

Chapter 4 - Conclusions

4.1 Ten years after the Competition held in 2001-2002, Mr LEUNG Chun-ying was reported in the media in recent months to have allegedly omitted declaring his interest as the Chairman of DTZ, which was included as a member of a participating team, while serving as a member of the Jury in the Competition. The Select Committee notes the fact that such media reports were made in the run-up to the Fourth Term CE Election at which Mr LEUNG Chun-ying was then a prospective candidate.

4.2 The matter relating to the conflict of interest allegation against Mr LEUNG Chun-ying was initially discussed by the House Committee, which requested the Administration to present a full picture of what had actually happened and to produce all the relevant documents. As the information disclosed by the Administration could not dispel public concerns and queries about the conflict of interest allegation against Mr LEUNG Chun-ying, the House Committee decided to propose to the Council that an inquiry ought to be conducted.

4.3 The decision made by the Council on 29 February 2012 to set up the Select Committee and to authorise it to exercise the power to summon was to address the public concerns about whether there was any conflict of interests involving Mr LEUNG Chun-ying as a member of the Jury given his association with DTZ, and the degree of DTZ's involvement in the Competition. The terms of reference of the Select Committee is set out in the Resolution passed in the Council, i.e. to study

"Mr LEUNG Chun-ying's involvement as a member of the Jury in the West Kowloon Reclamation Concept Plan Competition and related issues".

4.4 As described in paragraph 1.5, in the light of some Members' concern that the Select Committee might be perceived to have a conflict of interests if its members included those who had nominated a candidate in the CE Election, the House Committee decided that the chairman and deputy chairman of the Select Committee should only be those members who had not made any nomination of candidates in the CE Election.

4.5 The Select Committee also set out its major areas of study at the start of its work and obtained evidence from witnesses to assist its understanding of the conduct of the Competition, the mechanism and procedure for dealing with conflict of interests, the adjudication process and Mr LEUNG Chun-ying's association with the Entry Concerned. In Chapters 2 and 3 of this Report, the Select Committee has given an account of the involvement of Mr LEUNG Chun-ying as a member of the Jury in the Competition, DTZ's association with the Entry Concerned, and whether and how far Mr LEUNG Chun-ying was aware of DTZ's association with the Entry Concerned before the adjudication of the entries. A chronology of the relevant events is set out in **Appendix 4(a)**.

4.6 The Select Committee notes that following the Government's announcement of the appointment of Mr Antony LEUNG, who was originally on the proposed membership list of the Jury for the Competition, as the Financial Secretary, Mr LEUNG Chun-ying, then

Convenor of the non-official Members of ExCo, was invited to serve as a member of the Jury and he accepted the invitation on 13 March 2001. The Competition was launched on 6 April 2001. Pursuant to paragraph 16 of the General Conditions of the Competition Document, a company of which a member of the Jury was a director or major shareholder was ineligible for the Competition. Dr Kenneth YEANG of Hamzah & Yeang submitted his Registration Form dated 5 June 2001 and subsequently supplemented it with a sealed envelope containing a list of Project Team members dated 27 September 2001. As described in paragraph 2.13, pursuant to the anonymity and confidentiality provisions of the Competition Document, all submission materials were kept anonymous.

4.7 After consulting ICAC and the Professional Advisor to the Competition in October/November 2001, the Organiser decided to request members of the Technical Panel and of the Jury to declare conflicts of interests, with a view to enhancing the impartiality and integrity of the Competition. On 21 February 2002, the Organiser wrote to members of the Jury requesting them to complete a declaration form by 23 February 2002. Allegedly based on his understanding of the declaration form and the distinction between "declaration of interest" and "declaration of conflict of interests", Mr LEUNG Chun-ying completed his declaration form and submitted it to Mr Eric JOHNSON, the Competition Co-ordinator, on 25 February 2002. The adjudication of the entries took place on 26 and 27 February 2002.

4.8 In the evening of 27 February 2002, after the Jury had finalised the provisional list of five winning entries, Mr Eric JOHNSON

opened the sealed envelopes of the entries concerned and found in Dr Kenneth YEANG's list of Project Team members dated 27 September 2001 the name of DTZ being listed as "*Property Advisors*". As Mr JOHNSON was aware that Mr LEUNG Chun-ying was the Chairman of DTZ, he drew the attention of Mr John TSANG, then Secretary for Planning and Lands, to the finding in the following morning. Mr TSANG then told Mr LEUNG Chun-ying about the finding.

4.9 Mr LEUNG Chun-ying told the Select Committee that he explained to the Jury at its meeting in the morning of 28 February 2002 that he did not understand why DTZ was included as a member of the Project Team of the Entry Concerned after checking with Mr CHIU Kam-kuen and Mr WONG Kim-bon of DTZ who were named in the Entry Concerned, and he undertook to submit information to Mr Eric JOHNSON on the role of DTZ in the Entry Concerned. In the meantime, the Jury decided to disqualify the Entry Concerned in accordance with the ineligibility provision. On 11 March 2002, Mr LEUNG Chun-ying wrote to Mr JOHNSON reiterating his unawareness of DTZ's association with the Entry Concerned before the adjudication and providing information on the role of DTZ in the Entry Concerned. On 15 May 2002, Mr JOHNSON informed the Chairman of the Jury in writing of Mr LEUNG Chun-ying's provision of supplementary declaration and recommended that no further action be taken on the matter.

4.10 In this Chapter, based on the evidence and observations set out in Chapters 2 and 3, the Select Committee focuses on the following questions :

- (a) whether Mr LEUNG Chun-ying was aware of DTZ's association with the Entry Concerned before the adjudication of the entries;
- (b) whether there was any omission in Mr LEUNG Chun-ying's declaration form submitted to the Organiser on 25 February 2002; and
- (c) whether the omission, if any, in Mr LEUNG Chun-ying's declarations gave rise to a conflict of interests in the adjudication process.

Whether Mr LEUNG Chun-ying was aware of DTZ's association with the Entry Concerned before the adjudication

4.11 Before coming to its view as to whether Mr LEUNG Chun-ying was aware of DTZ's association with the Entry Concerned before the adjudication, the Select Committee has to consider, in the first place, whether Mr CHIU Kam-kuen and Mr WONG Kim-bon of DTZ were aware of the inclusion of DTZ as a Project Team member of the Entry Concerned before they were so informed by Mr LEUNG Chun-ying in the morning of 28 February 2002.

4.12 The Select Committee notes that there were two letters which might indicate the awareness of Mr CHIU Kam-kuen and Mr WONG Kim-bon of the inclusion of DTZ into the Project Team as a member. The first letter was the one dated 11 September 2001 issued by

Mr Kenneth POON of DLS to Mr Ronald LIANG of LWK following Mr POON's meeting with Mr CHIU and Mr WONG concerning the provision by DTZ of land value information on WKR. As described in paragraphs 3.17 to 3.20, the letter was copied to Mr CHIU Kam-kuen and Dr Kenneth YEANG, stating that "*with the joining of DTZ, we now have a full team for the study*". While Mr CHIU Kam-kuen confirmed that he and Mr WONG had met with Mr POON before 11 September 2001, he claimed that he did not receive the copy of Mr POON's letter of 11 September 2001.

4.13 The second letter which might indicate the awareness of Mr CHIU Kam-kuen and Mr WONG Kim-bon of the inclusion of DTZ into the Project Team was Mr Kenneth POON's letter of 19 September 2001 sent to Mr CHIU Kam-kuen, which enclosed a copy of Dr Kenneth YEANG's letter of 7 September 2001 to Project Team members. As described in paragraph 3.9, in his letter of 7 September 2001, Dr YEANG requested the Project Team members to provide him by email, by 25 September 2001, with information on their respective companies and key personnel who worked on the project to facilitate his preparation for the final submission documents for the Competition. Mr CHIU claimed that he had only received Mr POON's letter of 19 September 2001 without the attachment at the time. However, as observed in paragraphs 3.65 to 3.68, acting on the instruction of Mr CHIU or Mr WONG, Miss Teresa NG, Mr CHIU's secretary, was able to provide Hamzah & Yeang by email on 25 September 2001 with the information as requested in Dr YEANG's letter of 7 September 2001. This was the only time that Mr

CHIU or Mr WONG issued documents to the Project Team members by email instead of by fax.

4.14 The Select Committee observes that both letters of 11 and 19 September 2001 were faxed to Mr CHIU Kam-kuen through the fax number 2530 1502, which was the only number used by Mr CHIU to receive faxes. Mr CHIU and Mr WONG Kim-bon were able to receive a total of five letters related to the Competition from Project Team members through the same fax number between 19 and 26 September 2001.

4.15 The Select Committee has difficulty in understanding why Mr CHIU Kam-kuen and Mr WONG Kim-bon could receive all letters related to the Competition but not the two most crucial letters which pointed clearly to the joining of DTZ as a member of the Project Team. The Select Committee also has difficulty in accepting the explanation given by Mr CHIU and other staff members of DTZ that they did not follow up on the missing attachment (i.e. Dr YEANG's letter of 7 September 2001) to Mr POON's letter of 19 September 2001 but were able to provide the information as requested in Dr YEANG's letter of 7 September 2001.

4.16 Some members of the Select Committee also find it difficult to understand why DTZ did not take up with Hamzah & Yeang about its name being used in the Entry Concerned if it had not given its consent for Dr Kenneth YEANG to do so.

4.17 Against this background, the Select Committee considers the evidence given by Mr CHIU Kam-kuen and Mr WONG Kim-bon not credible. The Select Committee is satisfied that Mr Kenneth POON did send his letter of 11 September 2001 to Mr Ronald LIANG of LWK, as Mr LIANG confirmed to the Select Committee receipt of the letter. The Select Committee does not see any need for Mr POON to concoct the matters mentioned in the letter of 11 September 2001. The Select Committee believes that Mr CHIU and Mr WONG were aware of the inclusion of DTZ in the membership of the Project Team of the Entry Concerned before they were so informed by Mr LEUNG Chun-ying in the morning of 28 February 2002.

4.18 As observed in paragraphs 3.58 to 3.64, the Select Committee finds that none of the parties involved, including DTZ, DLS and LWK, had read the ineligibility provision in the Competition Document carefully. All parties might have knowledge about Mr LEUNG Chun-ying being a member of the Jury, but all were under the impression that this matter could be resolved by a declaration of conflict of interests.

4.19 The Select Committee does not find evidence that Mr CHIU Kam-kuen or Mr WONG Kim-bon informed Mr LEUNG Chun-ying of DTZ's association with the Entry Concerned before 28 February 2002. As observed in paragraph 3.69, all the correspondence and documents exchanged between Mr CHIU/Mr WONG and the Project Team members of the Entry Concerned during the material time were not copied to Mr LEUNG Chun-ying. There was also no need for Mr CHIU as the

Executive Director of DTZ to seek Mr LEUNG Chun-ying's agreement for DTZ to provide land value information to DLS or other companies in the same field, irrespective of whether it was fee-paying. Some members of the Select Committee consider that under these circumstances, Mr LEUNG Chun-ying should not know of DTZ's involvement in the Entry Concerned unless he took the initiative to find it out.

4.20 Mr LEUNG Chun-ying claimed that before completing his declaration form, he had made a phone call to the DTZ office at Quarry Bay and asked the staff member who received his call ("the Staff Member Concerned") to conduct a conflict of interest search by checking the Book. However, owing to the passage of time, he could not recall who the Staff Member Concerned was. At one public hearing, Mr LEUNG Chun-ying told the Select Committee that the Staff Member Concerned should be someone he knew who was senior in ranking and served in DTZ for a long time, and there were over 10 such staff members at the DTZ office in Quarry Bay. However, at another public hearing, Mr LEUNG Chun-ying told the Select Committee that a junior staff member could conduct conflict of interest searches, as such searches were very similar to land searches undertaken by search clerks in law firms or surveying companies, who were usually junior staff members. The Select Committee finds that the evidence given by Mr LEUNG Chun-ying on the Staff Member Concerned was inconsistent and does not facilitate the Select Committee to identify the Staff Member Concerned for giving evidence to it.

4.21 The Select Committee considers that Mr LEUNG Chun-ying, Mr CHIU Kam-kuen and Mr WONG Kim-bon should not forget the name of the Staff Member Concerned easily. The conflict of interest search was allegedly conducted between 21 and 23 February 2002, only a few days before Mr LEUNG Chun-ying was informed by the Organiser in the morning of 28 February 2002 of the inclusion of DTZ as a Project Team member of the Entry Concerned. Mr LEUNG Chun-ying might have mentioned the name of the Staff Member Concerned in his telephone conversations with Mr CHIU and Mr WONG in the morning of 28 February 2002. The Select Committee is surprised that Mr LEUNG Chun-ying, Mr CHIU and Mr WONG could be so forgetful as to be unable to recall the name of the Staff Member Concerned.⁴

4.22 As observed in paragraphs 3.70 to 3.75, Mr LEUNG Chun-ying did not mention his conflict of interest search to Mr Eric JOHNSON, the Chairman of the Jury or the Jury in the morning of 28 February 2002. In his letter of 11 March 2002 to Mr JOHNSON concerning the provision of information to complete his declaration, Mr LEUNG Chun-ying only mentioned generally that DTZ had a practice of checking against potential conflict of interest, without referring specifically to his conflict of interest search allegedly conducted between 21 and 23 February 2002. The Select Committee cannot find evidence indicating that Mr LEUNG

⁴ Members voted on the proposal to add a sentence to the end of this paragraph. Mr Andrew CHENG, Mr LEE Wing-tat, Ms Cyd HO, Miss Tanya CHAN and Mr WONG Yuk-man voted in favour of the proposal. Dr Philip WONG, Mr Abraham SHEK, Mr Paul CHAN, Dr Priscilla LEUNG and Mr Paul TSE voted against the proposal. As the votes were equally divided, the Chairman exercised his casting vote in accordance with Rule 79A(1) of the Rules of Procedure. The proposal was negated (please refer to paragraphs 18 to 20 of the Minutes of Proceedings of the meeting on 20 June 2012 in this Report).

Chun-ying did ask the Staff Member Concerned to conduct the conflict of interest search before completing his declaration form.

4.23 The Select Committee considers that even if Mr LEUNG Chun-ying did conduct the conflict of interest search as claimed, it would not reveal the association of DTZ with the Entry Concerned. The Select Committee notes from Mr LEUNG Chun-ying that it was his normal practice to check the Book for conflict of interest searches. The Select Committee however finds that the Book only recorded fee-paying jobs undertaken or confirmed to be undertaken by the Valuation Department of DTZ. As long as a job had yet to be confirmed or was not fee-paying, it was not recorded in the Book, irrespective of the amount of money involved and the extent of professional service DTZ rendered.

4.24 In the view of the Select Committee, given that the provision of land value information by DTZ to DLS concerning WKR in September 2001 was not fee-paying and hence was not recorded in the Book, the Book would not reveal DTZ's association with the Entry Concerned, regardless of whether Mr LEUNG Chun-ying had really requested the Staff Member Concerned to conduct the conflict of interest search or whether the Staff Member Concerned had really conducted the search.

4.25 The Select Committee notes that the Competition was part of the West Kowloon cultural district development project, which captured the attention of the whole construction industry in Hong Kong. Mr LEUNG Chun-ying should have fully understood the implications of serving as a member of the Jury for himself and his company, as Mr

Gordon SIU had so explained to him in sounding out his interest in serving as a member of the Jury in a telephone conversation as described in paragraph 2.22. Some members of the Select Committee consider the approach used by Mr LEUNG Chun-ying for checking conflict of interests loose, incomprehensive and imprudent, as compared with that adopted by a member of the Technical Panel, Mr David LEE, who issued a circular in June 2001, well before he was requested by the Organiser to complete a declaration form in November 2001, to inform his staff members of his appointment as a member of the Technical Panel and to advise them to refrain from joining the Competition.

4.26 On the other hand, some members of the Select Committee do not consider Mr LEUNG Chun-ying's checking with the Book against conflict of interests loose or imprudent. These members note that checking the central file registry (such as the Book) for any conflict of interests was the common practice adopted in the estate surveying industry. Mr Nicholas BROOKE, another member of the Jury, also adopted the same practice for checking any conflict of interests in the Competition before completing his declaration form. These members of the Select Committee consider that while the approach taken by Mr David LEE may be regarded as thorough, Mr LEUNG Chun-ying should not be criticized for not having adopted the same.

Whether there was any omission in Mr LEUNG Chun-ying's declaration form submitted to the Organiser

4.27 On the premise that Mr LEUNG Chun-ying was unaware of DTZ's association with the Entry Concerned before 28 February 2002, the Select Committee addresses the question as to whether there was any omission in his declaration form submitted to the Organiser on 25 February 2002. The Select Committee notes Mr LEUNG Chun-ying's selection of the following items in his declaration form:

"(a) to the best of my knowledge, none of my immediate family members or employees and no-one who has an employment-type contract or close professional association or partnership with me, has entered the competition"; and

"(c) I am not a director or major shareholder of any company".

4.28 As described in paragraphs 2.110 to 2.111, Mr LEUNG Chun-ying claimed that he drew a distinction between "declaration of conflict of interests" and "declaration of interest" at the time of filling in his declaration form. The Select Committee notices that there was no mention of such an understanding by Mr LEUNG Chun-ying in all the documents (except his witness statement dated 19 March 2012) obtained by the Select Committee in relation to his declaration. The Select Committee considers that if Mr LEUNG Chun-ying did draw such a

distinction and considered it important to his declaration at the time, he should have mentioned it at the Jury meeting after he was informed of DTZ's association with the Entry Concerned in the morning of 28 February 2002, or in his letter dated 11 March 2002 to Mr Eric JOHNSON, which was the first time for him to provide in writing a full account of what had happened concerning DTZ's association with the Entry Concerned.

4.29 In the view of the Select Committee, had Mr LEUNG Chun-ying believed that he was required to make a declaration of conflict of interests instead of a general declaration of interest as he claimed and according to the result of his conflict of interest search (if any), he should have chosen item (d) (i.e. "*no company of which I am a director or major shareholder has entered the competition*") instead of item (c) (i.e. "*I am not a director or major shareholder of any company*") in the declaration form. The Select Committee considers that the distinction allegedly drawn by Mr LEUNG Chun-ying fails to account for his selection of item (c) in the declaration form.

4.30 On the other hand, had Mr LEUNG Chun-ying believed that he was required to make a general declaration of interest at the time of filling in his declaration form, he should have declared his directorship in DTZ and should not have chosen item (c). The Select Committee considers that irrespective of whether Mr LEUNG Chun-ying really drew a distinction between "declaration of conflict of interests" and "declaration of interest" at the time, he made incorrect declarations in the declaration form. The Select Committee notes that apart from Mr

LEUNG Chun-ying, another member of the Jury and a member of the Technical Panel who were then directors or major shareholders of companies, also chose item (c) in their declaration forms.

4.31 The Select Committee further considers that Mr LEUNG Chun-ying himself acknowledged the incompleteness of his declaration; otherwise there was no need for him to state in his letter dated 11 March 2002 to Mr Eric JOHNSON that "*to complete my declaration, I attach a full list of companies in the DTZ Group, in which DTZ Debenham Tie Leung is the main operating company*" and "*I am a shareholder and Managing Director of DTZ Debenham Tie Leung*". The Select Committee notes that this information was described by Mr JOHNSON in his letter dated 23 March 2002 to Mr LEUNG Chun-ying as "*the supplementary declaration agreed upon when the matter was discussed on 28 February 2002*", and Mr LEUNG Chun-ying did not raise any objection to the description.

4.32 The Select Committee is not convinced by the evidence obtained to support Mr LEUNG Chun-ying's assertion that he had made the distinction between "declaration of conflict of interests" and "declaration of interest" at the time of filling in the declaration form. Whether or not Mr LEUNG Chun-ying made such a distinction, the declarations on his declaration form submitted to the Organiser on 25 February 2002 were incomplete. The Select Committee considers that

Mr LEUNG Chun-ying did not accord sufficient attention to completing his declaration form⁵, at which the Select Committee expresses dismay⁶.

Whether the omission in Mr LEUNG Chun-ying's declaration gave rise to a conflict of interests in the adjudication process

4.33 Given the anonymity and confidentiality provisions in the Competition Document, Mr LEUNG Chun-ying, like other members of the Jury and of the Technical Panel, should not know the identities of the participants in the adjudication process. While Mr CHIU Kam-kuen and Mr WONG Kim-bon were given by Mr Kenneth POON a copy of the draft concept drawings prepared by Dr Kenneth YEANG on which the Entry Concerned was largely based, the Select Committee cannot find any evidence that Mr LEUNG Chun-ying had seen the draft concept drawings before the adjudication.

4.34 The Select Committee does not notice any abnormality in Mr LEUNG Chun-ying's voting on entries during the adjudication process. As described in paragraphs 2.63 to 2.69, Mr LEUNG Chun-ying was absent from the first round of voting. The Select Committee

⁵ Members voted on the proposal that the paragraph should end with this sentence. Dr Philip WONG, Mr Abraham SHEK, Mr Paul CHAN and Dr Priscilla LEUNG voted in favour of the proposal. Mr Andrew CHENG, Mr LEE Wing-tat, Ms Cyd HO, Miss Tanya CHAN and Mr WONG Yuk-man voted against the proposal. Mr Paul TSE abstained from voting. The proposal was negated (please refer to paragraphs 28 to 30 of the Minutes of Proceedings of the meeting on 20 June 2012 in this Report).

⁶ Members voted on the proposal to add this phrase to the paragraph. Mr Andrew CHENG, Mr LEE Wing-tat, Ms Cyd HO, Mr Paul TSE, Miss Tanya CHAN and Mr WONG Yuk-man voted in favour of the proposal. Dr Philip WONG, Mr Abraham SHEK, Mr Paul CHAN and Dr Priscilla LEUNG voted against the proposal. The proposal was carried (please refer to paragraphs 31 to 32 of the Minutes of Proceedings of the meeting on 20 June 2012 in this Report).

considers that had Mr LEUNG Chun-ying intended to ensure the inclusion of the Entry Concerned into the subsequent rounds of voting, he should have attended this round of voting. In addition, it was the Jury's conscious decision that despite Mr LEUNG Chun-ying's absence from the first round of voting, his selection of the seven entries which had also been voted for by other members should be reflected in the tally of votes by adding one more vote to the total number of votes received by each of the seven entries. The Select Committee observes that Mr LEUNG Chun-ying was not the only member of the Jury who consistently liked the Entry Concerned in most rounds of voting. He and another member of the Jury selected the Entry Concerned in five out of the six rounds of voting. This voting pattern was found in some other members of the Jury who liked a particular entry in most rounds of voting, as shown in Appendix 2(v).

4.35 The Select Committee considers that given the ineligibility provision in the Competition Document, the Entry Concerned had to be disqualified, irrespective of whether Mr LEUNG Chun-ying had declared DTZ's association with it. Moreover, given the anonymity of the participants and in the absence of evidence to the effect that the identities of the participants might be known through other channels, the Select Committee considers that Mr LEUNG Chun-ying and other members of the Jury should not be aware of the identities of the participants in the adjudication process.

4.36 However, as observed in paragraph 3.77, the winning entrants would be automatically included into the list of consultants to be invited for bidding for the masterplanning work and informed of subsequent architectural design competitions for individual buildings or facilities in the Scheme Area. For the avoidance of possible conflict of interests, Mr Eric JOHNSON reminded members of the Jury in his letter of 21 February 2002 of their onus to ensure that none of their companies of which they were directors or major shareholders would enter the Competition. Some members of the Select Committee are not convinced by Mr LEUNG Chun-ying's claim that the nature of DTZ's business, i.e. estate surveying, as opposed to architecture, building surveying or quantity surveying, was related to the Competition "very remotely". They consider that should this be the case, DTZ would not have been included as a Project Team member of the Entry Concerned.

4.37 Given the possible interests to be obtained by the winning entrants, the Organiser's reminder to Mr LEUNG Chun-ying regarding the implications of his appointment as a member of the Jury on his company, Mr LEUNG Chun-ying's extensive public service experience as well as the reasonable expectation on him as the Convenor of non-official Members of ExCo, the Select Committee considers that Mr LEUNG Chun-ying should endeavour to avoid possible conflict of interests and ensure that DTZ did not enter the Competition. Notwithstanding the common practice in the surveying industry to conduct conflict of interest searches by checking "the Book", the Select Committee expresses disappointment that Mr LEUNG Chun-ying did not take any action to inform DTZ of his appointment as a member of the Jury and DTZ's

ineligibility for the Competition, and considers that Mr LEUNG Chun-ying had unshirkable responsibility in this regard⁷.

4.38 The Select Committee is surprised that while Mr Kenneth POON and Mr Ronald LIANG were aware of Mr LEUNG Chun-ying being a member of the Jury, they did not take any action to ascertain the implications of inviting DTZ to join the Project Team as a member. The Select Committee finds that they paid little or no attention to the competition rules, such as the ineligibility provision, in the Competition Document. Had they studied the ineligibility provision, they should not have invited DTZ to join the Project Team. The Select Committee considers that their imprudence did not live up to the standard expected of professionals.

⁷ Members voted on the proposal to add the phrase "並認為梁振英先生有不可推卸的責任" to the end of this paragraph. Mr Andrew CHENG, Mr LEE Wing-tat, Ms Cyd HO, Miss Tanya CHAN and Mr WONG Yuk-man voted in favour of the proposal. Dr Philip WONG, Mr Abraham SHEK, Mr Paul CHAN and Dr Priscilla LEUNG voted against the proposal. The proposal was carried (please refer to paragraphs 37 to 38 of the Minutes of Proceedings of the meeting on 20 June 2012 in this Report).

Members voted on Dr Priscilla LEUNG's proposal to amend paragraph 4.37. Dr Philip WONG, Mr Abraham SHEK, Mr Paul CHAN and Dr Priscilla LEUNG voted in favour of the proposal. Mr Andrew CHENG, Mr LEE Wing-tat, Ms Cyd HO, Miss Tanya CHAN and Mr WONG Yuk-man voted against the proposal. The proposal was negated (please refer to paragraphs 39 to 41 of the Minutes of Proceedings of the meeting on 20 June 2012 in this Report).

Members voted on Ms Cyd HO's proposal to add three new paragraphs after paragraph 4.37. Mr Andrew CHENG, Mr LEE Wing-tat, Ms Cyd HO, Miss Tanya CHAN and Mr WONG Yuk-man voted in favour of the proposal. Dr Philip WONG, Mr Abraham SHEK, Mr Paul CHAN, Dr Priscilla LEUNG and Mr Paul TSE voted against the proposal. As the votes were equally divided, the Chairman exercised his casting vote in accordance with Rule 79A(1) of the Rules of Procedure. The proposal was negated (please refer to paragraphs 43 to 45 of the Minutes of Proceedings of the meeting on 20 June 2012 in this Report).

Members voted on Dr Priscilla LEUNG's proposal to add a new paragraph after paragraph 4.37. Dr Philip WONG, Mr LEE Wing-tat and Dr Priscilla LEUNG voted in favour of the proposal. Mr Andrew CHENG, Ms Cyd HO, Mr Paul TSE, Miss Tanya CHAN and Mr WONG Yuk-man voted against the proposal. The proposal was negated (please refer to paragraphs 46 to 48 of the Minutes of Proceedings of the meeting on 20 June 2012 in this Report).

Related issues

Implementation of the declaration arrangements for the Jury

4.39 As observed in paragraphs 2.94 to 2.102, the Organiser took more than 10 months, following the launch of the Competition in early April 2001, to come up with the declaration arrangements, mainly a one-page declaration form, for members of the Jury. It was not until 21 February 2002, only four days before the first Jury meeting on 25 February 2002, that members of the Jury were informed of the declaration arrangements. The Select Committee is surprised and finds it unacceptable that as compared with members of the Technical Panel, who were allowed more than two weeks to complete and return their declaration forms, members of the Jury were given only two days to do so, no matter how simple the form appeared to be, not to mention that some form of conflict of interest checking might need to be conducted. The Select Committee expresses disappointment at the belated and hasty implementation of the declaration arrangements for the Jury and considers the declaration arrangements too loose. The Organiser should have informed members of the Jury earlier of the declaration requirements, provided them with reasonable time for making declarations, and explained clearly the guidelines on conflict of interests. As declaration of interest is a sensitive and important matter in planning design competitions, the Select Committee hopes that the relevant arrangements would be formulated and implemented in a timely manner in future.

Effectiveness of the declaration arrangements

4.40 The Select Committee notes the Organiser's intention to enhance the integrity and impartiality of the Competition by devising a mechanism for members of the Jury to make declarations before the start of the adjudication process. The Organiser did not adopt a recommendation made by ICAC to seek the entrants' consent to waive the restrictions concerning confidentiality of the entrants and anonymity of submission materials in the Competition Document. The Organiser decided to proceed on the basis of a declaration of interest to the best of the declarant's knowledge and considered it unnecessary to ask entrants for consent to waive the anonymity and confidentiality restrictions. Nevertheless, the Organiser undertook to consider ICAC's suggestion that there should be a further opportunity for members of the Jury to declare any conflict of interests in the light of the identities of the winning entries revealed to them before they were publicly announced.

4.41 However, the Select Committee does not find any evidence that the Organiser provided members of the Jury with a further opportunity to make declarations in the light of the revelation of the identities of the five provisional winning entries in the morning of 28 February 2002. The Select Committee only notes that the Jury received a brief explanation from Mr LEUNG Chun-ying on DTZ's association with one of the provisional winning entries. There was no agenda item on further declaration of conflict of interests at the Jury meeting of 28 February 2002; nor were members of the Jury asked whether they had

any interests to declare in addition to those made in their declaration forms.⁸

4.42 The Select Committee is of the view that the declaration arrangements adopted by the Organiser for members of the Jury and of the Technical Panel were an honour system. The Select Committee notes that the Organiser had not arranged any briefings for members of the Jury and of the Technical Panel on the declaration of interest requirements and how to complete the declaration forms. The Select Committee also does not see any measure taken by the Organiser to check whether the declarations made by members of the Jury in their declaration forms had any obvious omissions or problems arising from misunderstanding of the declaration requirements. The Select Committee considers the Organiser's handling of the issue of declaration of interest defective. In the view of the Select Committee, the Organiser should consider introducing the aforesaid safeguards when organising similar planning design competitions in future, with a view to enhancing the integrity and impartiality of the competitions.

⁸ Members voted on Dr Priscilla LEUNG's proposal to amend paragraphs 4.41 and 4.42 and add two new paragraphs. Dr Philip WONG and Dr Priscilla LEUNG voted in favour of the proposal. Mr Andrew CHENG, Mr LEE Wing-tat, Ms Cyd HO, Mr Paul TSE, Miss Tanya CHAN and Mr WONG Yuk-man voted against the proposal. The proposal was negated (please refer to paragraphs 52 to 54 of the Minutes of Proceedings of the meeting on 20 June 2012 in this Report).