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by the Administration)

Ref : CB2/SS/5/15

**Subcommittee on Proposed Resolution under Section 37 of
the West Kowloon Cultural District Authority Ordinance (Cap. 601)**

**Minutes of the second meeting
held on Monday, 18 April 2016, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Members present : Hon Christopher CHUNG Shu-kun, BBS, MH, JP (Chairman)
Hon Emily LAU Wai-hing, JP
Hon Cyd HO Sau-lan, JP
Hon Starry LEE Wai-king, JP
Hon Alan LEONG Kah-kit, SC
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon CHAN Chi-chuen
Hon CHAN Yuen-han, SBS, JP
Dr Hon Helena WONG Pik-wan
Dr Hon CHIANG Lai-wan, JP
Hon Tony TSE Wai-chuen, BBS
Hon Alvin YEUNG Ngok-kiu

Members absent : Hon MA Fung-kwok, SBS, JP
Dr Hon Elizabeth QUAT, JP

Public Officers attending : Items I and II

Home Affairs Bureau

Mr Eric CHENG
Principal Assistant Secretary for Home Affairs (West
Kowloon Cultural District)

Item II

Department of Justice

Ms Theresa JOHNSON
Law Draftsman

Ms Fanny IP
Deputy Law Draftsman (Legislation)

Attendance by invitation : Items I and II

West Kowloon Cultural District Authority

Mr Duncan PESCOD, GBS, JP
Chief Executive Officer

Mr Michael RANDALL
General Counsel

Ms Monica CHEUNG
Principal Legal Advisor

Ms Lisa TSANG
Head, Operations Development (Performing Arts)

Ms Fanny CHUN
Senior Manager, Facilities Management

Clerk in attendance : Ms Alice LEUNG
Chief Council Secretary (2)6

Staff in attendance : Ms Vanessa CHENG
Assistant Legal Adviser 5

Ms Jasmine TAM
Senior Council Secretary (2)8

Miss Meisy KWOK
Legislative Assistant (2)6

I. Meeting with deputations, the Administration and the West Kowloon Cultural District Authority

(LC Paper Nos. CB(2)1263/15-16(06)-(08) and CB(2)1311/15-16(01))

The Subcommittee deliberated (index of proceedings at **Annex A**).

2. The Chairman informed members that in response to the Subcommittee's notice on invitation for public views posted on the Legislative Council website, five deputations had indicated intention to attend the meeting to make oral representations. However, two of them informed the Secretariat in the morning of the meeting that they would not be able to attend, and the remaining three deputations had yet to turn up when the meeting started. The Chairman proposed that the meeting would proceed to deal with agenda item II, and that should any of the three deputations turn up within 15 minutes of the starting time appointed for the meeting, the meeting would resume dealing with agenda item I to receive the deputations' views. Members agreed.

3. The Subcommittee noted that the three deputations did not turn up eventually. The Subcommittee also noted the written submissions provided by the following four deputations:

- (a) Hong Kong Revival Project (English version only) (LC Paper No. CB(2)1263/15-16(06));
- (b) 官涌街坊福利會 (Chinese version only) (LC Paper No. CB(2)1263/15-16(07));
- (c) Democratic Party (Chinese version only) (LC Paper No. CB(2)1263/15-16(08)); and
- (d) NHKRT Art for all project B.V. (Chinese version only) (LC Paper No. CB(2)1311/15-16(01)).

II. Meeting with the Administration and the West Kowloon Cultural District Authority

(File Ref: SF(72) to HABCS CR 7/1/99/1/1, LC Paper Nos. CB(3)413/15-16 (Appendix 1), LS 37/15-16, CB(2)1066/15-16(01) and CB(2)1263/15-16(01)-(05))

4. The Subcommittee received a briefing by the Law Draftsman on the role of the Law Drafting Division ("LDD") of the Department of Justice ("DoJ") in relation to the proposed West Kowloon Cultural District (Public Open Spaces) Bylaw ("the proposed Bylaw") and the advice previously

Action

provided by LDD to the Home Affairs Bureau in respect of the proposed Bylaw, details of which were set out in the Law Draftsman's letter dated 11 April 2016 to the Subcommittee (LC Paper No. CB(2)1263/15-16(02)). The Subcommittee was also briefed by West Kowloon Cultural District Authority ("WKCD") on its response to the issues raised at the last meeting of the Subcommittee held on 14 March 2016 (LC Paper No. CB(2)1263/15-16(03)). The Subcommittee noted that in the light of members' views and DoJ's advice, WKCD currently proposed to incorporate information on the vision and mission for the public open spaces in the West Kowloon Cultural District ("WKCD"), i.e. the vision and mission statement, as a preamble to the proposed Bylaw.

Section-by-section examination of the proposed Bylaw

5. The Subcommittee commenced section-by-section examination of the Chinese text of the proposed Bylaw and completed examination of sections 1 to 9.

Follow-up actions arising from the discussion at the meeting

WKCD 6. The Subcommittee requested WKCD to respond in writing to the issues raised by members and the Legal Adviser to the Subcommittee as set out in **Annex B**.

III. Any other business

Date of next meeting

7. The Chairman said that the Clerk would follow up with the Administration and WKCD on the arrangements for the next meeting and members would be informed of the details in due course.

(Post-meeting note: Members were informed vide LC Paper No. CB(2)1340/15-16 on 20 April 2016 that with the concurrence of the Chairman, the next meeting of the Subcommittee was scheduled for 9 May 2016, from 8:45 am to 10:30 am.)

8. There being no other business, the meeting ended at 12:43 pm.

**Proceedings of second meeting of the
Subcommittee on Proposed Resolution under Section 37 of
the West Kowloon Cultural District Authority Ordinance (Cap. 601)
on Monday, 18 April 2016, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)/Discussion	Action Required
<i>Agenda Item I - Meeting with deputations, the Administration and the West Kowloon Cultural District Authority</i>			
000627 - 000755	Chairman	Meeting arrangement	
<i>Agenda Item II - Meeting with the Administration and the West Kowloon Cultural District Authority</i>			
000756 - 002008	Chairman WKCDA Mr Alan LEONG Law Draftsman	<p>Briefings by the Law Draftsman of the Department of Justice ("DoJ") and the West Kowloon Cultural District Authority ("WKCDA") on their responses to the issues raised at the last meeting of the Subcommittee held on 14 March 2016 in relation to the West Kowloon Cultural District (Public Open Spaces) Bylaw ("the proposed Bylaw") (LC Paper Nos. CB(2)1263/15-16(02) and (03)).</p> <p>In response to Mr Alan LEONG, WKCDA advised that in the light of the views of the Joint Subcommittee to Monitor the Implementation of the West Kowloon Cultural District Project on the preliminary draft of the proposed Bylaw, it had originally proposed to include information on the vision and mission for the public open spaces ("POS") in the West Kowloon Cultural District ("WKCD") in the enacting formula which was located immediately after the title heading of the proposed Bylaw. Having considered the advice of DoJ that the proposed inclusion of the vision and mission statement in the enacting formula was inappropriate as an enacting formula should merely contain standard wording setting out the enabling provision in the empowering Ordinance, WKCDA currently proposed to incorporate the vision and mission statement as a preamble to the proposed Bylaw.</p> <p>On Mr Alan LEONG's enquiry about whether WKCDA's current proposal was acceptable to the Law Draftsman, the Law Draftsman advised that while the use of preambles in subsidiary legislation was not common, there were precedents in Hong Kong and she saw no difficulty with the inclusion of a preamble, the content of which was a matter for WKCDA to decide, in the proposed Bylaw.</p>	
002009 - 002607	Chairman Mr WU Chi-wai WKCDA	<p>Noting the view expressed in some written submissions received by the Subcommittee that hawking activities should be allowed in WKCD POS, Mr WU Chi-wai raised the following enquiries:</p> <p>(a) whether cooked food hawkers, which were part of the local culinary culture, would be allowed to operate in WKCD POS, and if so, whether and</p>	

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		<p>how such hawking activities would be subject to regulation; and</p> <p>(b) whether bazaars and fairs would be allowed to be held in WKCD POS subject to certain conditions and application and approval process.</p> <p>WKCDA advised that:</p> <p>(a) while it had provided a refreshment kiosk in the Nursery Park and would seek to provide more opportunities for the holding of properly organized food sale activities in WKCD POS subject to all relevant requirements under the existing laws in Hong Kong being met, unrestricted access to WKCD POS for cooked food hawkers would not be permissible on grounds of food safety and environmental hygiene; and</p> <p>(b) it was WKCDA's intention to make available different types of activities and operations, including market stalls, to animate WKCD POS. For instance, a variety of market stalls were set up during the Freespace Happening held in the Nursery Park between August 2015 and March 2016.</p>	
002608 - 004448	<p>Chairman Mr Alan LEONG WKCDA ALA5 Law Draftsman Mr WU Chi-wai Miss CHAN Yuen-han Mr CHAN Chi-chuen</p>	<p>Mr Alan LEONG's suggestion that WKCDA should consider providing expressly in the preamble to the proposed Bylaw that WKCDA should give sufficient consideration to, and seek to achieve, the vision and mission for WKCD POS as set out in the preamble in enforcing the proposed Bylaw.</p> <p>The Legal Adviser to the Subcommittee's advice that from the drafting perspective, the preamble served to provide background information on the proposed Bylaw and could not be used to override the clear and unambiguous provisions of the Bylaw.</p> <p>The Law Draftsman's advice as follows:</p> <p>(a) while a preamble to a piece of legislation was of value in interpreting the provisions within the legislation, the extent to which the preamble governed the outcomes was ultimately for judicial interpretation; and</p> <p>(b) as the principal ordinance (i.e. the West Kowloon Cultural District Authority Ordinance (Cap. 601) ("WKCDAO")) would prevail over the proposed Bylaw, sections 4(1) and 4(2) of WKCDAO which set out the functions and objectives of WKCDA would be given predominant effect in interpreting matters relating to the enforcement and the scope of the proposed Bylaw.</p>	

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		<p>Mr WU Chi-wai's suggestion that to address members' concern that the implementation of the proposed Bylaw should not unduly restrict public enjoyment of WKCD POS, WKCDA might consider stating explicitly in the proposed Bylaw that it would have regard to the vision and mission for WKCD POS as set out in the preamble to the Bylaw in formulating the details of implementation of the Bylaw.</p> <p>WKCDA's response as follows:</p> <p>(a) as WKCDA was obliged to comply with both WKCDAO and the proposed Bylaw once it was enacted, it did not see any need to state explicitly in the proposed Bylaw the requirement for WKCDA to have regard to the vision and mission for WKCD POS in implementing the Bylaw; and</p> <p>(b) it would, however, reinforce in its instructions, guidelines and manuals the requirement for all of its authorized persons to adopt an approach that aimed to achieve the vision and mission for WKCD POS in administering the Bylaw, so as to ensure that such an approach would be applied properly and consistently.</p> <p>The Chairman's request for WKCDA to consider the need of stating explicitly in the proposed Bylaw, through including a footnote or other appropriate means, that the vision and mission statement in the preamble to the proposed Bylaw was formulated on the basis of section 4(2) of WKCDAO.</p>	<p>WKCDA (paragraph 1(a) of Appendix B to the minutes)</p>
004449 - 005448	Chairman WKCDA Ms Cyd HO	<p>Referring to paragraph 3 of WKCDA's written response to the issues raised at the last meeting of the Subcommittee held on 14 March 2016 (LC Paper No. CB(2)1263/15-16(03)), Ms Cyd HO sought the following information:</p> <p>(a) whether WKCDA's authorized persons would be provided with any equipment to deal with difficult situations requiring police assistance before the arrival of the police; and</p> <p>(b) given that WKCDA's authorized persons included not only Park Ambassadors and Senior Park Ambassadors but also security personnel, whether WKCDA would have its own in-house security team or whether it would engage security staff through outside contractors.</p> <p>The Chairman also enquired whether WKCDA's authorized persons would be armed or use handcuffs and plastic strings to subdue a person suspected to have committed an offence under the proposed Bylaw, and whether WKCDA was empowered under the proposed Bylaw to detain the person at a designated place before the person was handed over to the Police.</p>	

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		<p>WKCDA's advice that:</p> <ul style="list-style-type: none"> (a) WKCDA's authorized persons would be unarmed and the equipment to be provided to them would be minimal, with no handcuffs, ropes or batons. They were not trained to engage in direct physical confrontations, but rather to avoid confrontations and to de-escalate any difficult situation through, for instance, talking to the person concerned and escorting the person out of the scene. Where the use of force was necessary, they would be required to adhere to the principle that such use of force should be minimal and should stop once the person was removed from the situation. They would also be instructed to seek the Police's assistance when a situation was escalating and getting out of control. WKCDA would keep its incident management guidelines under review; (b) while WKCDA would develop in due course a team of core security staff under its direct control and would also bring in additional security staff from outside contractors for events held in WKCD POS, all security staff would be required to go through the same training and work to WKCDA' standards; and (c) WKCDA was empowered under the proposed Bylaw to detain a person suspected to have committed an offence under the proposed Bylaw, usually at WKCDA's office or the Park Administration Office, until the person was delivered into the custody of a police officer. 	
005449 - 005930	Chairman Ms Cyd HO WKCDA	<p>Ms Cyd HO's enquiries regarding WKCDA's incident management guidelines (Annex 1 to LC Paper No. CB(2)1263/15-16(03)) as follows:</p> <ul style="list-style-type: none"> (a) the purpose of requesting an offender of vandalism to sign an undertaking that he/she agreed to pay for the corresponding damage and how WKCDA would deal with cases involving repeated offenders; and (b) whether the requirements for certain classes of dogs being held on leashes or fitted with muzzles in public places under the Dogs and Cats Ordinance (Cap. 167) would also apply to WKCD POS. <p>WKCDA's advice that:</p> <ul style="list-style-type: none"> (a) while it would avoid barring repeated offenders from revisiting WKCD POS, it would take steps to prevent a person committing acts of vandalism from continuing such acts. The main purposes of the undertaking were to require the offender to acknowledge what he/she had done and to remind 	

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		<p>the offender that any act of vandalism was not cost-free and would cause disturbance to others; and</p> <p>(b) the Dogs and Cats Ordinance would also apply to WKCD POS and a person bringing a dog into POS was required under the proposed Bylaw to keep the dog on a leash or under control by other appropriate means at all times. However, there would be designated areas within WKCD where dogs could be off leash.</p> <p>Ms Cyd HO's suggestion that if dog owners could demonstrate that their dogs had been properly trained and were obedient and non-aggressive off leash, WKCDA should consider exempting such dogs from the leashing requirement.</p> <p>WKCDA's response that it needed to strike a balance between the interests of dog lovers and those of other people who might be afraid of dogs. While it was necessary on safety grounds to ensure that the dogs in WKCD POS were kept under control, WKCDA would make available designated areas within WKCD for dogs to be off leash.</p>	
<i>Section-by-section examination of the proposed Bylaw</i>			
005931 - 010116	Chairman WKCDA	<p>Section-by-section examination of the proposed Bylaw (Appendix 1 to LC Paper No. CB(3)413/15-16)</p> <p><u>Proposed amendment by WKCDA - Preamble</u></p> <p>Members' agreement that the preamble would be dealt with at the next meeting.</p>	
010117 - 010436	WKCDA	<p><u>Part 1 - Preliminary</u></p> <p><i>Section 1 on interpretation</i></p>	
010437 - 011030	Chairman WKCDA Ms Cyd HO	<p><u>Part 2 - Boundary, Access, Management and Control</u></p> <p><i>Section 2 on interpretation</i></p> <p><i>Section 3 on authorization by WKCDA</i></p> <p>Ms Cyd HO's suggestion that WKCDA should specify clearly in section 3 of the proposed Bylaw (i) the types of persons who would be given authorization by WKCDA; (ii) the functions that each of these types of authorized persons were to perform; and (iii) the powers (in particular, the enforcement powers conferred under Part 10 such as those relating to detention of a person who had committed an offence under the proposed Bylaw until the person was delivered into the custody of a police officer) to be given to each of these types of authorized persons.</p>	

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		<p>Her view that powers relating to detention of offenders should be conferred only on personnel at designated ranks or above.</p> <p>WKCD's response that apart from its own officers and employees, it would also procure services from outside contractors (e.g. security services for events held in WKCD POS). It was therefore necessary for WKCD to be able to confer certain powers on those outside contractors under the proposed Bylaw. To enhance transparency and clarity, WKCD was exploring the idea of having its authorized persons wearing a badge to indicate who they were and what powers they were vested with.</p> <p>Ms Cyd HO's request for WKCD to consider her suggestion above and her indication that she might move amendment(s) should WKCD refuse to improve the current drafting of section 3 of the proposed Bylaw.</p>	<p>WKCD (paragraph 1(b) of Appendix B to the minutes)</p>
011031 - 011249	Chairman Ms Cyd HO WKCD	<p><i>Section 4 on permission by WKCD or authorized person</i></p> <p>In response to Ms Cyd HO's query on the appropriateness of granting oral permission for the conduct of events in WKCD POS, WKCD clarified that formal events were required under section 10(1) of the proposed Bylaw to obtain WKCD's written permission before they could proceed. The granting of oral permission sought mainly to deal with the practical day-to-day administration of minor acts or activities within WKCD POS which were otherwise prohibited or restricted under the proposed Bylaw.</p>	
011250 - 012155	Chairman WKCD Dr Helena WONG ALA5	<p><i>Section 5 on boundaries of POS</i></p> <p><i>Section 5(1) and 5(2)</i></p> <p>Dr Helena WONG's concern that the boundaries of WKCD POS and of the restricted areas within POS to be delineated by WKCD under section 5(1) and 5(2) of the proposed Bylaw were not subject to the approval of the Legislative Council. Her enquiries on whether the plan for WKCD POS was available, and whether all non-building areas within WKCD would be included as POS.</p> <p>WKCD's advice that:</p> <p>(a) to ensure consistent and effective management of POS, it planned to apply the proposed Bylaw to the Park as well as other POS in WKCD including the Artist Square, M+ podium, Xiqu Square, the Avenue and the waterfront promenade;</p> <p>(b) the plan for all POS within WKCD was not available at this stage as certain POS had yet to be</p>	

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		<p>developed. WKCD had prepared a plan for the Nursery Park, which would be the only POS that the proposed Bylaw, if enacted, would apply to in the initial stage. Given the ongoing development of the Park and other POS, it was necessary for WKCD to be empowered under the Bylaw to cause new plans for all POS within WKCD to be published from time to time; and</p> <p>(c) it was WKCD's intention to minimize the restricted areas within WKCD POS such that maximum access to POS could be provided for public enjoyment.</p>	
012156 - 012306	Chairman WKCD	<i>Section 6 on general admission etc.</i>	
012307 - 012917	Chairman WKCD Mr CHAN Chi-chuen ALA5 Ms Cyd HO	<p>In response to Mr CHAN Chi-chuen's enquiry in relation to section 5(4) and 5(5) of the proposed Bylaw, WKCD explained that the plan for the Nursery Park, which would be the only POS to which the proposed Bylaw would apply in the initial stage, was already available. With the ongoing development of the Park and other POS, the plan for all POS within WKCD would be prepared and published in due course.</p> <p><i>Section 7 on restricted areas and Section 8 on closed areas</i></p> <p>The Legal Adviser to the Subcommittee's suggestion that WKCD should consider providing a defence of reasonable excuse for the offences set out in sections 7(2) and 8(4), as well as other offences punishable with a fine under the proposed Bylaw.</p> <p>The Chairman's and Ms Cyd HO's expression of their concurrence with the suggestion, which in their view would enhance the protection for members of the public who might inadvertently contravene the relevant requirements under the proposed Bylaw.</p> <p>WKCD's response that while it was not an absolute requirement for WKCD to prosecute an offender and WKCD would have regard to the actual circumstances before deciding on the appropriate course of action, it would examine the suggestion raised by the Legal Adviser to the Subcommittee.</p>	<p>WKCD (paragraph 1(c) of Appendix B to the minutes)</p>
012918 - 014229	Chairman WKCD Ms Cyd HO Admin Dr Helena WONG Miss CHAN Yuen-han	<p><i>Section 9 on domestic animals</i></p> <p><i>Section 9(1) to 9(4)</i></p> <p>Referring to paragraphs 2 to 4 of WKCD's reply to the letters dated 11 March and 5 April 2016 from the Legal Adviser to the Subcommittee (LC Paper No. CB(2)1263/15-16(05)) and section 9(1) of the proposed Bylaw, Ms Cyd HO and Dr Helena WONG raised the following enquiries:</p>	

Time marker	Speaker(s)	Subject(s)/Discussion	Action Required
		<p>(a) what would and would not be considered by WKCDA as "domestic animal" under the proposed Bylaw, including whether chickens, duck, geese and piglets would be considered as domestic animals;</p> <p>(b) the domestic animal(s) which would be prohibited from being brought into WKCD POS under section 9(1) of the proposed Bylaw; and</p> <p>(c) if the Subcommittee considered it more appropriate to adopt the term "domestic animal (家居動物)" instead of "pet (寵物)" in the proposed Bylaw, whether the Administration would consider amending correspondingly the references to "pet animal/pet (寵物)" in the Pleasure Grounds Regulation (Cap. 132BC) ("PGR") and the Tung Chung Cable Car Bylaw (Cap. 577A) ("Cable Car Bylaw") to "domestic animal (家居動物)".</p> <p>WKCDA's explanation that it welcomed members of the public bringing domestic animals into WKCD POS and it intended to be more flexible in the admission of such animals. Generally speaking, any animal would be admitted to POS so long as it was kept under control by the person who brought it into POS. The main purpose of section 9(1) and 9(2) of the proposed Bylaw was to empower WKCDA to prohibit certain classes of animals to be brought into POS in situations where it was absolutely necessary, such as during a bird flu outbreak.</p> <p>The Administration's response that while the suggestion of amending the term "pet animal/pet (寵物)" in PGR and Cable Car Bylaw to "domestic animal (家居動物)" would be relayed to the relevant bureaux/departments for consideration, it should be noted that the context of the regulatory regime of the legislation concerned would have to be taken into account in considering the suggestion.</p> <p>Concerns of Dr Helena WONG and Miss CHAN Yuen-han that disputes among POS users might arise as an animal being brought into POS by a user might not be considered acceptable by other users. Their enquiries about how WKCDA would deal with such disputes and whether the burden of resolving such disputes would fall on the Park Administrators and other frontline staff of WKCDA who were responsible for managing POS.</p> <p>The Chairman's enquiry about whether WKCDA would allow endangered animals, the import of which was regulated under the existing laws in Hong Kong, to be brought into WKCD POS.</p>	

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		<p>WKCDA's response as follows:</p> <p>(a) while it would seek to raise the awareness of the public about the nature of WKCD POS and to manage their expectation that there might be different kinds of animals in POS, WKCDA was empowered under section 9 of the proposed Bylaw to deal with complaints lodged about animals being brought into POS;</p> <p>(b) section 9(4) of the proposed Bylaw specifically put the onus on the person bringing a domestic animal into POS not to allow the animal to cause a danger, nuisance or annoyance to any other person;</p> <p>(c) since the opening of the Nursery Park in July 2015, there were occasional incidents where the Park users did not keep their domestic animals under control. The Park Ambassadors were trained to deal with such situations and had no difficulty seeking the cooperation of the users concerned so far; and</p> <p>(d) in the case of the bringing of endangered animals into POS, the existing laws in Hong Kong relevant to controls on endangered animals would apply and WKCDA would comply with the ruling of the relevant authority.</p>	
014230 - 014436	Chairman WKCDA Dr Helena WONG	<p><i>Section 9(5) and 9(6)</i></p> <p>Dr Helena WONG's enquiry and WKCDA's response regarding the facilities that would be provided in WKCD POS to facilitate the compliance with the requirements under section 9(6) by persons bringing domestic animals into POS.</p>	
014437 - 015127	Chairman WKCDA ALA5 Ms Cyd HO	<p><i>Section 9(7) to 9(9)</i></p> <p>The Legal Adviser to the Subcommittee's enquiry about whether WKCDA would consider spelling out the meaning of "assistance animal" in the proposed Bylaw to enhance clarity having regard to, for instance, the definitions adopted in the laws of Australia and of the United States.</p> <p>WKCDA's response that different types of animals were being used as assistance animals in different jurisdictions. As Hong Kong legislation currently did not have a similar provision which defined "assistance animal", it would be inappropriate for WKCDA to set out a definition of "assistance animal" in the proposed Bylaw before the Government had done so in the laws of Hong Kong. Furthermore, WKCDA would like to adopt a flexible approach in order to avoid preventing inadvertently the use of a particular animal as an assistance animal. To</p>	

**Subcommittee on Proposed Resolution under Section 37 of
the West Kowloon Cultural District Authority Ordinance (Cap. 601)**

**List of follow-up actions required of
the West Kowloon Cultural District Authority ("WKCD")
arising from the discussion at the meeting on 18 April 2016**

1. WKCD was requested to respond to the following suggestions raised by members of the Subcommittee/the Legal Adviser to the Subcommittee in relation to the proposed West Kowloon Cultural District (Public Open Spaces) Bylaw ("the proposed Bylaw"):

- (a) to consider the need of stating explicitly in the proposed Bylaw, through including a footnote or other appropriate means, that the vision and mission statement in the proposed preamble (as provided in paragraph 2 of WKCD's response to the issues raised at the meeting on 14 March 2016 (LC Paper No. CB(2)1263/15-16(03)) was formulated on the basis of section 4(2) of the principal Ordinance (i.e. the West Kowloon Cultural District Authority Ordinance (Cap. 601) ("WKCDAO")), which set out the objectives that WKCD aimed to achieve in performing its functions under section 4(1) of WKCDAO;
- (b) to specify clearly in section 3 of the proposed Bylaw the types of persons who would be given authorization by WKCD, the functions that each of these types of authorized persons were to perform and the powers (in particular, the enforcement powers conferred under Part 10 such as those relating to detention of a person who had committed an offence under the proposed Bylaw until the person was delivered into the custody of a police officer) to be given to each of these types of authorized persons under the proposed Bylaw; and
- (c) to provide a defence of reasonable excuse for the offences set out in sections 7(2), 8(4) and 9(9), as well as other offences punishable with a fine under the proposed Bylaw, so as to enhance the protection for members of the public who might inadvertently contravene the relevant requirements under the proposed Bylaw.

2. WKCD was also requested to clarify the definition of "events" the conduct of which would require the written permission of WKCD under section 10(1) of the proposed Bylaw, and advise whether persons who intended to conduct events in the public open spaces in the West Kowloon Cultural District would be subject to the relevant requirements under the Places of Public Entertainment Ordinance (Cap. 172) in addition to those under section 10 of the proposed Bylaw.