

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2433/08-09(02)

**A summary of concerns raised by LegCo Members in the Third LegCo  
in relation to the West Kowloon Cultural District project and  
the Administration's responses and undertakings**

**(A) West Kowloon Cultural District Authority**

<b>Issues/suggestions raised by LegCo Members</b>	<b>Administration's responses and undertakings in response to Members' concerns</b>
<b>Functions of WKCDA</b>	
<p>(1) Performance of WKCDA should be assessed by making reference to the objectives stated in the Ordinance</p>	<p>Section 4(2) of the WKCDA Ordinance specifies that the Authority shall perform its functions in ways which aim to achieve its objectives. The Secretary for Home Affairs (SHA) has highlighted some of the Authority's objectives at the Council meeting of 2 July 2008 as follows -</p> <ul style="list-style-type: none"><li>(a) to facilitate the long-term development of Hong Kong as an international arts and cultural metropolis;</li><li>(b) to uphold and encourage freedom of artistic expression and creativity;</li><li>(c) to enhance and promote excellence, innovation, creativity and diversity in arts and culture;</li><li>(d) to develop new and experimental works in arts and culture including inclusive arts for disabled artists;</li><li>(e) to cultivate and nurture local talents in the arts;</li></ul>

	<p>(f) to encourage wider participation by the local community in arts and culture;</p> <p>(g) to promote and provide arts education to the local community;</p> <p>(h) to encourage community, commercial and corporate support and sponsorship of arts and culture; and</p> <p>(i) to provide or facilitate the provision of free and accessible open space within the leased area to the general public.</p> <p>Section 34(2)(a) of the Ordinance requires WKCDA to specify in its annual report how the work and activities of the Authority in a financial year relate to the Authority's functions and objectives set out in Section 4(2).</p>
<p>(2) Provision of advice by WKCDA for the regulation of museum services</p>	<p>WKCDA is intended to be a future provider of museum services but not a regulatory or advisory body on museum matters. The Administration will consider whether museum services should be regulated by legislation in the context of its cultural policy on provision and development of museum services. In considering this matter, the Administration will, if necessary, consult stakeholders, including WKCDA.</p>
<p><b>Establishment of the WKCDA Board</b></p>	
<p>(3) Composition and nomination/election mechanism of the WKCDA Board</p>	<p>WKCDA Board should be composed of a right and balanced mix of individuals with different expertise and knowledge in various fields at different stages of the project. The precise composition of the Board may vary from time to time to tie in with the needs of the different stages of the development and operation of the WKCD facilities. The Chief Executive (CE) will appoint members of the Board having regard to the different needs of the WKCD project at different stages of development, based on the merit of the</p>

	<p>individuals concerned, including their ability, expertise, experience, integrity and commitment to public service. The Administration is open to any organisation or individual to nominate persons for consideration of appointment to the Board by CE.</p>
<p>(4) Criteria for appointing non-public officer members of the Board</p>	<p>Section 6(3) of the Ordinance provides, among others, that -</p> <ul style="list-style-type: none"><li>(a) other than the Chairman, the Chief Executive Officer (CEO) and the three public officer members, there shall be not less than eight and not more than 15 non-public officer members to be appointed to the Board;</li><li>(b) those five or more Board members with arts and cultural background should, in the opinion of CE, have extensive knowledge of, or experience in, or exposure to, arts and cultural activities, or have a good standing in the field of arts and culture; and</li><li>(c) the other non-public officer members (other than those members with arts and cultural background and the LegCo Member) shall possess experience in management, engineering, planning, architecture, surveying, landscape architecture, accounting, finance, education, law or community service, or such professional or other experience as would, in the opinion of CE, render them suitable for appointment.</li></ul>
<p>(5) Members of the WKCDA Board should not serve as such a member for more than six years</p>	<p>The Administration agrees that in line with the Government's existing administrative guidelines on appointment of non-official members to advisory and statutory bodies, a non-public officer member of the WKCDA Board should not serve on the Board in any one capacity continuously for more than six years. The Administration would abide by</p>

	<p>this rule as far as practicable, but does not consider it necessary to specify this arrangement in the legislation.</p>
<p><b>Appointment of Committees under WKCDA</b></p>	
<p>(6) Mechanism to enhance the independence and effectiveness of the Audit Committee in performing the internal financial monitoring role</p>	<p>Section 8 of the Ordinance provides, among others, that -</p> <p>(a) the Chairman of any other committee established under the WKCDA Ordinance is not eligible for appointment as a member of the Audit Committee;</p> <p>(b) the Audit Committee should include at least one member with appropriate professional qualifications or accounting or related financial management expertise; and</p> <p>(c) the Audit Committee may comprise individuals who are or who are not Board members.</p>
<p>(7) Mechanism for overseeing the management of the investment of the upfront endowment</p>	<p>Section 9 of the Ordinance provides for the establishment of the Investment Committee and Section 23(1) provides that WKCDA shall have regard to the advice of the Investment Committee when investing the funds available for investment.</p>
<p>(8) Mechanism for determining the remuneration packages for senior executives of WKCDA</p>	<p>Section 10 of the Ordinance provides for the establishment of the Remuneration Committee to advise the Authority on the terms and conditions of employment and pension schemes, etc. and on any other matters relating to allowances, benefits and remuneration of the Authority's employees, former employees or their dependants that is referred or assigned to it by the Board for consideration.</p>
<p><b>Declaration of interest</b></p>	
<p>(9) Disclosure of interest by Board or committee members of WKCDA</p>	<p>Section 38 of the Ordinance requires (in addition to the requirement of disclosing interest upon first appointment) a Board or committee member to disclose his interest (a)</p>

	at the beginning of each calendar year after the appointment; (b) on becoming aware of the existence of an interest not previously disclosed; and (c) after the occurrence of any change to an interest previously disclosed.
(10) Public accessibility to the register of disclosure of interest	Section 38(5) provides that the Authority shall, by such means as it considers appropriate, make available the register for inspection by the public at any reasonable time.
(11) Specification of direct and indirect interest for the purpose of the proceedings of the Board	Section 15(2) of the Schedule to the Ordinance provides for the WKCDA Board to issue a guideline to set out the circumstances in which a Board member is to be regarded as directly or indirectly interested in any contract or matter, for deciding whether he shall be required to disclose his interest.
<b>Appointment matters</b>	
(12) The appointment process for the CEO	The Administration expects that WKCDA will recruit the CEO through an open recruitment exercise. As recruitment of the CEO is the responsibility of WKCDA and will involve sensitive issues, the Administration considers it more appropriate to leave it to WKCDA to decide the actual recruitment procedures, the terms of appointment and the remuneration for the post. CE will not interfere with the appointment process.
(13) Disclosure of the remuneration packages for senior executives of WKCDA	It is an established practice for comparable statutory bodies to disclose the remuneration packages of their senior executives in their annual reports, although there is no specific provision in the relevant enabling legislation requiring such disclosure. WKCDA will follow this practice.
<b>Consultation Panel</b>	
(14) Establishment of a standing consultation panel to provide a platform for engaging	Section 20 of the Ordinance provides for the establishment of a consultation panel to gather public views on matters relevant to the functions of the Authority. The Ordinance

<p>the stakeholders and the general public in an ongoing and systematic manner throughout the development and operation of the WKCD project</p> <p>(15) Adoption of a non-prescriptive, empowering and participatory approach in future public engagement</p>	<p>also provides that-</p> <p>(a) the members of the consultation panel will be appointed by WKCDA and the Authority shall have regard to the purpose for which the panel is established when appointing the members;</p> <p>(b) the Authority shall, from time to time, issue guidelines on the functions, administration, proceedings and business and any other matters in relation to the panel, as the Authority considers appropriate, and the guidelines shall be made public; and</p> <p>(c) the consultation panel is required to hold at least one meeting each year and its meetings are to be open to the public.</p>
<p><b>Accountability and transparency of WKCDA</b></p>	
<p>(16) Monitoring the work and activities of WKCDA</p>	<p>Section 34 of the Ordinance provides that the Authority shall, in respect of each financial year, prepare an annual report of the Authority for that financial year. The report should specify, among others-</p> <p>(a) the work and activities of the Authority for that financial year and how they relate to the Authority's functions and the objectives specified under Section 4(2);</p> <p>(b) the work and activities of the committees established by WKCDA for that financial year; and</p> <p>(c) information on how the Authority conducted or implemented activities and projects as set out in the corporate plan and business plan submitted in the previous financial year.</p>
<p>(17) Public accessibility to meetings of WKCDA</p>	<p>As a vast majority of the meetings of the WKCDA Board and committees will involve discussions on commercially and market sensitive matters, the disclosure will make it</p>

	very difficult for WKCDA to operate effectively and efficiently. The Authority may adopt various transparency measures, such as uploading information on its work regularly to its dedicated website, distributing newsletters, and organising meet-the-media sessions to report on discussions and decisions of the Board.
<b>Other issues</b>	
(18) Establishment of a statutory appeal mechanism in respect of WKCDA's decisions	It will not be practicable to identify and specify in the legislation the specific types of decisions of WKCDA which should be subject to appeal. Instead, the Administration will request WKCDA to set up a complaints handling mechanism or procedures in the light of operational experience.
(19) Delineation of funding responsibilities between WKCDA and the existing government and statutory bodies	WKCDA will work closely with the Government and other relevant statutory bodies to realize its vision and mission. The Home Affairs Bureau will devise measures to ensure effective co-ordination between the Government and relevant statutory bodies (including WKCDA), as well as an appropriate mechanism to ensure effective use of public resources.

**(B) Financial arrangements for WKCDA**

<b>Issues/suggestions raised by LegCo Members</b>	<b>Administration's responses and undertakings in response to Members' concerns</b>
(1) Oversight mechanism for monitoring the use of the one-off endowment of \$21.6 billion and other financial resources by WKCDA	Section 28 of the Ordinance provides for WKCDA to keep proper accounting records and prepare a statement of accounts within three months after the end of each financial year, including a profit and loss account, a cash flow statement and a balance sheet for that financial year. The statement of accounts should give a true and fair view of the state of affairs of WKCDA as at the end
(2) Six-monthly reports to LegCo on WKCDA's	

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activities and use of funds	<p>of the financial year to which the statement relates, its profit and loss and its cash flow for that financial year. It should also comply with any accounting standards and any other requirement specified by the Financial Secretary (FS).</p> <p>Sections 34 and 35 of the Ordinance provide for WKCDA to submit an annual report for each financial year within six months after the end of each financial year to FS, who shall cause the annual report to be laid on the table of LegCo. The annual report should include, among others, the audited statement of accounts and the auditor's report, the work and activities of WKCDA and how it conducted the activities and implemented the projects set out in its corporate plan and business plan during the financial year.</p> <p>As requested by members, the Administration will arrange for WKCDA to include in the annual report information on the construction progress and expenditure as well as operational income and expenditure of each core arts and cultural facility, the remuneration of senior staff of WKCDA, and a comparison of the accounts with those of the previous financial year.</p> <p>LegCo Members may also seek information on the WKCD project through raising questions at Council meetings.</p> <p>The Administration will request WKCDA to conduct a mid-term review on the implementation of the WKCD project after the completion of the Core Arts and Cultural Facilities in Phase I or not later than 2014-2015, on the progress of the Phase I facilities as well as its plan for developing the</p>

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	<p>Phase II facilities, and report to LegCo or its relevant committee(s) on the review results.</p> <p>On Member's request for regular reports, the Administration considers that it may not be appropriate for WKCDA, being an independent statutory public body established to develop and operate WKCD, to be subject to almost micro-management by LegCo.</p>
<p>(3) Mechanism to prevent abuse in spending by WKCDA</p>	<p>Section 8 of the Ordinance provides for WKCDA to set up an Audit Committee to monitor the financial matters including expenditures. Besides, the Director of Audit can conduct examination into the economy, efficiency and effectiveness with which WKCDA has expended its resources.</p>
<p>(4) Management of the \$21.6 billion upfront endowment</p>	<p>Section 9 of the Ordinance provides for WKCDA to set up an Investment Committee comprising members knowledgeable in financial investment to handle investment matters on behalf of WKCDA. WKCDA will invest in a financially prudent manner having regard to the advice of the Investment Committee, and in such classes and specifications as FS may specify in writing.</p>
<p>(5) Alert system to reveal timely information and bring into light discrepancies between the budgeted and the actual expenditures of individual projects</p>	<p>WKCDA will have stringent corporate governance and it will strike a balance between high transparency/accountability and efficient operation. For timely disclosure of information, both the Administration and LegCo are vested with the powers to ask WKCDA to produce information on its operation when circumstances require.</p>
<p>(6) Use of funds for the masterplanning of WKCD and guiding principles for the</p>	<p>The first task for WKCDA is to prepare the development plan, and the earmarked funds of \$0.34 billion will be used for planning-related work such as engaging</p>

<p><b>Issues/suggestions raised by LegCo Members</b></p>	<p><b>Administration's responses and undertakings in response to Members' concerns</b></p>
<p>procurement of services and works</p>	<p>professional consultants and professional staff and conducting large-scale public consultations. The procurement of services and works for the facilities in WKCD will be handled according to the principles enshrined in the Agreement on Government Procurement of the World Trade Organisation.</p>
<p>(7) Financial arrangements for constructing and operating the retail/dining/entertainment (RDE) facilities and value of the land earmarked for RDE facilities</p>	<p>The estimated capital cost of RDE facilities amounts to \$2.765 billion in 2008 net present value (NPV). The net rental income generated from RDE facilities, amounting to \$8.448 billion in 2008 NPV, would be sufficient to cover the deficits arising from the operation of the arts and cultural facilities. Under the proposed financial arrangement, there is no plan to sell the RDE floor areas in the market and thus the question of land premium does not arise.</p>
<p>(8) Concerns on FA's financial analysis and assessment on the project (such as the assumption of 2% annual inflation rate for the massive construction works) and the need for further public funding</p>	<p>The 2% annual inflation rate is an assumption for a 50 year period and risk premiums have been included in the construction cost estimates for each arts and cultural facility. It would be for WKCDA to find solutions to finance its works programme should inflation rate exceed its present estimation. Should WKCDA encounter cash flow difficulties in the future, it may choose to defer the Phase II Development of the cultural venues or source funds through other channels as provided in the enabling legislation.</p>
<p>(9) Provision for major renovation and reconstruction of WKCD after 50 years</p>	<p>Provisions have been made for major overhaul costs at appropriate intervals as well as annual building maintenance costs for each facility.</p>

**(C) Masterplanning of WKCD**

<b>Issues/suggestions raised by LegCo Members</b>	<b>Administration's responses and undertakings in response to Members' concerns</b>
(1) Consultation with the public in preparing the development plan	Section 19 of the Ordinance requires the Authority to consult the public in relation to matters concerning the development or operation of arts and cultural facilities, related facilities, ancillary facilities and any other matters as the Authority considers fit and in such manner as it considers appropriate. The Administration undertakes to request WKCDA to conduct the public consultation in an extensive and systematic manner.
(2) Open design competitions for arts and cultural facilities and exhibition centre in WKCD with a view to obtaining the most suitable design	According to the recommendations of the Consultative Committee on the Core Arts and Cultural Facilities of the West Kowloon Cultural District, design competitions should be organised for the three iconic buildings (i.e. M+, the Xiqu Centre, and the Concert Hall/Chamber Music Hall). It would be for WKCDA to decide the procurement approach and arrangements, such as holding design competitions for projects other than the three iconic ones.
(3) Provision of public open space in WKCD	Section 4(2)(m) of the Ordinance specifies that WKCDA is to provide or facilitate the provision of free and accessible open space within the leased area to the general public.
(4) Procurement approaches for the project	The design and build approach is commonly adopted for venues similar to those proposed in WKCD. As sufficient risk premium has been included in the financial estimates, WKCDA can decide to award separate contracts for the design and construction of individual facilities.

<p><b>Issues/suggestions raised by LegCo Members</b></p>	<p><b>Administration's responses and undertakings in response to Members' concerns</b></p>
<p>(5) Connectivity between WKCD and its neighbouring areas</p>	<p>The issue will be considered in the context of the Development Plan for WKCD.</p>
<p>(6) Professional support for WKCDA</p>	<p>WKCDA will engage consultants to assist it in preparing the Development Plan including the conduct of public consultation exercises and related technical assessments. The Planning Department will (i) collaborate with WKCDA and its consultants in formulating proposals for the Development Plan; (ii) sit on the relevant committees set up by the WKCDA Board charged with the duties relating to the preparation of the Development Plan; and (iii) provide support to the Town Planning Board throughout the plan-making process in respect of the Development Plan.</p>
<p>(7) Synchronising of project works</p>	<p>Dedicated committees will be set up by the WKCDA Board to take charge of the implementation of the works projects and the interface and coordination among them. As regards the interface and coordination between the works projects under the purview of WKCDA and those public works projects within or affecting WKCD, the Administration will put in place a mechanism to handle the interface and coordination between such projects, such as through appointing public officers with relevant professional expertise to participate in the work of the relevant committees or working groups, or setting up a multi-disciplinary team or committee in the Government for such purpose.</p>

**(D) Development of M+**

<p><b>Issues/suggestions raised by LegCo Members</b></p>	<p><b>Administration's responses and undertakings in response to Members' concerns</b></p>
<p>(1) Separate design and construction contracts for iconic facilities such as the M+</p>	<p>WKCDA will have the flexibility to decide on the procurement approach for the arts and cultural facilities in WKCD. According to the Financial Adviser, even though the design and construction of the facilities are procured in two independent contracts, there will not be significant difference in the construction cost estimates.</p>
<p>(2) Downsizing M+</p>	<p>M+ will be developed in two phases to tie in with the overall development of WKCD. As the scale of M+ is comparable to that of world-renowned museums, further downsizing would hinder the development of M+ into a world-class contemporary cultural and arts institution, making it difficult to realize its vision.</p>
<p>(3) Use of the Interim M+ in North Point as a training ground for future staff of M+ and a temporary exhibition centre for public viewing and for testing out the M+ concept in a smaller scale</p>	<p>The Museum Committee (MC) established under the WKCDA Board to start preparatory work of M+ does not recommend the site at Oil Street in North Point for setting up the Interim M+ as the original building at the site is too small. If a new building is to be built for setting up the Interim M+, it will be necessary to demolish an existing building next to it and to deal with the land contamination issue so arising. MC will continue to explore other locations and agrees that the Interim M+ should organise activities in different areas of Hong Kong to promote the concept of M+ to the public.</p>
<p>(4) Building up collections for M+</p>	<p>Major museums managed by the Leisure and Cultural Services Department (LCSD) has in place a very rich collection on visual culture which amounts to more than 60 000 items of exhibits. There should be ample room for M+ to make use of these collections in store.</p>

<p><b>Issues/suggestions raised by LegCo Members</b></p>	<p><b>Administration's responses and undertakings in response to Members' concerns</b></p>
	<p>The initial capital of \$1 billion assumed by the Financial Adviser will help to build up collections commensurate with the status of M+ upon its opening in 2015. WKCDA will enrich the collection of M+ in an on-going manner with its own financial resources and other sources of funds available.</p>
<p>(5) Collaboration between M+ and museums in the Mainland as well as those in the Asian region</p>	<p>WKCDA will establish links and network with museums in Asia and other parts of the world to explore future cooperation opportunities.</p>
<p>(6) Arrangement for ownership of collection of M+</p>	<p>The ownership of M+'s collections, obtained through donation, acquisition or any other means, should rest with WKCDA. To ensure proper protection of the collections of M+, WKCDA may, when establishing M+ and its governing structure deal with the ownership of the collections of M+ through the making of by-laws which are subject to LegCo's approval.</p>
<p>(7) Co-operation and integration between M+ and the existing museums under the management of LCSD</p>	<p>The Government will work closely with the WKCDA and establish links in various aspects.</p>
<p>(8) Long-term plan for the development of curatorial professionals in parallel with the development of M+</p>	<p>The Administration undertakes to advise members on the existing number of curatorial staff in Hong Kong, the manpower project, requirements and training plan for curators to complement the scale and themes of M+.</p>

<b>Issues/suggestions raised by LegCo Members</b>	<b>Administration's responses and undertakings in response to Members' concerns</b>
<p>(9) Public education on M+ and consultation with the museum community before proceeding to establish the management board of M+ and recruiting the M+ staff</p>	<p>The WKCD will engage the arts and cultural sector to gauge their views (in particular the concerned museum organisations) on the planning and development of the museum facilities in the WKCD to ensure that facilities and operation of the museum can meet their needs.</p>

**(E) Cultural policy and software development**

<b>Issues/suggestions raised by LegCo Members</b>	<b>Administration's responses and undertakings in response to Members' concerns</b>
<p>(1) Funding arrangements for performing arts groups</p>	<p>The Administration will conduct a review on the funding arrangements for performing art groups and the development of "flagship" performing companies. The Hong Kong Arts Development Council will be provided with additional resources to offer specific programmes to nurture the young and budding artists. The Administration will also discuss with the Hong Kong Academy for Performing Arts and local universities on manpower training for the arts and cultural sector.</p>
<p>(2) Review on the usage and management of existing venues and other cultural activities managed by LCSD</p>	<p>The Administration will formulate plans to implement the recommendations of the Committee on Museums and the Committee on Performing Arts, including the transfer of the management of public museums to a statutory museum board in a few years' time and the adoption of the venue partnership scheme for public performing venues which will be open to local arts groups/organisations.</p>

Council Business Division 2  
Legislative Council Secretariat  
3 September 2009

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