

1. The meeting was resumed at 9:15 a.m. on 13.11.2013.
2. The following Members and the Secretary were present at the resumed meeting:

Mr Thomas T.M. Chow

Chairman

Mr Stanley Y.F. Wong

Vice-chairman

Professor S.C. Wong

Mr Timothy K.W. Ma

Professor P.P. Ho

Professor Eddie C.M. Hui

Dr C.P. Lau

Ms Julia M.K. Lau

Mr Clarence W.C. Leung

Mr Roger K.H. Luk

Dr W.K. Yau

Mr H.W. Cheung

Dr Wilton W.T. Fok

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Mr Patrick H.T. Lau

Mr H.F. Leung

Mr Stephen H.B. Yau

Mr F.C. Chan

Deputy Director of Lands (General)

Mr Jeff Y.T. Lam

Director of Planning

Mr K.K. Ling

Presentation and Question Session

3. The following Government representatives, the representers and their representatives were invited to the meeting at this point:

Miss Elsa Cheuk - Chief Town Planner/Special Duties (CTP/SD),
Planning Department (PlanD)

Mr Timothy Lui - Senior Town Planner/Special Duties
(STP/SD), PlanD

Mr C.T. Lam - Senior Engineer/2 (SE/2), Civil Engineering
and Development Department (CEDD)

R4129 – Frankie Chu

R4212 – Chu Kai Tin, Frankie

Mr Frankie Chu - Representer

R4275 – Ambrose Leung

Mr Martin Turner - Representer's Representative

R4408 – Leung Chi Ming, Simon

Mr Leung Chi Ming - Representer

R5134 – Lam Chi Fai

Mr Lam Chi Fai - Representer

R5365 – Angie Lauw

Mr Hui Chi Fung - Representer's Representative

4. The Chairman extended a welcome and explained the special arrangements for hearing the large number of representations and comments in respect of the OZP. Each representer/commenter would be allocated a total of 10-minute speaking time. If an

authorised representative was appointed by more than one representer/commenter of the same session to represent them, that authorised representative might use the cumulative time allotted to all the persons he represented to make his oral submission. Request for further time for the oral submission from a representer/commenter or his authorized representative would be considered by the Board and the Board retained the discretion whether to allow such which would only be exercised upon sufficient cause shown and after taking into account all relevant circumstances. If his request was allowed by the Board, he would be either given further time in the same allotted session to make his submission (if time permitted), or notified of the date when he would be invited to return for such purpose. He then invited the representatives of PlanD to brief Members on the background to the case.

5. With the aid of a Powerpoint presentation, Miss Elsa Cheuk, CTP/SD, PlanD, repeated the presentation that was made in the hearing session on 4.11.2013 as recorded in paragraph 21 of the Minutes of 4.11.2013.

6. The Chairman then invited the representers and their representatives to elaborate on their representations. The Chairman said that the presentation should be confined to an elaboration of the written submissions already made and that any new points submitted/presented would not be taken into consideration by the Board.

R4129 – Frankie Chu

R4212 – Chu Kai Tin, Frankie

7. Mr Frankie Chu made the following main points:

- (a) he objected to the imposition of a 10-minute time limit on the oral submission of each representer/commenter by the Board as it was against procedural justice;
- (b) the Board set a bad precedent on 4.11.2013 by cutting off the oral presentation of a Legislative Council Member, Mr Chan Ka Lok (R15), and switching off his microphone when his allotted time limit was up. Mr Chan was deprived of his right to be heard at the hearing;

- (c) Mr Winston Chu of the Society of Protection of the Harbour (SPH) had announced on 4.11.2013 that he would no longer involve in public affairs. The Board should review whether the consultation procedures were on the verge of collapse;
- (d) the Central Military Dock (CMD) site would be under the Garrison's jurisdiction in future. The Hong Kong Police Force had no jurisdiction to control if there were any chaos or unauthorized activities at the site when it was open to the public. However, the public might not be willing to follow the rules/instructions of the Garrison. There would be a law enforcement problem;
- (e) the existing buildings at the CMD site had already been constructed before the zoning amendment was made. The Board acted only as a rubber stamp; and
- (f) in view of the controversy of CMD and the large number of representations and comments received, the Board should reconsider the zoning amendment taking into account the public comments. A new round of public consultation should be undertaken by the Government.

[Actual speaking time of R4129/R4212: 8 minutes]

[Mr Roger K.H. Luk left the meeting temporarily at this point.]

R4275 – Ambrose Leung

8. Mr Martin Turner made the following main points:

- (a) he was very disappointed that the Board cut off the oral submission of Mr Chan Ka Lok (R15) on 4.11.2013. Mr Chan had a thorough understanding of the issue and represented the views of the public. The imposition of a time limit was unnecessary and inappropriate. The

Board should rectify the situation by inviting him back and further time should be given to Mr Chan to complete his oral submission;

- (b) for a number of years, the Government had committed to providing a continuous and connected harbourfront for public use and enjoyment. The current zoning amendment for a permanent military dock at the harbourfront was an entirely new proposal to the public and not welcomed by them;
- (c) the Central harbourfront should be planned and developed as a single place for the public to spend time and enjoy. CMD would disrupt the connectivity of the harbourfront and was against all public expectation;
- (d) a continuous cycle way along the harbourfront was proposed to the Harbourfront Commission two years ago which was supported by various political parties and District Councils. It was a simple and effective way to bring life to the harbourfront. CMD would be located right in the middle of the cycle way; and
- (e) the public consultation conducted by the Government was not a genuine one and public opinions were ignored. There was a long-standing demand for public space along the harbourfront. Instead of proposing a military dock, the Board should exercise its duty independently to ensure that a continuous and connected harbourfront would be provided.

[Actual speaking time of R4275: 10 minutes]

[Mr Ivan C.S. Fu returned to join the meeting at this point.]

R4408 – Leung Chi Ming, Simon

9. Mr Leung Chi Ming showed a newspaper cutting on the visualiser and made the following main points:

- (a) the zoning amendment for the CMD site was inappropriate and unfair as reported by the newspaper on 15.4.2013. A large number of representations and comments were received by the Board;
- (b) only a military dock was required to be reprovisioned near the Central Barracks according to the Defence Land Agreement (DLA). There was a difference between “military dock” and “military use” as shown on the OZP. The latter would involve future declaration of land as a “Closed Area” where public access would not be allowed;
- (c) there was no legislation or mechanism to ensure that the Garrison would keep its promise to open the CMD site to the public when it was not in military use;
- (d) the existing structures on the CMD site were constructed before the zoning amendment and were hence unauthorised;
- (e) the following information should be disclosed to the public:
 - (i) the frequency of closure of the CMD site;
 - (ii) the opening time of the CMD site for the public;
 - (iii) the future arrangement on the connection between CMD and the existing Central Barracks;
 - (iv) the usage of the adjoining water surface; and
 - (v) the impact on marine traffic generated by the military vessels;
- (f) the Central harbourfront belonged to the general public. The Board should seriously consider public views received on the zoning amendment.

[Actual speaking time of R4408: 9 minutes]

[Mr H.W. Cheung left the meeting temporarily while Ms Julia M.K. Lau returned to join the meeting at this point.]

R5134 – Lam Chi Fai

10. Mr Lam Chi Fai made the following main points:

- (a) he strongly objected that the Board cut off the oral submission of Mr Chan Ka Lok (R15) on 4.11.2013 by switching off his microphone when his allotted time limit was up. It was against procedural justice as Mr Chan still had points to make in his presentation;
- (b) as shown in paragraph 3.2 of the Paper, the adverse representations (R11 to R9815) had put forward a lot of grounds for their representations while there were only a few grounds put forward by the supportive representations (R1 to R10). It was unreasonable that PlanD did not support the review of the zoning amendments to meet the adverse representations;
- (c) in paragraph 7.2(a) of the Paper, PlanD stated that the reprovisioning of CMD at the new Central harbourfront as a result of the Central and Wanchai Reclamation was in accordance with DLA which required, among other matters, leaving free a 150m of the eventual permanent waterfront in the plans for the construction of a military dock after 1997. However, it should be noted that DLA involved international obligation between the governments of the United Kingdom of Great Britain and Northern Ireland (UK) and the People's Republic of China (PRC). In this regard, clarifications should be sought on whether the HKSAR Government had obligation to honour this agreement. The requirement under DLA had already been met when the former Tamar Basin was relocated for the construction of the new Central Government Offices;
- (d) in rejecting the adverse representations, PlanD stated in paragraph 7.2(b) of the Paper that as the detailed design and delineation of CMD was now confirmed and the construction works of CMD were reaching their final stages, technical amendments were made to reflect the final delineation

and the land use of CMD on the OZP. This rejection reason was not appropriate as it was against procedural justice that CMD could be constructed even before the confirmation of the zoning amendment;

- (e) the Government did not clearly point out that the CMD site would be used for “military use” or “military dock” during the public consultation in 2000. The public was only aware that the site would be used for “Other Specified Uses” which was a much broader term than “military use” or “military dock”. The construction of CMD was against procedural justice and the legitimate expectation of the public for using the site as part of the waterfront promenade. This might be subject to judicial review;
- (f) in paragraph 7.2(g) of the Paper, PlanD stated that the amendment of the zoning of the CMD site would not engage the Protection of the Harbour Ordinance (PHO) as it did not give rise to any additional reclamation of the Harbour. However, this was not true as the use of the military dock by military vessels would create impact on the Harbour, e.g. oil, noise and air pollution. Besides, it would also affect public enjoyment of the adjacent promenade;
- (g) it was doubtful whether the CMD site would serve any real military defence purpose as there was only one berth for vessels and it was far away from the entrance of the Harbour. Stonecutters Island was considered more suitable as it was located near the entrance of the Harbour; and
- (h) the military dock would be incompatible with the adjacent public open space use and the Central Government Offices. It would also disrupt the continuity and overall planning of the harbourfront and generate nuisance to the public.

11. As the allotted 10-minute time slot had come to an end, the Chairman asked Mr Lam Chi Fai if he would request for an extension of time for his oral submission. Mr

Lam requested for another 10 minutes to complete his arguments. The Chairman said that he would consider his request after the presentation of all attendees. Mr Lam stopped his presentation.

R5365 – Angie Lauw

12. Mr Hui Chi Fung made the following points:

- (a) he was a District Councillor of the Central and Western District Council (C&WDC). He objected to the imposition of the 10-minute time limit on the oral submission of each representer/commenter. As a statutory body, the Board should not impose any time limit on the presentation of the public. Besides, the continuity of a presentation would be affected even if time extension was allowed. His presentation would be more than 10 minutes;
- (b) there was strong public objection to the zoning amendment in respect of CMD as reflected by the large amount of representations and comments received by the Board;
- (c) there was inadequate public consultation on the provision of the military berth as shown on the OZP. There was no mention or details of the provision of a “military dock” or a “military use” at the Central harbourfront in the documents submitted to C&WDC during public consultation. There was only a line showing the military dock on a plan in the appendix of the previous documents;
- (d) the north-south access between the existing Central Barracks and the military dock would disrupt the connectivity of the waterfront and create nuisance to the public. C&WDC had not been consulted on the future arrangement and the frequency of the road closure;
- (e) DLA would not be breached even if there was no zoning amendment. DLA only stated that the Hong Kong Government should leave free

150m of the Central waterfront for the construction of a military dock. As land had already been reserved for CMD, the Government had no international obligation to construct CMD under DLA;

- (f) the Government should explain to the public the rationale and need for a military dock at the Central Business District and the reason why military vessels could not be berthed at other places such as Stonecutters Island or public piers;
- (g) the Board should retain the zoning of the CMD site as “Open Space” or zone it as “Public Pier” so that the public would have the priority to use the site. The site could be open for berthing of military vessels when necessary;
- (h) according to the judgment of the Court of Final Appeal (CFA) on Central Reclamation Phase III (CRIII), any reclamation should meet the “overriding public need” test. The use of the site for military dock was not justified as it did not meet the test. The Central harbourfront should be for public use; and
- (i) there was an acute shortage of open space in the Central and Western District. The CMD site of 0.3 hectare was not small and should be reserved for public open space.

13. As the allotted 10-minute time slot had come to an end, the Chairman asked Mr Hui Chi Fung if he would request for an extension of time for his oral submission. Mr Hui requested for another 20 minutes. The Chairman noted that other than Mr Lam and Mr Hui, no other representer and their representatives had requested for further time of their oral submissions. Noting that both Mr Lam and Mr Hui had further points to present, he allowed their requests. As Mr Hui would like to continue his presentation, the Chairman then asked if Mr Lam would allow Mr Hui to complete his presentation first. Mr Lam agreed.

14. Mr Hui Chi Fung continued to make the following points:

- (a) in order to meet public aspiration, public facilities such as viewing towers, benches and sculptures should be provided at the CMD site for public enjoyment of the harbourfront. The existing structures for military ancillary facilities (including offices and washrooms) were of no use to the public;
- (b) there would be management and law enforcement problems after the CMD site was returned to the Garrison. The HKSAR Government would have no control on the site and the public could not monitor the construction of additional structures at the site. Besides, the public should be informed of the frequency and schedule of use of the site for military use;
- (c) there was public concern that the CMD site might be closely monitored under strict surveillance, e.g. by CCTV monitors and camera, which might violate the privacy of the public. This public concern was not addressed by PlanD;
- (d) the zoning amendment had already aroused strong public objection as reflected by the large number of adverse representations. The Board should not support the zoning amendment in order to avoid unnecessary judicial reviews, wasting public funds and divided society;
- (e) the Government should be requested to further liaise with the Garrison to identify an alternative site for the reprovisioning of the military dock. There should be scope for discussion under the Basic Law and Garrison Law; and
- (f) the existing facilities at the CMD site were constructed before the gazettal of the zoning amendment and without proper public consultation. The Board should not become a rubber stamp in approving the zoning amendment.

[Total actual speaking time of R5365: 21 minutes]

[Mr Clarence W. C. Leung left the meeting temporarily at this point.]

R5134 – Lam Chi Fai

15. Mr Lam Chi Fai continued to make the following points:

- (a) in view of the busy marine traffic in Victoria Harbour, the provision of a military dock in the central part of the Harbour would not be able to achieve its national defence purpose as it would be difficult for military vessels to get into the Harbour. Rather, an alternative location at the western end of the Harbour, e.g. Stonecutters Island, or the eastern end of the Harbour, e.g. Quarry Bay or North Point, would be more suitable;
- (b) the CMD site was also isolated from other military uses in Hong Kong and could not support each other;
- (c) it was doubtful whether the CMD site would actually be open to the public when it was not in military use as claimed by PlanD. According to a statement made by the Secretary for Security earlier at a LegCo meeting, all existing military sites were fully in use and none was left idle. As such, there would be no scope in opening the site to public;
- (d) according to the CFA judgment on CRIII, any reclamation should be able to meet the “overriding public need” test. The use of the site for CMD was not justified as it did not meet the test. Rather, it would affect adjacent public open space use and transport infrastructure which were of overriding public need; and
- (e) CMD would affect the operation of adjacent public facilities, e.g. the Central Government Offices and LegCo building. Conflicts might also be created during public gatherings and protests. It would induce invisible stress on the public.

[Total actual speaking time of R5134: 20 minutes]

[The meeting was adjourned for a five-minute break.]

16. As the presentation from the Government representatives, representers and their representatives had been completed, the Chairman invited questions from Members.

17. In response to the concerns of some representers and their representatives, the Chairman assured them that Members would listen to all the oral submissions made at the hearing very carefully. For Members absent from this session of the meeting, they would be provided with all relevant documents for consideration before a decision would be made on the representations and comments. Members would give due consideration to all written and oral submissions, and exercise their independent minds and judgment before the Board would come to a decision. The Board would not be a rubber stamp. Certainly, the meeting was not led by the Government or the DEVB as alleged by some representers and commenters, even though he, being the Permanent Secretary for Development (Planning and Lands), was the Chairman of the Board.

18. The Chairman went on to explain the reasons for the promulgation of a specific set of Guidance Notes for the meeting arrangements for consideration of the representations and comments in respect of the subject OZP. He said that a total of 9,815 representations and 9,242 comments in respect of the current zoning amendment for the CMD site were received by the Board and around 1,000 individuals or organizations who had made representations or comments had indicated that they would attend the meeting to be held by the Board to consider their representations and comments. The Board needed to take into account the practical constraints in conducting a hearing for such a large number of representations and comments and to ensure that all representers and commenters who would attend the meeting would have the opportunity to present their oral submissions. In order to ensure fair treatment, all representers and commenters (whether they attend in person or through their authorized representatives) would be given the same 10-minute time limit.

19. In response to the comments of some representers, the Chairman said that as

the Chairman, he had a duty to ensure that all attendees would comply with the rules and procedures as set out in the Guidance Notes. On the first session of the meeting on 4.11.2013, Mr Chan Ka Lok (R15) was requested to stop his oral submission when his allotted time limit was up. However, Mr Chan did not stop his presentation and he therefore asked him whether he would like to request for a time extension. The Chairman clarified that he had no intention to switch off the microphone of Mr Chan but the Chairman's microphone had priority when more than one microphones were switched on. As there was no clear indication from Mr Chan whether he would request further time before he left the meeting, the Secretariat had subsequently issued a letter to him seeking his clarification on whether he would request for further time for his submission and appropriate arrangement would be made if necessary. The Chairman stressed that the hearing procedure was fair and proper. The Board had allowed flexibility for requests for further time of oral submissions upon sufficient cause shown and taking into account all relevant circumstances. Moreover, where a representer/commenter had authorized a representative to speak on his behalf, such representative could take over the time slot allocated to the representer/commenter. If an authorized representative was appointed by more than one representer/commenter, he might use the cumulative time allotted to all the persons he represented to make his oral submissions.

20. Referring to the concerns of the representers and their representatives, the Chairman raised the following questions to PlanD:

- (a) What would be the future public access arrangement along the Central harbourfront when the CMD site was in military use?
- (b) What would be the future management and law enforcement responsibility at the CMD site?
- (c) Whether the construction of the existing facilities at the CMD site before the zoning amendment was unauthorized and whether additional structures would be built on the CMD site in future?
- (d) Why was there a need for CMD to be located at the Central harbourfront, given that a naval base had already reprovisioned at Stonecutter Island?

- (e) Whether CMD was able to meet the “overriding public need” test laid down by CFA in relation to the PHO and whether the extent of reclamation would be affected by the construction of CMD?

21. With the aid of a Powerpoint presentation, Miss Elsa Cheuk, CTP/SD, PlanD, made the following points:

Future Access Arrangement

- (a) as shown by an aerial photo, there were four existing single-storey structures with a maximum building height of about 4.5m within the CMD site and the advance promenade works along the Central harbourfront were currently in progress. According to the Urban Design Study for the New Central Harbourfront (UDS), Site 7, where the CMD site was located, was planned for public open space and waterfront promenade (about 9.87 ha). CMD had been designed to integrate with the promenade and would be open to the public as part of the promenade when it was not in military use. When the CMD site was in military use, the public could use the walkway to the immediate south of the site as a continuous east-west connection and go to other parts of the harbourfront. The folding gates for fencing off the site would be hidden in the ancillary building structures when the CMD was not in use so as to avoid visual obstruction to the harbour and the waterfront promenade. The Government would further liaise with the Garrison on the detailed arrangement of opening up the site which would be disclosed to the public when available;

Future Management and Law Enforcement Responsibility

- (b) under the Garrison Law, CMD was one of the military facilities of the Garrison and would be under the management and use by the Garrison after the completion of the works and procedures. However, the CMD site would be open to public as part of the waterfront promenade when it

was not in military use. The Hong Kong Police Force could enforce the law within the CMD site when it was open to public;

Compliance with Zoning Requirement

- (c) when the draft OZP was first approved in 2000, the intention that there would be a military dock at the Central harbourfront and its location had been clearly presented in the OZP. As the design of the dock and the area it would occupy were not yet decided then, it was represented by a straight line annotated “150m Military Berth (subject to detailed design)” on the OZP. The military berth was shown on the OZP when it was first approved in 2000 and was a permitted use. As facilities directly related to a permitted use were always permitted and no separate planning permission from the Board was required, there was no question of the construction works for the military dock and its ancillary facilities being unauthorized;

- (d) there were existing four single-storey structures (including office, washroom, fire services pump room and electricity supply facilities) with a maximum building height of about 4.5m within the CMD site. The Garrison had indicated that they had no plan to build any further structures on the site. The current buildings on the site had already been designed to cater for the operational needs of the Garrison;

Public Consultation

- (e) the public had been fully consulted on the location of CMD at the Central harbourfront in the past, including the planning process leading to the approval of the OZP by ExCo in 2000, the extensive public engagement exercises under UDS in 2008 and the presentation to C&WDC and Task Force on Harbourfront Developments on Hong Kong Island (HKTF) on the architectural design of the CMD in 2010, as part of the works of the advance promenade at the new Central harbourfront;

- (f) there were two stages of Public Engagement (PE) Programme on the UDS since its commencement in March 2007. Major Stage 2 PE activities were undertaken in 2008 which included two large scale public exhibitions, seven roving exhibitions and focus group workshops and nine guided tours. Moreover, briefings were also made to 18 District Councils (including C&WDC), relevant public and advisory bodies (including the Board), and professional institutes and organisations. Public opinions were also collected via comment cards (via roving exhibition, focus group workshop and forum), questionnaire surveys, telephone polls, written submission, etc. Various documents including the comment cards showed that there would be a military dock at the Central harbourfront. Besides, the location of the military dock and its four ancillary structures at the Central harbourfront were also shown on the plans in the Stage 2 PE Consultation Digest (April 2008) and the Information Digest (July 2011) of the UDS. Moreover, on the plan showing the Development Concept and Requirements of Site 7 (Waterfront Promenade) in the UDS Final Report (2011), the location of the military dock (including the four ancillary structures) and the design of the waterfront promenade were also shown;
- (g) the Government also presented to C&WDC and HKTF in May and October 2010 respectively on the architectural design of the CMD, as part of the works of the advance promenade at the new Central harbourfront. Perspective drawings and a layout plan showing the advance promenade works including CMD were attached to the C&WDC Paper of 13.5.2010 and the HKTF Paper of 6.10.2010;

The Need for CMD

- (h) DLA was the 1994 Exchange of Notes between the UK and PRC Governments on the Arrangements for the Future Use of the Military Sites in Hong Kong. It set out the military sites to be handed over to the Garrison by the UK Government (Annex I of DLA), military sites to be handed over to the Hong Kong Government for disposal (Annex II of

DLA), and military buildings and fixed facilities to be reprovisioned for the Garrison (Annex III of DLA);

- (i) before the reunification, the headquarters of the British Garrison used to have a naval basin and dock facilities in the former Tamar Basin. As Tamar Basin was planned to be reclaimed under the Central Reclamation, DLA required that a naval base be reprovisioned on the south shore of Stonecutters Island and a military dock be reprovisioned near the Central Barracks. As shown on the visualiser, Annex III of DLA provided that the Hong Kong Government would “leave free 150 metres of the eventual permanent waterfront in the plans for the Central and Wanchai Reclamation at a place close to the Prince of Wales Barracks for the construction of a military dock after 1997”;

Compliance with PHO

- (j) CRIII was to provide land for essential transport infrastructure including Central-Wanchai Bypass (CWB), the Road P2 network, the Airport Railway extended overrun tunnel, the North Hong Kong Island Line and other re-provisioned waterfront facilities. In view of the wide public concerns over the need to protect the Harbour, the scope of the CRIII project was further reviewed in 2004 by applying CFA’s “overriding public need” test. The review had demonstrated that CRIII had adopted a minimum reclamation option and the extent of the CRIII reclamation satisfied the overriding public need test laid down by CFA in relation to PHO. Since the waterfront promenade including CMD did not require any extra reclamation as it was only developed on land formed for CWB and the re-provisioned facilities, the rezoning of the CMD site would not engage PHO as it did not cause or give rise to any additional reclamation of the Harbour.

22. Two Members had the following questions to PlanD:

- (a) Which organizations were present in the Harbourfront Commission during the public consultation of UDS?
- (b) Whether air, noise and water pollution generated by military vessels using CMD would contravene PHO?
- (c) What was the difference between “military dock/berth” and a “military use”?

23. Miss Elsa Cheuk made the following responses:

- (a) according to the extract of the minutes of the Harbourfront Commission’s HKTF meeting on 6.10.2010 as shown on the visualiser, there were representatives of Business Environment Council, Chartered Institute of Logistics and Transport in Hong Kong, Conservancy Association, Friends of the Earth, Hong Kong Institute of Architects, Hong Kong Institute of Planners, Hong Kong Institute of Surveyors, Hong Kong Institute of Urban Design, the Real Estate Developers Association of Hong Kong, SPH and other Government representatives from DEVB, Tourism Commission, Transport Department, Leisure and Cultural Services Department, CEDD and PlanD at the meeting;
- (b) PHO was concerned about whether the reclamation was justified. The impact generated by military vessels on the Harbour lied outside the purview of PHO;
- (c) both “military dock” and “military berth” were for berthing of military vessels and were a “military use”. In accordance with Annex III of DLA, the Hong Kong Government was required to leave free 150m of the eventual permanent waterfront in the plans for the Central and Wanchai Reclamation at a place close to the Prince of Wales Barracks for the construction of a military dock after 1997. When the draft OZP was first approved in 2000, the intention for the provision of a military dock and its location were clearly presented on the OZP by a straight line

annotated “150m Military Berth (subject to detailed design)” along the Central harbourfront as the design of the dock and the delineation of CMD was not yet decided at that time. Such annotation on the OZP was in line with the usual zoning practice of the Board; and

- (d) on 5.6.2002, the conceptual design and construction of the 150m long berth and the associated facilities were included in the CRIII and were endorsed by the Public Works Subcommittee (PWSC) of the Legislative Council (LegCo). On 21.6.2002, the Finance Committee of the LegCo approved the funding for reclamation and construction of the road network, drainage and sewerage systems, other land and marine transport facilities for CRIII, and the construction of a berth of about 150m and associated facilities for use by the Chinese People’s Liberation Army Forces Hong Kong. During the Stage 2 PE exercise of the UDS in 2008, the location and design of the CMD and its associated facilities including the four ancillary structures were shown to the public. As the detailed design and delineation of the CMD was now confirmed and the construction works were reaching their final stages, the current “Other Specified Uses” annotated “Military Use (1)” (“OU(MU)1”) zoning was appropriate to reflect the final delineation and the land use of CMD on the OZP.

24. At this juncture, as some representers and their representatives intended to speak, the Chairman explained to them that the Q & A session was for Members to ask questions and the Government representatives, representers and/or their representatives to respond, but not for representers and/or representatives to ask questions. However, representers and/or representatives might make their points in response to the comments of the Government representatives if they wished to.

25. In response to PlanD’s comments, Mr Martin Turner (representative of R4275) said that even though CMD was mentioned in the consultation document, the overall presentation was that a continuous public open space would be provided to the public. CMD was previously shown only as a line on the OZP and the public did not expect that there would be much impact on the public open space generated by the mooring of vessels.

However, there was strong public objection to the current “OU(MU)1” zoning as the site would be primarily given over to the Garrison for military use. This had breached the trust between the public and the Government.

26. Mr Lam Chi Fai (R5134) said that according to DLA, the HKSAR Government only required to construct a military dock for the berthing of military vessels. There was no requirement for the Government to designate a land area with a specific zoning for military use. Besides, there was also a difference between “military dock” and “military use”. He added that apart from military vessels, the military dock should also be open for the use of other vessels.

[Mr H. F. Leung and Professor P.P. Ho left the meeting temporarily at this point.]

27. Mr Hui Chi Fung (representative of R5365) said that there was a conflict of interest for the Chairman to chair the meeting and considered that the Chairman had a pre-determined position when asking questions. He requested the Chairman to refrain from asking questions and speaking at the meeting. The Chairman said that the Board had already considered and sought legal advice on the alleged conflict of interest on his role as the Chairman. After considering the legal advice, Members agreed that there was no conflict of interest for him to chair and participate in the meeting. He said that as a Member of the Board, he had the right to ask questions and the questions raised by him were actually questions and points that had been raised by representers and their representatives. He had no pre-determined position when asking questions and did not agree that he should refrain from speaking at the meeting.

28. Mr Hui Chi Fung (representative of R5365) then said that DLA would not be breached even if no zoning amendment for military use was made to the OZP. However, no clarification from the Government or PlanD had been made on this point. Besides, he said that no detailed description on the military dock was included in the documents submitted to C&WDC during public consultation. Members of C&WDC were only aware that there would be berthing of military vessels at the military dock as shown as a line on the OZP and the drawings provided in the documents were very small.

29. Mr Leung Chi Ming (R4408) said that the Government needed to clarify the

difference between “military dock” and “military use”. He also asked if the relevant documents presented by PlanD’s representatives at the meeting could be made available to the public.

30. At this juncture, the Chairman reminded attendees again that the Q & A session was for Members to ask questions and the Government representatives, representers and/or their representatives to respond, but not for representers and/or representatives to ask questions.

31. Mr Lam Chi Fai (R5134) said that under DLA, the Government only needed to leave free a 150m of eventual permanent waterfront in the plans for the Central and Wanchai Reclamation for the construction of a military dock. He considered that as long as a 150m waterfront had been reserved, the Government had already fulfilled the international obligation under DLA and there was no need for the Government to construct a military dock. Even if a military dock was constructed, it was not necessary for the Government to designate a land area with a specific zoning for military use.

32. Noting that some representers had strong concern on the difference between “military dock/berth” and “military use”, a Member asked PlanD whether a dock/berth/pier would normally be designated as a land use zone on the OZPs. Miss Elsa Cheuk explained that when the draft OZP was first approved in 2000, the design of the dock and the delineation of CMD had not yet been confirmed and hence the military dock was represented by a straight line along the Central harbourfront annotated “150m Military Berth (subject to detailed design)” on the OZP. Such annotation was in line with the usual practice of the Board. She said that in the document submitted to LegCo’s Public Works Sub-committee (PWSC) of Finance Committee in 2002 for funding approval of the proposed Central Reclamation Phase III works, it was clearly stated that a 150m long military dock and the associated facilities for use by the Chinese People’s Liberation Army Forces Hong Kong would be constructed and the area would be open to the public when it was not in military use. As the detailed design and delineation of CMD were now confirmed, technical amendments were made to reflect the final delineation and the land use of CMD on the OZP. CMD was zoned “OU(MU)1” on the OZP and it was stated in the ES that the zone was intended for a “military dock”, which was in line with the planning intention on the previous OZP in 2000 and DLA for reprovisioning of a military

dock. She referred to the other public piers on the same OZP as shown on the visualiser that there were also annotations of “subject to detailed design” when the boundaries had not been confirmed. The areas concerned were subsequently zoned “OU(Pier)” or “OU (Pier and Associated Facilities)” on the OZP to reflect the final delineation of the land uses.

33. Mr Lam Chi Fai (R5134) said that PlanD still had not explained clearly why the CMD site had to be zoned “OU(MU)1” for the exclusive use of a military dock by the Garrison.

34. Mr Martin Turner (representative of R4275) said that it was announced by the former Chief Executive (CE) in his 2008-2009 Policy Address that a continuous public space along the harbourfront would be provided to the public. However, this political promise and public trust on the Government was breached by the current zoning amendment. CE or Government representatives of similar level should be invited to explain and address the issue.

35. Mr Hui Chi Fung (representative of R5365) said that C&WDC and the public were misled by the Government in the previous public consultation as CMD was only represented by a line on the OZP and they had never been told that there would be a change of the land use zoning for military use. This was not in line with procedural justice.

36. On behalf of Mr. Leung Chi Ming (R4408), the Chairman asked PlanD whether the public could have access to DLA. Miss Elsa Cheuk replied that the DLA was a public document and was available on the relevant website. Mr Lam Chi Fai (R5134) said that DLA was an international treaty of the United Nations and the public could have access to it via the relevant website. Mr Hui Chi Fung (representative of R5365) however said that he had been advised by PlanD before that DLA could not be made available to public.

[Post-meeting Note: PlanD had sent the link of the relevant website for the DLA to Mr Hui Chi Fung on 12.4.2013.]

37. As Members had no further question to raise, the Chairman announced that the

meeting was adjourned. He thanked the representers, their representatives and the Government representatives for attending the hearing. They all left the meeting at this point.

[The meeting was adjourned for a five-minute break.]

[Closed Meeting]

Revision to Guidance Notes

38. The Chairman said that in order to allow flexibility for representers/commenters or their representatives to apply for time extension of their oral submissions both before and/or at the meeting, paragraph 17 of the “Guidance Notes on Attending the Meeting for Consideration of the Representations and Comments in respect of the Draft Central District (Extension) OZP No. S/H24/8” had been suitably amended and tabled for Members’ consideration. Members agreed to the revision. The Chairman said that the revised version would be uploaded to the Board’s website. The representers/commenters had been informed earlier that they could view the latest updates concerning the meeting on a notice board on the Board’s website via a special internet link.

Letters/emails from Representers/Commenters

39. The following letters/emails from representers/commenters to the Board were tabled at the meeting for Members’ information:

- (a) an email of 1.11.2013 from Green Sense (R20) requesting for an hour of oral submission;
- (b) three emails of 5.11.2013 and 2.11.2013 respectively from three individuals (R3697, R8391 and C1691) objecting to the time-limit for oral submission;
- (c) a letter of 12.11.2013 from SPH (R41 and C18) indicating that it would

attend the meeting on 25.11.2013 and be the authorized representative of R9672, R9788, C23, C146 and C224 with a cumulative allotted time of oral submission of an hour;

- (d) a letter of 29.10.2013 from Mr Albert Lai (C6315) requesting for an hour of oral submission; and
- (e) an email of 12.11.2013 from Mr Nigel Kat (R48) indicating that he would not be available on the dates of hearing scheduled by the Board.

40. The Secretary said that the Secretariat would reply to the relevant representers/commenters and seek clarification from them on the need and reasons for further time extension as appropriate. For the representer who was not available to the scheduled dates, the Secretariat would further liaise with him. Members noted and agreed.

Invitation from LegCo

41. The Chairman said that the Panel on Development of LegCo had invited the Chairman and the representatives of the Government to attend a meeting concerning the arrangements of the Board for considering representations and comments of the subject OZP. Based on DoJ's advice, it would be inappropriate for the Board including its Chairman to discuss the issues with LegCo when the Board was still conducting the hearing under the statutory process. Hence, the Secretariat would reply to the Panel with the suggestion that the discussion with the Panel be deferred until after the Board had completed its consideration of the representations and comments in respect of the subject OZP. Members agreed.

42. Noting that some representers and/or representatives had raised objection against the imposition of the 10-minute time limit, Members opined that the time limit was necessary and reasonable in view of the large numbers of representations and comments and the numerous sessions which had to be arranged for the hearing of oral submissions. Members also noted that some representers and/or their representatives had already made use of the flexible arrangements provided under the Guidance Notes and had their speaking

time extended by requesting the Board for further time for their oral submissions at the subject session of the meeting. Members agreed that the meeting was conducted in a smooth and efficient manner under the current hearing arrangement.

43. The meeting was adjourned for lunch break at 12:20 p.m.