

立法會
Legislative Council

Paper No. WKCD-124
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seen
by the Administration)

Ref : CB1/HS/2/04

**Subcommittee on
West Kowloon Cultural District Development**

**Minutes of fourth meeting held on
Wednesday, 23 March 2005, at 10:45 am
in the Chamber of the Legislative Council Building**

Members present : Hon Alan LEONG Kah-kit, SC (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, JP
Hon CHAN Kam-lam, JP
Hon SIN Chung-kai, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon Audrey EU Yuet-mee, SC, JP
Hon LEE Wing-tat
Dr Hon KWOK Ka-ki
Hon CHEUNG Hok-ming, SBS, JP
Hon CHIM Pui-chung
Hon Patrick LAU Sau-shing, SBS, JP
Hon Albert Jinghan CHENG

Members absent : Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon LAU Wong-fat, GBS, JP
Hon LEUNG Kwok-hung
Hon Ronny TONG Ka-wah, SC
Hon KWONG Chi-kin

Public Officers attending : Mrs Rita LAU, JP
Permanent Secretary for Housing, Planning and
Lands (Planning and Lands)

Miss AU King-chi, JP
Deputy Secretary for Housing, Planning and Lands
(Planning and Lands)

Ms CHIU Yuen-chu, Lolly, JP
Deputy Secretary for Home Affairs

Ms WONG Sean-ye, Anissa, JP
Director of Leisure & Cultural Services

Mr Vincent FUNG
Principal Assistant Secretary for Home Affairs

Mr Bosco FUNG, JP
Director of Planning

Mr Duncan PESCOD, JP
Head, Efficiency Unit
Chief Secretary for Administration's Office

Miss Agnes TANG
Assistant Director of Leisure & Cultural Services

Mr KWAN Pak-lam, JP
Project Manager/Kowloon
Civil Engineering and Development Department

Attendance by invitation : The Hong Kong Institute of Surveyors

Mr Paul HO
Quantity Surveying Division, Vice-Chairman

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

Staff in attendance : Ms Pauline NG
Assistant Secretary General 1

Ms Bernice WONG
Assistant Legal Adviser 1

Ms Elyssa WONG
Deputy Head (Research and Library)

Ms Vicky LEE
Research Officer 3

Mr Thomas WONG
Research Officer 4

Ms Alice AU
Senior Council Secretary (1)5

Mr Anthony CHU
Council Secretary (1)2

Miss Michelle NIEN
Legislative Assistant (1)3

Action

I Meeting with the Administration and the Hong Kong Institute of Surveyors (HKIS)

(Paper No. WKCD-106 -- Information paper dated 21 March 2005 on “West Kowloon Cultural District and Public Private Partnerships” provided by the Administration

Paper No. WKCD-103 -- Information paper on “West Kowloon Cultural District and Public Private Partnerships” provided by the Administration for the meeting on 16 March 2005

Paper No. WKCD-107 -- List of follow-up actions required of the Administration arising from the meeting on 16 March 2005

Paper No. WKCD-101 -- List of follow-up actions required of

- the Administration arising from the meeting on 21 February 2005
- Paper No. WKCD-104 -- Information note on “Management, operation and financing of a cultural district” prepared by Research & Library Services Division
- Paper No. WKCD-54 -- Submission dated February 2004 from HKIS
- Paper No. WKCD-55 -- Second submission dated 31.1.2005 from HKIS
- Paper No. WKCD-105 -- Third submission dated 16.3.2005 from HKIS
- Paper No. WKCD-81 -- List of information to be provided by the Administration
- Paper No. WKCD-83 -- The Efficiency Unit’s publication entitled “Serving the Community by using the private sector: An introductory guide to Public Private Partnerships” (the Introductory Guide) dated August 2003
- Paper No. WKCD-95 -- Chinese translation of Annex A to the Introductory Guide
- Paper No. WKCD-92 -- Chinese translation of Annex B to Introductory Guide
- Paper No. WKCD-94 -- The Efficiency Unit’s booklet entitled “Serving the community by using the private sector” dated June 2001
- Paper No. WKCD-102 -- Research Report on “Public Private Partnerships” prepared by Research & Library Services Division for the Panel on Planning, Lands and Works
- Paper No. WKCD-45 -- Information note on “Public Private Partnership Cases involving Land Development in the United Kingdom and the United States” prepared by Research & Library Services Division
- Paper No. WKCD-47 -- Information note on “Financial Study on the West Kowloon Cultural District” prepared by Research & Library Services Division)

Public-Private-Partnerships (PPPs)

The Subcommittee deliberated (Index of proceedings attached at the **Annex**).

2. Members raised questions on the information paper provided by the Administration on “West Kowloon Cultural District and Public Private Partnerships” (Paper No. WKCD-106). The Administration responded.

3. The representative of HKIS presented the Institute’s submission dated 22 March 2005, and responded to questions from members.

(Post-meeting note: HKIS’ submission was tabled at the meeting and subsequently issued to members vide Paper No. WKCD-108).

4. At the Chairman’s invitation, the Deputy Head (Research and Library) of the Legislative Council (LegCo) Secretariat briefly presented the Information Note on “Management, operation and financing of a cultural district” and the Research Report on “Public Private Partnerships”, both prepared by the Research & Library Services Division of the LegCo Secretariat (Paper Nos. WKCD-104 and WKCD-102 respectively).

5. Ms Emily LAU, Dr Kwok Ka-ki, Ms Audrey EU, Mr Albert HO and the Deputy Chairman drew reference from the comparable cultural district development project, viz. the Abandoibarra Project in Spain, as set out in the Information Note. The project was managed by a non-profit limited liability company, known as Bilbao Ria 2000, which was run on self-financing basis with its operating costs being covered by proceeds from sales of land owned by stakeholders and assigned to the company. Expressing grave concern about the increasing risks of default by a single developer and the Government’s monitoring under the proposed single-package development approach, the members considered that the Abandoibarra Project would serve as a useful reference for the West Kowloon Cultural District Development (WKCD). Put into Hong Kong’s context, the Administration could prepare a Master Layout Plan taking into account the proposals made by the screened-in proponents in the first stage of selection, and then submitted the same to the Town Planning Board (TPB) for approval. Subject to TPB’s approval, the Administration could then tender out different components of the WKCD development in a multi-level open bidding process. They asked whether the Administration would consider adopting a similar approach to take forward the WKCD development.

6. In reply, the Permanent Secretary for Housing, Planning and Lands (Planning and Lands) (PSHPL) stated that the Administration would examine the cited case and see what useful experience could be drawn. The Administration would also listen carefully to all views expressed by members and the public during the on-going public consultation exercise. At the same time, the Administration would continue to develop the WKCD following the framework set out in the Invitation for Proposals (IFP) which was formulated to achieve good value for money to the best interest of the public. Maximum flexibility was built in the current IFP process to facilitate private sector innovation and allow the Government to shape the WKCD to meet public need. In the next

stage of the IFP, the Administration envisaged that it might, on the basis of the existing requirements, introduce new requirements or aspects for the shortlisted proponents to revise their proposals for further assessment. PSHPL assured members that the IFP had already set out a broad legal framework governing the rights and obligations of the selected proponent and the Government. It allowed detailed arrangements, including contract terms, land grant conditions, commercial arrangement, performance monitoring, etc. to be shaped and prescribed as the project evolved in the IFP process.

7. In this connection, Mr Albert CHAN opined that the Administration should stage a second round of public consultation on any revisions subsequently made by the proponents before the Government made a final decision on the screened-in proposals. In reply, PSHPL reiterated that the Government attached great importance to any views and suggestions made by the public during the on-going public consultation exercise.

8. Addressing members' concern about Government monitoring and TPB's role, PSHPL explained that since the WKCD was an integrated development with arts, cultural, commercial and entertainment facilities, it was zoned as "Other Specified Uses" annotated "Arts, Cultural, Commercial and Entertainment" to clearly reflect the planning intention. The development of the site would have to comply with the provisions of the South West Kowloon Outline Zoning Plan (OZP) and the list of permissible uses as specified in the Notes of the Plan published under the Town Planning Ordinance (Cap.131)(TPO).

9. PSHPL further said that a two-stage approach for the plan amendments of the OZP would be adopted to fit the special nature of the WKCD. In the first stage, the WKCD was zoned "Other Specified Uses" on the OZP to reflect the planning intention of developing the site into an integrated arts and cultural district while allowing a sufficient degree of design flexibility for the proponents to come up with the most appropriate proposals commensurate with the development objectives. TPB would be consulted for its views before the Government selected the preferred proposal. Development parameters of the preferred proposal, including plot ratio, gross floor area of buildings of different uses, etc. must be agreed by TPB before the Government signed the provisional agreement with the successful proponent. In the second stage, the proposed development parameters would then be submitted to TPB formally. TPB would incorporate these development parameters into the relevant draft OZP and gazette the plan pursuant to the TPO for public inspection. Members of the public might comment on or raise objections to the draft plan. TPB would consider and process all the views received in accordance with the normal statutory process. Finally, TPB would submit the draft OZP to the Chief Executive in Council for approval. The successful proponent would not be allowed to make any changes to the development parameters to the OZP without approval from TPB and the Government. In which case, amendments to the

OZP would be necessary and would need to go through the same plan exhibition process for public inspection and comment.

Admin 10. To facilitate members' consideration on the development approach of the Abandoibarra Project vis-à-vis the WKCD, the Administration was requested to provide response to the following in writing before the next meeting:

- (a) estimates of land sale proceeds if the land in the West Kowloon reclamation was to be divided into land parcels for open tender; and
- (b) estimated upfront and recurrent capital requirements for the provision, operation and management of the proposed arts and cultural facilities in the WKCD if the same were to be undertaken by the Government under the conventional procurement approach.

11. In response to Mr Albert HO's enquiry about the safeguards to avoid any possible conflict of interest of government officials during TPB's deliberation on any application in relation to the WKCD, PSHPL stated that the following arrangements would be adopted:

- (a) PSHPL would not be the chairman of TPB meetings held to discuss any applications in relation to the WKCD development; and
- (b) the four government official members of TPB, namely, the Director of Planning, the representative from Lands Department, the representative from Environment, Transport and Works Bureau and the representative from Home Affairs Department, who were involved in the WKCD project, would also not attend such meetings.

12. In reply to Ms Audrey EU, PSHPL explained that as the WKCD integrated commercial facilities which were not usually provided by the public sector, these had rendered the construction of any Public Sector Comparator (PSC) impossible at the beginning of the IFP. Nevertheless, the Government had made use of certain reference data for conducting feasibility studies before preparing the IFP and for assessing the cost and revenue assumptions adopted by the proposals. As the project evolved in the next stage of the IFP, it would be possible to construct a PSC for the WKCD development if and when necessary.

13. Members agreed that they had completed deliberation on the Administration's proposal to adopt a PPP approach to develop the WKCD. According to the work plan of the Subcommittee, the Subcommittee would proceed to examine the shortfall and long-term needs in the development of arts and culture in Hong Kong.

II Any other business

14. Members agreed that the next meeting of the Subcommittee would be held on Friday, 8 April 2005 at around 3:30 pm (or after the House Committee meeting scheduled for 2:30 pm on that day).
15. Mr Albert CHAN suggested that it might be useful for the Subcommittee to visit the Abandoibarra Project in Spain, say in September 2005. Members agreed to discuss Mr CHAN's suggestion at the next meeting.
16. The meeting ended at 12:50 pm.

Council Business Division 1
Legislative Council Secretariat
20 April 2005

**Proceedings of the fourth meeting of the
Subcommittee on West Kowloon Cultural District Development
on Wednesday, 23 March 2005, at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000354	Chairman	Opening remarks	
000355 – 000531	Administration	<u>Public-Private-Partnerships (PPPs)</u> Presentation of the Administration's paper (Paper No. WKCD-106)	
000532 – 001937	Deputy Head (Research and Library Services Division) (DH(RL)) Chairman Administration	<ul style="list-style-type: none"> - Presentation of the Information Note on “Management, operation and financing of a cultural district” and the Research Report on “Public Private Partnerships” (Paper Nos. WKCD-104 and WKCD-102 respectively) prepared by the Research & Library Services Division of the Legislative Council Secretariat - The Chairman's observation that a PPP project would involve clear deliverables - The Administration's explanation that a PPP project was primarily aimed at achieving value for money by bringing in the private sector's financial strength and commercial knowledge and expertise 	
001938 – 002959	Hong Kong Institute of Surveyors (HKIS)	Presentation of HKIS' submission (Paper No. WKCD-108) <ul style="list-style-type: none"> - Two major successful factors of the Guggenheim Museum Bilbao: hardware in the form of a world famous landmark building designed by a renowned architect, and software in the high-quality arts programmes managed and operated by an internationally experienced museum operator. - Other successful factors included good governance structures at its 	

Time marker	Speaker	Subject(s)	Action required
		design and operational stages.	
003000 – 005041	Ms Emily LAU Administration	<ul style="list-style-type: none"> - Concerns on default of the single developer, as well as the need to ensure proper risk allocation and government control - The Administration's stance on adopting the development mode of the Abandoibarra project for the West Kowloon Cultural District (WKCD) - Attendances in public museums in Hong Kong and the extent of Government subsidy in the operation of public museums - The Administration's explanation that: <ul style="list-style-type: none"> (a) the Invitation for Proposals (IFP) of the WKCD project was formulated in compliance with the Efficiency Unit's Introductory Guide on Public-Private Partnerships (PPPs); (b) Two-stage planning control for the WKCD project would be adopted and the Town Planning Board (TPB) would play a key role at various stages of the development process; (c) The Administration was open to the suggestion to set up a statutory organization to oversee and manage the WKCD development; (d) The Administration would take into account all views collected during the on-going public consultation exercise before deciding on the development mode for the project; (e) The Administration reaffirmed its undertaking as regards disclosure of financial information; and (f) In 2004, the attendances at 	

Time marker	Speaker	Subject(s)	Action required
		<p>individual public museums varied and the highest attendances were recorded in Science Museum at 853 831. Government subsidy accounted for more than 90% of the operating costs, which was the result of the current policy of charging very low admission fees and the offer of concessionary and free admission to students, the elderly and group visitors to enhance accessibility and to promote education function of public museums.</p>	
005042 – 005602	Mr CHAN Kam-lam DH(RL)	Operation of the Guggenheim Museum Bilbao	
005603 – 011002	Dr KWOK Ka-ki Administration	<ul style="list-style-type: none"> - Request for information on the following: <ul style="list-style-type: none"> (a) estimates of land sale proceeds if the land in the West Kowloon reclamation was to be divided into land parcels for open tender; and (b) estimated upfront and recurrent capital requirements for the provision, operation and management of the proposed arts and cultural facilities in the WKCD if the same were to be undertaken by the Government under the conventional procurement approach. - Timetable for WKCD project 	The Administration to provide information as per paragraph 10 of the minutes.
011003 – 013136	Ms Audrey EU Administration Chairman	<ul style="list-style-type: none"> - Construction of a Public Sector Comparator at a later stage for the WKCD project - The Administration's stance on adopting a similar development approach as the Abandoibarra Project in Spain for the WKCD project 	

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> - High risk of default by a single developer - Establishment of a public body to oversee and manage the WKCD development - A second round of open tender after IFP requirements had been improved - The Administration’s explanation that: <ul style="list-style-type: none"> (a) it had experience in managing long-term “Build-Operate-Transfer” contracts for large-scale infrastructure; (b) there was a need to ensure more stringent control and monitoring for the WKCD given its scale and complexity; (c) The Administration would proceed according to the IFP framework. Shortlisted proponents would be requested to revise their proposals. Assessment criteria would be improved to ensure proper comparison among the proposals; (d) The Administration was open to the mode of governance for the WKCD development; and (e) It would require good justifications if the Government decided not to choose any of the three screened-in proponents. 	
013137 – 014842	Mr Albert HO Administration	<ul style="list-style-type: none"> - Concern about the impact of unclear assessment criteria on the fairness of the selection exercise - Possible conflict of interests of government officials in TPB - Concern on TPB’s role on change of land use in future - The Administration’s explanation that: 	

Time marker	Speaker	Subject(s)	Action required
		(a) Government officials would not involve in TPB's consideration of any applications relating to the WKCD; and (b) Additional safeguards in the planning control process to be brought about by the implementation of the Town Planning (Amendment) Ordinance 2004;	
014843 – 015549	Deputy Chairman	<ul style="list-style-type: none"> - Concern about the mandatory requirement of canopy - Concern about the risk of default by a private developer - Need to ensure proper planning control 	
015550 – 020100	Mr Albert CHAN Chairman	<ul style="list-style-type: none"> - Work of the Subcommittee - Overseas duty visit - Need for the Administration to conduct a second round of public consultation after the IFP requirements and details of the screened-in proposals had been revised and before a decision was made by the Government 	
020101 – 020229	HKIS	Calculation of land premium for specified land uses	
020230 – 020422	Administration Mr Albert CHAN	Analysis of views collected during the on-going public consultation exercise	
020423 – 020553	Chairman	Date of next meeting and items for discussion	