

LEGISLATIVE COUNCIL BRIEF

HONG KONG DISNEYLAND

INTRODUCTION

At the meeting of the Executive Council on 16 November 1999, the Council ADVISED and the Chief Executive ORDERED that :

- (a) a site of about 126 hectares at Penny's Bay, Lantau Island (the "Phase 1 Site") should be granted by private treaty to Hongkong International Theme Parks Limited (HKITP) for 50 years, with a right to renew for a further 50 years;
- (b) the Director of Lands should be authorised to execute an Option, valid for 20 years with two further opportunities to extend the Option by a total of ten years, to HKITP to buy the adjoining site of about 54 hectares for 50 years for a second international theme park, also by private treaty;
- (c) the Director of Lands should be authorised to execute a Right of 1st Refusal to HKITP valid for up to ten years from the date of the exercise of the Option, to purchase a third site adjoining the site referred to in paragraph (b) above for a third theme park;
- (d) the Director of Lands should be authorised to enter into a Deed of Restrictive Covenant whereby the land in the vicinity of Hong Kong Disneyland (HKD) would be subject to certain height, building and use restrictions;
- (e) Government should be authorised to enter into Licence Agreements whereby the public pier, the public transport interchange and the water recreation centre (including a lake

which also served irrigation purposes) in the vicinity of HKD would be managed and maintained by HKITP at that company's expense;

- (f) the creation of an Air Intrusion Limitation Area near HKD should be approved in principle;
- (g) the creation of a No Mooring Zone in the waters south of HKD should be approved in principle;
- (h) the principle of granting long-term rolling permits to HKITP to allow nightly fireworks displays at HKD should be approved, without the need for repeated referrals to the Executive Council, subject to the compliance with all current safety and environmental legislation and requirements; and
- (i) an undertaking should be given that in considering possible future changes to environmental legislation which might otherwise preclude or seriously inhibit the fireworks displays, Government would have special regard to the position of HKD;

2. The Executive Council also noted the Administration's undertaking to contract with a rail operator to provide a rail shuttle service between Penny's Bay and Yam O.

Background and Justification

3. The Administration has been negotiating with WD for over a year about the possibility of establishing a world-class international theme park and resort destination in Hong Kong to be known as HKD. We have now reached agreement, subject to the approval where appropriate of the Executive Council, the Finance Committee of the Legislative Council, and the WD Board, to proceed.

4. The agreement calls for the Government to undertake a \$13.6 billion package of infrastructure works including, inter alia, reclamation of about 280 hectares of land at Penny's Bay on Lantau Island, land formation, roads, sewerage, drainage, water supply, public piers, public

transport interchange, a water recreation centre and associated government, institution and community facilities.

5. HKD itself will be constructed and operated by a joint venture company, HKITP, in which the Government will own a 57% share and WD will own 43%. Excluding the land premium, Phase 1 of the project is anticipated to cost, on opening, \$14.1 billion to be financed as follows :

		<u>\$b</u>
Government	Equity, payable in cash	3.25
WD	Equity, payable in cash	2.45
Government	Loan	6.1*
Commercial	Loan	<u>2.3*</u>
		14.1

* including capitalised interest of approximately \$0.5b and \$0.2b respectively.

Land Grant

6. Following extensive negotiations, the Director of Lands reached agreement with HKITP, on a prepared to recommend basis, for the terms of the proposed land grant for the Phase 1 site. The notable features are that HKITP is seeking a grant for 50 years renewable on the then prevailing terms for a further 50 years but without payment of an additional premium. Having regard to the special circumstances of this case, including inter alia that the land at all other Disneylands is held on a freehold basis, the 50 years plus 50 years formula has been accepted. This is an exceptional arrangement, but is compatible with the Basic Law. It is present policy that new leases are granted for 50 years from the date of grant and where leases with right of renewal expire, the renewal is on the same (or similar) terms and without payment of an additional premium but subject to an annual rent of 3% of ratable value. Therefore the request by HKITP for a similar arrangement to be locked in now is considered reasonable. The land premium is \$4 billion, being the estimated pro rata cost of the reclamation and site formation, and will be settled by the issue of an equivalent amount of subordinated shares in HKITP.

Option for Phase 2

7. All existing Disneylands have expanded, or are in the process of expanding, to include second (or more) theme parks. Naturally the hope is that HKD will be similarly successful. Accordingly, HKITP has sought, and it has been agreed HKITP should be given, an Option to buy the site immediately to the east of the Phase 1 site for a second phase of the development (“Phase 2 Site”). The Option is valid for 20 years from signature, with an automatic right to extend for a further five years and a conditional right to extend for a second five year period. The premium has been fixed at \$2.812 billion (1999 prices, to be adjusted for inflation in line with Composite CPI) payable in cash or in such other manner as the parties may agree. The Option lapses after 20 years if it has not been exercised or renewed but HKITP may have two five-year extensions of which the second is conditional upon the target capacity of 10 million not being reached but the secondary target capacity of 8 million being reached. While the land is subject to the Option, it may be used for a variety of temporary purposes provided these are compatible with the adjacent theme park.

Right of 1st Refusal

8. In due course the site to the east of the (intended) Phase 2 site will also be reclaimed and available for disposal. In order to keep open the possibility of a third theme park, HKITP has sought a right of first refusal to buy that site at then prevailing market prices and on normal lease terms. In view of the substantial advantages for Hong Kong’s tourism industry of a third Disney park going ahead in the same location, with obvious opportunities for synergy, we have agreed to grant such a right which will be valid for up to 10 years from the date of exercise by HKITP of the Option or the expiry or surrender of the Option if earlier.

Deed of Restrictive Covenant

9. It is an essential element of a Disney theme park that people outside the park not be able to see in, and those inside not be able to see the “real world” outside, so as to maintain the aura of fantasy. Accordingly it has been accepted throughout the negotiations that suitable arrangements would be made to protect the park against visual intrusion.

With this end in mind, WD planners have developed a series of maps showing height contours above which development in the vicinity will not in future be permitted. In order to give HKITP a legally enforceable mechanism to protect the park in this way, we have agreed to enter into a Deed of Restrictive Covenant which will be registered in the Land Registry against the Government land itself, and against the Government's reversionary interest in private lots. We have also agreed to retain the natural landscape in the immediate vicinity, and not to reclaim to the south of the HKD site.

10. The Deed does not affect existing developments or the existing rights of owners. However in respect of new developments/redevelopments, the Government (insofar as it has the legal right to do so) is required not to approve plans which breach the height contours or specified uses. As the Deed affects both government land and private lots, it has been agreed that the Director of Lands will be authorised to sign it.

11. In order to preserve the setting of a world-class theme park, it is necessary to ensure that it is surrounded by uses which are compatible. Accordingly we have agreed a matrix of compatible uses with WD representatives in respect of Yam O, Penny's Bay and Tsing Chau Tsai East. Under the Deed, the Government is required not to permit uses which breach the matrix.

12. The Deed will be supplemented by preparation of draft Outline Zoning Plans covering Peng Chau and Discovery Bay, and the taking of lease enforcement action when it becomes necessary.

Management of Public Facilities

13. The public works in support of HKD will include, inter alia, a water recreation centre, a public transport interchange near the proposed Penny's Bay Railway Station and a public pier. These are normally managed and maintained by the relevant government departments. However, WD is concerned to ensure that the facilities are managed and maintained at a standard commensurate with the Disney hallmark. Accordingly it has been agreed that HKITP will be allowed to manage and maintain the facilities at HKITP's own expense. To regularise this situation, Licences will be issued under the Land (Miscellaneous

Provisions) Ordinance (Cap 28). HKITP will pay the standard licence fees.

Air Intrusion Limitation Area

14. The site at Penny's Bay has been chosen after a careful selection process. None of the approach/departure flight paths to/from the Hong Kong International Airport have nominal tracks directly over the site and very few aircraft need to overfly the area. However WD has expressed concern that the situation might change in the future and park patrons could be subject to overflights by aircraft or airships towing advertisements or otherwise behaving in an intrusive way. In order to prevent this from happening, we shall introduce subsidiary legislation under the Civil Aviation Ordinance (Cap 448) to prohibit aircraft flying below 4,000 feet above the park except in certain specific circumstances. This will be submitted to the Executive Council in due course and tabled in the Legislative Council in the normal way.

No Mooring Zone

15. All vessels will have the right of innocent passage into and through the waters adjacent to the theme park, and in particular to take on or discharge passengers at the public pier. However there is concern on safety grounds that large numbers of vessels may seek to anchor off shore during the nightly fireworks display. Accordingly we shall amend the subsidiary legislation made under the Shipping and Port Control Ordinance, Cap 313 to effect a No-Mooring Zone (Prohibited Anchorage Area) to the south of HKD, allowing only authorised vessels to anchor therein. Creation of the Zone is a relatively simple matter in respect of the Phase 1 park. However if the Phase 2 park goes ahead, with consequent increase in the size of the No-Mooring Zone, part of an existing anchorage area will be affected. The necessary proposals will be submitted to the Executive Council for approval in due course and tabled in the Legislative Council in the normal way.

Fireworks

16. The Secretary for Home Affairs (SHA) is the Authority for

permitting fireworks displays on land. Various permits are also required from the Director of Marine and the Director of Civil Engineering (as Commissioner of Mines). Our present licensing regime is really geared towards the annual display during the Lunar New Year and similar occasional events. However in common with practice at all other Disneylands, HKD will have a fireworks display every night as a climax to the day's entertainment. It will last about 12 minutes and take place between about 9 pm and 9:30 pm according to season. In order to cope with this very different set of circumstances, we intend to proceed on the following basis -

- (a) for the first year of operation, HKITP to be given a series of rolling 3-month licences;
- (b) thereafter the licences would be rolling annual ones;
- (c) HKITP would need to inform SHA if particulars of the fireworks display changed and apply for a new licence if the conditions attached to the previous one were no longer applicable; and
- (d) renewal of the rolling licences would be subject to the safety and security requirements in force at the time.

In the longer term, we would also consider the desirability of issuing licences with longer validity.

17. HKITP will comply with all existing safety and environmental standards in operation at the time the licences are first issued. In addition the company would comply with any new safety standards - and, to the extent possible, any environmental ones - upon each re-issue of the licence. However WD has expressed concern that over the years environmental standards - particularly in relation to noise - may change to the extent that the fireworks display would be rendered impossible. As the fireworks display is an integral part of the Disney experience, WD has sought an undertaking on HKITP's behalf, and the Administration agreed, that if such revised legislation were ever being contemplated, special regard would be given to the position of HKD.

Penny's Bay Rail Link

18. A rail shuttle between Penny's Bay and Yam O will be part of the necessary transport infrastructure required to cater for the large number of estimated visitations to the Theme Park precinct. The Master Project Agreement provides that Government will contract with a rail operator to deliver an operational rail link shortly before park opening. There will be a new railway station at Yam O which will allow passengers to transfer from the existing Mass Transit Railway Tung Chung Line to the Penny's Bay rail link.

Environmental Implications

19. The HKD development will be located on a reclamation site at Penny's Bay. The area was originally earmarked for container port development under the Lantau Port and Western Harbour Development Studies conducted in 1993. Three EIA studies were completed in 1994-95 which thoroughly examined the environmental issues in relation to the reclamation works and associated infrastructure. The EIA reports show that with mitigation measures in place, the environmental impacts of the works can be controlled to meet the relevant environmental criteria. These EIA reports were endorsed by the Advisory Council on the Environment (ACE) with conditions in 1995 and are now placed in the EIA Ordinance Register accessible by the public. The conditions imposed by the ACE have been followed up in the design of the reclamation works.

20. Since then, the Agriculture and Fisheries Department commissioned a study on Chinese White Dolphins from April 1996 to April 1998. This study indicated that the areas to be reclaimed for the HKD development were not part of the core habitat for the dolphins in Hong Kong. We completed an environmental review in July 1999 on the construction impacts of the reclamation works. The review concluded that as the extent of reclamation works for the HKD development in Penny's Bay is less than that for the port development in the same location, less environmental impacts were anticipated when compared with the previously endorsed EIA reports. The review report was presented to the ACE on 27 September 1999.

21. To address the environmental implications of the land use changes since 1995, an EIA study has been going on for more than a year under the EIA Ordinance for the Northshore Lantau Development covering Siu Ho Wan, Yam O, Tsing Chau Tsai Headland and Penny's Bay, to address the cumulative environmental impacts of the latest development proposals and update the findings of the previous EIAs. The EIA report will be exhibited for the public and the ACE to comment before deciding on the approval of the EIA report. Environmental permits are required for the reclamation works. In addition, the HKD development is a designated project under the EIA Ordinance and will be strictly controlled under the EIA Ordinance and other environmental legislation. We will carry out a further EIA study for the HKD development to reconfirm and update previous findings and to address the operational issues. The EIA report will be exhibited for public and the ACE to comment in accordance with the EIA Ordinance. Environmental Permits will be required before any construction works can commence.

Economic Implications

22. The Government Economist has considered the project's impact on the economy and concluded that at Base Case - the prudent business forecast on the basis of which both we and WD have agreed to proceed with the project - there will be a net economic benefit in present value terms of \$148 billion over 40 years, most of which will accrue outside the theme park itself to the remainder of the economy.

Financial and Staffing Implications

23. Implementation of the HKD project will require creation of a total of 49 posts, with a notional annual salary cost at mid-point of \$35,265,840 and a full annual average staff cost of \$59,362,498. The Government's total investment, including equity, loans and infrastructure expenditure, will be \$22.45 billion. We will seek Finance Committee's approval for this on 26 November.

Publicity

24. We will issue a press release. A spokesman will be available for answering media enquiries.

Enquiries

25. Any enquiries on this brief should be directed to Mr Joe Wong, Assistant Commissioner for Tourism, at Tel : 2810 2911 or Fax: 2537 7725.

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Economic Services Bureau
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