



**Submissions on the
West Kowloon Cultural District Authority Bill**

The Law Society has the following comments on the Bill:

1. Clause 2 - definition of "land grant".

We query the reference to the legal estate created etc by S.14 of the Conveyancing and Property Ordinance ("CAPO") which is unclear. The definition refers to "*an agreement*" rather than an actual lease which implies a building lease with a building covenant and the usual restrictions on alienation in Government leases.

S.14 states the equitable rules for the conversion of an equitable estate into a legal estate when the conditions set out in an agreement for the grant of a lease have been complied with clarifies the time when the this conversion happens in the case of Government leases.

As S.14 already applies to an agreement for lease between the Director of Lands and the proposed Authority (S.14 only applies to Government leases (which include agreements to lease) and all Government leases which set out conditions to be complied with for a grant of lease to be made are covered) we are unsure of the purpose of this reference to CAPO in the definition.

2. Clause 6 (3)(a)

The Bill states the Chairman "may or may not be a public officer." We note the controversial nature of the planning and development of this area and recommend that the Chairman should not be a public officer. The Chairman would hold a casting vote, and when the number of public officers on the Board is equal to the unofficials (the number of public officers is not to exceed the unofficials) there could be a clear contest between officials and unofficials.

We submit the public interest would better be served by having a person independent of the Government as the Chairman.

3. Clauses 17 and 18(3)(a)

These require public consultation in regard to certain matters "*at such time and in such manner as it [the proposed Authority] considers appropriate.*"

The drafting is very loose and there should be more details and/or conditions given for the proposed Authority to carry out public consultation. As drafted, there is *no obligation* for the proposed Authority to carry out any public consultation at all.

4. Clauses 18(4) and (5)(a)

The proposed Authority must comply with the requirements or conditions for the draft development plan laid down by the Secretary for Home Affairs. These requirements etc are "*as he thinks necessary or expedient for the development of the plan area*". There is therefore no fetter on the power of the Secretary to control the content of the development plan whereas the views of the public are only to be taken into account: "*have regard to the views of...*" and may be ignored completely. Even the powers of the Chief Executive in Clause 13 are fettered.

We submit the powers of the Secretary for Home Affairs should also be fettered if the proposed Authority is to be properly independent of the Government and not just be, in effect, a Government department when it comes to the development of the plan area.

**The Law Society of Hong Kong
Land Use Planning Committee
4 March 2008
113254**