

立法會
Legislative Council

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Panel on Planning, Lands and Works

West Kowloon Cultural District

Updated Background Brief

Purpose

This paper provides an update on the development of the West Kowloon Cultural District (WKCD) project since the issue of the last background brief (**Appendix I**) on 27 October 2003. It also summarizes the major concerns expressed on the project.

Extension of deadline for submission of proposals for WKCD

2. After the Administration launched the Invitation for Proposals (IFP) for the development of the WKCD on 5 September 2003, LegCo continued to follow up the issue in various forums. Questions were raised at the Council meetings on 12 and 19 November 2003. The Panel on Planning, Lands and Works (PLW Panel) and the Panel on Home Affairs held two joint meetings on 18 and 25 November 2003 to receive views from 18 deputations coming from the arts, cultural, building, property and estate sectors. A motion was also passed at the Council meeting on 26 November 2003 urging the Government to, inter alia, comprehensively review the project, thoroughly consult the relevant sectors and the public, and uphold the principles put forward by the Culture and Heritage Commission in formulating the development plan. The wording of the motion is in **Appendix II**.

3. In view of the call by many deputations and LegCo Members that more time should be provided to proponents for preparing proposals, the Chief Secretary, in his response at the motion debate on 26 November 2003, announced the extension of the deadline for submission of proposals for three months, i.e. from 19 March 2004 to 19 June 2004.

Financing of the project and land issues

4. One of the major controversies over the WKCD project is the financial arrangement. Unlike other public works projects listed under the Public Works Programme and funded by the Capital Works Reserve Fund, the WKCD will be run on a self-financing basis and will not involve public funding. The project covers 40 hectares of land. A land grant of the site for a term of 50 years in favour of the successful proponent will be executed at such time as the Government considers appropriate after the execution of the project agreement. Since no public funding is involved for the works within the WKCD area, there is no need to seek funding approval from the Finance Committee of LegCo. Questions have therefore been raised on whether the Administration has circumvented the normal procedure of seeking approval for expenditure in public works, and whether the Administration has breached its usual accounting practice. In this respect, the PLW Panel requested the Legal Service Division of the LegCo Secretariat to provide its legal opinion on the questions at the meeting of the PLW Panel on 27 April 2004. According to the Legal Adviser, in view of the Administration's decision of not treating the development of the WKCD as a project within the public works programme and the Administration's advice that the project does not involve the charging of expenditure on the general revenue, there is no legal requirement that the Administration must follow the procedure for seeking approval for creating a charge on the general revenue for funding the project. However, in the light of Article 64 of the Basic Law, which provides that the Government shall be accountable to LegCo, the Government has the duty to satisfy LegCo that the current mode of development was not preferred to circumvent the approved procedure and to provide details on the technical issues relating to the Administration's accounting practice to the satisfaction of LegCo Members. The decision on whether to use public funds to finance the project is an executive decision. It would be legitimate for the LegCo to ask the Government to satisfactorily account for the decision that the proposed mode of financing is a sound policy decision.

5. Some members are gravely concerned about the proposed single package approach in the delivery of the WKCD project. Given the scale of the project, some members are of the view that the single package approach may result in restricting the choice of bidders, in particular the participation of small and medium-sized developers. Undesirable tender prices may be resulted and the Government may place itself in an unfavourable position in negotiating the details of the project. Some members consider that the project should be divided into separate tenders and part of the land could be put up for sale and the sale proceeds could then be used for developing cultural facilities.

6. According to the Administration, the conventional way of dividing the project into smaller packages and inviting tenders would require the Government to draw up its own master layout plan based on uncertain

assumptions of what would be commercially viable in an integrated development. Conducting multiple tender exercises would present the Government with the extremely difficult task of drawing up multiple sets of complex interlocking land leases. The Administration considers that tendering out smaller packages with a view to using the land sale proceeds for developing the cultural facilities impractical and this would involve hypothecating the general revenue.

7. The majority of members of the PLW Panel are not satisfied with the proposed land and financial arrangements for the WKCD project. The Panel passed a motion in this regard at the meeting on 27 April 2004. The wording of the motion is in **Appendix III**.

Planning control

8. Since the entire site of WKCD was zoned "Other Specified Uses" annotated "Arts, Cultural, Commercial and Entertainment", some members have raised concern about the lack of planning control over the future development of the site. Apart from reiterating the intention to subject the WKCD to the statutory town planning control, the Administration undertakes that after a Provisional Agreement is signed with the successful proponent, it will submit the development parameters of the selected scheme, including the maximum gross floor area and plot ratio for domestic and non-domestic development, maximum building heights and open space requirements to the Town Planning Board for inclusion in the South West Kowloon Outline Zoning Plan (OZP). The amended OZP will be subject to the normal statutory process in accordance with the Town Planning Ordinance (TPO) (Cap. 131). Any future change to the approved OZP will have to follow the statutory requirements under the TPO.

Canopy

9. According to the IFP, the proponents were required to include, in the formulation of the preliminary masterplan, a canopy as the signature design feature covering at least 55% of the development area to create a singular waterfront landmark. Members are concerned about the technical viability of the canopy and its cost-effectiveness given its high construction and maintenance cost. An oral question in this respect was raised at the Council meeting on 19 May 2004.

10. The Administration is of the view that there are no particular design problems with the canopy. Proponents are required to carry out technical studies to address special design consideration and maintenance plan for the canopy detailing the arrangements for the cleaning, maintenance and repair.

The Administration has to see the proponents' proposals before knowing how much the canopy will cost and assess it in the overall financial scheme. At the present stage, the Administration does not believe that the technical or financial aspects of the canopy requirement will affect the viability of the project.

Public involvement

11. Another major concern of members is lack of transparency and public involvement in the selection of the proposals. Members note that the assessment panel will comprise senior civil servants only. The Administration is of the view that to avoid possible conflict of interest, which may invite legal challenges from unsuccessful proponents, participation of any individuals other than selected senior civil servants in the assessment panel will be undesirable. However, to enhance public involvement, the Administration undertakes that all proposals which have satisfied the mandatory requirements will be put up for exhibition. Exhibits prepared by the proponents showing details of the technical aspects of the proposals and the proposed arrangements regarding operation, maintenance and management of the arts and cultural facilities will be displayed. Public forums will also be held during the exhibition period to solicit view from the public on the proposals.

Other concerns

12. Other concerns expressed by members concerning the WKCD project include the following aspects:

- (a) formulation of a comprehensive arts and cultural policy to complement the WKCD hardware facilities. The Administration should review the relationship between the WKCD and the overall cultural policy of Hong Kong. Reference should be made to the recommendations of the Policy Report by the Culture and Heritage Commission;
- (b) participation of the arts and cultural sector in the project. A tripartite relationship including the arts and cultural sector, the Government and the successful proponent for the WKCD should be established for working out the operation and management mode of the WKCD; and
- (c) the need to set up an independent authority to take charge of the WKCD project.

Latest development

13. The Administration received five proposals in response to the IFP. The proponents who made submissions are: World City Culture Park Limited, Sunny Development Limited, Swire Properties Limited, Dynamic Star International Limited and LAM Sze-tat. The proposals would be assessed by a Proposals Evaluation Committee chaired by the Permanent Secretary for Housing, Planning, and Lands (Planning and Lands) and assisted by a dedicated assessment team drawn from the relevant bureaux and departments of the Government.

14. A chronology of events relating to the WKCD is in **Appendix IV**. A list of relevant papers with their hyperlinks at the LegCo Website is in **Appendix V**.

Council Business Division 1
Legislative Council Secretariat
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立法會
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**Panel on Planning, Lands and Works
and Panel on Home Affairs**

West Kowloon Cultural District

Background Brief

Purpose

This paper sets out the background to the development of the West Kowloon Cultural District (WKCD) and views expressed by members of the Panel on Planning, Lands and Works (PLW Panel) and Panel on Home Affairs (HA Panel) on the development.

WKCD site

2. The proposed WKCD is a waterfront site of 40 hectares at the southern tip of the West Kowloon Reclamation (WKR). The WKR is one of the ten Airport Core Programme projects primarily aimed to provide land for a transport corridor to accommodate the West Kowloon Highway, Airport Railway and connection for the Western Harbour Crossing. The southern portion of WKR was originally zoned for a regional park (13.79 hectares), commercial (5.02 hectares) and residential (0.77 hectares) development as well as other open spaces (7.94 hectares) and government, institution and community (1.45 hectares) uses.

3. To serve the developments in the southern part of WKR, the Administration submitted a funding proposal to the Public Works Subcommittee (PWSC) on 23 September 1998 for the construction of a complementary road network and associated drainage and sewerage works at an estimated cost of \$914 million. The funding proposal was recommended by PWSC and approved by the Finance Committee on 16 October 1998.

Development of a Performance Venue

4. In October 1998, the Chief Executive (CE) announced in his Policy Address the planning of a new state-of-the-art Performance Venue on WKR as a catalyst to upgrade Hong Kong's image as an Asian entertainment capital. In February 1999, the Hong Kong Tourist Association published the Final Report of the Study on the Feasibility of a New Performance Venue for Hong Kong. The Study concluded that Hong Kong needs a new international performance venue to meet growing demand for such a facility, to support the development of arts and culture in Hong Kong, to promote event tourism as well as to promote Hong Kong as the event capital of Asia. The Study also identified a site of 5.5 hectares on WKR for the purpose of building a performance venue and suggested that the entire southern section of WKR should be developed into a new arts, culture and tourist district which would create a critical mass of activities around the new performance venue.

Replanning of southern part of WKR

5. In his Policy Address of 1999 the CE undertook to create a new look for the Victoria Harbour such that the future waterfront promenade would provide arts, cultural and entertainment opportunities that would enrich the quality of life and attract tourists with the unique local culture. For this purpose, the CE also announced its plan to hold an open competition to enlist the help of local and overseas professionals. On 16 November 1999, the CE in Council ordered that the use of the southern portion of WKR should be fundamentally reviewed to facilitate the development of a world-class integrated arts, cultural and entertainment district.

6. On 18 November 1999, the Administration briefed the PLW Panel of its decision to review the land uses of the southern portion of WKR for the development of a world-class integrated arts, cultural and entertainment district. To facilitate the development, the Administration also decided to delete part of a then existing works contract on WKR that would be affected by the replanning of the area. The contract in question comprised mainly roads, footbridges and drainage works, with a contract sum of \$299 million. According to the Administration, the value of completed works which might become abortive was estimated to be about \$24 million. Some PLW Panel members supported the replanning decision. Some members, however, considered that since the contract in question commenced only in December 1998, if the Administration had made better planning and co-ordination, the financial loss arising from the abortive works would have been avoided. To address the Panel's concern, the Administration subsequently provided a note to the Finance Committee to explain the review of the land uses and deletion of part of the road and infrastructure works contracts.

7. On 13 December 1999, the Administration briefed the HA Panel on the development of a performance venue on WKR. Members expressed concerns that Government's cultural policy might be dictated by the infrastructure development and that the development on WKR might become a property development under the guise of an integrated arts, cultural and entertainment district.

WKR Concept Competition

8. On 9 March 2000, the Administration briefed members of the PLW Panel on the details of the WKR Concept Competition. The Administration then stressed that there was no linkage between the Competition and the eventual development right of the area and that it would not be bound in any way to develop WKR in accordance with the winning design. In response to members, the Administration advised that there were divided views among the development industry and relevant professionals on whether the development right of WKR should be granted to one developer. Small developers objected to granting the development right of WKR to one developer and considered that the Administration should reserve the flexibility of disposing of the land of WKR in separate packages. Large developers, however, had not expressed strong view over the issue. The Administration then advised members that it had yet to decide how the development right of WKR would be disposed of.

9. In April 2001, the Administration launched the open Concept Competition to invite conceptual plans for the development of the southern tip of WKR into an integrated arts, cultural and entertainment district. The Concept Competition attracted a total of 161 entries from local and overseas participants. The result of the Competition was announced in February 2002. The first prize was awarded to the submission by a team led by Foster and Partners (Foster scheme). The PLW Panel was informed of the outcome of the Concept Competition by way of an information paper in April 2002.

10. In September 2002, the Administration set up a Steering Committee for Development of the West Kowloon Cultural District (Steering Committee), chaired by the Chief Secretary for Administration, to plan and guide the implementation of the West Kowloon Cultural District (WKCD) project.

11. In October 2002, the Administration announced the decision of the Steering Committee to adopt in principle the Foster scheme with some modifications as the conceptual basis for the masterplan for the WKCD.

12. In March 2003, the Administration announced its intention to invite development proposals for the WKCD from the private sector in mid-2003.

Invitation for Proposals

13. On 5 September 2003, the Administration launched the Invitation for Proposals (IFP) for the development of the WKCD. The IFP invites, among other things, submission of a preliminary masterplan based on the development brief and supporting technical, financial and operation proposals, including the amount of land premium offered, if any, and a comprehensive business plan setting out a strategy for establishing the WKCD as a world class arts, cultural and entertainment attraction. The IFP also requires proponents to demonstrate that they have sound financial backing, the ability to finance their proposed level of investment and a sustainable financing plan.

14. Under the IFP, proponents are required:

(a) to provide the following core arts and cultural facilities:

- Theatre Complex comprising three theatres with seating capacities of at least 2,000, 800 and 400 seats, respectively;
- Performance Venue with a seating capacity of at least 10,000 seats;
- Museum Cluster comprising four museums of differing themes with total Net Operating Floor Area of at least 75,000 square metres;
- Art Exhibition Centre with Net Operating Floor Area of at least 10,000 square metres;
- Water Amphitheatre; and
- At least four Piazza Areas.

(b) to provide the canopy proposed in the Foster scheme, covering at least 55% of the development area; and

(c) to demolish and re-provision the Tsimshatsui Fire Station Complex.

It is stated in the IFP that the Government's baseline which is intended as a base reference for proponents in drawing up their proposals assumes a plot ratio of 1.81. Proponents may submit proposals deviating from the development parameters stipulated in the Government's baseline.

15. The successful proponent will be required to plan, design, finance, construct, procure, fit out and complete the WKCD and subsequently operate, maintain and manage the core art and cultural facilities for a period of 30 years.

A land grant of the site for a term of 50 years in favour of the successful proponent will be executed at such time as Government considers appropriate after the execution of the project agreement.. It is expected that construction works will commence by April 2006 and the core arts and cultural facilities will operate in phases from 2010 onwards. The deadline for submission of proposals is noon, 19 March 2004.

Members' concerns

16. At the PLW meeting on 4 July 2003 when the IFP for the WKCD was discussed, members expressed the following concerns:

- (a) the possibility of poor response to the IFP due to the need for substantial capital investment;
- (b) the technical feasibility and maintenance problems of the proposed canopy;
- (c) the need for a museum cluster as there are already many museums;
- (d) the mode of management of arts and cultural facilities in the WKCD;
- (e) the charging policy for use of the facilities in the WKCD; and
- (f) the rationale for providing residential development in the WKCD.

17. A chronology of events relating to the WKCD is in **Appendix I**. A list of relevant papers with their hyperlinks at the LegCo Website is in **Appendix II**.

**Motion on "West Kowloon Cultural District development project"
passed at the Legislative Council meeting on 26 November 2003**

(Translation)

“That this Council urges the Government to comprehensively review the West Kowloon Cultural District development project, consider the ‘software’ contents before planning the cultural facilities, extend the deadline for submission of development proposals, openly and thoroughly consult the cultural sector, professional bodies, the real estate sector, the Legislative Council, the public and relevant organizations, and uphold the ‘people-oriented’, ‘partnership’ and ‘community-driven’ principles put forward by the Culture and Heritage Commission for the West Kowloon development in formulating a development and operation plan that is open, fair and proper; and in the process of development, the Government should also facilitate a partnership between developers and the cultural sector, so as to allow the latter to participate in the planning and future operation of the facilities in the district.”

Appendix III

Motion on "West Kowloon Cultural District" passed at the meeting of the Panel on Planning, Lands and Works held on 27 April 2004

(Translation)

“That this Panel opposes the land and financial arrangements proposed by the Administration for the West Kowloon Cultural District .”

Appendix IV

Chronology of events relating to West Kowloon Cultural Development

- October 1998 The Chief Executive (CE) announced in his policy address that the Administration was planning for a new, state-of-the-art performance venue on the West Kowloon Reclamation (WKR)
- 23 September 1998 The Public Works Subcommittee (PWSC) recommended the upgrading to Category A of part of 332CL, entitled "West Kowloon Reclamation - southern area, phase 4 and remaining roadworks stage 2" at an estimated cost of \$914 million in money-of-day prices
- 16 October 1998 The Finance Committee approved the funding of part of 332CL as recommended by PWSC
- October 1999 The CE announced in his policy address the plan of the Administration to develop a major performance venue in the WKR and to hold an open competition to enlist the help of local and overseas professionals
- 16 November 1999 The CE in Council ordered that the use of the southern portion of the WKR should be fundamentally reviewed to facilitate the development of a world class integrated arts, cultural and entertainment district
- 18 November 1999 The Administration explained to the Panel on Planning, Lands and Works (PLW Panel) the decision to review the land uses of the southern portion of WKR for the development of a world class integrated arts, cultural and entertainment district and to delete part of an existing road and infrastructure works contract
- 13 December 1999 The Administration briefed the Panel on Home Affairs on the planning of a performance venue on WKR

20 December 1999	The Administration issued a note to the Finance Committee to explain its decision to review the land uses of the southern portion of WKR and the deletion of part of a road and infrastructure works contract
9 March 2000	The Administration briefed the PLW Panel on the holding of an open competition for WKR
6 April 2001	The launch of WKR Concept Plan Competition
28 February 2002	Announcement of the winning entries of the WKR Concept Plan Competition
19 April 2002	The Administration provided an information note to PLW Panel to report the outcome of the WKR Concept Plan Competition
September 2002	A Steering Committee for Development of the West Kowloon Cultural District (WKCD) was established
4 July 2003	The Administration briefed PLW Panel on its intention to issue an Invitation For Proposals for the Development of WKCD
5 September 2003	The Administration launched an Invitation For Proposals for the Development of the WKCD.
18 November 2003	Joint meeting of the PLW Panel and HA Panel to receive deputations and discuss with the Administration on the IFP
25 November 2003	Joint meeting of the PLW Panel and HA Panel to receive deputations and discuss with the Administration on the IFP

- 26 November 2003 Motion debate on WKCD development at Council meeting
- Announcement of extended deadline for submission of proposals
- 27 April 2004 PLW Panel meeting to discuss financial arrangement and to receive the latest progress report on WKCD development
- 19 June 2004 Deadline for submission of proposals. Five proposals were received.

West Kowloon Cultural District

List of relevant papers

Council/Committee	Date of meeting	Paper
Public Works Subcommittee (PWSC)	23 September 1998	PWSC(98-99)17 (http://www.legco.gov.hk/yr98-99/english/fc/pwsc/papers/pw230917.pdf) LC Paper No. PWSC26/98-99 (http://www.legco.gov.hk/yr98-99/english/fc/pwsc/minutes/pw230998.htm)
Finance Committee (FC)	16 October 1998	FCR(98-99)33 (http://www.legco.gov.hk/yr98-99/english/fc/fc/minutes/fcmn1610.htm)
Planning, Lands and Works (PLW) Panel	18 November 1999	LC Paper No. CB(1)1065/99-00 (http://www.legco.gov.hk/yr99-00/english/panels/plw/minutes/pl181199.pdf)
FC	--	FCRI(1999-2000)18 (http://www.legco.gov.hk/yr98-99/english/fc/fc/papers/fi99-18e.pdf)
Home Affairs (HA) Panel	13 December 1999	Paper No. CB(2)587/99-00(01) (http://www.legco.gov.hk/yr99-00/english/panels/ha/papers/587e01.pdf)

Council/Committee	Date of meeting	Paper
		LC Paper No. CB(2)1456/99-00 (http://www.legco.gov.hk/yr99-00/english/panels/ha/minutes/ha131299.pdf)
PLW Panel	9 March 2000	LC Paper No. CB(1)1103/99-00(03) (http://www.legco.gov.hk/yr99-00/english/panels/plw/papers/a1103c03.pdf) LC Paper No. CB(1)1187/99-00 (Presentation Printout) LC Paper No. CB(1)1822/99-00 (http://www.legco.gov.hk/yr99-00/english/panels/plw/papers/letter0903.pdf) LC Paper No. CB(1)1595/99-00 (http://www.legco.gov.hk/yr99-00/english/panels/plw/minutes/pl090300.pdf)
PLW Panel	8 May 2002	LC Paper No. CB(1)1616/01-02 (http://www.legco.gov.hk/yr99-00/english/panels/plw/papers/plw0309cb1-1616-e.pdf)
PLW Panel	4 July 2003	LC Paper No. CB(1)2104/02-03(03) (http://www.legco.gov.hk/yr02-03/english/panels/plw/papers/plw0704cb1-2104-3e.pdf) LC Paper No. CB(1)2351/02-03 (http://www.legco.gov.hk/yr02-03/english/panels/plw/minutes/pl030704.pdf)

Council/Committee	Date of meeting	Paper
Council meeting	12 November 2003	Hansard (http://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm1112ti-translate-e.pdf)
PLW and HA Panels	18 November 2003	LC Paper No. CB(1)322/03-04(06) (http://www.legco.gov.hk/yr03-04/english/panels/plw/papers/haplw1118cb1-322-6e.pdf) LC Paper No. CB(1)817/03-04 (http://www.legco.gov.hk/yr03-04/english/panels/plw/minutes/hapl1118.pdf)
Council meeting	19 November 2003	Hansard (http://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm1119ti-translate-e.pdf)
PLW and HA Panels	25 November 2003	LC Paper No. CB(1)448/03-04(01) (http://www.legco.gov.hk/yr03-04/english/panels/plw/papers/haplw1125cb1-448-1e.pdf) LC Paper No. CB(1)819/03-04 (http://www.legco.gov.hk/yr03-04/english/panels/plw/minutes/hapl1125.pdf)
Council meeting	26 November 2003	Hansard (http://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm1126ti-translate-e.pdf)

Council/Committee	Date of meeting	Paper
PLW Panel	27 April 2004	LC Paper No. CB(1)1353/03-04(01) (http://www.legco.gov.hk/yr03-04/english/panels/plw/papers/haplw1125cb1-1353-1e.pdf) LS Paper No. LS47/03-04 http://www.legco.gov.hk/yr03-04/english/panels/plw/papers/haplw1125ls-47-e.pdf
Council meeting	12 May 2004	Hansard (http://www.legco.gov.hk/yr03-04/chinese/counmtg/floor/cm0512ti-confirm-c.pdf)
Council meeting	19 May 2004	Hansard (http://www.legco.gov.hk/yr03-04/chinese/counmtg/floor/cm0519ti-confirm-c.pdf)
Council meeting	23 June 2004	Press release from the Administration on reply to question at Council meeting (http://www.info.gov.hk/gia/general/200406/23/0623196.htm)