

立法會
Legislative Council

LC Paper No. FC93/18-19
(These minutes have been
seen by the Administration)

Ref : FC/1/1(10)

Finance Committee of the Legislative Council

Minutes of the 11th meeting
held at Conference Room 1 of the Legislative Council Complex
on Friday, 8 December 2017, at 5:00 pm

Members present:

Hon CHAN Kin-por, GBS, JP (Chairman)
Hon Michael TIEN Puk-sun, BBS, JP (Deputy 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 WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, SBS, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen

Hon CHAN Han-pan, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP
Hon Dennis KWOK Wing-hang
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, BBS, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kiwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon CHAN Chun-ying
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho

Members absent:

Hon James TO Kun-sun
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon Jimmy NG Wing-ka, JP
Hon Tanya CHAN

Public officers attending:

Ms Alice LAU Yim, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Ms Carol YUEN, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) 1
Mr Mike CHENG Wai-man	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
Mrs Betty FUNG CHING Suk-ye, JP	Permanent Secretary for Home Affairs
Mrs Sorais LEE KWAN Siu-kuen, JP	Project Manager, Home Affairs Bureau
Ms Alice PANG, JP	Project Manager (South), Civil Engineering and Development Department
Mr Ringo MOK Wing-cheong	Deputy Project Manager (South), Civil Engineering and Development Department

Other persons attending:

Mr Duncan PESCOD, GBS, JP	Chief Executive Officer, West Kowloon Cultural District Authority
Mr NG Ying-chuen	Head (Technical Services), West Kowloon Cultural District Authority

Clerk in attendance:

Ms Anita SIT	Assistant Secretary General 1
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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

Action

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

**Item 1 — FCR(2017-18)41
RECOMMENDATION OF THE PUBLIC WORKS
SUBCOMMITTEE MADE ON 1 NOVEMBER 2017**

**PWSC(2017-18)19
HEAD 706 — HIGHWAYS
Transport — Footbridges/pedestrian tunnels
185TB — Lift and Pedestrian Walkway System between Tai Wo
Hau Road and Wo Tong Tsui Street, Kwai Chung**

2. The Chairman advised that the item sought the approval of the Finance Committee ("FC") for the recommendation of the Public Works Subcommittee ("PWSC") made at its meeting held on 1 November 2017, i.e. the recommendation set out in PWSC(2017-18)19 to upgrade 185TB—Lift and Pedestrian Walkway System between Tai Wo Hau Road and Wo Tong Tsui Street, Kwai Chung to Category A at an estimated cost of \$249.4 million in money-of-the-day ("MOD") prices. No member had requested that the recommendation be put to vote separately at the FC meeting.

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

Voting on FCR(2017-18)41

4. The Chairman put item FCR(2017-18)41 to vote. The Chairman was of the view that the majority of the members present and voting were in favour of the item, and he declared that the item was approved.

**Item 2 — FCR(2017-18)42
RECOMMENDATION OF THE PUBLIC WORKS
SUBCOMMITTEE MADE ON 4 JULY 2017**

**PWSC(2017-18)12
HEAD 707 — NEW TOWNS AND URBAN AREA DEVELOPMENT
Civil Engineering — Land Development
763CL — Integrated Basement for West Kowloon Cultural District**

5. The Chairman advised that the item sought FC's approval for the recommendation of PWSC made at its meeting held on 4 July 2017, i.e. the recommendation set out in PWSC(2017-18)12 to upgrade part of 763CL—Integrated Basement for West Kowloon Cultural District ("WKCD"), entitled "Integrated Basement for West Kowloon Cultural District—third stage of construction works", to Category A at an estimated cost of \$3,178.4 million in MOD prices; and to retain the remainder of 763CL in Category B. Some members requested that the aforesaid recommendation should be submitted to FC for separate voting. PWSC had spent about 5 hours and 22 minutes on scrutinizing the relevant proposal. Two information papers had also been submitted by the Administration. The Chairman declared that he was an independent non-executive director of The Bank of East Asia.

Capital works of the integrated basement

6. Expressing support for the item, Mr LAU Kwok-fan and Ir Dr LO Wai-ki hoped that the relevant project could be finalized and commence expeditiously to meet the public's expectation for WKCD as soon as possible and ensure the proper use of land resources, while avoiding project cost escalation due to fluctuating prices in future. Dr KWOK Ka-ki considered that the integrated basement might be the most expensive basement ever built in Hong Kong and queried why taxpayers, instead of the West Kowloon Cultural District Authority ("WKCD") and the successful consortium, must eventually foot the bill for constructing the integrated basement, given the Administration's claim when seeking funding approval from FC for the one-off upfront endowment of \$21.6 billion in 2008 that the provisions sought could fully cover the capital costs of the WKCD project.

7. Permanent Secretary for Home Affairs ("PSHA") stated that:

- (a) the integrated basement was not envisaged when the upfront endowment was granted to WKCD in 2008;

- (b) in 2013, WKCDA adopted the Foster + Partners' Conceptual Plan as the basis for preparing the Development Plan for WKCD;
- (c) in July 2013, the Government announced that subject to FC's funding approval, it would fully fund the capital works of the integrated basement as general enabling works to facilitate the development of the WKCD project, so as to allow WKCDA to focus on delivering the arts and cultural facilities. The Government would seek funding for the capital works of the integrated basement from the Legislative Council ("LegCo") in phases; and
- (d) the one-off upfront endowment of \$21.6 billion was primarily used to implement arts and cultural facilities in the WKCD development, and the amount would be insufficient to cover the construction costs of all topside and basement facilities. Thus the Government considered it justified to fund the construction of the integrated basement, instead of transferring the cost to WKCDA.

8. Ir Dr LO Wai-kwok declared that he was a non-remunerated Board Member of WKCDA and had no pecuniary interest in the funding proposal. He said that as the Member representing the engineering sector in LegCo, he understood that some people might have doubts about the high capital cost of the integrated basement. He pointed out that after many rounds of public engagement exercises and discussions by the expert panel, a consensus was reached for WKCDA to adopt the integrated basement design which enabled traffic to be put underground thereby freeing up the site for cultural use as well as open space for public enjoyment. Such a design could also enhance the walking environment at grade to achieve pedestrian friendliness. Thus, the integrated basement was unlike ordinary basements in design as vehicular traffic would be put underground. As the works which included the construction of an underground road of about 230 metres ("m") long and drainage box culvert of about 380 m long were highly complicated and difficult, the capital cost was also relatively more expensive.

9. Dr Priscilla LEUNG declared that she owned properties in the neighbourhood of WKCD. Dr Helena WONG also declared that she lived in a residential development located next to WKCD. Both Dr LEUNG and Dr WONG hoped that the WKCD project could be completed and

commissioned as soon as possible, so as to resolve the existing problems of traffic, noise, hygiene, etc., affecting the area. Dr LEUNG also expressed support for the item and commended the Administration for taking heed of public views in promoting arts and culture, as well as adopting measures to foster pedestrian friendliness. She hoped that the integrated basement could be implemented successfully, so that it could serve as a reference for other projects in future.

Capital cost of the proposed works

Latest estimate

10. Mr CHAN Chi-chuen referred to the latest estimated project cost of \$3,178.4 million which was lower than the original estimate by about 12.6% or \$460 million and asked whether it meant the Administration had erred in calculating the original estimate. Mr LEUNG Yiu-chung also asked why the latest project estimate could go down by 12.6% when consumer prices, as well as the costs of construction materials and labour were rising.

11. PSHA explained that the relevant revisions were necessitated by the following reasons:

- (a) the need to update the programme and the cost of the project as funding approval from FC had not been secured in the 2016-2017 legislative session; and
- (b) the lower tender price returned in June 2017 for one of the two major works contracts for the integrated basement issued by WKCD, possibly due to declining project costs, etc.

Taking all those developments together, the Administration proposed to adjust the estimated project cost from the original estimate of \$3,638.5 million to \$3,178.4 million in MOD prices and to revise the estimated cash flow of the project accordingly. She also said that subject to the prevailing market situation of the construction industry, the latest estimates for individual public works projects might be adjusted upwards or downwards, and the situation could not be generalized. Hence, the Administration would always submit funding applications to FC for approval in a timely manner. She stressed that the latest estimate had reflected the prevailing market situation and should be adequate to deliver the proposed works. She further pointed out that while project cost as a whole had been reduced by about 12.6%, such a reduction did not apply to

all items of works. The item with the greatest cost reduction was the essential basement structure and associated works for Zone 3B of the integrated basement, and the cost had been reduced from the original estimate of \$1,762.5 million to the current estimate of \$1,638.3 million.

12. Project Manager (South), Civil Engineering and Development Department (PM/S, CEDD) supplemented that as bidders would generally set and adjust their tender prices taking into account factors such as the market situation, project scale, risk assessment, their own investment strategies and experience of the relevant works, resources (such as machinery and staffing) available at the time, etc., the tender price returned in June 2017 for one of the major works contracts for the integrated basement was lower than estimated. She said that as the project cost estimate had only been reduced by about 10%, and given the previous performance and experience of the successful bidder, the returned tender price was within reasonable range.

13. Mr LEUNG Yiu-chung opined that while it was good to see construction cost declining, the public's confidence over the quality of works was also an important factor for consideration for they were concerned that the works might be left unfinished if the project cost was excessively low, resulting in problems such as default in the payment of wages of workers, the use of inferior construction materials, etc. He asked whether the Administration had formulated any measures in advance for prevention (such as retention money) and strengthening supervision to ensure that the works could be completed within budget.

14. PSHA said that the integrated basement was not the first construction project of WKCD. Default in wage payment had never happened with previous projects because the Administration had put in place a sound system to monitor the contractors and subcontractors. PM/S, CEDD also said that the Administration was all along concerned about default in wage payment. That was why consultants of individual projects were required to closely monitor records of wage payment at the construction sites. Chief Executive Officer, West Kowloon Cultural District Authority ("CEO/WKCDA") supplemented that retention money was a standard practice adopted in all contracts. The aim was to safeguard the interests of WKCDA and the contractors, while ensuring that the works concerned would not be left unfinished. Regarding contract administration, WKCDA had engaged outstanding architects, designers and engineers for the development project, while checks and balance measures had been implemented through the engagement of third-party consultants to inspect the quality of works and materials (such as concrete, metals, etc.) to

ensure that works carried out were of high standard and quality. He invited members to conduct a site visit to the WKCD development in order to understand the works progress and site conditions.

15. On project supervision, Mr Jeremy TAM asked whether the Administration would monitor the financial position of the contractors throughout the construction stage to ensure that the works concerned would be completed smoothly, and whether there was any case of the contractors running into financial difficulties so far. CEO/WKCDA advised that project supervision was an important element in contract administration. An independent contract administrator was responsible for verifying the claims of project expenses submitted by the contractors on weekly and monthly intervals, as well as maintaining communication with the contractors to ensure that they had sufficient financial resources to make payments to the subcontractors and pay the wages of workers punctually. Mr TAM hoped that WKCDA would continue to closely monitor the financial position of the contractors and subcontractors to ensure that wages were paid to the workers punctually. CEO/WKCDA reiterated that all existing contractors of various projects in the WKCD development had the resources to implement the construction works sustainably. It was WKCDA's aim that project costs would be paid to the contractors and their subcontractors punctually, while their workers would likewise be paid with wages punctually.

16. Mr LAU Kwok-fan asked whether the Government had imposed any cap on the project cost to prevent the situation where compensation claims were made by the contractors in case of cost overrun. In response, PM/S, CEDD advised that only claims with valid justification could be made by the contractors.

Consultant's fees and in-house management cost

17. Mr CHAN Chi-chuen noted that the provisions for consultants' fees and in-house management cost had increased by \$1.3 million and \$2.4 million respectively. He asked whether WKCDA had demanded a higher management cost to boost income as a result of the reduced project cost estimate, and what the percentage of increase was in respect of staff cost. Mr Andrew WAN said that according to a paper provided by the Administration in 2015, WKCDA would be reimbursed for its actual in-house management cost incurred for the entrusted works capped at a sum of \$12 million. He thus asked why the amount of in-house management cost payable to WKCDA for the present entrusted works (in

September 2017 prices) was as high as \$62.7 million, and whether such a large sum was due to the engagement of additional staff or experts.

18. In response, PSHA said that the estimates were prepared by the Administration in MOD prices. While the original estimate was prepared in September 2016 prices, the latest estimate which contained more realistic cost figures was prepared in September 2017 prices. She also said that the amount of in-house management cost payable to WKCD for entrusted works would depend on factors such as project scale and manpower requirement, and each project would be calculated on a different basis. At present, WKCD would be reimbursed for its in-house management cost incurred for the entrusted works, and the actual amount would be calculated according to factors such as the number of staff deployed and their working hours. PM/S, CEDD supplemented that a wage increase of about 3% to 4% was reflected in the revised cost estimate.

Protection works for the existing Airport Express Tunnels in Zone 3B of the integrated basement

19. Mr CHU Hoi-dick and Mr CHAN Chi-chuen asked why the estimated cost of protection works for the existing Airport Express Tunnels ("AET") in Zone 3B of the integrated basement had been reduced by more than half in less than six months' time, and whether the contract for the protection works would be awarded under a separate tender.

20. In response, PSHA advised that the protection works for the existing AET in Zone 3B of the integrated basement was a most difficult project as the site would coincide with the alignment of the Airport Express Line. She also said that the Administration would prepare cost estimates on the basis of the best market data then available. Even if the returned tender price for a particular project was lower than estimated, the Administration would always report the same to FC, but there was no guarantee that project cost saving could be achieved in every instance. PM/S, CEDD supplemented that as just mentioned, bidders would adjust tender prices taking into account various external and internal factors. Such factors might create scope for downward adjustment of tender prices. There was no separate tender for the protection works.

21. Mr CHU Hoi-dick requested the Administration to provide a cost breakdown of the proposed works in September 2016 and September 2017 prices respectively (i.e. \$238.3 million and \$112.3 million respectively). PM/S, CEDD advised that as the contract had yet to be awarded, the relevant cost breakdown was still commercially sensitive information.

Hence the Administration could not provide the same to members for reference at this stage. PSHA undertook to provide the relevant information to members for reference after the award of the relevant main works contract.

[Post-meeting note: The supplementary information provided by the Administration was circulated to members vide LC Paper No. FC81/17-18(01) on 14 December 2017.]

22. Mr CHAN Chi-chuen said that according to his understanding, Zone 3B was located on reclaimed land; he thus asked whether works in the area would be affected by the condition of the rock strata. In reply, PM/S, CEDD confirmed that Zone 3B was located on reclaimed land, and some of the piles in the area would need to penetrate deep into the rock strata. But as the relevant foundation works had largely been completed, the impact of rock strata on the foundation works under the present funding proposal would be quite minimal.

Provision for price adjustment

23. Noting that the provision for price adjustment had been substantially reduced from \$640.9 million to \$439.4 million, Mr CHAN Chi-chuen enquired about the following:

- (a) the reasons for the substantially reduced provision for price adjustment;
- (b) the major factors leading to downward adjustment of project cost in the next few years; and
- (c) whether there were signs of a downward trend.

24. In response, PM/S, CEDD said that when estimating the provision for price adjustment, the Administration had all along derived the estimate of the project cost in MOD prices by adopting the latest price adjustment factors. Price adjustment factors were derived from the Government Economist's latest set of assumptions based on the trend rate of change in prices of public sector buildings and construction output. Factors taken into account included the prevailing situation in the labour market as a whole, the latest trend of labour wages and prices of materials in the construction industry, global economic factors, etc. For details, members could refer to the price adjustment factors set out in paragraph 17 of the Enclosure to FCR(2017-18)42.

Recurrent expenditure

25. Mr CHU Hoi-dick asked whether the annual recurrent expenditure of \$21.6 million arising from the proposed works would be borne by the Government or WKCDA. PSHA replied that the annual recurrent expenditure would be borne by the Government. As an underground road of about 230 m long would be constructed in the integrated basement, the Government would be responsible for implementing the relevant public infrastructure works including management, repair and maintenance of the road, drainage, ventilation, power supply and illumination systems, etc.

26. Mr SHIU Ka-chun said that according to his understanding, the recurrent expenditure would cover the cost of simple works relating to street lamps on the road such as their maintenance and cleansing, even though such cost only accounted for a tiny percentage of the estimate. He asked whether the two sides of the road were owned by WKCDA or the Government, and whether generally speaking, the Government would bear the recurrent cost such as electricity cost for roads so long as they were used by public transport vehicles even if the roads were located in the "backyard of the rich".

27. PM/S, CEDD replied that recurrent expenditure would cover the repair and maintenance cost of public roads, electricity cost, etc., while public roads referred to roads which were used by public vehicles and members of the public alike. Regarding the internal facilities and private roads in WKCD, the electricity cost, repair and maintenance cost, etc., would be borne by WKCDA. PSHA clarified that instead of being the "backyard of the rich", the 23 hectares of public open space in WKCD would be open to the public round the clock. She added that as the relevant road was defined as a public road, its ownership would be vested with the Government in future. Hence, the Government would be responsible for repair and maintenance, as well as management of the road. Regarding other parts of the basement such as the lifts and car park, as they formed part of WKCD's facilities, WKCDA would bear the costs associated with their operation, management, repair and maintenance, etc.

Remaining works of the project

28. Mr LAU Kwok-fan and Mr Christopher CHEUNG understood that the construction of the integrated basement was a mammoth project to be undertaken in phases and by zones, yet the present funding application was only intended to fund the third stage of construction works. They asked whether the Administration had any estimates on the amount of provisions

and time needed to complete the remaining works of the project, as well as the total capital cost of the whole integrated basement project. Mr LAU also asked whether future works would be affected by the enhanced financial arrangement ("EFA") for WKCD. Mr Christopher CHEUNG and Ms Claudia MO also asked whether the Administration could give an undertaking that the WKCD project would be completed within budget, and it would no longer need to apply for additional funding from FC due to cost overrun.

29. PSHA said that regarding Zones 3A and 3B of the integrated basement, the Administration had sought funding approval from FC for about \$2.7 billion on the previous occasion and about \$3.1 billion under the present item, making a total of about \$6 billion. It was expected that the works for Zones 3A and 3B could be completed with the funding sought. She also advised that given the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL"), the Administration could not make early planning for Zones 2A, 2B and 2C as design and site investigation works could only commence after the MTR Corporation Limited handed over the relevant site to WKCD. The design and site investigation for Zones 2A, 2B and 2C had already commenced in February 2017 with their preliminary design to be substantially completed in end of 2018 and the detailed design for Zone 2A to be substantially completed in end of 2019. Based on the preliminary design, an updated cost estimate of the whole integrated basement project would be available in the first quarter of 2019. Subject to the findings of the consultant's report, as well as the location, floor area, etc., of the hotel/office/residential ("HOR") portion of WKCD under EFA, the Administration would update Members again in early 2019 on the latest design and estimated total capital cost of the project, as well as its decision on whether to seek funding approval from FC in one submission or by zones.

30. Mr Charles Peter MOK considered that as the integrated basement design could put vehicular traffic underground thereby freeing up the site for more green areas and open space, it was generally supported by the public. He was concerned about the implementation progress of the WKCD project and asked whether the Administration had grasped the latest details about the topside facilities of Zones 2A, 2B and 2C, with a view to coordinating the design of the integrated basement.

31. PSHA advised that all along, works projects were underway for the construction of major WKCD facilities which were not located in the topside developments of the integrated basement. As those projects were

unaffected by the integrated basement project, the relevant facilities would be completed successively, including Xiqu Centre which was the first venue to be opened in late 2018, Art Park, Hong Kong Palace Museum, etc. Regarding the topside facilities of Zones 3A and 3B which were related to the present funding proposal, they mainly included the Lyric Theatre Complex, Artist Square Development Area and some office accommodation primarily for the use of WKCDA, and no hotel or residential facilities were involved. CEO/WKCDA clarified that topside facilities of Zones 3A and 3B mainly included the Lyric Theatre Complex, Artist Square and some office accommodation. As the design was relatively simple, the facilities were expected to be completed by around 2022 to form a precinct supported by a balanced mix of land uses. Regarding the facilities in Zones 2A, 2B and 2C which included the Great Theatre, Musical Theatre, Music Centre, Centre for Contemporary Performance and Medium Theatre, the design was relatively complicated and had yet to be completed. Future HOR developments would complement the aforesaid arts and cultural facilities to ensure that the completion of various facilities would not be unduly affected.

32. Mr Holden CHOW pointed out that the Administration had proposed to upgrade the third stage of construction works of the integrated basement to Category A and to retain the remainder of the project including the construction of the remaining section of the Artist Square Bridge ("ASB") in Category B. He said that as ASB which provided connection to a shopping mall was costly to build and might benefit private businesses, he asked how the Administration would handle and meet the relevant construction cost after taking the works item out from the present funding proposal, and whether the Administration would request the shopping mall to bear part of the project cost, with a view to alleviating the Government's financial burden. In response, PSHA said that ASB was about 80 m long connecting Elements Shopping Mall and the Artist Square. The Administration was now studying the design of ASB and would brief Members on the new design and construction cost in early 2019 before seeking funding approval. That was why the relevant works item was taken out from the present funding application. She also said that as the land lease concerned did not have any provision requiring the developer to build a footbridge, it would be very difficult to request the developer to bear part of the construction cost. As such, the relevant project would be funded by public money.

Enhanced financial arrangement

Build-Operate-Transfer model

33. Mr Christopher CHEUNG and Ms Claudia MO were concerned that upon completion of the whole integrated basement project, not only the arts and cultural facilities therein, but also the HOR portion would be handed over to WKCD and private developers for development. They asked whether the Government would share the profits to compensate for the development cost of the integrated basement. Dr Helena WONG also sought clarification from the Administration on details of EFA including:

- (a) the term of the Build-Operate-Transfer ("BOT") agreements, i.e. whether the agreement term would be as long as 25 to 30 years;
- (b) whether the topside developments would be taken forward in phases, and how long the construction period was;
- (c) in case of poor performance by the operator, whether the Administration would conduct mid-term or periodic assessments, and whether any sanction or withdrawal mechanism would be put in place to terminate the contract if required;
- (d) the amount of estimated profits arising from the topside developments;
- (e) how and when the Administration and WKCD would share the profits, and what the profit sharing percentages were for WKCD to sustain its operation and development of the remaining facilities and for the Government respectively; and
- (f) whether the share of profits due to the Government could adequately reflect the land premium or development cost of the integrated basement.

34. In response, PSHA said that:

- (a) as a result of various unforeseeable developments and changes after the upfront endowment was granted in 2008, including the extended development period of WKCD, the significant escalation of construction costs, the prolonged

planning and public engagement process, etc., WKCDA was facing critical financial challenges in both capital and recurrent terms;

- (b) to provide WKCDA with the financial capability to operate sustainably the various facilities in WKCD and continue to develop the remaining planned facilities, the Government had agreed to provide EFA for WKCD;
- (c) under the relevant arrangement, WKCDA would be granted the development right of the entire HOR portion of WKCD, but WKCDA could not sell the relevant developments;
- (d) WKCDA could tender out the development packages of HOR together with the retail/dining/entertainment ("RDE") facilities embedded therein, develop these commercial developments under the BOT model and receive rental income;
- (e) meanwhile, WKCDA should pay the Government upfront payments according to the financial arrangements to be specified in the Project Agreement signed by both parties and the results of the tendering; and
- (f) upon expiry of the term of the BOT agreements, the Government would share with WKCDA the income generated from the HOR development packages, having regard to the funding requirements and financial position of WKCDA.

She said that in the long run, WKCDA was expected to be able to operate WKCD and build long-awaited facilities such as the Great Theatre and Music Centre in a self-sufficient manner. She added that subject to FC's funding approval, the Administration would award the tender as per the proposed development cost. Regarding the term of the BOT agreements, she held that the market might not be incentivized if the agreement term was too short. Hence the Administration had decided that the agreements should have a term of 30 years. She further advised that as EFA was rather complicated, the Administration hoped that a more indicative account of the details could be provided to members in early 2019.

35. Mr CHU Hoi-dick asked how the situation would be handled by the Administration had the original project estimate of about \$3.6 billion been

approved by FC in 2016-2017, yet the tender price returned was higher or lower than estimated. Ms Claudia MO also asked whether any unused funding provision would be returned to General Revenue if the capital cost of the whole integrated basement project was lower than about \$3.2 billion. In response, PM/S, CEDD said that depending on the amount of the difference, the Administration would consider whether the cost increase could be met by the contingency provision, etc., if the tender price returned was higher than estimated. If the tender price returned was lower than estimated, the unused funding provision would be returned to General Revenue in full upon completion of the whole project.

36. Expressing concern about the many personnel changes in the management staff for WKCD, Ms Claudia MO and Dr Priscilla LEUNG considered that the management structure lacked transparency, and it was worrying. As a Kowloon City District Council member, Dr LEUNG cited the Administration's failure in developing the Kai Tak Cruise Terminal through the BOT model and questioned whether the development of WKCD through the BOT model could be successful. She also asked how the Administration could ensure the completion and commissioning of various WKCD facilities should WKCDA fail to operate in a self-sufficient manner in future. She held that the Administration must enhance transparency and allow LegCo Members to take part in formulating the detailed arrangements.

37. In response, CEO/WKCDA said that there had been improvement in the management staff for WKCD during the past three years while he was in office, not only in terms of enhanced transparency and wider public engagement, but also through the engagement of experts to handle matters relating to performing arts, museums, architecture, etc. He assured members that WKCDA would continue to conduct extensive consultation and take heed of the views expressed by Members and the public. If approval was secured for the present funding proposal, it would be a big step forward for the WKCD project by ensuring the construction of various important facilities such as the Lyric Theatre Complex and M+ Museum.

Pending funding applications to the Finance Committee

38. In reply to an enquiry from Mr CHAN Chi-chuen, PSHA advised that funding applications for the WKCD development project already and yet to be made to FC were as follows:

- (a) one-off upfront endowment of about \$21.6 billion approved in July 2008;

- (b) about \$2.9 billion of funding provision approved in July 2015 for the implementation of infrastructure works in Zone 3A and foundation works in Zone 3B;
- (c) about \$3.1 billion of funding provision sought under the present item; and
- (d) about \$1.3 billion of funding provision for the implementation of public infrastructure works in WKCD (for example, public roads, water supply and sewerage systems).

She advised that subject to funding approval for the present item, the Administration would have applied and secured approval for provisions of about \$28.9 billion in total. Meanwhile, the Administration had already given advanced notice to the Joint Subcommittee at an earlier meeting that it would submit a funding proposal to PWSC for the construction of a pedestrian linkage system between Xiqu Centre and the MTR Austin Road Station, as well as the beautification works for the existing pedestrian subway at an estimated cost of \$190 million. Regarding the project cost of works in Zones 2A, 2B and 2C, no estimate was available for reference at this stage as the design had yet to be finalized.

39. Dr Helena WONG asked whether public infrastructure works in Zones 2A, 2B and 2C of the integrated basement were covered under the aforesaid provision of \$1.3 billion. PSHA clarified that public infrastructure works referred to the provision of facilities such as roads, water supply and sewerage systems, subways, etc. Such facilities would be owned and managed by the Government, rather than vested with WKCDA.

Entrustment agreement

40. Ms Claudia MO requested the Administration to provide members with a copy of the entrustment agreement signed between the Administration and WKCDA for reference. PM/S, CEDD advised that as a follow-up to the meeting of the Joint Subcommittee held on 14 December 2015, the Administration had provided a paper with an appendix setting out most of the key provisions in the entrustment agreement, including those on matters concerning monitoring on WKCDA, etc.

Raising finance through issuing bonds or borrowing

41. Dr KWOK Ka-ki held that the arrangement of vesting WKCDA with the HOR portion and RDE facilities of WKCD was hardly acceptable for he was worried that WKCDA might become an "independent kingdom" and a haven for retired civil servants. Expressing doubts about the entire EFA, Dr Fernando CHEUNG considered that by granting the development right of the entire HOR portion of WKCD to WKCDA, the Administration had effectively allowed WKCDA to reap hefty profits by cooperating with the property developers and operators. As a result, WKCDA, the developers and operators could share amongst themselves the profits arising from the software of WKCD, while the hardware were all funded by public money. Referring to the cash flow requirements, he asked why the Administration had not required WKCDA to bear the financial burden, and why instead of applying funding from FC, WKCDA had not resorted to raising finance through issuing bonds or borrowing.

42. PSHA reiterated that the Government had undertaken in 2013 to fully fund the capital works of the integrated basement as general enabling works to facilitate the development of the WKCD project. She also said that should the developers be required to share their income with WKCDA and pay upfront payments to the Government while bearing the construction cost of the integrated basement, the Administration held that the arrangement would be hardly attractive financially, and cash flow problems might arise. CEO/WKCDA stressed that there was no guarantee that the construction of topside facilities could commence so long as the integrated basement remained uncompleted. He also said that WKCDA would consider raising finance in future through issuing bonds and/or borrowing, but due consideration must be given to balancing the options against the difficulty involved in issuing bonds, the amount of loan repayment, the administrative costs incurred, etc.

43. Dr Fernando CHEUNG requested the Administration and WKCDA to provide information on different financial arrangements for the proposed project, including issuing bonds, borrowing and the financial analysis reports on the current option of having the development cost undertaken by the Government, to explain the reasons why apart from the option of development cost undertaken by the Government, other options plus EFA were insufficient to cover the existing construction costs required.

[*Post-meeting note:* The supplementary information provided by the Administration was circulated to members vide LC Paper No. FC81/17-18(01) on 14 December 2017.]

Other concerns

"Tendering before funding application" arrangement

44. As the project cost of the present item had been reduced because the tender price returned for one of the contracts was lower than estimated, the Chairman and Mr Michael TIEN called on the Administration to consider and study whether the "tendering before funding application" arrangement should be adopted in future, with a view to saving time and obviating the need to apply for additional provisions from FC due to serious cost overrun as in the case of major infrastructure projects such as XRL, the Shatin to Central Link and the Hong Kong—Zhuhai—Macao Bridge. In this connection, Mr TIEN enquired about the following:

- (a) time saving to be achieved under the said arrangement when compared with the conventional approach of "funding approval before tendering";
- (b) whether the estimated project cost of \$3,178.4 million was accurate, i.e. whether the said cost was capped; and
- (c) as the advantages of the "tendering before funding application" arrangement had outweighed its disadvantages, why the conventional approach of "funding approval before tendering" was still adopted by the Administration.

45. In response, PSHA said that while the "tendering before funding application" arrangement as suggested by members did have its advantages, it was not risk free because tenderers might include the factor of uncertainty in their tender prices, and the tenders had a validity period. For the present item, the deadline for submission of tender was June 2017, and the tender was valid for one year. If the "tendering before funding application" arrangement was adopted, and in case of a prolonged scrutiny process, the tender might have already expired by the time funding approval was secured. She also said that the estimated project cost of \$3,178.4 million was quite accurate. Notwithstanding the need to earmark a certain amount of contingency provision, she was confident that the works could be completed within budget. Project Manager, Home Affairs Bureau supplemented that as preparatory work for tender exercises would generally take about four months to complete, a time saving of about four months could have been achieved under the circumstances. But given the delay in scrutinizing the present funding application, such an advantage had already vanished.

46. Permanent Secretary for Financial Services and the Treasury (Treasury) supplemented that the Administration was aware of members' concern about the need to apply for additional provisions from FC due to cost overrun in major works projects. Having grasped all information including the scale, construction period and complexity of the works, the Administration would strive to work out the best estimate for the projects before submitting the relevant funding applications to FC, so that various public works projects could commence expeditiously. In the past, the Administration would generally apply for funding approval before inviting tenders for works projects. But due to FC's prolonged scrutiny process in some cases in recent years, the Administration had adopted, where warranted by circumstances, the parallel tendering arrangement before securing funding for the proposed works. That said, the relevant contracts would only be awarded after funding was approved by FC. When adopting the parallel tendering arrangement before securing funding approval, the validity period of tenders would need to be extended so that sufficient time was allowed for seeking FC's funding approval. As this would add to the uncertainties faced by the tenderers, the tender prices returned might eventually be affected. In addition, given the need for the Administration to fully grasp all available information before inviting tenders, the time taken under the "tendering before funding application" arrangement as a whole might be even longer. As funding approval from FC had not been secured for the present item in the 2016-2017 legislative session, the Administration could only submit the relevant funding application to FC after the tenders were opened. As it turned out, the tender price returned was lower than estimated, and it was an isolated case. Noting members' kind intention, she said that as a matter of fact, the Administration had been doing quite well in controlling the cost of public works projects in most cases.

Uneven distribution of public financial resources

47. Dr Fernando CHEUNG said that he was inclined not to support the funding request, and he had no trust in the Government's mechanism for allocating public financial resources. He was worried that at the end of the day, the hefty sums of public money spent by the Government on the WKCD development could only serve the interests of rich people as WKCD was actually a "backyard of the rich" for the nearby luxurious residential developments through the provision of various commercial and RDE facilities therein. He criticized the Administration for the uneven distribution of public financial resources. While the Administration could be most generous when seeking funding for similar major works projects, it

would seemingly be most reluctant when the funding proposals were related to allowances for the elderly, residential care homes for the elderly, residential care homes for people with disabilities, hospitals, etc., as the Administration would always cite reasons such as the lack of suitable sites or funding, etc. He held that all hardware in WKCD were funded by the Government with public money, and while it was a good thing to build a landmark architecture, almost one-third of the site was now used towards HOR development. He thus queried whether the income generated by the project could ultimately bring benefits to the grass roots, and whether the relevant facilities could genuinely be enjoyed by members of the general public. Dr KWOK Ka-ki and Mr SHIU Ka-chun also expressed similar views.

48. PSHA reiterated that instead of being a "backyard of the rich", the 23 hectares of public open space in WKCD would be open to the public round the clock.

Economic contribution

49. Mr Andrew WAN referred to a paper provided by the Administration which stated that WKCD had created 2 200 construction-related jobs so far, and more jobs, particularly quality jobs for young people, would be created in a wide spectrum of economic sectors, including arts and culture, design and publication, advertising and marketing, and tourism, as WKCD progressed to the operational phase. WKCD would create around 20 000 new jobs and contribute up to \$5.6 billion to the Hong Kong economy annually in the operational phase. He asked why WKCD could contribute up to \$5.6 billion to the Hong Kong economy annually given that according to his rough estimation, WKCD would only have an annual income of \$6.6 billion.

50. In response, PSHA pointed out that the figures mentioned by Mr WAN came from a paper in 2008, and those estimates were made by a financial consultant engaged by the Administration on the assumptions that all facilities would be completed within a short timeframe, so that a steady source of income could be generated from the retail and dining facilities. But after 2008, most of the assumptions were no longer valid because the relevant facilities could not be completed within a short timeframe due to the prolonged public consultation process. Under EFA to be implemented, WKCD was expected to sustain the operation of WKCD by sharing the income generated from hotel development, office rental, as well as retail and dining facilities. However, no updated estimates could be provided to members for reference at this stage. The Administration

hoped to brief Members in February 2019 on the latest financial position of WKCD including its cashflow shortfalls.

Education

51. Mr IP Kin-yuen considered that given the vibrant arts and culture elements in WKCD, it would be an important development area for the education sector. He sought a detailed explanation from the Administration on the extent of influence and assistance that could be brought by the museums and performing venues in WKCD, in terms of performances, exhibitions on offer for university and secondary students as well as their future career development, and whether WKCDA would establish liaison with other training and educational institutions to enhance cooperation in education.

52. In response, CEO/WKCDA advised that WKCDA had spared no effort in allocating resources to organize both in-house and outreach educational programmes. Examples included:

- (a) converting a 20-feet container into a pop-up creative studio which toured around the territory in the past two years to connect and interact with students and people in the communities;
- (b) organizing various in-house activities such as on-going exhibitions and daily school visits;
- (c) conducting internship programmes which offered 90 internship places. Over the past two to three years, a number of interns had even become full-time staff. With the completion and commissioning of performing and exhibition venues, more and more employment opportunities would be provided to students;
- (d) consideration would be given to developing educational facilities in WKCD to provide performing arts training programmes, so that the students could receive training from elementary to professional levels for sound technicians, lighting technicians, stage technicians, curators, etc.;
- (e) nurturing future audience, particularly young people, by organizing free introductory programmes on music, drama,

dance, Cantonese opera, etc. For example, M+ Summer Camp had been organized for three consecutive years. Each year, about 100 students attended the four-day-three-night camp to engage in creative collaboration with artists, producers and creators, so as to cultivate the students' interest in arts and arts creation; and

- (f) training programmes were being organized by WKCDA in collaboration with various institutions including the Hong Kong Academy for Performing Arts, Vocational Training Council and the University of Hong Kong, as well as some overseas organizations. For instance, many relevant programmes in Hong Kong (such as those for curators) were organized by overseas operators because Hong Kong did not have a strong training background in some disciplines.

Arrangement of scrutiny of this item

53. At 7:09 pm, the Chairman advised that the present meeting was likely the last FC meeting in 2017, and the next FC meeting could only be held on 5 January next year at the earliest. As the item had already been discussed for 5 hours and 22 minutes by PWSC and more than 2 hours by FC, making a total of more than 7 hours, he considered that the item had been thoroughly discussed and hoped members could make good use of the meeting time to discuss the remaining two items on the agenda. He would conclude the discussion and put the item to vote after all members who had indicated their intention to speak had done so.

54. Dr KWOK Ka-ki queried the Chairman's rationale for "drawing a line" to conclude the discussion. He said that the Administration had failed to clearly answer most of the questions raised by members so far. As many members had only asked a second round of questions, they would need to continue asking questions. Moreover, as some members were attending the wedding ceremony of a Member and could not attend the present meeting, the Chairman should hold another meeting for those members to ask questions, rather than "drawing a line" due to insufficient meeting time. He held that the Chairman's handling of the proceedings was inappropriate. Mr LEUNG Yiu-chung opined that the Chairman could consider rearranging the order of agenda items if he held that the other agenda items were equally important and there was insufficient meeting time. The Chairman advised that throughout the history of FC, there had been no precedent case of the FC Chairman rearranging the order of agenda items; likewise, he had no intention of doing so.

55. Mr CHAN Chi-chuen pointed out that as he was not present at the meeting when the Chairman "drew a line" just now, he requested the Chairman to allow him ask another round of questions. At the request of Mr CHAN, the Chairman agreed that he could ask another round of questions for not more than one minute.

Motion moved to adjourn further proceedings of the Finance Committee

56. At 7:20 pm, when speaking on the agenda item, Dr KWOK Ka-ki moved without notice under paragraph 39 of the Finance Committee Procedure that further proceedings of FC be adjourned forthwith. The Chairman proposed the question on the motion and directed that each member could speak once for not than three minutes on the motion.

57. Dr KWOK Ka-ki spoke on his motion. Dr KWOK said that FC had once again become a rubber stamp needlessly. He held that the Chairman had destroyed members' trust by "drawing a line", and it was the only rightful thing to do to allow members to continue asking questions. He also said that the WKCD development was a controversial project. Since 2000, the Government had been cheating Hong Kong people for as long as 17 years by giving permission to reclamation, changing the original park design into a cultural district and then turning it into a single-tender property development project. Together with XRL, WKCD had now become an investment item most suitable for Mainland big spenders, yet it could hardly bring any benefits to the general public. For instance, it was clear from the layout of Artist Square and the Park that the area was inaccessible for members of the public unless they travelled there on private cars or XRL. He held that EFA was just an enhanced version of the single tender arrangement, and it was unfair to do so.

58. In response, the Chairman clarified that the item had already been discussed for 5 hours and 22 minutes by PWSC, together with the 2.5 hours of discussion just now by FC, the item had been discussed for about 8 hours in total. At the present meeting, 20-odd members had spoken on the item. As he had already "drawn a line", the item could have been put to vote at the present meeting because if the item was not put to vote at the present meeting, the relevant funding application could only be approved by FC in January 2018 at the earliest, resulting in a delay of more than one month which would further set back the progress of construction. The Chairman asked members to think for themselves whether it was more important to attend the meeting or a private ceremony, and whether they should give priority to public or private matters. He trusted that

Dr KWOK Ka-ki could not represent other members, and he did not believe that members were absent from the meeting because they had to attend a private ceremony. He seriously condemned Dr KWOK Ka-ki's statement that it was more important to attend a private ceremony.

59. When the Chairman was speaking, Mr CHAN Chi-chuen shouted in his seat. The Chairman ordered him to stop shouting, or else he would order him to leave the meeting venue.

60. The Chairman said that as five members were waiting for their turn to speak, he believed that scrutiny of this item could not be completed at the present meeting. To avoid wasting the time of other members present at the meeting to speak on the motion, the Chairman adjourned the meeting and apologized to the public.

61. The meeting ended at 7:29 pm.

Legislative Council Secretariat
21 January 2019