

LEGISLATIVE COUNCIL HOUSE COMMITTEE
Subcommittee on West Kowloon Cultural District Development

Land Use and Planning

Purpose

This paper briefs Members on land use and planning issues in relation to the development of the West Kowloon Cultural District (WKCD).

Background

2. In 1996, the then Hong Kong Tourist Association (HKTA) carried out an extensive survey targeted at inbound tourists. Among the millions of tourists polled, 1.3 million tourists indicated that they were interested in cultural, entertainment and major events, and believed that Hong Kong should enhance the promotion of these activities among tourists. In 1998, the HKTA reported to the Legislative Council and proposed that an additional cultural and performance venue should be constructed. In the same year, the Chief Executive proposed in his Policy Address that Hong Kong should be developed into an Asian cultural and arts centre. One of the key plans was the project of the WKCD.

Previous Studies

3. Regarding land use planning, a number of studies have been conducted since early 1990's. In the early studies¹, the 40-hectare site now identified for the WKCD was planned for a regional park, as well as for commercial and residential development, other open space and Government, Institution or Community (GIC) uses.

¹ These studies include "Metro plan – The Selected Strategy" conducted by the Planning Department in 1991, the "West Kowloon Reclamation – Planning and Urban Design Study" conducted by the then Territory Development Department in 1992, the "West Kowloon Development Statement" conducted by the Planning Department in 1993, the "West Kowloon Reclamation – Review of Detailed Site Design Parameters" conducted by the Planning Department in 1996 and the "West Kowloon Reclamation – Comprehensive Traffic Analysis Review and Environmental Impact Assessment" conducted by the then Territory Development Department in 1997.

4. Following the survey conducted by the HKTA in 1996 mentioned in paragraph 2 above, the HKTA commissioned the TAOHO Design Architects Limited to conduct the “Study on the Feasibility of a New Performance Venue for Hong Kong”. The report of the study was published in February 1999. It concluded that Hong Kong needed a new international performance venue, and that a West Kowloon site, which is part of the current WKCD scheme area, was the most favourable site for the venue.

5. After considering the report, the Government agreed that the West Kowloon site should be reserved for the development of the performance venue. However, the Government considered that it would be a mistake from the planning point of view to develop the venue on the site in isolation. It should be complemented by other arts, cultural and entertainment facilities in the vicinity to create a clustering effect. The Government therefore decided to review the land uses of the site for the development of a world class integrated arts, cultural and entertainment district, and briefed the Panel on Planning, Lands and Works accordingly in November 1999. The decision was subsequently supported by the “Cultural Facilities: A Study on their Requirements and the Formulation of New Planning Standards and Guidelines” conducted by the Planning Department in 1999 and the “Consultancy Study on the Provision of Regional/District Cultural and Performance Facilities in Hong Kong” conducted by the Home Affairs Bureau and the Leisure and Cultural Services Department in 2002.

Concept Plan Competition

6. After consultation, including briefing for the Panel on Planning, Lands and Works and the Town Planning Board (TPB), the Government held a Concept Plan Competition in 2001 to invite conceptual proposals for the development of the WKCD site. The first prize went to the concept plan submitted by a team led by Foster and Partners. Based on the result of the Concept Plan Competition and after taking into account the planning concepts of the winning entries, the Government was of the view that the WKCD should be developed in an integrated manner with a mix of arts, cultural, commercial and residential elements. This development mode was adopted with a view to tapping the financial resources of the private sector for construction of the WKCD and to manage and operate the core arts and cultural facilities for 30 years on a

self-financing basis. It was also considered that the private sector with its commercial knowledge and experience would be in a better position to formulate the masterplan and to expedite the development of the WKCD to meet the pressing public demand for arts and cultural facilities and to create employment opportunities. Therefore, the Government decided to invite the private sector to submit masterplans based on the design concept of the first prize winner (i.e. the Foster's Scheme) and to submit proposals for the development of the whole WKCD, covering the planning, design, financing, construction, operation, maintenance and management aspects.

7. The development mix for the WKCD has been derived from the key development components (arts and cultural, commercial/office, hotel/residential, retail/restaurant/entertainment and GIC/utility uses) of the Foster's Scheme. In particular, in determining the types and size for the core arts and cultural facilities, the Government has taken into consideration the existing facilities available in Hong Kong and their usage patterns, the Culture and Heritage Commission Policy Recommendation Report, and the findings and recommendations of the consultancy reports mentioned above, to ensure that the facilities in the WKCD would be complementary to the existing arts and cultural facilities. The overall plot ratio of 1.81 stated in the Invitation for Proposal (IFP) is generally in line with the Foster's Scheme. Apart from the arts and cultural facilities, the level of provision of open space, GIC facilities, as well as commercial and residential uses in the WKCD is on par with the level of development permitted under the previous zonings of the WKCD site on the previous, now superseded, Outline Zoning Plan (OZP).

Invitation for Proposals

8. In September 2003, the Government issued the IFP to invite development proposals from the private sector because the Steering Committee for the Development of the WKCD, after taking the winning entries of the Concept Plan Competition as reference, decided to adopt a community-driven approach whereby the private sector would be responsible for the development and operation of the WKCD. The Government has received and is convinced by the opinion that in order to encourage and be able to respond appropriately to private sector innovation, maximum flexibility should be built in the IFP process. Given the scale and the complexity of the project, the IFP has been so

designed as to provide sufficient flexibility to allow the Government to negotiate with the proponents interested in the development and operation of the WKCD, in order that the Government can select a proposal that will best meet public aspirations and is in the best public interest. The IFP was endorsed by the Steering Committee in May 2003. Subsequently, we briefed the Executive Council on the plan to issue the IFP and, before issuing the IFP, submitted a progress report on the development of the WKCD to the Panel on Planning, Lands and Works in July 2003 setting out Government's decision to invite interested developers to submit proposals. In general, we received positive response from Members at the meeting on the various arrangements set out in the progress report.

9. The development of the WKCD is a Public Private Partnership (PPP) project which fosters a long term relationship between the Government and the private sector in the development of world class arts and cultural facilities and the provision of high quality arts and cultural programmes by bringing in the private sector's financial strength and commercial knowledge and expertise. The Introductory Guide to PPP issued by the Efficiency Unit in August 2003 (the "Introductory Guide") provides a general guidance to the approach of PPP in procurement. It emphasises that PPP can bring together the public and private sectors in a long term relationship. The private sector becomes a long-term service provider rather than a simple upfront asset builder. Through PPP, the Government will be able to exploit the best commercial skills, practices and disciplines to deliver high quality public services.

10. While the Introductory Guide sets out the general guidelines for PPPs, it is well recognised from the outset and as stated in the Introductory Guide that detailed arrangements for PPPs can and should be crafted individually to suit the particular circumstances that are encountered in each instance. The IFP process for the development of the WKCD is developed on this basis and it is well in line with the underlying key principles of the Introductory Guide. The WKCD project can satisfy the common elements of the PPPs set out in the Introductory Guide. In keeping with our policies on accountability and transparency, the Government has consulted the Legislative Council throughout the process.

11. The Government has followed the Introductory Guide in providing for a negotiation process for choosing a successful proponent. Negotiating with more than one proponent is generally advantageous and

this is contemplated in the IFP. To facilitate negotiation, we have avoided setting out overly detailed terms or requirements in the IFP.

12. The WKCD project is financially free-standing. Through involving the private sector in the development of the WKCD, the Government seeks to foster the partnership between the private sector and the arts and cultural sector. The Government will ensure that the selected proposal is value for money, and is in the best interest of the public.

Government's Commitment

13. The IFP does not bind the Government to accept any proposals submitted by the proponents. According to the terms of the IFP, the IFP does not constitute an offer nor does it constitute the basis of any contract which may be concluded in relation to the development of the project. The participation of the proponents in the process to the extent provided for is entirely at their own risk. The Government will not under any circumstances be liable to any of the proponents for any costs, expense, loss and damage whatsoever arising out of or in connection with the assessment process in respect of whether the Government actually proceeds with the project. The Government may also introduce additional requirements and request the proponents to submit revised proposals based on the existing and additional requirements in the next stage of the IFP process. However, the Government should ensure that the process is fair and decisions are made reasonably and in good faith. If the whole WKCD project is to be re-planned from scratch, it may take the Government a few years to draw up and prepare the master layout plan based on uncertain assumptions about commercial efficacy and market inclination. This would also bring uncertainty to the whole project.

Public Consultation

14. In March 2004, in view of the fact that there was a lot of interest in the community concerning the development, the Government decided to consult the public on the screened-in proposals for the development of the WKCD so as to help the public better understand the screened-in

proposals and to facilitate an informed discussion. The public consultation was launched in mid December 2004 and is now ongoing. The Government will keep an open mind when listening to views. The Government will pay heed to public opinion and the overall and long term interests of Hong Kong when taking a decision after the completion of the consultation exercise.

Planning Control

15. This development mode of the WKCD is adopted in the hope that the operator will meet the construction costs of WKCD, while drawing on its commercial knowledge and experience to develop and run the whole WKCD on a self-financing basis, in order to achieve the targets of maximising land use and ensuring the appropriate utilisation of land resources. Under this principle, the Government has three considerations. First, the developer successfully selected is required to build the core arts and cultural facilities and operate them for 30 years as well. Second, the Government has indicated a plot ratio parameter for the WKCD site, and any departure from this parameter must be justified. Taking into account public views, the Government will negotiate with the proponents on plot ratio and any other aspects. Third, there will be adequate planning control over the WKCD project by the TPB.

16. The development parameters of the preferred proposal will be incorporated in the OZP for public inspection and comments. There will be a due process for objection and the OZP will have to be approved by the Chief Executive in Council. The project agreement will only be finalised after the approval of the OZP by the Chief Executive in Council. Any subsequent changes to the development parameters will need TPB's agreement and will be subject to plan-amendment and objection procedure under the Town Planning Ordinance. The whole process will ensure that the project is carried out under the close scrutiny of the public and the TPB.

17. As such, the proponents must propose a development density which they deem appropriate, taking account of the actual market situation and in line with the self-financing principle. The baseline plan, including the plot ratio, laid down in the IFP is not set in stone. However, the Government will study whether the commercial/residential element is over-weight, and consider whether an adequate proportion of the revenue generated therefrom will go to the development and operation

of the cultural facilities to ensure their sustainability. The Government will listen carefully to the views expressed by the public during the consultation period on this point.

Rezoning Request

18. The Government noted that the TPB has received three requests to rezone the WKCD site to “Comprehensive Development Area (Cultural Development)”. The TPB is an independent statutory body with the power to consider such requests. The Government will respect the decision of the TPB.

**Housing, Planning and Lands Bureau
February 2005**