

LCQ2: Management of private streets and footbridges

Following is a question by Dr the Hon Chan Han-pan and a reply by the Secretary for Development, Ms Bernadette Linn, in the Legislative Council today (July 3):

Question:

It is learnt that many streets and footbridges in private housing courts (private streets and footbridges) are open for public use, with minority owners bearing the related cleaning, repair and maintenance costs over the years, and the relevant expenditure for some private streets and footbridges has gone up with the development in the vicinity and higher people flow. In this connection, will the Government inform this Council:

(1) of the current number of private streets and footbridges in Hong Kong that are open for public use; whether the Government received request for resumption of such streets and footbridges in the past five years, and the outcome of the follow-up actions;

(2) whether it will consider, on the premise of public interest being involved, such as when the relevant private streets and footbridges are connected to public facilities or there are new developments in their vicinity, resuming such private streets and footbridges; if not, of the reasons for that, and whether there are new measures to assist the owners concerned in coping with the increasing maintenance responsibility and financial pressure, so as to ensure that such facilities are safe and in pristine condition; and

(3) as the Government will carry out the Extension of Footbridge Network in Tsuen Wan project in the vicinity of the private footbridge connecting to Discovery Park, and as Noah's Ark Hong Kong, Ma Wan Fire Station and Ma Wan Park Phase 2 have to be accessed via Pak Yan Road, whether the Government will accede to the requests of the residents concerned by bringing the footbridge and street in question under the Government's management and maintenance; if so, of the specific timetable; if not, the reasons for that?

Reply:

President,

To facilitate integrated design and utilise lot owners' resources to achieve early completion of certain public facilities to meet community needs, the Government may require, via land lease conditions, lot owners to provide and make available facilities for public use, such as footbridges and roads, in private commercial and residential development projects as appropriate.

Subject to the lease conditions, after the completion of these footbridges or roads, lot owners may be required to return such facilities to the relevant government departments upon the latter's request, or continue to manage and maintain these facilities. I understand that Dr the Hon Chan is concerned about the latter.

In requiring lot owners to continue to manage and maintain the relevant facilities, the Government in general will consider one or more of the following consideration(s):

(i) the main users of the relevant footbridge or road are the lot owners of the concerned private development project, their tenants and guests;

(ii) integrating the relevant footbridge or road into the private development project for consolidated design and management would render the design more coherent and their management more effective;

(iii) the Government's resources allocation may not align with the private development project's implementation timetable, and there is a need to leverage the lot owners' resources to manage the facilities more effectively; and/or

(iv) the lot owners proposed on their own initiative to the Town Planning Board (TPB) to provide and manage such public facilities as a planning gain, when applying for a change in land use or seeking a planning approval concerning their private development project.

For the different parts of the question, having consulted the Transport and Logistics Bureau and the Lands Department (LandsD), the Development Bureau's response is as follows:

(1) The LandsD indicates that currently there are about 230 footbridges available for public use that are constructed and managed by lot owners as required under lease. As for roads available for public use, about 240 roads on government land are constructed and managed by lot owners. As roads on private land available for public use may not be required by the relevant land lease, the LandsD currently does not have comprehensive figures.

In the past five years, the LandsD has received eight requests for the Government to take back some of the relevant footbridges and roads. The Government is processing two of these cases, while the remaining cases were not accepted after consulting relevant departments, including the Transport Department (TD) and the Highways Department (HyD).

(2) Lot owners should fulfil their obligation under the land lease to manage and maintain the relevant footbridges and roads if the lease so requires.

Lot owners (including flat owners who purchased individual units after completion of the development project) should also be aware of these responsibilities as included in the lease conditions and the deeds of mutual covenant of the building when they purchase the property.

As lot owner's expectation for the Government to take back relevant facilities is not only contrary to the land lease conditions, but also has implications on public resources, the Government would not accede to such requests as a matter of principle. If preliminarily there are sufficient grounds to justify individual applications, such as the usage of the facilities is significantly different from what was envisaged when the land lease was executed, or if there are environmental hygiene, traffic and road maintenance issues that far exceed what lot owners could handle, the Government would make a decision after considering relevant departments' resources and comments. Apart from that, if a road or footbridge was damaged or depilated to the detriment of user safety, the Government would consider conducting urgent repair works on the lot owners' behalf to ensure public safety, but would subsequently demand the lot owners to reimburse the relevant cost of works.

To avoid unforeseen disputes arising from more such cases in the future, for new development projects (such as those at planning or lease drafting stage), even when it is justified to request the lot owners to bear management responsibilities for the roads or footbridges, where feasible (for example, there is a reasonable size of commercial portion in the project), the Government's current practice is to stipulate that the management and maintenance responsibility of the relevant facilities be assigned to the lot owner(s) of the commercial portion of the development as far as possible, to avoid such responsibilities falling on the shoulders of individual flat owners of the residential portion.

(3) Regarding the two cases mentioned by the Member, the footbridge on Tai Chung Road adjacent to Discovery Park in Tsuen Wan was proposed to be erected by the lot owner of the project in 1991 to the TPB with a view to connecting its commercial and residential development project. Since the facility was proposed by the lot owner on its own accord, we do not consider it reasonable to now request the Government to relieve the lot owner from complying with the obligations under the land lease. The current usage of the footbridge is also consistent with the situation when the lease was executed, and the Government does not have any plans now to take it back.

As for Pak Lai Road and part of Pak Yan Road in Ma Wan, the TD and the HyD have assessed the situation in light of local residents' concerns, and consider that the roads are still mainly used by the residents of Park Island at present, which is consistent with the usage envisaged when the lease was executed. The Government does not have any plans to take back the relevant roads at this stage. However, in light of the on-going development, especially the Ma Wan Park Phase 2, as well as the long-term planning of Ma Wan, the Government will continuously monitor and assess the usage of the road, and consider whether to take back the relevant part as and when appropriate.