

## **LEGISLATIVE COUNCIL BRIEF**

### **DEVELOPMENT OF THE WEST KOWLOON CULTURAL DISTRICT**

#### **WAY FORWARD**

#### **INTRODUCTION**

At the meeting of the Executive Council on 4 October 2005, the Council ADVISED and the Chief Executive ORDERED that –

- (a) the report of the public consultation prepared by an independent consultant (paragraphs 4 to 6 and the Annex) be noted, and in particular the need to address public concerns about the single development approach, development intensity and mix, and sustainability of the arts and cultural facilities at the West Kowloon Cultural District (WKCD);
- (b) the Administration should invite further response from the screened-in Proponents on additional development parameters on plot ratio and development mix; on carving out certain residential and commercial developments for open bidding; and on establishment of a trust fund, and thereafter decide whether we should continue with the Invitation for Proposals for the Development of the WKCD (IFP) in the light of the response (paragraphs 10 to 17);
- (c) no decision on shortlisting should be made at this stage (paragraph 3);
- (d) before doing (b), the Administration should inform the Legislative Council (LegCo) and the public of the way forward (paragraphs 19). We should also proceed to seek Town Planning Board (TPB)'s preliminary views on the additional development parameters; and
- (e) subject to positive response from the Proponents, and taking account of the views of LegCo, the TPB and the public -

Annex

- (i) we should, with the assistance of consultants, further develop the additional parameters and conditions mentioned in (b) above into detailed requirements, as well as formulating other additional requirements, for the Proponents to revise their Proposals under the IFP framework (paragraph 18(c)); and
- (ii) at the same time, we should proceed to establish an independent statutory body to take forward the development of the WKCD under the IFP, and accord priority to the drafting of the enabling legislation for public consultation in Q2 2006 (paragraphs 20 to 22).-

## **JUSTIFICATIONS**

### **Screening of Proposals**

2. With the approval of Chief Executive-in-Council, we announced the screening result in November 2004 with three Proposals having met all the Mandatory Requirements<sup>(1)</sup> stipulated in the IFP. The three Proposals which have been screened in for further assessment are submitted by World City Culture Park Limited, Sunny Development Limited, and Dynamic Star International Limited respectively<sup>(2)</sup>.

### **Assessment of Proposals**

3. The screened-in Proposals have been further assessed in accordance with the IFP with a view to shortlisting Proposal(s) for negotiation. In parallel, we conducted a large-scale public consultation from mid December 2004 to end June 2005. During the public consultation, the public and LegCo have expressed serious concerns on various aspects of the project. Unless and until these concerns are addressed, we will not have sufficient public and political

---

**Note** (1) The Mandatory Requirements include -

- (i) The provision of the Core Arts and Cultural Facilities as follows -
  - (a) Theatre Complex comprising three theatres with seating capacities of at least 2 000, 800 and 400 seats, respectively;
  - (b) Performance Venue with a seating capacity of at least 10 000 seats;
  - (c) Museum Cluster comprising four museums of differing themes with total Net Operating Floor Area of at least 75 000 m<sup>2</sup>;
  - (d) Art Exhibition Centre with Net Operating Floor Area of at least 10 000 m<sup>2</sup>;
  - (e) Water Amphitheatre; and
  - (f) At least four Piazza Areas.
- (ii) The provision of the Canopy covering at least 55% of the Development Area.
- (iii) The demolition and re-provisioning of the Tsim Sha Tsui Fire Station Complex.

**Note** (2) The Proposals from Swire Properties Limited and LAM, Sze-tat were screened out.

support for the project to proceed. The assessment should therefore be held in abeyance and no decision on shortlisting should be made at this stage.

### **Public Consultation**

4. We have appointed the Public Policy Research Institute of the Hong Kong Polytechnic University (PPRI) as our independent consultant to conduct telephone polls and analyse the public views (including the Phase I study report published by the LegCo Subcommittee on WKCD Development) received during the public consultation. According to PPRI's analysis, the majority of the public supports the idea of having a cultural district on the West Kowloon waterfront. The public in general believes that the project would enrich our arts and cultural life, create jobs, and benefit the tourism industry. However, the majority of the public is against the single development approach. Public opinions on the Canopy are inconclusive. As for the screened-in Proposals, the public prefers to have less commercial and residential buildings, lower plot ratios, and more open and green areas. Less than 10% of the respondents feel that none of the three Proposals should be taken forward by the Government.

5. Before proceeding with the WKCD development, the public would wish to see more monitoring measures to be put in place with greater public participation; as well as to have further discussions on our cultural policy. The public also expresses concerns about the sustainability of the operation of the arts and cultural facilities by the developers. There is broad support for establishing an independent body to oversee the planning, design, development and operation of the WKCD to enhance public participation and for effective monitoring. PPRI's report, including an Executive Summary, is at the Annex.

### Annex

6. In publishing the PPRI's report, we have anonymised the Proponents in the PPRI's report to avoid premature disclosure of the rank order of the screened-in Proposals as indicated by respondents to the consultation exercise. We undertake to disclose the report in full after Government has completed negotiations and selected a preferred Proponent under the IFP. The objective is to avoid giving any possible advantage, real or perceived, to the Proponent whose Proposal has come first in the popularity ranking at this particular stage.

### **Major Considerations in Deciding the Way Forward**

7. Going forward, we must address major public concerns about the WKCD. In so doing, we have first taken into account the following considerations -

- (a) ***Making the best use of past efforts.*** The PPRI report indicates that there is majority support for early implementation of the WKCD. We should make the best use of what we have done under the IFP and to continue with that process, including the Proposals we have screened-in and the public views that we have collected;
- (b) ***Preserving the WKCD concept.*** As the PPRI's report indicates, there is majority support for Government to take forward at least one of the screened-in Proposals. We should endeavour to preserve the WKCD concept for an integrated arts, cultural, entertainment and commercial district. Specifically, we should attempt to retain the signature ingredients of the project, namely, the CACF and the Canopy. The public, especially the arts and cultural sector, generally welcomes the provision of the CACF. As for the Canopy, results of the public consultation indicate that public views are divided and hence inconclusive. There is a certain degree of support for the Canopy. At this stage there appears to be no compelling reason for us to change these Mandatory Requirements;
- (c) ***Upholding the existing cultural policy.*** Outcome of the public consultation has pointed to the need for more public discussion on cultural policy. We believe our existing cultural policy has provided a sufficiently sound basis for the development of the WKCD. Our policy towards arts and culture is to create an environment which is conducive to the freedom of expression and artistic creation, and which encourages participation in such activities. The Cultural and Heritage Commission (CHC) Policy Recommendation Report is the blueprint of Hong Kong's cultural policy, and has given its support to the WKCD project. We envisage that the WKCD, with integrated planning and management, will be a hub for local and international creative talent. Through it, new resources and venues will be provided for the arts and cultural sector for its healthy development. Jobs for art administrators, artists and arts graduates will be created; and new opportunities for cross sector cooperation between arts and commerce will arise. All these will nurture the growth of a smarter and healthier culture and creative industry in Hong Kong. While discussions on cultural policy would continue, there is no strong ground for shelving the WKCD for the sake of such discussion; and
- (d) ***Maintaining the authority of land disposal.*** The authority for land disposal in the development of WKCD should continue to be retained by Government, as enshrined in the Basic Law. We should ensure optimal and coordinated disposal of land resources.

8. Taking into account the above considerations and the outcome of public consultation, we see the need to adopt a more prescriptive approach in devising the development parameters and conditions for the WKCD and that a new statutory body should be established to take over the functions of the Administration at a suitable juncture to oversee the WKCD under the IFP framework.

### **A More Prescriptive Approach**

9. In the course of public consultation, we have already informed the public and LegCo that we would consider adopting a more prescriptive approach as we shape the WKCD by introducing additional development parameters and conditions for the Proponents to revise their Proposals under the IFP framework so as to address public concerns. Of all the public concerns, we believe that we have to address upfront those about the single development approach, development intensity and sustainability of the CACF in order that we may take the project further.

#### Single Development Approach

10. To address public concern about the single development approach, we will require the Successful Proponent to carve out the development rights of at least 50% of the residential and commercial gross floor area (GFA) at the WKCD site. Other developers will be able to bid for the carved out portions under an open and fair process which is acceptable to the market and the general public. The Successful Proponent would not be allowed to bid. This proposed condition implies that there will be more than one developer for the site.

11. For effective coordination of works, efficient integration of design and a clear line of responsibility, we propose that the Successful Proponent should assume the role of coordinating the project and be charged with the obligation of developing all the CACF, Canopy and other communal facilities of the WKCD. It should be given, say, at most half of the development rights of the residential and commercial GFA.

12. We have considered the possibility of a deeper carve-out, i.e. the carving-out will not be limited to residential and commercial developments but will also include the CACF. If the CACF are to be developed by a number of Proponents, we can foresee significant coordination problems in the detailed planning and construction stage, and perhaps inconsistencies in style and standards between different facilities. As a result, the overall project management could be less efficient, less cost-effective and development time longer.

#### Development Intensity<sup>(3)</sup>

---

Note (3) The development parameters, including the limits on plot ratio, development mix, and the

13. The public considers the plot ratios (ranging from 2.5 to 4.33) and the proportion of residential developments (ranging from 27% to 51% of the total GFA) in the three screened-in Proposals too high. We therefore propose to set an overriding plot ratio at 1.81; cap the residential GFA to no more than 20% of the total GFA; and specify a minimum Net Operating Floor Area (NOFA) for CACF at 185 000m<sup>2</sup>(4).

14. The plot ratio of 1.81 is set out in the IFP as Government's Baseline<sup>(5)</sup>, which is in line with the winning design of the Concept Plan Competition for the site and the amount of commercial/residential GFA permitted under the previous Outline Zoning Plan.

15. Government's Baseline in the IFP is silent on the proportion of residential elements in the development mix. The proposed cap of 20% on residential development seeks to address public views which clearly prefer less residential development in the district. The 20% residential cap is already much lower than the lowest proportion of residential developments in the screened-in Proposals and is sufficiently smaller than the portion for CACF, which takes up some 30% of the total GFA. It helps to ensure that the WKCD would not be dominated by residential development, and provide a balanced mix of cultural, entertainment, commercial and residential facilities which could add life and vibrancy to the district at different times of the day and night. Our preliminary assessment indicates that the traffic impact of a plot ratio of 1.81 with 20% residential development would be manageable. The proposed plot ratio and development mix would not pose major problems on supporting infrastructure.

16. It is possible that with a lower plot ratio, the Proponents may adjust the scale and quality of its offer of arts and cultural facilities and services. To preserve the nature of the cultural district, we consider it necessary to specify, as a first step, the minimum NOFA for the CACF as a core element of the proposed parameters governing development intensity. The minimum NOFA for the CACF proposed in paragraph 13 is in line with the Government's Baseline.

---

minimum Net Operating Floor Area (NOFA) for CACF, are subject to TPB's agreement and Chief Executive-in-Council's final approval under the statutory plan amendment process stipulated under the Town Planning Ordinance.

**Note (4)** This is equivalent to a GFA of 214 000m<sup>2</sup> and accounts for some 30% of the total GFA of the WKCD at a plot ratio of 1.81.

**Note (5)** Under the IFP issued in September 2003, Government's Baseline refers to the value and starting point or preferred point of reference of Government with which other values can be compared. Deviation from Government's Baseline will not result in disqualification from the IFP process. All three screened-in Proposals differ in varying degrees from Government's Baseline.

## Sustainability of CACF

17. We have estimated a financial-equivalent for offering world class arts and cultural programmes at the WKCD. We will require the Successful Proponent to pay an amount of \$30 billion upfront to establish an independent trust fund. The amount is estimated on the basis that it would generate a recurrent return which could cover the net operating expenditure of the CACF and other communal facilities like the Canopy, Automated People Mover and open space, as well as the recurrent cost of a new body for the WKCD<sup>(6)</sup> (please see paragraphs 20 to 22 below), while preserving the size of the principal, i.e. the upfront payment in real terms. In other words, the trust fund would be expected to support the operation of the communal facilities and the new body on an on-going basis. This should help assure the public of their sustainability.

### **Next Steps**

18. We will adopt the following procedures in taking forward the proposed development parameters and conditions under the IFP –

- (a) we will seek TPB's preliminary views on the additional development parameters set out in paragraphs 13 to 16;
- (b) we will consult the three screened-in Proponents on the additional development parameters (paragraphs 13 to 16) and the conditions set out in paragraphs 10 to 12 and 17.
- (c) if the reaction to (b) above from at least two of the three screened-in Proponents is positive, we will engage independent consultants, including a financial advisor and property development consultants, to conduct financial viability and technical feasibility studies to develop the additional development parameters and conditions into detailed requirements. These are necessary for the TPB to initiate the statutory plan-amendment process for early public engagement in prescribing relevant planning parameters like plot ratio, development mix, building heights, etc. in the South West Kowloon Outline Zoning Plan. We will also formulate other requirements under the more prescriptive approach. We should also in parallel prepare for the establishment of a new statutory body to take over our functions for the WKCD at a suitable juncture under the IFP; or

**Note (6)** The net annual operating expenditure of the CACF, the Canopy, the Automated People Mover and the open space is guesstimated at about \$500 million while the annual recurrent cost of a new body for the WKCD is guesstimated to be some \$60 million. All these guesstimates are based on comparable Government facilities and services with some adjustments. A 10% contingency is allowed in computing the Trust Fund. The return rate of the Trust Fund is assumed to be 5% per annum and the annual inflation rate is assumed to be 2.5%.

- (d) if less than two of the screened-in Proponents gives a positive response, we should conduct a review as to how we may develop the WKCD to best meet community aspirations, including the need for establishing a new body to oversee the project.

19. The response from the Proponents to the additional development parameters and conditions, the reaction of LegCo, the TPB and the general public, would be decisive factors in shaping the way forward.

### **Establishing a New Body for the WKCD**

20. The establishment of an independent statutory body for taking forward the WKCD is a major demand from LegCo and most interest groups. It also has received broad public support during the consultation exercise as indicated in PPRI's report. Establishing a new body is in line with CHC recommendations that emphasis should be given to the principles of "people-oriented", "partnership" and "community-driven" in the development of the WKCD. It would allow for greater public participation and in the process secure more public ownership for the project.

21. In broad terms, the core features of the new body should include

- (a) it will be established by statute;
- (b) its powers and functions should predicate on the need to maximise the use of past efforts made on the project, and on the modifications to be introduced to the IFP which, in turn, would depend much on the response from the screened-in Proponents and public reaction. Nevertheless in any case, the new body should at least have a significant role in overall project development and management plus a longer term on-going role in managing the CACF;
- (c) the masterplan for the WKCD should be subject to the comments by, and the approval of, the TPB and Chief Executive-in-Council, as appropriate;
- (d) the new body should be subject to sufficient safeguards for transparency and accountability, as well as requirements to consult the public on major matters; and
- (e) its governing body (to be appointed by the Chief Executive) should be, and seen to be, independent from the Government and vested interests, comprising well respected personalities from the arts and cultural circles, tourism industry, property development and management sector, financial services, town planning, architecture, surveying and engineering fields, etc. Its own consultative setup should be broadly based and representative of the arts and cultural sectors and various professions relevant to the WKCD development.



22. We will need to consider in detail the composition, powers and functions of the new body for it to take over the IFP from the Government at a suitable juncture. Based on PPRI's report, the body should not only focus on arts and cultural facilities but also seek to turn the WKCD into a "must-see" for tourists. These details could only be formulated after we have assessed comments and reactions from LegCo, the TPB, the screened-in Proponents and the public on the aforementioned-proposed development parameters and conditions (paragraphs 10 to 17) and have decided the prospects of the IFP. We shall accord priority to the drafting of the enabling legislation so as to allow the public to have early sight of the draft legislation as a basis of consultation on the new body. If the scenario in paragraph 18(c) materialises, we shall aim to consult LegCo and the public on specific legislative proposals for establishing a new body in Q2 2006.

## **IMPLICATIONS OF THE PROPOSAL**

### Economic Implications

23. The requirement that the Successful Proponent would have to carve out certain percentage of development rights for open bidding (paragraphs 10 to 11) would allow more developers to participate in the project. This represents a substantial modification to the single development approach and could enhance competition in the proposed residential and commercial developments. Also, barring the Successful Proponent from bidding the carved out portions should enhance fair competition in the bidding process. The proposed development parameters of a plot ratio upper limit of 1.81 and capping the residential GFA to no more than 20% of the total GFA should help to prevent the WKCD project from having any significant impact on the overall property market. Instead, since most of the new residential units in the development are likely to be larger-sized units, the resultant supply will help resolve the relative scarcity of larger-sized residential units in Kowloon and satisfy the on-going demand for better living conditions. This will promote healthy development of the property market.

### Sustainability Implications

24. The provision of the CACF in the WKCD is conducive to the sustainability principle of enhancing our arts and cultural diversity. The proposed carving-out condition for the Successful Proponent is in line with the sustainability principle of achieving a competitive and market-based economy. That said, any environmental impact in connection with the construction and operation of the WKCD should be adequately addressed.

25. A Sustainability Assessment (SA) will be conducted for the

revised IFP framework with new development parameters and requirements before it is finalised. Another SA will be conducted for the preferred Proposal to confirm its sustainability implications, as compared with those for the revised IFP framework.

### Financial and Civil Service Implications

26 Arising from the process set out in paragraph 18, the Housing, Planning and Lands Bureau would need to create two supernumerary posts at D4 and D2 levels respectively to oversee consultation with the screened-in Proponents, formulation of additional requirements for developing the WKCD, preparation of the enabling legislation for the new body, further public consultation and establishment of the new body. The Lands Department will also need to create one supernumerary post at D1 level to provide inputs on land administration issues relating to proposals for implementation of the project including the “carving-out” proposal and the formulation of development control parameters. The post-holder would also assist in monitoring and overseeing the work of the financial advisor and property consultants, if appointed.

27 Subject to the outcome of the process referred to in paragraph 18, there is a need to create, on a supernumerary basis, two D1 posts, one DL1 post and about ten non-directorate posts in relevant bureaux and departments in different stages of the development of the project to undertake duties related to financial analysis, town planning, land administration and arts and cultural facilities and services.

28 The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no productivity implication. As set out in paragraph 18(c), technical feasibility studies on the proposed development parameters and conditions in paragraphs 10 to 17 could only be conducted at a later stage, subject to the feedback from the screened-in Proponents and reaction of LegCo, the TPB and the public. Environmental implications would be further assessed when the development requirements for the WKCD take a more concrete shape.

### **PUBLICITY**

29. We will conduct background briefings for the media and issue a press release. A spokesman will be available to explain the rationale of the proposal. FAQs will be uploaded onto the dedicated website on WKCD (<http://www.hplb.gov.hk/wkcd/>).

### **ENQUIRIES**

30. Please contact Mr Danny Lau, Principal Assistant Secretary

(Planning and Lands)5 at 2848 2568 and Mr Vincent Fung, Principal Assistant Secretary (Home Affairs) (Culture)1 at 2594 6615 for enquiries on this subject.

**Housing, Planning and Lands Bureau**

**Home Affairs Bureau**

**7 October 2005**