

Government's responses to matters for clarifications
raised by the Subcommittee on West Kowloon Cultural District Development

No.	Matters for clarification	Government's responses
<i>Development approach</i>		
1.	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)?	Subject to responses from the screened-in Proponents, the Government would formulate detailed requirements for the Proponents to revise their Proposals under the Invitation for Proposals (IFP). Sufficient flexibility has been provided under the IFP to allow the Government to negotiate with the Proponents, in order that the Government could select a Proposal that would best meet public aspirations and is in the best public interest. Detailed arrangements for the negotiation would be made at a later stage.

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2.	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?	Subject to responses from the screened-in Proponents, the Government would formulate detailed requirements for the Proponents to revise their Proposals under the IFP. We envisage that the Proponents would be required to submit detailed proposals on the carving-out arrangements. Such proposals would be subject to the approval of the Government, taking into account its overall land disposal programme for residential and commercial development. As for the Town Planning Board (TPB), we note that its major function is to promote the health, safety, convenience and general welfare of the community through the systematic preparation of plans for the layout of such areas of Hong Kong as well as the types of buildings suitable for erection therein. The TPB would be more concerned about the major planning parameters such as plot ratio, development mix, building height and open space provision of the development. We plan to report to the TPB and seek its agreement on the preferred Proposal before signing the Provisional Agreement so that the TPB could consider how the preferred Proposal would have complied with the statutory development parameters and relevant Urban Design Guidelines for Hong Kong and Harbour Planning Principles.

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3.	Who will determine the timeframe for the open bidding exercise?	The timeframe for the bidding exercise will be decided by the Government.
4.	Does the requirement for carving out the development rights of at least 50% apply 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)?	Our proposal is to require the Successful Proponent to carve out at least 50% of the residential and commercial gross floor area (GFA) at the WKCD site. Different Proponents may propose different carving-out mix to best suit their respective Proposals. We will take into account the responses of the screened-in proponents and the views of the Legislative Council (LegCo) and the public in preparing the detailed requirements.
5.	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?	The format of the bidding process will be decided by the Government. It would be announced in advance for public information.

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6.	Would the Government have a role in the determination of the minimum price acceptable for the purpose of the bidding exercise?	The arrangements for the bidding process will be decided by the Government.
7.	How will the proceeds from the open bidding of land be handled?	Proceeds from the sale of the carved-out developments will be used for arts and cultural and other communal facilities and services provided in the WKCD through a suitable arrangement.
<i>Development density and mix</i>		
8.	How far does the carving-out affect the requirements for the Canopy?	There is no change to the Mandatory Requirement on the Canopy.

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9.	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?	As stated in the IFP, the design of the Canopy, including the selection of building materials, will be subject to technical vetting and approval by the Government. We shall give due consideration to the maintenance aspects in the design and selection of materials for the Canopy. Since the Successful Proponent will be responsible for designing and constructing the Canopy, we envisage that it will be liable for any defects in the design and construction of the Canopy, as part of its contractual obligations under the Project Agreement. In addition, the Successful Proponent will be required to procure direct warranties to the Government on the design, material and workmanship for the Canopy from the design consultants, contractors and suppliers.
10.	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?	Whether the Canopy would form part of the structure of a building would depend on its design. The Government has an open mind on the arrangements for the repair and maintenance of the Canopy between the new body and the Successful Proponent, and will take into account the views of LegCo and the public before introducing detailed requirements in this regard. Whether the Canopy would form part of the structure of a building can be separated from the issue of responsibility for repairing and maintaining the Canopy..

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11.	Has the overriding plot ratio taken in account any relaxation of building restrictions normally granted as exemptions to developers?	The guiding principle is that the WKCD development will be governed by all existing statutory building and related requirements.
<i>Sustainability of the arts and cultural facilities</i>		
12.	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?	Please refer to a separate note on the Operation of Communal Facilities in the West Kowloon Cultural District – Size of a Proposed Independent Fund at <u>Annex</u> .
13.	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?	It is premature to estimate the amount of revenue that may be generated from the disposal of the carved-out areas as property prices are subject to market forces. Proceeds from the sale of the carved-out developments will be used for supporting the WKCD through a suitable mechanism.
14.	Whether the Successful Proponent, apart from the \$30 billion, needs to	Subject to responses from the screened-in Proponents, the Government will formulate detailed requirements for the Proponents to revise their

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	pay any premium for its portion of residential and commercial GFA? If not, why does the Government believe that this cash upfront is justifiable?	Proposals under the IFP. As already provided for in the IFP, the Proponents may propose payment of land premium in their revised Proposals and the Government will take this into account in assessing the revised Proposals.
15.	In the event that the \$30 billion is exhausted, how will the CACF, the communal facilities and the statutory body be financed?	We expect that the independent fund will be managed prudently with the objective of generating investment returns to finance the recurrent operations of the WKCD, including that for the new body. We envisage that the legislation establishing the new body for the WKCD should make provisions for the prudent management of this independent fund.
16.	What is the breakdown of the net annual operating expenditure of the CACF and other communal facilities?	Please refer to the note at <u>Annex</u> .
17.	What is the maintenance cost of the Canopy?	
18.	On what basis is the recurrent cost of the new statutory body calculated?	

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<i>Statutory body for WKCD</i>		
19.	What is the relationship between Government and the statutory body?	Details of the new body could only be formulated after we have assessed comments from LegCo, the TPB and the public as well as the responses from the screened-in Proponents on the proposed additional development parameters and conditions, and have decided the prospects of the IFP. Subject to responses from the screened-in Proponents, we aim to consult LegCo and the public on specific legislative proposals for establishing a new body for the WKCD in Q2 2006.
20.	What responsibilities and powers does it have in the overall project development and management, and the subsequent management of the CACF?	
21.	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?	
22.	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	

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	than the Successful Proponent?	
23.	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?	
24.	Would the Successful Proponent have representatives in the governing body?	
25.	Whether the new statutory body will have a secretariat independent of the Government?	
26.	What will be the criteria for selecting the appointees?	See Items 19 to 24.

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<i>Role of the Town Planning Board</i>		
27.	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?	The TPB is the statutory authority in administering the Town Planning Ordinance. Seeking TPB's preliminary views on the additional development parameters is necessary as these parameters are intended to be incorporated in the OZP at a later stage. As part of the plan-amendment process, it is not unusual to seek the TPB's preliminary views on any proposed amendments to the OZPs before initiating the statutory process.
<i>Development Schedule of WKCD</i>		
28.	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?	The response from the Proponents will be critical in the further development of the WKCD. Appropriate technical and financial studies will be conducted in due time. On the arts and culture front, we believe our existing cultural policy has provided a sufficiently sound basis for the development of the WKCD. Our policy towards arts and culture is to create an environment which is conducive to the freedom of expression and artistic creation, and which encourages participation in such activities. The Culture and Heritage Commission Policy Recommendation Report, based on extensive consultation, is the blueprint of our cultural policy and has given its support to the WKCD project. While discussions on cultural policy

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		could continue, there is no strong ground for holding up the WKCD project for the sake of such discussion.
29.	Would the Government disclose the results of the feasibility studies?	The Government will consider disclosure of relevant information, subject to the established Government policy set out in the Code of Access to Information and Government's negotiation position not being compromised.
30.	How far will the new arrangements under the new proposal affect the schedule of completion and operation of the CACF?	Depending on responses of the screened-in Proponents and the time required for revision of Proposals, we are unable to give a specific timetable for development. Regardless, the development of the CACF has always been and maintains our target of first completion.

Housing, Planning and Lands Bureau
Home Affairs Bureau
26 October 2005

West Kowloon Cultural District Development

Operation of Communal Facilities in the West Kowloon Cultural District

Size of a Proposed Independent Fund

Purpose

This note outlines the objectives, assumptions and parameters underlying the guesstimated size of an independent fund proposed for the operation of the communal facilities, including the Core Arts and Cultural Facilities (CACF), Canopy, Automated People Mover (APM) and open space, as well as the proposed independent body for the West Kowloon Cultural District (WKCD).

Sustainability of Communal Facilities in the WKCD

2. During the public consultation on the development of the WKCD, the public and LegCo have expressed concerns on various aspects of the project. It is necessary to address the major concerns in order to gain sufficient public support for the project to proceed. One of these concerns is on the sustainability of the CACF earmarked for development and operation in the WKCD.

3. To address such public concerns, we have considered but refrained from stipulating specific software deliverables for the CACF. We believe that the arts and cultural software should be allowed to evolve over time and respond to market needs. Inflexible software deliverables would only stifle innovation and creativity of the artists and the private sector, hence defeating the purpose of the current development process. As an alternative, we propose that the Successful Proponent be required to contribute \$30 billion upfront to an independent fund to support the operation of the CACF and other communal facilities in the WKCD. The objective of putting forward this additional condition for the Successful Proponent is to address public concerns about the sustainability of the CACF.

4. Subject to the positive response from the Proponents, and taking account of the views of LegCo, the Town Planning Board and the public, we would consider developing the additional parameters and conditions, including the establishment of an independent fund, into detailed requirements for the Proponents to revise their Proposals. In parallel, we would prepare for the establishment of a new statutory body to take over at a suitable juncture our functions for the WKCD under the IFP. It is envisaged that the enabling legislation for establishing the new body would also provide for the independent and prudent management of the proposed fund to ensure transparency and accountability.

Proposed size of the independent fund

5. In guesstimating the size of the independent fund, we have formulated the following guiding principles –

- (a) it should be sufficient for maintaining the CACF and other communal facilities at the WKCD up to international standards, and for offering world class arts and cultural programmes;
- (b) it should generate a steady stream of return which is sufficient to support
 - (i) the recurrent operation of the CACF and other communal facilities should they be operated by the Government;
 - (ii) the costs of regular major overhauls of these facilities; and
 - (iii) the recurrent operation of an independent statutory body proposed for the WKCD;
- (c) the size of its principal, i.e. the upfront payment, would be preserved in real terms. In other words, the independent fund would be expected to support the operation and the overhauls of the CACF and other communal facilities, as well as the operation of the new body on an on-going basis.

These should help assure the public of their sustainability.

6. The methodology adopted in guesstimating the size of the independent fund is outlined in paragraphs 7-13 below.

CACF

7. Maximum flexibility has been built in for the present stage of the IFP process so as to encourage innovation by the private sector. Without prescribing detailed specifications for the CACF or the services to be provided, it is not possible for us to provide any meaningful estimates on the operating revenue or expenditure of the CACF in the future WKCD. For the purpose of providing a rough guesstimate on the size of the independent fund required, we have made reference to the current expenditure data and subsidy rate of some arts and cultural facilities currently operated by the Government¹, with some adjustments made to reflect the differences in terms of scale and expected quality between these Government facilities and the CACF in the future WKCD.

Open Space (other than the Piazza Areas)

8. In estimating the net operating expenditure of the open space envisaged in the future WKCD, we have made reference to the expenditure data of the open space in the Victoria Park.

Canopy

9. For the operating expenditure of the Canopy, we have made reference to the operating and maintenance programme and costs for some large-scale roof structures in Hong Kong, with certain adjustments made for the differences in scale, materials, and design².

APM

10. We have sought independent consultant's advice on the operating expenditure of the APM serving the WKCD, with reference made to the expenditure data of local and overseas railway projects, the nature and scale as well as the expected patronage for the APM.

Major Overhaul

11. For a transport facility like the APM which runs continuously every

¹ These facilities include the Hong Kong Cultural Centre, Hong Kong Museum of Art, Hong Kong Museum of History, Hong Kong Heritage Museum, Hong Kong Science Museum, Hong Kong Space Museum, Hong Kong Coliseum and Hong Kong Park. Statistics in 2004/05 are adopted.

² The estimate is based on Foster's winning design of the Concept Plan Competition for the WKCD held in 2001/2002.

day, there would be frequent maintenance, refurbishment and replacement for its various parts. It would not be necessary, and indeed not practical, for the APM to undergo a major overhaul during its service life. It is however desirable to carry out a major overhaul for the CACF, Canopy and open space. The return of the independent fund is also expected to be sufficient to cover such costs.

New Body

12. The proposed independent fund would also support the operation of a new body to be established to take forward the WKCD. The objectives, powers, functions and other details of the new body would be a matter for public consultation. .

13. The guesstimate of the net annual operating expenditure of CACF, Canopy, APM and the new body amounts to \$566 million. It is based on the working assumptions that the inflation rate would stay at 2.5% per annum and the average rate of return at 5% per annum. The latter is in line with the compounded investment return of the Exchange Fund for the years from 2000 to 2004. Under this return rate, the required upfront capital amounts to some \$27 billion. To allow for 10% contingency, we propose that the size of the independent fund required should be set at \$30 billion.

Further Work

14. The amount of \$30 billion is a guesstimate based on available information. We consider it sufficient for the purpose of consulting the screened-in Proponents together with other development parameters and conditions at this stage. It is important for us to engage independent consultants, including a financial advisor and property development consultants, to conduct further financial viability and technical feasibility studies to develop the additional development parameters and conditions into detailed requirements for the Proponents to revise their Proposals.

**Housing, Planning and Lands Bureau
Home Affairs Bureau
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