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## **Chapter I : Introduction**

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### **Background**

1.1 The decision of the Government in November 1999 to replan the West Kowloon Reclamation (WKR) to facilitate the development of a world-class integrated arts, cultural and entertainment district sparked off great interest in the community on the opportunities that would enrich the quality of life and attract tourists with unique local culture. Part of a then existing works contract of \$210 million was aborted to make way for the replanning of this last piece of 40-hectare land overlooking the Victoria Harbour. The subsequent developments, however, have brought along wide public concern over the canopy design, the single-package mode of development, the types of cultural facilities being planned, the financial arrangements for the development of the project and the upkeeping of the facilities. The debates over the project have then turned into great scepticism about the Government's stance that this is the best way to develop WKR and that the project does help the development of arts and culture in Hong Kong.

1.2 During the period from January 1999 to December 2004, the Panel on Planning, Lands and Works (PLW Panel) and the Panel on Home Affairs (HA Panel) held a total of 10 meetings to examine different aspects of the subject. PLW Panel focused on the planning and land use aspects, whilst HA Panel on arts and cultural issues. In view of the wide public concern over the development of the project, the Legislative Council (LegCo) passed a motion at the meeting of 5 January 2005 urging the Administration to review the various issues of West Kowloon Cultural District (WKCD) development. Following the passage of the motion, the House Committee decided on 21 January 2005 to set up a subcommittee to study issues relating to the development of WKCD.

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### **The Subcommittee**

1.3 The Subcommittee consists of 28 members (**Appendix I**). At its first meeting on 4 February 2005, Hon Alan LEONG Kah-kit and Hon James TO Kun-sun were respectively elected as Chairman and Deputy Chairman of the Subcommittee. At the meeting, the Subcommittee drew up its Terms of Reference (TOR) as follows:

“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.”

TOR of the Subcommittee were noted by the House Committee on 18 February 2005.

1.4 In accordance with TOR, the Subcommittee identified the main issues for study as set out in **Appendix II**. Recognizing the diversity of the issues concerned and the Government’s time-table in taking forward the WKCD project, the Subcommittee decided to complete its work in two phases. Its aim was to publish a report on the first phase of its work by July 2005 primarily on the following issues:

- (a) how far the WKCD development has been carried out in accordance with the principles laid down by the Government for Public Private Partnership (PPP) projects;
- (b) how far the WKCD development as proposed by the Government can meet the shortfalls in existing arts and cultural facilities and long-term needs in the development of arts and culture; and

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- (c) whether the WKCD development as proposed by the Government is the best way to use the 40-hectare land in WKCD.

1.5 It is the intention of the Subcommittee to focus on issues relating to the mode of development, i.e. development approach, the financial arrangements and the management structure for the planning and implementation of the project, and the inclusion of the canopy as a mandatory requirement in the design in the second phase of its work, which is expected to be completed by end of 2005. The detailed work plan of the Subcommittee is in **Appendix III**.

1.6 In response to the Subcommittee's work plan, the Government decided on 16 March 2005 to extend its consultation period on the development of WKCD by three months to the end of June 2005. The Government also announced that the main exhibition on the screened-in proposals would also be extended to the end of June 2005.

1.7 From 21 January 2005 to 30 June 2005, the Subcommittee held 11 meetings, including seven open meetings to meet with the Administration and to receive views from organizations.

### **Invitation of public views**

1.8 The Subcommittee noted that PLW Panel and HA Panel had previously invited 37 organizations to make oral presentations on WKCD, a list of which is in **Appendix IV**. The Subcommittee had studied the views of these organizations and invited those organizations which had new points to put forward to attend meetings of the Subcommittee. A list of organizations invited by the Subcommittee to give oral views is in **Appendix V**. Parties who have submitted written views to the Subcommittee are listed in **Appendix VI**.

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### **The First Report**

1.9 The First Report covers the findings of the Subcommittee in its first phase of work. Chapter 2 gives the background of and history leading to Government's proposal for the development of WKCD. Chapter 3 examines the approach adopted by the Government in developing WKCD and analyses how far the principle and best practices for PPP have been followed in the development of WKCD. Chapter 4 provides an account of Government's current policy in and arrangements for supporting arts and culture and identifies deficiencies and shortfalls in this regard. Chapter 5 sets out the Subcommittee's conclusions and recommendations on the areas covered in Phase I of its work.

1.10 During the course of deliberation in Phase I, the Subcommittee noted the report of the Technical Panel formed to advise the Jury for the West Kowloon Reclamation Concept Plan Competition (CPC) on the technical assessment of individual entries to CPC. Although the subject of canopy was intended to be covered in the Phase II study, in view of development of events, it was touched on in Phase I and covered in this Report. The Subcommittee will further study the subject in Phase II.

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### **Decision to develop an arts and cultural district on West Kowloon Reclamation**

2.1 WKR was one of the ten Airport Core Programme projects primarily aimed to provide land for a transport corridor to accommodate the West Kowloon Highway, Airport Railway and connection for the Western Harbour Crossing. The southern portion of WKR (the Site) was originally <sup>Note 2.1</sup> 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). The 40-hectare Site was bounded 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.

2.2 As shown in the chronology of events in **Appendix VII**, the Finance Committee of LegCo approved on 16 October 1998 the funding proposal for the construction of a complementary road network and associated drainage sewerage works at an estimated cost of \$914 million to serve the developments in the southern part of WKR. The works were then scheduled to commence in December 1998 and be completed by December 2001.

2.3 In October 1998, the then Chief Executive (CE), Mr TUNG Chee-hwa, announced in his Policy Address the planning of a new, state-of-the-art performance venue on WKR for more world-class cultural events and as a catalyst to upgrade Hong Kong's image as an Asian entertainment capital. CE further elaborated in his Policy Address in October 1999 the Government's plan to create a new look for the Victoria Harbour and provide arts, cultural and entertainment opportunities along the future waterfront promenade, with part of it in WKR. For this purpose, CE announced his plan to hold an open competition to enlist the help of local and overseas professionals.

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<sup>Note 2.1</sup> Extracted from a paper provided by the Administration to the Finance Committee in December 1999.



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2.4 On 16 November 1999, the Chief Executive in Council (CE-in-C) ordered that the use of the southern portion of WKR be fundamentally reviewed to facilitate the development of a world-class integrated arts, cultural and entertainment district. Following this decision, the Administration decided to delete those parts of the works contract that would be affected by the replanning of the area. The works in question involved a contract value of \$210 million and the value of works which had been completed but were aborted was \$24 million. When the Administration briefed PLW Panel on 18 November 1999 on the change of the overall planning intention for WKR which made the replanning and the deletion of some works therein necessary, member generally supported the replanning decision but some members pointed out that had there been better co-ordination among the relevant bureaux and departments, the financial loss arising from the abortive works could have been avoided.

### **The scale of the project on West Kowloon Reclamation**

#### Original scope

2.5 When the Government consulted HA Panel in December 1999, it had referred to the Final Report of the Study on the Feasibility of a New Performance Venue for Hong Kong published by the then Hong Kong Tourist Association (HKTA). The Study concluded that Hong Kong needed a new international performance venue with a theatre capable of accommodating up to 1 500 to 2 200 seats and a semi-open amphitheatre to accommodate up to 8 000 seats on a site of 5.5 hectares on WKR. The Government supported the recommendation to provide a core facility of 1 500 to 2 200 seats. On the CE's plan to provide arts, cultural and entertainment opportunities in the future waterfront promenade of WKR, members cautioned that the Government's cultural policy might be dictated by the infrastructure and that the project might become a property

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development under the guise of an integrated arts, cultural and entertainment district.<sup>Note 2.2</sup>

### Concept Plan Competition

2.6 In March 2000, the Administration announced its plan to conduct an open CPC to invite conceptual plans for WKR. The Administration then informed members that participants would be required to produce a business plan on the financial viability of the proposed development. The facilities to be developed on WKR had grown from “a major world-class Performance Venue” to a range of core and optional facilities, as given in **Appendix VIII**.

<sup>Note 2.3</sup> The core facilities by then had expanded to include a number of theatres, a museum complex and an arts village, while optional facilities included residential development and Grade A offices. In respect of the much enlarged project, the Administration admitted that it was aware of the concern of small developers over the granting of the development right of WKR to one developer and the need to reserve the flexibility of disposing the land in separate packages. Doubt was raised by some members on whether the objective of attracting participation by the private sector in CPC could be fulfilled without sufficient commercial incentives, such as development right.

2.7 In April 2001, the Government launched CPC. *It was stated in CPC documents that “Based on the detailed masterplan, the Hong Kong Special Administrative Region Government will then decide on how the Scheme Area would be developed. Packages within the Scheme Area suitable for private sector development will be decided by public tender, which will be open to all. Subsequent architectural design competitions may be conducted for selected individual buildings/facilities. Winners of the Competition would also be invited to take part in bids for development*

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<sup>Note 2.2</sup> Extracted from the paper provided by the Administration for PLW Panel meeting on 9 March 2000.

<sup>Note 2.3</sup> Extracted from the paper provided by the Administration for PLW Panel meeting on 9 March 2000.

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*and informed of the subsequent architectural design competitions for individual buildings/facilities in the Scheme Area.*”<sup>Note 2.4</sup> A jury, headed by Lord Rothschild, was responsible for adjudicating the conceptual proposals submitted. Membership of the Jury is in **Appendix IX**. The Jury also made reference to the Report of the Technical Panel formed to provide advice on the technical assessments of individual entries. Membership of the Technical Panel is in **Appendix X**. In February 2002, out of a total 161 entries, the Jury awarded the first prize to the submission led by Foster and Partners (Foster Scheme); the second prize to the submission led by Mr Philip Y K LIAO; and three honourable mentions of equal standing. In September 2002, a Steering Committee, chaired by the Chief Secretary for Administration (CS), was set up to plan and guide the implementation of the WKCD project. Membership of the Steering Committee is given in **Appendix XI**.

### The “content” of West Kowloon Cultural District

2.8 The actual “content” of WKCD, including the detailed facilities and the financing approach, was not made public until mid 2003 when the Administration announced its intention to launch the Invitation for Proposals (IFP) for the development of WKCD. 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. IFP also required proponents to demonstrate that they have sound financial backing, the ability to finance their proposed level of investment and a sustainable financing plan.

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<sup>Note 2.4</sup> Government webpage on CPC available from: <http://www.hplb.gov.hk/competition>

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2.9 Under IFP, proponents were required:

(a) to provide the following core arts and cultural facilities:

- A theatre complex comprising three theatres with seating capacities of at least 2 000, 800 and 400 seats, respectively;
- A performance venue with a seating capacity of at least 10 000 seats;
- A museum cluster comprising four museums of differing themes with total Net Operating Floor Area of at least 75 000 square metres. The four preferred themed museums as stipulated in IFP are Museum of the Moving Image, Museum of Modern Art, Museum of Ink and Museum of Design;
- An art exhibition centre with Net Operating Floor Area of at least 10 000 square metres;
- A water amphitheatre; and
- At least four Piazza Areas.

(b) to provide the canopy proposed in the Foster Scheme, covering at least 55% of the development areas.

2.10 It was also stated in IFP that the Government's baseline, as reference for proponents, had assumed a plot ratio of 1.81. Proponents may submit proposals deviating from the development parameters stipulated in the Government's baseline. The successful proponent would be required to plan, design, finance, construct, maintain and manage the core arts and

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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 would be executed.

2.11 The arrangements set out in IFP sparked off wide public concern. LegCo followed up the issues in various forums. The issues included Government's by-passing LegCo's scrutiny to fund the development of the project through the grant of 40 hectares of land for a term of 50 years in favour of the successful proponent, the technical viability of the canopy design which was made a mandatory requirement in IFP, and the adoption of a single-package approach for developing WKCD. Organizations from many sectors of the community made both oral and written submissions to LegCo opposing to the single-package approach. There were also questions on the sudden inclusion of four themed museums and the need for 75 000 square metres of net operating floor areas for these four museums.

### Basis for changing the scale of the project and the financing approach

2.12 The Subcommittee notes that all along, the project to be developed on WKR was a "major world-class performance venue" as announced in CE's 1998 Policy Address. Even with a seating capacity of at least 10 000 (at a scale similar to the Sydney Opera House), the construction cost at 1998 prices was no more than \$3.12 billion<sup>Note 2.5</sup> and the total footprint, including a promenade, as suggested by HKTA, was 5.5 hectares, i.e 13.75 % of the 40-hectare WKR site. The Subcommittee has therefore found it necessary to examine the reasons and basis for Government's change of policy in the development of the cultural facilities.

2.13 The idea of developing new performance venues in Hong Kong was first unveiled in the Visitor Exit Survey Statistics for 1996 compiled by HKTA. The Statistics showed that among the millions of tourists polled, about 1.3 million tourists expressed interest in arts, cultural, entertainment and other events in Hong Kong. HKTA, in its submission to HA Panel on

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<sup>Note 2.5</sup> Estimate in the HKTA's Study, based on the standard of world-class performance venue with 10 000 seats (indoor and outdoor) and other supporting facilities at 1998 price level

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5 September 1998, said “A key element of HKTA strategy for developing tourism into the 21st century is to ensure that in future a much larger percentage of this potentially huge new audience is made aware of and is encouraged to attend the many arts, cultural, entertainment and other events taking place in Hong Kong, with a consequent benefit to Hong Kong’s professional performing companies, its arts facilities and its private sector entrepreneurs.”<sup>Note 2.6</sup> The submission further said that additional venues for the performing arts were urgently required in Hong Kong and proposed that the private sector and non-profit making sector should play an important role in the provision and development of arts, culture and entertainment, and in the management of cultural facilities.

2.14 Following the survey, HKTA commissioned in early 1998 the “Study on the Feasibility of a New Performance Venue for Hong Kong” (the HKTA Study). The final report of the HKTA Study which was published in February 1999 concluded that Hong Kong needed a new international performance venue to meet the growing demand for such a facility, to develop arts and culture and to promote event tourism. The HKTA Study found that many existing major venues were non-dedicated facilities which were built to meet other project objectives. The HKTA Study made the following major recommendations:

- (a) a major performance venue was urgently required;
- (b) the new performance venue should include an enclosed 1 500 to 2 200-seat theatre and a semi-outdoor open venue with a capacity of 6 000 to 8 000 seats for a wide range of temporary events;
- (c) the new performance venue should include a wider range of supplementary rehearsal facilities and formal/informal spaces for use by local and international groups;

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<sup>Note 2.6</sup> Paper provided by the Administration to HA Panel (LC Paper No. CB(2)241/98-99(04))

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- (d) an integrated approach should be adopted to integrate theatre facilities with a themed commercial area and a major tourist attraction in the form of a viewing tower overlooking the Harbour;
- (e) a site of 5.5 hectares in WKR was identified as the preferred site for developing the performance venue;
- (f) a single purpose statutory corporation with official and public involvement should be established to own the performance venue; and
- (g) the performance venue should be operated on commercial principles and the management of commercial area should be contracted out to a private sector partner.

2.15 Notwithstanding the recommendation for a new international performance venue in Hong Kong, the HKTA Study highlighted that “*the current study looks only at the hardware of the facility provisions, and that appropriate complementary software in terms of policy, promotion, accessibility, education, marketing and artistic development should also be put in place.*”<sup>Note 2.7</sup>

2.16 Also in early 1998, the Planning Department (PD) commissioned Roger Tym & Partners to examine the requirements of cultural facilities and formulate new planning standards and guidelines for cultural facilities in Hong Kong (the PD Study). The PD Study aimed to “*assess the requirements for cultural facilities up to year 2011 to enable better planning to meet the needs of the community.*”<sup>Note 2.8</sup> In December 1999, a report on the PD Study was published, shortly after CE-in-C ordered the land use of WKR be fundamentally reviewed. The stance of the Government,

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<sup>Note 2.7</sup> Paragraph 8.0 of the HKTA Study

<sup>Note 2.8</sup> Page 2 of the PD Study

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conveyed to the Finance Committee in December 1999 to explain the need to delete parts of the works on WKR, was that while HKTA's recommendation to use WKR for the development of a performance venue was taken on board, it would be a mistake from the planning point of view to develop the performance venue in isolation. In its view, the new performance venue should be complemented by other arts, cultural and entertainment facilities to create a clustering effect.

2.17 Like the HKTA Study, the PD Study identified the need for suitable venues for world class performances. Besides, the PD Study also identified the following needs/deficiencies:

- (a) purpose-designed medium scale performing venues of 600 to 1 000 seats;
- (b) private sector provision of small scale performance studio venues with 100 to 300 seats;
- (c) informal or "alternative" space, and flexible "art space" for installation arts and contemporary arts; and
- (d) community level facilities such as venues for classes, rehearsal and practices, workshops, small scale performances and exhibitions.

2.18 The underlying principle of the approach adopted to assess future demand for cultural facilities in the PD Study was that demand was primarily driven by public policies on the arts and led by the supply of facilities, based on the proposals and development programme of major stakeholders. The PD Study recommended that greater private sector participation should be encouraged for the development of the new cultural facilities. PD also stressed the importance of agglomeration of cultural facilities, arts activities and in particular, the supporting services, entertainment, hotel and retail/restaurant facilities which would provide a



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critical mass or an “arts district” for image building. For that purpose, the PD Study identified two sites including WKR as the potential area for developing cultural and entertainment district. The PD Study recommended that PD needed to carry out more detailed studies of the comprehensive planning and designation of such districts. Three months after the publication of the PD Study Report, the Government announced its plan to conduct the open CPC and its intention to build a wide range of facilities on WKR.

2.19 From the chronology of events as given in Appendix VII, it was likely that CE’s decision in October 1998 to build a world-class performance venue was to a certain extent based on HKTA’s recommendations put forward earlier that year. How far the decision to abort part of the works on WKR in order to turn it into an integrated arts and cultural district was related to the PD Study was not known. Nevertheless, the line of thinking in the PD Study and the Government’s subsequent decision to complement the performance venue by other arts, cultural and entertainment facilities to create a clustering effect seemed to be consistent. The Subcommittee however cannot find any structured consultation or detailed studies conducted by any parties on the development of WKR prior to March 2000, when the Government announced its plan to launch a CPC for a cluster of facilities on WKR.

2.20 The Subcommittee believes that both HKTA and PD had consulted the arts community, though not extensively,<sup>Note 2.9</sup> before putting forward their recommendations. The context of consultation was apparently more related to the improved delivery of arts and cultural services and the long-term requirements for the provision of arts and cultural services and facilities. Neither of them had ever put forward a proposal to develop the entire 40-hectare WKR as a cultural district and in a manner as subsequently

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<sup>Note 2.9</sup> In the PD study, over 400 cultural facility users were interviewed and more than 45 relevant stakeholders in the arts community were consulted. According to the Administration, from 1997/98 to 1999/2000, the patronage rate of admission-charged events at performance venues managed by LCSD was around 2.8 million per year.

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adopted in CPC and in IFP. As admitted by the Administration at the PLW Panel meeting on 9 March 2000, the Government was not aware of any precedent in any parts of the world for the holding of a design competition which involved not just the proposing of architectural concept plans for facilities but also a business plan on the financial viability of the development. Neither could the Subcommittee obtain any evidence which indicated that the Government had undertaken any detailed study on the viability of the financing and implementation approach entailed in IFP. The Administration said that it had conducted feasibility studies, covering the financial aspects and an assessment of the project's attractiveness to the private sector. The studies are preliminary as specific features of the WKCD project are being developed and shaped through IFP process. When requested to provide details of the feasibility studies with the excision of sensitive information, the Administration refused to provide information as basic as dates and scope of the studies and bureaux/departments undertaking the studies. A copy of the letter from the Clerk to the Subcommittee to the Administration and the Administration's response in this regard are in **Appendices XII and XIII** respectively. For the making of such a major decision to replan 40 hectares of land along the Victoria Harbour and to turn it into an integrated arts, cultural and entertainment district by a single developer with a land grant of 50 years in favour of the developer, the groundwork and consultation undertaken by the Administration, if any, seemed to be far from being adequate.

### **The roles of the Legislative Council and the Executive Council in the disposition of public resources and valuable property rights**

2.21 The single-package development approach in IFP is one of the major issues which has drawn much criticisms and concern. This development approach involves a grant of the development rights of 40 hectares of land in WKR to a single proponent. Disposition of public resources and property rights which are in the form of a public subsidy, either in money or in kind, should be subject to checks and balances with

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adequate internal and external scrutiny. In view of the nature and scale of development and the novelty of the integrated approach of the WKCD project, the Subcommittee considers that policy backing from the highest level of the Executive Authorities and the support of the Legislature which represents all sectors of the community should be obtained before the single-package approach was adopted. Noting that the Government had a policy change from the original multi-package approach in 2001 to the present single-package approach in the development of the WKCD project, the Subcommittee has studied the roles played by LegCo and the Executive Council in the decision-making process.

### Legislative Council

2.22 Under the Basic Law (BL), approving taxation and public expenditure is one of the constitutional functions of LegCo. For WKCD, no funding approval has been sought from LegCo because the project was regarded by the Government as financially free-standing. The Government's position has been that WKCD is an integrated and financially self-supporting arts, cultural, entertainment and commercial development. The approach set out in IFP does not envisage public funding of works within the scheme area. It does not involve the charging of expenditure on the general revenue and so there is no need to follow the procedure of seeking approval for public expenditure.

2.23 The Subcommittee has grave reservation on the Administration's proposition that the WKCD project is financially free-standing. By adopting the single-package approach in IFP, the project is in effect to be financed by the 40 hectares of land. The difference between the premium on the 40 hectares of land to be paid by the selected proponent and the premium that would have been secured by a multi-package approach with the land in question being disposed of through open tender is a form of public subsidy since the former premium is likely to be less than the latter.

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2.24 Being the body to which the Government is accountable under BL, LegCo should have been consulted before the Administration decided on the single-package approach. However, LegCo was only briefed on the progress of the project in July 2003 after the Steering Committee had already decided to adopt the single-package approach. The information released to LegCo Members in the progress report was so sketchy that Members were not able to form a full picture of the mode of development to be incorporated in IFP. Members' attention was not drawn to the important change from the multi-package approach in CPC to the single-package approach in IFP and their views were not solicited on the issue. As a result, there was no opportunity for a detailed discussion on the subject matter before IFP was launched in September 2003. When the subject was subsequently brought up at various forums in LegCo, the Administration also rejected LegCo Members' request for the financial information to enable LegCo to assess the value-for-money for the single-package approach. Thus prior to deciding on the single-package approach and after the decision was made, the Administration failed to discharge its constitutional obligation of being accountable to LegCo.

2.25 The Subcommittee considers that the monitoring role of LegCo can be effective only if LegCo is consulted prior to the formulation of a Government policy and before a decision is made. In the WKCD case, LegCo was informed rather than consulted at various stages of its development. Such an approach minimizes the role of LegCo, and makes it difficult for LegCo to discharge its monitoring function.

### Executive Council

2.26 Regarding the role of the Executive Council, the Subcommittee has studied the Executive Council's constitutional role in the making of the policy decision on the disposal of the 40-hectare land as a single package, and the discharge of its statutory function in the town planning process.

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### *Disposal of the 40-hectare land as a single package*

2.27 In November 1999, the Executive Council endorsed the decision to review fundamentally the land uses of the southern portion of WKR. At that time, WKCD was still at its formative stage. The next time when the subject was reverted to the Executive Council was June 2003 when the Steering Committee, made up of Principal Officials and Heads of Government Departments, had already endorsed the single-package development approach and was about to launch IFP. The Administration at first told the Subcommittee that it had “briefed” the Executive Council on its plan to issue IFP, but subsequently said it had “consulted” the Executive Council on IFP before it was published. In November 2004, the Executive Council was asked to approve the recommendations of the Steering Committee on the outcome of the screening exercise. The next occasion when CE-in-C has the opportunity to deal with the matter, according to the Administration, is after the preferred development scheme has been selected and before signing the Provisional Agreement with the successful proponent.

2.28 Under Article 7 of BL, the Hong Kong Special Administrative Region (HKSAR) Government is responsible for the management, use and development of the land and natural resources within the HKSAR and for their lease or grant to individuals, legal persons or organizations for use or development. CE, being the head of the HKSAR under Article 43 of BL, may lease or grant land on behalf of the Government. Article 56 of BL provides that CE shall consult the Executive Council before making important policy decisions. The Subcommittee takes the view that the single-package approach for the grant of the 40-hectare land for 50 years is an important policy decision on which CE should consult the Executive Council.

### *Town planning process*

2.29 CE-in-C has the power under the Town Planning Ordinance (Cap. 131) (TPO), to approve plans for the lay-out of areas of Hong Kong.

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In the plan-making process provided under TPO, the Town Planning Board (TPB) undertakes the preparation of draft plans as CE may direct. Any objections to new plans or amendments to the approved Outline Zoning Plan (OZP), together with further amendments to meet the objections, are submitted to CE-in-C for its approval.

2.30 In the case of WKCD, the Subcommittee is surprised to note that the rezoning of WKR site for the development of WKCD is still at the plan-making stage and has not yet been approved by CE-in-C. WKR was originally zoned for a regional park, commercial and residential uses, as well as other open spaces and GIC uses. In July 2003, following the agreement of TPB, amendments to re-zone the WKCD scheme area to “Other Specified Uses” annotated “Arts, Cultural, Commercial and Entertainment Uses” (OU) was exhibited. 11 objections were received and then heard in September and December 2003; but the draft OZP is still waiting to be submitted to CE-in-C. The Administration’s explanation is that as other amendments were subsequently made to the draft OZP, the plan-making process is not yet complete. There is no requirement that the advice or views of CE-in-C should be sought in the course of the preparation of draft plans. The Subcommittee finds that the making of the subsequent amendments, some of which were unrelated to the WKCD scheme area, has effectively extended the statutory period within which the draft OZP should be submitted to CE-in-C under TPO. In the meantime, the WKCD project has been proceeded with as if the amendments had formed part of the OZP.

2.31 The Subcommittee also finds that instead of meeting the objections to OU zoning, the Government devised a unique two-stage approach for the plan-making of the WKCD scheme area, which was agreed by TPB and incorporated in the Explanatory Statement of the draft OZP. The Explanatory Statement which has the effect of altering the plan making procedure for WKCD was exhibited in March 2004, but not yet submitted to the CE-in-C. Details of the two-stage approach are set out in **Appendix XIV**.

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2.32 Under this two-stage approach, the preferred development scheme with its preliminary masterplan will be considered and agreed by TPB and then submitted to CE-in-C for approval before entering into a Provisional Agreement with the successful proponent. Although the plan-making process in the second stage allows amendments to incorporate the agreed development parameters of the selected scheme to be published and objected to, the fact that CE-in-C has already approved the Provisional Agreement with detailed terms and conditions stipulated therein may compromise CE-in-C's role in its consideration of public objections, creating the perception that the approving process is no more than a formality.

2.33 As stated above, in the development of such a large project involving 40 hectares of land, the Executive Council, as an internal check, and LegCo, as an external check should have played a more active and substantive role in the scrutiny of the development arrangements. However, the way in which the Administration has been steering in terms of timing of consultations and the extent of information provided to LegCo, has led the Subcommittee to conclude that, in the case of WKCD, neither the internal nor the external checking mechanisms appear to have worked effectively, and the checks and balance system, though in existence, was bypassed by the Administration.

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### **Public Private Partnerships**

3.1 The Government has extensive experience in the development and construction of cultural facilities. As pointed out in the PD Study, Hong Kong has the highest level of domination of ownership and operation by the public sector among the cities covered in the study. For WKCD, the Government has decided to adopt PPP approach to achieve the policy objectives of fostering a long term relationship between the Government and the private sector in the development of world class facilities and provision of high quality programme as well as in the promotion of the arts. The Subcommittee does not want to second guess the motive of the Government to grant the 40-hectare WKR site to the private sector for 50 years in exchange for the construction and maintenance of a cluster of arts and cultural facilities. The Subcommittee believes that there is more than one way to finance the WKCD project and there is more than one way to encourage private participation. In view of the wide public concern over the financing approach set out in IFP, the Subcommittee finds it necessary to understand whether the Government has explored all possible alternatives and whether it has followed the principles and procedures which apply to other Government PPP projects. In so doing, the Subcommittee has made reference to the research papers and submissions on the subject and invited the Efficiency Unit (EU), and The Hong Kong Institute of Surveyors (HKIS) which has conducted extensive research on PPP in other countries, to express their views on private partnerships.

3.2 PPPs are contractual arrangements under which the public and private sectors both bring their complementary skills to a project, with varying levels of involvement and responsibility, for the purpose of providing public services or projects. PPPs are widely used overseas, notably in the United Kingdom, for the procurement of infrastructure projects and public facilities and services. PPPs may be carried out in various forms and are given acronyms such as build-operate-transfer, build-own-operate, buy-build-operate, private finance initiative and design-build-operate. When the Government decided to involve the private



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sector in developing the cluster of cultural facilities on WKR between December 1999 and March 2000, Hong Kong's experience in PPPs was mainly with build-operate-transfer contracts for road tunnels and design-build-operate contracts for solid waste management facilities.

3.3 Up to December 1999, most projects undertaken by the Government using PPP were in the form of build-operate-transfer and design-build-operate. In the build-operate-transfer cases, the private partners were responsible for building and operating the facilities for a specified period after which ownership of the facilities would be returned to the Government. In the design-build-operate contracts, the ownership of the facilities remains with the Government. By that time, the largest PPP project taken by the Government up to that point was the Cyberport project in which the developer was responsible for the provision and procurement of funds to meet all the project expenses.

3.4 To facilitate the civil service to use PPP approach, EU under CS's Office first issued the "Serving the Community by Using the Private Sector" booklet in June 2001. In August 2003, one month before IFP for WKCD was launched, EU issued in this regard a more elaborate document entitled "Serving the Community By Using the Private Sector: An Introductory guide to public private partnerships" (the Introductory Guide). Although the Introductory Guide was issued just one month before the launching of IFP, the Subcommittee believes that the Steering Committee, chaired by CS himself, should be already well aware of the principles laid down in the Introductory Guide, since they were similar to those contained in the earlier booklet issued in 2001. While the Steering Committee and the departments responsible for the WKCD project might not have been able to adhere strictly to the procedural steps suggested in the Introductory Guide, the basic principles behind the operation of a PPP should have applied.

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### **Basic principles of Public Private Partnerships**

3.5 To study the basic principles of PPP, the Subcommittee has made reference to the submissions and oral presentations of the HKIS and the research paper entitled “Public Private Partnerships” published by the Research and Library Services Division (RLSD) of the Legislative Council Secretariat in March 2005. RLSD has researched into the practices in a number of countries where PPP is widely used in the development of their public projects.

3.6 According to RLSD’s research paper, a PPP commonly has a combination of all or some of the following characteristics:

- (a) the public agency defines the quality and quantity of core services in output/outcome terms and the timeframe in which the services are to be delivered;
- (b) the private sector entity is responsible for delivering the defined services, while the public agency is involved in regulation and procurement of such services;
- (c) the long-term relationship involved is normally between 10 and 30 years;
- (d) responsibilities and risks involved in the relationship are allocated to the party best able to manage them;
- (e) the private sector entity finances the project and recoups its investment from charges or payments made during the life of the contract;
- (f) the private sector entity is encouraged to make use of its innovation and flexibility to deliver quality and cost-effective services throughout the project lifecycle; and

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- (g) the different functions of design, construction, operation and maintenance are integrated.

3.7 Like conventional procurement methods, PPPs require the public organization to start by:

- (a) establishing the need for a facility and related services;
- (b) identifying a likely location for the facility and related services;  
and
- (c) considering affordability and value-for-money issues.

3.8 EU recommends that once a project is considered to have potential as a PPP, a feasibility study including an initial assessment of the business case should be conducted. As PPPs are subject to a range of potential problems and risks, including loss of public control, lack of transparency, inadequate accountability of the private entity to the public, unreliable service, etc, EU recommends that an Intelligent Client Team be formed under the procuring authority to advise it on the various issues that will arise during the course of procuring and managing a contract. For projects requiring public funding, funding approval from the Finance Committee of LegCo should be sought before putting the project to tender. Apart from financially free-standing projects, the conforming proposals received from the tender should be assessed against a Public Sector Comparator (PSC) which is the risk-adjusted, estimated full lifecycle cost of the project if it was done by the conventional in-house approach. If no PSC is constructed, EU considers that the procuring authority will still wish to establish value-for-money.

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### **Features and development process of West Kowloon Cultural District**

3.9 The WKCD project is the largest PPP project ever undertaken by the Government. The project first began with a plan to build a world-class performance venue. It subsequently developed into not only a range of non-assignable arts and cultural facilities, but the inclusion of the right and responsibility to operate, maintain and manage these facilities throughout a 30-year operation period, as well as the development of a retail and entertainment spine, tower blocks for office, hotel, residential and other commercial uses on the 40-hectare Site, with a land grant for 50 years. The successful proponent is allowed to sell or otherwise dispose of any assignable premises such as residential flats, commercial premises and hotel. It is apparent that the non-assignable facilities are the core facilities to be developed for public purpose, while the assignable premises are incentives to attract private participation.

3.10 According to the information available to the Subcommittee, there were a number of critical junctures where major decisions were made. First, a decision was made to expand the core facilities from a single performance venue to a cluster of arts and cultural facilities between late 1999 and March 2000. Second, commercial elements were included as part of the development programme. Third, a single-package approach was adopted.

3.11 Assuming that it is necessary to provide incentive in order to attract private participation, a responsible government would still be expected to follow established procedures and best practices in taking forward a massive project which involved 40 hectares of land. Having noted the expansion of the scale of the project, questions were raised by LegCo Members in various forums on issues including the viability of the project and the wisdom of including property development in the project which aimed to promote arts and cultural development. In CPC in April 2001, a multi-package development approach was put forward. The initial thinking of the Government at that time was that packages within the Scheme Area suitable

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for private sector development would be decided by public tender, which would be open to all. Subsequent architectural design competitions could be conducted for selected individual buildings/facilities.<sup>Note 3.1</sup> Under this multi-package approach, consultants would be appointed through the normal consultants selection process to finalize the masterplan on the basis of the winning conceptual proposal. There would be open tender for packages in the Scheme Area for private sector development. Participants were given the flexibility to propose with justifications the provision of other facilities such as hotel/residential/office developments. Participants were also encouraged to make special design features to create landmarks and promote identity and character.

3.12 CPC results were announced in February 2002. That announcement was followed by the establishment of a Steering Committee chaired by CS in September that year. The Steering Committee was to plan and guide implementation of the WKCD project. In July 2003, the Administration briefed PLW Panel on its plan to issue IFP. Instead of pursuing with its original multi-package approach in CPC, the Government announced its decision to adopt a single-package approach to develop the entire 40 hectares of land. No consultation with the public or LegCo was carried out prior to the briefing.

3.13 In September 2003, the Government launched IFP which invited, among other things, submissions 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, a comprehensive business plan and a sustainable financing plan. The reasons given by the Administration for taking IFP approach were that the WKCD project is large and complex and proponents should be allowed considerable flexibility in framing their proposals. It was after the launching of IFP that LegCo and the public questioned the integrated approach in IFP. The Administration advised that the integrated approach in IFP would enable

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<sup>Note 3.1</sup> Government webpage on the CPC available from: <http://www.hplb.gov.hk/competition>

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more efficient planning and provision of infrastructure, internal transport services and facilities or structures extending over large areas of the site. When questioned by the Subcommittee on the huge planning and financing vacuum left by IFP, the Administration explained that maximum flexibility was built in the current IFP process to facilitate private sector innovation and allow the Administration to shape WKCD to meet public need. The Administration may introduce new requirements or aspects for the proponents to revise their proposals for further assessment. The assessment criteria for the revised proposals will be published to ensure fairness and enhance transparency of the process. Given the scale and complexity of the project, IFP has been so designed as to provide sufficient flexibility to allow the Administration to negotiate with the proponents.

3.14 Five proposals were submitted in response to IFP. Two proposals which were considered as not meeting the mandatory requirements specified by IFP were screened-out. Three proposals were screened in for further assessment. Public consultation on the screened-in proposals was originally scheduled from 16 December 2004 to end of March 2005. In response to the call of the Subcommittee, the consultation period was extended to end of June 2005.

3.15 The Subcommittee notices that throughout the five years of planning, from the 1998 Policy Address to the launching of IFP in September 2003, there were changes in the Bureaux and Principal Officials with a lead responsibility for the WKCD project. The project first started as a joint venture of the Home Affairs Bureau (HAB) and the Economic Services Bureau. In 1999, it became a project of the Planning & Lands Bureau and HAB. In 2002, the project was taken up by the Steering Committee under the chairmanship of CS. The changes in policy direction somehow might have reflected the policy objectives of the Bureaux/Principal Officers responsible for the project at the time.

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#### **Principles and best practices for public private partnerships as applied to the West Kowloon Cultural District development**

3.16 The Subcommittee has carefully examined the above developments in order to understand the reasons for the change of course and the process the Government went through when making these major decisions. It has also studied the decision making process in the light of the basic principles of PPP.

#### Establishing the need for a facility and related services

3.17 For all capital works projects, whether to be undertaken by conventional procurement method or by PPP, the first step is to establish the need for the facility and related services. For establishing the need for the cluster of arts and cultural facilities in CPC documents, the Subcommittee notes that between November 1998 and April 2001, the following reports were published:

- (a) the HKTA Study; and
- (b) the PD Study.

3.18 According to the Introductory Guide, in assessing what services/facilities are required, reference should be made to the following:

- (a) Hong Kong Planning Standards and Guidelines;
- (b) Requests/proposals for facilities made by relevant department(s)/organizations;
- (c) Popularity/utilization rates of other facilities providing similar services;

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- (d) Surveys of potential users/service providers; and
- (e) Relevant population forecasts.

3.19 The Subcommittee believes that the Government had taken on board the views of the PD Study which emphasized that the development of new cultural facilities, particularly at territorial level must be policy and supply-led. The PD Study did analyse the needs for cultural facilities based on survey results. It consulted the arts community and recommended a framework for the planning of new facilities. It also highlighted some of the facilities required, including the need for world-class performance venues, purpose-designed medium scale performing venues of 600 to 1 000 seats, small scale performing studio venues with 100 to 300 seats and “arts district” with facilities for artists. However, as the PD Study only aimed to provide a framework for development, it maintained that development of new facilities should be based on policy directives of the authority, and that individual project feasibility and viability studies should be prepared for all major public sector investments. The Subcommittee notes that the feasibility and viability studies on individual core facilities in WKCD have never been conducted. Instead, the Administration has 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. Under IFP, it is for the proponents to decide on the types of studies to be included in their proposals.

#### Identifying a likely location for the facility and related services

3.20 The next question which the Subcommittee has considered is whether the facilities were included in WKCD because of the need to develop WKR, or WKR was replanned because there was a need to provide the facilities.



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3.21 The PD Study identified a number of areas with potential to be developed into Cultural and Entertainment Development Districts and Cultural and Entertainment Renewal Areas. It recommended that the Planning Department should carry out detailed studies of the comprehensive planning and designation of these districts/renewal areas. Among these locations were WKR, Wanchai to Central Waterfront, Lan Kwai Fong and Yau Ma Tei.

3.22 The Subcommittee does not find any document which indicates that any such studies had been conducted before the decision to develop WKR into an integrated arts and cultural district was made. The Subcommittee however notices that a number of reports were published after the decision was made:

- (a) Consultancy Study on the Provision of Regional/District Cultural and Performance Facilities in Hong Kong by HAB published in November 2002;
- (b) The Culture and Heritage Commission Policy Recommendation Report (CHC Report) published in March 2003; and
- (c) Consultancy Study on the Mode of Governance of Hong Kong's Public Museums and the Hong Kong Film Archive by the Leisure and Cultural Services Department (LCSD) published in June 2003.

3.23 The Consultancy Study on the Provision of Regional/District Cultural and Performance Facilities in Hong Kong identified WKR as the main focal point for the development of new cultural facilities. It also stated, by making reference to international experience, that while *“the development of cultural facilities takes place within the framework of broader policies and strategic for cultural policy, the planning of an*

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*individual facility is usually unique to the facility and is carried out through specific project feasibility studies.”* <sup>Note 3.2</sup>

3.24 CHC Report supported the Government’s decision to develop WKR into an integrated arts, cultural and entertainment district but pointed out that the Government should thoroughly consider the “software” or cultural contents before planning the “hardware”.

3.25 The Consultancy Study on the Mode of Governance of Hong Kong’s Public Museums and the Hong Kong Film Archive cautioned that as 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.”* <sup>Note 3.3</sup>

3.26 As mentioned in paragraph 3.22, no detailed studies on the suitability of developing WKR as a cultural district can be found. An example may illustrate that the suitability of the site for the facilities was not a consideration in the case of WKCD. In a paper prepared by LCSD for discussion by a Working Group of the Culture and Heritage Commission (CHC) on 23 May 2001, it was proposed that seven new museums with differing themes including an Ink Museum ought to be built. It was also stated that WKR was a far less attractive site than Sai Kung for building the Ink Museum. The same 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. As the meeting records of the Working Group could not be traced, the Subcommittee does not know how far the Working Group had considered LCSD’s suggestions and assessed the priority amongst the seven new museums and the best locations and timing

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<sup>Note 3.2</sup> Page 11 of the Executive Summary of the Consultancy Study on the Provision of Regional/District Cultural and Performance Facilities in Hong Kong (Paper No. WKCD-98)

<sup>Note 3.3</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 (Paper No. WKCD-99)

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for building such museums. The Subcommittee was only told that the suggestions of the Working Group were submitted to CHC and were adopted as recommendations in CHC Report. The recommendations in CHC Report, among others, were that “flagship” museums, such as Museum of Modern Art, Museum of Ink Painting be established and these museums could be located in WKCD. There was no information on why they should be located in WKCD.

#### Establishing a business case

3.27 One of the objectives stated by the Administration for developing WKCD is *“to foster a long term relationship between the Government and the private sector in the development of world class arts and cultural facilities, the provision of high quality arts and cultural programmes, and the preservation and promotion of local cultural heritage by bringing in the private sector’s financial strength and commercial knowledge and expertise.”* <sup>Note 3.4</sup> CHC Report recommended that emphasis should be given to the principle of “partnership” in the planning and development of WKCD. CHC Report also stressed that the Government should facilitate partnerships between developers and the cultural sector, allowing the latter to participate in the planning and operation of the cultural facilities. These were the considerations given by the Administration in deciding to adopt PPP approach to develop WKCD.

3.28 According to the Introductory Guide and international best practices, once the required facilities/services are identified and confirmed, the next step is to appraise the procurement option, i.e. whether the conventional procurement method or PPP or other alternatives should be used. PPP is only pursued where it delivers value-for-money in order to safeguard the public interest. For the purpose of assessing the best approach to take, the development of a business case is necessary. The Introductory Guide provides procedures for development of a business case which include,

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<sup>Note 3.4</sup> Paragraph 4 in Paper No. WKCD-103

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among others, preparing a PSC. As defined in the Introductory Guide, “*the PSC is the hypothetical, risk-adjusted, cost of the government itself delivering the project output. The PSC is expressed in terms of the net present cost to the government of providing the output under a public procurement, using a discounted cashflow analysis that adjusts the future value of the expected cashflow to a common reference date. This enables comparison with bids and makes allowance for the imputed cost of government borrowing. The PSC provides a means of testing private party bids for value for money.*” <sup>Note 3.5</sup> PSC will include many cost items, including design, construction, maintenance, staffing, financing costs, etc.

3.29 The Introductory Guide states that where no public money is involved because the project is financially free-standing, a PSC need not be constructed. Nonetheless, the Introductory Guide also states that “*client department will still wish to establish value for money, especially if public land has been provided at less than full market value.*” <sup>Note 3.6</sup> In the WKCD project, no PSC has been constructed. The Administration considers that there is no need for a PSC because the WKCD project is financially free-standing. The Administration also considers the construction of any PSC for WKCD impossible and even irrelevant. Its explanation is that maximum flexibility has been built in IFP process to encourage innovation by the private sector and to allow the Government to shape WKCD in light of assessment findings and public views; and that WKCD integrates commercial facilities which are not usually provided by the public sector. There would be intangible benefits to be gained from the fostering of the partnership between the business sector and the arts and cultural sector which could not be measured by conventional cost-benefit analysis. The Administration advises that it has nevertheless made use of certain reference data compiled by the relevant Government departments for conducting feasibility studies before preparing IFP and for assessing the cost and revenue assumptions adopted by the proposals. Such reference data will be revised and refined in the next stage of IFP. The Administration

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<sup>Note 3.5</sup> Page 31 of the EU’s Introductory Guide (Paper No. WKCD-83)

<sup>Note 3.6</sup> Page 32 of the EU’s Introductory Guide (Paper No. WKCD-83)

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stresses that construction of a PSC is not a one-off step but an ongoing process. The Subcommittee considers that the offer of the land grant of 40 hectares of land definitely has resource implications. The various cost items included in PSC, which are expected to be borne by the private sector, are in fact "paid" by Government from the revenue that would have been generated from premium or other income in respect of the 40-hectare land. The Subcommittee therefore cannot accept the proposition that the WKCD project is financially free-standing, and hence a PSC is not required.

3.30 In this respect, the Subcommittee notes the view of HKIS that "*the best value assessment cannot be run in parallel or at the end of the procurement process, otherwise there is no agenda for questioning the basis of the PPP project*" <sup>Note 3.7</sup> Without a PSC, there is also no benchmark for assessing the proposals put forth by proponents, making it difficult for the Government to negotiate with the proponents. The Subcommittee notes that in some countries where a PSC is drawn up, this is used as a reference tool and is not necessarily released to bidders or to the public. In other countries, PSC will be public knowledge by the time when the request for proposal is made. In view of the extensive scope for negotiation under the terms and conditions of IFP, it is all the more important to have PSC or a PSC-like instrument ready for benchmarking and comparison.

3.31 Apart from the need to conduct value-for-money assessment, the Subcommittee shares HKIS's view that the Government should also prepare an assessment of the economic benefits associated with the WKCD project, including financial and non-financial benefits. This is because both the capital and operating costs of the arts and cultural facilities and services will require cross-subsidies through the commercial and residential development on this 40-hectare land. The whole or part of such subsidies could be used to support other public facilities and services which are in greater demand by the society. As the Administration has not prepared a PSC at this stage, let alone an assessment of the economic benefits associated with the WKCD

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<sup>Note 3.7</sup> Page 9 in HKIS' third submission (Paper No. WKCD-105)

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project, this makes it difficult for the Subcommittee or the public for that matter to assess whether PPP approach for the WKCD project provides value for money.

3.32 There was public outcry when the Administration decided to adopt the single-package approach to develop WKCD, especially when there were no objective yardstick. The Administration has put forth various reasons to support its decision. These reasons include the difficulty in drawing up a master layout plan based on uncertain assumptions of what would be commercially viable if the project is to be divided into smaller packages; the difficulty of drawing up multiple sets of complex interlocking land leases; and the losing of opportunity for having an integrated and complementary design of arts and cultural facilities. The concern of the community, however, is not allayed. The Administration also refuses to disclose the financial information contained in the proposals for the development of WKCD on various grounds including that the information is commercially sensitive and premature disclosure will prejudice Government's position in negotiation. It has only agreed to provide LegCo with the financial and related information before signing the provisional agreement with the successful proponent, subject to the Administration's negotiation position not being compromised. However, disclosure of the information at such a late stage would not serve much purpose.

3.33 A detailed examination of the respective developments in the planning of, initially, a world-class performance venue and then WKCD may shed some light on why PPP approach was adopted. The announcement of the planning of the "new, state-of-the-art performance venue" was made in CE's "From Adversity to Opportunity" Policy Address in October 1998 as a means to boost tourism and to provide more opportunities for world-class performances to be staged in Hong Kong. When the subject was next mentioned in the 1999 Policy Address, Hong Kong was only beginning to recover from the impact of the Asian financial crisis, with a \$23.2 billion deficit in 1998-99, an unemployment rate standing at 6.1% and property prices fell by 43% from the peak level in 1997. PPP was the only possible

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way to take forward this world-class performance venue which was planned alongside with the land-use revamp in WKR. The PD Study, published in December 1999, advocated the use of “planning gain”, such as relaxation of plot ratio limit, Gross Floor Area exemption, bonus plot ratio, linked sites or in situ exchange of sites or plot ratio, reimbursement of costs, etc., for developing new territorial level cultural facilities.

3.34 Again, in the Executive Summary of the Consultancy Study on the Provision of Regional/District Cultural and Performance Facilities in Hong Kong by LCSD dated November 2002, it was stated that *“it is recognized that the development and operation of any cultural facility is unlikely to be financially viable in conventional commercial terms – particularly when compared with other forms of commercial and residential development in a high land cost environment such as Hong Kong. In these circumstances the participation of the private sector through joint initiatives such as so-called “planning gain” incentives or other forms of public/private partnerships such as cross-subsidisation and development partnerships should be encouraged.”* <sup>Note 3.8</sup>

3.35 The Subcommittee was told that the Government has taken into account the findings of these studies as far as appropriate in the development of WKCD. However, by going ahead with a PPP project affecting the long-term development of arts and culture and the use of 40-hectare land without the basic data for assessing what is or is not viable, the Subcommittee has serious doubt on the strength of the Government in its future negotiations with the proponents and in the drawing up of a project agreement which protects public interest.

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<sup>Note 3.8</sup> Page 37 of the Consultancy Study on the Provision of Regional/District Cultural and Performance Facilities in Hong Kong (Paper No. WKCD-98)

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#### **Inclusion of a canopy as a mandatory requirement**

3.36 In the course of examining IFP arrangements, the Subcommittee notes that the canopy proposed in the Foster Scheme, covering at least 55% of the development areas, has been made a mandatory requirement in IFP. The Subcommittee considers this arrangement illogical because proponents are given the flexibility to propose even core arts and cultural facilities, such as the themes of museums but they are required without option to provide a canopy, which is basically a design aspect. In deciding to include the canopy as a mandatory requirement, the Administration's major considerations were that the distinctive canopy would produce an impressive and captivating visual effect and become an icon around the world. In the Administration's view, the canopy can attract the public and tourists to visit WKCD, thus bringing the community actual economic benefits. Moreover, the canopy is essential to the overall layout and design of WKCD for it will link various facilities in the district and integrate different kinds of land use. Providing an open yet comfortable environment for the outdoor cultural facilities and the extensive open space in WKCD, the canopy makes it possible for the public and the arts and cultural groups to enjoy the facilities even during the inclement weather. It can also reduce the noise generated by outdoor activities in WKCD, thus minimizing the impact on nearby residents. According to the Administration, the unique advantages of the canopy cannot be replaced by other designs.

3.37 The Subcommittee is not convinced by these considerations. The Subcommittee notes the concern of some building organizations and arts and cultural groups on the proposal of building a large-sized canopy as an icon of WKCD. Some of these organizations and groups also raised concern about the financial and technical aspects of the canopy. The building and maintenance costs of the canopy are substantial. On the technical aspects, there was concern about maintenance and fire safety. In this respect, the Subcommittee notes from the Report of the Technical Panel formed to provide advice to the jury of CPC on the technical assessment of individual entries such remarks, "*The Panel observed that some of the conceptual*



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*proposals could be difficult to implement in practice. For example several submissions proposed large canopies covering all or substantial parts of the Scheme Area, the construction of such structures and of buildings within them might be feasible, but the ownership, management and maintenance of the canopy could well present problems.”*<sup>Note 3.9</sup>

3.38 According to the Administration, no independent technical feasibility studies had been conducted on the Foster Scheme. Instead, it sought assurance from Foster and Partners on the feasibility of the canopy and potential solutions to relevant technical issues. Professional departments had considered the information provided by Foster and Partners and reviewed the technical feasibility of the Foster Scheme. They came to the view that the technical challenges presented by the Foster Scheme were not insurmountable and that they could be addressed in later design stages. The Administration also built in certain requirements for the design and construction of the canopy in IFP such as the requirement to conduct engineering studies, to comply with all statutory requirements, to design the canopy with built-in redundancy, and to demonstrate by use of computerized modelling heat and smoke dissipation.

3.39 In view of the wide public concern on the technical and financial viability of the canopy, the Subcommittee endeavoured to obtain information and records of deliberations on the acceptability, and subsequently the inclusion, of the canopy design as a mandatory requirement in IFP. The Subcommittee passed a motion urging the Administration to release the comments of the Technical Panel on the Foster design and its studies on the financial arrangements involved in constructing the canopy. The wording of the motion is in **Appendix XV**. Notwithstanding the motion passed by the Subcommittee, the Administration refused to provide the information requested. The reasons given were that it had been stated in CPC documents that the assessment process would be carried out in strict confidence; disclosure of the information will harm the competitive and

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<sup>Note 3.9</sup> Paragraph 37 of the Report of the Technical Panel (Paper No. WKCD-120)

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financial position of the competition entrants; the Technical Panel had been advised that their assessments were confidential and privy to the jury only; and premature disclosure of the studies on the financial aspects may weaken the Government's negotiation position.

3.40 As regards the questions on ownership and management of the canopy, the Administration does not dispute that the single-package approach is only one way of addressing the matter. The subject of canopy will be further examined by the Subcommittee in Phase II Study.

#### **The single-package development approach in IFP**

3.41 Amongst the various concerns of the community on WKCD, the greatest arose from the single-package approach proposed in IFP. The public had originally welcome the Government's proposal to develop WKR into an integrated arts, cultural and entertainment district. Its sentiment towards the project changed after IFP was launched in September 2003, when it became aware that the project was to be developed on the basis of a single-package approach.

3.42 Many sectors of the community questioned the rationale for adopting the single-package approach given the scale of the project which involved 40 hectares of land. Among the disadvantages identified with the single-package approach was the lack of competition. The single-package approach would make it difficult, if not impossible, for smaller developers to participate, hence limiting the pool of potential bidders and resulting in higher tender prices. Moreover, the single-package approach would mean that the future development of arts and culture, which might evolve over time, would be led, if not dictated, by the single successful proponent and there was no scope for the project to develop incrementally according to the needs of the community over the 30-year period. There was thus a strong call from the community that there should be a re-think of the mode of

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development. Many had suggested that competition should be reinstated, preferably by reverting to the original multi-package approach.

3.43 The Administration noted the public sentiments, but maintained that the single-package approach was appropriate for the WKCD development. According to the Administration, the single-package approach would facilitate centralized planning and co-ordination. Management would be more efficient, costs would be lower and development time would be reduced. Arts and cultural facilities would not be divided and carried out in different lots leading to inconsistencies. The Administration considered that by adopting the single-package approach, the serious alignment problems arising from the design, construction and completion dates of the infrastructure could be avoided and legal documents would be simpler.

3.44 The Subcommittee has studied the views on both sides. The Subcommittee considers the risks associated with the single-package approach unacceptable, and that the Government will be put in a disadvantageous position if the pool of proponents is limited. The merits of single-package approach are mostly administrative and can be achieved through other means, while the lack of competition may jeopardize the future development of the project and public revenue from the 40 hectares of land.

#### **Alternative approach**

3.45 The Subcommittee notes a different approach taken by the Spanish Government for developing the Abandoibarra project which is similar to the WKCD project in both nature and scale. The Abandoibarra project is a successful attempt to regenerate a polluted city left out by deindustrialization and economic decline into a cultural district. Abandoibarra is a waterfront district located in the heart of the metropolitan area of Bilbao, which is the capital of the Bizkaia Province in Northern Spain. The idea of developing Abandoibarra was mooted by the Bilbao City Council in 1987. For the

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purpose of taking forward the project, a non-profit making limited liability company, known as Bilbao Ria 2000 which was made up of various public authorities, was set up in 1992. Like WKCD, an international urban planning competition was launched in 1993 to invite conceptual plans for Abandoibarra. A design presented by American architect Cesar Pelli won the competition. The winning design was revised successively, notably to meet the increasing demand of the property market and to take public spaces into more account, but the focus on culture remained. Unlike the WKCD project, the Bilbao Ria 2000 adopted a multi-package approach in the delivery of the Abandoibarra project. The project was divided into smaller land parcels for leasing in phases to different developers for development. Revenue from sale of the land was used to fund facilities in the sites which could not be self-financed, such as the Guggenheim Museum Bilbao. A comparison of the Abandoibarra project and the WKCD project is in **Appendix XVI**.

3.46 The success the Abandoibarra project has attained so far does not lend support to the adoption of the single-package approach by the Administration in developing WKCD.

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4.1 As pointed out in Chapter 3, the first test to establish a case for PPP is the assessment of the need for the facility and related services. In the absence of detailed studies on the feasibility and financial viability of the cultural facilities in WKCD and the development of WKR as an integrated arts, cultural and entertainment district, the Subcommittee has found it necessary to understand how far the Government was aware of the current shortfalls in the provision of arts and cultural facilities and the long-term demands in the development of arts and culture in Hong Kong, and whether WKCD, under IFP development approach, could help address these shortfalls and demands. In the course of its study, the Subcommittee has directed special attention to the mechanism adopted by the Government in formulating its policies and implementation strategies.

### **Government's role in the development of arts and culture**

4.2 Throughout the course of arts development in Hong Kong from 1970s onwards, the Government has been assuming the role of a co-ordinator and catalyst, and of a provider of the necessary infrastructure, and, where necessary, has been providing financial or other assistance to nurture budding artists or new arts forms. In the past, cultural infrastructure was mainly provided through partnership with the two Municipal Councils (MCs). Subsequent to the dissolution of the two MCs in January 2000, a new administrative structure for arts and culture was set up under which LCSD assumed territory-wide responsibility for the provision of leisure and cultural services, management of cultural facilities as well as the delivery of programmes. The Government provides infrastructural support in terms of venue provision. Currently, LCSD oversees the management of 15 cultural venues, 12 museums, a visual arts centre and a film archive.

4.3 At present, cultural policies come under the portfolio of the Secretary for Home Affairs (SHA). The Subcommittee finds that no official documents have been published by SHA to set out comprehensively

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the Government's vision and direction on the medium and long term development of arts and culture. When asked, the Government advised the Subcommittee that its cultural policy was in fact its acceptance of the recommendations in CHC Report published in March 2003.

4.4 CHC was a high-level advisory body set up in April 2000 to advise the Government on the policies and funding priorities on culture and the arts. This body no longer met after the submission of CHC Report. The membership at that time is in **Appendix XVII**. In the Report, CHC put forward some 100 recommendations on the overall policies and strategies of implementation. It affirmed the notions of "people-oriented", "pluralism", "freedom of expression and protection of intellectual property", "holistic approach", "partnership" and "community-driven" as the strategies for cultural development. The Report covered a wide range of issues, including the cultural position of Hong Kong, education in culture and arts, cultural facilities, review on resource deployment and institutional framework, and cultural vision of the future. The Government gave a response to CHC Report in February 2004. In its response, it accepted 94 recommendations and commented on each of the issues raised in CHC Report. This response has subsequently been regarded by the Administration as its endorsement of CHC Report and a blueprint of Government's overall cultural policy. In other words, CHC Report is the first and only piece of document which provides a comprehensive outline of HKSAR Government's policies on arts and culture and its position on how WKCD is related to its arts and cultural policies.

4.5 As stated by the Administration, its cultural policy aims to create an environment which is conducive to the freedom of expression and artistic creation and which encourages participation in such activities. In its role as a catalyst, the Government promotes and encourages the development of culture and the arts through the provision of financial support (mainly through the Hong Kong Arts Development Council (ADC)), education (through the Hong Kong Academy for Performing Arts (APA)) and publicity. Annual recurrent subventions of \$97.4 million and

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\$150.9 million have been allocated for ADC and APA respectively in 2005-2006. At present, there are 10 professional performing companies receiving subventions from the Government and ADC.

4.6 As regards the development of cultural facilities, the Subcommittee notices that PD Study highlighted that the development of new facilities, particularly at territorial level, must be policy driven and supply-led. The Subcommittee notes that this approach was fully endorsed by the Government and has been, time and again, heavily stressed as its strategy in the development of cultural services.

### **CHC's direction for WKCD**

4.7 The Subcommittee notices that the discussion for developing an arts and cultural district in WKR started in mid 1990s and planning work commenced in 1998-99, before the establishment of CHC in 2000. CHC's role on WKCD was more in expressing views on the project from the arts and cultural angle. For WKCD, it particularly set up a working group to study the matter. In its final Policy Recommendation Report published in March 2003, CHC gave its support to the development of WKCD. In other words, WKCD did not come about because there was a policy for it. WKCD was decided long before the time when CHC Report was published.

4.8 CHC supported the Government's decision to develop WKR into an integrated arts, cultural and entertainment district, and it saw WKCD as an unprecedented opportunity for cultural development in Hong Kong. CHC also highlighted the following:

- (a) The cultural and other facilities in the district should be integrated to produce a clustering effect, creating a lively and vigorous environment for nurturing creative talents.

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- (b) Cultural facilities in the district should complement existing and future major cultural facilities elsewhere in Hong Kong, in order to ensure that resources are used effectively.
- (c) Facilities in the cultural district should cater for the long-term cultural needs. The Government should thoroughly consider the “software” or cultural contents before planning the “hardware”. In the process of developing the cultural district, the government should also facilitate partnerships between developers and the cultural sector, allowing the latter to participate in the planning and operation of the cultural facilities.

It is clear that for CHC, an important objective of WKCD must be to nurture creative talents which is pivotal to the long-term development of arts and culture in Hong Kong. Moreover, WKCD should not be planned in isolation. It is incumbent upon the Government to ensure the effective use of resources so that the proposed facilities in WKCD would complement other existing cultural facilities in Hong Kong. In the opinion of CHC, cultural software should be the centre of WKCD development; the proposed hardware facilities are but a means to an end.

4.9 In view of the Administration’s assertion that CHC’s Policy Recommendations have become the Government’s cultural blueprint, the Subcommittee has examined to what extent CHC’s direction for WKCD had been taken into account during the development process of WKCD.

### **Clustering effect to create an environment for nurturing talents**

4.10 As mentioned in Chapter 3, the Government has drawn on a number of studies and reports in formulating the requirements of core cultural facilities in IFP. To recap, the following core cultural facilities are included in IFP:



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- (a) a theatre complex comprising three theatres with seating capacities of at least 2 000, 800 and 400 seats, respectively;
- (b) a performance venue with a seating capacity of at least 10 000 seats;
- (c) a museum cluster comprising four museums of differing themes with total net operating floor area of at least 75 000 square metres;
- (d) an exhibition centre with net operating floor area of at least 10 000 square metres; and
- (e) a water amphitheatre and at least four piazza areas.

In addition to the core facilities, IFP allows the proponents to propose other arts and cultural facilities such as circuses, cinemas, commercial arts galleries, arts spaces, arts training facilities, workshops and studios.

### Utilization of existing performance venues

4.11 The Subcommittee notes that both the HKTA Study and the PD Study identified the need for world-class performance venues. The PD Study also found the need for purpose-designed medium scale performing venues of 600 to 1 000 seats and private sector provision of small scale performing studio venues with 100 to 300 seats. Notwithstanding its confirmation of the need for these performance venues, the PD Study commented that the level of demand for the wide range of cultural facilities would be different. Some of them would be very well utilized but some would not. The difference in usage rates is mainly a reflection of the differences in quality and geographical distribution of the facilities. The usage rates of performing venues managed by LCSD for cultural and non-cultural activities from 1997 to 2005 are in **Appendix XVIII**.

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4.12 As shown in Appendix XVIII, the usage rates of performance venues for arts-related activities as against other activities such as conferences, lectures, meetings, workshops, ceremonial, community, school, religious and sports functions vary widely. Performance venues such as the Hong Kong Cultural Centre, City Hall, Hong Kong Coliseum and Kwai Tsing Theatre have over 80% of their usage rate made up of arts-related activities. However, for certain performance venues such as the Queen Elizabeth Stadium, North District Town Hall and Tai Po Civic Centre that usage rate was less than 50%.

4.13 The Subcommittee notices that there were conflicting views on the adequacy of cultural facilities. As revealed in the PD Study, in two surveys covering 800 local residents and 400 cultural facility users in 1998 and 1999, the majority of the residents and users felt that the existing cultural facilities were satisfactory in terms of quantity, quality, accessibility and support services. However, in the same PD Study, when more than 45 relevant stakeholders in the arts community were interviewed and consulted, they considered that there were a wide range of specific deficiencies in key facility areas, sectors, and in specific locations, both in terms of the allocation and operation of existing facilities and the development of new facilities. In another telephone based survey of approximately 1 500 residents conducted by LCSD in November and December 2001 to collect information on their usage of and views on regional/district cultural facilities, there were also divided views on the sufficiency of cultural facilities.

4.14 The Subcommittee finds that some consulted arts bodies have stressed that there is an acute shortage of performance and rehearsal venues in Hong Kong, and this has hindered the progress of cultural development in Hong Kong. These arts bodies have encountered great difficulties in securing bookings in suitable performance venues, especially when the availability of performance venue directly affects the production time-table. They therefore welcome the provision of additional cultural facilities in WKCD as this could provide much needed space for cultivating local talents and the viable operation of performing groups. They echo the view of the

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Government that the provision of cultural facilities should be “supply-led”. They are also confident that with additional facilities, the cultural sense of the community would be developed in time to generate sufficient interest for the arts and cultural programmes from both local and worldwide audiences. These consulted arts bodies reckon that together with the requirement of having resident companies in the new performance venues, WKCD would present an opportunity for “flagship” performance groups to enhance their development as well as nurture local talents.

4.15 To assess if there is an acute shortage of performance venues, the Subcommittee has examined the usage rates of performance venues managed by LCSD in recent years (Appendix XVIII). While some performance venues are heavily utilized, some are not. The more utilized venues are mostly high quality venues that are easily accessible, such as the Hong Kong Cultural Centre and City Hall. The not-so-well-utilized venues are mainly those at district levels in new development areas such as Tai Po and North District. For these venues, non-cultural activities such as conferences, sports and community functions have made up a significant percentage of their usage. Nevertheless, according to the Administration, the average usage rate of 80% for performance venues is regarded as most satisfactory by international standard. For the relatively low usage rates of facilities such as North District Town Hall, Tai Po Civic Centre or other district-level venues, they are not purpose-built for performing arts. They have a number of architectural limitations and technical constraints for professional theatrical productions, rendering them less attractive for staging sophisticated arts and cultural productions. The demand for small (up to 500 seats) to medium-sized (500 to 1 000 seats) theatres, particularly in centrally located venues, is in fact great. The daily usage rate of some centrally located theatres hits a nearly full-occupancy usage rate and over 90% of the usage is arts-related.

4.16 Some consulted arts bodies pointed out that many of the performance venues appear to have a high usage rate but in fact many of the activities held in these venues are not arts-related, such as graduation

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ceremonies of schools. Although the non-cultural activities are often held during daytime, this has already presented difficulty for stage set-up and rehearsals in the evenings. On the other hand, some performance venues at the district level are very much under-utilized. The Government should consider ways to improve the usage of such facilities before spending large sums of money to build new facilities.

4.17 In this respect, the Administration explains that for better utilization of the venues, they have to allow bookings for non-cultural activities, but such bookings are only confirmed if the venues are not booked for cultural activities. The Administration admits that there is room for more effective management of the existing cultural facilities so as to meet the varying needs of the community, but it maintains that there is still a need to provide the additional performance venues in WKCD.

4.18 In this connection, the Subcommittee notes that one of the screened-out proponents has particularly proposed an approach which departs from the mandatory requirements in IFP as it sees greater potentials in making the facilities on the two sides of the Victoria Harbour, including those in West Kowloon, a cultural hub by re-distributing the themes of current facilities and rejuvenating existing major cultural facilities such as the Hong Kong Cultural Centre.

### Provision of four themed museums

4.19 Four preferred themes of museums are stated in IFP: Modern Art, Ink, Design and Moving Image. According to the Administration, such preferred themes were mainly derived from, among other sources, the recommendations of CHC which had taken into account the conclusions of its Working Group on Museums (Working Group) established to study the functional positioning and future development modes of public museums in Hong Kong. During the period from January 2001 to August 2002, the Working Group held eight meetings to discuss, among other things, the future development of new museums.

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4.20 Regrettably, the Administration was not able to produce any records of the deliberations of the Working Group. The Subcommittee therefore has no information on how the Working Group had assessed the need for new museums and how it had arrived at its conclusions. According to the Administration, the Working Group endorsed a paper prepared by LCSD on 19 November 2001, which stated: *“With cultural tourism being an emerging industry, big cities all over the world are striving to build new museums to complement their policies on public education, lifelong learning, boosting of tourism and promotion of the public’s sense of identity. According to two visitor surveys conducted, tourists made up 30% of all the visitors to the Hong Kong Museum of Art ..... Hong Kong should therefore develop its museum services to catch up with the standard of other world cities, to enrich the cultural life of the public and to promote cultural tourism.”* <sup>Note 4.1</sup> The paper then suggested building seven new museums with differing themes which included the Hong Kong Museum of Modern Art, Ink Museum and Hong Kong Museum of Moving Images. The paper also suggested that the proposed Hong Kong Museum of Modern Art should include such applied arts as design and photography.

4.21 In another paper prepared by LCSD for discussion by the Working Group on 23 May 2001, it was stated that WKR was a far less attractive site than Sai Kung for building the Ink Museum. The same 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 believes that the matter should have been considered by the Working Group, but there was no information on why out of the seven new museums proposed to be built by LCSD, the Working Group subsequently recommended to CHC to establish “flagship” museums, such as Museum of Modern Art, Museum of Ink Painting, and that these museums could be located in WKCD.

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<sup>Note 4.1</sup> Paragraph 8 of CHC/M/09/01, attachment to Paper No. WKCD-132

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4.22 While the Administration stresses that the proposed themes of museums were selected after consideration of CHC Report and views of the arts and cultural groups, the Subcommittee notices from a paper presented to PLW Panel in March 2000<sup>Note 4.2</sup> that the preferred themes of contemporary arts and moving image had already been suggested by the Government as part of the core facilities to be included in CPC, prior to the Working Group's deliberations in 2001.

4.23 Notwithstanding CHC Report and views subsequently put forward by various arts and cultural groups that there is a need for the establishment of certain themed museums, the Subcommittee cannot ascertain whether WKCD is the best location for the proposed museums. It is also uncertain whether consideration has been given by the Administration, in particular LCSD, to the feasibility of providing these museums through re-alignment of the services of existing museums.

### Provision of exhibition space

4.24 The Subcommittee notes that IFP has put forward an exhibition centre with net operating floor area of at least 10 000 square metres. 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. Noting that this is in addition to the museum cluster with total net operating floor area of at least 75 000 square metres, the Subcommittee has set out to ascertain whether such provision in IFP is justified.

4.25 At present, the total display area of the top five major museums in Hong Kong, viz. Hong Kong Museum of Art, Hong Kong Museum of History, Hong Kong Heritage Museum, Hong Kong Science Museum and Hong Kong Space Museum, adds up to 30 504 square metres. The Subcommittee is aware that in Hong Kong's unique environment, there is a

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<sup>Note 4.2</sup> Annex to Paper No. WKCD-3

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general lack of public interest in arts and culture. The attendance rates fluctuate and are generally low except for special programmes. Although the Subcommittee has not conducted any detailed studies on alternative ways to ensure the more meaningful utilization of the exhibition venues, there is a general feeling among members that the lack of novelty in the management of some conventional types of museums has attributed to the low patronage of the museums. In this respect, the Administration stresses that the attendance rates at LCSD museums are not low by international standards. With the successive commissioning of new museums between 2000 and 2001, the total number of visitors to museums managed by LCSD reached 4.6 million in 2002 and this popularity has been maintained and has reached 4.78 million in 2004/05.

4.26 On the other hand, the Subcommittee notes the general sentiment expressed by the consulted arts bodies that there is a severe shortage of suitable exhibition space in museum-like venues available for hiring by outside organizations for private exhibitions and arts activities. This is borne out by statistics provided by the Government.<sup>Note 4.3</sup> Of the 13 museums administered by LCSD which add up to 44 503 square metres of total display area, only 964 square metres are available for rental by outside organizations to hold exhibitions. In other words, almost 98% of all exhibition space is used for exhibitions initiated by the Government or for Government's permanent displays. Arts organizations and individuals at present may make use of two museums venues, i.e. the Hong Kong Science Museum which offers 750 square metres and the Hong Kong Film Archive which offers 214 square metres, to hold private exhibitions and arts activities. As pointed out by the arts groups, the provision of exhibition space open to public use could help foster skills of appreciation, creativity and expression of the general public. It could also provide a venue for promoting arts communication and arts trading. They believe that the "partnership" management approach could provide an opportunity for such development. The Subcommittee notes that the Administration held a different view in

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<sup>Note 4.3</sup> Information provided by the Administration on Operation of Museums in Hong Kong (Paper No. WKCD-128)

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utilizing space in museums for holding private exhibitions. The core functions of a museum under the management of LCSD are acquisition, preservation, exhibition and education on themes related to our cultural heritage and general knowledge. There are exhibition galleries and spaces available in other cultural venues located in different regions with a total floor area amounting to 4 806 square metres for hire as exhibition venues.

### **Development of cultural software**

4.27 The Subcommittee notices that the various studies on cultural policies and the development of cultural facilities have unanimously pointed to the need to develop cultural software. Quite a number of consulted arts bodies are more concerned about the over-provision of cultural facilities in Hong Kong without a corresponding development of cultural software. In their view, without good content and programmes, the new facilities in WKCD would become white elephants. They are concerned that under the arrangements indicated in IFP, cultural software would become the responsibility of the successful proponent, which is essentially a private developer. They are worried that the operator of WKCD would focus more on the financial profitability aspect in the planning of the use of the facilities in WKCD. If the world-class performance venue is predominantly used to stage the more popular internationally large-scale productions/events, this would not be conducive to the purposes of encouraging local arts and cultural development, and of nurturing local talents. The consulted arts groups have serious reservation on the extent of autonomy given to the operator in determining the needs of the arts community and in deciding the extent of support to be given to the arts groups. The Administration, on the other hand, believes that the future governing body of WKCD would be in the best position to balance the need to introduce international events and the need to take care of the local arts community. The presence of international events could facilitate cultural exchange and provide job opportunities for local artists to work in international organizations.



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4.28 The Subcommittee shares the concern expressed by these consulted arts bodies about future funding policy to sustain arts and cultural development in Hong Kong. While some programmes could be self-financing, many are not. Matters in relation to the level of subsidies to be provided to different arts groups and programmes for the purposes of cultural education and diversity should be the responsibility of the Government. To this end, the Government must ensure the availability of a sustainable source of funding throughout the 30-year operation period and beyond. The Subcommittee also shares the concern that without a clear assessment of the extent of financial involvement in maintaining the facilities and supporting the activities, it is difficult to ascertain if the proposed funding approach of offering a land grant for 50 years in favour of the successful proponent is out of proportion or not.

### **Deficiencies in the planning and consultation process**

4.29 While recognizing that there is demand for additional cultural facilities in Hong Kong, the Subcommittee has yet to establish whether the WKCD development as proposed by the Government represents the best way forward. Related issues such as the proposed re-alignment of the functions of existing museums and the better utilization of existing performing venues are left unaddressed in the WKCD proposal. In essence, the major problem stems from the Government's over-reliance on the private sector to fill the "software" gap as reflected in the approach adopted in the IFP. As the operation period lasts for 30 years, the Subcommittee remains highly sceptical about the appropriateness to hand over all the responsibility of promoting cultural development to the successful proponent without specific performance targets.

4.30 The Subcommittee is aware that different arts and performing groups have different interests at stake in WKCD. Finding the right balance among the competing claims from the different groups, say that of flagship performing companies versus small performing groups, high versus

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mass culture, mainstream versus alternative culture, is but a delicate matter which should be the responsibility of the Government and not the successful proponent. The Subcommittee is aware that the Government would remain as the major provider of venue and funds and it is hoping that WKCD would offer an alternative to the arts and cultural sector, with new funding and venues made available in a more flexible manner. The crux of the matter is how it can be achieved.

4.31 As pointed out by LCSD's Consultancy Study on the Mode of Governance of Hong Kong's Public Museums and the Hong Kong Film Archive in June 2003, "*Many departments and agencies of government in Hong Kong have seized upon the idea of new museums for a variety of different purposes, such as tourism, heritage preservation, and urban renewal. Much of this discussion is occurring in a policy and planning vacuum, as there is no Master Plan for the long-term development of museums in Hong Kong. As museums represent a tremendous capital investment to have them built and occupy expensive land, and also require major on-going operational funding, it is imperative that Government has a Master Plan for museum development.*" <sup>Note 4.4</sup> The Subcommittee considers that the same principle is equally applicable to performance venues in Hong Kong as well.

4.32 The Subcommittee is of the view that in the absence of solid grounds to justify the relevant IFP requirements for core cultural facilities to be provided in WKCD, the extensive freehand given to the proponents in determining the needs and management philosophy for cultural facilities ought to be adjusted to enable the Government to resume control over the long-term development of the facilities and related services. Instead of specifying the hardware requirements in an arbitrary manner, the Government should put in place a mechanism to enable it, in joint effort with the public, in particular arts and cultural groups, to determine the priorities in terms of hardware facilities, software development and other

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<sup>Note 4.4</sup> Recommendation 8 of LCSD's Study (Paper No. WKCD-99)

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support. This would be the best way to maximize the development opportunity presented by WKCD.

## **Chapter V : Conclusions and recommendations**

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### **Conclusions**

5.1 The development of WKCD is among the largest projects initiated by the Government in recent years in terms of scale, complexity and resources involved. WKCD is much more than a works project. It reflects a vision and embraces an unprecedented opportunity to create a dreamland for the cultivation of arts and culture on this 40-hectare land overlooking the Victoria Harbour. It should have been a welcome Government initiative which meets with public support. Instead, controversies have arisen over the design, planning and financing of the project, and the House Committee was prompted to set up the Subcommittee to look into the contents of the project as well as the process of its development.

5.2 The Subcommittee has set out to examine whether due process required to protect the public interest has been followed by the Government, and how far WKCD as proposed could meet the shortfall in arts and cultural facilities and services and the long-term needs of Hong Kong in the development of arts and culture. The examination has revealed a series of vacuums in the planning and implementation processes and they are set out below in their proper perspective. They expose potential risks to the public interest which must be addressed before the WKCD project is to go any further.

5.3 The Subcommittee recognises that Hong Kong has the capability to develop an integrated arts, cultural and entertainment district, and that WKR is a potential site. The Subcommittee shares the Culture and Heritage Commission (CHC)'s view that, in developing cultural infrastructure, there is a need to promote "cultural software" such as audience development and arts education, which must be thoroughly considered before planning the "hardware". The Subcommittee sees the opportunity which WKCD provides, but notices that in seizing this opportunity, the Administration has pursued an unusual route which departs from the practice and principles which should be applied to the development of publicly-funded projects.

## **Chapter V : Conclusions and recommendations**

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The Subcommittee is aware of the need to provide flexibility to optimize economic success, but this must be done within the framework of good governance so that the public interest will be protected.

5.4 The Administration maintains that WKCD does not have significant capital or recurrent expenditure implications which require the Legislature's approval because only land is involved. The Subcommittee considers the 40-hectare land an important public resource, and a 50-year land grant with the right to sell and lease the residential and commercial premises on this land an extremely valuable property right. The disposition of such a public resource and valuable property right and implementation of government policies concerning them must be subject to proper checks and balances, within the Executive Authorities as well as by the Legislature. It is equally important that the wider public must be consulted at least at every crucial stage before an irrevocable step is taken. Having scrutinized the materials before it and held discussions with the Government and members of the public, the Subcommittee has come to the conclusion that there are major deficiencies in each of these areas. These deficiencies are summarized below. The Subcommittee has no doubt that the WKCD project must be thoroughly revised before proceeding further, and has made recommendations towards that end. In recommending the way forward for the WKCD, the Subcommittee wishes to highlight a motion passed by Members of LegCo at the Council meeting of 5 January 2005 that the single-package approach had failed to ensure optimal use of precious land resources in Hong Kong and safeguard public interests. The wording of the motion is in **Appendix XIX**. The Subcommittee has taken into account the line of actions put forward in the motion in drawing up its recommendations.

### Inadequate involvement of the Executive Council

5.5 CE-in-C has constitutional and statutory roles in land disposal and town planning procedures, as explained in Chapter 2. The Subcommittee is amazed at the limited role the Executive Council in fact played in the entire

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## **Chapter V : Conclusions and recommendations**

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development process. The record shows that, since November 1999 when CE-in-C decided on a review of the land use of WKR, the Administration had not reported back to the Executive Council on the development of the WKCD project until June 2003, just before the Invitation for Proposals (IFP) with its single-package approach was launched. CE-in-C was not previously consulted on the decisions relating to the financing approach for the project. The Administration is leaving it to a late stage of the process, when the Executive Council will be asked to give its approval to the Provisional Agreement that is about to be signed with the successful proponent selected.

5.6 Regarding the town planning procedure, the Subcommittee is surprised at the prolonged plan-making process to postpone the submission of the long proposed “Other Specified Uses” zoning and amended the Explanatory Statement to CE-in-C for its approval. The Explanatory Statement, which has the effect of altering the plan-making procedure for WKCD, has already been taken as the agreed procedure for the development of WKCD even though it was not approved by CE-in-C. The Subcommittee considers that these moves made by the Administration seriously undermine the system which has been built up over long years in Hong Kong to ensure internal accountability.

5.7 The Executive Council does not appear to the Subcommittee to have discharged its constitutional and statutory roles in the disposition of land and approval of zoning plans in the case of WKCD. It also appears to the Subcommittee that the Executive Council has to rely on the Administration to put forward proposals to it for its endorsement along the timetable of the Administration. The decision which involves the award of the 50-year land rights of WKR to a single developer, including the sale and lease of commercial and residential premises on this land, appears to have been made by the Steering Committee headed by CS without prior consultation with the Executive Council. The involvement of CE-in-C only after the preferred development scheme has been selected is too late.

## **Chapter V : Conclusions and recommendations**

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5.8 The Subcommittee finds the above situation most disturbing. The present land disposal arrangement obviously does not cater for a situation where land is used as a funding resource. The land involved in this situation has significant financial implications. At present, it appears that the authority delegated to the public officers, such as the Director of Lands, is not subject to any approval ceiling. It also appears that there is no express procedure to require proposals which involve significant land use to be put to CE-in-C for approval. Without adequate checks and balances, the valuable land resources of Hong Kong can easily fall into the hands of a few public officers.

### Inadequate consultation with LegCo

5.9 LegCo's constitutional role in the scrutiny and approval of the Government's disposal of public assets and resources under the normal approval procedure was bypassed. Although the Basic Law (BL) confers upon LegCo the role to approve taxation and public expenditure, LegCo was not given the opportunity to properly scrutinize the financial arrangements for the WKCD project. The Government has ruled out from the start that LegCo has any role to play in the financing of the WKCD project on the basis that it is financially "free-standing". The Administration, having labelled the project as "PPP" using the 40-hectare land as the funding resource, had not specifically sought LegCo's view on the change from the multi-package approach to the single-package approach. Indeed, LegCo was not even alerted to this extremely significant change which in the event aroused the greatest controversy. Between November 1999 when PLW Panel was briefed on the need to review the land use of WKR, and September 2003 when IFP was launched, LegCo was consulted in March 2000 and February 2002 when PLW Panel was informed of the Concept Plan Competition (CPC). The possibility of a single-package approach and indeed any form of financing was not then mentioned. The next briefing for PLW Panel on WKCD was in July 2003. The way the Administration chose the timing and the mode of the consultation, and the extent of information released to Members meant LegCo was never put in

## **Chapter V : Conclusions and recommendations**

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the position of being able to properly appreciate or scrutinize the financing of the project until at a very late stage.

5.10 The Subcommittee shares the grave concern of members of PLW Panel over the use of the 40-hectare land to finance the development of WKCD without going through the Legislature, the only body with the constitutional power and function to approve public expenditure under BL. The Subcommittee considers that disposal of valuable land resources which is likely to be at less than market value or any public subsidy in money or in kind should be subject to the same scrutiny as public expenditure. The subject should be further examined and discussed so that there is a clear understanding between the Administration and the Legislature whereby this may be achieved in future through an open and transparent process.

### Due process and Public Private Partnership

5.11 The development history of WKCD reveals that the project underwent a series of changes in the policy and planning direction:

- (a) from the development of a performance venue to a cluster of cultural facilities;
- (b) from a stand-alone cultural facility occupying about 5.5 hectares of land to an integrated cultural, residential and commercial district on 40 hectares of land in WKR;
- (c) from holding an open competition to creating a new look for Victoria Harbour to holding a concept plan competition for WKR;
- (d) from the Government's initial thinking of a multi-package development approach to a single-package development approach; and



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- (e) from the conventional “needs-specific” approach in the development of cultural facilities to a “supply-led” and to “community-driven” and then to the current “open-to-suggestions” approach.

5.12 For a major project like the WKCD, the successive changes within a short span of time could create great difficulties for the corresponding technical and administrative support if not properly managed.

5.13 The idea of developing a world-class performance venue was incorporated in the 1998 Policy Address under Economic Services Bureau’s “tourism” initiatives. The Planning Department (PD) commenced a study in early 1998 to formulate planning standards and guidelines for cultural facilities during the course of which considerable attention was given to the possibility of developing an arts district in locations such as WKR. In the meantime, the Planning, Environment and Lands Bureau sought funding for constructing a complementary road network at an estimated cost of \$299 million under the original Outline Zoning Plan of WKR. The works were tendered and commenced in 1998-1999 as scheduled but had to be abandoned after November 1999, when CE-in-C endorsed a review of the land use of WKR. A \$210 million works contract which was already in progress had to be cancelled, resulting in the abandoning of \$24 million completed works.

5.14 From the end of 1999, the Government pursued an unprecedented “fast-track” for the development of WKCD which departed from the standard procedures:

- (a) deciding on developing an integrated arts, cultural and entertainment district without first establishing the need for the project, and its value for money;
- (b) jumping into PPP without exploring all financing options and confirming value for money for the project through a

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well-recognized assessment tool such as Public Sector Comparator (PSC) ; and

- (c) proceeding to IFP without seeking funding approval from the Legislature by utilizing 40 hectares of Government land as the source of finance; and
- (d) deciding on the above policy direction without seeking endorsement of the Executive Council.

5.15 The financial implications of WKCD have made it necessary for the Administration to consider the adoption of PPP approach. However, PPP should only be pursued where it delivers value for money in order to safeguard public interest. According to international practice, a PSC should be constructed to provide objective reference data in assessing the best approach for delivering the required facility or service and in testing private bids for value for money. Even if the WKCD project were financially free-standing, the Administration would still have to justify the need for the project and the adoption of PPP is value for money. In WKCD, the Administration has not followed the steps set out in the Efficiency Unit's guidelines on PPP and did not construct any PSC. In this respect, the Administration insists that the construction of PSC was not necessary in the case of WKCD as the Government had wanted to build in maximum flexibility in the IFP process to encourage innovation by the private sector. The Subcommittee cannot agree with this view. The availability of an "instrument" to provide detailed cost analysis of many cost items, including design, construction, maintenance, staffing, etc., would have provided reference data for assessing whether PPP approach is value for money. It would also enable the Administration to have a clear picture of how much is being borne by the private sector, and so strengthen the Government's bargaining position. In the absence of a PSC-like instrument, the Administration is not best equipped in the negotiation with proponents. Although the Administration emphasizes that feasibility studies were conducted on the financial aspects and the project's attractiveness to the

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private sector, the Administration could not provide any information to the Subcommittee to show that these studies were actually conducted. Given the scale of the project and the financial resources involved, significant interest of the public is at stake. Yet the Government is relying on the proponents of IFP to suggest what infrastructure (including the preferred themes of core cultural facilities) and software contents are to be included in WKCD and what “incentives” should be given to them in return for providing the infrastructure. The lack of objective criteria and reference data for benchmarking also seriously weakens the Government’s bargaining position in its negotiations with the proponents. At the same time, IFP provides no independent mechanism to check the performance of the successful proponent in the 30-year operating period but only sets out a broad legal framework governing the respective rights and obligations of the selected proponent and the Government.

5.16 In the planning and implementation of WKCD, the Government has:

- (a) decided on a range of core cultural facilities in the absence of well-defined cultural policy objectives and a detailed analysis of the needs for such facilities; and
- (b) incorporated the core cultural facilities in IFP without conducting feasibility studies on the technical requirements of individual facilities, but leaving such studies to be decided by the proponents.

A comparison of the standard procedures for the planning and implementation of major capital works and the development process of WKCD is given in **Appendix XX**.

5.17 Two instances of omission have been noted by the Subcommittee. First, the Planning Department Study published in December 1999 which identified WKR as one of the potential sites for developing cultural and

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entertainment district recommended that the Administration ought to carry out more detailed studies on the comprehensive planning and designation of such districts. These studies were never carried out.

5.18 Secondly, the Consultancy Study on the Provision of Regional/District Cultural and Performance Facilities in Hong Kong which was published by the Leisure and Cultural Services Department (LCSD) in November 2002 stated that the planning of an individual facility is usually unique to the facility and is carried out through specific feasibility studies. There is no record that such feasibility studies have ever been conducted for any of the core cultural facilities in WKCD.

5.19 The Subcommittee believes that all Government bureaux and departments are very familiar with the standard procedures and practices as well as the purposes they serve. Departure from the standard procedure in developing WKCD was in part a consequence of the frequent changes in policy direction and the decision to defer everything to a comprehensive “financially free-standing” PPP project. In all other capital works projects, essential implementation steps such as the conduct of feasibility studies on individual facilities are followed as a matter of course. In WKCD, however, the Government left it to the proponents to include such studies in their respective proposals. In the view of the Subcommittee, the pursuit of such an unprecedented large-scale cultural project should have made it particularly important to follow a procedure which contains sufficient safeguards of the public interest and allows effective monitoring by the Government and the Legislature. By leaving these essential steps to the proponent, even if a PPP approach is adopted, the Administration is exposing essential public interest to great risks.

### Lack of structured consultation throughout the development process

5.20 The Subcommittee also finds a general lack of structured consultation on the “hardware” contents of WKCD and on how the project could help promote Hong Kong’s “cultural software”. WKCD presents an

## **Chapter V : Conclusions and recommendations**

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opportunity to develop Hong Kong into the cultural and performance centre in the region. To capitalize on the strength of our hardware infrastructure, the community should have been involved in the management (including programming) of the cultural facilities and partnership with professional arts groups should have been developed.

5.21 The Subcommittee believes that the Hong Kong Tourist Association, PD and CHC might have consulted the arts community before putting forward recommendations in their respective areas of study. However, none of the studies were on the question of developing an arts district in WKR or what is the range of facilities to be included in it. The Subcommittee notes the Administration's assurance that it had consulted the arts and cultural sector including conducting a brainstorming session cum focus group meetings in 2003. The Subcommittee, however, cannot find any structured consultation with the public or the arts community on what hardware and software may be required for WKCD.

5.22 The Subcommittee considers that for a project which affects the long-term development of arts and culture in Hong Kong and which involves the use of 40 hectares of land, extensive public consultation is imperative at every stage before a major decision is made. What must be aimed at is a commitment of the community to create an environment for the nurturing of artistic talents and merging of cultures, and in this way encourages creative industries and greater appreciation of arts and culture.

5.23 The Subcommittee finds that there was very little public discussion on the development strategy and financing arrangements. Although the Administration claims that it did consult various sectors of the community on the WKCD project, the reactions of some of building professionals and arts groups to the mode of development after the launching of IFP did not seem to reflect that any substantive consultation had taken place.

5.24 It should be emphasized that the arts and cultural policy blueprints, as set out in CHC Report, were not yet in existence when the Government

## **Chapter V : Conclusions and recommendations**

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decided to develop an arts and cultural district in WKR. WKCD was therefore decided in a policy vacuum. Instead of ensuring that WKCD was supported by well-defined policy objectives, the Administration allowed the proponents extensive flexibility to propose the hardware and software contents in their respective proposals. In other words, the responsibility of planning of cultural hardware and software was passed to the proponents. Indeed, as stated in the IFP, proponents may revise the themes of museums with justifications. They could also propose other cultural facilities such as arts training facilities, workshops and studios. If, as claimed by the Administration, the provision of cultural facilities is to be supply-led, the successful proponent in WKCD will indirectly determine, to a large extent, the direction for the future development of arts and culture including the nurturing of cultural talents and promotion of arts education. This could not have been the intention of CHC Report when it encouraged the Government to facilitate the participation of the private sector in the planning and operation of cultural facilities. The Subcommittee considers that the responsibility of planning the cultural software should never be left to the private sector.

### **Recommendations on the way forward**

5.25 The Subcommittee notes that while strong criticisms are made on the design and financing arrangements, there is overwhelming support from the community for the development of an integrated arts, cultural, commercial and entertainment district in WKR. The majority of the organizations expressing views to LegCo are more concerned about how the project should proceed and not whether it should proceed. Based on the findings of its study in Phase I, the Subcommittee puts forward the following recommendations on the way forward.

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### **(A) Abandon the single-package development approach**

5.26 Various sectors of the community have expressed strong reservation about the single-package development approach. The single-package approach arrangement is advanced by the Government as making the best use of both public and private sector resources and expertise. However, these objectives could similarly be achieved by a multi-package approach; this was in fact the approach in CPC documents. The Subcommittee has studied how far the single-package approach is related to the canopy which the Steering Committee has adopted as a mandatory requirement for WKCD. The Subcommittee considers that even if the canopy is desirable, the single-package approach is not required. There are no valid grounds for adopting the single-package approach. The Administration should abandon the single-package approach which lacks public support and critically examine the feasibility of other development strategies, such as multi-package, incremental implementation, and other arrangements that will encourage competition and mobilization of resources and expertise from the private sector. In designing the development approach, LegCo should be fully consulted and, where disposal of land resources which is likely to be at less than market value or where any public subsidy in money or in kind is required, its approval should be sought.

### **(B) Conduct extensive consultation with the public and relevant sectors on the mode of development and implementation strategy**

5.27 Before proceeding any further, the Administration should ensure that the mode of development and implementation strategy have wide public support. In this respect, the support and approval of LegCo which represents all sectors of the community must be secured. There should be structured and extensive consultation with the general public, in particular the relevant professional sectors and the arts community, to map out the priority of needs in the development of the WKCD project and the financial implications arising therefrom.

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5.28 In conducting public consultation on cultural software requirements, the Administration should arrange further publicity of the content of CHC Report and the Government's position regarding CHC's recommendations. CHC Report has provided a good basis for the furtherance of Government's efforts to promote a holistic and community-driven approach in the development and management of cultural facilities. The Subcommittee sees merits in introducing novelty and innovation in the management of cultural facilities through private participation, but the Government should make sure it has a clear vision of what it wants to achieve and should set performance targets accordingly. For this purpose, the views of the arts and cultural groups are of great importance. Only in close consultation and partnership with the community would the Government be in a position to plan and develop a cultural policy which meets the community's needs.

### **(C) Ensure transparency and accountability in the decision-making process**

5.29 In view of the considerable public resources involved in WKCD, the Executive Council should play an active role in deciding whether it should give its policy backing to the mode of development and implementation strategy. Throughout the process of development, the Executive Council should be duly consulted and updated on the progress of the project.

5.30 The Legislature, which represents all sectors of the community, should play an active role in scrutinizing Government's policies and implementation strategies. The Administration should adopt a positive and co-operative attitude in providing timely, useful and comprehensive information to facilitate meaningful discussions on such policies and strategies, and in considering the recommendations of the Legislature.



## **Chapter V : Conclusions and recommendations**

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(D) Re-examine the extent of private partnership for WKCD based on objective value-for-money analysis and financial viability studies

5.31 For the proper accountability to the public that it is value for money to adopt a PPP approach and for the purpose of establishing objective yardsticks for assessing proposals and negotiating with proponents, the Administration should, based on the implementation strategy and timetable, re-assess the financial implications at various stages of development. As explained in paragraph 5.15 above, without the financial analysis, the Administration is treading on thin ground to pursue novelty in the development of a major project which involves not only 40 hectares of land but also the long-term development of arts and culture in Hong Kong. Having regard to the wide implications of the implementation approach of the WKCD project on public resources, the findings of the financial analysis should be released expeditiously for public information to demonstrate transparency and public accountability.

5.32 The Subcommittee recognizes the benefits of using PPP for appropriate types of capital works projects and notes that there is a growing tendency in the Government to use PPP. However, the present guidelines on PPP have to be reconsidered before they could be applied to multi-function and complex projects. There is also an urgent need for the Government to establish objective criteria to determine whether PPP should be applied in a project and the appropriate mode of application. This should be established through a consultation exercise involving the public and LegCo.

(E) Undertake studies to affirm the needs and technical requirements for each of the core facilities to be provided in WKCD

5.33 The Administration should expeditiously conduct studies on the needs and technical requirements for each type of the cultural facilities to be provided in WKCD. Whilst advocating the notion that provision of cultural facilities should be supply-led, the various studies mentioned in this

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## **Chapter V : Conclusions and recommendations**

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Report also confirmed the need to conduct feasibility studies on the specific cultural facilities to be provided. The objectives of these feasibility studies are not only to establish the need or otherwise for the specific cultural facilities but also to assess the recurrent resources required for the provision and operation of such facilities. The information should be used as the basis for negotiations in the future procurement exercises.

### **(F) Set up an overseeing authority for the development of WKCD**

5.34 Different arts and performing groups have put forward different views on the hardware requirements. For the purpose of assessing the priorities of hardware facilities to be provided in WKCD and how the hardware contents correlate with software requirements, it is necessary to establish an impartial and transparent overseeing authority. This authority should be given the mission to oversee the development of the project, with responsibilities including:

- (a) identification of the community's software needs;
- (b) assessment of the hardware facilities and implementation timetable;
- (c) monitoring of the conduct of feasibility and financial viability studies;
- (d) drawing up of the financial requirements and mode of private partnership and terms of participation;
- (e) co-ordination and implementation of the development of the infrastructure, including design, planning and implementation;  
and

## **Chapter V : Conclusions and recommendations**

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- (f) overall control and monitoring of the management and operation of the core facilities in WKCD in partnership with the arts community;

5.35 The Subcommittee wishes to stress that it remains the Government's responsibility, in partnership with the private sector, to assess the hardware that should be provided to complement the software. In determining the hardware to be provided for the future development of arts and culture and specifically in WKCD, there should be rationalization of the use of existing facilities and a review of the performance gap between the current level of services and arts community's expectation. The Subcommittee believes that the cultural facilities currently under the management of LCSD have great potential for further development. The overseeing authority should undertake comprehensive review jointly with the Government to assess the shortfalls in facilities and services and prioritise the development programme, in particular those in WKCD.

5.36 The functions and composition of this overseeing authority is one of the areas which the Subcommittee would go into at the second phase of its study. For this purpose, the Subcommittee will conduct an overseas study in September 2005 to visit Abandoibarra, a waterfront district located in the heart of the metropolitan area of Bilbao, the capital of the Bizkaia Province in Northern Spain. The Abandoibarra project is similar to the WKCD project in many aspects, such as scale of development and emphasis on culture. The Subcommittee will study the form of PPP in the planning and implementation of the project and the working mechanism of the non-profit limited liability company set up to co-ordinate the implementation of the Abandoibarra project.

### **(G) Follow up action for LegCo**

5.37 The study has uncovered a series of administrative deficiencies in the management of land resources, in planning process, in safeguarding public resources, and in formulating long-term policies which straddle

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## **Chapter V : Conclusions and recommendations**

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various bureaux and Government departments. The Subcommittee recommends that these subjects should be actively followed up by LegCo and the relevant Panels.

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# **Abbreviations**

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## Abbreviations

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ADC	Hong Kong Arts Development Council
APA	Hong Kong Academy for Performing Arts
BL	Basic Law
CE	Chief Executive
CE-in-C	Chief Executive in Council
CHC	Culture and Heritage Commission
CHC Report	The Culture and Heritage Commission Policy Recommendation Report
CPC	Concept Plan Competition
CS	Chief Secretary for Administration
EU	Efficiency Unit
GIC	Government, institution and community
HAB	Home Affairs Bureau
HA Panel	Panel on Home Affairs
HKIS	The Hong Kong Institute of Surveyors
HKSAR	Hong Kong Special Administrative Region
HKTA	Hong Kong Tourist Association
HKTA Study	Hong Kong Tourist Association Study
IFP	Invitation for Proposals
LCSD	Leisure and Cultural Services Department

## Abbreviations

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LegCo	Legislative Council
MCs	Municipal Councils
OU	Other Specified Uses
OZP	Outline Zoning Plan
PD	Planning Department
PD Study	Planning Department Study
PLW Panel	Panel on Planning, Lands and Works
PPP	Public Private Partnership
PSC	Public Sector Comparator
RLSD	Research and Library Services Division
SHA	Secretary for Home Affairs
The Introductory Guide	Serving the Community By Using the Private Sector: An Introductory guide to public private partnerships
TOR	Terms of Reference
TPB	Town Planning Board
TPO	Town Planning Ordinance
WKCD	West Kowloon Cultural District
WKR	West Kowloon Reclamation
Working Group	Working Group on Museums under the Culture and Heritage Commission

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# **Appendices**

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**Subcommittee on West Kowloon Cultural District Development**

**Membership list**

<b>Chairman</b>	Hon Alan LEONG Kah-kit, SC
<b>Deputy Chairman</b>	Hon James TO Kun-sun
<b>Members</b>	Hon James TIEN Pei-chun, GBS, JP Hon Albert HO Chun-yan Ir Dr Hon Raymond HO Chung-tai, 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 Kam-lam, SBS, JP Hon SIN Chung-kai, JP Hon Jasper TSANG Yok-sing, GBS, JP Hon LAU Wong-fat, GBM, GBS, JP Hon Emily LAU Wai-hing, JP Hon CHOY So-yuk, JP Hon Timothy FOK Tsun-ting, GBS, JP Hon Abraham SHEK Lai-him, JP Hon Tommy CHEUNG Yu-yan, JP Hon Albert CHAN Wai-yip 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 Ronny TONG Ka-wah, SC Hon CHIM Pui-chung Hon Patrick LAU Sau-shing, SBS, JP Hon Albert Jinghan CHENG Hon KWONG Chi-kin

(Total: 28 members)

**Subcommittee on West Kowloon Cultural District Development**

**Areas of study**

**I. Land use and planning**

- appropriateness of the use of the 40-hectare land for the development of WKCD
- conceptual planning, key development parameters, mix of commercial components vs. arts and cultural components in relation to the objectives of the project
- planning process, public consultation, invitation of interest, mode of tender, development control of the project which has a leasehold term of 50 years

**II. Interface with arts and cultural development**

- provision of the WKCD hardware facilities in relation to Hong Kong's long-term and sustainable arts and cultural policies
- types and scale of arts and cultural facilities to be provided in the WKCD taking into account the future demand for such facilities in Hong Kong
- participation of the local arts and cultural sector in the development and operation of the WKCD
- relationship between WKCD and the existing arts and cultural authorities and bodies

**III. Financing implications and arrangements**

- computation of the development and operating costs of the arts and cultural component of WKCD
- financing options: single-package development vs. multiple-package development
- Government's financial contribution to WKCD and expected proceeds from the development and operation of commercial and other components of WKCD
- Proponents' propositions on the financing arrangements and their fee charging policies for arts and cultural facilities
- hand-over arrangements after the operation period, if there is any operation period

#### **IV. Environmental considerations**

- sustainable development of the WKCD project

#### **V. Establishment of a statutory body to oversee the implementation of WKCD development**

#### **VI. Other related matters**

- mandatory requirements in the Invitation for Proposals such as canopy
- selection and assessment criteria and process such as weighting of public opinion collected during public consultation
- mode of governance of the WKCD development

**Subcommittee on West Kowloon Cultural District Development**

**Work plan**

The time-frame and the objectives to be achieved for each phase of work are as follows:

- (a) **Phase I:** to be completed *by the end of the 2004-05 session* for examining:
- how far the WKCD development has been carried out in accordance with the principles laid down by the Government for Public Private Partnership (PPP) projects;
  - how far the WKCD development as proposed by the Government can meet the shortfalls in existing arts and cultural facilities and long-term needs in the development of arts and culture; and
  - whether the WKCD development as proposed by the Government is the best way to use the 40-hectare land in WKCD.
- (b) **Phase II:** to be completed *by the end of 2005* for examining:
- whether it is appropriate to develop WKCD under the present planning parameters (types of facilities and design requirements) and financial arrangements (single-package development, support for arts organizations, acquisition of exhibits, charging policies, etc.);
  - what role the Government should play in WKCD and in its support for the development of arts and culture in Hong Kong;
  - what management structure should be put in place to ensure professionalism in the planning, development and management of arts and cultural facilities and implementation of related policies in WKCD; and

- in what manner local arts and cultural sector could play a part in the planning and development of WKCD.

**List of organisations which had made oral views to  
the Panel on Planning, Lands and Works  
and the Panel on Home Affairs  
on West Kowloon Cultural District Development**

1. Association of Engineering Professionals in Society
2. Cattle Depot Artist Village Committee
3. Dynamic Star International Ltd
4. Fringe Club
5. Government Cultural Services Grades' Alliance
6. Hong Kong Arts Centre
7. Hong Kong Arts Administrators Association Ltd.
8. Hong Kong Arts Development Council
9. Hong Kong Ballet
10. Hong Kong Chinese Orchestra
11. Hong Kong Christian Service
12. Hong Kong Construction Industry Employees General Union
13. Hong Kong Curators Association
14. Hong Kong Dance Company
15. Hong Kong Institute of Archaeology
16. Hong Kong Institute of Real Estate Administration
17. Hong Kong Repertory Theatre
18. Jing Kun Theatre Ltd.
19. Museum of Site, Ltd.
20. Project Hong Kong
21. Spring-Time Group Ltd.
22. Sunny Development Ltd
23. Swire Properties Ltd.
24. The Association of Architectural Practices Ltd.
25. The Democratic Party
26. The Fringe Club
27. The Hong Kong Academy for Performing Arts
28. The Hong Kong Institute of Architects
29. The Hong Kong Institute of Planners
30. The Hong Kong Institute of Surveyors
31. The Hong Kong Institution of Engineers
32. The Ink Society Ltd.
33. The International Association of Art Critics (Hong Kong Chapter)
34. The People's Panel on West Kowloon
35. The Real Estate Developers Association of Hong Kong
36. World City Culture Park Ltd
37. Zuni Icosahedron Ltd.

**List of organisations which have made oral views to  
the Subcommittee on West Kowloon Cultural District Development**

1. Spring-Time Group Ltd.
2. The Hong Kong Institute of Surveyors
3. The Ink Society Ltd.
4. The People's Panel on West Kowloon

## Appendix VI

### **List of parties which have made written submissions to the Subcommittee on West Kowloon Cultural District Development**

1. A member of the public
2. Hong Kong Federation of Drama Societies
3. Hong Kong Institute of Contemporary Culture
4. Planet Time
5. Spring-Time Group Ltd.
6. The Experience Group, Ltd.
7. The Hong Kong Institute of Surveyors
8. The Ink Society Ltd.
9. The People's Panel on West Kowloon
10. Zonta Club of Hong Kong



**Chronology of events  
relating to the development of West Kowloon Cultural District**

<b>Date</b>	<b>Events</b>	<b>Consultation with Legislative Council</b>
Early 1998	Hong Kong Tourist Association (HKTA) commissioned a study on a new performance venue for Hong Kong. (HKTA Study)	
March 1998	Planning Department commissioned a study to examine the requirements of cultural facilities and formulate new planning standards. (PD Study)	
5 September 1998		HKTA submitted to Home Affairs (HA) Panel that additional performance venues were urgently required.
23 September 1998	The Public Works Subcommittee (PWSC) recommended the upgrading to Category A of part of the works in "West Kowloon Reclamation" at an estimated cost of \$914 million.	
7 October 1998	The Chief Executive (CE) announced in his policy address that the Administration was planning for a new, state-of-the-art performance venue on the West Kowloon Reclamation (WKR) for more world-class cultural events.	
16 October 1998		The Finance Committee approved the recommendation of PWSC to upgrade WKR works.

Date	Events	Consultation with Legislative Council
February 1999	Final report on HKTA Study concluded that Hong Kong needed a new international performance venue and identified a site of 5.5 ha in WKR for the purpose.	
6 October 1999	The CE in his policy address reaffirmed the Administration's plan to develop a major performance venue in the WKR; and announced its intention to hold an open competition to create a new look for Victoria Harbour.	
16 November 1999	The CE in Council ordered that the use of the southern portion of the WKR should be fundamentally reviewed to facilitate the development of a world class integrated arts, cultural and entertainment district.	
18 November 1999		Panel on Planning, Lands & Works (PLW) was briefed on the need to review the land use of WKR.
December 1999	The PD Study confirmed the need for suitable venues for world class performances and identified a number of sites for developing a cultural and entertainment district.	The Administration informed the Finance Committee of its decision to review the land uses of the southern portion of WKR and to delete part of the WKR works. \$24 million of works which had been completed were abandoned as a result of the replanning.  HA Panel was briefed on the planning of a performance venue on WKR and

Date	Events	Consultation with Legislative Council
		Government's stance on a clustering effect in planning new facilities.
9 March 2000		PLW Panel was briefed on the open competition for concept plans for a range of core cultural facilities, including themed museums for contemporary art and moving image, as well as commercial developments.
April 2000	The Culture and Heritage Commission (CHC) was set up to advise Government on policies and funding priorities on arts and culture.	
6 April 2001	The Government launched the WKR Concept Plan Competition, which provided for open tender for packages in the Scheme Area for private sector development.	
June 2001	Efficiency Unit published "Serving the Community By Using the Private Sector".	
19 November 2001	Leisure & Cultural Services Department (LCSD) recommended to the Working Group on Museums of CHC the building of seven new museums including the four themed museums subsequently included in the Invitation For Proposals (IFP).	
End 2001	LCSD commissioned a consultancy study on the provision of regional/district	

Date	Events	Consultation with Legislative Council
	cultural and performance facilities in Hong Kong. (LCSD Study)	
28 February 2002	The Government announced the results of the WKR Concept Plan Competition. Foster and Partners' canopy design won the first prize.	The Administration informed the PLW Panel of the outcome of the Concept Plan Competition.
September 2002	A Steering Committee (SC) for Development of the West Kowloon Cultural District (WKCD), chaired by the Chief Secretary for Administration, was set up.	
November 2002	The LCSD Study proposed a Rationalization Plan for existing facilities, identified WKR as the focal point for the development of new territory-wide facilities, and highlighted PPP as a means for funding new facilities.	
April 2003	CHC submitted its Policy Recommendation Report and supported the development of WKR into an integrated arts, cultural and entertainment district, and recommended the development of the four themed museums.	
June 2003	The CE in Council was consulted on the IFP.	
4 July 2003		PLW Panel was briefed on Government's intention to issue an IFP for WKCD.
11 July 2003	Town Planning Board (TPB) exhibited amendments to the draft SouthWest Kowloon Outline	

Date	Events	Consultation with Legislative Council
	Zoning Plan (OZP) to rezone the West Kowloon Reclamation to “Other Specified Uses” annotated “Arts, Cultural, Commercial and Entertainment Uses” (OU)	
August 2003	Efficiency Unit published “An Introductory Guide to Public Private Partnerships (PPPs)”.	
5 September 2003	The Administration launched the IFP, which invited single-package tenders for the development and management of a range of arts and cultural facilities under a land grant for 50 years. The IFP provided for the sale and lease of residential and commercial developments on the site.	
November 2003 to July 2004		<p>PLW and HA Panels held meetings and joint meetings to discuss the IFP.</p> <p>The Legislative Council passed a motion on 26 November 2003 to urge a comprehensive review of WKCD and uphold the principles put forward by CHC and allow the cultural sector to participate the planning and future operation of the facilities.</p>
26 March 2004	TPB exhibited further amendments to the Draft South West Kowloon OZP to delete a possible pier at the southern section of the WKR. The Explanatory Statement of the OZP was revised to clarify the TPB's intention to adopt the two-stage approach for the	

Date	Events	Consultation with Legislative Council
	planning of the WKCD.	
November 2004	The CE in Council was consulted and approved the recommendation of the SC for the development of WKCD that three of the five proposals should be screened-in for further assessment while the other two should be screened out.	
10 November 2004	The Government announced that three out the five proposals met the basic requirements of the IFP at the first stage of assessment for the West Kowloon Cultural District development project. The public consultation exercise on the screened-in proposals would be launched in mid-December 2004.	PLW Panel discussed progress with the Administration.
16 December 2004	Commencement of the public consultation on screened-in proposals. Deadline was extended to 30 June 2005.	
5 January 2005		The Legislative Council passed a motion to ask for, inter alia, removal of the canopy as a mandatory requirement, withdrawal of award of the 40-hectare land to one single tender; and setting up of a statutory body to undertake planning, development and management of WKCD.
14 January 2005	TPB exhibited further amendments to the Draft South West Kowloon OZP	

<b>Date</b>	<b>Events</b>	<b>Consultation with Legislative Council</b>
21 January 2005		House Committee decided to form a subcommittee to study and follow up issues relating to the development of WKCD including its interface with arts and cultural development, land use and planning, environmental considerations, financing implications and arrangements, and other related matters.

**List of core and optional facilities  
to be included in the Competition Brief of  
the West Kowloon Reclamation Concept Plan Competition**

**CORE FACILITIES**

- A world-class performance venue with seating capacity of 1 800 to 2 200 as focus of the whole area
- A large versatile multi-purpose open plaza with service facilities to accommodate about 6 000 to 8 000 people
- A number of theatres and studios of various seating capacity
- A museum complex comprising facilities such as a museum of moving image, a museum of contemporary art and a children's museum
- An arts village containing workshops, studio spaces and exhibition/sales area, training and practicing ground for artists and designers

**OPTIONAL FACILITIES (following are examples only)**

- A multi-purpose venue with seating capacity of about 35 000 to 60 000 for holding large-scale mass activities
- An arts market
- Themed entertainment development, such as retail and dining facilities, skating rink, games centres, a cinema complex and/or an IMAX cinema
- Hotels/service apartments/residential development
- Grade A offices
- A cruise pier for waterfront leisure activities
- A helipad
- Other uses that are complementary to arts, culture and entertainment

Source: Annex to the paper provided by the Administration for the Panel on Planning, Lands and Works meeting on 9 March 2000



**Jury for the  
West Kowloon Reclamation Concept Plan Competition**

**Membership list**

<b>Chairman</b>	Lord ROTHSCHILD, GBE
<b>Members</b>	Mr C Nicholas BROOKE, BBS, JP Professor CHANG Hsin-kang, JP The Hon Mrs CHOW LIANG Shuk-ye, Selina, JP Professor Peter F V DROEGE Professor LAU Sau-shing, Patrick, SBS The Hon LEUNG Chun-ying, GBS, JP Mr Peter W ROGERS Professor Peter G ROWE Professor WU Liangyong

**Technical Panel for the  
West Kowloon Reclamation Concept Plan Competition**

**Membership list**

**Chairman** Director of Planning

**Members**

**Officials**

Director of Architectural Services or his representative

Director of Leisure and Cultural Services or his representative

**Non-officials**

Mr Leslie H C CHEN

Member, the Hong Kong Institute of Landscape Architects

Ir Professor CHOW Che-king

Member, the Hong Kong Institution of Engineers

Professor LAM Kin-che

Member, Advisory Council on the Environment

Mr David C LEE

Member, the Hong Kong Institute of Surveyors

Professor LUI Chun-wan, Alex

Member, the Hong Kong Institute of Architects

Mr TSAO Sing-yuen, Willy, BBS

Member, Hong Kong Arts Development Council

Mr YIP Cho-tat, Stanley

Member, the Hong Kong Institute of Planners

**Steering Committee for the West Kowloon Cultural District project**

**Membership list**

<b>Chairman</b>	Chief Secretary for Administration
<b>Deputy Chairman</b>	Secretary for Housing, Planning and Lands
<b>Members</b>	Secretary for the Environment, Transport and Works Secretary for Financial Services and the Treasury Secretary for Home Affairs Secretary for Justice or her representative Permanent Secretary for Planning and Lands Commissioner for Tourism Director of Architectural Services Director of Lands Director of Leisure and Cultural Services Director of Planning Director of Civil Engineering and Development



立法會  
LEGISLATIVE COUNCIL

來函檔號 YOUR REF  
本函檔號 OUR REF CB1/HS/2/04  
電話 TELEPHONE 2869 9245  
圖文傳真 FACSIMILE 2869 6794  
email address: cshiu@legco.gov.hk

By fax no.: 2899 2916

17 June 2005

Secretary for Housing, Planning and Lands  
(Attn: Mr Danny LAU)  
Housing, Planning and Lands Bureau  
9/F, Murray Building  
Garden Road  
Hong Kong

Dear Mr LAU,

**Subcommittee on West Kowloon Cultural District Development**

On behalf of the Subcommittee, I should be grateful if you would clarify the following:

- (a) confirm whether the Administration has conducted any feasibility study including financial assessment/study in respect of the West Kowloon Cultural District project;
- (b) If the answer to (a) is yes, please advise the date or period during which the assessment/study was conducted, the scope of the study and the bureaux/departments involved in the assessment/study; and
- (c) If the answer to (a) is yes, please provide the relevant information. You may black out information which is considered sensitive or provide the information under confidential cover.

I should be grateful for your urgent response by **21 June 2005**.

Yours sincerely,

(Miss Odelia LEUNG)  
Clerk to Subcommittee

cc Hon Alan LEONG Kah-kit, SC (Chairman)

The Government of the Hong Kong Special Administrative Region

房屋及規劃地政局

香港花園道美利大廈



Housing, Planning and Lands  
Bureau

Murray Building,  
Garden Road, Hong Kong

本局檔號 Our Ref.

Tel : 2186 6284

Fax : 2899 2916

來函檔號 Your Ref.

21 June 2005

Miss Odelia LEUNG  
Legislative Council Secretariat  
Legislative Council Building  
8 Jackson Road  
Central, Hong Kong

Dear Miss LEUNG,

**Subcommittee on West Kowloon Cultural District Development**

Thank you for your letter of 17 June.

As we have explained at previous meetings of the Subcommittee and stated in the Annex to Paper No. WKCD-103, the various studies involved the making of certain financial assumptions by the Government. Premature disclosure of these studies may weaken the Government's position in future negotiations with the proponents, making it impossible for the Government to secure a package that is in the best interest of the public. Blocking out of the related financial information will not give a meaningful picture and may be misleading to the reader. In this regard, we have agreed to provide the Legislative Council with the financial and related information before signing any provisional agreement with the successful proponent, subject to the Government's negotiation position not being compromised.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Arsene YIU', written in a cursive style.

( Arsene YIU )  
for Secretary for Housing, Planning and Lands

**Amendments to the Explanatory Statement  
of the Draft South West Kowloon Outline Zoning Plan No. S/K20/14**

**(The following supersedes the original paragraph 7.7 of the Explanatory Statement)**

**7. LAND USE ZONINGS**

7.7 "Other Specified Uses" ("OU") : Total Area 78.81 ha

7.7.1 This zoning covers land allocated for specific purposes. It covers two wholesale markets, piers, a petrol filling station, the Western Harbour Crossing Toll Plaza, cargo working areas, railway stations, ventilation buildings, a public utility depot including electricity sub-station, and the proposed West Kowloon Cultural District (WKCD).

7.7.2 There are two major "OU" sites in the northern part of the Area, viz., the Cheung Sha Wan Wholesale Market Complexes Phases I and II. Phase I of the Complex located to the immediate north-west of Yen Chow Street West was completed in September 1993 providing wholesale market facilities for imported vegetables, eggs and fish. The Phase II site is intended to accommodate wholesale market and related industrial and cargo handling uses.

7.7.3 Other specific uses under the "OU" zoning include the following :

- (a) five piers are located at the Cheung Sha Wan waterfront serving Cheung Sha Wan Wholesale Market;
- (b) a possible pier at the Tai Kok Tsui waterfront is reserved to cater for future demand for ferry services;
- (c) Yau Ma Tei Public Cargo Working Area is located immediately to the east of the typhoon shelter. Another cargo working area at the Cheung Sha Wan waterfront is currently operated by private sector;
- (d) the Airport Railway Olympic Station and a site reserved for the Airport Railway Cheung Sha Wan Station near Yen Chow Street West;
- (e) a site near the south-western end of the Area is designated for the Western Harbour Crossing Toll Plaza;
- (f) a site for petrol filling station use is located near the "R(A)" zone in the central portion of the Area;
- (g) a site for ventilation building located to the north of Yau Ma Tei Interchange serving the Airport Railway;

- (h) a site for public utility depot including electricity sub-station is located at To Wah Road; and
- (i) an area of about 40 hectares which is located to the south of Austin Road West and the Western Harbour Crossing Toll Plaza is proposed for *a mixture of* arts, cultural, commercial and entertainment uses to facilitate development of the WKCD. The planning intention of this zone is to develop the area into an *integrated* arts, cultural, commercial and entertainment 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, hotel *uses together with not less than 20 ha of open spaces* and other *essential* GIC facilities. ~~The Tsim Sha Tsui Fire Station Complex at Canton Road and its ancillary facilities, as well as the fireboat station and its pier, will be reprovisioned within the WKCD area.~~

The arts, cultural, commercial and entertainment opportunities to be provided in the area will enrich Hong Kong's quality of arts and cultural life, create a renowned tourist destination and a unique landmark for Hong Kong. It is the objective, through the development, 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 key *arts and cultural* ~~land-use~~ proposals within the zone will include a theatre complex, a multi-purpose performance venue, a water amphitheatre, a cluster of museums, an art exhibition centre, arts workshops/studios, and a *series number* of piazza areas. In addition, *a variety of* entertainment/retail/restaurant uses as well as commercial, office, hotel and residential developments ~~are envisaged~~ *are expected to be provided to add life and vibrancy to the district. Leisure and recreation developments* together with essential GIC facilities and ~~other necessary~~ utilities *will also be provided to support the WKCD development.*

It is envisaged that the building heights of the WKCD would range from a maximum of about 130mPD at the western ~~end~~ *headland* to a minimum of about 50mPD near the central and eastern portions *of the WKCD. The majority of development in the WKCD will be covered by a distinctive canopy.* High-rise towers are permitted at the eastern end of the ~~project~~ area close to Canton Road for commercial, office and hotel development serving as the gateway entrance. *The existing Tsim Sha Tsui Fire Station Complex at Canton Road and its ancillary facilities will be reprovisioned within the WKCD area.*

*All the development requirements of the WKCD are set out in the Development Brief of the Invitation for Proposals (IFP) document for the WKCD issued by the Government on 5 September 2003. According to the IFP, project proponents*



*are required to prepare preliminary masterplans together with broad technical assessments to justify the acceptability of their respective development proposals.*

*A two-stage approach will be adopted by the Board in the zoning amendments of the OZP for implementation of the WKCD. To provide design flexibility for proponents to come up with the most appropriate scheme proposal commensurate with the above development objective, the first stage is to clearly reflect the planning intention of developing the site into an integrated arts and cultural district; hence a broad “Other Specified Use” zoning with appropriate annotations will suffice.*

*After the Administration has completed its assessments on the development proposals submitted in accordance with the IFP, the preferred development scheme with its preliminary masterplan will be submitted to the Board for consideration and agreement before it is submitted to the Chief Executive in Council (CE in C) for approval and for entering into a Provisional Agreement with the successful proponent.*

*The second stage of zoning amendment will take place after the selected scheme has been approved by CE in C and the Provisional Agreement has been entered into between the successful proponent and the Administration. The OZP will be amended to incorporate the agreed development parameters of the selected scheme, including the development mix and intensity, such as the gross floor area for different uses, permissible plot ratio and maximum building heights and open space requirements, and published for public inspection and comment. The revised OZP will go through the normal plan-making process including objection hearing and further amendments, if necessary, and submission to CE in C for approval.*

*The Project Agreement will only be finalized and executed after the completion of the statutory planning procedures. The approved OZP will serve as a basis for planning and development control. Any subsequent changes to the development parameters of the Project will necessitate further amendments to the approved OZP and will be processed in accordance with the provisions of the Town Planning Ordinance.*

Source: Download from the web page of Town Planning Board

<<[http://www.info.gov.hk/tpb/new/k20\\_e.pdf](http://www.info.gov.hk/tpb/new/k20_e.pdf)>>

**Wording of the motion passed at the meeting of the  
Subcommittee on West Kowloon Cultural District Development  
held on 22 April 2005**

(Translation)

“That the Subcommittee urges the Government to expeditiously provide the following documents:

- (a) a full account of the comments on the “canopy” of the prize-winning entry (i.e. the Foster and Partners design) as set out in the report of the Technical Panel;
- (b) the report on the technical feasibility study conducted by the Government in respect of the construction of the “canopy” proposed in the prize-winning entry (i.e. the Foster and Partners design); and
- (c) the report on the study conducted by the Government in respect of the financial arrangements involved in constructing the “canopy” proposed in the prize-winning entry (i.e. the Foster and Partners design).”

**Comparison between the West Kowloon Cultural District Project and the Abandoibarra Project**

	<b>The West Kowloon Cultural District Project<sup>1</sup></b>	<b>The Abandoibarra Project</b>
Location	<ul style="list-style-type: none"> <li>• A waterfront site on the West Kowloon Reclamation.</li> </ul>	<ul style="list-style-type: none"> <li>• A waterfront site located in the heart of the metropolitan area of Bilbao.</li> </ul>
Site Area	<ul style="list-style-type: none"> <li>• 40 hectares.</li> </ul>	<ul style="list-style-type: none"> <li>• 38.5 hectares.</li> </ul>
Objective	<ul style="list-style-type: none"> <li>• Enhancing Hong Kong's position as a world city of culture.</li> </ul>	<ul style="list-style-type: none"> <li>• Regenerating Bilbao.</li> </ul>
Selection of concept plan	<ul style="list-style-type: none"> <li>• Selecting a conceptual plan through an international concept competition.</li> </ul>	<ul style="list-style-type: none"> <li>• Selecting a conceptual plan through an international concept competition.</li> </ul>
Core facilities	<ul style="list-style-type: none"> <li>• Three theatres;</li> <li>• A performance venue;</li> <li>• A cluster of four museums;</li> <li>• An art exhibition centre;</li> <li>• A water amphitheatre;</li> <li>• At least four piazza areas; and</li> <li>• A canopy covering at least 55% of the development area.</li> </ul>	<ul style="list-style-type: none"> <li>• Two museums;</li> <li>• A conference and concert hall;</li> <li>• University facilities;</li> <li>• Shopping and leisure areas; and</li> <li>• Office buildings, and luxury housing units.</li> </ul>
Responsible organization	<ul style="list-style-type: none"> <li>• A single private developer.</li> </ul>	<ul style="list-style-type: none"> <li>• A private firm held by public authorities.</li> </ul>
Development theme	Using culture as development theme, and integrating commercial and residential development into the arts, cultural and leisure	<ul style="list-style-type: none"> <li>• Using culture as development theme, and integrating commercial and residential development into the arts,</li> </ul>

<sup>1</sup> Information is based on Invitation for Proposals, Development of West Kowloon Cultural District, Hong Kong.

	<b>The West Kowloon Cultural District Project<sup>1</sup></b>	<b>The Abandoibarra Project</b>
	facilities.	cultural and leisure facilities.
Development approach	<ul style="list-style-type: none"> <li>• A single-package development approach is adopted. The selected developer designs, finances and completes the development, and operates, maintains and manages the core arts and cultural facilities.</li> </ul>	<ul style="list-style-type: none"> <li>• A multi-package development approach is adopted. The land is divided into smaller land parcels for leasing to different developers for development.</li> </ul>
Financing	<ul style="list-style-type: none"> <li>• The arts and cultural facilities are financed by proceeds from sales of residential and commercial property on the site.</li> </ul>	<ul style="list-style-type: none"> <li>• The arts and cultural facilities are financed by proceeds from sales of lands on the site.</li> </ul>
Mode of land disposal	<ul style="list-style-type: none"> <li>• Land grant.</li> </ul>	<ul style="list-style-type: none"> <li>• Land sale.</li> </ul>

**Members of the Culture and Heritage Commission**  
(April 2000 to March 2003)

Prof CHANG Hsin-kang                      Chairman  
 Dr Simon KWAN Sin-ming  
 Ms LAM Joy-shan  
 Prof LEE Chack-fan  
 Ms LO Kai-yin  
 The Hon MA Fung-kwok  
 Mr TAI Hay-lap  
 Mr VAN Lau  
 Ms Ada WONG Ying-kay  
 Miss Annie WU Suk-ching  
 Mr Allan Zeman

**Ex-officio Members**

Chairman, Antiquities                      (Prof David LUNG Ping-ye)  
 Advisory Board

Chairman, Council of Hong                (Prof Anna Pao Sohmen)  
 Kong Academy for Performing  
 Arts

Chairman, Board of Governors,        (Dr Dennis SUN Tai-lun)  
 Hong Kong Arts Centre

Chairman, Hong Kong Arts Development Council	(Mr Vincent CHOW	Apr 2000 to Jun 2000
	Dr Patrick HO Chi-ping	Jul 2000 to Jun 2002
	Mr Darwin CHEN	Jul 2002 to Mar 2003)

**Official Members**

Secretary for Home Affairs	(Mr David LAN Hong-tsung	Apr 2000 to Jul 2000
	Mr LAM Woon-kwong	Jul 2000 to Jun 2002
	Dr Patrick HO Chi-ping	Jul 2002 to Mar 2003)

Director of Leisure and Cultural Services	(Mr Paul LEUNG Sai-wah	Apr 2000 to Dec 2002
	Miss CHOI Suk-kuen	Dec 2002 to Feb 2003
	Ms Anissa WONG Sean-ye	Feb 2003 to Mar 2003)

**Secretary**

Mr NGAI Wing-chit  
 (Principal Assistant Secretary  
 for Home Affairs)

**Daily Usage Rate for Arts-related and Other Activities at  
Performance Venues Managed by Leisure and Cultural Services Department (LCSD)  
(1997/98 - 2004/05)**

Venue	1997/98			1998/99			1999/2000			2000/01			2001/02			2002/03			2003/04 (Note 6)			2004/05		
	Arts-related Activities	Other Activities (Note 1)	Total	Arts-related Activities	Other Activities	Total	Arts-related Activities	Other Activities	Total	Arts-related Activities	Other Activities	Total	Arts-related Activities	Other Activities	Total	Arts-related Activities	Other Activities	Total	Arts-related Activities	Other Activities	Total	Arts-related Activities	Other Activities	Total
1. Hong Kong City Hall Concert Hall Theatre	84% 83%	13% 9%	97% 92%	86% 89%	10% 9%	96% 98%	85% 89%	10% 5%	95% 94%	86% 91%	10% 6%	96% 97%	85% 87%	13% 8%	98% 95%	83% 86%	15% 10%	98% 96%	78% 79%	8% 12%	86% 91%	96% 90%	4% 5%	100% 95%
2. Hong Kong Cultural Centre Concert Hall Grand Theatre Studio Theatre	89% 96% 84%	7% 3% 6%	96% 99% 90%	91% 98% 93%	7% 0% 1%	98% 98% 94%	89% 89% 90%	9% 1% 2%	98% 90% 92%	86% 98% 90%	10% 0% 3%	96% 98% 93%	92% 99% 92%	7% 0% 4%	99% 99% 96%	91% 96% 97%	6% 0% 2%	97% 96% 99%	87% 90% 93%	5% 1% 1%	92% 91% 94%	97% 100% 97%	2% 0% 2%	99% 100% 99%
3. Hong Kong Coliseum	81%	9%	90%	76%	12%	88%	72%	16%	88%	70%	11%	81%	81%	12%	93%	80%	14%	94%	79%	8%	87%	84%	13%	97%
4. Queen Elizabeth Stadium (Note 2)	29%	42%	71%	20%	36%	56%	21%	45%	66%	24%	44%	68%	29%	46%	75%	30%	44%	74%	13%	50%	63%	16%	55%	71%
5. Ko Shan Theatre	75%	10%	85%	75%	8%	83%	79%	10%	89%	78%	10%	88%	82%	12%	94%	84%	12%	96%	79%	6%	85%	82%	8%	90%
6. Ngau Chi Wan Civic Centre	64%	17%	81%	70%	14%	84%	60%	18%	78%	55%	21%	76%	71%	14%	85%	77%	13%	90%	75%	9%	84%	73%	11%	84%
7. Sai Wan Ho Civic Centre	95%	5%	100%	97%	3%	100%	95%	5%	100%	94%	6%	100%	92%	8%	100%	94%	6%	100%	80%	10%	90%	92%	7%	99%
8. Sheung Wan Civic Centre	58%	24%	82%	59%	21%	80%	49%	27%	76%	52%	30%	82%	66%	27%	93%	68%	30%	98%	67%	14%	81%	64%	20%	84%
9. Tsuen Wan Town Hall	61%	22%	83%	66%	20%	86%	62%	22%	84%	51%	22%	73%	61%	26%	87%	74%	19%	93%	52%	26%	78%	70%	22%	92%
10. Tuen Mun Town Hall	56%	22%	78%	58%	20%	78%	64%	16%	80%	66%	13%	79%	62%	23%	85%	51%	24%	75%	63%	10%	73%	62%	13%	75%
11. North District Town Hall (Note 3)	39%	17%	56%	37%	21%	58%	42%	17%	59%	32%	29%	61%	43%	35%	78%	48%	28%	76%	32%	28%	60%	32%	25%	57%
12. Tai Po Civic Centre (Note 3)	24%	40%	64%	25%	42%	67%	34%	48%	82%	45%	31%	76%	30%	56%	86%	28%	63%	91%	31%	54%	85%	48%	46%	94%
13. Sha Tin Town Hall	63%	28%	91%	65%	24%	89%	71%	25%	96%	80%	16%	96%	67%	29%	96%	75%	24%	99%	69%	15%	84%	84%	12%	96%
14. Kwai Tsing Theatre (Note 4)	-	-	-	-	-	-	87%	4%	90%	92%	5%	97%	88%	9%	97%	91%	9%	100%	89%	5%	94%	90%	8%	98%
15. Yuen Long Theatre (Note 5)	-	-	-	-	-	-	-	-	-	62%	17%	79%	59%	29%	88%	56%	20%	76%	44%	26%	70%	37%	31%	68%

Note 1: Other activities include conferences, lectures, meetings, workshops, ceremonial, community, school, religious and sports functions.

Note 2: The comparatively high % of "Other Activities" at Queen Elizabeth Stadium is due to high usage of the venue for conferences, sports and community functions.

Note 3: A rather high % of "Other Activities" at North District Town Hall and Tai Po Civic Centre may be attributed to the halls being joint user facilities, with priority use being allocated to the Social Welfare Department and Tai Po Government Secondary School respectively.

Note 4: Kwai Tsing Theatre was opened in November 1999

Note 5: Yuen Long Theatre was opened in May 2000

Note 6: Usage rates dropped in 2003/2004 due to outbreak of SARS.

**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.”

**Comparison of the planning and implementation process of a typical public works project  
and the West Kowloon Cultural District (WKCD) Development Project**

**Steps in undertaking a  
typical Capital Project:**

