

**For discussion
on 26 January 2010**

**LEGISLATIVE COUNCIL
PANEL ON DEVELOPMENT**

**Provision of Public Open Space
in Private Developments**

INTRODUCTION

The Administration has engaged Members on the subject of provision of public open space (POS) in private developments on 22 April 2008, 8 December 2008 and 26 May 2009. We have also collected views from deputations at the Special Meetings of the Panel on 31 May 2008 and 16 February 2009.

2. At the Panel meeting on 26 May 2009, the Administration sought Members' views on a number of proposed refinements to the provision of POS in future private developments and the proposed arrangements for existing cases. Taking account of Members' views and comments from various stakeholders, we have completed review of the matter. This paper sets out the refined arrangements to guide the provision of POS in future private developments and to address some existing problematic cases.

**PUBLIC CONCERNS OVER THE PROVISION OF POS IN
PRIVATE DEVELOPMENTS**

3. The existing policy requiring developers to incorporate POS (and other public facilities¹) into their private developments for public use has been in force for decades. This policy is intended to achieve integrated

¹ Other public facilities in private developments comprise public transport interchanges, schools, welfare facilities, etc., which are normally handed over to the relevant departments upon completion and are hence not causing any major management problem.

design, optimization of land use and better site planning and utilisation; to synchronise the availability of POS with the envisaged population intake of private development projects. The existing policy and arrangements, which were also detailed in the paper to Panel for 26 May 2009, are set out at the **Annex A** for Members' easy reference.

4. The subject of POS in private developments has attracted immense public attention since 2008, arising from certain contentious cases such as Times Square and Metro Harbour View in Tai Kok Tsui where denial of public accessibility, tight restrictions on use and other management problems were reported in the media. The diverse views expressed are summarized below –

- (a) **general policy** - there is support from professional institutes and some civic groups that the incorporation of POS in private developments will allow more integrated planning and design, and ease the shortage of POS in districts where land resources for open space are limited;
- (b) **use of POS** – civic groups would generally argue for free and unrestricted use of POS while developers/owners naturally demand some control for security and operational reasons (e.g. to minimise nuisance). Some art groups have expressed the view that POS in private developments provides valuable venues for arts display and performance;
- (c) **capital costs** – the Real Estate Developers Association of Hong Kong (REDA) considers that, as a general principle, public facilities in the private development should be funded by Government since they are intended for public use. However, they take a more relaxed view on shouldering the capital cost of POS;
- (d) **management and maintenance responsibilities** – these have been the focus of discussion mainly with respect to residential projects where the interests and liabilities of small owners are involved. Some individual flat owners consider it unfair for them to bear the recurrent cost when the POS is for public use. Professional institutes and some civic groups consider that there is a need for delineating the management responsibility of POS in private developments. REDA has indicated developers' willingness to consider taking up the management of such POS

on government land after completion but only on a temporary basis, to allow time for the Government to obtain recurrent funding to take over the long term management responsibilities. However, where the POS is in developments retained by the developers for investment, they do not mind taking care of the operation, management and maintenance of such POS; and

- (e) **disclosure in sale brochures for uncompleted residential properties** - some affected owners and residents in private developments with POS and prospective buyers complain that they have not been made aware of such perpetual responsibilities when purchasing the flats. In response, the Transport and Housing Bureau has, in cooperation with the Lands Department (LandsD), REDA, the Consumer Council and the Estate Agents Authority, introduced various improvement measures, such as enhancing the provision of information on POS (and other public facilities) in the sales materials of uncompleted first-hand private residential developments under the Consent Scheme of LandsD.

RECENT DEVELOPMENTS

5. As part of ongoing efforts to increase transparency and accountability in planning and land matters, the Development Bureau has taken steps to ensure that the public will have access to information on the POS in private developments. For the first time, information on private developments containing POS has been systematically compiled. By 31 July 2009, we had released a total of four batches of existing cases on the websites of LandsD and Buildings Department (BD). We will update the lists from time to time and include new cases when their Certificates of Compliance (for cases required under lease) or Occupation Permits (for deeds of dedication cases) are issued. At present, there are 593 private developments completed since 1980 which are required under leases (in LandsD's list) to provide public facilities (including POS) and 323 private developments under deeds of dedication (in BD's list). Of LandsD's list, there are 52 developments providing a total of 56 POS - 40 of which fall on private land; 15 on government land; and 1 straddling private land and government land. To the best of our knowledge, amongst the deeds of dedication cases on BD's list, only two isolated cases involve POS / covered areas for public use which were provided as planning conditions imposed by the Town Planning Board (TPB), namely Times Square and Shun Lee Building.

6. To ensure public access to these POS, the relevant departments have written individually to the owners' corporations or management companies of the private developments concerned reminding them of their obligations under the lease or deed. We have also solicited the help of REDA to remind its member companies and obtained the support of the 18 District Councils (DCs) to help monitor the use of such facilities, and to bring to our attention any cases where follow-up action is required. As at end December 2009, LandsD and BD had received a total of 261 enquiries and 56 complaints, all of which had been acted upon promptly.

REFINED ARRANGEMENTS FOR PROVISION OF POS IN FUTURE PRIVATE DEVELOPMENTS

7. Having studied this subject matter and engaged Members, DCs and other bodies for over one and a half years, we consider that the existing policy of incorporating POS into private developments for public use is based on sound considerations, and should be upheld. However, we recognize that problems and concerns have emerged in the implementation of the policy over the years. To this end, we will introduce a set of refined arrangements to guide the future provision and management of such POS. Details of these arrangements are explained in the ensuing paragraphs. A summary is at **Annex B**.

(a) Provision

8. For the provision of POS in future cases, the TPB has, in the course of the public discussions on the matter, agreed that unless there is a current or forecast shortfall of open space in the district having regard to the Hong Kong Planning Standards and Guidelines (HKPSG) or special circumstances justifying the provision of POS as part of a private development project, it should not require or accept the provision of POS in private developments in order to prevent the recurrence of the implementation and management problems. Likewise, no such provisions should be included in land sale conditions or leases subject to modification for development proposals not requiring submissions to the TPB.

9. Special circumstances justifying the provision of POS may include, for example, situations where the proposed POS in a private

development is located in a highly built-up area with an acute shortfall of local open space, or is a planned waterfront promenade adjacent to the private development, or is part and parcel of an Urban Renewal Authority's (URA's) project revitalizing the area. We consider that there are planning and environmental benefits for the POS to be developed together with the private development to help alleviate the shortfall of local open space, or to bring forward the completion of planned POS instead of allowing the sites to lie idle awaiting the Capital Works Programme (CWP) to materialise. However, this is still subject to the POS requirement capable of being enforced or realized through suitable conditions imposed in the lease.

10. In cases of residential developments, as a rule, the provision of POS on private land should not be required, lest the recurrent responsibilities would be passed onto the small owners. Nevertheless, we reckon that it may still be desirable to ask developers to build a POS on adjoining government land as part of the private developments in some harbourfront and green field sites for integrated design and public enjoyment. If we did not go for this approach, such land adjacent to development or sale sites would be left idle because of the mismatch in the CWP.

11. In respect of commercial or comprehensive developments where there are obvious planning gains and little or no objection for the private developer to construct an on-site POS on private land or a POS on adjacent government land (such as sites next to land zoned for a waterfront promenade), we will retain the flexibility to seek or accept such provision of POS for public enjoyment. There are examples of such POS within commercial and comprehensive developments, such as IFC II and Cheung Kong Centre.

(b) Funding

(i) Capital cost

12. In most private developments which are required to provide a POS, there are clear planning benefits for the design and development of the POS to form an integral part of the private development. Since the capital cost of an open space is modest as compared with the overall capital cost of the development, and the construction of the open space as

part and parcel of the development is generally welcomed by developers, we consider it reasonable for the developer to bear the capital cost of the POS. However, the Government shall have the discretion to consider meeting part or all of the capital cost in cases where large or extensive POS is involved and the capital cost of the POS is substantial and disproportionate in comparison to the overall development cost. This is in line with the prevailing policy.

(ii) Recurrent cost

13. As regards recurrent management and maintenance responsibilities of POS on government land adjacent to a private development, as a matter of principle, they should lie with the Government. Upon completion, the POS should be handed over to the Leisure and Cultural Services Department (LCSD) or other relevant departments for management and maintenance. This would relieve individual owners of the ongoing obligations to finance the operation and maintenance of POS on government land opened for public use.

14. For POS on government land adjacent to a commercial development, we consider it pragmatic to invite the developers / owners to bear the management and maintenance responsibilities for such POS. As most of these commercial developments are in unitary ownership under the developer rather than falling into multiple ownerships, the developer normally will consider it advantageous to manage such POS on government land together with the rest of the commercial development. Such POS, if managed in a holistic and vibrant way, would help to attract more patronage for the commercial operations, and we can relatively be assured that they will be well managed, thereby achieving a win-win situation.

15. As regards POS on private land in commercial developments, there should be no need and no case for the Government to take over the management responsibility. The developer/operator should comply with the lease conditions to manage and maintain the POS in such a development and open it for public use. Again, where large or extensive POS is involved and the recurrent cost of the POS is substantial, the Government should have the discretion to consider meeting part or all of the recurrent cost.

(iii) URA developments

16. The current arrangements for URA projects to provide POS are conducive to the URA discharging its mission of providing a better living environment and neighborhood through redevelopment of old buildings, and at the same time the recurrent responsibilities are not passed onto small owners of residential flats. The provision of POS, as appropriate, in URA projects and the current delineation of funding and recurrent responsibilities should therefore continue, i.e. to have such POS managed and maintained by the URA at its own cost or vested in the joint venture partners as far as practicable.

(c) Design, Management and Consultancy Study on POS in Private Developments

17. For POS in future private developments, the provision standards should in general follow the standard of specifications for POS constructed by the Government but some flexibility could be allowed to cater for a range of different levels of provision standard, justified on the circumstances of individual developments, for the overall benefit of integrated planning and urban design merits, and adding vibrancy to the area.

18. As stated in our paper of 26 May 2009, we have commissioned a consultancy study to provide a set of clear and practicable guidelines on the design and management of POS in private developments. The consultants have now completed a set of draft guidelines, which is attached at **Annex C**. On design, the draft guidelines provide standards and guidance on better quality design based on the principles of connectivity, appropriateness and quality. According to their spatial characteristics, POS in private developments are categorised into five types, namely public green, plaza, courtyard, pocket space and promenade. We will apply the design guidelines to POS in future private developments with flexibility allowed for individual cases on their own merits, and will encourage existing cases to follow the design guidelines.

19. As part of the recommendation arisen from the Report of the Task Force on Tree Management, a Greening and Landscape Office will

be set up to spearhead better greening and landscaping in Hong Kong. A Design Panel on Greening and Landscape, which will comprise local and non-local experts on landscape planning and design, will be put in place to advise on greening and landscaping aspects in large-scale infrastructure as well as such POS in comprehensive private developments. The Design Panel on Greening and Landscape will make reference to the above-mentioned guidelines in considering proposals of POS in future private developments.

20. As regards management of POS in private developments, the draft guidelines cover such issues as rights and obligations of owners and users, uses (including commercial uses) of the POS and other operational matters, with the objective of striking a reasonable balance between the rights of the owners and the public enjoyment of such POS. We will apply the management guidelines to future cases, and to existing POS in private developments insofar as permitted under the land leases or deeds of dedication. In other cases and provided that it is consistent with the relevant instruments, we will encourage existing cases to follow the management guidelines on a reasonable basis.

21. The consultants are seeking views from stakeholders including professional bodies and trade organizations. The guidelines will be finalised taking account of the views collected. We plan to promulgate and implement the guidelines by end-June 2010.

ADMINISTRATIVE ARRANGEMENTS TO RESOLVE PROBLEMS IN SOME EXISTING POS IN PRIVATE DEVELOPMENTS

22. By and large, where POS is provided in private developments, the owners' corporations or the management companies have enabled public access to the POS within their developments, and we shall continue to uphold this public accessibility requirement. However, our attention has been brought to a few isolated cases where to address small owners' concerns over privacy and security, and thus as an exceptional measure on compassionate grounds, waiving of such public accessibility requirement (where the POS is on private land) or Government assuming the management and maintenance responsibility of the POS (where the POS is on government land) could be justified. A set of criteria to facilitate sympathetic consideration of such cases, is set out in the

ensuing paragraphs.

(a) Existing POS on Private Land

(i) *POS on Private Land Required under Lease*

23. For POS on private land in private developments, there is no question of the Government taking over the management and maintenance of the POS. In very exceptional cases, we may consider sympathetically waiving the requirement in the lease for opening certain POS on private land for public use, based on the individual merits of each case and subject to the following criteria -

- (a) it is legally in order for LandsD to do so;
- (b) a request for the waiver must be submitted by all the owners or through its owners' corporation, and subject to the terms and conditions as imposed by LandsD including the payment of the waiver fee for such waiver if granted;
- (c) there are sufficient existing and planned POS in suitable locations within the district according to the HKPSG. Also, other considerations like the location, distance and distribution of the POS should also be taken into account;
- (d) in case the provision of POS has been incorporated into the Notes of the Outline Zoning Plans (OZP), agreement of the TPB for deleting the POS requirement from the relevant OZP will be 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.

It should be stressed that in considering whether a waiver should be granted, the relevant DC will have an important role to play in soliciting and reconciling different and sometimes conflicting views of the local community. A waiver shall not be considered unless the relevant DC has given its clear support to waiving the requirement of opening the POS in question for public use. We consider it justified deferring this to DC's advice as, pursuant to the enhancement of the roles of DCs in

district affairs, DCs are now involved in the management of local leisure facilities and such POS in private developments should be considered as falling in the same category of district leisure facilities. For example, we understand that the owners' corporation of Metro Harbour View is lobbying the Yau Tsim Mong DC for support of its intention to seek sympathetic consideration.

(ii) *POS on Private Land Required under Deeds of Dedication
Public Access on Private Land Required under Lease
Public Passage on Private Land Required under Deeds of Dedication*

24. While most existing POS on private land are required under lease, there are two exceptional cases of POS / covered areas for public use, namely Times Square and Shun Lee Building, which are implemented through deeds of dedication. Bonus gross floor area (GFA) has been granted for the case of Times Square, while exempted GFA has been allowed for Shun Lee Building. There are also provision of public access on private land which is required under the lease; and public passage on private land which is subject to deeds of dedication where bonus GFA and / or exempted GFA, as the case may be, has been granted under the Buildings Ordinance (BO) (Chapter 123). In a few cases, the size and accessibility have rendered these public passageways to be perceived by the public as resembling POS, e.g. those in Taikoo Place.

25. For the POS / covered areas subject to deeds of dedication, public access required under lease and public passage subject to deeds of dedication, the principle of enforcing the opening of these accesses for public use under the respective instrument, i.e. leases or deeds of dedication, as the case may be, should be upheld, and these should continue to be privately managed and maintained.

26. Consideration for waiving the requirement of opening for public use in respect of public access on private land required under lease or not enforcing the requirement of opening for public use in respect of the dedicated area subject to deeds of dedication must be **exceptional** and the decision justified on a **case-by-case** basis having regard to the same principles set out in paragraph 23 above. In cases concerning deeds of dedication, exceptional consideration should only be given to cases where no concession of bonus GFA has been granted for the dedication of

private space and where the merits and circumstances of the case suggest that it is in public interest not to enforce the deed of dedication. An additional dimension we should take into account is the availability of equally acceptable alternatives for public use without compromising the convenience enjoyed by the public or that the original purpose of providing the facility has become obsolete. We would also consider important factors, such as technical feasibility, whether there are any legal impediments, fire safety concerns, etc. Consultation, as referred to in paragraph 23, will also be carried out as necessary. For public access on private land, we have received requests for waiving the requirement of opening for public use from several private residential developments in Sha Tin. As regards dedicated area subject to deeds of dedication, we have received requests for not enforcing the requirement of opening for public use from owners of Shun Lee Building at Ferry Street. This is the exceptional case of dedicated area where no bonus GFA has been granted (though exempted GFA has been allowed).

(b) Existing POS on Government Land

27. For POS on government land provided by private developments especially those involving a sizeable area, instead of requiring the owners to shoulder the recurrent cost on a perpetual basis, the Government may consider recovering the POS subject to resource availability and the local circumstances. The authority for recovering such POS on government land is normally provided for in the lease. If a particular lease provides the Government with the option to take back the POS, legally the Government may exercise its discretion to take it back as it deems fit without necessarily giving reasons. Without prejudicing this general discretion and the Government's right under lease, the Government may consider applying the following general criteria in considering taking back a particular POS on a case by case basis -

- (a) the POS is at grade and can be alienated from the private development;
- (b) the scale of the POS is substantial relative to the scale of the private development;
- (c) there is no legal obstacle in the lease conditions for the Government to take back the management;
- (d) the availability of recurrent resources to the concerned

department;

- (e) the consent of the owners (through owners' corporation) if needed; and
- (f) the support of or no objection from the relevant DC and Area Committee.

SUMMING UP

28. Members are invited to note and support the Administration's conclusions on the subject of POS in private developments and offer comments on the proposed guidelines.

Development Bureau
January 2010

Existing Policy and Arrangements for Provision of Public Open Space (POS) in Private Developments

POS in private developments may be located within the private lots or on government land outside the private lots. This normally arises through –

- (a) private development / redevelopment cases which require planning permission from the Town Planning Board (TPB), such as for sites zoned “Government, Institution or Community” (“G/IC”), “Open Space” (“O”), or “Comprehensive Development Area” (“CDA”);
- (b) occasionally, there could be individual cases of lease modification/land exchanges where the TPB is not involved; and
- (c) land sale.

2. The POS under (a) may have been proposed by the developer or Bureaux/Departments (B/Ds) while that under (b) and (c) may have been proposed by B/Ds during the inter-departmental circulation stage.

3. Planning Department (PlanD) and other concerned departments will relay the planning requirements so imposed by the TPB and others to Lands Department (LandsD) for these to be translated into or implemented through lease conditions wherever this is practicable, for instance, where the development requires a new or modified lease. This means that there are cases where it is not possible for such planning requirements to be translated into or implemented through lease conditions, e.g. a site with an unrestricted lease or where the existing lease is not required to be modified for the proposed development.

4. Apart from land leases, past records show that there have been a few exceptional cases where such planning requirements were incorporated into private developments through deeds of dedication executed by the then Director of Building Development or Director of Buildings and Lands, as the case may be, be these related or not related to POS required by the TPB as part of the planning conditions. To the best of our knowledge, there have been only two such cases, namely Times

Square and Shun Lee Building. Both are related to planning conditions imposed by the TPB. Bonus GFA has been granted for the case of Times Square, while exempted GFA is applicable to Shun Lee Building.

5. Apart from land leases, planning requirements imposed by the TPB may also be enforced through the approval of building plans under the Buildings Ordinance (BO) (Cap. 123). Under section 16(1)(d) of the BO, the Building Authority may refuse to give his approval of any plans of building works where the carrying out of the building works will contravene any approved or draft Outline Zoning Plans (OZP) prepared under the Town Planning Ordinance (TPO) (Cap 131). Where the building works are within a “CDA” zone, the Building Authority may also refuse to grant approval if the works contravene a master layout plan approved by the TPB.

6. Upon completion of a private development, Buildings Department (BD), in consultation with other relevant departments, will scrutinise and inspect the completed development to ensure that all the related building works have been carried out in accordance with the approved building plan before an occupation permit will be issued. This will also ensure that the developer has fulfilled the relevant requirements on the construction of the public facilities. If a certificate of compliance is applied for by the lot owner, LandsD will require the department which has proposed the inclusion of the requirements in the lease (and PlanD for those requirements imposed by the TPB) to confirm that such requirements in the lease have been complied with before a certificate of compliance will be issued.

7. It should be stressed that where a POS is required under lease conditions, **no** concessions for this are normally provided to the developer in terms of premium deduction in lease modification / land exchange transactions; nor is bonus gross floor area (GFA) granted. This is different from the dedication of private space for the purpose of street widening and public passage (or POS for the two exceptional cases mentioned in paragraph 4 above), under which the developer may be granted bonus plot ratio and site coverage (and / or exemption of such floor space from GFA calculation as the case may be) as provided for under the BO. The rights and obligations of the building owner for such cases will be set out in a deed of dedication.

8. Upon completion, the POS, where not required to be handed over to the Government, will be subject to the relevant provisions in the lease in respect of its management, maintenance and opening to the public on

an ongoing basis.

9. Under the existing policy, for private developments in sites zoned “GIC”, “O” or “CDA”, the cost of providing, managing and maintaining the public facilities (including POS) will generally be met by 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, which must be determined through the CWP, should not be dictated by the timing of private developments. Practically, there is also a problem of timing mismatch, in that resources sought through the CWP for the POS/GIC element may not be available exactly at the time when a private development proceeds, especially when bids for resources for new capital works projects have to be considered on a competitive basis. Departments also find it difficult to seek resources for certain public facilities which are needed only if and when the private developments or land sales materialise. The existing policy also provides that, where large or extensive POS/GIC 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 meets a set of criteria¹.

10. For POS in URA projects, apart from a few that were entrusted by government departments and have been handed over to relevant departments upon completion, they are currently either managed and maintained by the URA at its own costs or vested in the joint venture

¹ The criteria are set out in the then Planning and Lands Bureau General Circular No. 2/2001 on Payment for Government, Institution, Community and Open Space Facilities in Comprehensive Development Areas and are as follows –

- (a) the scale of the POS/GIC facilities involved is extensive, and the development will be implemented over a period of five or more years;
- (b) the cost of the POS/GIC facilities is substantial and is disproportionate in comparison to the overall development cost of the CDA project;
- (c) the ownership and operation of the POS/GIC facilities will revert to the Government on completion;
- (d) the POS/GIC 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.

partners either as part of the “development common area” or “commercial common area” pursuant to the DMC provisions, and managed at the cost of the joint venture partners.

11. For reprovisioning cases, generally, the capital cost will be met by the developer while the recurrent cost will be met by the B/Ds concerned. The rationale is that had it not been for facilitating the development/redevelopment, such capital cost would not have arisen; and the recurrent consequences will be cost-neutral to the B/Ds concerned, as these are merely a continuation of their ongoing commitments.

**Summary of Refined Arrangements
for Provision of Public Open Space (POS)
in Future Private Developments**

(a) *Provision*

- (i) Bureaux/Departments (B/Ds) should not recommend the Town Planning Board (TPB) to accept or require the provision of POS on private land and/or adjoining government land as part of the private developments, unless there is a current or forecast shortfall of open space in the district having regard to the Hong Kong Planning Standards and Guidelines (HKPSG) or there are special circumstances justifying the provision following a critical appraisal in the overall planning and urban design context;
- (ii) even where the provision of POS on private land and/or adjoining government land as part of the private developments may be justified on the basis of (i) above but the development is governed by an unrestricted lease or the provision of POS cannot practically be imposed in the lease, B/Ds should not recommend the TPB to accept or require the provision of such POS, as the proposed planning gains may not be capable of being realised;
- (iii) as a rule, B/Ds should not recommend the TPB to accept or require the provision of POS on private land in private residential developments where such developments will likely fall into multiple ownership and thus result in individual owners being made responsible for the management and maintenance of the POS; and
- (iv) the same principles under (i) – (iii) should apply when B/Ds comment on a development proposal not requiring submission to the TPB but separately circulated by the Lands Department (LandsD) for land lease purposes.

- (b) *Funding responsibilities for POS justified by public needs*
- (i) whether on private land or government land, the capital cost should be met by the developer;
- (ii) as regards the recurrent cost –
- (1) where the POS is on government land, subject to (2) below, it should be handed over to the Government upon satisfactory completion of the POS or on demand as the case may be, and the recurrent cost of managing and maintaining the POS should then be met by the Government;
 - (2) where the POS is on government land adjacent to a commercial development, the developer/owner of the commercial development may be invited to bear the recurrent cost of managing and maintaining the POS. If the developer / owner accepts the invitation, the recurrent responsibilities should be stipulated in the lease;
 - (3) where the POS is on private land in a commercial development, the developer / owner of the commercial development will be required under lease to manage and maintain the POS throughout the term of the lease; and
 - (4) however, where large or extensive POS is involved or the cost of the POS is substantial and disproportionate in comparison to the overall development cost, the Government should not take advantage of the developer and should consider meeting part or all of the costs (capital and recurrent) of the POS on a discretionary basis.

CONSULTANCY STUDY ON PUBLIC OPEN SPACE IN PRIVATE DEVELOPMENTS [POSPD]

Design and Management Guidelines
January 2010

DRAFT

Commissioned by:



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Section 1 INTRODUCTION

1.1 Preamble

1.2 Scope of Application

1.1 Preamble

1.1.1 Objectives of the Study

The consultancy team, Rocco Design Architects Ltd., in collaboration with the School of Architecture, the Chinese University of Hong Kong, and LandElite Surveyors Ltd., is appointed by the Development Bureau of the HKSAR Government to undertake a consultancy study with the objective of drawing a set of Design and Management Guidelines for public open space in private developments (POSPD) in Hong Kong. Through these Guidelines, we aim to achieve high quality POSPD that can best serve the general public. The consultancy study seeks to :

- evaluate existing POSPD cases, build on their strength or learn from their experience;
- identify ways to achieve quality design, enhanced site planning and better use of POSPD; and
- based on the above, draw up a set of clear and practicable guidelines on the design and management of POSPD.

1.1.2 POSPD – Purpose and Definition

The provision of POSPD seeks primarily to achieve better quality design, optimization of land use, better site planning, and/or synchronizing the availability of open space and the community needs arising from developments. With proper design and management, POSPD could contribute towards the provision of quality leisure and recreational space and improve Hong Kong's living environment.

POSPD is an integral part of the open space system. On statutory plans, “Open Space” is a land use zone intended primarily for the provision of outdoor open-air public space for recreational uses, active or passive, serving the needs of local residents and the public. On non-statutory departmental plans, open space includes District Open Space and Local Open Space. District Open Space is often a medium-size site (where possible at least 1 ha) providing facilities for the core recreational activities and for passive recreation to meet the needs of the district population. On the other hand, Local Open Space is often a smaller site (whenever possible at least 500 m² in the urban area) for more passive recreation serving the neighbourhood population. POSPD is normally more akin to local open space and countable towards satisfying the standards of open space provision under the Hong Kong Planning Standards and Guidelines (HKPSG).

POSPD may be located on private land within a private development and/or on government land adjoining a private development. POSPD may arise from requirements imposed in the statutory plan-making process, planning application process and/or in the land sale, lease modification and land exchange process. Such requirements will be translated into or implemented through lease conditions where this is practicable. There are also a few exceptional cases where planning requirements of POSPD have been incorporated into private developments through deeds of dedication (see section 4.1 for details).

In this consultancy study, the term **POSPD** is used for open space on private land within a private development and/or on government land adjoining a private development **where the general public are entitled to access, use and enjoy** such POSPD under private management.

1.1.3 Issues

There is support for the provision of public open space in private developments from professional institutes and some civic groups because such developments would allow more integrated planning and design, and ease the shortage of public open space in districts where land resources for public open space are limited.

However, the idea of POSPD is a paradoxical concept for it has a strong public interest within the private domain, and in some cases, rights of the public conflicts with private interest, or vice versa. For example: **public accessibility at open space could intrude into the privacy of individual owners/occupants of the private development.** There are cases in Hong Kong that residents of private residential developments were not informed that certain areas within their premises are indeed public open space. Activities in this public open space could cause nuisance, and lingering of non-residents could make residents feel unsafe.¹ Some flat owners consider it unfair for them to bear the recurrent maintenance costs for public facilities which should fall under the Government's responsibilities, and claim that they were not made aware of the responsibilities in managing and maintaining the public open space in their developments when they bought their flats. Another controversy about the POSPD is about the **'privatization' of public open space** where developers 'lease out' public open space with a consideration in return for some form of 'management fee'. Along this line, the public has also complained about 'overzealous' security guards who have been preventing people from sitting or lingering in the public area. The 'Time Square Incident' in 2008 has brought to light such debates.

1 In relation to the provision of public open space within private residential developments, Development Bureau has received requests to waive the relevant lease requirement, e.g. from Metro Harbourview. Legislative Council, Panel on Development. CB(1)1634/08-09 (08), 16 May 2009.

The realization of such concept therefore requires a **careful** and **informed policy thinking**, and ongoing supervision or management. Hopefully, these Guidelines have come in time to provide a **reference** and a **common ground of understanding** for various stakeholders which include, but not limited to, different government departments, urban designers, private developers and public end-users.

1.2 The Design and Management Guidelines - Scope of Application

1.2.1 Who should find these Guidelines useful?

- Town Planning Board
- Design Panel on Greening and Landscape
- relevant policy bureaux and government departments
- private developers
- relevant organizations and bodies involved in development projects, such as Urban Renewal Authority, Hong Kong Housing Society, MTR Corporation Limited
- architects, planners, landscape architects, surveyors and urban designers
- private owners
- management agencies
- users of POSPD
- general public

1.2.2 How should these Guidelines be applied to future and existing cases?

A Design Panel on Greening and Landscape, which will comprise local and non-local experts on landscape planning and design, will be put in place to advise on greening and landscaping aspects in large-scale infrastructure projects as well as such POS in comprehensive private developments. The Panel will make reference to the Design

Guidelines in considering proposals of POS in future private developments.

The Design Guidelines should apply to future POSPD with flexibility allowed to cater for individual cases on their own merits, say having regard to the advice of the Design Panel on Greening and Landscape, while the existing cases are strongly advised to follow the Design Guidelines on a reasonable basis; the Management Guidelines should apply to new cases, and to existing cases insofar as permitted under the leases or the Deeds of Dedication (as the case may be). In other cases and provided that it is consistent with the relevant instruments, existing cases should still be strongly advised to follow the Management Guidelines on a reasonable basis. In general, the application of these Guidelines is subject to the latest policy framework of the Development Bureau.

Section 2 DESIGN CONSIDERATIONS

- 2.1 Basic Design Principles**
- 2.2 Design Elements: Local Perspectives**
- 2.3 Design Elements: Human Perspectives**

2.1 Basic Design Principles

2.1 Basic Design Principles

POSPD is planned and designed on individual site basis, taking into account the overall planning and urban design context and the following considerations -

- POSPD as an integral part of the open space system should contribute towards a coherent network of open space and green space in the local district;
- the planning and design of POSPD should respect the neighbourhood urban fabrics, local character and cultural history of the local district;
- development of POSPD should contribute to improvement of public realm in the local district. Its design should enhance linkage and connectivity with community facilities, heritage sites, local green space, etc. as appropriate, help broaden the range of leisure and recreation facilities, and connect with the greenery in the vicinity so as to form part of the green network for the neighbourhood; and
- District Councils and local organizations such as non-government organizations (NGOs) and community groups should be invited to express views or provide inputs on the planning and design of POSPD.

The high density urban environment, mixed land uses, irregular street pattern of some areas, and multi-level access or sloping terrain of some development sites would add to the complexity of design of POSPD in Hong Kong. It is recommended that the basic design principles for POSPD should be considered through three perspectives of a/ **connectivity**, b/ **appropriateness**, c/ **quality**.

2.1.1 Connectivity

To make better use of POSPD, design of individual POSPD should take into account the overall planning of its neighbourhood to allow sufficient **physical connectivity**, **visual connectivity** and **green connectivity** to adjacent streets, passageways and public open space. At the moment, design of POSPD is very much focused on a 2-dimension level. How the POSPD adjoins one another and how it is elevated and spanned across different levels should be accorded due attention. The design should therefore take into account frontage ratio, visual depth, degree of enclosure, etc.

(a) Accessibility

POSPD is reached from the point/level of arrival, i.e. the major public circulation path. The extent of street frontage will determine how accessible a POSPD is and multiple-level entry will increase accessibility for sites on sloping terrain. Accessibility is how convenient a space could be visited or bypassed. Also, the more open and visible the space is, the more accessible it becomes.

(b) Visibility

POSPD is seen from the point/level of arrival. The degree of visibility relates to the visual angle from the major portion of POSPD towards the adjoining minor space¹. A space needs to be seen in order to be used. Visibility enhances the openness and public nature of POSPD. Visibility can be increased by levelling of space, avoiding solid fences and using more transparent materials.

2.1.2 Appropriateness

By categorizing the POSPD into recognizable generic types, the uses and design emphasis can be better defined.

(a) Functionality

POSPD should be designed and function as an open space use in its own right.

(b) Flexibility

POSPD should be adapted to different activities from passive seating to active gathering. The shape, gradient, and the proportion of major/minor space directly relate to the flexibility of the space in accommodating the scope of activities allowed. A regular-shaped and flat open space is a more adaptive form of space with a higher degree of

¹ According to the Guidelines for New York City, the major portion must account for at least 75% of the public plaza area while the minor portion is limited to no more than 25% of the public plaza area. This can be used as a reference.

flexibility.

(c) Usability

How POSPD can be used should be defined. A POSPD is more usable when there is a balance between space and facilities/amenities (such as seating, planting and other amenities). In general, fragmented and irregular pocket space has lower usability when compared with regular-shaped space.

(d) Inclusiveness

POSPD should be designed to be socially inclusive, i.e. available for all age groups and the physically impaired. Irregular shape or space located at steep slopes will impede social inclusiveness.

(e) Relationship to the Surroundings

POSPD should be harmonious with the neighbouring land uses and surrounding environment. For example, a public open space next to a refuse disposal facility is undesirable. Outdoor performing area next to a residential area may not be totally compatible.

(f) Environmental Considerations

POSPD should be designed to respond to the neighbouring environmental conditions. For instance, trees and

shelters can serve as solar shading devices to achieve a more comfortable micro-climate. Landscape buffers can mitigate nuisance from road traffic noise.

2.1.3 Quality

The location, the surroundings and the design of POSPD will affect its patronage. The design intent in some cases may not be met due to problems of management, maintenance and denial of access. It is important to evaluate the quality or popularity of such space before and after its operation. The other end is how such space is used by the general public, and hence how it positively contributes to the character of the locality.

(a) Safety

POSPD should be perceived and used by the public without potential threats. The design of the place needs to be safe and to look safe. The more visible and open the space is, the more secure it looks. Safety would be enhanced by avoiding hidden corners and using proper natural/artificial lighting.

(b) Comfort/ Hygiene

The public should be able to enjoy POSPD without sensory anxieties. The degree of comfort and hygiene is also a determining factor for the popularity of the space. Comfort can be enhanced by increasing greenery and shading. Hygiene can be enhanced by the use of suitable materials and proper maintenance and management.

(c) *Attractiveness*

POSPD should attract people to stay and enjoy the atmosphere. Space-wise, the space should be open, visible, spacious and bright to become attractive. Design-wise, points of attraction such as public art/ sculptures or other special features will help attract more users. The neighbouring conditions should also be considered to minimise nuisance to others.

2.2 Design Elements: Local Perspectives

POSPD serves as a place open for public recreational use and should be accessible most of the time. Individual POSPD may vary in size, dimension and spatial form with respect to the site context and the functions it serves. Some general principles are helpful to improve the design quality of POSPD in terms of the pedestrian circulation paths and spatial dimensions.

2.2.1 *Pedestrian circulation paths*

POSPD should not be an isolated island in an urban setting. Instead, a POSPD invariably becomes part of a larger pedestrian system that includes circulation paths and nodes connecting with neighbouring areas. Specific requirements include:

- POSPD should connect with streets and neighbouring circulation systems so as to maximize accessibility;

- internal circulation paths within POSPD should be designed to encompass key destination points, to provide a series of activity nodes, and to connect with parks, open space, common areas and other pedestrian facilities within the development or in the vicinity. They should be safe, visible and convenient; and
- total width of the internal circulation paths within POSPD including the hard surfaced walkways and landscape shall ideally be not less than 6.0m. The walkways should be determined on the basis of the volume of circulation traffic and purposes of the path. For instance, winding and narrower paths help slow down visitors' pace directing their views to points of interest.

2.2.2 In addition to pedestrian circulation paths, different **aspects of spatial dimensions** are illustrated in the following diagrams.



Preferable

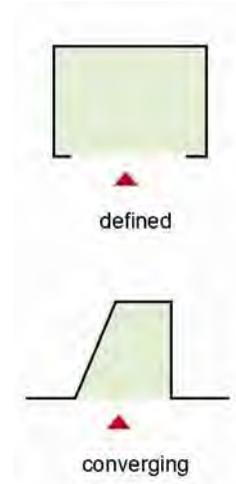


Less preferable subject to consideration on site constraints and design justification.

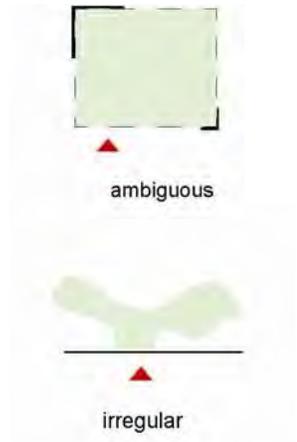
(A) Spatial Issues

Shape

A more defined space is preferred to a loosely defined one, to facilitate public use and enjoyment. A regular-shaped space is usually more usable than one with changing edges and irregular shapes, as acute angles within the irregular space may lower the visibility of the full space. That said, design flexibility should be allowed on individual merits.



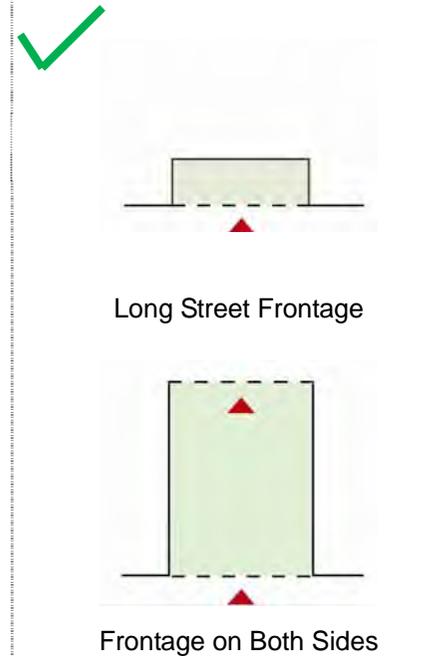
Shape without hidden corner
(Cosco Tower and Grand Millenium Plaza, Central)



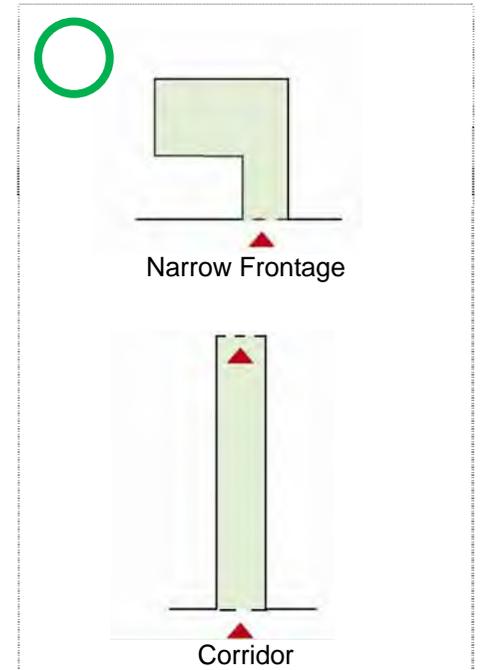
Irregular and loose edges
(The Belchers, Western)

Street Frontage

Street frontage is the linear extent of access to the public open space from the adjoining street. The ideal street frontage should have at least the same width as the public open space, and should be as wide as possible so as to enhance visibility and popularity of the space.



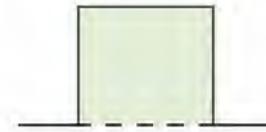
Long street frontage enhances accessibility and visibility
(Times Square, Causeway Bay)



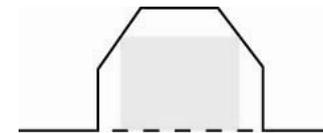
Narrow and recessed frontage not noticeable for the public
(Li Chit Garden, Wanchai)

Width to Length Ratio

The width to length (or width to depth) proportion defines visibility of the space. Length generally refers to the greater dimension of the space, or the average of such; while width or depth refers to the lesser. The more elongated the space is, the lower the possibility for it to accommodate a variety of public uses. Elongated space is mainly for circulation purpose. A higher width or depth to length ratio is preferred.



Rectangular



Irregular but with central area



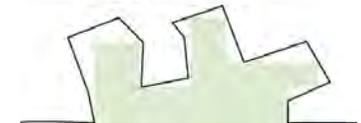
Well-proportioned plaza for various activities

(Citygate, Tung Chung)

<http://upload.wikimedia.org/wikipedia/commons/thumb/8/80/Citygate.JPG/800px-Citygate.JPG>



Relatively narrow



Relatively irregular



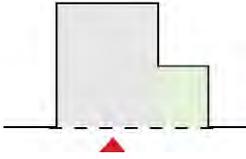
Linear spaces are only suitable for circulation

(Pacific Place Phases I & II, Admiralty)

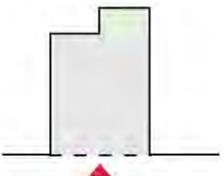
Major/Minor Space

Major space refers to the main portion of the POSPD, which in general is larger in area. Minor space refers to the space attached to a major space, usually with smaller areas. Its relationship with and the transition to major space will affect the scope of possible activities. Major space should account for preferably not less than 75% of the area of POSPD.

✓



Minor Space is visible and connected to Major Space

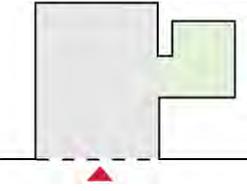


Minor Space of appropriate proportion

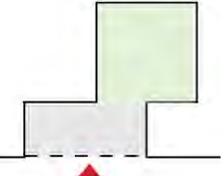


Minor space serving and connecting well with the major space
(Li Chit Garden, Wanchai)

○



Minor Space is not visible and issue of security needs to be addressed



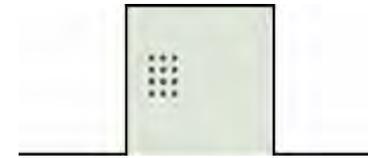
Minor Space of inappropriate proportion



Minor space is hidden from the public
(Soka Gakkai International of Hong Kong Cultural and Recreational Centre, Tai Po)

Area

Area refers to the extent of space available for specific use. The smaller the area, the more restrictive the space would be as to uses, activities and other amenities that could be accommodated. If the area is too big or too small without proper design, it would affect the intimacy and lose human touch. POSPD of appropriate size that corresponds to its use and context is preferred.



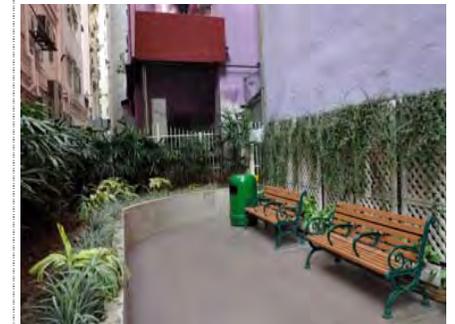
Appropriate Size



Medium sized public space conducive for a variety of uses.
(Hong Kong Station Development, Central)



Area too small without proper design

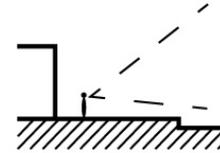


Space too small is not suitable for activities
(Queen's Road East, Wanchai)

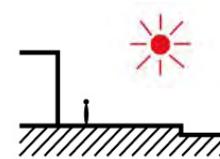
(B) Perceptual Issues

Visibility

Visibility relates directly to seeing it and being seen from the view of the public. The position or orientation of the seating at various locations determines the view. It is ideal to have views without any blockage, and the range of openness may vary from a fully open view to facing a slope or a wall. Visibility into and throughout the space is also important to promote a sense of openness and safety.



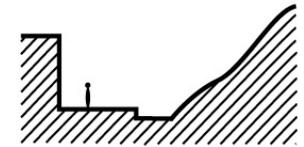
visible to and from surrounding area



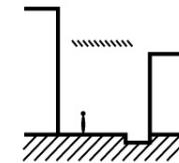
open to the surrounding area



Space open to and visually connecting to surrounding area.
(Cosco Tower, Central)



blocked views



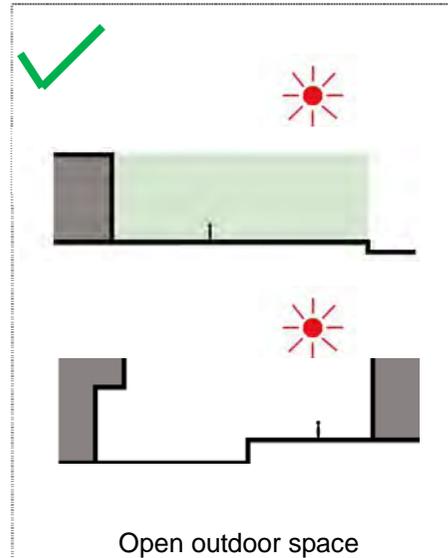
segregated from surrounding area



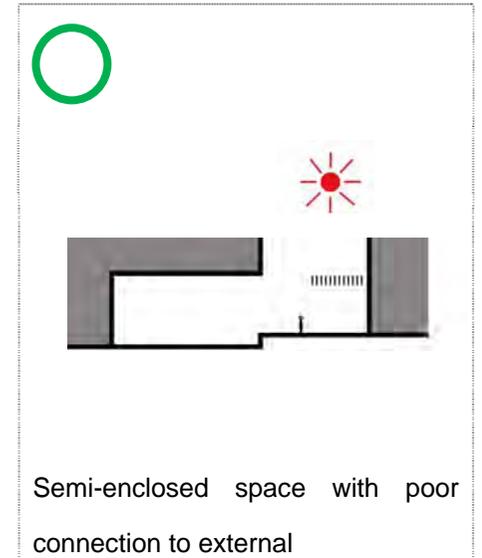
Space segregated from major pedestrian levels
(Le Maison Du Nord, Western)

Open-to-sky

Openness to sky or outdoor open air public space should generally be adopted as a design principle. Canopy and tree shading could be employed to create more comfortable micro-climate for the open space. Transparent materials could be adopted for canopy required to provide weather protection while allowing light to penetrate to enhance the attraction of the space.



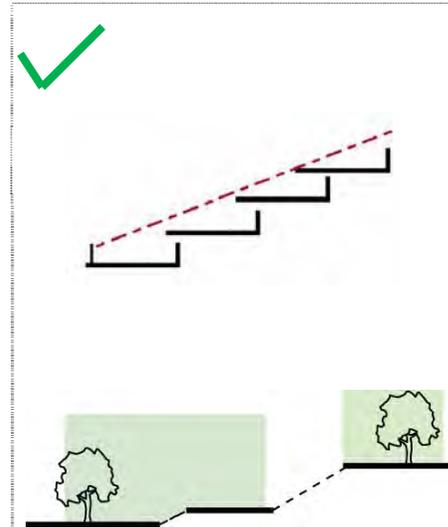
Open outdoor plaza is encouraged
(The Centrium, Central)



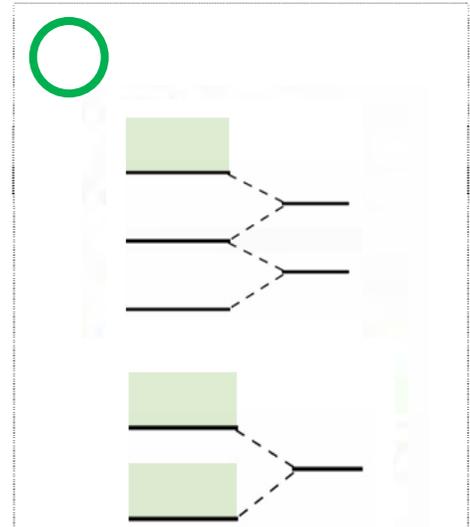
Deep and covered space is not encouraged
(K11, Tsim Sha Tsui)

Slope/Gradient

It is always desirable to have public open space at grade or on the principal pedestrian level. Inappropriate gradient change would limit the use of space while suitable gradient or change in level could create linkages with visual interests. Connection and continuation at different levels, both spatial and visual, could enhance visibility and hence popularity. Multi-level space should be well designed and integrated. Mechanical access may be accepted to assist the continuity between levels.



Multiple set-back and connection with visual connection
(Cheung Kong Center, Central)



No visual connection with the ground
(Hong Kong Station Development, Central)

2.3 Design Elements: Human Perspectives

High frequency of use enhances the public nature of POSPD. An inviting space could encourage flow of people and accommodate a variety of functional uses. User-friendly design, landscaping and interesting features would also attract people to stay, gather around and organize activities. The ensuing paragraphs set out some user perspectives for the good design of POSPD.

2.3.1 *Inclusiveness*

- POSPD should be inviting and least fortified by physical and visual barriers such as fences and walls. POSPD enclosed and barred from visibility would lead to a propensity of privatizing the space for exclusive use.
- Fences, despite being a proven necessity in some cases for security reason, should be of an appropriate height and design. Their height and design should not shut off visibility.
- Space for public use should not be designed for exclusive groups of people. It should cater for use by the general public and be a place for universal access.

2.3.2 *Flexibility*

A space designed for multifunctional uses and different scales of functions tends to attract more users and is adaptive to a greater variety of uses.

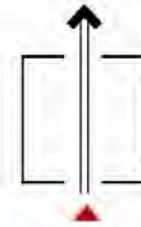
2.3.3 *Attractiveness*

Space could be of little use if there is a lack of attractive landscape or facilities, or poor design in the provision of activity space and seating. Therefore, instilling a sense of place by paying respect to the local character, by landscape design or by adopting user-friendly facilities could help build POSPD with functional value and identity that make the space a destination for its neighborhood and the public.

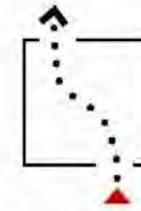
Length of Stay

Length of stay is another measurement of the popularity of space. Space for circulation purpose only has a short length of stay, as the public simply walk through it. For space for circulation with added attractions, people may stay a bit longer in walking through it. The longer the length of stay, the more popular the public space is.

Space for circulation



Passing through



Meandering



Circulation dominated
(Cheung Kong Centre, Central)

Space for Staying



Wandering



With attractions



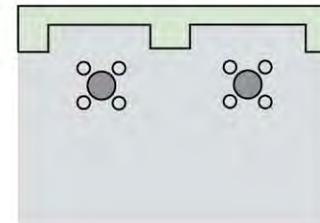
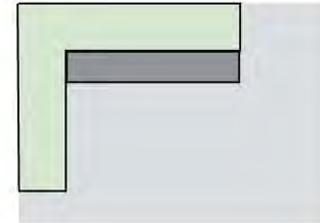
Space enabling longer stays
(Three Pacific Place, Wanchai)

Clear Space/Amenities Arrangement

POSPD should generally be free of obstructions except for planting, seating and other amenities. A space cleared of obstructions (the clear space) is more suitable for activities. An appropriate balance between the clear space and other amenities of the POSPD such as seating, planting, play areas etc. should be maintained.



Clear space



Flexible and variety in arrangements

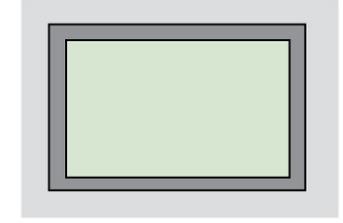
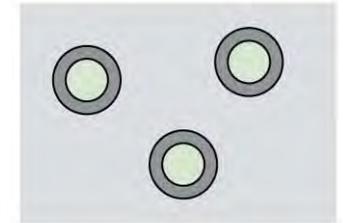


Clear space with appropriate seating allows flexibility in use.

(Starcrest, Wanchai)



Obstructed space



Fixed and limited in configurations



Fixed and scattered arrangement reduces variety in use.

(Cheung Kong Center, Central)

2.3.4 Landscape Design

The objectives are to provide an attractive and comprehensive landscaping strategy within the POSPD that contributes to the character and identity of the neighbourhood and urban place. Besides, the incorporation of natural and cultural features in the design of POSPD, where appropriate, should be encouraged. Native habitats or existing urban fabrics should be protected. In case of waterfront promenades and landscaped walkways, spatial recess, water features and break-out points for enjoying water scenes, river views and sea views are important landscape items to be included. Some considerations on landscape and greenery design are shown in the following table:

Hard / Soft Landscape	Considerations
H/S	Creating attractive landscape that visually emphasizes streets and public open space
H/S	Protecting and linking areas of significant local habitats where appropriate
H/S	Protecting and enhancing any significant natural and cultural features
H/S	Supporting integrated water management systems with appropriate landscape design and other urban design features.
H/S	Providing shade in streets, walkways and public open space
H/S	Developing appropriate landscape for the intended use of POSPD including areas for passive and active recreation, use by pets, playgrounds, shaded areas, etc.
H	Different forms of public arts and installations of artworks should be encouraged
H/S	Providing landscaped walkways that link with community facilities and other activity nodes
H	Providing appropriate pathways, public lighting and street furniture which require little maintenance and are durable
H/S	Taking account of the physical features of the land including landform, soil and climate
S	Maintaining existing vegetation
H/S	Water features should be provided as appropriate to form attractive features and improve the micro climate.
H/S	Planting areas should preferably be at grade and visually accessible. High raised planters should be avoided.



Rich variety of local species and well complementing human activities

(Cheung Kong Center, Central)



Raised and loosely scattered planters cannot perform shading and greening functions (Grand Promenade, Sai Wan Ho)

2.3.5 Greenery and Planting

Greenery and planting areas are essential components of POSPD. People enjoy to be close to greenery with a lot of planting which offer shading. Major trees or canopy-type trees also foster a feeling of permanence to the site and offer ventilation for fresh air and openness. The provision of green space should serve the cause of landscaping. The green space should also be accessible and promote an environment for public enjoyment. The design should aim to make reference to:

- (a) Greening Master Plans developed by the Civil Engineering and Development Department, (including the greening themes and concepts for each of the districts, and the medium-term proposals² in which private-sector participants are involved) which reflect the local context and the results of local consultations; and
- (b) Advice from the Greening, Landscaping and Tree Management Section of the Development Bureau and the Design Panel on Greening and Landscape.

The following factors should be considered when landscaping new POSPD facilities:

Greenery	Considerations
G	Maximum preservation of existing trees versus removal of unhealthy trees and trees incompatible with the development with new ones
G	Focal or interest plantings to create sense of place
G	Trees may be used to define, emphasize or soften architectural elements and further define circulation systems and the spatial quality of open space
G	30% to 50% of the area of POSPD for soft landscaping, half of which for planting large trees and shade trees
G	Plantings may be used in association with entrances, activity nodes and facilities, and/or located in positions that are highly visible from roadsides and/or focal points and where people gather
G	'Right tree for the right place' should be the key to tree selection, apart from the visual quality and design criteria to be fulfilled. Suitable tree species should be selected to suit the site conditions for long-term sustainable growth.
G	Plantings should generally be evergreen with few (if any) deciduous species to

² The medium-term proposals are subject to updating from time to time.

	avoid too many gaps in canopy cover during winter
G	Shade should be provided in POSPD through either trees or structures, especially along paths, where users stay and gather
G	Spacing of tree planting should take account of the ultimate mature size of the species.
G	Suitable soil volume and space should be provided. Continuous planting bed should be provided to sustain the mature size of trees instead of small insolated tree pits or small separate planters.
G	Trees should be selected for their visual quality (e.g. seasonal changes, attractive flowers/leaves/fruits, colour or texture); environmental quality (e.g. shade in summer); ecological quality (e.g. biodiversity and native origin); biological quality (e.g. resilient to pests and diseases); and other attractive features (e.g. fragrance, cultural value, etc.)
G	Adequate irrigation arrangement to be provided.

2.3.6 Types of Facilities

Facilities in POSPD are intended to provide the users with a sense of place which is safe and comfortable. The provision of POSPD should be accomplished by a wide range of facilities and maintained by the management agency:

Facilities	Requirements
Lighting	Provide appropriate lighting (functional and/or visually distinctive) and coordinate it with the pedestrian lighting.
Lighting	Pedestrian-scale lighting is encouraged.
Barrier free Facilities	Barrier free access for physical and/or visually impaired people and the elderly is required.
Seating	Provide primary seating (chairs and benches) and/or secondary seating (walls, steps and planter ledges). Appropriate covers should be provided over the seating as shades and/or rainshelter.
Seating	At least 10% seating should be primary.
Seating	Provide choice of a variety of seating forms or seating configuration. Moveable tables and chairs could provide flexibility; linear benches or ledges and circular benches could achieve different design effects; and a combination of varied forms allow people to define their own social seating.



Seating arrangement allowing different social settings to be defined.
(Three Pacific Place, Wanchai)



Seating design and disposition limiting the flexibility in use.
(Li Chit Garden, Wanchai)

2.3.7 Signage

POSPD hidden from public view may result in low usage. In contrast, identifiable POSPD with clear, visible and legible signage would invite people to use the space. These Guidelines suggest:

- clear indication of maps, location and signage would help inform the public of the available space for public use, and help them identify the space and its vicinity.
- connectivity, historical and cultural character, and landscape feature of a place would make itself an identifiable site to the public.
- the signage system should contain information on boundary and demarcation, rules and regulations, opening hours and contact information of management agencies; and
- materials, size and location of information plaque should be included in the signage plan of POSPD.

2.3.8 *Local Character and Neighborhood Pattern*

Frequent use and social interaction in the POSPD can attract more people to come and enhance the public nature of POSPD. However, overly intense activities and undue emphasis on crowd gathering would deter public use and minimize public enjoyment. A place of visual interest, aesthetical value or cultural value reinforced by impressive artworks and enjoyable landscape design would enhance the identity of the POS. The design of POSPD is suggested to:

- reflect the distinctive character and amenity of an area;
- reinforce desirable local character through appropriate artworks and landscape design; and
- highlight the uniqueness of local characteristics in terms of landform, landscape character, vegetation, local cultures, landmarks etc.

Section 3 DESIGN GUIDELINES

3.1 Quality Public Open Space

3.2 Design Guidelines

3.1 Quality public open space

Quality design is essential for proper functioning of POSPD as a public open space for various activities and to facilitate public use and enjoyment. Design standards are necessary to guide and assess the design of POSPD.

The measurement on the quality of a public open space should take into account the idea of 3-dimensional spatial governance,¹ which encompasses a vertical dimension of space, i.e. slope and multi-level access, visibility of elevated space, degree of openness, etc. Through the analysis of existing cases of POSPD, common spatial types could be identified. They include **Public Green, Plaza, Courtyard, Pocket Space** and **Promenade**. This typology of space is useful for the following purposes -

- (a) to categorize POSPD into spatial types;
- (b) to devise these Design Guidelines according to the design intent, characteristics and design requirements of individual spatial type;
- (c) to assess future cases of POSPD according to the Design Guidelines for individual spatial type; and
- (d) to evaluate how different spatial types of POSPD contribute towards a coherent open space system in the planning and design of the district.

These Design Guidelines generally follow those for open space in the Hong Kong Planning Standards and Guidelines and similar overseas cases with flexibility allowed to cater for the relevant circumstances for the Hong Kong planning and urban design context, such as the high density and mixed use urban setting, special characteristics (such as sloping terrain and

¹ The idea of 'spatial governance' as suggested by the Hong Kong Institute of Architects in the policy recommendation paper *About Public Space* dated 9 Feb,2009.

multi-level access) of some POSPD sites, and the design issues and principles set out in the previous section.

It is possible to have more than one spatial type of public open space within the private development site or within one POSPD site. Each public open space should be identified with a clear boundary, and with its typologies defined and the relevant Design Guidelines applied.

3.1.1 Public Green

Public Green is defined as a public open space with extensive green coverage and soft landscaping that serves the district for leisure, relaxation, and breathing space in the neighborhood. It is open to sky, passive recreation-oriented and should preferably be at grade. The minimum area should be 500 sqm and minimum green coverage should be 50%.

3.1.2 Plaza

Plaza is defined as a public open space with a vibrant atmosphere that serves the district and/or the city with multiple usage from leisure, communal gathering, to cultural performance. It is well connected with adjacent streets and has high visibility to the surrounding area, and a high degree of flexibility on uses. The location should preferably be at grade or at the principal pedestrian level with sufficient size allowing multiple uses and well-proportioned configuration. The minimum area should be 500 sqm and minimum green coverage should be 30%.

3.1.3 Courtyard

Courtyard is defined as a public open space similar to plaza but with a relatively less vibrant atmosphere that serves the neighborhood and/or the district with more limited usage from leisure, informal gathering, to play areas. It is surrounded by

buildings and the major space is indirectly connected with the street through a pedestrian path with a minimum width of 6m and maximum length of 15m. The minimum area should be 200 sqm and minimum green coverage should be 30%.

3.1.4 Pocket Space

Pocket Space is defined as a small scale public open space indented along the street and serves the local neighborhood as resting space, casual gathering and sitting as well as a brief stop for passers-by. The space is connected with the adjacent street and has a minimum width of 6m. The minimum area should be 100 sqm and minimum green coverage should be 30%.

3.1.5 Promenade

Promenade is defined as a public space which provides passive recreation facilities and is more than a passageway for public access. For such promenades to be able to serve the purpose as POSPD, the space should be linear with a minimum width of at least 15-20m, which allows activities and other uses to take place along it. Every 50m requires a spatial recess with seating or resting area.

3.2 Design Guidelines

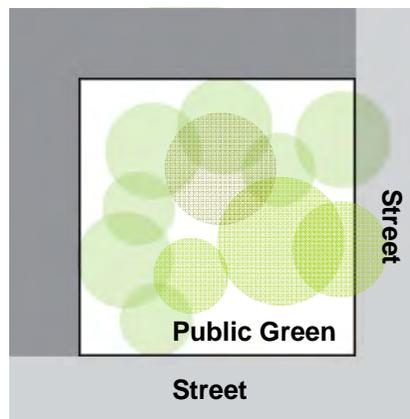
3.2.1 Design Guidelines for Public Green

DESIGN INTENT:

Public Green is a passive open space with extensive soft landscaping within urban districts.

- Physical qualities
 - Well connected with adjacent streets and preferably at grade
 - Usually sizable (>500 sqm)
 - Natural/landscaped setting to provide breathing space
 - Aesthetically and visually pleasing
 - Extensive green coverage: minimum 50%
- Use
 - Socializing, leisure
 - Individual activities of walking and relaxing
 - Passive recreation
- Radius of attraction
 - It attracts local residents, visitors from outside, as well as from the immediate neighbourhood
- Amenities
 - Extensive greenery
 - Various seating
 - Leisure facilities
 - Combination of refreshment kiosks, artwork, restrooms as well as seating, tables, trees, etc. [On commercial

DIAGRAM OF PUBLIC GREEN

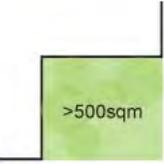
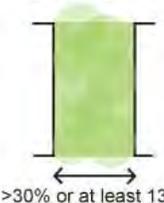
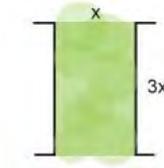
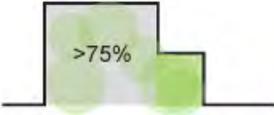


EXAMPLE



Cheung Kong Park, Central

uses of POSPD, see also section 4.3 for details.]

Size	<ul style="list-style-type: none">- At least 500 sqm.	
Shape	<ul style="list-style-type: none">- Generally no restriction, site specific- Usable configuration	
Street frontage	<ul style="list-style-type: none">- Preferably at grade. At least 30 % or with a width of at least 13.5m of street frontage to provide easy access from the street or pedestrian level	
Width to Lengh Ratio	<ul style="list-style-type: none">- 1:3 as recommended maximum ratio with appropriate visual depth	
Major/Minor Space	<ul style="list-style-type: none">- Ratio of Major and Minor space is site-specific which allows flexibility in the design and the adaptation on the site, but major space should preferably be not less than 75%. Minor space should be visible from the major space.	

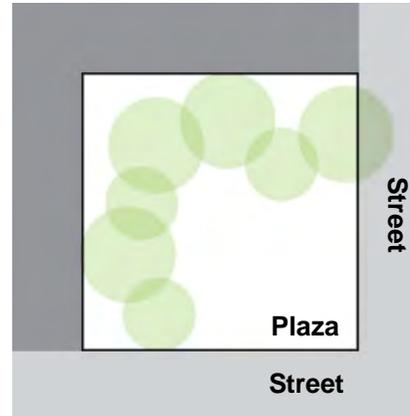
3.2.2 Design Guidelines for PLAZA

DESIGN INTENT:

Plaza is a quality public open space within urban districts with a vibrant environment, high flexibility, visibility and usability.

- Physical qualities
 - Well connected with adjacent streets
 - Usually sizable (>500 sqm)
 - Well proportioned and preferably regular shape
 - Aesthetically and visually pleasing
 - Visually open
 - Green coverage : minimum 30%
- Use
 - Socializing, leisure, eating, viewing art or attending a programmed event
 - Individual activities of walking and relaxing
- Radius of attraction
 - It attracts office workers, residents, visitors from outside, as well as from the immediate neighbourhood
- Amenities
 - Various amenities
 - Combination of refreshment kiosks, outdoor café, artwork, programmed activities, restrooms, commercial frontage as well as seating, tables, trees, water fountain, etc. [On commercial uses of POSPD, see also section 4.3 for details.]

DIAGRAM OF PLAZA



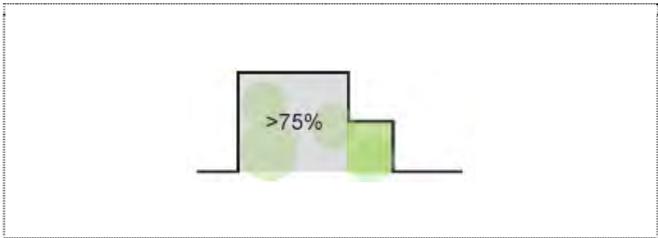
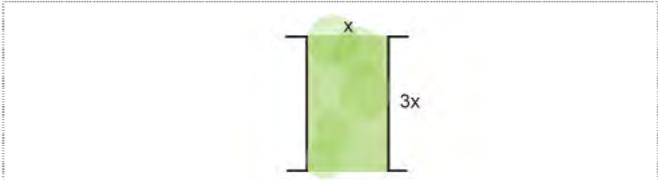
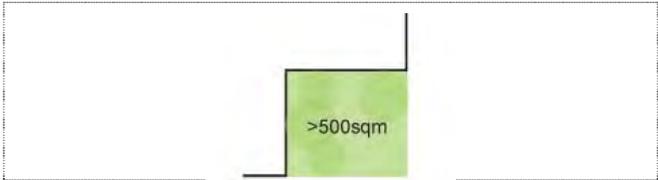
EXAMPLES



Citygate, Tung Chung

(<http://upload.wikimedia.org/wikipedia/commons/thumb/8/80/Citygate.JPG/800px-Citygate.JPG>)

Size	At least 500 sqm.
Shape	<ul style="list-style-type: none"> - Generally no restriction, site specific but preferably regular - Usable configuration
Street frontage	<ul style="list-style-type: none"> - At least 30 % or at least 13.5m of street frontage to provide easy access from the street or pedestrian level
Width to Length Ratio	<ul style="list-style-type: none"> - 1:3 as recommended maximum ratio with appropriate visual depth - Deep plaza is not acceptable
Major/Minor Space	<ul style="list-style-type: none"> - Ratio of Major and Minor space is site-specific which allows flexibility in the design and adaptation on the site, but major space should preferably be not less than 75%. Minor space should be visible from the major space.



3.2.3 Design Guidelines for COURTYARD

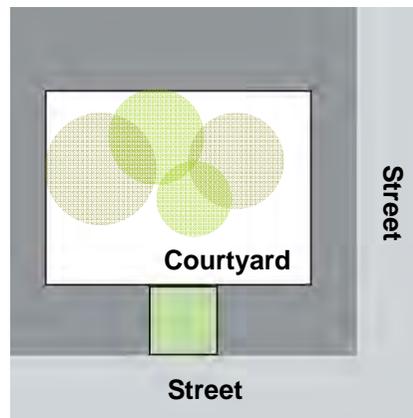
DESIGN INTENT:

Design intent:

Courtyard is a quality public open space that is surrounded by buildings with indirect access from adjacent street.

- Physical qualities
 - With a pedestrian path connected to adjacent street
 - Generally smaller than plaza
 - Well proportioned
 - Aesthetically pleasing
 - Green coverage : minimum 30%
- Use
 - Socializing, leisure, sitting, eating, relaxing and children caring
 - Occasionally with small scale programmed events
- Radius of attraction
 - It attracts office workers and residents from the immediate neighbourhood
- Amenities
 - Seating, tables, trees, water fountains, children's play areaRefreshment kiosks and commercial frontage when necessary [On commercial uses of POSPD, see also section 4.3 for details.]

DIAGRAM OF COURTYARD

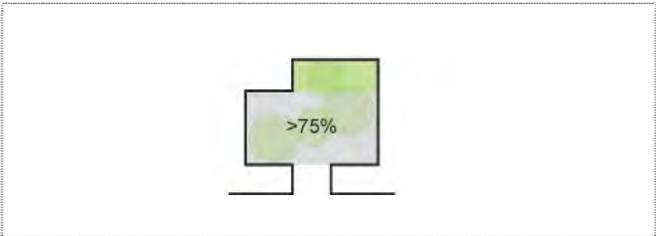
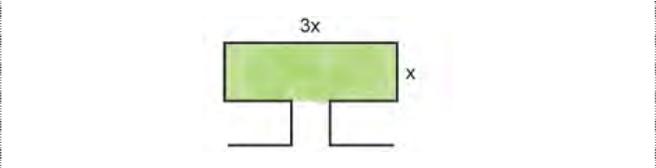
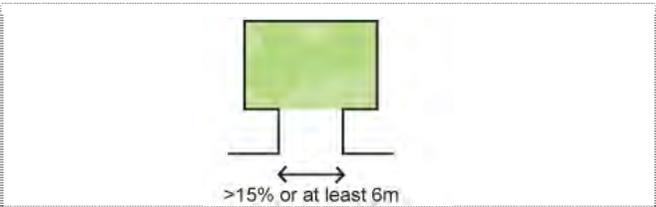
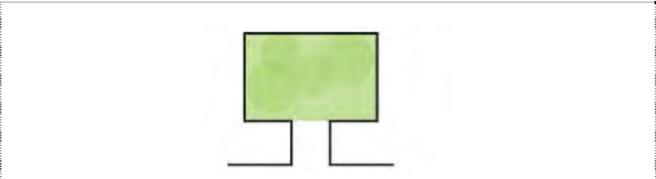
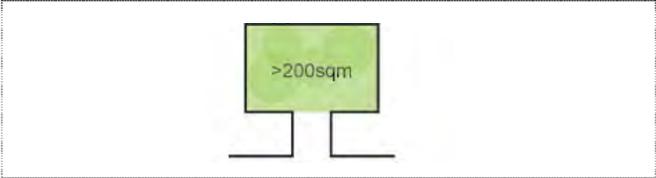


EXAMPLE



Li Chit Garden, Wanchai

Size	- At least 200 sqm.
Shape	- Generally no restriction, site specific - Usable configuration
Street frontage	- The connecting public pedestrian footpath of at least 15% street frontage or at least 6m as the entrance to the courtyard to provide easy access from streets or pedestrian levels
Width to Length Ratio	- 1:3 as recommended maximum ratio to control the visual depth
Major/Minor Space	- Ratio of Major and Minor space is site-specific which allows flexibility in the design and adaptation on the site, but major space should preferably be not less than 75%. The pedestrian path must connect to the major space, but not the minor space.



3.2.4 Design Guidelines for POCKET SPACE

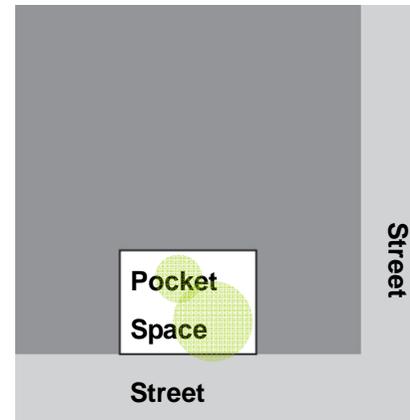
DESIGN INTENT:

Design intent:

Pocket Space is a relatively small-sized enclave public open space that is indented along adjacent street.

- Physical qualities
 - Fronts on pedestrian circulation path
 - Generally small in size
 - Range from high to medium quality in terms of design, amenities and aesthetic appeal
 - Green coverage : minimum 30%
- Use
 - Brief stop, resting, sitting, casual gatherings, waiting and weather protection
 - Radius of attraction
 - It attracts passers-by or users of immediate neighbourhood
- Amenities
 - seating, trees and weather-proof covers

DIAGRAM OF POCKET SPACE



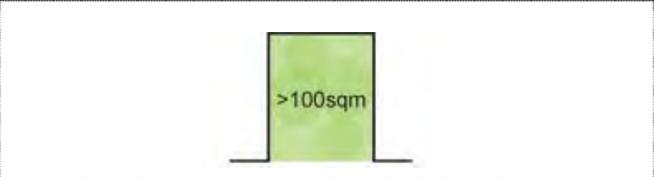
EXAMPLE



Hollywood Terrace, Central & Western

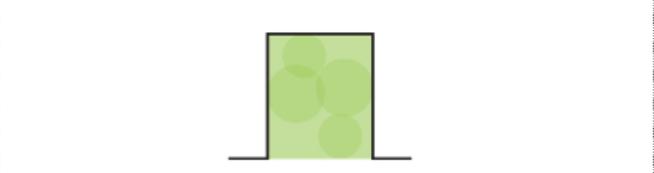
Size

- At least 100 sqm.



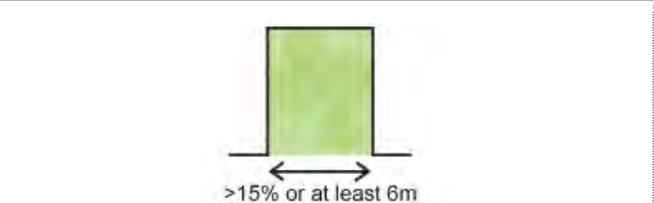
Shape

- Generally no restriction, site specific
- Usable configuration



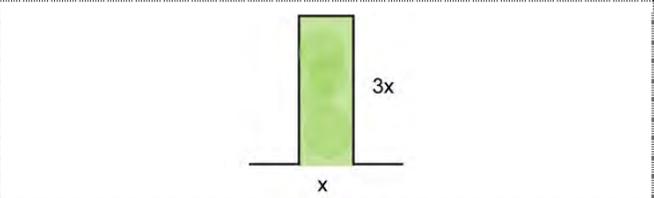
Street frontage

- At least 15% or at least 6m of street frontage to provide easy access from the street or pedestrian level



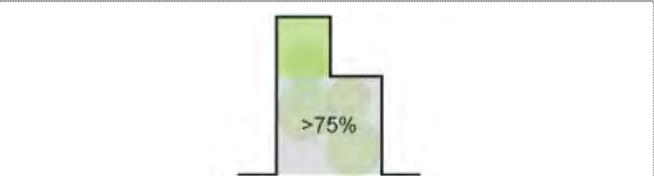
Width to Length Ratio

- 1:3 as recommended maximum ratio to control the visual depth



Major/Minor Space

- Ratio of Major and Minor space is site-specific which allows flexibility in the design and adaptation on the site, but major space should preferably be not less than 75%.



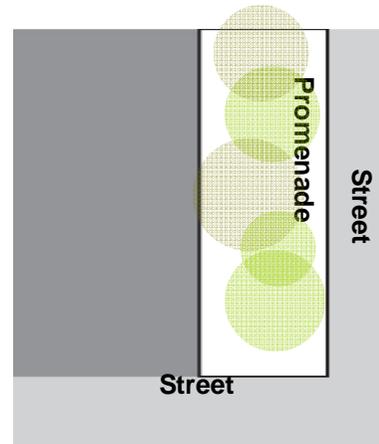
3.2.5 Design Guidelines for PROMENADE

DESIGN INTENT:

Promenade is a linear public open space that provides for passive recreation, apart from pedestrian circulation. It improves the pedestrian experience and connects to other space/streets at its two ends.

- Physical qualities
 - Width of at least 15-20m. Linking other space at its two ends
 - Generally elongated in shape
 - Size, location and proportion depends on activities and circulation volume
 - Landscaped path to provide comfortable journey
- Use
 - Leisure, walking, jogging, relaxing
 - Brief stop, resting, sitting
 - Occasionally with programmed activities
 - Arts and sculpture display
- Radius of attraction
 - It attracts office workers, residents and workers from outside, as well as from the immediate neighbourhood.
- Amenities
 - Seatings, plantings, tree shading and weather protection are provided for spatial recess

DIAGRAM OF PROMENADE

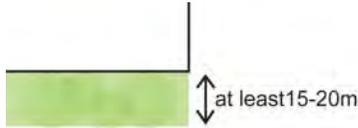


EXAMPLE



Tsing Yi Promenade, Tsing Yi

http://upload.wikimedia.org/wikipedia/commons/6/6c/HK_Tsing_Yi_Promenade_view5.jpg

Size	<ul style="list-style-type: none"> - Width of at least 15-20m; no restriction in length. - A spatial recess is required for every 50m. 	
Shape	<ul style="list-style-type: none"> - Generally linear, site specific - Usable configuration 	
Street frontage	<ul style="list-style-type: none"> - Connect to other space or streets at two ends 	<p style="text-align: center;">N/A</p>
Width to Length Ratio	<ul style="list-style-type: none"> - N/A 	<p style="text-align: center;">N/A</p>
Major/Minor Space	<ul style="list-style-type: none"> - N/A 	<p style="text-align: center;">N/A</p>

3.2.6 Summary of Design Guidelines

CRITERIA	PUBLIC GREEN	PLAZA	COURTYARD	POCKET SPACE	PROMENADE
Shape	Site- specific	Site- specific	Site- specific	Site- specific	Site- specific but Generally elongated
Street Frontage	Over 30% 13.5 m min width	Over 30% 13.5 m min width	Over 15% 6 m min width	Over 15% 6 m min width	N/A
Width / Length Ratio	Recommended 1:3 max	Recommended 1:3 max	Recommended 1:3 max	Recommended 1:3 max	15-20 m min width
Major / Minor Space	Site-specific but preferably 75% min. for major space	Site-specific but preferably 75% min. for major space	Site-specific but preferably 75% min. for major space	Site-specific but preferably 75% min. for major space	Site-specific but Generally elongated
Area	500 sqm min	500 sqm min	200 sqm min	100 sqm min	N/A
Visibility	Visible	Highly visible	Visible	Visible	Visible
Open To Sky	Open air	Open air	Open air	Open air	Open air
Slope / Gradient	Preferably on flat land	Site-specific			
Green Coverage / Planting Area	50% min	30% min	30% min	30% min	Site-specific

3.2.7 Example of Spatial Type – Public Green



Project:
Cheung Kong Centre
Spatial Type:
Public Green

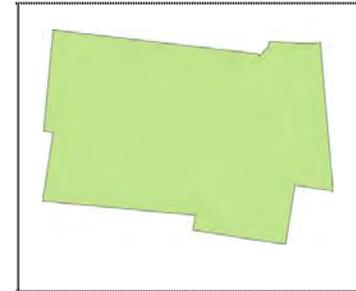
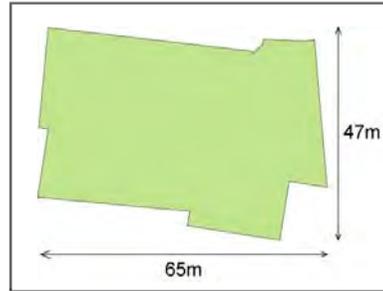
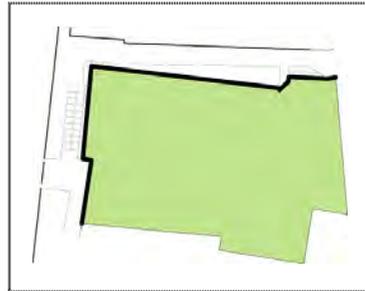
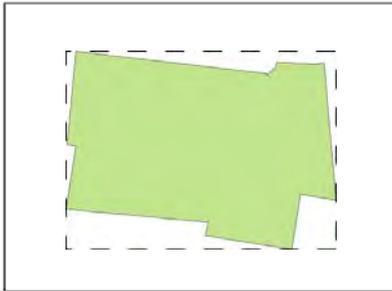
Shape

Street frontage

W:L Ratio

Major/Minor Space

Green Coverage



Basically Rectangular

47%

1:0.7

Single Major Space

80%

*All figures indicated are approximate

*For W/L ratio, measurement refers to the greatest dimension, subject to review of the Design Panel on Greening and Landscape.

3.2.8. Example of Spatial Type - Plaza



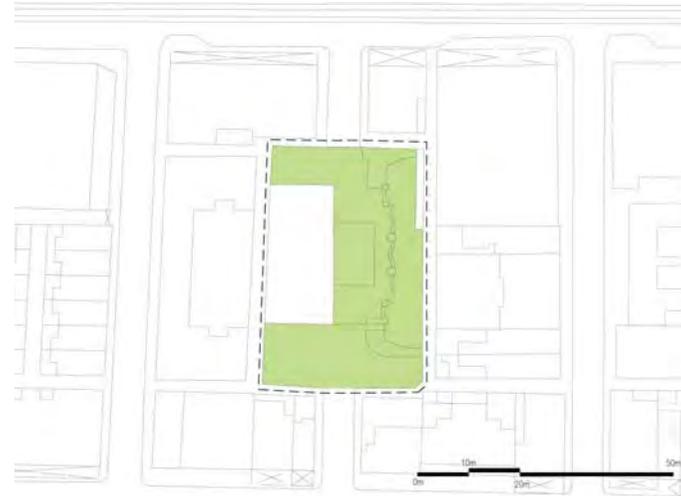
Project:
Cosco Tower, Central
Spatial Type:
Plaza

Shape	Street frontage	W:L Ratio	Major/Minor Space	Green Coverage
Basically Trapezoid	45%	1:2 > 1:3	Single Major Space	45%

*All figures indicated are approximate

*For W/L ratio, measurement refers to the greatest dimension, subject to review of the Design Panel on Greening and Landscape.

3.2.9 Example of Spatial Type – Courtyard



Project:
Li Chit Garden, Wan Chai
Spatial Type:
Courtyard

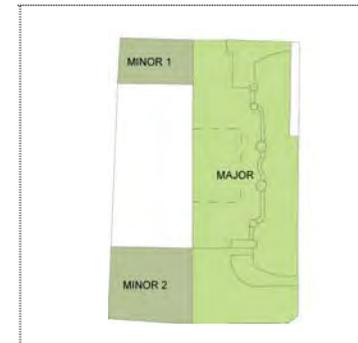
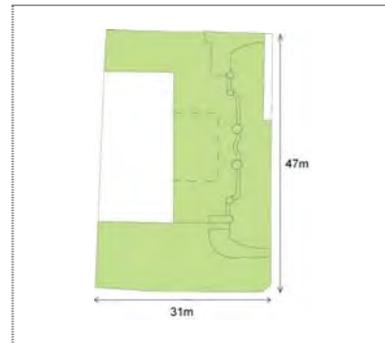
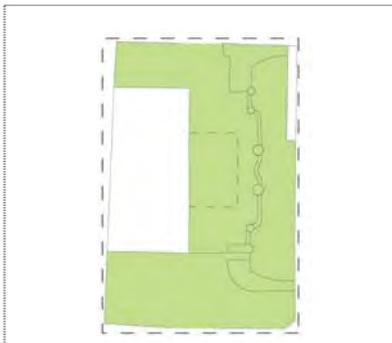
Shape

Street frontage

W:L Ratio

Major/Minor Space

Green Coverage



Basically Rectangular

10%

1:1.6
width of pedestrian link: 6.5m

75% for major space

30%

*All figures indicated are approximate

*For W/L ratio, measurement refers to the greatest dimension, subject to review of the Design Panel on Greening and Landscape.

3.2.10 Example of Spatial Type - Pocket Space



Project:
Three Pacific Place,
WanChai
Spatial Type:
Pocket Space

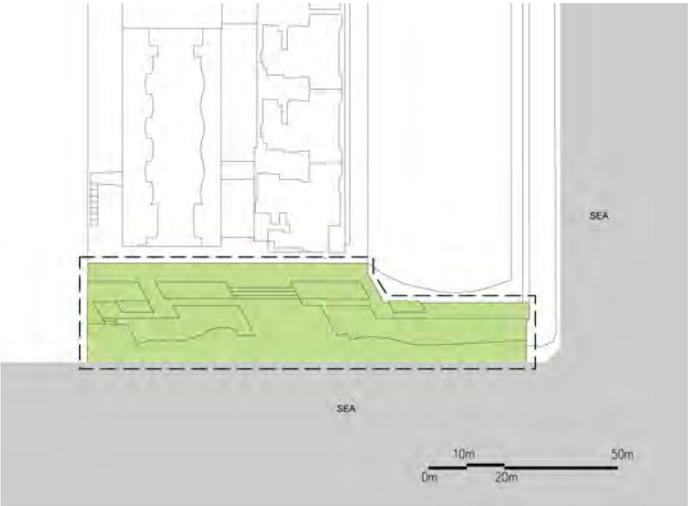
Shape	Street frontage	W:L Ratio	Major/Minor Space	Green Coverage
Basically Rectangular	68%	1:0.75	Single Major Space	30%

*All figures indicated are approximate

*For W/L ratio, measurement refers to the greatest dimension, subject to review of the Design Panel on Greening and Landscape.

3.2.11 Example of Spatial Type – Promenade

Project:
One SilverSea, Kowloon
Spatial Type:
Promenade



Shape	Street frontage	W:L Ratio	Major/Minor Space	Green Coverage
	N/A		N/A	
Basically Rectangular	N/A	Width = 26m Length = 116m	N/A	45%

*All figures indicated are approximate

*For W/L ratio, measurement refers to the greatest dimension, subject to review of the Design Panel on Greening and Landscape.

Section 4 Management Guidelines

- 4.1 Introduction**
- 4.2 Application for POSPD**
- 4.3 Use of POSPD**
 - (a) Permissible Activities**
 - (b) Always Permitted Activities**
 - (c) Application and Approval Procedure**
 - (d) Management Guidance to Commercial Uses**
 - (e) Others – Advertising and Promotion**
- 4.4 Operational Standards**
 - (a) Opening Hours**
 - (b) Transparency and Information Dissemination**
- 4.5 Other General Responsibilities**

4.1 INTRODUCTION

This section seeks to identify the principles and practices, and develop a comprehensible framework for the management of POSPD. It addresses a group of management issues and other relevant aspects relating to public accessibility, management and maintenance of POSPD, with a view to facilitating public use and enjoyment of POSPD.

Common objectives set for the management of POSPD for public use and enjoyment are to :

- promote and maintain high-quality environment and appropriate use of POSPD;
- ensure high standard in the provision, maintenance and management of POSPD;
- respect local culture, heritage and characteristics; and
- encourage involvement of the local community in the management of POSPD.

On the one hand, the public should be facilitated to enjoy POSPD. At the same time, POSPD on private land remains private property while POSPD on government land is under private management. A fine and pragmatic balance should be struck between the public's use of POSPD and the private owners'/occupants' needs for privacy.

Generally, in fulfillment of the contractual requirement, existing POSPD should continue to be managed and maintained according to the stipulations in the leases or deeds of dedication. The legal position and the requirements as enshrined in such contractual documents should be respected.

Generally, owners of the private developments are required to –



Activities of local flavour

http://www.timessquare.com.hk/ch/module/admin/module/elm/22_4.jpg

- (a) permit the public to such facilities for lawful purposes and not to allow the area to be obstructed, where this is applicable; and
- (b) manage and maintain such facilities to the satisfaction of the relevant authorities.

Most of the POSPD required under land lease are provided for use by the public free of payment. There are rare exceptions of POSPD under deeds of dedication where requirements concerning payment are expressly provided for in the deeds of dedication. Being responsible for making such facilities accessible for public use, owners of such developments should adopt a set of reasonable, clear and transparent guidelines for all users to comply.

4.2 APPLICATION FOR POSPD

Currently, the number of POSPD is limited. Governed under the leases, there are 56 POSPD in 52 private developments. Another 20 are in the pipeline as known at the time of preparing this report. To the best of our knowledge, there are only two exceptional cases of dedicated areas that are required by the Town Planning Board to serve as POS or covered area as well, namely Times Square and Shun Lee Mansion.

On management, new cases will be subject to these Guidelines. As for existing cases, the owners will be required to comply with the Management Guidelines insofar as permitted under the leases or the Deeds of Dedication (as the case may be). In other cases and provided that it is consistent with the relevant instruments, existing cases should still be strongly advised to follow the Management Guidelines on a reasonable basis.

The Management Guidelines are not meant for public passageways in private developments in general. However,

for certain isolated cases of public passageways in private developments which are perceived by the public to resemble POSPD in their physical characters, if their owners so wish, they are welcome to follow the Management Guidelines on a reasonable basis, say, in terms of allowing use for arts and cultural activities by non-profit-making organizations. A list of such cases will be promulgated by the Lands Department and the Buildings Department. For details, please see section 5.

4.3 Use of POSPD

(a) PERMISSIBLE ACTIVITIES

4.3.1 Scope of uses in POSPD under the leases is neither easy to define nor could this be exhaustive at the stages of planning and site development. Activities in POSPD could be passive, including not only leisure activities such as walking, doing relaxing exercises and passive activities, but also social interactions, social activities/functions such as events, exhibitions, group gathering for a particular purpose.

Activities in POSPD may also vary in nature: while some activities such as arts and cultural and civic education activities run by not-for-profit organizations should be encouraged, there is also demand from commercial organizations for using such facilities. A variety in scope and nature encourages flow of people and instills vibrancy and vitality into POSPD. Towards this end and depending on the type of POSPD (see previous section 3.1 on spatial types), flexibility should be given to accommodating as wide a range of permissible uses in POSPD as

reasonably possible, unless the activities are causing obstructions to public passage, nuisance and disturbance to security and privacy of occupants of the private developments or at the expense of other members of the public in their enjoyment of the POSPD.

4.3.2 A balance should be struck between the liberal approach of more flexible use of POSPD and the due roles of the owners and management agents in the management of POSPD. In allowing uses by some members of the public, the uses of POSPD by other members of the public and the owners'/occupants' needs for security and privacy should not be compromised, and the health and safety of others should not be adversely affected. Hence, while observing the requirements in the contractual documents on opening POSPD for public use and enjoyment, the owners should be allowed to set general and/or specific rules on the actual use of POSPD according to site-specific context.

No unlawful activities should be allowed. Owners may enquire with the relevant government authorities if in doubt. Approval/consent from other statutory or administrative authorities as the case may require, which may for example include permission for temporary place of public entertainment licence, should also be obtained by the applicant in parallel with his/her application to the owners / management companies in accordance with their rules, where applicable. In gist, apart from the application and approval procedures in section 4.3 (c) below, it also remains the responsibility of users to obtain the relevant approval/consent from the relevant authorities for their relevant uses and to comply with other requirements, as imposed by Government Departments or under the relevant statutes, e.g. the Environmental Protection Department's requirements on noise control, and to be responsible for liabilities arising from the uses. For ease of reference, recommended practices and examples of uses are quoted in Table 1 below.



Cultural event in open plaza

4.3.3 Unless otherwise expressly provided in the contractual documents or where a waiver at full market waiver fee has been granted as set out in section 4.3 (d) below, the owners should not charge fees for the use of POSPD.

4.3.4 Insofar as to a few exceptional cases of dedicated areas that are required by the Town Planning Board to serve as POSPD, they need to be subject to the terms of the deeds of dedication and the governing principles stated below:

(i) commercial activities should not be allowed, if bonus GFA has previously been granted in return of the dedication of the concerned area for public use;

(ii) subject to the provisions of the deeds of dedication, activities of non-profit-making nature, such as arts and cultural and civic education activities run by not-for-profit organizations, should be allowed and encouraged. Unless otherwise explicitly provided for in the deeds of dedication, the owners should not charge fees for the use of the designated passageways under deeds of dedication;

(iii) certain activities always permissible in POSPD, such as doing relaxing exercise, should be subject to site-specific context, e.g. such activities might not be appropriate where the POSPD is serving as a main passageway in a shopping arcade; and

(iv) the principles and arrangements as set out in sections 4.3.2 and 4.3.3 above should also be applicable.

4.3.5 For ease of reference, please see Table 1 illustrating how the system works in practice –

Table 1 Different Uses for POSPD

Type A	Examples of Activities	Management Advice
Activities Always Permissible, without any need for application	Leisure activities such as passive activities, walking, relaxing exercises, temporary stay etc.	<ul style="list-style-type: none"> ● The management companies should impose and enforce minimal restrictions with respect to crowd control and security where these are necessary, and set rules having regard to site-specific context. ● to keep the place clean and to undertake proper maintenance.
Type B	Examples of Activities	Management Advice
Non-Commercial Activities by Non-Profit Making Organisations – Requiring Permission by Management Companies and Relevant Government Departments	<p>Non-commercial temporary exhibition, festive activities, civic education and art and cultural events, community / charitable events, one-off event with no permanent structures etc. organized by non-profit making organisations.</p> <p>Non-commercial and non-profit making out-door/in-door performance such as musical performance, entertainment performance, or charitable activities.</p>	<ul style="list-style-type: none"> ● Potential users shall submit applications to the management companies of POSPD for approval. ● The management companies shall state clearly the procedure of applications and the rules and regulations for conducting such activities in POSPD. ● On giving such approval, the management companies should satisfy itself that such activity would not cause obstruction to pedestrian flow. ● Applicants are still responsible for obtaining approval / consent / licence from Government Departments and statutory authorities where applicable, including from the Lands Department under the leases and other authorities as required in law or under



Morning exercise in public open space

(<http://www.asia2002.gov.hk/chinese/press/pict/large/115.jpg>)

administrative requirements.

- The management company has the right to set site-specific rules and requirements on matters such as the appropriateness of conducting such activity on the site, installation of temporary structures, the use of equipment, duration of the exhibition, and crowd control measures etc. Such rules and regulations should be reasonable and not to impair the reasonable enjoyment of the POSPD by the public.
- Unless otherwise explicitly provided in the leases, the owners / management companies of the private developments should not charge fees for the use of POSPD.

Type C	Examples of Activities	Management Advice
<p>Commercial Activities by Profit Making Organisation – Requiring Permission by Management Companies and Relevant Government Departments</p>	<p>Certain commercial activities which are complementary and related to the use of POSPD and have local support may be allowed to bring vibrancy and vitality to the vicinity, subject to and the 10% ceiling on space in POSPD for commercial use and the payment of market waiver fees. [More details on commercial use in POSPD are in section 4.3 (d).]</p> <p>These activities might include, for example, food service amenities, food or drink services such as open air cafes, eating</p>	<ul style="list-style-type: none"> ● The owners / management companies of the private developments should obtain a waiver from the Lands Department and pay the relevant fees, before accepting any applications for commercial activities on the POSPD. ● If a waiver at full market waiver fee has been granted as set out in section 4.3 below, the owners may charge fees for the commercial activities on the POSPD. ● Potential users shall submit applications to the management companies of POSPD for approval. ● The management companies shall state clearly the procedure of application and the rules and

and/or drinking stalls

regulations for conducting such activities in POSPD.

- Applicants are still be responsible for obtaining approval / consent / licence from Government Departments and statutory authorities where applicable, including from the Lands Department under the leases and other authorities as required in law or under administrative requirements.
- The management company has the right to set site-specific rules and requirements on matters such as the appropriateness of conducting such activity in the site, installation of temporary structures, the use of equipment, and crowd control measures, etc. Such rules and regulations should be reasonable and not to impair the reasonable enjoyment of the POSPD by the public.

(b) ALWAYS PERMITTED ACTIVITIES

4.3.6 There is no pre-determined scope of activities tailor made for a particular form of POSPD, thus leaving flexibility to owners / management companies to accommodate a wide range of activities and to meet local/community needs. As shown in Type A activities in table1 above, most of day-to-day activities should be always permitted, including leisure activities such as passive activities, walking, temporary stay, etc., without any need for application.

(c) APPLICATION AND APPROVAL PROCEDURE

4.3.7 As Table 1 suggests, there are some activities such as festive events, activity-based functions (such as arts and cultural, civic education purposes etc.) should be subject to application and approval. Community users and the general public should be allowed to apply for holding activities and/or particular uses of POSPD as set out in Type B activities in table1 above. Application procedure shall be set by the management companies and made known to the public in a transparent manner (see section 4.4 (b) below). The approval shall be subject to administrative arrangements as devised by the management companies. As management companies are acting on behalf of owners of the private developments, the proper procedures of seeking the blessing from owners, be it from the Owners' Incorporation or equivalent, should be followed up as appropriate.

(d) MANAGEMENT GUIDANCE TO COMMERCIAL USES

4.3.8 Concerns have been expressed that a few POSPD has been privatized or converted into commercial space. On

the other hand, there have been comments that too restrictive use will result in a loss of vibrancy and vitality. The notion of POSPD defined *only* in terms of “public ownership” neglects a fact that the value and intangible qualities of POSPD could be enhanced by commercial activities that meet people’s needs or enrich community spirit, and have local support.

4.3.9 Learning from the experience of New York City, kiosks and open air cafes could provide valuable food service amenities to users of a public open space. Such amenities which are well designed and integrated into POSPD are permitted through certification that the kiosks and cafés comply with operational and design standards. The vibrancy and vitality of POSPD is directly related to the uses in buildings directly adjacent to it. Active uses with visual transparency activate and enliven POSPD by providing physical and visual amenities for plaza users.

4.3.10 As a matter of principle, POSPD is an area that has been devoted to and designated for public use, and the owner is disentitled from making a commercial gain out of it. Nevertheless, it is recognized that limited use for certain commercial activities in the relevant site-specific context which are complementary and related to the use of a POSPD might enhance the use of the POSPD and add vibrancy to the area, as it helps drawing people to stay and use the space actively. However, given the public concern over “depriving their use of such facilities”, the paramount consideration is that such use will not give rise to any obstruction to pedestrian flow and there is sufficient capacity of the remaining POSPD for public use, such that the open space function and prevailing public use / enjoyment of such facilities will not be prejudiced.

4.3.11 Areas designated for open air cafes, kiosks, book / newsstands, eating/drinking stalls, commercial exhibition and events, and Outdoor Restaurant Seating Accommodation (OSA) should not exceed 10% of the POSPD as a general



Public open space in New York
(http://graphics8.nytimes.com/images/2008/09/26/travel/v_Paley_front_395.jpg)

rule of thumb. The percentage is on the low side compared with international standard so as to reflect its supplementary function to the general use of POSPD in Hong Kong's context¹. This 10% restriction will be a pilot test subject to relevant Government Bureaux / Departments' review in future for consideration of further restriction or relaxation of commercial activities in POSPD.

4.3.12 We also subscribe to the view that Insofar as to the few exceptional cases of dedicated areas that are required by the Town Planning Board to serve as POSPD, where bonus GFA has been granted, use of the designated dedicated areas for commercial use should not be allowed.

4.3.13 The owners / management companies of the private developments who wish to use part of the POSPD for commercial activities should apply for a waiver / permission as appropriate from the Lands Department / the Buildings Department subject to technical feasibility and whether there are any legal impediments. The owners / management companies shall pay the relevant fees.

4.3.14 There should also be local support for the limited use for commercial activities. In particular, in considering whether a waiver / permission for commercial use should be granted, views of the relevant District Council should be sought. It is considered justified to seek District Council's advice as it plays an important role in providing their views on



Commercial use in public open space in Hong Kong

¹ Areas for open air cafes in New York urban plaza, for instance, may not occupy more than 1/3 of the street frontage of the plaza, and retail and service establishments may occupy at least 50% of a building's frontage on a public plaza; *Design and Operational Standards for Privately Owned Public Spaces*, October 17, 2007. In San Francisco, 20% of space could be used for providing commercial and food services in different types of downtown open space; San Francisco Planning Department, *Downtown Area Plan*, Table 1 - Guidelines for Downtown Open Space.

waiver applications having regard to the local circumstances, the views of the local community and their experience in participating in the management of local leisure facilities.

4.3.15 Separate approval / consent from the relevant Government Departments and authorities must also be obtained, such as the Food and Environmental Hygiene Department for OSA and the Environmental Protection Department on the relevant requirements concerning noise, before such applications are considered.

4.3.16 To conclude, with respect to the overall objective to make POSPD alive, depending on the type of POSPD and where site-specific context is appropriate, limited commercial activities within reasonable bounds may be allowed in the form of a waiver at the Government's sole discretion subject to the availability of local support and payment of full market waiver fees.

4.3.17 In addition to the requirements stated above, other restrictions on commercial uses include:

- there should be no blockade of major access points, entrance and walkways within the developments;
- area for commercial activities should not involve permanent building structure, and should not be covered and/or enclosed because of the GFA implications that this entails; and
- uses incompatible with the purpose of a POSPD such as commercial activities supported by permanent structures and establishments for wholesale/retail business, provision of office space, banks or manufacturing activities should not be allowed.

(e) OTHERS – ADVERTISING AND PROMOTION

4.3.18 Subject to the terms of the leases and deeds of dedication (in cases of dedicated areas), in general, POSPD is not commercial space or advertising space; freestanding pavement cabinets are not considered acceptable, and advertisement in POSPD should not be allowed. Consideration may be given to allowing very limited publicity works which is complementary and related to the use of the POSPD, subject to the approval of the management companies and context-specific conditions, and where applicable, the relevant authority. Possibilities may include:

- banners, posters and fitments to light columns may be possible in a limited number of locations. These publicity should be related to an event or an activity taking place in the POSPD; and
- signage indicating sponsorships will not generally be allowed except that they are related to an event or an activity taking place in the POSPD, and/or serve as acknowledgement of the sponsorship/contribution to the provision and maintenance of POSPD.

4.4 OPERATIONAL STANDARDS

(a) OPENING HOURS

4.4.1 Subject to site-specific conditions or the terms of land leases and deeds of dedication, different plans of time schedule should be allowed to accommodate a variety of use of POSPD and the needs of local communities. General guidance for time schedule planning suggests:

- In general, owners should keep the POSPD, public passageways open to the public at the hours stipulated in



Public open space at night

the lease or deed of dedication as the case may be, or otherwise agreed by the Government.

- POSPD as key passage in local pedestrian system or waterfront promenade should be open 24 hours a day unless exemption is granted for security reason and/or for public safety at night.
- Different types of POSPD, subject to specific context and the lease requirements, can have its own rules of opening hours but the minimum hours for public access should not be less than hours of daylight i.e. those hours approximately between dawn to dusk.
- Information regarding opening hours and boundaries shall be made available to the public and written on a plate at all main entrances or major access points of POSPD (see section 4.4 (b) below).
- Planning and running of a time schedule of POSPD means setting conditions to accommodate types of specific activities or anticipated uses of the space. The management companies shall consult community views through the consultation with such local bodies as the District Council and / or other relevant bodies as advised by the District Officer. Based on evidence finding of potential use of the space, the management companies may solicit specific requirements on opening hours. A more practical alternative is to require the developer to put forward an “opening hours schedule” at the planning application stage of the developments so that the public would be consulted, under the existing channels, on the proposed development as well as the proposed opening hours.

(b) TRANSPARENCY AND INFORMATION DISSEMINATION

- 4.4.2 A set of documents/information should be made available to the public for public inspection. This includes but not limited to i) rules, and specifications with respect to use and/or permissible activities and management issues in POSPD; ii) application procedures and documents for applying activities in POSPD; iii) opening hours; iv) demarcation of POSPD, and (iv) contacts of management companies.
- 4.4.3 Information available to the public and/or to the local communities shall be delivered by the following means not limited to notice boards on the site of POSPD, announcements, newsletters, periodical publications such as management reports and hard copies of documents made available in the office of the management companies and/or through information portal on the website of the management companies.
- 4.4.4 The Lands Department and the Buildings Department will scrutinize the development projects upon completion to satisfy themselves that all the requirements in the land leases or building plans are complied with, before issuing the certificates of compliance, if applicable, or occupation permits. The two Departments should update their lists of private developments with POSPD and public facilities containing the relevant information from time to time to include new cases with POSPD and / or public facilities when their certificates of compliance (for cases required under lease) or occupation permits (for cases required under deeds of dedication) are issued.

4.5 OTHER GENERAL RESPONSIBILITIES

4.5.1 Other general responsibilities of owners include –

- Owners should post notices at prominent locations in their developments, showing where the POSPD is, how to get there, the opening hours, the parties responsible for managing and maintaining the POSPD, and their contact numbers for public enquiries.
- Owners should ensure proper management with particular regard to personal safety and security, cleanliness, and upkeeping the place with proper maintenance. Where circumstances permit, owners should be encouraged to provide more green landscaping and seating and facilities to cater for needs of users irrespective of age, gender and ability, e.g. facilitating access for persons with disabilities (see Section 3 on Design Guidelines).
- Owners should ensure that the POSPD and public passageways will not be obstructed or unreasonably denied to the public. The owners should not conduct and may stop any users from conducting activities which would unduly obstruct other users from enjoying the POSPD or which block the public access and passageways.
- Flexibility should be given to owners to decide with regard to the following management issues like:
 - (i) use by pets;
 - (ii) smoking in outdoor areas; and
 - (iii) busking.



Access for the disabled

Taking “smoking” as example, while smoking in indoor areas accessible to the public is prohibited under the law, the owners should have the discretion to decide whether or not smoking in outdoor areas accessible to the public should be permitted. In case pet parks are provided, the management companies are advised to take into account factors including views from the local community (such as the District Council and / or other relevant bodies as advised by the District Officer), the possible implications for the surrounding environment and the availability of adequate facilities and maintenance service to keep the POSPD in good sanitary conditions.

- Some activities are prone to create noise and light pollution issue and/or lead to nuisance activities in a space. Noise abatement measures shall be taken in compliance with the “Noise Control Guidelines for Holding Open Air Entertainment Activities”².
- Owners will be responsible for all maintenance works for the POSPD, including horticultural and arboricultural maintenance work (such as appropriate pruning, plant health care, fertilizing, support, etc.) gardening work (such as the replacement of plant materials, trimming of grassed areas and hedges, etc.) and other maintenance works (such as replacement and repair of fencing/railings, watering, litter control, etc.). The provision of POSPD is usually at the cost undertaken by developers and maintained by the management companies after the completion of POSPD. Subject to what is provided in the leases, it is the responsibility of the owners/ management companies to ensure that the maintenance works are undertaken to the satisfaction of the relevant Department(s). Subject to what is provided under the deeds of dedication, similar

² Environmental Protection Department, Noise Control Guidelines for Holding Open Air Entertainment Activities

(http://www.epd.gov.hk/epd/english/environmentinhk/noise/guide_ref/noise_guidelines.html)

arrangements should be applicable to dedicated areas, with the maintenance works undertaken to the satisfaction of the relevant Department(s).

Section 5 Public Passageways

5.1 Application for non-POSPD

5.1 APPLICATION FOR NON-POSPD

5.1.1 The Design and Management Guidelines are not meant for public passageways in private developments in general. However, certain isolated cases of public passageways in private developments which may be provided under the leases or deeds of dedication, are perceived by the public to resemble POSPD in their physical characters. If their owners so wish, they are welcome to follow the Management Guidelines, say, in terms of allowing use for arts and cultural activities by non-profit-making organizations and Design Guidelines insofar as the requirements are appropriate in site-specific context, such as greening, planting and seating, on a reasonable basis.

5.1.2 In a place like Hong Kong where the population density is high and land resources are scarce, public passageways provided by developers in private developments have served a very important function of promoting connectivity and accessibility. In some cases, these attract pedestrian flow and are well patronized, and their width and condition allow other uses without affecting their functions as passageways, thus making them popular place for arts and cultural activities, civic activities and education activities. It would be a pity if it is strictly restricted to its literal use as passageways, thus stifling their vitality and vibrancy.

5.1.3 A list of such cases under the leases or deeds of dedication will be promulgated by the Lands Department and the Buildings Department respectively, having regard to the relevant factors such as size, configuration and location, say for example, if such public passageways have a width of at least 15 to 20 meters and is able to cope with the other uses mentioned above without prejudicing their primary functions as public passageways.



Passageways also function as popular place for arts and cultural activities (Taikoo Place, Quarry Bay)

5.1.4 For the Management Guidelines, should the owners see fit, the permissible uses for POSPD mentioned in section 4 may also apply to these public passageways under leases or deeds of dedication on a reasonable basis, subject to the provisions in the contractual documents and provided that this would not cause obstruction to pedestrian flow, thus compromising their primary function as public passageways.

5.1.5 The principle and arrangements as set out in sections 4.3.2 and 4.3.3 of the Management Guidelines, including that “unless otherwise expressly provided in the contractual documents or where a waiver at full market waiver fee has been granted, the owners should not charge fees for the use of POSPD”, shall also be applicable to these public passageways under leases or deeds of dedication.

5.1.6 In addition, insofar as public passageways under deeds of dedication is concerned, apart from para. 5.1.4 and 5.1.5, the additional factors that we need to take account of in considering the permissible activities are highlighted below -

(i) commercial activities should not be allowed, if bonus GFA has previously been granted in return of the dedication of the concerned area for public use (as we also subscribe to the view in para. 4.3.12 that “where the designated dedicated areas have been dedicated under the Buildings Ordinance for public passageways where bonus GFA has been granted, use of the designated dedicated areas for commercial use should not be allowed”);

(ii) subject to the provisions of the deeds of dedication, activities of non-profit-making nature, such as arts and cultural and civic education activities run by not-for-profit organizations, should be allowed and encouraged. Unless otherwise explicitly provided for in the deeds of dedication, the owners should not charge fees for the



Activities other than circulation might not be appropriate when majority of the space is serving as passageway. (Three Pacific Place, Wanchai)

use of the designated passageways under deeds of dedication; and

(iii) certain activities always permissible in POSPD, such as doing relaxing exercise, should be subject to site-specific context, e.g. such activities might not be appropriate where the POSPD is serving as a main passageway in a shopping arcade.

5.1.7 For the Design Guidelines, should the owners see fit, the relevant parts of sections 2 and 3 may be applicable to them, subject to flexibility being allowed for them to cater for site-specific context.

Section 6 Other Observations

6.1 Management Models and Stakeholders Involvement

6.1 MANAGEMENT MODELS AND STAKEHOLDERS INVOLVEMENT¹

6.1.1 Management of public open space is about urban governance where a group of stakeholders contribute to and shape the quality of and set the management practices for POSPD. Stakeholders – including developers, incorporated owners, management companies, local community and public authorities – are expected to perform roles of different nature, but each contributing towards a well-organized, accountable and collaborative model for the maintenance and management of POSPD. To depict their roles in a conceptual framework, these Guidelines suggest *four aspects of roles* played by stakeholders. The basic constituents of POSPD management model are stated below.

6.1.2 At the stage of land grant and in the development of the provision of POSPD, a developer plays a leading role to define the principal requirements as to spatial provisions (design) and management provisions (opening hours, management standards and requirements). Local communities should be given opportunities to express views and aspirations in the process of development through the District Officer as the channel, while the Director of Planning, the Director of Lands and the Director of Buildings oversee the realization of the provision of POSPD.

6.1.3 Management practices of POSPD are location-context specific; therefore, interactions between incorporated owners, management companies and local communities take place in a collaborative way so that the daily uses and management practices of the POSPD would be formed on a consensus basis and could meet the needs and

¹ This section will not be applicable to dedicated areas under the deeds of dedication for areas simply for passage only. Individual cases where the Guidelines (or part of) can apply are determined case-by-case according to the principles stated in section 5.

aspirations of different parties.

6.1.4 Setting management parameters for POSPD, despite largely the roles played by developers, incorporated owners and management companies, should be a process that allows local communities an opportunity to express their demands on and aspirations for the POSPD. Depending on readiness and local context, local communities could serve as partners in setting management requirements and take part in the management of POSPD.

6.1.5 A well-organized and transparent governance structure that supports community participation is the key to the effective provision and operation of POSPD for two reasons. Firstly, this helps delineate the relevant parameters catering for context-specific conditions in individual cases of POSPD. Secondly, when making a space open to the public, issues concerning about management practices, community needs and, in some cases, conflicting use of space have to be addressed from time to time and resolved upon community consensus. Guiding principles to develop a good practice of management model are:

- A management body which promotes some degrees of public participation will allow room to meet public expectations and needs of the local communities.
- The District Officer, who will liaise with the District Council and/or the local communities as appropriate, shall be consulted; members of the local / community representatives shall be given opportunities to express their views and opinions on the use and management of POSPD.



Activities of local flavour

(<http://www.9tour.cnUploadFileTravelNews2008-8-211334061482.jpg/>)

- Management companies in commercial developments, on the other hand, shall develop mechanisms or channels to absorb community views, feedbacks and management advice.
- Different forms of governance structure shall be encouraged. Innovative practices in alternative governance models such as inviting NGOs (charitable, arts and cultural organizations, etc.) on board, and/or as partners of the management companies should be explored.