

立法會
Legislative Council

LC Paper No. CB(1)2497/03-04
(These minutes have been seen
by the Administration)

Ref : CB1/PL/PLW/1

Panel on Planning, Lands and Works

Minutes of meeting
held on Wednesday, 14 July 2004, at 2:30 pm
in Conference Room A of the Legislative Council Building

Members present : Dr Hon TANG Siu-tong, JP (Chairman)
Hon LAU Ping-cheung, SBS (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Dr Hon David CHU Yu-lin, JP
Ir Dr Hon Raymond HO Chung-tai, JP
Hon James TO Kun-sun
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon WONG Sing-chi
Hon IP Kwok-him, GBS, JP

Member attending : Hon Emily LAU Wai-hing, JP

Members absent : Hon WONG Yung-kan, JP
Hon LAU Wong-fat, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Albert CHAN Wai-yip

Public officers attending : Mr Vincent FUNG
Principal Assistant Secretary for Home Affairs
(Culture) 1

Mr Thomas TSO
Deputy Secretary for Housing, Planning and Lands
(Planning and Lands) 1

Mr Danny LAU
Principal Assistant Secretary for Housing, Planning and
Lands (Planning and Lands) 5

Mr Enoch LAM
Chief Engineer/
West Kowloon Cultural District Project Coordination Office
Civil Engineering Development Department

Clerk in attendance : Miss Odelia LEUNG
Chief Council Secretary (1)4

Staff in attendance : Ms Sarah YUEN
Senior Council Secretary (1)6

Ms Christina SHIU
Legislative Assistant

Action

- I. Confirmation of minutes of meeting and matters arising**
(LC Paper No. CB(1)2365/03-04 -- Minutes of meeting on
18 May 2004
LC Paper No. CB(1)2364/03-04(01) -- List of outstanding items for
discussion
LC Paper No. CB(1)2364/03-04(02) -- List of follow-up actions)

The minutes of the meeting held on 18 May 2004 were confirmed.

2. Members agreed that the Panel's list of outstanding items for discussion should be rolled over to the next legislative term for follow-up by the new Panel on Planning, Lands and Works. In this regard, Mr WONG Sing-chi proposed that the Administration be asked to report on the planning and development of South East Kowloon as soon as practicable in the next term. Mr Abraham SHEK Lai-him said that the development of cruise pier, which had been discussed by the Economic Services Panel (ES Panel) before, should be followed up by the Panel and the ES Panel jointly during the next term.

3. The Chairman advised that the Administration had been asked to report before prorogation of the current legislative term on the follow-up actions on outstanding matters arising from previous meetings of the Panel as stated in the list of follow-up actions.

II. Information papers issued since last meeting

4. Members noted the following information papers issued since the last monthly regular meeting of the Panel on 29 June 2004 -

LC Paper No. CB(1)2279/03-04(01) -- Memorandum dated 28 June 2004 from Complaints Division referring to the Panel the comments raised at a meeting of Legislative Council Members with representatives from the Coalition of Open Storage Operators in the North West of the New Territories on 9 June 2004 on the Town Planning Ordinance (Cap. 131) and other planning policies;

LC Paper No. CB(1)2307/03-04(01) -- Letter dated 28 June 2004 from the Kadoorie Farm & Botanic Garden Corporation on legislative proposal to improve land administration and to prevent abuses of leased land; and

LC Paper No. CB(1)2353/03-04(01) -- Administration's response to the issue raised by Sai Kung District Council members at the meeting with Legislative Council Members on 1 April 2004 on "Further development of Tseung Kwan O".

III. Development of West Kowloon Cultural District

(LC Paper No. CB(1)2364/03-04(03) -- Updated background brief on "West Kowloon Cultural District" prepared by the Legislative Council Secretariat

LC Paper No. CB(1)2231/03-04(01) -- Progress report from the Administration on development of the West Kowloon Cultural District)

5. The Chairman informed members that non-Panel members, in particular members of the Home Affairs Panel, had been invited to join the discussion of this

item. He also drew members' attention to the updated background brief on "West Kowloon Cultural District" prepared by the Secretariat.

6. At the Chairman's invitation, the Deputy Secretary for Housing, Planning and Lands (Planning and Lands)1 (DSHPL(P&L)1) briefed members on the progress report on development of the West Kowloon Cultural District (WKCD).

General

7. Mr Abraham SHEK congratulated and complimented the Government for being able to attract five proposals. He was also glad to see that the Government was planning to enhance public participation in the selection of the preferred proposal. To facilitate follow-up by the Panel in the next legislative term, he asked the Administration to provide a paper to explain how the proposals for the development of WKCD would be assessed, how the public including the Legislative Council (LegCo) could participate in the assessment process and the course of actions to be taken together with the estimated timetable. In response, DSHPL(P&L)1 said that the information had been provided to the Panel in writing on various occasions. In view of members' request, he agreed to consolidate the information in one paper to facilitate members' reference.

Criteria for assessment

8. In reply to the Chairman on the assessment process, DSHPL(P&L)1 elaborated that a preliminary decision on the preferred proposal would be made in mid 2005 for negotiation with the proponent concerned, with whom a provisional agreement would be signed in late 2005 or early 2006. The preferred proposal would then have to go through the various statutory processes including e.g. the Environmental Impact Assessment Ordinance and the Town Planning Ordinance (TPO) (Cap. 131). The final Project Agreement would be made in early 2007 and the anticipated construction works would commence in April 2007. DSHPL(P&L)1 added that the above timetable might vary should there be slippage in the assessment and other stages of the whole process.

9. Ms Emily LAU Wai-hing sought details of the procedures and criteria for assessment. Pointing out that the WKCD project was overseen by the Chief Secretary for Administration (CS for A), she enquired whether the decision of the Proposals Evaluation Committee (PEC) chaired by the Permanent Secretary for Housing, Planning and Lands (Planning and Lands) would be final and about the role of CS for A in the process. In response, DSHPL(P&L)1 said that the assessment criteria had been clearly set out in the Invitation for Proposals (IFP) document for development of the WKCD. In gist, assessment would be done by the PEC using a marking scheme based on the assessment criteria. After the marks had been scored, the results would be reported to the Steering Committee for Development of the West Kowloon Cultural District (Steering Committee) chaired by CS for A, to which the PEC was accountable.

Outcome of assessment

10. Quoting recent media reports on the proposals received, Mr Abraham SHEK enquired about the number of non-conforming proposals. In his view, the Administration should as soon as practicable provide such information including whether non-conforming proposals would be considered. In response, DSHPL(P&L)1 explained that the Administration considered it highly undesirable to comment on any individual proposal during the assessment process. In fact, to safeguard the integrity of the assessment process and ensure that proposals would be assessed in a fair and impartial manner, all officials responsible for the assessment were required to strictly follow certain guidelines and procedures, including non-disclosure of details of the assessment to any outside party. Moreover, he could not provide the number of non-conforming proposals because the assessment process had yet to be completed and the outcome was not available. He further said that the IFP document had not imposed any restriction on the proponents to disclose details of their proposals but he would not and could not confirm whether the media reports were correct. Once the assessment results were available, they would be announced as soon as practicable.

11. As to Mr Abraham SHEK and Ir Dr Raymond HO Chung-tai's question on what constituted non-conforming proposals and how they would be handled, DSHPL(P&L)1 confirmed that proposals which failed to comply with any of the Mandatory Requirements set out in the IFP document would be treated as non-conforming proposals and would not be considered further by the Government. He stressed that the need to satisfy the Mandatory Requirements had already been clearly spelled out in the IFP document, for example in paragraphs 2.4 and 2.6 of the Important Note of the IFP document, and 3.1.2 of the IFP.

12. Mr LAU Ping-cheung declared interests that his company was providing quantity surveying service for one of the proponents. He opined that it might be unfair that some of the proponents were given the opportunity to improve their proposals while non-conforming proposals were not given any such opportunity. In response, DSHPL(P&L)1 emphasized that the rule of the game was that the proposals had to meet the Mandatory Requirements. The rule had already been made very clear in the IFP document and the proponents should be well aware of the rule before they prepared their proposals.

13. Ir Dr Raymond HO agreed that the Mandatory Requirements were important. However, in consideration of the substantial resources involved in putting together any WKCD proposal, he opined that the Mandatory Requirements should have been more specifically stated to ensure fairness and obviate litigation. For example, it should be stated whether there was a need to construct a canopy, whether the arts and cultural facilities should be clustered together or evenly distributed, and how public views would affect the assessment. In response, DSHPL(P&L)1 emphasized that the details of the Mandatory Requirements had already been clearly elaborated in item 2 of the Important Note of Volume One of

the IFP document. In gist, such Mandatory Requirements included the proponent's capability, the provision of specified core arts and cultural facilities, the provision of the Canopy covering at least 55% of the Development Area (the Canopy), and the demolition and re-provisioning of the Tsim Sha Tsui Fire Station Complex.

14. In response to Mr LAU Ping-cheung, DSHPL(P&L)1 clarified that in the first round of assessment, focus would be placed on ensuring only proposals which met the Mandatory Requirements would be considered further. Thereafter assessment of the proposals would be based on the three main areas, namely the technical aspect, the financial aspect, and the operation, maintenance and management aspects.

15. Mr WONG Sing-chi referred to media reports that one of the proposals was very simple and the proposal of Swire Properties Limited (Swire) had left out the Canopy. He had doubt on whether these two proposals were compliant, and requested that the number of non-conforming proposals be released as soon as practicable after initial screening, so that LegCo Members and the public could know the number of competing proposals. Mr James TIEN Pei-chun also commented that it was apparent from the proposals received that the one proposed by the joint-venture formed by Sun Hung Kai Properties and Cheung Kong (Holdings) would have a better chance of success. In this regard, Mr WONG recalled that the CS for A had once stated that more than ten large corporations, including overseas ones, were interested in the WKCD project. He considered the present situation undesirable, as the Administration seemed to have been left with little choice.

16. In response, DSHPL(P&L)1 reiterated that he could not comment on the proposals received and whether they were compliant. He further explained that the results of the assessment would be announced once available to enhance transparency but the assessment process was not simple. The information provided by the proponents, such as their corporate background, would need to be checked and verified. The proponents might even be required to provide additional information and/or clarification as and when necessary. He further clarified that in an indication of interest exercise conducted in late 2003, eleven local and overseas corporations had responded. Hence CS for A's then remark that more than ten corporations would show interest. In fact, according to media reports, certain proponents were consortia comprising several corporations and the number of corporations submitting proposals was more than five. The response to the IFP should be regarded as satisfactory because according to normal standards, a 50% or higher return rate from parties who had indicated interest was already very high.

17. Mr LAU Ping-cheung enquired how decisions on whether proponents would be required to improve their proposals in response to public views would be made, and whether the land premium offered would affect such decisions. In response, DSHPL(P&L)1 said that suggestions for improvement would be initiated by the Government with the proponents concerned. Should there be a

reduction in the land premium offered to the Government, the public would be duly informed.

18. Mr WONG Sing-chi enquired if Government officials would need to contact the proponents during the assessment process. If so, he would like to have details on how this would proceed. He considered it important to avoid giving the public an impression that the Government was in favour of a certain proponent. In response, DSHPL(P&L)1 said that clarification and additional information would need to be sought during the assessment process. However, the officials involved in the assessment process were not allowed to discuss with individual proponents the contents of their proposals. All officials concerned would also need to avoid contacts with the proponents. In this regard, Mr WONG pointed out that the officials concerned should also avoid contacts with their former colleagues who had retired and were presently helping the proponents.

Public participation in the assessment process

19. Mr Abraham SHEK noted that the Administration was planning to enhance public participation by arranging an exhibition of all compliant proposals that met the Mandatory Requirements and consulting professional bodies and the arts and cultural sector concurrently during that period. He queried whether the above arrangements had been stated in the IFP document and whether it was fair to the proponents to add such a condition. He also enquired about how public views would rank in the assessment process. In response, DSHPL(P&L)1 explained that the plan to enhance public participation in the assessment process was in response to strong public requests as gathered from prior public consultation on the WKCD. He reported that the proponents had already been notified of the plan for public exhibition through issue of addenda to IFP before the deadline for submission of proposals. The addenda had also been publicized on the web site.

20. In reply to Mr WONG Sing-chi on whether any information about the compliant proposals would be withheld in the planned exhibition, DSHPL(P&L)1 explained that details of the proposals and major financial information such as the land premium offered, the relevant financial arrangements, would be provided but commercially sensitive information would not. Following up, Mr WONG enquired whether there would be any other channel to obtain such information. In reply, DSHPL(P&L)1 advised that requests for additional information would be relayed to the proponents concerned. He however could not give any undertaking on whether such requests would be acceded to.

21. Mr WONG Sing-chi enquired whether exhibition and consultation of professionals would proceed if only one proposal was found to be compliant. In his view, these steps would be meaningless in the circumstances. In response, DSHPL(P&L)1 opined that in the event that there was only one compliant proposal, it would still be meaningful to proceed with public consultation to involve the public in the WKCD project. Moreover, since the project would

become part of Hong Kong in future, there was also a need to ensure public acceptance of it.

22. Mr WONG Sing-chi sought to further ascertain whether the WKCD project would be shelved if the public opposed to it. In response, DSHPL(P&L)1 stated that if the public did not accept the relevant proposal, it would be quite impossible for the Government to proceed with the WKCD project. Public consultation of various sectors, including the arts and cultural sector, professionals, the Town Planning Board (TPB) and the LegCo, would therefore be conducted to gauge public views.

23. Ms Emily LAU enquired in what way the LegCo, the TPB and the public could determine the way forward for the WKCD project. Pointing out that no political party seemed to support the WKCD project, Mr James TIEN also sought to confirm if the LegCo could vote down the project. Mr Abraham SHEK did not believe that under an executive-led Government, LegCo would have any say in determining whether to proceed with the WKCD project.

24. In response, DSHPL(P&L)1 said that no public funding was involved for the works within the WKCD area and funding approval from LegCo's Finance Committee was therefore not required. However, due to wide implications of the project, public support for it was essential. Support of the LegCo, which represented public views, would be important in determining whether the project should go ahead. He believed that as responsible councillors, LegCo Members would actively make suggestions on how the preferred proposal could be improved and would not simply reject it without good reasons. He further assured members that LegCo Members' suggestions on any aspect of the project would be seriously followed up.

The Canopy

25. Mr James TIEN opined that the construction of the Canopy was a costly show-off, and did not serve any practical purpose. In this regard, Ir Dr Raymond HO enquired whether there were any specific requirements on the materials used for the canopy, and whether it had to be weather-proof. He also enquired if flexibility would be exercised in assessing whether the proponents could comply with the requirement to provide the Canopy. In reply, DSHPL(P&L)1 reported that details on the Canopy had already been set out in the Government's Baseline in IFP's technical document. While the proponents could exercise creativity in working out their proposals, the Canopy could not be left out.

26. Noting that the provision of the Canopy was a Mandatory Requirement, Mr WONG Sing-chi enquired whether any of the proposals received could not comply with that. In response, DSHPL(P&L)1 reiterated again that he could not disclose details of the assessment process.

The plot ratio

27. Mr LAU Ping-cheung pointed out that the plot ratio for the WKCD development as proposed in the IFP document was 1.81 and as reported in the media, the proposed plot ratios in the proposals received were 2.5 and 3.4. He enquired how like-to-like comparison could be made if the plot ratios proposed were so different. In response, DSHPL(P&L)1 clarified that Government's Baseline, which assumed a plot ratio of 1.81, was intended as a base reference for proponents in drawing up their proposals. Proponents might submit proposals deviating from the development parameters stipulated in Government's Baseline.

28. In this regard, Mr LAU Ping-cheung asked how the plot ratio and the level of land premium offered weighed in the assessment of proposals. DSHPL(P&L)1 explained that they would be considered with other elements of the proposals as a whole because the aim of involving the private sector in developing the WKCD was not to maximize financial returns but to develop a world-class integrated arts, cultural and entertainment district in West Kowloon.

Cultural Element of the West Kowloon Cultural District

29. Ms Emily LAU sought to know how controversies surrounding the cultural element of the WKCD project would be resolved and details of any ongoing dialogue in this regard. In response, the Principal Assistant Secretary for Home Affairs (Culture) (PAS/HA(C)) reported that the proponents had been encouraged to form a partnership with the arts and cultural sector both locally and overseas in mapping out the cultural element of the development. As he understood, many members of the sector were interested in working with the proponents. Moreover, since the cultural element of the project would be an important factor to consider in the assessment process, it was believed that the proponents would have consulted the sector in coming up with the proposals.

30. Ms Emily LAU considered it undesirable to rely on proponents to consult the arts and cultural sector. This was because the proponents might not do as expected and, even if they did, their consultation might not be comprehensive enough. In response, PAS/HA(C) explained that the requirements in relation to the arts and cultural facilities to be provided in WKCD had already been clearly spelled out in the IFP document. The proponents would also need to provide a comprehensive business plan setting out a strategy for establishing the WKCD as a world-class arts, cultural and entertainment attraction. As such, the proponents would be keen to ensure that their proposals on the cultural element could reflect the arts and cultural sector's views.

31. Ms Emily LAU enquired whether the arts and cultural sector would still have the opportunity to provide input on the cultural element of the WKCD project. PAS/HA(C) said that since public consultation would be conducted after internal vetting, the arts and cultural sector would be able to provide comment on the proposals. DSHPL(P&L)1 supplemented that the operation mode proposed by the proponents might not be final because it could be adjusted in response to public

views. As such, the arts and cultural sector would have ample opportunities to express their views and concerns.

32. Mr Abraham SHEK said that he was not so much concerned about the hardware of the arts and cultural facilities to be provided in WKCD as these had been clearly specified in the Mandatory Requirements. He was however concerned about the absence of a comprehensive arts and cultural policy to complement the WKCD hardware facilities and without which the facilities might be just white elephants. He also considered it irresponsible on the part of the Government not to have formulated the policy because under these circumstances the facilities proposed could not be assessed to ensure they could serve their intended purposes.

33. In response, PAS/HA(C) explained that there was already a cultural policy in place. The Culture and Heritage Commission had submitted its Policy Recommendations Report to the Government in 2003, and the Government had formally responded to the Report in February 2004, accepting most of the recommendations therein. The Commission had advocated certain principles in formulating the development and operation plan for WKCD, namely, the 'people-oriented', 'partnership' and 'community-driven' principles to ensure the plan would be open, fair and proper. In particular, the Government was urged to facilitate the formation of a partnership between developers and the cultural sector so as to allow the latter to participate in the planning and future operation of the facilities in the district. The Commission had also pointed out that the core arts and cultural facilities in the WKCD should be able to integrate with other facilities in the district, and with the arts and cultural facilities in other parts of Hong Kong, and that the 'software' content of the facilities should be carefully determined. All the above views had been accepted and embodied in the IFP document.

34. Mr Abraham SHEK referred to the Chief Executive's reply to Mr MA Fung-kwok on the arts and cultural policy at the Chief Executive's Question and Answer Session on 13 July 2004, and questioned the existence of a cultural policy. In response to his request for details of the policy, PAS/HA(C) reported that a relevant paper had already been provided to members of the Home Affairs Panel in February 2004, and some of the policy proposals had even been implemented. He would provide a copy of the paper to Mr SHEK after the meeting.

Mode of development

35. Ms Emily LAU pointed out that the proposed single package approach in the development of the WKCD was controversial. She referred to the motion passed at the Panel meeting on 27 April 2004, namely, "That this Panel opposes the land and financial arrangements proposed by the Administration for the West Kowloon Cultural District". Mr James TIEN pointed out that members of the Liberal Party were strongly against the approach of tendering out the WKCD project as one package to a single developer for the following reasons -

- (a) With the rise in land sale prices as shown in recent land auctions, the land concerned, which was the last piece of prime land along the harbour for major development, should be disposed of in separate packages to secure the best returns for the Government. This was because given the scale of the project, the single-package approach on the delivery of the WKCD project might restrict the choice of bidders. Undesirable tender prices might be resulted and the Government might place itself in an unfavourable position in negotiating details of the project;
- (b) With the lack of any restrictions on the plot ratio of the WKCD, the development intensity of the site might be increased to such an extent as to adversely affect the overall concept plan as was in the case of the International Finance Centre. Such a development was likely given the assistance of those former civil servants who had retired from the relevant departments and were presently working for the proponents. With the LegCo and TPB seemingly excluded from having any real say in the project, the plot ratio could be increased at will. Even the Canopy might be done away with at the end; and
- (c) Public resources would be involved indirectly through the provision of valuable land asset for the commercial and/or residential development at the WKCD site. The Government's plan to give the land to the successful proponent instead of auctioning it off would result in loss to the Government and tax-payers. However, if the prime land could be auctioned off amid the up-picking property market, the land could fetch up to \$60 to 70 billion for the Government, so that it could have sufficient money to construct the Canopy and the arts and cultural facilities.

36. Mr James TIEN recalled that the WKCD project had been conceived to generate economic and employment opportunities in the economic down-turn that followed the outbreak of the severe acute respiratory syndrome. However, given the substantial capital investment involved and huge budget deficits at that time, Government had found it very difficult to fund the construction of the arts and cultural facilities and had therefore adopted the current single package approach in the delivery of the WKCD project. As the financial condition of the Government

had improved, it should not give away precious land resources in this way unless CS for A would like to see the project through because it was his project.

37. In response, DSHPL(P&L)1 clarified that CS for A did not consider the project his own project and had not said that he would press ahead with it with or without public support. However, being the head of the Steering Committee and tasked to plan and guide the implementation of the WKCD project, CS for A had the responsibility to see it through. Since the IFP for the development of the WKCD had already been launched, the Steering Committee had an obligation to follow up the exercise. At the end of the day, whether the preferred proposal would be supported by the public and implemented would hinge on the public consultation to be conducted. DSHPL(P&L)1 considered it premature to pre-empt the result of the public consultation and assume that there would not be support for the preferred proposal. He added that the Administration well understood the position of the Liberal Party on the WKCD project.

38. On Mr James TIEN's view that the property market had picked up and that the Government would stand to lose if it continued with the single package approach, DSHPL(P&L)1 said that the market sentiment should have been adequately reflected in the proposals. If not, the proposals concerned would not be attractive.

39. In reply to Ms Emily LAU, DSHPL(P&L)1 undertook that the Administration would take every opportunity to report on the progress of the WKCD to the LegCo. However, given the complexity of the assessment process, he could not commit to any time-table at the present moment. Members agreed to put the item on the Panel's outstanding items for discussion so that the subject could be followed up in the new legislative term.

IV. Any other business

40. The Chairman thanked members and the Secretariat for their support of and contribution to the work of the Panel.

41. There being no other business, the meeting ended at 4:10 pm.