

1. The meeting was resumed at 9:00 a.m. on 18.11.2013.
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

Ms Julia M.K. Lau

Mr Roger K.H. Luk

Ms Anita W.T. Ma

Dr W.K. Yau

Professor K.C. Chau

Mr H.W. Cheung

Mr Lincoln L.H. Huang

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Mr Patrick H.T. Lau

Mr Stephen H.B. Yau

Mr F.C. Chan

Director of Lands

Ms Bernadette H.H. Linn

Principle Assistant Secretary (Transport)

Transport and Housing Bureau

Miss Winnie M.W. Wong

3. The following representatives of the Planning Department (PlanD) and Civil Engineering and Development Department (CEDD), and representers and their representatives were invited to the meeting at this point:

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

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

Mr Lam Chun Tak Senior Engineer/Hong Kong (SE/HK),
CEDD

R5566 (Mok Hiu Suen)

Ms Mok Hiu Suen Representer

R5840 (反對香港被規劃行動組)

Mr Fu Ka Ho Representer's Representative

R6527 (Pat Ng)

Mr Pat Ng Representer

R6574 (Max Leung)

Mr Leung Ho Wing Representer

R6745 (Kom Wai Hung Tommy)

Mr Kom Wai Hung Representer

R6805 (Choi Hung Yam)

Mr Choi Hung Yam Representer

R6865 (Josehp Yip)

Mr Patrick Leung Representer's Representative

R6952 (Patrick Leung)

Mr Leung Siu Sun

Representer

4. The Chairman extended a welcome and explained the procedure of the hearing. He then invited the representatives of PlanD to brief Members on the background to the case.

[Dr W.K. Yau, Mr Dominic K.K. Lam, Mr Roger K.H. Luk, Mr Patrick H.T. Lau, Ms Anita W.T. Ma, Ms Bernadette H.H. Linn returned and Miss Winnie M.W. Wong arrived to join the meeting at this point.]

5. With the aid of a Powerpoint presentation, Miss Elsa Cheuk, CTP/SD, 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.

7. Ms Mok Hiu Suen (R5566) indicated that she did not intend to make an oral submission.

8. The Chairman then invited R5840 to make submission.

R5840 (反對香港被規劃行動組)

9. Mr Fu Ka Ho made the following main points:

- (a) he represented the 反對香港被規劃行動組 and the action group was against the planning of Hong Kong without proper consultation;
- (b) while consultations were conducted on various planning proposals, such proposals were not widely promulgated and the consultation process was so complicated that the general public could hardly take part in it;

- (c) as for the subject zoning amendment, most of the public were not aware of it until it was reported in the newspapers on the last day of the exhibition period. The consultation was not a genuine one;
- (d) in documents previously submitted to the Legislative Council (LegCo) and District Councils (DCs) regarding the land use planning on the Central Reclamation and the relevant public consultation documents, there was no mention of a People's Liberation Army (PLA) berth at the Central waterfront. While it was subsequently made known to the public that there would be a military dock, the understanding was that the military dock would only be used for occasional berthing of military vessels. However, under the current zoning amendment, the representation site was designated as a military site which would be a restricted area;
- (e) it was noted that recently, the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (HKSAR) and the Central Government had been involved in Hong Kong's internal affairs on various occasions. For instance, the "Study on the Action Plan for the Bay Area of the Pearl River Estuary" (the Bay Area Study) conducted two years ago was jointly undertaken by the Governments of Guangdong, Hong Kong and Macao. The public consultation period for that study lasted for 18 days only. While there was still no consensus on the large-scale development proposals in Hong Kong such as the North East New Territories New Development Areas (NDAs) and Hung Shui Kiu NDA, the proposals in the Bay Area Study had already been put up to the Central Government for consideration. Hong Kong had lost its autonomy in planning for ourselves. The public would perceive that the designation of the military berth was to carry forward the instruction from the Central Government. Hong Kong people did not have any say on their own affairs, and it was doubtful if the city still belonged to the people of Hong Kong;
- (f) it was the obligation of the Board to listen to public opinions and take into account the public views in making decisions, but not to approve all proposals put forward by the Government as a rubber stamp. The

10-minute time limit was not enough for representers to make oral submission. The Board should respect the right of the representers to speak in the hearing; and

- (g) the existing planning system did not provide enough channel for the public to voice out their opinions on planning proposals. The action group strongly objected to the zoning amendment for the military berth.

[Actual speaking time of R5840: 7 minutes]

R6527 (Pat Ng)

10. Mr Pat Ng made the following main points:

- (a) he was an independent member of the public and did not know other representers and had no channel to ask other representers to swap the time slot with him for the hearing session;
- (b) as noted from PlanD's presentation, the Central & Western (C&W) DC had been consulted on the architectural design of the military dock. Such consultation however could not be regarded as a statutory consultation process as it did not relate to the land use proposal. In addition, Victoria Harbour belonged to the whole of Hong Kong, not just the C&W District;
- (c) there were cases that public areas were provided within private developments, but those areas were fenced off by private developers or the developers had controlled the use of those areas. Relevant Government departments failed to enforce the provision of those public areas in private developments for the enjoyment of the public;
- (d) some public open spaces were occasionally closed for special events, such as for holding of carnivals and fairs. That did not affect the function of those areas for public enjoyment on normal days. Similar arrangement could be applied to the representation site when it was required for the

berthing of military vessels and other related purposes;

- (e) the maintenance responsibility of the representation site was not clear if it was designated for military use; and
- (f) it was questionable if there was a need for a military site in the Central harbourfront which should be reserved for public use. The military facilities should be provided in more remote area.

[Actual speaking time of R6527: 6 minutes]

R6574 (Max Leung)

11. Mr Leung Ho Wing made the following main points:

- (a) he was an ordinary Hong Kong resident;
- (b) it was noted that the provision of the military dock was in accordance with the 1994 Exchange of Notes between the Government of UK and the Government of People's Republic of China (PRC). The agreement was made between the two Governments. As Hong Kong was now part of PRC, the role of HKSAR in complying with the agreement and constructing CMD was questionable;
- (c) the function of the military dock was for the berthing of military vessels and there was no need to designate the representation site for military use. There was also question on the management of the site and on whether the Garrison Law was applicable to the site; and
- (d) it was noted that folding gates were installed at the representation site to fence off the site when it was in military use and it could be open to the public when not in use. Such flexible practice had not been applied to all other military sites in Hong Kong, which were all fenced off without public access. The public would have no knowledge on when the site would be

for military use. There was also no information on who would be responsible to decide when the site would be open for public use and PLA had never confirmed when the site would be open for public use.

[Actual speaking time of R6574: 5 minutes]

R6745 (Kom Wai Hung Tommy)

12. Mr Kom Wai Hung made the following main points:

- (a) the hearing procedure adopted for the subject hearing was considered not in the public interest. Most of the public had no knowledge of their rights. However, he was glad that he had the chance and right to express his views to the Board;
- (b) 10 minutes were not enough for representers to make submissions;
- (c) if the intention was to provide a promenade for public use, what was the reason for building a military dock in the area? The public did not know the details of the intended military use. The public and tourists might unintentionally enter the site and violate the laws;
- (d) he would like to know more about the design of the promenade. While some Government proposals were made in the public interest, such as the redevelopment of Pak Tin Estate where he was living in, there were few channels for the public to know the details of the proposals. The Government should do more work in order to make the proposals more acceptable to the public; and
- (e) while the public were invited to raise comment on the matter, construction works for the military dock had already commenced. The public might consider that it would be useless for them to speak out now. The Board should listen to and respect the views of the public.

[Actual speaking time of R6745: 7 minutes]

R6805 (Choi Hung Yam)

13. Mr Choi Hung Yam made the follow main points:
- (a) he was an ordinary member of the public;
 - (b) the Board had received over 9,000 representations against the zoning amendment and only four representers supported it. That represented an overwhelming public view against the proposal;
 - (c) consultation on the military dock use should start earlier so that the public could have the chance to express their view of not accepting it before the dock was built. He did not know what views could be expressed at this stage when construction of the military berth was nearing completion;
 - (d) as there was strong public objection against the rezoning, the Government should rectify its decision;
 - (e) there was no information on whether the Garrison Law would be applicable to the representation site and on who would undertake law enforcement within the site;
 - (f) there was no information on who would decide on the priority use of the site. As the site was part of a public area owned by Hong Kong people, its use should be decided by the Hong Kong people;
 - (g) the Garrison in Hong Kong was only for symbolic expression of sovereignty. There was no need to have a military site in Central which might create conflict with the daily life of people; and
 - (h) whether any amendment could be made to the plan at this advanced stage. If the planning was not right, amendments to the plan should be made.

[Actual speaking time of R6805: 10 minutes]

R6865 (Joseph Yip)

14. Mr Patrick Leung made the following main points:

- (a) he was an ordinary member of the public;
- (b) while PlanD indicated that wide consultation had been undertaken for the zoning amendment, the general public in fact was not informed of it. The consultation was inadequate;
- (c) although the plan for the military berth was made in 2000, such plan was subject to change;
- (d) while there was a military dock at Tamar for the UK sovereignty in Hong Kong, that was no longer required after the reunification. The constitutional law always allowed any land to be used for emergency military use, if required;
- (e) whether the works of the CMD was unauthorized as the construction works was already at advanced stage?
- (f) even if a military dock was required, it should be located at another place, such as Stonecutters Island. There was no overriding need for the designation of a military site at the representation site which was part of an open space;
- (g) as information on the frequency of use of the military dock was not available, the zoning amendment should not be made at this stage. As there were disputes, further consultation with the public should be undertaken to address the grave public concerns;

- (h) if the Board had no power to control the detailed operation of the military berth, it should not approve the zoning amendment. The Board should listen to the request of the public, and the promenade should be free for public enjoyment. The control of the representation site should not be handed over to other party; and
- (i) 10 minutes were not adequate for many representers to make their oral submissions. Although his own submission would not use up the 10 minutes allowed, the time left should be allocated to other representers who would like to speak longer.

[Actual speaking time of R6865: 9 minutes]

R6952 (Patrick Leung)

15. Mr Leung Siu Sun asked if the 10-minute time limit could be exempted as his submission might require more than 10 minutes to complete. The Chairman responded that as explained before the start of the hearing, the 10-minute time limit was set in view of the large number of representers/commenters. If representers considered that more time would be required, they could apply for an extension and the Board would exercise its discretion to allow requests with justifications. The Chairman asked if Mr Leung Siu Sun would like to request for additional speaking time.

16. Mr Leung Siu Sun said that he would like to cover all his points in his submission and did not want to be stopped before completion. While he did not know how long his submission would take, he expected that 15 minutes would be adequate.

17. The Chairman noted that the written submission of Mr Leung Siu Sun contained one page and reminded Mr Leung, for the efficient conduct of the meeting, not to repeat unnecessarily long the same points that had already been presented by previous representers/commenters. The Chairman said that an additional 5 minutes which made up a total of 15 minutes were allowed for the submission of Mr Leung Siu Sun. The Chairman then invited Mr Leung Siu Sun to present.

18. Mr Leung Siu Sun made the following main points:

- (a) he was a member of the Eastern District Council from the Civic Party;
- (b) he strongly objected to the zoning amendment;
- (c) Victoria Harbour was a valuable public asset. While reclamation was required for the construction of the Central-Wanchai Bypass, the Government had undertaken to reserve the harbourfront for public use;
- (d) the public had aspiration for a continuous waterfront promenade all the way from the Western District to the Eastern District. However, because of the lack of proper planning in the past, parts of the waterfront in the Eastern District had been occupied by existing facilities or other private developments. It was necessary to ensure that the accessibility of the whole Central harbourfront and it should not be affected by other uses;

[Professor S.C. Wong left the meeting temporarily at this point.]

- (e) even if a military dock was needed, the frequency of its use would not be high. It was necessary to consider whether the representation site should be rezoned to military use;
- (f) the existing football courts in Victoria Park would sometimes be closed for other functions. The control of their uses rested with the Leisure and Cultural Services Department which should make sure that different uses would be taken care of. It would not be necessary to rezone part of Victoria Park to other uses;
- (g) there was concern that the control of the representation site would be in the hands of PLA. The public would not know when the site would be open for public use. There was also no guarantee that the site would be open for public use. The zoning amendment should not be made as this would result in a loss of control over the use of the site by the Government; and

- (h) the Board should be the gatekeeper on planning matters for the benefits of the general public.

[Actual speaking time of R6952: 11 minutes]

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

20. Noting that a number of representers commented that the consultation on the provision of the military dock was not adequate, it was undertaken at the very late stage when the military dock was nearing completion, and the consultation procedures under the Ordinance were superfluous, the Vice-chairman asked the representatives of PlanD to explain in detail the public consultation undertaken for the military dock. The Vice-chairman also asked why the construction of the military dock had commenced before the zoning amendment was made, and whether there was any information on the operation of the military dock.

21. In response, Miss Elsa Cheuk made the following main points:

Consultation and Permitted Uses

- (a) the Central Military Dock (CMD) was shown on the Central District (Extension) Outline Zoning Plan (OZP) when it was first approved by the Chief Executive in Council (CE in C) in 2000 after an extensive public consultation in accordance with the provision of the Town Planning Ordinance. As the design and area that CMD would occupy had not been decided at that time, it was represented by a straight line annotated '150m Military Berth (subject to detailed design)' on the OZP. The annotation on the OZP had remained unchanged until the current round of OZP amendments. This was in line with the established practice in showing proposed roads under planning on the OZP which were subject to detailed design. As the detailed design and delineation of the military dock had been confirmed and the construction works were near their final stage,

technical amendment was made on the OZP to reflect the final delineation and the land use;

- (b) the military berth had been shown on the OZP which was first approved in 2000 and hence it was a permitted use. For facilities directly related to a permitted use, they were always permitted and no separate planning permission from the Board was required;

[Professor S.C. Wong returned to join the meeting at this point.]

- (c) the Garrison agreed in 2000 that it would open the land area of CMD (except for the utilities, ancillary structures and landing steps) to the public as part of the promenade when it was not in military use, having regard to its operation and need for protecting the military berth;
- (d) in the submission made to LegCo in 2002 seeking funding for the Central Reclamation Phase III and other works of the reclamation, the location of the military berth was shown and the information that the Garrison had agreed that the military berth would be open for public use when it was not in military use was included. That information was also indicated in other documents submitted in response to questions raised by LegCo in subsequent years;
- (e) CMD was one of the major facilities to be provided at Site 7. As one of the uses at Site 7 in which CMD was located, the design concept of CMD including its access to the Central Barracks to its south was included in the public engagement exercise of the Urban Design Study for the New Central Harbourfront (UDS) commissioned by PlanD in 2007. The location of CMD and its ancillary facilities (i.e. the four ancillary structures) were shown on various plans in the consultation documents of UDS to solicit public views. A territory-wide public consultation had been undertaken for UDS. During the public consultation on UDS, there were discussions on how the military berth at Site 7 could integrate with the design of the waterfront and folding gates were suggested to facilitate the opening of the

berth area for public use when it was not in military use;

- (f) a two-stage public engagement had been undertaken for UDS. A consultant was engaged to specifically collect public opinions on the development proposals for all key sites and conduct subsequent analysis during the Stage 2 public engagement. Public comments were collected through comment cards, face-to-face interviews, telephone surveys and written submissions. Relevant parties had been involved in the consultation process and the then Harbourfront Enhancement Committee (HEC) had set up a dedicated Task Group on UDS (TGUDS) to discuss the detailed proposals of UDS including the military berth. Other relevant bodies, including the Board, the Antiquities Advisory Board, DCs of 18 districts and professional bodies had been consulted;
- (g) C&WDC and HKTF were briefed on the architectural design of the military dock as part of the works of the advance promenade of the new Central harbourfront in 2010. Perspectives of the military dock design with ancillary facilities were shown in the consultation documents;
- (h) both statutory and administrative consultation procedures had been followed for the amendment of the OZP. The amendments were presented to HKTF, C&WDC and LegCo Panel on Development. The amendments to the OZP were published under the Ordinance and any person might make representations to the Board in respect of the draft OZP;

Operational Details

- (i) before the reunification, the headquarters of the British Garrison used to have a naval basin and dock facilities in the former Tamar Basin, which were affected by 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 the military dock and ancillary facilities were not completed before the reunification due to the Central Reclamation, the HKSAR Government took up the construction of

CMD and associated facilities at the Central harbourfront; and

- (j) the Government would keep in contact with PLA on the arrangement of opening CMD for public use. The public would be informed on the arrangement in due course. It would be open for public use when it was not in military use.

22. The Chairman made the following points in response to comments from representers on the 10-minute speaking time limit:

- (a) as 19,040 representations/comments had been received, and over 1,000 representers/commenters had indicated that they would attend the hearing, 16 hearing sessions had been scheduled. There was a practical need for the Board to make special arrangements in order to allow the Board to hear all representers/commenters' submissions;
- (b) it was noted that some representers/commenters might have more points to present, the representers/commenters might request for extension of speaking time and the Board would consider such requests with justifications. Further, if an authorized representative was appointed by more than one representer to represent them, that authorized representative might use the cumulative time allotted to all the persons he represented to make his oral submission;
- (c) it was noted that speaking time limits were adopted for many other meetings including the LegCo meetings; and
- (d) Members had a thorough discussion before adopting the special hearing arrangements.

23. In response to a Member's questions, Miss Elsa Cheuk referred Members to some powerpoint slides which showed the boundary fences along the waterfront installed for safety purpose. There were also movable gates fencing off the landing steps within the CMD site and the landing steps would not be accessible by the public. She also said that

CMD was a re-provision of the naval basin and dock facilities previously existed at the headquarters of the British Garrison before the reunification.

24. In response to another Member's question, Mr Leung Siu Sun said that the Eastern DC had not been consulted on the design of CMD. Miss Elsa Cheuk said that all 18 DCs had been consulted on Stage 2 Public Engagement of UDS and the Eastern DC was consulted at its meeting on 24.4.2008. As for the architectural design in 2010 and the current amendment to the OZP, the relevant DC, i.e. C&WDC was consulted.

25. A Member asked about development control within the representation site. In response, Miss Elsa Cheuk said that there were four existing single-storey buildings within the representation site with a total gross floor area (GFA) of 220m². The "Other Specified Uses" annotated "Military Use (1)" zone was subject to a building height restriction (BHR) of 10mPD. Since the existing formation level of the site was about 4.2mPD, a BHR of 10mPD meant that the building thereon should not exceed 5.8m in height. There was no GFA control in the Notes of the zone, as in the cases of other military sites. PLA had indicated that no additional structures would be built or required for CMD.

[Ms Julia M.K. Lau returned to join the meeting at this point.]

26. Regarding some representers' concerns on law enforcement, a Member asked if Hong Kong Laws were applicable in the representation site. Miss Elsa Cheuk said according to the Garrison Law, PLA would be responsible for the management and usage of military facilities in Hong Kong, including CMD. CMD would be open to public when it was not in military use. She added that irrespective of whether it was a private place or a public place, if there were cases involving a concern of public order or other crimes, the Hong Kong Police could take enforcement actions according to the Law.

27. Mr Pat Ng said there was still concern if there was conflict between the Garrison and Hong Kong Police Force in law enforcement within the representation site.

28. Miss Elsa Cheuk said that the Hong Kong Police Force should act in accordance with Hong Kong Laws.

29. As Members had no further question to raise, the Chairman said that the hearing procedure had been completed and the Board would deliberate on the representations in the absence of the representers and their representatives. The representers would be informed of the Board's decision in due course. The Chairman thanked the representers, their representatives and the Government representatives for attending the hearing. They all left the meeting at this point.

30. The meeting was adjourned for a short break at 11:10 am.

[Ms Bernadette H.H. Linn left the meeting temporarily at this point.]

31. The meeting was resumed at 11:20 am.

[Closed Meeting]

32. As requested by the Chairman, the Secretary briefed Members on the requests made by some representers in respect of the hearing arrangements. The Secretary said that Designing Hong Kong Limited (DHK) (R42) advised that it was authorized by some representers to speak at the hearing and 48 minutes were required. DHK would need to provide authorization forms as required. As for Mr Nigel Kat (R48), he indicated that he was unavailable to attend the hearing on 21.11.2013 as he was committed to a 20-day High Court trial from 18.11.2013. Mr Nigel Kat also did not agree that the Board should complete the hearing for all representers before the commenters were heard. Mr Kat requested TPB to schedule a time slot for him on 29.11.2013 or 2.12.2013.

33. The Chairman said that the Board had considered the grounds made by Mr Nigel Kat and decided to invite him to attend the hearing session on 21.11.2013 before the hearing of the commenters commenced. Special arrangement had already been made. The Secretary supplemented that Mr Nigel Kat had already been informed that he might authorize a representative to attend the hearing on his behalf. Members agreed that no rearrangement should be made for Mr Nigel Kat.

34. In response to Member's question, the Secretary clarified that the arrangement for authorized representative was to provide convenience to any representer/commenter who

could not attend the allotted hearing time slot. If the representer/commenter considered that a longer speaking time was required, he should seek an extension of time which would be allowed by the Board if justified.

35. The meeting was adjourned at 11:30 a.m.