

APPLICATION FOR AMENDMENT OF PLAN
UNDER SECTION 12A OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. Y/H24/9

<u>Applicant</u>	Central Harbourfront Concern Group represented by Designing Hong Kong Limited (DHKL)
<u>Plan</u>	Approved Central District (Extension) Outline Zoning Plan (OZP) No. S/H24/9
<u>Application Site</u>	Central Military Dock (CMD)
<u>Site Area</u>	2,961m ²
<u>Land Status</u>	Government land
<u>Zoning</u>	“Other Specified Uses” annotated “Military Use (1)” (“OU(Military Use (1))”) - no new development, or addition, alteration and/or modification to or redevelopment of an existing building shall result in a height in excess of 10mPD or the height of the existing building whichever is the greater
<u>Proposed Amendments</u>	To rezone a major portion of the application site from “OU(Military Use (1))” to “Open Space (1)” (“O(1)”), and to amend the Notes of OZP for “OU(Military Use (1))” zone

1. The Proposal

- 1.1 The applicant proposes to rezone a major portion of the application site (the Site) from “OU(Military Use (1))” to “O(1)” (**Drawing Z-1**). The applicant proposes to retain the “OU(Military Use (1))” zone for the four existing structures and three landing steps within the Site.
- 1.2 The planning intention of the proposed “O(1)” zone, as suggested by the applicant, is “primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents, visitors and the general public in general. When the military dock facilities are required to service a military vessel moored alongside, the “O(1)” area may be closed to public access”.

- 1.3 For the Notes of the OZP, the applicant proposes to add a new set of Notes for the proposed “O(1)” zone with ‘Pedestrian Area’, ‘Promenade’, ‘Sitting Out Area’, ‘Pier’ and ‘Public Utility Installation’ uses under Column 1. The applicant also proposes to delete the provision of minor relaxation of building height restriction (BHR) from the Remarks of the Notes for the “OU(Military Use (1))” zone.
- 1.4 In support of the application, the applicant has submitted an application form with supplementary statement (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement at **Appendix I**. They can be summarised as follows:

- (a) the proposed rezoning and deletion of minor relaxation clause are in line with the planning intention of the harbourfront promenade, the Town Planning Board’s “Vision and Goals for Victoria Harbour”, and the Harbour Planning Principles (**Appendix II**). The proposal gives effect to the recommendations of the Harbourfront Commission and its Task Force having regard to the nature of the harbour as a special public asset of Hong Kong people and to the principle under s.3(1) of the Protection of the Harbour Ordinance (Cap. 531)¹;
- (b) there is no need to set up a permanently-closed military facility at this sensitive site, as such kind of military facilities have already been set up elsewhere in Hong Kong. Under the proposed “O(1)” zone, the Site can be fully secured under s.36(1) of the Public Order Ordinance (Cap. 245)² when military vessels are in town and require berthing at the dock;
- (c) the proposal enables the opening of the whole harbourfront to the public except during berthing of military vessels;
- (d) the proposed “O(1)” zone can simplify the Site’s maintenance responsibility as the Site will be managed by the same government department as the surrounding Central and Western District Promenade (Central Section);
- (e) the proposal can reduce the risk of conflict resulting from discrepancies in jurisdiction;
- (f) the proposal can enhance the harbourfront as a quality experience to residents and tourists;
- (g) the proposal can improve visual access to water sports events; and

¹ s.3(1) of Cap. 531: “The harbour is to be protected and preserved as a special public asset and a natural heritage of Hong Kong people, and for that purpose there shall be a presumption against reclamation in the harbour.”

² s.36(1) of Cap. 245: “The Chief Executive may, where he reasonably believes that it is necessary for the protection of national security or public safety, or the protection of public order or public health, by order declare any area or place to be a closed area.”

- (h) the proposal preserves the facilities, use and planning intention of the berth and docking facilities in accordance with the agreement between the Hong Kong Special Administrative Region Government and the People's Liberation Army in 2000.

3. Compliance with the "Owner's Consent/Notification" Requirements

As the Site involves government land only, the "owner's consent/notification" requirements as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) are not applicable to the application.

4. Background

4.1 The Exchange of Notes between the Government of the People's Republic of China and the Government of the United Kingdom on the arrangements for the future use of military sites in Hong Kong (the Exchange of Notes) entered into force on 11 November 1994. The military dock in Central is one of the five military buildings/fixed facilities affected before 1 July 1997³ which should be re-provisioned for the Hong Kong Garrison of the Chinese People's Liberation Army (the Garrison) by the Hong Kong Special Administrative Region (HKSAR) Government as set out in the Exchange of Notes. According to the Exchange of Notes, the HKSAR Government shall leave free 150 metres of the eventual permanent waterfront at a place close to the Central Barracks for the re-provisioning of a military dock for the Garrison upon completion of the Central reclamation works. To fulfil the responsibility set out in the Exchange of Notes, the HKSAR Government has decided to re-provision the military dock as part of the relevant reclamation works of the Central Reclamation Phase III (CRIII) project.

4.2 The Central and Wan Chai Reclamation (including the location of the CMD) was deliberated by the public at length when the draft Central District (Extension) OZP was gazetted in 1998⁴, going through a due process of public objections and hearing of public objections by the Town Planning Board (the Board) under the Town Planning Ordinance. As the design that the CMD would take and the area it would occupy had not yet been decided back then,

³ The re-provisioning of military buildings and fixed facilities for the Garrison since they were affected by the disposal of military sites include the re-provisioning of the original Central Tamar naval base on the south shore of Stonecutters Island; the original King's Park military hospital at the Gun Club Hill Barracks; the original Blackdown Barracks military storage facilities at the Shek Kong Barracks; the original Kai Tak Airport Military Joint Movements Unit at the Chek Lap Kok Airport; and a military dock at a place at the eventual permanent waterfront in the plans for the Central and Wanchai Reclamation close to the Central Barracks.

⁴ A total of 69 valid objections were received against the draft Central District (Extension) OZP No. S/H24/A. The main ground of objections was on the proposed extent of the reclamation under CRIII and Wan Chai Development Phase II rather than on the military berth per se. The Board considered and agreed with a revised OZP with a reduced extent of the proposed reclamation in which the location of the military dock had been revised accordingly.

the CMD was represented by a straight line annotated “150m Military Berth (subject to detailed design)” on the first approved Central District (Extension) OZP in 2000.

- 4.3 In December 2001, the Chief Executive in Council (CE in C) authorised CRIII’s reclamation and road works under the Foreshore & Seabed (Reclamations) Ordinance and the Road (Works, Use and Compensation) Ordinance. The conceptual design and construction of the CMD and the associated facilities were included in the CRIII and were endorsed by the Public Works Subcommittee (PWSC) of the Legislative Council (LegCo) on 5.6.2002. On 21.6.2002, the Finance Committee of the LegCo approved funding for reclamation, construction of road network, drainage and sewerage systems, other land and marine transport facilities for CRIII, and the construction of a 150m berth and associated facilities for use by the Hong Kong Garrison.
- 4.4 Between 2003 and 2004, the Central and Wan Chai Reclamation was subject to several legal challenges, including judicial review (JR) against the Board’s decision in respect of the draft Wan Chai North OZP and JR against the decisions made by the Government in relation to CRIII works.
- 4.5 In August 2005, the Board considered three rezoning applications (Nos. Z/H24/1, Z/H24/2 and Z/H25/2) to reduce the extent of reclamation in both CRIII and Wan Chai Development Phase II. While the Board decided not to agree to the rezoning applications, having regard to views expressed by the applicants, the Board decided to request the Government to prepare/refine the planning design briefs for the Central District waterfront to ensure the design of the future development would blend in with the waterfront. In response to the Board’s request, the Planning Department (PlanD) commissioned the Urban Design Study for the New Central Harbourfront (UDS) in March 2007, which had taken into account both the Board’s Vision and Goals for Victoria Harbour as well as the Harbour Planning Principles and Harbour Planning Guidelines endorsed by the then Harbour-front Enhancement Committee in April 2006 and June 2007 respectively. The UDS was completed in 2011 and recommended planning and urban design proposals for the Central District waterfront including the CMD.
- 4.6 The UDS recommended, inter alia, that the CMD would be designed to integrate with the new waterfront promenade and the maximum height of structures in the waterfront promenade (including the CMD) should not exceed 10mPD. The conceptual design of the CMD and its integration with the harbourfront was made known to the public in the public engagement exercises of the UDS. The public comments received on the CMD were summarized in the Final Report of the UDS. The architectural design was subsequently presented to the Central and Western District Council (C&WDC) on 13.5.2010 and the Harbourfront Commission’s Task Force on Harbourfront Developments on Hong Kong Island on 6.10.2010.
- 4.7 On 15.2.2013, when the CMD was nearly completed, the draft Central District (Extension) OZP No. S/H24/8, incorporating mainly the rezoning of the Site from “O” to “OU(Military Use (1))” with the imposition of BHR of 10mPD was exhibited for public inspection. A total of 9,812 representations were

received during the two-month exhibition period and a total of 9,228 comments were received during the first three weeks of the representation publication period. While the majority of the representations and comments were submitted by individuals, the remaining were submitted by concern groups (including DHKL), political parties and the then LegCo Members. At that time, the grounds of representation made by DHKL against the “OU(Military Use (1))” zone were similar to those in the current application. The amendments incorporated into the OZP were also presented to the Harbourfront Commission’s Task Force on Harbourfront Developments on Hong Kong Island on 21.2.2013, C&WDC on 21.3.2013 and 23.5.2013, and LegCo Panel on Development on 28.5.2013.

- 4.8 The representations and comments were heard collectively by the Board in 16 days over the period from 4.11.2013 to 11.12.2013. After deliberation, the Board decided not to propose any amendment to the draft OZP to meet the representations.
- 4.9 The Board also decided to revise the paragraph on the “OU(Military Use (1))” zone in the Explanatory Statement of the OZP to include the following, “*The Garrison has, on the request of the Hong Kong Special Administrative Region Government, agreed in 2000 that it would open the area of the military dock site to the public as a part of the promenade when it is not in military use, having regard to its operation and need for protecting the military dock.*” The minutes on the Board’s deliberation on 18.12.2013 and 14.2.2014 are at **Appendix III** for Members’ reference.
- 4.10 On 8.5.2014, DHKL lodged a JR against the Board’s decision of not to propose amendment to the draft OZP to meet the representations. Submission of the draft OZP to the CE in C for approval was stayed. Before proceeding with the substantive JR, DHKL applied for a protective cost order which was refused by the Court of First Instance (CFI) on 30.4.2015 and its appeal by DHKL was dismissed by the Court of Appeal on 16.2.2017 and subsequently dismissed by the Court of Final Appeal on 15.5.2018. On 30.11.2018, CFI dismissed the joinder application in the JR received in July 2018, granted leave to DHKL to discontinue and withdraw the JR and discharged the order for the interim stay of the submission of the draft OZP to the CE in C. On 22.1.2019, the CE in C approved the draft Central District (Extension) OZP. On 1.2.2019, the approved Central District (Extension) OZP No. S/H24/9 was exhibited for public inspection.
- 4.11 The CMD is a military facility. In accordance with the Law of the People’s Republic of China on the Garrisoning of the HKSAR (“the Garrison Law”), military facilities within the HKSAR shall be managed by the Garrison; the Garrison and the HKSAR Government shall jointly protect such military facilities; no person other than members of the Garrison shall enter military restricted zones without the permission of the Commander of the Garrison or other officers as he may authorize to give such permission; and guards of the military restricted zones shall have the right to stop according to law any unauthorized entry into any military restricted zone or any act which damages or endangers any military facilities. The Garrison Law is a national law applicable to the HKSAR under Article 18 and Annex III of the Basic Law. The HKSAR Government must comply with the Garrison Law. In addition

to specifying the Garrison's authority in managing its military facilities, the Garrison Law also specifically provides that the HKSAR Government "shall support the Garrison in its performance of defence functions and responsibilities and guarantee the lawful rights and interests of the Garrison and its members" (Article 10); shall jointly with the Garrison "protect the military facilities within the HKSAR" (Article 12); and "shall assist the Hong Kong Garrison in maintaining the security of the military restricted zones" (Article 12). To provide it with suitable legal protection, the CMD has been declared as a "protected place" under the Protected Places (Safety) Ordinance (Cap. 260), and the four buildings in the land area of the CMD have been declared as "closed areas" under the Public Order Ordinance (Cap. 245) with effect from 29.6.2019. In the process of legislating for the CMD, the HKSAR Government had made it clear to the public that the CMD is a military facility situated on a military site. The Garrison will in future consider, under the condition that it is permitted under defence arrangements, opening up the CMD. However, regardless whether the CMD is opened up, it is still used for defence purpose. Furthermore, the CMD is a military facility at all time and its legal status will not change due to its opening. The Garrison will manage the CMD according to the Garrison Law and the laws of the HKSAR where applicable. The exact opening time and other relevant details of opening the CMD fall within the scope of the Garrison's defence work concerning management of military facilities which are to be decided by the Garrison. The Garrison is considering the relevant details and will inform the public in due course.

5. Vision and Goals for Victoria Harbour

The Board has formulated the "Vision and Goals for Victoria Harbour" (the Vision Statement) in 1999, with a vision to make Victoria Harbour attractive, vibrant, accessible and symbolic of Hong Kong – a harbour for the people and a harbour of life. The goals of the Vision Statement are as follows:

- (a) to bring the people to the Harbour and the Harbour to the people;
- (b) to enhance the scenic views of the Harbour and maintain visual access to the harbourfront;
- (c) to enhance the Harbour as a unique attraction for our people and tourists;
- (d) to create a quality harbourfront through encouraging innovative building design and a variety of tourist, retail, leisure and recreational activities, and providing an integrated network of open space and pedestrian links;
- (e) to facilitate the improvement of the water quality of the Harbour; and
- (f) to maintain a safe and efficient harbour for the transport of people and goods and for the operation of an international hub port.

6. Previous Applications

- 6.1 There are three previous applications covering the Site (**Plan Z-1a**). The first two applications were Nos. Z/H24/1 and Z/H24/2 submitted on 6.9.2004 and 29.10.2004 respectively to request for reduction of the reclamation extent. Amongst other proposed amendments, the applicant of No. Z/H24/1 proposed to request the Garrison to reconsider the need for and extent of space required for the berth as the berth was a significant constraint on the design and use of the waterfront, while the applicant of No. Z/H24/2 proposed a T-shaped pier extended from the proposed setback of reclamation shoreline to accommodate the deep-draft military vessels. On 5.8.2005, the Board decided not to agree to both applications with grounds including the claim of excessive reclamation extent was unfounded. In addition, for application No. Z/H24/2, the Board considered that there was insufficient information to demonstrate how the proposed extended pier was feasible and safe.
- 6.2 The third application No. Y/H24/4 submitted on 11.5.2007 (represented by the same authorised agent (i.e. DHKL) as the current application) was to rezone various sites at the Central harbourfront and to amend the Notes of the Central District OZP and the Central District (Extension) OZP. Amongst other proposed amendments, the applicant proposed to move the CMD 20m off-shore and designate the berth as a T-shaped pier, which was claimed to offer a better design solution, and allow public access to the sea wall at all times while enabling the pier easily secured when in use. On 11.1.2008, the Board decided not to agree to the application with grounds including the applicant had not provided any strong justification for or detailed assessments in support of the proposed zoning amendments including the proposed military dock.
- 6.3 Details of the previous applications are at **Appendix IV**.

7. Similar Applications

There are three similar applications for amendment to the OZP relating to the “OU(Military Use)” zone covering the Central Barracks within the Central District (Extension) OZP. The three applications were Nos. Y/H24/6, Y/H24/7 and Y/H24/8 submitted on 22.9.2014, 22.7.2015 and 5.5.2017 by a same applicant to rezone the Central Barracks to “Commercial (Hotel)” (Nos. Y/H24/6 and Y/H24/7) or “Commercial” (No. Y/H24/8) (**Plan Z-1a**). The Metro Planning Committee (the Committee) of the Board considered the applications on 13.3.2015, 9.10.2015 and 28.7.2017 respectively and decided not to agree to the three applications for the same reasons which are as follows:

- (a) the “OU(Military Use)” zone is considered appropriate to reflect the existing use of the site;
- (b) there is no strong planning justification nor technical assessment in the submission to substantiate the rezoning application and demonstrate that the proposed development would not create adverse impact on the surrounding area; and

- (c) the approval of the application will set an undesirable precedent for similar rezoning applications in the “OU(Military Use)” zone and the cumulative effect of which would affect the military sites for defence purposes.

8. The Site and Its Surrounding Area (Plans Z-1 and Z-2 and photos on Plans Z-3 to Z-7)

8.1 The Site is:

- (a) located at the Central harbourfront to the north of Lung Wo Road; and
- (b) occupied by a military dock including three landing steps and four single-storey buildings of about 8.7mPD/4.5m high, to be handed over to the Hong Kong Garrison.

8.2 The surrounding areas have the following characteristics:

- (a) the Site is surrounded by the Central and Western District Promenade (Central Section) to the east, south and west, and by Victoria Harbour to the north;
- (b) to the further southwest is land zoned “OU” annotated “Waterfront Related Commercial and Leisure Uses (2)” and “O”. The area is being used as the Central Harbourfront Event Space under Short Term Tenancy for holding a variety of events; and
- (c) to the further south across Lung Wo Road is the Central Barracks.

9. Planning Intention

The planning intention of the “OU(Military Use (1))” zone is primarily to provide land for the military dock of the Hong Kong Garrison.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their views on the application are summarized as follows:

Policy

10.1.1 Comments of the Secretary for Security (S for S):

- (a) According to the Exchange of Notes, the CMD is a military site and military facility which should be re-provisioned for the Hong Kong Garrison by the HKSAR Government;
- (b) Article 14 of the Basic Law provides that the Central People’s Government shall be responsible for the defence of the HKSAR. According to Article 5 of the Garrison Law, management of

military facilities is a defence function and responsibility of the Hong Kong Garrison. Being a military site and military facility in the HKSAR, the CMD will be used and managed by the Hong Kong Garrison;

- (c) the land area of the CMD has become a “protected place” under the Protected Places Order (Cap. 260A) on 29 June 2019 for defence use of the Hong Kong Garrison;
- (d) The CMD is a military facility situated on a military site. The planning intention of the “OU(Military Use(1))” zone is primarily to reflect the final delineation and the land use of the CMD. The CMD is not suitable for re-zoning for other uses; and
- (e) he also relays the Hong Kong Garrison’s comments on the application as follows:

根據中華人民共和國政府和英國政府就香港軍事用地未來用途的安排互換的照會，中區軍用碼頭是須由香港特別行政區為中國人民解放軍駐香港部隊（下稱「香港駐軍」）重置的軍事用地及軍事設施。《基本法》第十四條列明香港特別行政區的防務由中央人民政府管理。按照《駐軍法》第五條，管理軍事設施是香港駐軍的防務職責。中區軍用碼頭作為香港特別行政區範圍內的軍事用地及軍事設施，將由香港駐軍使用及管理。中區軍用碼頭陸上範圍已於2019年6月29日，根據《受保護地方令》（第260A章）宣布為「受保護地方」，供香港駐軍作防務用途，不適合規劃作其他用途。

10.1.2 Comments of the Secretary for Development (SDEV):

- (a) the CMD is no ordinary harbourfront site. It is a military dock reprovisioned for the Central Barracks in accordance with the Exchange of Notes (before the reunification, the Prince of Wales Barracks (now the Central Barracks) was provided with dock facilities at the former Tamar Basin). The CMD is zoned “OU(Military Use (1))”, consistent with the zoning for the Central Barracks that the CMD is to serve. As the “OU(Military Use (1))” zoning rightly reflects the primary use and status of the CMD as a military facility and military site, he concurs with S for S that it is inappropriate to revert the zoning to open space;
- (b) the current proposal and relevant justifications are very similar to those put forth by the applicant when the Board considered the amendments to the OZP for rezoning the Site from “O” to “OU(Military Use (1))” back in 2013. Together with other representations and comments received, the Board had spent 16 full days to hear them out carefully and eventually upheld the rezoning decision in 2014. DHKL (i.e. the authorised

agent of the applicant) had made various attempts between 2014 and 2018, with a view to bringing judicial review against the Board's decision but in vain (please see paragraph 4.10 above). The current proposal represents the latest attempt by DHKL and others to seek a review of the Board's decision in 2014. Yet, there are no new circumstances that would warrant a change of the Board's previous decision;

- (c) the effect of the CMD on public enjoyment of the harbourfront should be seen in the proper perspective. There is ample open space in the vicinity, including the Central and Western District Promenade (Central Section) and the Tamar Park. They (including the Site) amount to about 98,700 m² in size (as compared to the less than 3 000 m² of the Site) and are all open to the public round the clock. At present, the public can already use the pedestrian walkway next to the Site for a continuous east-west connection along the waterfront, hence the connectivity of the harbourfront promenade is preserved;
- (d) the applicant claimed that their proposal could improve visual access to water sports events such as dragon boat races. It is worth noting that the Hong Kong Dragon Boat Carnival had been successfully held at the nearby Central Harbourfront for three consecutive years from 2016 to 2018. To allow more comfortable viewing of the races, the event organiser provided around 700 seats at the nearby Central Harbourfront for spectators. Other members of the public also joined in at the Central and Western District Promenade (Central Section) and Tamar Park. The Site was closed during the dragon boat races of the three years and we were not aware that this had caused any issues;
- (e) the Site is subject to a BHR of 10mPD. Construction of the CMD has been completed with its design fully integrated with the harbourfront setting. There are four small single-storey structure with total area of about 220 m² (as against the total Site area of 2 961 m²) and about 8.7mPD/4.5m high. The minor relaxation clause for BHR is applicable not only to the Site but also to other harbourfront sites with development zonings on the OZP to allow flexibility for the BHR. We see no good reason why the Site should be subject to a different arrangement and hence do not agree deleting the minor relaxation clause; and
- (f) in accordance with the relevant provisions under the Basic Law and the Garrison Law, the CMD will be managed and used by the Garrison. The Garrison will manage the CMD according to the Garrison Law and the laws of Hong Kong where applicable. We cannot see how the "OU(Military Use (1))" zoning would give rise to any issue of conflict of jurisdictions as claimed by the applicant.

Land Administration

10.1.3 Comments of the District Lands Officer/Hong Kong West and South, Lands Department (DLO/HKW&S, LandsD):

- (a) The Site is zoned “OU(Military Use (1))” on the approved Central District (Extension) OZP No. S/H24/9 and the applicant is not the owner of the Site under application; and
- (b) LandsD currently undertakes the daily management of the Site pending the handover of the CMD to the Garrison.

Traffic

10.1.4 Comments of the Commissioner for Transport (C for T):

No comment on the application from the viewpoint of traffic engineering.

Open Space

10.1.5 Comments of the Director of Leisure and Cultural Services (DLCS):

No comment on the application.

Urban Design and Landscape

10.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

Urban Design

- (a) it is noted that the Column 1 uses of the proposed “O(1)” zone only cover pedestrian area, promenade, sitting-out area, pier and public utility installation, and the intention is to open for the public in general unless the military dock facilities are in use. Since the proposal does not involve increase of development intensity and building bulk, she has no comment from urban design and visual perspectives; and

Landscape

- (b) the Site is entirely hard-paved and no significant vegetation is found. Significant change or disturbances arising from the proposed use to the existing landscape character and resource are not envisaged.

District Officer's View

10.1.7 Comments of the District Officer (Central & Western), Home Affairs Department (DO(C&W), HAD):

The issue was discussed at the C&WDC meetings and members noted the rezoning proposal.

10.2 The following government departments have no comment on the application:

- (a) Chief Highway Engineer/Hong Kong, Highways Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Chief Engineer/Hong Kong and Islands, Drainage Services Department;
- (d) Project Manager/South, Civil Engineering and Development Department;
- (e) Director of Environmental Protection;
- (f) Director of Marine;
- (g) Commissioner of Police; and
- (h) Director of Fire Services.

11. Public Comments received during Statutory Publication Period

On 30.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 20.9.2019, 3,225 public comments were received from the members of the general public. Amongst the public comment received, 3,222 comments are supporting comments (including 3,053 comments using two types of standard format) from individuals, including C&WDC member Ms. CHENG Lai-king and representative of Greeners Action Mr. Angus HO, one opposing comment from an individual and two comments not indicating their views. While the opposing comment has no further elaboration on its grounds, the major grounds of the supporting comments are summarised as follows:

- (a) the proposal would bring positive impacts on tourism, provision of open space, branding of Hong Kong and living quality;
- (b) there are sufficient land for military use, the military dock could be located elsewhere;
- (c) a military dockyard has been provided at Stonecutters Island; this sensitive site should not be used as permanently-closed military dockyard;
- (d) the harbourfront is a significant public asset, hence this area should be open for public's use or be used to provide benefits to the public;
- (e) using the Site as military dock violates the result in the previous extensive public consultations in regard of the New Central Harbourfront that the public demanded a vibrant, green and accessible New Central Harbourfront;

- (f) developing the Site as a public open space is compatible with Tamar Park nearby;
- (g) the Site with satisfactory accessibility is suitable for cultural events which could be enjoyed by the public and promote local culture;
- (h) other recreational facilities (such as biking trail and water-friendly facilities) instead of military dock should be developed along the harbourfront for public use; and
- (i) flexible management should be adopted to enhance the public use of the area as military vessels would not berth at the Site frequently.

12. Planning Considerations and Assessment

12.1 The applicant proposes to rezone the Site (excluding the four existing structures and three landing steps) from “OU(Military Use (1))” to “O(1)”. The planning intention of the proposed “O(1)” zone, as suggested by the applicant, is for “provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents, visitors and the general public in general”, and “when the military dock facilities are required to service a military vessel moored alongside, the “O(1)” area may be closed to public access”. The applicant also proposes to include a new set of Notes for the proposed “O(1)” zone and to delete the clause for minor relaxation of BHR in the Remarks of the Notes for the “OU(Military Use (1))” zone. According to the applicant, the proposed “O(1)” zone will have an area of 2,596m².

Planning intention for the CMD

12.2 The CMD is a military site and military facility re-provisioned for the Hong Kong Garrison by the HKSAR Government in accordance with the Exchange of Notes. The site comprises three landing steps, four single-storey buildings of about 8.7mPD/4.5m high and the space between the four building structures and the landing steps. The CMD is constructed for the reprovisioning of dock facilities at the former Tamar Basin. It is the only military facility yet to be handed over to the Hong Kong Garrison among all the military facilities specified in the Exchange of Notes. The entire CMD, including the space between the four structures and landing steps, would be needed for the military dock to function. As the primary use of the Site is military use, the current “OU(Military Use (1))” zone and its boundary on the OZP is considered appropriate to reflect the primary use of the Site. It is not suitable to rezone the Site for other uses. The current “OU(Military Use (1))” zone is also consistent with the zoning of the Central Barracks that is directly associated with the CMD.

12.3 As highlighted in paragraphs 4.7 to 4.9 above, the “OU(Military Use (1))” zone of the Site had gone through a thorough and elaborated statutory planning process back in 2013. After considering all the representations and comments, which covered largely the same grounds and proposal made in the current application, the Board reaffirmed the appropriateness of the current zoning for the Site. Since then, there has been no material change in planning

circumstances. The existing “OU(Military Use (1))” zone is appropriate to reflect the planning intention of the Site for the CMD. The proposed “O(1)” zone for the Site is not supported as it is inconsistent with the primary land use for the Site.

Jurisdiction in and management responsibility of the CMD

- 12.4 The Garrison will manage the CMD according to the Garrison Law and the laws of Hong Kong where applicable. Also, the CMD has become a “protected place” under the Protected Places Order (Cap. 260A) and the four buildings in the land area of the CMD have been declared as “closed areas” under the Public Order Ordinance (Cap. 245) on 29.6.2019. In this regard, there is no discrepancy or ambiguity in jurisdiction as claimed by the applicant between the CMD and the surrounding Central and Western District Promenade.
- 12.5 In accordance with the relevant provisions under the Basic Law and the Garrison Law, the CMD, being a military facility situated on a military site, will be managed and used by the Garrison. There is no ground for the HKSAR Government to allocate part of the CMD to the Leisure and Cultural Services Department for management purpose as proposed by the applicant.

Vision and Goals for Victoria Harbour and Harbour Planning Principles

- 12.6 As highlighted in paragraphs 4.5 and 4.6 above, the CMD was covered by the UDS, which had taken into account both the Board’s Vision and Goals for Victoria Harbour as well as the Harbour Planning Principles and Guidelines. The CMD was designed to integrate with the new waterfront promenade. Based on the HKSAR Government’s proposal and the Garrison’s agreement, except for the side facing the Victoria Harbour, movable gates have been installed on the other three sides of the CMD to separate the military site from the surrounding park area and walkways, such that the gates can be opened for members of the public to walk through if needed. Under other circumstances, the public can still use the pedestrian walkway to the immediate south of the dock area as a continuous east-west connection along the waterfront (**Plan Z-2**). The impact on the use of the waterfront promenade has been taken account of in the design of the CMD. To respect the waterfront setting and to avoid creating visual intrusion to the developments behind, the four structures were constructed with heights of about 8.7mPD/4.5m and occupied an area of about 220m² only.
- 12.7 In fact, despite the closure of the Site in the past years, the vibrancy of the harbourfront area in the vicinity has not been affected and different events including those requiring a sea frontage and close water-land interface like the Hong Kong Dragon Boat Carnival had continued to be staged, supporting a vast group of spectators on the waterfront.

Open space provision

- 12.8 As the primary use of the Site is for military purpose, there is no planning justification for the proposed rezoning of part of the Site to “O(1)”. As a matter of fact, the entire CMD has an area of about 3,000m², which covers

only 3% of the whole waterfront open space (about 10ha). For the Central and Western District, the total provision of existing and planned open space will be about 64.41ha which is able to meet the open space requirement (i.e. 52.3ha) according to the Hong Kong Planning Standards and Guidelines. In addition, as mentioned in paragraph 4.11 above, the Garrison will in future consider, under the condition that it is permitted under defence arrangements, opening up the CMD.

Minor relaxation clause

- 12.9 The purpose of minor relaxation clause for BHR is to allow flexibility in building height control to cater for specific site circumstances. Any minor relaxation of BHR requires planning permission from the Board, and the Board would scrutinise each case based on individual merits. The proposal to delete the minor relaxation clause for BHR is therefore not supported.
- 12.10 There are public comments received supporting the application on grounds as highlighted in paragraph 11 above. The departmental comments in paragraph 10 and assessments in paragraphs 12.2 to 12.9 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:
- (a) the "OU(Military Use (1))" zone is considered appropriate to reflect the planning intention and primary use of the Site as a military dock; and
 - (b) the inclusion of the minor relaxation clause in the Remarks of the Notes for the "OU(Military Use (1))" zone is to allow flexibility in building height control to cater for specific site circumstances. There is no planning justification for deletion of the clause.
- 13.2 There is no reason to agree or partially agree to the application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to agree, partially agree, or not to agree to the application.
- 14.2 Should the Committee decide not to agree to the application, Members are invited to advise what reason(s) for the decision should be given to the applicant.

Attachments

Appendix I	Application form and supplementary statement received on 12.8.2019
Appendix II	Harbour Planning Principles
Appendix III	Extract of Minutes to the 1045 th Town Planning Board Meeting
Appendix IV	Previous applications
Appendix V	Public comments received during the statutory publication period
Drawing Z-1	Plan submitted by the applicant
Plan Z-1	Location plan
Plan Z-1a	Previous applications
Plan Z-2	Site plan
Plans Z-3 and 4	Aerial photos
Plans Z-5 to 7	Site photos

**PLANNING DEPARTMENT
NOVEMBER 2019**