

**For discussion  
on 8 December 2008**

**LEGISLATIVE COUNCIL  
PANEL ON DEVELOPMENT**

**Provision of Public Facilities in Private Developments**

**PURPOSE**

This paper sets out the preliminary findings and recommendations of a review conducted by Development Bureau (DEVB) concerning the provision of public open space in private developments. Members are invited to comment on the proposed direction for considering future developments and proposed arrangements for some existing privately-managed public open space.

**BACKGROUND**

2. The background and rationale behind the policy of providing public facilities in private developments have been explained to the Panel at its meeting on 22 April 2008. We have also briefed Members on the measures taken by the Administration to enhance public accessibility to these public facilities in private developments. The Panel invited deputations to express views on this subject on 31 May 2008.

3. The incorporation of public facilities in private developments for public use is intended to achieve integrated design, optimization of land use and better site planning, to bring forward the completion of some public facilities to serve a wider need, or to match the envisaged population intake brought by a private development project.

4. Such facilities can broadly be categorized into –

(a) Government, Institution and Community (GIC) facilities, such as community halls, elderly centres, nurseries, youth centres, schools etc.;

(b) public open space (POS);

(c) public transport terminus; and

(d) public access (e.g. pedestrian access like footbridges and vehicular access like right of way).

5. Such facilities, which may be located within or outside private lots, may arise under the following circumstances –

(a) land sale – Bureaux/Departments may propose to include in the land sale conditions the requirement that the developer shall provide certain facilities in the future development for public use; or

(b) private development/redevelopment – where the development requires planning permission by the Town Planning Board (TPB), such as when the site falls within or includes some land zoned “GIC” or “Open Space” (O), or in developments within a “Comprehensive

Development Area” (CDA) zone, Bureaux/Departments may propose the inclusion of some public facilities, or the developers themselves may propose such facilities in their planning applications for approval of the private developments. Such requirements may be imposed as planning conditions by TPB in approving the planning applications and subsequently translated into lease conditions if this is practical (for instance where the development is the subject of a new or modified lease).

6. Under the existing policy concerning sites zoned GIC/O or CDA, the costs of providing and maintaining such facilities generally fall on the developer if he wishes to proceed with the development or redevelopment. The main rationale behind this policy is that the priority for the Government’s capital works spending should not be dictated by private developments. In practice, departments are finding it difficult to seek resources for certain public facilities which are only needed if the private developments or land sales materialize. The mismatch in timing is also a common concern especially when resources bids for new capital works projects have to be considered on a competitive basis. However, the policy provides that, where large or extensive GIC/POS facilities are involved in a CDA site, the Government should not take advantage of the developer and should consider meeting part or all of the costs (capital and recurrent) of such facilities on a discretionary basis, provided that the case has met a set of criteria, as follows

-

- (a) the scale of the GIC/POS facilities involved is extensive, and the development will be implemented over a period of five or more years;

- (b) the cost of the GIC/POS facilities is substantial and is disproportionate in comparison to the overall development cost of the CDA project;
- (c) the ownership and operation of the GIC/POS facilities will revert to the Government on completion;
- (d) the GIC/POS facilities could have been excised from the boundary of the CDA development but have been retained within the CDA with the acquiescence of the Government, to achieve more integrated, sustainable planning or environmental benefits; and
- (e) the CDA development was initiated or endorsed by the Government and will make a significant contribution towards stated Government policy objectives.

7. The above GIC/POS facilities are required as a lease condition, and such provision by the developer does **not** attract any gross floor area (GFA) concessions. Discussion on this subject therefore should not be mixed up with the dedication of private space for public use as provided for under the Buildings Ordinance. Under the Buildings Ordinance, developers may *of their own volition* dedicate certain floor space in their developments as public passage for public use or pavement widening in return for concessions in the form of exemption of such floor space from GFA calculation or bonus GFA. The terms and conditions of such dedication are stipulated in the Deeds of Dedication signed between the Director of Buildings and the developer. The much discussed Times Square is a Deed of Dedication case but it is almost unique in the sense that while the dedication of ground level space by the developer is justified for public passage, it is also expressly stated in the Deed that the dedicated area may be used by the public for passive

recreational use. The situation is further complicated in the Times Square case in that the developer was allowed under the Deed to use some of the dedicated area for exhibition purposes. However, since interpretation of certain provisions in the Times Square Deed of Dedication is being contested in a litigation, we do not propose to go into the subject of Deed of Dedication in this paper.

## **RECENT DEVELOPMENTS**

8. GIC/POS facilities provided in private developments are meant for public use and enjoyment. The public has the right to know the existence and whereabouts of these facilities, and their uninterrupted access should be assured. To ensure and enhance public accessibility to these public facilities in private developments, DEVB has taken the initiative to implement several measures.

9. Access to information and transparency are keys to public accessibility. DEVB has asked the Lands Department (LandsD) to compile lists of private developments containing public facilities. Given the large number involved, we have been releasing the information in batches. On 28 March 2008, LandsD released the first list covering such public facilities in private developments completed since 1997. On 26 August 2008, LandsD uploaded an updated list covering private developments completed in or after 1992. The list now contains a total of 300 private developments which are required under lease to provide public facilities. They can be viewed from the Government's websites ([www.devb.gov.hk](http://www.devb.gov.hk) and [www.landsd.gov.hk](http://www.landsd.gov.hk)). In view of the greater interest in POS, LandsD has provided, in addition to

the master list of 300 private developments, an abridged list of 36 private developments containing POS each with location plans and photographs to help the public identify these facilities. LandsD will release the third batch of public facilities as required under lease, namely between 1987 and 1991, in December 2008. LandsD aims to release the remaining batch, namely between 1980 and 1986, in the first half of 2009.

10. The provision of information is also intended to facilitate public involvement in monitoring the management of such POS as it would be too manpower intensive for Government departments to patrol these developments on a regular basis. These lists contain information on the public facilities involved, the present arrangements for public use and a contact telephone number for members of the public to make enquiries or file complaints. Since the release of the lists, up to 26 November 2008, LandsD and BD have received a total of 196 enquiries and 41 complaints<sup>1</sup> on which follow up actions have been promptly taken. Compliance by owners is generally observed.

11. DEVB has written to the Real Estate Developers Association of Hong Kong (REDA), requesting its help to remind the trade that the provision of such facilities and the respective developers'/owners' management and maintenance responsibilities in respect of such facilities are clearly set out in the land leases or the deeds of dedication as the case may be.

---

<sup>1</sup> It is not possible to readily separate those cases relating to lease and those relating to Deeds of Dedication. There could be double-counting of the cases, given the duplication of the cases received. For example, some of the complaints received by BD were related to LandsD's list and have been referred to LandsD for follow up action.

We have stressed that compliance at all times is essential to address any public concerns.

12. Furthermore, LandsD and BD have written individually to the owners' incorporations or management companies of the private developments concerned, to require them to enhance public accessibility to those facilities by taking the following measures –

- (a) displaying notices in prominent places informing the public which public facilities are for public use, opening hours of those facilities, the parties responsible for managing and maintaining such facilities and their contact numbers for public enquiries;
- (b) ensuring that public access will not be obstructed or unreasonably denied; and
- (c) ensuring compliance with the relevant lease or deed conditions as appropriate.

13. We have also sought the support of the 18 District Councils (DCs) in monitoring the use of such facilities in their districts, and bringing to our attention any cases where follow up actions would be required.

## **PUBLIC VIEWS**

14. Different interest groups have expressed different views on the subject, in particular on the management of POS in private developments. These views are summarized below.

15. At the Panel on Development meeting on 31 May 2008, most of the professional institutes present considered that there was a need for integrated planning, and the provision of public facilities in private development was an appropriate arrangement. However, there was a need for delineating the management responsibility of such facilities and the prospective buyers of the development should be given full and clear information on the future responsibility of management and maintenance of these facilities, e.g. through sales brochures. The arts groups expressed at the same meeting the view that public space in private developments provides a much valued venue for their arts display and performance, and were wary that too stringent controls might deter developers from allowing their use in such public space. They felt that over-regulation and restrictions of access to these public spaces would inhibit arts development in Hong Kong.

16. REDA considers that as a general principle, if the public facilities within the private development are intended for the unrestricted use and enjoyment of the general public, the concerned Government department should fund those facilities and take up the maintenance responsibilities upon completion. If funding is not secured in time, then such facilities should be excluded from the development project. REDA however takes a more



relaxed view on shouldering the construction cost of POS provided that its operation and management would be taken over by the relevant Government department upon completion. REDA has also indicated willingness to consider taking up the management of such POS after completion but on a temporary basis, to allow time for the Government to obtain recurrent funding to take over the long term management responsibilities.

17. Individual flat owners are generally concerned about allowing public access to the facilities within their private estates, in particular open space. Prior to the publication of the lists of POS referred to above, many flat owners had regarded these to be for their exclusive use. They also claimed that they were not made aware of their liability in maintaining public facilities when they bought their flats. They are particularly dissatisfied that while they are asked to be held responsible, they do not have any control over public access and use of these facilities. Their concern is mainly about the security problems and nuisance brought about by opening up the POS to the public.

18. Civic groups consider that these public facilities are public assets and every member of the public should have unrestricted right to use and enjoy these facilities. Some are dissatisfied with the quality of these open spaces. Others tend to advocate that private owners managing these POS should not impose any restrictions on access and use.

19. The Land and Building Advisory Committee considered the matter twice at its regular meetings. Members agree that there are merits in the policy of providing public facilities in private developments, and generally

support the continuation of the policy. Nevertheless, they recognise that some problems have emerged in the implementation of the policy over the years, and that it is timely for the Government to review the matter in view of changes in circumstances and public aspirations.

20. Members of TPB note that for future cases, unless there is a shortfall of existing and planned open space provision in the district or special circumstances justifying the provision of POS as part of private development projects, Bureaux/Departments would not in future recommend TPB to accept or require the provision of POS in private developments, especially residential developments, or on Government land adjacent to such developments, in order to prevent the recurrence of implementation problems highlighted in the public discussions. TPB has concluded that it would from now on 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.

## **POSSIBLE DIRECTION FOR FUTURE DEVELOPMENTS**

### ***Policy to provide public facilities***

21. The policy on the incorporation of public facilities in private developments for public use has been in force since 1980. It is based on sound considerations and enables the needed facilities to be provided to the public in a timely and integrated manner through private developments, provides for better planning and optimizes the use of limited land. We consider that this policy of providing public facilities through private

developments should be upheld. However, in implementing this policy, we need to take into account the following –

- (a) whether the funding arrangement is fair to parties involved;
- (b) whether subsequent responsibilities for the facilities' operation, management and maintenance are clearly delineated and are transparent and accountable to the public and parties involved; and
- (c) whether the design and location of the public facilities are conducive to public accessibility.

### ***Funding***

22. In a private development project, the provision of GIC facilities (other than open spaces) reflects Government's policy responsibility and the costs arguably should be borne by the Government. There are basically two methods to fund these facilities.

23. One is to deduct them from the land premium to be charged. However, in the current standards of accountability, there is a strong and valid argument that any publicly funded Government facilities should be subject to the same level of scrutiny applicable to other public works items through appropriation of Government expenditure with LegCo approval. Deducting the construction costs of these items from the land premium could be perceived or criticized as attempts to bypass the normal funding mechanism.

24. The other method is to treat the construction of these public facilities as entrusted works, with the Government reimbursing the developers the cost of construction, subject to a pre-determined financial ceiling worked out on the basis of the Government building the facility as a normal PWP item. Upon completion, the facilities would be handed over to the relevant departments for operation and management. In this way, the proposed facilities would be subject to the same funding process as compared with other public works items. While this method would have the advantage of transparency and greater public acceptability, the timing mismatch in the Government's resource allocation system as discussed above, as well as the need to allow time for seeking funding approval from LegCo, are problems to be addressed.

### *Open Space*

25. The provision of open space is slightly different from other GIC facilities. In most cases, the design of the open space forms an integral part of the private development and if made available for public use, would help to meet the acute shortfall of local open space in certain highly built-up or greenfield areas. Where the planned open space sits on Government land adjacent to the private development (e.g. waterfront promenades), there are clear planning and environmental benefits for the open space to be developed together with the private development, rather than for the site to lie idle awaiting the public works programme to materialise. Also, the open space would enhance the value of the adjacent private development, and its construction as part and parcel of the private development is generally welcomed by developers and the prospective buyers. Given the benefits of the open space to the private development and its relative modest cost, it would seem not unreasonable for the developers to meet the construction cost. Indeed, as reported above, REDA does not resist funding the OS or even

maintaining it for a while upon completion.

26. Following from the above, the acceptance or otherwise of an integrated OS provision in a private development would therefore depend on the overall provision or shortage of open space in the area. In this connection, we have compiled for Members' information the existing and planned provision of open space as per the Hong Kong Planning Standards and Guidelines (HKPSG) standards on a district-by-district basis, as set out at Annex A. It should be noted that in terms of planning standards on open space, the HKPSG distinguishes between district open space (DOS) and local open space (LOS), but does not specify how much of this open space should be public open space and private open space.

27. At present, it is not uncommon for open space to be provided in private residential developments and commercial developments. For open space provided in private **residential** developments, we recognise that it may be difficult for small flat owners to accept the perpetual liability to manage such facilities for public use on a permanent basis. Where the POS is on Government land (and there is usually a clause in the lease for the Government to recover the OS at its discretion), the more appropriate solution would seem to be to transfer the management of such open space to the relevant Government departments upon completion, or within a defined period when recurrent funding is being secured by the concerned operating department. Where the POS is on private land on which the residential development is built, there could be little viable alternative to the private owners shouldering such management and maintenance responsibilities, lest this would be in breach of the lease and give rise to land ownership complications. However, the problem should be finite as TPB has noted that in future, Bureaux/Departments should not recommend the Board to accept POS in private developments especially residential developments.

28. For open space on private land provided in commercial development such as major shopping centres, the problem of multiple ownership may not always arise and the private developer would normally prefer to continue to manage such ancillary open space as part of their shopping attraction. For POS on Government land provided in commercial developments, the preferred option may still be handing over to a relevant Government department.

29. Some developers, owners and management of private developments suggest that it would be useful for the Government to promulgate some management guidelines applicable to such privately-owned public space, in terms of the location and design, management and maintenance, and accessibility to the public. This would help to allay concerns, such as whether making available such area for use for non-profit-making activities, like promotion of arts and cultural activities, would constitute any breaches. To assist the public to enjoy and access this open space, the Government has commissioned an assignment to formulate management guidelines applicable to these privately-owned POS. In drawing up the guidelines, reference will be made to other similar guidelines adopted in other cities, such as the New York City Guidelines. Our Guidelines would cover the following broad aspects -

- (a) the obligations of the owners in ensuring public access;
- (b) the obligations of the public in using such open space;
- (c) the circumstances under which permission for certain activities may be considered, and circumstances under which discretion to refuse certain activities may be considered; the procedures to be adopted for

handling such cases and the questions of fees/charges where applicable;

(d) the location and design, landscaping and seating, signage and notice;  
and

(e) the management and maintenance responsibilities.

## **POSSIBLE SOLUTIONS TO EXISTING DEVELOPMENTS**

30. In respect of such existing developments released so far, the developers, the owners' incorporations or the management companies have largely managed to ensure that the public have access to the POS within their developments, and the relevant lease conditions should continue to be upheld. However, there may be **isolated** cases where as an exceptional measure on compassionate grounds, Government's recovery of the operation and management responsibility could be justified. We have compiled at Annex B information on several such cases which have been brought to our attention (some on Government land and some on private land), to illustrate the difficulties experienced by the owners and the sentiments of the owners.

### ***Existing POS on Government Land***

31. 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 the relevant Area Committee.

### ***Existing POS on Private Land***

32. For public open space on private land which forms part of the development, there are calls to waive the requirement in the lease for public accessibility in respect of existing POS on private land within residential developments. We foresee considerable difficulties in doing this in view of possible public objections that a piece of POS would no longer be open to the public. These POS will therefore continue to be privately managed, but on a very exceptional basis, we are prepared to sympathetically consider waiving the requirement of public accessibility in the lease, subject to the following criteria -



- (a) it is legally in order for LandsD to do so;
- (b) 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;
- (c) 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;
- (d) the agreement of TPB for amending the relevant plans if required; and
- (e) 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.

33. While it might be technically feasible to do so, whether a case can be justified has to be examined on its individual merits. Having analyzed all the POS released so far, only 12 POS are located on private land at the podium levels. Of these 12 POS, we consider that only Metro Harbour View warrants exceptional consideration, as the POS required by lease is located at the podium level and fully integrated with the tower blocks and private clubhouse facilities, whereas for other cases with similar POS at the podium level, such POS can be separated physically from the tower blocks and private clubhouse facilities, like Castello. The owners of Metro Harbour View consider that there are real difficulties in terms of management and security in making the podium level OS available for public use. The owners are however agreeable to continue providing public access to part of

the OS provided on the shopping floors below the podium with enhancement if needed in order to offset the removal of the podium OS. We have examined the provision of open space around the area. Generally, there is a surplus in the total provision of open space in the YTMDC. Specifically, adjacent to Metro Harbour View, there is ample supply of open space, such as Nam Cheong Park, Tung Chau Street Park, Lok Kwan Street Park, Sycamore Playground and an unnamed open space outside the West Kowloon Disciplined Services Quarters. Having balanced the difficulties faced by concerned owners and the provision of open space for the public in the area, a case for considering the waiving of lease requirement of public accessibility to the podium OS could be justified in the spirit of people-based governance, subject to the support of TPB, YTMDC and YTM West Area Committee.

## **CONCLUSION**

34. The provision of POS within private developments is a complex subject which calls for pragmatic solutions. The Administration will continue to pursue the possible solutions as outlined above and will formulate appropriate guidelines for private landowners in the management of POS within their developments. In the meantime, we welcome any comments and suggestions from Members.

**Development Bureau  
November 2008**

## Demand and Provision of Open Space

( Existing Population and Planned Population include usual residents, mobile residents, but exclude transients )

District Council	Existing Pop. (Year 2008)	HKPSG's Requirement (ha.)	Existing Open Space (ha.)			Surplus/ Shortfall (ha.) ( + or - )	Planned Pop.	HKPSG's Requirement (ha.)	Existing and Planned Open Space (ha.)		Surplus/ Shortfall (ha.) ( + or - )
			Local Open Space (LO)	District Open Space (DO)	Provided by HA				LO	DO	
1. Central and Western	250,400	50.1 (LO: 25.0) (DO: 25.0)	14.9 (Pub.: 13.3) (Pri.: 1.6)	28.9 (Pub.: 28.9) (Pri.: 0.0)	0.2	-6.0 (LO: -9.9) (DO: 3.9)	265,900	53.2 (LO: 26.6) (DO: 26.6)	17.3 (Pub.: 15.4) (Pri.: 1.9)	39.8 (Pub.: 39.8) (Pri.: 0.0)	3.9 (LO: -9.3) (DO: 13.2)
2. Wan Chai	155,000	31.0 (LO: 15.5) (DO: 15.5)	13.6 (Pub.: 13.1) (Pri.: 0.5)	15.1 (Pub.: 15.1) (Pri.: 0.0)	0.0	-2.3 (LO: -1.9) (DO: -0.4)	159,200	31.8 (LO: 15.9) (DO: 15.9)	14.7 (Pub.: 13.8) (Pri.: 0.9)	19.4 (Pub.: 19.4) (Pri.: 0.0)	2.3 (LO: -1.2) (DO: 3.5)
3. Eastern	586,100	117.2 (LO: 58.6) (DO: 58.6)	39.9 (Pub.: 18.1) (Pri.: 21.8)	57.0 (Pub.: 57.0) (Pri.: 0.0)	36.0	15.7 (LO: 17.3) (DO: -1.6)	581,200	116.2 (LO: 58.1) (DO: 58.1)	83.4 (Pub.: 61.3) (Pri.: 22.1)	73.4 (Pub.: 73.4) (Pri.: 0.0)	40.6 (LO: 25.3) (DO: 15.3)
4. Southern	275,800	55.2 (LO: 27.6) (DO: 27.6)	22.7 (Pub.: 12.5) (Pri.: 10.2)	32.1 (Pub.: 32.1) (Pri.: 0)	21.4	21.0 (LO: 16.5) (DO: 4.5)	277,600	55.5 (LO: 27.8) (DO: 27.8)	59.1 (Pub.: 47.1) (Pri.: 12.0)	40.7 (Pub.: 40.7) (Pri.: 0.0)	44.2 (LO: 31.3) (DO: 12.9)
5. Yau Tsim Mong	294,300	58.9 (LO: 29.4) (DO: 29.4)	14.9 (Pub.: 10.7) (Pri.: 4.2)	47.2 (Pub.: 47.2) (Pri.: 0.0)	3.1	6.4 (LO: -11.4) (DO: 17.8)	339,900	68.0 (LO: 34.0) (DO: 34.0)	26.3 (Pub.: 15.8) (Pri.: 10.5)	79.1 (Pub.: 79.1) (Pri.: 0.0)	37.4 (LO: -7.7) (DO: 45.1)

District Council	Existing Pop. (Year 2008)	HKPSG's Requirement (ha.)	Existing Open Space (ha.)			Surplus/ Shortfall (ha.) ( + or - )	Planned Pop.	HKPSG's Requirement (ha.)	Existing and Planned Open Space (ha.)		Surplus/ Shortfall (ha.) ( + or - )
			Local Open Space (LO)	District Open Space (DO)	Provided by HA				LO	DO	
6. Kowloon City	362,200	72.4 (LO: 36.2) (DO: 36.2)	26.2 (Pub.: 23.7) (Pri.: 2.5)	53.4 (Pub.: 53.4) (Pri.: 0.0)	8.3	15.5 (LO: -1.7) (DO: 17.2)	485,600	97.1 (LO: 48.6) (DO: 48.6)	60.6 (Pub.: 56.9) (Pri.: 3.7)	103.9 (Pub.: 103.9) (Pri.: 0.0)	67.3 (LO: 12.0) (DO: 55.3)
7. Kwun Tong	592,600	118.5 (LO: 59.3) (DO: 59.3)	34.9 (Pub.: 26.5) (Pri.: 8.4)	43.6 (Pub.: 43.6) (Pri.: 0.0)	71.9	31.8 (LO: 47.5) (DO: -15.7)	669,800	134.0 (LO: 67.0) (DO: 67.0)	129.3 (Pub.: 118.1) (Pri.: 11.2)	102.3 (Pub.: 102.3) (Pri.: 0.0)	97.6 (LO: 62.3) (DO: 35.3)
8. Wong Tai Sin	425,900	85.2 (LO: 42.6) (DO: 42.6)	13.3 (Pub.: 12.5) (Pri.: 0.8)	34.2 (Pub.: 34.2) (Pri.: 0.0)	69.2	31.5 (LO: 39.9) (DO: -8.4)	421,000	84.2 (LO: 42.1) (DO: 42.1)	86.9 (Pub.: 85.7) (Pri.: 1.2)	53.5 (Pub.: 53.5) (Pri.: 0.0)	56.2 (LO: 44.8) (DO: 11.4)
9. Sham Shui Po	373,400	74.7 (LO: 37.3) (DO: 37.3)	19.4 (Pub.: 12.2) (Pri.: 7.2)	51.1 (Pub.: 51.1) (Pri.: 0.0)	31.2	27.1 (LO: 13.3) (DO: 13.8)	471,500	94.3 (LO: 47.2) (DO: 47.2)	58.3 (Pub.: 48.9) (Pri.: 9.4)	60.9 (Pub.: 60.9) (Pri.: 0.0)	24.8 (LO: 11.1) (DO: 13.7)
10. Kwai Tsing	524,300	104.9 (LO: 52.4) (DO: 52.4)	37.4 (Pub.: 28.8) (Pri.: 8.6)	19.0 (Pub.: 19.0) (Pri.: 0.0)	67.4	19.0 (LO: 52.4) (DO: -33.4)	503,300	100.7 (LO: 50.3) (DO: 50.3)	117.4 (Pub.: 108.2) (Pri.: 9.2)	41.3 (Pub.: 41.3) (Pri.: 0.0)	58.1 (LO: 67.1) (DO: -9.0)
11. Tsuen Wan	295,200	59.0 (LO: 29.5) (DO: 29.5)	29.4 (Pub.: 12.7) (Pri.: 16.7)	29.7 (Pub.: 29.7) (Pri.: 0.0)	11.1	11.2 (LO: 11.0) (DO: 0.2)	293,000	58.6 (LO: 29.3) (DO: 29.3)	46.4 (Pub.: 28.1) (Pri.: 18.3)	51.6 (Pub.: 51.6) (Pri.: 0.0)	39.4 (LO: 17.1) (DO: 22.3)

District Council	Existing Pop. (Year 2008)	HKPSG's Requirement (ha.)	Existing Open Space (ha.)			Surplus/ Shortfall (ha.) ( + or - )	Planned Pop.	HKPSG's Requirement (ha.)	Existing and Planned Open Space (ha.)		Surplus/ Shortfall (ha.) ( + or - )
			Local Open Space (LO)	District Open Space (DO)	Provided by HA				LO	DO	
12. Sha Tin	619,800	124.0 (LO: 62.0) (DO: 62.0)	32.1 (Pub.: 24.3) (Pri.: 7.8)	70.5 (Pub.: 70.5) (Pri.: 0.0)	89.4	68.0 (LO: 59.5) (DO: 8.5)	673,500	134.7 (LO: 67.4) (DO: 67.4)	140.7 (Pub.: 127.8) (Pri.: 12.9)	99.3 (Pub.: 99.3) (Pri.: 0.0)	105.2 (LO: 73.3) (DO: 31.9)
13. Tai Po	297,800	59.6 (LO: 29.8) (DO: 29.8)	20.7 (Pub.: 12.4) (Pri.: 8.3)	45.4 (Pub.: 45.4) (Pri.: 0.0)	32.0	38.5 (LO: 22.9) (DO: 15.6)	325,000	65.0 (LO: 32.5) (DO: 32.5)	64.4 (Pub.: 51.1) (Pri.: 13.3)	70.9 (Pub.: 70.9) (Pri.: 0.0)	70.3 (LO: 31.9) (DO: 38.4)
14. North	294,200	58.8 (LO: 29.4) (DO: 29.4)	25.2 (Pub.: 20.7) (Pri.: 4.5)	21.8 (Pub.: 21.8) (Pri.: 0.0)	29.8	18.0 (LO: 25.6) (DO: -7.6)	323,200	64.6 (LO: 32.3) (DO: 32.3)	75.6 (Pub.: 63.7) (Pri.: 11.9)	44.3 (Pub.: 44.3) (Pri.: 0.0)	55.3 (LO: 43.3) (DO: 12.0)
15. Tuen Mun	508,600	101.7 (LO: 50.9) (DO: 50.9)	22.6 (Pub.: 15.4) (Pri.: 7.2)	62.3 (Pub.: 62.3) (Pri.: 0.0)	78.9	62.0 (LO: 50.6) (DO: 11.4)	588,200	117.6 (LO: 58.8) (DO: 58.8)	118.3 (Pub.: 110.8) (Pri.: 7.5)	103.2 (Pub.: 103.2) (Pri.: 0.0)	103.9 (LO: 59.5) (DO: 44.4)
16. Yuen Long	554,200	110.8 (LO: 55.4) (DO: 55.4)	48.1 (Pub.: 36.2) (Pri.: 11.9)	23.0 (Pub.: 23.0) (Pri.: 0.0)	45.3	5.6 (LO: 38.0) (DO: -32.4)	666,200	133.2 (LO: 66.6) (DO: 66.6)	140.9 (Pub.: 111.1) (Pri.: 29.8)	104.4 (Pub.: 104.4) (Pri.: 0.0)	112.1 (LO: 74.3) (DO: 37.8)
17. Sai Kung	416,200	83.2 (LO: 41.6) (DO: 41.6)	24.2 (Pub.: 9.6) (Pri.: 14.6)	19.4 (Pub.: 19.4) (Pri.: 0.0)	41.7	2.1 (LO: 24.3) (DO: -22.2)	510,800	102.2 (LO: 51.1) (DO: 51.1)	81.0 (Pub.: 57.4) (Pri.: 23.6)	71.9 (Pub.: 71.9) (Pri.: 0.0)	50.7 (LO: 29.9) (DO: 20.8)

District Council	Existing Pop. (Year 2008)	HKPSG's Requirement (ha.)	Existing Open Space (ha.)			Surplus/ Shortfall (ha.) ( + or - )	Planned Pop.	HKPSG's Requirement (ha.)	Existing and Planned Open Space (ha.)		Surplus/ Shortfall (ha.) ( + or - )
			Local Open Space (LO)	District Open Space (DO)	Provided by HA				LO	DO	
18. Islands	146,800	29.4 (LO: 14.7) (DO: 14.7)	27.1 (Pub.: 19.9) (Pri.: 7.2)	34.8 (Pub.: 25.0) (Pri.: 9.8)	18.0	50.5 (LO: 30.4) (DO: 20.1)	226,500	45.3 (LO: 22.7) (DO: 22.7)	62.4 (Pub.: 52.7) (Pri.: 9.7)	92.6 (Pub.: 81.3) (Pri.: 11.3)	109.6 (LO: 39.7) (DO: 69.9)

Notes :

- (1) The above data figures are compiled by Planning Department from the planning point of view.
- (2) According to the Hong Kong Planning Standards and Guidelines (HKPSG), a minimum of 10 ha. of local open space (LO) and 10 ha. of district open space (DO) should be provided for every 100,000 persons, which means that a minimum of 20 ha. of open space for every 100,000 persons.
- (3) The HKPSG provides a set of standards and guidelines for concerned Government departments to assess the scale, location and necessity of various public facilities. However, the standards and guidelines should be applied in a flexible manner and other considerations, such as provision and usage of existing facilities, population growth of the district and the availability of resources, should also be taken into account in the planning process.
- (4) According to HKPSG, slope area, which is not suitable for development, has been deducted from open space area, and the sports grounds, water body of beaches, water sports centres, camp sites and holiday villages managed by the Leisure and Cultural Services Department are not counted as open space. However, open space within private developments has been included.
- (5) "Existing Population (Pop.)" is based on the mid-year population projection for Year 2008 prepared by the "Working Group on Population Distribution Projections", which includes the usual residents and mobile residents but excludes the transient population.
- (6) For "Existing Open Space", "Public (Pub.)" represents public open space on Government land and those provided within large private developments for public use, while "Private (Pri.)" includes private open space within large private developments.
- (7) Figures of open space "Provided by Housing Authority (HA)" were provided by Housing Department in June 2008.
- (8) "Planned Population (Pop.)" is the projected population within a future time horizon having regard to its existing population and future population change as a result of known and planned residential developments.
- (9) In the column of "Existing and Planned Open Space", "Pub." represents public open space on Government land and those provided within large

private developments for public use, open spaces managed by the Housing Authority, areas zoned "O" on the Outline Zoning Plans and Development Permission Area Plans, areas zoned "LO" and "DO" on the Outline Development Plans and Layout Plans, while "Pri." includes private open space within large private developments.

- (10) Although there are shortfalls of open space provision in some districts, due to scarce land resource in HK, it is not uncommon that the open space provision cannot meet the minimum requirement, especially in some old built-up districts. However, the Government will gradually improve the situation for meeting the requirement through various measures including urban renewal. Planning Department will continue to review the situation regularly, and liaise with concerned departments to enable the open space provision to meet the public needs.
- (11) Due to rounding error, the summation of "Pub." and "Pri" may be different from the total area.

**POS in Private Developments**

**(A) POS on Government Land**

There are four existing POS on Government land zoned “O” in Tung Chung. These fall outside the private lots zoned “CDA”, but the private developments are required under lease to manage and maintain them and open them for public use –

see Item on Appendix I	Development (Lot)	Size of Development (flats)	Size of POS
A	Tung Chung Crescent (TCTL1)	2,158	9,400 m <sup>2</sup>
B	Seaview Crescent (TCTL3)	1,536	8,300 m <sup>2</sup>
C	Coastal Skyline (TCTL4)	3,370	27,400 m <sup>2</sup>
D	Carribbean Coast (TCTL5) <sup>(note 1)</sup>	5,336	14,200 m <sup>2</sup>

Please see Appendix I for the layout plans and Appendix II for the aerial photos and Appendix III for some on-site photos.

2. These POS originated from the Tung Chung Town Centre Study commissioned by MTRC in January 1992 and presented to the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (TPB) in July 1992. As the four sites were zoned CDA, submission of Master Layout Plans (MLP) to RNTPC was required, and the developments within the CDA zones were approved with conditions by RNTPC in July 1994, including the development of the POS.

3. In the respective lease of each of the four developments, there are the following standard lease conditions –

- (a) formation of the POS by the Grantee;

---

<sup>Note 1</sup> For Carribbean Coast, apart from 14,200 m<sup>2</sup> covered by the planning study, there is an additional POS of 5,090 m<sup>2</sup> subsequently incorporated into the land lease by the District Lands Conference in June 1996 (see item E on Appendix I).



- (b) maintenance of the POS by the Grantee;
- (c) the Grantee is responsible for the upkeep, maintenance and repair of the POS, until the POS is *redelivered* to the Government *on demand*; and
- (d) the Grantee shall at all times while he is in possession of the POS allow free access over and along the POS for all Government and public pedestrian traffic.

4. While there are no complaints from Tung Chung Crescent and Seaview Crescent, owners from the Coastal Skyline and Caribbean Coast have complained through letters to the Government, approaching District Council Members and Legislative Council Members that it is unfair for them to bear the management and maintenance costs of such open space, and demand that the Government should take over such POS, which are located on Government land and the scale of which is disproportionate to their developments.

**(B) POS on Private Land**

5. The Metro Harbour View, No. 8 Fuk Lee Street, was zoned “CDA”, and there is a POS of about 9,800 m<sup>2</sup> spread over first floor, second floor and the podium level integrated with the development. Please see Appendix IV for the layout plans and Appendix V for some on-site photos.

6. The OS requirement was specified in the planning brief based on requests from the department concerned at that time. The requirement was subsequently incorporated in the MLP first approved by the Metro Planning Committee of the TPB in April 1998 for residential and hotel development. The proposed development was later changed to residential only and approved by the TPB in June 1999, and the requirement was stipulated as a planning condition, namely “the design and provision of a POS (9,848 sq. m.) within the proposed development, as proposed by the applicant, to the satisfaction of the Director of Planning or of the Town Planning Board”. It was indicated on the Landscape Master Plan that the opening hours of the POS would be 7:00 to 22:00.

7. The requirement was subsequently imposed in the lease. According to the lease conditions -

- (a) The Grantee is required to provide within the lot an area of open space of not less than 9,800 m<sup>2</sup> to the satisfaction of the Director of Lands; and
- (b) The Grantee shall upon completion of the open space throughout the term of the lease manage and maintain the space to the satisfaction of the Director of Lands and keep the space open for use by the public free of charge without any interruption at such hours as the Director may require.

Inspection before the issue of the Certificate of Compliance showed -

- (a) Sign board showing the opening hours of the POS from 07:00 to 22:00 daily were found displayed on Ground Floor of the development at Fuk Lee Street outside the staircase leading to the POS.
- (b) Sign boards were found displayed on First Floor, Second Floor and Podium of the development, showing the location of the POS on the approved Master Layout Plan and opening hours from 07:00 to 22:00 daily on the approved Landscape Master Plan respectively.

8. Subsequently, to reflect the built development, the site was rezoned from CDA to R(A)1. The Notes of the “R(A)1” zone stipulates that “a POS of not less than 9,854 m<sup>2</sup> shall be provided”. If the requirement of POS provision is to be removed, amendment to the Notes of the OZP would be required. The amendment, if approved by the TPB, would be exhibited for public inspection under section 5 or section 7 of the Town Planning Ordinance, and the public (including the owners and the affected users) could submit their representations. A final view will be taken by the TPB having regard to the merits of the case and the public’s representation in due course.

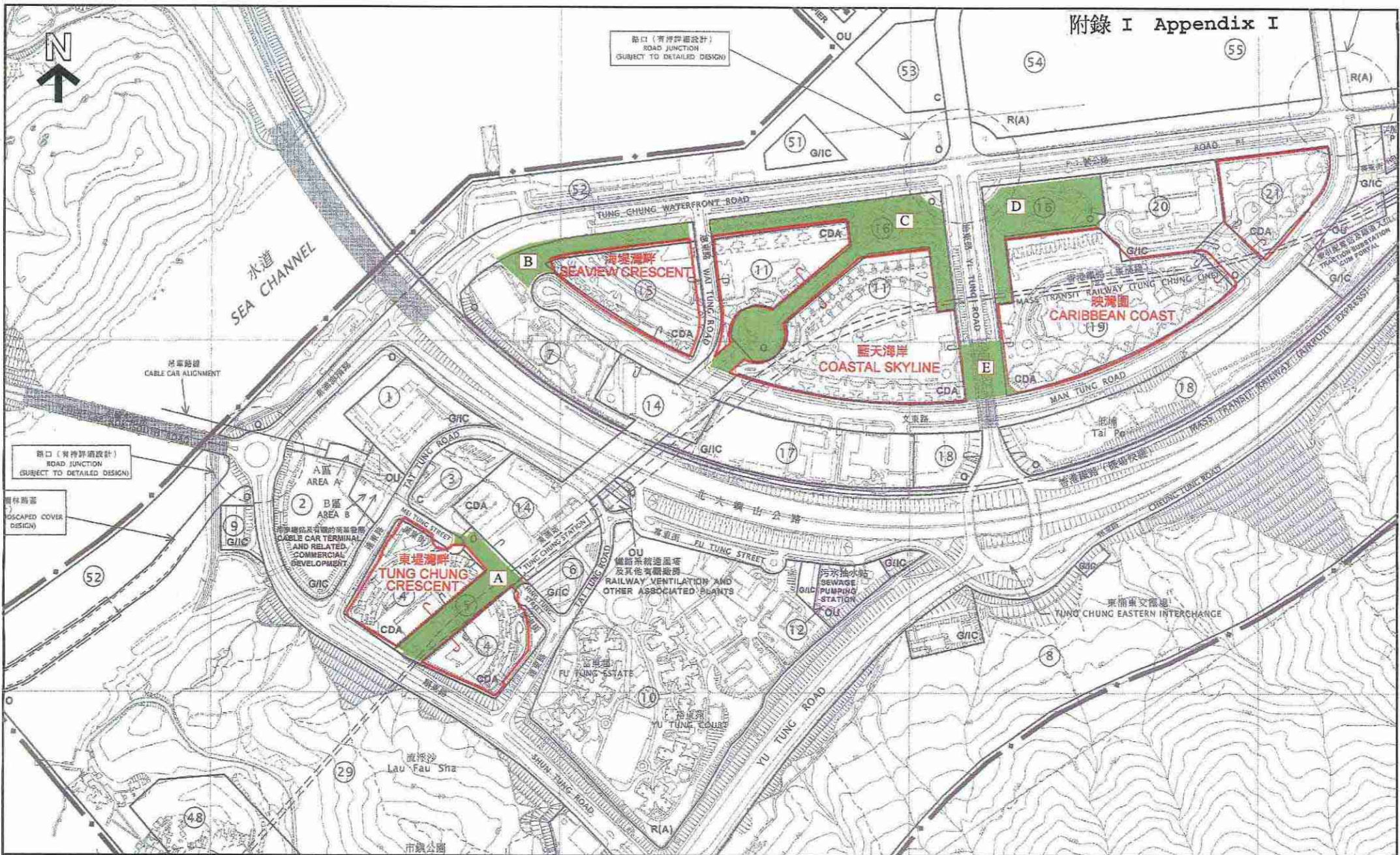
9. In fact, well before this private development was included in

LandsD's list of public facilities in private developments, there have been continuous arguments between the owners and management and the public/users and the Government, over enforcing the requirement of public accessibility of the POS.

10. Since the uploading of the case onto the website in end March 2008, the arguments between the two sides have intensified. For example, an objector has indicated that he has visited the POS for over 20 times since March 2008 and would reserve his right to initiate a judicial review if the POS at Metro Harbour View were to be changed to private use. On the other hand, a Rights Protection Sub-group apparently formed by owners has repeatedly sought to remove the requirement of public access to the POS at the podium level. The owners have complained through letters to the Government, approaching District Council Members and Legislative Council Members that opening the POS for public use is causing them difficulties. The case was discussed at the YTM District Council but no conclusion has yet been reached.

Development Bureau  
November 2008

路口 (有待詳細設計)  
ROAD JUNCTION  
(SUBJECT TO DETAILED DESIGN)



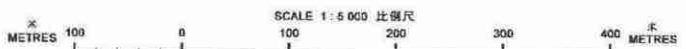
路口 (有待詳細設計)  
ROAD JUNCTION  
(SUBJECT TO DETAILED DESIGN)

預留路蓋  
(DISCAPED COVER  
DESIGN)

 公眾休憩空間 (只作指示用)  
PUBLIC OPEN SPACE (INDICATIVE ONLY)

### 平面圖 LAYOUT PLAN

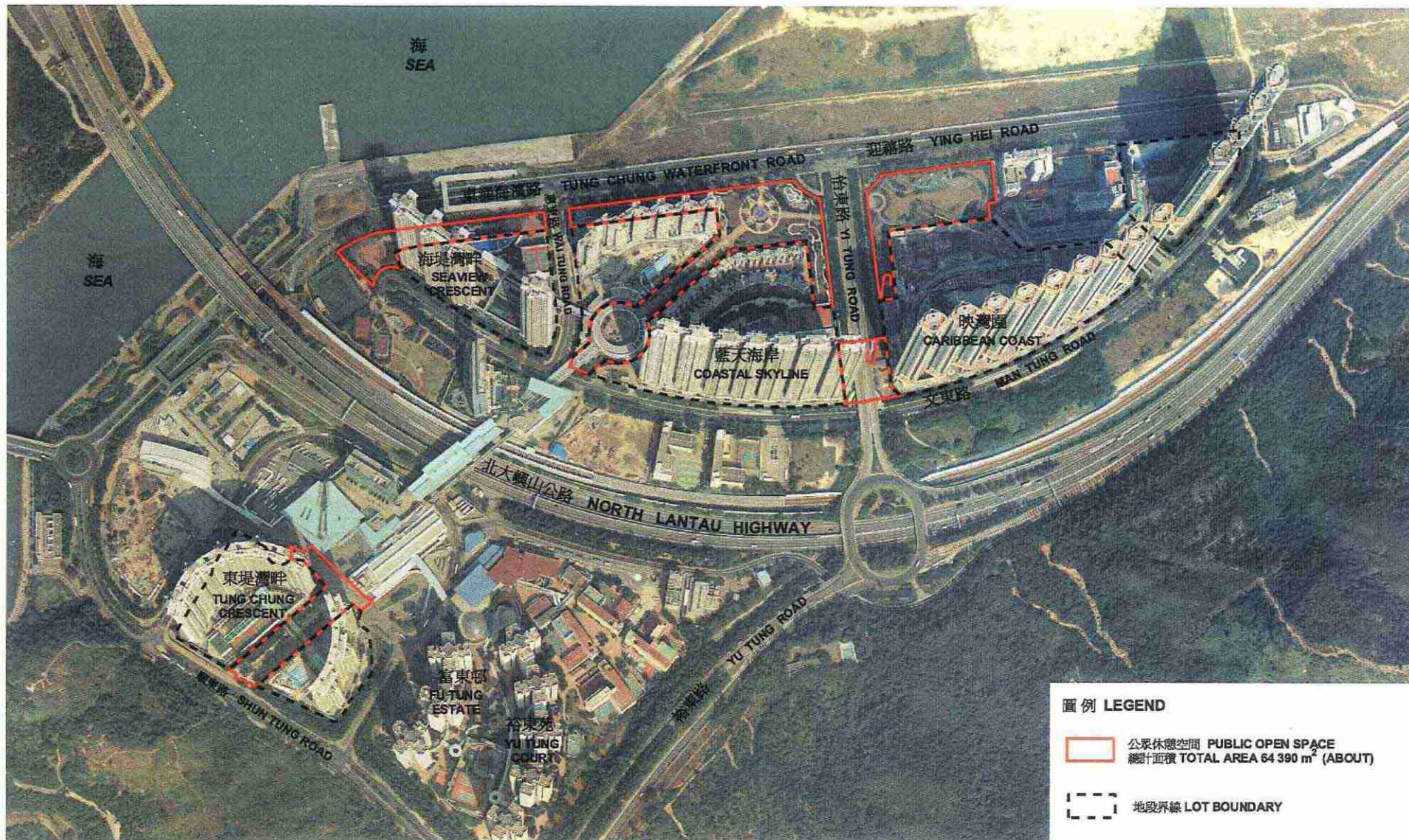
本摘要圖於2008年12月1日製備，所根據的資料為於2008年8月8日核准的分區計劃大綱圖編號S/1-TCTC/15  
EXTRACT PLAN PREPARED ON 1.12.2008 BASED ON OUTLINE ZONING PLANS No. S/1-TCTC/15 APPROVED ON 8.8.2008



規劃署 西貢及離島規劃處  
SAI KUNG AND ISLANDS  
DISTRICT PLANNING OFFICE  
PLANNING DEPARTMENT



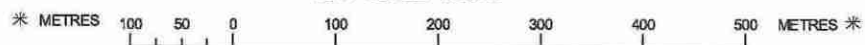
M/LI 08/63



圖例 LEGEND

- 公眾休憩空間 PUBLIC OPEN SPACE  
總計面積 TOTAL AREA 64 390 m<sup>2</sup> (ABOUT)
- 地段界線 LOT BOUNDARY

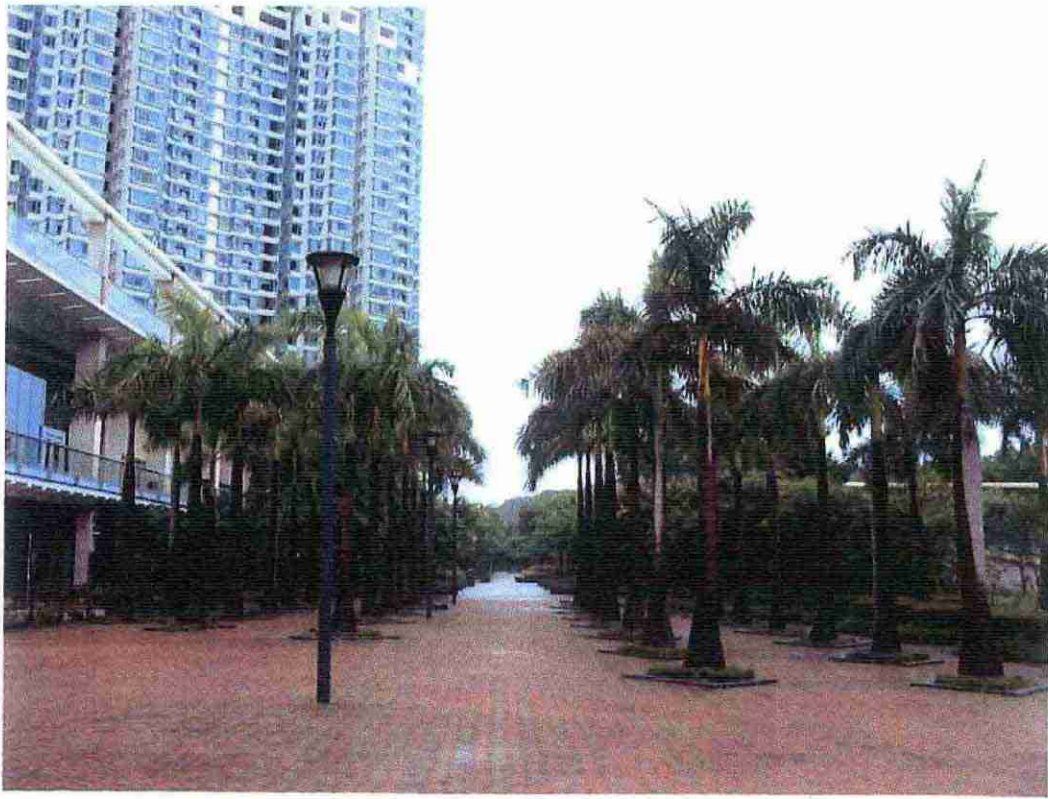
比例 SCALE 1: 5000



東堤灣畔 Tung Chung Crescent



海堤灣畔 Seaview Crescent



## 藍天海岸 Coastal Skyline

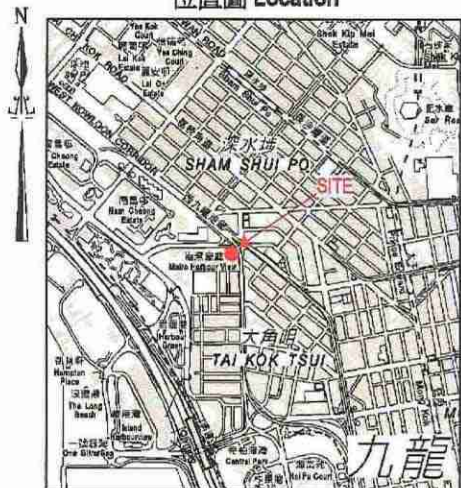




## 映灣園 Caribbean Coast



位置圖 Location



相片四 Photo 4

港灣豪庭 福利街8號  
Metro Harbour View 8 Fuk Lee Street

相片一 Photo 1



相片三 Photo 3



相片二 Photo 2



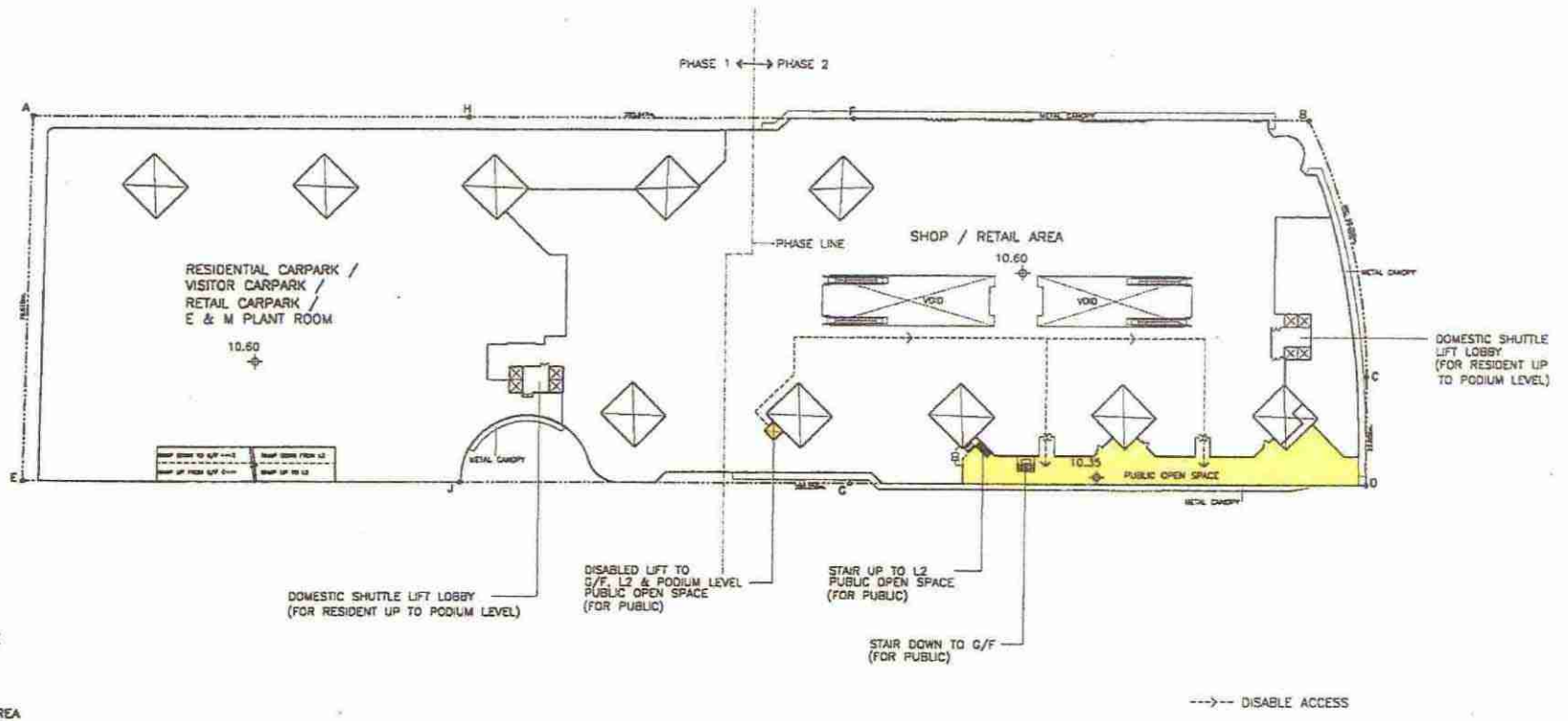
0 10 20 30 40 50 60 Meters

只作識別用 FOR IDENTIFICATION PURPOSE ONLY

地政總署 土地訊息中心  
Land Information Centre  
Lands Department  
圖則由土地訊息中心繪製  
Plan Prepared by LIC

港灣豪庭 福利街8號  
Metro Harbour View 8 Fuk Lee Street

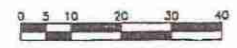
檔案編號 File No.	LD SMO/LIC 1/2/1
測量圖編號 Survey Sheet No.	11-NW-13D/14C
發展藍圖編號 Layout Plan No.	
參考圖編號 Reference Plan No.	
圖則編號 PLAN No.	LIC-OS020

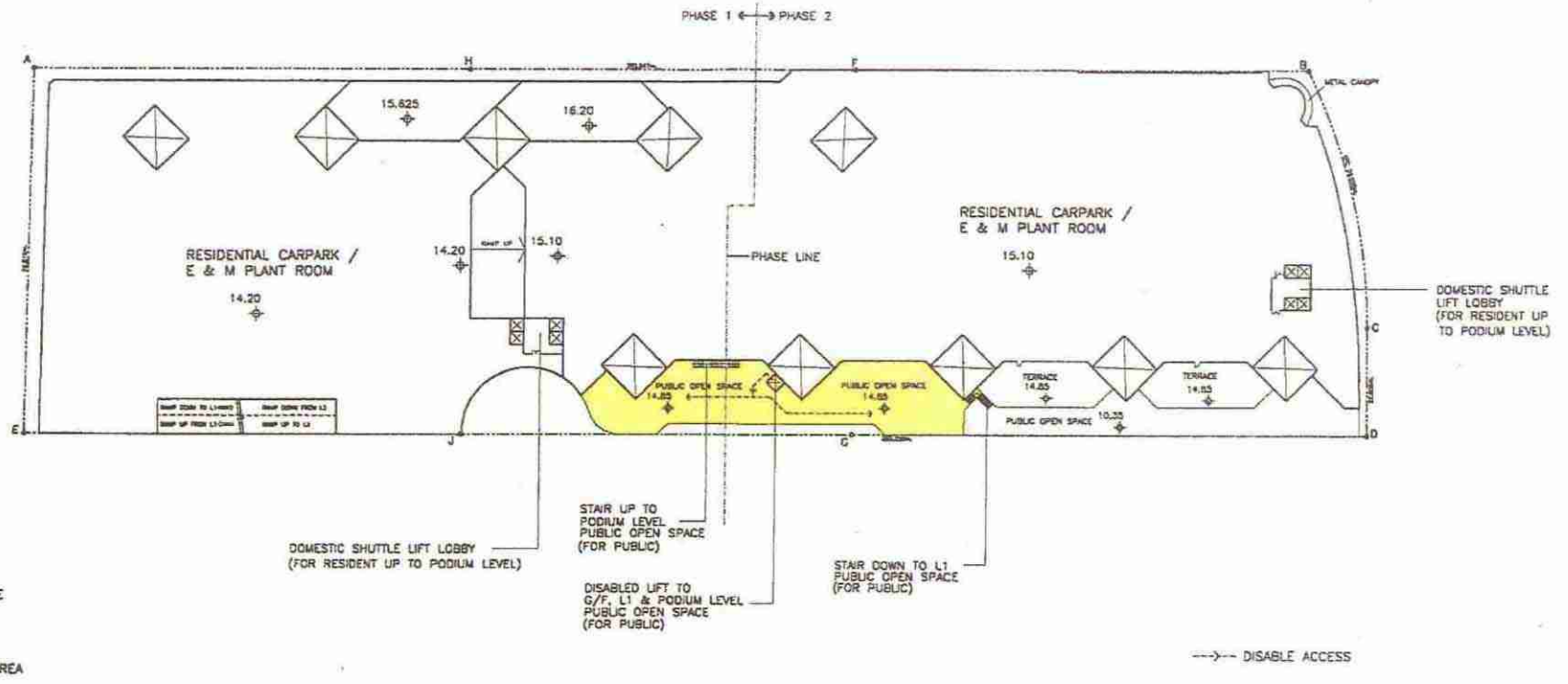


LEVEL 1 FLOOR PLAN

COMPREHENSIVE REDEVELOPMENT  
AT K.I.L. 11127  
TAI KOK TSUI, KOWLOON.

LEVEL 1 FLOOR PLAN  
SCALE 1:1000  
DWG NO: ML-04F



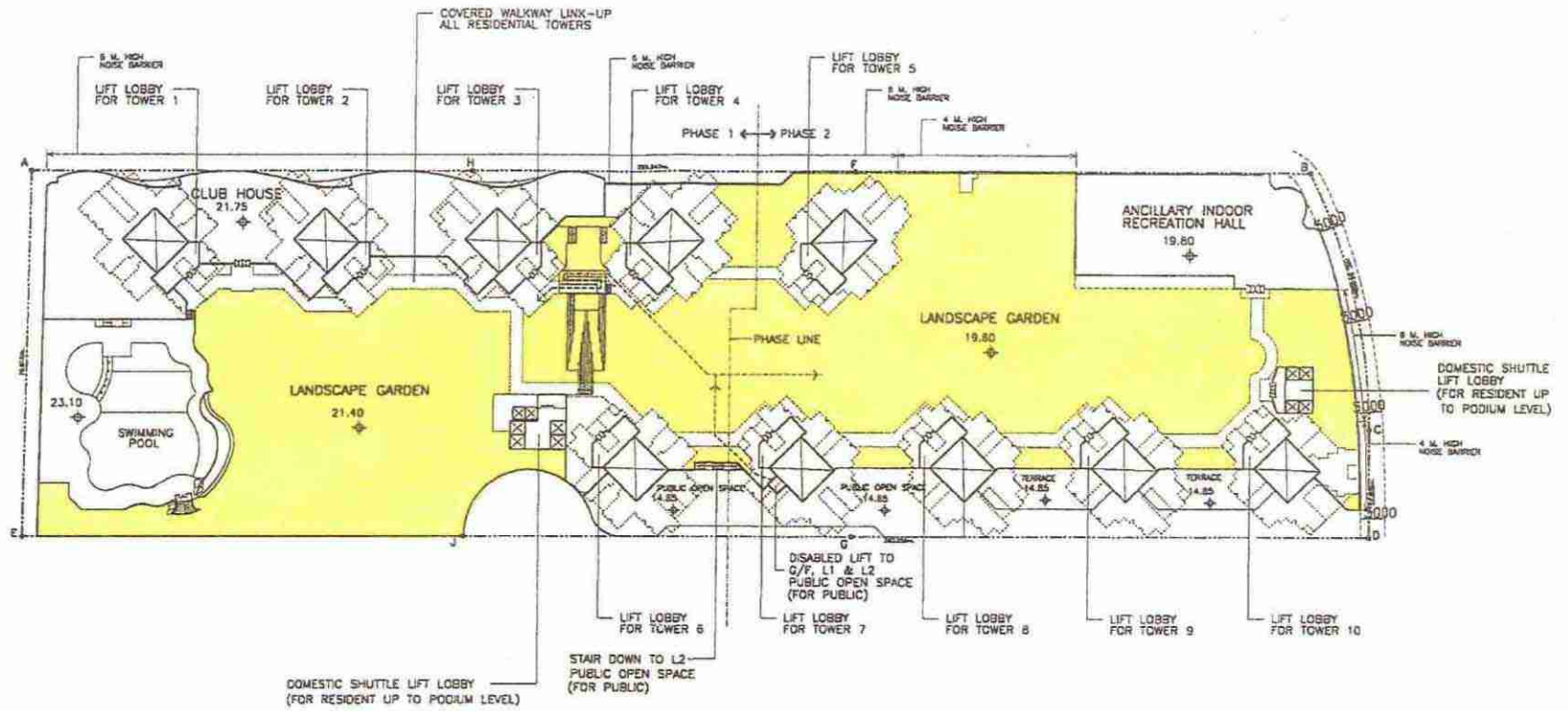


LEVEL 2 FLOOR PLAN PLAN

COMPREHENSIVE REDEVELOPMENT  
 AT K.I.L. 11127  
 TAJ KOK TSUI, KOWLOON.

LEVEL 2 FLOOR PLAN  
 SCALE 1:1000  
 DWG NO: ML-05E





- LEGEND
- PHASE LINE
  - ▭ THE SITE
  - ▭ BUILDING AREA

### PODIUM LEVEL PLAN

--- DISABLE ACCESS

COMPREHENSIVE REDEVELOPMENT  
AT K.I.L. 11127  
TAI KOK TSUI, KOWLOON.

PODIUM LEVEL PLAN  
SCALE 1:1000  
DWG NO: ML-07F



港灣豪庭 Metro Harbour View



