

**立法會**  
***Legislative Council***

LC Paper No. FC209/17-18

(These minutes have been  
seen by the Administration)

Ref : FC/1/1(26)

**Finance Committee of the Legislative Council**

**Minutes of the 52<sup>nd</sup> meeting  
held at Conference Room 1 of the Legislative Council Complex  
on Thursday, 22 June 2017, at 2:30 pm**

**Members present:**

Hon CHAN Kin-por, BBS, JP (Chairman)  
Hon LEUNG Yiu-chung  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon WONG Ting-kwong, SBS, JP  
Hon CHAN Hak-kan, BBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon LEUNG Kwok-hung  
Hon Claudia MO  
Hon Steven HO Chun-yin, BBS  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, SBS, JP  
Hon CHAN Chi-chuen  
Hon CHAN Han-pan, JP  
Hon LEUNG Che-cheung, BBS, MH, JP  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Hon IP Kin-yuen

Dr Hon Elizabeth QUAT, JP  
Hon Martin LIAO Cheung-kong, SBS, JP  
Hon POON Siu-ping, BBS, MH  
Ir Dr Hon LO Wai-ki, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Alvin YEUNG  
Hon Andrew WAN Siu-kin  
Hon CHU Hoi-dick  
Hon Jimmy NG Wing-ka, JP  
Hon LAM Cheuk-ting  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon YUNG Hoi-yan  
Hon CHAN Chun-ying  
Hon Tanya CHAN  
Hon CHEUNG Kwok-kwan, JP  
Hon HUI Chi-fung  
Hon LUK Chung-hung  
Hon LAU Kwok-fan, MH  
Dr Hon CHENG Chung-tai  
Hon KWONG Chun-yu  
Hon Jeremy TAM Man-ho  
Hon Nathan LAW Kwun-chung  
Dr Hon YIU Chung-yim  
Dr Hon LAU Siu-lai

**Members absent:**

Hon Michael TIEN Puk-sun, BBS, JP (Deputy Chairman)  
Hon James TO Kun-sun  
Hon Starry LEE Wai-king, SBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Frankie YICK Chi-ming, JP  
Hon Charles Peter MOK, JP  
Hon Kenneth LEUNG  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon Dennis KWOK Wing-hang  
Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Helena WONG Pik-wan  
Dr Hon CHIANG Lai-wan, JP  
Dr Hon Junius HO Kwan-yiu, JP

Hon HO Kai-ming  
Hon SHIU Ka-chun  
Hon Wilson OR Chong-shing, MH  
Dr Hon Pierre CHAN  
Hon Kenneth LAU Ip-keung, MH, JP

[According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.]

**Public officers attending:**

Ms Elizabeth TSE Man-ye, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Mr Raistlin LAU, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) <sup>3</sup>
Mr Alfred ZHI Jian-hong	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
Mr LAU Kong-wah, JP	Secretary for Home Affairs
Mrs Betty FUNG CHING Suk-ye, JP	Permanent Secretary for Home Affairs
Mr YEUNG Tak-keung, JP	Commissioner for Sports, Home Affairs Bureau
Ms Linda LAW Lai-tan	Principal Assistant Secretary for Home Affairs (Recreation and Sport) 2

**Other persons attending:**

Mr Michael CAMERLENGO	Director (Infrastructure Advisory), KPMG
Mr Ramsey YU	Manager (Infrastructure Advisory), KPMG
Mr Peter WEILEY	Principal and Branch Manager, Advisian

**Clerk in attendance:**

Ms Anita SIT

Assistant Secretary General 1

**Staff in attendance:**

Mr Derek LO

Chief Council Secretary (1)5

Ms Ada LAU

Senior Council Secretary(1)7

Mr Raymond SZETO

Council Secretary (1)5

Mr Frankie WOO

Senior Legislative Assistant (1)3

Ms Michelle NIEN

Legislative Assistant (1)5

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Action

**Item No. 1 — FCR(2017-18)14**

**RECOMMENDATION OF THE PUBLIC WORKS  
SUBCOMMITTEE MADE ON 31 MAY 2017**

**PWSC(2017-18)2**

**HEAD 703 — BUILDINGS**

**Recreation, Culture and Amenities — Sports facilities**

**272RS — Kai Tak Sports Park**

The Chairman reminded members of the requirements under Rule 83A and Rule 84 of the Rules of Procedure.

2. The Chairman said that this item invited the Finance Committee ("FC") to approve the recommendation of the Public Works Subcommittee ("PWSC") made at its meeting held on 31 May 2017, i.e. the upgrading of the remaining part of 272RS to Category A at an estimated cost of \$31,898 million in money-of-the-day prices for the construction of the Kai Tak Sports Park ("KTSP") to support the further development of sports in Hong Kong. PWSC had discussed this proposal at five meetings, spending about 11 hours and 23 minutes on the deliberation. The Administration had also provided a number of information papers at members' requests. At the meeting on 17 June 2017, FC spent about 2 hours and 25 minutes on this item. A number of supplementary information papers were submitted by the Administration and circulated for members' information.

3. The Chairman declared that he was an independent non-executive director of The Bank of East Asia.

4. Mr KWONG Chun-yu enquired whether it was the decision of the Chairman or the suggestion of the President of the Legislative Council that FC held its meetings today, given that a Council meeting should have been held at this time. The Chairman said that it was the President who, in view of the large number of outstanding items pending FC's deliberation, suggested holding FC meetings today, and he himself also agreed that those items should be dealt with as soon as possible.

5. Mr CHU Hoi-dick suggested the Chairman inviting the Administration to explain the paper and asked the Chairman for his decision on the seven motions that Mr CHU himself had proposed under paragraph 21 of the Finance Committee Procedure ("FCP") in respect of "Kai Tak Sports Park — construction works". The Chairman said that he would carefully peruse and consider the proposed motions submitted by Mr CHU and make his ruling before this item was put to vote.

6. At the invitation of the Chairman, the Permanent Secretary for Home Affairs ("PSHA") briefed members on the supplementary information papers provided by the Home Affairs Bureau ("HAB"), including LC Paper No. FC193/16-17(01). Regarding the questions raised by Dr YIU Chung-yim at the FC meetings on 17 June 2017, the Director (Infrastructure Advisory), KPMG ("D(IA)/KPMG") gave responses and explanations.

#### Profit sharing

7. Mrs Regina IP enquired whether the KTSP project would cover property development. Mrs IP, Mr LUK Chung-hung and Ms Claudia MO asked the Administration whether there was a mechanism to cap the profits of the Contracted Party. Mr Andrew WAN enquired whether the income generated by KTSP would be spent on sports.

8. The Secretary for Home Affairs responded that property development was not part of the project, which, however, comprised a multi-purpose Main Stadium, an outdoor sports ground, an Indoor Sports Centre, as well as various ancillary facilities, including retail and dining outlets. As for the construction of a hotel and office buildings under the original proposal, it would be developed through a land tender separately. PSHA supplemented that:

- (a) the Government would select a Contracted Party by tender, and would clearly set out in its tender documents the tender evaluation criteria to be adopted as well as the weightings of various items in the marking scheme. The tenderer was required to propose, in its tenders, its profit-sharing arrangement with the Government during the operation of KTSP, which was one of the items in the tender marking scheme;
- (b) the Government did not intend to impose profit controls in this project as there would be control over sports facility charges, performance indicators and operation approach; and
- (c) the general revenue and expenditure of the Government were dealt with separately. Therefore, the revenue generated by KTSP would first be credited to the Treasury, while similarly, sports expenditure would be disbursed according to the existing mechanism.

Project cost

9. Noting that out of the estimated project cost of about \$31.9 billion, the Contracted Party would only be required to contribute some \$900 million (i.e. a performance bond of \$200 million plus an amount of no less than \$700 million as financial guarantee), Dr KWOK Ka-ki was concerned about the huge profits to be made by the Contracted Party each year from the operation of KTSP's ancillary facilities. He queried whether KTSP was a project which, under the guise of sports development, allowed the Contracted Party to earn excessive profits at the expense of public money. Dr LAU Siu-lai expressed support for the proposed project. She asked why the Administration had not made any financing arrangement for this project to share the risks but decided to fully finance the building of KTSP. She also enquired about the risk-transfer measures to be taken by the Administration.

10. SHA responded that KTSP was a long-awaited project in the sports sector which hoped that this project would open a new chapter in sports development. He urged FC to approve this item as soon as possible. The Government would inject some \$31.9 billion on sports infrastructure, and another \$20 billion on the construction of a total of 26 recreational and sports facilities in various districts in the coming five years. The Contracted Party would also have to bear the investment risks as the project was operated on a self-financing basis.

11. PSHA supplemented that in the view of the Government, instead of operating as a "joint venture", it was more desirable to require the Contracted Party to offer a fixed payment and share its income with the Government. The Government had previously considered requesting the Contracted Party to share part of the construction costs. However, as KTSP was a social infrastructure, apart from the dining and retail outlets, the recreational and sports facilities that were open for public use would not generate profits. As such, even if the Contracted Party was required to fund part of the project costs, its share would be around 5% of the total costs at most. Given the above considerations, the Government finally decided to fund this project in full so as to maintain its effective oversight of KTSP, while the Contracted Party was required to bear all the operating costs and take up the operating risks. At the same time, the Government hoped that the Contracted Party would use its experience to operate KTSP in a dynamic manner.

12. Mr LEUNG Yiu-chung did not support this project. He was concerned about the possibility that the Contracted Party might spend big on the design and construction of KTSP while the Administration was the one to pay for the costs. He enquired how the Administration would exercise its oversight of the project and ensure that the design and construction costs proposed by the Contracted Party would not result in wastage of resources.

13. SHA replied that the "Design-Build-Operate" ("DBO") approach was an integrated approach which aimed to put together the three elements. As the Government had proposed to cap the project costs at around \$31.9 billion, if a particular sphere of work experienced cost overruns, the Contracted Party would have to save costs from another sphere of work. In addition, if a tenderer wished to win this contract from the Government, it would have to offer a competitive tender price. This integrated approach could help the Contracted Party in controlling the costs of design, building and operation.

#### Tendering arrangements and "bid incentive"

14. In the light of the controversial "bid incentive" arrangement, Mr CHUNG Kwok-pan asked whether the Administration had considered relinquishing the arrangement and adopting the traditional tendering approach instead. Mr LEUNG Kwok-hung also queried whether the provision of the \$60 million "bid incentive" to each unsuccessful tenderer was a condition in exchange for the agreement of tenderers not to seek judicial review.

15. SHA responded that given the high tendering cost, the Government might not be able to attract a sufficient number of quality bids if "bid incentives" were not provided. The DBO approach allowed the operator to, at the early stage, invite experienced professionals to participate in the mapping out of operation strategies as well as the design and building of KTSP. By providing "bid incentives", the Government could also increase tendering competition and use the intellectual property rights of the design features in unsuccessful tender submissions.

16. Mr MA Fung-kwok expressed the views of the sports sector that they were looking forward to the early commencement of the KTSP project. Mr MA and Mr CHAN Chi-chuen enquired about the Administration's arrangements for ensuring the expeditious construction of KTSP if no satisfactory bids were received in the tendering exercise. Mr CHAN enquired whether there were objective criteria for defining "a reasonable number of competitive bids".

17. PSHA said that with the provision of "bid incentive", the Government believed there would be a reasonable number of competitive bids. If, after tender invitation, none of the bids received were found to be satisfactory, the Government would consider revising its tender documents, tender conditions, etc. Having regard to the concerns raised by members, the Government decided to reduce the number of pre-qualified tenderers from four to three, and among which, one would be selected as the successful tenderer. In case only two pre-qualified tenderers were shortlisted, there would be increased possibility that the tendering exercise would fail due to non-conforming bids. In such a case, it was likely that a re-tendering exercise would be conducted. In this connection, the Government had published another gazette notice to announce that the number of applicants that would be selected for tender invitation would be limited to not more than three.

18. Mr Alvin YEUNG asked the Administration why the total project costs did not reflect that the total amount for the "bid incentive" had been revised from \$180 million to \$120 million (i.e. a reduction of \$60 million).

19. PSHA explained that in general, the provision for contingencies in public works projects was about 10% of total project costs. In this project, the reduction of \$60 million in "bid incentive" was deducted from the project's provision for contingencies which was about \$2.3 billion. As the project's contingencies were maintained at about 10% of the total project costs, the total project costs therefore remained intact. The Deputy Secretary for Financial Services and the Treasury (Treasury) 3 added that

the provision of "bid incentive" was not part of the initial proposal. Therefore, after the inclusion of "bid incentive" into the funding proposal, the relevant sum would be paid out of the provision for contingencies, the amount of contingency provision would therefore be reduced accordingly.

20. Ms Claudia MO enquired whether the amount of "bid incentive" for unsuccessful tenderers could be reduced. SHA responded that according to the estimation made by the Operations Consultant, the bid cost incurred by each tenderer should exceed \$100 million. The proposed amount for the bid incentive was therefore reasonable, i.e. a bid incentive of up to \$60 million or 50% of the above estimated bid cost, whichever is lower.

#### Procurement model

21. Mr CHU Hoi-dick referred to the major assumption data under the "design and build, then operate by Government" ("DBG") approach provided by the Administration in LC Paper No. FC192/16-17(02), saying that according to the estimation of the Operations Consultant, the average annual income from retail and dining outlets and car parks under the DBO approach would approximately double the amount under the DBG approach. However, this estimation was based on the assumption that the Main Stadium, under the DBO approach, would have 30 event days per annum, while under the DBG approach, would only have 13 event days per annum, which was similar to the current Hong Kong Stadium event schedule. He questioned the appropriateness of taking the event schedule of the Hong Kong Stadium as the assumed event days under the DBG approach, given that activities such as concerts could not be held at the Hong Kong Stadium. Mr KWONG Chun-yu raised a similar question. Mr CHU also asked the Administration whether, in case the DBG approach was adopted, it was possible to adopt a leasing arrangement which was closest to operating the retail and dining outlets under a commercial approach.

22. Mr KWONG Chun-yu referred to the assumptions taken by the Operations Consultant in respect of the average monthly rent of retail and dining outlets per leasable square metre, i.e. \$840 and \$360 under the DBO approach and the DBG approach respectively. He requested the Administration to explain how such estimations were derived. Pointing out that under the DBG approach, an additional cost of \$300 million to \$400 million at the initial operation stage would enable the Administration to effectively oversee the operation of KTSP, he asked the Administration why it did not adopt the DBG approach.

23. D(IA)/KPMG responded that the income estimations had taken into account various factors, such as the differences between government departments and private contractors in terms of their experience in business promotion and procurement, as well as the prevailing reference data in relation to the Hong Kong market.

24. PSHA supplemented that:

- (a) the activities currently in the event schedule of the Hong Kong Stadium mainly included local football matches and public activities. In future, the Main Stadium of KTSP could be used to hold other activities that might generate more income, such as cultural and entertainment activities and concerts;
- (b) regarding the operation of KTSP, the average monthly rent of retail and dining outlets per leasable square metre under the DBO approach was estimated at \$840, based on the rental value of facilities operated on commercial principles in nearby areas such as Kowloon City and Wong Tai Sin. As for the government-run facilities in nearby areas, the information obtained from the Government Property Agency or the Leisure and Cultural Services Department ("LCSD") revealed that the monthly rental value of such facilities was about \$360; and
- (c) according to the established procurement policy of the Government, commercial facilities were either leased by the contractors responsible for managing the properties on behalf of the Government under management contracts, or directly leased by the Government through tender under revenue contracts. Under both scenarios, the rental income generated might not be comparable to the income generated under the scenario where the entire shopping mall was operated by privately-run institutions.

25. Regarding the venues in KTSP, Dr CHENG Chung-tai enquired about how the costs of depreciation by wear and tear and the maintenance costs would be calculated and shared, as well as how to define the large-scale maintenance works for which the Administration would be held responsible.

26. PSHA responded that the Government would clearly specify in its contract to be signed with the Contracted Party that the latter was responsible for daily operating expenses, routine maintenance fees, etc., while the Government would bear the expenses arising from replacement of designated facilities and components as required. The Government would set up an advisory committee to follow up on the relevant monitoring work.

#### Contractual arrangements

27. Mr CHUNG Kwok-pan, Dr KWOK Ka-ki and Mr Andrew WAN were concerned about the follow-up actions to be taken by the Administration if the Contracted Party underperformed. SHA responded that the Government had the right to terminate the contract in case the Contracted Party failed to deliver satisfactory performance. PSHA added that the Government would specify the key performance indicators, as well as penalties in case of underperformance, in its contract to be entered with the Contracted Party. If the performance of the Contracted Party was persistently or seriously unsatisfactory, the Government might consider terminating the contract.

28. Mr LEUNG Kwok-hung asked how the Administration would, during the construction of KTSP, forestall the lodging of judicial reviews by other business operators, as in the case of the York Community Stadium project in the United Kingdom. SHA responded that KTSP was a project which had gone through long-term planning and public consultation, and its current proposal was drawn up after gauging extensive views.

29. Mr LUK Chung-hung supported the proposed project. He was concerned whether the venue fees of KTSP would be similar to those charged by other sports venues and whether the fee levels would be specified in the contract to be signed with the Contracted Party. Mr LUK and Mr Andrew WAN enquired how the Administration could ensure that the ancillary facilities would be operated in a way that might cater for the development needs of KTSP and achieve the policy objectives of promoting sports development.

30. PSHA replied that the hiring charges for community sports facilities must be set by making reference to the charges for relevant facilities operated by LCSD and other non-profit-making organizations, and this requirement would be included in the contract. The Government would ensure that the operation of the ancillary facilities there could cater for the development needs of KTSP, and a Joint Review Committee comprising senior officials of the Government and representatives from the Contracted Party would be set up to monitor the operation of KTSP. The Government would regulate the fees charged by community sports facilities, and the major source of income of the Contracted Party was the income generated by hosting major events in the Main Stadium and operating various ancillary facilities, such as retail and dining outlets. The Government also hoped that the Contracted Party would do its best in operating such facilities to increase its profits.

31. Regarding the hiring of venues in KTSP, Dr CHENG Chung-tai and Mr Holden CHOW enquired how the Administration would monitor the Contracted Party so as to ensure that the organizers of sports, entertainment and other events would be given a fair chance to hire the venues. Mr CHOW sought explanation from the Administration on how it could ensure that both major sports events and new sports items which were not yet popular would be held in KTSP.

32. PSHA explained that the Government would specify the allocation criteria and scheduling requirements for events to be held at the Main Stadium and the Indoor Sports Centre, including the allocation of venues and timeslots for sports and non-sports events. The Commissioner for Sports, Home Affairs Bureau supplemented that the "M" Mark Scheme System had been launched to ensure that major sports events could be held. As for new sports items, discussion would be held with the Contracted Party based on actual situations.

33. Mr Andrew WAN enquired why the hotel, an ancillary facility of KTSP, was eventually developed separately and whether the Administration had estimated the income to be generated by the ancillary facilities, including dining and retail outlets.

34. PSHA responded that the hotel and the office building were originally planned to be built in KTSP. However, after discussions with other government departments, it was considered more appropriate to develop those facilities through land sale. Regarding the income estimates for the Government, the tenderers were required to specify in their bids the percentage of KTSP's gross operating income to be shared with the Government each year and the minimum amount of the fixed payment to be paid to the Government, as two of the items in the marking scheme for tender evaluation. According to the financial forecast made by the Operations Consultant, it was estimated that by 2026, the income generated by KTSP before income sharing would be around \$291 million.

Policy objectives

35. Mr LUK Chung-hung enquired whether the Administration would formulate a more comprehensive policy on sports development in tandem with the completion of the KTSP project. SHA said that while it was of paramount importance to develop Hong Kong into a prime destination for hosting major international sports events, the lack of sports venues was the main restraint on this development. The construction of KTSP came as a solution to this problem.

36. The meeting ended at 4:30 pm.

Legislative Council Secretariat  
28 March 2018