

**LEGISLATIVE COUNCIL
PANEL ON DEVELOPMENT**

**Provision of Public Facilities in Private Developments
- Supplementary Note**

PURPOSE

This note provides further information on those public open space (POS) facilities provided in private developments, particularly the POS in Metro Harbour View, in response to some comments made following issue of discussion paper on the subject (ref.: LC Paper No. CB(1)319/08-09(03)) on 2 December 2008. According to the list released by LandsD on 26 August 2008 on private developments completed in or after 1992, there are 36 private developments providing 39 POS (there are three private developments each providing one POS on Government land and one POS on private land).

POS ON GOVERNMENT LAND

2. Analysed by land ownership, **13** of the 39 POS are located on Government land. The private developers and subsequently individual owners, as grantees, are required as a lease condition to develop, manage and maintain the POS which has to be made available for public use subject to conditions as laid down by the Director of Lands. The majority of these contain clauses which provide that “the open space shall be redelivered to Government on demand”. Since these POS are located on Government land, by its nature, the POS could be readily segregated from the private development. The question relating to these POS is therefore whether Government should recover the POS for management and maintenance, thereby relieving private owners of the liability to shoulder the cost of running these open spaces for public use.

3. As pointed out in the main discussion paper, we consider it not unreasonable for Government to consider recovering the open space on a *case-by-case* basis, subject to the six criteria listed in paragraph 31 of the

paper (ref.: LC Paper No. CB(1)319/08-09(03)). The POS at Tung Chung cited in that paper are given as illustrations. Each case will be considered on its own merits.

POS ON PRIVATE LAND

4. Of the 26 remaining POS, apart from one which is partly on government land and partly on private land, the other **25** are all located on private land (i.e. the open space forms part of the private development). For private ownership and practicality considerations, there is no question of Government resuming the open space to operate as a public facility. Neither would it be proper for Government to allow private owners to deny public access to the open space, which would then be in violation of the contractual spirit in the lease and would adversely affect public interest. While we are of the view that we should continue to uphold the principle of public access to these privately owned and managed POS (with the benefit of clear guidelines to be promulgated by Government), we have looked at the cases individually in light of feedback from affected owners to see whether there is any case that would warrant exceptional consideration. In our view, the cost to be shouldered by individual owners alone is not a sufficient factor to justify such exceptional consideration as the land on which the POS is located belongs to the private owners.

5. Our analysis shows that nine of these POS are either commercial or NGO projects and the problem of individual owners being required to shoulder the cost of operating and maintaining public facilities does not normally arise. As regards the **16** POS in private residential developments, nine are purely on ground level and **seven** are on podium levels. Those purely on ground levels are easily accessible by the public, and hence of greater public value, and should cause no major security or privacy concerns to the owners of the development.

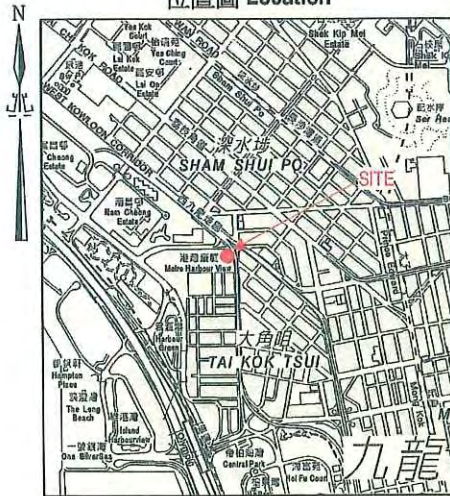
6. Of the seven cases in which the POS is located on podium levels, **Metro Harbour View** is apparently rather unique, with a large portion of the POS located within the enclosed compound of the development, encircled by the tower blocks and very difficult to segregate the POS from the private blocks. (The other parts of the POS are located on the 1/F and 2/F of the shopping mall and apparently are not the subject of concern.) The aerial photo of Metro Harbour View is at **Annex A**. On the other hand, members

of the public have to take several storeys of steps from the street level before reaching this podium level POS whereas in the vicinity, there is no shortage of Government-managed POS. At **Annex B** is a site plan showing the POS adjacent to Metro Harbour View (i.e. 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).



7. As regards the other six cases, the POS though situated on private land within the entire private development, five are segregated from the private residential blocks, and have installed barrier with entry/exit gates to prevent public access into the private areas, while the remaining one is capable of similar segregation. This remaining case is in fact similar to those POS on ground level by nature, as the tower blocks and the POS located on the podium level (being the high end of a sloping site) are openly accessible via that frontage connecting with the street level. Such segregation is illustrated in the case of Castello (**Annex C** refers), with the POS located on private land which is found on 7/F of the development but the public may reach it through a lift or stairs from the street level and these public users could not gain entry into the private areas as gates restricted to owners/residents/authorized visitors are installed.

Development Bureau
6 December 2008

位置圖 Location



Legend

-  Public Open Space
-  Site Boundary of Metro Harbour View

Aerial photo taken on 27/07/2008

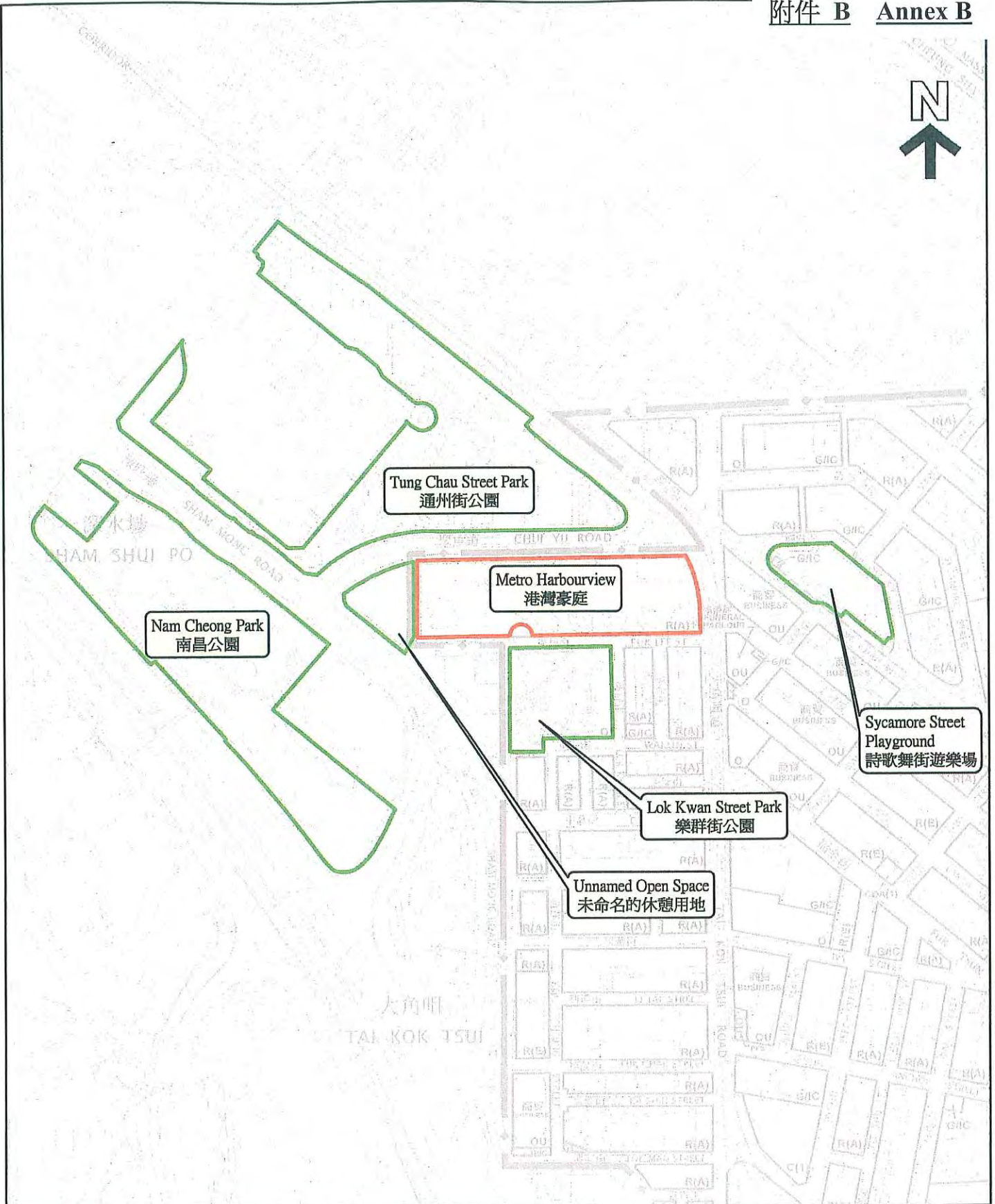
40 20 0 40 80 120 Meters

只作識別用 FOR IDENTIFICATION PURPOSE ONLY

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

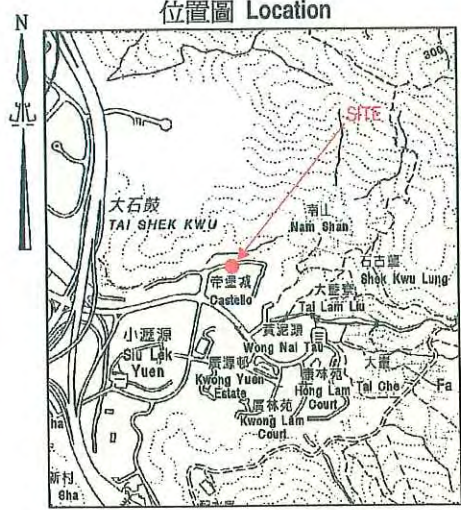
港灣豪庭 福利街 8 號
Metro Harbour View 8 Fuk Lee Street

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-AP



Reference	<p>港灣豪庭鄰近休憩用地 Open Spaces near Metro Harbourview</p>	<p>TSUEN WAN AND WEST KOWLOON DISTRICT PLANNING OFFICE PLANNING DEPARTMENT</p> 
Extracted from		
OZP Plan No. : S/K3/25		
Exhibition Date : 25-July-2008		
Date : 05-December-2008		
<p>Scale 1: 5000 Site Boundary Subject to Detailed Land Survey</p>		

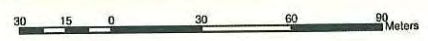
位置圖 Location



Legend

- Public Open Space
- Site Boundary of Castello

Aerial photo taken on 14/08/2008



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

帝堡城 小瀝源路69號
Castello 69 Siu Lek Yuen Road

檔案編號 File No. LD SMO/LIC 1/2/1
測量圖編號 Survey Sheet No. 7-SE-12B/D
發展藍圖編號 Layout Plan No.
參考圖編號 Reference Plan No.
圖則編號 PLAN No. LIC-OS026-AP

帝堡城

公眾休憩用地與私人住宅樓宇分隔 (設有閘門防止公眾人士進入私人範圍)。

Castello

POS is segregated from private residential blocks (gates restricting public access to private areas are installed).

