

**立法會**  
**Legislative Council**

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**Panel on Development**

**Summary of views of various organizations and individuals  
on public facilities in private developments  
expressed at the special meeting on 16 February 2009  
and the Administration's Response**

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<b>I. General</b>		
<b>Organization/ individual</b>	<b>Views</b>	<b>Response from DEVB</b>
1.1 Ms LAM Yau-han, Islands District Council member	<ul style="list-style-type: none"> <li>• Public facilities in commercial developments will pose no major problems.</li> <li>• It is inappropriate, disturbing and unfair to provide public open space (POS) or pedestrian access in private developments.</li> <li>• Owners are willing to pay a high price for purchasing private developments because they want exclusive use of the open space and pedestrian access in their developments.</li> <li>• It is the Government's responsibility to provide and manage open space and pedestrian access for the public.</li> </ul>	<p>The policy on the incorporation of public facilities in private developments for public use is based on sound considerations, enabling the needed facilities to be provided to the public in a timely and integrated manner through private developments. It also provides for better planning and optimize the use of limited land. We consider the policy should be upheld.</p> <p>However, we recognize that some issues and concerns have emerged in the implementation of the policy over the years, particularly from the provision of public open space (POS) in private residential developments. For future cases, to address such concerns, the Town Planning Board (TPB) has noted that in future planning applications, Bureaux/Departments would not recommend the TPB to accept or require the provision of POS in private developments, especially residential developments or on Government land adjacent to such developments, unless there is an overall shortage of open space in the area etc. The TPB has also concluded that it would carefully consider the location, design and implementation prospects of public facilities proposed under any future planning applications before deciding whether such provision would be accepted as a planning gain.</p>

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Organization/ individual	Views	Response from DEVB
<p>1.2 Ms YUNG Wing-sheung, Islands District Council member</p>	<ul style="list-style-type: none"> <li>• The views of members of the Islands District Council and the Chairman of Coastal Skyline Phase 1 Owners Sub-committee are different from those of the Vice Chairman of the Islands District Council.</li> <li>• The public recreational facilities in Discovery Bay are still not fully implemented because the Administration has not set any deadline for their completion. Whether land is still available for such facilities is a question.</li> </ul>	<p>According to the approved Master Layout Plan, the Grantee, Hong Kong Resort Company Limited (HKR), is required to provide public recreational facilities. Although there is no requirement under the lease conditions and the approved Master Layout Plan on the type of public recreational facilities to be provided and the time frame regarding completion of these public recreational facilities, District Lands Office/Islands (DLO/Is) has asked HKR to provide a list of the outstanding public recreational facilities together with the programme for their provision. In October 2008, HKR submitted a proposal on the provision of the outstanding facilities to DLO/Is which has later provided HKR with the comments of the relevant departments or parties on the proposal. When the outstanding facilities are finalised, DLO/Is will require HKR to implement them according to the programme to be agreed by both parties.</p> <p>According to HKR's latest proposal, the outstanding recreational facilities will be provided at various locations in Discovery Bay (not just in Area N2). We understand that land is available for the provision of the outstanding recreational facilities.</p>
	<ul style="list-style-type: none"> <li>• The Administration should assist owners of Discovery Bay in clarifying the management</li> </ul>	<p>The existing public recreational facilities are grouped either into the "city retained areas" or</p>

<b>I. General</b>		
<b>Organization/ individual</b>	<b>Views</b>	<b>Response from DEVB</b>
	and maintenance responsibilities of those recreational facilities.	"village retained areas" in the Principal Deed of Mutual Covenant (PDMC). The rights and obligations, including use of common areas, retained areas, common facilities and management contributions, are set out in the PDMC.
1.3 Coastal Skyline Phase I Owners Sub-Committee	<ul style="list-style-type: none"> <li>• Owners request private use of the POS in their development.</li> <li>• Owners have requested the developer concerned to stop the operation of the escalator because a lift and a staircase have already been provided for public use. Owners would be willing to bear the management costs for private open space, but not for POS.</li> </ul>	<p>Please refer to the responses to items 2.2 and 2.4 below.</p> <p>Under the lease conditions for Coastal Skyline, the Grantee has to construct in accordance with the Approved Building Plans covered walkways (the "Walkways") including such stairways and pedestrian ramps and other ancillary structures, lightings and fitting as may be required by the Government for the purpose of pedestrian circulation. According to the approved building plans, the Walkways include a pair of escalators. To comply with the lease conditions, the escalators should be operated.</p>
1.4 The Incorporated Owners of Botania Villa	<ul style="list-style-type: none"> <li>• Apart from physical segregation of the POS, the Administration should consider the other effects of the POS on the residents. Providing POS in their development would bring inconvenience to the residents and they are most worried about security problems.</li> </ul>	Please refer to the responses to items 2.2 and 2.4 below.

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<b>Organization/ individual</b>	<b>Views</b>	<b>Response from DEVB</b>
1.5 The Incorporated Owners of Jubilant Place	<ul style="list-style-type: none"> <li>• The POS in their development has caused numerous security, noise and environmental hygiene problems and nuisances.</li> <li>• Managing the common areas of their development is easier than that for the POS in their development. For the latter, assistance from the Hong Kong Police Force is sometimes needed.</li> </ul>	We understand that some developers, owners and management of private developments would like to have some guidelines to facilitate their daily management of POS in private developments. To assist the public to enjoy and access such POS, the Government has commissioned a consultancy study to formulate guidelines applicable to POS in private developments in terms of the location and design, management and maintenance, and accessibility to the public. It is expected that the consultancy study would be completed around the summer of 2009.
1.6 The Owners' Committee of Bellagio	<ul style="list-style-type: none"> <li>• The main management problems of the POS include fishing, smoking, cycling, playing remote control model cars and ball games, and excretion from dogs.</li> <li>• Inadequate management powers and the lack of statutory regulations pose difficulties in handling management problems.</li> </ul>	Please refer to the response to item 1.5.
1.7 Castello Owners' Committee	<ul style="list-style-type: none"> <li>• The Committee would continue to maintain the POS in proper use and in an acceptable condition until there is a change in the Administration's policy.</li> </ul>	Noted.

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<b>Organization/ individual</b>	<b>Views</b>	<b>Response from DEVB</b>
1.8 The Incorporated Owners of Metro Harbour View	<ul style="list-style-type: none"> <li>The Administration should have the determination to continue to enhance the relevant policy so that the general public could enjoy comprehensive facilities and affected residents of private developments could live comfortably.</li> </ul>	Please refer to the response to item 1.1.
1.9 The Hong Kong Institute of Surveyors	<ul style="list-style-type: none"> <li>The Institute expresses support for the Administration not to adopt a one-size-fits-all approach in prohibiting the provision of public facilities in private developments. Many public facilities have to be provided in private developments due to limited land resources.</li> </ul>	Please refer to the response to item 1.1.
1.10 The Hong Kong Institute of Architects	<ul style="list-style-type: none"> <li>The Institute expresses support for the Administration's policy of providing POS in private developments and the formulation of a set of more effective execution method through rational discussion.</li> </ul>	Please refer to the response to items 1.1 and 1.5.
1.11 Local Action	<ul style="list-style-type: none"> <li>Security problems arising from public use of the POS concerned have been overplayed.</li> <li>The organization disagrees to the Administration's claim that the policy is in order because the policy leads to large-scale privatization of public space.</li> <li>Comprehensive Development Areas and large-scale developments aggravate social</li> </ul>	<p>Please refer to the response to items 1.1 and 1.5.</p> <p>Comprehensive Development Area zone is an effective planning mechanism to facilitate urban</p>

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	<p>segregation, spatial exclusion and gentrification. Hong Kong's land use and planning policies should revert to human scale planning.</p> <ul style="list-style-type: none"> <li>The Administration should adopt the perspective of the users of public space to review the outdated public space management policy.</li> </ul>	<p>restructuring and to phase out incompatible development and non-conforming uses. They are designated after careful considerations of such factors as the planning intention for the area, land status, ownership and other development constraints.</p> <p>Please refer to the response to item 1.5 above.</p>
1.12 The Lion Rock Institute	<ul style="list-style-type: none"> <li>The current dispute should be solved in a fair manner for all involved.</li> <li>The Institute fully supports measures to further define the scope of public accessibility to public facilities in private developments.</li> <li>Transparency and public accessibility to public facilities in private developments must be enhanced.</li> </ul>	<p>Please refer to the response to item 1.5 above.</p> <p>We agree that access to information and transparency are keys to public accessibility. Lands Department (LD) and Buildings Department (BD) have already compiled lists of private developments containing public facilities and released the information in batches. The list released by LD now contains 450 developments completed since 1987. BD's list now contains 320 developments.</p> <p>In addition, DEVB has written to the Real Estate Developers Association of Hong Kong (REDA)</p>

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Organization/ individual	Views	Response from DEVB
	<ul style="list-style-type: none"> <li>• The management and usage of the existing public facilities must be defined.</li> <li>• The costs borne by developers in providing public facilities should be reflected in the Government accounts.</li> <li>• The Administration should not exceed its spending limit of 20% of the Gross Domestic Product in pursuing the more exact definition for usage and management rights of public facilities in private developments.</li> <li>• Activities allowed on POS in private developments could in some cases be less restrictive than those on POS on Government land. Private management companies could provide better management of POS.</li> </ul>	<p>requesting its help to remind the trade that compliance with the management and maintenance responsibilities of public facilities in private developments at all times is essential. LD and BD have also written individually to the owners' incorporations or management companies of the concerned private developments requiring them to enhance public accessibility to public facilities in their developments.</p> <p>Please refer to the response to item 1.5 above.</p> <p>Generally, the cost of providing such POS will not be taken into account in the premium assessment in lease modification / land exchange transactions.</p> <p>Noted.</p> <p>Please refer to the response to item 1.5 above.</p>
1.13 The Hong Kong Institute of Landscape	<ul style="list-style-type: none"> <li>• Open space should be clearly distinguished from public space. The provision standards referred to in the Hong Kong Planning</li> </ul>	<p>In its written submission, the Institute recommends that we continue to encourage quality private open space in private developments. Its comments are</p>



<b>I. General</b>		
<b>Organization/ individual</b>	<b>Views</b>	<b>Response from DEVB</b>
Architects	<p>Standards and Guidelines are on open space only. The current problems arise because POS in private developments are often used to make up for the shortfall in open space in old districts.</p> <ul style="list-style-type: none"> <li>• The Administration should formulate a policy on green infrastructure development based on principles of sustainable development. Green infrastructure should be planned and developed in parallel with grey infrastructure.</li> <li>• The Administration should formulate green coverage ratio indicators as a basic requirement.</li> </ul>	<p>noted.</p> <p>Following up on the First Sustainable Development Strategy for Hong Kong in response to the 'Report on the Engagement Process for a First Sustainable Development Strategy' issued by the Council for Sustainable Development (SDC), Buildings Department has commissioned a consultancy study to advise on sustainable building design features that would enhance the urban living space environment. The consultant has recommended certain guidelines on sustainable building design for enhancing air ventilation, pedestrian environment and greenery as well as mitigating urban heat island effect. The guidelines recommend, inter alia, the enhancement of greening in building developments in terms of green coverage ratio. We will collaborate with the SDC to conduct a public engagement process to seek public views on proposals to foster a quality and sustainable built environment including, inter alia, the best option of implementation of the guideline for enhancement of greening in building developments.</p>

I. General		
Organization/ individual	Views	Response from DEVB
	<ul style="list-style-type: none"> <li>• Provision of quality private open space in private developments should continue to be encouraged.</li> <li>• POS should be planned, constructed and managed by the same department.</li> </ul>	<p>This will be covered in the consultancy study mentioned in item 1.5.</p> <p>Noted.</p>
1.14 Hong Kong Architecture Centre	<ul style="list-style-type: none"> <li>• The Centre is pleased to see that the Government has ascertained that the policy should be upheld.</li> <li>• For the provision of public transport terminus, the Administration should conduct a detailed traffic study before putting up such requests as a land sale condition.</li> <li>• The dedicated areas for public passage in private developments are very important to the urban scene in Hong Kong. The approval process for such public passage has been established for decades and private and public interests have been well protected through Deeds of Dedication and lease modification.</li> <li>• Very busy districts do not have enough road surfaces and have serious vehicular-pedestrian conflicts. Covered bridge systems and tunnel systems are in high demand. If there is no private participation, there would not be enough road surfaces to incorporate all the entrances and landings for such systems, and</li> </ul>	<p>Please refer to the response to item 1.1 above.</p> <p>Under the current arrangements, on the advice by Transport Department on the necessity of provision of public transport terminus within a sale site, LandsD will prepare the draft conditions of sale in consultation with the relevant departments. Guidelines on dedication of areas in private developments for public passage are set out in Practice Note to Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers No. 233. The rights and liabilities of the owner and the public are governed by the terms and conditions of the Deed of Dedication.</p> <p>Noted. Please also refer to the response to item 1.1 above.</p>

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Organization/ individual	Views	Response from DEVB
	public access would be very much interrupted. The Administration should uphold such systems.	
1.15 The Hong Kong Institute of Planners	<ul style="list-style-type: none"> <li>The Institute supports upholding the policy in principle, especially for districts where there is a shortage of POS. POS in private developments should not be implemented in newly planned districts with sufficient POS. POS in private commercial developments would be acceptable if the developers concerned are willing to shoulder the management responsibilities.</li> <li>The Institute disagrees to the Administration's position that Bureaux/Departments would not in future recommend to the Town Planning Board to accept or require the provision of privately-managed POS, because such an approach is too inflexible.</li> </ul>	<p>Please refer to the response to item 1.1 above.</p> <p>Noted. As explained in the response to item 1.1 above, Bureaux/Department would not recommend the TPB to accept or require the provision of POS in private developments unless there is a shortage of open space in the area etc. For exceptional circumstances where the provision of POS in private developments is justified, the TPB would carefully consider the location, design and implementation prospects of such POS proposed before deciding whether such provision would be accepted as a planning gain.</p>
1.16 FM Theatre Power	<ul style="list-style-type: none"> <li>Rather than making absurd management and security regulations, consideration should be given to allowing more activities to be held on</li> </ul>	<p>Noted. As explained in the response to item 1.5 above, we have commissioned a consultancy study to formulate a set of management guidelines.</p>

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	<p>POS in private developments so as to create more free and vibrant zones. The organization expresses concern about the regulations made by private management agencies because adopting an incorrect management mode would limit the activities that could be held and hinder the development of free and vibrant zones like the pedestrian zone in Mong Kok. By way of illustration, some regulations stipulate that playing games and praying are not allowed. Regulations of these kinds override the laws of Hong Kong.</p>	<p>The guidelines would cover, amongst others, the obligations of owners in ensuring public access and the public in using such POS; the circumstances under which permission for certain activities may be considered and circumstances under which discretion to refuse certain activities may be considered; the location and design; and the management and maintenance responsibilities.</p>
<p>1.17 The Real Estate Developers Association of Hong Kong</p>	<ul style="list-style-type: none"> <li>• The Association agrees to the approach of treating the construction of public facilities as entrusted works with the cost reimbursable to the developers. It considers that the Administration should have sufficient time to secure the necessary funding approval.</li> <li>• The Association would strongly object to the withdrawal or amendment to any existing arrangements as this has far reaching legal implications.</li> </ul>	<p>Noted.</p> <p>Noted.</p>
<p>1.18 Miss CHAN Mei-yuk</p>	<ul style="list-style-type: none"> <li>• POS in private developments would lead to security and hygiene problems.</li> </ul>	<p>Please refer to the response to item 1.5 above.</p>

II. Possible solutions		
Organization/individual	Views	
2.1 Islands District Council	<ul style="list-style-type: none"> <li>• For POS on Government land, owners concerned have no strong views on the current arrangements and want to maintain the status quo. If the Administration recovers such POS and adds new facilities, it would involve additional resources and those new facilities might create even more nuisances to the residents.</li> <li>• Owners of Coastal Skyline have requested the developer concerned to put the relevant escalator into operation so that the covered walkway on the lower level could be used as a public access. The proposal of providing an alternative public access is sensible and reasonable.</li> </ul>	<p>Noted.</p> <p>Under the lease conditions, the "covered walkway" (including its design &amp; location) is required to be constructed in accordance with the approved building plans.</p>
2.2 Ms LAM Yau-han, Islands District Council member	<ul style="list-style-type: none"> <li>• Residents hope that the Administration would recover the POS on Government land and take up the management responsibilities so that the management fees that they have to bear could be reduced.</li> <li>• The Administration should discuss with developers and owners to solve the problems arising from its policy.</li> </ul>	<p>As mentioned in our paper submitted to the Development Panel on 8 December 2008, for existing POS on Government land, instead of requiring individual owners to shoulder the cost of operating, managing and maintaining the POS, we consider it not unreasonable for the Government to consider recovering the POS (this is normally provided for in the land lease) on a case-by-case basis, subject to the following criteria –</p> <p>(i) the POS is at grade and can be alienated</p>

II. Possible solutions		
Organization/individual	Views	
		<p>from the private development;</p> <p>(ii) the scale of the POS is substantial relative to the scale of the private development;</p> <p>(iii) there is no legal obstacle in the lease conditions for Government to take back the management;</p> <p>(iv) the availability of recurrent resources to the concerned department;</p> <p>(v) the consent of the owners (through owners' incorporation) if needed; and</p> <p>(vi) the support of the relevant District Council and Area Committee.</p>
2.3 Ms YUNG Wing-sheung, Islands District Council member	<ul style="list-style-type: none"> <li>For public facilities in private developments, the Administration should formulate clear policies and guidelines and plug loopholes, especially in relation to management and maintenance responsibilities.</li> </ul>	Please refer to the response to item 1.5 above.
2.4 The Incorporated Owners of Botania Villa	<ul style="list-style-type: none"> <li>The organization strongly objects to the Administration's proposal of granting a waiver only for the Metro Harbour View case because owners of other private developments concerned also face similar</li> </ul>	For existing POS on private land, we consider that the principle of public accessibility to these POS should be upheld; otherwise it would be in violation of the contractual spirit in the lease and would adversely affect public interest.

II. Possible solutions		
Organization/individual	Views	Views
	<p>problems. Unless the Administration has more specific and objective reasons, doing so would further aggravate the complicated problems and lead to greater social disintegration. The Administration should handle other cases in the same way in order to be fair and avoid the public impression that it is biased towards that particular developer.</p> <ul style="list-style-type: none"> <li>• Owners of Botania Villa wish to be granted a waiver because they want private use of the space concerned both psychologically and physically.</li> </ul>	<p>However, as mentioned in our paper submitted to the Development Panel on 8 December 2008, we are prepared to sympathetically consider, on a very exceptional basis, waiving the requirement of public accessibility in the lease for certain POS on private land, based on the individual merits of the case. But any waiving would have to fulfil the following criteria -</p> <ul style="list-style-type: none"> <li>(i) it is legally in order for LD to do so;</li> <li>(ii) a request for the waiver must be initiated by and with the consent of the owners through its owners' incorporation and subject to payment of the relevant financial consideration for such waiver;</li> <li>(iii) there is sufficient existing POS in suitable locations within the district according to the Hong Kong Planning Standards and Guidelines. Also, other considerations like the location and distribution of the POS should also be taken into account;</li> <li>(iv) the agreement of TPB for amending the relevant plans if required; and</li> <li>(v) there is support from the relevant District</li> </ul>

II. Possible solutions		
Organization/individual	Views	
		<p>Council and Area Committee, in particular their understanding that a piece of POS will no longer be open to the public.</p> <p>We should stress that this is at the moment a possibility identified for discussion given the circumstances of a few cases of POS in private development. The Administration has yet to decide whether such an option of waiving the requirement of public accessibility in the lease would be provided and would take into account public views on the matter.</p>
2.5 The Incorporated Owners of Jubilant Place	<ul style="list-style-type: none"> <li>• It is not practical to install partitions/barriers between the POS and the common areas of the development (i.e. Jubilant Place).</li> <li>• In the short run, the management committee of the Incorporated Owners should be empowered by law to impose reasonable rules to manage the POS.</li> <li>• In the long run, the Government should provide a replacement POS in the vicinity of their development and allow owners' private use of the POS in the development.</li> </ul>	<p>For existing POS on private land, please refer to the response to item 2.4.</p> <p>Please refer to the response to item 1.5.</p> <p>Please refer to the response to item 2.4.</p>
2.6 Tung Chung Crescent Residential Owners' Sub-Committee	<ul style="list-style-type: none"> <li>• The POS in the development (i.e. Tung Chung Crescent) is well managed and open to the public round-the-clock over the years according to the lease conditions and the</li> </ul>	Noted.



II. Possible solutions		
Organization/individual	Views	
	<p>Deed of Mutual Covenant. If the Government takes over the management powers, estates management would be affected, in particular complaints about nuisances could not be handled immediately.</p> <ul style="list-style-type: none"> <li>• Owners object to redelivering the POS to the Administration.</li> </ul>	
2.7 The Incorporated Owners of Metro Harbour View	<ul style="list-style-type: none"> <li>• The organization suggests that the facilities on the POS on the first and second floors could be enhanced in exchange for owners' private use of the POS on the fourth floor.</li> </ul>	Please refer to the response to item 2.4.
2.8 Civic Party	<ul style="list-style-type: none"> <li>• The provision of POS in commercial developments should continue, but the responsibility of up-keeping and vetting of activities to be held on the POS should be separated, with the latter delegated to District Councils or community networks.</li> <li>• The Administration should grant a waiver to owners of Metro Harbour View for a proper consideration to be met by the developer concerned.</li> <li>• The Administration should carry out an assessment and publicly disclose the justifications based on which the Administration believes that the 11 other cases of POS on podium level do not qualify for waivers.</li> </ul>	<p>Please refer to the responses to items 1.1 and 1.5.</p> <p>Please refer to the response to item 2.4.</p> <p>Please refer to the response to item 2.4.</p>

II. Possible solutions		
Organization/individual	Views	
2.9 The Democratic Party	<ul style="list-style-type: none"> <li>• In formulating POS management guidelines, the Administration should encourage developers to let out the POS in their commercial developments at a nominal rent to artists, street performers and non-governmental organizations for conducting exhibitions and street performances. The Administration should set up an independent complaints mechanism for handling disputes between POS owners and activity organizers.</li> <li>• The Administration should step up inspection to ensure that POS owners would not deny public access to the POS concerned and formulate penalty provisions for breach cases.</li> <li>• The Administration should disclose the principles and criteria for granting a waiver, examine all cases involving POS on private land and allow eligible owners to apply for a waiver. The District Councils and the public should have open discussion on all POS in private developments so that the Administration could formulate a clear policy for granting a waiver.</li> </ul>	<p>Please refer to the responses to items 1.5 and 1.16.</p> <p>We have been monitoring the compliance by owners by conducting checks and act upon receiving complaints from members of the public. We have also sought the support of the 18 District Councils in monitoring the use of public facilities in their districts, and bringing to our attention any cases where follow-up actions would be required.</p> <p>Please refer to the response to item 2.4.</p>

II. Possible solutions		
Organization/individual	Views	
2.10 The Hong Kong Institute of Surveyors	<ul style="list-style-type: none"> <li>The Institute has reservations on the Administration's proposal of granting a waiver to the owners of Metro Harbour View because owners of other relevant developments also face similar nuisances and security concerns. The Administration should consider the rights and feelings of all stakeholders. Otherwise, other owners would have an impression that public access to POS with unsatisfactory design could be waived but there would be no such arrangement for POS with good design. If the Administration decides to adopt the option, it should determine appropriate waiver fees and consider providing alternative POS nearby as compensation.</li> </ul>	Please refer to the response to item 2.4.
2.11 The Hong Kong Institute of Architects	<ul style="list-style-type: none"> <li>The Administration should involve stakeholders in drawing up guidelines for the design and management of POS and implement those guidelines as soon as possible.</li> <li>The formulation of a long-term strategy on POS and spatial governance is more important than changing the policy immediately.</li> <li>The Administration should formulate a POS policy and mechanism which could cater for different requirements of old districts, new</li> </ul>	<p>Please refer to the response to item 1.5. Stakeholders in the industry would be consulted on the proposed guidelines.</p> <p>Noted.</p> <p>Please refer to the response to item 1.1 above.</p>

II. Possible solutions		
Organization/individual	Views	
	<p>districts and new towns.</p> <ul style="list-style-type: none"> <li>• POS should be provided on Government land as far as possible.</li> <li>• A dedicated committee comprising members from different backgrounds could be established to be responsible for designing, vetting and managing POS in private developments so as to ensure the quality of the POS. If the committee is found to be feasible, its functions could be extended to cover POS implemented by the Government.</li> <li>• The Administration should urgently formulate clear and transparent guidelines for designing and managing POS in private developments.</li> </ul>	<p>Please refer to the response to item 1.1 above.</p> <p>Noted.</p> <p>Please refer to the response to item 1.5.</p>
2.12 Local Action	<ul style="list-style-type: none"> <li>• The organization objects to the suggestion of granting a waiver because the public's rights in using POS should be upheld.</li> </ul>	<p>Please refer to the response to item 2.4.</p>
2.13 The Lion Rock Institute	<ul style="list-style-type: none"> <li>• The Administration should empower property management companies with management powers similar to those of the MTR Corporation Limited for managing the POS in their developments.</li> <li>• The Administration should not rely on the District Councils concerned to represent public views if the pedestrian flow of the POS arising from non-local users is high.</li> </ul>	<p>Please refer to the response to item 1.5.</p> <p>We have been involving the Legislative Council and the District Councils in the review of provision of public facilities in private developments and particular POS cases as</p>

II. Possible solutions		
Organization/individual	Views	
	Under these circumstances, the Legislative Council could better reflect public views. In Tung Chung, such pedestrian flow is low and a solution agreed upon by the District Council and owners' committees concerned might be workable.	appropriate.
2.14 The Hong Kong Institute of Landscape Architects	<ul style="list-style-type: none"> <li>The Administration should step up its efforts in implementing green infrastructure so that the need for POS in private developments could be reduced.</li> </ul>	Please refer to the response to item 1.13. Government has also been actively promoting greening in order to improve our living environment. Works departments adopt a flexible and balanced approach for tree planting in the planning and design of public works projects. Every practical opportunity will be explored for tree planting in the feasibility, planning and design stages. In addition, the Civil Engineering and Development Department is implementing greening measures under Greening Master Plan projects.
2.15 Hong Kong Architecture Centre	<ul style="list-style-type: none"> <li>The Administration should consider new modes of management of POS. Active promotion of cultural and leisure activities with some ancillary commercial activities can be conducted to support the maintenance cost.</li> </ul>	Please refer to the response to items 1.5 and 1.16.

II. Possible solutions		
Organization/individual	Views	
2.16 The Hong Kong Institute of Planners	<ul style="list-style-type: none"> <li>• After a reasonable period of time of implementing POS on private and Government land, the Administration should take up the management responsibilities through a publicly recognized mechanism. It would be unfair to require owners concerned to bear the responsibilities perpetually.</li> <li>• The Administration should promulgate clear and practical guidelines for managing POS.</li> </ul>	<p>Please refer to the response to items 2.2 and 2.4.</p> <p>Please refer to the response to item 1.5</p>
2.17 The Hong Kong Institution of Engineers	<ul style="list-style-type: none"> <li>• The Institution is pleased that the Administration has taken on board some of its earlier suggestions on the matter but expresses regret that the Administration has not explicitly address its suggestion of having a designated department to management public facilities in private developments.</li> </ul>	<p>Please refer to the response to items 2.2 and 2.4 for our views on management responsibilities of POS respectively on Government land and private land.</p>
2.18 The Real Estate Developers Association of Hong Kong	<ul style="list-style-type: none"> <li>• The Association supports the Government's initiative in drawing up a set of management guidelines applicable to privately-held POS. The relevant consultant should approach the industry for their input at the earliest opportunity.</li> <li>• If public facilities are intended for the unrestricted use and enjoyment of the general public, the Government should take</li> </ul>	<p>Please refer to the response to item 1.5. Stakeholders in the industry would be consulted on the proposed guidelines.</p> <p>Noted.</p>

II. Possible solutions		
Organization/individual	Views	
	<p>up the operation and maintenance responsibilities upon completion and provide the relevant departments with the necessary funds. Otherwise, such facilities should be excluded from the private developments.</p> <ul style="list-style-type: none"> <li>• The simplest way forward is to discontinue the provision of public facilities in private developments. The possible exception might be the provision of open space or road space and areas dedicated for public passageway.</li> <li>• The provision of open space or public passageway in private developments should continue but detailed arrangements with respect to ownership and operation need to be examined.</li> <li>• If the POS is provided in a private development intended for sale into strata title, then either on completion, or within a maximum time thereafter, e.g. 3 years, the developer should have the unequivocal right to surrender the POS to the Government, and the Government should have the obligation to accept the POS and the ongoing maintenance responsibility. The developer may always choose to retain the POS but likewise must bear the obligations of maintenance.</li> </ul>	<p>Please refer to the response to item 1.1.</p> <p>Noted.</p> <p>Noted.</p>

II. Possible solutions		
Organization/individual	Views	
	<ul style="list-style-type: none"> <li>For POS or public passageway in a private development held by the developer for long term investment purposes, the developer would normally prefer to retain ownership of such facilities and bear the maintenance costs. In such instances, it is desirable to establish a set of guidelines governing operating hours, uses, and permitted, encouraged and inappropriate activities.</li> </ul>	Please refer to the response to item 1.5.
2.19 Miss Mei-yuk CHAN	<ul style="list-style-type: none"> <li>Granting a waiver only for the Metro Harbour View case is unfair because other developments concerned also have different degrees of integration of public and private open space. This is a make-shift and passive option which could not comprehensively resolve the conflicts. It would lead to more problems and social disintegration. Unless there are more specific justifications, the Administration should suspend granting the waiver.</li> <li>The Administration should conduct comprehensive and wide consultation so as to find a thorough solution.</li> </ul>	<p>Please refer to the response to item 2.4.</p> <p>To engage the public in the discussion of the provision of public facilities in private developments, we have consulted the Legislative Council Panel on Development on 22 April 2008 and 8 December 2008 and collected views from deputations at the Panel on Development Special Meetings on 31 May 2008 and 16 February 2009. We have also made available to the public lists of</p>



<b>II. Possible solutions</b>		
<b>Organization/individual</b>	<b>Views</b>	
		<p>private developments with public facilities which are required under leases or deeds of dedication, and sought the support of the 18 District Councils in monitoring the use of such facilities. We have also attended meetings of Central and Western District Council, Yau Tsim Mong District Council and Islands District Council to discuss cases of their concern. We would continue to release information on public facilities in private development and welcome any comments and views from the public.</p>
2.20 Mr HO Wai-lun	<ul style="list-style-type: none"> <li>• District Councils should coordinate the views of citizens from all strata in the district, set up district working groups and invite relevant parties in the district (such as owners' corporations) to join the working groups to discuss how to solve the problem.</li> <li>• When the District Councils have submitted the reports, the Executive Council should discuss whether the matter could be handled administratively. If legislative amendments are required, an amendment bill should be introduced into the Legislative Council for consideration.</li> </ul>	Noted.

<b>II. Possible solutions</b>		
<b>Organization/individual</b>	<b>Views</b>	
2.21 Ms Janice WONG	<ul style="list-style-type: none"><li>The Administration should consider allowing the owners of Coastal Skyline to open up to the public the access below the podium in exchange for owners' private use of the existing public access on the podium. This would create a win-win situation. Alternatively, as the existing public access is quite wide, it could be separated into two sections, one for private and the other for public use. As a staircase and a lift are already provided for public use, the Administration should not enforce lease conditions rigidly by requiring the management company of Coastal Skyline to open up the escalator for public use as well.</li></ul>	Under the lease conditions for Coastal Skyline, the grantee has to construct in accordance with the approved building plans covered walkways (the "Walkways") including such stairways and pedestrian ramps and other ancillary structures, lightings and fitting as may be required by the Government for the purpose of pedestrian circulation.

III. Design issues		
Organization/individual	Views	Views
3.1 Coastal Skyline Phase I Owners Sub-Committee	<ul style="list-style-type: none"> <li>The Administration has stipulated the provision of POS in the lease conditions but there is no regulation on the developer's design of the development and promotion methods.</li> </ul>	<p>Under the lease conditions for Coastal Skyline, the developer shall design and form the POS to the satisfaction of the Government. Prior to the commencement of the building works of Coastal Skyline, the Authorized Person has submitted the building plans to the Building Authority for approval under the Buildings Ordinance. Relevant Government departments have considered and commented on such plans.</p> <p>LD has already compiled lists of private developments containing public facilities, including POS, and released the information in batches.</p>
3.2 Tung Chung Crescent Residential Owners' Sub-Committee	<ul style="list-style-type: none"> <li>The POS is part of the design of and integrated with the development.</li> <li>As part of the POS serves as emergency vehicular access, serious problems could arise if owners could not exercise management powers in case of blockage of the emergency vehicular access.</li> </ul>	Noted.
3.3 Civic Party	<ul style="list-style-type: none"> <li>The Administration should follow the Hong Kong Planning Standards and Guidelines when vetting POS designs. Sections related to the design and implementation of POS should be expanded and interpreted flexibly.</li> </ul>	Design guidelines for open space are set out in the HKPSG, which will be followed in the vetting of POS design by PlanD.



III. Design issues		
Organization/individual	Views	
3.4 The Democratic Party	<ul style="list-style-type: none"> <li>The public would find it difficult to access POS not located on ground level.</li> <li>POS on podium level in private developments would lead to security and management problems. It is only a matter of degree for different private developments concerned. In vetting POS proposals in future, the Town Planning Board should ensure that the POS and private space could be clearly separated. Priority should be given to providing POS on ground level.</li> </ul>	Noted. We have commissioned a consultancy study to formulate guidelines on POS in private developments on such aspects as the location and design. For future cases, the TPB would also carefully consider the location, design and implementation prospects of public facilities proposed under any future planning applications before deciding whether such provision would be accepted as a planning gain.
3.5 The Lion Rock Institute	<ul style="list-style-type: none"> <li>The Administration's planning of public facilities is often unsatisfactory.</li> </ul>	The planning of public facilities generally follows the provision requirements as set out in the HKPSG. Those requirements are subject to regular review taking account of changing social needs.
3.6 The Hong Kong Institute of Architects	<ul style="list-style-type: none"> <li>There is room for improvement in the planning of POS. Apart from quantity, the quality of POS should be given equal attention. As POS sites in old districts are often scattered, the Administration could consider linking them up. Overseas cities like New York and London have long-term strategies on how to link up POS. Hong Kong should step up its efforts in this regard.</li> <li>The opportunity for providing POS in a private development should be based on the</li> </ul>	Noted.  Noted. Please refer to the response to item 1.1.

III. Design issues		
Organization/individual	Views	
	actual need of the district concerned, not on whether the development is a residential or non-residential development.	
3.7 The Hong Kong Institute of Landscape Architects	<ul style="list-style-type: none"> <li>The design of POS should cater for the needs of the target users. The intended uses of the POS should be decided first before making a decision on the management method. The Administration and parties concerned should discuss the design and facilities of the POS with District Councils in an open manner based on the planning intention of the POS.</li> <li>The Administration should encourage quality and innovative designs.</li> <li>The Administration should open up channels for landscape architects to participate freely in the design of POS.</li> </ul>	<p>Please refer to response to items 1.1 and 1.5.</p> <p>Please refer to response to item 1.5.</p> <p>Noted.</p>
3.8 Hong Kong Architecture Centre	<ul style="list-style-type: none"> <li>For public facilities in recent private developments, many departments are involved in the approval process and yet comments given can be conflicting. As a result, there are frustrations, tensions and disputes, and better planning and timely integration of the planning and design cannot be achieved.</li> <li>The Centre supports inclusiveness, transparency and community involvement in determining public facilities. The</li> </ul>	<p>Noted.</p> <p>Noted.</p>

III. Design issues		
Organization/individual	Views	
	Administration should have the foresight leading the community to decide on the requirements of the public facilities and establish the requirements well before land sale. Only with such requirements established and agreed upon in advance will the comments on the design be meaningful.	
3.9 The Hong Kong Institute of Planners	<ul style="list-style-type: none"> <li>• The Administration should implement easily accessible POS in private developments in old districts.</li> <li>• POS should be designed and managed based on individual circumstances.</li> </ul>	<p>Please refer to response to item 1.1.</p> <p>Please refer to response to item 1.5.</p>

<b>IV. Property sale information</b>		
<b>Organization/individual</b>	<b>Views</b>	<b>Views</b>
4.1 Islands District Council	<ul style="list-style-type: none"> <li>As owners concerned do not have a clear understanding that they have to bear the relevant costs, it is unfair for them to do so. They also have to shoulder additional costs on security. The Administration should give due attention to the matter.</li> </ul>	<p>In approving applications for the sale of uncompleted first-hand residential properties from developers under the Consent Scheme, Lands Department has been requiring developers to provide in the sales brochures information on the public open space and facilities which developers (and subsequently owners) are responsible for managing, operating and maintaining at their own expenses, and a statement that owners will have to meet a proportion of the relevant expenses in the management fees.</p> <p>In view of the increasing demand from prospective buyers for greater transparency in the provision of information in the sales brochures for uncompleted first-hand residential properties, the Transport and Housing Bureau has, in cooperation with the Lands Department, the Real Estate Developers Association of Hong Kong (REDA), the Consumer Council and the Estate Agents Authority (EAA), introduced further improvement measures in October 2008 to enhance the provision of information on public open space/public facilities for uncompleted first-hand residential properties under the Lands Department's Consent Scheme. Those measures, which are set out in the Consent</p>



<b>IV. Property sale information</b>		
<b>Organization/individual</b>	<b>Views</b>	
		<p>Scheme and/or REDA's guidelines, include requiring developers to -</p> <ul style="list-style-type: none"><li>(i) set out clearly in a separate section in the sales brochures the details on the size and exact location(s) of any public open space/public facilities which owners are required to maintain, manage and operate at their expenses;</li><li>(ii) include in the sales brochures relevant terms of the Government Lease, Deed of Dedication and/or Deed of Mutual Covenant (DMC) concerning those types public open space/public facilities aforementioned;</li><li>(iii) include in the price list a note advising that detailed information on public open space/public facilities is available in the sales brochures; and</li><li>(iv) place a few more copies of the Government lease and DMC in the sales offices for inspection by prospective buyers.</li></ul> <p>Also, EAA has stepped up inspection on the sales materials, including the sales materials on the websites of estate agencies, and will take</p>

IV. Property sale information		
Organization/individual	Views	
		disciplinary actions on estate agents for providing inaccurate information.
4.2 Ms LAM Yau-han, Islands District Council member	<ul style="list-style-type: none"> <li>Owners may not know the relevant lease conditions or understand their responsibilities when purchasing their flats.</li> </ul>	Please refer to response to item 4.1.
4.3 Coastal Skyline Phase I Owners Sub-Committee	<ul style="list-style-type: none"> <li>Owners have purchased their flats without knowing the existence of the POS in the development.</li> </ul>	Please refer to response to item 4.1.
4.4 The Democratic Party	<ul style="list-style-type: none"> <li>The Administration should review and amend the Consent Scheme to require the provision of standardized, comprehensive, clear and easily understandable information in sales brochures. The Administration should also review the regulation of sales brochures provided by developers and estates agencies on the Internet and consider requiring them to disclose the details of owners' responsibilities specified in the land leases and deeds of mutual covenant like what has been done for printed sales brochures.</li> </ul>	Please refer to response to item 4.1.
4.5 Ms Janice WONG	<ul style="list-style-type: none"> <li>Owners of Coastal Skyline are misled by the developer concerned because when they purchased their flats, they did not know that the relevant POS had to be opened up to the public. They would have to bear additional</li> </ul>	Please refer to response to item 4.1.

<b>IV. Property sale information</b>		
<b>Organization/individual</b>	<b>Views</b>	
	costs if they want to implement remedial measures to address security concerns.	

<b>V. Premium</b>		
<b>Organization/individual</b>	<b>Views</b>	<b>Views</b>
5.1 The Hong Kong Institute of Surveyors	<ul style="list-style-type: none"> <li>For those developments containing POS, the Government had received less premium, because there must be a difference in the property sale price if there was no such POS in the development.</li> </ul>	This is a view we do not necessarily subscribe to. In many cases, POS are incorporated as a planning gain in comprehensive development. Property sale prices are determined by market.
5.2 Local Action	<ul style="list-style-type: none"> <li>As the developers concerned and the Administration negotiate the premium in private, the costs for providing the POS may have been reflected in the premium. The organization is unconvinced of the Administration's claim that developers would not receive premium concessions in providing POS.</li> </ul>	Generally, the cost of providing such POS will not be taken into account in the premium assessment in lease modification / land exchange transactions.
5.3 The Lion Rock Institute	<ul style="list-style-type: none"> <li>Revenues from land sale would be reduced when developers have to provide public facilities.</li> </ul>	Please refer to the response to item 5.1.
5.4 The Real Estate Developers Association of Hong Kong	<ul style="list-style-type: none"> <li>For cases involving land exchange or private treaty grant, the costs of providing public facilities in private developments should be taken into account in assessing the premium.</li> </ul>	In our review proposal, we do not dispute the principle that the Government should reimburse developers for the provision of public facilities in private developments, save for POS which may take the form of planning gain incorporated into private developments.