

## **Transport Department’s handling of applications for residents’ service Investigation Report**

In June 2022, we received a complaint from several residents of a residential estate (“the complainants”) against the Transport Department (“TD”).

### **The Complaint**

2. Allegedly, the residential estate where the complainants lived (“the Estate”) had applied to TD several times for operating a residents’ service (“RS”) route between the Estate and the MTR station. TD, however, rejected the application on the grounds that the residents could take the Light Rail (“LR”) feeder bus route no. K76S and the LR for travelling to and from the Tin Shui Wai MTR station. Besides, TD’s site investigations had confirmed that the above public transport services were sufficient to meet the needs of the Estate’s residents. The complainants considered that TD had failed to handle properly the Estate’s RS application and related complaints in that:

- (1) TD’s site investigations could not reflect the actual situation as they were conducted before flat intakes of the Estate were completed, during the epidemic and at specific time periods. Besides, TD unreasonably carried out investigations at the Tin Yuet LR stop instead of the Tin Sau stop, which was nearer to the Estate. The complainants considered the public transport services insufficient to meet demand and inconvenient to the Estate’s residents because:
  - it takes about 10 minutes to walk from the Estate to the nearest LR stop and bus stop at Tin Sau, and it is not a level walk;
  - given the high patronage of the LR, the Estate’s residents have to wait for two frequencies during peak hours before boarding the LR tram;
  - K76S does not operate on a regular time schedule and runs only three frequencies during peak hours. Its service is unstable and cannot satisfy the residents’ needs; and
  - flat intakes of an estate nearby (“estate A”) would commence soon, it would further increase the passenger demand within the district.
- (2) the complainants argued that TD had failed to consider that RS does not involve public funds and is able to help ease the burden on other modes of public transport. The proposed RS route running on an expressway would not add to the burden of the roads in the Tin Shui Wai district;
- (3) TD rejected the Estate’s application on the grounds that public transport services were sufficient to meet the residents’ needs. Nevertheless,

estate B, which is closer to the Tin Shui Wai MTR station and in close proximity to several LR stops and bus stops, has been allowed to continue to operate RS for years. TD's lax approval criteria were unfair to the Estate; and

- (4) the complainants had complained to TD about its approval for estate B's RS and rejection of the Estate's RS application, but the Department only gave a vague reply without any justifications. This was unfair to the Estate.

## **The Investigation**

3. We commenced preliminary inquiries with TD on 22 June 2022 regarding the several complaints above. On 26 August, the Department replied to us. At our request, the Department provided further comments and information on 6 September and 20 October. On 24 November, our officers conducted a site visit in the neighbourhood of the Estate. Having examined all the information, the Ombudsman notified TD on 14 December of her decision to handle the complaints by way of full investigation. We subsequently issued a draft investigation report to TD for comments, which we received on 20 January 2023. After considering all the relevant information and TD's comments, we completed this investigation report on 8 February.

## **Our Findings**

### ***RS Policies***

4. According to TD, the existing public transport system in Hong Kong is well developed and provides the public with a wide range of public transport services, including railway, franchised bus, public light bus, non-franchised bus and taxi services. RS is a non-franchised bus service that mainly provides point-to-point transfer service for residential estates.

5. Under the current public transport policy, the railway forms the backbone of the public transport system. At locations without direct rail access, buses are the main mass carriers, followed by green minibuses ("GMBs"). RS provides supplementary transport services for designated residents groups (especially as feeders to the railway and main public transport interchanges ("PTI")) during peak periods and when the regular public transport modes cannot provide adequate service, with the aim of relieving passenger demand for public transport during the relevant periods. TD encourages members of the public to use existing public transport services for optimal utilisation of transport resources and avoiding duplication of resources, so as to alleviate traffic congestion and reduce street level air pollution.

6. To dovetail with the completion of new infrastructure projects and socio-economic development, and cater for the demand for transport services following flat intakes of new public/private housing estates, TD would discuss with public transport

operators (including buses and GMBs) plans for service enhancement and adjustment. If buses and GMBs cannot provide suitable services to a new residential estate following flat intakes, TD would handle the estate's RS application in accordance with the established procedures and the actual circumstance, including the geographic location of the new residential development, estimated number of passengers and the availability of other public transport services to the urban areas, etc.

## **Procedures and Criteria for Approving RS Applications**

### General Procedures and Criteria

7. Before submitting an RS application to TD, the applicant should first obtain the support from the residents' representative (such as the Owners' Corporation or management company of the housing estate concerned) for the service and the operation details. TD would then handle the RS application in accordance with the established procedures as set out in the non-franchised bus manual and consider the application pursuant to section 28 of the Road Traffic Ordinance (Cap 374). The general principles for processing new applications and renewal applications for RS are:

- (1) the RS should facilitate commuters to connect to the nearby rail station or PTI to avoid adding congestion to busy urban districts;
- (2) the RS should not pose significant adverse impact on regular public transport services in the area concerned;
- (3) the RS should only be approved if existing or planned public transport services in the area to be served by the proposed RS are inadequate or limited;
- (4) the RS should only be approved if residential development served by the proposed RS is distant from rail station, PTI or major franchised bus stop or GMB stop, and use of regular public transport services will result in excessive number of interchanges; and
- (5) the RS will not operate in congested areas or via local busy roads and will not cause traffic congestion.

8. The relevant criteria stipulate that the views of the residents' representative group would also be considered if the proposed RS has complied with all the aforementioned principles and satisfy the following conditions:

- (1) the RS only serves the residents of a residential estate located in a remote area;
- (2) the RS's departure point is located within the residential estate;

- (3) the RS terminates at the nearest railway station/PTI;
- (4) the RS operates during special periods; and
- (5) the residential estate is not easily accessible and the nearest stop of a regular public transport service is not within walkable distance.

9. In 2013, TD reviewed and updated the guidelines for processing new RS applications. Calculation of the walking distance between the applicant housing estate and the nearby public transport facilities was quantified. In other words, in assessing the accessibility of transport, the Department will consider the walking distance, slope impacts, whether accessibility would be affected because residents have to use a pedestrian subway or footbridge, and the walking environment. In general, walking distance should be the length of the most direct route from the furthestmost block of a residential estate to the nearest public transport facility (such as bus stop or railway station), preferably within 400 meters. The walking distance would be longer in non-urban areas.

10. In 2017, TD reviewed again the general principles in processing new RS applications and added the applicant's expectation as a factor for consideration. Even if the housing estate under application already has adequate regular public transport services, TD might approve "above-benchmark"<sup>1</sup> RS, taking into account the expectations of the applicant, if RS had already been approved for neighbouring estates, provided that the new RS would not cause unnecessary traffic congestion and that those residents who rely on regular public transport services in the area would not be affected.

#### Other Factors of Consideration relevant to RS Renewal Applications

11. In addition to the general principles set out in **paragraphs 7 and 8**, TD, when processing RS renewal applications, would take into account the changes in both the level of regular public transport services and passenger demand for the relevant RS. The existing RS can still be maintained, albeit improvement in regular public transport services, if the passenger demand remains stable.

#### ***TD's Response***

#### Public Transport Services and Ancillary Transport Facilities at the Estate

12. Tin Shui Wai is divided into the northern part and the southern part, with Tin Wah Road as the boundary. The Estate is situated on Wetland Park Road in Tin Shui Wai north. The nearest PTI is the Tin Heng Estate bus terminus, while the nearest MTR station is the Tin Shui Wai station of the Tuen Ma Line.

13. The Estate and estate A are close to each other geographically (about a six minutes' walk apart). The flat intakes of the two estates commenced in phases in April

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<sup>1</sup> That is, the applicant housing estate is already being served by adequate public transport services.

2021 and June 2022 respectively, bringing in an estimated total population of about 10,000. Since 2020, TD had planned for and gradually enhanced the public transport services for the district under the “Bus Route Planning Programme 2021-2022 of Yuen Long District”. The initiatives included introducing new bus routes and extending existing ones, increasing frequencies, adding more en-route bus stops and extending service hours. In addition, in order to cater to the growing population in Tin Shui Wai north, TD was planning to further enhance public transport services within the district in 2023, such as introducing new whole-day bus routes that run between Tin Shui Wai town centre and Tuen Mun passing through Tin Shui Wai north; introducing new bus route no. 269S (Tin Shui Wai town centre – Kwun Tong Ferry Pier) that provides unidirectional service passing through Tin Shui Wai north during peak periods; introducing special frequencies for bus route no. 269D (Tin Fu – Lek Yuen) during morning peak hours that head directly to Sha Tin via Wetland Park Road; introducing return service from Hong Kong Science Park to Tin Yan Estate for route no. 65X (Tin Shui Wai (Tin Yan Estate) to Hong Kong Science Park); as well as increasing bus frequencies and extending service hours depending on passenger demand.

14. TD had conducted multiple investigations in the neighbourhood of the Estate to assess its accessibility to public transport services. In order to augment and enhance the ancillary transport facilities on Wetland Park Road, TD and the relevant departments have implemented or will implement the following measures:

<b>Date</b>	<b>Location</b>	<b>Enhancement measures</b>
Advance design for relevant works commenced in May 2022	Footbridge outside main gate of the Estate	To install three lifts and improve pavement to facilitate residents’ journey to the opposite side (west-bound Wetland Park Road) and the bus stop opposite estate C on south-bound Tin Kwai Road.
June 2022	Opposite estate C on south-bound Tin Kwai Road	Added a temporary bus stop, which would gradually become an en-route stop for route nos. 69C (to Kwun Tong), 276B (to Sheung Shui), 967 (to Admiralty), 969 (to Causeway Bay), 969C (to Tai Koo), as well as nos. E37, E37C, NA37 (to Airport), N269 (Mei Foo to Tin Tsz) and GMB route no. 618 (to Shenzhen Bay).
Mid-July 2022	Near Wetland Park LR stop on Wetland Park Road (outside main gate of Estate A)	A passenger crossing added so that residents of the Estate and estate A can travel directly to and from the Wetland Park LR stop and the bus stop on west-bound Wetland Park Road.

Work estimated to be completed by end of 2023 earliest	Intersection between Wetland Park Road and Tin Kwai Road	To add a pedestrian crossing so that the Estate's residents can travel directly between the Tin Sau LR stop and the bus stop on north-bound Tin Kwai Road. Advance planning work was being undertaken by the Highways Department.
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15. Currently, the Estate's residents can go to the Tin Sau LR stop via a footbridge (400 metre (about six-minute walk) from the main gate of the Estate), or walk to the Wetland Park LR stop along the pavement (450 metre (about six-minute walk)), then take the circular LR route no. 705 or 706 to the Tin Shui Wai station and transfer to the Tuen Ma Line. The LR journey would take about 10-13 minutes. Previously, on Mondays to Fridays (except public holidays), MTR bus route no. K76S would operate seven frequencies from the Wetland Park Road stop to the Tin Shui Wai MTR station between 7 and 9 am, and three frequencies from the Tin Shui Wai station to Wetland Park Road between 6:25 and 7:25 pm. Since August 2022, the MTR Corporation had arranged three additional frequencies for K76S during the morning peak hours and extended its service hours to 9:35 am. Two more frequencies were arranged during the afternoon peak hours since November 2022, and service hours extended to 8:25 pm.

16. In addition to the railway, there are 24 franchised bus routes, one MTR bus route and one GMB route operating in the neighbourhood of the Estate and estate A<sup>2</sup> that travel between the two estates and the Hong Kong Island, Kowloon, other districts in the New Territories such as Yuen Long town centre, Tai Po, Sha Tin Racecourse, Kwai Chung and Sheung Shui, the Airport, Lok Ma Chau and The Shenzhen Bay Port. The residents can take the above routes at the four bus stops on Wetland Park Road or the two bus stops outside and opposite to the main gate of estate C on Tin Kwai Road. Buses of route no. K76S (to Wetland Park Road) and other routes to destinations beyond the district would stop at the bus stop nearest to the Estate, which is located about 110 metres from the main gate of the Estate (a 1-minute walk) or 410 metres from the furthestmost block of the Estate (a 5-minute walk). Residents of the furthestmost block of the Estate heading to the K76S bus stop (Tin Shui Wai-bound) must use the footbridge. The distance is about 550 metres (a 7-minute walk).

#### Course of Handling the RS Application of the Estate

17. On 19 January 2021, TD received the operator's application for operating a whole day RS between the Estate and Tin Shui Wai MTR station. Upon assessing the application in accordance with the criteria as set out in **paragraphs 7 and 8** above, TD considered that the existing public transport services could satisfy the residents' needs. It, therefore, rejected the application on 16 March.

18. On 31 March 2021, the operator asked TD to review its case, contending that the existing public transport services such as the LR and some bus routes to the urban

<sup>2</sup> Including: bus route nos. 967, 967X, 969, 969A, 969C, N969, 969N, 69, 69C, 269B, 269X, N269, 65X, 264R, 265S, 269A, 269P, 276B, 869, A37, E37, E37C, NA37 and B1, MTR bus route no. K76S and GMB route no.618.

areas have no spare capacity when they reach Wetland Park Road. Flat intakes of the Estate commenced in September, TD conducted site investigations in mid-September and early October to understand the travel patterns and demand for public transport services of the additional population of the Estate. Results of the investigations revealed that K76S buses had an occupancy rate between 1% and 5% when they departed from the Estate; while LR route nos. 705 and 706 recorded a highest occupancy rate of 58% and 64% respectively at the Tin Sau stop during the busiest half-hour in the morning. TD opined that the services provided by the above routes were sufficient to meet passenger demand. Upon completion of a review on 22 November, TD replied to the operator and maintained its original decision.

19. On 18 January 2022, the operator applied to TD again for an RS running between the Estate and the Tin Shui Wai station during the peak periods. TD scrutinised the results of its site investigations conducted during the morning peak hours in December 2021 (before the fifth wave of the epidemic), January and May 2022 at the Tin Yuet Stop and on Wetland Park Road near the Tin Kwai Road bus terminus<sup>3</sup>. Services provided by LR and the K76S route were found to be sufficient to meet new passenger demand following flat intakes of the Estate. On 20 May, it rejected the application.

#### Allegation (1)

20. TD explained that a proposed RS must satisfy the general principles as set out in **paragraphs 7 to 9** above. Accessibility of transport at the residential estate and the location of the nearest public transport stop is just one of the factors of consideration. Upon assessment of the ancillary transport services available at the Estate and the locations of nearby bus stops, TD considered that transport services are convenient and bus stops are within walkable distance to the Estate (see **paragraph 16**).

21. TD stated that its site investigations were conducted during different periods of the epidemic and flat intakes of the Estate, and some were conducted during peak hours. Results of its investigations invariably showed that the public transport services around Wetland Park Road were sufficient to meet the needs of the additional population (see **paragraphs 17 to 19**). Regarding investigations into the occupancy rates of the LR trams, TD stated that since the Tin Yuet stop is the stop immediately after the Tin Sau stop, conducting investigations there can help the Department understand the LR service levels at the Tin Yuet stop and the occupancy rates of the LR trams upon departure from the Tin Sau stop. TD had also conducted occupancy investigations at the Tin Sau stop in October 2021.

22. Regarding the service of route no. K76S, TD reiterated that it was sufficient to meet the residents' needs. The MTR Corporation had twice enhanced its service

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<sup>3</sup> TD had conducted site investigations between 7 and 9 am at the Tin Yuet LR stop in December 2021. Results showed the highest occupancy rates of LR routes nos. 705 and 706 to be 40% and 60% respectively when the trams arrived at the stop. Results of site investigations between 6:30 and 9:30 am at the Tin Kwai Road bus terminus on Wetland Park Road in January and May 2022 showed an occupancy rate below 10% for route no. K76S.

frequencies during peak periods (see **paragraph 15**). After stopping at Estate A, the K76S buses will pass through two more en-route stops before heading to the Tin Shui Wai MTR station along Tin Ying Road and Ping Ha Road. The journey takes about 10 minutes during the morning peak hours, and the route is similar to that of the RS as proposed by the operator. As for the complainants' allegation that K76S had neither an operation schedule nor a definite route, the MTR Corporation had already put up notices at all the bus stops along the Tin Shui Wai-bound direction to inform passengers of the time of each frequency and bus stop location. The service schedules and headways between frequencies of the route are also available on the MTR website.

23. TD stressed that planning for the public transport services in the Wetland Park Road area had already factored in the additional population following flat intakes of Estate A. The Department would continue to monitor the travel patterns of the additional population after flat intakes. Bus services would be strengthened and ancillary transport facilities along Wetland Park Road increased and enhanced according to the actual change in passenger demand (see **paragraphs 13 and 14**).

#### Allegation (2)

24. TD pointed out that there would be adverse impact on road traffic if large-scale public transport services (such as bus and LR services) with a high patronage and a wider catchment area were abandoned and individual residential bus services with a lower patronage but still occupying a considerable amount of road space were allowed to be used by individual housing estates without restraint. If the majority of transport services are provided by RS and most passengers choose RS, it may be difficult for the public transport service operators to break even, and they may not be able to introduce new routes or enhance the service level of existing routes, or may even have to reduce services, which would affect the overall public transport services in the area.

25. TD did not agree that the RS for the Estate, if approved, would not occupy public resources. The Estate is situated in Tin Shui Wai north, the feeder services provided by the LR and MTR buses to the Tin Shui Wai station are sufficient to meet passenger demand. If each of the various residential estates was permitted to operate its own RS, it would not only impact on the efficiency of the public transport network in Tin Shui Wai north, but also adversely affect the traffic around the Tin Shui Wai station *viz.* Ping Ha Road and Tin Fuk Road.

#### Allegation (3)

26. TD stated that estate B was in Tin Shui Wai south. The nearest Tuen Ma Line station was the same as that for the Estate, i.e. the Tin Shui Wai station; while the nearest PTIs were the Tin Shui/Tin Yiu bus terminus and the one at the Tin Shui Wai town centre. Population started to move into estate B in the 1990s and the ancillary public transport services then were insufficient to meet the demand of the new population (around 40,000). Besides, some blocks of the estate were quite far away from the LR stop. Consequently, the RS application of the estate was approved.



27. In assessing the renewal application of an existing RS, TD would consider changes in the level of regular transport service and conduct site investigations to gauge passenger demand. The RS can be maintained if the passenger demand remains stable. When TD handled the RS renewal applications of estate B, it had reviewed the service with the operator in view of the improvement in public transport services and changes in the residents' travel patterns. Six of the RS routes of estate B had been terminated while some routes saw frequency reduction. Patronage of the remaining routes also shrank during the epidemic. Nevertheless, those routes were allowed to continue operation because of sustained overall demand.

28. TD stressed that it had assessed the RS application of the Estate in accordance with the established policies and procedures. With regard to the "above benchmark" criterion, the residential estate nearest to the Estate (see **paragraph 10**) was estate C instead of estate B. Estate C had previously applied to TD for operating an RS to and from the Tin Shui Wai MTR station. The application was rejected because TD considered the public transport services around estate C sufficient to satisfy the residents' demand.

#### Allegation (4)

29. Between 29 November 2021 and 18 June 2022, TD had received via 1823 multiple complaints from a resident of the Estate (one of the complainants in this case) expressing discontent over TD's rejection of the Estate's RS application. That complainant also used the RS of estate B as a comparison. TD said that in its replies, the Department had repeatedly explained that each new or renewal RS application would be assessed on its own merit in accordance with the RS policies and assessment criteria, and that TD's site investigations had found the public transport services around the Estate to be sufficient to meet the residents' needs. Furthermore, in its reply to the complainant via 1823 on 31 August 2022, TD had mentioned the reasons for approving the RS application of estate B back then (see **paragraph 26**). TD considered its reply unambiguous.

#### ***Our Observations during Site Inspections***

30. On 24 November 2022, our officers conducted site inspection in the vicinity of the Estate and found the public transport services and ancillary traffic facilities match TD's description in general. A 5-minute walk (6-minute according to TD) to the right outside the main gate of the Estate would lead to estate A and the bus stop outside. Crossing the road at the pedestrian crossing, one would reach the LR stop on Wetland Park Road. A 2-minute walk (1-minute according to TD) to the left outside the main gate of the Estate would lead to the Wetland Park-bound K76S bus stop. There was a notice on the sign notifying passengers that starting from 28 November, two additional frequencies departing from the Tin Shui Wai station at 7:55 pm and 8:25 pm would be introduced on weekdays. Residents of the Estate heading to the bus stop near estate C

and the Tin Sau LR stop would have to use the footbridge on the left of the Estate's main gate.

### *Our Comments*

#### Allegation (1) and (2)

31. TD had explained that it is the current transport policy that regular public transport plays a primary role while RS provides supplementary services (see **paragraphs 4 and 5**). Hong Kong has a dense population and limited road resources, we consider it reasonable of TD to put mass public transport services at the core. TD had been closely monitoring the traffic condition around Wetland Park Road (including the Estate) and engaged in discussions with public transport operators in planning gradual enhancement of services in view of the completion of new residential developments and increased population in the district. In the process, TD had carried out site investigations to understand the residents' demand for transport services.

32. TD had rejected the RS application of the Estate mainly because its site investigations had shown that the existing public transport services could satisfy the residents' needs, and because the Department and the relevant departments would continue to improve the public transport services and related ancillary facilities (see **paragraphs 20, 22 and 23**). Furthermore, TD opined that there would be impact on public road resources if the Estate was permitted to operate an RS (see **paragraph 25**). Regarding the complainants' queries about TD's site investigations, the Department had explained that it had carried out investigations during different time periods, and given the justifications for conducting investigations at the Tin Yuet stop (see **paragraph 21**).

33. We must point out that how, when and where TD conducts site investigations and collects data involves the Department's professional judgement in performing its duties. We would refrain from making comments unless it is evidently unreasonable. As regards whether transport services are sufficient and the impact of introducing or renewing specific RS on the road network, these are also matters involving TD's professional judgement, which is not an administrative issue subject to our comments. Having carefully examined the explanations, data and information provided by TD, we consider that TD had handled the RS application of the Estate in accordance with the established procedures. There is no evidence of maladministration in its rejection of the Estate's RS application.

34. In light of the above, The Ombudsman considered **allegations (1) and (2) unsubstantiated**.

35. TD explained that it had already considered the distance between the furthestmost block of the Estate and the nearest bus stops and MTR station. Upon assessment, it considered that the Estate failed to meet the criteria for approving an RS application. This involves TD's professional judgement and we would not comment. We also notice that the Department is taking measures to improve the public transport

services and the ancillary facilities around the Estate gradually. Nevertheless, there are 30 blocks in the Estate and their distance from the nearest stops or stations varies. The distance between the main gate of the Estate and the Tin Sau LR stop/Wetland Park LR stop is already 400 to 450 metres; while that between the furthest block and the K76S bus stop (Tin Shui Wai-bound) is as long as 550 metres, and the residents have to use the footbridge, which does not have a lift (see **paragraphs 14 and 16**), much to the inconvenience of some residents. This Office considers that in the long run, installing a pedestrian crossing outside the Estate would facilitate daily travel of the residents. Yet, the related works is still in the early planning stage (see **paragraph 14**). We opine that TD should keep a close watch on the residents' demand for public transport services and ancillary facilities. Suitable temporary measures (for instance adding a temporary bus stop) should also be implemented to address the residents' needs.

### Allegation (3)

36. Unlike applications for new RS, when TD assesses renewal applications for existing RS, it would take into consideration passengers' demand for the service in question. Even if there has been improvement in the regular public transport service, a renewal application might still be approved so long as there is no change in passenger demand (see paragraph 11). The approval criteria are undoubtedly more lenient.

37. With the development of public transport services in Tin Shui Wai, it is now more convenient for the residents of estate B to travel to and from Tin Shui Wai and other districts. Notwithstanding this, TD had approved the RS renewal application of estate B in accordance with the approval criteria. For instance, the LR stop nearest to estate B is the Ginza stop, just two stops from the Tin Shui Wai stop, yet estate B had been permitted to operate an RS to the Tin Shui Wai stop. On the contrary, the new residential estates in Tin Shui Wai north (such as the Estate) farther away from the Tin Shui Wai stop were not permitted to operate a new RS because public transport services were deemed sufficient. TD also considered the "above benchmark" principle not applicable to the case of the Estate (see **paragraph 28**). This Office considers it understandable that the residents of the new residential estates would have the perception and dissatisfaction that TD is not acting impartially.

38. As the authority for traffic planning, TD should put the overall traffic and transport as the primary factor of consideration. As pointed out by the Department, if the individual RS of different housing estates with lower capacity, and yet taking up considerable road surface, are approved in an unrestrained manner, road traffic would be adversely affected. Public transport operators may have difficulties to break even and may not be able to introduce new routes or enhance existing services, which will definitely affect the overall public transport service in the district (see paragraph 24). We consider this principle applicable to approval of RS renewal applications as well. Nevertheless, the other factors of consideration in approving renewal applications (see **paragraph 11**) seem to reflect that the needs of the passengers of the existing RS override the consideration for optimal use of road resources.

39. This Office is of the view that TD had adopted different criteria in approving new RS applications and RS renewal applications, which deviate from the overall transport policies too. As TD pointed out, Hong Kong’s public transport system is well-developed and provides multi-modal public transport services to the public (see **paragraph 4**). We consider that TD should review with the stakeholders the criteria for assessing RS renewal applications and new RS applications with a view to improving the present arrangement.

40. Overall, TD had assessed the application in question in accordance with the current criteria, which, however, have ample room for review and improvement. As such, The Ombudsman considers Allegation (3) partially substantiated.

#### Allegation (4)

41. We consider it understandable that the complainants had used estate B, a major residential estate in Tin Shui Wai, as a comparison with the Estate. The RS renewal application of estate B was approved mainly due to the fact that according to the criteria for approving RS renewal applications, TD would take into account the residents’ demand for the existing RS (see **paragraph 11**). On the other hand, TD considered the “above benchmark” principle not applicable to the Estate on grounds of the different geographic locations of estate B and the Estate (see **paragraph 28**).

42. TD’s replies to the complainants had never included the explanation as given in **paragraph 41**. We consider that TD should have addressed the complainants’ concerns directly by explaining its stance clearly. In its earlier replies, TD just kept repeating the similar rhetoric that public transport services in the district were sufficient and it would assess each application on its own merits (see **paragraph 29**). It did not help to address the complainants’ concerns and inevitably gave the impression that the Department had acted perfunctorily. We consider TD to have failed to reply to the complainants properly.

43. The Ombudsman, therefore, considered **allegation (4) substantiated**.

#### **Conclusion**

44. Overall, **the complainants’ complaint against TD was partially substantiated**.

#### **Recommendations**

45. The Ombudsman recommended that TD:

- (1) continue to monitor the demand for public transport services and ancillary facilities of the Estate’s residents and implement enhancement measures in a timely manner (see **paragraph 35**);

- (2) review with the stakeholders the criteria for assessing RS renewal applications and new RS applications (see **paragraph 39**); and
- (3) step up staff training and remind staff to carefully examine complaints and provide replies addressing the content of complaints (see **paragraph 42**).

### **TD's Comments**

46. TD had provided its views on the content of our draft investigation report and the comments therein. Upon consideration, we have incorporated some of its views in this report.

47. TD accepted our recommendation as set out in **paragraph 45(1)**.

48. Regarding **paragraphs 36 to 39**, TD indicated that since the Working Group report in 2004, it had reviewed the relevant policies and guidelines thrice. Based on the affirmation by the then Transport and Housing Bureau (“THB”) in its 2017 study report of TD’s policy principles in processing applications for introducing non-franchised bus service, TD had updated the approval guidelines. Furthermore, TD had been updating from time to time the criteria for approving RS applications in accordance with the policy principles, and had assessed each new RS application and RS renewal application in accordance with the guidelines. With respect to the recommendation set out in **paragraph 45(2)**, TD had already commenced a review on the criteria for assessing new RS applications and RS renewal applications in response to a previous investigation report by this Office. The Department will notify us of the result of its review in due course.

### ***Allegation (2)***

49. Regarding **paragraphs 41 and 42**, TD added that between 29 November 2021 and 30 December 2022, the complainants had lodged complaints against it nine times via 1823 for rejecting the Estate’s RS application and repeatedly mentioned the RS of estate B in their complaints. TD pointed out that since the contents of their complaints were largely the same without new viewpoints or other enquiries, this Office might, therefore, consider its replies repetitive. In fact, each of the replies was a response specific to the content of the complaint concerned and included a clear explanation on its service policies and approval criteria for RS applications, the background of and justifications for approving the RS of estate B, and pointed out that estate B’s RS had been adjusted as a result of changes in the travel patterns of its residents. TD staff had endeavoured to explain time and again TD’s established policies and approval criteria, as well as the latest development in related matters, e.g. TD’s overall public transport planning following flat intakes of the residential estates in Tin Shui Wai north, phased improvement in and introduction of public transport services and facilities.

## Final Remarks

50. Regarding **paragraph 47**, we are glad to learn that TD had accepted our recommendation.

51. TD argued that it had handled RS applications in accordance with the policy principles (see **paragraph 48**). We notice that THB's 2017 study report had clearly expounded the concept of the overall public transport policy and RS approval, which was in line with the description in **paragraphs 4 to 6 and 24**. The spirit is that regular public transport services should be the backbone of the transport system, with RS playing a supplementary role. In this light, TD has to consider RS applications in a prudent manner lest regular public transport services be affected and optimal utilisation of public roads undermined. Nevertheless, in contrast to the above policy, the Department currently adopts a more relaxed criteria for approving RS renewal applications in accordance with its existing guidelines, giving priority to the needs of passengers currently enjoying RS (see **paragraph 38**). We consider this to have deviated from the concept described above.

52. On **paragraph 49** above, we have re-examined the nine replies by TD to the complainants between December 2021 and December 2022. Having considered TD's comments, we maintain our comments and recommendations as set out in **paragraphs 36 to 42, and 45**.

Office of The Ombudsman  
February 2023

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