apply for a short-term waiver for building on the land that they had secured a temporary domestic structure up to two storeys and 17 feet in height, and a roofed-over area of 400 square feet. As a special arrangement to facilitate agricultural rehabilitation for farmers affected by the NENT NDAs project, the Agricultural, Fisheries and Conservation Department ("AFCD") would take a proactive stance in liaising with the land owners. Regarding LRO, he said that the

Administration was empowered by LRO to resume land for public purposes, such as public works or development of new towns.

84. Noting that a vast area of land in Kwu Tung South had been acquired and fenced off by property developers, Miss CHAN Yuen-han queried how the farmers to be affected by the NENT NDAs project could continue their farming practices in Kwu Tung South. Dr Fernando CHEUNG also sought details on the agricultural rehabilitation arrangements for farmers who would be affected by the NDAs project.

85. In response, DS/DEV(P&L)1 advised that, to cater for the needs of genuine farmers affected by the NENT NDAs project who wished to continue their farming practices, the Administration would implement a special agricultural land rehabilitation scheme with AFCD providing assistance to match up these farmers with land owners in NENT, including Kwu Tung South, to facilitate leasing out/selling their land for farming. Consideration would be given to devising suitable measures/arrangements such that the land owners would be more willing to do so. The Administration would also actively monitor and take enforcement action against any unauthorized use of agricultural land.

Village resite

86. Miss CHAN Yuen-han enquired about the Administration's compensation policy for the land and houses of indigenous villagers ("IVs") which were resumed and cleared by the Administration, and whether village resite arrangements would be available for indigenous villages affected by land clearance exercises.

87. DS/DEV(P&L)1 remarked that the present proposal was to enhance EGAs for occupants and shop operators affected by land clearance exercises. Other existing arrangements for affected clearerees, including IVs, would remain unchanged. D of L added that under the existing New Territories Village Removal Policy, if an indigenous village or building lots owned by IVs were resumed in a clearance exercise, the village resite policy would be applicable. The resite house entitlements would be in the form of resite houses built by the Administration, or a site (without a house on it) plus a building allowance equivalent to the building costs of a Government-built resite house.

88. Miss CHAN Yuen-han and Dr Fernando CHEUNG enquired how the Administration would deal with the requests from non-IVs of Kwu Tung Village for village resite. D of L clarified that the village was not an

indigenous village, though the Administration would not rule out the possibility that a few NT IVs lived in the village and in such cases, village resite would be arranged as mentioned above. Responding to Miss CHAN's question about whether non-IVs and IVs of a village could be relocated by the Administration to the same resite area, D of L reiterated that it was not the Administration's policy to provide resite areas for non-IVs. Nonetheless, after the eligible clearerees living in the surveyed squatter or licensed structures in Kwu Tung Village had received the special ex-gratia compensation under the latest proposal on the NENT NDAs project, they might rent or purchase farmland, if available, in the vicinity of the resite area for IVs of Kwu Tung Village, if any, and apply to build temporary structures on the farmland under the agricultural resite policy. DS/DEV(P&L)1 added that no one would be made homeless in a clearance exercise and C&R arrangements would be provided for eligible occupants of squatter or licenced structures. A point to note was that non-IVs had no legal titles of the land they occupied. He further advised that the affected occupiers under the NENT NDAs proposal, subject to their eligibility, could be rehoused in public rental housing ("PRH") units to be provided in Kwu Tung North. In the interim before the completion of these PRH units, the Administration would liaise with the Hong Kong Housing Authority to find PRH units in Fanling and Sheung Shui for their accommodation.

89. Miss Alice MAK said that the rehousing arrangement for affected clearerees in development projects was crucial for the smooth operation of clearance exercises as well as arranging accommodation for the affected residents. Citing the case of relocation of fishermen in Tsing Yi and villagers at Ma Wan in which village resite had been arranged by parties other than the Administration, she asked the Administration to consider applying such mode of rehousing to clearerees affected by land resumption and site clearance. As some affected residents, having lived together in an area for generations, might wish to maintain their social networks and way of living, she opined that village resite was a more desirable way of rehousing for them.

90. Citing the cases of village resite for the "Thirteen Villages" of Kowloon, such as Ngau Chi Wan Village, Miss CHAN Yuen-han said she was puzzled by the Administration's explanation about the village resite policy, which was, in her opinion, at variance with its past practices of arranging resite for villages in which there were both indigenous residents and non-indigenous residents, affected by development projects. She found it unacceptable that the Administration would arrange village resite for the IVs but not the non-IVs living in the same village. Some non-IVs who had lived in a village for generations with IVs might have a strong desire to

maintain their established social networks and existing life styles. She pointed out that, since compensation alone would not be able to address the needs of the villagers/farmers affected by development clearance exercises, the Administration should introduce other measures, such as village resite and agricultural land rehabilitation, to minimize the impact of such exercises on them. She said that the Hong Kong Federation of Trade Unions supported the development of NENT but in the development process, the Administration must ensure that the lives of the existing residents and farmers would not be too much disrupted. She suggested that the Administration should seriously consider arranging village resite for all non-indigenous villages to be affected by the NENT NDAs project, which would be a way out for the present difficult position of the proposed NENT NDAs project.

91. DS/DEV(P&L)1 reiterated that as Kwu Tung Village was not an indigenous village, the village resite policy was not applicable. It was necessary to distinguish between IVs and non-IVs as the lawful traditional rights of IVs were protected in accordance with the Basic Law and IVs usually had land and property rights that would entitle them to compensation in a clearance exercise. The present proposals were related to EGAs for occupants of surveyed squatter or licensed structures who had no legal titles to the land they occupied and these structures were unauthorized. The intention of EGAs was to offer assistance to them to rent other places for accommodation. D of L supplemented that apart from the occupants of squatters, there was another type of non-IVs who lived in legal structures. If these structures were to be cleared for land resumption, a home purchase allowance based on the value of a notional 7-year-old flat in the locality of the resumed land would be offered. She said that the Ma Wan case cited by Miss Alice Mak was a private development project. As regards other examples of village resite mentioned by Miss CHAN Yuen-han and Miss Alice MAK, D of L would appreciate their provision of the details after the meeting for follow-up as appropriate.

92. The Chairman remarked that as the Administration had issued licenses to some temporary structures, these structures should not be classified as unauthorized. Given that there were lots of comments against the existing C&R arrangements for clearance exercises and the Administration planned to open up land in the NT as one of the measures to increase housing supply, it was time for the Administration to conduct a comprehensive review on the C&R package, in particular for non-IVs, to ensure that the policy and the amount of compensation were kept abreast of the times. He noted that the proposed ceiling of EGAPo, i.e. \$600,000,

had applied to the case of Choi Yuen Tsuen about three years ago but had remained the same in the present proposal.

93. DS/DEV(P&L)1 said that he had referred to the squatter structures built on Government or private land as unauthorized structures. Licensed structures were another type of temporary structures to which the resite policy would also not apply, but their occupants might also be eligible for the C&R package in a clearance exercise when their structures were to be cleared. Regarding the review on C&R arrangements, he said that the present proposals to extend the scope and enhance the amount of EGAs were the results of a recent review taking into account the experience of clearance exercises in recent years. The basis of the EGAP rate had been increased from 36 months' rental value to 72 months' rental value under the present proposal.

94. Mr Albert CHAN said although he supported the proposed improvement on the C&R arrangements, he was disappointed that the Administration had not listened to the views expressed by members on village resite for non-IVs. Citing the delay of the works of the XRL project caused by the contention on village resite for Choi Yuen Tsuen, he cautioned the Administration that the same might arise from the implementation of the proposed NENT NDAs and Hui Shui Kiu NDA projects. The Administration should adopt a flexible attitude to handling the problems associated with development clearance exercises and the demand of the affected residents for village resite and agricultural rehabilitation. With reference to the village resite arrangement in the Ma Wan case, he suggested that the Administration should follow suit, i.e. to provide land to resite those residents who would be affected by development projects so that the clearance exercises could be conducted more smoothly.

95. DS/DEV(P&L)1 explained that under the existing policy, the surveyed squatter or licensed structures were only temporarily tolerated and these structures would have to be cleared and the land resumed for environmental or development reasons. New squatter structures not registered in the 1982 Squatter Structure Survey ("SSS") were not to be tolerated at all. There were views in society that the Administration should enhance its enforcement action against these structures, in particular those which had been expanded or modified. A balance had to be struck between rehousing of the occupants and controlling the proliferation of these structures. It might not be acceptable to the public that the Administration should rehouse all occupants of these structures once they had built a structure on Government or private land. Given the land scarcity in Hong

Kong and the large number of surveyed squatter or licensed structures, if all such structures were to be resited when the land on which there were erected had to be developed, land use planning in Hong Kong would be seriously and adversely affected.

96. Mr Albert CHAN pointed out that occupants of different types of squatters would have different needs and demands. While occupants of sub-divided flats were more likely to be satisfied with rehousing to PRH, many occupants of squatter structures attached to farmland were farmers and had lived in the villages for generations. These farmers strongly requested to continue their farming practices in the rural area. The Administration should strive to cater for their demands.

97. Miss CHAN Yuen-han said that, in view of the large number of households to be affected by the land resumption and site clearance exercises under the proposed NENT NDAs project and other projects in NT, it was essential that the Administration's rehousing and resite policies could address their housing needs. She said that special consideration should be given to occupants who had resided continuously in squatter structures for a long time. In this connection, she suggested that the Administration should conduct a review and then draw up a line to delineate those non-IVs who would be eligible for resite arrangement. She cautioned the Administration that, in developing NENT, it must address the conflicting views among different stakeholders and at the same time protect the interest of non-IVs. If necessary, the Administration should introduce new measures to meet the needs of the clearerees.

98. Dr Fernando CHEUNG agreed with the Chairman's suggestion that a comprehensive review on C&R arrangements for non-IVs was necessary. Given that the existence of the surveyed squatter and licensed structures had been tolerated by the Administration and some households had lived there for generations, it was unfair to say that their occupancy was unauthorized. When clearing such structures, it was necessary to adopt the principles of rehousing before clearance, village resite and agricultural land rehabilitation. The Administration should help the affected residents maintain their existing life styles as far as practicable if they so wished. If the Administration disregarded these principles and did not take action to protect the existing residents from being evicted by land owners, the proposed improvements in the C&R arrangements would not help reduce the resistance of the affected residents to site clearance action.

Pre-clearance survey

99. While supporting the Administration's proposal to relax the eligibility criteria of EGAPO such that those who had resided in a surveyed squatter or licensed structure for 10 years or more would also be eligible to receiving the compensation, Dr Fernando CHEUNG was concerned about the big time gap between the commencement of the planning on the development of a site and the clearance of the site. He pointed out that, during the long interim period, some occupants of the structures at the site might be forced by land owners to move out without any compensation. At present, occupants who were forced to leave the structures before the Pre-clearance Survey ("PCS") would not be able to receive any EGAs. He suggested that a freezing survey should be conducted to register the particulars of the occupants once the Administration started planning the development of a site, so that the occupants might have a chance to have a reasonable compensation from the Administration even if they were evicted afterwards.

100. In response, D of L said that the time span between the commencement of the planning study for a site and the resumption and clearance of the site could range from 10 to 20 years. Presently, PCS was generally conducted at the date when the development plan was published in the gazette or when the project was publicly announced. Advancing the PCS to the commencement of the planning study might lead to complications such as the normal changes in occupancy during the interim period, resulting in confusions in the compensation and rehousing arrangements. She added that the Administration was not in a position to forbid termination of tenancy contracts by legal means.

101. Mr Frederick FUNG pointed out that the longer a person had lived in a squatter house, the more difficult it would be for him/her to produce documentary proofs of his/her occupancy. Hence, in anticipation of possible disputes between occupants and the Administration, he suggested that the Administration should conduct a fresh territory-wide squatter survey, similar to the those in the 1980s, to register the particulars of both the structures and the occupants and to ascertain individual occupants' eligibility for EGAPO. He also proposed that a rolling squatter clearance programme spanning, say, five or 10 years be drawn up, so that the affected occupants could well make the necessary preparation. Mr LEUNG Kwok-hung also agreed that a survey on the particulars of occupants of squatter structures be conducted as soon as possible to ascertain their eligibility for compensation and rehousing.

102. D of L replied that the Administration's squatter surveys did cover both the structures and the occupants. She advised that in order to be eligible for EGAs, the occupants would have to be those included in the 1984/85 Squatter Occupancy Survey and the related structures must be those licensed before 1982 or registered in the 1982 SSS. The present proposal would extend the eligibility to those occupants who had a minimum of 10-year continuous occupation for domestic use immediately preceding the date of PCS. She further advised that it was common to adopt a phased approach for a large-scale land clearance exercise, and the relevant PCS would normally be conducted once the resumption and clearance limits of a project were confirmed.

Amount of special ex-gratia allowances

103. Dr Fernando CHEUNG noted that in the case of the Liantang/Heung Yuen Wai Boundary Control Point project, a clearee's status other than the length of occupancy at a squatter structure, such as property ownership or rehousing in a PRH unit, would affect his/her eligibility for EGAs. He sought elaboration from the Administration on such restrictions.

104. DS/DEV (P&L)1 advised that under the present policy, domestic property owners were ineligible for any form of rehousing and those who had been rehoused would not be eligible for EGAs. Such arrangements would continue to apply, as EGAP0 aimed at providing assistance to clearees to rent new accommodations. If accommodation was not a problem for a clearee, EGAs would not be justified.

105. Mr Frederick FUNG asked about the adjustment mechanism for the EGA rates and whether the enhanced EGAs would also be applicable to clearance exercises in the urban area. In reply, D of L advised that the EGA rates, together with the annual adjustment mechanism, had been approved by FC. For instance, those EGAs which were based on the monthly rental value were reviewed from time to time according to market rentals. The updated amount was published after each review. She also confirmed that the enhanced EGAs would apply to all clearance exercises in the territory, including the urban area.

106. While noting that Annex C to the Administration's paper provided a table comparing the current and the proposed general C&R arrangements, Mr Albert CHAN requested the Administration to provide another comparison table, with illustrative cases, to show the amount of compensation received/to be received by the relevant clearees under the

existing and the proposed arrangements, to facilitate members' understanding of the enhancements.

(Post-meeting note: The Administration's supplementary information was circulated to members vide LC Paper No. CB(1)315/13-14(01) on 14 December 2013.)

III Any other business

107. In view of time constraints, the Chairman advised that the discussion on "Hung Shui Kiu New Development Area Planning and Engineering Study - Stage 2 Community Engagement" would be deferred to a later meeting.

108. There being no other business, the meeting ended at 12:52 pm.

Council Business Division 1
Legislative Council Secretariat
30 December 2013