



政府總部
民政事務局

香港灣仔
港灣道十二號
灣仔大樓二十五樓

LC Paper No. CB(1)793/16-17(01)

GOVERNMENT SECRETARIAT

HOME AFFAIRS BUREAU
25/F, WANCHAI TOWER
12 HARBOUR ROAD
WAN CHAI
HONG KONG

7 April 2017

Our Ref : SF(20) to HABCS CR 7/1/27

By email

Joint Subcommittee to Monitor the Implementation of the
West Kowloon Cultural District Project
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong
(Attn: Ms Sharon CHUNG)

Dear Ms Chung,

Thank you for your email dated 21 February 2017, enclosing with it the letter from Dr Hon Helena WONG dated 17 February 2017 to Hon LAU Kwok-fan, Chairman of the Joint Subcommittee to Monitor the Implementation of the West Kowloon Cultural District Project (Joint Subcommittee) of the Legislative Council.

Dr Hon Helena WONG set out in her letter her comments and questions on the public consultation work of the West Kowloon Cultural District Authority (WKCDA) and on the implementation of the enhanced financial arrangement as well as other related matters. In response to these comments and questions, we have prepared, jointly with WKCDA, a follow-up information paper as enclosed for the Joint Subcommittee Members' reference.

Yours sincerely,

(Eric CHENG)

for Secretary for Home Affairs

For Information

Legislative Council
Panel on Development and Panel on Home Affairs
Joint Subcommittee to Monitor the Implementation of the
West Kowloon Cultural District Project

Response to comments and questions from
Dr Hon Helena Wong

This paper serves to respond to the comments and questions from Dr Hon Helena WONG on the public consultation work of the West Kowloon Cultural District Authority (WKCD) and on the implementation of the enhanced financial arrangement by the Government as well as other related matters as set out in her letter dated 17 February 2017 to Hon LAU Kwok-fan, Chairman of the Joint Subcommittee to Monitor the Implementation of the West Kowloon Cultural District Project (Joint Subcommittee) of the Legislative Council (LegCo).

QUESTIONS (1) AND (4): PUBLIC CONSULTATION AND MONITORING BY LEGCO

2. As mentioned in the reply by the Secretary for Home Affairs to a LegCo question by Dr Hon Helena WONG on 8 February 2017, the development and operation of the West Kowloon Cultural District (WKCD) involve a wide range of matters covering not only the building and operation of arts and cultural facilities, but also the planning and operation of commercial facilities, public open space and other communal facilities. As the nature and circumstances of different proposals or projects vary, the stakeholders involved in public consultation, the manner and procedure adopted, as well as the timing and content for consultation would also differ. As such, the West Kowloon Cultural District Authority Ordinance (the Ordinance) provides the WKCD with the flexibility to consult

the public at such time and in such manner as it considers appropriate.

3. In the case of the Hong Kong Palace Museum (HKPM), our paper presented to the special meeting of the House Committee earlier on has explained the special circumstances of the HKPM project. Many artefacts of the Palace Museum's exquisite collections are national treasures classified as grade one relics, and the loan of artefacts to other museums outside the Mainland on a long term basis (i.e. arrangement for the export of cultural relics) is subject to stringent regulations and restrictions. To take forward the HKPM project, a prerequisite is to obtain the support of the relevant Mainland authorities, including the unprecedented lifting of the relevant state restrictions on the number of artefacts of Palace Museum collections on loan and the duration of the loan period. Without the support of the relevant Mainland authorities, it is not possible for either WKCDA or the Government to take forward the HKPM project on its own. Hence, the signing of the Memorandum of Understanding (MOU) is the first step for establishing the feasibility of developing the HKPM project in WKCD. Prior to the signing of the MOU, WKCDA would not have any basis for announcing the proposal unilaterally or undertaking public consultation for the proposal. As soon as the MOU was signed, the Government and WKCDA have reported the project to the House Committee of LegCo and WKCDA has undertaken a 8-week public consultation exercise between 11 January and 8 March.

4. In fact, when the West Kowloon Cultural District Authority Bill was examined by the Committee of the whole Council in 2008, the Government already pointed out clearly that providing WKCDA with the flexibility in public consultation was the legislative spirit of the relevant clause in the Bill (i.e. section 19 of the Ordinance). On the contrary, if WKCDA is rigidly required to consult the public on all matters at a specific time and in a specific manner, not only is such requirement

unable to cater for all projects and circumstances, it would also fail to address the needs of different stakeholders. Such requirement is neither appropriate nor in line with the legislative spirit of the Ordinance. Therefore, we consider that the current provision in section 19 of the Ordinance has already struck a fair balance between enhancing transparency and meeting the actual operational needs. Moreover, in response to the suggestion of the Bills Committee on West Kowloon Cultural District Authority Bill, the Government has already introduced a new clause (i.e. section 20 of the existing Ordinance) requiring WKCDA to set up a Consultation Panel to gather public views on matters relevant to the functions of WKCDA.

QUESTIONS (2) & (3): FINANCIAL NEEDS OF WKCDA AND THE ENHANCED FINANCIAL ARRANGEMENT

5. The financial challenges faced by WKCDA as well as the enhanced financial arrangement were explained in our paper discussed in the Joint Subcommittee meeting on 21 February 2017 (LC Paper No. CB(1)560/16-17(01)) and the relevant LegCo Brief (LC Paper No. SF(37) to HABCS CR7/1/27/1). According to these papers, if the Government's funding applications for the integrated basement of the WKCD are approved by LegCo, WKCDA estimated that the endowment fund granted in 2008 and investment income will only be sufficient to cover the costs of the design and construction of the Batch 1 facilities and most of Batch 2 facilities, with related facilities including retail/dining/entertainment (RDE) facilities and other arts and cultural facilities (OACF). Capital funding of about \$11.7 billion in 2016 prices is estimated to be required for completing Batch 3 core arts and cultural facilities, two remaining black box theatres in Batch 2 as well as the remaining OACF, RDE facilities and public open spaces (excluding the Musical Theatre and the Exhibition Centre which are to be funded by private sector investment).

6. On the operation side, according to WKCDA's latest projection based on the Batch 1 and most of Batch 2 facilities which are completed or currently under construction, WKCDA will start to incur operating deficit from 2017-18. The average operating deficit is estimated to be around \$500 million per annum from 2017-18 to 2026-27 in money-of-the-day prices.

7. The Government and WKCDA have reported to the Joint Subcommittee on 7 July 2015 and 30 May 2016 that the granting of development rights of the commercial developments to WKCDA was being explored. In fact, there were suggestions from members to grant the hotel/office/residential (HOR) portion to WKCDA without payment of land premium. The enhanced financial arrangement is largely in line with this idea, although the successful bidder for the HOR development packages will have to pay to the Government an upfront payment (the amount of which is to be determined through open and competitive tendering). The Government and WKCDA also explained the enhanced financial arrangement to the Joint Subcommittee at its meeting on 21 February 2017. In future, the Government and WKCDA will continue to report the financial situation of WKCDA and the progress in the implementation of the enhanced financial arrangement to the Joint Subcommittee.

8. Under the enhanced financial arrangement, WKCDA will adopt open and competitive tendering in selecting private sector partners for the HOR developments. On one hand, this will allow WKCDA to share the rental income from the developments during the Build-Operate-Transfer (BOT) period and hence support the operation of WKCD. On the other hand, the private sector partners will shoulder the development risks (including construction, financing and marketing) in accordance with commercial considerations such that WKCDA needs not play a developer role and can focus on the overall coordination of design and programme of WKCD. The amount of rental income which WKCDA can share will depend on the

development parameters of individual development package and the prevailing market situation.

9. Under this arrangement, although the land revenue of the Government from the disposal of the development right will be reduced, the Government will receive upfront payment from the successful bidder (except for the Exhibition Hub Development Area) through WKCDA by open tendering. The total amount of upfront payment to be received by the Government will depend on the amount the market is willing to offer having regard to the specific tender conditions of the development packages. To ensure that private developers would offer a reasonable price, WKCDA is required to come up with its own assessment of the full market value of the upfront payment the market is willing to pay for the development package concerned under specified tender conditions (pre-determined Full Market Value (FMV). If the offer on upfront payment is unreasonably low vis-à-vis the pre-determined FMV, WKCDA will retain the power to cancel the tender.

10. As the BOT period of the development packages may last for several decades, in addition to receiving the upfront payment from the successful bidder at the initial stage of the development, the Government will retain the right to share with WKCDA the income from the development packages upon expiry of the term of the BOT agreements. The Government will set out in the Project Agreement to be signed with WKCDA the principles for the sharing mechanism and will formulate the detailed arrangement with WKCDA in due course.

11. Members are invited to note the above response.

Home Affairs Bureau
West Kowloon Cultural District Authority
April 2017