

The Administration's response to the follow-up actions arising from the Development Panel meeting on 22 April 08 and 8 December 08

Panel meeting on 22 April 2008

The Administration was requested to --

- (a) **provide the sales brochures of residential properties of private developments containing public facilities for the past two years;**

The Transport and Housing Bureau has conveyed Members' request to the Real Estate Developers Association of Hong Kong (REDA) for consideration. Copies of the relevant sales brochures will be made available to the LegCo secretariat, when ready.

- (b) **provide information on the site near Carson Mansion and Yuet Ming Building which was originally reserved for constructing an exit for the Mass Transit Railway Fortress Station and used as a commercial carpark at present;**

The site near Carson Mansion and Yuet Ming House is a piece of triangular-shaped land forming part of the site for the development of the existing Carson Mansion (the "development site") at No. 121 King's Road (see site plan at Annex). To cater for using part of the development site for the construction of a Mass Transit Railway (MTR) station for the Island Line, the developer set back the building from King's Road when Carson Mansion was developed in the 1970s. Being part of the development site for Carson Mansion, the triangular-shaped land, i.e. the set-back area, had been included in the site area for site coverage and plot ratio calculation for the development. However, no additional gross floor area had been given for the development of Carson Mansion in return for the set-back area reserved for the construction of the MTR station.

Owing to the realignment of the Island Line to minimize nuisance to residents and resumption of private land, the set-back area was no longer required for the construction of a MTR station and has

not been used as such. The set-back area remains in private ownership and remains part of the development site for Carson Mansion, and no part of it has been dedicated to the public for passage. On the planning front, the concerned site is zoned "Commercial/Residential" on the draft North Point Outline Zoning Plan (OZP) No. S/H8/21. According to the Notes of the OZP, "Public Vehicle Park (excluding container vehicle)" use is always permitted within the said zone. As such, the current public carpark use at the site is permitted under the OZP. Under the current lease conditions for the Carson Mansion lot, the current use as a carpark is not a breach of the lease conditions.

- (c) **investigate the case relating to a light well in a shopping arcade at the Mass Transit Railway Kowloon Station and provide a written response on whether space occupied by a light well could be considered as public open space;**

The space occupied by the light well in the shopping arcade of the MTRC Kowloon Station development does not count towards the open space under the Master Layout Plans approved by the Town Planning Board. It would not be included as part of the open space required to be opened for public use under the lease.

- (d) **provide information on whether the roads between Bank of China Tower and Citibank Tower were public or private roads; and**

The roads between Bank of China Tower and Citibank Tower (i.e. the one-way roundabout) fall within private lots and are not public roads.

- (e) **provide further information on those suspected cases of using public open space for commercial activities relating to International Finance Centre II and Grand Millennium Plaza**

(I) International Finance Centre II

The furniture (tables and chairs) placed within the public open space on Podium Level 4 of IFC II is for public use and metal

signs have been affixed on the furniture informing the public that it is for the enjoyment of the general public. It is noted from site inspection that :

- (i) the furniture was available for public use without payment or interruption from the restaurants;
- (ii) there was no menu or other items belonging to the restaurants placed on the furniture; and
- (iii) there were members of the public using some of the furniture for their own enjoyment, without any purchase from the restaurants.

(II) Grand Millennium Plaza

The Grand Millennium Plaza applied for a waiver to use a portion of ground floor open space for outdoor restaurant seating accommodation in 2002. The waiver was to temporarily allow a small portion (about 40 sq.m.) of the open space (which is about 800 sq.m.) to be used for outdoor restaurant seating accommodation. The owner was required to pay full market fee for the waiver, to reflect the enhancement in value of the relevant part of the open space during the waiver period.

Before the said waiver was approved in 2003, it has been circulated within the Administration for consideration. It was considered that it would help the local economy and promote tourism under the pessimistic market conditions at that time. It would not affect the use of the public passageway. Also, it has received the support from the relevant Committee under the Central and Western District Council.

We would take into account the views of the Central and Western District Council in considering the extension of the waiver at Grand Millennium Plaza.

Panel meeting on 8 December 2008

The Administration was requested to set out the criteria for –

(a) waiving the requirement of public accessibility for public open space on private land; and

As mentioned in our paper submitted to the 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 -

- (i) it is legally in order for LandsD to do so;
- (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;
- (iii) there is sufficient existing POS in suitable locations within the district according to the HKPSG. Also, other considerations like the location and distribution of the POS should also be taken into account;
- (iv) the agreement of TPB for amending the relevant plans if required; and
- (v) there is support from the relevant DC and Area Committee, in particular their understanding that a piece of POS will no longer be open to the public.

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 would be provided and would take into account public views on the matter.

(b) recovering the operation and management responsibility of existing public open space on Government land by the Government

Instead of requiring individual owners to shoulder the cost of operating, managing and maintaining public open space on

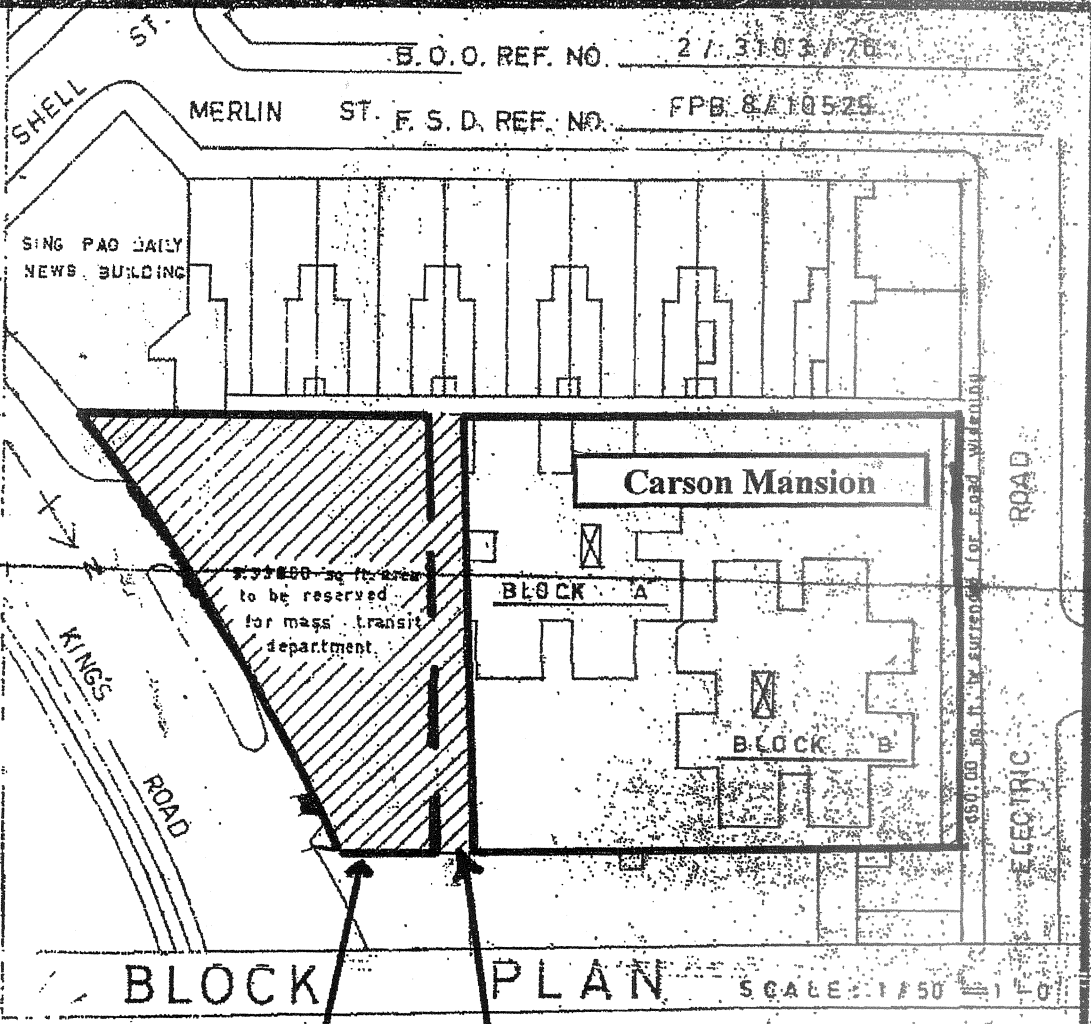
Government land, we consider it not unreasonable for the Government to consider recovering the open space (this is normally provided for in the land lease) on a case-by-case basis, subject to the following criteria –

- (i) the POS is at grade and can be alienated from the private development;
- (ii) the scale of the POS is substantial relative to the scale of the private development;
- (iii) there is no legal obstacle in the lease conditions for Government to take back the management;
- (iv) the availability of recurrent resources to the concerned department;
- (v) the consent of the owners (through owners' incorporation) if needed; and
- (vi) the support of the relevant DC and Area Committee.

Development Bureau
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Carson Mansion



Triangular-shaped site

Existing access