

**Bills Committee on
West Kowloon Cultural District Authority Bill**

Proposed Committee Stage Amendments – The Fourth Batch

Purpose

This paper outlines the fourth batch of the Administration's proposed Committee Stage Amendments ("CSAs") to the West Kowloon Cultural District Authority Bill ("the Bill").

Proposed CSAs

2. In response to Members' views expressed at the Bills Committee meetings on 6 June 2008, we intend to propose amendments to Clauses 6, 8, 8A, 8B, 10, 11 and 17A. We also intend to propose technical CSAs to amend Clauses 2 (on definition of terms), 18, 25, 32 and Section 15(3) of the Schedule. The major contents of the fourth batch of the proposed CSAs are set out below.

Clause 6

3. Taking into account Members' views, we would like to further amend Clause 6(3)(c)(iii) regarding the appointment criteria for the 8 or more non-public officer members of the West Kowloon Cultural District Authority ("WKCDA") Board (i.e. other than the 5 or more members with arts and cultural background and the 1 or more members who is a Legislative Council Member), by including "surveying" as a category of experience which may render an individual suitable for appointment by the Chief Executive.

4. As regards the 5 or more WKCDA Board members with arts and cultural background, we intend to propose amendment to Clause 6(3)(c)(i) such that they should, in the opinion of the Chief Executive, have extensive knowledge of, or experience in, or exposure to, arts and cultural activities, or have good standing in the field of arts and culture.

Clause 8, 8A, 8B and 11

5. Members have expressed the view that the functions of the Investment Committee and Remuneration Committee should be appropriately amended to include functions delegated by WKCDA under Clause 11. We intend to amend Clauses 8A(2) and 8B(2) such that the Investment Committee and the Remuneration Committee may deal with such matter as may be delegated to them by the WKCDA. In this connection, we will also propose to refine Clause

8(2) regarding the functions of the Audit Committee to the same effect. To regulate the scope of the functions that may be delegated to the committees, we intend to propose an amendment to Clause 11 such that when delegating any of its functions to the committees, the WKCDA shall have regard to the committee's function as specified under the legislation.

6. We also intend to amend Clause 8B(5) to preclude the Chief Executive Officer of the WKCDA from being appointed as the chairman of the Remuneration Committee.

Clause 10

7. Clause 10 of the Bill deals with the appointment of employees of the WKCDA and related matters. Taking into account Members' views, we intend to replace references to “委任” by “聘任”.

New Clause 17A

8. Clause 17 provides that the Authority shall, in relation to matters concerning the development or operation of arts and cultural facilities, related facilities, ancillary facilities and any other matters as the Authority considers fit, consult the public at such time and in such manner as it considers appropriate.

9. Taking into account the extensive range of the Authority's functions and objectives as well as its statutory duty to consult under Clause 17, we consider that there will be practical need for the WKCDA to set up a regular public consultation mechanism to discharge this statutory duty upon its establishment. Making reference to the work of the Consultative Committee on the Core Arts and Cultural Facilities of the West Kowloon Cultural District as well as its three Advisory Groups, which were appointed by the Government in April 2006 to examine the need of core arts and cultural facilities (CACF) in the West Kowloon Cultural District, we consider that a similar consultative mechanism established under the Authority should provide a useful platform for soliciting views and building consensus among experts, stakeholders and the general public on major matters relating to the work of the Authority. We, therefore, intend to require the WKCDA to set up a consultation panel to gather public views on matters relevant to the functions of the Authority. As the panel is intended to be a consultative mechanism, the results of its deliberations will not be binding on the decisions of the WKCDA.

10. As the primary purpose of the consultation panel is to facilitate the WKCDA to gather public views, we propose that the members of the consultation panel should be appointed by the WKCDA whilst the WKCDA could take into account nominations from different channels to ensure a broad

and balanced composition on the panel. The WKCDA will also be required, from time to time, to issue a guideline, which the consultation panel is to have regard to in performing its functions, in relation to the functions of the panel; the administration, proceedings and business of the panels and any other matters that the Authority considers appropriate. The guideline will be made public. Furthermore, we also intend to propose that the consultation panel is to hold at least one meeting each year and its meetings is to be open to the public. These proposed provisions seek to strike a reasonable balance between the need for a standing consultative mechanism, and the need to ensure adequate flexibility for the Authority in deciding how best to consult the public.

11. This proposed consultative mechanism, together with other provisions seeking to safeguard public interest in the Bill (such as the submission of the Annual Report with prescribed contents and the power of LegCo to request the Chairman and CEO to attend meetings to answer questions) would seek to enhance the public accountability and transparency of the WKCDA's operation.

Technical Amendments

Clause 2

12. We intend to amend the definitions of “approved development plan”, “SWK approved plan”, “SWK draft plan” in Clause 2 such that these terms will better tie in with the town planning procedures under the Town Planning Ordinance (Cap. 131). We will also propose to delete the definition of “development plan” as it is clear that the term refers to a development plan prepared under Clause 18 of the Bill and render the definition not necessary.

13. In the Chinese text, “附屬設施” is defined as “在批租地區外提供的、附屬於藝術文化的準備或提供的設施”. We intend to amend the definition by deleting “提供的、附屬於藝術文化的準備或提供的設施” and substituting “附屬於為準備或提供藝術文化設施而提供的設施” to reflect our policy intent more accurately.

Clause 18

14. We intend to propose a number of CSAs to further improve the text of Clause 18. First, we intend to delete paragraph (2)(b) of the Chinese text, which reads “[發展圖則]可為根據該條例第 16 條就所有或任何目的取得批給許可訂定條文。” and substitute by “[發展圖則]可規定為所有或任何目的而言須根據該條例第 16 條取得批給許可。” so as to improve the readability of the Clause.

15. Secondly, we intend to further refine the wording of Clause 18(13) so as to set out more clearly that if the Chief Executive in Council refuses to approve a development plan, WKCD shall prepare another development plan for the purposes specified in Clause 18(1)(a) to (c) and Clause 18 (other than Clause 18(1)) applies to any such development plan.

Clause 25

16. The Chinese text of Clause 25(4) reads that “凡於一個財政年度內的任何時間，管理局有任何附屬公司，則根據第(2)款為該財政年度擬備的帳目報表，須包括管理局與該等附屬公司之間的集團帳目，而第(3)款須據此適用。”。 We intend to improve the readability of the text by deleting “該等附屬公司之間” and substituting “管理局及該等附屬公司”。

Clause 32

17. The Chinese text of Clause 32(1) reads that “民政事務局局長可為確保藝術文化設施、相關設施或附屬設施獲得穩當的營運、管理或維持，訂立規例。”。 We intend to improve the text by deleting “獲得穩當的營運、” and substituting “的安全運作或獲得穩當的” so as to reflect our policy intent more accurately.

Section 15(3) of the Schedule

18. The Chinese text of Section 15(3) of the Schedule reads that “凡董事局作出決定，與第(1)款描述的董事訂立任何合約，或與某人訂立任何合約，而任何董事會透過該人，在該合約中有直接或間接的利害關係，則該合約的各方須以董事局認為合適的方式公布。”。 We intend to improve the readability of the text by deleting “該合約的各方須以董事局認為合適的方式公布” and substituting “須以董事局認為合適的方式公布該合約的各方”。

19. The proposed CSAs are at **Annex**.

WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Home Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>(a) By deleting the definition of "approved development plan" and substituting -</p> <p>"approved development plan" (核准發展圖則)</p> <p>means -</p> <p>(a) subject to paragraph (b), the approved development plan referred to in section 18(11), as from time to time amended, revised or otherwise having effect as an approved plan under the Town Planning Ordinance (Cap. 131); or</p> <p>(b) where any approved plan under that Ordinance has replaced the plan, the approved plan currently having effect in respect of the plan area under that Ordinance;".</p> <p>(b) In the definition of "committee member", by deleting "section 8 or 9" and substituting "this Ordinance".</p>

- (c) By deleting the definition of "development plan".
- (d) By deleting the definition of "SWK approved plan" and substituting -
" "SWK approved plan" (西南九龍核准圖則) means the approved plan currently having effect in respect of the lay-out of South West Kowloon under the Town Planning Ordinance (Cap. 131);".
- (e) By deleting the definition of "SWK draft plan" and substituting -
" "SWK draft plan" (西南九龍草圖) means any draft plan for the lay-out of South West Kowloon -
 - (a) which is exhibited under section 5 of the Town Planning Ordinance (Cap. 131); or
 - (b) any amendment to which is exhibited under section 7 of that Ordinance;".
- (f) In the Chinese text, in the definition of "附屬設施", by deleting everything after "外" and substituting "附屬於為準備或提供藝術文化設施而提供的設施; ".

6(3) By deleting paragraph (c) and substituting -

- "(c) not less than 8 and not more than 15 other members who are not public officers, including -
 - (i) at least 5 members who, in the

opinion of the Chief Executive -

(A) have good standing in the field of arts and culture; or

(B) have extensive knowledge of, or wide experience in or exposure to, arts and cultural activities;

(ii) at least one member who is a member of the Legislative Council; and

(iii) such other members who possess experience in management, engineering, planning, architecture, surveying, accounting, finance, education, law or community service, or such professional or other experience as would, in the opinion of the Chief Executive, render them suitable for appointment; and".

8(2) (a) In paragraph (a), by deleting "and" at the end.

(b) by adding -

"(aa) to deal with any matter delegated to it by the Authority under section 11; and".

New By adding -

"8A. Investment Committee

(1) There is established by this section

a committee to be known as the Investment Committee.

(2) The functions of the Investment Committee are -

- (a) to advise the Authority in relation to its functions under section 20;
- (b) for the purposes of paragraph (a), to monitor any investment made under section 20 and oversee the management of such investment;
- (c) to deal with any matter delegated to it by the Authority under section 11; and
- (d) to consider any other matter relating to investment or finance that is referred or assigned to it by the Board for consideration.

(3) The Investment Committee is to consist of -

- (a) the Director of Accounting Services, or his representative; and
- (b) such number of other members, not being less than 2, as the Board may determine who, in the opinion of the Board, possess

such expertise or experience as would render them suitable for appointment.

(4) Each of the members of the Investment Committee specified in subsection (3)(b), whether or not the member is a Board member, is to be appointed by the Board.

(5) The Board is to appoint a Board member to be the chairman of the Investment Committee.

(6) The Board may -

(a) withdraw any matter referred or assigned under subsection

(2)(d); or

(b) revoke any appointment made under subsection (4) or (5).

(7) An appointment made under this section is to be made public in the manner that the Board considers fit.

(8) Meetings of the Investment Committee are to be held as often as may be necessary for the performance of its functions.

(9) The Investment Committee may, subject to the requirements of this Ordinance, regulate its own administration, proceedings and business in such manner as it considers appropriate."

New

By adding -

"8B. Remuneration Committee

(1) There is established by this section a committee to be known as the Remuneration Committee.

(2) The functions of the Remuneration Committee are -

(a) to advise the Authority in relation to its functions under section 10(2) and (3);

(b) to advise the Authority on any other matter relating to the remuneration, allowances or benefits made available to its employees, former employees or their dependants that is referred or assigned to it by the Board for consideration; and

(c) to deal with any matter delegated to it by the Authority under section 11.

(3) The Remuneration Committee is to consist of such number of members, not being less than 3, as the Board may determine.

(4) Each of the members of the Remuneration Committee, whether or not the member is a Board member, is to be appointed by the Board.

(5) The Board is to appoint a Board member (other than the Chief Executive Officer) to be the chairman of the Remuneration Committee.

(6) The Board may -

(a) withdraw any matter referred or assigned under subsection

(2)(b); or

(b) revoke any appointment made under subsection (4) or (5).

(7) An appointment made under this section is to be made public in the manner that the Board considers fit.

(8) Meetings of the Remuneration Committee are to be held as often as may be necessary for the performance of its functions.

(9) The Remuneration Committee may, subject to the requirements of this Ordinance, regulate its own administration, proceedings and business in such manner as it considers appropriate."

10 In the Chinese text, in the heading, by deleting "委任" and substituting "聘任".

10(1) In the Chinese text, by deleting "委任" and substituting "聘任".

11

By adding -

"(1A) In delegating under subsection (1)(b) any function to a committee established under section 8, 8A or 8B, the Authority shall have regard to the committee's functions as specified under this Ordinance."

New

By adding in Part 2 -

"17A. Establishment of consultation panel

(1) Without limiting the generality of section 17, the Authority shall establish a consultation panel to gather public views on matters relevant to the functions of the Authority.

(2) The consultation panel is to consist of a chairman and such number of other members as the Authority may determine.

(3) Each of the members of the consultation panel, including its chairman, is to be appointed by the Authority.

(4) The Authority shall from time to time issue guidelines in relation to -

- (a) the functions of the consultation panel;
- (b) subject to subsection (7), the administration, proceedings and business of the panel; and
- (c) any other matter relating to the panel that the Authority

considers appropriate.

(5) A guideline issued under subsection (4) is to be made public in the manner that the Authority considers fit.

(6) In performing its functions, the consultation panel is to have regard to any guidelines issued and published under this section.

(7) The consultation panel is to hold at least one meeting each year and any such meeting is to be open to the public."

18(2) In the Chinese text, by deleting paragraph (b) and substituting -

"(b) 可規定為所有或任何目的而言須根據該條例第 16 條取得批給許可。".

18 By adding -

"(13) Where the Chief Executive in Council refuses to approve a development plan which is deemed to be a draft plan by virtue of subsection (8), the Authority shall, as soon as reasonably practicable after such refusal, prepare another development plan for the purposes specified in subsection (1)(a), (b) and (c), and this section, other than subsection (1), applies to that other development plan."

25(4) In the Chinese text, by deleting "管理局與該等附屬公司之間" and substituting "管理局及該等附屬公司".

32(1) In the Chinese text, by deleting "獲得穩當的營運、" and substituting "的安全運作、獲得穩當的".

Schedule,
section 15(3) In the Chinese text, by deleting "該合約的各方須以董事局認為合適的方式公布" and substituting "須以董事局認為合適的方式公布該合約的各方".