

For discussion  
29 April 2019

**Legislative Council Panel on Home Affairs**

**Use and Management of Public Open Space Managed by the  
Leisure and Cultural Services Department**

**Purpose**

This paper briefs Members on the use and management of public open space under the Leisure and Cultural Services Department (LCSD).

**Background**

2. LCSD is committed to providing quality leisure and recreational facilities to meet the diverse leisure and recreational needs of the community and promoting a healthy lifestyle and sport for all. Currently, the department manages parks and playgrounds of varying sizes throughout Hong Kong, providing leisure and recreational facilities such as parks, gardens, children's playgrounds, sitting-out areas, football pitches, basketball courts and fitness areas. LCSD manages the venues in accordance with the Public Health and Municipal Services Ordinance, Cap. 132 (the Ordinance) and its subsidiary legislation to ensure that activities in the LCSD venues are conducted in a safe and orderly manner. LCSD has been stepping up its efforts to enhance the use and management of existing facilities. Major examples are highlighted in the ensuing paragraphs.

**Injecting Art and Design Elements**

3. With an aim to create a truly creative and inclusive play environment for children, the children play space in Tuen Mun Park has been converted into an innovative inclusive playground. It was built with the collaboration of LCSD and Architectural Services Department (ArchSD) under a pilot scheme adopting the winning design of the Inclusive Play Space Design Ideas Competition, as well as incorporating opinions from children in Tuen Mun District. The playground, opened in December 2018, has received overwhelming response from children and parents. In response to the community need for children's playgrounds' design to be more interesting and challenging to play, a consultancy study on design of children play space was carried out by ArchSD. The study, completed in 2018, recommended, among other things, that the play equipment should offer different degrees of challenges and fun, more natural landscape context for play should be utilised, more bespoke play equipment should be introduced, community participation of the play space design should be advocated, supporting amenity facilities (such as toilet, seating for caretakers, hand washing basin, drinking fountain and changing facilities) should

be provided, etc. LCSD welcomes the study and will continue to work with ArchSD to incorporate the findings and recommendations of this study to make the public play space more attractive, user-inclusive and fun to play in a safe manner.

4. Building on the encouraging responses to the Park Deco project and City Dress-up projects such as Seats Together and Blossoming Stairs, LCSD has been collaborating with relevant government departments and stakeholders to enhance the art and design elements of public open space. Major examples are as follows:

- (a) ***InPARK***: Built in 1973, the Tsun Yip Street Playground (TYSPG) has been transformed into ‘InPARK’ (Industrial Park) in collaboration with the Energizing Kowloon East Office and ArchSD under two phases. InPARK was formally commissioned in March 2019. The park provides a central lawn with landscape amenities, sitting-out areas, a basketball court, and a multi-purpose area for performances or other activities. Seven sets of public artworks selected and commissioned under a public art scheme, representing seven specific industries, namely printing, clothing and garments, textile, toys, plastics, electronics and timepieces, have been installed to feature and pay tribute to Kwun Tong’s industrial culture (photos of some artworks at **Annex A**).
- (b) ***Micro-parks Project***: To explore further possibilities of introducing art and innovative design elements into different types of public gardens and playgrounds, LCSD has teamed up with ArchSD and a group of committed designers from Hong Kong’s design community, Design Trust, to launch a pilot project to give some LCSD small gardens and sitting-out areas a facelift. Under this pilot project, the designers provide voluntary service to develop innovative conceptual design proposals for public parks for further implementation by ArchSD. Four small public pleasure grounds (PPGs) in old districts with dense population, including Portland Street Rest Garden and Hamilton Street Rest Garden in Yau Tsim Mong District, Sitting-out Area under Flyover in Hill Road in Central and Western District and Yi Pei Square Playground in Tsuen Wan District, have been selected for testing out the new collaboration concept. The refurbishment works comprise improvement of the layout of venues concerned, provision of innovative and artistic furniture, provision of interesting playground equipment, landscape enhancement, replacement of floor and wall finishes, lighting improvement, etc. depending on individual site circumstances and characteristics. The design process focuses on public participation and members of the local community are invited to contribute to the design concepts. The finalised design concepts of these venues have gained the support of the respective District Councils (conceptual design plans at **Annex B**). The project is now at detailed design stage. Subject to confirmation of the final design, we expect the project can be completed by phases by 2021.
- (c) ***Junk! Woodworking***: To make the best use of some of the fallen trees following Typhoon Mangkhut, LCSD initiated “Junk! Woodworking” series to invite artists to upcycle these wood waste and create sculptures, furniture

and art installations for exhibition in the Hong Kong Flower Show 2019 (photos at **Annex C**). Some of these wooden sculptures and furniture would be relocated and displayed at Sha Tin Park for public use and appreciation.

### **Inclusive Park for Pets**

5. LCSD has all along adopted a proactive approach to address the demand of dog owners. The number of pet gardens managed by LCSD has increased from 19 to 49 between 2010 and 2018. LCSD plans to provide two more pet gardens in 2019. Apart from providing more pet gardens by designating specific areas in parks after obtaining the support of the respective district councils and the local community, LCSD launched a trial scheme of “Inclusive Parks for Pets” (the trial scheme) in six selected parks in January 2019. They are Victoria Peak Garden in Central & Western District, Tong Yam Street Hillside Sitting-out Area in Sham Shui Po District, Kai Tak Runway Park in Kowloon City District, Shing Mun River Promenade Garden No. 3 (Area B) in Sha Tin District, Wang Yip Street South Rest Garden in Yuen Long District and Tai Wo Hau Road Playground in Kwai Tsing District (photos at **Annex D**).

6. As a new attempt of LCSD, the trial scheme aims at enabling park users and members of the public who bring their pets into LCSD’s parks to use park facilities together in an inclusive environment. As the “Inclusive Parks for Pets” are not specifically designed for use by pets, the pet facilities provided there are less than those provided in pet gardens. Nonetheless, additional dog excreta collection bins have been provided and cleansing efforts have been stepped up by LCSD in the “Inclusive Parks for Pets”. The response received so far is generally positive. LCSD will review the feedbacks (including from pet owners and other users) and the effectiveness of the trial scheme one year after its implementation with a view to considering whether to provide “Inclusive Park for Pets” in more districts.

### **Legislative Amendment to Step up Control of Noise Nuisance in Parks**

7. LCSD manages PPGs according to the Pleasure Grounds Regulation (Cap. 132BC). LCSD has all along been exercising flexibility where possible and justified to facilitate users’ enjoyment of the public open space in different ways as long as they do not cause safety or hygiene problems, or create unacceptable nuisance to others. In the process, we have to strike a fine balance between the diverse and conflicting needs of the users.

8. From time to time, singing activities are found at some PPGs managed by LCSD. Some singing groups use loudspeakers or amplifiers to generate excessive noise during their activities causing noise nuisance to nearby residents. Whilst LCSD has implemented various noise control measures such as designating suitable areas for singing activities, conducting joint operation with the Hong Kong Police Force, strengthening manpower to monitor the singing activities, establishing house

rules to regulate the use of speakers in specific parks, etc., the noise problems are still prevalent in a few venues.

9. Currently, LCSD relies on section 25 of Cap. 132BC (relevant section extracted at **Annex E**) to take action against noise nuisance at its parks. However, in order to take enforcement action under section 25, it has to be established that a venue “user” had been annoyed, and the venue user would normally be required to serve as a prosecution witness. As LCSD’s park keeper (as the manager of the park) and the residents living nearby are not regarded as a venue user, LCSD is unable to initiate or take enforcement action solely based on our staff’s observations or complaints which are mostly from nearby residents unless and until a venue user is willing and able to come forward as the prosecution witness. Against the above background, LCSD has difficulties in relying upon section 25 to effectively manage the noise nuisance. To address public demand for proper and effective control of noise nuisance in public parks, we propose a simple legislative amendment to section 25 of Cap. 132BC by replacing “user thereof” with “person”. The amendment will help promote a responsible and respectful behaviour in PPGs and deter irresponsible uses of loudspeakers and equipment alike which cause annoyance to park users, nearby residents or park keepers. With the proposed amendment, LCSD’s park keepers and any other persons (in particular those nearby residents) who are annoyed by the noise may be the prosecution witness in LCSD’s enforcement action. For better control of noise nuisance in PPGs, we aim to table the amendment regulation at the Legislative Council (LegCo) meeting for negative vetting within the current legislative session.

### **Designation of PPGs**

10. From time to time, LCSD sets aside new sports and leisure venues to be used as PPGs and removes those which have ceased to be used as such in accordance with section 106 of the Ordinance. Sections 106(1) and 106(6) of the Ordinance provide that LCSD, as the Authority for the purposes of these two subsections, may by order set aside places for use as PPGs, and may by order amend, or add to or delete from, the Fourth Schedule. Section 106(2) of the Ordinance provides that the places specified in the Fourth Schedule shall be deemed to have been set aside under section 106(1) of the Ordinance for use as PPGs. Accordingly, when amendments to the Fourth Schedule for the addition of venues are published in the Gazette and tabled at the LegCo meeting, the venues concerned shall be deemed to have been set aside for use as PPGs. In accordance with section 106(3), the Lands Department, as the Authority for the purpose of this subsection, shall, as soon as possible, prepare a plan of every PPG which shall be deposited in the Land Registry (LR) according to section 106(5) of the Ordinance. Section 106 of the Ordinance is shown at **Annex F**.

11. A PPG is defined by section 2 of the Ordinance as –

“public pleasure ground (公眾遊樂場地) means any place for the time being specified in the Fourth Schedule and delineated on any plan thereof which **may**, for the time being, have been deposited in accordance with the provisions of section 106(5), and, in the case of a beach, includes the sea and

the sea-bed within the limits of the beach”  
“公眾遊樂場地 (public pleasure ground) 指附表 4 當其時所指明的地方，而其界限並已於當其時按照第 106(5)條條文存放的有關圖則上繪明；上述地方如屬沙灘，並包括沙灘範圍內的海域及海床”

12. The above English language text of the definition has not expressly provided that the plan must be deposited in LR for the venue to be a PPG. According to the existing practices, whenever a PPG project is soon to be completed (with or without a plan of the PPG prepared by LandsD), LCSD will set aside the place as PPG in accordance with section 106(1) of the Ordinance and kick-start, as soon as possible, the process of amendment of the Fourth Schedule including publication in the Gazette and tabling it at the LegCo meeting for negative vetting with a view to opening the venues for public enjoyment as soon as practicable. For this reason, some PPGs for which their plans are being prepared may not have plans deposited in the LR at the time of their opening. Nonetheless, LCSD will request LandsD to prepare, as soon as practicable, a plan of every PPG and deposit it in the LR to complete the deposit process.

13. It has recently come to the notice of LCSD that there are differences in the wording of the English language text and the Chinese language text of the definition of PPG, which might give rise to ambiguities as to whether or not the plan must be deposited in the LR for the venue to be a PPG. After seeking legal advice, it is noted that the English language text does not require that the plan has to be deposited, whilst the Chinese language text stipulates that the plan has to be deposited. The English language text of the Ordinance, which was enacted in 1960s, has been adopted as the basis for the existing practice before the enactment of the Chinese language text in 1996. Although section 10B of the Interpretation and General Clauses Ordinance (Cap. 1) states that English language text and Chinese language text of an ordinance shall be equally authentic, it is the legal opinion, after taking into consideration various factors, that it would be more prudent to adopt a more restrictive approach, i.e. mandatory deposit of the plans. To err on the side of caution, LCSD considers it prudent to temporarily suspend law enforcement in venues concerned to avoid doubt until plans for respective PPGs are deposited. LCSD is now working closely with LandsD and LR to speed up the deposit of plans. First priority will be accorded to those venues with higher usage and greater need for taking law enforcement action. It is anticipated that the vast majority of outstanding plans will be deposited in LR by June 2019. In addition, LCSD and the relevant departments have reviewed the plan deposit arrangement, strengthened inter-departmental cooperation and worked out a proper mechanism for the preparation of plans and their deposit in LR in future.

## **Way Forward**

14. LCSD will continue to implement new initiatives, and keep an open mind towards new ideas so as to optimise the use of public open space in consultation with relevant stakeholders for the benefit of the community. We will also continue to manage public open spaces under LCSD’s purview under the guiding principles of maximising public access to and enjoyment of the venues, and striking a balance

between the competing demands of different users with diverse interests.

**Leisure and Cultural Services Department**  
**April 2019**



Artworks at InPARK  
駿業街遊樂場藝術裝置







Portland Street Rest Garden 砵蘭街休憩花園



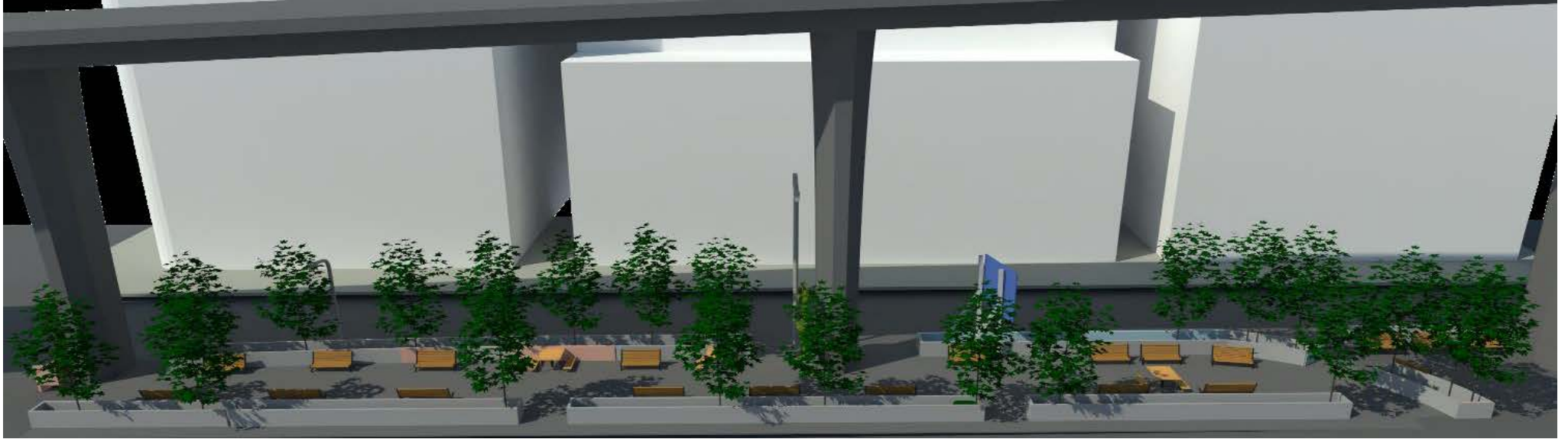
Hamilton Street Rest Garden 咸美頓街休憩花園



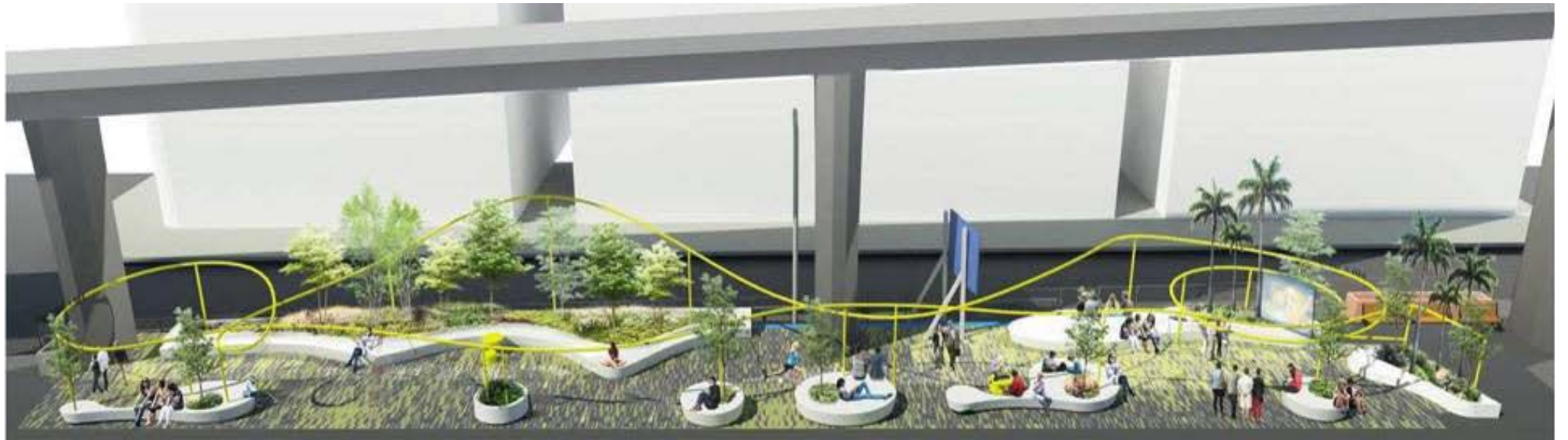


## Sitting-out Area under Flyover in Hill Road 山道天橋休憩處

(Existing 現時)



(Future 將來)



# Yi Pei Square Playground 二陂坊遊樂場





Junk! Woodworking Exhibition at Hong Kong Flower Show 2019

廢柴！不廢  
二零一九年香港花卉展覽



“Inclusive Park for Pets” 「寵物共享公園」

Victoria Peak Garden 山頂花園



Tong Yam Street Hillside Sitting-out Area 棠蔭街山邊休憩處





Kai Tak Runway Park 啟德跑道公園



Shing Mun River Promenade Garden No. 3 (Area B)

城門河第三海濱花園(B區)





Wang Yip Street South Rest Garden 宏業南街休憩花園



Tai Wo Hau Road Playground 大窩口道遊樂場



**第 132BC 章《遊樂場地規例》－ 第 25 條**

25.

音樂及唱歌

除非署長已以書面准許操作或彈奏某種樂器，或利用某種樂器發出任何聲響，或唱歌，否則任何人不得在對任何其他使用遊樂場地的人造成煩擾的情況下，在遊樂場地內操作或彈奏任何樂器或其他器具(包括唱機或無線電器具)，或利用該等樂器或其他器具發出任何聲響，或唱歌。

(1999 年第 78 號第 7 條)

**Cap. 132BC PLEASURE GROUNDS REGULATION – Section 25**

25.

Music and singing

Save where the Director has, in writing, permitted the operation or playing of, or the making of any sounds by means of, any such instrument or the singing of any song, no person shall, in any pleasure ground, to the annoyance of any other user thereof operate or play, or make any sounds on, any musical or other instrument, including any gramophone or radio apparatus or sing any song.

(78 of 1999 s. 7)

**第 132 章 《公眾衛生及市政條例》 — 第 106 條 公眾遊樂場地的提供**

106.

公眾遊樂場地的提供

- (1) 主管當局可不時藉命令將任何地方撥作公眾遊樂場地用途，亦可藉同一項命令或其後的命令而指明該等場地或其任何部分須作的用途。
- (2) 附表 4 所指明的地方，須當作已根據第(1)款條文撥作公眾遊樂場地用途。
- (3) 主管當局須在切實可行範圍內，盡快為各公眾遊樂場地擬備圖則一份。
- (4) 凡因公眾遊樂場地的界線有所更改，或因該遊樂場地在其他方面有所變化，以致按照第(5)款條文存放的圖則不再準確，則主管當局須撤回該等如此存放的圖則，並須在切實可行範圍內，盡快為該遊樂場地擬備一份修訂圖則或新圖則。
- (5) 按照第(3)或(4)款條文擬備的各份圖則，均須存放在土地註冊處。  
(由 1993 年第 8 號第 2 條修訂；由 2002 年第 20 號第 5 條修訂)
- (6) 主管當局可藉命令，將附表 4 修訂、增補或刪減。  
(由 1976 年第 9 號第 10 條修訂)

**Cap. 132 PUBLIC HEALTH AND MUNICIPAL SERVICES ORDINANCE —  
Section 106 Provision of public pleasure grounds**

106.

Provision of public pleasure grounds

- (1) The Authority may, from time to time, by order set aside places for use as public pleasure grounds, and may by the same or any subsequent order specify the purpose for which such grounds or any part thereof shall be used.
- (2) The places specified in the Fourth Schedule shall be deemed to have been set aside under the provisions of subsection (1) for use as public pleasure grounds.
- (3) The Authority shall, as soon as practicable, prepare a plan of every public pleasure ground.
- (4) Where the boundaries of any public pleasure ground are so varied, or such pleasure ground is otherwise so changed, as to render any plan deposited in accordance with the provisions of subsection (5) no longer accurate, the Authority shall withdraw the plan so deposited and shall, as soon as practicable, prepare an amended plan or a new plan of such pleasure ground.
- (5) Every plan prepared in accordance with the provisions of subsection (3) or (4) shall be deposited in the Land Registry.  
(Amended 8 of 1993 s. 2; 20 of 2002 s. 5)
- (6) The Authority may by order amend, or add to or delete from, the Fourth Schedule.  
(Amended 9 of 1976 s. 10)