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### **The Study of the West Kowloon Cultural District Development Project**

1.1 The purpose of the study of the West Kowloon Cultural District (WKCD) Development Project (the Study) by the Subcommittee on WKCD Development (the Subcommittee) set up by the House Committee on 21 January 2005 is to follow up on a range of issues relating to the development of the 40-hectare WKCD at the southern portion of the West Kowloon Reclamation (WKR). The issues include land use and planning, environmental considerations, financing implications and arrangements, the role WKCD should play in the development of art and culture in Hong Kong. The terms of reference of the Subcommittee and its membership appear in **Appendices 1.1 and 1.2.**

1.2 The Study was conducted by the Subcommittee in three phases. Phase I of the Study identified the problems of the development of WKCD and made recommendations on the way forward. The Report on Phase I of the Study was presented to the House Committee and published on 6 July 2005.

1.3 In October 2006, the Administration introduced additional development parameters and conditions to the development framework under the original Invitation for Proposals<sup>1</sup> (IFP) and invited the shortlisted proponents to respond to the Government's modified approach. Preparations were made in parallel for the creation of a new statutory body to take over the development of WKCD at some point under IFP. The Subcommittee accordingly changed the focus of Phase II of the Study to focus on the mode of planning, implementing, management and financing for WKCD using overseas projects of comparable scale as reference.

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<sup>1</sup> In September 2003, through IFP, the Government invited, among other things, submission of a preliminary masterplan based on the development brief and supporting technical, financial and operation proposals, including the amount of land premium offered, if any, and a comprehensive business plan setting out a strategy for establishing WKCD as a world class arts, cultural and entertainment attraction. The successful proponent will be required to plan, design, finance, construct, procure, fit out and complete WKCD and subsequently operate, maintain and manage the core art and cultural facilities for a period of 30 years. A land grant of the site for a term of 50 years in favour of the successful proponent will be executed at such time as Government considers appropriate after the execution of the project agreement. Paragraphs 2.8 to 2.10 of the Phase 1 Report provide a summary of the IFP framework.

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A delegation of the Subcommittee visited Bilbao in Spain and met with officials and agencies involved in the Abandoibarra project, which is widely acknowledged as an emblematic project of urban revitalization. The Phase II Report was submitted to the House Committee and published on 6 January 2006.

1.4 On 8 February 2006, the Legislative Council (LegCo) endorsed the two reports upon a motion moved by the Chairman of the Subcommittee, Hon Alan LEONG Kah-kit.

### **Termination of the IFP process**

1.5 On 21 February 2006, at a meeting of the Subcommittee, the Chief Secretary for Administration (CS) announced that the Government had decided not to pursue WKCD under the IFP process any further, as none of the shortlisted proponents made any firm and clear commitment to pursuing the WKCD project under the modified IFP framework<sup>2</sup>. Instead, the Government would adopt the following basic principles --

- (a) to adhere to the original objective of developing a world-class integrated arts, culture and entertainment district;
- (b) to make the best use of past efforts for WKCD;
- (c) to continue to explore Public Private Partnerships (PPP) in taking forward WKCD with a view to bringing in market creativity and vibrancy, facilitating diversity in arts and culture, and ensuring the sustainable operation of WKCD;
- (d) to continue to designate the project area on the WKR site for the development of a Cultural District; and

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<sup>2</sup> Paragraphs 1.7 and 1.8 of the Phase II Report provide a summary of the modified IFP framework.

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- (e) to continue to uphold the principles of "partnership", and for the project to be "community-driven" and "people-oriented" as put forward by the Culture and Heritage Commission (CHC) for the WKCD development.

1.6 Further, CS announced that the Government planned to appoint a Consultative Committee on the Core Arts and Cultural Facilities of the West Kowloon Cultural District (Consultative Committee), to re-examine, and re-confirm if appropriate, the need for the Core Arts and Cultural Facilities (CACF) as defined in IFP and other arts and cultural facilities to be provided in WKCD, and to examine the financial implications of developing and operating these facilities.

1.7 In April 2006, the Consultative Committee and its three Advisory Groups, namely the Performing Arts and Tourism Advisory Group (PATAG), the Museums Advisory Group (MAG) and the Financial Matters Advisory Group (FMAG), were appointed by the Chief Executive (CE) with CS as the chairman of the Consultative Committee. In the Administration's explanation, the Consultative Committee and its three Advisory Groups comprised members from the arts, cultural, entertainment and tourism sectors, who were mainly professionals or practitioners in relevant fields and were considered to be in the best position to help re-examine CACF for WKCD. The original schedule was that the Consultative Committee would submit its findings to the Government in six months' time.

1.8 The Subcommittee decided that it would continue to study and monitor the development of issues relating to WKCD, taking into account the Government's plan to formulate a new way forward for the WKCD project. Between April 2006 and the release of the Consultative Committee's Recommendation Report in September 2007, the Subcommittee held meetings with the Administration to discuss the progress of the work of the Consultative Committee and its Advisory Groups at various stages, and to receive views from interested groups and individuals on related issues, particularly the recommendations of PATAG and MAG, which were published in September 2006 and November 2006 respectively.

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### **Position statement of the Subcommittee in March 2007**

1.9 In early 2007, having regard to the views and concerns expressed by deputations and noting that the Consultative Committee was about to draw up its recommendations for submission to CE, the Subcommittee consolidated its views on the following aspects of the Government's work over the WKCD project since the termination of the IFP process --

- (a) public involvement in the planning and implementation of the project;
- (b) adoption of an integrated and coordinated approach in the planning of the project;
- (c) town planning of the WKCD site; and
- (d) establishment of an overseeing authority to steer the project.

1.10 The Subcommittee submitted a progress report to the House Committee on 9 March 2007, together with a position statement on the Government's approach in taking the project forward. A copy of the position statement is in **Appendix 1.3**. In the position statement, the Subcommittee stated that it welcomed the Government's decision to terminate the IFP process and the appointment of the Consultative Committee in order to expedite the WKCD project. The Subcommittee shared the Administration's objective of developing a world-class integrated arts, culture and entertainment district on the 40-hectare site in WKR. The Subcommittee also agreed that the project should be taken forward without further unnecessary delays to meet public aspirations.

1.11 On the other hand, the Subcommittee drew the Administration's attention to the lack of a clear vision for the project and a substantiated cultural policy, which are required as a solid policy foundation for WKCD. The Subcommittee also observed that the Administration had yet to formulate plans to put in place the necessary mechanisms for effective coordination among relevant policy bureaux and departments to achieve

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integrated and holistic planning for the project. The Subcommittee urged the Administration to establish an overseeing authority as soon as possible to steer the way forward for WKCD.

1.12 On public involvement, the Subcommittee noted that PATAG and MAG had conducted public forums and focus group meetings to gauge public views on matters under their purview. However in the case of MAG's recommendation for establishing a Museum Plus (M+), the Subcommittee noted the strong views expressed by some deputations, including local museum professionals and some of the members of MAG, and believed that this was probably due to the lack of further consultation after the recommendations had been made. The Subcommittee also pointed out that FMAG had not carried out any public consultation at all, and urged the Administration to take appropriate steps to solicit and take into account the public's views before finalizing CACF.

1.13 The Subcommittee also expressed concern that needs of the community which could only be reflected and safeguarded through town planning might have been overlooked by the Consultative Committee and its Advisory Groups, since the scope of their studies was focused on CACF. The Subcommittee proposed that the Administration should take steps to consult the public on the basic development parameters (in particular those parameters on the provision of open space and the amount and intensity of commercial and residential developments) for the WKCD site, and further planning of CACF should proceed in the context of the development parameters agreed by the public.

1.14 After reporting to the House Committee, the Chairman of the Subcommittee wrote to CS and asked the Consultative Committee to take heed of the views set out in the position statement, which represented the consensus of the Subcommittee, before completing its findings. In his reply, CS affirmed that the Administration would carefully and thoroughly consider the Subcommittee's suggestion to put in place appropriate measures to solicit and take into account views from the general public before the Government deciding what view to take on the recommendations of the Consultative Committee. Upon receiving the recommendations, it would

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also carefully consider how best to formulate proposals for establishing an independent statutory body to take forward the WKCD project, including the Subcommittee's proposal to establish a provisional authority.

### **Publication of the Recommendation Report of the Consultative Committee and launch of public engagement exercise**

1.15 On 12 September 2007, the Administration released the Recommendation Report of the Consultative Committee and launched a three-month public engagement exercise on its recommendations in the report. The recommendations of the Consultative Committee cover the following aspects --

- (a) provision of 15 performing arts venues, comprising 12 venues to be developed during Phase 1 and another three venues during Phase 2;
- (b) establishment of a new type of cultural institution entitled M+ to be developed in two phases according to the 70%/30% ratio;
- (c) adoption of the development parameters under the modified IFP framework announced in October 2005, and the more stringent building height restrictions proposed by the Planning Department (PD);
- (d) financing the capital costs of CACF and related facilities through an upfront endowment established using moneys approved by LegCo, and vesting the retail/dining/entertainment (RDE) part of WKCD in the statutory body for WKCD for it to meet the operating deficits of CACF and related facilities;
- (e) proposing a development mix comprising 36% of gross floor area (GFA) for CACF to be suitably integrated with office



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(15%), RDE (16%), hotel (8%) and residential (maximum 20%) developments; and

- (f) setting up a WKCD Authority (WKCDA) as soon as practicable.

1.16 The Subcommittee held a series of meetings with the Administration to discuss the merits and implications of the recommendations and the way views expressed during the public engagement exercise would be taken into account. The Subcommittee notes the public's concern and deputations' views on the need to develop cultural software in Hong Kong to realize the vision and objectives of WKCD<sup>3</sup>. As these issues need to be considered in a wider context of the overall cultural development of the territory, it was agreed between the Subcommittee and the Panel on Home Affairs (HA Panel) in late 2007 that the latter would take up the examination of these and related issues and members of the Subcommittee would be invited to participate in the discussions. Subsequently, discussions were held on 14 December 2007, 15 February 2008 and 9 May 2008. In view of that arrangement, matters relating to cultural policies and cultural software development will not be discussed in detail in this Report.

1.17 Between October 2007 and June 2008, the Subcommittee focused its attention on two main areas: the establishment of WKCDA and the financing arrangements to support the development and operation of CACF in WKCD.

1.18 In October 2007 and January 2008, the Subcommittee conducted two rounds of consultations to gauge the views of interested organizations and individuals on the recommendations of the Consultative Committee and on the key aspects of the Administration's proposed legislation for the establishment of WKCDA.

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<sup>3</sup> The information provided by the Administration in response is in Paper No. WKCD-446.

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1.19 On 31 January 2008, the Administration published the major findings of the public engagement exercise. The Administration indicated that given the strong public support for the Consultative Committee's recommendations and the early implementation of the WKCD project, it would proceed with the following measures --

- (a) introduce legislation to establish the WKCDA;
- (b) set up a dedicated WKCD Planning Office within the Home Affairs Bureau (HAB);
- (c) subject to LegCo's approval, provide a one-off upfront endowment of \$21.6 billion (Net Present Value (NPV) at 2008) to WKCDA mainly to finance the capital costs of the facilities under its purview over the project period and the costs to be incurred by WKCDA during the development stage;
- (d) lease the land necessary for WKCDA to carry out its statutory functions through one or more land grants after the development plan for the entire WKCD site has been approved by the Chief Executive-in-Council (CE-in-C);
- (e) set up an interim M+ at the former premises of the Royal Hong Kong Yacht Club in Oil Street, North Point; and
- (f) designate the temporary use of WKCD site mainly to projects and activities relating to arts and culture before the full commissioning of the WKCD project.

1.20 The WKCDA Bill was introduced into LegCo on 20 February 2008. A bills committee has been formed to scrutinize the Bill and has been forwarded a draft of Chapter V of this Report, which summarized the Subcommittee's deliberations on the key aspects of the Bill during its drafting stage and within the first month after it was published in the gazette.

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1.21 At the same time, the Administration was also invited to explain to the Subcommittee its computations of the proposed one-off upfront endowment of \$21.6 billion for WKCDA. In the course of examining the financial analysis conducted by the Financial Adviser (FA) engaged by the Administration to assist the work of the Consultative Committee, the Subcommittee found it necessary to appoint its own specialist adviser to conduct a consultancy study on the financial aspects of the WKCD project. The consultancy study was completed before the end of May and deliberated at an internal meeting of the Subcommittee. In late May to early June, the Subcommittee held a series of meetings with the Administration to discuss the funding proposal for the upfront endowment to WKCDA, prior to the submission of the funding proposal to the Public Works Subcommittee (PWSC) and the Finance Committee (FC). To assist PWSC in considering whether the Government's funding proposal should be supported, the Subcommittee issued a draft version of the chapter on the financial arrangements for WKCD prior to the relevant PWSC meeting.

1.22 The Subcommittee also noted in April 2008 that PD had proposed and the Town Planning Board (TPB) agreed to amend the draft South West Kowloon Outline Zoning Plan (OZP) to incorporate certain major development parameters. TPB also agreed that the relevant amendments were to be exhibited for public comments on 18 April 2008. In late April and early May, the Subcommittee held two meetings to discuss with the Administration the updated position of and future plans for the town planning of the WKCD site.

1.23 In May and June 2008, the Subcommittee held four further meetings to deliberate on its Phase III Report. The Subcommittee has held a total of 30 meetings for its Phase III study.

### **Contents of Phase III Report**

1.24 The Subcommittee's discussions are set out in the following chapters of this Report and cover the following aspects of the WKCD project --

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- (a) the planning of WKCD and the application thereto of the town planning procedures under the Town Planning Ordinance (Cap. 131) (TPO);
- (b) the recommended contents, phasing and other implementation aspects of CACF;
- (c) the enactment of legislation for the establishment of the statutory authority for WKCD; and
- (d) the financing of the WKCD project.

1.25 This Phase III Report concludes the Study of the Subcommittee and the Subcommittee will dissolve upon its submission of the report to the House Committee or at such a later date the House Committee may decide, which in any event will not be later than 19 July 2008, the date from which the third term LegCo shall stand prorogued. Subject to the WKCDA Bill being passed by mid-2008, the Administration intends to set up the WKCDA later in the year. WKCDA will then take responsibility for the planning and implementation of the WKCD project with funding approved by FC. The Subcommittee hopes that this Report will not only assist the Bills Committee on the WKCDA Bill (the Bills Committee), PWSC and FC in their respective deliberations, but could also serve as a useful reference for the future WKCDA in planning and implementing the project and for LegCo in monitoring the work of WKCDA in future.

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### Background

2.1 The site currently designated for the WKCD project is bound by Canton Road in the east, Austin Road West and the Western Harbour Crossing Portal in the north, and Victoria Harbour in the west and south. The southern portion of the Reclamation, was originally one of the 10 Airport Core Programme projects and was primarily intended as a transport corridor to accommodate the West Kowloon Highway, Airport Railway and connection for the Western Harbour Crossing. Apart from land zoned for road infrastructure, the site was originally zoned for a regional park (13.79 hectares), commercial (5.02 hectares) and residential (0.77 hectares) development as well as other open spaces (7.94 hectares) and government, institution and community (GIC) uses (1.45 hectares)<sup>1</sup>.

2.2 When the WKCD project was being pursued under the IFP framework, the design concepts, development mix, development parameters etc. for WKCD were set out in a Development Brief which formed part of the IFP document. A "base-line scheme" based on the Foster Scheme was formulated, under which the overall plot ratio for the developments in WKCD was 1.81. About 29% of the total GFA was for CACF, 67.8%, was for commercial/residential/retail/entertainment/other arts and cultural uses, and 2.8% was for the GIC facilities. In addition, not less than 20 hectares of open space, plus 3 hectares of piazza areas were to be provided. The building heights of the developments in WKCD was to follow the grand Canopy in the Foster Scheme, which ranged from about 130 mPD at the western end to about 50 mPD near the central and eastern portions. Flexibility was allowed at the eastern end close to Canton Road which was for commercial, office and hotel development serving as the gateway entrance.

2.3 The above development mix and parameters were never incorporated into the relevant OZP, i.e. the draft South West Kowloon OZP. However, to reflect the planning intention of the area and to provide

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<sup>1</sup> Paragraph 2 of Note to FC on "West Kowloon Reclamation - Review of Land Uses and Deletion of Proposed Road and Infrastructural Works" (FCRI(1999-2000)18)

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flexibility for the planning under the IFP framework, amendments were made by TPB to re-zone the WKCD site to "Other Specified Uses" ("OU") annotated as "Arts, Cultural, Commercial and Entertainment Uses". The relevant amendments were exhibited for public comments on 11 July 2003, shortly after the Administration's announcement to the Panel on Planning, Lands and Works of its intention to issue an IFP for development of the WKCD site. Eleven objections were received and 10 of them were against the various planning and development issues of the WKCD project. After hearing the objections, TPB decided not to propose further amendments to OZP to meet the objections. However, it agreed to amend the Explanatory Statement of OZP to reflect the Board's intention to adopt a "two-stage approach" for the planning of WKCD. The first stage was to reflect the planning intention of the site for arts, cultural, commercial and entertainment uses through the "OU" Zoning on OZP. The second stage would be to further amend OZP to incorporate the development parameters of the selected scheme. The amended OZP would then be subject to the normal process of plan exhibition and objection hearing. On 26 March 2004, TPB exhibited, among others, the revision to the Explanatory Statement of OZP to incorporate the two-stage approach. The town planning process for the WKCD site during this IFP period was discussed in detail in the Subcommittee's Phase I Report<sup>2</sup>. At that time, the main concern of the Subcommittee was whether TPB had relinquished its planning control power over the WKCD site through the rezoning, and that the unprecedented two-stage approach, might not provide the same level of protection for public interest as the normal town planning process.

2.4 Under the modified IFP package announced by the Administration in October 2005, an overriding plot ratio at 1.81 was set, with the residential GFA capped at 20% of the total GFA, and the minimum Net Operating Floor Area (NOFA) for CACF specified as 185 000 square metres<sup>3</sup>. According to the Administration, TPB was consulted, and accepted the arrangement of the second stage plan amendment whereby the above development parameters

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<sup>2</sup> Paragraphs 2.19 to 2.23 of the Phase I Report

<sup>3</sup> LegCo Brief on "Development of West Kowloon Cultural District - Way forward" issued by the Housing, Planning and Lands Bureau and Home Affairs Bureau on 7 October 2005

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would be incorporated into the relevant OZP before a preferred Proposal was selected.

2.5 In the Phase II Report published in January 2006, the Subcommittee stated the view that TPB is the statutory authority in administering the Town Planning Ordinance. Its active monitoring and reviewing of the plan-making for WKCD, as well as the active participation of other professional bodies in relevant consultation exercises, are a prerequisite for ensuring that the delivery of the project is in line with public interest and expectation. While the Subcommittee had serious concerns over the modified IFP framework, it welcomed the arrangement of advancing the second stage plan amendment because that would facilitate earlier public engagement under the statutory planning process and provide certainty to the Proponents to revise their Proposals<sup>4</sup>.

### **Developments after February 2006**

2.6 On 21 February 2006, the Government announced that it had decided to discontinue the IFP process. Since then, TPB had made no amendments to the zoning of the site but had updated the Explanatory Statement of OZP in July 2006 and January 2008 to reflect the changes in the position of the WKCD project.

### Consultative Committee's recommendations

2.7 After considering the recommendation reports from its three Advisory Groups, the Consultative Committee appointed by CE recommended in June 2007 that the WKCD project should be developed on the basis of the development parameters in the modified IFP package announced by the Administration in October 2005, as well as the more stringent building height restrictions proposed by PD, as set out below --

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<sup>4</sup> Paragraph 3.58 of the Phase II Report

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- (a) setting the maximum overall plot ratio for the whole WKCD site at 1.81, giving a total GFA of about 726 000 m<sup>2</sup>;
- (b) capping the residential development at no more than 20% of the total GFA of WKCD; and
- (c) building height restrictions ranging from 50 mPD to 100 mPD<sup>5</sup>.

2.8 The allocation of the floor areas available in WKCD amongst different land uses (i.e. the development mix within WKCD) is intertwined with the financing approach for the WKCD project. As such, in making its recommendations on the financing approach for the project, the Consultative Committee also recommended a development mix for WKCD as follows --

Development Mix	GFA	% of Total GFA
M+ <sup>6</sup>	61 950 m <sup>2</sup>	8%
Exhibition Centre	12 500 m <sup>2</sup>	2%
Performing art venues	188 895 m <sup>2</sup>	26%
<b>Sub-total</b>	<b>263 345 m<sup>2</sup></b>	<b>36%</b>
Other arts and cultural uses	15 000 m <sup>2</sup>	2%
Communal facilities	20 000 m <sup>2</sup>	3%
<b>Sub-total</b>	<b>35 000 m<sup>2</sup></b>	<b>5%</b>
Residential: Villa Houses & Apartments	145 257 m <sup>2</sup>	20%
Hotel	56 000 m <sup>2</sup>	8%
Office <sup>7</sup>	107 683 m <sup>2</sup>	15%
Retail, Dining & Entertainment	119 000 m <sup>2</sup>	16%
<b>Sub-total</b>	<b>427 940 m<sup>2</sup></b>	<b>59%</b>
<b>Total</b>	<b>726 285 m<sup>2</sup></b>	<b>100%</b>

<sup>5</sup> These are more stringent than those in IFP which allowed building heights up to 130 mPD under the Canopy and further flexibility outside the Canopy.

<sup>6</sup> On-site portion

<sup>7</sup> To allow flexibility, 28 000 m<sup>2</sup> of GFA may be used for office or hotel developments depending on the prevailing market demand.



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2.9 As for public open space, based on FA's analysis, the Consultative Committee envisaged that there would be about 15 hectares of public open space/green areas at ground level, plus 3 hectares of piazza areas. Additionally, another 5 hectares of public open space would be provided on terraces and roof top gardens, making a total of 23 hectares of public open space in WKCD<sup>8</sup>.

2.10 Another relevant recommendation of the Consultative Committee is that the proposed statutory body to take forward the WKCD project, i.e. WKCDA, will be responsible for, among others, masterplanning the development of WKCD area, planning and implementing the use of land granted to it for specified purposes, etc.

2.11 The Administration launched a public engagement exercise in mid-September in 2007 to gauge public views on the recommendations of the Consultative Committee (including the above recommendations on the development parameters and development mix) and the way forward for the WKCD project. The public engagement exercise ended in mid-December 2007.

### Commencement of the first-stage planning for WKCD

2.12 The town planning for WKCD, as conceived by the Administration, basically consists of two stages. The first stage is to incorporate key development control parameters into the draft OZP and to take the draft OZP through the statutory planning process for it to become an approved OZP. The second stage is the masterplanning of WKCD in the form of a Development Plan. The second-stage planning will be subject to the development control parameters laid down at the first-stage planning.

2.13 According to the Administration, the results of the public engagement exercise indicate that the majority of the respondents support the mix of facilities proposed for WKCD, synergetic clustering of CACF and integration with retail, dining and entertainment facilities, as well as low

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<sup>8</sup> Paragraph 7.2.25 of the Consultative Committee's Report

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density development with spacious open space in WKCD. In view of these results, PD proceeded to propose to TPB to amend the draft South West Kowloon OZP to incorporate the following development parameters --

- (a) no new development, or addition, alteration and/or modification to or redevelopment of an existing building shall result in a total development and/or redevelopment in excess of a maximum plot ratio of 1.81.
- (b) not more than 20% of the total plot ratio shall be for residential use.
- (c) public open space of not less than 23 hectares (including 3 hectares of piazza areas and a waterfront promenade of not less than 20 meters in width) shall be provided.
- (d) no new development, or addition, alteration and/or modification to or redevelopment of an existing building shall result in a total development and/or redevelopment in excess of a maximum building height of 50 mPD on land designated as Sub-area (A), a maximum building height of 100 mPD on land designated as Sub-area (B), and a maximum building height of 70 mPD on land designated as Sub-area (C) as stipulated on OZP.

2.14 With the agreement of TPB, the amended draft OZP was gazetted under section 7 of the pre-amended Town Planning Ordinance (Cap. 131)<sup>9</sup> (TPO) for public comments on 18 April 2008 for three weeks. The schedule of amendments to the draft OZP published in the gazette together with the relevant extracts from the draft OZP with the above amendments

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<sup>9</sup> The amendments to draft South West Kowloon OZP to rezone the WKCD sites to "OU (Arts, Cultural, Commercial and Entertainment Uses)" were gazetted on 11 July 2003 under the pre-amended TPO. Objection hearing procedures were completed in 12 December 2003. Since then, OZP has been amended 6 times. Since the plan-making process has yet to complete and the plan has not yet been submitted to CE-in-C for approval, the provision of the Town Planning (Amendment) Ordinance 2004 are not applicable. The plan-making process is still subject to the provisions of the pre-amended TPO.

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incorporated are in **Appendix 2.1**. A plan showing the three sub-areas with the proposed height restrictions is in **Appendix 2.2**.

2.15 Following the gazettal of the amended draft OZP, four objections/submissions had been received by TPB by the end of the public inspection period on 9 May 2008. The majority of the objections/submissions are related to the imposition of building height restrictions. According to the Administration, TPB will consider the objections/submissions received in accordance with the provisions of the pre-2004 TPO in the summer of 2008. Upon consideration of the objections/submissions, TPB may further amend the draft OZP to meet the objections. The revised draft OZP, together with any outstanding objections, would be submitted to CE-in-C for approval in the last quarter of 2008. After the approval by CE-in-C, if any person wishes to amend the development parameters in OZP, the established procedures under TPO will apply.

### Second-stage planning for WKCD under the WKCD Authority Bill

2.16 On 20 February 2008, the Government introduced the WKCDA Bill into LegCo. According to the WKCDA Bill, WKCDA will be responsible for preparing a Development Plan in the course of which it would be required to consult the public, to have regard to the public views received in the consultation and to ensure that all the relevant development parameters set out in the approved South West Kowloon OZP are complied with. WKCDA would also be required to consult the Secretary for Home Affairs (SHA), and ensure that any requirements and conditions that may be imposed by SHA are satisfied. According to the Administration, WKCDA will also be required to carry out all the necessary technical assessments, such as air ventilation and visual impact assessments, in connection with the Development Plan. The Development Plan would be submitted to TPB for consideration. TPB may treat the Development Plan as a draft plan prepared by TPB for the purpose of TPO. The provisions of TPO governing the plan-making process including public consultation, hearing of representations and obtaining approval for the draft plan, will then apply accordingly.

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2.17 The Administration has also advised the Subcommittee that the Development Plan should indicate the areas and nature of the proposed land uses, the disposition of the various facilities, the building heights of the developments, distribution of open space, landscape and urban design proposals, public transport, parking and pedestrian facilities, GIC facilities, as well as the alignment, width and levels of roads to be provided within WKCD. The Development Plan should examine the relationship and integration of WKCD with the neighbouring areas, and include site specifications of the arts and cultural facilities, e.g. GFA of M+, seating capacity of the performance venues, etc.

### **Major concerns of the Subcommittee in the town planning for WKCD**

#### Aspirations of deputations on the town planning of WKCD

2.18 During the Phase III Study, the Subcommittee has conducted two rounds of public consultation following the publication of the Consultative Committee's Recommendation Report. Deputations were enthusiastic in expressing views on the town planning aspects of WKCD. They have expressed a strong aspiration that apart from providing world-class and avant-garde arts performing venues and museum facilities to enrich Hong Kong people's cultural life, the district should also offer ample public open space and complementary communal facilities for public enjoyment. WKCD should be a vibrant district during different times of the day and the night, and that the layout, built forms and design of the facilities in the district should be conducive to and accommodating of creative expressions and human interactions.

2.19 Many deputations have expressed the view that the planning for WKCD should be environmentally sustainable and should benefit all sectors of the community equitably. As regards the planning context, quite a number of deputations have stressed the need to plan WKCD in conjunction with the neighbouring districts to achieve integration and synergy. The deputations have pointed out that WKCD site is physically segregated from

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the neighbouring areas by massive roads and is not easily accessible by public transport. The planning of WKCD should give special attention to connectivity with neighbouring districts and accessibility to people from all other districts, and that innovative and environmentally friendly means of access should be incorporated into the master layout plan for WKCD. A few deputations hold the view that the original planning of the WKCD site carried with it the objective of relieving the shortage of open space in the old districts in the West Kowloon region. The open space and community facilities that have been promised for the old districts should thus be realized through the planning of WKCD. There is also the view that given its prime location at the harbourfront, the district should be planned according to the Harbour Planning Principles formulated by the Harbour-front Enhancement Committee.

2.20 The Subcommittee shares the above aspirations of deputations, in particular the aspiration that WKCD should be a vibrant district at different times of the day and night, and the layout, built forms and design of the facilities in the district should be conducive to and accommodating of creative expressions and human interactions. Proper town planning for the district is crucial to meeting the aspirations. Having regard to the views expressed by deputations, the Subcommittee has focused its deliberation on the following aspects --

- (a) whether the masterplanning of WKCD is subject to proper procedures and due process whereby the relevant authorities, namely TPB, WKCDA, and CE-in-C are well placed at the appropriate stages or junctures to perform their statutory duties;
- (b) how far and in what manner the general public will be engaged in the town planning process of WKCD;
- (c) whether there will be sufficient expertise and professional support for WKCDA to discharge its statutory functions in the masterplanning of WKCD;

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- (d) whether the proposed development parameters and development mix have undergone sufficient public consultation and what related concerns have yet to be addressed; and
- (e) how far the concerns about the connectivity with neighbouring districts, the compatibility of design between different land uses, and the need for reserved space for organic growth have been addressed and how these aspects would be taken into account.

### Issues pertinent to the town planning process

#### *Roles of TPB, SHA, and CE-in-Council in the planning process*

2.21 The Subcommittee notes that at both stages, TPB is required to take the relevant draft plan through the statutory plan-making process and the approval of CE-in-Council has to be sought as the final step at each stage. This has rectified the major problem with the IFP town planning process where the role of TPB is not well defined and the rezoning of the WKCD site from various zones to "OU" had never been put to CE-in-Council for approval.

2.22 The Subcommittee is however concerned about the unqualified power conferred on SHA under the WKCDA Bill to impose requirements or conditions, which WKCDA is obliged to satisfy in preparing the Development Plan<sup>10</sup>. In this regard, the Subcommittee notes that some deputations have raised this issue to the Bills Committee Bill and the Bills Committee will duly consider it in scrutinizing the Bill.

#### *Formulation of concept plans to facilitate early public engagement*

2.23 The Subcommittee notes that the actions being taken by PD and TPB to incorporate certain key development parameters into the relevant

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<sup>10</sup> Clause 18 of the WKCDA Bill

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OZP are consistent with the Subcommittee's concern expressed in the position statement published in March 2008 that, irrespective of CACF to be provided in WKCD, certain needs of the community could only be reflected and safeguarded through town planning measures. In fact, the Subcommittee had further proposed that the Administration should initiate actions to consult the public on the major development parameters in the form of concept plans as soon as possible.

2.24 As in the case of the Kai Tak development and other large-scale new development sites, the preparation of concept plans does not form part of the statutory planning process but precedes the statutory process to enlist the public's participation at the conceptual planning stage. The Subcommittee maintains that to expedite the town planning process and to harness the public's enthusiasm in the planning of WKCD, PD should start to formulate concept plans for WKCD based on updated urban design principles and proceed to solicit public views on such concept plans. The Subcommittee does not agree with the Administration that such work should only begin after the establishment of WKCDA for fear of pre-empting the latter's masterplanning work. The Subcommittee considers that such concept plans would enable the public to visualize the spatial relationships of various land uses and facilities in relation to different development parameters and development mixes. The Subcommittee believes that such concept plans together with the views gathered from the public could serve as the ground work for the preparation of the Development Plan.

### *Professional support for WKCDA in masterplanning*

2.25 As regards the second-stage planning, the Subcommittee acknowledges that the vesting of the duty with a statutory body other than TPB to map out the land use zoning and other planning aspects for a scale of development as large as WKCD may be unprecedented. The Subcommittee all along holds the view that the statutory body for WKCD should be responsible for, among others, drawing up the master development plan for WKCD to ensure the compatibility between CACF and other facilities and developments in WKCD. The Subcommittee therefore supports vesting WKCDA with the function of masterplanning the WKCD

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site. As the first and foremost responsibility of WKCDA is to prepare the Development Plan including commissioning the necessary technical assessments, the Subcommittee considers that to enable WKCDA to discharge this statutory function effectively, it must be provided with adequate support from professional planners.

2.26 In response to the Subcommittee's queries about the arrangements for provision of professional support for WKCDA to prepare the Development Plan, the Administration has advised<sup>11</sup> that WKCDA will engage consultants to assist it in preparing the Development Plan including the conduct of the relevant public consultation exercise and the related technical assessments. In order to help kick start the early planning work for WKCD, a Senior Town Planner of PD has been seconded to the WKCD Office recently set up in HAB to prepare the consultancy brief and contract. If required, more staff of PD will be seconded to HAB to provide support for the preparation of the Development Plan and other planning tasks. The Administration has also advised that PD will play the following roles in the second-stage town planning for WKCD --

- (a) to collaborate with WKCDA or its consultants in formulating proposals for the Development Plan;
- (b) to sit on the future relevant committee set up by the WKCDA Board<sup>12</sup> charged with the duties relating to the preparation of the Development Plan; and
- (c) to provide support to TPB throughout the plan-making process in respect of the Development Plan.

2.27 Having regard to the very nature of town planning, the Subcommittee considers that PD should have the best pool of expertise to assist WKCDA in formulating the Development Plan and in supervising the work of the relevant consultants. Besides, active involvement of PD will

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<sup>11</sup> At meetings of the Subcommittee on 25 April 2008 and 8 May 2008

<sup>12</sup> Clause 9 of the WKCDA Bill empowers the WKCDA Board to establish committees for the purpose of performing the Authority's functions.

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help strengthen the checks and balances of the institutional framework for implementation of the WKCD project. The Subcommittee therefore urges the Administration to ensure about PD having an active role to play in the preparation of the Development Plan, by working out the necessary administrative arrangements as soon as possible.

2.28 Some deputations have raised concern on how the residential, office and hotel developments can be compatible with the arts and cultural facilities in terms of architectural design, building form and layout. The Subcommittee considers that this is achievable if PD continues to play an active role in the preparation of the Development Plan. PD can then act as a link between WKCDA and the Government, and advise on the appropriate conditions written into land sale conditions and leases for the residential, office and hotel sites.

### *Public engagement in masterplanning*

2.29 The Subcommittee considers that the formulation of the Development Plan is the most important stage of the town planning process, as the Development Plan will include details on the areas and nature of different land uses, the disposition of different facilities, relationship and integration of WKCD with the neighbouring areas, etc. It is therefore essential to ensure that there will be genuine public engagement in the process, which is institutionalized and systematic, to effectively harness the wisdom of the civil society. In this regard, the WKCDA Bill only provides that in preparing the Development Plan, WKCDA shall consult the public at such time and in such manner as it considers appropriate. Given such a loose provision, the Subcommittee is worried that WKCDA would be preoccupied with considerations of administrative expediency. WKCDA could just adopt the mode of "public engagement" that the Administration adopted for the public engagement exercise conducted in the last quarter of 2007, which is far from satisfactory. The Subcommittee urges that the future WKCDA should give careful thoughts to the manner in which the public would be engaged in the formulation of the Development Plan, with a

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view to enlisting the participation of all stakeholders in a structured way and on an ongoing basis<sup>13</sup>.

2.30 To facilitate effective engagement of the public, the Subcommittee strongly advocates extensive use of visual-aid presentations, such as perspective drawings, animated media presentations and to-scale 3-dimensional models, to enable the public to visualize the spatial relationship among different land uses, and the scale and possible built forms of different developments/facilities etc. These visual-aid presentations would also facilitate WKCD or its agencies to explain the applicable urban design concepts to the public.

### Development parameters

2.31 Having regard to the views of deputations and the Administration's explanation on the rationale for including the development parameters in OZP, the Subcommittee does not have objection to the imposition of a maximum overall plot ratio of 1.81, capping the residential development at 20% of GFA and provision of not less than 23 hectares of open space as recommended by the Consultative Committee.

2.32 Since details of the proposed building height restrictions were not revealed to the public until the gazettal of the draft OZP on 18 April 2008, the Subcommittee has asked the Administration to elaborate on the rationale for imposing different height restrictions on the three designated sub-areas, and how the proposed building height restrictions relate to the topography of the areas in the vicinity of WKCD. According to the Administration<sup>14</sup>, in determining the building height restrictions for WKCD, the following documents have been taken into account --

- (a) the Vision and Goals for Victoria Harbour of TPB;

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<sup>13</sup> More discussion on "public engagement" is in Chapter VI of this Report.

<sup>14</sup> Paper No. WKCD-539

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- (b) the Harbour Planning Principles and Guidelines promulgated by the Harbour-front Enhancement Committee; and
- (c) the Urban Design Guidelines of the Hong Kong Planning Standards and Guidelines.

Moreover, the imposition of the building height restrictions for WKCD is based on the following urban design principles --

- (a) preservation of public views from Sun Yat Sen Memorial Park towards the Kowloon Peak, Tze Wan Shan, and Lion Rock ridgelines to maintain a 20% building free zone below the ridges;
- (b) preservation of public views from the Star Ferry Pier at the Central waterfront towards the Lion Rock ridgeline to maintain a 20% building free zone below the ridge;
- (c) avoidance of unduly tall buildings with wall effect and enhancement of visual permeability from the harbour by lowering of building height at waterfront locations;
- (d) introduction of variation in building height for a coherent building height profile across WKCD; and
- (e) introduction of visual relief to soften the building masses clustering around the Kowloon Station.

2.33 Subcommittee members have expressed different views on the proposed building height restrictions. Those members who support the imposition of the building height restrictions consider that in so doing, preservation of public views of the ridgelines on the Kowloon side can be ensured irrespective of the future configuration of the developments in WKCD. Some other members, however, consider that it may not be prudent to impose the building height restrictions, which appear to be arbitrary, at the first-stage planning because the restrictions may hinder

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creative architectural designs and the formulation of an optimal urban design framework for the WKCD site.

2.34 In this connection, the Subcommittee notes that according to the Notes in the draft OZP gazetted on 18 April 2008, minor relaxation of the plot ratio and building height restrictions stated in OZP may be considered by TPB on application under section 16 of TPO. According to the Administration, any application in this regard will be considered on a case-by-case basis. There is no fixed criterion being adopted by TPB for determining the extent of "minor relaxation" that would be accepted, though past cases show that TPB is prepared to actively consider applications for variance within 20% of the development control restrictions stated in OZP.

### Development mix

2.35 The development mix, i.e. allocation of floor areas for different land uses, recommended by the Consultative Committee was formulated on the premise of self-sufficiency and living within the means, i.e. funding for WKCD, both capital and recurrent, should be met entirely from the revenue generated from the 40-hectare WKCD site<sup>15</sup>. While the Subcommittee does not object to the principle of financial self-sufficiency, the Subcommittee is of the view that economic or financial considerations must not override the cultural objectives of WKCD.

2.36 The Subcommittee notes that there are diverse views on the proposed development mix. A deputation finds the ratio of 16% of the total GFA for the RDE facilities against 36% of the total GFA for arts and cultural facilities in WKCD on the low side and suggests that the RDE facilities should be increased to enhance the financial sustainability of WKCD. Most deputations, however, emphasize the need to provide more open space and consider that there should not be any luxury residential developments and large scale commercial developments in WKCD. A deputation considers that GFA for residential developments should be redeployed for

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<sup>15</sup> Paragraph 6.6.2 of the Consultative Committee's Report

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hotel, commercial, office and exhibition venue developments to increase people flow during daytime.

2.37 The Subcommittee notes that a deputation has conducted an analytical study on the WKCD project and in its research report submitted to the Subcommittee<sup>16</sup> has recommended to reduce the residential development in WKCD by one-third to release 25 000 m<sup>2</sup> GFA for a "creativity jam"<sup>17</sup> and provision of additional 14 000 m<sup>2</sup> open space. The deputation opines that based on a more realistic valuation of the land sale proceeds, even with the proposed reduction in GFA for residential development, the amount of land sale proceeds would still be higher than the amount estimated by the Consultative Committee.

2.38 The amount and quality of public open space provided in WKCD is a major concern among deputations. The Consultative Committee envisaged that based on the recommended development mix, there would be a total of 23 hectares of public open space in WKCD made up of about 15 hectares of public open space/green areas at ground level, 3 hectares of piazza areas, and 5 hectares of public open space provided on terraces and roof top gardens<sup>18</sup>. The Subcommittee concurs that there is a genuine need to retain as much open space as possible in WKCD, especially along the waterfront area, for public enjoyment. The Subcommittee therefore requests the Administration to take heed of the views expressed by deputations on the ways to increase the amount of public open space and to ensure its quality. The public open space should not be dispersed and should be located at the ground level as far as possible. Special attention should be give to the potential problems of incorporating public open space as part of the commercial and residential developments. Moreover, the public open space should be accessible to all sectors of the community including the wheelchair-bound. Those areas must be conveniently accessible by public transport and well connected with the arts and cultural

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<sup>16</sup> Submission from The Professional Commons, Paper No. WKCD-464

<sup>17</sup> According to the deputation, the term "creativity jam" is 「創意交流村」 in Chinese. The creativity jam is envisaged by the deputation as a multi-storey facility for use by small arts and cultural groups and companies of creative industries as offices and studios.

<sup>18</sup> Paragraph 7.2.25 of the Consultative Committee's Report

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facilities in the district. Their spatial form and design should be conducive to creative expressions and interactions among users, and they should not merely serve as thorough-fares for passers-by. The Subcommittee also notes some deputations' view that the existing planning and management of public spaces are directed more to the regulation of people's behaviours than facilitating free public enjoyment. They suggest that a critical review of the existing policy on the planning and management of public spaces should be conducted.

### Connectivity and revitalization of old districts

2.39 The Subcommittee shares the view that the planning of WKCD should be conducted from a wider perspective to take into account the connectivity with neighbouring districts to attract people flow and achieve synergy. So far, the Administration has only acknowledged the importance of connectivity between WKCD and its neighbouring areas. It has not made any specific proposal in this regard. It advises the Subcommittee that this aspect will be considered in the context of the Development Plan for WKCD. The Subcommittee would emphasize that WKCD should not be developed at the expense of the needs of other districts for arts and cultural facilities. Moreover, the Government should capitalize the opportunities created by the WKCD project to revitalize the old districts in West Kowloon through complementary measures. By planning with foresight, the Subcommittee considers that the growth of WKCD could spin off economic benefits to its neighbouring areas; the old built-up areas could be well positioned to serve as the hinterland for WKCD by providing logistics support and other ancillary services to WKCD. In this regard, the effect of the Abandoibarra project on the revitalization of Bilbao, a city in Spain, and the conscious efforts made by the city government to promote arts in dilapidated areas in parallel with the Abandoibarra project can serve as a good reference<sup>19</sup>.

2.40 The Subcommittee is also concerned that at present, the WKCD site is physically segregated from the old districts in West Kowloon by massive

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<sup>19</sup> The experience of Bilbao was discussed in paragraphs 3.26 to 3.34 in the Phase II Report.

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new property developments and roads. To enliven the old districts through WKCD, the provision of sufficient pedestrian and transport facilities to link up the old districts with WKCD site is a pre-requisite. On another front, the Administration should initiate a comprehensive review of the land use zoning and the urban renewal programme for the old built-up areas in West Kowloon.

### Coherence of planning and design among different land uses

2.41 Another major concern of the Subcommittee is the coherence of the planning and design of the various types of land uses in WKCD. According to the Administration, after the Development Plan is finalized, WKCDA will not have any role to play in the residential/office/hotel developments, which are outside its purview, and the land will be disposed of by the Government through the normal land disposal procedures. While the Administration has acknowledged that it would be desirable for the design and built form etc. of the various land uses within WKCD to complement one another, it has not revealed any planned measures to achieve this. The Subcommittee considers that the Administration should give special thoughts to this issue as early as possible and come up with possible control measures. Both WKCDA and the private property sector should be well informed of these measures when they plan for their facilities or investment in the district.

### Space for organic growth within WKCD

2.42 Both PATAG and the Consultative Committee affirmed the need to reserve adequate land for the organic growth of WKCD and that space should be set aside around CACF for facilities to develop and for the promotion of creative industries in WKCD<sup>20</sup>. Separately, the Consultative Committee recommended that space should be reserved for the following uses --

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<sup>20</sup> Paragraphs 6.6.2 (d) and 7.2.14 of the Recommendation Report of the Consultative Committee

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- (a) resident companies;
- (b) meeting rooms and common facilities for artists and arts groups;
- (c) arts education venues;
- (d) arts and cultural information centre, international meetings/functions/events etc.; and
- (e) international arts and cultural organizations' Hong Kong office<sup>21</sup>.

2.43 The Subcommittee notes that according to the development mix recommended by the Consultative Committee, the total GFA allocated for "Other arts and cultural facilities" is only 15 000 m<sup>2</sup> (or 2% of the total GFA available in WKCD). According to FA's analysis<sup>22</sup>, all the 15 000 m<sup>2</sup> GFA will be used for the above five types of facilities recommended by the Consultative Committee.

2.44 It is not clear whether the Consultative Committee meant that the above facilities should be sufficient to cater for the organic growth of WKCD. To the Subcommittee, apart from the above facilities, other space should be reserved in WKCD to provide creative spaces for artists and to meet the demand for offices/studios of small and medium sized arts and cultural groups and small setups of the creative industries. The Subcommittee is concerned that without any reserved space for these purposes, it is practically not possible to realize the very good intentions of

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<sup>21</sup> Paragraph 7.2.15 of the Recommendation Report of the Consultative Committee

<sup>22</sup> According to Annex F to the Final Report of FA on "Other arts and cultural facilities", the allocation of the 15 000 m<sup>2</sup> will be as follows --

- (a) 12 000 m<sup>2</sup> for resident companies;
  - (b) 500 m<sup>2</sup> for an Arts and Cultural Information Centre, international meetings/functions/events etc.;
  - (c) 500 m<sup>2</sup> for international arts and cultural organizations' Hong Kong office (e.g. United Nations Educational, Scientific and Cultural Organization (UNESCO), World Culture Open (WCO));
  - (d) 1 000 m<sup>2</sup> for meeting rooms/common facilities for artists/art groups etc.; and
  - (e) 1 000 m<sup>2</sup> for WKCDA's office.
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PATAG and the Consultative Committee of promoting organic growth of WKCD. The Subcommittee is also concerned that when faced with a strong demand for additional space for newly developed arts and cultural activities, WKCDA or the Government would be inclined to meet the demand by encroaching onto the public open space in WKCD. In this connection, the Subcommittee considers that the suggestion of a deputation<sup>23</sup> to refine the development mix to provide a "creativity jam" warrants further consideration, as such a facility will increase people flow and more importantly, enhance the cultural vibrancy of the district.

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<sup>23</sup> The Professional Commons in its submission, Paper No. WKCD-464

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### Background

3.1 The WKCD project started off with the idea to build "a state-of-the-art performance venue on WKR, with a visionary piece of sustainable architectural wonder, projecting a new global image of Hong Kong both in the physical facilities it provides as well as its cultural contents"<sup>1</sup>. It has then been transformed into a cultural district aiming to "enliven the city's cultural life and animate the people's participation"<sup>2</sup>. However, in IFP published in September 2003, apart from the inclusion of a number of CACF as Mandatory Requirements, there was no information on why these CACF were needed, how CACF could help implement the cultural policy objectives and whether feasibility studies on the technical requirements of individual facilities had been conducted.

3.2 These issues were not addressed in the modified IFP framework in October 2005. Under the modified framework, the Government only imposed additional development parameters and conditions to the development framework, including a minimum NOFA for CACF at 185 000 m<sup>2</sup>, which was estimated to be equivalent to a GFA of 214 000 m<sup>2</sup> and accounted for some 30% of the total GFA of WKCD at a plot ratio of 1.81.

3.3 The Subcommittee, in both its Phase I and Phase II Reports, stressed that Hong Kong needs a cultural development blueprint and an infrastructure which supports the long-term development of arts and culture. There should be a systematic and structured way to collect public views on what cultural infrastructure the community wants. In its Phase II Report, the Subcommittee highlighted the importance for the Government to draw up a master development plan which sets out, inter alia, the facilities to be built on West Kowloon and the timeframe in which they are to be built and which should be adjustable to cater for the changing needs of the community. Therefore, when the Government announced on 21 February 2006 to discontinue the IFP process and to establish the Consultative Committee in

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<sup>1</sup> Study on the Feasibility of a New Performance Venue for Hong Kong commissioned by the then Hong Kong Tourist Association published in February 1999

<sup>2</sup> Concept Plan Competition Document in 2001

### Chapter III : Core Arts and Cultural Facilities

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April 2006 to review CACF, the Subcommittee welcomed the Administration's proactive move to consult stakeholders and the public, through its three Advisory Groups (i.e. PATAG, MAG and FMAG), on what arts and cultural facilities should be built in WKCD.

3.4 The Subcommittee notes that PATAG and MAG had conducted consultations prior to making their respective recommendations to the Consultative Committee. To gauge the views of the public and the relevant sectors, PATAG held two open consultative forums in early June 2006 and six focus group meetings from May to July 2006 targeting at the arts and cultural, entertainment and tourism sectors. It also invited written submissions from mid May to mid June 2006. In drawing up its recommendations, PATAG<sup>3</sup> had considered views received during the public consultation exercise conducted by the Administration from December 2004 to June 2005, and after the inception of the Advisory Group. As for MAG, the Subcommittee also notes that MAG conducted a public consultation exercise from mid-May to mid-June 2006 to solicit views. Apart from inviting written views, MAG held two open consultative forums, one focus group meeting with curators in government and non-government sectors, and three presentation hearings with individual artists and certain groups/organizations. In order to gain a better understanding of the planning and operation of major museums overseas, in June and July 2006, MAG invited six museum experts from Australia, USA, Japan and France to exchange views and share experience. In addition, MAG organized a delegation in mid-July to visit museums/related organizations in Paris, London, New York and San Francisco<sup>4</sup>.

3.5 The Subcommittee conducted two rounds of public consultation after PATAG and MAG published their respective reports in September 2006 and November 2006. Noting the opposing views in respect of MAG's recommendation to build a **M+** (or **Museum Plus**), the

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<sup>3</sup> Chapter 2 of PATAG's Report provides a summary of the major views expressed by the general public and specific sectors. A summary of the discussions of the focus group meetings and consultative forums is also available in Annex 6 of PATAG's Report.

<sup>4</sup> A summary of written submissions and views received at the open consultative forums is available in Annex 6 of MAG's Report. Notes of the briefings by overseas experts and a report on the overseas duty visit are available in Annexes 8 and 9 of the Report.

### Chapter III : Core Arts and Cultural Facilities

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Subcommittee forwarded a position statement to the Administration in March 2007 highlighting the need to further consult the public on the recommendations of the two Advisory Groups before FMAG and eventually the Consultative Committee formulated their proposals, as they might be working on premises that were not supported by the public and stakeholders. However, it was noted that no public consultation was conducted by the Consultative Committee prior to its submitting the report to CE in June 2007. According to the report of the Consultative Committee, the recommendations of PATAG and MAG were referred to FMAG for financial assessment. In the light of preliminary financial assessment, PATAG and MAG were requested by the Consultative Committee to deliberate further and solicit consensus from stakeholders on its recommendations. For this purpose, MAG held eight tea gatherings with interested parties and individuals, plus a briefing for postgraduate students who study relevant fields in major universities to explain the philosophy and framework behind M+. Similarly, PATAG held three tea gatherings for interested groups in late June 2007.

3.6 In making its recommendations, the Consultative Committee has reiterated the Government's position that public expenditure on culture and the arts is regarded as an "investment". Investment in arts and culture is an investment in community building and development, as well as social harmony and cohesiveness, which should not and could not be evaluated in terms of financial returns. In other words, investment in culture and the arts is not entirely demand-led, but is more supply-led and vision-driven, while being mindful of prudent financial principles over the commitment of public resources<sup>5</sup>.

3.7 The Subcommittee does not dispute the argument that public expenditure on arts and culture is an investment. However, it is important that the scale and pace in the provision of arts and cultural facilities in WKCD ought to have a connection with the arts and cultural vision of Hong Kong. In its Phase II Report, the Subcommittee has stressed that without specifying what cultural values and objectives the WKCD project aims to

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<sup>5</sup> Paragraph 3.2.2 of the Consultative Committee's Report

## **Chapter III : Core Arts and Cultural Facilities**

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create and how to create them, and without stipulating a mechanism to incorporate the support and participation of various cultural forces and to get them involved in cultural planning and development, it is almost impossible to ensure that the cultural purposes of the project could be achieved<sup>6</sup>. Given the limited information made available to the Subcommittee on the cultural blueprint, it is difficult for the Subcommittee to come up with a realistic analysis on the Consultative Committee's recommendations on CACF to be provided in WKCD. In late 2007, the Subcommittee agreed with HA Panel that issues on cultural policy, cultural software development and general management of cultural facilities which might or might not be related to the WKCD project but need to be tackled from a broader perspective should be followed up by the Panel, while the Subcommittee would focus more on the process taken up by the Administration in deciding on the hardware contents of WKCD that would have great impact on the financial implications of the project and the use of public funds.

3.8 In this Chapter, the Subcommittee would provide an overview of the changes in the types of arts and cultural facilities to be provided in WKCD and the views of the public and stakeholders on these changes. The changes will be analysed against the views obtained by the Subcommittee during the earlier phases of its study, as set out in the Compendium attached to the Subcommittee's Phase II Report, and the views on the reports of the Consultative Committee and its Advisory Group received during the Subcommittee's public consultation exercises conducted after the publication of the Phase II Report. For easy reading, the facilities are grouped under two major categories: performance venues and museums, for analysis in this Chapter.

### **Performance Venues**

3.9 The recommendations of PATAG in its report published in September 2006 have been accepted by the Consultative Committee. The

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<sup>6</sup> Paragraph 6.10 of the Phase II Report

## **Chapter III : Core Arts and Cultural Facilities**

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arts and cultural facilities recommended by PATAG are summarized as follows<sup>7</sup> --

### Phase I Development

- (a) a Xiqu Centre comprising a theatre with a seating capacity of 1 200 to 1 400 seats; a small theatre with a seating capacity of 400 seats; a Xiqu Tea House and other ancillary facilities like well-equipped rehearsal rooms, small exhibition halls etc.;
- (b) a Concert Hall with a maximum seating capacity of 2 000 seats, including a choir stall;
- (c) a Chamber Music Hall with a seating capacity of 600 to 800 seats;
- (d) a Great Theatre with a seating capacity of 2 100 to 2 200 seats;
- (e) two Medium-sized Theatres, each with a seating capacity of 500 to 800 seats;
- (f) four Black Box Theatres, each with a seating capacity of 150 to 250 seats; and
- (g) a Mega Performance Venue with a maximum seating capacity of 15 000 and a flexible configuration to allow it be converted into a smaller size performance venue.

### Phase II Development

- (a) a Great Theatre with a seating capacity of 1 800 to 1 900 seats; and

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<sup>7</sup> Paragraph 4.13 of the Consultative Committee's Report

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- (b) two Medium-sized Theatres, each with a seating capacity of 500 to 800 seats.

3.10 The core performance venues which are mandatory requirements in IFP consist of a theatre complex with three theatres with seating capacities of 2 000, 800 and 400 respectively, as well as a performance venue with 10 000 seats, a water amphitheatre and at least four Piazza Areas. The Consultative Committee has provided a comparison of the provisions in IFP and those it recommended in its Report. The comparison table is reproduced in **Appendix 3.1**.

3.11 The arts and cultural facilities are the main features of WKCD. As pointed out in the Compendium to the Subcommittee's Phase II Report, the arts community has expected that WKCD would provide enough venues for staging arts and cultural programmes for longer periods of time. The project should also help resolve the present shortfall in arts and cultural facilities and services, as well as address the long-term needs of Hong Kong in the development of arts and culture. Where feasible, a permanent base should be provided for flagship performing groups and for spearheading and encouraging the development of software as it will attract the best foreign and local cultural events and talents. There is a general expectation that WKCD should help create a satisfactory business environment in Hong Kong to enable arts practitioners to experiment with and improve the commercial operation of arts and cultural productions and facilities, such as by maximizing the target audience, providing long rental period and low rentals to facilitate productions, assisting in financing and in publicity matters, constructing the necessary transport infrastructure, gearing up arts education, etc. Along this line, there are also views that arts and culture are a very important and central component of society, and therefore a city which is able to deal with culture in its widest sense will not only be more competitive but will begin to establish new models concerning financing and management. As such, apart from aiming to develop WKCD into an attraction for tourists and increase novelty to the city's cultural activities, there should be a strategy to integrate the development of culture together with the social and economic development of the city.

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### Theatres

3.12 The Subcommittee notes that PATAG has made reference to public aspirations and adopted these aspirations as the guiding principles on which its recommendations on the arts and cultural facilities are based. For theatres, PATAG gives special emphasis to the view that a clustering effect of the arts and cultural, entertainment and commercial facilities would help build up WKCD as an international icon and a "must-go" for tourists. The idea of a "Theatreland" would allow restaurants, cafes and commercial art galleries to be intertwined with theatres of various seating capacities in close proximity.

3.13 PATAG finds the original IFP requirement to build three theatres in WKCD inadequate to address the future demand. It has recommended the provision of a Great Theatre with 2 100 to 2 200 seats for large-size theatrical performances. This performance venue should cater for staging international as well as home-grown long-run musicals and other presentations such as musical performances and operas. Such productions would normally find a profitable niche and would have the potential of attracting private sector's participation in building and operating the venue.

3.14 PATAG also recommends the building of two medium-sized theatres to address the current great demand for performance venues with seating capacity from 500 to 800 seats. The two medium-sized multi-form theatres will cater for a wide range of performances including dance, drama, opera, stand-by comedy, pop concerts for up and coming artists, etc.

3.15 The provision of blackbox theatres with a seating capacity below 250 seats is a new feature in the range of theatres recommended by PATAG. According to PATAG's report, views gauged at the open consultative forums point to the need for blackbox theatres to provide more opportunities for the development of the local small and medium performing arts groups. Venues of this size are suitable for small experimental theatrical production, dance performance, solos, jazz, children shows, etc. PATAG recommends the building of four blackbox theatres for the nurturing of budding artists and creative talents.



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3.16 To develop WKCD to be the regional hub for arts and cultural activities, PATAG considers that some facilities should be provided at the upfront of WKCD and should be included in Phase I development. These include the Great Theatre, two medium-sized theatres and four blackbox theatres mentioned in paragraphs 3.12 to 3.14 above. The timing of provision of facilities in subsequent phases should better be determined by the prevailing circumstances and market forces. PATAG recommends the inclusion of another Great Theatre, with a seating capacity of 1 800 to 1 900 seats, and two medium-sized theatres in Phase II. PATAG suggests leaving it to the usage of the first Great Theatre to trigger the timing for building the second Great Theatre. It is however important that the space requirement for the facility is included in the master layout plan, while the seating and other technical capacity could be revised at a later stage. The same applies to the two medium-sized theatres.

3.17 PATAG's recommendations on the provision of theatres are fully accepted by the Consultative Committee, which considers that the combination of large and small performance venues could fulfill the purposes of enhancing artistic quality of performances for the relevant art forms, meeting established demand, filling market gaps, addressing the needs of expanding audience, and nurturing young and budding artists.

3.18 The Subcommittee finds the recommendations of PATAG in respect of the need for theatres and the concept of a "Theatreland" a viable arrangement to enhance the development of artistic performances and create a centre of attraction for art lovers and tourists. The Subcommittee however considers that detailed studies should be conducted on the seating capacity of the various performance venues as well as their locations. While space for the theatres in Phase II should be reserved in the master layout plan, the planning of the theatres in Phase II should be triggered only when there is proven need for such expansion based on the usage of those theatres in Phase I. In the meantime, the space earmarked for the Phase II theatres could first be developed as public open space and be used for short-term shows and festive celebrations to promote people flow in the areas.

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### Mega Performance Venue

3.19 The large performance venue included in IFP was one with 10 000 seats. PATAG recommends that it should be enlarged to a mega performance venue with a maximum seating capacity of 15 000 with flexible seating configuration to allow the venue to be converted into smaller seating capacity to meet the requirement of hirers. The Consultative Committee has endorsed this recommendation.

3.20 The Subcommittee does not find any justification in either PATAG or the Consultative Committee's report for the need to increase the seating capacity to 15 000 other than a comment by presenters of entertainment events that they prefer to stage their productions in a venue of no less than 10 000 seats for earning more admission income. There are in fact reservations about having a 10 000 seats venue in WKCD as the market may not be able to support another 10 000 seats performance venue in addition to the Hong Kong Coliseum which has a seating capacity of 12 500. PATAG admits that a venue of about 5 000 seats is much sought after, but due to acoustic and technical reasons, it would not be viable to turn the mega venue into two smaller size venues for performances to be held at the same time. Since the mega performance venue will be designed in such a way that it could be hired for a smaller audience, it is likely that the revenue income could be correspondingly reduced. Besides, it is also possible that mega shows and top-class performances could not be staged in this purpose-built performance venue because it has been fully booked by hirers requiring a 5 000-seat performance venue. This situation will have considerable impact on the financial viability of the performance venue and the financial analysis of the entire WKCD project.

3.21 The Subcommittee considers that prior to deciding on the seating capacity and convertibility of the mega performance venue, a more in-depth study should be undertaken on how far the performance venue can be supported by the market, especially in face of competition from neighbouring cities in the region.

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### Water Amphitheatre

3.22 The only mandatory performance venue under IFP that has not been recommended by the Consultative Committee is the water amphitheatre. PATAG did not recommend the provision of a Water Amphitheatre in WKCD after taking into account the noise problem of outdoor performances, the climatic conditions of Hong Kong, and the availability of other ways to satisfy the need for outdoor performance venues, including the recommended piazza areas of 3 hectares<sup>8</sup>. The Subcommittee welcomes the Consultation Committee's decision to revert a mandatory requirement which is found not viable after more detailed consideration. The Subcommittee however has reservation about using the piazza areas as alternative outdoor performance venues. This is further explained in paragraph 3.23 below.

### Piazza Areas

3.23 PATAG recommended to provide Piazza Areas with a total site area of at least 30 000 m<sup>2</sup> (3 hectares) throughout WKCD. This requirement is the same as that included in IFP. According to the Consultative Committee's Report, the Piazza Area should be provided throughout WKCD as an integral part of the public open space<sup>9</sup>. The Subcommittee also notes the intention of the Consultative Committee to utilize the open space, including the Piazza Areas, for tented or ticketed open performances. In view of the strong public demand for comfortably landscaped open space to allow families to stroll leisurely in a relaxing atmosphere, the Subcommittee considers that a hiring policy should be set out to ensure that the free enjoyment of the Piazza Areas by the general public would not be compromised by the need to generate more income through the hiring of the Piazza Areas for ticketed performances.

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<sup>8</sup> Paragraphs 4.67 to 4.69 of PATAG's Report

<sup>9</sup> Paragraph 4.2.21 of the Consultative Committee's Report

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### Xiqu Centre

3.24 One major performance venue that was recommended by the Consultative Committee but was not included in IFP is the Xiqu Centre. According to PATAG, public views fully supported the provision of a dedicated and purpose-built venue to cater for all Chinese Opera (Xiqu) in WKCD. PATAG therefore recommended this facility in response to views of the public and those of the Cantonese Opera sector about the need for suitable performance venues and the promotion and development of Cantonese operatic art. The proposed Xiqu Centre includes a theatre with 1 200 to 1 400 seats, a small theatre with 400 seats, a Xiqu Tea House, rehearsal rooms and spacious backstage, a small exhibition hall, etc.

3.25 During the public consultation exercises conducted by the Subcommittee in the early phases of its study, deputations called for early implementation of the WKCD project to provide world-class performance facilities, and facilities in short supply in Hong Kong such as those for Cantonese Opera. The Subcommittee welcomes the Administration's recognition of the serious shortage of performance and training venues to preserve and promote traditional Chinese art forms, in particular Cantonese Opera which is locally bred and is indigenous to Hong Kong's culture.

### Concert Hall and Chamber Music Hall

3.26 Concert halls again were entirely omitted in IFP and such omission had attracted much criticism. The Consultative Committee has endorsed the recommendations of PATAG to provide a concert hall to meet the strong demand for a centrally located concert hall which is purpose-built for orchestral performances, and a Chamber Music Hall with a seating capacity of 600 to 800 to fill the gap in the current provision of venues for recitals and chamber music performances.

### Justification for more performance venues and phasing of development

3.27 PATAG holds the view that the arts and cultural facilities in WKCD should seek to promote international artistic excellence, which ties in with

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the objective of WKCD to become a world-class arts and cultural district. The facilities should also be developed in an organic manner and be constructed by phases. Therefore, the most imminently required performance venues should be provided as soon as practicable under phase I of WKCD development. For the subsequent phases, it should be up to the prevailing market forces to decide when these facilities need to be in place<sup>10</sup>. Based on PATAG's recommendations which have been endorsed by the Consultative Committee, the total seating capacity of the recommended performance venues of the Phase I performance venues is in the range of 22 900 to 24 400, and that of the Phase II performance venues is in the range of 2 800 to 3 500. The total seating capacity under IFP is "at least 18 200". In acknowledging that the facilities recommended by PATAG are significantly more than those originally proposed in IFP, Consultative Committee has explained that those facilities are needed to fill a significant gap in performance venues currently provided in Hong Kong. PATAG's recommendations are a considered response to the strong demand for quality facilities from the arts and cultural sector expressed over the years and more vocally during PATAG's consultations at the early stage of its work<sup>11</sup>.

3.28 The Subcommittee notes that at the two meetings in October 2006 and January 2007, which were held shortly after the publication of the reports of PATAG and MAG, most deputations expressing views on the provision of arts and cultural facilities in WKCD were supportive of PATAG's recommendations, while one deputation<sup>12</sup> expressed reservation on the recommendations as it considered that PATAG (and MAG as well) had not conducted in depth studies and analyses on Hong Kong's overall cultural scene before finalizing its recommendations.

3.29 As for the two rounds of consultation conducted by the Subcommittee after the release of the Consultative Committee's Report, the Subcommittee notes that nearly all arts performing groups and practitioners in the arts performing sector have expressed support for the proposed performance venues in WKCD. They have also expressed a strong wish

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<sup>10</sup> Paragraph 4.1.2 of the Consultative Committee's Report

<sup>11</sup> Paragraph 4.1.4 of the Consultative Committee's Report

<sup>12</sup> The People's Panel on West Kowloon in its submission, Paper No. WKCD-347

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that planning and construction of the venues could be expedited to alleviate the acute shortfall of high quality and purpose-built performance venues at present. Apart from the deputations from the arts and cultural sector, some other deputations have also expressed the view that there is a serious shortage of venues for staging world-class productions.

3.30 On the other hand, there are views which call for more studies to assess the demand for the recommended performance venues. Some deputations concur that there is a general shortage of performance venues in Hong Kong but the provision of new venues should not be concentrated in WKCD. There is concern that WKCD would be developed at the expense of other districts, and some deputations have stressed the need for district-based promotion of culture in the interim and also after WKCD commences operation, for the healthy development of Hong Kong's cultural ecology.

3.31 On the phasing of development, a deputation<sup>13</sup> suggests that as the demand for cultural facilities will likely change over time, a more gradual phased development of CACF will allow for more flexibility and opportunities for future fine-tuning and incorporation of more updated design and concepts for the future.

3.32 According to the Administration<sup>14</sup>, the 15 performance venues recommended by PATAG to be developed in Phase I and Phase II taken together would represent an increase of about 37% in the total seating capacity of performance venues in Hong Kong. Discounting the mega performance venue with a seating capacity of 15 000 for popular performances, the increase would be around 20%. On the concern about the justifications for the recommended performance venues and whether PATAG has ascertained that there would be sufficient demand for these venues, the Administration has explained that PATAG has arrived at the list of recommended performance venues after detailed consideration of the public views, in particular the views of the arts and cultural sector, objective

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<sup>13</sup> The Professional Commons in its submissions, Paper Nos. WKCD-436 and WKCD-464

<sup>14</sup> Meeting of the Subcommittee on 4 October 2006

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statistics and expert opinions. Based on past usage of existing venues and the projected growth in audience number, PATAG considers that such a scale of increase for the next 10 years was very reasonable. The Administration has also affirmed its policy that the overall provision of arts and cultural facilities should be supply-led and policy-led, and that the Government is committed to strengthening the cultural software development in Hong Kong to realize the vision and objectives of WKCD<sup>15</sup>.

3.33 The Subcommittee notes that PATAG, in submitting its recommendations, had studied the utilization of current performance venues and unsuccessful attempts in booking the venues. The high demand for centrally-located high-quality performance venues in varying sizes does tally with the public views put to the Subcommittee since the commencement of its study. The Subcommittee has no reason to dispute the need to provide the performance venues recommended by PATAG and endorsed by the Consultation Committee. However, the Subcommittee wishes to put down a few markers on the planning and implementation of the performance venues for future reference by the relevant authorities --

- (a) more detailed studies should be conducted on the seating capacity of the theatres required and whether any special features or designs should be provided for the facilities to cater for special groups of audiences, e.g. children or the elderly;
- (b) the timing for implementing the theatres in Phase II development should be triggered by the proven demand for those in Phase I;
- (c) the convertibility of the mega performance venue into a smaller venue should be carefully considered, in particular if it would result in revenue reduction and under-utilization of seating space;

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<sup>15</sup> The information provided by the Administration in response is in Paper No. WKCD-446.

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- (d) there should be optimum use of space earmarked for facilities in Phase II Development so as to build up the pedestrian flow for the entire WKCD area; and
- (e) there should be a hiring policy for the use of Piazza Areas so that public enjoyment of open space/green space would not be compromised.

### Museums

3.34 One of the criticisms which the Subcommittee made in its Phase I Report was that despite the various core facilities included in IFP, no feasibility studies had ever been conducted on the individual core facilities. The Administration had left it to the proponents under IFP to put forward their proposals on how to design, build and operate the arts and cultural facilities in WKCD. For museums, four preferred museum themes were provided in IFP. They were **moving image, modern art, ink and design**<sup>16</sup>, to be provided as a Museum Cluster with a total NOFA of at least 75 000 m<sup>2</sup>. On the rationale for selecting these four themes, the Subcommittee could only trace back to a paper of a Working Group of CHC in May 2001, which proposed that seven new museums with differing themes including an Ink Museum ought to be built. That paper also said that a world-class Canto-pop Music Museum next to the proposed Film Museum in WKR would add tremendously to the appeal of the latter. The Subcommittee noted that the suggestions of the Working Group were submitted to CHC and were adopted as recommendations in CHC's Report. The recommendations in CHC's Report, among others, were that "flagship" museums, such as Museum of Modern Art and Museum of Ink Painting be established and these museums could be located in WKCD<sup>17</sup>.

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<sup>16</sup> Page 36 of Main Document of IFP

<sup>17</sup> Paragraph 4.19 of CHC's Report



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3.35 The Subcommittee shares the view expressed in the Consultancy Study on the Mode of Governance of Hong Kong's Public Museums and the Hong Kong Film Archive<sup>18</sup> commissioned by the Leisure and Cultural Services Department (LCSD) that since much of the discussion on new museums was taking place in a policy and planning vacuum, *"it is imperative that Government has a Master Plan for museum development. A ten-year Master Plan, based upon sound planning principles, including a full in-depth financial implications analysis and assessment, will provide a framework by which new museum opportunities can be identified, and proposals can be assessed."* The Subcommittee is also aware of the sentiments expressed by local museum professionals about the selection of themes for the proposed museums in WKCD. Therefore, when the report of MAG was published in November 2006, the Subcommittee conducted another round of public consultation in January 2007 on the recommendations of MAG (as well as those of PATAG) though some deputations already expressed views on PATAG's recommendations and MAG's preliminary findings at a previous consultation exercise in October 2006.

3.36 MAG's recommendations are summarized as follows<sup>19</sup> --

**M+** (or "Museum Plus")

- (a) to have a cultural institution with museum functions called **M+**, or "Museum Plus" with its mission to focus on 20th – 21st century visual culture. The four initial broad groupings include design, moving image, popular culture and visual art (including ink art);
- (b) the key functions of **M+** are: (i) collection building and preservation; (ii) education and outreach; (iii) exhibition and display; and (iv) research and publications;

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<sup>18</sup> Page 15 of the Executive Summary of the Consultancy Study on the Mode of Governance of Hong Kong's Public Museums and the Hong Kong Film Archive published in June 2003 (Paper No. WKCD-99)

<sup>19</sup> Chapter 5 of the Consultative Committee's Report

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- (c) the facilities proposed to be included in **M+** are exhibition galleries and back-of-house facilities, a dedicated outreach and education centre, a library cum archive, screening facility, a bookstore, artists-in-residence studios, amenities including catering facilities and shops and outdoor space; and
- (d) the development of **M+** would be phased, with 49 000 m<sup>2</sup> NOFA to be developed in the first phase and 26 000 m<sup>2</sup> NOFA in the subsequent phases, resulting in the eventual size of 75 000 m<sup>2</sup> NOFA.

### *Exhibition Centre*

The development of an Exhibition Centre in one Phase with 10 000 m<sup>2</sup> NOFA. The Exhibition Centre should aim to run on a self-financing basis with its management to be overseen by an independent body, and should give priority to uses relating to arts, culture, creative industries and events/activities associated with WKCD.

### Museum Plus (**M+**)

3.37 According to MAG, **M+** is more than a museum. It is a new and emerging form of cultural institution that embodies museum functions plus some added values. It would be an innovative platform for interpreting and presenting *visual culture* through ways and means that goes beyond typical presentations in traditional museums.

3.38 "Visual culture", as explained by MAG, includes not only visual art (such as installation, painting, photography and sculpture), but also architecture, design (such as fashion, graphic and product design), moving image (such as film, video and television) and popular culture (such as advertising and comics). With an open, flexible and forward-looking attitude, **M+** aims to inspire, delight, educate and engage the public, encourage dialogue, interaction and partnership, explore diversity and foster creativity and cross-fertilization. To promote this new trend of visual

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culture, MAG believes that to develop a single cultural institution in WKCD would be better than keeping the original requirement in IFP of having four traditional museums.

#### *Public views on MAG's recommendations*

3.39 At the public consultation exercises conducted by the Subcommittee on the recommendations of the two Advisory Groups in October 2006 and January 2007, the major concerns expressed by deputations focused on the proposed M+. The major concerns include --

- (a) the M+ proposal embodies a lot of vague concepts and MAG has not provided any guidelines on collections development matters;
- (b) the "Centre Pompidou" approach of M+ which seeks to cover collections of various groupings under an umbrella institution may be dangerous and contrary to the global trend that each museum is devoted to one particular theme;
- (c) there is overlapping of the proposed broad groupings with the themes of existing museums;
- (d) the broad groupings are too confined to visual culture;
- (e) "ink art" should be a distinct grouping instead of being subsumed under the broad grouping of "visual art"; and
- (f) the idea of accommodating "popular culture" in a museum is perplexing.

3.40 The Subcommittee noted that those deputations expressing strong views on the proposed M+ included local museum professionals and some of the members of MAG, and considered that this might partly due to the lack of further consultation after MAG had come up with its recommendations. As such, in the position statement on the Government's

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new approach in taking forward the project issued in March 2007, the Subcommittee highlighted the deputations' reservations about the **M+** proposal and urged the Administration to put in place appropriate measures to further solicit and take into account views from the general public before finalizing CACF.

#### *Consultative Committee's Recommendation Report*

3.41 Except for the scale of **M+**, all the arts and cultural facilities recommended by MAG have been accepted by the Consultative Committee. Regarding **M+**, the Consultative Committee has recommended to reduce the on-site NOFA by 30% and fine-tune the phasing of the development of the scaled down **M+** in two phases at a 70%/30% ratio. The resultant GFA of **M+** would become 78 750 m<sup>2</sup>, comprising 61 950 m<sup>2</sup> on-site area and 16 800 m<sup>2</sup> off-site area. The resultant size of **M+** would still be comparable to renowned museums overseas such as the Museum of Modern Art in New York and Tate Modern in London.

3.42 In October 2007, the Subcommittee invited further views from interested organizations and individuals on the recommended arts and cultural facilities after the release of the Recommendation Report of the Consultative Committee. There was generally stronger support for the **M+** proposal. Some deputations expressed the view that **M+** would position Hong Kong at the forefront of Asia's rapidly evolving contemporary art scene and present a new and exciting approach to exhibiting and developing visual culture from the 20th century and beyond. Its open structure, both structurally and conceptually, would simultaneously facilitate and encourage cross-media art, happenings, and events, as well as alternative art experiences. With its far greater flexibility to embrace new artistic forms, **M+** would have a sustained edge in the ever-changing contemporary art world. This significant quality would differentiate **M+** from other Asian contemporary art institutions and museums. There was also a view that the suggested initial four broad groupings were reflective of Hong Kong's contemporary cultural climate.

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3.43 However, recognizing that the M+ proposal embraces complicated ideas and concepts, even those in support of the proposal suggested that the Government should further explain the M+ proposal to the public to instill a good understanding and proceed urgently with the interim measures for developing M+. They also concurred with MAG's recommendations that the Government should set up an advisory committee comprising museum professionals and experts and establish an interim M+ facility for training, research, education and audience building purposes. A deputation also called for the establishment of a public trust, which would have full ownership of all M+ collections, and the enactment of legislation to clearly define the governance and administrative structures of M+. There was also disappointment over the dropping of Ink Art as the theme for a dedicated museum facility.

3.44 The Subcommittee noted the view of a deputation from local museum professionals<sup>20</sup> that the integrative and cross-disciplinary approach of M+ was not new and some overseas experiences are not successful. The concepts under the M+ proposal were too vague and thus need to be substantiated and tested. The proposed initial broad groupings for M+ were too confined to visual culture, seriously duplicating the themes of existing museums. The theme of "Popular Culture" was intrinsically undesirable for a museum; other themes such as transportation and monetary affairs should be considered. The deputation also strongly advocated a museum dedicated to children and the enactment of legislation to regulate public museum services. While expressing support for the proposal for an interim M+ to test the viability of the M+ concept, the deputation opined that the Government should not redeploy resources of existing public museums, including manpower, collections and finances, to M+, as the public museums were already lacking manpower and other resources at present.

3.45 There was also grave concern about the sizable scale and high operating expenses of M+. Some deputations urged the Administration to further explain how M+ would effectively operate, the relationship between

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<sup>20</sup> Hong Kong Curators Association in its submission, Paper No. WKCD-447

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the Board of Trustees of M+ and WKCDA, and how the principles of curatorial independence, professional excellence and accountability to the public, which were highlighted in the Consultative Committee's Report, could be guaranteed.

3.46 In February 2008, following a public engagement exercise to gauge public views on the Consultative Committee's recommendations and the way forward for the WKCD project, the Administration announced that it would set up an interim M+ in North Point. The interim M+ would be a platform for training of professional staff, as well as providing arts education to the public to foster awareness, understanding and appreciation of arts and culture. It would also build up the collection for laying a solid foundation for M+. The interim M+ is scheduled to open in early 2010 and to operate until 2014-2015 when the permanent M+ is expected to be completed and open.

#### The Subcommittee's views on M+

3.47 As mentioned in paragraph 3.7 above, the focus of the Subcommittee's deliberation, in relation of the proposed CACF, is on the planning and implementation process and the financial implications. The Subcommittee considers that in planning WKCD afresh, the Administration has taken the first step in the right direction by re-examining the need for CACF as defined under IFP. This approach is consistent with the Subcommittee's recommendation in its Phase I Report that the Government should undertake studies to affirm the needs and technical requirements for each of the core facilities to be provided in WKCD. The Subcommittee also appreciates the considerable efforts made by PATAG and MAG, in particular their consultation work with the general public and the relevant sectors, and their candid explanations in their reports on the principles and considerations underpinning their recommendations.

3.48 The Subcommittee notes that the proposed M+, upon full development, would amount to a substantial increase by 52% of the total space provision of all the existing public museums in Hong Kong. In view of the substantial capital and operational costs involved, Subcommittee

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members have expressed concerns about its long term viability and whether the overall concept and the proposed broad groupings for **M+** could respond to the needs of the public. While Chapter IV will deal with the financial implications, this chapter will highlight the concerns in relation to the practical viability and the management philosophy.

3.49 The Administration has advised<sup>21</sup> the Subcommittee that **M+** was proposed by MAG after extensive public consultation. Hence, the **M+** proposal is a result of a bottom-up deliberation process. **M+** is an innovative idea emphasizing active community participation and would require detailed planning for its successful implementation. An important feature of **M+** is that it allows interfaces and dialogues between different art forms and a high level of participation of the relevant sectors and the community. The proposal has received very favourable comments from overseas museum managers and experts. While there are already rich collections on the proposed four broad groupings, those groupings are not meant to be permanent, and can be changed with time and new themes can be introduced during the course of development, based on the professional expertise of the curators, prevailing international trends and feedback from visitors and experts.

#### *Implementation of the **M+** concept*

3.50 The Subcommittee shares the concern of some deputations that the entire **M+** proposal is still at the conceptual stage. Given that the total capital costs for **M+** will amount to \$4.749 billion and 78% of the operating deficit of WKCD will come from **M+** (as further explained in Chapter IV), the Subcommittee considers it important that the added value of **M+** ought to be fully understood by taxpayers. Members of the Subcommittee are of the view that without general public support, the development of **M+** would not be sustainable. They are particularly concerned about the risk that **M+**, with a gross floor area of 78 750 m<sup>2</sup>, would become a gigantic "white elephant" during the first 10 or more years of operation before it is developed into an institution with the international status for attracting

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<sup>21</sup> Meeting of the Subcommittee on 6 January 2007

quality collections. Some members have suggested further downsizing M+; some have suggested a trial scheme in existing museums or in the interim M+ in North Point before incurring the huge funding on building the permanent M+; and some have called for a re-think of the whole M+ concept. However, there are also members who support the Administration's plan to build 70% of M+ in the Phase I development of WKCD. They consider that there should be no further delay in taking forward this iconic project which would not only become the centre of cultural education, but a focal point of attraction for WKCD. To enable members of the Subcommittee to understand how M+ is different from the traditional operation of museums, the Subcommittee has invited the Administration to brief members on the underlying philosophy of M+ and to use concrete examples to illustrate the ideas and concept for M+. For this purpose, the Administration arranged a presentation at the Subcommittee meeting on 5 June 2008.

3.51 The Subcommittee notes that the interactive mode of exhibition to be put in place in M+ has been used in a selective group of institutions overseas, including Tate Modern in London, Centre Pompidou in Paris, and the Guggenheim Museums in Bilbao, Las Vegas and New York. Through innovative forms of display, these institutions have been able to distinguish themselves from other conventional types of museums in creating dialogue and stimulating creativity. M+ aims to develop this new mode of exhibition so that it can become a centre of education and a community space with the goals to inspire, to delight, to educate and engage the public, to explore diversity and foster creativity for future generations. Members however note that the overseas museums referred to by the Administration have benefited from their rich collections built up over long years. Some members are concerned that the provision of 43 365 m<sup>2</sup> of gross floor area with a net exhibition space of 16 000 m<sup>2</sup> in Phase I may be too ambitious given that the collection of a museum can only be built up over time.



3.52 The Subcommittee appreciates that the concept of **M+** is a new way to encourage interaction and dialogue between the objects and the audience so as to stimulate creativity and promote art education. Physical space, though important as it provides flexibility for the display of objects, is not necessarily a key factor to make the concept of **M+** work. The more crucial factors for the success of **M+** are the mindset and wisdom of the professionals and the management body. In this respect, the Subcommittee notes that since the concept of **M+** has been put in practice in major museum institutions overseas, the added values of **M+** are therefore not entirely new. However, it appears that there are difficulties for the **M+** philosophy to be implemented in the existing museums in Hong Kong, and **M+** in WKCD becomes a multi-billion-dollar experimental project to test out the application of this philosophy in Hong Kong. Some members consider the stake too high, and urge the Administration to consider first testing out the concept in existing museums or in the interim **M+**. These members are of the view that without actual experience, it would be difficult, if not impossible, to know the specific requirements for building **M+**.

3.53 Regarding the conduct of a demonstration or a trial scheme in existing museums, the Administration's response is that the existing museums facilities cannot be compared with **M+**. The curatorial concepts and directions are also different from those of **M+**. The effect will not be good if these facilities are used to demonstrate the innovative approach of **M+** in the display of visual culture. It may also mislead the public in forming an opinion and impression of **M+**.

3.54 On the possibility of further downsizing **M+**, the Administration's response is that the present proposal is the outcome of consultation with MAG and FMAG, which in turn conducted extensive consultations with the art community. It would be necessary to conduct a new round of consultation before a decision can be made to further downsize **M+**. Nevertheless, the Administration is aware of the Subcommittee's concern and is adopting a step by step approach to develop **M+**. The present scale of **M+** is comparable to the scale of world-renowned museums. Further downsizing would hinder the development of **M+** into a world-class

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contemporary cultural and arts institution, making it difficult to realize its vision.

3.55 The Subcommittee also notes that notwithstanding the difficulty in implementing the **M+** concept in the existing public museums in Hong Kong, the Administration has confidence that **M+** will succeed if it can secure the right curator. The Subcommittee cannot accept this argument and does not consider it sensible to entrust such a huge project entirely in the hands of a curator. The future WKCDA or the **M+** governing board will be running great risks if there is not a large team of competent professional and managerial staff who share the same vision and are prepared to work under a sound corporate system. Besides, with the large team of professionally trained curator team in LCSD which hires the majority of curators in Hong Kong, it is beyond imagination that none of them has the ability or can be trained to implement the **M+** concept in existing museums, and a new infrastructure needs to be built to allow a curator, apparently coming from abroad, to make it happen.

#### *Collections and Exhibits*

3.56 One of the major concerns in establishing a new museum is the building up of a sizable and impressive collection. According to the Administration, **M+** will start collecting in Hong Kong before expanding outward to other regions of China, then to the wider Asia region and the rest of the world. According the Financial Adviser's Report, the total collection cost of \$1,214 million for **M+** covers an initial collection of \$1 billion upon commissioning of the Phase 1 **M+**, and an annual collection budget of \$20 million thereafter.

3.57 According to the Administration, collections for **M+** are to be built up by acquisition, donation and other means. Donation is normally an important source of collections for public museums. However, the Subcommittee notes that there is a lack of a donation culture in Hong Kong, partly due to the absence of tax incentives and partly due to the ambiguity over the ownership of donated items. In this regard, the Subcommittee has sought information from the Administration on the detailed arrangements for

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the ownership of donated items to M+ and the interim M+, in particular the assurance to donors of private collections that ownership would not be transferred to a third party. According to the Administration<sup>22</sup>, the ownership of M+'s collections, whether they are obtained through donation, acquisition or any other means should rest with WKCDA – a statutory organization which is also a public body under the Prevention of Bribery Ordinance, Cap. 201. In order to ensure proper protection of the collections of M+, WKCDA may, when establishing M+ and its governing structure, through the making of by-laws (which are subject to LegCo's approval), deal with the ownership of the collections of M+, including those obtained through donations, and formulate rules and procedures relating to the acceptance, donation or transfer of collections with reference to internationally recognized codes of ethics for museums. The ownership and treatment for the collections of both M+ and the interim M+ should be the same, as the management of both of them would be overseen by WKCDA through appropriate arrangements.

3.58 The greatest reservation about the need to build a 43 365 m<sup>2</sup> M+ in the Phase I development of WKCD is its ability to attract quality collections at the early stage of its development. As pointed out by the Chairman of MAG, it takes at least 10 years before a new museum can acquire a standing to attract quality collections. The Subcommittee has examined the feasibility of engaging an international operator to operate M+ or entering into a franchise agreement with international operators like Guggenheim so that M+ can benefit from the collection and brand name of these international operators in the early years of its establishment. The Administration's stance is that such an arrangement is no different from allowing a foreign institution to have complete control of the operation and curatorial work of M+, and will restrict co-operation between M+ and other world-class museums in the future. The Administration also stresses that to bring M+ closer to the audience, the visual culture presented in M+ will be given a "now perspective" and a "Hong Kong perspective". Guggenheim's collection will therefore not be relevant to these perspectives. The Subcommittee notes that the "now perspective" refers to ideas and exhibits

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<sup>22</sup> Paper No. WKCD-528

which are linked to the experiences of its current and future audiences; while the "Hong Kong perspective" aims to create an audience experience that is unique from a Hong Kong social and cultural standpoint. With these perspectives, **M+** will focus on Hong Kong's visual culture in the 20th – 21st century, which is not available in international operators' collections. Besides, **M+** will not establish its own position solely by its collection. One-third of the annual estimated expenditure of **M+**, i.e. around \$100 million, would be used to commission artists for creative art works.

#### *Markers for the development of M+*

3.59 While the Subcommittee does not strongly object to pursuing **M+** as an experimental museum project, the Subcommittee considers that in view of the substantial resources involved and the reservations expressed by some deputations, the Administration should carefully map out the implementation strategy in order to make it successful. The Subcommittee would like to put down the following markers for the Administration and the future WKCDA to take note of when they start planning **M+** --

- (a) the Administration should explain to the general public in an easily comprehensible manner what **M+** is meant to be, before starting to design and build the **M+** infrastructure;
- (b) the Administration should make the optimum use of the interim **M+** in North Point not just as a training ground for future staff of **M+** but as a temporary exhibition centre for public viewing and for testing out the **M+** concept in a smaller scale;
- (c) the Administration should ensure full co-operation between **M+** and the existing museums under the management of LCSD by promoting staff integration, such as staff attachment programmes, and putting in place contractual arrangements over the borrowing of collections from existing museums;

- (d) the Administration should encourage current local curatorial staff to take on the new challenges in M+ instead of relying entirely on curators coming from overseas as they may not understand the "Hong Kong perspective" as much as local curators.
- (e) the future WKCDA should conduct more extensive consultation with the museum community before proceeding to establish the management board of M+ and recruiting the M+ staff;
- (f) WKCDA should not adopt Design-and-Build mode of development for constructing M+ and should conduct a design competition if the iconic effect of M+ is crucial to the attraction of quality collections in future; and
- (g) to enhance M+'s position as the major museum icon in Asia, M+ should also work closely with museums in the Mainland as well as those in the Asian region to facilitate exhibition of important collections from these places.

### Exhibition Centre

3.60 It is a mandatory requirement under IFP to provide an Art Exhibition Centre with NOFA of at least 10 000 m<sup>2</sup>. According to the Development Brief of IFP, this facility will be a self-contained building housing a number of flexibly designed and well-equipped exhibition galleries to cater for a wide variety of exhibitions and collections of overseas and local sources<sup>23</sup>.

3.61 Taking on board the recommendation of MAG, the Consultative Committee has recommended the provision of an Exhibition Centre, instead of an Art Exhibition Centre, with a NOFA of 10 000 m<sup>2</sup> in WKCD. The Exhibition Centre should give priority to uses relating to arts, culture,

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<sup>23</sup> Page 37 of Main Document of IFP

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creative industries and events/activities related to WKCD. Yet, the Exhibition Centre should aim to run on a self-financing basis. The Subcommittee does not raise objection to the proposed Exhibition Centre.

### **Phasing of development and other implementation issues**

3.62 According to the timetable assumed in the Consultative Committee's recommendations<sup>24</sup>, a number of major construction projects would be built under Phase 1 of the WKCD project within a time period of six to seven years. These projects include 12 performing arts venues, 70% of the on-site M+, the Exhibition Centre, retail/dining/entertainment facilities, certain communal facilities and public open spaces. There are also some works projects in WKCD area that will be under the responsibility of the Government such as public roads, drainage and other Government facilities.

3.63 Having regard to past experience of large-scale public works projects such as the airport related projects, the Subcommittee has raised concern on whether WKCDA would be capable of handling such a large number of major capital works projects concurrently within a fairly short timeframe. Some members of the Subcommittee have highlighted that being a newly established statutory body, the executive arm of WKCDA may not possess sufficient experience and expertise of the management of the works contracts and the handling of claims arising from these contracts. If the works contracts are not properly managed, the number and quantum of claims can increase substantially, leading to a waste of public funds.

3.64 A related issue of concern is that a lot of problems, in particular interface and coordination problems, could arise if a number of construction projects are to be carried out within six to seven years on the same 40 hectare site. As such, the risks associated with the WKCD project could be very high under the proposed phasing of development. The Subcommittee has therefore requested the Administration to provide

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<sup>24</sup> Page 59 of the Consultative Committee's Report

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information on the systems and mechanisms to handle the possible implementation problems.

3.65 The Administration has advised that the Board of WKCDA (which will include public officer members) will oversee the implementation of the works projects for the facilities under the purview of WKCDA. It is envisaged that dedicated committees would be set up by the Board to take charge of the implementation of these works projects and the interface and coordination among them. As regards the interface and coordination between the works projects under the purview of WKCDA and those public works projects within or affecting WKCD, the Government would put in place a mechanism to handle the interface and coordination between such projects, such as through appointing public officers with relevant professional expertise to participate in the work of the relevant committees or working groups, or setting up a multi-disciplinary team or committee in the Government for such purpose.

3.66 The Subcommittee finds that neither the Consultative Committee nor any of its Advisory Groups has given much thought on the implementation issues in recommending the phasing in the development of CACF. The Subcommittee considers that the future WKCDA should critically review the development programme for WKCD. In devising a practical development programme, it should give particular attention to the implementation issues discussed above. The Subcommittee also shares the view of a deputation that a more gradual phased development of CACF will allow for more flexibility and opportunities for future fine-tuning and incorporation of more updated design and concepts for the future.

#### **Cultural policy and software development**

3.67 The Subcommittee notes that while most deputations are supportive of developing the arts and cultural facilities recommended by the Consultative Committee, their major concern is whether the cultural software development in Hong Kong could measure up to and complement the hardware development in WKCD to achieve the objectives of WKCD.

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The Administration has assured the Subcommittee that the Government is committed to strengthening the cultural software development in Hong Kong. For instance, the Administration would conduct a review on the funding arrangements for performing art groups and the development of "flagship" performing companies. The Hong Kong Arts Development Council would be provided with additional resources to offer specific programmes to nurture the young and budding artists. The Administration would also discuss with the Hong Kong Academy for Performing Arts and local universities on manpower training for the arts and cultural sector.

3.68 The Subcommittee also sees the need for the Administration to review the usage and management of existing performing venues and other cultural facilities under the management of LCSD, taking into account the WKCD project. Stressing that it is mindful of the need to realign the existing public arts and cultural facilities to complement the WKCD project, the Administration has informed the Subcommittee that it will formulate plans to implement the recommendations of the Committee on Museums and the Committee on Performing Arts<sup>25</sup>, including the transfer of the management of public museums to a statutory museum board in a few years' time and the adoption of the venue partnership scheme for public performing venues which would be open to local arts groups/organizations.

3.69 As issues pertinent to existing arts and cultural facilities and cultural software development need to be considered in a wider context of the overall cultural development of the territory, the Subcommittee has agreed that HA Panel would continue to take up the examination of these issues.

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<sup>25</sup> The two committees together with the Committee on Libraries were established by HAB in November 2004 to follow up on the policy recommendations of CHC.

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4.1 In examining the development approach and financial arrangements adopted by the Government for the development of WKCD, the Subcommittee has borne in mind the role of the Legislature as the only body with the constitutional power and function to approve public expenditure under the Basic Law. It has the duty to ensure that the disposal of public resources is subject to public scrutiny. In the development of the WKCD project, while the project may be pursued on the premise of financial self-sufficiency, the financial arrangements should provide assurance to the public that the cultural objectives of the project will not be overridden by economic considerations.

4.2 This chapter provides a brief account of the major changes in the development approach and financial arrangements for the WKCD project, as well as a detailed analysis of the issues relating to the financing approach recommended by the Consultative Committee and endorsed by the Administration for pursuing the project.

### **Major changes in the development and financing approach up to 2006**

4.3 In Hong Kong, the majority of arts and cultural facilities are owned by the Government and managed by LCSA. The Government has traditionally assumed a dominant role in undertaking the development, financing and operation of all large-scale arts and cultural projects. In other words, the arts and cultural facilities are fully funded by the Government from planning to building, commissioning and operation. Income from admissions and hiring of facilities goes to the General Revenue.

4.4 The Government made a significant shift in its traditional arts and cultural development paradigm by adopting an IFP framework for the WKCD project in 2003. It decided to depart from its dominant role as a provider in developing arts and culture in the past, and adopt a single-package development approach under which a single Successful Proponent would be awarded a land grant for the development of the 40-hectare WKCD site for a term of 50 years. Under IFP, the Successful

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Proponent was required to plan, design, finance, construct, procure, fit out and complete facilities relating to WKCD, and subsequently operate, maintain and manage CACF for an operation period of 30 years. The Administration expected WKCD to be run on a self-financing basis. IFP did not contain any implementation strategies for WKCD. At that time, the Administration considered that the private sector with its extensive experience in the design, planning, construction, and management of a wide variety of projects would be able to work out an innovative scheme and draw up a master layout plan to meet the specific requirements set out in IFP.

4.5 Following the Subcommittee's heavy criticism of the single-package development approach in its Phase I Report, the Government announced on 7 October 2005 that it would introduce additional development parameters and conditions under the IFP framework. The Successful Proponent was required to carve out the development rights of at least 50% of the residential and commercial GFA at WKCD site for bidding by other developers. About one-third of the development (in terms of GFA) would be earmarked for CACF, and the development would be subject to an overriding plot ratio of 1.81 with residential GFA capped at no more than 20% of the total GFA. The Successful Proponent had to pay an amount of \$30 billion upfront to generate a recurrent return to cover the net operating expenditure of CACF and other communal facilities and the operating expenditure of the new statutory body.

4.6 The new arrangements under the modified development approach became the subject of the Subcommittee's study in the second phase of its work. In its Phase II Report, the Subcommittee pointed out that the modified development approach was still in spirit and substance a single-package development approach. The Government continued to rely on the Successful Proponent to conduct financial viability and technical feasibility studies on WKCD and to suggest what infrastructure (including the themes of core cultural facilities) and software content were to be included in WKCD. However, by way of the \$30 billion upfront as a trust fund, the long-term responsibility of CACF and other communal facilities, including the long-term operation and maintenance, reverted to the

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Government which had no say on the design and construction of the infrastructure. The rough financial data released by the Administration at that time failed to convince the Subcommittee that the recurrent annual return of the trust fund would be enough to cover the recurrent and capital expenditure for the long-term operation and maintenance of CACF and other communal facilities. The Subcommittee was concerned that any shortfall would have to be met by monies from the public purse, and in the end, the development of software and other supports for arts and culture would be compromised.

4.7 In view of the developments, the Subcommittee made the following recommendations, in the Phase II Report, in respect of the development approach and strategy for the WKCD project --

- (a) an incremental implementation strategy should be adopted to allow room for changes to cope with the evolving needs of the community. So long as there is an overall master plan, the 40-hectare land can still be developed into an integrated cultural, entertainment, residential and commercial district, with the individual components to be developed according to a timetable which may be modified and adjusted to meet the changing needs of the community and to take into account the fluctuation of the property market;
- (b) the cultural and non-cultural components on WKCD should be separated so that real estate developers would only be purchasing and developing land while the statutory body will oversee the construction of hardwares and development of softwares in strategically implementing a long-term sustainable arts and cultural vision for Hong Kong; and
- (c) the decision of the most appropriate approach for developing the cultural facilities in WKCD should be left to the statutory body, and it is important that a pragmatic approach be adopted. Where PPP is considered, the statutory body should first have carried out detailed financial viability studies, including but not

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limited to the development of a business case and the construction of a Public Sector Comparator (PSC)<sup>1</sup>, and to justify the adoption of a particular mode of PPP. Such justification should be based on objective data obtained from the studies and founded on the premises that this will be in the public interest and can achieve the most efficient use of public resources.

### **Developments since the termination of the IFP process in 2006**

4.8 At its meeting on 21 February 2006, the Subcommittee was pleased to note that the Administration had decided not to further pursue WKCD under the IFP process, but to consolidate and review their past efforts, with a view to taking forward WKCD in full speed. In formulating a new way forward, the Administration would continue to explore PPP in taking forward WKCD with a view to bringing in market creativity and vibrancy, facilitating diversity in arts and culture, and ensuring the sustainable operation of WKCD.

#### Financial Matters Advisory Group and its financial assessment

4.9 FMAG, one of the three Advisory Groups established by the Government in April 2006 to support the Consultative Committee, was tasked with advising the Consultative Committee on the financial implications of developing and operating CACF as recommended by PATAG and MAG. To assist FMAG in discharging its responsibilities, the Government has appointed GHK (Hong Kong) Ltd. as the Financial Adviser (FA) for the Development of WKCD and Related Matters to assess the financial implications of the WKCD project in August 2006. FA's final report was published in September 2007 as part of the public engagement exercise on the Consultative Committee's recommendations on CACF of WKCD conducted in September - December 2007.

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<sup>1</sup> PSC is the risk-adjusted, estimated full lifecycle cost of a project if it is done by the conventional in-house approach.

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4.10 The key findings of FA's financial analysis are as follows --

- (a) none of the proposed arts and cultural facilities is financially self-sustainable (taking both capital and operating costs into account);
- (b) only two venues might operate with a surplus -- the Exhibition Centre and the Mega Performance Venue;
- (c) there would be a significant funding gap (excess of estimated total capital costs and operating deficits over estimated land premium of the commercial and residential sites in WKCD) if all the recommendations on CACF made by PATAG and MAG are taken on board and fully adhered to in the initial development mix; and
- (d) as revealed from FA's market sentiment testing exercise, there is very limited market interest in participating in life-cycle PPP arrangements owing to expected construction and operating risks and deficits. Moreover, there is a lack of competent market players. Instead, Public Sector Involvement (PSI) with operating subsidies would have more potential to attract private sector interest. As a result, most procurement should take the form of traditional Design-and-Build contracts, with separate operation and management contracts.

4.11 Taking into account the above findings, FMAG concluded that there was very limited scope for WKCD project to pursue PSI scenarios that adopt a life-cycle PPP approach requiring the private sector to finance the development and maintenance of the facilities, and operate the facilities over a long period of time. There is also limited scope for cross-subsidy between venues. As such, the unpackaged development approach with PSI was adopted in assessing the financial implications of the WKCD project. Under this approach, the private sector would design and build CACF and communal facilities, while the operation, maintenance and management

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(OMM) of the completed facilities would be undertaken by different private sector parties to the specified level of performance under OMM contracts let by the public sector or WKCDA as appropriate. Under these scenarios, there would be no private sector financing involved and no use of land to directly subsidize development and operation of CACF, and also the infrastructure facilities.

### Recommendations of the Consultative Committee

4.12 The Consultative Committee endorsed the financial assessment results which are considered to be in line with relevant international experience that arts and cultural facilities are typically loss-making and require significant public subsidies in both capital and operating costs.

4.13 Having regard to the guiding principles of providing funding stability, maximum flexibility for phased development of a cultural district, ensuring early delivery and financial sustainability, the Consultative Committee recommended to adopt the following financing approach for WKCD --

- (a) financing the *capital costs* through an upfront endowment appropriated by LegCo roughly equivalent to the estimated *land revenue* from the residential, hotel and office part of the commercial sites within WKCD; and
- (b) vesting the RDE part of the commercial sites with WKCDA to provide a steady source of recurrent income through *rental proceeds* to meet the *operating deficits* of CACF and related facilities.

4.14 As FA's financial assessment results revealed a substantial gap between the estimated land revenue and total deficits, FMAG obtained further steer from the Consultative Committee in formulating possible measures. The Consultative Committee advised, among others, that development parameters set out in the October 2005 Package should remain

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unchanged, and that the principle of self-sufficiency and living within the means should be adhered to.

4.15 Subsequently, the Consultative Committee recommended to adopt a package of measures to bridge the funding gap as proposed by FMAG --

- (a) reducing the scale of M+ (reducing on-site NOFA by 30%), and adjusting the NOFA to GFA ratios for CACF; and releasing GFA for office development;
- (b) reducing GFA for hotel by one-third and RDE facilities by 20%; allocating the released GFA for office development to capitalize on the long-term potential of developing West Kowloon as an office node outside the Central Business District, and to provide an essential base load of weekday consumers for RDE facilities in WKCD; and
- (c) adjusting the funding responsibility between WKCDA and the Government in the communal and infrastructural facilities - the Government to build and maintain the transport and communal facilities such as roads, drainage, fire station, public pier, etc. and engineering works which are designed to support the whole of the WKCD area (including residential, commercial and hotel developments), and WKCDA to be responsible for the Open Space, Automated People Mover and Car Parks, which have a direct bearing on WKCD's operation.

4.16 According to the Consultative Committee's conclusion, taking into account the proposed financing approach and the measures to bridge the funding gap, the capital costs would be reduced to \$19.2 billion (in 2006 prices). With a revised development mix, the land premium is estimated at \$18.9 billion (in 2006 prices). The capital cost funding gap is therefore virtually removed. The revised operating deficits (estimated at \$6.7 billion at in 2006 prices) can be totally met by the revised net rental income generated from RDE facilities (estimated at \$7.5 billion at in 2006 prices). In other words, an upfront endowment of about \$19 billion (at in 2006 prices)

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would be required for WKCD to be developed and operated in a self-sufficient and sustainable manner within the 40-hectare WKCD site. The recommendations of the Consultative Committee were put to public consultation from mid-September to mid-December 2007.

4.17 According to the Administration, diverse views were noted on the proposed financing approach during the public engagement exercise. While there was strong support for the proposed recurrent financing arrangement of using rental proceeds of the RDE facilities sites to subsidize the operational deficits of the arts and cultural facilities, there were also concern about the proposed one-off upfront endowment (adjusted to \$21.6 billion at 2008 NPV) to be provided to the proposed WKCDA.

### **Concerns and views raised by deputations**

4.18 At the two rounds of consultations conducted in 2007 by the Subcommittee after the release of the Consultative Committee's report, quite a number of deputations expressed support for a one-off upfront endowment of \$21.6 billion. The main reasons for their support are that a one-off upfront endowment represents the Government's long-term commitment to WKCD and arts and culture, and the arrangement could ensure stability of funding and provides more flexibility in using the funds. The appropriation of funds in phases will bring uncertainties or even negative impacts on the development of WKCD.

4.19 The Subcommittee noted that some other deputations were of the view that whether a one-off upfront endowment should be provided to WKCDA should hinge on the adequacy of institutional arrangement to ensure public accountability of WKCDA. Moreover, corresponding cultural policies and measures should have been mapped out well before the consideration of funding. A deputation cautioned that the outturn revenues of CACF and other facilities operated by WKCDA could vary substantially from the current estimates, and that the Government should have good planning to handle WKCDA's operational deficits.



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4.20 A few deputations expressed serious reservation about the injection of substantial public funds into WKCDA for various reasons, such as the availability of other funding priorities other than investment in cultural hardware; the lack of assurance of adequate monitoring of the use of the public funds; and the heavy burden on taxpayer if WKCD turns out to be incapable of being financially self-sufficient.

4.21 Some deputations also expressed concern that funding support from the Government and sponsorship from the private sector would be diverted away from existing cultural organizations and activities to WKCD. There are thus suggestions that the Government should review its overall funding policy for Hong Kong's cultural activities to achieve optimal use of public funds. In this regard, the deputations urged the Government to uphold the principle that an increase in spending in WKCD should not mean a reduction in spending by the Government on cultural activities outside WKCD.

### **Appointment of Specialist Adviser**

4.22 Noting the Administration's intention to put up the funding proposal to PWSC and FC in mid 2008 for an upfront endowment of \$21.6 billion to be given to WKCDA upon its establishment, the Subcommittee has requested the Administration to explain to the Subcommittee the computations of the proposed upfront endowment. In the course of examining the information provided by the Administration, some members raised questions on some of the fundamental principles, such as whether the assumptions adopted in FA's Report were prudent and realistic, whether the need for an upfront endowment of \$21.6 billion was justified; etc. In March 2008, with the support of the House Committee, Versitech Limited (a wholly-owned subsidiary of the University of Hong Kong) was appointed by LegCo Commission to assist the Subcommittee as the Specialist Adviser in the examination of the financial aspects of the WKCD project.

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4.23 The Specialist Adviser presented the final study report to the Subcommittee on 24 May 2008 (**Appendix 4.1**). The Subcommittee has taken note of the observations and comments of the Specialist Adviser in its deliberations on FA's analysis and the Government's funding model.

### **Deliberations on Government's funding proposal and the financial analysis**

#### The funding approach

4.24 The Subcommittee notes that the Administration has taken on board the Subcommittee's recommendations that there should be an overall master plan to develop the 40-hectare land into an integrated arts and cultural district with cultural and non-cultural components to be developed separately. The Subcommittee also welcomes the Administration's decision to finance the capital costs of the WKCD project through a funding provision roughly equivalent to the land revenue from the residential, hotel and office parts through normal land sale procedures, which is in line with the recommendations of the Subcommittee in its Phase II Report. It is also noted that the development parameters (i.e. upper plot ratio limit, GFA cap on residential land use, etc) in the Government's October 2005 Package, on which the development of WKCD will be based, have general public support. In view of market fluctuation and the long span of time to be taken to develop WKCD, the Subcommittee does not dispute the anticipated land revenue of \$18.9 billion (in 2006 prices which is more or less equivalent to \$21.6 billion at 2008 NPV) which the residential, hotel, and office land portion will generate to replenish the public purse for the endowment fund injected into WKCDA to cover the capital costs of WKCD. Some members consider the estimated land revenue to be on the conservative side, but since the Government retains the control to decide when the land ought to put to sale, the Subcommittee agrees to accept the Administration's estimate for the purpose of planning.

4.25 The Subcommittee also notes that the Administration adopts the recommendation of the Consultative Committee that the RDE part of

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WKCD will be vested in WKCDA to provide a steady source of recurrent income through rental proceeds to meet the operating deficits of the CACF and related facilities. According to the development mix recommended by the Consultative Committee, the total GFA of the RDE facilities is about 119 000 m<sup>2</sup>. The estimation by FA is that the net total rental income from the RDE facilities over the project period up to 2059 is about \$8.4 billion in 2008 NPV, while the total operating deficits of the arts and cultural facilities and other facilities under the purview of WKCDA is about \$7.6 billion in 2008 NPV. As the Subcommittee agrees to adopt the concept recommended by the Consultative Committee that the RDE facilities should be suitably integrated with the arts and cultural facilities in WKCD so as to create people flow and synergy, and bearing in mind the need for WKCDA to have a steady source of income to cover the operating deficits of CACF, the Subcommittee supports the arrangement of vesting WKCDA with the RDE facilities to generate rental proceeds to meet its operating deficits. A member however has expressed reservation on the appropriateness of providing such a large amount of commercial floor areas (i.e. 119 000 m<sup>2</sup> of GFA) to WKCDA, and that the Administration has a duty to draw the attention of LegCo and the public to this huge subsidy which is in addition to the upfront endowment.

4.26 The emphasis of the Subcommittee's study in Phase III is more on the sustainability aspect of the financial arrangement, having regard to the scale of facilities being proposed and the development time-frame. In particular, the Subcommittee has examined whether the RDE part of the WKCD project could generate a steady source of recurrent income through rental proceeds to meet the operating deficits of CACF and related facilities. As pointed out in Chapter III, the cultural facilities proposed by the Consultative Committee, in terms of GFA or seating capacity, far exceed those included in IFP. Some of the facilities, such as M+, are still at the experimental stage and the majority of the facilities are expected to operate with deficit. Given the fact that the cultural facilities are to be managed by WKCDA which will be given financial autonomy, the Subcommittee considers it important to ensure that taxpayers are fully aware of the financial implications of developing the range of facilities in WKCD from the public purse.

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### Upfront endowment for WKCDA

4.27 The Administration's proposal is to provide an upfront endowment of \$21.6 billion to WKCDA. WKCDA will be required to manage the upfront endowment (including investment of funds) to ensure that there would be sufficient funds to cover the cash flow requirements of the capital costs of the WKCD project during the project period. According to the timetable assumed in the Consultative Committee's recommendation report, WKCDA would complete the construction of all the proposed facilities in Phase I (12 performing arts venues, and 70% of the M+, the Exhibition Centre and RDE facilities) in around 2014-2015. It is estimated that the total cost for the development of the Phase I facilities, i.e. within a period of six to seven years, is about \$20 billion.

4.28 Some members are of the view that the provision of a one-off upfront endowment to a statutory body such as WKCDA may deprive LegCo of the opportunity to hold WKCDA accountable for its disposal of public resources. There is also the concern that vesting such a huge sum of money with WKCDA upon its establishment may put it under immense pressure of financial management at the initial period when it has to deal with the master planning and other complicated tasks at the same time. Given WKCDA's independent status, it will be difficult for LegCo to closely scrutinize the use of the one-off endowment fund once approved by LegCo. In this connection, some members have suggested that the Administration should submit funding proposals for the cultural venues as and when required or by phases instead of in one-go. These members consider that since the infrastructure is to be implemented by phases spanning from 2008 to 2031, the first instalment could be approved to cover the costs from 2008 to 2014, and a review should be carried out in 2012-2013. The phased funding arrangement will enable LegCo to seek progress reports on the management of funds before approving further instalments.

4.29 In view of members' concern, the Subcommittee has examined the need for the \$21.6 billion upfront endowment from the following angles --

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- (a) whether an upfront endowment to a financially independent statutory body is the most appropriate method to finance the WKCD project;
- (b) whether the \$21.6 billion is a realistic and accountable figure to rely on when providing a one-off endowment to WKCDA to enable it to plan and build WKCD infrastructure and to operate the facilities on it in a self-sufficient manner; and
- (c) whether there is room for the \$21.6 billion to be disbursed by instalments so as to retain a certain degree of control by the Legislature and/or by the Government in the event that the progress and other aspects in the development of WKCD do not live up to public expectation.

### Appropriateness of an upfront endowment for financing the WKCD project

4.30 The Subcommittee finds the funding arrangement of providing an upfront endowment to WKCDA, which is required to be financially self-sustainable and is not accountable to the public in the same way as a Government institution, is unusual. It has therefore written to the Financial Services and the Treasury Bureau (FSTB) on whether there are precedents for a statutory public body to be granted an upfront endowment to plan and implement capital works projects, and what measures are put in place to monitor the use of such funds approved. In FSTB's reply, it is revealed that the arrangement of providing an upfront endowment for WKCDA through a one-off approval by FC to finance capital works projects is unprecedented. Infrastructure facilities are normally funded on a project by project basis under the existing funding arrangement. Nevertheless, the Administration has in the past obtained FC's funding support in principle for a bundle of related projects for undertaking certain commitments and subsequently sought FC's approval on the individual projects. Examples include the upgrading of sports venues for hosting the 2009 East Asian Games, the agreement on Disney Phase I project and the funding of seven school projects on a site in Tseung Kwan O Area 86.

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4.31 In this connection, the Subcommittee notes the Specialist Adviser's comment in its Final Report submitted to the Subcommittee on 21 May 2008<sup>2</sup> on the provision of a seed capital endowment. The Specialist Adviser has pointed out that the obvious advantage of this seed fund arrangement is clarity and simplicity in administration. WKCD is required to be financially self-sufficient and sustainable. This would be most difficult to achieve under a subvention scheme. The Specialist Adviser has also pointed out the disadvantages, such as the possible lack of transparency and risks in investment return, etc. The Specialist Adviser observes that *"the seed funding arrangement might have been a choice by elimination"* by the Administration having considered all the available options including public private joint ventures where commercial and/or residential components are packaged with the cultural components as in the case of IFP. The Specialist Adviser suggests that *"to compensate for the disadvantage, it is therefore essential to keep the management of the seed fund transparent and accountable to the public at all times."*

4.32 In the earlier phases of the Subcommittee's study, members have advocated the setting-up of an independent statutory body to oversee and steer the planning and implementation of the WKCD project, including the drawing up of a master plan. Any upfront endowment would only be to support the work of the statutory body, but funding for the individual facilities will need to be sought from the Legislature based on very detailed studies. The present funding approach of providing an upfront endowment which also covers the capital costs of the cultural facilities deviates from the Subcommittee's original recommendation. Nevertheless, the Subcommittee is open-minded with new funding models which will facilitate the early implementation of WKCD provided that there is the highest transparency and public accountability in the use of public funds. This will be further discussed in paragraphs 4.76 to 4.78 below.

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<sup>2</sup> Paragraph 11.8 in the Specialist Adviser's Final Report

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### Assumptions and projections

4.33 While acknowledging that the proposed endowment approach has merits and demerits, the Subcommittee considers that the primary concern should be the sustainability of the financing arrangements and the reliability of the assumptions and estimations used for the financial analysis. Members consider that the cost estimates must be based on realistic and reliable assumptions and projections, to ensure that the upfront endowment will be sufficient to cover the capital costs of the WKCD project while the operation of the various facilities in WKCD can generate sufficient income for the sustainable operation of the arts and cultural venues in the area. The primary objective is to avoid a situation that the Government would have to meet huge operating deficits of WKCD from the public purse during or after 50 years.

4.34 The Subcommittee has noted that the funding proposal was premised on the assumption that WKCD should be financially self sufficient and financially sustainable within the 40 hectares of land. The Administration has proposed to provide WKCDA with a one-off upfront endowment to pay for the capital costs, and to vest with WKCDA the RDE facilities to generate rental proceeds to cover the operating deficits of art and cultural facilities. While the capital costs for WKCD is roughly equal to the estimated land revenue from the WKCD site available for disposal, the rental proceeds from the RDE facilities would be the main source of income for keeping WKCD financially sustainable.

4.35 In the final report submitted to the Subcommittee, the Specialist Adviser has made the following comments on the estimated costs and revenue adopted in FA's financial analysis --

- (a) the unit construction costs are founded within a reasonable range. On-costs are, however, higher than conventional;
- (b) FA's sensitivity analyses have not tested the financial implications of risks in investment returns and in construction

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cost escalations. These tests should be carried out, and contingency plans should be formulated well in advance;

- (c) there is no funding set aside for major renovations or re-construction after 50 years, beyond which WKCD may not be financially sustainable. An extra saving on capital and operating costs, equivalent to 16% of the \$21.6 billion seed fund, is needed;
- (d) RDE is the life line of WKCD. Yet compared to the financial and operating details for CACF, the information provided for RDE is clearly insufficient; and
- (e) to build up the financial strength of WKCD, one has to cut spending and earn more. Reduction of on-costs, a more efficient operation mode of M+ and an effective business plan for RDE facilities are important factors to be considered.

4.36 In the light of the Specialist Adviser's comments, the Subcommittee has reviewed in detail the following aspects of the funding assumptions and principles --

- (a) how far deviations in the projected costs and revenue will impact on the financial sustainability of WKCDA; and
- (b) what potentials are available in cutting down costs or generating extra revenue to provide reserve for future development and major renovations, such as reducing overheads, exercising flexibility in procurement methods, scaling down operations, etc.



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### Costs and revenue

#### *Unit construction costs*

4.37 FA has estimated that the unit construction costs for M+ and performing arts venues range from \$22,200 to \$29,200 per m<sup>2</sup> of construction floor area. This includes the costs for furniture, fixture and equipment but excludes professional fees and other on-costs. Excluding the furniture, fixture and equipment costs, the unit construction cost will be in the range of \$15,900 to \$20,450. The Subcommittee has noted that the unit construction costs, though a little high, are still within a reasonable range for facilities which require higher standards of design and quality. Some members are of the view that an even higher unit construction cost for M+ and certain core art facilities is warranted, in view of the special features and more complicated requirements of these facilities.

#### *Project on-costs*

4.38 The Subcommittee has also noted the Specialist Adviser's comments that the estimated on-costs, which include professional fees (6% to 14.6%), contract management (8% to 9%), risk allowances (25.9%), major repairs and renovation (26.3%), are substantially higher than those adopted in the market. According to FA and the Administration, world-class arts and cultural facilities have stringent requirements, which require various professionals to supervise the consultancies and contract management. There is also a shortage of such expertise and experience in the local market. The on-costs for professional fees and contract management for designing and building these facilities are thus higher than those for ordinary buildings.

#### *Inflation rate*

4.39 Nevertheless, the Subcommittee has expressed concern about the 2% inflation rate adopted in FA's financial analysis, which is way below the actual increases in construction prices in recent years. Some members have pointed out that excluding the effects of Government's one off relief measures, the year-on-year underlying inflation rate in Hong Kong still

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stood at 5.1% in early 2008. Moreover, there is also an upsurge of construction tender prices in recent years due to the large number of infrastructure and construction projects being taken forward in Hong Kong and in the neighbouring regions. The Administration should assess the impact of the rising trend of inflation rate and construction prices on the cost estimates.

4.40 In this respect, the Administration's explanation is that when estimating the capital costs, apart from inflation, consideration has also been made to provide a greater buffer in indirect costs and the risk premium so as to allow sufficient cushion to accommodate cost increases. Given the high standards and quality required of CACF, FA has applied a more sophisticated estimate of contingencies (or risk premium) for these facilities, which is higher than the simple approach of adding a fixed percentage to the base cost estimates. In the construction costs of CACF, a risk premium ranging from 23% to 29% has been included to guard against price hike due to risks. The risk premium is normally set at 10% to 15%. A higher risk premium is adopted for WKCD owing to the need to start the construction of facilities and other related works as soon as possible and to cater for construction cost fluctuation exceeding the original estimates.

4.41 As regards the rationale of FA's adopting a 2% annual inflation rate, it is due to the fact that the project will span over a long period of time. FA has therefore used NPV to express the financial implications, which is the most appropriate way to assess the present day value of the costs of the project. In estimating the capital costs, FA has estimated the costs based on the 2006 Q3 prices and adjusted the estimates with an annual inflation rate of 2%. The MOD estimates were then discounted to 2008 using a nominal discount rate of 6.1%, which is composed of a 4% real discount rate per annum and a 2% annual inflation rate. The 4% real discount rate has been adopted by FA having regard to the social discount rate of 4% used by the Government on public sector long-term development projects as advised by the Government Economist. According to FA, the use of average inflation rate for long-term financial assessment is professionally sound and prudent, as evidenced by the ups and downs in construction costs during the past 20 years which can fluctuate from -13% to +25% for individual years.

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4.42 To address the concern of the Subcommittee, the Administration has conducted further analyses of the impact of escalation in construction costs on FA's financial assessment by adjusting the estimated on-cost to a flat rate of 15% of construction costs and the risk premium to 15% for CACF and 10% for other facilities which are nearer to market rates. It is found that after adjustment, the one-off endowment of \$21.6 billion can accommodate an annual nominal increase of 3.4% in construction cost (an accumulative increase of 31%) between 2007 and 2014. If an annual nominal 6% increase in construction cost (an accumulative increase of 60%) between 2007 and 2014 is adopted, the one-off endowment will have to be increased to \$25 billion. The Administration does not envisage that the accumulative increase in construction costs could reach 60% and so would not propose any adjustment to the proposed endowment. The Subcommittee notes the Administration's undertaking that it would be for WKCDA to find solutions to finance its works programme should inflation rate exceed its present estimation.

### *Investment return*

4.43 On the estimated annual investment return of 6.1%, the Special Adviser is of the view that since the majority of the seed money will be spent on capital costs for construction contracts during the first five to seven years, it may not be possible for WKCDA to generate an annual return of 6% as projected. In this connection, the Subcommittee has requested the Administration and FA to elaborate on the estimation of the investment return having regard to the heavy cash flow requirements in the initial years.

4.44 The Administration has explained that cash flow requirements have already been taken into account. The estimated annual investment return of 6.1% over the project period falls comfortably within the range of the historical returns of overseas high quality bonds and growth rates of local and overseas equity indices. For instance, from 1996 to 2006, Moody's yield on seasoned all industries bonds ranged from 5.23% to 7.62% for Moody's AAA, and 6.06% to 8.37% for Moody's BAA bonds. The compound annual growth rate for equities over the period January 1987 to

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January 2007 of the Hang Sang Index and the S&P 500 Index were 10.9% and 8.6% respectively. Moreover, the Exchange Fund generated a compound nominal annual investment return of 7% over the 14 year period from 1994 to 2007. To ensure that the investment of the upfront endowment would be managed properly, the WKCDA Bill will include a requirement for an investment committee to be set up by the WKCDA Board to advise the Board on investment matters.

### *Rental proceeds*

4.45 As to whether the rental income estimated to be generated from the RDE facilities is realistic, the Specialist Adviser has pointed out that little information is available in FA's analysis. Competition from other shopping malls in the neighbourhood, such as the Elements, should not be ignored. The Subcommittee considers that the connectivity of WKCD with its neighbouring areas would have impact on the number of visitors and the rental proceeds. Nevertheless, in the absence of a business plan, it is difficult at this stage to determine a more realistic rental level for the RDE facilities.

4.46 According to the Administration, the Planning Department will work closely with WKCDA to ensure early formulation of plans to connect WKCD with its neighbouring areas. A number of transport proposals are also being worked out to further enhance the connectivity of WKCD with other parts of Kowloon. Based on present thinking, the development and operation of RDE facilities in WKCD are not comparable to the operation of large scale shopping malls. Instead, the RDE facilities will be scattered throughout WKCD to integrate with the arts and cultural facilities under the "theatreland" concept, so as to create synergy and bring about increase in people flow to keep the district in vibrancy at all times. The Administration and FMAG members are of the view that the estimated monthly rental level of \$30 per sq ft of GFA (in 2006 prices) is pitched at a conservative level when compared with other districts in Hong Kong. With effective management and satisfactory operation, the rental income from RDE will likely be of a higher level than estimated.

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### Potentials to achieve savings and increase revenue

#### *WKCDA staffing levels*

4.47 According to the estimate of FA, during the initial development period of WKCD (i.e. the first 7 years or so), WKCDA will require a total of 90 staff members. The annual total cost (including staff costs and other operating expenses) involved will be \$189.4 million a year (in 2006 prices). After the initial development period, WKCDA will require 33 staff members. For financial assessment purpose, the operating costs of WKCDA from 2008-2009 to 2014-2015 are capitalized and treated as capital costs so as to distinguish them from the operating deficits incurred during the operation period of WKCD (from 2015 onwards). These operating costs amount to \$1,230 million, representing about 5.7% of the \$21.6 billion of the upfront endowment.

4.48 The Specialist Adviser observes that in addition to WKCDA's staff to oversee the implementation of works, an on-cost provision equivalent to 8% to 9% of the direct construction costs has been earmarked as management costs for contract management. Together with the \$1,230 million WKCDA operating costs (which is equivalent to 11.2% of the direct costs), the funding provision for managing contracts would add up to 20% of the direct construction costs, and this percentage is substantially higher than a 10% normal developer's profit, which includes contract management. The Specialist Adviser also points out that there is a separate budget (which is equivalent to 6% to 14.6% of the direct construction cost) for professional fees to cover construction consultant fees, legal services, business planning and marketing.

4.49 The Subcommittee also finds the computation of staff costs (including the management costs included in individual project costs) questionable. As the funds at its disposal are public money, WKCDA may not be as vigilant as private developers in exercising stringent control over the use of staff in managing contracts. Nevertheless, the Subcommittee also notes that the 90 staff required in the initial development period are to

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prepare a development plan, organize design competitions, monitor and execute construction contracts and conduct public consultation.

4.50 As regards WKCDA's staffing level (i.e. 33 staff members) after the initial development period, the Administration has advised that WKCDA will be responsible for the co-ordination of the planning, development and operation of the entire WKCD, including its arts and cultural facilities, communal facilities, transport facilities, commercial facilities, etc. In addition to the arts and cultural venues in WKCD, the whole WKCD site and other communal facilities in it such as public open space and the automated people mover system will also be under the overall management of WKCDA. WKCDA has to prudently administer the financial resources involved. Having regard to the responsibility for the overall management of an integrated cultural district of 40 hectares, FA's estimation of 33 staff members is on the conservative side.

4.51 The Subcommittee recognizes that WKCDA staffing levels (90 staff members during the initial development period and 33 thereafter) are in fact assumptions made by FA for cost estimation purposes. While the Administration has later affirmed that the assumptions are reasonable, it appears that the Administration does not have a concrete idea at this stage of the future staffing arrangements of WKCDA. The Subcommittee does not have a strong view on the current cost estimation on WKCDA's staffing levels. To avoid duplication, the Subcommittee urges the Administration to ensure clear delineation of responsibilities in the future organizational structure and full justifications for the staffing requirement of WKCDA. There should also be transparency and public accountability on the remuneration packages to enable LegCo and the public to monitor the deployment of resources. In this respect, WKCDA should provide LegCo with regular reports including detailed information on the staff establishment, staff costs and also the estimated and actual expenditure on outsourcing activities.

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### *Procurement methods*

4.52 One other features in FA's analysis is the adoption of Design-and-Build as the most viable procurement method for the purpose of projecting the financial implications for CACF. The Specialist Adviser has commented that the other scenarios used for comparison, Scenario 1B (which also includes "finance and maintain") and Scenario 2 (which includes also "own and operate") are not sufficiently realistic to be considered practical options for meaningful comparison. The Specialist Adviser has also pointed out that no analysis has been conducted by FA on separating "design" and "build", which is the preferred model for developing a cultural facility.

4.53 The Subcommittee has noted the Administration's explanation that the three private sector involvement scenarios have been developed by FA to compare the merits of involving the private sectors to differing degrees. These scenarios were used to test the financial implications for the project, taking into account the transfer of risk and financing costs to the private sector and potential market interest in participating the project. Owing to the operating risks of arts and cultural facilities, the private sector involvement with no private sector financing and no use of land to directly subsidize development and operation of core arts and cultural facilities is considered most appropriate.

4.54 Some members of the Subcommittee consider that to allow creativity in the design of the core arts and cultural facilities and to ensure that iconic buildings of world-class standard would be constructed in WKCD, the Design-and-Build model may not be the best option for some of the core facilities, especially **M+** given its innovative concept and special requirements to cater for a range of different themes and activities. The Specialist Adviser has commented that the Design-and-Build approach requires an extensive performance specification written well before designing the buildings. It may not be suitable for complex buildings such as **M+** because the details and prices may not be accurate before the detailed design stage. In this connection, some members suggest that a design competition should be held for **M+** and other core performance venues, and

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the winning designs would be adopted for which separate contracts for the detailed designs and construction should be awarded. These members are of the view that separating the design from construction will encourage greater private sector participation, stimulate creativity and enable more accurate cost estimates to be made based on the detailed design. This could also reduce disputes at a later stage after awarding the contract with regard to the additional costs required for detailed design and construction.

4.55 The Administration has explained that the local construction industry and Government have over 17 years' experience in executing Design-and-Build contracts. Being an effective model, it can bring about earlier delivery. Under the Design-and-Build approach, the client enters into contractual relationship with the contractor to design and construct the project in accordance with performance specifications prepared by the client. The contractor then enters into a series of separate agreements with consultants, specialist sub-contractors and suppliers to deliver the project. According to the Administration, such a method will tend to expedite delivery, encourage more contractor involvement, lower the level of responsibility for the client and increase the use of proprietary systems or modules.

4.56 In this respect, the Subcommittee has requested the Administration to re-examine whether it would consider the alternative procurement approach of drawing up the detailed design first and then tender out the construction works under a separate contract for certain facilities such as M+, and the cost implications. To address the Subcommittee's concern, the Administration agrees that WKCDA will have the flexibility to decide on the procurement approach for the arts and cultural facilities in WKCD. According to FA, even if the design and construction of the facilities are procured in two independent contracts, there would not be significant difference in the construction cost estimates. Furthermore, the construction cost estimates have already included a considerable amount of indirect costs and risk premium to accommodate increase in costs due to various factors.



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### *The M+ proposal*

4.57 The M+ proposal is a novel concept adopted by the Consultative Committee based on MAG's recommendation. "Visual Culture" has been adopted as the theme for M+, after soliciting views from museum experts and the public. Visual culture is a fluid concept which, though not easy to define, offers flexibility and scope to explore new aspects and rejuvenate itself in response to changing circumstances. Visual culture includes not only visual arts but also architecture, design, moving image and popular culture. Visual culture is considered relevant to the objective of developing WKCD into a world-class art and culture district expressing the unique cultural position of Hong Kong, and able to reflect not only the diversity of our culture but also the vibrancy of our contribution in its ongoing developments. According to MAG, M+ is a forward-looking, flexible, responsive approach which encourages dialogue and delivers ideas, exhibits, education and entertainment. It is under an open-ended format that encourages partnership, interaction and cross-fertilization of ideas with the general public, with sector professionals and with experts worldwide.

4.58 Given the novelty and wide scope of the concept of visual culture, the Subcommittee has expressed serious concern about the future design and operation of M+, and its long-term viability. Members are worried that as the general public is not familiar with the concept of M+, it may not be able to attract many visitors from within Hong Kong and from other places, as a result, there will be huge operating deficits that will have to be met by the public purse. The Specialist Adviser has pointed out that FA's analysis shows that M+ costs \$10.7 billion to build and operate for 50 years. This would represent 40% of the \$26.4 billion capital and operating deficit of the entire WKCD project (excluding the RDE part). The yearly deficit of M+ would be about \$0.4 billion (2008 NPV) in 2032, when both Phases I and II would be in full operation. By 2059, M+ alone will contribute 89% of the annual operating deficit of WKCD. Looking at these figures, the Subcommittee considers that the funding and operation of M+ will need careful examination to avoid its becoming a great financial burden in the long term. In this connection, the Subcommittee urges the Administration to provide more justifications on the desirability of having M+, and concrete

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details on its proposed scale, its future operation and financing arrangements. The Subcommittee has also expressed concern about the future staffing of **M+** and whether it would be managed by experts capable of bringing **M+** up to world-class standard.

4.59 On the financial assessment of **M+**, the Administration has pointed out that FA has adopted a prudent approach and has not included donations in estimating **M+**'s income. Such donations would improve the financial position of **M+**. Following a presentation by the Administration on the vision of **M+**, the Subcommittee appreciates the effect of **M+** in putting Hong Kong on the world map as an international cultural metropolis. Nevertheless, some members have grave concern about the viability of the **M+** concept, in particular during those years when **M+** has not yet acquired a status that would attract quality collection. As a result, notwithstanding the huge sum of money injected into the building infrastructure and exhibits, the patronage of **M+** might be far below FA's estimates, and in turn it would be even more difficult for **M+** to build up its status as a world renowned museum facility.

4.60 For **M+**, FA has assumed an initial capital of \$1 billion (in 2006 prices) for building up sizable and impressive collections commensurate with **M+** status and attributes upon the opening of **M+** in 2015. FA has also made provision for an annual collection cost of \$20 million (in 2006 prices) thereafter over the project period to 2059. The Specialist Adviser has queried whether the underlying assumption of the operation mode is the only choice available for serious consideration. It is noted that FA has assumed a low cost recovery rate for **M+** based on a modest admission fee by international standard. The Specialist Adviser also expresses doubt whether the collections in **M+** could sufficiently attract visitors to generate a reasonable return for sustainable operation. In this connection, some members raised concerns about maintaining a healthy balance of income and expenditure through cutting costs and increasing income.

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### *Reduction of costs*

4.61 On the possibility of reducing the costs of **M+**, the Subcommittee notes that the scale of **M+** has already been reduced by 30% in the current proposal, and the downsized **M+** would be implemented by two phases. The Subcommittee has enquired whether it is feasible to further downsize or defer any part of Phase I development to Phase II when there is more certainty on the success of **M+** in attracting audiences. The Administration's explanation is that further downsizing the **M+** will hinder the development of **M+** into a world-class contemporary cultural and arts institution and **M+** will not be able to realize its vision.

4.62 In exploring ways to reducing the operating costs and raising the revenue of **M+**, the Specialist Adviser has suggested the option of international franchise such as Guggenheim or Pompidou. The Specialist Adviser estimates that under a franchise agreement, there could be a potential saving of \$1.5 billion in capital cost and \$3.3 billion in operating cost, making a total saving of \$4.8 billion.

4.63 Some members of the Subcommittee have requested the Administration to give second thoughts to the option of international franchise, in order that the operation of **M+** would be comparable to world-renowned museums, and that its capital and operating costs could be reduced. In this connection, members of MAG have advised that it is MAG's intention to present the **M+** concept from the "now" perspective and the "Hong Kong" perspective, so as to create an audience experience that is unique from a Hong Kong social and cultural standpoint. Engaging an international operator to operate **M+** will make it difficult for **M+** to achieve its vision and to build up Hong Kong's unique cultural character. Curatorial freedom will also be lost. The Administration is of the view that such an arrangement will also restrict **M+**'s future cooperation with other internationally renowned museums in the longer term.

4.64 As regards the building up of collections, the Administration assures the Subcommittee that the provision of collections for exhibition in **M+** should be prudent since the LCSD museums in Hong Kong have rich

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collection on visual culture which amounts to around 62 400 items of paintings, calligraphy, ceramics, prints, photography, sculpture, fashion, packaging, posters, toys, etc. There is also a large collection of Hong Kong movies and audio-visual materials. Moreover, some significant, renowned private collectors are willing to showcase their collections in a world-class museum such as M+. Like other world-class institutions on visual culture around the world, M+ will not establish its own position solely by its collection, but also through exhibit loans, hire of collection, contracting out to artists to produce creative exhibits and splendid programmes to attract audience. The Administration has stressed that a museum is an educational institution for art and culture, therefore its value should not be measured purely on financial returns. The estimated operating deficit for M+ of around \$300 million is considered reasonable, as compared to the total recurrent expenditure of \$500 million for all LCSD museums, taking into account the fact that M+ is intended to be a world-class institution and its estimated GFA amounts to around 50% of that of all LCSD museums.

### *Admission fees*

4.65 On the relatively low admission fees (\$27.5 for Phase I and \$30 for Phase I and II combined at 2006 prices) estimated for M+, the Subcommittee has noted that the estimation was worked out on the basis of the admission fees currently charged by existing museums managed by LCSD. The price level has taken into account the affordability of the general public, and also the mission of M+ to promote visual art education in Hong Kong. The Administration has pointed out that these estimated admission fees were not fixed and could be varied by WKCD having regard to the prevalent circumstances.

4.66 As regards the staffing level for M+ and the concern about the availability of the required staff, the Administration has advised that about 320 and 336 full-time equivalent staff (including all levels from directorate to curatorial and housekeeping) will be required for Phase I and Phase II of M+ respectively. The estimated staffing provision for M+ is considered prudent and reasonable when compared with those of major cultural institutions worldwide. The actual staffing, however, will have to be

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worked out by WKCDA and the organization actually responsible for developing and running M+ in future. While the majority of staff in areas of administration, marketing, exhibition management and financing are locally available in Hong Kong, there may be a need to bridge the gap of professional expertise in curatorial experts in visual arts with international experience and networking. These experts will be recruited initially from other places, while efforts will be made through the interim M+ to put in place suitable education and training for bringing up local experts.

### *Reserve fund for major renovation or re-construction after 50 years*

4.67 Regarding the concern about the provision for major renovation and re-constructions after 50 years, FA has explained that a 50-year project period was adopted as the duration for analyzing the financial viability of the long-term development of WKCD. The project period is even more stringent than the normal professional assessment of long term projects. In FA's financial analysis, provisions have already been made for major overhaul costs at appropriate intervals as well as annual building maintenance costs for each facility. As such, the facilities should be in good conditions and fully functional even beyond 50 years. The latest major renovation will take place in 2053. It is therefore not necessary to seek another round of capital funding to rebuild all the facilities after 50 years.

### *Sustainability of the financial arrangement and the "worst case" scenario*

4.68 The Subcommittee has expressed concern that a number of factors may affect the validity of the assumptions underlying the financial analysis as the project period will span over 50 years. Some members are of the view that the Administration has the duty to inform LegCo and the public what would be the "worst case" scenario if the costs and returns do not turn out as projected, and what would be the estimation of supplementary funding required.

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4.69 In this connection, the Administration has advised the Subcommittee at its meeting on 5 June 2008 that the financial assessment has undergone a professional and stringent process. The assessment and its revisions which took 15 months to complete, was examined by FMAG led by Hon Ronald ARCULLI. The conclusion was that it is a sustainable financing approach to provide a one-off upfront endowment of \$21.6 billion (at 2008 NPV) to finance the capital cost and to use the rental proceeds generated from RDE facilities in WKCD to meet the operating deficits of the arts and cultural facilities. Based on the present assessment, the Administration does not think there are sufficient reasons for a "worst case" scenario in which any of the proposed venues may not be constructed as planned.

4.70 The Subcommittee has requested the Administration to indicate whether it would seek supplementary funding from LegCo for WKCD in the event that the endowment turns out to be insufficient during or after 50 years. The Administration has advised that the objective of providing an upfront endowment of \$21.6 billion to WKCDA is to ensure that the WKCD project would be financially self-sufficient. WKCDA will carefully map out the master planning of the district and the design of the facilities to be provided in WKCD, and with the right development mix and people for the development and management of these facilities, there is no reason to doubt the viability and sustainability of the WKCD project. The arrangement to cover the operating deficits of arts and cultural facilities would be sufficient for the sustainable operation of the facilities in Phase I and Phase II of WKCD. The Administration stresses that it does not envisage a need to seek additional funding from LegCo. Moreover, WKCDA can raise funds through private sector financing and donations.

### Room for disbursing the endowment fund by instalments

4.71 The Subcommittee has examined the alternative arrangement of approving and disbursing the endowment fund to WKCDA by instalments. The initial considerations were that this arrangement would address the concern that WKCDA, being a newly established statutory body, would have to face immense pressure arising from the need to manage such a huge sum

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of money, and that it would take time for WKCDA to inspire confidence in the public of its competence in managing its financial resources especially in respect of investment of the \$21.6 billion endowment fund.

4.72 In this regard, the Administration has explained that the instalment approach would have certain major drawbacks. Firstly, if the upfront endowment was to be approved and paid by instalments, it would create funding uncertainty which would in turn adversely impact on the formulation of the master plan of WKCD (where all the proposed facilities would have to be set out) and the development of the various facilities. This is especially so if WKCDA is to adhere to the timetable assumed in the Consultative Committee's recommendation - completing the construction of all the proposed facilities in Phase 1 (12 performing arts venues, and 70% of the M+, the Exhibition Centre and RDE facilities) by 2014-2015, i.e. within a time period of six to seven years. With the upfront endowment, WKCDA would be able to work on the building, design and programming of the facilities in a timely and integrated manner. This is practically necessary since any world-class arts and cultural facilities should be built and designed from the inside out, i.e. with due and adequate account of the user requirements, and the needs of their management and operation. Moreover, any world-class performance or exhibition programmes normally requires a lead preparation period of several years. As such, funding stability is essential to enable WKCDA to recruit the best talents and engage the best organizations to plan, design and manage the various facilities, as well as to commission and negotiate arrangements for major world-class arts and cultural programmes to be staged in the different facilities in good time.

4.73 The second major drawback highlighted by the Administration is that the upfront endowment sought is the net present value (NPV) in 2008 of the expected cash flows for the capital costs over the project period. WKCDA is required to secure adequate investment income from any unused endowment to help meet the estimated cash flow requirements over the project period. If the endowment is separated into a number of instalments paid over a period of time, the actual funding amount available for investment at any one time would be reduced. As a result, the Authority

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would have less flexibility in formulating an investment portfolio that would maximize the return at a lower risk.

4.74 The Administration has also emphasized that the upfront endowment will provide greater incentives for WKCDA to make the optimal use of the financial resources under its control for developing and operating WKCD in a financially sufficient and sustainable manner as recommended by the Consultative Committee.

4.75 The Subcommittee notes that according to FA's estimation, the total capital cost required for the Phase I development amounts to some \$19.8 billion, and this amount already represents 91.8% of the upfront endowment proposed. As such, if the endowment fund is to be approved and disbursed in two phases with the first instalment sufficient for the entire Phase I development, the portion of the endowment to be carved out from the first instalment will be less than 10% of the \$21.6 billion. While the future WKCDA may, after further review of the various implementation and other factors, refine the implementation schedule of the Phase I development, the Subcommittee acknowledges that it is not desirable at this stage to arbitrarily split up the Phase I development into further phases merely for the purpose of adopting an instalment funding approach.

4.76 The Subcommittee acknowledges that the main rationale underlying the upfront endowment arrangement is for the entire WKCD project to be developed and operated in an integrated and a financially self-sufficient and sustainable manner, and that WKCDA is to be entrusted to achieve this objective through prudent financial management and sensible investment of the endowment fund. Taking into account the Administration's further assurance that the estimated annual investment return of 6.1% over the project period should be achievable, and that there is the flexibility to defer the Phase II development of the project in the case of cash flow difficulties, some members are persuaded that there is no significant advantage to be gained by releasing the endowment by instalments, while others remain unconvinced that WKCDA should be given at this early stage the entire endowment when adequate checks and balances are yet to be put in place to monitor the way public funding is incurred by the new body.

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4.77 In respect of prudent financial management, the Administration assures the Subcommittee that WKCDA will be required by statute to manage its finances (including resources) with due care and diligence. WKCDA is expected to rely on these financial resources to develop and operate the arts and cultural facilities, related facilities and ancillary facilities in a financially sustainable manner. In this connection, WKCDA shall invest in a financially prudent manner the funds available for investment in such classes or descriptions of investment as the Financial Secretary may specify. WKCDA may borrow and raise money. CE may direct that WKCDA may not borrow or raise any sum which exceeds a specified amount without the approval of the Financial Secretary.

4.78 The Subcommittee considers that it is important that WKCDA will ensure that its operation and financial arrangements are open for scrutiny by LegCo and the public. In this connection, the Subcommittee has urged the Administration to undertake that WKCDA will be required to provide periodic reports to LegCo on the programme and estimates for the construction of CACF facilities, its business plans for CACF and RDE facilities, audited statements of accounts, and an account of the delivery of or delays in implementation of individual facilities. At the Subcommittee meeting on 5 June 2008, the Administration undertook to put in place arrangements for reporting periodically to LegCo on the use of the upfront endowment by WKCDA after it has come into operation and has been provided with the funding,, and WKCDA will also attend meetings of LegCo and its committees from time to time to brief Members on the WKCD project.

4.79 The Subcommittee is aware that by the time this Phase III Report is published, the financial proposal seeking an upfront endowment of \$21.6 billion would have been submitted to PWSC for consideration. In order that members of PWSC would have the chance to understand the implications of the financial proposal and the Subcommittee's views on the financial approach and the methodology in computing the \$21.6 billion endowment, an advance draft copy of this chapter has been forwarded to PWSC for its reference before its meeting on 18 June 2008, at which the financial proposal was considered.

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## Chapter V : Statutory body to take forward the West Kowloon Cultural District project

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### Background

5.1 In a number of its papers, the Government says that it is committed to the principles of "people-oriented", "partnership" and "community-driven" in taking forward the WKCD project. It was the CHC which had first proposed to give emphasis to these principles in the planning and development of WKCD. The Subcommittee shares the view of the Commission and the Government in this regard, and considers that the establishment of an appropriate institutional framework is crucial to meeting these principles. In this chapter, the Subcommittee examines whether the Government's proposed institutional framework for developing and operating WKCD is conducive to realizing the vision for WKCD and consistent with the abovementioned principles.

5.2 The idea of establishing an independent statutory body to oversee the planning, development and operation of WKCD was first raised in a motion debate on "Development of the West Kowloon Cultural District" at the Council meeting on 5 January 2005. According to the terms of the motion passed (**Appendix 5.1**), the Council strongly urged the Administration to set up a WKCD development authority, which should be a statutory body comprising members from various sectors, to take up the planning, development and management of WKCD. At that time, the Administration was pursuing the WKCD project under the IFP framework.

5.3 In the Phase I Report of the Subcommittee published in July 2005, the Subcommittee recommended that an overseeing authority for the development of WKCD be set up. The Subcommittee considered that this overseeing authority should be given the mission to oversee the development of the project, and be responsible for co-ordinating and implementing the development of the infrastructure, including design, planning and implementation as well as taking overall control and monitoring of the management and operation of the core facilities in WKCD in partnership with the arts community.

5.4 On 7 October 2005, when it announced the adoption of a modified approach under the IFP framework, the Administration acknowledged that

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there was broad public support for establishing an independent body to oversee the planning, design, development and operation of WKCD to enhance public participation and for effective monitoring. This position was reaffirmed by CS in February 2006 when he announced that the Government would not further pursue WKCD under the IFP framework.

5.5 In the meantime, the Subcommittee continued to invite public views on the role of the independent body and its scope of responsibilities, functions, corporate governance structure and mode of operation. In its Phase II Report published in January 2006, the Subcommittee considered that a statutory body should be set up immediately to spearhead WKCD. The Subcommittee recognized the need to provide the statutory body with a high degree of autonomy in its operation, but stressed that its budget and financial requirements should be subject to public scrutiny and LegCo's approval, and that there should be a mechanism to ensure good corporate governance in the new institution.

5.6 The setting up of a WKCDA was also one of the major recommendations of the Consultative Committee established in April 2006 which was tasked to re-examine the need for the arts and cultural facilities in WKCD. In its Recommendation Report published on 12 September 2007, the Consultative Committee recommended that the Government should proceed to draw up legislative proposals for the setting up of a WKCDA as soon as practicable. The Consultative Committee also put forth proposals in fairly specific terms on the objectives, functions and powers of WKCDA as well as measures to enhance the Authority's public accountability and safeguard public interest. Recognizing the time required for enactment of the enabling legislation, the Consultative Committee considered that there was a need to consider whether, through administrative means, a provisional body or some form of steering committee should be set up to take forward the early stage of preparatory work at once.

5.7 Soon after the release of the Consultative Committee's Report, the Administration informed the Subcommittee that it intended to introduce the legislation for WKCDA upon completion of the public engagement exercise with a view to enacting the legislation before the end of the 2004-2008

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LegCo term. The Administration would only consider the option of setting up a provisional body for the early stage preparatory work if the relevant bill could not be passed according to this timeframe.

5.8 Noting that the drafting of the relevant legislation had only begun at that time, the Subcommittee anticipated that the time available for LegCo to scrutinize the relevant legislation would be extremely tight. To expedite the process, the Subcommittee requested the Administration to provide papers setting out its thinking about the proposed legislation, with as much details as possible in order that views of LegCo Members and the public could be taken into account before the draft Bill was finalized. Subsequently, the Subcommittee held a series of meetings to discuss the key aspects of the proposed legislation and hear views from interested parties on the Administration's proposals, prior to the gazettal of the WKCDA Bill on 1 February 2008. The Subcommittee continued to meet after the gazettal of the Bill until the relevant Bills Committee was formed by the House Committee on 22 February 2008. To facilitate the Bills Committee to scrutinize the WKCDA Bill, the Subcommittee had set out its deliberations on the proposed WKCDA in a paper, which is the first draft of Chapter V of this Report, issued in March 2008.

### **The West Kowloon Cultural District Authority Bill**

5.9 In accordance with the recommendation of the Consultative Committee, the Bill proposes to set up WKCDA as a dedicated statutory body whose major functions are to implement the WKCD project from its planning to the operation stages and to ensure the project's financial sustainability. WKCDA is required to have regard to one or more of the specified purposes relating to the promotion of arts and culture in performing its functions and is vested with the necessary powers to do so. The governing and executive body of WKCDA will be a Board of not more than 20 members, all of whom, with the exception of the Chief Executive Officer (CEO), will be appointed by CE. The Bill also provides for planning matters and financial matters pertinent to WKCDA. This Chapter focuses on the proposed institutional arrangements and the proposed

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accountability measures in the Bill. The town planning and financial aspects of the WKCD project will be discussed separately in two other chapters of this report.

### **Mission and objectives of WKCDA**

5.10 The Subcommittee shares the aspirations expressed by deputations that WKCDA should be a stakeholder-led statutory body and not a government-led bureaucracy. The primary objective of its establishment should enable the implementation of WKCD through bottom-up and community-driven approaches. WKCD must have its roots in the community and as such, WKCDA's purposes and functions should have a strong community dimension, with the ultimate objective to enrich the cultural life of Hong Kong people. In discharging its functions, WKCDA should persevere with professional operations and uphold the principles of cultural diversity and freedom of expression.

5.11 The Subcommittee also concurs with some deputations that WKCDA should embrace the mission of conserving and nurturing the peculiar local cultural environment and promoting the identification with indigenous culture. There is a strong need to improve the quality of the cultural life of the low income sector and those living in new towns and remote areas. In this regard, WKCDA should earmark a portion of its funding for outreach cultural activities and arts education. The Subcommittee also understands the concern of some deputations that WKCDA would become a huge property and venue management company, given that the Authority would need to be financially self-sustainable and would run a substantial portfolio of property business, i.e. the retail/dining/entertainment facilities, in order to generate income to subsidize the operating deficits of cultural venues.

5.12 The Subcommittee considers that in view of the high expectations of the community on WKCDA and the important implications of its work on people's quality of life, the mission and objectives of WKCDA should be promulgated in the legislation in specific terms and where possible, with

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objective indicators to facilitate the public's continuous monitoring of its work and assessment of WKCDA's achievements in relation to its mission and objectives. In this regard, the Subcommittee notes that members of the Bills Committee have expressed similar views and the Administration has undertaken to refine the relevant provisions in the Bill to reflect more clearly the vision and objectives of the WKCD project.

### **Delineation of funding responsibilities between WKCDA and existing government and statutory bodies**

5.13 Some deputations have expressed concern that the functions and powers of WKCDA may be too encompassing and there is overlapping of functions with some existing government and statutory bodies. At present, the Home Affairs Bureau and the Hong Kong Arts Development Council are the two major government/statutory bodies providing direct funding support in the form of subventions to artists and arts groups, while LCSD provides other types of support to artists and arts groups through the organization of programmes/events and the management of its venues. The establishment of WKCDA and the commissioning of the arts and cultural facilities in WKCD will set a new scene for the local arts and cultural community. Under the Bill, WKCDA would have the powers to, inter alia, sponsor or provide financial support to facilitate the organization of activities relating to arts and culture and to commission, mount or present any work of visual art, exhibition or theatrical, music, dance or other arts production.

5.14 In view of the substantial resources that would be at the disposal of WKCDA, it is anticipated that direct and indirect funding support provided by WKCDA to local artists and arts groups would have an important impact on the existing funding system for the local arts and cultural community. The Subcommittee has requested the Administration to take a critical look into the issue and devise measures to ensure effective use of public resources. The Administration assures the Subcommittee that WKCDA would be working closely with the Government and other relevant statutory bodies to realize its vision and mission. The Home Affairs Bureau, which is the Bureau responsible for arts and cultural policy, would devise measures to

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ensure effective co-ordination between the Government, and relevant statutory bodies (including WKCDA), as well as an appropriate mechanism to ensure effective use of public resources.

5.15 The Subcommittee also notes that the Government is planning to increase the overall resource provisions from 2008-2009 onwards to strengthen the development of cultural software and humanware through a series of different measures so as to realize the vision and objectives of WKCD. The Government would also take the opportunity of developing WKCD to review and align the objectives of the Government's cultural policy, particularly to develop Hong Kong as an international cultural metropolis.

### **Composition of the WKCDA Board and the appointment mechanism**

5.16 In its Phase II Study report, the Subcommittee has pointed out that it is of paramount importance that the statutory body should be widely representative with a high level of public participation. While it is unrealistic to expect that each and every sector will be represented, the relevant sectors such as the arts and cultural sector and the building sector must be represented on the statutory body. The Subcommittee has also emphasized that there should be a balance between the sectors represented with no particular one dominating, and has suggested that all parties which have a role to play in the planning, implementation and management of the cultural and non-cultural facilities should be represented on the statutory body.

5.17 The Subcommittee notes that there is a general consensus among deputations that the composition of WKCDA should follow the "stakeholder-led" principle. Many deputations have suggested that the membership of the governing board should consist of persons representing various arts and cultural sectors, community representatives (such as LegCo Members and District Council Members), as well as professionals possessing expertise in areas pertinent to the WKCD project at different

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stages of development. A few deputations have highlighted the need to set out clear criteria for appointment to WKCDA in the legislation.

5.18 As regards the appointment mechanism, the Subcommittee notices that there are diverse views among deputations on the issue of whether the non-public officer members of the WKCDA Board should be chosen through nomination and election. Those deputations who support this arrangement share a common belief that members nominated or elected by their relevant sectors would enjoy greater support within their sectors and in turn, making the WKCDA Board more credible and more representative of the relevant sectors. A few deputations have made reference to the nomination system adopted for the Hong Kong Arts Development Council and suggested that the system should be adapted with improvement for WKCDA. Other suggestions were made, including the adaptation of the election system for returning some board members of the Hong Kong Arts Centre and the use of the electoral registers in the elections of the professional subsectors of the CE Election Committee.

5.19 Some deputations have expressed objection to or reservation about the adoption of a nomination or election system for returning the non-public officer members of the WKCDA Board. Their main concern is that such mechanisms would politicize WKCDA and compromise the professionalism of the Authority. A few deputations consider that there are problems with the present nomination system for the Hong Kong Arts Development Council and thus they do not favour adopting the same arrangement for WKCDA.

### Proposals in the Bill

5.20 The Bill provides that the Board of WKCDA should consist of not more than 20 members, comprising --

- (a) the Chairman who may or may not be a public officer;
- (b) CEO;



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- (c) not more than 15 members, who are not public officers, including at least five members who, in the opinion of CE, are connected with the arts and culture, and at least one member who is a member of LegCo; and
- (d) three other members who are public Officers.

According to the Administration, the three public officers sitting on the Board will be SHA or his representative, the Secretary for Development (SDEV) or his representative, and the Secretary for Financial Services and the Treasury (SFST) or his representative.

5.21 Under the Bill, all Board members (other than the CEO) are to be appointed by CE, and that the number of Board members who are public officers is not to exceed the number of those who are not public officers. The Bill also provides that the Board may establish committees to deal with various matters, in particular matters relating to planning, finance and operation of arts and cultural facilities.

### The Subcommittee's views on the proposed membership composition

5.22 The Subcommittee considers it appropriate to cap the size of the Board at 20 members, and agrees that the Board should comprise at least one LegCo Member and at least five members from the arts and cultural sector. The Subcommittee concurs with the Administration that the development and operation of WKCD would require different expertise and knowledge in various fields at different stages of the project, but considers that the appointment mechanism should have transparency and the Administration should be accountable to the public for the appointments to the Board. In this regard, some members of the Subcommittee consider it appropriate to specify in the legislation the relevant considerations that CE should have regard to in making the appointments, such as the relevant backgrounds, expertise and other important qualities required of the prospective candidates, and the need to achieve a balanced representation of the various stakeholder groups.

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5.23 Regarding the methods of selecting the persons for appointment, to ensure the representation of and acceptance by the relevant sectors, the Subcommittee considers that there is a strong case for some Board members to be selected through nomination or election, and that those members should be appointed to the Board in their representative capacities instead of on a personal basis.

5.24 The Subcommittee has suggested that as a measure to enhance WKCDA's accountability to LegCo, the arrangement whereby LegCo Members are elected to sit on the governing bodies of the local universities from and among LegCo Members should also apply to the selection of LegCo Member(s) to sit on the WKCDA Board. The Administration does not accept such an election arrangement, and stressed that LegCo Members may through various ways propose the most appropriate Members among themselves for CE's consideration for appointment.

5.25 As for the other non-public officer members of the WKCDA Board, the Subcommittee considers that the Administration should endeavour to devise suitable nomination or election mechanisms for returning those members in consultation with the relevant sectors. The Subcommittee is aware that currently, the Hong Kong Arts Development Council and the Construction Industry Council are the only local statutory public bodies the enabling legislation<sup>1</sup> of which provides for nomination of members by specific organizations.

5.26 While there are differences in the detailed arrangements of the nomination mechanisms for the two statutory bodies, the spirit underlying these arrangements is the same. When enacting the relevant legislation, LegCo Members believed that through the nomination mechanism, the persons appointed to the governing board would have a higher acceptance level within the respective sectors; they would serve to channel views from their respective sectors to the governing body and vice versa, and as these

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<sup>1</sup> For the Hong Kong Arts Development Council, the nomination arrangement is provided for under section 3 of the Hong Kong Arts Development Council Ordinance (Cap. 472). For the Construction Industry Council, the nomination arrangement is provided for under section 9 of the Construction Industry Council Ordinance (Cap. 587).

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members would be answerable to their respective sectors, the public accountability of the governing body would be enhanced.

5.27 To the disappointment of some Subcommittee members, the Administration has ruled out the adoption of any nomination or election mechanism at a very early stage. Its explanation is that clear definitions of the concerned sectors are the pre-requisite for a workable nomination or election mechanism. Given the lack of a registration system for the arts and cultural sector, adoption of a nomination or election mechanism for the WKCDA Board will give rise to arguments and discontent.

5.28 The Subcommittee recognizes that there are difficulties in drawing up nomination or election mechanisms agreeable to all parties concerned. However, since a nomination mechanism has already been used for returning the 10 members of the Hong Kong Arts Development Council representing the specified interests on arts and culture, it is incumbent upon the Administration to draw from that experience and devise a new nomination/election mechanism that suits the circumstances of WKCDA in consultation with the relevant sectors. As for the professional sectors, there are already well established membership registration systems for various local professional institutes, and some are governed by statutes. Subject to the views of the relevant professional sectors, the Administration may also consider adopting the existing electorate registers under the existing electoral legislation, such as the election of the members of the CE Election Committee and the election of LegCo Members returning from functional constituencies.

5.29 If all non-official Board members are to be directly appointed by CE without nomination or election, which should be devised through extensive consultation with the relevant sectors, the public would most likely perceive the Board as no more than a government-led bureaucracy in disguise even if such is not actually the case. The independence and representativeness of WKCDA would constantly be queried, and it would be very difficult for the Authority to establish its credibility and reputation as an independent and stakeholder-led governing and executive body for the WKCD project.

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### Recent developments

5.30 The Subcommittee notes that some members of the Bills Committee have expressed grave concern about the appointment mechanism provided in the Bill, which they consider would seriously undermine the independence of WKCDA. This is because the entire appointment exercise would be conducted behind closed doors and at the sole discretion of CE. Moreover, the bill does not provide for checks and balances to prevent cronyism. Taking note of the Administration's explanation about the practical difficulties to prescribe a proper and fair election or nomination system for the arts and cultural sector, members of the Bills Committee have made various suggestions to improve the mechanism for constituting the WKCDA Board. The suggestions include --

- (a) candidates for appointment to the Board should be identified through an open recruitment/nomination process and an independent panel should be set up to assess the suitability of candidates for appointment to the Board according to a set of objective criteria;
- (b) the criteria for the appointment such as the backgrounds and the qualities required of the persons should be specified in the legislation; and
- (c) CE should be mandated to consult certain bodies such as the Hong Kong Arts Development Council for their nomination of candidates for the Board.

5.31 The Subcommittee considers that the above suggestions are not mutually exclusive and worth further consideration by the Administration and the Bills Committee. Besides, the election option should remain an option where the practical difficulties involved are not insurmountable. The Subcommittee would reiterate its view that LegCo Members to sit on the Board should be elected by and among LegCo Members.

**Candidature of the Chairman of WKCDA**

5.32 The Bill provides that the Chairman of WKCDA may or may not be a public officer. The Subcommittee is gravely concerned that the normal checks and balances on the powers of a statutory body would become ineffectual if WKCDA is to be headed by a very senior public officer such as the Chief Secretary for Administration. As such, the monitoring roles that should be exercised by various government departments and relevant authorities on the financial management, planning and cultural development work of WKCDA would likely be overridden by the public officer's top position in the Government. Moreover, the three public officer members sitting on the WKCDA Board, namely, SHA, SDEV and SFST, who should have a role to play in monitoring the work of WKCDA on behalf of the Government, would find it difficult, if not impossible, to perform the monitoring role properly, as they are directly or indirectly subordinate to CS under the Government hierarchy.

5.33 The Subcommittee considers that having a public officer to lead WKCDA would not be conducive to attaining the Authority's mission of contributing to the long-term development of Hong Kong into an international arts and cultural centre. It is because a public officer would probably lack the required experience in and exposure to the international arts and cultural arena to lead WKCDA. On the practical side, given the heavy workload and responsibilities of a senior public officer, he or she may not be able to devote the attention required of a Chairman of WKCDA.

5.34 The Subcommittee has requested the Administration to address the above concerns but to no avail. The Administration has declined to provide a substantive answer on the policy considerations in appointing a public officer as the chairman of a statutory body in general nor for the present case of WKCDA, but reiterated the necessity to provide adequate flexibility for CE to appoint the most appropriate person, from within or outside the Government, as the Chairman at different points in time. On the concern that the normal checks and balances would become ineffectual, the Administration asserts that various Government Departments and law enforcement agencies would perform their roles and functions according to

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the law, irrespective of whether or not the Chairman is a public officer and regardless of his position.

5.35 The Subcommittee remains of the view that as WKCDA would be given wide ranging powers and endowed with substantial public resources at its disposal, if it is to be led by a very senior public officer, the supervisory/subordinate relationships of the government bureaucracy would definitely interfere with and very likely prevail over the various checks and balances instituted through the Bill and other existing ordinances. The independence of WKCDA would then be seriously undermined.

### **Public accountability and operational transparency of the statutory body**

5.36 In its Phase II Report, the Subcommittee has stressed that to ensure that WKCD is developed and implemented in the best public interest and not just in the interest of the relevant sectors represented in the statutory body, there should be accountability, transparency and good governance in its operation. These cardinal principles must be built into the mode of operation of the statutory body. How this could be achieved and whether this should be achieved by legislative or administrative means should be thoroughly considered during the scrutiny of the legislative proposal, taking account of public views.

5.37 According to the Administration, the following arrangements provided in the Bill will ensure the public accountability of WKCDA --

- (a) the requirement for the Board members to declare interest and WKCDA to make available such information for public inspection;
- (b) the designation of WKCDA as a public body under the Prevention of Bribery Ordinance and the Ombudsman Ordinance;

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- (c) the requirement to submit three-year corporate plans and annual business plans to the Government for records;
- (d) the requirement to submit annual reports and audited statements of accounts to the Government which will table them in LegCo;
- (e) the requirement on the Chairman and CEO of WKCDA to attend LegCo meetings and answer questions at the meetings;
- (f) the requirement on WKCDA to consult the public in respect of matters relating to the development and operation of WKCD; and
- (g) the power conferred on Director of Audit to examine the economy, efficiency and effectiveness with which the Authority has expended its resources in performing its function.

5.38 The Subcommittee notes that there is a general consensus among deputations that WKCDA should operate with a high degree of transparency. Adequate measures should be put in place to ensure that the Authority will be subject to adequate public scrutiny and effective monitoring by LegCo. Apart from the public accountability measures proposed by the Administration, a number of deputations have highlighted the need for close monitoring of WKCDA's financial management and its deployment of financial resources. They consider that LegCo should play an important role in this regard by scrutinizing and questioning its budgets. Some deputations suggest that the corporate plans and business plans should be made public for review and discussion, and WKCDA should report its operation to LegCo and be subject to LegCo's questioning on a regular basis. The Subcommittee agrees with the deputations that WKCDA should operate with a high degree of transparency and should be accountable to the public and LegCo, and finds that the relevant proposals in the Bill are inadequate to ensure the transparency of WKCDA's operation and its public accountability. In this regard, the Subcommittee has deliberated in detail the issues of mandating WKCDA to hold its meetings in public and to allow public access

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to information on its work plans.

### Opening up of meetings to the public

5.39 Given that WKCDA is to be established to plan, implement and operate the arts and cultural facilities and other ancillary facilities in WKCD, the Authority's policies and decisions will have bearing on the quality of living of every member of the community. Moreover, the various facilities in WKCD and the resources to build and operate the facilities are actually public resources. The public therefore should have the right to know the process through which WKCDA arrives at decisions affecting these public facilities. To meet the public aspirations, some Subcommittee members have advocated that the Bill should include specific provision on open meetings of the WKCDA Board and access to the information of WKCDA. To some Subcommittee members' disappointment, no such provisions are included in the Bill introduced into LegCo.

5.40 The Administration holds the view that while the WKCDA Board may choose to open some of its meetings under certain circumstances and make the relevant documents available to the public on its website, it is inappropriate to make it mandatory for the WKCDA Board to meet in public, or to prescribe the circumstances and ways in which it should or should not do so. The Administration's main argument is that most of the Board meetings would involve a great deal of discussions related to facility management contracts and even evaluation of performance of arts groups, which should not be open to the public. The Administration further defends its position by citing that while most existing statutory bodies, including those relating to arts and culture both in Hong Kong and other places, are not subject to statutory requirement for them to open their meetings to the public, some of them have chosen to open up some of their meetings to the public.

5.41 The Subcommittee considers that the Administration's worries about inappropriate or premature release of sensitive information can be addressed through proper drafting of the law which can specify those factors or circumstances that warrant closed-door meetings. Such worries should not

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be used as the pretext for not requiring WKCDA to open up its meetings and hence undermining the public's right to observe the decision-making process of WKCDA.

5.42 The Subcommittee notes that as a result of persistent demands from LegCo Members for greater transparency of the operation of statutory bodies, the Town Planning Ordinance and the Construction Industry Council Ordinance have incorporated provisions<sup>2</sup> requiring the Town Planning Board and the Construction Industry Council to hold their meetings in public except under the circumstances specified in the ordinances. The mandatory requirement of open meetings was incorporated into the Town Planning Ordinance through the legislative amendments enacted in 2004. Regarding the Construction Industry Council, the requirement was made part of the legislation through a Committee Stage amendment in 2005. The Subcommittee considers that the issue should be fully discussed during the scrutiny of the Bill.

5.43 The Subcommittee notes that there have been substantial discussions on the issue of "open meetings" at the Bills Committee on the WKCDA Bill. Members of the Bills Committee have expressed a strong wish that WKCDA would operate with a high degree of transparency, in order to meet the public expectation that its decisions should not be made behind closed doors. Up to the time of preparing this report, the Administration has maintained its position that it is not appropriate to impose a statutory requirement on WKCDA to hold its meetings in public, while allowing it to hold closed-door its meetings under certain specified circumstances. The Administration's explanation is that unlike regulatory or consultative bodies, WKCDA's key functions are to plan, develop, operate and maintain WKCD. The Administration expects that a vast majority of the meetings of the Board and committee of WKCDA will involve discussions of commercially and

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<sup>2</sup> Under section 2C of TPO, the meetings of TPB and its committees shall be open to the public subject to certain exceptions provided under the section. Under section 9 of Schedule 3 to the Construction Industry Council Ordinance (Cap. 587), the meetings of the Council shall be open to the public subject to certain specified exceptions, or if the Council, having regard to all the circumstances of a particular case, reasonably considers that a meeting or any part of a meeting should not be open to the public.

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market sensitive matters, the disclosure of which will make it very difficult for WKCDA to operate effectively and efficiently.

5.44 The Subcommittee also notes that the Bills Committee has made reference to the procedures of the two former Municipal Councils, which planned and built cultural and leisure facilities through funding provided by the Government as well as overseeing the management and operation of those facilities. For the former Urban Council/Provisional Urban Council, while it was not specified in the legislation, the meetings of the full Council and the select committees were open to the public except for matters of confidential nature and sensitive items which must be discussed in private. As for the former Regional Council/Provisional Regional Council, it was specified in the legislation that the meetings of the Council and any committee were to be held in public unless the Chairman or a chairman of such committee otherwise ordered in accordance with a decision of the Council or that committee. The Administration has contended that despite these open meeting arrangements, most of the important deliberations such as presentation of cultural programmes took place at close-door meetings of committees. The Subcommittee considers that there is a strong case to impose similar requirements for "open meetings" on WKCDA, whose functions in relation to arts and cultural facilities are similar to those of the former Municipal Councils. With the "open meeting" requirement written into law, the WKCDA Board and its committees would be obliged to explain to the public the reason(s) for not holding a meeting in public. Whether a vast majority of meetings would need to be held in closed doors or otherwise should not be the primary consideration.

### Public access to information about the work plans of WKCDA

5.45 Under the Bill, WKCDA is required to send annually to SHA for record purpose a corporate plan covering its programme of activities in the coming three years, and a business plan covering its activities and projects in the coming year. The Administration regards these requirements as a measure to safeguard public interest. The Subcommittee cannot see why this is the case, given that the corporate plans and business plans will only be made available to the Administration, but not to LegCo and the public.

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How could LegCo and the general public scrutinize the work of WKCDA, if they have no access to its work plans?

5.46 The Administration has explained that as the contents of the corporate plan and the business plan which fall within the purview of WKCDA may include market sensitive or confidential commercial information, the arrangements provided in the Bill are intended to allow a certain degree of autonomy and flexibility for WKCDA in exercising its functions. Such an explanation gives the impression that the Administration is treating WKCDA like a private business entity rather than a statutory public body. If WKCDA is to conduct its work in a manner consistent with a statutory public body, it must be subject to the presumption against withholding information from the public. The Subcommittee recognizes that there can be exceptional circumstances which override the presumption, and such exceptional circumstances can be catered for through inclusion of appropriate provisions in the Bill.

5.47 To defend its position, the Administration has repeatedly cited the various "accountability" measures in the Bill, as mentioned in paragraph 5.37 above. These measures can hardly provide sufficient assurance to LegCo and the general public as evidenced by past experience with existing statutory public bodies. In fact, many existing statutory bodies are also subject to these requirements, but experience has revealed that they are far from effective for holding the relevant authorities accountable to LegCo and the public and for safeguarding public interest. The reasons are simple and clear: it is up to the statutory bodies to determine how much information about its work plans and major decisions are to be disclosed. The reality has been that the information accessible to the public is only sufficient to serve some public relations functions. It is often when serious problems have been revealed by the virtually ultimate watchdog, the Director of Audit, that the public can have notice of those problems, but by that time, substantial public resources might already have been misused and public interest jeopardized.

5.48 The Subcommittee notes that there are diverse views among members of the Bills Committee on whether the corporate plans and

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business plans of WKCD should be disclosed to the public. There is however general consensus that the Bill should provide that WKCD shall engage the public in preparing its corporate plans and business plans, and that the annual report of WKCD should specify how its activities for that financial year related to the relevant corporate plan and business plan of WKCD. The Administration has undertaken to include suitable provisions in the Bill for this purpose.

### **Establishment of statutory consultation panels**

5.49 The Subcommittee believes that if the vision of a people-oriented and community-driven WKCD is to be realized, it would be necessary to institute a formalized mechanism for structured public engagement. This view has been explicated in the Subcommittee's Phase II Report<sup>3</sup>.

5.50 Notwithstanding the Subcommittee's repeated demand in this regard, the Administration had only included a very loose provision in the Bill on public consultation (clause 17 of the Bill). In effect, WKCD is almost entirely free to decide when and how to consult. There is no mention in the Bill at all about the establishment of consultation panels which the Subcommittee has advocated. The Subcommittee recognizes that the authority should be given an extent of autonomy in its consultation work, but strongly believes that the establishment of statutory consultation panels will not put it under unnecessary constraints; rather, by so doing it would be able to garner views from stakeholders and the general public in a structured manner and on an on-going basis. According to the experience of the Financial Services Authority of the United Kingdom, formalization of the consultation process, through the establishment of the Financial Services Consumer Panel and the Financial Services Practitioner Panel, in the legislation would make it possible for all supporting and opposing views to be brought to open discussion. This would effectively draw public attention to the implications of proposals at the formative stage and help reduce uncertainties and minimize resistance due to a lack of understanding.

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<sup>3</sup> Paragraphs 5.34 to 5.37, 6.18 and 6.31 of the Phase II Report

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5.51 Another good example of formalized public engagement is the Bilbao Metropoli-30, an independent civil body established in 1991 with the main purpose of carrying out promotional actions and studies aimed at driving the completion of the Strategic Plan for the Revitalization of the Metropolitan Bilbao<sup>4</sup>. With a strong and representative source of membership, Metropoli-30 successfully assumes three roles with only 10 odd staff. First, it lobbies the private sector to support the public authorities' initiatives and the public sector to support the private bodies' needs. Second, it functions as a think tank. Third, it provides networking to link up the otherwise fragmented interest groups. The Subcommittee recognizes that Metropoli-30 was not established through legislation, but finds its experience in relation to the revitalization of Bilbao highly relevant to the WKCD project. In view of the political environment in Hong Kong, the Subcommittee considers it desirable to institutionalize a public engagement body similar to Metropoli-30 through legislation. This would ensure that the body would be provided with adequate funding and staffing support, and that the relationship between WKCD and the body and how they would collaborate would be clearly defined.

5.52 The Subcommittee notes that some members of the Bills Committee have proposed to establish statutory consultation panels for the WKCD project. Recognizing that the main purpose of such panels is to facilitate ongoing and systematic public engagement, the members have further suggested that while WKCD should be obliged to engage the panels openly, the opinions of the panels and their members will not bind the Authority. The Administration initially rejected this proposal but on 12 June 2008, advised the Bills Committee that it would move Committee Stage amendments to provide for the establishment of a consultation panel to gather public views on matters relevant to the functions of the Authority.

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<sup>4</sup> Details about the structure, functions and mode of operation of Metropoli-30 are available in paragraphs 5.21 to 5.25 and Appendix 5.2 of the Subcommittee's Phase II Report.

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### Good governance

5.53 The Subcommittee has pointed out in its Phase II Report that since the WKCD project involves interests of various sectors, public perception of the statutory body being independent and impartial is important. The best way to project such public perception is by establishing an independent secretariat for the statutory body. An independent secretariat will enhance public confidence on the independent operation of the statutory body without undue influence from the Government. To attract persons of high calibre and with the required ability, experience and commitment to take up the post of the executive director for the statutory body, it is important to devise a remuneration package which is commensurate to the scope and level of responsibilities of the post but not excessive. Instead of determining the remuneration package arbitrarily, the Subcommittee considers that a fair and objective mechanism should be devised in the first place<sup>5</sup>.

5.54 Having reviewed the situation of existing statutory public bodies and taking into account relevant public concerns, the Subcommittee has also recommended its Phase II Report that there is an immediate need to set up an independent panel to (a) review comprehensively the remuneration package of the staff of existing statutory bodies and to propose a mechanism for determining their remuneration, in particular the remuneration of executive heads; and (b) to devise a mechanism for disclosure of their remuneration packages in order to facilitate monitoring by LegCo and members of the public. Since many statutory bodies are financed by public money, the Subcommittee considers that LegCo must have a say in approving the proposed mechanisms<sup>6</sup>.

5.55 Noting that the Administration has not undertaken any active steps to conduct a comprehensive review recommended by the Subcommittee and hence the absence of a fair and objective mechanism for determination of the remuneration of the staff of statutory bodies, the Subcommittee considers it

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<sup>5</sup> Paragraphs 4.32 and 4.34 of the Phase II Report

<sup>6</sup> Paragraphs 4.38 and 4.39 of the Phase II Report

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necessary to provide for a relevant mechanism in the enabling legislation on WKCDA. In this regard, the Subcommittee notes that the issue has been raised at the Bills Committee. The Administration has undertaken to include new provisions in the Bill for the establishment of a Remuneration Committee to advise WKCDA on matters relating to allowances, benefits and remuneration, and other relevant matters for all employees of the Authority. However, the Administration considers that it would unduly restrict the flexibility of WKCDA in offering market competitive package for specific posts if the method for determining the remuneration package is specified in the Bill. As regards disclosure of remuneration packages of senior executives of WKCDA, the Administration has refused to specify in the Bill the manner in, and extent to which the remuneration packages are to be disclosed, while it envisages that WKCDA will follow the practices adopted by similar statutory bodies of disclosing the remuneration packages of their senior executives in the annual reports. Some Subcommittee members consider that unless objective criteria and methods for determining the remuneration of staff of statutory bodies are laid down through statutes or other instruments which public statutory bodies are obliged to comply with, the public cannot be rest assured of good governance of statutory bodies with regard to staff remuneration.

5.56 The Subcommittee notes that it is the intention of the Administration to resume the Second Reading debate of the Bill in late June or early July 2008. The Bills Committee's scrutiny of the Bill is still ongoing at the time of preparing this Report. Details of the deliberations of the Bills Committee will be set out in its report to be submitted to the House Committee.

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6.1 There are hardly any other development projects which have attracted so much public interest as well as controversies over a long span of time. The WKCD project has been on the drawing board for nearly 10 years. The project started off in 1999 with the idea to build a state-of-the-art performance venue on WKR with a visionary piece of sustainable architectural wonder, and soon evolved to become a world-class integrated arts, cultural and entertainment district. The intermittent announcements of the Government's plans to develop this last stretch 40-hectare land overlooking the Victoria Harbour between 1999 and 2002 raised high hopes and expectations among the public, in particular the arts and cultural community and the creative industry sector. The vision of WKCD embraced a dream to "*enliven the city's cultural life and animate the people's participation*" through "*a place that grows with time, is able to meet the challenges, encourages exchange and cultural development in the long run, and places emphasis on values beyond the purely commercial and utilitarian*"<sup>1</sup>.

6.2 The above insightful and forward-looking vision became a myth when the Administration decided to pursue WKCD through the IFP framework, which was characterized by a single-package development approach and a grand Canopy. The IFP framework had given rise to grave concerns among LegCo Members, the arts and cultural community and the general public. Very much due to the Administration's obstinacy to pursue the IFP framework despite its inherent shortcomings, negative public sentiments towards the WKCD project had mounted, making it necessary for LegCo to put forth its stance in a motion passed at the Council meeting on 5 January 2005<sup>2</sup>. Following the passage of the motion, the House Committee decided to set up a dedicated subcommittee to study and follow up issues relating to the development of WKCD.

6.3 In the first year of its work, the Subcommittee had conducted a detailed study in two phases on the development approach and the hardware and software contents of WKCD. Two reports were published,

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<sup>1</sup> Concept Plan Competition Document in 2001

<sup>2</sup> Please refer to Appendix 5.1 for the terms of the motion passed



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highlighting the deficiencies in the development approach under the IFP process and the need to consult the public in a structured manner on the facilities to be built in WKCD. Although it had taken the Administration over one year to come to a decision to put the controversial IFP process to a halt, the Subcommittee is pleased that the Administration has finally taken on board some of the major recommendations of the Subcommittee in taking forward the WKCD project. The Subcommittee welcomes the setting up of the Consultative Committee and the adoption of a more structured approach to consult the public and stakeholders on the hardware contents of WKCD. It also welcomes the Government's plan to set up a statutory body to draw up a master plan for the development of WKCD and oversee its implementation. Nevertheless, bearing in mind the duty of the Legislature to monitor Government policies and the deployment and disposal of public resources, the Subcommittee finds it necessary to ensure that the related legislative and financial proposals are fully deliberated before these proposals are finalized for submission to LegCo for its consideration.

6.4 The Subcommittee recognizes that the Consultative Committee and two of its Advisory Groups had put in much effort to solicit views of the various concerned parties in drawing up their recommendations. This had provided more transparency on how the Administration had come up with its proposal on what arts and cultural facilities should be built in WKCD and how the facilities, upon confirmation of their need, should be developed and operated. While the public consultation work of the Consultative Committee and its Advisory Groups was not entirely sufficient to make the general public fully understand the long-term financial commitment arising from the development of the individual facilities, their work has at least provided a fairly solid foundation for taking the project forward.

6.5 The Subcommittee is as keen as the public and the art community to see the early implementation of the WKCD project. However, in consideration of the huge public resources involved and the important impact of WKCD on Hong Kong's long term development especially on the cultural life of the populace, the Subcommittee considers it its duty to put in perspective how this long-awaited mega project would impact on the long-term commitment of Hong Kong people apart from the benefits it

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brings to the economic and cultural development of Hong Kong. The Subcommittee also sets out in this Report some important parameters about the WKCD project to provide useful reference for the Administration and the future WKCDA when they discharge their respective roles and functions, and to facilitate further monitoring of the WKCD project by the relevant Panel(s) or committee(s) in the years to come.

### **Town planning and integration with neighbouring districts**

#### Iconic facilities to enhance aesthetic appeal and create synergy

6.6 The Subcommittee concurs with the Consultative Committee that the major arts and cultural facilities should be built as iconic institutions to serve as the symbolic and anchor buildings in WKCD to enhance its aesthetic appeal to both local residents and visitors from all over the world. The Subcommittee also agrees to the concept that CACF should be integrated with the RDE facilities in WKCD wherever appropriate, so as to create synergy and attract people flow. Such aesthetic appeal and integration would help incite the interest of visitors, especially the younger generation, in arts and culture and induce their energy to pursue embellishment in life through active participation in art and cultural activities.

6.7 The Administration and the Town Planning Board have triggered the first stage of the town planning process for WKCD. The Subcommittee is aware that development parameters proposed for incorporation into the relevant OZP are supported by the public in general, although there are a few parties who have expressed objections on the imposition of the building height restrictions, with their main concerns being the possible adverse impacts on creative building designs and hindrance to formulation of an optimal Development Plan at the subsequent stage of planning. The Subcommittee hopes that the Town Planning Board would give careful consideration to those views and would arrive at a decision that can properly address their concerns.

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### More extensive public engagement on planning parameters

6.8 Regarding the drawing-up of the Development Plan for WKCD, the Subcommittee urges that WKCDA would engage the public extensively. Apart from a structured and systematic public engagement process, a pre-requisite for meaningful and fruitful public engagement is the effective dissemination of the principles and concepts underlying the relevant proposals. In this regard, special attention should be given to the use of effective presentation methods to enable the public to visualize the spatial relationships of various land uses and facilities in relation to different development parameters and development mixes.

6.9 On the disposition of different land uses and facilities which would be detailed in the Development Plan, the Subcommittee would suggest that apart from the impact on the public views of ridgelines, equal attention would also be given to air ventilation, permeability of natural light and other aspects which the community have found important for a quality living environment. WKCDA should work in collaboration with the relevant Government departments to see how modern urban design principles can be implemented throughout the WKCD site.

### More open space along harbourfront for public enjoyment

6.10 As emphasized by the Consultative Committee, WKCD should strive to be, among others, an impetus to improve quality of life through the provision of an accessible, open, spacious and vibrant harbourfront for public enjoyment. To attain this objective, the Subcommittee considers it important to designate the areas at the immediate harbourfront for public enjoyment with lots of amenities and greening. Areas of public open space should not be too dispersed and should be conveniently accessible to the public including the wheelchair-bound. In view of the strong public demand for open space in WKCD, the Subcommittee suggests that those areas reserved for the development of Phase II arts and cultural facilities should also be used as public open space in the interim and their design should be conducive to attracting people flow to the CACF and RDE facilities.

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### Revitalizing old districts in the neighbourhood to serve as hinterland

6.11 The 40-hectare WKCD site should not be planned in isolation but in a wider context of the entire West Kowloon. Efforts should be made to fully integrate WKCD with the neighbouring areas, in particular the old districts in the vicinity. Apart from the provision of adequate facilities to ensure good physical connectivity, the planning of WKCD should aim at achieving integration with the neighbouring areas in the social, cultural and economic dimensions. By planning with foresight, the Subcommittee considers that the growth of WKCD could spin off economic benefits to its neighbouring areas and hence provide the impetus to the revitalization of the old built-up areas which are well positioned to serve as the hinterland for WKCD by providing logistics support and other ancillary services to WKCD. Such level of planning requires the collaboration between WKCDA and the relevant Government bureaux/departments. The Subcommittee suggests that WKCDA should garner views from the public in this regard in drawing up the Development Plan and provide substantive recommendations to the Administration on the revitalization of the old districts in West Kowloon in light of the development of WKCD.

### Government Planners to play a role in the masterplanning of WKCD

6.12 The Subcommittee supports vesting WKCDA with the function of masterplanning the WKCD site. However, to enable WKCDA to discharge this statutory function effectively, it must be provided with adequate support from professional planners. The Planning Department, with its pool of expertise, should continue to play a role in assisting WKCDA in formulating the Development Plan and acting as a link between WKCDA and the Government in laying down suitable conditions for land sale and leases for the residential, office and hotel sites in WKCD.

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### **Core arts and cultural facilities**

6.13 The Subcommittee appreciates the considerable efforts made by PATAG and MAG, in particular their extensive consultation work with the arts community, other relevant sectors and general public at the early stage of deliberations. The consultation work would have been more satisfactory if the Consultative Committee had undertaken more structured consultation and detailed studies on areas which met with strong opposition before it finalized its recommendations, in particular those relating to M+.

### More detailed studies on the proposed performance venues

6.14 The performance venues recommended by PATAG to be developed in Phase I and Phase II taken together are significantly more than those proposed in IFP and would represent an increase of about 37% in the total seating capacity of performance venues in Hong Kong. The Subcommittee does not dispute the need for the recommended venues, as they are generally consistent with the views on the shortage of high quality arts and cultural facilities expressed by the arts community to the Subcommittee. However, the Subcommittee has not yet seen detailed studies to justify the optimal capacity of individual facilities, to identify the target audiences and users of individual facilities and to provide configurations in meeting user needs and promote synergy, etc. More importantly, there is a need to assess how far the new facilities in WKCD can take advantage of the new generation of technical infrastructure for supporting the fast-growing performance industry, and to ensure unique and creative design for each and every performance venue in WKCD.

6.15 The Subcommittee considers that WKCDA should undertake further detailed studies to ascertain these aspects and to map out the detailed implementation arrangements. Such detailed studies would in particular help consolidate the specification of requirements for those CACF, especially if any of these facilities are to be procured by Design-and-Build contracts where detailed specifications in tender documents are required to minimize subsequent alterations and resultant financial compensations.

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### Separating design and construction for iconic facilities

6.16 The Subcommittee concurs that the Design-and-Build approach may not be the best method to develop the iconic facilities in WKCD. The success of WKCD to some extent hinges on the presence of iconic buildings with a must-visit appeal to local residents and tourists. For these iconic facilities, international design competitions should be launched to obtain the best designs, and construction be pursued under separate design and construction contracts.

### Markers on the planning and implementation of performance venues

6.17 In respect of the development of the recommended performance venues, the Subcommittee wishes to put down a few markers on the planning and implementation of these venues for future reference by the relevant authorities --

- (a) more detailed studies should be conducted on the seating capacity of the theatres required and whether any special features or designs should be provided for the facilities to cater for special groups of audiences, e.g. children or the elderly;
- (b) the timing for implementing the theatres in Phase II development should be triggered by the proven demand for those in Phase I;
- (c) the convertibility of the mega performance venue into a smaller venue should be carefully considered, in particular if it would result in revenue reduction and under-utilization of seating space;
- (d) there should be optimum use of space earmarked for facilities in Phase II Development so as to build up the pedestrian flow for the entire WKCD area; and

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- (e) there should be a hiring policy for the use of Piazza Areas so that public enjoyment of open space/green space would not be compromised.

### Careful planning for M+

6.18 On museum facilities in WKCD, the Subcommittee remains doubtful of the prospect of the 43 365 m<sup>2</sup> M+ in becoming the kind of *visual culture* institution with the international standing it has aspired to achieve especially during the first few decades of its operation. The Subcommittee notes that the M+ concept, which aims to provide an interactive platform to inspire, delight, educate and engage the public, encourage dialogue, interaction and partnership, explore diversity and foster creativity and cross-fertilization, has not been fully tested in current public museums. The Administration intends to provide the space to facilitate non-conventional display of "visual culture", which includes not only visual art (such as installation, painting, photography and sculpture), but also architecture, design (such as fashion, graphic and product design), moving image (such as film, video and television) and popular culture (such as advertising and comics). The Subcommittee considers that there is a market for the development of visual culture, but the success of M+ does not only lie in what it brings to the public but how to make it happen.

6.19 The Subcommittee shares the concern of some deputations that the entire M+ proposal is still at the conceptual stage. Bearing in mind that M+ would amount to a substantial increase by 52% of the total space provision of all the existing public museums in Hong Kong, and that its total capital costs will amount to \$4.749 billion and 78% of the operating deficit of WKCD will come from M+, there is a need for M+ to proceed in a more cautious manner. Given that the international status of a museum can only be built up over time, the provision of a net exhibition space of 16 000 m<sup>2</sup> in Phase I may be on the high side. Consideration should therefore be given to whether the implementation of M+ could be deferred until sufficient experience has been built up or be further phased to allow for a more progressive implementation timeframe.

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6.20 The Subcommittee is aware that the Administration has no intention to downsize M+ or further phase its implementation. The Administration remains confident that M+ would proceed as planned so long as they could hire the right curatorial team and they could make use of the rich collection on visual culture (over 62 000 items) already acquired and currently kept by LCSD. The Administration insists that further downsizing would hinder the development of M+ into a world-class contemporary cultural and arts institution, making it difficult to realize its vision.

6.21 The Subcommittee is gravely concerned that notwithstanding the huge sum of money injected into the building infrastructure and exhibits, the patronage of M+ might be far below FA's estimates, and in turn it would be even more difficult for M+ to build up its status as a world renowned museum facility. The Subcommittee recognises that the engaging of an international operator to operate M+ so as to benefit from the collection and brand name of these international operators may not be consistent with the "Now" and "Hong Kong" perspectives of M+. Nevertheless, co-operation and partnership with overseas and Mainland institutions would effectively raise M+'s international status in particular in the early years of its establishment and this in turn may help in its long-term growth.

### Need for building a competent curatorial and management team for M+

6.22 The Subcommittee is not convinced that there is no scope of trying out the new curatorial concept in existing museums facilities. The Subcommittee is rather perturbed by the Administration's explanation which implies that the "innovative" approach of M+ is far beyond the reach of the curatorial expertise and experience of the existing museum professionals engaged by LCSD. The Subcommittee does not consider it sensible to entrust such a huge project entirely in the hands of a head curator no matter how competent he/she is. It is important that this head curator is supported by a large team of competent professional and managerial staff who share the same vision, who know Hong Kong and who are prepared to work under a sound corporate system.



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### Need for integration with the LCSD museum staff

6.23 The Subcommittee considers that the local museum professionals, the majority of which are engaged by LCSD, should not be marginalized in the course of planning and developing **M+**. Future co-operation will be extremely difficult especially when **M+** needs to make use of the 62 000 items of collection in visual culture currently kept by LCSD. Besides, it would be a waste of public resources if there is no integration between **M+** and other public museums, and no sharing of experience and expertise between their staff. It will be for the good of Hong Kong's long-term development if the museum staff in LCSD and other local museums are exposed to the same kind of curatorial culture in **M+**. In the circumstances, there should be some established arrangements to facilitate secondment of suitable LCSD staff to the interim **M+** so that it can have the first core team to test out the **M+** concept at the earliest opportunity and speed up the transfer of knowledge and expertise.

### Markers for the planning and development of **M+**

6.24 Having set out the above observations and concerns, the Subcommittee would like to state its position that it supports the development of a flagship museum facility with a focus on the Hong Kong perspective as this would be conducive to developing WKCD into a cultural hub in the Pearl River Delta or even the Asian region. The Subcommittee is also keen to see the success of **M+** and would invite the Administration and the future WKCDA to give attention to the following matters in taking forward the **M+** proposal --

- (a) the Administration should explain to the general public in an easily comprehensible manner what **M+** is meant to be, before starting to design and build the **M+** infrastructure;
- (b) the Administration should make the optimum use of the interim **M+** in North Point not just as a training ground for future staff of **M+** but as a temporary exhibition centre for

## **Chapter VI : Conclusions and the way forward**

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- public viewing and for testing out the **M+** concept in a smaller scale;
- (c) the Administration should ensure full co-operation between **M+** and the existing museums under the management of LCSD by promoting staff integration, such as staff attachment programmes, and putting in place contractual arrangements over the borrowing of collections from existing museums;
  - (d) the Administration should encourage current local curatorial staff to take on the new challenges in **M+** instead of relying entirely on curators coming from overseas as they may not understand the "Hong Kong perspective" as much as local curators;
  - (e) the future WKCDA should conduct more extensive consultation with the museum community before proceeding to establish the management board of **M+** and recruiting the **M+** staff;
  - (f) WKCDA should not adopt Design-and-Build mode of development for constructing **M+** and should conduct a design competition if the iconic effect of **M+** is crucial to the attraction of quality collections in future; and
  - (g) to enhance **M+**'s position as the major museum icon in Asia, **M+** should also work closely with museums in the Mainland as well as those in the Asian region to facilitate exhibition of important collections from these places.

### Careful planning and synchronising of project works

6.25 The Administration's plan is to implement, in terms of capital costs, some 92% of the core facilities within a six to seven year period. The Subcommittee notices that neither the Consultative Committee nor the Administration has given much attention to the possible management and

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## **Chapter VI : Conclusions and the way forward**

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interface problems arising from the concurrent construction of a large number of buildings and infrastructure within the 40-hectare site. This time frame does not seem to have taken into account the lead time in conducting the detailed studies which are necessary to assist WKCDA in drawing up the detailed requirements for individual facilities. The Subcommittee recognizes that both the Government and the general public are keen to see the early implementation of the WKCD project. However, the requirement to implement such a magnitude of construction works within a six to seven year period by a newly established authority is unprecedented. Extra care should be exercised in programming, in particular, the Phase I development. Where appropriate, it should consider further phasing of the facilities to be built in Phase I. It is imperative for WKCDA to be certain of what needs to be put in WKCD and how the individual components are configured in relation to one another. In this respect, WKCDA should have access to enough experienced professionals for management of consultancy and works contracts, and the Administration should be forthcoming in rendering assistance in this regard.

### **Financial arrangements**

#### Funding approach

6.26 The Subcommittee welcomes the termination of the IFP process and the abandonment of the most-criticized single-package development approach. The current funding approach proposed by the Administration comprises two components. The first component of using revenue from the sale of non-cultural parts of WKCD to finance the capital costs of developing the cultural parts of WKCD is in line with the recommendations of the Subcommittee in its Phase II Report. The second component of using the rental proceeds from RDE to provide a steady source of recurrent income to meet the operating deficits of CACF and related facilities is a new concept and the Subcommittee has no objection to such an arrangement in principle, though there is some reservation due to the lack of detailed information to justify the need for a total GFA of 119 000 m<sup>2</sup> for RDE.

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6.27 The Subcommittee supports transparency in the disposal of land. The decision to adopt the normal open procedure in the disposal of land is what the Subcommittee has advocated. The Subcommittee does not dispute the anticipated land revenue of \$21.6 billion (at 2008 NPV) as the Government retains the control to decide when and how the land should be put to sale. The Subcommittee considers that the Government's estimates on land revenue, though appear conservative at present days, are acceptable for planning purpose.

### The upfront endowment fund

6.28 The Administration proposes an upfront endowment of \$21.6 billion to be granted to WKCDA to finance the capital costs. The Subcommittee concurs that it will provide clarity and simplicity in administration. If WKCDA is to be financially self-sufficient, the endowment arrangement appears to be the only viable option. The Subcommittee is concerned about WKCDA's capability in managing this huge endowment fund and the extent of control which can be exercised by LegCo and the Administration over an independent statutory body. In this respect, the Administration agrees to incorporate in the WKCDA Bill the requirement on WKCDA to set up an investment committee to advise the WKCDA Board on investment matters, and to include, apart from the annual statement of accounts and the annual report of the auditor appointed by WKCDA, information on the work and activities of the committees established by the WKCDA Board in the Authority's annual report, which will be laid on the table of LegCo.

6.29 On the assumptions and methodology used by FA in making its financial assessment, the Subcommittee notes that the estimated on-costs of construction costs to cover professional fees and contract management costs are substantially higher than those adopted in the market. Projected investment returns are also higher, at 6.1% annually over the project period. On the other hand, inflation rate is calculated at 2% while year-on-year underlying inflation rate in Hong Kong is at 5.1% in early 2008. After discussion with the Administration, the Subcommittee notes that --

## Chapter VI : Conclusions and the way forward

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- (a) a higher on-cost up to 29% of construction costs is adopted for developing facilities which require higher standard of design and quality as world-class arts and cultural facilities have more stringent requirements over the supervision of consultancy and contract management;
- (b) despite the lower inflation rate at 2% per annum, a higher risk premium ranging from 23% to 29% is included in the construction costs of CACF, which is way above the normal 10% to 15%; and
- (c) the projected annual investment return of 6.1% falls comfortably within the range of historical returns of overseas high quality bonds and the Exchange Fund's performance in investment over the past 14 years.

6.30 To address members' concern, the Administration has conducted further analyses of the financial assessment by adopting an on-cost rate at 15% and a risk premium rate of 15% for CACF and 10% for other facilities. These rates are closer to market rates. It is found that after adjustment, the upfront endowment of \$21.6 billion can accommodate an annual nominal increase of 3.4% in construction cost between 2007 and 2014. If the annual nominal increase in construction costs is raised to 6% (i.e. an accumulative increase of 60%), the endowment would have to be adjusted to \$25 billion. The Administration does not envisage that the accumulative increase in construction costs could reach 60% and so would not propose any adjustment to the proposed endowment. The Subcommittee notes the Administration's undertaking that it would be for WKCDA to find solutions to finance its works programme should inflation rate exceed its present estimation.

6.31 The Subcommittee notes that in calculating the rental proceeds to meet the operational deficits of CACF, FA has adopted \$30 per sq ft (in 2006 prices) as the estimated monthly rental level. On this basis, it is estimated that RDE will generate a net rental income of \$8.4 billion (at 2008 NPV) to cover the estimate operating deficits of \$7.6 billion (at 2008 NPV) over the

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## **Chapter VI : Conclusions and the way forward**

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project period up to 2059. The Subcommittee is not in a position to comment on the estimated rental level as the business plan for RDE is still unknown. The rental income is affected by a combination of factors, including the spatial arrangement, the architecture, the tenancy mix, transport and pedestrian flow, etc. Based on the present planning concept, the design and operation of the RDE facilities in WKCD are different from the conventional shopping mall concept. Reference to other shopping malls in the vicinity may not be appropriate for the purpose of comparison. In the absence of information, the Subcommittee cannot say that the projected rental income of \$8.4 billion is on the high side and agrees to adopt the Administration's projected for the purpose of planning.

6.32 As regards the operating deficits, the Subcommittee notes that the yearly deficit of **M+** would be about \$0.4 billion (at 2008 NPV) in 2032 when **M+** is in full operation. By 2059, **M+** alone will contribute 89% of the annual operating deficit of WKCD. That is on the assumption that **M+** could acquire a status that would attract the donation or loan of quality collection which in turn attracts sufficient visitors to generate reasonable return for sustainable operation. Together with the capital costs, the total costs to build and operate **M+** for 50 years amount to \$10.7 billion, which represents 40% of the \$26.4 billion capital and operating deficit of the entire WKCD project (excluding the RDE part). In the circumstances, the Subcommittee has explored ways to reduce the operating costs and raise the revenue of **M+**. The Administration's stance on the scope for further downsizing **M+** or putting **M+** under a franchised agreement has been explained in the early part of this chapter. Whether the first phase **M+** should be built with a reduced scale and whether the project should be subject to further phasing should be left to the future governing body of **M+** to decide in the light of the practical experience gained in operating interim **M+**. The planning and budgetary requirements for the interim **M+** and the future **M+** should be reported to the relevant committee of LegCo from time to time.

6.33 As regards the concern about the Design-and-Build approach underlying the financial assessment for the \$21.6 billion endowment fund, the Administration has assured the Subcommittee that WKCDA will have

## **Chapter VI : Conclusions and the way forward**

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the flexibility to decide on the procurement approach for the arts and cultural facilities in WKCD. According to FA, even if the design and construction of the facilities are procured in two independent contracts, there would not be significant difference in the construction cost estimates. To allay concerns in this regard, the Subcommittee urges the Administration and WKCDA to give serious consideration to awarding separate design and construction contracts for the construction of iconic buildings and M+, and conduct vigorous financial assessment for such projects before tendering.

6.34 As varying factors may affect the validity of the assumptions underlying the financial assessment of a project which will span over 50 years, some members have asked the Administration whether it would consider revising its financial proposal based on the "worst case" scenario. The Administration has assured the Subcommittee that there is no sufficient reasons for establishing a "worst case" scenario, and it does not envisage the need for further injection of funding to WKCDA by the Government. Should WKCDA encounters cash flow difficulties in the future, it may choose to defer the Phase II development of the cultural venues or source funds through other channels as provided in the enabling legislation.

### WKCDA staffing levels

6.35 The Subcommittee also notes that the total operating costs of WKCDA during the initial development period would be around \$1,230 million, or 5.7% of the \$21.6 billion endowment. The Subcommittee also notes that separate provisions for contract management and professional fees have been allowed for under construction costs. To avoid duplication, the Subcommittee urges the Administration to ensure clear delineation of responsibilities in the future organizational structure and full justifications for the staffing requirement of WKCDA. There should also be transparency and public accountability on the remuneration package to enable LegCo and the public to monitor the deployment of resources. In this respect, WKCDA should provide LegCo with regular reports including detailed information on the staff establishment, and also the estimated and actual expenditure on outsourcing activities.

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### Alternative funding arrangement by instalments

6.36 The Subcommittee has examined the alternative arrangement of approving and disbursing the endowment fund to WKCDA by instalments. The initial considerations were to address the concern that WKCDA, being a newly established statutory body, would have to face immense pressure to manage a huge sum of money, while it would take time to inspire confidence in the public of its ability to manage public resources competently. Owing to the fact that WKCD is to be operated on a self-sufficient and sustainable basis and that more than 90% of the upfront endowment fund is expected to be spent within the first six to seven years, the Subcommittee does not find significant advantage in adopting an instalment approach. To address the concern about accountability and transparency, the Subcommittee considers that WKCDA should be fully accountable to LegCo for its operation and deployment of resources. As such, the Subcommittee suggests that clear reporting requirements, including in particular obligations on WKCDA and the Administration to disclose relevant information, should be agreed with the Administration at the time the endowment fund is to be approved.

### Major renovation and reconstruction of aged buildings after 50 years

6.37 The Subcommittee maintains the view that as a responsible body corporate with financial autonomy, WKCDA should give consideration to setting aside funding for its long-term repair and maintenance programme so that public funding would not be required for major renovations or re-construction after 50 years. In this regard, WKCDA may make reference to the suggestion of the Specialist Adviser of achieving a total saving of 16% of the \$21.6 billion seed fund over the 50-year project period for the purpose.

### **Statutory body**

6.38 The WKCD is so important a project that its successful design and implementation will have immense impact on the arts and cultural development of Hong Kong as a whole. If planned well, the project will be

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## **Chapter VI : Conclusions and the way forward**

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exemplary of what good governance and proper public engagement should be in the planning and development of a significant project of wide public concern. The future WKCDA is the body entrusted by the community to realize the vision and achieve the objectives of the WKCD project, and it will be vested with the necessary resources and powers to do so. WKCDA should not be merely a body corporate for developing, managing and operating the hardware cultural venues, the RDE facilities and other communal facilities in WKCD. There is a more important mission which WKCDA should aim to achieve, which is to capitalize the opportunities offered by the WKCD project to catalyse the realization of a long-term arts and cultural vision for Hong Kong.

6.39 Bearing in mind the importance of WKCDA to the success of WKCD, the Subcommittee has held substantial discussions with the Administration and interested parties on the key aspects of the enabling legislation. The Subcommittee is especially concerned whether there will be a balanced composition of the Authority; whether the mechanism for constituting the Authority would be transparent, fair and objective; whether the Authority's proceedings will be highly transparent to enable the public to know and understand its decision-making process; whether there will be adequate public access to the information on the Authority's plans and activities; whether there will be sufficient checks and balances to safeguard public interest; how far the Authority will be held accountable to LegCo and the public for its decisions and disposal of public resources; and whether the public and stakeholders will be extensively and systematically engaged in the planning and implementation of the project.

6.40 The Subcommittee finds that certain aspects of the WKCDA Bill fall far short of the public's aspirations. Some members also find that the proposed institutional and procedural arrangements in the Bill are retrogressive in terms of representativeness, accountability and transparency. They are in stark contrast to the Administration's claim that setting up the statutory body to take forward the WKCD project would be in line with the principles of "Partnership", "Community-driven" and "People-oriented" underlying the Government's existing cultural policy.

## **Chapter VI : Conclusions and the way forward**

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6.41 The Subcommittee notes that the scrutiny of the Bill by the relevant Bills Committee is still in progress and the Administration intends to have the Second Reading debate on the Bill resumed on 2 July 2008. At the time of preparing this Report, the Subcommittee understands that the Administration and individual Members have proposed Committee Stage amendments to improve certain provisions in the Bill, including the provisions on the objectives of WKCDA, the composition of the WKCDA Board, public consultation and proceedings of the WKCDA Board and its committees. The deliberations of the Bills Committee will be detailed in the report of the Bills Committee.

### **Public engagement**

6.42 The Subcommittee has all along been very concerned whether the public and stakeholders have adequate opportunities to participate in the planning and implementation of the WKCD project and whether proper mechanisms are in place to facilitate structured and systematic public participation. Compared to the situation during the IFP process where there were meagre opportunities for participation by the arts and cultural community and the general public, the Subcommittee acknowledges that the Administration has made some improvement in this respect since the project was planned anew in April 2006. Based on the views expressed to the Subcommittee at the later rounds of public consultation conducted after the release of the Consultative Committee's Report, the Subcommittee finds that there is a stronger sense of commitment and ownership among the arts and cultural community in the WKCD project. Nevertheless, although most depositions are supportive to the overall framework proposed by the Consultative Committee to take forward the WKCD project, the general public are still uncertain about the development mix and what specific facilities are to be built in WKCD, not to mention the long-term financial implications of the entire project.

## **Chapter VI : Conclusions and the way forward**

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6.43 While the Subcommittee appreciates that Hong Kong does not have a developed culture of public engagement, the Subcommittee considers that there is a need to make a fundamental overhaul of the mode of "public engagement" for the subsequent stages of the development of WKCD to incite and harness the interest and energy of the civil society. In this regard, WKCDA should make reference to overseas successful experience of public engagement, on which the Subcommittee has provided substantial information in its Phase II Report. The objectives of the public engagement process are to foster a sense of ownership among the public, to build up consensus (this however should not preclude a dynamic participatory process), and to develop a healthy and organic cultural ecology for WKCD founded on the enthusiasm, vividness and wisdom of the civil society.

6.44 The Subcommittee advocates that the future public engagement by WKCDA should strive to --

- (a) allow the public to participate right at the beginning, even when the concept or proposal concerned is still at its embryonic stage;
- (b) adopt a non-prescriptive, empowering and participatory approach, whereby innovative ideas and alternative views are allowed to be dialectically debated; and
- (c) establish an institutionalized mechanism, with the provision of necessary resources, that would allow stakeholders and the general public to put forward their views in a structured and systematic manner, and ongoing dialogues between WKCDA and the stakeholders/general public.

### **Concluding remarks**

6.45 This Phase III Report concludes the study undertaken by the Subcommittee. To provide an opportunity for Members to express their

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## **Chapter VI : Conclusions and the way forward**

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views on issues pertinent to the WKCD project, and for the Administration to provide its response, the House Committee has agreed that a motion on the Subcommittee's Phase III Study Report should be moved for debate at LegCo meeting on 25 June 2008, prior to the resumption of the Second Reading debate on the WKCDA Bill and the consideration of the upfront endowment proposal. It is hoped that LegCo Members in the next term of office will continue to vigilantly monitor the WKCD project through the relevant LegCo Panel(s) or committee(s).

6.46 While the WKCD project to a large extent provides the answer to the shortage of cultural hardware infrastructure, it creates a tall order to fill, i.e. the rising demand for talent and cultural software. Although not examined in detail by the Subcommittee, the Subcommittee does recognize that the cultural software and humanware development in Hong Kong is most crucial to the success of the WKCD project and the materialization of the city's aspiration to become a cultural metropolis. The Subcommittee hopes that LegCo Members will continue to pay special attention to the monitoring of the cultural software and humanware development in the coming term.

6.47 Whether the Government will give rein to or keep a tight rein on WKCDA is an indelible issue when the enabling legislation was discussed by the Subcommittee. The Subcommittee fully supports that WKCDA should be autonomous and independent from the Government. Yet, the Government will have an important role to play at the future development stage of WKCD. It should provide policy steer in respect of the territory's cultural development which may include the enactment of legislation to regulate public museum services, coordinate the government infrastructure works in WKCD with those of WKCDA, plan and build facilities to achieve connectivity between WKCD and its neighbouring areas, undertake the necessary groundwork to prepare for the establishment of WKCDA and lastly, ensure that WKCDA will have adequate access to professional support to discharge its functions.

## **Chapter VI : Conclusions and the way forward**

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6.48 The Subcommittee also wishes to record its heartfelt appreciation of the contribution of the following parties during the three phases of its study --

- (a) the Administration, in particular HAB ably represented by its Deputy Secretary, Ms Esther LEUNG, for having been forthcoming in attending meetings of the Subcommittee and providing necessary information to facilitate the Subcommittee's deliberation;
- (b) the various organizations and individuals who have contributed views through participation in the discussions of the Subcommittee at meetings and/or through written submissions; and
- (c) the Specialist Adviser consultancy team for their dedication to accomplishing the tasks requested by the Subcommittee within a very tight timeframe and for their perceptive observations and discerning comments submitted to the Subcommittee.

6.49 Last but not least, the Subcommittee must record its gratitude to the staff of the Secretariat of LegCo. Without the most professional and able assistance rendered to it by Ms Pauline NG and her team members, the Subcommittee could not have accomplished what it has with such efficiency and effect as demonstrated by the three phases of its study. We are forever in their debts.

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# **Abbreviations**

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## Abbreviations

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CACF	Core arts and cultural facilities
CE	Chief Executive
CE-in-C	Chief Executive-in-Council
CEO	Chief Executive Officer
CHC	The Culture and Heritage Commission
CS	Chief Secretary for Administration
The Consultative Committee	Consultative Committee on the Core Arts and Cultural Facilities of the West Kowloon Cultural District
FA	Financial Adviser
FC	Finance Committee
FMAG	Financial Matters Advisory Group
FSTB	Financial Services and Treasury Bureau
GFA	Gross floor area
GIC	government, institution and community
HAB	Home Affairs Bureau
HA Panel	Panel on Home Affairs
IFP	Invitation for Proposals
LCSD	Leisure and Cultural Services Department
LegCo	Legislative Council
M+	Museum Plus
MAG	Museums Advisory Group
mPD	metres above Principal Datum
NOFA	Net Operating Floor Area
NPV	Net present value
OMM	Operation, maintenance and management
OU	Other Specified Uses
OZP	Outline Zoning Plan

## Abbreviations

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PATAG	Performing Arts and Tourism Advisory Group
PD	Planning Department
PPP	Public Private Partnership
PSC	Public Sector Comparator
PSI	Public Sector Involvement
PWSC	Public Works Subcommittee
RDE	retail, dining and entertainment
SDEV	Secretary for Development
SFST	Secretary for Financial Services and the Treasury
SHA	Secretary for Home Affairs
The Bills Committee	Bills Committee on West Kowloon Cultural District Authority Bill
The Study	Study of the West Kowloon Cultural District Development Project
The Subcommittee	Subcommittee on West Kowloon Cultural District Development
TPB	Town Planning Board
TPO	Town Planning Ordinance (Cap. 131)
WKCD	West Kowloon Cultural District
WKCDA	West Kowloon Cultural District Authority
WKR	West Kowloon Reclamation



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# **Appendices**

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**Subcommittee on West Kowloon Cultural District Development**

**Terms of Reference**

To study and follow up issues relating to the development of West Kowloon Cultural District including its interface with arts and cultural development, land use and planning, environmental considerations, financing implications and arrangements, and other related matters.

**Subcommittee on West Kowloon Cultural District Development**

**Membership list**  
(as at 21 November 2007)

**Chairman** Hon Alan LEONG Kah-kit, SC

**Deputy Chairman** Hon James TO Kun-sun

**Members** Hon James TIEN Pei-chun, GBS, JP (up to 15 October 2007)  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Dr Hon LUI Ming-wah, SBS, JP  
Hon Margaret NG  
Hon Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon CHAN Yuen-han, SBS, JP  
Hon CHAN Kam-lam, SBS, JP  
Hon SIN Chung-kai, SBS, JP  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon LAU Wong-fat, GBM, GBS, JP (up to 9 October 2007)  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk, JP  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Albert CHAN Wai-yip (up to 20 November 2007)  
Hon Audrey EU Yuet-mee, SC, JP  
Hon LEE Wing-tat  
Hon LEUNG Kwok-hung  
Dr Hon KWOK Ka-ki  
Hon CHEUNG Hok-ming, SBS, JP  
Hon CHIM Pui-chung  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon Albert Jinghan CHENG, JP (up to 14 October 2007)

(Total: 22 members)

**Position statement of the  
Subcommittee on West Kowloon Cultural District Development  
on the Government's approach in taking forward  
the West Kowloon Cultural District project**

The Subcommittee on West Kowloon Cultural District Development (the Subcommittee) presents this position statement to the Administration to set out its views on the Government's current approach in taking forward the West Kowloon Cultural District (WKCD) project. The Subcommittee hopes that the Consultative Committee on the Core Arts and Cultural Facilities of the West Kowloon Cultural District (the Consultative Committee) would take into account the Subcommittee's views before it concludes its findings.

2. The Subcommittee was formed under the House Committee of the Legislative Council on 21 January 2005. Since then, it has published two reports on the WKCD project. Following the Chief Secretary for Administration (CS)'s announcement on 21 February 2006 that the Administration had decided not to pursue WKCD under the Invitation for Proposal (IFP) process and it would re-examine the original planning basis for the Core Arts and Cultural Facilities (CACF) as defined in the IFP, the Subcommittee has continued to monitor the work of the Consultative Committee, which was set up by the Government to advise on the justifications for the CACF and other types of arts and cultural facilities to be provided at the WKCD and the financial implications for developing and operating the facilities.

**The Government's new direction for WKCD**

3. The Subcommittee welcomes the Government's decision to terminate the IFP process and the establishment of the Consultative Committee with a view to taking forward the WKCD in full speed. The Subcommittee shares the Administration's objective of developing a world-class integrated arts, culture and entertainment district on the 40-hectare West Kowloon Reclamation (WKR) site. The Subcommittee also agrees that to meet the public's aspirations on WKCD, the project should be taken forward without further unnecessary delays. To ensure that the public's needs and preferences are adequately reflected and to foster a sense of ownership among the general public, the Subcommittee has stressed that the project must be planned and implemented using a people-oriented approach with adequate opportunities for public involvement.

## Public involvement

4. The Subcommittee has emphasized in its reports that public involvement is of paramount importance so that the aspirations and needs of the people and stakeholders are well taken into account. It is necessary to establish some form of consultative machinery to formalize the consultation process, so that the views and suggestions of the public and stakeholders would be properly channelled to the decision-making authority.<sup>1</sup> The Subcommittee therefore, before and after two of the Advisory Groups of the Consultative Committees published their respective reports in September 2006 and November 2006, has conducted two rounds of consultation with the organizations and individuals which/who had previously submitted views to the Subcommittee.

5. The Subcommittee has noticed in particular that there are strong views among the deputations about the recommendation of the Museums Advisory Group (MAG) for establishing a Museum Plus (M+). The opposing views in fact come from the local museum professionals and some of the members of MAG. The Subcommittee considers that there is insufficient information for it to comment on the concept of M+ at this stage, but the Subcommittee is more concerned about the way the Administration involves the public in planning and implementing the WKCD project, as revealed in the working mechanism of the Consultative Committee and its Advisory Groups.

6. The Subcommittee is aware that the Administration has enlisted the participation of professionals and practitioners in re-examining the scope of arts and cultural facilities to be provided in WKCD through their appointments to the Consultative Committee and its three Advisory Groups. The Performing Arts and Tourism Advisory Group (PATAG) and the MAG have conducted public forums and focus group meetings to gauge public views on matters under their purview, and their recommendation reports have included a summary of the views received. The Subcommittee however also notes that those consultation activities were conducted when the two Advisory Groups had yet to formulate their recommendations. There appears to be no further consultation on the recommendations. Even in the handling of divergent views, the Subcommittee notes that there is very little information on why MAG has rejected the minority views within MAG that there should be a separate broad grouping for ink art and a children's museum in M+. If at this juncture the Consultative Committee does not further examine the recommendations of these two Advisory Groups and address the opposing views, the Financial Matters Advisory Group (FMAG) and eventually the Consultative Committee in formulating their proposals may be working on premises that are not supported by the public and

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<sup>1</sup> The relevant recommendations of the Subcommittee are set out paragraphs 5.27 and 5.28 of its Report on Phase I Study and paragraph 6.31 of its Report on Phase II Study.

stakeholders. Besides, the FMAG has not carried out any public consultation at all. There is actually no avenue for the opposing views to be channelled to the Consultative Committee.

7. The Subcommittee wishes to reiterate its recommendation that there is a need to put in place as early as possible a standing mechanism to conduct public consultation in an open and structured manner. The Administration has the duty to reach out to the public to explain to them the vision and objectives of the WKCD project and to enlist their participation in the planning process through structured public engagement activities. The Subcommittee also considers that it would only be prudent for the Consultative Committee to further examine any minority views and provide an explanation to the public if any of these views is not accepted.

### **Adoption of an integrated and coordinated approach in the planning of West Kowloon Reclamation**

8. During the two rounds of consultations conducted by the Subcommittee on the Administration's current approach in pursuing the WKCD project, there was strong support for the Subcommittee's views about the need to adopt an integrated and coordinated approach in planning the WKCD to ensure that the WKCD project could meet the long-term hardware and software needs of Hong Kong in the development of arts and culture.<sup>2</sup>

9. The Subcommittee is of the view that the Administration should first articulate on what the developments on WKR should help to achieve in the overall development of Hong Kong and how WKCD is strategically placed to catalyze the realization of a long-term arts and cultural vision for Hong Kong, and then formulate appropriate strategies and mechanisms to ensure efficacy of planning and to facilitate public involvement in the whole process.

10. The Subcommittee observes that since the termination of the IFP process, the Administration has expressed its "vision" for WKCD and its cultural policy in very broad terms only. There are no details on how the planning for WKR would be integrated with the overall planning objectives for the city in social, economic and environmental terms, and how the other spheres of cultural planning such as art education for the community, development of art talents and promotion of creative industries etc. would complement the WKCD project.

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<sup>2</sup> The relevant recommendations of the Subcommittee are set out in paragraphs 6.20 and 6.21 of its Report on Phase II Study.

11. In addition to the lack of a clear vision and a substantiated cultural policy, the Subcommittee also observes that the Administration has not yet formulated any plans to put in place the necessary mechanisms for effective coordination among relevant policy bureaux and departments and for structured public involvement in the planning and implementation processes, as explained in paragraph 4 above. The Subcommittee considers that the problems can be partly attributed to the lack of a proper institutional setup to steer the WKCD project. In this regard, the Subcommittee would like to reiterate its recommendation that the Administration should establish an overseeing authority as soon as possible to steer the way forward for WKCD. This body should have an active role to play in both the planning and implementation stages of WKCD, and not just in the management and maintenance of the hardware facilities after their construction. The Subcommittee recognizes that it will take time to prepare the enabling legislation for the setting up of a statutory body. To empower the overseeing authority to function as early as possible, the Administration should now establish a provisional authority with representative composition to take up from the Government the planning and implementation of the WKCD.

### **Lack of a masterplan for WKR**

12. The Subcommittee considers that the arts and cultural facilities to be provided in WKCD should be planned having regard to the opportunities and constraints provided in the project area, and it would be conducive to effective planning if certain basic planning parameters for the WKR are established in the first place. According to their terms of reference, the Consultative Committee and its Advisory Groups do not have a duty to study and consult the public on the planning parameters for the WKR. The situation at present is that the Consultative Committee and its Advisory Groups are formulating their recommendations without any planning parameters. The Subcommittee is concerned that certain needs of the community which can only be reflected and safeguarded through planning may have been and would be overlooked in the studies of the Consultative Committee and its Advisory Groups.

13. The Subcommittee understands that before the arts and cultural facilities to be provided in WKCD are confirmed, it may not be possible to draw up a detailed masterplan for the WKR site. However, the Subcommittee considers that it would be very difficult for the public to visualize how the varying needs of different stakeholders can be met without a master plan for the WKR site. The public have expressed their aspiration that the 40-hectare site should be utilized to meet the long-term needs of Hong Kong and the planning should ensure sustainable development. It is therefore unreasonable to expect the public to give their support without an

overall picture of the other aspects of the planning for the project area, in particular the provision of open space and amenities for public enjoyment and the amount and intensity of commercial and residential developments.

14. As such, the Subcommittee considers that the priority task for the Administration is to provide outline concept plans for WKR as planning options with different emphases in land use for public discussion. This task should preferably be done before the Consultative Committee takes a confirmed view on the recommendations of the Advisory Groups and at the latest before the Administration takes a confirmed view on the recommendations of the Consultative Committee. The outline concept plans should set out the vision for the WKCD, the planning principles adopted, and the respective proposed development mix with estimations on the site coverage and plot ratios for various proposed land uses. The publication of three outline concept plans for the Stage 2 Public Participation of the Kai Tak Planning Review in November 2005 is a good example of using outline concept plans to solicit public views at an early planning stage for a large-scale development area. The Subcommittee believes that such outline concept plans would provide the community with a meaningful basis to formulate views on the planning for WKCD at an early stage.

#### **Request for the Administration's detailed work plan**

15. The Subcommittee recognizes that its work should not duplicate that of the Administration. So far, the Administration has provided the Subcommittee with very piecemeal information on how it would take forward the project. To facilitate the Subcommittee's monitoring of the Administration's work on WKCD, the Subcommittee finds it necessary to have a detailed work plan from the Administration with indicative timing for various aspects of the work on WKCD and with the following information --

- (a) before the Administration takes a confirmed view on the arts and cultural facilities to be provided in WKCD and the relevant financing arrangements, whether, at what junctures and in what ways the public would have the opportunities to give views on the arts and cultural facilities and the financing arrangements proposed by the Advisory Groups and/or those proposed by the Consultative Committee;
- (b) whether the Administration would consult the public on the planning parameters for WKR and provide outline concept plans for public discussion before consolidating its proposals on the arts and cultural facilities in WKR and their financial arrangements;



- (c) whether the Administration would study and consult the public on the integration of WKCD with the overall planning objectives for the city in social, economic and environmental terms, and with other spheres of cultural planning for the long-term development of art and culture in Hong Kong; and
- (d) at which stage the Administration would put up the proposal for the establishment of the statutory body for WKCD, and before then, whether and when a provisional overseeing authority would be established.

### **Views of interested groups and individuals received by the Subcommittee**

16. The Subcommittee urges the Administration and the Consultative Committee to take heed of, in their studies and planning work, the views and concerns of various interested groups and individuals received by the Subcommittee. For easy reference by the Administration, those views are summarized in Annexes I and II<sup>3</sup>.

Council Business Division 1  
Legislative Council Secretariat  
9 May 2008

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<sup>3</sup> The annexes to this position statement is available on LegCo website at <http://www.legco.gov.hk/yr06-07/english/hc/papers/hc0309cb1-1085-e.pdf>

**SCHEDULE OF AMENDMENTS TO  
THE DRAFT SOUTH WEST KOWLOON OUTLINE ZONING PLAN NO. S/K20/20  
MADE BY THE TOWN PLANNING BOARD  
UNDER SECTION 7(1) OF THE TOWN PLANNING ORDINANCE (Chapter 131)  
AS IN FORCE BEFORE THE COMMENCEMENT OF  
THE TOWN PLANNING (AMENDMENT) ORDINANCE 2004**

**I. Amendment to Matters Shown on the Plan**

- Item A - Revision to the annotation of the "Other Specified Uses" ("OU") zone for the West Kowloon Cultural District (WKCD) site from "Arts, Cultural, Commercial and Entertainment Uses" to "Arts, Cultural, Entertainment, Commercial and Other Uses", and addition of building height restrictions as demarcated in sub-areas (A), (B) and (C) for the WKCD.

**II. Amendments to the Notes of the Plan**

- (a) Revision to the annotation of the "OU" zone from "Arts, Cultural, Commercial and Entertainment Uses" to "Arts, Cultural, Entertainment, Commercial and Other Uses".
- (b) Revision to the Notes for the "OU" annotated "Arts, Cultural, Entertainment, Commercial and Other Uses" zone by adding 'House' use under Column 2 and incorporating development restrictions for the WKCD under the Remarks of the Notes.

18 April 2008

Town Planning Board

**KOWLOON PLANNING AREA NO. 20**

**DRAFT SOUTH WEST KOWLOON OUTLINE ZONING PLAN NO. S/K20/21**

(Being a Draft Plan for the Purposes of the Town Planning Ordinance)

**NOTES**

\* \* \* \* \*

**OTHER SPECIFIED USES (Cont'd)**

Column 1 Uses always permitted	Column 2 Uses that may be permitted with or without conditions on application to the Town Planning Board
<u>For "Arts, Cultural, Entertainment, Commercial and Other Uses" Only</u>	
Ambulance Depot	Flat
Cross Harbour Tunnel Vent Shaft	Government Use (not elsewhere specified)
Eating Place	Helicopter Landing Facility
Educational Institution	House
Exhibition or Convention Hall	Marine Fuelling Station
Government Use (Fire Station, Police Reporting Centre/Police Post, Post Office only)	Petrol Filling Station
Government Refuse Collection Point	School (not elsewhere specified)
Hotel	Social Welfare Facility
Information Technology and Telecommunications Industries	Training Centre (not elsewhere specified)
Institutional Use (not elsewhere specified)	
Library	
Marina	
Mass Transit Railway Vent Shaft and/or Other Structure above Ground Level other than Entrances	
Office	
Pier	
Place of Entertainment	
Place of Recreation, Sports or Culture	
Private Club	
Public Clinic	
Public Convenience	
Public Transport Terminus or Station	
Public Utility Installation	
Public Vehicle Park (excluding container vehicle)	
Recyclable Collection Centre	

Religious Institution  
School (related to arts and culture only)  
Shop and Services  
Training Centre (related to arts and culture only)  
Utility Installation for Private Project

Planning Intention

The planning intention of this zone is to develop the area into an arts, cultural, entertainment and commercial district with distinguished identity, capable of achieving a critical mass and supported by a range of mixed commercial, office, retail, residential, hotel and other Government, institution and community facilities.

Remarks

- (1) No new development, or addition, alteration and/or modification to or redevelopment of an existing building shall result in a total development and/or redevelopment in excess of a maximum plot ratio of 1.81. Of which, not more than 20% of the total plot ratio shall be for residential use. In addition, public open space of not less than 23 hectares (including 3 hectares of piazza areas and a waterfront promenade of not less than 20 meters in width) shall be provided.
- (2) No new development, or addition, alteration and/or modification to or redevelopment of an existing building shall result in a total development and/or redevelopment in excess of a maximum building height of 50 metres above Principal Datum (mPD) on land designated as Sub-area (A), a maximum building height of 100 mPD on land designated as Sub-area (B), and a maximum building height of 70 mPD on land designated as Sub-area (C) as stipulated on the Plan.
- (3) In determining the maximum plot ratio for the purpose of paragraph (1) above, any floor space that is constructed or intended for use solely as car park, loading/unloading bay, plant room and caretaker's office, or caretaker's quarters and recreational facilities for the use and benefit of all the owners or occupiers of the domestic building or domestic part of the building, provided such uses and facilities are ancillary and directly related to the development or redevelopment, may be disregarded. Any floor space that is constructed or intended for use solely as public transport and underground railway facilities, as required by the Government, may also be disregarded.
- (4) Based on the individual merits of a development or redevelopment proposal, minor relaxation of the plot ratio and building height restrictions stated in paragraphs (1) and (2) above may be considered by the Town Planning Board on application under section 16 of the Town Planning Ordinance.

\* \* \* \* \*

**KOWLOON PLANNING AREA NO. 20**

**DRAFT SOUTH WEST KOWLOON OUTLINE ZONING PLAN NO. S/K20/21**

**EXPLANATORY STATEMENT**

\* \* \* \* \*

**8. West Kowloon Cultural District**

- 8.1 An area of about 40 hectares located to the south of Austin Road West and the Western Harbour Crossing Toll Plaza, which is zoned "OU", is set apart for arts, cultural, entertainment, commercial and other uses to facilitate the development of the WKCD. The planning intention of this zone is to develop the area into an integrated arts, cultural, entertainment and commercial district with distinguished identity, capable of achieving a critical mass for the respective uses and supported by a range of mixed commercial, office, retail, residential, and hotel uses as well as other essential GIC facilities together with not less than 23 hectares of public open spaces.
  
- 8.2 The WKCD is to be developed into a world-class integrated arts and cultural district comprising local, traditional as well as international elements, to enrich the arts and cultural life for the people in Hong Kong and neighbouring areas, to create job opportunities and benefit the tourism industry, and to make Hong Kong an international cultural metropolis. It also seeks to enhance Hong Kong's position as Asia's premier centre of arts, culture and entertainment and at the same time to create a new look for the Victoria Harbour. The WKCD will be an integrated development which is expected to include not only a number of core arts and cultural facilities, but also a variety of entertainment/retail/restaurant uses as well as commercial, office, hotel and residential developments to create synergy and vibrancy to the district. Leisure and recreation developments together with essential utilities and GIC facilities (including fire station complex, electric substation, refuse collection point, public toilets, pumping station, police posts etc.) will also be provided to support the WKCD development.
  
- 8.3 The design of the core arts and cultural facilities should be architecturally distinguished and create landmarks. Clustering of arts and cultural facilities with retail, dining and entertainment facilities is encouraged. Ancillary parking facilities, if any, should be provided in the basement levels.
  
- 8.4 The core arts and cultural facilities to be provided in the WKCD will consist of performing arts venues of different types and scale, museum and exhibition facilities, as well as other arts and cultural facilities.
  
- 8.5 No new development, or addition, alteration and/or modification to or redevelopment of an existing building shall result in a total development

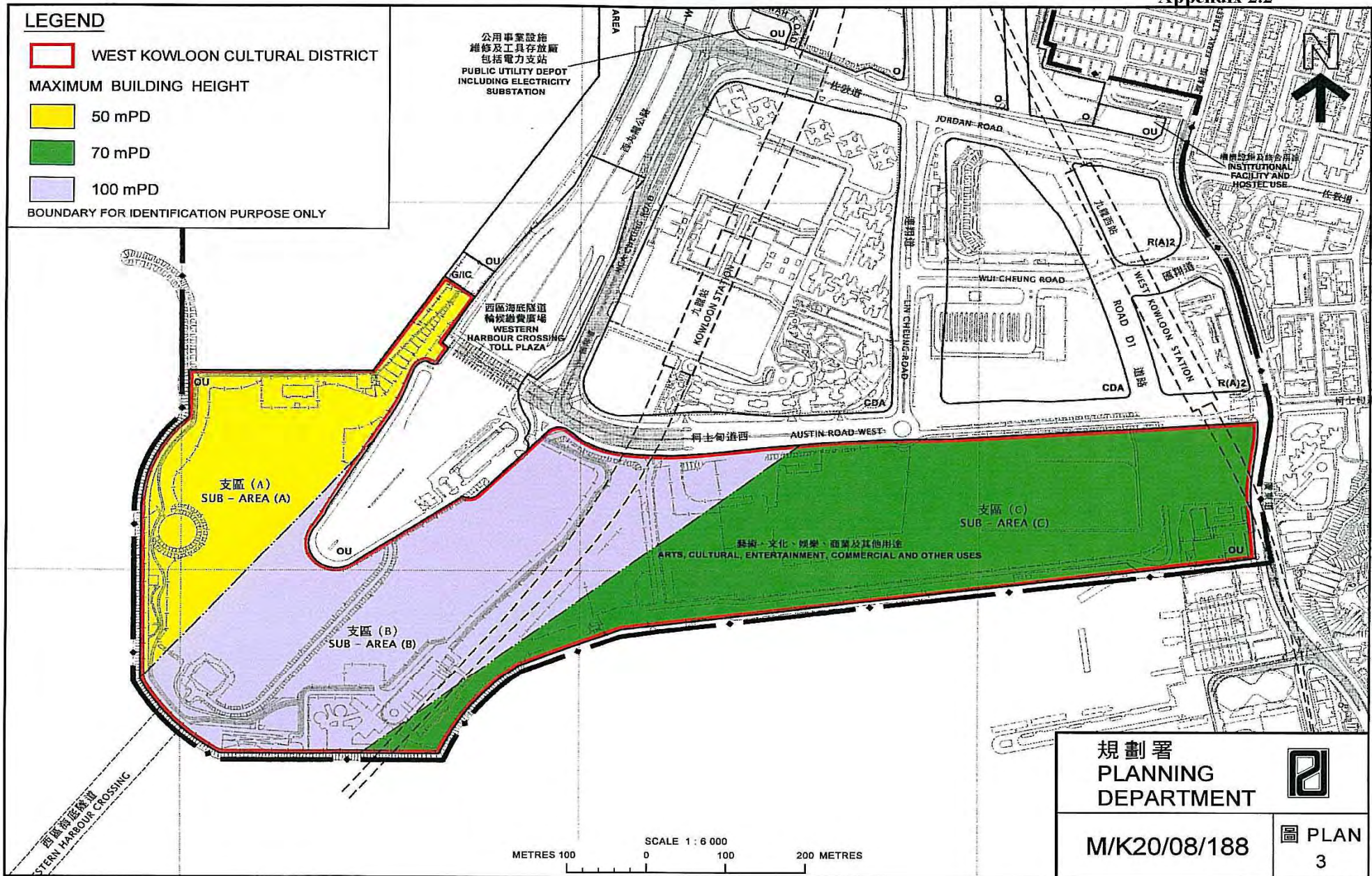
and/or redevelopment in excess of a maximum plot ratio of 1.81. Of which, not more than 20% of the total plot ratio shall be for residential use.

- 8.6 In formulating the plot ratio of 1.81 for the WKCD, only the planned floor areas for the arts and cultural facilities, GIC facilities and commercial and residential uses have been taken into account, while the floor areas required for the provision of any public transport facilities such as public transport interchange, automated people mover system, etc., within the WKCD have not been included in the plot ratio calculation. In order not to affect the development of the WKCD, any floor space that is constructed or intended for use solely as public transport and underground railway facilities, as required by the Government, may be disregarded.
- 8.7 Development within this zone is also subject to a maximum building height of 50 metres above Principal Datum (mPD) on land designated as Sub-area (A), a maximum building height of 100mPD on land designated as Sub-area (B), and a maximum building height of 70mPD on land designated as Sub-area (C) as stipulated on the Plan. The building height profile of WKCD is based on the following urban design principles: -
- (i) preservation of public views from Sun Yat Sen Memorial Park towards the Kowloon Peak, Tsz Wan Shan and Lion Rock ridgelines to maintain a 20% building-free zone below the ridgelines;
  - (ii) preservation of public views from the Star Ferry Pier at the Central Waterfront towards the Lion Rock ridgeline to maintain a 20% building-free zone below the ridgeline;
  - (iii) preservation of an open vista and green corridor from the G/IC heritage sites consisting of the declared monuments of Hong Kong Observatory and former Kowloon British School (now Antiquities and Monuments Office), the grade II St. Andrew's Church, through Kowloon Park and along the WKCD waterfront promenade towards the western Victoria Harbour;
  - (iv) avoidance of unduly tall buildings with wall effect and enhancement of visual permeability from the harbour by lowering of building height at waterfront locations;
  - (v) introduction of variation in building height for a coherent building height profile across the WKCD; and
  - (vi) introduction of visual relief to soften the building masses clustering around the Kowloon Station.
- 8.8 The total amount of open space for public use in WKCD shall not be less than 23 hectares. It should be provided in various forms and at different levels on or above ground, including a landscaped waterfront promenade of not less than 20 metres in width, and piazza areas of not less than 3 hectares. Given the scale of WKCD, efficient transport and pedestrian linkages should be

provided within the WKCD as well as with the surrounding areas to facilitate easy public access to the public open space. In order to create an attractive pedestrian environment, both vertical and horizontal landscape elements are encouraged.

- 8.9 Based on the individual merits of a development or redevelopment proposal, minor relaxation of the plot ratio and building height restrictions may be considered by the Board on application under section 16 of the Ordinance.
- 8.10 The Government will establish a statutory body, the WKCD Authority (the Authority), to take forward the WKCD project. Among other things, the Authority would be responsible for the preparation of the Development Plan (DP) together with all the necessary technical assessments for the WKCD in accordance with the development restrictions stipulated on the Plan.
- 8.11 The DP should indicate the areas and nature of the proposed land uses, building heights, distribution of open space, landscape and urban design proposals, public transport, parking and pedestrian facilities, GIC facilities, the alignment, width and levels of roads etc to be provided within the WKCD and should examine the relationship and integration of the WKCD with the neighbouring areas. The DP shall also include specification of the arts and cultural facilities, e.g. GFA, seating capacity etc.

\* \* \* \* \*





**Summary table setting out the CACF recommended by the Consultative Committee as compared to those defined in IFP**

**(I) Performance Venues**

As per IFP		Consultative Committee's recommendations		
Category	Seating Capacity	Category (Phase I)	Seating Capacity	Main Purposes
Performance Venue	At least 10 000	Mega Performance Venue	15 000 (max)	mega events, large scale entertainment shows, pop concerts
Theatre Complex	Three theatres with seating capacities of at least 2 000, 800 and 400 seats respectively.	A Great Theatre	2 100 to 2 200 (Total: 2 200) (max)	suitable for long-run overseas productions, as well as Chinese and Western opera, drama, ballet, modern dance, musical, children's performances etc.
		Two Medium-sized Theatres	500 to 800 each (Total: 1 600) (max)	drama, musical, dance, suitable for local productions
		Four Blackbox Theatres	150 to 250 each (Total: 1 000) (max)	experimental/avant-garde performances, budding artists' production, comedy shows, children shows etc.
Concert Hall	No provision.	A Concert Hall	2 000 (max)	orchestral music
		A Chamber Music Hall	800 (max)	chamber music, jazz, piano or violin recital etc.
Xiqu facilities	No provision.	A Xiqu Centre (戲曲中心) (performance venue) (small theatre)	1 400 (max) 400 (max)	Cantonese opera, other forms of Chinese opera and musical performances
Water Amphitheatre	[with about 5 000 seats – though not mandated]	Not recommended		
Piazza Areas	At least 4 Piazza Areas	Piazza Areas	at least 30 000 m <sup>2</sup>	mega outdoor events, circus, commercial events, concerts
<b>Total :</b>	<b>At least 13 200 + outdoor seats</b>	<b>Total :</b>	<b>24 400 (max) (Phase I)</b>	
		<b>Category (Phase II)<sup>1</sup></b>	<b>Seating Capacity</b>	
		<ul style="list-style-type: none"> <li>• A Great Theatre</li> <li>• Two Medium-sized Theatres</li> </ul> <b>Total :</b>	1 900 (max) 800 each (1 600) (max) <b>27 900 (max) (Phases I &amp; II)</b>	

<sup>1</sup> The venues proposed in Phase II are suggested to be implemented subject to prevailing market forces, but land should be reserved in the master layout plan.

## (II) Museums Facilities

As per IFP		Consultative Committee's recommendations		
Category	Area	Category	Area	Concept
<p>A Museum cluster (with 4 museums of different themes)</p> <p>[The four 'preferred themes' are</p> <ul style="list-style-type: none"> <li>• Modern Art</li> <li>• Ink</li> <li>• Design</li> <li>• Moving Image]</li> </ul>	<p>at least 75 000 m<sup>2</sup> Net Operating Floor Area (NOFA)</p>	<ul style="list-style-type: none"> <li>• To have a cultural institution with museum functions (called <b>M+</b>, or <b>Museum Plus</b>) on visual culture of the 20th to 21st century</li> <li>• The initial broad groupings include               <ul style="list-style-type: none"> <li>- Design</li> <li>- Moving image</li> <li>- Popular culture</li> <li>- Visual art (cover ink art)</li> </ul> </li> </ul>	<p>Gross Floor Area (GFA) – 78 750 m<sup>2</sup> comprising (On site : 61 950 m<sup>2</sup> Off site : 16 800 m<sup>2</sup>)</p> <p>The development of <b>M+</b> would be phased – two-thirds of net gallery area are to be provided in the first phase and the remaining one-third to be provided in subsequent phases</p>	<p>A forward looking institution, to present visual culture of the 20th and 21st century from a Hong Kong perspective, the perspective of now and with a global vision</p>
An Art Exhibition Centre	NOFA - at least 10 000 m <sup>2</sup>	An Exhibition Centre	NOFA – 10 000 m <sup>2</sup>	A self-financed venue with focus on arts, culture, creative industries and WKCD-related activities



**Specialist Advisor to the Subcommittee on  
West Kowloon Cultural District (WKCD) Development  
for the Study on  
The Financial Aspects of the WKCD Project  
for  
The Legislative Council Commission**

**Final Report**

**Written by**

**K.C.Wong, K.W.Chau, S.K.Wong, and P.Yung**

**21 May 2008**

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## List of abbreviations

AV	Accommodation value
BOO	Build Own Operate
BOT	Build Operate Transfer
CACF	Core Arts and Cultural Facilities
CFA	Construction floor area
D&B	Design & Build
DBFM	Design Build Finance Maintain
EC	Exhibition Centre
FA	The Financial Advisor engaged by the Government to assist the work of the Financial Matters Advisory Group
FF&E	Furniture, fixtures & equipment
GFA	Gross floor area
HAB	Home Affairs Bureau
LCSD	Leisure and Cultural Services Department
LTGDC	London Thames Gateway Development Corporation
M&E	Mechanical and electrical
MAG	Museums Advisory Group
MOD	Money of the day
OMM	Operate Manage Maintain
NPO	Not-for-profit organization
NPV	Net present value
PA	Performing arts
PATAG	Performing Arts and Tourism Advisory Group
PSC	Public Sector Comparator
psm	per square meter
RDE	Retail, Dining and Entertainment
T-bill	Treasury Bill
TIPS	Treasury Inflation Protected Security
TPI	Tender price index
WACC	Weighted average cost of capital
WKCD	West Kowloon Cultural District
WKCDA	West Kowloon Cultural District Authority

# 1 Executive summary

1. This report assumes the principle that the WKCD should be self sufficient and financially sustainable. Capital and operating deficits would have to be met by land sales and operating income within the 40 hectares of land.
2. The method of comparing Scenarios of private sector involvement is questionable. Scenarios 1B and 2 are not sufficiently realistic to be considered as practical options for meaningful comparisons. Moreover, despite greater private sector participation in these two Scenarios, no additional efficiency gain has been allowed for.
3. Design and Build contracts may not be a suitable procurement method for M+ and other core arts and cultural facilities.
4. Unit construction costs are found within a reasonable range. On-costs are, however, higher than conventional.
5. The Financial Advisor's (FA) sensitivity analyses have not tested the financial implications of risks in investment returns and in construction cost escalations. These tests should be carried out, and contingency plans should be formulated well in advance.
6. The FA's analysis is confined to 50 years. There is no fund set aside for major renovations or re-constructions after 50 years, beyond which the WKCD may not be financially sustainable. An extra saving on capital and operating costs, equivalent to 16% of the \$21.6 seed fund, is needed.
7. Under the FA's operating assumptions, M+ would cost \$10.7 billion to construct and operate for 50 years. By 2059, M+ would contribute 89% of the WKCD's yearly deficit. M+ might become a long term financial burden of the WKCD.
8. According to the information provided by the FA so far, should M+ be run by an international operator, the potential saving, in very crude terms, could be as high as 22% of the \$21.6 billion seed fund.
9. Annual deficits of the WKCD would have to be met by Retail, Dining and Entertainment (RDE) rentals. RDE is therefore the life line of the WKCD. Yet compared to the detailed operating assumptions provided for Core Arts and Cultural Facilities (CACF), down to the smallest of theatres, those provided for RDE are clearly insufficient.
10. In considering the funding priorities of each individual facility/cost item, factors including uncertainty in financial performance, potential benefits on further investigations, and its financial significance, should all be taken into account. To build up the financial strength of the WKCD, considerations in (a) the reduction of on-costs; (b) the operation mode of M+; and (c) an effective business plan for RDE facilities are most essential.



## 2 Background

In April 2008, the Legislative Council Commission appointed Versitech Limited as a Specialist Advisor to the Subcommittee on the West Kowloon Cultural District Development to study and advise the Subcommittee on the financial aspects of the WKCD project.

### 2.1 Objectives

The followings are the specific objectives of this study:

- (1) To provide a reasonably clear and realistic picture of the overall financial performance of the WKCD project;
- (2) to determine the validity and feasibility of the conclusions and recommendations made in the Final Report of the Financial Advisor for the Development of WKCD and Related matters (“the FA’s Report”), dated April 2007, and in the Assessment of the Financial Implications of the WKCD project (the “WKCD-511 Report”) prepared by the Home Affairs Bureau, dated January 2008; and
- (3) to recommend to the Subcommittee if, or how far, the financial arrangements proposed by the Hong Kong Government for WKCD (including those contained in the relevant funding proposals submitted by the Hong Kong Government to the Public Works Subcommittee and the Finance Committee of the Legislative Council within the terms of the Appointment) should be supported, as well as recommend ways and means to enable the relevant authorities to manage the financial performance of the WKCD project effectively during the course of its planning, development, and operation.

### 2.2 Tasks

Specific tasks of this study include:

- (1) To provide assistance to the Subcommittee in its examination of the information provided by the Hong Kong Government on the financial aspects of the WKCD Project; and
- (2) to report the results of this study, notably the financial aspects of the WKCD project, covering the followings:
  - (a) an evaluation of the methodology of the financial analysis and the various assumptions used to assess the financial implications of the WKCD project in the FA’s Report and WKCD-511 Report;
  - (b) an evaluation of the validity of the results of the financial analysis and sensitivity tests, including the estimation of the costs and revenues of the arts and cultural

- facilities of the WKCD project, particularly M+, in the FA's Report and WKCD-511 Report;
- (c) an evaluation of the recommendations made in the FA's Report and WKCD-511 Report on the financing approach for the WKCD project, with regard to the findings of the report on the "Economic impact of developing the West Kowloon Cultural District" prepared by the Economic Analysis and Business Facilitation Unit of the Financial Secretary's Office ("the EIA Report"); and
  - (d) an advice to the Subcommittee on whether or not the financial analysis in the FA's Report and WKCD-511 Report is adequate for assessing the financial viability and sustainability of the WKCD project and how to determine the appropriate financing arrangements for the WKCD project.

## **2.3 Methodologies**

Objectives (1) and (2), in Section 2.1, will be achieved by carefully evaluating the logic of the methodology and assumptions, the basis of estimates on costs and revenues, and the results and recommendations in the FA's Report and WKCD-511 Report.

Objective (3) will be achieved by identifying the critical parameters affecting the financial performance of the WKCD project. These parameters may include the level of construction costs, rates of investment return to the endowment fund, general inflation and interest rates, rental performances of retail, dining and entertainment facilities, occupancy rates of hotels, number of visitors to WKCD facilities, etc. These parameters might alternatively be expressed in terms of degree, or percentage deviations from the base case, and they should be studied carefully in sensitivity analysis. These careful studies would help the managing authority identify critical changes taking place during the course of the WKCD project's development and operation, which may substantially affect the WKCD project's financial performance. This may also allow the management to be alert of the changes taking place and be able to prepare and carry out any contingent financial and management plan on time.

To arrive at a better estimation of figures, comparisons to the available data are inevitable. There is yet another objective in comparative studies, which is to highlight the differences in the financial performances of very different management and operation strategies. This latter method is used when a distinctive alternative strategy is available (e.g. building up a collection of artwork, or entering into a franchise agreement).

Both of these two methodologies will be used in this report, with a view to investigating the potential methods for improving the financial performance of the WKCD.

## **2.4 Assumptions**

The FA's Report took the recommendations of the Museums Advisory Group (MAG) and Performing Arts and Tourism Advisory Group (PATAG) for granted.<sup>1</sup> While these recommendations are thoroughly acknowledged in this study, the Specialist Advisor's scope of work is, however, not strictly restricted by these recommendations, particularly when such recommendations are vital to the financial performance, and hence, the financial sustainability, of the WKCD project.

The Home Affairs Bureau (HAB) revised the FA's Report in January 2008<sup>2</sup> to reduce the seed fund from \$30 to \$21.6 billion by downsizing M+, increasing the ratio of net operating to gross floor area for Core Arts and Cultural Facilities (CACF), refining the development mix, and shifting the financial burden of the communal and infrastructural facilities to the Government. As a result, this \$21.6 billion seed fund could be met by a sum roughly equivalent to land sales revenues, while RDE rentals could meet future operating costs. We therefore assume the principle that the WKCD should be financially self-sufficient within the 40 hectares of land available to the WKCD, meaning that all capital and operating costs should be self-financed by means of land sales revenues and operating incomes, subject to land use restriction and maximum densities imposed by the government from time to time.

With regard to the development and operation program, we followed the proposed timeline in the WKCD-511 Report, which states that all Phase 1 CACF would be completed and operational by 2015 and Phase 2 CACF by 2031. The timing of the capital and operation expenditures, however, could vary depending on the procurement method and operation mode.

## **2.5 A financial overview**

The current funding proposal is a \$21.6 billion seed endowment fund. This is based on the HAB's WKCD-511 Report dated January 2008. In this report, M+ was downsized to allow for a substantial increase in floor areas for commercial facilities. This report enabled the endowment fund to decrease from \$30 billion in the FA's Report to the current \$21.6 billion.

This reduced endowment fund of \$21.6 billion would be met by a sum roughly equivalent to the estimated land sales values of \$21.3 billion, the operating deficits of \$7.6 billion by the \$8.4 billion rental income derived from RDE, all in net present values (NPV) terms.

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<sup>1</sup> Page 2 para 1.1.5 of the FA's Report.

<sup>2</sup> Namely the WKCD-511 Report.

**Table 2.5-1 A financial overview:  
The current \$21.6 billion seed endowment fund proposal (for year 1 to 50)**

<b>Figures in NPV, 2008 prices, HK\$ million</b>	<b>capital</b>	<b>operations</b>	<b>total</b>	<b>%</b>
1 <b>WKCD: management</b>	(1,230)	(1,015)	(2,245)	9%
2 <b>master planning</b>	(34)	-	(34) <sup>3</sup>	
3 <b>M+ (Phases 1 &amp; 2)</b>	(4,749)	(5,917)	(10,666)	40%
4 <b>exhibition centre</b>	(535)	281	(254)	1%
5 <b>mega performance venue</b>	(2,706)	1,014	(1,692)	6%
6 <b>great theater 1</b>	(1,220)	(5)	(1,225)	5%
7 <b>great theatre 2 and medium theatre 3</b>	(986)	(318)	(1,304)	5%
8 <b>medium theatre 4</b>	(303)	(128)	(431)	2%
9 <b>concert hall &amp; chamber music hall</b>	(1,421)	(307)	(1,728)	7%
10 <b>xiqu centre</b>	(1,174)	(213)	(1,387)	5%
11 <b>medium theatre 1</b>	(515)	(159)	(674)	3%
12 <b>medium theatre 2 &amp; black box theatre 1</b>	(699)	(213)	(912)	3%
13 <b>black box theatres 2 &amp; 3</b>	(320)	(140)	(460)	2%
14 <b>black box theatre 4</b>	(195)	(104)	(299)	1%
15 <b>piazas</b>	(310)	-	(310)	1%
16 <b>other arts and cultural facilities</b>	(331)	-	(331)	1%
17 <b>transport facilities</b>	(1,049)	179	(870)	3%
18 <b>communal facilities</b>	(1,027)	(537)	(1,564)	6%
<b>Sub-total:</b>	<b>(18,804)</b>	<b>(7,582)</b>	<b>(26,386)</b>	<b>100%</b>
19 <b>RDE: retail, dinning &amp; entertainment</b>	(2,765)	8,448	5,683	21.5%
<b>Total:</b>	<b>(21,569)</b>	<b>866</b>		
<b>to be met by land values:</b>	<b>21,288</b>			

Table 2.5-1 shows the overall figures in this proposal. Before the rental income derived from RDE, the total capital and operating deficit would be \$26.4 billion, of which 40% would be spent on M+, 9% on WKCD Authority (WKCD), and the remainder (ranging from 1 to 7%) on performing arts, exhibitions, and other communal facilities. Any net surplus from RDE would repay 21.5% of this total deficit, and the endowment fund, which is to be recovered through land sales, shall pay the rest.

We may see, from this overview, that M+ is a major cost centre; and RDE, a life line for the WKCD's long term survival. Any substantial deviations from their current estimates could significantly affect the financial sustainability of the WKCD project. These two facilities deserve the most attention from a financial point of view. Other cost centres, including the WKCD and other PA facilities, should also be carefully analysed.

<sup>3</sup> 0.13% for master planning fees.

### 3 Validity of assumptions and methodologies

#### 3.1 Scenarios for private sector involvement

The FA's Report recognized the importance of private sector involvement and drew up different public private partnership scenarios for comparison. The Public Sector Comparator (PSC) is included, but not regarded as an "option," in the FA's Report. Instead, the FA's Report proposed three options of private sector involvement, namely, Scenarios 1A, 1B, and 2. Their major differences are highlighted in Table 3.1-1.

The FA adopted Scenario 1A as the basic model for funding considerations. This is a result of its financial assessments of Scenarios 1B and 2. Figure 4-7 of the FA's Report shows that Scenarios 1B and C differed from 1A in the following ways:

1. In Scenario 1A, the proposed WKCD Authority would put up the financing, the private sector would design and build, and the Not-for-profit Organization (NPO) operators would manage and maintain the facilities.
2. With the exception of the piazzas, exhibition center, and other arts & cultural uses, the private sector in Scenario 1B will not only design and build, but also *finance and maintain* all performing arts (PA) venues. Most of these facilities will possibly be operated and managed separately by NPO.
3. Scenario 2 is similar to 1B, except that *Design Build Finance Maintain* (DBFM) contracts would be awarded in three separate packages of facilities to private developers who would also own and operate the packaged PA facilities.

**Table 3.1-1 A highlight of the major differences between Scenarios 1A, 1B, and 2**

<b>Options:</b>		<b>1A</b>	<b>1B</b>	<b>2</b>
<b>level of private sector involvement</b>		<b>small</b>	<b>medium</b>	<b>large</b>
M+	private sector's role in procurement	<i>Same:</i> design competition design & build only	<i>Same:</i> design competition design & build only	<i>Same:</i> design competition design & build only
	NPO's role in operation	<i>Same:</i> Operate, manage, and maintain	<i>Same:</i> Operate, manage, and maintain	<i>Same:</i> Operate, manage, and maintain
Other Core Arts and Cultural Facilities (CACF)	private sector's role in procurement & operation	design & build only	design & build	design & build
		do NOT finance or maintain,	finance & maintain	finance & maintain
	do NOT operate	do NOT operate	own & operate packaged PA facilities <sup>4</sup>	
	NPO's role in operation	Operate, manage, & maintain	Operate & manage	Operate & manage: except packaged PA facilities
<b>total cost: capital &amp; operating</b>		<b>\$29,950 Mn</b>	<b>5.8% more expensive than 1A</b>	<b>8.1% more expensive than 1A</b>
finance cost		6.1% p.a.	12.5% p.a.	12.5% p.a.
risk premiums allowed <sup>5</sup>		23%	29.5%	20.8%
operating costs (over 50 years)		\$8,333 Mn	\$8,333 Mn same as 1A	\$8,569 Mn almost the same as 1A
efficiency gains due to private investor		-	nil	nil
WKCD Authority's costs		\$2,117 Mn	\$2,117 Mn	\$2,117 Mn

Compared to Scenario 1A, it is clear that the level of private sector participation for Scenario 1B is larger; and Scenario 2, the largest. Yet the FA's Report<sup>6</sup> concluded that Scenario 1B is more expensive; and Scenario 2, the most expensive. Detailed figures inside the FA's Report showed that the essential factor is a higher financing cost.<sup>7</sup> The FA's Report assumed a

<sup>4</sup> Package A: Mega Performance Venue + hotel 2,3 + RDE; B: Medium Theatre 1+ Black Box Theatres 2,3 + hotel 1 + RDE; C: residential, others arts and cultural uses + transport, communal facilities

<sup>5</sup> Page 34 of the FA's Report.

<sup>6</sup> Table 5-10 on page 50.

<sup>7</sup> For Scenario 1B, the total finance cost is (1,349) million in Table 5-10: column under "Finance", which accounts for the majority of the difference between Scenarios 1A and 1B: (31,690) – (29,950) = (1,740). For Scenario 2, the actual figures were hidden, but still the major differences lie in the finance cost.

12.5% cost of capital<sup>8</sup> for using private sector funding, while the government's opportunity cost of funding is a smaller nominal rate of 6.1%. The FA's rationale is that if the private sector were to finance and maintain the performing arts facilities using private funds, the implicit interest costs must necessarily be higher.

Here lies a subtle paradox. If the public sector were to receive an endowment fund that could earn 6.1% per annum, it would not pay to use private sector financing at the expensive rate of 12.5% unless there are other benefits to doing so. The question then is: what other benefits could private sector participation bring into the project? The FA's Report proposed only two possible benefits, but they are either too small in financial terms or simply not translated into financial figures:

1. Risks are transferred to the private sector. According to the FA's Report, however, the financial implication of this risk transfer is small, and it applies to Scenario 2 only. In Scenario 2, where performance arts and communal facilities are packaged with commercial developments, a Build Own Operate (BOO) procurement mode was assumed. Under these assumptions, the FA's Report found only a 2.2% saving in the risk premium on procurement. This was due to the presumably more efficient private sector managing the packaged PA facilities, with a view that these facilities will be owned and operated by this investor upon their completion.<sup>9</sup> This 2.2% benefit is far from sufficient to cover the additional interest cost (12.5% vs. 6.1%) of using private funding to invest in and operate the facilities for over 50 years. The FA's Report therefore stated that:

*"...the financing cost and the required return for undertaking the construction and operation of the facility [by the private sector] outweighs the reduction in risk [borne by the public sector] such that the costs are higher than under the other scenarios."*<sup>10</sup>

2. More importantly, Annex M-4 of the FA's Report spelt out clearly that a major advantage of employing public-private partnerships is to:

*"...[improve] value for money in service delivery by gaining access to experience, management skills and management flexibility that may not exist in the public sector".*<sup>11</sup>

In general, this is also the fundamental reason behind the widely recognized method of out-sourcing public services to the private sector. Unfortunately, all these potential benefits, in terms of the expertise and flexibility of managing procurement, as well as in operational efficiencies, were NOT reflected in the financial assessments of any of the three scenarios. In fact, Table 3.1-1 above showed that the operational deficits for Scenarios 1A and 1B were exactly the same: \$8,333 million, while that for Scenario 2

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<sup>8</sup> Namely the WACC: Weighted Average Cost of Capital, assumed to be 12.5% on P.32 of the FA's Report.

<sup>9</sup> Page 34, Table 4-3: 10.4% for BOO under Scenario 2 vs. 12.6% for Design & Build under Scenario 1A; and Page 51, paragraph 5.8.4.

<sup>10</sup> Page 51, paragraph 5.8.4.

<sup>11</sup> Paragraphs 2.1.3 and 2.2.1.

was even slightly higher at \$8,569 million. As for management, the last row in the same Table showed that the costs of running the WKCDA were exactly the same for all three scenarios: \$2,117 million. No efficiency gains, despite greater private sector participation, were reflected in the calculation of the management costs.

Using this methodology of counting extra costs due to larger private sector involvement, without counting the major extra benefits, Scenarios 1B and 2 are bound to be more expensive. This is a result followed directly from the underlying assumptions rather than from analysis.

### **3.2 The validity of Scenarios 1B and 2**

Scenarios 1B and 2 differed from 1A mainly because a *Design, Build, Finance and Maintain* (DBFM) approach is assumed for the procurement of PA facilities. Under this approach, the private sector would finance, design, build and maintain the performing arts facilities without operating them. With this assumption, the risk premium for project management was assumed to be 6.5% higher.<sup>12</sup> The FA's Report explained that this was due to the separation of the private sector's procurement and maintenance functions from the operating and management functions of other parties<sup>13</sup>. This could cost the public client more to remedy problems that would presumably arise from potential conflicts between the operator and the DBFM contractor.

If all these assumptions were valid, Scenarios 1B and 2 may NOT be sufficiently realistic to be considered in the first place because not only would private funding come with higher interests, it would also increase project management risk without bringing about any other additional benefits.

In fact, it is almost impossible to find a real and successful example in Hong Kong using this DBFM approach. In response to the queries raised on this DBFM assumption, the FA wrote:

*“DBFM was a procurement mode developed in conjunction with Efficiency Unit specifically to address the circumstances of developing new facilities in the arts and culture sector in Hong Kong. We do not know of any examples in Hong Kong.”*

*DBFM includes financing the capital cost. It does not reduce the funding gap substantially.*

*.... a whole of life approach including operations was not adopted for M+ or performing arts (PA) venues because the construction and operation of such venues do not fit well together and developers do not want to take on the operational responsibility that would be part of such a contract i.e. the risk premium is higher. PPP approaches that include operations are more suitable for infrastructure projects where the construction and operation are done by the same party / same group – many examples in the transport sector (e.g. Tate's Cairn*

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<sup>12</sup> Page 34, Table 4-3: 19.1% for DBFM under Scenario 1B and 2 vs. 12.6% for D&B under Scenario 1A.

<sup>13</sup> Paragraph 4.6.7 on page 34.



Tunnel).”<sup>14</sup>

It should be carefully noted that these examples are basically civil engineering projects in which the investor does operate these facilities (e.g. collecting tolls in the case of Tate’s Cairn Tunnel). Hence, they are not examples of DBFM.

Yet taking away the operational function from the investor, out of a whole life approach in infrastructure projects, does not make this newly created DBFM approach more realistic. It may not be convincing to assume that investors would be sufficiently motivated to finance, design, build, and maintain a complex building facility without the chance to manage it himself to recoup their substantial investment. Hence, no such example using this hypothetical DBFM approach to develop complex buildings exists in Hong Kong.

Of all the reasons presented in this section, Scenarios 1B and 2, using extensively the hypothetical DBFM approach, might not be sufficiently realistic to be considered as practical options for implementation. Scenario 1A was chosen simply because the other two scenarios are hypothetical.

Scenario 1A was also chosen without considering different levels of private participation for M+. In particular, international operators were not considered at all in any of these three scenarios. This will be further discussed in Sections 5.3 and 11.5.

### **3.3 Other key assumptions**

#### **3.3.1 The discount rate and investment returns**

The FA’s Report assumed a long term real discount rate of 4% per annum. Together with an assumption of a long term inflation rate of 2% per annum, the nominal discount rate would be 6.1% per annum.<sup>15</sup>

The current funding proposal is an initial endowment fund of \$21.6 billion. This funding arrangement implies that the endowment fund must be invested to earn a compound interest of at least 6.1% over the 50-year period so that the future funding of the WKCD’s capital and operation costs would be secure.

Whether or not this 6.1% nominal investment return can actually be achieved will depend not only on the WKCDA’s future investment strategy, but also on actual market conditions. What could be achieved in the long term may not be realised in the short or medium term. The short term risk on investments is of particular importance to the WKCD, as the vast majority of the capital costs would have to be spent on construction activities within the 4

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<sup>14</sup> See Appendix I in this Report: response to Question (7). Underlines are not in the original texts, but were added only to highlight the essential points.

<sup>15</sup>  $(1+4\%) \times (1+2\%) = 1.0608$ , which is approximately  $(1+6.1\%)$ .

years period from 2011 to 2014.<sup>16</sup> The seed fund should be invested starting in 2008. A pessimistic scenario is that the WKCD would be forced to sell its investments, at low market prices, in order to pay for the capital costs from 2011 onwards. In a nutshell, market fluctuations within these 4 years may jeopardize the long term financial strength of the project.

### 3.3.2 The inflation rate and construction cost escalation

In addition to this problem of short term investment risk, there is also the risk of construction cost escalation. The FA's Report assumed that construction costs would escalate at the same rate as the long term inflation rate (assumed to be 2% per annum).<sup>17</sup> This allowance might be insufficient because the statistical records of increases in tender price indices (TPIs, which are measures of increases in the price levels of construction work over time) were much higher than 2%, and construction costs were unlikely to grow at a rate of the projected 2%.

Moreover, there are signs that construction costs are likely to accelerate in the coming few years:

- (1) Increasing public sector investment in infrastructure construction;
- (2) increasing energy prices; and
- (3) increasing demand for base metals such as steel, copper and aluminum and other construction materials.

**Table 3.3-1 Growth rates of TPI for private sector and public sector building works<sup>18</sup>**

	Public Sector TPI (ASD)	Private sector TPI
Long term: since 1970 (1970Q1 -2007Q3)	6.0%	6.3%
Short term: the last 3 years (2004Q3-2007Q3)	8.8%	6.13%
Short term: the last 2 years (2005Q3-2007Q3)	12.3%	7.5%

As for the long term inflation rate, based on the difference between the yield of TIPS (Treasury Inflation Protected Security) and that for T-bills (Treasury-bills), the long-term inflation expectation (over a 20-year period) in the US in March 2008 was approximately

<sup>16</sup> See Annex 1(b) of the WKCD-511 Report.

<sup>17</sup> Even allowing a long term inflation rate of 2% is not realistic, given that the long term average inflation expectations derived from market data in the US bond market has been in the order of 2.5%. Long term expected inflation estimated from the 10-year Treasury Inflation Protected Securities and 10-year nominal treasury note, after adjusted for liquidity premium of TIPS and inflation risk premium of nominal treasury note, is currently (May 2008) 3.26% and average value over the period 2004-8 is 2.5% (source: Federal Reserve Bank of Cleveland, <http://www.clevelandfed.org/research/data/tips/>, accessed 20 May 2008).

<sup>18</sup> Data sources: [http://www.hk.rlb.com/cost\\_data.html](http://www.hk.rlb.com/cost_data.html) ; <http://www.dlsqs.com/>.

2.5%. The average for the period 2006-7 was 2.6%. Although the Hong Kong Dollar is pegged to the US Dollar, long and short term inflation in Hong Kong is likely to be higher due to a closer economic relationship between Hong Kong and Mainland China, whose currency is appreciating.

This assumption of 2% inflation for construction work, renovation and maintenance work, and other expenses may have been too low.

### **3.3.3 The 50-year period of analysis**

The FA's Report assumed a 50-year period of analysis starting from 2010. This was based on the assumption of land sales with 50-year lease occurring in early 2010.<sup>19</sup>

Legally speaking, leases only last for 50 years. Yet in general, the property market expects lease renewals upon their expiration on the condition of renewed yearly payments for government rents. This became a routine government practice after 1997. Actually, land values presented in the FA's Report were estimated based on comparables in which such lease renewal expectations prevail. These land valuations are not adjusted downwards to reflect straightly non-renewable 50-year leases for commercial and residential land leases. This implies that lands sold in 2010 are not expected to be reclaimed by the WKCDA after 50 years. That is the first point.

Second, according to the revised financial plan, with M+ being downsized and RDE's areas being vested with the WKCDA, capital costs are met by land sales; and operating costs by RDE rentals. In these calculations, no yearly depreciation is allowed for the amortization of the initial capital costs. Instead, the costs of two major renovations are allowed during the 50-year period. These renovations would replace mechanical and electrical, furniture fixtures and associated equipment. The subtle difference between this 50-year approach and a yearly depreciation allowance within the operating costs budget, is that there would be no yearly funds set aside to reconstruct and renovate the buildings once the 50 years are up.

Buildings and equipments do not last forever. Should we assume a building life of 50 years, by 2060, there would be no funds set aside for ALL components of the buildings: including structure, fabric, mechanical and electrical, furniture fixtures and associated equipments.

In principle, the WKCDA could start all over again within the 40 hectares after 50 years. The only difference is that this time, the WKCDA would have no land to sell. By that time, the Treasury may have to provide the WKCDA with another endowment fund, say another \$21.6 billion, in present value terms, to fund the capital and operations for another 50 years. This time, of course, the Treasury would not be able to cover this endowment fund from land sales. Moreover, this is a recurrent problem that will happen every 50 years.

Hence, underlying this 50-year period of analysis is a genuine problem of financial sustainability.

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<sup>19</sup> Table 4-2 on page 32.

### **3.4 Methods of presentation**

The FA's Report proposed 3 scenarios of Private Sector Involvement, as well as 1 Public Sector Comparator, namely PSI 1A, PSI 1B, PSI 2, and PSC. In these scenarios, "PS" stands for "Private Sector" in PSI; but "PS" also stands for "Public Sector" in PSC. This may be confusing to readers. To ensure clarity, PSI Scenarios will simply be referred as Options/Scenarios 1A, 1B, or 2 in this report.

In order to arrive at discounted present values of varying cash flow commitments over time due to the phasing of construction and operations, the lengthy displays of yearly cash flows are perhaps inevitable. To facilitate better communications, however, all these complications in presentations could be substantially simplified in two ways:

First, instead of inflating prices at 2% per annum, and subsequently discounting them using the larger nominal rate of 6% per annum (or 6.1% in the FA's Report), it would be much simpler to use the real rate of interest of 4% per annum to discount future prices, which are not inflated at all. This real discount rate approach is much simpler and the results of the analyses are the same. The reader would probably understand this better, as s/he would be more familiar with current prices than the inflation-adjusted prices in, say, 30 or 50 years.

Second, following the first point above, it may not be necessary to present Money of the Day (MOD) at all. Worse still, summation of MOD may lead to erroneous understandings, e.g. in WKCD-511 Report Annex 2, column 3, the total MOD for M+ Phase 2 is \$2,304 million, which is almost double EC's \$1,273 million. Yet in NPV terms, EC is, in fact, more expensive: \$535 million versus Phase 2 M+'s \$483 million. Hence, MOD figures and their summations should be dropped entirely to avoid confusions.

## 4 Construction and renovation costs

### 4.1 Level of direct construction costs

The FA estimates that the unit construction costs for M+ and performing arts venues ranged from \$22,200 to \$29,200 per square meter (psm) CFA (Construction Floor Area). This included costs for FF&E (Furniture, Fixture & Equipment), but excluded professional fees and other on-costs. The FA's Report assumed a CFA to GFA (Gross Floor Area) ratio of 1.3 for these venues.<sup>20</sup> Excluding FF&E costs, this price range would be \$15,900 to \$20,450 psm CFA.

There was, however, insufficient local construction cost data for arts facilities. Most were built by the government many years ago. The closest cost data were published in 2000.<sup>21</sup> Adjusting these unit costs to 2006 prices, theatres (over 500 seats) would cost \$14,885 psm CFA and a national museum, \$15,587. These unit costs, again, excluded FF&E.<sup>22</sup>

We can now see that the FA's unit costs are a little high, but are still reasonable. Given these unit costs, good quality of design and construction should be expected for the M+, EC, and PA facilities.

The unit cost FA estimated for RDE construction is \$18,198 psm GFA. FA did not specify the CFA-to-GFA ratio for RDE. Assuming this was 1.2, the unit cost would be \$15,165 psm CFA. This is close to the unit cost data of \$14,500 psm for prestige shopping centres, published by a leading consultant firm for 2006, Q4.<sup>23</sup>

### 4.2 Major repair and renovation costs

In the FA's study of the 50-year period commencing in 2010, major overhaul cycles of 20 years each are assumed for M+, EC, and performing arts facilities and 12-year cycles for RDE facilities.<sup>24</sup> In these major overhaul exercises, all fitting-outs and M&E equipments are assumed to be 100% replaced. The costs of these exercises are therefore estimated using the initial construction costs for fitting-outs and M&E equipments. Such costs for M+ and PA facilities ranged from 47% to 52% of the total direct construction costs.

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<sup>20</sup> WKCD-511 Report Annex 5(a). FA also lists international unit cost comparisons in Annex D.6-1 of the FA's Report. These unit costs vary a lot in both the figures and their location. Their detailed compositions cannot be easily verified.

<sup>21</sup> Davis Langdon & Seah International eds., Spon's Asia Pacific Construction costs handbook 2000.

<sup>22</sup>  $\$18,240 \times 985/1207 = \$14,885$ ; and  $\$19,100 \times 985/1207 = \$15,587$ . TPI is 985 for 2006 Q3 ; and 1207 for 1998 Q4. [http://www.dlsqs.com/modules.php?name=Categories&tsservice=CostData&new\\_topic=&catid=88&costdatatopic=6&costdatasid=597](http://www.dlsqs.com/modules.php?name=Categories&tsservice=CostData&new_topic=&catid=88&costdatatopic=6&costdatasid=597)

<sup>23</sup> Davis Langdon & Seah, Construction Cost Handbook: China & Hong Kong 2007, page 8.

<sup>24</sup> WKCD-511 Report Annex 6(a).

As for RDE, each major overhaul exercise cost \$300 psf GFA, or \$3,229 psm GFA. This was about 17.7% of the initial construction cost of \$18,198 psm GFA. Despite the overhaul cycle being only 12 years instead of 20, the overhaul cost allowance was still much lower for RDE than for PA facilities.

This diversion in costs allowances reflected the RDE approach's greater proximity to conventional practice: Not 100% of the fitting-outs and M&E equipment are replaced during every major renovation. There is no standard rule, but a rough general expectation is in the neighborhood of 50% replacement of fitting-out and M&E equipment, depending on maintenance conditions.

The 20-year cycle and 100% replacement of fitting-outs and M&E equipment is not entirely impossible, but should be justified with reasons.

The FA's Report also assumed that construction costs would escalate by 2% per annum. This would apply to major renovation costs as well. Section 3.3.2 already discussed that historical data showed that constructions costs have escalated by a much greater rate of about 6% per annum over the past 37 years. Long term rates of escalations are relevant here, as the major overhaul exercises are due 20 or 40 years later. This problem of construction cost escalation will magnify over a longer period of time because of the compound interest.

It should also be noted carefully that in all these major overhaul exercises, no replacement or renovation cost for the structure and the fabrics of the buildings were allowed. This problem becomes more serious as the buildings age, especially after 50 years. To allow a fund to solve the problem of reconstruction, the *additional* seed fund needed could be estimated as follows.

Assume that the buildings' life is 50 years. Since the initial capital costs required for the WKCD project is \$21.6 billion. In principle, the WKCDA would then need another \$21.6 billion (in present value terms) in 50 years' time for reconstruction. This \$21.568 billion should be adjusted downwards because some capital costs need not be paid again after 50 years, including the \$0.873 billion for museum collection; and the \$0.056 billion for the off site storage land costs.<sup>25</sup> Hence, \$20.639 billion would be needed by Year 50. The present value of this money at the real rate of 4% would be \$3.38 billion<sup>26</sup>.

This means that an additional seed fund of \$3.38 billion is needed for the WKCD's financial sustainability after 50 years. That is equivalent to 16% of the current \$21.6 billion capital cost. Should the WKCD be able to finance itself within the 40 hectares, the current financial plan should be adjusted to save, or to earn, an additional sum equivalent to 16% of the capital costs.

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<sup>25</sup> This deduction may include costs for foundations, structure, and other on-costs, depending on whether keeping the architectural design and the structure is desirable after 50 years.

<sup>26</sup>  $3.378 \text{ billion} = 20.639 \text{ billion} \times (1/1.04)^{50} + (1/1.04)^{100} + \dots$   
 $20.639 \text{ billion} = 21.568 - 0.873 \text{ billion (for museum collection)} - 0.056 \text{ (for land cost of off site storage)}$   
in 2008 NPV.

### 4.3 On-costs and management fees

Table 4.3-1 below presents the composition of the \$21.6 billion seed fund in terms of direct construction cost and other on-costs. We can see from this table that on top of direct construction costs, there remain indirect costs, which come to 95.9% of the direct construction costs: 6 to 14.6 % professional fees, 8 to 9% contract management fees, 11.2 % WKCDA's costs, 25.9% risk allowances, 26.3% major repairs and renovations, and 15.6% for museum development.

**Table 4.3-1 Capital, On-costs, and operating costs**

<b>Capital costs</b>	NPV 2008 \$ million	as % of construction cost	Compared to Conventional % <sup>27</sup>
direct construction cost	11,012	100%	
professional fees		6% to 14.6%	6%
contract management	1,869	8% to 9%	conventionally included in the developer's normal profit:
WKCDA's costs for Years 1-8	1,230 <sup>29</sup>	11.2%	either the WACC(12.5% p.a.), or 10% profit on construction <sup>28</sup>
risk allowances	2,850	25.9%	10% to 15% contingencies
major repair and renovation	2,891	26.3%	Not allowed for after 50 years
museum development	1,717	15.6%	Note: See Section 5 on M+
<b>Total capital cost</b>	<b>21,569</b>	<b>195.9%</b>	
To be met by land value	21,288		
<b>Operating deficits</b>			
CACF, transport, communal	6,567		
WKCDA's costs for Years 9-50	1,015		
<b>Total operating deficit</b>	<b>7,582</b>		
To be met by RDE rental	8,448		

These on-costs could be compared to the conventional approach in the market, which is provided separately by the FA's Report. 8 to 9% management costs for contract management and 11.5% for WKCDA adds up to 20%. This is substantially higher than a 10% normal developer's profit, which includes contract management. The analyses from Section 4.2

<sup>27</sup> WKCD-511 Report Annex 2, and 5(a) on RDE construction costs.

<sup>28</sup> FA's Report page Annex H-11.

<sup>29</sup> The allowance of \$34 million for mastering planning fees (0.3% of construction costs) is moved from WKCDA costs to professional fees, for clearer analysis, since this professional is likely to be out-sourced to planning professionals.

indicated that major repair and renovation costs are on the high side. Sections 4.4 and 4.5 will discuss management costs and risk allowances.

#### **4.4 WKCDA costs**

Table 2.5-1 shows that WKCDA management would cost \$2.245 billion, or 9% of the total capital and operating deficits. These funds are quite substantial and should be looked at closely.

Within this \$2.245 billion, \$1.23 billion would be spent on the WKCDA's management of the project's development from Years 1 to 8. The FA's Report provides that the WKCDA would hire 90 staff and have an annual total operating cost of \$189.4 million during this development phase<sup>30</sup>. In response to questions over the duties of these 90 staff, and whether they would hire additional consultants, the FA answered:

*“the FA assumed five divisions: office of the chief executive; planning and development; property; finance and procurement. The duties include but are not limited to: land assembly and property, master planning and project development, strategic and business planning, cultural and arts policy liaison, legal, procurement, contracting and finance. This assumption was adopted with reference to the establishment of comparable area-based agencies in Hong Kong and elsewhere....Yes. The FA assumed that consultants would be hired in addition to these staff.”<sup>31</sup>*

Master planning costs \$0.034 billion in the FA's estimate, which is a relatively small sum outside this \$2.245 billion figure. Master planning would presumably be taken up by hired outside consultants. Moreover, there is also another additional, but substantial budget set aside for contact management, which is in the order of \$1 billion<sup>32</sup>. This would again be presumably taken up by additional consultants, who would handle procurement and contracting. Other professional jobs, including legal services, business planning and marketing might be out-sourced to the outside consultants, and budget separately.

What is left behind would be the overall supervision and liaisons. The question then is: would 90 staff be needed for these overall supervision and liaisons? The FA did not provide detailed duties for these 90 staff. This should be reviewed to ensure that their work does not overlap with that of the outside consultants.

The FA did refer to one example: the London Thames Gateway Development Corporation<sup>33</sup>.

Following the awarding of the 2012 Olympics to London, the London Thames Gateway Development Corporation (LTGDC), a new Urban Development Corporation, formulated master plans to re-generate 4,900 hectares of land alongside 19 miles of the Thames

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<sup>30</sup> Page B-3 of the FA's Report.

<sup>31</sup> Appendix I, Question (17).

<sup>32</sup> 8 to 9% on the \$11 billion direct construction costs.

<sup>33</sup> Annex B-3 of the FA's Report.



riverfront. According to the Final Report, LTGDC hires only 5 directors plus 12-15 permanent staff, costing only about HK\$ 22.5 million per year. Also “they make wide use of development consultancy”, the FA’s Final Report noted.

**Table 4.4-1 Comparison of organisation costs  
During the *development phase***

	London Thames Gateway Corporation (10 years)	WKCD (Year 1 to 8)
Affected area	4,950 ha <sup>34</sup>	40 ha
waterfront	31 km	2 km
Newly developed area	320 ha <sup>35</sup>	40 ha
Directors	5	90
Staff	12 to 15	staff
Annual costs	23 million <sup>36</sup>	189 million

From the annual report<sup>37</sup>, we may understand that London Thames Gateway Development Corporation is a limited-life (10-year) organization wholly financed by the government. This may be comparable to the WKCD’s 8-year development phase.

For 2006/2007, there were 13 Board members, costing HK\$3.6M per annum.<sup>38</sup> There are 26 full time equivalent staff, 1 seconded staff, and 5 contract or temporary staff, costing HK\$32 million per annum.<sup>39</sup>

Thames Gateway’s statutory status is like a combination of the Urban Renewal Authority (which has the power to acquire land for regeneration) and the Town Planning Board / Planning Department (which has the authority to make certain planning decisions). Thames Gateway’s main tasks are strategic planning (e.g. master planning & feasibility studies) and decision making (e.g. granting planning approvals) rather than actual implementation.

One may observe that Thames Gateway and the WKCD are very different, and hence, not directly comparable. Yet such a comparison prompted us to ask an even more relevant question: what we can learn from studying Thames Gateway’s method of organization?

A key observation of the FA was that Thames Gateway makes wide use of development consultants. This is perhaps why it can keep the number of permanent staff small. We may

<sup>34</sup> <http://www.ltgdc.org.uk/uploaded/documents/londonthamesgatewayrevealingtheinvestmentpotential.pdf>

page 7: 3,500 plus 1,450 = 4,950 ha in total. Waterfront 19 miles, or 30.57 km.

<sup>35</sup> Same source as in previous note: 180 ha on page 7 plus 140 ha on page 8.

<sup>36</sup> FA’s Report Annex, Page B-3.

<sup>37</sup> <http://www.ltgdc.org.uk/aboutus/whatwedo>

<sup>38</sup> Page 18, GBP 238,406 x say 15 = HK\$ 3.6 million.

<sup>39</sup> Page 38, GBP 2,146,000 x 15 = HK\$32 million.

also observe that successful enterprises in the development field adopt a similar strategy: out-sourcing consultancies and keeping a small number of essential staff.

It would seem that that the FA assumes that the WKCDA adopts a policy of out-sourcing consultancies widely, and at the same time, assumes an organization of considerable size.

Logically, the WKCDA, being unique, may not be a sufficient reason for justifying a considerable organisational structure. Perhaps the pertinent questions to ask are:

1. What are the detailed duties, ranks, salaries, and benefits for these 90 staff members?
2. Hence, what are the detailed breakdowns of this \$189 million annual budget?
3. Do these detailed duties overlap with those of out-sourced consultants?
4. Is this organizational structure cost effective?

**Table 4.4-2 Comparison of area management costs during the *operation phase***

	The Brisbane South Bank Corporation	WKCD (Year 9 to 50)
Affected area	42.7 ha	40 ha
Directors	7	33
Staff (excluding operational staff)	18	

The FA assumed 33 staff, costing \$60.3 million per annum for WKCD’s area management. The FA’s Report also referred to the example of the Brisbane South Bank Corporation. It stated that, “[*The Brisbane South Bank Corporation*] employs 411 people with an operation turnover of over HK\$ 450 million equivalent.”<sup>40</sup>

This 411 figure contradicts the Corporation’s 2007 Annual Report<sup>41</sup>, which states clearly that it employs only 75 staff (7 managers, 18 administration staff, and 50 operation staff, including part-time staff). We understand that the FA’s Report was done in 2006, yet the authenticity of this 411 figure should be verified.

In response to our request for the source of this 411 figure, the FA answered:

*“The point of the commentary is that the number of staff depends wholly on the function and responsibility of the area-based organization concerned. The point was that 400 or so was far too high and yet Thames Gateway at 12-15 was far too low and thus the FA developed a*

<sup>40</sup> Page Annex B-3 of the FA’s Report.

<sup>41</sup> <http://www.southbankcorporation.com.au> pages 2, 44, 49. (21.985 million AUD at 1 AUD = 7.1 HKD)

*structure specifically for WKCDA.”<sup>42</sup>*

This response is perhaps still inadequate because:

- (a) It did not state the source of this 411 figure, the authenticity of which was still in question; and
- (b) The function and responsibilities of the proposed WKCDA staff were not spelt out in sufficient detail to justify the proposition that “*the number of staff depends wholly on the function and responsibility of the area-based organization concerned*”.

In response to a question over the duties of the 33 staff estimated for the WKCD’s area management during the operational phase, the FA wrote:

*“...the FA assumed 3 divisions: chief executive, area management and finance. The duties would include but not limited to: estate management, area marketing and programming, strategic and business planning, cultural and arts policy liaison, legal, contract management, procurement and finance.*

*In addition, individual arts and cultural facilities and related facilities are provided with staffing resources for venue and programme management as well as operating budgets.”<sup>43</sup>*

Again, the pertinent questions to ask are:

1. What are the detailed duties, ranks, salaries, and benefits for these 33 staff members?
2. Hence, what is the detailed breakdown of this annual budget of \$60.3 million?
3. Do their duties overlap with those of other staff working in M+ and other PA facilities?
4. Would it be more cost effective if some of these duties were outsourced?

As a final note, all the international examples of area development organizations cited in the FA’s Report (London Thames Gateway, Lower Manhattan Development and Brisbane South Bank) are called “Corporations”, instead of “Authorities”. This name might suggest a financial approach closer to commercial principles, from which there might perhaps be another lesson to learn.

#### **4.5 Risks and contingencies allowances**

Annex J of the FA’s Report explains a methodology of risk analysis. It basically assigns probabilities to possible events occurring during the course of development and operation of the WKCD project. “*The expected value of the costs of the risk of each event occurring [is*

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<sup>42</sup> See Question (16) in Appendix I.

<sup>43</sup> See Question (18) in Appendix I.

*obtained] by multiplying the probability of a change from the base costs by the costs if the event does occur.”<sup>44</sup>*

This methodology is sound in pure logic, but is weak in empirical contents. Unlike the event of getting a head or a tail by tossing a coin, in which one could assign the probability of these two events either by means of the logic of symmetry (head vs. tail) or by statistical records, probabilities of events in a proposed development project are assigned by the professional judgment. The FA stated that, “The *probabilities were assigned by the team of experts based on their skills and experience.*”<sup>45</sup>

Professional experiences are very valuable, but these experiences do not register in our minds by any statistical means. No two projects are exactly the same. Different professionals, with very different sets of experiences in their careers, may assign probabilities very differently. The results of this risk analysis may vary a lot.

Given two rather different sets of risk assessments by two different professionals, one could not possibly tell which set is more accurate unless and until all the project costs are realized and known. Even when all these costs are known many years later, a one-off accurate judgment does not imply statistical accuracies in the long run. One cannot possibly build the WKCD over and over, as if tossing a coin, to test the accuracy of these probabilities assigned. Hence, such a method of assigning probabilities to development events may be a methodology that is not testable by empirical data.

Another approach for assessing the results recommended by this probabilistic methodology is to compare them to conventional practices in contingency allowances. The probabilistic methodology recommends an aggregate risk allowance of 25.9% on direct construction costs (Table 4.3-1). It is a result of risk premiums, ranging from 20.8% (for BOT and BOO) to 34.7% (for design competition plus design and build) assigned to various procurement methods. The 25.9% figure is much higher than the conventional 10% to 15% contingency allowances for normal construction projects.

We are not arguing that risk is small in the construction of the WKCD, but risk could be managed by effective management. Should an additional professional fee of 8 to 9% be spent on contract management, plus another \$1.23 billion on WKCDA management costs during the construction phase, it would perhaps be reasonable to expect much better project management, and hence, the risk premium might not be as high as 25.9%.

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<sup>44</sup> Page J-3 paragraph 4.3.

<sup>45</sup> Appendix I, Question (10).

## 5 Cost effectiveness in operations

### 5.1 Operating costs and revenues of arts and cultural facilities

The FA estimated the total operating deficit to be \$7.58 billion, in 2008 values. Of this amount, \$5.92 billion (78%) were for M+ and \$1.02 billion (13.4%) were for the WKCDA.<sup>46</sup>

**Table 5.1-1 Operating deficits/surplus and cost recovery rates**

Figures in NPV, 2008 prices, HK\$ millions	Operating Deficits/ Surpluses	As % of total deficits	Operating cost recovery rate: Year 10 after commencement of operations %
<b>WKCDA: management</b>	(1,015)	(13%)	-
<b>M+ (phases 1 &amp; 2)</b>	<b>(5,917)</b>	<b>(78%)</b>	<b>18 to 22%</b>
<b>exhibition centre</b>	281	4%	142%
<b>mega performance venue</b>	1,014	13%	149%
<b>great theater 1</b>	(5)	(0%)	101%
<b>great theatre 2 and medium theatre 3</b>	(318)	(4%)	74%
<b>medium theatre 4</b>	(128)	(2%)	59%
<b>concert hall &amp; chamber music hall</b>	(307)	(4%)	83%
<b>xiqu centre</b>	(213)	(3%)	82%
<b>medium theatre 1</b>	(159)	(2%)	66%
<b>medium theatre 2 &amp; black box theatre 1</b>	(213)	(3%)	64%
<b>black box theatres 2 &amp; 3</b>	(140)	(2%)	51%
<b>black box theatre 4</b>	(104)	(1%)	41%
<b>transport facilities</b>	179	2%	-
<b>communal facilities</b>	(537)	(7%)	-
<b>Total deficits:</b>	<b>(7,582)</b>	<b>(100%)</b>	

The mega performance venue would contribute the highest surplus, which barely covers the WKCDA's management costs. Detailed operating assumptions of these venues are given by the FA in Annex D.3 of the FA's Report, with the single exception of WKCDA costs, which has been discussed separately in Section 4.3. These operating assumptions are sufficiently clear in details.

### 5.2 Revenues as a percentage of operating costs

What is vital in these figures for operation, is perhaps the operation mode of M+. It would contribute 78% of the overall operating deficit. The yearly deficit of M+ would be in the order of \$ 0.4 billion (2008 values) in 2032, when both Phases 1 and 2 would be in full

<sup>46</sup> WKCD-511 Report Annex 10, Page 3/3. Over the 47 years of operation from 2013 to 2059.

operation. This would contribute more than 80% of the yearly deficits in 2032, and this percentage would rise to 89% by 2059.<sup>47</sup>

We can see that M+ will become a serious financial burden of the WKCD both within and beyond the first 50 years of development and operation.

Table 5.1-1 also showed the cost recovery rates, which ranged from 18% to 149%. Only 2 venues, namely, the mega performance venue and the exhibition centre, would generate an operating profit. The majority of the performing arts venues would recover their operating costs at rates ranging from 41% to 83%, though M+ would recover only 18 to 22%.

The question now is not if M+'s estimates are accurate, but whether or not the underlying assumption of this operation mode is the only choice available for serious consideration.

### **5.3 Local and international comparisons**

Locally, the largest art museum is the Hong Kong Museum of Art. Yet its size, in gross floor area, is only 16% of M+'s. Its admission fee is only \$10 and yearly visitors number close to 0.4 million. Its collection, mostly Chinese antiquities and artwork, was valued at \$1.03 billion in 2000.<sup>48</sup> This is comparable to M+'s \$1 billion budget for initial collections.<sup>49</sup> Despite this collection, the cost recovery rate was only 8.7% in 2006/07.

For museums outside Hong Kong, the FA did present a comparative study of 7 world renowned museums. The key data are presented in Table 5.3-1<sup>50</sup>, against that of M+. There are a few essential observations:

1. M+'s cost recovery rate is the lowest at 18% in Phase 1, but will rise to 22% when both phases are in full operation.
2. This 22% is even lower than the 27% of Centre Pompidou, which is the lowest amongst the 7 international examples.
3. Before downsizing, M+'s gross floor area would be close to Centre Pompidou's 105,315 square meters. Yet, M+'s adult admission fee would be only \$27.5, much lower than that of Centre Pompidou or any of the other museums.
4. One possible and essential reason for such a low admission fee is perhaps the valuable collections in these 7 international museums. They were mostly modern art pieces collected over a very long period of time. The youngest amongst these 7 collections started in 1935; and the oldest, 1847.

<sup>47</sup> WKCD-511 Report Annex 10, page 2/3, column 2032:  $(\$507+\$143) \times (1+2\%)^{(-24)} = \$404$  million; column 2032:  $[(\$507+\$143) / \$790] \times 100\% = 82\%$ ; and page 3/3 column 2059:  $[(\$865+\$229) / \$1234] \times 100\% = 89\%$ .

<sup>48</sup> See page 50, Appendix 5 in Wong, K.C. and Hui, Desmond C.K., An Academic Financial Study for the West Kowloon Cultural District, 10 May 2004; the Hong Kong Arts Development Council.

<sup>49</sup> Revenue for 2006/2007 was \$5.79 million; and Expenditure \$66.85 million: i.e. 8.7% cost recovery rate.

<sup>50</sup> <http://www.lcsd.gov.hk/CE/Museum/Arts/english/intro/eintroa.html>

<sup>50</sup> Page Annex C.7-1.

**Table 5.3-1 M+ compared to international museums**

Museums	M+ <sup>51</sup>	Solomon R. Guggenheim Museum (New York)	San Francisco Museum of Modern Art	Museum of Modern Art, New York	Metro-politan museum of Art, New York	Art Institute of Chicago	Tate Modern London	Centre Pompidou Paris
Exhibit area sq. m	26,000 <sup>52</sup>	4,600	4,647	11,612	78,366	19,600	7,827	22,000
GFA sq. m	61,950 <sup>53</sup>	n.a.	20,911	73,420	200,000	64,400	43,000	103,305
Exhibits	Design, popular culture, moving image, visual art	Modern art	Modern art	Modern & con-temporary art	One of world's largest & finest art museum	Art museum and school	Modern art	Modern art & con-temporary creation, including design & architecture
collection/history/franchise fee <sup>54</sup>	Cost \$ 1,717 million <sup>55</sup> to be collected in 4 years & developed	Franchise fee \$156 million <sup>56</sup> in the 1990s for Bilbao	Since 1935; now over 22,000 objects	Founded in 1929; now 150,000 pieces <sup>57</sup>	Opened in 1872; now over 2 million works	Founded in 1879; now over 25,000 pieces	Collection began in 1847; Tate Gallery founded in 1897; now 65,000 pcs	Previously National Museum of Modern Art opened in 1947; now 53,000 pcs
Full time staff	336 <sup>58</sup>	95 F/T	232 approx	590 F/T 20 P/T	1,783 F/T 744 P/T	725 F/T 46 P/T	1,157 FTE	918 F/T 63 Ct
Yearly acquisition	\$20 million	\$16 million <sup>59</sup>	\$11 million	\$395 million	\$774 million	\$125 million	\$264 million	\$70 million
Adult admission fee	\$27.5 - \$30	\$137	\$98	\$156	\$156 <sup>60</sup>	\$94	various <sup>61</sup>	\$103
Visitors per year	1.2 – 2 million	0.9 million	0.8 million	2.7 million	Over 4.0 million	1.4 million	4.0 million	5.5 million
cost recovery rate	18 - 22%	66%	59%	57%	55%	50%	54%	27%

<sup>51</sup> Phases 1 &2: downsized version.

<sup>52</sup> See Annex 11(a) (ii), Page 1/2.

<sup>53</sup> See Annex 11(a) (ii), Page 1/2

<sup>54</sup> Information is from each museum's official website.

<sup>55</sup> Nominal value for collection:\$1,000 million; exhibition dev: \$204+\$128 million; lab:\$26 million, library:\$24 million. WKCD-511 Report Annex A7, page 1/3

<sup>56</sup> US\$20 million "rental" fee for Bilbao, for the use of Guggenheim's collection and brand name, page Annex M-23: completed in 1997. Collection began in 1930.

<sup>57</sup> Founded by Rockefeller and now boasting 150,000 paintings, sculptures, drawings, prints, photographs, architectural models and drawings, and design objects. MoMA also owns some 22,000 films, videos, and media works, as well as film stills, scripts, posters and historical documents. The Museum's Library contains 300,000 books, artist books, and periodicals.

<sup>58</sup> Among these are 240 senior and professional staff. Appendix A-2 of the FA's Report noted: limited local expertise, only from the LCSD.

<sup>59</sup> These are for 3 museums in NY, Las Vegas, and Venice. See Annex C.7-1.

<sup>60</sup> Payment is voluntary. The suggested fee is \$156.

<sup>61</sup> Collection display: free; exhibition: various.

5. Despite the FA estimated \$1 billion in expenditures to collect artwork (presumably in design, popular culture, moving image, and visual arts), over a 4-year period from 2011 to 2014,<sup>62</sup> the expected attraction of this collection would still be insufficient to induce an admission fees close to the international standard.
6. It may be argued that it would be desirable to keep M+'s admission fee low to attract more visitors. Yet, comparing the number of visitors across the 7 museums, and considering that Hong Kong is an international transport hub, M+'s target of 1.2 to 2 million visitors per year is not particularly aggressive, even if M+ were to charge an admission fee close to international standards, should there be valuable exhibits to attract visitors.

One may argue that M+'s 18% to 22% cost recovery rate is not too far away from the world-class operation of Centre Pompidou's 27%. Yet, there is no guarantee that M+ would be as good as Pompidou because:

1. Pompidou now owns one of the world's leading collections of 20th Century art numbering 53,000 pieces. This collection has a long history and was achieved *"through the generosity of artists such as Picasso, Braque, Matisse, Chagall and Brancusi, which had hitherto been passed over by other institutions."*<sup>63</sup>
2. The MAG Report also observed that *"Centre Pompidou has three major parts, i.e. the Centre Pompidou for Art and Culture [which includes the National Museum of Modern Art], a library and a music centre. However, the majority of tourists visit the Centre Pompidou only, whereas mainly local residents visit the library and the music centre."*<sup>64</sup>
3. Centre Pompidou's adult admission fee is \$103, but the collection still attracts 5.5 million visitors per year; while M+ \$27.5 to \$30 and 1.2 to 2 million visitors a year. These factors might have enabled Centre Pompidou to become a world class museum despite its low cost recovery rate. This is perhaps a target number of M+ visitor could be most difficult to achieve, despite a considerable budget for an initial collection.

Let us now compare M+ to museums at the other end of the cost recovery rates. The Guggenheim in New York, Las Vegas, and Venice has been able to achieve a 66% cost recovery, even at an admission fee of \$137. This is again mainly because of the valuable collection of modern art maintained by the Guggenheim family since 1930.

The FA's Report revealed that a US\$20 million, or HK\$156 million, "rental" fee was payable by the Guggenheim Museum in Bilbao, which opened in 1997, for the use of Guggenheim's collection and brand name. Even after allowances for inflation over the years, this is still substantially less than M+'s \$1.7 billion in capital costs for collection and initial exhibits development. In response to the question why international franchises like Guggenheim or Pompidou were not interested, the FA wrote:

*"According to the FA's market research, the Guggenheim is not interested because their*

<sup>62</sup> WKCD-511 Report, Annex 7 page 1 of 3.

<sup>63</sup> See <http://www.centrepompidou.fr/Pompidou/Musee.nsf/0/CD73BEF824FB7CFCC1256DA2004A0341?OpenDocument&sessionM=3.2.3&L=2>

<sup>64</sup> Annex page 91 of the Museum Advisory Group's Report, 23 Nov 2006.



*model for franchise involves total autonomy; they are looking for design and operational control and an open purse from the Government. The model is very pricey and operationally they even want curatorial control. The Pompidou is prepared to co-operate over exhibits but is not interested in operations.*<sup>65</sup>

The conclusion that this model is pricey is inconsistent with the information the FA had provided so far. The claim of “an open purse from the government” should be supported by financial figures, which should be compared to the current estimates provided by the FA for M+, before a conclusion can be drawn. This should be handled seriously, as the differences in capital investment (Guggenheim’s \$0.156 billion franchise fee<sup>66</sup> vs. M+’s \$1.7 billion), and cost recovery rates (Guggenheim’s 66% vs. M+’s 18% to 22%) are substantial and critical for the WKCD’s long term survival.

A simplified calculation would illustrate this point. Table 2.5-1 shows that at 2008 present values, the total capital cost for M+ is \$4.8 billion and \$5.9 billion for operations, resulting in a total cost for M+ of \$10.7 billion. Under a franchisee agreement, potential savings of \$1.5 billion<sup>67</sup> in capital cost and \$3.3 billion in operating deficits<sup>68</sup> would mean a total saving of \$4.8 billion. This would be 22% of the \$21.6 seed fund and would reduce the total capital and operating deficit of M+ by 45%! This would also imply that M+ and therefore the WKCD would earn a substantial operating surplus even after 50 years, and hence, is critical for the WKCD’s financial sustainability. Of course, all these figures and the duration of a franchise agreement, would be subject to detailed negotiations with the prospective international franchises, so the financial implication of this alternative are too substantial to be taken lightly.

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<sup>65</sup> Appendix I, Question (9). Page C.8-1 of Annex to the FA’s Report stated that Mr. Thomas Krens was interviewed by the FA on 14 March 2007, only a few weeks before the FA submitted the Final Report in April 2007.

<sup>66</sup> See footnote 55.

<sup>67</sup> \$1.7 billion M+’s initial collection costs LESS \$0.2 billion franchise fee = \$1.5 billion.

<sup>68</sup> \$5.9 billion / (1-22%) \* (66%-22%) = \$3.3 billion, assuming the same operating cost for either operator. If an average cost recovery rate of 50% is used, then the saving would be in the order of \$5.9 billion / (1-22%) \* (50%-22%) = \$2.1 billion.

## 6 Quality and value

### 6.1 Procurement methods

In the FA's Report, the major method of procurement was Design and Build (D&B).

In response to the question on the nature of D&B, the FA wrote:

*“Design and build is the standard Government procurement mode. In this procurement mode, the client enters into contractual relationship with the contractor to design and construct the project in accordance with performance specifications prepared by the client. The contractor then enters into a series of separate agreements with consultants, specialist sub-contractors and suppliers to deliver the completed project in accordance with the agreed performance specifications. This method intends to encourage more contractor involvement, increase the speed of project delivery, lower the level of responsibility for the client, and increase the use of proprietary systems or modules.”*<sup>69</sup>

The key word here is performance specification. It is easier to write a performance specification for civil engineering works and simple building projects, than for complex buildings. The performance of a bridge can be specified in terms of strength, span, dimensions, tolerances, material standards, number of lanes, access for maintenance, etc., but the performance of a building complex is much more complicated, though not impossible, to specify. The performance specification for the new government office at Tamar is a document consisting of more than 6,000 pages,<sup>70</sup> and this is only a simple office building complex. Artistic buildings are the most difficult, if not impossible, to specify.

This is particularly difficult for M+, for which there is a design competition. Impressive design concepts are usually presented in a competition. These are merely design concepts that have to be developed and further designed to specific details before they can be built. Without details, any price agreed upon a D&B contract, based on a performance specification, would be uncertain to both parties. A client does not know exactly what it will get until after the detailed design stage. When there are problems on quality of architectural detailing, or on aesthetics, the client may have to accept less desirable details that still meets the performance specification or face substantial claims for damages should the client insist on modifications.

The problem with construction claims has become more serious in recent years. The Hong Kong International Airport is but one notable example. However, a D&B contract was not used in the airport's case and is not directly comparable. The recent D&B contract for the Tamar office building is still undergoing construction, and the results are not known yet.

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<sup>69</sup> Appendix I, Question (1).

<sup>70</sup> See [http://www.info.gov.hk/gia/general/200609/29/P200609290104\\_print.htm](http://www.info.gov.hk/gia/general/200609/29/P200609290104_print.htm)

## 6.2 Cost and quality control

The following table summaries the relative advantages and disadvantages of the two methods of procurement.

**Table 6.2-1 Comparing design & build to the conventional method of procurement**

Design & Build	Conventional: separating Design & Build
Full performance specification needed	Tender after detailed design
This specification is never exhaustive	Could be reviewed and adjusted after the detailed design and before tendering
How to specify performance in terms of comfort, space, aesthetics, and the quality of architectural detailing?	
Without a detailed design, a D&B contractor may cut costs to meet minimum performance only	With a detailed design, there can be much more accurate costs estimates for both contracting parties
Lacks an architect's independent view	Has an architect's independent view
May save time before tendering, but could be problematic if a competition is used to choose a design	Needs longer time for detailing, but this pays off in terms of value for money
May be more costly to rectify problems, such as a contractual dispute that occurs at a later stage	Client knows exactly what it will get before committing resources
Suitable for civil engineering projects, building services or buildings with functional requirements only	More suitable for artistic and innovative complexes, like M+ and PA facilities
Appointment of an operator before conceptual design is most essential in both cases	

In summary, to ensure world class architectural designs, detailing, and operations in the WKCD, the D&B approach may not be suitable because:

1. The client's full requirement is necessary for pricing, enforcing contract conditions, and quality control. Also, these requirements cannot be fully and clearly specified without a detailed design.
2. The use of design and build is further complicated by choosing a conceptual design by competition: the architect who won the competition is the best person for carrying out the detailed design, and therefore, this could limit the choice for the D&B contractor.
3. Combining D&B into one contract may result in the architect being controlled by the main contractor. The architect would then lose his/her independence when dealing with the client.
4. It is also difficult for the D&B contractor to estimate the construction cost since he does not know what exactly needs to be built.

5. What exactly needs to be constructed only becomes clear after the D&B contractor completes all detailed designs.
6. It is also very difficult for a client to choose between different D&B contractors, since each one offers different design solutions at different prices.
7. To facilitate cost and quality control, not only should the design phase be separated from construction phase, but all the detailed design must be as complete as possible (with all working drawings produced and forming part of the contract).
8. The separation of design from construction and more careful planning at the design stage may require more time initially, but the payoff is substantial at a later stage in terms of time, cost, and quality. This is especially the case for important and innovative projects like M+, in which local contractors and designers have little experience and cost budgeting and control are important.
9. The traditional procurement approach, in which design is separated from construction, seems to be more appropriate for artistic projects, especially for innovation projects like M+.
10. The conventional approach requires strong project management, not necessarily more staff, to control for quality and price at all stages of design and construction.
11. In either method of procurement, an operator should be involved even before the design stage.

### **6.3 Operational efficiency**

The FA listed the results of consultations with ten theatre operators in Annex D.8. It reported that “*operators stressed the value of being involved in early planning of the facilities, to ensure maximum functionality and profitability.*”<sup>71</sup> and they, “*expressed a preference for having sole responsibility for operation of a building.*” This is essential to architectural design. In fact, buildings should be designed from within, starting from their operations, rather than from without.

The FA also reported that international museum operators like Guggenheim preferred design, operational, and curatorial control,<sup>72</sup> and hence, were not interested. However, Guggenheim did show an interest in the WKCD, and has even entered into a joint venture statement with Centre Pompidou and Dynamic Star for the WKCD.<sup>73</sup>

International museums’ preferences in managing the operations and collections of the proposed museum are well-expected, and should even be welcome, because this is an effective means of knowledge transfer. The FA also pinpointed that “*The only direct local experience of large-scale museum operation lies with LCSD’s operation of public museums.*”<sup>74</sup> Yet the largest local art museum that could provide local experts with suitable

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<sup>71</sup> Annex D.8-4 of the FA’s Report.

<sup>72</sup> Appendix I, Question (9).

<sup>73</sup> See [http://www.guggenheim.org/press\\_releases/release\\_140.html](http://www.guggenheim.org/press_releases/release_140.html)

<sup>74</sup> Appendix A-2 of the FA’s Report.

experience, namely the Hong Kong Museum of Art, is only 16% of the proposed size of M+. It is more than reasonable to learn under the direct supervision of successful international museums, before risking a \$10.7 billion investment to learn the lessons by trial and error in the process.

The FA also assumed an operation mode of OMM by NPO for M+<sup>75</sup> (i.e. Operate, Manage, and Maintain by a Not for Profit Organization). The FA further suggested that international operators are not interested, and at the same time there is insufficient local expertise. In this case, it would be most difficult, if not impossible, to identify a capable NPO to run M+ up to world-class standards. There is a good possibility that a new NPO would have to be set up specially for this purpose and may even be assigned the job without sufficient competition.

In response to a question of whether operators are involved in the design phase and how they are selected, the FA did not give a direct answer:

*“WKCDA will decide whether the future operators of the venues should be involved in the design phase. Operators will be chosen by the WKCDA through different forms of private sector involvement.”*<sup>76</sup>

The FA assumed that the construction of the performing arts facilities and M+ will start in 2010 or 2011,<sup>77</sup> and considering the lead time for design competition for the selection of architects, it seems to have allowed insufficient time for the early selection of operators. This would jeopardize the quality of the design, and may drive up its costs in order to rectify the problems after the operator is selected or result in less revenue due to inappropriately designed facilities for users. Such problems are more serious when a design and build method is chosen as the procurement method. This is because after a design and build contractor is chosen, the performance specification could not be modified easily without paying additional costs.

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<sup>75</sup> Page 31.

<sup>76</sup> Appendix I Question (2).

<sup>77</sup> Annex 1(b) page 1 of 2.

## **7 Risks and sensitivity analysis**

The FA performed a series of sensitivity analyses. In addition, we identify three areas in which sensitivity analyses would be desirable. These areas concern assumptions that are uncertain by nature but could have significant financial implications.

### ***7.1 Inflation, interest, and real rates***

Referring to the previous discussions on the inflation rate and the escalation of construction costs in Section 3.3.2, the statistical record shows that construction costs have escalated, on average, more than 6% per year over the past 30 years. This is much higher than the FA's assumption of a long term inflation rate of 2% over the entire 50-year period under the current study.

Under the FA's assumptions, most construction work will start before 2014. The risk of construction cost escalations is therefore mostly within the first 5 years, during which time most tenders are to be awarded. Hence, sensitivity analysis should test the financial implications of this risk by using, for example, a range of construction costs escalation rates from 4% to 12% per annum for the first 5 years from 2008 to 2014.

Major renovation costs, however, will not be payable until 20 or 40 years later. To test the financial implications of the risks these costs represent, we recommend that a sensitivity analysis using long term escalation rates from 4% to 8% (i.e. 6% +/- 2% per annum) for major renovation costs be employed.

Only with these analyses could we come up with a more realistic picture of the WKCD's financial liabilities concerning construction costs. It should be carefully noted that this 6% construction cost escalation could be seen as "the inflation rate for construction works" instead of a general inflation rate of 2% covering construction. This does not, however, include interest, and should therefore be distinguished from the FA's nominal rate of 6.1%, which includes 4% real interest on top of the 2% inflation.

In other words, should the seed fund be able to generate a return during the first 5 years starting in 2008 to pay for construction costs escalating at 6% per annum, it should earn at least 10% per annum if a real interest rate of 4% is assumed.

### ***7.2 Investment returns***

Apart from the problem of construction cost escalation, the FA's Report was unclear on the kind of investment that would earn a risk free return of 6.1% per annum over the first 5 years.

It is clear that the primary objection of the seed fund is to pay for the capital and operating costs of the WKCD. The majority of this fund will be spent on capital costs for construction contracts committed during the first 5 years. From this point of view, it is perhaps not the primary objective of the seed fund to speculate and earn substantial profits.

Yet in the capital market, major investment tools that are relatively risk-free can only a rate of return 3%-4% p.a.<sup>78</sup> over a period of 5 years. Investments aiming for 6% or higher for the first 5 years must entail risks. The scenario in which the seed fund manager would be forced to sell its investments at low market prices to meet cash flow requirements, particularly in the first 5 years, cannot be ignored.

It is, therefore, not sufficiently convincing to assume a long term return of 6.1% without providing a sensitivity analysis to test the financial implications of the volatility that comes with this 6.1% return. The financial implications of such a scenario should be assessed using a sensitivity analysis. The range of return rates chosen for such a sensitivity analysis should be compatible with the volatility of the particular investment tool assumed for 6.1%.

### 7.3 Critical management decisions

In a sensitivity analysis, the FA tested the financial impacts on the funding gap of \$9.05 billion (under Scenario 1A) by varying different assumptions. Some of these assumptions are later modified and adopted as the basis for the current proposal of a \$21.6 billion seed fund, with a view to reducing this funding gap to zero. They include:

1. ST14: M+ Scaled down by 30%, reducing the funding gap by 41%; and
2. ST15: NOFA to GFA Ratios 1:1.5 for M+ and 1:1.4 for PA venues, reducing the funding gap by 23%.

**Table 7.3-1 Impacts of varying assumptions on the funding gap**<sup>79</sup>

		Assumptions	Impacts on the \$9.05 billion funding gap
Sensitivity Tests	ST14	M+ Scaled down by 30%	- 41%
	ST15	NOFA to GFA Ratios 1:1.5 for M+ and 1:1.4 for PA Venues	- 23%
	ST2	Pessimistic Outcome in procurement and operations	+ 63%
	ST4	50% Real Decrease in Land Premium	+115%
	ST9	3% Real Discount Rate (instead of 4%)	+ 45%
Tests still missing		Construction costs escalation	to be assessed
		Volatility in investment returns	to be assessed

<sup>78</sup> The yield for the 10-Year Exchange Fund Notes was 2.41% in April 2008; the average yield from January 2004 to April 2007 is 3.51% (source: Hong Kong Monetary Authority, <http://www.info.gov.hk/hkma>, accessed May 2008). The yield for US 5-year Treasury Bond was 3.11% by the end of April 2008, the average from January 2004 to April 2008 is 4.06% (source: The US Department of Treasury, <http://www.treas.gov/> accessed May 2008).

<sup>79</sup> Figure 6-1 on Page 61 of the FA's Report. In addition, the government would share more funding responsibility for communal and infrastructural facilities in this \$21.6 billion proposal. See WKCD-511, page 12 paragraph 15.

There are, however, sensitivity tests that have resulted in substantial increases in the funding gap. They include:

1. ST2: Pessimistic outcome in procurements and operations, while the funding gap increases by 63%; and
2. ST4: 50% Real decrease in the land premium, while the funding gap increases by 115%.

Moreover, as discussed in the previous two sections, there are even more realistic problems that have yet to be included in the sensitivity analysis. They include:

3. Construction costs escalation, and
4. Volatility in investment returns

Whether these unfortunate events would happen is, of course, unforeseeable. In case they do happen, the financial position of the WKCD would become critical because a zero funding gap would mean insufficient extra funding to manage any substantial financial crisis. Since the WKCD has to be financially self-sustainable, asking the government to subsidize it from time to time would not be a preferable option. However, there is no contingent plan to deal with these unfortunate events. All these factors may jeopardize the long-term financial strength of the project.

## ***7.4 Potential risks on qualities***

When facing a financial crisis, qualities may be undermined.

In the case of procurements, a design and build contract may convince decision makers that the final cost of the building is fixed right at the beginning. Yet before design details are drawn, both the client and contractor cannot estimate the construction costs very accurately. The performance specification document, however thick it is, is much less accurate than detailed design drawings and specifications. Under a design and build contract, by the time a detailed design is completed, there would be minimum flexibility to adjust its price, particularly when the client is in financial crisis. When that happens, it is possible that the contractor may be forced to redesign those items whose costs were not particularly clear (e.g. the general requirements of aesthetics or spatial comfort) in the performance specifications. The contractor can do it relatively easily because the architect would be working under its umbrella.

Similar problems may occur in conventional construction contracts that separate design and build. The key difference is that the relative uncertainty of information under design and build may lead to an even bigger problem with the quality of construction, particularly when an architect lacks the independence to insist his/her views on design quality.

The problem of construction cost escalation after a contract is awarded, for instance, may be resolved by introducing a “fluctuation clause” to the construction contract. This would allow



a contractor to be reimbursed according to certain indicators of construction costs levels. Clients under very tight budgets would be reluctant to introduce such clauses, but without the protection of these clauses, contractors may have to look into the possibility of compromising quality.

Building quality problems will lead to operational problems in two ways.

First, to fix quality problems in design and construction, a client may have to spend more, leaving less financial reserves to support its operations in the future.

Second, compromising quality and design will certainly affect potential revenue from operations. Operators may have to cut their production costs to balance their books.

The way to increase the financial strength of the WKCD, in an old fashioned but effective manner, would be to spend less on unnecessary items and earn more by improving efficiency. The strategy should be well-planned before a project starts and executed accordingly. Recommendations in this respect will be discussed in greater detail in the last section of conclusions and recommendations.

## 8 Residential and commercial land values

### 8.1 GFA allocation and Land values

The FA estimated that the commercial and residential land values of the WKCD to be \$21.288 billion, which barely covers the proposed seed fund of \$21.6 billion.

**Table 8.1-1 A summary of the residential/commercial mix and land values**<sup>80</sup>

Land uses		% GFA	GFA (m <sup>2</sup> )	Accommodation Value		Land values (\$ million)	
				(\$/m <sup>2</sup> )	(\$/ft <sup>2</sup> )	2006	2008
Residential	Villa houses	3%	10,000	190,000	17,658	1,900	1,828
	Apartments	44%	135,257	120,000	11,152	16,231	15,613
Commercial	Hotels	18%	56,000	20,179	1,875	1,130	1,087
	Office	35%	107,683	26,652	2,477	2,870	2,761
		<u>100%</u>	<u>308,940</u>			<u>22,131</u>	<u>21,288</u>

Table 8.1-1 lists the composition of this \$21.288 billion land value, as well as the (Accommodation Values) AVs for the project's commercial and residential uses.

AV is the land value subdivided by the total Gross Floor Area allowed for a piece of land. We can see from this table that the land values for villa houses is the highest (AV \$17,658 /ft<sup>2</sup>), while that for apartments came in second (AV \$11,152 /ft<sup>2</sup>). Hotel and office uses were valued much lower: at \$1,875 /ft<sup>2</sup> and \$2,477 /ft<sup>2</sup>, respectively.

When considering these GFA allocations, one should note that:

1. Residential use is capped at 20% of the overall GFA of the WKCD; and
2. the sensitivity analyses showed a small financial impact on the funding gap by:
  - a. ST 18: changing 1/3 of hotels to offices reduces the funding gap by only 3%; and
  - b. ST 19: changing 20% of RDE to offices reduces the funding gap by 0%.

Nevertheless, it is still desirable to remain flexible because:

1. Only 3% of the GFA was allocated to villa houses, despite their much higher AV. Of course, their impacts on overall planning and the amount of open space should be considered carefully.

<sup>80</sup> Sources: Page 13 and Annex 8 of the WKCD-511 Report; Annex H of the FA's Report.

2. Regarding commercial land uses, only 18% of the GFA was allocated solely to hotels. The FA also stated in a footnote<sup>81</sup> that the hotel/office mix depends on market conditions. Allowing such flexibility is desirable.
3. Annex H of the FA's Report estimated an even higher AV for retail use (\$31,088/m<sup>2</sup>, or \$2,889 /ft<sup>2</sup>). Some flexibility in the hotel/office/retail mix could also be considered.

## **8.2 Valuation methods**

The method of arriving at land values in the FA's Report was conventional and, on the whole, a reasonable approach. Yet there are still areas to clarify and improve.

1. The market comparables chosen for the land valuation entailed a very strong reliance on professional judgment. Yet closer comparables in the market could always allow better professional judgment:
  - (a) For apartments, only one land transaction from Broadcast Drive was taken into account, whereas the transactions for nearby apartments at Kowloon Station (e.g. the Arch) were ignored. This single example is the basis for a \$15.6 billion land valuation, contributing more than 72% of the value of the seed fund! Such a basis may not be sufficiently strong to justify the significance of the result.
  - (b) For hotels, the comparables chosen required a substantial adjustment (almost 100%) of the room price; more similar comparables like the hotel room rates in Tsimshatsui should have been considered.
  - (c) For retail property, despite the assumption that the RDE facilities would be distributed over the whole WKCD site<sup>82</sup>, the comparables chosen were large shopping malls like IFC and Plaza Hollywood.
2. In the residual valuation for RDE, a marketing cost of 1 to 1.5% was lower than the market practice.
3. The land valuation for office use was not shown at all.

## **8.3 WKCD's impact on land values**

The entire land valuation report might have failed to consider the potential positive impacts of the arts and cultural facilities, the qualities of the architecture, the entertainment and retail facilities, open spaces, and the improvement of transport and communal facilities on land premiums. The current assumption is that the WKCD would become a world-class cultural and arts district upon its completion. The positive impact could be substantial and should not be ignored during the residential and commercial land valuations.

<sup>81</sup> Footnote 3 on page 13 of the WKCD-511 Report.

<sup>82</sup> A concept derived from the "Theatre Land" at London West End, where shops are completely integrated with theatres and cultural venues.

## 9 Economic impacts

### 9.1 Methodology of estimation

According to the Economic Impact Assessment (EIA)<sup>83</sup> dated May 2007, the WKCD will generate substantial tangible economic benefits in terms of GDP contribution, job creation, and increased tourism. Interpreting these economic benefits in absolute terms is, however, not very meaningful. Government spending always has an impact, be it good or bad, large or small. To enable meaningful comparisons, one must also examine the benefits derived from the alternative uses of the land (i.e. opportunity cost) at the WKCD. Failure to realize how the concept of opportunity cost works in an EIA leaves the following important questions unanswered. Would the economic impact be the same, smaller, or larger if:

1. The land is designated for uses other than arts and cultural purposes?
2. Different scenarios for procurements and operations, such as Scenarios 1A, 1B, and 2, as well as the PSC, are adopted, resulting in different levels of efficiency?
3. M+ were down-sized?

The second methodological problem of the EIA is taking an assumed target as the result. A result should be derived from scientific analyses. Taking an assumption as the result is tautological, and therefore empty in scientific content.

*“MAG envisages that with a healthy cultural ecology, the annual attendance of M+ should reach 2.5 million as a target number of visitors.”*<sup>84</sup> MAG did not provide any market study to support this figure. The FA then took this target for granted and derived all financial implications from it. Then the EIA used this figure provided by the FA and derived its own implications.<sup>85</sup> Throughout this entire process, the 2.5 million figure was widely used as a well-renowned assumption, rather than as a result obtained by careful market study. This line of approach is highly questionable.

### 9.2 Interpretation of the impact

A unique feature that differentiates a “world-class cultural and arts district” from a pure property development is its benefits to tourism. It is, therefore, essential for the EIA to demonstrate clearly the estimated impact the WKCD would have on tourism. In this regard, visitor numbers are a key concern because they form the basis for estimating additional spending by tourists and local visitors.

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<sup>83</sup> As provided by the Financial Secretary’s Office.

<sup>84</sup> Page 42, paragraph 2.57 of the MAG Report, 23 November 2006.

<sup>85</sup> See Question (41) in Appendix I.

M+, being the WKCD's landmark, was assumed to attract 2 million attendances per annum (2.5 million before down-sizing). This assumption, according to the FA's Report, was taken from the MAG report. Moreover, this target attendance of M+ constitutes only 7% of visitor arrivals in 2007. If M+ were to become a world-class museum, and ticket prices are as low as \$27.5 to \$30, then the target visitor attendance appears to be a rather conservative estimate.

The estimated attendance at the performing arts venues was based on the standards and data available for LCSD venues. It was not clearly justified why the local experience should be applied to a "world-class" facility without appropriate adjustments.

### **9.3 Performance indicators**

Tourism benefits are an important factor in justifying public investment in the WKCD project. To substantiate the visitor numbers and their spending, it is necessary to carry out more in-depth analyses of the local and tourist demand for the cultural and arts facilities. The outcome of the analysis (e.g. such as one on projected visitor numbers) could be turned into an objective performance indicator for evaluating the operational performance of the cultural district and governing the funding for and expenditure of the future WKCD Authority.

Thames Gateway, for instance, lists out Key Performance Indicators for the Corporation. They include: permanent FTE jobs created, private sector investment, green or open spaces created, and brown field land remediated.<sup>86</sup>

In the Economic Impact Assessment, no performance indicator was listed. There was also no contingency plan should the outcome turn out to be unfavourable.<sup>87</sup> Without these specific indicators, projections in the assessment report cannot be tested against the results.

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<sup>86</sup> See 2006-07 Annual Report. <http://www.ltgd.org.uk/uploaded/documents/ltgdannualreportaccounts200607.pdf>

<sup>87</sup> A notable example is the visitor numbers to Disneyland in Hong Kong turned out to be not as expected.

## **10 Key parameters to be monitored**

It is likely that under the current proposal, the WKCD project will be managed by an organization created by statute, rather than one selected by competition. A greater public expectation of transparency and accountability is therefore envisaged. To achieve both of these objectives, an effective method is to announce performance indicators right at the beginning, and report on their progress bi-annually. This would allow the public to monitor and participate in this communal project, during the course of its planning, development and operation. The followings are some indicators for consideration.

### ***10.1 The early appointment of operators***

If the WKCD were to become a world class arts and cultural district, the early appointment of experienced and competent operators for core arts and cultural facilities is essential. Their appointments before conceptual design are most desirable. A timeline for inviting operation proposals, as well as their appointments, should be planned before the project begins and carried out accordingly.

### ***10.2 Investment return***

The investment portfolio of the seed endowment fund, the reasons for choosing a particular portfolio, the results of investment returns, and the financial statements and projections of the fund should be published periodically.

### ***10.3 Design quality***

Rules of design competitions, open or by invitation, invitation for proposals of professional services, design briefs, selection criteria, and the winning designs should be published.

### ***10.4 Quality specifications***

Specifications for quality of materials and workmanship should be available to the public, on websites or otherwise, when construction contracts are tendered out. This would allow professional members of the public to study.<sup>88</sup>

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<sup>88</sup> A conventional approach, separating design and build, is assumed here.

## **10.5 information on expenditures**

Expenditures on construction costs published in annual reports should be itemized into direct construction costs, professional fees, WKCDA's costs, risk or contingency allowances, major repair and renovation, and museum development separately. Relevant construction floor areas (CFA), and gross floor areas (GFA) should be provided.

### **10.5.1 Unit construction costs**

The current unit costs proposed by the FA would become good indicators for the future, and<sup>89</sup>:

1. Unit construction costs for CACF is currently \$22,200 to \$29,200 psm CFA. This includes FF&E, but excludes professional fees and other on-costs.
2. Excluding FF&E costs, this price range becomes \$15,900 to \$20,450 psm CFA; and
3. The unit construction cost for RDE: \$18,198 psm GFA.

### **10.5.2 Professional fees**

As the FA assumes, professional fees would range from 6 to 14.6% of direct construction cost, depending on the level of sophistication and the type of building facility.

### **10.5.3 Project and contract management costs**

Project and contract management costs are conventionally included in the developer's normal profit of 10 to 15% on direct construction costs.<sup>90</sup> Reducing the current 19.2 to 20.2% for contract management and WKCDA costs to 10 or 15% is desirable.<sup>91</sup>

### **10.5.4 Contingencies and risk allowances**

Contingencies are conventionally in the order of 10 to 15%. Again, reducing the 25.9% risk allowances to 10 to 15% is desirable.<sup>92</sup>

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<sup>89</sup> Of course these should be adjusted using TPIs for future use.

<sup>90</sup> The FA's Report page H-11, as shown in FA's valuation analysis

<sup>91</sup> With careful management and monitoring, there is a potential saving equivalent to 2.7% of the \$21.6 billion seed fund.

<sup>92</sup> A potential saving equivalent to 5.6% of the \$21.6 billion seed fund.

### **10.5.5 Major Repair and Renovation costs**

Currently the FA assumes 100% removal of M&E and FF&E facilities in each of the 2 Major repair and renovation exercises within 50 years; whereas, conventionally, 50% replacement of these facilities is expected. Hence, reducing major renovation costs by 50% is desirable.<sup>93</sup>

### **10.6 Management organization**

Staff organization, staff number and costs at different ranks, performance pledged and achieved, and itemized expenses should be published in annual reports.

### **10.7 Utilization rates**

Number and types of visitors to the WKCD as a whole, and utilizations rates of individual facilities should be published.

### **10.8 Cost effectiveness**

The cost recovery rate is a simple and effective measure on how well a facility performs financially. It is simply the yearly operating revenue divided by operating expenditure. As a reference for M+ in particular, cost recovery rates should aim to achieve a higher cost recovery rate of 50%, which is the average of most successful international museums<sup>94</sup>

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<sup>93</sup> A potential saving equivalent to 5.8% of the \$21.6 billion seed fund.

<sup>94</sup> See Table 5.3-1.



## **11 Conclusions and recommendations**

### **11.1 The scenarios**

The study of Scenarios for private sector participations is perhaps insufficient for its conclusion: for adopting Scenario 1A. There are four fundamental reasons:

Firstly, the hypothetical procurement and operating method of DBFM (Design Build Finance and Maintain) was specially created by the FA, jointly with the Efficiency Unit, for the purpose of the FA's study on private participation in the WKCD. There is no successful example using a DBFM approach, or just any example at all using it, which could be referred to in Hong Kong. Yet DBFM is used widely in Scenarios 1B and 2. As a result, these two scenarios are not sufficiently realistic to be considered seriously as viable options for comparisons to Scenario 1A.

Secondly, Scenarios 1B and 2 assume a much higher interest cost of using the private investor's finance, at 12.5% per annum, under the DBFM approach. This is not justified should the FA also assume that WKCD is endowed with the seed fund, earning an investment interest of 6.1%, and yet pays the investor at the more expensive rate of 12.5% per annum without extra benefits, in management efficiencies or otherwise, brought about by the private sector. In fact there is no extra benefits allowed in the financial figures, except the assumption of minor gains in risk allowances, which are substantially outweighed by the differences in interests cost. Hence, the conclusion that Scenario 1B and 2 are more expensive is a result of assumptions rather than analysis.

Thirdly, no financial gains in operations are assessed, given the assumption of an increasing level of private sector participation from Scenario 1A to 1B and 2. The operating deficits in these three Scenarios are exactly the same.

Fourthly, in all the three Scenarios, no differences in the level of private sector participation are studied for M+. The implicit assumption of the method of procurement and operation for M+ is not supported by a sufficiently rigorous study.

Hence, these Scenarios should be completely revised to allow realistic and beneficial involvements of the private sector.

### **11.2 Procurement methods**

For the procurement of most CACF, the FA assumed Design and Build: a standard procurement method adopted by the government. This method requires an extensive performance specification written well before designing the buildings. It is suitable and widely used by the government for civil and infrastructural projects, as well as simple government offices. Complex building such as performing arts venues, or artistic designs such as the M+, may not be suitable, because details and prices are never accurate before the

completion of the detailed design stage. Moreover, architects working under the umbrella of a design and build contractor may become less independent when facing the client.

### **11.3 Financial sustainability**

The current study is confined to a period of 50 years. This implies that the WKCD will have no fund set aside to pay for major renovation, or the reconstruction of the aged buildings after 50 years. To achieve this, an additional seed fund of \$3.38 billion, in present value terms, is needed. That requires a saving of 16% on the current \$21.6 billion capital cost, in order that the WKCD could be financially self sustained.

### **11.4 The funding gap**

Under the current zero funding gap model, there might be insufficient financial resources to cope with unforeseen crises. These crises may include, but not limited to, a low investment return, high escalation of construction costs, problems encountered in procurements, pessimistic outcomes in operations, or a combination of the above.

To strengthen the WKCD's finance, an old fashioned but effective manner, would be to spend less on unnecessary items and earn more by improving efficiency.

### **11.5 On-costs**

Compared to conventional on-costs and management fees, there is a potential saving, which could be as high as 14 % of the seed fund.<sup>95</sup>

### **11.6 The question of M+**

The FA's analysis shows that M+ costs \$10.7 billion to build and operate for 50 years. This is 40% of the \$26.4 billion capital and operating deficit of the entire WKCD. By 2059, M+'s alone will contribute 89% of WKCD's total yearly operating deficit. This is a major, and long term, financial burden one must look into very carefully now, before making a funding decision.

According to the information provided by the FA so far, should M+ be run by an international operator, the potential saving, in very crude terms, could be as high as 22% of the \$21.6 billion seed fund.<sup>96</sup>

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<sup>95</sup> See footnotes 91,92, 93.

<sup>96</sup> See the last paragraph of section 5.3.

## **11.7 The question of RDE**

RDE is the life line of the WKCD project: RDE rentals will pay for the long term annual deficits of the WKCD. Compared to the detailed operating assumptions for CACF, down to the smallest of theatres, the current information provided for RDE operations is clearly insufficient:

1. A full integration of cultural venues and shops, dining and entertainment is a lengthy evolution process. Theater Land at London West End is not a result of a master planning and design, but a urban development process over a long period of time in history;
2. The current rental value for RDE is based on comparables of large shopping malls. No adjustment was made for the concept of integrating RDE into arts and cultural facilities;
3. Retail is a highly specialized profession<sup>97</sup>. Not all developers are successful in developing malls. Most successful ones own substantial portions of their malls. The current RDE financing model might have implied 100% WKCD ownership of RDE, and hence may limit the options of private participation;
4. RDE facilities constitute 16% of the total GFA of the WKCD; and CACF, 38%.<sup>98</sup> The ratio of RDE facilities to CACF is therefore about 2:5. This RDE proportion is rather substantial, should all RDE facilities scatter into CACF;
5. On the other hand, if all RDE facilities are grouped into one single shopping mall, this mall will be 119,000 square meters in total GFA. A mall of this size is even bigger than the nearby mall at Kowloon Station, which is similar in size and is a clearly a rival.<sup>99</sup>
6. Hence, the delicate proportion between RDE scattered in the WKCD, and RDE in a central mall, should be studied and planned carefully by experts;
7. Before the results of this specialized study is known, the flexibility of allowing parts of RDE to be turned into office or even hotel suites, which also provide stable rental incomes to cover operating deficits, should be kept open.

## **11.8 Alternative funding methods**

The current funding proposal is a seed capital endowment which approximates the value of land sales.

The obvious advantage of this seed fund arrangement is clarity and simplicity in administration. It requires the WKCD to operate and become financially self-sufficient. This would be most difficult to achieve under a subvention scheme.

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<sup>97</sup> Where tenant mix, tenant relative locations, pedestrian flow, leasing, theme, promotion, and management, are all essential factors to be considered and carefully planned.

<sup>98</sup> WKCD-511 page 12.

<sup>99</sup> Namely the Elements, the GFA of which is in the order of 100,000 square meters.

The obvious disadvantages, on the other hand, are (a) risks in investment returns; and (b) the loss of the commercial portion of land, which could potentially be an input into public-private joint venture schemes. These schemes would allow substantial efficiency gains due to the private partner's management expertise and flexibilities.

In this respect, the endowment of total land area of the WKCD may allow the best efficiency gain, if managed properly. Yet the effective management of public private joint venture requires expertise and experience; and few institutions succeed.<sup>100</sup> Moreover, despite all the potential gains in efficiencies, after the experience of the "IFP" in 2004, even smaller packaged development, as proposed in Scenario 2, might be seen as not transparent. With all these problems associated with the land endowment approach, the seed funding arrangement might have been a choice by elimination.

While public private joint venture schemes are often seen, by the public, as not transparent; the endowment fund may as well evolve into a big obscurity in itself.

To compensate for this disadvantage, it is therefore essential to keep the management of the seed fund transparent and accountable to the public at all times.

## **11.9 Funding priorities & conditions**

Cost items are listed in Table 11.8-1 according to different levels of uncertainty, improvement potential, and financial significance.

This table is constructed in such a way as to facilitate further discussion on funding and on improvements on the current proposal.

**Uncertainty** means the financial performance of a particular facility/cost item is uncertain or questionable, either due to invalid assumptions or insufficient information, or a combination of both;

**Improvement Potential** means high potential benefits of extra time and efforts on further investigations.

**Financial Significance** means the financial implication of a particular facility/cost item to WKCD's overall financial sustainability.

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<sup>100</sup> The MTCR is but a well known successful example.

**Table 11.8-1 Funding priorities & conditions**

	<b>Cost item</b>	<b>Uncertainty</b>	<b>Improvement Potential</b>	<b>Financial Significance</b>
1	<b>WKCDA Management</b>	<b>Medium</b> Role & responsibility not clear	<b>Medium</b> Potential in improving efficiency	<b>Medium</b>
2a	<b>M+ (capital cost)</b>	<b>High</b> Cost, quality & outcome highly uncertain with Design and Build	<b>High</b> Except for costs of design competition and consultant fees. Potential improvement in procurement	<b>High</b>
2b	<b>M+ (operating cost)</b>	<b>High</b> Limited options available	<b>High</b> Potential improvement in operation mode	<b>High</b>
3	<b>Exhibition centre</b>	<b>Medium</b> <sup>*101</sup>	<b>Low</b>	<b>Low</b>
4	<b>Mega performance venue</b>	<b>Medium</b> *	<b>Low</b>	<b>Medium</b>
5	<b>Great theater 1</b>	<b>Medium</b> *	<b>Low</b>	<b>Medium</b>
6	<b>Great theatre 2 and medium theatre 3</b>	<b>Medium</b> *	<b>Medium</b> (late in program)	<b>Medium</b>
7	<b>Medium theatre 4</b>	<b>Medium</b> *	<b>Medium</b> (late in program)	<b>Low</b>
8	<b>Concert hall &amp; chamber music hall</b>	<b>Medium</b> *	<b>Low</b>	<b>Medium</b>
9	<b>Xiqu centre</b>	<b>Medium</b> *	<b>Low</b>	<b>Medium</b>
10	<b>Medium theatre 1</b>	<b>Medium</b> *	<b>Low</b>	<b>Low</b>
11	<b>Medium theatre 2 &amp; black box theatre 1</b>	<b>Medium</b> *	<b>Low</b>	<b>Low</b>
12	<b>Black box theatres 2 &amp; 3</b>	<b>Medium</b> *	<b>Low</b>	<b>Low</b>
13	<b>Black box theatre 4</b>	<b>Medium</b> *	<b>Low</b>	<b>Low</b>
14	<b>Piazas</b>	<b>Medium</b> *	<b>Low</b>	<b>Low</b>
15	<b>Other arts and cultural facilities</b> <sup>102</sup>	<b>Medium</b> *	<b>Low</b>	<b>Low</b>
16	<b>transport facilities</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>
17	<b>communal facilities</b>	<b>Low</b>	<b>Medium</b>	<b>Medium</b>
18	<b>Retail, dinning &amp; entertainment</b>	<b>High</b> Area increased after reduction of M+. Limited study on demand, business concepts, and their integration with other facilities	<b>High</b> Can consider other modes of operation such as private sector participation	<b>High</b> Life line of operations

<sup>101</sup> \* Low if procured traditionally

<sup>102</sup> Page F-1,2.

In considering the funding priorities of each individual facility/cost item, all these three factors should all be taken into account. To build up the financial strength of the WKCD, considerations in (a) the reduction of on-costs; (b) the operation mode of M+; and (c) an effective business plan for RDE facilities are most essential.

### ***11.10 Other issues***

The FA's Report is an extensive study, providing lots of valuable information and forming a solid basis for further investigation into the issue of WKCD's financial sustainability. The authors would like to show our appreciation on all the efforts behind this Report.

## 12 Appendix I: FA's response to questions

The Financial Advisor's (GHK's) responses to questions raised by the Specialist Advisor (Versitech Limited) on GHK's Final Report, in April 2007.

Ref. Pages on the Report	Versitech's Questions	GHK's Response
9 to 11	<b>(1) What is design and build? How will that be implemented?</b>	Design and build is the standard Government procurement mode. In this procurement mode, the client enters into contractual relationship with the contractor to design and construct the project in accordance with performance specifications prepared by the client. The contractor then enters into a series of separate agreements with consultants, specialist sub-contractors and suppliers to deliver the completed project in accordance with the agreed performance specifications. This method intends to encourage more contractor involvement, increase the speed of project delivery, lower the level of responsibility for the client, and increase the use of proprietary systems or modules.
ditto & C.8-2 D.8-4	<b>(2) Will the operators be involved in the design phase? If so, how will the operators be chosen?</b>	WKCDCA will decide whether the future operators of the venues should be involved in the design phase. Operators will be chosen by the WKCDCA through different forms of private sector involvement.
ditto	<b>(3) What is the justification for the 4% real long term discount rate?</b>	See Annex I to GHK's Final Report dated April 2007.  A real discount rate of 4% p.a. is assumed by making reference to the social discount rate (which is 4% p.a.) adopted by the Government for assessing public investment projects.
32	<b>(4) What is the justification for the 2% long term inflation?</b>	See Annex I to GHK's Final Report dated April 2007.  For such a long term financial analysis, it is considered prudent to adopt a consistent long term inflation rate over the project period. A long term assessment of this kind should adopt long term consistent rates and NOT try to predict economic cycles. As an advanced economy and under a currency board system with the Hong Kong dollar linked to the US dollar, Hong Kong's inflation over the very longer run would tend to be more or less in line with those experienced by economies at a similar stage of development. The implicit or explicit inflation targets set by most major central banks in the advanced economies are around 2%.

Ref. Pages on the Report	Versitech's Questions	GHK's Response
9 to 11	<b>(5) Why use long term inflation rate for inflating capital costs (which will take place within the next few years)?</b>	<p>See response above as well.</p> <p>It is considered appropriate for a long term analysis to use a constant long term rate. This type of analysis is not about forecasting swings in economic cycles but about long term financial sustainability. As such, 2% was considered a sensible long term rate. In the financial analysis, part of the capital costs are for phase 2 and part for major repair and renovation which will be incurred by intervals ranging from 12 years (e.g. retail/dining/ entertainment (RDE) facilities), 20 years for core arts and cultural facilities (CACF), to 30 years (e.g. public open space).</p>
9 to 11	<b>(6) How to ensure that the endowment can earn 6% nominal rate?</b>	<p>The 6.1% nominal discount rate adopted for WKCD project is based on 4% real discount rate (reflective of the social discount rate) and the 2% inflation rate.</p> <p>For reference:</p> <ul style="list-style-type: none"> <li>• 1996 to 2006, Moody's yield on seasoned all industries bonds ranged from 5.23% to 7.62% for Moody's AAA, 6.06% to 8.37% for Moody's BAA</li> <li>• The compound annual growth rate for equities over the period Jan 1987 to January 2007 was: Hang Seng was 10.9%; S&amp;P 500 8.6%</li> </ul> <p>In addition, according to the Hong Kong Monetary Authority, the Exchange Fund generated a compound nominal annual investment return of 7% over the 14-year period from 1994 to 2007</p> <p>Whether the 6.1% nominal investment return can actually be achieved depends on the investment strategy of WKCDA, which hinges primarily on whether the institutional arrangements for WKCDA provides the latter with adequate flexibility to properly manage its own finances, to handle the master planning, and facilities design and construction processes, as well as to manage and operate its facilities and activities in response to changes in the arts and cultural scene and the market conditions.</p>



Ref. Pages on the Report	Versitech's Questions	GHK's Response
31	<b>(7) What are the differences between (BD + OMM) and (BDFM + OM)? Any real examples in Hong Kong? Does F (in BDFM) include financing capital costs as well? Does that reduce the funding gap substantially?</b>	<p>It is DB – Design Build and the other is DBFM – Design Build Finance Maintain.</p> <p>One is primarily a construction contract and the other is a whole of life Public Private Partnership (PPP) approach – see table in Chapter 3 and risk transfer diagram Figure 3-1 of FA's Final Report dated April 2007. OMM means operation maintenance and management. DBFM was a procurement mode developed in conjunction with Efficiency Unit specifically to address the circumstances of developing new facilities in the arts and culture sector in Hong Kong. We do not know of any examples in Hong Kong.</p> <p>DBFM includes financing the capital cost. It does not reduce the funding gap substantially.</p> <p>What is perhaps pertinent to this question is that a whole of life approach including operations was not adopted for <b>M+</b> or performing arts (PA) venues because the construction and operation of such venues do not fit well together and developers do not want to take on the operational responsibility that would be part of such a contract i.e. the risk premium is higher. PPP approaches that include operations are more suitable for infrastructure projects where the construction and operation are done by the same party / same group – many examples in the transport sector (e.g. Tate's Cairn Tunnel).</p>
31 & Appendix A-2 s.8	<b>(8) M+: (1) Same scenario "DC, DB + OMM by NPO" for both 1A and 1B? Why? (2) "OMM by NPO". What kind of NPO? Any example in Hong Kong?</b>	<p>Yes, the procurement modes are limited for the M+ because from market sentiment there is no party that would contract to take a whole of life approach – as in a true Public Private Partnership (PPP) approach.</p> <p>There are many non-profit organization (NPO) arts groups in Hong Kong. For a museum, the NPO is likely to be a trust or charitable status organization.</p>
Appendix A-2 s.9 & Annex C.8-2	<b>(9) Why are international franchises like Guggenheim, or Pompidou, not interested? On what terms they are not interested?</b>	<p>According to the FA's market research, the Guggenheim is not interested because their model for franchise involves total autonomy; they are looking for design and operational control and an open purse from the Government. The model is very pricey and operationally they even want curatorial control. The Pompidou is prepared to co-operate over exhibits but is not interested in operations.</p>
32 to 35	<b>(10) In the risk analysis, how testable are these probabilities assigned?</b>	<p>The probabilities were assigned by the team of experts based on their skills and experience.</p>

Ref. Pages on the Report	Versitech's Questions	GHK's Response
50	<b>(11) Why are the overall financial deficits of the 4 scenarios so marginal: 9.1, 10.8, 11.5 and 11.9 billion respectively? Compared with PSI 1A, is it true that more risk is transferred to the private sector under PSI 1B?</b>	<p>Under each scenario, the same facilities are being built, and broadly provide the same outputs. It is hardly surprising that deficits as a result of different procurement modes, whilst different, are in the same broad order of magnitude.</p> <p>Yes, more risk is transferred to the private sector under PSI 1B (please see Chapter 3 of GHK's Final Report dated April 2007). Under PSI 1B, the whole of life approach is adopted where possible and specifically under DBFM the private sector is responsible for finance.</p>
50	<b>(12) What will happen after 50 years? A long term government subsidy? And how much per year, in terms of present value?</b>	<p>As stated in the report, the 50 year time frame is sensible for a long term financial analysis to determine sustainability. The FA included the cost of major overhaul at appropriate intervals, such that in 50 years the facilities will be fully functional. Based on the assumptions adopted, the financial model shows that the operation of arts and cultural facilities would be financially sustainable using the rental proceeds of the RDE.</p>
42 5.4.5	<b>(13) Should one pay less when paying upfront, reflecting interest costs? So why the NPV differences?</b>	<p>A dollar spent today generally costs more than a dollar spent tomorrow.</p> <p>The NPV differences are the result of actual differences in costs of PSC vs PSI and risk.</p>
61	<b>(14) Under what values of the economic parameters (e.g. rates of investment returns) would the project become not viable? I.e. WKCD needs to ask for government funding again. What does the sensitivity analysis say on this?</b>	<p>The FA conducted a comprehensive range of sensitivity tests to examine the relationship between the key parameters (e.g. inflation, real discount rate, etc.) and the size of the overall funding gap which are detailed in Chapter 6 of the FA's Final Report dated April 2007. Within any development project there is always potential for unforeseen events to result in a different outcome to that anticipated, both during the construction and operation phases. The FA has built into the financial analysis an appropriate risk premium in the estimation of costs and revenue based on very detailed risk analysis as given in Annex J to the FA's Final Report dated April 2007. We consider such analysis reasonable.</p>

Ref. Pages on the Report	Versitech's Questions	GHK's Response
13 & Appendix A-1, 2 & Annex C.7-1	(15) Why M+, a world class museum, charges only \$27 to \$30 per ticket? Why is the revenue, as a percentage of operating expenditure, so low (only 17 to 22%) compared to 27% to 74% internationally?	The assumptions about ticket prices and overall admission revenue which includes concessions and blockbusters have been compiled with regard to the recommendations of the Museums Advisory Group (MAG) of the Consultative Committee on the operational requirements of the M+, and admission charges of existing Government museums in Hong Kong. Specifically, MAG required M+ to be affordable to the general public in Hong Kong, and envisaged an annual target number of visitors of 2.5 million. The FA assumed a target of 2.0 million (after scaling down M+ in line with the Consultative Committee's recommendations). Taking into account the price elasticity of demand (the relationship between attendance and price) and the fact that admission into some other international museums is free, adopting a relatively low ticket price when compared to some other international examples is considered appropriate. There is also a need for M+ to pay for temporary exhibitions to attract visitors, whilst building up a collection over a very long period of time.
Annex: B-3	(16) Brisbane South Bank Corporation employs 411 people? This is contradictory to the Corporation's 2007 Annual Report page 44, which states clearly that it employs only 75 members of staff (7 managers, 18 administration, and 50 operation staff, even including part-time staff. See <a href="http://www.southbankcorporation.com.au">http://www.southbankcorporation.com.au</a> ). We understand that the FA's report was done in 2006. Please state the source of this 411 figure.	The point of the commentary is that the number of staff depends wholly on the function and responsibility of the area-based organization concerned. The point was that 400 or so was far too high and yet Thames Gateway at 12-15 was far too low and thus the FA developed a structure specifically for WKCDA.

Ref. Pages on the Report	Versitech's Questions	GHK's Response
ditto	<b>(17) WKCDA hires 90 staff during development. What are the duties of these staff during development? Will they hire consultants in addition to these 90 staff?</b>	<p>In preparing cost estimates, (note this was not institutional advice but assumptions for cost estimation) the FA assumed five divisions: office of the chief executive; planning and development; property; finance and procurement. The duties include but are not limited to: land assembly and property, masterplanning and project development, strategic and business planning, cultural and arts policy liaison, legal, procurement, contracting and finance. This assumption was adopted with reference to the establishment of comparable area-based agencies in Hong Kong and elsewhere.</p> <p>Yes. The FA assumed that consultants would be hired in addition to these staff.</p>
ditto	<b>(18) What are the duties of the 33 staff for area management, from year 9 onwards?</b>	<p>In preparing cost estimates (note this was not institutional advice but assumptions for cost estimation), the FA assumed 3 divisions: chief executive, area management and finance. The duties would include but not limited to: estate management, area marketing and programming, strategic and business planning, cultural and arts policy liaison, legal, contract management, procurement and finance.</p> <p>In addition, individual arts and cultural facilities and related facilities are provided with staffing resources for venue and programme management as well as operating budgets.</p>
C.1-3	<b>(19) Why purchase paintings? Is there still a possibility of a franchisee agreement?</b>	Purchase of paintings and other items is a sensible business strategy for a museum. The arts world works on reciprocal arrangements, you can only borrow if you have a collection. Building a collection has a dual function.
C.2-15, 16, 17, 18	<b>(20) Exhibition Centre Point 4 missing?</b>	Point 4 is not applicable to the Exhibition Centre (EC). There is no admission revenue for EC

Ref. Pages on the Report	Versitech's Questions	GHK's Response												
C.2-20	(21) Exhibition Centre hire income is \$55 million; don't know how this figure could be obtained?	<p>The gallery hire income is broken down as follows: In HK\$ million</p> <table border="0"> <tr> <td>Gallery 1:</td> <td style="text-align: right;">17.0</td> </tr> <tr> <td>Gallery 2:</td> <td style="text-align: right;">14.8</td> </tr> <tr> <td>Gallery 3:</td> <td style="text-align: right;">11.9</td> </tr> <tr> <td>Gallery 4:</td> <td style="text-align: right;">7.2</td> </tr> <tr> <td>Other hire income:</td> <td style="text-align: right;">4.1</td> </tr> <tr> <td>Total income:</td> <td style="text-align: right;">55.0</td> </tr> </table> <p>The range of hire charges is from \$37 per sq. m. per day to \$57 per sq. m. per day – see Annex C.2. Reference was made to existing hire charges in Hong Kong such as HK Convention and Exhibition Centre, Central Library Exhibition Gallery and City Hall Exhibition Hall. As with the PA venues actual hire income for the EC will depend largely on the venue programming policy in terms of how commercially oriented the events are. Note that a 30% reduction for cultural events is assumed for Gallery 1, the largest gallery. This is in line with the MAG recommendations that EC should have a cultural focus but be as self financing as possible.</p>	Gallery 1:	17.0	Gallery 2:	14.8	Gallery 3:	11.9	Gallery 4:	7.2	Other hire income:	4.1	Total income:	55.0
Gallery 1:	17.0													
Gallery 2:	14.8													
Gallery 3:	11.9													
Gallery 4:	7.2													
Other hire income:	4.1													
Total income:	55.0													
	(22) Capital cost of master planning – calculation method has not been shown?	<p>The FA assumption is based on consideration of the costs of relevant consultancies in Hong Kong. This included references to studies awarded by Government and the FA's knowledge, including some information not publicly available. The costs were reviewed by Civil Engineering and Development Department and were considered broadly in order.</p>												
C.4-1; D.5-2	(23) Detailed methods for building up periods in operation for all venues have not been shown? How will such building-up affect the revenue and the cost?	<p>See Annex I to GHKs' Final Report dated April 2007 for the building up periods. For the impacts on operating revenue and operating expenditure, please refer to the respective Annexes 1(c) and 1(d) to the LegCo Subcom WKCD Paper No. 511 (Assessment of the Financial Implications of the WCKD Project (re LegCo Subcom meeting held on 24th Jan 2008).</p>												

Ref. Pages on the Report	Versitech's Questions	GHK's Response
D.5-1	(24) What is meant by "utilisation rate to increase by 2% from Year 10 to Year 30"? e.g. base case utilisation rate is 90% of (365 days -14 days) (for most PV in PSI case), then Year 15 = $90\% \times 1.02^5$ . That means after a few years, the rate will be larger than 100%!	The 2% refers to the whole period.  We assume that the comment ^5 is a typo in the question
I-2	(25) The detailed discount method for initial construction cost has been shown in page I-2, but what about (a) the detailed discount method for major renovation; (b) the detailed discount method for Museum exhibition development?	I-2 is the inflation adjustment mechanism, not really a discount rate. This method is adopted to "equalize" the financial modeling exercise with the fact that bid prices for 3, 4 or 5 years' contracts will incorporate a price contingency based on the bidders' inflationary expectations. The dynamic model incorporates this adjustment so that it can accommodate changes in inflation assumptions and remain internally consistent and correct.
	(26) The detailed risk premium calculation for operation is not shown?	Please see Annex J to the FA's Final Report dated April 2007 for assessment of operating risk.
D.3-57(T1) D.3-66 (T2) D.3-69 (T3) D.3-75 (T4) D.4-16	(27) PSI Electricity costs for Blackbox T2-T4 (\$283) is not the same as that for T1 (\$303) in the base case, hence, the figures for optimistic case & pessimistic case must be wrong?	Blackbox theatres 2, 3 and 4 are attributed a 10% reduction in electricity costs / sq m relative to common assumptions for Performing Arts (PA) Venues because they are less sophisticated. Blackbox Theatre 1 is clustered with Medium Theatre 2 and thus the reduction is only 3% as the complex is less sophisticated than PA Venues common assumptions but more sophisticated than Blackbox theatres that are not clustered with other venues.

Ref. Pages on the Report	Versitech's Questions	GHK's Response
Annex H-1	<b>(28) Why is the share of apartments and villa houses allocated as such?</b>	Given the location, the FA considered that the WKCD site might have the potential for villa house development. Villa houses were proposed to diversify uses and to maximize the domestic land value (hence reducing the overall funding gap).
ditto	<b>(29) Why is the share of hotels and RDE facilities allocated as such?</b>	Reference was made to the scale of existing hotels within Hong Kong and the FA considered that the proposed scale of hotel development would be supported by the potential demand arising from the underlying arts and cultural facilities.
ditto	<b>(30) Why assume no commercial offices? Would land sale revenue increase if some of the residential/hotel/RDE uses were changed to offices?</b>	<p>The land sales revenues would depend on the relative Accommodation Value of different uses at the time of sale. At the time of valuation, RDE was worth slightly more than office development. The impact of including office development to substitute part of the RDE was included as a sensitivity test - see sensitivity test included in Chapter 6 of the FA's Final Report dated April 2007.</p> <p>Please note that offices were included in the Consultative Committee's recommendations to improve diversification and mix.</p>
ditto	<b>(31) Why is the valuation date so long (July 2005 – November 2006)?</b>	The valuation was updated through life of study. The FA considered all the most recent comparables. The valuation provided in the final report represents a valuation as at November 2006.
Annex H-2	<b>(32) What is meant by "RDE facilities ... distributed over the whole WKCD site and integrated with various clusters of the arts and cultural facilities"? Are the RDE facilities stand-alone? Why couldn't the RDE facilities be clustered into shopping arcades?</b>	See Performing Arts and Tourism Advisory Group (PATAG) report, Chapter 5 regarding retail facilities. The FA's interpretation of PATAG recommendations is that the retail facilities should not be traditional shopping malls but adopt a more integrated clustering approach, with facilities spread over the district. 'Arcades' may be possible as long as the scale and retail mix reflects the character of the district in line with the vision of PATAG.
ditto	<b>(33) For apartments, why only consider No.1 Broadcast Drive? Is there any other comparable or method to support the land value?</b>	The residential market was changing rapidly when the FA carried out valuations during the course of the Study. The FA considered No. 1 Broadcast Drive as the then most recent and relevant land transaction for direct comparison.

Ref. Pages on the Report	Versitech's Questions	GHK's Response
Annex H-3	<b>(34) For villa houses, why only consider Mt Beacon? Is there any other comparable or method to support the land value?</b>	Relevant land transactions for the development of villa housing were not identified for direct comparison. The FA used the residual method of valuation making reference to villa house market transactions. Mt Beacon provided the most relevant villa house transactions in terms of age, time and development scale.
ditto	<b>(35) For hotels, why not consider comparables like Marco Polo and Langham?</b>	Marco Polo Hotel and the Langham Canton Road – there were no transactions for these hotels during the valuation period of the Study. Valuation is based on comparable transactions. The Langham Mongkok hotel is recognized by the market as a transaction that may not fully reflect the actual value and is not used for comparison purposes. This means that in the view of property professionals in Hong Kong, the publicly available price may not have reflected the actual value.
ditto	<b>(36) If RDE facilities scatter around, why are all comparables shopping malls? And why not consider shopping malls in Tsimshatsui?</b>	Comparables of same design were not available. The FA considered shopping malls in both prime and secondary location in valuing the proposed RDE facilities as well as making reference to shops in other locations such as Soho.
Annex H-11	<b>(37) For villa houses, should Gross Area (which includes non-GFA spaces like car park and roof) rather than GFA be used?</b>	The FA analyzed comparables on the same basis (i.e. on GFA). Comparables need to be undertaken on a consistent basis. If GA were adopted then potentially a different AV would be relevant.
ditto	<b>(38) For RDE facilities, should the no. of CPS be 496 instead of 474 (footnote 2)? And any justification for the car park price?</b>	Yes the footnote is a typo, the model is correct at 496.
Annex H-11, 12	<b>(39) Why is the prime rate taken as the discount rate? Why not WACC of 12.5%?</b>	Adopting the prime discount rate is standard practice for property valuation in Hong Kong.
ditto	<b>(40) Why assume a higher profit rate (both on construction and land) but lower marketing cost for hotels and RDE uses than for villa houses?</b>	The higher profit rate reflects the higher risk higher return for hotels and RDE. Houses are considered to be lower risk. The marketing costs for houses are higher than for hotels and RDE, and this reflects the current situation and practice in Hong Kong.



### 13 Appendix II: Government Economist's response to questions

Ref. Pages	Versitech's Questions	The Government Economist's Response
<b>Annex 9</b>	<p><b>(41) How to obtain the total attendance of 5,784,000? How to obtain the attendance of M+ and EC?</b></p>	<p>The total attendance is the sum of attendance of the M+, the Exhibition Centre (EC) and all the performing arts venues having regard to the phasing of their completion, which are provided in the Financial Advisor (FA)'s assessment. The FA's assessment was compiled on the basis of planning parameters (number of exhibitions/arts performances, seating capacity and attendance rates) adopted for each of the core arts and cultural facilities. In drawing up these planning parameters, the FA has taken into account the objective of developing world-class arts and cultural facilities in the West Kowloon Cultural District (WKCD). The total attendance adopted in the economic impact assessment (EIA) was derived with reference to the total attendance reckoned from utilization rate, seating capacity and attendance rates adopted by the FA. For the first few years of operation, a conservative assumption was adopted by introducing a maturity ratio of less than 100% for each performing arts venue before reaching the FA's estimated total attendance.</p> <p>For the year of 2015, when the M+ and EC are estimated to start operation, the attendance of the M+ and the EC are estimated to be 1.2 million and 1.5 million respectively based on FA's estimates..</p>
<b>Ditto</b>	<p><b>(42) How to obtain the attendance ratio of local visitors to tourists (80:20)?</b></p>	<p>In determining the split of the total attendance between local resident visits and tourist visits, assumptions have been made on a set of parameters with reference to the relevant local and overseas operational experiences of the proposed facilities. A higher share of tourist visits in total attendance is taken for the M+ and the EC. Other performing arts venues are also expected to attract tourists, though to a lesser extent. The share of tourists in total attendance would gradually increase over time, reflecting the gradual development of the WKCD's international reputation as a world-class cultural district and its attractiveness to tourists.</p> <p>It is crudely assumed that resident visits and tourist visits account for respective shares of 75% and 25% of the total attendance in the M+ and the EC during their first year of operation. The share of resident visits would decrease by 2% p.a. and eventually stabilise at 60%. For such performing arts venues as Mega Performance Venue, Great Theatre, Concert Hall, Chamber Music Hall, Xiqu Centre Main Theatre, the share of resident visits is assumed at 85% during their first year of operation, and the share will drop by 1.0% p.a. and stabilise at 75%. For other performing arts venues, the share of resident visits is assumed at 90% initially, and the share will reduce by 0.8% p.a. and eventually stabilise at 80%.</p>

Ref. Pages	Versitech's Questions	The Government Economist's Response						
Ditto	(43) What is the attendance ratio of base to induced tourists?	<table border="0"> <tr> <td><u>2015</u></td> <td><u>2031</u></td> <td><u>2045</u></td> </tr> <tr> <td>4:1</td> <td>3:1</td> <td>3:1</td> </tr> </table>	<u>2015</u>	<u>2031</u>	<u>2045</u>	4:1	3:1	3:1
<u>2015</u>	<u>2031</u>	<u>2045</u>						
4:1	3:1	3:1						
Annex 9, 10	(44) How to derive the no. of visitors? (e.g. for local residents, 4,618 / 2.25 = 1,652)	The number of local residents, base tourists and induced tourists are obtained by multiplying the corresponding attendance of each group by the respective visits per guest ratios. The visits per guest ratio for local residents, for example, would gradually decrease over time and stabilise at 2.25. This reflects that the participation rate among local residents in attending WKCD events would increase over time (i.e. more and more local people would attend the events).						
Annex 11	(45) How to obtain the additional stay of base tourists?	It is assumed that in 2015, around 44% of the base tourists will not extend their length of stay in Hong Kong, while the remaining 56% will extend by one night. On average, this is equivalent to all base tourists extending their length of stay by 0.56 night. The share of base tourists that will extend their length of stay will gradually rise to around 92% in 2031 and 2045. On average, this is equivalent to all base tourists extending their length of stay by 0.92 night in 2031 and 2045.						
Annex 11	(46) How to obtain the length of stay of induced tourists?	It is expected that 40% of the induced Mainland tourists will have a short length of stay in Hong Kong, at only 1.5 nights, while the remaining 60% will have normal length of stay, at 4.0 nights. For induced visitors from the rest of the world, their length of stay is assumed to be 3.0 nights. The average length of stay reported has already taken into account the difference in length of stay for different groups of induced visitors. The lengths of stay for induced Mainland tourists with normal length of stay and for induced visitors from the rest of the world are estimated on the basis of Hong Kong Tourism Board's publications for 2003-2005.						

## 14 Appendix III: Follow-up questions

The Specialist Advisor (Versitech Limited) raised follow-up questions to the Financial Advisor (GHK) in May 2007.

Ref. Pages	Versitech's Questions	GHK's Response
Appendix A-2 s.9 & Annex C.8-2	<b>(9) Why are international franchises like Guggenheim, or Pompidou, not interested? On what terms they are not interested?</b>	According to the FA's market research, the Guggenheim is not interested because their model for franchise involves total autonomy; they are looking for design and operational control and an open purse from the Government. The model is very pricey and operationally they even want curatorial control. The Pompidou is prepared to co-operate over exhibits but is not interested in operations.
Follow up question  Refer also Annex C.8-1	<b>Ms. Kara Lennon and Mr. Krens were consulted, and interviewed, on 14 March 2007. Are there interview records taken by the FA, explaining their views in detail? Please provide.</b>	Pending response.
Annex: B-3	<b>(16) Brisbane South Bank Corporation employs 411 people? This is contradictory to the Corporation's 2007 Annual Report page 44, which states clearly that it employs only 75 members of staff (7 managers, 18 administration, and 50 operation staff, even including part-time staff. See <a href="http://www.southbankcorporation.com.au">http://www.southbankcorporation.com.au</a>). We understand that the FA's report was done in 2006. Please state the source of this 411 figure.</b>	The point of the commentary is that the number of staff depends wholly on the function and responsibility of the area-based organization concerned. The point was that 400 or so was far too high and yet Thames Gateway at 12-15 was far too low and thus the FA developed a structure specifically for WKCD.
Follow up question	<b>Is this 411 figure authentic? Please provide the source of this 411 figure.</b>	Pending response.

Ref. Pages	Versitech's Questions	GHK's Response
<b>Annex: B-3</b>	<b>(17) WKCDA hires 90 staff during development. What are the duties of these staff during development? Will they hire consultants in addition to these 90 staff?</b>	<p>In preparing cost estimates, (note this was not institutional advice but assumptions for cost estimation) the FA assumed five divisions: office of the chief executive; planning and development; property; finance and procurement. The duties include but are not limited to: land assembly and property, masterplanning and project development, strategic and business planning, cultural and arts policy liaison, legal, procurement, contracting and finance. This assumption was adopted with reference to the establishment of comparable area-based agencies in Hong Kong and elsewhere.</p> <p>Yes. The FA assumed that consultants would be hired in addition to these staff.</p>
ditto	<b>(18) What are the duties of the 33 staff for area management, from year 9 onwards?</b>	<p>In preparing cost estimates (note this was not institutional advice but assumptions for cost estimation), the FA assumed 3 divisions: chief executive, area management and finance. The duties would include but not limited to: estate management, area marketing and programming, strategic and business planning, cultural and arts policy liaison, legal, contract management, procurement and finance.</p> <p>In addition, individual arts and cultural facilities and related facilities are provided with staffing resources for venue and programme management as well as operating budgets.</p>
<p><b>Follow up question</b></p> <p><b>Refer also Annexes: C &amp; D.3</b></p>	<p><b>Annex D.3 provides detailed operating assumptions for all performing arts venues, in 97 pages, down to the smallest of theatres; and similar level of details for M+ and the EC, in Annex C.</b></p> <p><b>In view of the substantial costs budgeted for WKCDA, why aren't similar level of details provided? Please provide detailed breakdowns of (a) the duties of these 90 and 33 staff; and hence (b) the yearly budgets of \$189.4 and \$60.3 respectively. These figures are in decimal places and there should be detailed breakdowns.</b></p>	Pending response.

**Motion on "West Kowloon Cultural District development project"  
passed by the Legislative Council at the meeting of 5 January 2005**

(Translation)

"That, as the Administration has decided to award the development of the 40-hectare West Kowloon Cultural District ("the WKCD development") to a single consortium in one go and allows the public only 15 weeks to comment on the three proposals selected in the first stage, such course of action has failed to ensure the optimal use of precious land resources in Hong Kong and safeguard public interests while nurturing arts and culture, this Council strongly asks the Administration to:

- (a) extend the consultation period to six months to allow sufficient time for public participation;
- (b) make public all the proposals submitted to the Government by persons interested in participating in the WKCD development, including information on financial arrangements, so as to enable the public to fully grasp the details of the development proposals during the consultation period;
- (c) remove the requirement that the canopy, which requires huge funds to construct, be a mandatory component of the WKCD development;
- (d) withdraw the decision to award the entire piece of land together with the WKCD development by way of one single tender, and break the lot into smaller pieces of land for public tender or auction in the market by batches so that small and medium developers in Hong Kong can participate in the development, with a view to maximizing the proceeds from the land sale;
- (e) formulate long-term and sustainable policies on Hong Kong's arts and culture, use part of the proceeds from the sale of the 40 hectares of land to support and promote the related policies and, in drawing up the specific details and implementing the policies, allow institutionalized participation of the civil society and, in particular, solicit and adopt the views of the local art and cultural sectors; and
- (f) set up a West Kowloon Cultural District development authority, which should be a statutory body comprising members from various sectors, to take up the planning, development and management of the West Kowloon Cultural District."