



BY FAX AND BY POST
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26 January 2006

Chief Secretary for Administration
Hong Kong Special Administrative Region
12/F, Central Government Offices, West Wing
Lower Albert Road
Central, Hong Kong

Attn: Mr. Rafael Hui Si-yan, GBS, JP

Dear Mr. Hui,

Views on West Kowloon Cultural District Development

The Hong Kong Institute of Surveyors (HKIS) has continually expressed professional views relating to West Kowloon Cultural District (WKCD) development to both the Government and LegCo to facilitate the successful implementation of the project starting from the year 2003.

In response to the recent Government's modified proposals announced in October 2005 and the LegCo Subcommittee's Phase II Report released in January 2006, we would like to express our views as in the enclosed submission.

We hope that the Government will seriously consider our views and further review the way for taking forward the WKCD project. Thank you for your kind attention.

Yours sincerely,

Wong Chung Hang
President (2005-2006)

Encl.

c.c.: Mr. Michael M Y Suen - Secretary for Housing, Planning and Lands (2537 9276)
Hon Patrick Lau (2147 9155)



West Kowloon Cultural District (WKCD) Development

Introduction

1. Starting from the year 2003, the Hong Kong Institute of Surveyors (HKIS) has continually expressed our professional views relating to West Kowloon Cultural District (WKCD) development to both the Government and LegCo to facilitate the successful implementation of the project. In particular, HKIS has presented our views that the public private partnerships (PPPs) approach should be adopted as it is desirable to utilize the financial resource and commercial expertise of the private sector, provided that the arts and cultural facilities and services proposed are affordable, value for money and in the best interest of the public. Such views were mostly adopted by the initial Government's proposal and also reflected in the LegCo Subcommittee's Phase I Report published in July 2005.
2. We note however that the recent Government's modified proposals announced in October 2005 and the LegCo Subcommittee's Phase II Report released in January 2006 have apparently abandoned the PPPs approach. As a result, HKIS would like to express our views in response to these two proposals.

Development Approach

3. In the Government's modified proposals, the Proponent will be required to carve out the development rights of at least 50% of the residential and commercial gross floor area and assume the role of coordinating the project, including being charged with the obligation of developing all the core arts and cultural facilities, canopy and other communal facilities. However, the Proponent will not be required to undertake the operation of the arts and cultural facilities of the WKCD. This change fundamentally deviates from the PPPs approach previously advocated by the Government. Contractually, the obligation of the Proponent in respect of the hardware cultural facilities will be similar to a "design-and-build" contractor, plus an additional obligation for coordination of their own and other developers' residential and commercial developments within the WKCD site. Under the new contractual arrangement, many of the justifications and merits previously claimed by using the PPPs approach would not exist any more. There are also worries that the Proponent will dominate the best piece of land and hijack the project. More information on the carving of land is required before we can offer further comments.
4. With respect to the new LegCo's recommendation stated in their Phase II Report on the sale of land to fund the arts and cultural facilities, this again fundamentally deviates from the PPPs approach. If LegCo's recommendation was adopted, there would be no real



integration and/or synergy between design and operation of the facilities as well as between cultural activities and commercial activities. The public would not obtain any economic benefits arising from the long-term partnership between the Government and the private business sector. Instead of reliance on the business profit, the Government would have to hypothecate a huge sum of public money to subsidize the arts and cultural facilities in the traditional way as other public museums since the arts and cultural facilities would not be operated on a “commercial principle” or “self-financing” basis.

5. Furthermore, many of the justifications and merits previously claimed by using the PPPs approach would not exist any more. HKIS would like to draw your attention to what the Hon Donald Tsang said in the LegCo on 26th November 2003:

“In the past, the Government constructed a lot of cultural facilities. However, without a business mindset, these facilities are somehow inadequate in themselves. We hope to see a breakthrough in the West Kowloon Cultural District development project which allows the commercial sector to exercise flexibility and works with the management institutions or expertise of world-class museums and cultural facilities in providing a great variety of art and cultural programmes. The business community knows how best to make commercial profits from the facilities and attract people to the place. A landmark will only become vibrant if there is an incessant flow of people (underlined by the HKIS).”

6. The recent paper entitled “Land Use and Planning” submitted by the Housing, Planning and Lands Bureau to LegCo in February 2005 still argued that

“The development of the WKCD is a Public Private Partnership (PPP) project which fosters a long term relationship between the Government and the private sector in the development of world class arts and cultural facilities and the provision of high quality arts and cultural programmes by bringing in the private sector’s financial strength and commercial knowledge and expertise. The private sector becomes a long-term service provider rather than a simple upfront asset builder. Through PPP, the Government will be able to exploit the best commercial skills, practices and disciplines to deliver high quality public services (underlined by the HKIS).”

7. By using PPPs approach, the arts and cultural facilities will be operated in a commercial principle which will generate more revenue from their operation. Besides, 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. So HKIS suggests that the Government should seriously consider the benefits of PPPs approach and reaffirm the adoption of PPPs approach in the future WKCD



development.

Financial Arrangement

8. The transparency and accountability of the Government on the financial arrangement is definitely one of our major concerns. HKIS strongly emphasizes the need for the Government to put forward a proper “business case” comprising at least a Public Sector Comparator, cost benefit analysis, risk analysis and detailed output specifications based on a publicly accepted scheme to justify value-for-money for the project. The Government should also clearly clarify the financial obligations of the Proponent. In addition, the issues of social affordability and allocation of public resources should also be properly addressed.
9. The LegCo’s recommendation that the arts and cultural facilities should be solely funded by the land sales revenue cannot guarantee the amount and stability of funding. The only assumption that LegCo has made is that the land sales revenue will be higher if sold later. This is a dangerous assumption and indeed HKIS does not encourage high land sale policy in Hong Kong. Another problem is that the Government will have to shoulder all the financial burden of the whole WKCD project. It should be noted that the Proponents would not be interested in the WKCD project if they do not have any right in property development. It will bring the WKCD development back from scratch.
10. The Government’s modified proposal requires the successful Proponent to pay \$30 billion for the establishment of a trust fund to ensure that there are sufficient funds for the sustainable operation of the WKCD. So the successful Proponent will be required to build the arts and cultural facilities plus the canopy and the people moving facility which, we estimate, would be in the range of \$12 to \$15 billion as well as paying a \$30 billion upfront trust fund for financing the long-term operation of the arts and cultural facilities. While the \$30 billion trust fund could provide sufficient fund for running those arts and cultural facilities, it is important that the Government should justify the \$30 billion trust fund in the same way as other public expenditures. Furthermore, it is questionable whether the Government and the public would get an overall benefit by simply establishing a trust fund paid by the successful Proponent without requiring them responsible for the operation of the arts and cultural facilities. There are also queries as to whether the \$30 billion trust fund is negotiable. More details on how the trust fund works is necessary for the public to satisfy how it works.

Statutory Body

11. The establishment of an independent statutory body for taking forward the WKCD has



been suggested in the Government's modified proposal and also strongly requested by the LegCo. The Government should provide a clear mandate and scope of authority and responsibility for the proposed WKCD statutory body for public consultation. In fact, the proposed statutory body may not by itself resolve all the problems identified by various parties. It is also worried that the power of such statutory body would be too large and it would be more difficult for the public to monitor how this independent body would operate the WKCD.

12. Whilst the cultural facilities would be operated by a new WKCD statutory body, one should consider whether it would be operated in the same traditional way as the existing public museums which are largely (if not wholly) financed by the taxpayers' money. (Paragraphs 5 and 6 above refer).
13. If the PPPs approach was adopted, the WKCD would be operated on a "commercial" principle. That would reduce the demand on taxpayers' money. The organization structure of the WKCD statutory body can be relatively slim as most works such as design, construction and day-to-day operation can be undertaken by the private partner. Under such arrangement, the WKCD statutory body is to principally take up a monitoring role, rather than the direct execution of the project. Therefore, the Government should clearly set the operational principles for the WKCD statutory body as this would fundamentally affect the development approach and financial arrangement of the WKCD project.
14. With respect to the recommendation by the Legco's Phase II report that the setting up of a WKCD statutory authority could resolve everything. HKIS does not agree with this view as we have expressed our reservation in the Legco's briefing in September 2005. The establishment of a WKCD statutory authority at this critical stage, with the scope of work suggested, would only further delay the project.

The Way Forward

15. HKIS hopes that the Government will seriously consider the above views and further review the way for taking forward the WKCD project since the public does not wish to see a situation where the WKCD project would be further delayed, even not necessary to be re-planned from scratch. HKIS is pleased to provide further views for the Government relating to this project.

The Hong Kong Institute of Surveyors
26 January 2006