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**Joint Subcommittee to Monitor the Implementation of
the West Kowloon Cultural District Project**

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 23 March 2015**

Public Open Space Bylaw of the West Kowloon Cultural District

Purpose

This paper provides background information and summarizes the deliberations of the Joint Subcommittee to Monitor the Implementation of the West Kowloon Cultural District Project ("the Joint Subcommittee") on issues relating to the preparation of the Public Open Space Bylaw of the West Kowloon Cultural District ("WKCD") by the West Kowloon Cultural District Authority ("WKCDA").

Background

Powers to make bylaws

2. WKCDA is established under the WKCDA Ordinance (Cap. 601) ("WKCDAO") to develop the land leased to it into an integrated arts and cultural district. Section 37(1) of the WKCDAO empowers WKCDA to make bylaws for one or more of the following purposes -

- (a) for the regulation, operation or management of arts and cultural facilities, related facilities or ancillary facilities; and
- (b) for the conduct of all persons within any premises, buildings, structures, facilities or land (including public places) which the Authority holds or manages, whether within or outside the leased area.

Section 37(2)(c) of WKCDAO provides that all bylaws made by WKCDA are subject to the approval of the Legislative Council ("LegCo").

The proposed bylaw

3. According to WKCDA, given that the Park, as an integral part of the 23-hectare public open space within WKCD, will become a popular location for families and the general public as well as for the presentation of arts and cultural activities with high public patronage, it is necessary for WKCDA to make bylaw so that it will be able to manage the Park properly and ensure the comfort and safety of the Park users.

4. When the Joint Subcommittee was briefed on the latest concept design as well as the use and management of the WKCD Park at its meeting on 23 July 2014, members noted that the Consultation Panel ("CP") of WKCDA had launched a public engagement exercise from May to June 2014 to collect public views on the future use and management of the Park, the results of which would be used as references to inform the drafting of bylaw for the management of the Park. Members were also advised that the draft bylaw was under preparation and WKCDA's target was to introduce the bylaw into LegCo in early 2015.

Deliberations of the Joint Subcommittee

Management of the West Kowloon Waterfront Promenade

5. Members noted that the West Kowloon Waterfront Promenade ("the Promenade"), which had been used for organizing public events prior to commencement of the construction works for the WKCD project, was currently managed by WKCDA with a set of temporary administrative house rules. Members also noted that the former Subcommittee on the Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No.2) Order 2012 ("the former Subcommittee") formed under the House Committee had expressed grave concern over the arrangement whereby the Promenade, which had been under the management of the Leisure and Cultural Services Department ("LCSD") and subject to statutory regulation before the gazettal of the Order, was handed over to WKCDA in October 2012 for its control and management under a set of temporary house rules¹ with no legal basis. Some members of the former Subcommittee had expressed the view that the provisions in the Pleasure Grounds Regulation (Cap. 132BC),

¹ A full set of the house rules was provided in the Administration's paper for the meeting of the former Subcommittee held on 29 October 2012 (LC Paper No. CB(2)106/12-13(01)).

which governed the operation of public pleasure grounds under the management of LCSO, were outdated and not conducive to freedom of expression, and that WKCD should adopt a lax approach in managing WKCD. In response to the former Subcommittee's concerns, WKCD had undertaken to prepare the relevant bylaw to cater for the opening of the future WKCD Park and to consult the Panel on Home Affairs or the relevant subcommittee before the legislative process of the bylaw was initiated.

Park management approach

6. Given that the WKCD Park was targeted to open by phases starting from 2015, members had urged WKCD to expeditiously draw up bylaw to provide for proper management of the Park. Some members expressed the view that while WKCD had the responsibility to ensure the safety of the public using the Park, it should adopt a more relaxed and flexible approach in managing the Park and the bylaw to be made should seek to facilitate, and not unduly restrict, public enjoyment of the Park and should not prohibit the staging of street performances in WKCD. These members urged WKCD to consult and take into account the views of the public as well as the arts and cultural sectors in its preparation of the bylaw for the management of the Park. Hon Cyd HO suggested that it would be more desirable for the bylaw to be enforced by the staff of or agents engaged by WKCD, as they should be more familiar with WKCD's organizational culture and approach in managing the Park.

7. WKCD stressed that it would endeavour to manage the WKCD Park with a light hand and encourage a wide range of cultural and leisure uses and activities in the Park, while respecting and balancing the needs of different users. Nevertheless, given the vast area of the Park and the potential areas of danger that might need to be dealt with, the bylaw to be formulated should enable WKCD to ensure the best interests of public safety and security as well as strike a proper balance among the various activities that would take place in WKCD. WKCD assured members that the draft bylaw was under preparation and would be drawn up having regard to the results of the public survey on the operation of the future Park conducted by CP and with reference to the bylaws governing the operation of local and overseas parks and cultural areas. Members requested the Administration and WKCD to consult the Joint Subcommittee before the bylaw was introduced into LegCo.

Latest development

8. WKCD is currently developing a set of bylaw to govern the operation of the Park as well as other open spaces in WKCD, such as the Artist Square, the

Avenue and the Promenade. The Administration and WKCDA will consult the Joint Subcommittee on the draft bylaw at the meeting on 23 March 2015.

Relevant papers

9. A list of the relevant papers with their hyperlinks on the LegCo Website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
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Appendix

Relevant papers on Public Open Space Bylaw of the West Kowloon Cultural District

Committee	Date of meeting	Paper
Subcommittee on Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No.2) Order 2012	29.10.2012	LC Paper No. CB(2)106/12-13(01)
	-	Report of the Subcommittee on Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No.2) Order 2012
Joint Subcommittee to Monitor the Implementation of the West Kowloon Cultural District Project	23.4.2013 (Item III)	Agenda Minutes
	10.6.2013 (Item IV)	Agenda Minutes
	29.11.2013 (Item III)	Agenda Minutes
	23.7.2014 (Item II)	Agenda Minutes