

**立法會**  
**Legislative Council**

LC Paper No. CB(1)171/19-20  
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the Administration)

Ref : CB1/PS/2/16

**Panel on Development and Panel on Home Affairs**

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

**Minutes of meeting held on  
Monday, 10 June 2019, at 4:30 pm  
in Conference Room 2B of the Legislative Council Complex**

- Members present** : Hon Jeffrey LAM Kin-fung, GBS, JP (Chairman)  
Hon Jimmy NG Wing-ka, JP (Deputy Chairman)  
Hon Claudia MO  
Hon Steven HO Chun-yin, BBS  
Hon Frankie YICK Chi-ming, SBS, JP  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, SBS, JP  
Hon CHAN Chi-chuen  
Hon CHU Hoi-dick  
Hon Holden CHOW Ho-ding  
Hon KWONG Chun-yu  
Hon Jeremy TAM Man-ho  
Hon Vincent CHENG Wing-shun, MH
- Members absent** : Hon Abraham SHEK Lai-him, GBS, JP  
Dr Hon Helena WONG Pik-wan  
Dr Hon Junius HO Kwan-yiu, JP  
Hon Tanya CHAN  
Hon Tony TSE Wai-chuen, BBS

**Public officers  
attending**

: **Agenda items III and IV**

Mrs Cherry TSE LING Kit-ching, JP  
Permanent Secretary for Home Affairs

Mrs Angelina CHEUNG FUNG Wing-ping, JP  
Deputy Secretary for Home Affairs (2)

Ms YING Fun-fong, JP  
Project Manager (Home Affairs Bureau)

Mr Eric CHENG Siu-fun  
Principal Assistant Secretary for Home Affairs (West  
Kowloon Cultural District)

**Attendance by  
invitation**

: **Agenda item III**

Mr Duncan PESCOD, GBS, JP  
Chief Executive Officer  
West Kowloon Cultural District Authority

Mr Jeremy STOWE  
Chief Projects Officer  
West Kowloon Cultural District Authority

Ms Suhanya RAFFEL  
Museum Director, M+  
West Kowloon Cultural District Authority

Ms Amy TAM  
General Counsel  
West Kowloon Cultural District Authority

Mr Michael RANDALL  
Senior Legal Counsel  
West Kowloon Cultural District Authority

**Agenda item IV**

Mr Duncan PESCOD, GBS, JP  
Chief Executive Officer  
West Kowloon Cultural District Authority

Dr William CHAN  
Chief Operating Officer  
West Kowloon Cultural District Authority

**Clerk in attendance** : Ms Doris LO  
Chief Council Secretary (1)2

**Staff in attendance** : Mr Raymond CHOW  
Senior Council Secretary (1)10

Ms Christina SHIU  
Legislative Assistant (1)2

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Action

**I Information paper(s) issued since the last meeting**

Members noted that no information paper had been issued since the meeting on 29 April 2019.

**II Application for late membership**

(LC Paper No. CB(1)991/18-19(01) — Letter dated 30 April 2019  
from Hon Jeremy TAM  
Man-ho)

2. The Chairman invited members to consider Mr Jeremy TAM's application for late membership of the Joint Subcommittee. He drew members' attention to rule 23(c) of the House Rules that it was for the relevant committee to decide whether to accept an application for late membership other than on the ground of absence from Hong Kong or indisposition during the time when membership was invited.

3. Mr MA Fung-kwok enquired about Mr Jeremy TAM's reasons for applying for late membership.

4. Mr Jeremy TAM said that Ms Tanya CHAN, who was a member of the Joint Subcommittee and also from the Civic Party, would not be able to attend meetings of the Joint Subcommittee for a period of time due to illness. He therefore wished to join the Joint Subcommittee to cover Ms Tanya CHAN's work.

5. No member objected to Mr Jeremy TAM's application for late membership. The Chairman said that Mr TAM's application for late membership was accepted by the Joint Subcommittee.

**III Update on the development of M+**

(LC Paper No. CB(1)1128/18-19(01) — West Kowloon Cultural District Authority's paper on update on the development of M+

LC Paper No. CB(1)1128/18-19(02) — Paper on the development of M+ prepared by the Legislative Council Secretariat (Updated background brief))

6. The Joint Subcommittee deliberated (index of proceedings attached at **Annex**).

**IV Update on the progress of the ACE Development Package and the preparation of the land grant for the West Kowloon Cultural District**

(LC Paper No. CB(1)1128/18-19(03) — The Administration's and the West Kowloon Cultural District Authority's paper on update on the progress of the ACE Development Package and the preparation of the land grant for the West Kowloon Cultural District

LC Paper No. CB(1)1128/18-19(04) — Paper on the Art, Commerce and Exhibitions Development Package of the West Kowloon Cultural District prepared by the Legislative Council Secretariat (Updated background brief))

7. The Joint Subcommittee deliberated (index of proceedings attached at **Annex**).

**V Any other business**

Proposed extension of period of work of the Joint Subcommittee  
(LC Paper No. CB(1)1128/18-19(05) — Paper on proposed extension of period of work of the Joint Subcommittee prepared by the Legislative Council Secretariat)

8. Members agreed that the Joint Subcommittee should seek for an extension of its work in the 2019-2020 session in accordance with rule 26(c) of the House Rules. The Chairman advised that, subject to the endorsement of the Panel on Development ("DEV Panel") and the Panel on Home Affairs ("HA Panel"), the proposal would be submitted to the House Committee for approval.

*(Post-meeting note: The proposal of the extension of the work period of the Joint Subcommittee was circulated to members of the DEV Panel and the HA Panel for endorsement vide LC Paper No. CB(1)1184/18-19 on 18 June 2019. The proposal was supported by a majority of the members of the two Panels.)*

9. There being no other business, the meeting ended at 6:29 pm.

**Panel on Development and Panel on Home Affairs**

**Proceedings of meeting of the Joint Subcommittee to Monitor  
the Implementation of the West Kowloon Cultural District Project  
held on Monday, 10 June 2019, at 4:30 pm  
in Conference Room 2B of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)/Discussion</b>	<b>Action required</b>
<b>Agenda Item I – Information paper(s) issued since the last meeting</b>			
000746-000753	Chairman	No information paper had been issued since the meeting on 29 April 2019.	
<b>Agenda Item II – Application for late membership</b>			
000804-001104	Chairman Mr MA Fung-kwok Mr Jeremy TAM Man-ho	Discussion on the application of Mr Jeremy TAM for late membership	
<b>Agenda Item III – Update on the development of M+</b>			
001105-002555	Chairman West Kowloon Cultural District Authority ("WKCDA")	Briefing and powerpoint presentation by WKCDA [LC Paper Nos. CB(1)1128/18-19(01) and CB(1)1161/18-19(01)]	
002556-003109	Chairman Mr Jeremy TAM WKCDA	<p>Mr TAM enquired about:</p> <p>(a) the additional costs on development of M+ arising from the termination of the employment of Hsin Chong Construction Company Limited ("HCC") under the M+ main works contract;</p> <p>(b) whether the additional costs could be offset by the bonded sum required to be paid by the bondsman under the on-demand performance bond taken out by WKCDA against the performance of HCC on the project; and</p> <p>(c) the amount of retention moneys provided for under the M+ main works contract.</p> <p>WKCDA responded that:</p> <p>(a) WKCDA was still determining the full cost, including losses and damage to the Authority, of HCC's defaults and subsequent termination. The additional costs expended since the termination of employment of HCC were in excess of</p>	

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		<p>\$400 million;</p> <p>(b) the final cost of the M+ project could only be determined after expiry of the one-year defects liability period, which would start following the practical completion of the project, i.e. approximately in the second quarter of 2021. WKCDA would report the outturn cost of the project to members in due course;</p> <p>(c) HCC had served a Notice of Dispute on WKCDA over the termination of contract. WKCDA was working its way through the contractual dispute resolution process, which involved assessment by an independent contract administrator, mediation and arbitration. The mediation process was now ongoing;</p> <p>(d) WKCDA had taken legal action to oblige the American International Group, bondsman of the on-demand performance bond, to pay an full bonded sum of roughly \$300 million (i.e. \$297,198,000) to the Authority, which could offset some of the additional costs arising from the termination of the works contract if the claim was successful; and</p> <p>(e) the amount of retention moneys was equal to 5% of the total contract cost.</p>	
003110-003635	Chairman Mr CHAN Chi-chuen WKCDA	<p>Mr CHAN expressed concerns that the additional costs arising from the termination of employment of HCC would cause a huge burden to the financial situation of WKCDA if WKCDA eventually failed to claim any compensation from HCC.</p> <p>WKCDA responded that:</p> <p>(a) as the contractual dispute resolution process was ongoing at this stage, WKCDA was not able to predict whether any compensation could be claimed from HCC; and</p> <p>(b) WKCDA would closely monitor its cash flow situation. It had also taken into account the additional costs arising from the termination of the employment of HCC when preparing its annual budget.</p>	

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003652-004114	Chairman Mr KWONG Chun-yu WKCDA	<p>Mr KWONG considered that the target of completing the construction works and obtaining the occupation permit ("OP") for M+ in the first quarter of 2020 was too optimistic, as only 42% of the mechanical, electrical &amp; plumbing works were completed as at end of May 2019.</p> <p>WKCDA responded that:</p> <p>(a) WKCDA had been working closely with Gammon Construction Limited ("GCL") after it was awarded the M+ management contract. After reviewing the outstanding works, WKCDA and GCL had agreed on a new works programme and targeted at obtaining OP for M+ by end of March 2020; and</p> <p>(b) all the large-scale civil infrastructural works of the M+ project had been completed. Most of the remaining works were architectural builders works &amp; finishes, which were in low risk of causing delay. WKCDA was confident that the construction works of M+ project could be completed as scheduled.</p>	
004115-004410	Chairman Mr Frankie YICK Chi-ming WKCDA	<p>Mr YICK pointed out that there were often long queues outside female toilets in Xiqu Centre during programme intermissions hence indicating that the venue's male-to-female toilet compartment ratio was unsatisfactory. He urged WKCDA not to repeat the same problem of the lack of female toilet compartments when designing M+.</p> <p>WKCDA responded that:</p> <p>(a) WKCDA would provide adequate toilets in M+. Since M+ was not a venue for performing arts programmes, it was expected that there would not be a surge of demand of toilet facilities within a short period of time such as during programme intermissions; and</p> <p>(b) WKCDA was considering increasing the male-to-female toilet compartments ratio from the proposed 1:2 to 1:3 in Lyric Theatre Complex.</p>	



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004411-004657	Chairman WKCDA	<p>The Chairman asked about the progress of uploading information of M+ collection items and archive items onto the website of M+ for public access.</p> <p>WKCDA responded that:</p> <p>(a) the development of the website of M+ was ongoing. Information of over 5 000 items had been made available on the website of M+; and</p> <p>(b) WKCDA aimed to complete the development of the website of M+ before the opening of M+. By that time, information of the whole M+ collection would be available on the website of M+.</p>	
<b>Agenda Item IV – Update on the progress of the ACE Development Package and the preparation of the land grant for the West Kowloon Cultural District</b>			
004658-011104	Chairman Administration WKCDA	<p>Briefing and powerpoint presentation by the Administration and WKCDA [LC Paper Nos. CB(1)1128/18-19(03) and CB(1)1161/18-19(02)]</p>	
011105-011939	Chairman Mr KWONG Chun-yu Administration WKCDA	<p>Mr KWONG expressed concerns that as the Art, Commerce and Exhibitions ("ACE") development would bring financial returns to WKCDA only after its expected completion in 2025, WKCDA would not have sufficient capacity to meet the operating deficit in the coming years.</p> <p>The Administration responded that:</p> <p>(a) due to the deferred possession of site being occupied as construction sites of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, the majority of the Retail/Dining/Entertainment facilities in WKCD would only be completed beyond 2022. WKCDA had hence suffered from serious delay in the receipt of RDE income, which was intended to be a steady recurrent income source to meet the operating deficits of core arts and cultural facilities; and</p> <p>(b) the Government would be working closely with WKCDA in monitoring the financial situation of the Authority, and would continue to report the financial situation of WKCDA to the Legislative Council.</p> <p>WKCDA responded that:</p>	

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		<p>(a) as various facilities in WKCD would come into operation in the coming years, the income from business activities, ticketing and sponsorships could help improve the short-term financial situation of WKCDA;</p> <p>(b) the long-term financial situation of WKCDA would be significantly improved by the cash inflow from the ACE project and hotel, offices and residential ("HOR") developments in WKCD under the Build-Operate-Transfer ("BOT") arrangement; and</p> <p>(c) it was also the WKCDA's target to start taking forward more HOR developments in WKCD in 2019.</p>	
011940-012906	Chairman Mr YIU Si-wing Administration WKCDA	<p>Mr YIU asked about:</p> <p>(a) details of the BOT and income sharing arrangements of the ACE development package, and how WKCDA would make use of the income generated therefrom; and</p> <p>(b) whether WKCDA would share the income generated from the ACE project with the Government after expiry of the BOT contract.</p> <p>The Administration and WKCDA explained that:</p> <p>(a) under the BOT arrangement, the private sector partner of the ACE project would be responsible for the design, construction and operation of facilities according to the technical requirements and specifications set out by WKCDA in the tender document. Tenderers would be required to indicate the ratio of income from the operation of ACE to be shared with WKCDA;</p> <p>(b) the income sharing arrangements would provide WKCDA with a steady source of recurrent income for the operation and management of other arts and cultural facilities in WKCD. Nevertheless, due to the operating deficits of other arts and cultural facilities in WKCD, it was expected that WKCDA would not record substantial fiscal surplus from the income generated from the ACE project; and</p>	

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		<p>(c) upon expiry of the BOT contract, the Government would liaise with WKCDA to set up a mechanism on the sharing of income generated from the ACE project having regard to the funding requirements and financial position of WKCDA at that time.</p>	
012907-013806	Chairman Mr Frankie YICK WKCDA Administration	<p>Noting that WKCDA proposed to include a development phase no longer than five years and an operation phase of at least 30 years in the BOT contract, Mr YICK asked whether WKCDA would consider a BOT period longer than 35 years so as to make the ACE project more attractive commercially to the tenderers, given that the private sector partner of the ACE project would be more likely to make a profit if the BOT contract period was considerably long.</p> <p>The Administration responded that WKCDA would invite the private sector to submit expression of interest ("EOI") for the ACE project at the first stage of the procurement process. After considering and assessing the EOIs received from interested market participants, WKCDA would finalize the terms of the tender document, including the period of the BOT contract.</p> <p>WKCDA supplemented that during the consultation process, WKCDA had received views similar to that of Mr YICK regarding the BOT contract period. WKCDA would set a suitable and reasonable duration of the BOT contract period with a view to balancing the benefit of early taking back of the assets and the financial viability of successful tenderer to make a profit in running the ACE project.</p>	
013807-014419	Chairman Mr MA Fung-kwok WKCDA	<p>Mr MA enquired about:</p> <p>(a) whether WKCDA would have to fund the costs and expenses of the daily management of the ACE project under the income sharing arrangement;</p> <p>(b) whether the Government or WKCDA would receive the upfront payment from the successful tenderer of the ACE project; and</p> <p>(c) whether WKCDA would consider raising funds for further developments of WKCD through mortgages.</p>	

Time marker	Speaker(s)	Subject(s)/Discussion	Action required
		<p>WKCDA responded that:</p> <ul style="list-style-type: none"> <li>(a) the successful tenderer would be responsible for the costs and expenses of the daily management of the ACE project. A portion of the income generated from the operation of the ACE project would be shared to WKCDA under the income sharing arrangement;</li> <li>(b) in accordance with the Enhanced Financial Arrangement for WKCD, the Government would only receive upfront payment from the BOT contracts for HOR developments. Successful tenderer of the ACE project would not be required to pay the upfront payment to either the Government or WKCDA;</li> <li>(c) the tenderers of HOR development would compete on, among other technical requirements, their offer of upfront payments to the Government and the rental income to be shared with WKCDA. WKCDA would retain the right to cancel the tender if the upfront payment for HOR developments was unreasonably low vis-à-vis the predetermined Full Market Value ("FMV"); and</li> <li>(d) WKCDA would not raise funds through mortgages. In view of the interim deficit and to bridge the capital funding gap for delivering the remaining facilities, WKCDA would explore various financing options in the coming years, such as issuing bonds or raising bank loans.</li> </ul>	
014420-014948	Chairman WKCDA Administration	<p>The Chairman enquired how the Administration and WKCDA would monitor the development of the ACE project and the performance of the private sector partner after granting out the development right.</p> <p>The Administration advised that the WKCDA Board would monitor the development of the ACE project under the BOT arrangement and a set of performance indicators would be included in the BOT arrangement as the basis for evaluation of the performance of the private sector partner.</p> <p>WKCDA added that specific conditions would be included in the BOT contract so as to provide WKCDA with the rights to instruct the private sector partner to take remedies, and to remove or replace the private sector partner if its performance was not up to</p>	

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		standard.	
014949-020059	Chairman Mr MA Fung-kwok Administration WKCDA	<p>Noting that WKCDA would retain the right to cancel the tender if the upfront payment for HOR developments was unreasonably low vis-à-vis the predetermined FMV for HOR developments, Mr MA asked how FMV would be estimated. He also asked whether there would be priority or fee reductions/waivers for the local arts and cultural organizations to use the venues and exhibition facilities provided in the ACE project.</p> <p>The Administration responded that:</p> <p>(a) WKCDA would engage independent financial advisors to determine FMV of HOR developments so to evaluate whether the amount of upfront payment listed out in the respective tender submissions was reasonable.</p> <p>WKCDA supplemented that:</p> <p>(a) the ACE project would be operated on a commercial basis and it would be up to the operator to consider providing any concessionary rate to local arts and cultural organizations when using the venues provided in the Exhibition Centre of the ACE project; and</p> <p>(b) WKCD is providing venues with various artistic mission for different types of arts and cultural activities. Local arts and cultural organizations could hire and use these venues in accordance with the Performing Arts Venue Hiring Policy of WKCD.</p>	
<b>Agenda Item V – Any other business</b>			
020100-020251	Chairman	Extension of the work period of the Joint Subcommittee in the 2019-2020 session	