



THE HONG KONG INSTITUTE OF  
**SURVEYORS**

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**BY FAX & BY HAND  
#2869 6794**

12 September 2005

Clerk to Subcommittee  
Legislative Council Secretariat  
3<sup>rd</sup> Floor, Citibank Tower  
3 Garden Road  
Central  
Hong Kong

Attn: Ms Christina Shiu

Dear Sir

**Subcommittee on West Kowloon Cultural District Development**

I refer to your letter dated 5 September 2005. Thank you for inviting our Institute to present our views on the WKCD project. In this regard, we have pleasure in enclosing our written submission for the Subcommittee's consideration.

Please be informed that our Chairman of the WKCD Working Group, Dr Paul H K Ho and I will attend the meeting on 13 September 2005.

Thank you for your kind attention.

Yours faithfully

T T Cheung  
President (2004-2005)

TTC/my

Encl.

## West Kowloon Cultural District (WKCD) Development

### Introduction

1. In response to the LegCo's invitation letter dated 5<sup>th</sup> September 2005, the Hong Kong Institute of Surveyors (HKIS) would like to give its views on the Subcommittee's Report on Phase 1 Study as well as on some unresolved issues relating to the captioned project. In general, HKIS finds that the Subcommittee's Phase 1 Report is very thorough and comprehensive. In particular, HKIS is pleased that many of our views relating to good professional PPP practices have been considered and reflected in the Subcommittee's report. In this paper, HKIS would like to give our views relating to the management structure, software and hardware cultural facilities, development approach and financial arrangement as follows:

### Management Structure

2. For any capital intensive projects, there is normally a governing body or management organisation accountable for the implementation. As pointed out in our 4<sup>th</sup> submission dated 23<sup>rd</sup> March 2005, there is a wide variety of organisation structures for publicly funded museums, galleries and theatres. It can be either (1) under the line management of the Government, (2) a non-statutory advisory board established out of the Government structure, or (3) an independent statutory organisation.
3. Currently, the operation of all local public museums is under the direct line management of the Leisure and Cultural Services Department. If the same management structure is to be used for the WKCD, "the outcome would resemble that of Hong Kong Cultural Centre and community hall<sup>1</sup>". Indeed, modern management of arts and cultural facilities is moving towards community-centred (rather than bureaucratic) approach for catering the changing community's needs<sup>2</sup>. It would thus be better to keep the WKCD organisation<sup>3</sup> out of the Government structure. If the WKCD organisation is to own all valuable public assets of the WKCD including its properties, art collections and fiduciary interests, it should be

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<sup>1</sup> Paragraph 37, Speech by the Chief Secretary for Administration on the motion on West Kowloon Cultural District Development Project in the Legislative Council on 26<sup>th</sup> November 2003.

<sup>2</sup> Consultancy Study on the Mode of Governance of Hong Kong's Public Museums and the Hong Kong Film Archive.

<sup>3</sup> It can be a WKCD board, corporation or authority, depending upon its powers and functions; but in this paper, a more generic term "WKCD organisation" is used.

6. Unlike a completely new project, the WKCD project has started for some years under the direct management of the Government. Under such a particular situation, whether it is appropriate to set up an independent WKCD organisation at the present stage as advocated by some organisations must be carefully considered. In this regard, HKIS would like to point out that an independent WKCD organization, if established at this crucial stage, would not by itself resolve all deficiencies in the planning and development process as identified in the Subcommittee's Report on Phase 1 Study. Rather, it may materially disturb and delay the planned progress of the WKCD project as the newly established WKCD organization may have to start the project from scratch. It must be noted that there is overwhelming support from the community for the WKCD project. "If the whole WKCD project is to be re-planned from scratch, it may take the Government a few years" ..... thus bringing "uncertainty to the whole project"<sup>4</sup> as previously expressed by the Government.
7. In addition, HKIS would also like to point out that the relevant legislative procedures for the formation of a statutory WKCD organisation would take considerable time. In particular, the relevant legislation would not normally be supported by the Legislative Council until most critical issues such as the viability studies of various cultural facilities, development strategy, funding arrangement, disposal of the 40-hectare land, etc. have been satisfactorily resolved by the Government. There is a high possibility that the WKCD project would be substantially delayed, even without having to start from scratch again. Therefore, it would simply be a political decision if the formation of a new WKCD organisation was to take up all problems previously created by the Government. In fact, if everything was left to the new WKCD organisation to decide, this would likely result in "a start from scratch". More undesirably, once a statutory WKCD is approved being formed, it could be more difficult for the public and LegCo to monitor how this independent organisation runs the WKCD. There could be limited, or even no more, public consultation. All would depend on its governing board members controlled by the Government through their appointment.
8. There has seldom been a complete change on the project management structure for any major Government projects in the middle of its implementation stage. Also as a matter of principle, the Government should retain its full responsibility to ensure the materialization of the WKCD project in any event. In light of the aforesaid

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<sup>4</sup> Paragraph 13 of the Paper No. WKCD-91 Land Use and Planning submitted by the Housing, Planning and Lands Bureau in February 2005

submission dated 31<sup>st</sup> January 2005, after reviewing the three submitted proposals, the Government should be in a position to determine the core cultural facilities that would achieve the vision of the WKCD. The revised scheme (in respect of its cultural software and hardware contents) could be formulated by mixing the best ideals/proposals submitted by the three proponents and also taking into account of public opinions, particularly the arts and cultural sector. Whilst there may be some contractual issues in respect of the originality of ideals to be resolved, these are however not impracticable to be resolved in view of the commercial goodwill of all parties. The Government would then have a high degree of control over various software and hardware cultural facilities. Finally, the revised scheme (both software and hardware) should be subject to a further round of public consultation.

12. As mentioned in our 4<sup>th</sup> submission dated 23<sup>rd</sup> March 2005, the success of a cultural project may depend on two major factors. For instance, in the case of Guggenheim Museum Bilbao, the first factor is the hardware facilities – a world-famous landmark building designed by a renowned architect, and the second factor is the software facilities – some high-quality arts programmes managed and operated by an internationally experienced museum operator. HKIS would recommend that the Government should observe and follow these successful factors in the WKCD.

#### **Development Approach<sup>6</sup>**

13. In our 1<sup>st</sup> submission dated 13<sup>th</sup> February 2004, HKIS strongly objected to the single-package development approach and also expressed a number of concerns arising from the single-package arrangement. In order to avoid the single-package approach, HKIS would suggest that the development of the 40-hectare site be divided into two main parts, namely (1) arts and cultural facilities which are integrated with certain supporting commercial facilities and (2) those commercial and residential developments not necessarily directly related to the core arts and cultural facilities.
14. In order to carve up the site for various land-use purposes, the Government should draw up an overall master layout plan for the WKCD. Land is a valuable resource in Hong Kong and should neither be under-utilized nor over-utilized. Thus, the

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<sup>6</sup> The development approach should be considered in conjunction with the financial arrangement as these are inter-related issues.

assessment, public sector comparator, clear outline specifications, affordability, etc.) which were also reflected in the Subcommittee's Phase 1 Report<sup>9</sup>. The Government should formulate a publicly accepted scheme in respect of its cultural software and hardware as aforesaid. All proponents, which should not necessarily be limited to the original three proponents, should be requested to comply (or match) with the defined scheme so that there would be an equal basis for comparing each offer, including the associated commercial developments. As can be found in other long-term PPP projects, provisions should be allowed for changes or modifications of software and hardware contents to cater for changing community's needs from time to time.

17. Depending on the master layout plan as to whether various cultural facilities could be dividable in respect of its design and construction, and also in consideration of the operational needs that different cultural facilities would require different types of operators, multi-package approach may be considered so as to allow more than one private partner to participate in the development of cultural facilities if this could facilitate keener competition and larger overall financial benefit. While some organisations advocate an incremental approach, this is considered to be unnecessary as all cultural facilities should be started and completed according to the original programme as far as possible. Indeed, the design of all public arts and cultural facilities should cater for changing community's needs in the long-term.

#### *Development of Remaining Commercial and Residential Properties*

18. For the remaining commercial and residential portion within the WKCD, the relevant lands can be carved into several smaller lots according to the overall master layout plan so that medium-sized developers would also be able to participate in the development. In order to achieve an integrated development with its surrounding cultural facilities, detailed planning parameters should be specified for each lot, including a requirement for any development to be strictly in compliance with the overall master layout plan. Each lot can be disposed by means of public auctions and/or joint-venture development schemes, depending whether these lots would also be owned by the Government or the future WKCD organisation.

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<sup>9</sup> For this reason, HKIS would not mention these good PPP practices in this paper again.

Secretary for Administration, "the business community knows how best to make commercial profits from the facilities and attract people to the place<sup>10</sup>". There should be a breakthrough in respect of the design, funding and operation of cultural facilities in Hong Kong. Thus, HKIS would support the Government's previous decision to engage the private sector in the operation of the WKCD. The private partner operates the cultural and associated commercial facilities in a business-like manner, whilst the Government shares the commercial benefit which is used to support the non-financially visible museums and galleries within the WKCD. In addition, if the PPP approach is used, the private partner will normally finance all capital costs of the project, while the Government will only be required to pay the service charges during the operational stage. There will be no burden for the Government to allocate a huge capital budget during the development stage.

#### *Income from Commercial and Residential Development*

22. Even the cultural and its associated facilities within the WKCD are operated on commercial principles as aforesaid, it is not likely run on a truly self-financing basis and thus additional funding may be required. In this regard, the simple approach is to sell land within the WKCD by means of public auction and other disposal methods<sup>11</sup>, and revenue from these land sales is to make up the deficit of the WKCD organisation up to a pre-agreed budget ceiling. It must be noted that unless the relevant land is agreed to be assigned to the WKCD organisation, revenue from the sale of any public land will become public money to be allocated under the normal "resources allocation exercise". The Government has to face a challenge why a large amount of public money will be spent in the WKCD and not in other public services which may be in a greater demand by the society.
23. The second approach is to let the WKCD organisation generate income from the property development of lots in conjunction with developers through joint venture methods. It is noted that nominal (or no) premium is required for public projects, but full market premium is normally required for any commercial development (like the residential development above the depot or station of KCRC and MTRC). Under such an arrangement, there will be no subsidy of public money as the joint-venture developers will have to pay the land premium at the full market value. Therefore, HKIS would support this financing approach. By contributing the land development right, the WKCD organisation will share profit with the developers

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<sup>10</sup> Paragraph 36, Speech of the Chief Secretary for Administration on the motion on West Kowloon Cultural District Development Project in the Legislative Council on 26<sup>th</sup> November 2003.

<sup>11</sup> This financial method was also in the world-famous Guggenheim Museum in Spain.