

**Development of the West Kowloon Cultural District Project:
Comparison between Invitation for Proposals 2003 and the new proposal 2005**

1. Development approach

	Invitation for Proposals	New proposal	Matters for clarification
Role of the Successful Proponent	<p>Single development approach:</p> <p>The Successful Proponent would be required to plan, design, finance, construct, procure, fit out and complete the development of the West Kowloon Cultural District (WKCD) project, and subsequently operate, maintain and manage it.</p> <p>The Successful Proponent needs to seek the agreement of Government for sale or lease of buildings and facilities for a term exceeding 10 years.</p>	<p>The Successful Proponent:</p> <p>(a) is required to carve out the development rights of at least 50% of the residential/commercial gross floor area (not less than 250 000 sq m) at the WKCD site;</p> <p>(b) should be given at most the development rights of half of the residential and commercial gross floor area (not more than 250 000 sq m);</p> <p>(c) should assume the coordination of the WKCD project and be charged with the obligation of developing all the Core Arts and Cultural Facilities (CACF), canopy and other communal facilities of the WKCD.</p>	<p>Whether there will be any further negotiation between the Government and the Successful Proponent on the terms, such as payment of premium or retention of part of revenue, for the leasing or sale of the residential/commercial gross floor area (GFA)?</p> <p>Whether the Government/Town Planning Board has any say in determining which portion of the residential/commercial GFA should be carved out at the time when the Master Layout Plan is drawn up/approved?</p> <p>Who will determine the timeframe for the open bidding exercise?</p>

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			<p>Does the requirement for carving out the development rights of at least 50% applies both to residential and commercial GFA? Or does the Successful Proponent have the discretion to retain the development rights of all the residential GFA (which would not exceed 20% of the total GFA)?</p>
Role of other developers		<p>Other developers will be able to bid for the carved out portions under an open and fair process which is acceptable to the market and the general public. The Successful Proponent will not be allowed to bid.</p>	<p>Who will determine the format of the bidding process for the 50% residential/commercial GFA and will the process be subject to the scrutiny and approval of any authorities?</p> <p>Would the Government have a role in the determination of the minimum price acceptable for the purpose of the bidding exercise?</p> <p>How will the proceeds from the open bidding of land be handled?</p>

2. Development density and mix

	Invitation for Proposals	New proposal	Matters for clarification
Canopy	The Canopy covering at least 55% of the development area was a mandatory requirement.	<p>Results of the public consultation indicate that public views are divided and hence inconclusive. There is a certain degree of support for the Canopy. At this stage there appears to be no compelling reason for the Government to change this mandatory requirement.</p> <p>Net operating expenditure of communal facilities like the Canopy will be covered by the \$30 billion upfront put under an independent trust fund.</p>	<p>How far does the carving-out affect the requirements for the Canopy?</p> <p>How would the Government ensure that maintenance consideration will be taken into account when deciding on the design and building materials for the canopy? Will the Successful Proponent be responsible for any design or construction defects?</p> <p>Would the Canopy form part of the structure of a building, and if so, does the repair and maintenance of the Canopy remain the sole responsibility of the Government?</p>
Plot ratio	The plot ratio of 1.81 was set out as a Government's baseline. Proponents may submit proposals deviating from the development parameters stipulated in the Government's baseline	Setting an overriding plot ratio at 1.81.	Has the overriding plot ratio taken in account any relaxation of building restrictions normally granted as exemptions to developers?

	Invitation for Proposals	New proposal	Matters for clarification
Residential gross floor area	No breakdown. Total gross floor area of commercial, office, residential, hotel, restaurants, entertainment and other arts and cultural facilities at 492 335 sq m	Capping the residential gross floor area to no more than 20% (maximum 144 000 sq m) of the total gross floor area at the WKCD site.	
Net Operating Floor Area for CACF	The Government baseline assumes a gross floor area of 213 950 sq m (29.4% of the total GFA) for the CACF at a plot ratio of 1.81.	Specifying a minimum Net Operating Floor Area for the CACF at 185 000 sq m (equivalent to a gross floor area of 214 000 sq m and accounts for some 30% of the total gross floor area) at a plot ratio of 1.81.	

3. Sustainability of the arts and cultural facilities

	Invitation for Proposals	New proposal	Matters for clarification
Trust fund	<p>According to IFP, the Government:</p> <p>(a) expected the WKCD project to be run on a self-financing basis;</p> <p>(b) would require the Successful Proponent to provide a financing plan demonstrating its capability to undertake the WKCD project and fund any shortfall or cost overruns that may occur;</p> <p>(c) would require guarantees, undertakings and indemnities from the Successful Proponent and/or other interested parties to ensure due performance of the obligations relating to the implementation of the project; and</p> <p>(d) would require the Successful Proponent to procure performance bonds to secure project completion and operation.</p>	<p>The Successful Proponent will be required to pay HK\$30 billion upfront to an independent trust fund.</p> <p>It is estimated that the trust fund would generate a recurrent return which, preserving the size of the upfront payment in real terms, could cover the net operating expenditure of:</p> <p>(a) the CACF;</p> <p>(b) other communal facilities like the Canopy, Automated People Mover (APM) and open space; and</p> <p>(c) the independent statutory body for overseeing the WKCD.</p>	<p>On what basis does the Government consider that \$30 billion is sufficient for covering the operating costs for CACF, other communal facilities and the statutory body?</p> <p>How much is expected to be generated from the disposal of the land carved out for open bidding? Will the revenue be ploughed back into the trust fund or to Capital Works Reserve Fund?</p> <p>Whether the Successful Proponent, apart from the \$30 billion, needs to pay any premium for its portion of residential and commercial GFA? If not, why does the Government believe that this cash upfront is justifiable?</p> <p>In the event that the \$30 billion is exhausted, how will the CACF, the communal facilities</p>

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			and the statutory body be financed?
Operating expenditure	The Successful Proponent was required to provide estimates of the operating costs for the CACF and other communal facilities.	The net annual operating expenditure of the CACF, the Canopy, the APM, and the open space is guesstimated at about HK\$500 million. The annual recurrent cost of the statutory body for WKCD is guesstimated at about HK\$60 million.	What is the breakdown of the net annual operating expenditure of the CACF and other communal facilities? What is the maintenance cost of the Canopy? On what basis is the recurrent cost of the new statutory body calculated?

4. Statutory body for WKCD

	Invitation for Proposals	New proposal	Matters for clarification
Establishment of statutory body	<p>The Successful Proponent was required to state the mode of governance proposed for the CACF, which could be set up as for example, a statutory or non-statutory profit or non-profit organization. The mode of governance proposed should be conducive to enhancing the long-term cultural development of Hong Kong and attracting public support. Many arts and cultural facilities overseas of a similar nature and comparable scale operate as corporations of a non-profit nature, some with statutory backing.</p> <p>The Government would monitor the operation, maintenance and management of the CACF to ensure that their performance was able to achieve and maintain the requirements to be specified in the Project Agreement.</p>	<p>An independent statutory body will be established to take forward the development of the WKCD.</p>	<p>What is the relationship between Government and the statutory body?</p> <p>What responsibilities and powers does it have in the overall project development and management, and the subsequent management of the CACF?</p>

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Powers and functions		<p>The powers and functions of the new statutory body should predicate on the need to maximize the use of past efforts made on the project, and on the modifications to be introduced to the IFP which would depend much on the response from the screen-in Proponents and public reaction.</p> <p>It should:</p> <ul style="list-style-type: none"> (a) at least have a significant role in overall project development and management plus a longer term on-going role in managing the CACF; (b) not only focus on arts and cultural facilities but also seek to turn the WKCD into a "must-see" for tourists. 	<p>How far do the powers and functions of the new statutory body predicate on the response of the screened-in Proponents to the new proposals?</p> <p>How far does the new statutory body have a role in deciding the development rights of the portions to be carved out to developers other than the Successful Proponent?</p> <p>Under the new proposal, the Successful Proponent should assume the role of coordinating the WKCD project. Would this overlap the powers and functions of the new statutory body? How would any conflict between the Successful Proponent and the statutory body be resolved?</p>

4. Statutory body for WKCD (cont'd)

	Invitation for Proposals	New proposal	Matters for clarification
Governance	The governing body of one or more of the CACF is expected to be a body with legal and professional credibility, open to participation by persons of standing in the community and experts in the relevant fields.	<p>The governing body of the new statutory body should:</p> <ul style="list-style-type: none"> (a) be appointed by the Chief Executive; (b) independent of the Government and vested interests; (c) comprise well-respected personalities from the arts and cultural circles, tourism industry, property development and management sector, financial services, town planning, architecture, surveying and engineering fields, etc. 	<p>Would the Successful Proponent have representatives in the governing body?</p> <p>Whether the new statutory body will have a secretariat independent of the Government?</p> <p>What will be the criteria for selecting the appointees?</p>
Consultative setup		<p>The new body should be subject to sufficient safeguards for transparency and accountability and requirements to consult the public on major matters.</p> <p>The consultative setup should be broadly based and representative of the arts and cultural sectors and various professions relevant to the WKCD development.</p>	

	Invitation for Proposals	New proposal	Matters for clarification
Schedule		<p>The Government aims to:</p> <ul style="list-style-type: none">(a) consult the LegCo and the public on specific legislative proposals for the new statutory body in Q2 2006;(b) seek to introduce the bill on the new statutory body into LegCo in July 2006 for enactment by end 2006; and(c) establish the new statutory body in Q1 2007.	

5. Role of Town Planning Board

	Original proposal	New proposal	Matters for clarification
Plan making process	<p>Government devised a unique two-stage approach for the plan-making of the WKCD scheme area.</p> <p>The first stage: to reflect the planning intention of developing the site into an integrated arts and cultural district. After assessment, the preferred development scheme with its preliminary masterplan will be submitted to TPB for consideration and agreement before it is submitted to the CE in C for approval</p> <p>The second stage: after the selected scheme has been approved by CE in C and the Provisional Agreement has been signed with the Successful Proponent, the revised outline zoning plan will be subject to the normal plan-making process</p>	<p>The Administration will seek the TPB's preliminary views on the additional development parameters under the new proposal. If the response from at least two of the three proponents is positive, the Administration will engage independent consultants to develop the additional development parameters into detailed requirements. The TPB will then initiate the statutory plan-amendment process.</p>	<p>What is the purpose of seeking TPB's preliminary views on the additional development parameters? Is this within the purview of TPB under the Town Planning Ordinance?</p>

6. Development Schedule of WKCD

	Invitation for Proposals	New proposal	Matters for clarification
Commencement of construction	The construction on site should commence by April 2006.	<p>Further assessment on the screened-in Proposals should be held in abeyance, and no decision on shortlisting should be made at this stage.</p> <p>Subject to positive response from the Proponents, the Government will:</p> <p>(a) engage independent consultants to conduct financial viability and technical feasibility studies to develop the proposed additional parameters and conditions into specific requirements; and</p> <p>(b) initiate the statutory plan-amendment process with the TPB, allowing for public participation, and invite Proponents to revise their proposals accordingly.</p> <p>If less than two of the screened-in Proponents give a positive response, the Government should conduct a review as to how it may develop the WKCD to best meet community aspirations, including the need for establishing a new body to</p>	<p>Why doesn't the Government proceed with the conduct of some of the technical and financial studies on the CACF or public consultation on cultural policy or planning issues pending the response from the Proponents?</p> <p>Would the Government disclose the results of the feasibility studies?</p>

	Invitation for Proposals	New proposal	Matters for clarification
		oversee the project.	
Operation date	<p>The successful proponent was expected to complete and commence operating the core arts and cultural facilities and the APM in phases:</p> <p>(a) the theatre complex, water amphitheatre and at least four piazza areas by 31 March 2010;</p> <p>(b) the performance venue, the art exhibition centre and the APM by 31 December 2010; and</p> <p>(c) the museum cluster and remaining piazza areas, if any, by 31 December 2012.</p>		How far will the new arrangements under the new proposal affect the schedule of completion and operation of the CACF?