

**立法會**  
***Legislative Council***

LC Paper No. CB(2)286/19-20

Ref : CB2/SS/12/18

**Paper for the House Committee**

**Report of Subcommittee on  
Public Health and Municipal Services Ordinance (Public Pleasure Grounds)  
(Amendment of Fourth Schedule) (No. 2) Order 2019**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 2) Order 2019 ("the Subcommittee").

**Background**

2. The Director of Leisure and Cultural Services ("DLCS"), in her capacity as the Authority under section 107 of the Public Health and Municipal Services Ordinance (Cap. 132) ("PHMSO"), manages the public pleasure grounds ("PPGs") listed in the Fourth Schedule to PHMSO. Under section 106 of PHMSO, DLCS may, from time to time, by order set aside places for use as PPGs, and may by order amend, or add to or delete from the Fourth Schedule to PHMSO. PPGs managed by the Leisure and Cultural Services Department ("LCSD") are regulated by the Pleasure Grounds Regulation (Cap. 132BC) made under PHMSO.

**Public Health and Municipal Services Ordinance (Public Pleasure Grounds)  
(Amendment of Fourth Schedule) (No. 2) Order 2019**

3. The Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 2) Order 2019 ("the Order") is made by DLCS under section 106 of PHMSO to:

- (a) set aside the following nine places specified in Schedule 1 to the Order for use as PPGs with the effect that the general management

and control of these new PPGs is vested in DLCS:

- (i) Tai Po Central Sitting-out Area, which is taken over from the Tai Po District Council;
  - (ii) six venues which are taken over from the Home Affairs Department, including Cattle Depot Art Park, Eastern District Cultural Square, Sheung On Street Pet Garden, Tai Wai Soccer Pitch, Tit Shu Street Sitting-out Area and Wu Tip Shan Sitting-out Area; and
  - (iii) Kennedy Town Swimming Pool Sitting-out Area and Oil Street Sitting-out Area, which are taken over from the Mass Transit Railway Corporation Limited and a private developer respectively;
- (b) provide that Hoi Bun Road Sitting-out Area specified in Schedule 2 to the Order ceases to be set aside for use as PPG;<sup>1</sup> and
- (c) update the list of PPGs specified in the Fourth Schedule to PHMSO to reflect the above changes.

4. The Order was published in the Gazette on 5 July 2019 and came into operation on the same date.

### **The Subcommittee**

5. At the House Committee meeting on 11 October 2019, Members agreed to form a subcommittee to study the Order. Under the chairmanship of Hon LAU Kwok-fan, the Subcommittee held one meeting with the Administration on 5 November 2019 to examine the Order. The membership list of the Subcommittee is in the **Appendix**.

6. To allow more time for the Subcommittee to report its deliberations to the House Committee, the Subcommittee agreed to move a proposed resolution at the Council meeting of 6 November 2019 to extend the period of scrutiny of the Order to the Council meeting of 4 December 2019. As the proposed

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<sup>1</sup> According to the Legislative Council Brief issued by the Leisure and Cultural Services Department on 12 July 2019, Hoi Bun Road Sitting-out Area has been integrated into the Kwun Tong Promenade.

resolution could not be dealt with at the Council meetings of 6 and 13 November 2019, the scrutiny period of the Order expired at the Council meeting of 13 November 2019.

### **Deliberations of the Subcommittee**

7. In the course of deliberations, members have examined the definition of PPG, deposit arrangement of PPGs' plans in the Land Registry ("LR") and arrangements of taking over PPGs from private developers for management by LCSD. Details of the Subcommittee's major deliberations are set out in the ensuing paragraphs.

#### Definition of public pleasure ground

8. Members note that there are differences in the wording of the English text and the Chinese text of the definition of PPG provided for in section 2 of PHMSO. They are concerned that these differences might give rise to ambiguities as to whether or not the plans of PPGs must be deposited in LR. Ms Tanya CHAN has enquired whether the Administration will adopt administrative measures or amend the wording of the English text of the definition of PPG in order to remove the ambiguities.

9. The Administration has advised that the definition of PPGs in the English text does not require that the plans of PPGs have to be deposited in LR, while the Chinese text stipulates that the plans have to be so deposited. Section 10B of the Interpretation and General Clauses Ordinance (Cap. 1) has specified that the English language text and the Chinese language text of an Ordinance shall be equally authentic. Despite this, LCSD has taken administrative measures by adopting a more restrictive approach, i.e. mandatory deposit of the plans in LR to ensure that plans of PPGs are deposited in LR before the PPGs are opened for public use. The Administration does not have plan to amend the wording of the English text of the definition of PPG.

#### Plan deposit arrangement

10. Members note that the PPGs listed in Schedule 4 to PHMSO are managed by LCSD. Under section 106(3) and (4) of PHMSO, the plans of these PPGs shall be prepared and deposited in LR by the Lands Department ("LandsD"). Referring to some media reports in March 2019 about the Administration's failure to deposit plans of some PPGs managed by LCSD in LR, some members, including Ms Tanya CHAN and Mr Junius HO, have enquired about the procedures for setting aside places for use as PPGs, in

particular the workflow of preparing and depositing plans in LR.

11. The Administration has advised that after the allocation of land by LandsD for the provision of PPGs, LCSD will commence the construction works of the PPGs. When the PPG projects are near completion, LCSD will commence the gazettal procedures in accordance with PHMSO and inform LandsD for preparing and depositing the plans of the PPGs concerned in LR. The Administration has also supplemented that the plan of land allocated to LCSD by LandsD will be further refined based on the final alignment after construction works for depositing to LR. The Administration has stressed that LCSD has already reviewed the plan deposit arrangement, strengthened collaboration with LandsD and refined the mechanism for the preparation of plans and their deposit in LR before the PPGs are opened for public use.

Arrangements of taking over public pleasure grounds from private developers for management by the Leisure and Cultural Services Department

12. In response to Ms Tanya CHAN's enquiry about the arrangements of taking over PPGs from private developers for management by LCSD, the Administration has advised that the land leases of some private developments include requirements for the provision of open space for public use, and such open space will be handed over to LCSD for use as PPGs upon completion. The Administration has also advised that LCSD will bear the costs of managing such PPGs after taking over their management.

**Recommendation**

13. The Subcommittee raises no objection to the Order and will not propose any amendment to it.

**Advice sought**

14. Members are invited to note the deliberations of the Subcommittee.

**Subcommittee on  
Public Health and Municipal Services Ordinance (Public Pleasure  
Grounds) (Amendment of Fourth Schedule) (No. 2) Order 2019**

**Membership list**

Chairman                      Hon LAU Kwok-fan, MH

Members                      Hon LEUNG Che-cheung, SBS, MH, JP  
   Hon CHU Hoi-dick  
   Hon Junius HO Kwan-yiu, JP  
   Hon Tanya CHAN  
   Hon AU Nok-hin  
   Hon Vincent CHENG Wing-shun, MH, JP

(Total : 7 members)

Clerk                              Ms Wendy JAN

Legal adviser                      Mr Mark LAM