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14 February 2006

Mr Rafael S Y HUI, GBS, JP
Chief Secretary for Administration
Chief Secretary for Administration's Office
12/F, Central Government Offices, West Wing
Lower Albert Road
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Hong Kong

Dear Chief Secretary,

Subcommittee on West Kowloon Cultural District Development

Thank you for your letter dated 8 February 2006 confirming that you would attend a meeting of the Subcommittee to brief LegCo on the latest development of the West Kowloon Cultural District (WKCD) before the end of this month.

At the meeting of the Subcommittee on 10 February 2006, members reiterated that it was the duty of LegCo to draw your attention to the pitfalls and risks, which we had identified in our study, associated with the development and implementation framework for the WKCD project proposed by the Administration. The Administration, being accountable to LegCo under Article 64 of the Basic Law, has the constitutional duty to give specific response to the questions we have raised and the concerns we have expressed on WKCD as outlined in my letter to you dated 4 February 2006.

Members are also disappointed that you, being the Chairman of the Steering Committee on WKCD, chose not to attend the Council Meeting on 8 February 2006 personally to explain the Government's position at the motion debate on the Subcommittee's reports. The Subcommittee's reports, which were endorsed unanimously by Members at the Council Meeting, represent the views of cross parties and groups in the Legislature. We regret that not only did the Secretary for Housing, Planning and Lands, in giving his speech at the motion debate, fail to give any response in specific terms to the findings and recommendations of the Subcommittee, he also did not provide any substantive

reply to the questions legitimately raised by Members during the debate. Besides, whilst failing to dispel doubts and allay worries of LegCo Members, the Administration continues to decline to recognize the problems and risks associated with the present development framework adopted for WKCD.

We note in your letter that you are in the process of considering the screen-in proponents' responses to the additional development parameters and conditions for WKCD proposed by the Administration in October 2005. It is your intention that after this process of consideration, including consultations with ExCo, has been completed, the Administration would keep LegCo, including our Subcommittee, informed of further developments. Members of the Subcommittee are gravely concerned that if a decision has been taken before your meeting with the Subcommittee, the scope within which the views of LegCo and of the public could be heeded will be very limited.

Members of the Subcommittee have asked me to write to you on their behalf to put on record their demand that the executive authorities must not make any irreversible decision or take any decision that would in effect create a fait accompli before the Administration has responded in specific terms to the findings and recommendations of the Subcommittee and has had thorough exchanges with LegCo on the way forward for WKCD. This demand is made pursuant to the very need to safeguard public interest in a matter that involves the disposal of major public resources. In this respect, I once again provide in the **Appendix** the questions and concerns raised by Members on WKCD for your substantive response at our meeting with you later this month. Where a substantive response cannot be provided to any specific question, there ought to be an explanation on why it cannot be done and when such information will be available. The Subcommittee strongly believes that it would be in the best public interest if the planning of the WKCD development is conducted in a transparent manner and with maximum public participation in the process.

Yours sincerely,

(Alan LEONG Kah-kit)
Chairman of the Subcommittee

Encl.

Subcommittee on West Kowloon Cultural District Development

**List of issues which require response from the Administration
for addressing the concerns and questions raised
at the meetings on 3 and 10 February 2006**

1. The Administration should articulate its responses in specific terms to the various recommendations of the Subcommittee set out in its Phase I and Phase II reports.
2. The public has the right to know any variations to the additional development parameters and conditions set out in the modified approach announced in October 2005, including any negotiations or exchange of letters between the Government and the screened-in Proponents in clarifying any points of doubt or seeking variations to the development parameters. According to some press reports, some of the screened-in Proponents have requested the Administration to reconsider the following arrangements under the modified approach:
 - (a) adopting a more flexible payment schedule for the \$30-billion trust fund instead of paying the \$30 billion upfront; and
 - (b) using the proceeds from the carved-out portions of the residential and commercial developments at the WKCD site to subsidize the construction of core arts and cultural facilities.
3. The Administration should confirm whether any negotiations or exchange of letters in respect of the above as well as other aspects of the modified approach will be taken as conditional acceptance on the part of the Government of the terms and conditions under the modified approach.
4. The Administration should advise the public why the screened-in Proponents' queries have not been raised and dealt with before 31 January 2006, and why the Administration allows the Proponents to raise further queries or alternative arrangements after the deadline for response, thereby causing further delay to the West Kowloon Cultural District (WKCD) project.
5. As the project involves the disposal of 40 hectares of Government land, the Administration should confirm whether any concession or commitment has been given or made by the Government for any of the screened-in Proponents without the knowledge of the other Proponents and the public, and whether such concession or commitment is given or made inconsistent with Government's responsibility imposed upon it under Article 7 of the Basic Law.

6. The Administration has indicated that all the three screened-in Proponents have expressed interest in continuing to participate in the WKCD project and the Administration will continue with the development of WKCD under the IFP framework. The Administration should confirm its planned timeframe for assessing the proposals of the screened-in Proponents and awarding the WKCD project to the Successful Proponent, and to what extent the Legislature and the public would be given the opportunity to scrutinize the development arrangements before Government enters into contract with the Successful Proponent. The Administration should explain the necessary statutory and administrative procedures that the Administration will have to follow before entering into contract with the Successful Proponent.
7. The mode of development under the IFP is regarded as an attempt of the Administration to circumvent the powers and functions of the Legislative Council under the guise of a public-private-partnership (PPP) project. However, according to international best practices, the pursuit of any PPP project should be subject to the monitoring of the legislature of the jurisdiction concerned. The Administration should explain how public interest is protected under the PPP approach adopted for the WKCD project.
8. The Administration should explain how it would respond to the findings of the Planning for West Kowloon and the Harbour Front Public Opinion Survey conducted by the Public Opinion Programme of the University of Hong Kong, which shows, among others, that 77% of the respondents object to building a canopy at WKCD.
9. The Administration should provide an estimate of the current land value of WKCD.