

RECONSIDERATION OF APPLICATION NO. Y/I-DB/2
UNDER SECTION 12A OF THE TOWN PLANNING ORDINANCE

1. Background

- 1.1 On 25.2.2016, the Town Planning Board (the Board) received a s.12A application to amend the approved Discovery Bay Outline Zoning Plan (OZP) No. S/I-DB/4 by rezoning a site at Area 6f, Lot 385 RP & Ext. (Part) in D.D. 352, Discovery Bay (the Site) (**Plan FZ-1a**) from “Other Specified Uses” annotated “Staff Quarters (5)” (“OU(Staff Quarters(5))”) to “Residential (Group C)12” (“R(C)12”) subject to a maximum domestic gross floor area (GFA) of 21,600m² and a maximum building height (BH) of 18 storeys (128mPD including roof-top structure) to facilitate a proposed medium-density residential development providing about 476 flats.
- 1.2 On 23.6.2017, the Rural and New Town Planning Committee (the Committee) of the Board considered the application (copy of the RNTPC Paper is at **Appendix FA-I**) and decided not to agree to the application for the following reasons:
 - (a) there was scope for further residential development under the current OZP as the total maximum GFA allowed had yet to be realised. No strong justification had been provided by the applicant for rezoning the application site for residential use; and
 - (b) approval of the application would set an undesirable precedent for other similar rezoning applications, the cumulative impact of which would further depart from the original development concept of Discovery Bay and overstrain the existing and planned infrastructure capacities for Discovery Bay area.
- 1.3 An extract of the relevant minutes of the Committee meeting is at **Appendix FA-II**.
- 1.4 On 19.9.2017, the applicant lodged a judicial review (JR) application against the decision of the Committee not to approve the application. On 7.8.2020, the Court of First Instance (CFI) allowed the JR and remitted the decision to the Board for reconsideration.
- 1.5 On 28.8.2020, the Board decided to appeal against the CFI’s Judgment. On 10.9.2021, the Court of Appeal (CA) dismissed the appeal mainly on the following grounds:
 - (a) the Board did not deal with the relevant consideration, i.e. whether the proposed rezoning met the general planning intention as stated in the Explanatory Statement (ES of the OZP), which was the most detailed

exposition of the planning intention and policy of the Discovery Bay development. In that regard, the Board failed to ask itself the right question;

- (b) the Board relied on the unused GFA⁽¹⁾ factor to reject the s.12A application but the factor was not relevant and not related to the general planning intention or the criteria set out in the ES. In particular, the Board was unable to explain how or why, without the implementation of the unused GFA, it could not properly assess whether the proposed rezoning was inconsistent with the general planning intention. Whether a consideration qualified as a planning consideration in any given situation would depend on the context and particular circumstances; and
- (c) the Board had no proper factual basis to say that the Site had similar characteristics to other sites⁽²⁾ in Discovery Bay that might be the subject of s.12A applications in the future and then concluded that approval of the s.12A application would set an “undesirable precedent”.

1.6 As per the CA’s Judgment, the CFI’s order of remitting the decision of the Committee to the Board for reconsideration remains in force.

1.7 On 28.10.2021, 24.12.2021 and 6.1.2022, for the reconsideration of the application, the applicant submitted further information (FI) providing information and updates on the application since the last consideration of the rezoning application by the Committee in 2017. The application is scheduled for reconsideration by the Committee at this meeting.

2. The Proposal

2.1 The applicant proposes to rezone the Site from “OU(Staff Quarters(5))” with a maximum domestic GFA of 170m² and a maximum BH of 3 storeys (9m) to “R(C)12” subject to a maximum domestic GFA of 21,600m² and a maximum BH of 18 storeys (128mPD including roof-top structure). In support of the application, the applicant has submitted an indicative scheme with technical assessments. According to the applicant’s indicative scheme, the proposed residential development consists of two residential blocks with 476 flats for a population of about 1,190 (**Drawings FZ-1a** and **FZ-2**). The Concept Plans, Section Plan, Landscape Master Plan, Compensatory Tree Plan, water quality sensitive receivers plan, existing and proposed drainage, sewerage and water supply layout plans, proposed visual mitigation measures and photomontages submitted by the applicant are at **Drawings FZ-1a** to **FZ-10c**. The major development parameters of the indicative scheme are as follows:

⁽¹⁾ The unused GFA refers to the 124,000m² domestic GFA allowed in the “R(C)” zone of the Discovery Bay OZP mentioned in paragraph 11.5 of the previous RNTPC Paper No. Y/I-DB/2D (**Appendix FA-I**).

⁽²⁾ There are six “OU(Staff Quarters)” sites, including the Site, on the Discovery Bay OZP. Please also refer to paragraph 11.4 of RNTPC Paper No. Y/I-DB/2D and **Plan Z-7** at **Appendix FA-I** on their locations and site areas.

| | Indicative Scheme |
|---|--|
| Site Area | about 7,623m ² |
| Plot Ratio (PR) | about 2.83 |
| Maximum Domestic GFA | 21,600m ² |
| Site Coverage | about 30% |
| No. of Blocks | 2 |
| No. of Storeys | 18 |
| Maximum BH | 73m/128mPD (including roof-top structure) |
| No. of Flats | 476 |
| Average Flat Size | 45m ² |
| Estimated Population | 1,190 |
| No. of Car Parking and Loading/ Unloading Spaces | golf cart parking spaces and servicing vehicles loading/ unloading spaces (the number not specified) |
| Private open space | not less than 1,190m ² |

2.2 For Members' reference, the following documents are attached:

- (a) RNTPC Paper No. Y/I-DB/2D considered on (Appendix FA-I)
23.6.2017
- (b) Extract of Minutes of the RNTPC Meeting held on (Appendix FA-II)
23.6.2017
- (c) FI dated 28.10.2021 from the Applicant[#] (Appendix FA-III)
- (d) FI dated 24.12.2021 from the Applicant* (Appendix FA-IV)
- (e) FI dated 6.1.2022 from the Applicant* (Appendix FA-V)

[#] accepted but not exempted from publication and recounting requirements

* accepted and exempted from publication and recounting requirements

3. Justifications from the Applicant

3.1 The justifications put forth by the applicant in support of the application are detailed in the supplementary Planning Statement and the FI for the original application (Appendices Ia, II to VII of Appendix FA-I) and summarised in paragraph 2 of the RNTPC Paper No. Y/I-DB/2D (Appendix FA-I) as well as the FI submitted in October/December 2021 and January 2022 (Appendices FA-III to FA-V). They are recapitulated and updated as follows:

Consistent with Chief Executive (CE)'s Policy Address and the Strategic Planning of Lantau

- (a) the proposed development helps achieve the objective of the CE's Policy Address in increasing and expediting housing land supply to optimise residential development. The long-term planning for Discovery Bay is consistent with the envisaged developments at Siu Ho Wan, Sunny Bay and Tung Chung New Town Extension at Lantau;

Consistent with the General Planning Intention of Discovery Bay

- (b) the Concept Plan of the proposed development addresses the general planning intention of Discovery Bay as stated in the ES of the OZP. Considerations have been given to ensure that the development proposal is of high quality, and compatible with the natural setting and existing forms of residential development;

Logical Location for Increased Residential Development Intensity

- (c) the proposed residential blocks are replacement of the originally intended staff quarters which are no longer needed. The Site is a logical location for residential development as it is readily accessible, currently served by public transport and in close proximity to commercial and leisure activities; the proposed BH and footprint are of similar scale to the surrounding existing residential blocks; and the proposed increase in residential units of 476 and population of 1,190 is of very modest development intensity and is in balance with the mountain backdrop setting;

Staff Quarters are No Longer Needed in Discovery Bay

- (d) since the completion of Discovery Bay Tunnel and the connection between Discovery Bay and other parts of Hong Kong has been improved, staff quarters are no longer needed in Discovery Bay;

Adequate Infrastructure Provision

- (e) the applicant requests the Water Supplies Department (WSD) and Environmental Protection Department (EPD) to take into account the proposed development in the future planning for Siu Ho Wan water and sewage treatment facilities, in order to provide extra water supply and sewage treatment capacity for the proposed development. Also, as the proposed development is moderate in scale, the demand for government infrastructure would be insignificant. Subject to improvement works where necessary, the proposed development would be feasible to support the planned population;

No Adverse Water Supply, Water Quality, Sewerage, Landscape and Visual, Traffic and Geotechnical Impacts

Water Supply

- (f) the entire new private water supply network, comprising water treatment works (WTW), pumping station, service reservoir, transmission and distribution mains will be an exclusive network to supply Area 6f and will be totally segregated from the existing WSD's water supply network (**Drawings FZ-8a** and **FZ-8b**). The alignment of the water main would be clarified at the detailed stage;

Water Quality

- (g) the water quality control standard for the proposed local WTW adopts the same standard as the WSD's WTW. Potable water in Discovery Bay had been sourced from Discovery Bay Reservoir and filtration plant (**Plan Z-2 of Appendix FA-I**) for about 20 years before 2000. Discovery Bay residents were used to this arrangement and there was never any concern raised on water quality;

Sewerage

- (h) a small sewage treatment works (STW) separated from the existing sewerage system will be installed at the Site (**Drawing FZ-7**). It will be established, operated and maintained by the applicant. The contingency measure of connecting overflowing sewage pipe from the proposed private STW to the existing Discovery Bay Sewage Pumping Station (SPS) No. 1 is proposed by the applicant. Detailed connection proposal will be provided in design stage. The proposed STW will be accommodated in a dedicated plant room to be installed with sufficient odour removal measures and adverse odour impact is not anticipated. Moreover, construction phase impacts are not anticipated to be significant, and site runoff and sewage can be alleviated by implementing good site practice;

Landscape and Visual

- (i) a large portion of the Site has been disturbed or formed, and the surrounding vegetation is not of significant conservation value. Hence, development of the Site will not have any direct and indirect ecological impacts. There will not be any adverse impact on the landscape setting in the area. Site formation and vegetation clearance would be minimised as much as possible. A revised compensatory planting plan (**Drawing FZ-4**) demonstrates that about 125 compensatory trees would be planted within the Site with good separation distance;
- (j) careful consideration has been given to the siting, disposition and BH of the proposed development in that the proposed BH is compatible with that of the adjoining Parkvale Village and is in accordance with the topography of the Site; the view currently enjoyed by the existing residents of Parkvale Village would not be interrupted; the proposed development would comply with the Sustainable Building Guidelines; and a setback from Discovery Valley Road of more than 45m is proposed to minimise its visual impact. The various new developments are distant from the Site and would have no significant change to the visual context;

Traffic

- (k) the submitted Traffic Impact Assessment (TIA) confirms that the proposed additional residential units would not generate adverse traffic impact on the ferry services and the critical road links and junctions in Discovery Bay, Tung Chung and Sunny Bay areas. Moreover, the proposed development is unlikely to result in adverse vehicular emissions or traffic noise impacts;

Geotechnical

- (l) the submitted Geotechnical Planning Review Report (GPRR) concludes that the foundation, site formation and excavation and lateral support (ELS) schemes for the proposed development are considered to be geotechnical feasible and there is no adverse impact on the nearby features. Some recommendations of foundation, site formation and ELS works are proposed. The geotechnical issues could be dealt with separately and addressed at a later stage before commencing the development. Moreover, geotechnical monitoring would be carried out to monitor the effect of the works;

Population Assumption is More Updated

- (m) the applicant justifies that the average of 2.5 persons per unit is derived from City Management's latest record (the property management company of all Discovery Bay residential units) and the Working Group on Population Distribution Projections for 2013-2021 published by the Planning Department. It is more updated and comprehensive than the 2011 Population Census;

Responses to Local Concerns

- (n) with reference to the Sub-Deed of Mutual Covenant (Sub-DMC) for Parkvale Village, the applicant clarifies that the section of Parkvale Drive at the pocket of Parkvale Village is identified as "Passageways". It is not part of "Village Retained Areas" or designated as "Village Common Areas". Also, the section of Parkvale Drive leading from Discovery Valley Road and ending outside the pocket of Parkvale Village does not form part of Parkvale Village (**Drawing FZ-1c**); and
 - (o) the applicant has carried out rounds of public consultation in 2016 as a good practice. Open letters were issued to Discovery Bay residential units; dedicated enquiry hotline and email were established; public exhibitions were held and articles were published regarding the details of the subject rezoning proposal.
- 3.2 The applicant highlights in the FI dated 28.10.2021 (**Appendix FA-III**) that the premium for Discover Bay Master Plan (MP)7.0E under the lease has been settled, the development has commenced and the completion shall follow the Building Covenant dates specified by the Lands Department (LandsD). The applicant indicates in the FI dated 24.12.2021 (**Appendix FA-IV**) that the geotechnical issues and alignment of water main would be handled/clarified in the detailed design stage. The applicant also clarifies in the FI dated 6.1.2022 (**Appendix FA-V**) that the public access to the hiking trail through the Site will be maintained.

4. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

5. The Latest Development of Discovery Bay MP under the Lease

- 5.1 Background of the Discovery Bay development and the associated land grant modifications were set out in paragraphs 4.1 to 4.3 of the previous RNTPC Paper No. Y/I-DB/2D (**Appendix FA-I**).
- 5.2 In 1973, the Government granted approval for the Discovery Bay development (the Development) as a “Recreation and Leisure Community”. Any proposal to increase the development intensity should be initiated by the owner / developer (i.e. the applicant of the subject application, Hong Kong Resort Company Limited (HKRCL)). The control of the Development has been exercised by means of Master Plan (MP) and Supplementary MPs prepared by the Lands Department under the requirement of the lease. The lot was granted to HKRCL in 1976 by way of land exchange for a holiday resort and residential/commercial development in Discovery Bay, with a wide range of recreational facilities and resort accommodation and some commercial elements to serve the locals and the visitors. Over the years, HKRCL has revised its proposal for a number of times and submitted different versions of MP and the latest version is MP7.0E.
- 5.3 The latest MP7.0E covering the additional domestic GFA of about 124,000m² in Area N1 North of Discovery Bay was approved by LandsD on 17.8.2021. A comparison between the latest MP and the prevailing OZP is as follows:

| | MP7.0E | Discovery Bay OZP No. S/I-DB/4 |
|---|---|---|
| Domestic Gross Building Area (GBA)/GFA (Total Domestic PR) | 899,655m ² (0.138) | 900,683m ² (0.139) |
| Total GBA/GFA (Total PR) | 1,130,340m ² ⁽³⁾ (0.174) | 1,047,081m ² (0.16) |

- 5.4 In terms of the Site under the current application, it falls within Area 6f in the MP, which has all along been designated as “Staff Quarters” for the provision of staff quarters accommodation (**Plan FZ-1b**). The Site has been zoned “OU(Staff Quarters)5” on the OZP ever since the OZP was first gazetted on 17.9.2001.

6. Previous Application

There is no previous application at the Site.

⁽³⁾ The main difference between the total GBA under MP7.0E and total GFA under OZP is that the former also includes the building area for G/IC (69,790m²), golf course (1,220m²), open space and related uses (353m²) and miscellaneous uses (18,865m²), which are not specified in the OZP. By excluding the above GBA, the total GBA on the MP7.0E will be 1,040,112m² (i.e. total PR 0.16).

7. **Similar Application**

There is no similar application within the “OU(Staff Quarters)” zone on the Discovery Bay OZP.

8. **The Site and its Surrounding Areas (Plans FZ-1a to FZ-6)**

8.1 The Site is:

- (a) located on a slope rising from 44mPD to 70mPD, about 600m away from the Discovery Bay Ferry Pier (**Plan FZ-1a**);
- (b) currently vacant and covered with grass, scrubs, trees, vegetation, man-made slopes and a formed flat land (**Plans FZ-4 to FZ-6**); and
- (c) accessible via a footpath connecting to Parkvale Drive to the north of the Site (**Plans FZ-2 and FZ-3**).

8.2 The surrounding areas have the following characteristics:

- (a) the immediate surroundings are natural/man-made vegetated slopes. There is a hiking trail partly within the Site linking Parkvale Village and the uphill area (**Plans FZ-1a and FZ-3**);
- (b) to the further east and north of the Site are two medium-rise residential developments (15 to 23 storeys) namely Parkvale Village and Midvale Village falling within an area zoned “R(C)4” (**Plan FZ-1a**); and
- (c) Discovery Valley Road is located about 50m to the south of the Site (**Plan FZ-2**).

9. **Planning Intentions**

General Planning Intention

9.1 The Territorial Development Strategy Review (TDSR) and the South West New Territories Development Strategy Review (SWNTDSR) have laid down the planning and development framework for Lantau Island. Discovery Bay is not identified as one of the Strategic Growth Areas. In line with the strategic planning context provided by the SWNTDSR approved in 2001, the ES of the OZP stipulates that the general planning intention of Discovery Bay is for conservation of the natural environment and to provide for low-density developments compatible with the surrounding natural setting.

9.2 Discovery Bay is expected to be developed in accordance with local conditions and the capacities of the existing and planned infrastructure. Based on the approved MP, the existing and planned infrastructural provision as well as the planning intention of maintaining the sub-urban community character of Discovery Bay, the

SWNTDSR adopted the planned population of 25,000, upon full development of Discovery Bay. Any further increase in population would have to be considered in the context of the general planning intention for the area and subject to detailed feasibility investigation on infrastructure and environmental capacities.

Specific Land Use Zoning

9.3 The planning intention of the “OU(Staff Quarters(5))” zone is intended to designate land for the provision of staff quarters to serve the Discovery Bay development.

10. Comments from Relevant Government Bureau/Departments

10.1 Comments on the application made by relevant government bureau/departments in 2016/17 are summarised in paragraph 9 of **Appendix FA-I**. For the FI and reconsideration of the application, the following government bureau/departments have been further consulted and their views on the application are summarised as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD):

MP

- (a) the Site falls on private lot known as Lot No. 385 RP in D.D. 352 & the Extensions thereto (the Lot) and is held under New Grant No. 6122 as extended by three Extension Letters in 1979, 1980 and 1981 (the New Grant). Pursuant to Special Condition (6) of the New Grant, the Lot shall be developed in accordance with the MP approved by the then Secretary for the New Territories (now being exercised by the Director of Lands (D of Lands)) under lease;
- (b) a new MP7.0E has been approved and executed on 17.8.2021. According to the prevailing MP7.0E, Area 6f, having a gross site area about 8,300m², is designated for the purpose of “STAFF QUARTERS” with maximum GBA and PR of 170m² and 0.02 respectively;
- (c) the proposed residential development with maximum GFA of 21,600m² and PR of 2.83 does not conform to the approved MP7.0E;
- (d) the applicant is required to provide various public recreation facilities in Discovery Bay under MP7.0E, which include hiking trails with a total length of 3,770m. It is noted that the existing hiking trail for public use passes through the Site (**Plan FZ-1a**). Any proposed development at the Site shall not affect the existing hiking trail;
- (e) the applicant has proposed to divert the affected portion of an existing

hiking trail while keeping its required length. This proposal forms part of the development plan of Area 6f which will be considered after receipt of application for amendment of the MP;

Right of Development

- (f) the Principal Deed of Mutual Covenant (PDMC) dated 30.9.1982 has notionally divided the Lot into 250,000 undivided shares;
- (g) should the Board approve the rezoning application, the applicant will have to apply to LandsD for approval to amend the MP. In the processing of the application for amendment of MP, the applicant shall substantiate its right and capacity to develop the Site and demonstrate, amongst others, that the development will not prejudice the provisions in the PDMC and they have sufficient undivided shares retained by them for allocation to the proposed development. Besides, the applicant shall prove that they are the legal owner of the Site and have the capacity to execute the approval letter with the Government;

BH Restriction

- (h) the Lot is subject to the height control restriction stipulated in the Deed of Restrictive Covenant (DRC) dated 10.12.1999 varied and modified by the Deed of Variation of Deed of Restrictive Covenant (DVDRRC) dated 25.8.2017 entered into between the Government of the Hong Kong Special Administrative Region and Hong Kong International Theme Parks Limited. Any proposed development shall comply with DRC as varied and amended by DVDRRC. Detailed examination will be conducted upon receipt of formal application, if any, with relevant site co-ordinates for revision of MP;

ExCo's Endorsement

- (i) the Audit Commission in 2004 recommended that the D of Lands should seek ExCo's endorsement before approving any major changes to the concept of a development if the concept has been approved by ExCo when approving the land grant;
- (j) should the Board approve the subject application and the proposed amendment to the OZP has successfully gone through the necessary town planning procedures, the applicant has to apply to LandsD for approval to amend the MP so as to implement the proposed development under the subject rezoning application. Upon receipt of such application, LandsD will process the application according to the established practice and seek endorsement of ExCo if the proposed development will result in a change of the development concept of the Lot. The applicant is also required to demonstrate and prove that they are the legal owner of the application site and have the capacity to execute the relevant approval letter with the Government. There is

however no guarantee that such approval will be given by LandsD. The said approval, if given, will be subject to such terms and conditions (including but not limited to payment of premium and administrative fee) as imposed by LandsD;

- (k) based on the layout of the proposed buildings in the Site under the subject application, the proposed development apparently complies with the height restriction under DRC as varied and amended by DVDRC; and

Others

- (l) the revised alignment of the sewer main in the present submission accords with our tenancy records, but minor discrepancy is still found in the alignment of the water main. The applicant shall further review its alignment.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

she has no comment on the application from traffic engineering viewpoint.

Environment

10.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) he has no objection to the application from environmental perspective; and
- (b) based on the submitted FI (**Appendix VI** of **Appendix FA-I**), the applicant has demonstrated the commitment to include a nitrogen removal system in the proposed STW for the Site.

Drainage and Sewerage

10.1.4 Comments of the Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK&Is, DSD):

based on the submitted FI (**Appendix VI** of **Appendix FA-I**), it is noted from the revised Environmental Study that emergency overflow pipe from the proposed STW at Area 6f will be connected to existing SPS No. 1 for discharge to Siu Ho Wan STW during emergency situation. Subject to EPD's agreement on the abovementioned disposal proposal, he has the following advisory comments from technical viewpoint:

- (a) the proposed measures, as specified in the revised Environmental Study, shall be implemented properly to avoid overflow during normal condition;

- (b) the applicant shall exercise due diligence to resume normal operations of STW as soon as possible;
- (c) the applicant could submit detailed hydraulic calculations to demonstrate the public sewerage facilities have adequate capacities to the additional discharge from the proposed development during emergency situations in design stage, or otherwise new sewers shall be constructed and maintained by the developer at his own cost to his satisfaction;
- (d) the developer shall pay for the sewage service charges same as the normal condition; and
- (e) given that the applicant would submit more detailed sewage proposal for future's development in the subject area, he would scrutinise the proposal in detailed design stage.

Urban Design and Visual

10.1.5 Comments of the Chief Architect, Central Management Division 2, Architectural Services Department (CA/CMD2, ArchSD):

based on the submitted FI (**Appendix VI of Appendix FA-I**), all of their previous comments on provision of more viewpoints and demarcation of private and public zones have been addressed, and the issue concerning west-facing flats will be considered in detailed design stage. He has no comment from visual impact point of view.

10.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) the proposal is unlikely to cause significant adverse visual impact on the surrounding area;
- (b) the Site is a piece of formed land with vegetated slope located on a hill slope and at the south-western edge of the existing residential development cluster falling within sub-area A of the "R(C)4" zone, which is intended primarily for medium-density residential development with BH not exceeding 22 storeys and 120mPD. As shown in the photomontages (**Drawings FZ-10a to FZ-10c**), the proposed development is similar in scale and height to the neighbouring buildings within the "R(C)4" zone; and
- (c) since the last consideration of the application in 2016/2017, some new developments in the surrounding environment are observed, including but not limited to the IL PICCO (意峰) (**Plans FZ-3 and FZ-4**) located to the west of the Site, and some developments to the east of Discovery Bay Golf Course. The applicant is advised to update the relevant discussions and visual materials/photomontages as appropriate.

Landscape

10.1.7 Comments of the CTP/UD&L, PlanD:

- (a) the proposed development under the subject rezoning application is not incompatible with the surrounding environment from landscape planning perspective;
- (b) according to the applicant, part of the Site was previously formed. Together with slopes at the west and northeast periphery, the Site is occupied by grassland and existing trees. According to the tree survey provided by the applicant, about 225 existing trees, mostly native and some exotic species in fair condition, were identified within the site boundary. Based on the submitted FI dated 7.4.2017, around 118 existing trees are proposed to be felled and 125 new trees to be planted at the Site. With reference to the Landscape Master Plan, 3,500m² of greenery area and 1,200m² of communal open space are proposed for the design population of 1,190;
- (c) among the 125 new trees proposed, six of them are proposed on existing slope feature No. 10SW-B/C219 (slope angle 80 degree) at the northwest of the Site which is not feasible according to GEO Publication No. 1/2011. It is also noted that some existing trees proposed to be retained on registered slope features No. 10SW-B/C219, 10SW-B/C196, 10SW-B/C195 and 10SW-B/C194 and natural terrain A will be affected by the proposed development and associated slope upgrading works. The number of trees to be affected by the proposed development and the proposed tree treatments are subject to further review. However, in view that the existing trees within the Site are all common species and there is no other material landscape resources within the Site, significant adverse landscape impact arising from the proposed development is not envisaged and she has no objection to the application from landscape planning perspective; and
- (d) the applicant should note that approval of the s.12A application by the Board does not imply approval of the trees works such as pruning, transplanting and/or felling under lease. The applicant is reminded to approach relevant authority/ government department(s) direct to obtain necessary approval on tree works.

Building Matters

10.1.8 Comments of the Chief Building Surveyor/New Territories East 1 and Licensing, Buildings Department (CBS/NTE1&L, BD):

- (a) if the existing structures are erected on leased land without approval of the BD (not being New Territories Exempted Houses), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any use under the application;

- (b) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the BO;
- (c) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;
- (d) if the Site does not abut a "Specified Street" of not less than 4.5m wide, the development intensity of the proposal should be subject to determination under Building (Planning) Regulations (B(P)R) 19(3) by the Building Authority upon formal submission of building plan for any proposed new buildings (B(P)R 18A refers);
- (e) access to the Site should be provided under Regulation 5 of B(P)R. The land status of the adjoining lands, footpath, street, etc. should be clarified upon formal building plan submission stage;
- (f) the proposal should be provided with EVA, Site Access and Means of Escape to street, and may need to be resolved with Fire Services Department and LandsD upon formal building plan submission stage; and
- (g) detailed comments under the BO on individual sites for private developments such as permissible PR, site coverage, EVA, private streets and/or access roads, open space, barrier free access and facilities, compliance with the sustainable building design guidelines, etc. will be formulated at formal building plan submission stage.

Fire Safety

10.1.9 Comments of the Director of Fire Services (D of FS):

- (a) he has no specific comment on the application. Detailed fire safety requirement will be formulated upon receipt of formal submission of general building plans; and
- (b) the arrangement of EVA shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 which is administered by BD.

Water Supply

10.1.10 Comments of the Chief Engineer/Construction, WSD (CE/C, WSD):

- (a) he has no comment on the application; and
- (b) based on the submitted FI (**Appendix VI** of **Appendix FA-I**), it is noted that the applicant has revised the water supply proposal for the proposed development such that the proposed private water supply system exclusively for Area 6f, including WTW, service reservoir and water mains, will be totally separated from the water supply system (include service) conveying WSD water for the rest of Discovery Bay.

Electricity

10.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) he has no comment on the application from regulatory services perspective;
- (b) the applicant shall approach the electricity supplier for the requisition of cable plans (and overhead line alignments drawings, where applicable) to find out whether there is any underground cable (and/or overhead line) within or in the vicinity of the Site. Based on the cable plans and the relevant drawings obtained, if there is underground cable (and/or overhead line) within or in the vicinity of the Site, the applicant shall carry out the following measures:
 - i. for site within the preferred working corridor of high voltage overhead lines at transmission voltage level 132kV and above as stipulated in the HKPSG, prior consultation and arrangement with the electricity supplier is necessary;
 - ii. prior to establishing any structure within the Site, the applicant and/or his contractors shall liaise with the electricity supplier and, if necessary, ask the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure; and
 - iii. the “Code of Practice on Working near Electricity Supply Lines” established under the Electricity Supply Lines (Protection) Regulation shall be observed by the applicant and his contractors when carrying out works in the vicinity of the electricity supply lines.

Geotechnical

10.1.12 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) the proposed development is overlooked by steep natural hillside and meets the Alert Criteria requiring a Natural Terrain Hazard Study. It will also affect or be affected by man-made features; and

- (b) based on the GPRR submitted by the applicant (**Appendices VI and VII of Appendix FA-I**), it is considered that the information provided is insufficient to demonstrate the geotechnical feasibility of the proposed slope upgrading/modification and natural terrain hazard mitigation works. Detailed comments on the GPRR are at **Appendix IX of Appendix FA-I**. Further submission is required at the building plan submission stage.

Aviation

10.1.13 Comments of the Director-General of Civil Aviation (DG of CA):

he has no comment on the application from Airport Height Restriction (AHR) perspective as the proposed development including roof-top structures with a maximum level of not exceeding 128mPD would not exceed AHR.

Housing Supply

10.1.14 Comments of the Secretary for Development (SDEV):

it is noted that the subject application would facilitate the provision of an additional 476 flats, which is in line with the Government's initiative to increase housing supply. That said, the proposed development should be subject to no adverse departmental comments and should not cause insurmountable problems to the area.

District Officer's Comments

10.1.15 Comments of the District Officer /Islands, Home Affairs Department (DO/Is, HAD):

- (a) she has no comment on the application; and
- (b) it is noted that an ex-Islands District Council (IsDC) Member for Discovery Bay and some Discovery Bay residents expressed views/adverse comments vide their written submissions to the Board.

10.2 The following government departments have no objection to/no comment on the application:

- (a) Chief Engineer/Consultant Management, Drainage Services Department;
- (b) Head (Sustainable Lantau Office), Civil Engineering and Development Department;
- (c) Chief Highway Engineer/New Territories East, Highways Department;
- (d) Controller of Government Flying Services;
- (e) Commissioner of Police;
- (f) Director of Agriculture, Fisheries and Conservation; and
- (g) Director of Leisure and Cultural Services.

11. Public Comments Received During Statutory Publication Periods

11.1 During the statutory publication periods of the application and its FI (published for public inspection on 18.3.2016, 24.6.2016, 18.11.2016, 9.12.2016, 21.4.2017 and 12.11.2021 respectively), a total of 8,561 valid public comments were received. Amongst the public comments received, there are 5,731 supporting comments, 1,390 opposing comments and 1,440 comments expressing views/concerns on the application. The breakdown of the public comments received in 2016/17 and 2021 is summarised as follows:

| Year | Support | Oppose | Comment/ Concerns | Total |
|--------------|----------------|----------------|----------------------|-----------------|
| 2016/2017 | 4,446 | 1,257 | 469 | 6,172 |
| 2021 | 1,285 | 133 | 971 | 2,389 |
| Total | 5,731 (67%) | 1,390 (16%) | 1,440 (17%) | 8,561 (100%) |

11.2 A full set of the valid public comments is deposited at the Board's Secretariat for Members' inspection and reference. The major grounds of the public comments received in 2016/2017 are set out in paragraphs 10.3 to 10.5 of **Appendix FA-I** and the major views of all the public comments received are summarised in the following paragraphs.

11.3 The supporting comments are mainly from an IsDC Member (Mr Wong Hon Kuen), local residents of Discovery Bay, owners/residents of Parkvale Village, staff working in Discovery Bay, business operators of Discovery Bay, a non-government organisation and individuals. Out of the 5,731 supporting comments, 3,829 are in form of standard letters with variations (samples at **Appendices FA-VIa** to **FA-VIg** for Members' reference). The supporting comments are mainly on the following grounds:

- (a) the proposed residential development would increase the housing supply in Hong Kong. It also echoes the future development of Lantau and provides more options in the housing market;
- (b) the proposed development with a relatively low PR is compatible with the surroundings and Discovery Bay which is dominated by low-density developments. The proposal has given due regard to the mountain backdrop and the existing environment, and is in harmony with the adjacent residential uses;
- (c) the Site was originally planned for domestic use and is suitable for housing development. The Site has already been formed and vacant for more than 30 years. The proposal renders good utilisation of the vacant land;
- (d) the applicant has conducted detailed technical and impact assessments on infrastructure capacity and provided viable options on water supply and sewerage treatments;

- (e) the proposal would enhance the community and improve the living environment of Discovery Bay in that it would provide more facility and greening to the area; upgrade the existing infrastructure; and create a new focal point in Discovery Bay. The proposal would also improve the visual, odour and hygienic problems caused by dogs fouling at the Site;
- (f) the proposal would increase the property value in Discovery Bay and enhance the competitiveness of Discovery Bay by making the area more attractive. The proposal would create more job opportunities, boost local economy, increase the shop varieties and upgrade the momentum of Discovery Bay;
- (g) the proposal helps Discovery Bay to reinforce its European style architectural design and helps boost its international and diversified image. The sustainable building design of the proposed development is also supported;
- (h) the proposed development would help speed up the improvement works of the existing staff quarters in other areas in Discovery Bay which will be beneficial to the staff working in Discovery Bay. Besides, the existing infrastructure would be upgraded which would help reduce the maintenance cost;
- (i) the maintenance expense of communal facilities could be shared due to increase of population and the proposed development would justify a new bus route which would be beneficial to the local residents; and
- (j) with increasing population and new families, there will be additional resources and better outreach opportunity as well as more balanced voices on the local matters. Besides, additional open space and facilities would contribute to more venue options for organising community activities.

11.4 The opposing comments are mainly from an ex-IsDC Member (Ms Amy Yung Wing-sheung), concern/green groups, Parkvale Village Owners' Committee, Hillgrove Village Owners' Committee, owners/residents of Parkvale Village/Hillgrove Village/Serene Village/Woodland Court/Woodgreen Court, etc., local residents and individuals. Out of the 1,390 opposing comments, 570 are in form of standard letters with variations (samples at **Appendices FA-VIIa** and **FA-VIIb** for Members' reference). The opposing comments are mainly on the following grounds:

- (a) the scale of the proposed development is excessive compared with the original intended staff quarters. The proposed development would vastly increase the development density in the area. Besides, the proposal fails to respond to 2015 Policy Address in which the Chief Executive advocated for increasing "the supply of subsidised sale flats";
- (b) the largest area for staff quarters use in Discovery Bay is lost. The proposal contravenes the intended staff quarters use and the Site should be retained for such use. The proposed development also deviates from the original planning intention for Discovery Bay as a tranquil, resort-like area. The

lack of staff quarters would also add pressure on the limited public transport option connecting Discovery Bay and the rest of Hong Kong. It is not appropriate to rezone the Site for profit-making purpose;

- (c) the proposed increase in population in Discovery Bay is contrary to the planned population 25,000 as stated in the approved Discovery Bay OZP. The population cap of 25,000 for Discovery Bay should be maintained;
- (d) there are concerns on the water supply and sewerage capacities resulting from the increasing population as well as potable water supply problem during drought weather. Besides, the TIA has not taken into account the road safety issues arising from the increasing traffic and golf carts. Also, the anticipated increase in heavy/construction vehicles using Parkvale Drive would pose danger to the residents. The applicant fails to provide information on provision of vehicle parking within the Site and viable solution for traffic and sewerage issues. There is also no comprehensive ecological impact assessment. In addition, the GPRR submitted by the applicant is inadequate in that it is merely a desk-top exercise based on outdated information;
- (e) the applicant holds no/limited consultation with the existing residents to gauge their views on the proposed development and no detailed development design is available for the residents' information;
- (f) the applicant is not the sole owner of the Site. Also, the applicant has no right under the DMC to convert the access road for use by the proposed development. The proposal clearly violates the DMC. The access road is deemed under the DMC/sub-DMC as "Passageways" and "Village Retained Areas" and is privately owned by the 'owners' of the village. Besides, no consent has been given by the undivided shareholders. There is also unresolved issues of encroachment onto the government land;
- (g) the proposal would destroy the peaceful and quiet ambience of the area for the developer's own profit. The proposed development will create burden and adversely affect the residents' daily lives as there are inadequate community facilities in Discovery Bay. The proposal would also eliminate green/open space; create nuisance during construction phase; affect the property value and drive out small local businesses due to high rent;
- (h) the applicant has not submitted any information on the management of the existing recreational facilities and public spaces; no impact analysis on the facilities and no information regarding proper access for the residents and emergency vehicles have been submitted; and
- (i) the applicant should ensure that the proposed development is in compliance with relevant law, regulations and land contract, etc. The approval of the subject application by the Board will likely be challenged by judicial review for its malpractice and additional legal fee will have to be borne by Hong Kong people.

11.5 Some individual commenters express views/concerns on the application. Out of the 1,440 comments expressing views/concerns, 811 are in form of standard letters with variations (samples at **Appendices FA-VIIIa** to **FA-VIII d** for Members' reference). Their major views are summarised as follows:

- (a) the applicant should pay more attention to the pollution problem during construction of the proposed development. More greening should be provided to compensate the loss of the open space. It is suggested that the existing facilities in Discovery Bay be improved rather than building new housing;
- (b) Hong Kong lacks housing land supply. The land resources should not be wasted and the proposal can lower the overall housing prices in Hong Kong;
- (c) the existing transport service should be improved and more golf cart parking provision should be provided; and
- (d) Discovery Bay has potential for more development due to its good air quality, low population density and good transport link, and the area is also suitable for retired persons. Government's strategies on Lantau development could help promote Hong Kong Disneyland and Hong Kong tourism industry, and also enhance the development potential of Discovery Bay.

12. Planning Considerations and Assessments

12.1 The application is to rezone the Site from "OU(Staff Quarters(5))" to "R(C)12" subject to a maximum domestic GFA of 21,600m² and a maximum BH of 18 storeys (128mPD including roof-top structure) to facilitate a proposed medium-density residential development at the Site. Whilst the Committee previously rejected the application on grounds highlighted in paragraph 1.2 above, the CA considers that the Board should not have taken unused GFA factor as a basis for rejecting the application and should have assessed the application in the context of general planning for Discovery Bay as stated in the ES of the OZP and the feasibility investigations on infrastructure and environment capacities, and that the Board did not have proper factual or reasonable basis to conclude that approval of the application would set an "undesirable precedent".

12.2 It should also be noted that some 124,000m² domestic GFA (unused GFA⁽¹⁾) allowed in the "R(C)2" zone (**Plan Z-1a** of **Appendix FA-I**) of the Discovery Bay OZP has been incorporated in the latest MP7.0E, which was approved by LandsD on 17.8.2021, and will be implemented in accordance with the lease concerned.

12.3 In view of the Court's Judgment and the latest planning circumstances, the s.12A application is assessed in the ensuing paragraphs.

Planning Intention of Discovery Bay

- 12.4 In terms of strategic planning context, according to the Revised Lantau Concept Plan 2007, Discovery Bay area was not recommended for further development. According to the Sustainable Lantau Blueprint (the Blueprint) announced by the Government in June 2017, North Lantau Corridor is recommended for strategic economic and housing development, North-eastern Lantau Node is recommended for leisure, entertainment and tourism development and East Lantau Metropolis is recommended as a long-term strategic growth area. Under the Blueprint, Discovery Bay is not recommended as one of the potential development or strategic growth areas.
- 12.5 Discovery Bay is intended for a holiday resort and residential/commercial development under the original land grant with a total planned population of 25,000 and a total domestic GFA of 900,683m² upon full development as stipulated in the OZP. The general planning intention of Discovery Bay is for conservation of the natural environment and to provide for low-density developments compatible with surrounding natural setting. Any further increase in population would have to be considered in the context of the general planning intention for the area and subject to detailed feasibility investigation on infrastructure and environmental capacities.
- 12.6 In terms of site specific planning context, the Site is currently zoned “OU(staff Quarters(5))” subject to a maximum domestic GFA of 170m² and a maximum BH of 3 storeys (9m) and is intended for the provision of staff quarters to serve the Discovery Bay development. However, the Site has not been developed for staff quarters and has long been left vacant. Given that the proposed residential development has a similar domestic nature with other residential developments in Discovery Bay, the proposed small-scale residential development with a population of about 1,190 at the Site only is considered not incompatible with the general planning intention of Discovery Bay. As for the remaining five “OU(Staff Quarters)” sites⁽²⁾ on the OZP (**Plan Z-7 of Appendix FA-I**), any rezoning application would have to be assessed based on its individual merits as presented at the time of application.

Compatibility with the Surroundings

- 12.7 The proposed residential development of two medium-rise residential blocks of 18 storeys is small in scale. The adjoining area is mainly medium-rise residential developments of 15 to 23-storey residential blocks. CA/CMD2, ArchSD has no comment from visual impact point of view. CTP/UD&L of PlanD is of the view that the proposed development is similar in scale and BH to the neighbouring buildings. It is considered that the proposed development is not incompatible with the surroundings in terms of land use and development intensity.
- 12.8 The Site is currently vacant, largely formed and occupied by grassland, shrubs and man-made slopes (**Plans FZ-5 and FZ-6**). CTP/UD&L, PlanD considers that the proposed development is not incompatible with the surrounding environment from landscape planning perspective. Besides, she also considers that the greenery area and communal open space proposed at the Landscape Maser Plan (**Drawing FZ-3**) is achievable and has no adverse comments on the application.

Technical Aspects

- 12.9 Concerned government bureau/departments have no objection to or no adverse comment on the application in terms of traffic, environmental, sewage and water supplies aspects. Whilst H(GEO), CEDD considers that the information provided in the GRPP is insufficient to demonstrate the geotechnical feasibility of the proposed slope upgrading/modification and natural terrain hazard mitigation works, it should be noted that the alignment of sewer main and water mains as well as slope upgrading/modification and natural terrain hazard mitigation works would be subject to further approval during the detailed design and building plan submission stages.

Public Comments

- 12.10A total of 8,561 valid public comments were received, including 5,731 supporting comments, 1,390 opposing comments and 1,440 expressing views/concerns on the application. For the supporting comments, their major views which include that the proposed development for providing 476 flats is in line with the Government's initiative to increase housing supply and can achieve better utilisation of vacant land are noted. Regarding the opposing comments and concerns on environmental, infrastructure, traffic, public access to the existing hiking trail and development right under PDMC, etc. aspects, the departmental comments in paragraph 10 above and the assessments in paragraphs 12.4 to 12.9 above are relevant. According to the applicant's submission, the public access to the hiking trail through the Site would be maintained. It should also be noted that the PDMC matter could be dealt with under the lease.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department has no in-principle objection to the application by rezoning the Site to "R(C)12" with stipulation of a maximum domestic GFA of 21,600m² and a maximum BH of 18 storeys (128mPD including roof-top structure) on the OZP.
- 13.2 Should the Committee decide to agree/partially agree to the application, the relevant proposed amendments to the approved Discovery Bay OZP No. S/I-DB/4, together with the revised Notes and ES, would be submitted to the Committee for approval prior to gazetting under section 5 of the Town Planning Ordinance upon reference back of the OZP.
- 13.3 Alternatively, should the Committee decide not to agree to the application, the following reason is suggested for Members' reference:

the proposed rezoning is not in line with the general planning intention of Discovery Bay which is for conservation of the natural environment and to provide for low-density developments compatible with surrounding settings. No strong justification has been provided by the applicant for rezoning the application site for residential use.

14. Decision Sought

14.1 The Committee is invited to consider the application and decide whether to agree, partially agree, or not to agree to the application.

14.2 Should the Committee decide not to agree to the application, Members are invited to advise what reason(s) for the decision should be given to the applicant.

15. Attachments

| | |
|-------------------------------------|---|
| Appendix FA-I | RNTPC Paper No. Y/I-DB/2D considered on 23.6.2017 |
| Appendix FA-II | Extract of Minutes of the RNTPC Meeting held on 23.6.2017 |
| Appendix FA-III | FI dated 28.10.2021 |
| Appendix FA-IV | FI dated 24.12.2021 |
| Appendix FA-V | FI dated 6.1.2022 |
| Appendices FA-VIa to VIg | Samples of supporting comments |
| Appendices FA-VIIa and VIIb | Samples of opposing comments |
| Appendices FA-VIIIa to VIIId | Samples of comments expressing views/concerns |
| Drawings FZ-1a to FZ-1c | Concept Plans |
| Drawing FZ-2 | Section Plan |
| Drawing FZ-3 | Landscape Master Plan |
| Drawing FZ-4 | Compensatory Tree Plan |
| Drawing FZ-5 | Water Quality Sensitive Receivers |
| Drawing FZ-6 | Existing and Proposed Drainage Layout Plan |
| Drawing FZ-7 | Existing and Proposed Sewerage Layout Plan |
| Drawings FZ-8a and FZ-8b | Existing and Proposed Water Supply Layout Plans |
| Drawing FZ-9 | Visual Mitigation Measures |
| Drawings FZ-10a to FZ-10c | Photomontages |
| Plan FZ-1a | Location Plan |
| Plan FZ-1b | Extract of Discovery Bay Master Plan 7.0E |
| Plan FZ-2 | Site Plan |
| Plan FZ-3 | Aerial Photo |
| Plans FZ-4 to FZ-6 | Site Photos |