

Bills Committee on West Kowloon Cultural District Authority Bill

**Issues raised by individual members
on which the Administration was requested to provide written response**

I. Functions, purposes and powers of the West Kowloon Cultural District Authority (Relevant clause(s): 4 and 5)		
Meeting date	Issues raised	Paper number and Administration's undertaking
29.2.2008	Will the Administration consider articulating mission statements for the West Kowloon Cultural District Authority (WKCDA) and incorporating such mission statements into the Bill so as to provide objective yardsticks for the public and the Legislative Council (LegCo) to continuously scrutinize the Authority's work?	CB(1)1119/07-08(01) Item 1 Will consider suggestions to expand or elaborate WKCDA's purposes
27.3.2008	Objective indicators and, where possible, quantifiable indicators should be formulated and included in the Bill to facilitate the public in assessing whether WKCDA has achieved its mission as reflected in its functions and purposes.	CB(1)1345/07-08(01) Item 1 Proposed CSAs in CB(1)1622/07-08(03)
29.5.2008	The Administration should consider further refining the wording of the beginning of clause 4(2) to the effect of strengthening the commitment of WKCDA in achieving its objectives.	Response awaited
29.4.2008	The Administration should consider specifying as one of the purposes of WKCDA in the Bill the provision of input/recommendations to the Administration with regard to the introduction of legislation to regulate museum services.	CB(1)1514/07-08(02) Item 1

I. Functions, purposes and powers of the West Kowloon Cultural District Authority (Relevant clause(s): 4 and 5)		
Meeting date	Issues raised	Paper number and Administration's undertaking
8.5.2008	The Administration should clarify the policy intention and effect of clause 5(2)(n).	CB(1)1622/07-08(02) Item 5 Will propose CSAs to delete clause 5(2)(n) and clause 5(3)

II. Composition and appointment of members of the Board of the West Kowloon Cultural District Authority (Relevant clause(s): 6, 12 and Part 1 of Schedule)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
29.2.2008	<p>While the Administration considers it not appropriate to specify the precise composition of Board members in the Bill, will the Administration consider specifying the criteria, such as the backgrounds and the qualities possessed, for the appointment of the non-public officer members of the WKCDA Board?</p> <p>Will the Administration consider appointing some of the non-public officer Board members in representative capacities instead of on an ad personam basis? In this regard, the Bill may provide that LegCo Member(s) to be appointed to the Board are to be elected by and from among LegCo Members. For those Board members from the professional sectors, the Bill may provide for an election mechanism linked to the relevant subsectors represented on the Chief Executive Election Committee.</p>	<p>CB(1)1119/07-08(01) Item 2 It is practically difficult to specify in the Bill the full range of backgrounds and qualities required of Board members, but suggestions from members may be considered.</p> <p>CB(1)1119/07-08(01) Item 3</p>

II. Composition and appointment of members of the Board of the West Kowloon Cultural District Authority (Relevant clause(s): 6, 12 and Part 1 of Schedule)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
	<p>For those Board members from the arts and cultural sectors, the Bill may provide for an election mechanism linked to the Sports, Performing Arts, Culture and Publication functional constituency of LegCo.</p> <p>Will the Administration consider including relevant provisions in the Bill to the effect that the six-year six-board rule will be applicable to WKCDA Board members?</p>	<p>CB(1)1119/07-08(01) Item 7 The Administration will abide by this rule as far as practicable. It is however not necessary to specify the rule in the legislation.</p>
27.3.2008	<p>The Administration should explain why it is not practicable to provide for a nomination or election mechanism in the Bill for appointment of members of the WKCDA Board.</p> <p>Information on the practices and procedures adopted by relevant overseas statutory bodies in appointing their board members should be provided.</p> <p>The five members from the arts and cultural sectors to be appointed to the WKCDA Board should possess profound rather than mere knowledge of and experience in arts and culture. Clause 6(3)(c)(i) should be revised to this effect.</p>	<p>CB(1)1345/07-08(01) Item 2 Will consider how the key factors to be taken into consideration in appointing members to the WKCDA Board could be further elaborated or refined</p> <p>CB(1)1345/07-08(01) Item 3 Will provide further information</p> <p>CB(1)1345/07-08(01) Item 4</p>

II. Composition and appointment of members of the Board of the West Kowloon Cultural District Authority (Relevant clause(s): 6, 12 and Part 1 of Schedule)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
24.4.2008	It should be specified in the Bill that a non-public officer member of the WKCDA Board may not serve as such a member continuously for more than 6 years. Reference could be made to section 10 of the Construction Industry Council Ordinance (Cap. 587) in this regard.	CB(1)1465/07-08(02) Item 4
29.4.2008	The Administration should explain whether and how general users of arts and cultural facilities will be represented on the WKCDA Board.	CB(1)1514/07-08(02) Item 2
8.5.2008	Since the Administration refuses to provide in the Bill that a non-public officer member of the WKCDA Board may not serve as such a member continuously for more than 6 years, whether the Administration will provide an undertaking at the resumption of the Second Reading debate on the Bill that it will abide by the six-year six-board rule when making appointments to the WKCDA Board.	CB(1)1622/07-08(02) Item 3 Will consider undertaking
3.6.2008	The Administration should consider specifying in clause 6(3)(c) the minimum number of Board members of WKCDA who are not public officers.	Response awaited

III. Chief Executive Officer (Relevant clause(s): 7, 12 and Part 2 of Schedule)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
27.3.2008	The Chief Executive Officer of WKCDA should be appointed through an open recruitment process. Clause 7 should be revised to this effect.	CB(1)1345/07-08(01) Item 5
29.4.2008	On the issue of whether the appointment and removal of the Chief Executive Officer should require the prior approval of the Chief Executive, the Administration should provide information on relevant legislative provisions for comparable public statutory bodies.	CB(1)1514/07-08(02) Item 3
15.5.2008	<p>Whether the terms of appointment and remuneration package of the Chief Executive Officer will be submitted to the Chief Executive and whether extended integrity check on the candidate will be performed before the appointment.</p> <p>The Administration should consider specifying in the Bill the criteria the Chief Executive shall consider in deciding whether the appointment of the Chief Executive Officer should be approved.</p> <p>The Administration should consider specifying in the Bill the division of responsibility between the chairman of the WKCDA Board and the Chief Executive Officer and their respective functions.</p>	Response awaited
29.5.2008	The Administration should clarify the dual role of the Chief Executive Officer as an ex-officio member of the Board of WKCDA and as an employee of WKCDA, and provide information on the relevant provisions of comparable public	Response awaited

III. Chief Executive Officer (Relevant clause(s): 7, 12 and Part 2 of Schedule)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
	statutory bodies.	

IV. Audit Committee (Relevant clause(s): 8)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
29.2.2008	To ensure that the Audit Committee can play an effective financial monitoring role, would it be appropriate to specify in the Bill that the members of the Audit Committee shall not include those persons who make or execute decisions on the expenditure of WKCDA?	CB(1)1119/07-08(01) Item 6 Will consider specifying in the Bill that the Audit Committee should exclude members of other committees under the WKCDA
24.4.2008	<p>The Administration should clarify whether members of the WKCDA Board could be appointed to the Audit Committee, and in this regard should provide information on the relevant practices of listed companies.</p> <p>The Administration should explain the need for clause 8(6) in relation to withdrawal of matters referred or assigned to the Audit Committee and revoking of appointments to the Audit Committee by the WKCDA Board.</p> <p>The Administration should consider whether the Audit Committee should be required to prepare annual reports and/or should be subject to other requirements to enhance its credibility.</p>	<p>CB(1)1465/07-08(02) Item 2 Proposed CSAs in CB(1)1622/07-08(03)</p> <p>CB(1)1465/07-08(02) Item 3</p> <p>CB(1)1465/07-08(02) Item 4</p>

IV. Audit Committee (Relevant clause(s): 8)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
8.5.2008	<p>Whether, other than the Chief Executive Officer of WKCDA, a distinction will be drawn between executive members and non-executive members within the WKCDA Board; and if there is such a distinction, whether only non-executive members can sit on the Audit Committee.</p> <p>Under what circumstances the WKCDA Board may exercise the powers under clause 8(6)(a) and (b); and in this regard, whether there will be assurance that the WKCDA Board will not exercise those powers before the Audit Committee completes the work referred or assigned to it by the WKCDA Board.</p>	<p>CB(1)1622/07-08(02) Item 1</p> <p>CB(1)1622/07-08(02) Item 2 Will review clause 8(6)</p>
15.5.2008	<p>How secretariat support will be provided to the Audit Committee.</p> <p>Regarding the membership composition of the Audit Committee, the Administration should (a) specify the ratio between Board members and non-Board members; and (b) draw reference from the Listing Rules and incorporate the relevant requirements into the Bill as appropriate.</p> <p>The wording "in the manner as the Board considers fit" should be deleted from clause 8(7).</p>	<p>Response awaited</p> <p>Proposed CSAs in CB(1)1751/07-08(01)</p>

V. Establishment of committees (Relevant clause(s): 9)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
15.5.2008	The Administration should consider providing for the establishment of a "Financial Management Committee" and an "Investment Committee" in the Bill.	Proposed CSAs in CB(1)1751/07-08(01)
3.6.2008	<p>The Administration should consider suitably narrowing down the scope of the functions of the "Investment Committee" under new clause 8A(2)(c).</p> <p>The Administration should clarify whether the Director of Accounting Services would need to be appointed by the WKCDA Board to sit on the "Investment Committee".</p>	<p>Response awaited</p> <p>Response awaited</p>
15.5.2008	The wording "in the manner as the Board considers fit" should be deleted from clause 9(7).	Response awaited
29.5.2008	The Administration should consider specifying in the Bill the term of office of the members of WKCDA committees and provide information on the relevant provisions of comparable public statutory bodies.	Response awaited
3.6.2008	<p>The Administration should consider suitably narrowing down the scope of the functions of the "Remuneration Committee" under new clause 8B(2)(b)</p> <p>The Administration should clarify the relationship between clause 8B(2) and clauses 10(2), 10(3) and 10(4) and reconsider the need for clause 8B(10).</p>	Response awaited

VI. Proceedings of the Board of the West Kowloon Cultural District Authority and its committees (Relevant clause(s): 9, 12 and Part 3 of Schedule)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
29.2.2008	Will the Administration consider specifying in the Bill that the meetings of the Board and committees of WKCDA shall be open to the public except under certain specified circumstances? The relevant provisions in the Town Planning Ordinance (Cap. 131) may serve as the reference.	CB(1)1119/07-08(01) Item 4 Will consider requiring WKCDA to adopt administrative measures similar to those adopted by other existing statutory organizations in enhancing the transparency of their operations
27.3.2008	The Administration should set out the reasons as to why there are matters not suitable for discussion at open meetings of the WKCDA Board and committees. Practices and procedures adopted by the two former Municipal Councils and other comparable local statutory public bodies with regard to opening up of their meetings should be provided.	CB(1)1345/07-08(01) Item 6 CB(1)1345/07-08(01) Item 7

VII. Appointment of employees (Relevant clause(s): 10)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
29.2.2008	It has been suggested that for the purpose of good governance, there should be a mechanism for determining the remuneration packages for senior executives of WKCDA and for disclosure of their remuneration packages. Will the Administration consider this suggestion and how the relevant arrangements should	CB(1)1119/07-08(01) Item 9 Proposed CSAs in CB(1)1751/07-08(01)

VII. Appointment of employees (Relevant clause(s): 10)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
	be reflected in the legislation?	
24.4.2008	Apart from the setting up of a Remuneration Committee, the method for determining the remuneration packages for senior executives of WKCDA and the manner in which the remuneration packages are to be disclosed should also be specified in the Bill.	CB(1)1465/07-08(02) Item 7
8.5.2008	Whether a specific "Remuneration Committee" will be unduly restrictive in its functions; and whether it would be more flexible to provide that there is a committee to oversee remuneration matters, taking into account the need to strike a balance between providing a proper check and balance mechanism and effective use of secretariat support to WKCDA committees.	CB(1)1622/07-08(02) Item 4 Proposed CSAs in CB(1)1751/07-08(01)

VIII. Chief Executive in Council may give directions (Relevant clause(s): 13)		
Meeting date	Issues raised	Paper number and Administration's undertaking
15.5.2008	The Administration should elaborate on the need for clause 13 and provide examples of possible scenarios under which the Chief Executive in Council will give directions to WKCDA, and to specify in the Bill that such directions shall be made public. The Administration should confirm that the amount to be paid by the Government	Response awaited

VIII. Chief Executive in Council may give directions (Relevant clause(s): 13)		
Meeting date	Issues raised	Paper number and Administration's undertaking
	to WKCDA under clause 13(5) will not be subject to further funding approval by the Finance Committee of LegCo.	

IX. Chief Executive may obtain information and Financial Secretary may obtain information (Relevant clause(s): 14 and 15)		
Meeting date	Issues raised	Paper number and Administration's undertaking
15.5.2008	The Bill should provide for the circumstances under which clauses 14 and 15 may be invoked, and the scope of the information to be furnished by WKCDA.	Response awaited

X. Public consultation (Relevant clause(s): 17)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
29.2.2008	Will the Administration consider providing in the Bill the establishment of statutory consultation panels comprising representatives from various stakeholder groups and members of the public? In this regard, it has been suggested that while the WKCDA should be obliged to engage the panels openly, the opinions of the panels and their members will not bind the Authority.	CB(1)1119/07-08(01) Item 5
24.4.2008	The Administration should consider drawing up "best practices" for WKCDA	CB(1)1465/07-08(02) Item 1

X. Public consultation (Relevant clause(s): 17)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
	to follow in conducting public consultation, and in this regard should provide information on the practices adopted by comparable overseas statutory bodies in conducting public consultation.	Will obtain the relevant information and could ask WKCDA to make reference to such practices
20.5.2008	The Administration should clarify the relationship between clauses 17 and 18(3)(a) in relation to public consultation.	Response awaited

XI. Preparation of development plans, etc. (Relevant clause(s): 18)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
20.5.2008	<p>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, (a) defining the scope of matters with respect to which he may impose requirements and conditions and (b) specifying that SHA shall not impose any requirements or conditions inconsistent with the WKCDA Ordinance.</p> <p>The Administration should explain whether the role and powers of SHA under clause 18(4), as currently drafted, may be incompatible with those of other authorities such as the Town Planning Board and government bodies responsible for public works.</p>	Response awaited
3.6.2008	The Administration should clarify whether the development plan prepared	Response awaited

XI. Preparation of development plans, etc. (Relevant clause(s): 18)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
	under clause 18 and deemed by the Town Planning Board (TPB) to be a draft plan prepared by TPB for the purposes of the Town Planning Ordinance (Cap. 131) (TPO) will have the same legal status in all respects as that of a draft plan prepared directly by TPB under the TPO.	

XII. Resources of Authority (Relevant clause(s): 19)		
Meeting date	Issues raised	Paper number and Administration's undertaking
20.5.2008	<p>The Bill should provide that the Government shall, if necessary, provide funds to WKCDA so as to balance its books.</p> <p>The Bill should require the establishment of trusts which are independent of WKCDA to hold the collections of the museum facilities in WKCD in trust to ensure that WCKDA will not regard the collections as resources at its disposal.</p> <p>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>	Response awaited

XIII. Investment, Borrowing powers, etc. (Relevant clause(s): 20 and 21)		
Meeting date	Issues raised	Paper number and Administration's undertaking
20.5.2008	The Administration should provide information on the legislation of comparable public statutory bodies in relation to clauses 20 and 21.	Response awaited

XIV. Power to enter into other financial transactions (Relevant clause(s): 22)		
Meeting date	Issues raised	Paper number and Administration's undertaking
20.5.2008	The Administration should explain why WKCDA is vested with unrestricted powers to enter into financial transactions under clause 22.	Response awaited

XV. Corporate plan, Business plan (Relevant clause(s): 29 and 30)		
Meeting date	Issues raised	Paper number and Administration's undertaking
22.5.2008	The Bill should provide that WKCDA shall engage the public in preparing its corporate plans and business plans.	Response awaited

XVI. Reports, etc. to be laid before Legislative Council (Relevant clause(s): 31)		
Meeting date	Issues raised	Paper number and Administration's undertaking
15.5.2008	<p>The Bill should specify that the report of the WKCDA submitted under clause 31(1)(a) will include information on the work and activities of all committees.</p> <p>The Bill should provide that LegCo shall have the power to obtain information from WKCDA.</p>	<p>Proposed CSAs in CB(1)1751/07-08(01)</p> <p>Response awaited</p>
22.5.2008	The annual report of WKCDA should specify how its activities for that financial year relate to the relevant corporation plan and business plan of the Authority.	Proposed CSAs in CB(1)1751/07-08(01)

XVII. Authority may make bylaws (Relevant clause(s): 33)		
Meeting date	Issues raised	Paper number and Administration's undertaking
22.5.2008	The Administration should clarify how the laws of Hong Kong and the bylaws of WKCDA in relation to traffic, public order etc. will be enforced under different circumstances in the public places within the areas leased to WKCDA, and reference should be made to the relevant arrangements of the Airport Authority and Housing Authority.	Response awaited

XVIII. Disclosure of interest (Relevant clause(s): 34 and Part 3 of Schedule)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
29.2.2008	It has been suggested that a system with the most stringent requirements for disclosure of interest should apply to the members of the Board and committees of WKCDA. Will the Administration consider this suggestion and how such a system should be reflected in the legislation?	CB(1)1119/07-08(01) Item 8 Will consider including provisions to suitably tighten the relevant requirement prescribing that members of the Board and committees of WKCDA shall disclose their interest to WKCDA annually
24.4.2008	Apart from disclosing upon their first appointment and on an annual basis, WKCDA Board members should also be required to disclose interest whenever there are changes in the circumstances of their interest. Disclosure of interest by WKCDA Board members should be made available on the Internet for inspection by the public.	CB(1)1465/07-08(02) Item 6 Will consider amending clause 34 such that a WKCDA Board or committee member would be required to declare interest every year within the first month of each calendar year and whenever there is any change to the interest disclosed previously
22.5.2008	The Administration should consider specifying in the Bill that information on disclosure of interest will be made available on the Internet for inspection by the public. The Administration should consider specifying in the Bill the consequences or sanctions of failing to disclose interest with reference to the relevant rules of the Executive Council, the Legislative Council and other comparable public	Response awaited

XVIII. Disclosure of interest (Relevant clause(s): 34 and Part 3 of Schedule)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
	statutory bodies.	

XIX. Exemption from taxation (Relevant clause(s): 37)		
Date of meeting	Issues raised	Paper number and Administration's undertaking
22.5.2008	The Administration should review whether the current drafting of clause 37 can sufficiently safeguard against abuse by WKCDA's business partners through manoeuvres in contractual arrangements.	Response awaited

XX. Others		
Date of meeting	Issues raised	Paper number and Administration's undertaking
29.4.2008	The Administration should consider whether an appeal mechanism should be included in the Bill.	CB(1)1514/07-08(02) Item 4
29.5.2008	The Administration should make an undertaking at the resumption of the Second Reading debate on the Bill that WKCDA will be required to set up an appeal mechanism.	Response awaited
20.5.2008	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.	Response awaited

XX. Others		
Date of meeting	Issues raised	Paper number and Administration's undertaking
3.6.2008	The Administration should consider specifying in the Bill that WKCDA should adopt a prudent investment policy with a view to protecting the capital of the endowment fund approved by the Legislative Council.	Response awaited

XXI. Schedule		
Date of meeting	Issues raised	Paper number and Administration's undertaking
29.5.2008	<p>The Administration should clarify the relationship between sections 9 and 15 of the Schedule and provide information on the relevant provisions of comparable public statutory bodies.</p> <p>The Administration should review the need for the wording "unless two-thirds of the other Board members present at the meeting decide otherwise" in section 9 of the Schedule.</p> <p>The Administration should clarify what constitutes direct and indirect interests for the purpose of the proceedings of the Board in respect of "Conflict of interest", and provide information on relevant provisions of comparable public statutory bodies.</p> <p>On section 15(2) of the Schedule, the Administration should review whether the presence of the WKCDA Board member concerned should be disregarded for the purpose of forming a quorum for the meeting.</p>	Response awaited

XXI. Schedule		
Date of meeting	Issues raised	Paper number and Administration's undertaking
	<p>The Administration should consider re-positioning the wording "(if he is present at the Board meeting)" in section 15(1)(a) of the Schedule.</p> <p>On section 16 of the Schedule, the Administration should provide information on the relevant provisions of comparable public statutory bodies and make clear the public officers' role with regard to public interest vis-à-vis their role in common with other members of the WKCDA Board.</p>	

Council Business Division 1
Legislative Council Secretariat
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