

TOWN PLANNING BOARD

**TPB Paper No. 9491
For Consideration by the
Town Planning Board on 4.11.2013**

**CONSIDERATION OF REPRESENTATIONS AND COMMENTS
IN RESPECT OF THE DRAFT CENTRAL DISTRICT (EXTENSION)
OUTLINE ZONING PLAN NO. S/H24/8**

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IN RESPECT OF THE DRAFT CENTRAL DISTRICT (EXTENSION)
OUTLINE ZONING PLAN NO. S/H24/8**

Subject of Representations	Representers	Commenters
<p><u>Amendment Item A</u> Amendment of the zoning of a strip of waterfront site to the north of the People's Liberation Army (PLA) Hong Kong Garrison Headquarters from "Open Space" ("O") to "Other Specified Uses" annotated "Military Use (1)" ("OU(MU)1")</p> <p><u>Amendment Item B</u> Deletion of the straight line with annotation '150m Military Berth (subject to detailed design)' from the Outline Zoning Plan</p> <p><u>Amendments to the Notes of the Plan</u> Imposition of the building height (BH) restriction of 10mPD and the minor relaxation clause for the "OU(MU)1" zone</p>	<p><u>Support</u> <i>Organizations:</i> R3: CW Power (Appendix IV-1) R4: 山水摯友 (Appendix IV-2) R5: 同心網絡 (Appendix IV-3) R6: 坊眾社會服務中心 (Fong Chung Social Service Centre) (Appendix IV-4) R7: 香港中西區婦女會 (Hong Kong Central and Western District Woman Association) (Appendix IV-5)</p> <p><i>Individuals of the public:</i> R1, R2, R8 to R10 (Appendix VI)</p> <p><u>Oppose</u> <i>LegCo members, political parties and concern groups:</i> R15: Hon Chan Ka Lok Kenneth (Appendix IV-6) R20: Green Sense (Appendix IV-7) R26: Neo Democrats (Appendix IV-8) R28: Hon Albert Chan Wai-yip (Appendix IV-9) R29: Central & Western Concern Group (Appendix IV-10) R38: Central & Western</p>	<p><u>Support</u> <i>Individuals of the public:</i> C1 to C8, C9241 and C9242 (Appendix VI)</p> <p><u>Oppose</u> <i>LegCo member, Central and Western District Council member, political party and concern groups:</i> C11: John Batten of Central & Western Concern Group (Appendix V-1) C12: Katty Law of Central & Western Concern Group (Appendix V-2) C13: Designing Hong Kong Ltd. (Appendix V-3) C14: Hon Albert Chan Wai-yip (Appendix V-4) C15: Cheng Lai King, Central & Western District Councillor (Appendix V-5) C16: Central & Western Development Concern Association (Appendix V-6) C17: Democratic Party (Appendix V-7) C18: Society for Protection of the Harbour (Appendix V-8)</p> <p><i>Individuals of the public:</i> C9, C10, C19 to C9240 (Appendix VI)</p>

Subject of Representations	Representers	Commenters
	<p>Caucus of Democratic Party (Appendix -11) R41: Society for Protection of the Harbour (Appendix IV-12) R42: Designing Hong Kong (Appendix IV-13) R47: Save Our Shorelines (Appendix IV-14) R3390: HK 重建關注組 (Appendix IV-15) R5840: 反對香港被規劃行動組(Appendix IV-16)</p> <p><i>Individuals of the public:</i> R11 to R14, R16 to R19, R21 to R25, R27, R30 to R37, R39, R40, R43 to R46, R48 to R3389, R3391 to R5839, and R5841 to R9815 (Appendix VI)</p>	

1. Introduction

- 1.1 On 15.2.2013, the draft Central District (Extension) Outline Zoning Plan (OZP) No. S/H24/8 mainly to amend the zoning of a strip of waterfront site to the north of the existing People's Liberation Army Hong Kong Garrison (the Garrison) Headquarters from "O" to "OU(MU)1" (**Appendix I**) was exhibited for public inspection under section 7 of the Town Planning Ordinance (the Ordinance). During the two-month exhibition period, a total of 9,815 representations were received. On 7.5.2013, the representations were published for three weeks for public comments and 9,242 comments were received. However, two representers and 14 commenters subsequently wrote to the Town Planning Board (the Board) indicating that they did not submit the representations / comments. As such, the total valid representations and comments are 9,813 and 9,228 respectively with the numbering of the representations / comments kept unchanged.
- 1.2 On 18.10.2013, the Board agreed to consider all the representations (Representations No. R1 – R9815) and comments (Comments No. C1 – C9242) collectively (less those mentioned in the penultimate sentence of paragraph 1.1 above).
- 1.3 This Paper is to provide the Board with information for the consideration of the 9,813 representations and 9,228 comments. The overall planning considerations and assessments on the representations are provided in this paper. A summary of the representations and comments is attached at **Appendix II**.

- 1.4 The representers and commenters have been invited to attend the meeting in accordance with section 6B(3) of the Ordinance.

2. **Background**

- 2.1 The 1994 Exchange of Notes between the Government of the United Kingdom of Great Britain and Northern Ireland (UK) and the Government of the People's Republic of China (PRC) on the Arrangements for the Future Use of the Military Sites in Hong Kong (the Defence Land Agreement or DLA) sets out the military sites to be handed over to the Garrison by the UK Government (Annex I of the DLA), military sites to be handed over to the then Hong Kong Government for disposal (Annex II of the DLA), and military buildings and fixed facilities to be reprovisioned for the Garrison (Annex III of the DLA). Before the reunification, the headquarters of the British Garrison used to have a naval basin and dock facilities in the former Tamar Basin (**Plan H-1**). As the Tamar Basin was planned to be reclaimed under the Central Reclamation, the DLA (Annex II and Annex III) provides that a naval base should be reprovisioned on the south shore of Stonecutters Island and a military dock should be reprovisioned near the Central Barracks.
- 2.2 Annex III of the DLA provides that the then Hong Kong Government would "leave free 150 metres (m) of the eventual permanent waterfront in the plans for the Central and Wanchai Reclamation at a place close to the Prince of Wales Barracks (i.e. the current Central Barracks) for the construction of a military dock after 1997". When OZP No. S/H24/2 was first approved in 2000 by the Chief Executive in Council (CE in C), the design that the Central Military Dock (CMD) would take and the area it would occupy were not decided at the time. It was represented by a straight line annotated '150m Military Berth (subject to detailed design)' on the OZP (**Plan H-2**). The annotation on the OZP has remained unchanged until the subject amendments were incorporated into OZP No.S/H24/8.
- 2.3 The Central Reclamation Phase III (CRIII) project is an integral part of the Central and Wan Chai Reclamation developed since the 1990's. It is the final phase of reclamation in Central to provide land for essential transport infrastructure including the Central-Wan Chai Bypass (CWB), the Road P2 network, the Airport Railway extended overrun tunnel and the North Hong Kong Island Line, and to re-provision existing waterfront facilities (e.g. pumping stations providing cooling water for buildings in Central and Star Ferry piers) which will be affected by the reclamation. Under the CRIII, 150 metres of the eventual permanent waterfront would be left free for the construction of a military dock as provided for under the DLA.
- 2.4 The OZP (No. S/H24/2) approved in 2000 reflects the reduced extent (minimum reclamation option from the original 32 hectares (ha) to 18 ha) of the CRIII in response to the wide public concerns over the need to protect and preserve the harbour. The CE in C authorized CRIII's reclamation and road works under the Foreshore & Seabed (Reclamations) Ordinance (Cap. 127) and the Roads (Works, Use and Compensation) Ordinance (Cap. 370) in December 2001. The conceptual design and construction of the 150-m 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 5.6.2002. On 21.6.2002, the

Finance Committee of the LegCo approved the funding for reclamation of about 18 ha of land 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 150 m and associated facilities for use by the Chinese People's Liberation Army Forces Hong Kong.

- 2.5 The Central and Wan Chai Reclamation was the subject of several legal challenges in 2003 and 2004. In February 2003, the Society for the Protection of the Harbour Limited (SPH) applied for a judicial review (JR) against the Board's decision in respect of the draft Wan Chai North OZP. In July 2003, the Court of First Instance quashed the Board's decisions and ruled that reclamation in the Harbour must satisfy the three tests of (1) compelling, overriding and present need, (2) no viable alternative, and (3) minimum impairment to the Harbour. In view of the far-reaching implications arising from the rulings, the Board lodged an appeal to the Court of Final Appeal (CFA). In September 2003, the SPH applied to the Court of First Instance for a JR against the decisions made by the Government in relation to the CRIII works. The Government suspended all marine works under the CRIII in end September 2003. In January 2004, the CFA dismissed the Board's appeal in respect of the draft Wan Chai North OZP and substituted the three tests laid down by the Court of First Instance with a single test of "**overriding public need**". The presumption against reclamation can only be rebutted by establishing an overriding public need for reclamation. In March 2004, the Court of First Instance dismissed the JR lodged by the SPH.
- 2.6 Following the CFA judgment in January 2004, a further review on CRIII undertaken by the Government in 2004 demonstrated that the CRIII was able to meet the "overriding public need" test laid down by the CFA relating to the presumption against reclamation under the Protection of the Harbour Ordinance (PHO). Reclamation works under the CRIII resumed in April 2004.
- 2.7 In August 2005, the Board considered three zoning requests submitted by the SPH, Save Our Shorelines and Clear the Air to reduce the extent of reclamation in both the CRIII and Wan Chai Development Phase II. The Board decided not to agree to the rezoning but, having regard to views expressed by the organizations, decided to request the Government to prepare/refine the planning design briefs for the Central District waterfront to ensure that the design for the future development would blend in with the waterfront. In response to the Board's request, Planning Department (PlanD) commissioned the Urban Design Study for the New Central Harbourfront (UDS) in March 2007 which involved an extensive two-stage public engagement exercise launched in May 2007 (Stage 1) and April 2008 (Stage 2) respectively. The UDS covered the entire planning scheme area of the Central District (Extension) OZP and part of the Central District OZP, and aimed to refine the existing urban design framework and identify the urban design objectives and urban design issues within the study area and the key sites. It was completed in 2011 after an extensive public engagement exercise and the recommended planning and urban design proposals were noted by the Executive Council (ExCo), LegCo and the Board.
- 2.8 According to the recommended planning and urban design proposals of the UDS (**Plan H-3**), the military dock area should be designed to integrate with the new waterfront promenade and the open area within the dock will be open to the public

when it is not in use. When the dock is closed for military use, the public can use the pedestrian walkway to the immediate south of the dock area as a continuous east-west connection along the waterfront. The design concept of the military dock including its access to the Central Barracks to its south was made known to the public during the public engagement exercise of the UDS (**Plan H-3**).

- 2.9 At the request of the Government of the Hong Kong Special Administrative Region (HKSAR), the Garrison agreed in 2000 that it would open the land area of the military dock (except for the utilities, ancillary structures and landing steps) to the public as a part of the promenade when the dock is not in military use, having regard to its operation and need for protecting the military dock. The HKSAR Government has publicly stated on several occasions the Garrison's agreement to open the land area of the military dock to the public when it is not in military use, including (a) at the PWSC Meeting in June 2002 when the Government sought LegCo's approval to the funding application for implementing the works of Central Reclamation Phase III; (b) when the then Secretary for Planning and Lands responded to oral question Number six raised by Hon Lee Wing-tat in June 2007 in the LegCo meeting; (c) during the public engagement exercise of the UDS in 2008; (d) at the meeting of the Central and Western District Council (C&WDC) in May 2010 and at the Harbourfront Commission's Task Force on Harbourfront Developments on Hong Kong Island (HKTF) Meeting in October 2010 when the Government briefed the two bodies on the architectural design of the CMD, as part of the works of the advance promenade of the new Central harbourfront; and (e) at the meeting of the LegCo Panel on Development in May 2013 when briefing the Panel on the amendments to the OZP in relation to the CMD. The present OZP amendments would not affect the arrangement under which the dock will be open to the public when it is not in military use.
- 2.10 As the detailed design and delineation of the military dock have been confirmed and the construction works are reaching their final stages, PlanD in accordance with usual practice proceeds to propose technical amendments to the OZP to reflect the final delineation and the land use of the military dock.
- 2.11 On 25.1.2013, the Metro Planning Committee (MPC) of the Board agreed with the proposed amendments to the draft OZP to reflect the final delineation and the land use of the CMD. On 15.2.2013, the draft Central District (Extension) OZP No. S/H24/8, incorporating the above amendments, was exhibited under section 7 of the Ordinance.
- 2.12 Public Consultation
- The amendments incorporated into the OZP were presented to the HKTF on 21.2.2013, C&WDC on 21.3.2013 and 23.5.2013, and LegCo Panel on Development on 28.5.2013 respectively. The major views/concerns expressed at those meetings are summarized below:
- 2.13 ***HKTF on 21.2.2013***

Members made the following comments at the meeting:

- (a) The Garrison's undertaking to open the CMD to the public when it was not in military use should be conveyed to the public in an official way to safeguard public enjoyment of the waterfront.
- (b) Some suggested that the gross floor area (GFA) restriction should be imposed in the OZP to ensure no additional buildings would be constructed on site. However, some did not worry about this as the paved ground area of the dock might be required for vessel landing and ceremonial use by the Garrison. Members requested that any further construction at the CMD should be subject to review by the Board and consultation with the HC.
- (c) Some enquired about the east-west permeability when the dock was in use, the north-south connectivity between the Central Barracks and CMD, and the future management of the military dock site.
- (d) Some members supported the subject technical amendments to reflect the final delineation of the dock and the land use zoning.
- (e) Some queried the rationale for imposing the 10 metres above principal datum (mPD) building height restriction (BHR) to the site while some considered that 10mPD would be more appropriate to allow some flexibility for the Garrison to use the area.
- (f) Members generally accepted the structures already built although a few members did not like the decorative arch. Some members pointed out that the consultation on the design was previously held at HKTF and C&WDC meetings with no strong views received. Others opined that comments on the arch design were subjective and should be assessed in the context of the adjacent waterfront promenade.

2.14 The Government responded that the Notes and ES had demonstrated the planning intention and objectives of the land use zoning. The design of the CMD had taken into account the UDS recommendation to integrate with the promenade. The opening of the military dock to the public as part of the waterfront promenade for enjoyment when it was not in military use had been made known to the public on a number of occasions (as set out in paragraph 2.9 above). The proposed 10mPD BHR was in line with the proposed BHR in the waterfront area under the UDS completed in 2011.

2.15 ***C&WDC on 21.3.2013***

- (a) Some members supported the amendments which were to fulfill the agreement in accordance with the 1994 Exchange of Notes signed by the Governments of PRC and UK. In addition, the C&WDC discussed the subject in the past and already noted that the site would be open to public when it was not in military use. The subject amendments were in line with such arrangement.

(b) However, some members raised the following concerns:

- Whether there was any specification on the area of land for CMD in the previous documents and how the delineation of the 150m of land was worked out.
- Whether the international law or declaration would be contravened if that piece of land was not for military use.
- The visual impact of the four ancillary buildings within the dock site on the waterfront and their integration with the overall context in the area.
- The future access arrangement for travelling in and out of the military dock in future.

(c) The Government responded that the reprovisioning of the military dock in the north of the Central Barracks was in accordance with the DLA. The proposed BHR of 10mPD was in line with the recommended BHRs in the UDS for the waterfront promenade which had gone through extensive public consultation during the study process. The future access to the south of the military dock was also explained to the members.

2.16 C&WDC on 23.5.2013

- (a) Subsequent to the discussion on 21.3.2013, several C&WDC members put forward a motion of “the C&WDC urged the HKSAR Government to discuss with the Central People’s Government and the Hong Kong Garrison afresh for abandoning to build a military dock at the New Central Harbourfront so that the precious waterfront could be fully used and the view of the Victoria Harbour enjoyed by the public.” At the meeting, a total of 18 members expressed their views and the majority of them agreed that the subject OZP amendments were appropriate to respect and comply with the provision stipulated in the DLA. The members also noted that the military dock construction proposal was previously discussed and endorsed by the C&WDC on several occasions and the Garrison would open the land area of the site to the public when it was not in military use. On the other hand, some members objected to the amendments and considered that the site should be reverted to “O” for public enjoyment. They raised concerns on the frequency of opening the dock and the future transport arrangement. Finally, the C&WDC vetoed the motion by 4 supports and 14 objections.
- (b) In response, the Government explained the historical background and responded to the members’ enquiries on the construction of the structures, previous consultation with the C&WDC, the height of the building structures on site, and the security and traffic issues.

2.17 LegCo Panel on Development on 28.5.2013

- (a) The subject item was discussed at the LegCo Panel on Development meeting on 28.5.2013.

- (b) Members' views were diverse. Members who supported the proposed amendments were of the view that the Government should honour the DLA. Members recapitulated that consensus in LegCo had been obtained previously on the arrangement, and on the Garrison's agreement to open the land area of the military dock to the public as a part of the promenade when the dock was not in military use, and the provision of a pedestrian walkway next to the dock site for a continuous connection along the waterfront when the military dock was closed for military use.
- (c) Some Members objected to the OZP amendments on the grounds that the entire harbourfront should be reserved for public enjoyment and that there was no necessity for constructing a military dock, and on the possible law enforcement issues and insufficient consultation. In the meeting, individual Members raised queries on the possibility for the Garrison to build additional structures, the consequences of disapproving the proposed amendments, the opening arrangement, definition of military use, the defence function and military value of the CMD, whether there would be any 'restricted' access, etc..
- (d) The Government confirmed the Garrison's need for the CMD for defence purposes. According to the Garrison Law, controlling military facilities was one of the defence functions and responsibilities of the Garrison. The CMD would be handed over to the Garrison in the future as one of the military facilities in accordance with DLA and the Garrison Law. The Garrison had indicated that it had no plan to build any further structures at the site. Facilities directly related to a permitted use were always permitted and no separate planning permission from the Board was required.
- (e) A motion opposing the amendment of the zoning of the area occupied by the CMD was put to vote and was negated with 9 voting for and 13 voting against.

2.18 A copy each of the extract of the above meeting minutes are at **Appendices IIIa to IIId** respectively for Members' reference.

3. **The Representations**

3.1 **Subject of Representations (Plan H-4)**

3.1.1 The 9,813 valid representations are all related to the CMD site (the representation site). For the 10 representations (**R1 to R10**) which support the amendments, five of them are submitted by local organisations which include CW Power, 山水摯友, 同心網絡, Fong Chung Social Service Centre and Hong Kong Central and Western District Woman Association. The remaining 9,803 representations oppose the amendments, and they include two LegCo members Hon. Kenneth Chan and Albert Chan (**R15 and R28**), Neo Democrats and Democratic Party (**R26 and R38**), Green Sense, Central & Western Concern Group, SPH, Designing Hong Kong, Save Our Shorelines, HK重建關注組 and 反對香港被規劃行動組(**R20, R29, R41, R42, R47,**

R3390 and R5840) and members of the public. Amongst the adverse representations, about 8,291 representations are submitted in 20 types of standard or similar emails/letters and the samples are attached at **Appendix IV-17**. A full set of the representations are saved in the CD-ROM attached in **Appendix VI** for Members' reference. The major grounds of the representations are summarized in paragraph 3.2 below.

3.2 Major Grounds of Representations

Supportive Representations

3.2.1 **R1 to R10** support the amendments to the OZP. Their grounds are summarized below:

- (a) The proposed amendments are in accordance with the DLA signed between the UK Government and PRC Government in 1994, as well as the relevant legislation. The presence of the Garrison symbolizes national sovereignty.
- (b) The location of the military dock has long been annotated in the OZP. The current OZP amendment is to reflect the final delineation and the land use of the military dock in the OZP.
- (c) The Garrison has agreed to open the military dock for public enjoyment when it is not in military use. This has already been clearly explained to the LegCo, the District Council and the Board. The design of the dock has taken account of this consideration that it is fitted with folding gates which would be opened to allow public access.
- (d) The OZP amendment proposal is considered reasonable as it has struck a balance between the requirement for military security and public usage of the harbourfront.

Adverse Representations

3.2.2 **R11 to R9815** oppose the amendments. The major grounds of the adverse representations are summarized below:

The Reprovisioning for the Military Dock at the Central Harbourfront

- (a) Apart from the DLA, there is no justification for the proposed change of zoning for a permanent military use. The common understanding is that the military dock will only be used for occasional berthing of military vessels. The original "O" zoning with appropriate provisions under the OZP can accommodate this use.
- (b) There are already many military sites in Hong Kong which are in low utilization rate. It is not justified to designate the additional site to the Garrison. The Hong Kong Government should, under Article

13 of the Garrison Law¹, liaise with the Garrison for the return of the military site which is no longer required for military use.

- (c) The former naval base at the Tamar Basin adjacent to the current Central Barracks had been reprovisioned in the Stonecutters Island. There is no strong need and urgency to expand military facilities at the precious Central waterfront area.
- (d) There is no precedent case in other overseas cities to have military use at the city core. There are queries on the necessity of having the CMD, apart from symbolizing the national sovereignty. This does not comply with Article 5 of the Garrison Law and the DLA (i.e. all military sites should be used for defence purpose). The Garrison, who will be getting access along the Central harbourfront, would be a threat to the people of Hong Kong.

Need for Zoning Amendment

- (e) The waterfront is the common asset of Hong Kong people. The amendments are intended for “privatisation and militarisation of the public asset”. The amendments have changed the nature of the site for “occasional berthing of military vessels” as previously promised by the Government to a “permanent military use” under strict surveillance. It deviates from the public commitment to dedicate the harbourfront to the people.
- (f) According to the DLA, the Government is required to reserve area for berthing of vessels, which is more akin to the use of “military dock”. It is unclear why the new zoning is annotated as “OU(MU)1”, but not “OU(Military Dock)”.

Design, Planning Parameters and Visual Impact

- (g) The new zoning will allow a huge structure on the harbourfront which can be up to 3 storeys with a total GFA of 90,000 sq. feet and no further planning application is required from the Board.
- (h) The new zoning which allows for erection of structures up to 10m high on the waterfront would be visually obstructive, blocking the air ventilation, and would down-grade the internationally known Hong Kong waterfront cityscape.
- (i) There are no specific uses in Column 1 and Column 2 of the “OU(MU)1” zone. There would be no control on the future uses within the site.

¹ Article 13 of Garrison Law states that if the HKSAR Government needs for public use of any part of the land used for military purposes by the Garrison, the HKSAR Government shall seek approval of the Central Government; where approval is obtained, the HKSAR Government shall make reprovision of land and military facilities for the Garrison at such sites as agreed by the Central Government, and shall bear all the expenses and costs entailed.

- (j) Regarding the minor relaxation clause for BHR, there is no clear definition on what height relaxation would be considered as “minor”.

Public Access and Traffic Arrangement

- (k) The Garrison’s agreement to open the land area of the military dock when it is not in military use is not explicitly stated in the OZP. There is no guarantee for public entry and usage in the military dock in future under the “OU(MU)1” zoning.
- (l) The military dock will be incompatible with the adjoining waterfront area and will interrupt the east-west connectivity in the waterfront promenade. It will adversely affect the public to get access to the harbour and appreciate the spectacular view of Victoria Harbour.
- (m) The military dock will exert pressure on the existing road network and generate traffic impact to the Central area.
- (n) The Government should disclose more information to the public, for example, the arrangement on the closure of the military dock in case berthing of military vessel is required and the estimated utilization rate of the military dock.
- (o) The north-south military corridor from the military dock to the existing Central Barracks would interrupt the traffic at Lung Wo Road and its need is doubtful. Concrete proposals for the future traffic arrangement and pedestrian safety system should be given. As the traffic will be affected by the temporary closure of Lung Wo Road, the Government should assess the traffic impact and disclose the assessment result.
- (p) There are queries on the deletion of the relevant paragraph relating to the “proposed development of the pavement scheme to provide uninterrupted movement for pedestrians” from the ES of the OZP.
- (q) The military vessels would have adverse impact on the marine traffic along the Victoria Harbour.

Open Space Provision

- (r) There is an acute shortage of public open space in Central. The waterfront site should be reserved for the use of the public and visitors.

Compliance with Protection of the Harbour Ordinance and Town Planning Ordinance

- (s) The public should have the priority and free access to the waterfront for enjoyment. The Government has taken it as a justification for the Central Reclamation and committed that the newly reclaimed Central harbourfront would be enjoyed by all members of the public

in a most open manner. The proposed amendments are in breach of the Government's commitment and would sterilize the most central and sensitive part of the Central Reclamation and interrupt public enjoyment of the continuous waterfront promenade in the east-west direction.

- (t) The works on the military dock do not have overriding public interest. They are not justified for the reclamation and also do not comply with the PHO and the 'Harbour Planning Principles' (HPP) of maximising opportunities for public enjoyment and unrestricted physical access for pedestrians to Victoria Harbour and harbourfront areas as promulgated by the former Harbour-front Enhancement Committee.
- (u) The amendments are not in line with the S.3(1) of the Ordinance which stipulate that priority should be given to welfare of the Hong Kong community.

Public Consultation

- (v) The construction has started before the completion of consultation on OZP amendments, which is against the principle of procedural justice.
- (w) No public consensus has been obtained to the dock construction. On many occasions the military dock was deliberately hidden in design plans and publications of the public documents.
- (x) The consultation period of two months is too short and should be extended. There had been very limited coverage in the media.
- (y) Further public consultation is needed in order to come up with a plan to reflect the best interest of the public.

Intrusion of Privacy

- (z) The military area might have maximum security and might be highly monitored under strict surveillance. The CCTV monitors and camera control in the dock might violate the privacy of the public.

Representers' Proposals

- (aa) To revert the zoning of the subject site to "O", or reduce the "OU(MU)1" extent to the existing buildings only;
- (bb) To open the subject site along the waterfront for public use. Any facilities, including pier, should be open for public use but not for the sole use of the Garrison;
- (cc) To reconsider the land use of the subject site as well as its nearby areas for other uses, including residential (public or private housing),

commercial, tourism, community, cultural, arts, recreational and greenery uses, e.g. promenade, park, alfresco dining, cycle track, bazaar, pet garden, etc.;

- (dd) To develop military facilities/dock of the Garrison at other locations, e.g. the New Territories, outlying islands, etc.;
- (ee) To insert additional statements to the Notes of the OZP to allow public access to the waterfront section inside the “OU(MU)1” zone whenever there is no military activity;
- (ff) To review the design of the corridor between the Garrison Headquarters and the military dock, e.g. opening the corridor for public use when the military pier is not in use or constructing the corridor underground;
- (gg) To re-assemble the Queen's Pier at the subject site;
- (hh) To delete the provision of the minor relaxation clause for the BHR; and
- (ii) To regularize the existing structures at the subject site with the formal approval by the Board / to demolish the existing structures on site / to construct the buildings in low-rise form.

4. Comments on Representations

- 4.1 Amongst the 9,228 valid comments received, 10 of them (**C1 to C8, C9241 and C9242**) submitted by the public support the amendments. The remaining 9,218 comments oppose the amendments and support the representations against the CMD, including a LegCo member Hon. Albert Chan (**C14**), a C&WDC member Ms. Cheng Lai King(**C16**), Democratic Party (**C17**), several concern groups (**C11, C12, C13, C16, C17 and C18**) and members of the public. 9,127 of the valid comments are in a standard email with minor variations (**Appendix V-9**). All comments are saved in the CD-ROM attached in **Appendix VI** for Members' information. The major grounds of the comments are summarized in paragraph 4.2 below.

4.2 Grounds of Comments

Supportive Comments

- 4.2.1 Some of the supporting views from **C1 to C8, C9241 and C9242** are the same as the views of the representations in support of CMD as summarized in paragraph 3.2.1. Other supportive views are appended below:

- (a) The Garrison has the responsibility to safeguard the stability of Hong Kong and provide a safe environment for the general public and the investors. The proposed amendments would meet the service needs of the Garrison.

- (b) The construction of the CMD and its facilities are always permitted under the OZP.
- (c) Taking into account the ground level of the waterfront, the BHR of 10mPD imposed under the zoning can only allow the dock structure of single storey high, instead of 3 storeys.

Adverse Comments

- 4.2.2 The comments from **C9 to C9240** generally echo the most of the points raised by the representers against the CMD in paragraph 3.2.2. Other opposing views are appended below:

The Reprovisioning for the Military Dock at the Central Harbourfront

- (a) The Government should liaise with the Garrison to reconsider the need for the military dock. Temporary berthing arrangement can be made at the public piers to facilitate the embarking/disembarking of the Garrison's vessels.

Compliance with the Zoning Requirements

- (b) The Government has violated the zoning requirement of "O" by building illegal pier structures on the site. No planning permission from the Board is obtained.
- (c) Any and all permitted developments for military berthing and access along the Central harbourfront should be limited to the existing four small structures and the landing steps in the dock area.

Future Management Responsibility of the CMD

- (d) It is unreasonable to have a site managed by the PLA located in the middle of a sizable public open space and this will have serious law enforcement implications.
- (e) There are concerns on whether the CMD site, the military access and the "150m minimum clearance zone from the CMD" in Victoria Harbour will be declared as Closed Area under Cap. 245B or Protected Place, as well as the future management responsibility of those areas.

Legal Submission

- 4.2.3 One commenter has submitted legal opinion on whether the Board could lawfully make the amendments (Items A and B) to the OZP (**Appendix V-8**). The major arguments are summarised below:

Compliance with the DLA

- (a) The obligations under the DLA are international obligations undertaken by the UK Government to the PRC Government, which are clearly envisaged to be implemented before 1.7.1997. The UK Government cannot be asked to implement any residual obligations after 1.7.1997.
- (b) The HKSAR has no international obligations under the DLA and its insistence that it is complying with an international obligation is simply a misconception of the nature of the DLA and its own constitutional status.

Compliance with the Protection of Harbour Ordinance and Town Planning Ordinance

- (c) In undertaking the zoning, the HKSAR has to comply with municipal law, namely the PHO and the Ordinance.
- (d) Along the 150m water frontage designed for the military berth on the shoreline of the Central reclamation, bollards have been constructed to enable berthing. In OZP No. S/H24/6, there was no mention of buildings to be constructed for a military dock. Indeed, the space adjoining the shoreline designed for berthing of military vessels was zoned "O" on the OZP which was completely consistent with that was envisaged in the DLA. As there is no justification for the construction of buildings to accommodate the berthing of military vessels, the construction of a dock and the proposed "OU(MU)1" zoning would not have passed muster under S.3 of the PHO. All necessary facilities (such as water pumping for fire-fighting or fresh water supply and electricity supply) can easily be accommodated underground and there is no need for an office. There is hence no necessity for any buildings.
- (e) The CFA's interpretation of the PHO requires the CE in C to consider whether there is an overriding public need. A need should only be over-riding if there is a compelling and present need, and where there is a reasonable alternative, an over-riding need is not made out. When the CE in C considered the approval of OZP No. S/H24/6, it could not have envisaged the proposed zoning of "OU(MU)1" but rather a berthing facility which needs not occupy any land on the reclamation, as that was all that is necessary to provide berthing for military vessels. When military vessels are berthed along the waterfront, temporary closure measures of the open space could be adopted. The zoning therefore does not comply with the PHO.
- (f) The Board is required under the Ordinance to undertake the systematic preparation of draft plans, among other things, "with a view to the promotion of health, safety, convenience and general welfare of the community." The zoning cannot be said to be

necessary for the welfare of the community which the Board is required to comply with the Ordinance. As a berthing facility with bollards has already been constructed, the zoning of 30,000 sq. ft of land and depriving the community of this amount of open space in a prime scenic area is not for the benefit of the community.

- (g) The zoning cannot therefore comply with the PHO and the Ordinance.

5. Planning Considerations and Assessment

5.1 The Representation Site and Its Surrounding Areas (Plans H-4 to H-7)

- 5.1.1 The representation site is a piece of flat waterfront land of about 0.3 hectare at the new Central Harbourfront at the ground level of about 4.2mPD. It is located to the north of the existing Garrison Headquarters across Lung Wo Road. The CMD includes a dock area of about 0.3 ha and four single-storey structures (including office, washroom, fire services pump room and electricity supply facilities) with a total area of about 220 m² and height not exceeding 4.5m (8.7mPD)) for supporting operational need of the Garrison. The construction works of the CMD are reaching their final stages.
- 5.1.2 The representation site is surrounded by the Central and Western District Promenade – Central Section, which connects Central Piers 9 and 10 in the west and Tamar Park in the east along the new Central harbourfront. A pedestrian walkway has been provided in the southern periphery of the representation site for a continuous east-west connection along the waterfront (**Plan H-5**).
- 5.1.3 The Central Piers are located to its west and the Tamar Development is located to its southeast across Lung Wo Road respectively.

5.2 Land Administration

- 5.2.1 The representation site is a piece of reclaimed Government land under the CRIII project.
- 5.2.2 According to Article 7 of the Basic Law, “the land and natural resources within the HKSAR shall be State property. The HKSAR Government shall be responsible for their management, use and development and for their lease or grant to individuals, legal persons or organizations for use or development”. According to the DLA, a number of military sites and military facilities including the CMD are to be handed over to or reprovisioned for the Garrison. According to the Garrison Law, controlling military facilities is one of the defence functions and responsibilities of the Garrison. No land grant document is required between the HKSAR Government and the Garrison for the provision of military sites. The CMD will be handed over to the Garrison for management after completion of the relevant works and procedures.

5.3 Planning Intention

- 5.3.1 The “OU(MU)” zone is intended to reserve land for uses specified on the OZP, i.e. military use.
- 5.3.2 The “OU(MU)1” sub-area is intended for a military dock and is subject to a maximum BHR of 10mPD.

5.4 Responses to Grounds of Representations, Representers’ Proposals and Comments on Representations

Supportive Representations and Comments

- 5.4.1 The ten representations and ten comments in support of the amendments to the OZP are noted.

Adverse Representations, Representers’ Proposals and Comments

- 5.4.2 The responses to the adverse representations, representers’ proposals and comments are as follows:

The Reprovisioning of the Military Dock at the Central Harbourfront

- (a) The reprovisioning of CMD at the Central harbourfront is in accordance with the DLA, Annex III of which sets out the military buildings and fixed facilities to be reprovisioned for the Garrison. Item 5 of Annex III states that the then “Hong Kong Government will **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 [i.e. the Central Barracks] **for the construction of a military dock after 1997** (emphasis added).” The HKSAR Government took up the construction of the CMD after the Reunification.
- (b) As mentioned in paragraphs 2.1 and 2.2 above, before the reunification, the headquarters of the British Garrison used to have a naval basin and dock facilities in the former Tamar Basin, and they were affected by the Central Reclamation that commenced before the Reunification. The CMD, which is situated close to the Central Barracks, is a reprovision of the dock facilities for the previous Prince of Wales Barracks.
- (c) Clause 3 of the DLA states that the facilities to be reprovisioned are for defence purpose. The CMD and its ancillary facilities are designed to meet the defence requirements of the Garrison.
- (d) As the CMD and ancillary facilities were not completed before the reunification due to the Central Reclamation, the HKSAR Government took up the construction of the CMD and its ancillary

facilities at the Central harbourfront as provided for under Item 5 of Annex III of the DLA.

Need for Zoning Amendment

- (e) In accordance with Annex III of the DLA, a military dock should be reprovioned.
- (f) When the draft OZP was first approved in 2000, the intention that there would be a military dock at the Central waterfront and its location have been clearly presented in the OZP. As the design that the dock would take and the area it would occupy were not decided, it was represented by a straight line annotated “150m Military Berth (subject to detailed design)” on the OZP. As the detailed design and delineation of the CMD is confirmed and the construction works are reaching their final stages, it is necessary to propose technical amendments to the OZP to reflect the final delineation and the land use of the military dock. The zoning of CMD is proposed to be amended to “OU(MU(1))” to reflect the planning intention for the development of a military dock.
- (g) The planning intention of the “OU(MU)1” zoning is intended for military use. Paragraph 8.5(a) of the ES clearly indicates that the land is intended for a military dock.

Design, Planning Parameters and Visual Impact

- (h) The total area of CMD is about 0.3ha (i.e. 2,970m²). The “OU(MU)1” zoning for the CMD covers an area of about 0.3 ha, subject to a BHR of 10mPD. The BHR is imposed to respect the waterfront setting and to avoid creating visual intrusion to the developments behind. The BHR is in line with the proposed building height of 10mPD as recommended under the UDS for structures within the waterfront promenade at the new Central harbourfront, and the UDS has gone through a comprehensive public engagement exercise and was noted by the ExCo, LegCo and the Board. It is also consistent with the height profile of the surrounding “OU(Waterfront Related Commercial and Leisure Uses)” (i.e. “OU(1)”, “OU(2)” and “OU(3)”) zones with height in the range of 13mPD to 25mPD. The present BHR has reflected approximately the height of the existing four single-storey buildings of about 8.7mPD / 4.5m high. The four buildings with a total area of about 220m², as opposed to a 3-storey massive building as alleged by some representers, will unlikely result in adverse impacts on visual aspect and air ventilation.
- (i) The maximum BHR imposed under the “OU(MU)1” zoning is 10mPD instead of 10m. Since the existing ground level of the site is about 4.2mPD, a BHR of 10mPD means that the building thereon shall not exceed 5.8m in height. A height of 5.8m would not be

able to accommodate buildings of 3 storeys as claimed by some representers.

- (j) The Board does not impose any development restrictions on the military sites in Hong Kong (except for the three sites zoned for residential uses). It would be inconsistent and inappropriate to include development restrictions on the zoning unless there are exceptional circumstances.
- (k) In the Notes of the OZP, the Schedule of Uses for “OU(MU)1” zone is subsumed in the “OU(For All Other Specified Uses (Not Listed Above))”. The Column 1 use is “as specified on the Plan”, i.e. the military use. For Column 2 uses which are Government uses, public and private utility installation, planning permission from the Board is required.
- (l) It is the standard practice of the Board to impose the minor relaxation clause to all zonings with BHRs to cater for specific site circumstances. In fact, the clause is also included in other adjoining zonings in the waterfront like “OU(Pier)” and “OU(Pier and Associated Facilities)” in the OZP. The Garrison has indicated that they have no plan to build any further structures in the CMD. The current buildings in the dock have been designed to take into account the operational need of the Garrison and the need for public enjoyment of the promenade. Regarding the definition of “minor” for relaxation of the BHR, the Board would take account of various factors depending on site specific context and circumstances including provision of innovative building design, visual amenities and planning merits that would bring about improvements to the townscape of the locality. Minor relaxation of the BHRs may be considered by the Board on application under s.16 of the Ordinance and the Board will determine each case on its individual merits.

Public Access and Traffic Arrangement

- (m) The land area of the military dock will be opened to the public when it is not in military use. When the CMD is closed for military use, the public can use the walkway to the immediate south of the dock area as a continuous east-west connection along the waterfront (**Plan H-5**) and go to other parts of the waterfront. As recommended in the UDS, the CMD has been designed to integrate with the promenade. The folding gates for fencing off the dock are hidden in the ancillary building structures when the CMD is not in use so as to avoid visual obstruction to the harbour and the waterfront promenade.
- (n) The north-south access has been reserved at the Central and Western District Promenade – Central Section and it also serves as an EVA for the pump houses located at the promenade. Should the Garrison require temporary direct access between the Central Barracks and the CMD via Lung Wo Road, the Government will make temporary

traffic arrangement to facilitate such access while minimizing impact on pedestrians and road users, ensuring their safety and minimizing disturbance to the public enjoyment of the harbourfront. In such occasions, the pedestrians can use the pavement on both sides of the access road to walk between the waterfront and Lung Wo Road.

- (o) The concerns on the opening of the military dock area and temporary traffic arrangement of the direct access between the Central Barracks and the CMD via Lung Wo Road relate to the operational details of the military site. They fall outside the purview of the Board to consider.
- (p) As regards the queries on the Garrison's agreement to open the military dock not explicitly stated in the OZP, the Board is not empowered under the Ordinance to specify the operational details or arrangement of a specific site in the OZP or its Notes. On the queries of deletion of the relevant paragraphs relating to the "proposed development of the pavement scheme to provide uninterrupted movement for pedestrians" from the ES, although the ES does not form part of the draft OZP, it was prepared and issued by the Board *"with an aim to reflect the planning intention and objectives of the Board for the various land use zonings of the OZP."* (para. 1 of the ES refers). In the light of the stated objective of the ES, the Board should only include appropriate and relevant matters in the ES, that is, the matters that aim to reflect the planning intention and objectives of the Board. The planning intention of the zoning of the CMD site (the representation site) as stated in the OZP is clear, which is intended to reflect the delineation of the area. The proposed amendments to OZP, its Notes and ES had been discussed and endorsed by the MPC of the Board, before they were published for public inspection.
- (q) Regarding the potential impact on the marine traffic along the Victoria Harbour, adverse impacts arising from the military vessels on the marine traffic are quite limited.

Compliance with the Zoning Requirements

- (r) The construction of the facilities ancillary to the military dock is part of the public works coordinated and implemented by the Government as part of the CRIII project. The military berth was shown on the Central District (Extension) OZP when it was first approved in 2000. Hence, military berth is a permitted use. As facilities directly related to a permitted use are always permitted and no separate planning permission from the Board is required, there is no question of the construction works for the military dock being unauthorized.

Open Space Provision

- (s) With a total area about 59 ha. of open space in Central and Western District which is above the required 51 ha under the Hong Kong Planning Standard and Guidelines, there is no shortage of open space in the district. The CMD with a total area of about 0.3 ha is minimal to the total waterfront open space in the New Central harbourfront (9.87ha in area). The CMD has been designed to integrate with the promenade as recommended in the UDS, and would be opened to the public as a part of the promenade when not in military use. Besides, the CMD will not affect the design and integrity of the waterfront promenade.

Compliance with the DLA

- (t) As mentioned in paragraphs 5.4.2(a) to (d), Annex III of the DLA set out that the then Hong Kong Government would 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. The headquarters of the British Garrison before the reunification used to have a naval basin and dock facilities, which were affected by the Central waterfront reclamation. The DLA requires that a naval base be reprovisioned on the south shore of Stonecutters Island and a military dock be reprovisioned near the Central Barracks. After reunification, the HKSAR Government took up the construction of the CMD and associated facilities at the Central harbourfront.

Compliance with Protection of the Harbour Ordinance and Town Planning Ordinance

- (u) As mentioned in paragraphs 2.5 and 2.6, the CRIII is to provide land for essential transport infrastructure. 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 the CFA's "overriding public need" test. The review has demonstrated that the CRIII has adopted a minimum reclamation option and the extent of the CRIII reclamation satisfies the overriding public need test set down by the CFA in relation to the PHO. In view that the waterfront promenade including the CMD does not require any extra reclamation as it is only developed on land formed for the CWB and the re-provisioned facilities, the rezoning of the site of the CMD would not engage the PHO as it does not cause or give rise to any additional reclamation of the Harbour.
- (v) The land area of the CMD site will be opened to the public when it is not in military use. The east-west connectivity along the waterfront will not be affected when the dock is in use. The land use, location and design of the waterfront promenade including the CMD has been deliberated at length in the past, including in the context of the planning process leading up to the approval of the first OZP in 2000,

the public engagement process of the UDS in 2008, the subsequent publication materials of UDS, and the briefing to the CMD with the C&WDC and HKTF in 2010 respectively. The process has fulfilled the key principles of the HPP to engage stakeholders at an early stage and on an ongoing basis. The design of the waterfront area has also taken account of maximizing the opportunities for public enjoyment and unrestricted physical access for pedestrians to the harbourfront areas.

- (w) As regards the proposal of accommodating all facilities for electricity supply and water pumping for fire fighting underground, the Hong Kong Electric Company does not permit the electrical supply buildings in the CRIII (including the one in the CMD) to be located underground because of the risks associated with flooding and the difficulties for fire fighting. The main structure of the fire service pump house (with water supply facilities) of the CMD has already been constructed underground to minimize visual impact. The remaining above-ground part is essential to provide an enclosure for access, operation, equipment transport and ventilation.
- (x) On whether the zoning cannot be said to be necessary for the welfare of the community, s.3(1) of the Ordinance provides that, with a view to the promotion of the health, safety, convenience and general welfare of the community, the Board shall undertake the systematic preparation of draft plans for the layout of such areas of Hong Kong as the CE may direct, as well as for the types of building suitable for erection therein. The proposed OZP amendments are to reflect the land use of the CMD, and they are within the statutory function of the Board and are in compliance with the Ordinance.

Public Consultation

- (y) The military berth was shown on the OZP when it was first approved in 2000. Hence, it is a permitted use. Facilities directly related to a permitted use are always permitted and no separate planning permission from the Board is required. The construction of the facilities is in line with all relevant procedures.
- (z) The location and design of the CMD at the Central harbourfront has been deliberated at length in the past, not least in the context of the planning process leading up to the approval of the OZP in 2000, and the public engagement process for the UDS in 2008. In particular, the UDS was commissioned to engage the public on the design of the new Central harbourfront to ensure that future developments would blend in with the waterfront setting, facilitate pedestrian access to the waterfront, and promote visual permeability of the developments. The conceptual design of the CMD as part of the waterfront promenade and open for public access when it is not in military use have been made known to the public on several occasions as set out in para 2.9 above, including the public engagement exercise of the UDS in 2008. In the Information

Digest and Final Report of the UDS, there were descriptions and plans showing clearly the broad area and location of the CMD. Further to the UDS public engagement exercise, the Government presented to the 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.

- (aa) The processing of the representations in respect of the OZP is in accordance with the provisions of the Ordinance. Under the Ordinance, all new plans and amendments to draft plans will be published in the Gazette for public inspection for 2 months. During the exhibition period, any person may make representation to the Board in respect of the draft plan. All representations received by the Board during the 2-month plan exhibition period will be published for public inspection for 3 weeks. Any person may make comment on the representations (either supportive or adverse) to the Board. The representers and commenters will also be invited to attend the Board meeting to present their views.

Future Management Responsibility of the CMD

- (bb) Under Article 5 of the Garrison Law, the defence functions and responsibilities that the Garrison should perform include, amongst others, controlling military facilities. The CMD being one of the military facilities of the Garrison, will be under the management and use by the Garrison after the completion of works. No land grant document is required between the Government and the Garrison for military sites. The Garrison has committed that having regard to its operation and need for protecting the military dock, the military dock will be opened to public as part of the waterfront promenade when it is not in use.
- (cc) The concerns on whether the CMD site, the military access and the “150m minimum clearance zone from the CMD” in Victoria Harbour will be declared as the Closed Area under Cap. 245B or the Protected Place fall beyond the purview of the Board.

Intrusion of Privacy

- (dd) The concern on the possible intrusion of privacy by CCTV cameras in the CMD is related to the operational details of the area which is outside the ambit of the Board.

Proposals

- (ee) The planning intention to use the area at the Central waterfront for the CMD was clearly indicated on the OZP since its first approval in 2000. Technical amendments to the OZP were made to reflect the final delineation and the land use of the CMD. The “OU(MU)1” zoning covers the entire dock area which is required for the operation of the Garrison and does not include the buildings only.

The proposals to revert back the zoning to “O”, opening the site for public use but not for the sole use of the Garrison, reducing the zoning extent to the existing buildings only and relocating the dock at other locations are not supported.

- (ff) Under the recommendations of the UDS which have been widely engaged with the public, the waterfront area was designed with a park setting with a great variety of facilities for the public to appreciate the harbour. The proposals of reconsidering other land uses in the site and the nearby areas including commercial, residential, etc. are not supported.
- (gg) The Notes and ES have clearly reflected the planning intention and objectives of the “OU(MU)1” zoning. The proposed inclusion of statement of allowing public access to the zone wherever there is no military activity in the OZP is irrelevant in assisting the understanding or reflecting the planning intention of the OZP or the Notes.
- (hh) The north-south access between the Central Barracks and the CMD is not the subject of amendments incorporated in the OZP. However, its design has been included in the UDS for public consultation. On the proposal of constructing the access between the Central Barracks and CMD underground, it is technically not feasible due to the presence of the CWB Tunnel, leaving insufficient depth for the construction of an underground access. Besides, there are other technical problems including modification of existing seawall blocks underneath the CMD, massive utilities diversion and extensive foundation works.
- (ii) With regard to the proposed reassembly of the Queen’s Pier at the site, the UDS has recommended that the Queen’s Pier will be reassembled between Central Piers 9 and 10 to revive its pier function.
- (jj) On the proposal to delete the minor relaxation clause for the BHR from the “OU(MU)1” zone, it is the standard practice of the Board to impose the clause to all zonings with BHR to cater for specific site circumstances. Minor relaxation of the BHR requires planning permission from the Board, and the Board would scrutinise each case based on its own merits. That said, the Garrison has indicated that they have no plan to build any further structures in the CMD.
- (kk) The existing buildings which are for the operation of the CMD are permitted under the OZP and regularisation is not required.

5.4.3 Detailed responses to representations and comments received are at **Appendix II** for Members’ reference.

6. Consultation

6.1 The following Government bureaux/departments have been consulted and their comments have been incorporated in the above paragraphs where appropriate:

- (a) Secretary for Development;
- (b) Secretary for Security;
- (c) Department of Justice;
- (d) Assistant Commissioner for Transport/Urban, Transport Department;
- (e) Chief Architect/Central Management Division 2, Architectural Services Department;
- (f) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (g) Commissioner of Police;
- (h) District Officer (Central and Western), Home Affairs Department;
- (i) Director of Electrical and Mechanical Services;
- (j) Director of Environmental Protection;
- (k) Director of Leisure and Cultural Services;
- (l) Director of Marine; and
- (m) Project Manager (Hong Kong Island & Islands), Civil Engineering and Development Department.

6.2 The following Government departments have no comment on the representations and comments:

- (a) Chief Highway Engineer/Hong Kong, Highways Department;
- (b) Chief Engineer/Hong Kong and Island, Drainage Services Department;
- (c) Chief Engineer/Development(2), Water Services Department;
- (d) Chief Building Surveyor/Hong Kong West, Buildings Department;
- (e) Director of Food and Environmental Hygiene;
- (f) Director of Fire Services; and
- (g) District Lands Officer/Hong Kong West and South, Lands Department.

7. Planning Department's Views

7.1 The supportive views of **R1 to R10** and the comments made by **C1 to C8, C9241 and C9242** are noted.

7.2 Based on the assessment in paragraph 5 above and for the following reasons, PlanD does not support the adverse representations (**R11– R9815**) and considers that the Plan should not be amended to meet the representations:

- (a) The reprovisioning of the CMD at the new Central harbourfront as a result of the Central and Wanchai Reclamation is in accordance with the DLA between the UK and the PRC Governments in 1994, which requires, among other matters, leaving free a 150m of the eventual permanent waterfront in the plans for the construction of a military dock after 1997.
- (b) As the detailed design and delineation of the CMD is now confirmed and the construction works are reaching their final stages, technical amendments were

made to reflect the final delineation and the land use of the CMD on the OZP. The current “OU(MU)1” zoning is appropriate to reflect the final delineation as well as the land use of the CMD in the OZP.

- (c) The public has been fully consulted on the location and conceptual design of the 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 the UDS in 2008, and the presentation to the C&WDC and HKTF on the architectural design of the CMD in 2010. The current OZP amendment which involves a technical amendment has also been published for the public to make representation or comment.
- (d) The building height restriction of 10mPD for the “OU(MU)1” zone is in line with the proposed height of 10mPD as recommended under the UDS and is compatible with the surrounding waterfront setting.
- (e) The construction of the facilities ancillary to the military dock is part of the public works coordinated and implemented by the Government as part of the CRIII project. The military berth was shown on the OZP when it was first approved in 2000. Hence, military berth is a permitted use. As facilities directly related to a permitted use are always permitted and no separate planning permission from the Board is required, there is no question of the construction works for the military dock being unauthorized.
- (f) The Notes of the OZP sets out the uses which are always permitted and other uses which require the Board's permission in a particular land use zone (new response on the Notes) while the ES aims to reflect the planning intention and objective of the Board for the various land use zonings of the OZP. In the light of the stated objectives of the Notes and ES, the Board should only include appropriate and relevant matters in the Notes and ES.
- (g) The amendment of the zoning of the CMD site would not engage the PHO as it does not give rise to any additional reclamation of the Harbour. It is also within the statutory function of the Board and is in compliance with the Ordinance.
- (h) The area of the “OU(MU)1” zone occupying about 0.3 ha only accounts for a minor portion of the waterfront promenade of the new Central harbourfront recommended in the UDS which is about 9.87ha.

8. Decision Sought

The Board is invited to give consideration to the representations and the related comment and decide whether to propose/not to propose any amendment to the Plan to meet/partially meet the representations.

Attachments

Appendix I	Schedule of Amendments to the draft Central District (Extension) OZP No. S/H24/7
Appendix II	Summary of Representations and Comments
Appendix IIIa	Extract of Minutes of HKTF meeting on 21.2.2013
Appendix IIIb	Extract of Minutes of C&WDC meeting on 21.3.2013
Appendix IIIc	Extract of Minutes of C&WDC meeting on 23.5.2013
Appendix IIId	Extract of Minutes of LegCo Panel on Development meeting on 28.5.2013
Appendix IV	Samples of representations made by LegCo members, political parties, local organisations and concern groups, and representations in standard format
Appendix V	Sample of comments made by LegCo members, political party and concern groups, and comments in standard wordings/format
Appendix VI	CD-ROM containing softcopies all representations and comments (for Members only)
Plan H-1	Photo of the former Tamar Basin
Plan H-2	Comparison of the zonings on the OZP Nos. S/H24/7 and S/H24/8
Plan H-3	Master Layout Plan of the Urban Design Study for the New Central Harbourfront (Extract)
Plan H-4	Location Plan
Plan H-5	Site Plan (with viewing points)
Plans H-6 to H-7	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2013**