

立法會
Legislative Council

LC Paper No. CB(1)2187/07-08
(These minutes have been seen
by the Administration)

Ref : CB1/BC/5/07/2

Bills Committee on West Kowloon Cultural District Authority Bill

**Minutes of ninth meeting held on
Tuesday, 20 May 2008, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP (Chairman)
Hon Margaret NG
Hon James TO Kun-sun
Hon CHAN Yuen-han, SBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon SIN Chung-kai, SBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Prof Hon Patrick LAU Sau-shing, SBS, JP

Members absent : Hon CHEUNG Hok-ming, SBS, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Bernard CHAN, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Howard YOUNG, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Daniel LAM Wai-keung, SBS, JP

Public officers attending : Agenda item II

Ms Esther LEUNG, JP
Deputy Secretary for Home Affairs
(West Kowloon Cultural District)

Mr Danny LAU
Principal Assistant Secretary for Home Affairs
(West Kowloon Cultural District)

Mr Frederick YU
Assistant Secretary for Home Affairs
(West Kowloon Cultural District) 4

Mr Louis KAU
Senior Town Planner
(West Kowloon Cultural District)

Ms NG Wah-chi, Lonnie
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms Anita SIT
Chief Council Secretary (1)4

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mr WONG Siu-yee
Senior Council Secretary (1)7

I Confirmation of minutes
(LC Paper No. CB(1)1575/07-08 -- Minutes of meeting on
24 April 2008)

The minutes of the meeting held on 24 April 2008 were confirmed.

II Meeting with the Administration

Clause-by-clause examination of the Bill

- (LC Paper No. CB(3)361/07-08 -- The Bill
Paper No. WKCD-528 -- Administration's response to questions raised and information requested by members at the meeting of the Subcommittee on West Kowloon Cultural District Development on 14 February 2008
- LC Paper No. CB(1)1119/07-08(01) -- Administration's response to points raised by individual members at the meeting on 29 February 2008
- LC Paper No. CB(1)1345/07-08(01) -- Administration's response to points raised by individual members at the meeting on 27 March 2008
- LC Paper No. CB(1)1465/07-08(02) -- Administration's response to points raised by individual members at the meeting on 24 April 2008
- LC Paper No. CB(1)1514/07-08(01) -- Issues raised by individual members on which the Administration was requested to provide written response (as at 14 May 2008)
- LC Paper No. CB(1)1514/07-08(02) -- Administration's response to points raised by individual members at the meeting on 29 April 2008
- LC Paper No. CB(1)1579/07-08(01) -- Summary of views of various organizations and individuals expressed at the meetings on 12 and 21 April 2008 and in their written submissions)

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).

3. The Administration was requested to provide written response on the following points raised by individual members of the Bills Committee --

- (a) the Administration should clarify the relationship between clauses 17 and 18(3)(a) in relation to public consultation;
- (b) the Administration should suitably qualify the powers of the Secretary for Home Affairs (SHA) to impose requirements and conditions under clause 18(4) by, for example, (i) defining the scope of matters with respect to which he may impose requirements and conditions and (ii) specifying that SHA shall not impose any requirements or conditions inconsistent with the WKCDA Ordinance;
- (c) the Administration should explain whether the role and powers of SHA under clause 18(4), as currently drafted, might be incompatible with those of other authorities such as the Town Planning Board (TPB) and government bodies responsible for public works;
- (d) the Administration should provide background reference information on why the Town Planning Board did not undertake public consultation on some draft plans, such as that for the Nga Tsin Wai Village redevelopment project;
- (e) the Bill should provide that the Government shall, if necessary, provide funds to WKCDA so as to balance its books;
- (f) the Bill should require the establishment of trusts which were independent of WKCDA to hold the collections of the museum facilities in WKCD in trust to ensure that WKCDA would not regard the collections as resources at its disposal;
- (g) the resources of WKCDA under clause 19(1) should exclude the gifts, donations or sponsorship received or solicited by WKCDA under clause 5(2)(f);
- (h) the Administration should provide information on the legislation of comparable public statutory bodies in relation to clauses 20 and 21; and;
- (i) the Administration should explain why WKCDA was vested with unrestricted powers to enter into financial transactions under clause 22.

III Any other business

4. There being no other business, the meeting ended at 6:30 pm.

Council Business Division 1
Legislative Council Secretariat
17 July 2008

**Proceedings of the ninth meeting of the
Bills Committee on West Kowloon Cultural District Authority Bill
on Tuesday, 20 May 2008, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000215	Chairman	Confirmation of minutes of the meeting held on 24 April 2008 (LC Paper No. CB(1)1575/07-08) Continuation of the clause-by-clause examination of the Bill	
000216 - 000335	Administration	Clause 18	
000336 - 000705	Miss CHAN Yuen-han Administration	Miss CHAN's enquiry on the procedures for preparing the development plan and the Administration's explanation	
000706 - 001418	Ms Margaret NG Administration Chairman	Ms NG's concerns on the scope of matters with respect to which SHA might impose requirements and conditions; and that SHA could impose requirements or conditions inconsistent with the WKCDA Ordinance	
001419 - 001935	Mr LEUNG Kwok-hung Administration Chairman	Mr LEUNG's concern that the Administration could interfere with WKCDA's preparation of the development plan through SHA's powers under clause 18(4) Administration's response that SHA would be consulted on the development plan as part of the consultation process during the preparation of the plan	
001936 - 003034	Mr Alan LEONG Administration	Mr LEONG's enquiry on the relative priority between the consultation with the public and that with SHA provided under clauses 18(3)(a) and 18(3)(b), and his view that the Administration should clarify the relationship between clauses 17 and 18(3)(a) in regard to public consultation	Administration to provide written response

Time marker	Speaker	Subject(s)	Action required
		<p>Administration's response that --</p> <p>(a) it was not Government's intention to attach different extent of importance to the consultations conducted under 18(3)(a) and 18(3)(b); and</p> <p>(b) there was no difference in the public consultation conducted under clauses 17 and 18(3)(a); clause 17 was a general provision on public consultation and clause 18(3) was specifically for the development plan</p>	
003035 - 003247	Ms Audrey EU	Ms EU's enquiry on whether SHA's powers were overriding when imposing requirements and conditions under clause 18(4)	
003248 - 004504	Ms Margaret NG Chairman Administration	<p>Ms NG's query on whether the wording of clause 18(3)(a) as currently drafted was appropriate and her concerns that --</p> <p>(a) the Bill did not specify that SHA shall not impose any requirements or conditions inconsistent with the WKCD Ordinance; and</p> <p>(b) apart from those of SHA, WKCD had to comply with statutory requirements of other Government departments</p> <p>Administration's response that its intention was for WCKDA to consult SHA on public works projects in WKCD to ensure that the planning was in order</p> <p>Chairman's suggestion that the Administration should --</p> <p>(a) suitably qualify the powers of SHA to impose requirements and conditions under clause 18(4) by, for example, (i) defining the scope of matters with respect to which he</p>	Administration to provide written response

Time marker	Speaker	Subject(s)	Action required
		<p>may impose requirements and conditions and (ii) specifying that SHA shall not impose any requirements or conditions inconsistent with the WKCDA Ordinance; and</p> <p>(b) explain whether the role and powers of SHA under clause 18(4), as currently drafted, might be incompatible with those of other authorities such as TPB and government bodies responsible for public works</p>	
004505 - 005005	Ms Emily LAU Administration Chairman	<p>Ms LAU's query on why WKCDA had to be responsible for planning works projects other than those related to arts and cultural facilities</p> <p>Administration's explanation on the functions of WKCDA, in particular the preparation of the development plan</p> <p>Chairman's view that it was desirable for WKCDA to carry out planning in an integrated and holistic manner</p>	
005006 - 005217	Mr LEUNG Kwok-hung	Mr LEUNG's view that SHA should perform a check and balance role rather than merely effecting the Government's intentions in planning matters	
005218 - 010110	Miss CHAN Yuen-han Administration Prof Patrick LAU Chairman	<p>Miss CHAN's enquiries on --</p> <p>(a) whether the legislation of comparable public statutory bodies had provisions similar to clause 18(7); and</p> <p>(b) the length of the consultation period</p> <p>Miss CHAN's request that the Administration should provide background reference information on why TPB did not undertake public consultation on some draft plans, such as</p>	Administration to provide written response

Time marker	Speaker	Subject(s)	Action required
		<p>that for the Nga Tsin Wai Village redevelopment project</p> <p>Administration's response that --</p> <p>(a) the Urban Renewal Authority Ordinance had similar provisions; and</p> <p>(b) WKCDA would determine the length of the consultation period for the development plan, and procedures adopted by TPB would be applicable after that plan was deemed as a draft plan prepared by TPB</p> <p>Prof LAU's remark that TPB would not conduct public consultation on development plans submitted by the Urban Renewal Authority; and his enquiry on whether the public could make representations to TPB regarding the development plan prepared by WKCDA</p> <p>Administration's response in the affirmative</p>	
010111 - 010443	Senior Assistant Legal Adviser 2 (SALA2) Chairman Ms Margaret NG	<p>SALA2's enquiry on whether the scope of consultation conducted under clause 17 would be wide enough to include that conducted under clause 18(3)(a)</p> <p>Chairman's view that the Administration should clarify its intent</p> <p>Ms NG's view that clause 17 was a general provision while clause 18(3)(a) was a specific provision</p> <p>Administration's concurrence with Ms NG's view</p>	
010444 - 010926	SALA2 Administration	SALA2's enquiry on the term "draft plan" in clause 18(9)	

Time marker	Speaker	Subject(s)	Action required
		Administration's explanation that an approved plan would become a draft plan when amendments had been proposed to that approved plan	
010927 -011010	Administration	Clause 19	
011011 - 011251	Miss CHAN Yuen-han Administration	Miss CHAN's enquiry on the financial sustainability of the operation and management of facilities in WKCD Administration's response that the sustainability referred to in the Bill was overall financial sustainability of the facilities within the purview of WKCDA rather than financial sustainability of a specific facility	
011252 - 011414	Ms Margaret NG Administration	Ms NG's enquiry on clause 19(1) Administration's response that the clause was drafted by drawing reference from similar provisions in the legislation of comparable statutory bodies	
011415 - 011950	Ms Emily LAU Administration Chairman Mr LEUNG Kwok-hung	Ms LAU's view that the Bill should provide that the Government shall, if necessary, provide funds to WKCDA so as to balance its books Administration's response that such a provision was unnecessary because there were already provisions on borrowing powers and guarantees by Government Mr LEUNG's objection to the view that the Government should provide funds to WKCDA so as to balance its books	Administration to provide written response
011951 - 012947	Ms Margaret NG Administration Chairman	Ms NG's view that the Bill should require the establishment of trusts which were independent of WKCDA to hold the collections of the museum facilities in WKCD in trust to ensure that WCKDA would not regard the collections as resources at its disposal	Administration to provide written response

Time marker	Speaker	Subject(s)	Action required
		<p>Administration's response that --</p> <p>(a) clause 5(2)(f) and 5(2)(h) were relevant and WKCDA could make bylaws and adopt internationally recognized guidelines in handling it collections; and</p> <p>(b) depending on the donors' will, donated collections would not necessarily become the assets of WKCDA</p>	
012948 - 013206	Mr Alan LEONG Administration	<p>Mr LEONG's view that the resources of WKCDA under clause 19(1) should exclude the gifts, donations or sponsorship received or solicited by WKCDA under clause 5(2)(f)</p> <p>Administration's response that it would review the issue</p>	Administration to provide written response
013207 - 013407	Administration Chairman Ms Emily LAU	<p>Clause 20</p> <p>Ms LAU's enquiry on the types of investment to be undertaken by WKCDA</p> <p>Administration's response that only safe investments would be undertaken to safeguard public interest</p> <p>Ms LAU's request that the Administration should provide information on the legislation of comparable public statutory bodies in relation to clause 20</p>	Administration to provide written response
013408 - 014424	Administration Miss CHAN Yuen-han Ms Margaret NG Chairman Ms Emily LAU	<p>Clauses 21 to 22</p> <p>Miss CHAN's enquiry on clause 21(2) and (3) and request that the Administration should provide information on the legislation of comparable public statutory bodies in relation to clause 21</p> <p>Administration's response that the Chief Executive could specify a borrowing limit</p>	Administration to provide written response

Time marker	Speaker	Subject(s)	Action required
		<p>by virtue clause 21(3)</p> <p>Ms NG's view that the Administration should explain why WKCDA was vested with unrestricted powers to enter into financial transactions under clause 22</p> <p>Administration's response that clause 22 was a standard provision</p>	<p>Administration to provide written response</p>
014425 - 015210	<p>Administration Ms Emily LAU SALA2 Chairman</p>	<p>Clause 23</p> <p>Ms LAU's enquiry on whether the guarantees granted under clause 23 would require approval by the Finance Committee of the Legislative Council</p> <p>Administration's response in the affirmative</p> <p>SALA2's advice that the guarantees would be charged to and paid out of the general revenue of the Government</p>	
015211 - 015247	Administration	Clause 24	
015248 - 015337	Chairman	Date of next meeting	