

1. The meeting resumed at 9:10 a.m. on 11.11.2013.
2. The following Members and the Secretary were present at the resumed meeting:

Mr Thomas T.M. Chow

Chairman

Mr Stanley Y.F. Wong

Vice-chairman

Professor S.C. Wong

Mr Timothy K.W. Ma

Professor P.P. Ho

Mr Roger K.H. Luk

Dr W.K. Yau

Ms Bonnie J.Y. Chan

Professor K.C. Chau

Mr H.W. Cheung

Mr Ivan C.S. Fu

Mr Lincoln L.H. Huang

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Mr Patrick H.T. Lau

Mr F.C. Chan

Director of Lands

Ms Bernadette H.H. Linn

Director of Planning

Mr K.K. Ling

[Closed Meeting]

3. The Secretary reported that a letter from the Central Harbourfront Concern Group (CHCG) dated 11.11.2013 had been tabled at the meeting for Members' information. The letter concerned two main points, i.e., calling for the Board to cancel the 10-minute time limit of oral submissions by a representer/commenter, and the meeting be chaired by a non-official Member of the Board instead of the Chairman, who was also the Permanent Secretary for Planning and Lands of the Development Bureau, to ensure fairness of the proceedings.

4. The Chairman said that about 19,000 representations and comments were received in respect of the draft Central District (Extension) Outline Zoning Plan No. S/H24/8 (the OZP). Among them, over 1,000 representers and commenters had indicated that they would attend the meeting. The Board was bound by the Town Planning Ordinance (the Ordinance) to complete the plan-making process within the statutory time limit and had scheduled 16 days to hear the representations and comments even with the imposition of 10-minute time limit on oral submission. Flexibilities were provided for in the special arrangements. A representer/commenter could request for more time for oral submission, and/or take up the time allotted to other representers/commenters if he or she was their authorised representative. As regards the issue of role conflict, legal advice had been sought and Members had considered it and agreed that there was no role conflict for the Chairman to chair the meeting. The Chairman suggested and Members agreed that a reply should be made to CHCG to explain the issues.

5. Noting that CHCG stated in their letter that the Board was under the purview of the Development Bureau, a Member suggested that the Board's status as an independent statutory body should be stated in the reply. Members agreed.

6. The Chairman further said that in processing any request for extension of time for oral submissions, the representers should provide justifications to the Board in accordance with paragraph 17 of the Guidance Notes. The Chairman said and Members agreed that the meeting could be adjourned, when necessary, to allow Members to consider such requests.

[Open meeting]

Presentation and Question Session

7. The Secretary said that Professor Edwin H.W. Chan had lately declared an interest in this item as he had just learnt that his close relative had submitted a representation in respect of the OZP. Professor Chan would not attend the remaining sessions of the meeting.

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

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

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

Mr Chun Tak Lam - Senior Engineer/Hong Kong, Civil Engineering and Development Department (CEDD)

R3480 - Ms Lucretia Ho

Ms Lucretia Ho - Representer

R3532 - Ms Mandy Tam Heung Man

R3572 - Ms Kason Chung

R3671 - Mr Mak Ho Kong

R4122 - Mr Carl Cheung

Miss Yu Hin Pik - Representers' representative

R3620 - Mr Derrick Chung

Mr Derrick Chung - Representer

R3817 - Mr Ho Chi Kin

Mr Ho Chi Kin - Representer

R3933 - Miss Wong Tung Yi

Miss Wong Tung Yi - Representer

R4080 - Mr James Chung

Mr Tam Hoi Pong - Representer's representative

9. The Chairman extended a welcome and explained the special arrangements for hearing the large number of representations and comments in respect of the OZP. Each representer/commenter was allocated a total of 10 minutes' speaking time. If an authorised representative was appointed by more than one representer/commenter of the same session to represent them, that authorised representative might use the cumulative time allotted to all the persons he represented to make his oral submission. Request for further time for oral submission from a representer/commenter or his authorised representative would be considered by the Board. If his request was allowed by the Board, he would be either given further time in the same allotted session to make his submission (if time permitted), or notified of the date when he would be invited to return for such purpose.

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

11. During the presentation of Miss Cheuk, Ms Lucretia Ho (R3480) said that there was no need for Miss Cheuk to repeat the points made in the Paper, as the Chairman had previously said that representers should not read out their written submissions. In response, the Chairman said that Miss Elsa Cheuk was only highlighting the main points of the Paper. Representers and commenters should also highlight the main points of their written submissions when they made their oral submissions to the Board.

12. Noting that Mr Tam Hoi Pong (R4080) had displayed a few props on the conference table, the Chairman said that the house rules of the Board did not allow props to be displayed during the meeting and requested him to take down the props. Mr Tam

complied with the request.

13. The Chairman then invited the representers and the representers' representatives to elaborate on their representations.

R3480 - Ms Lucretia Ho

14. Ms Lucretia Ho made the following main points:

- (a) Admiralty had never been a military base before 1842 because there was no need for military facilities in the area. However, since 1842, the British colonial government had chosen Admiralty, located near the heart of Hong Kong, as the place for a naval base so as to serve as a symbol for colonial rule. It was during the 1990s that the colonial government decided to relocate the naval base to Stonecutters Island so that Admiralty could be handed back to the people of Hong Kong;
- (b) after 1997, Hong Kong was no longer a colony, but Admiralty was still used as the headquarters of the Garrison, and 150m of the waterfront was reserved for use as a military dock. It appeared that Hong Kong had become a colony of China and the military presence in Admiralty was to serve as a symbol for the new colonial rule;
- (c) the rezoning of the CMD site from "O" to "OU(MU)1" repeated the mistake that was made in the past. In the last seven rounds of amendments to the OZP, no changes had been made to the "O" zoning of the subject site. The zoning of the CMD site remained as "O" even when the design of the military dock was presented to the Central and Western District Council (C&WDC) for consultation in 2010. It was only when the new Chief Executive took office that the CMD site was rezoned to "OU(MU)1". The rezoning disregarded the interests of Hong Kong people, the HKSAR Government, the People's Liberation Army and the Central Government, and therefore should be opposed to by all responsible Hong Kong people;

- (d) we should strive to do more for the Hong Kong that we loved. In this respect, the Board should pay attention to the views submitted by the representers/commenters, including the concern that there was no public document recording the agreement between the Garrison and the Government that the land area of the military dock would be open to the public when it was not in military use;
- (e) besides, some representers/commenters were concerned about whether the CMD site, the military access and the “150m minimum clearance zone from CMD” in Victoria Harbour would be declared as a Closed Area or a Protected Place. PlanD or the Board should not just say that this concern fell outside the ambit of the Board, but should consult the relevant authorities who were responsible for this policy area. The Board should have clarified the relevant issues before agreeing to the amendments to the OZP; and
- (f) she had waited outside the meeting room for 25 minutes before she was invited to the meeting. The Board should have been punctual in inviting representers to the meeting instead of letting them wait outside the conference room.

[Actual speaking time of R3480: 7 minutes]

15. The Chairman said that the meeting began at about 9:10 a.m. that morning but before the representers were invited to the meeting, the Board had a closed-door discussion on issues related to the consideration of the representations and comments in respect of the OZP. He thanked Ms Ho for her suggestion.

R3532 - Ms Mandy Tam Heung Man

R3572 - Ms Kason Chung

R3671 - Mr Mak Ho Kong

R4122 - Mr Carl Cheung

16. Miss Yu Hin Pik covered the main points of the views of a number of

representers, as follows:

- (a) an audio recording of Mr Alex Wut (R236) was broadcast at the meeting covering the following main points:
 - (i) referring to Plan H-3 of the Paper, the development of CMD amid the open spaces and commercial developments in Central would be problematic. First of all, it was unsure if members of the public could enter the CMD site which occupied quite a large area along the waterfront. Second, the CMD site, together with the military access connecting it to the Garrison headquarters, would divide the waterfront into two portions. Information relating to the nature and use of the military access should be indicated on the OZP, including when it would be closed off to the public. It was not responsible to simply indicate the location of the military access on Plan H-3 of the Paper;
 - (ii) the Board should also clarify whether the Hong Kong authorities or the Garrison would be responsible for managing the CMD site. If someone committed an offence, for example, by drawing graffiti or damaging a radar device at the CMD site, it was not sure if he would be charged under Hong Kong Laws or if the case would be handled by the Garrison. Furthermore, if someone who for some reasons was arrested by the Garrison within the CMD site, whether the HKSAR Government would be able to rescue that person was doubtful. If the Garrison had legal jurisdiction over the CMD site, then it would be a case of extraterritoriality;
 - (iii) given that the CMD site could be accessed by the public, the Government had a responsibility to inform the public of their rights and whether the laws to be applied within the CMD site would be different from the laws of Hong Kong. The responses to be provided by the Government on these issues would have a bearing on whether the military dock should be located at the subject

location; and

(iv) the rezoning of the subject site from “O” to military use was strongly objected to as many legal issues remained unclear and there could be legal pitfalls for the public. Visitors to the area should be able to enjoy the waterfront and participate in various activities including fishing, cycling or skateboarding without any restrictions;

(b) the views of Ms Kason Chung (R3572) were presented as follows:

(i) the amendments to the OZP were not supported. The Central harbourfront was a world-class tourist destination. However, the development of CMD would affect the visual character of the Central harbourfront and would make tourists feel uncomfortable;

(ii) the CMD would also make business professionals working in Central uncomfortable if they noticed that there were outdoor military activities at the Central harbourfront. They might even worry that they would be under surveillance by the Garrison; and

(iii) the Central harbourfront was a unique place and a focal point symbolising the identity of Hong Kong. It should be a place where people could enjoy and relax. CMD would remind people of wars and therefore was not compatible with the peaceful atmosphere of the Central harbourfront;

(c) the views of Mr Mak Ho Kong (R3671) were presented as follows:

(i) the CMD site was all along zoned as “O” on the previous versions of the OZPs. During the planning of the CRIII project, the public had not been informed about the rezoning of the CMD site from “O” to “OU(MU)1”. According to the Notes for the “O” zone, ‘Pier’, ‘Government Use (not elsewhere specified)’ and ‘Public Utility

Installation (not elsewhere specified)' required planning permission from the Board. As CMD and its ancillary facilities were regarded as belonging to this group of uses, planning permission from the Board should be required prior to the construction of the CMD. However, after the OZP was gazetted on 15.2.2013, PlanD pointed out on 21.2.2013 that the CMD was already nearing completion, meaning that the CMD was constructed in advance of the rezoning; and

- (ii) according to section 13 of the Ordinance, approved plans should be used by all public officers and bodies as standards for guidance in the exercise of any powers vested in them. Therefore, all developments should be constructed in accordance with the provisions of the prevalent approved plan. In this respect, the military dock should not be constructed with the assumption that the "O" zone would be amended to "OU(MU)1" in the future. The construction of the military dock in advance of the rezoning was therefore not in line with the Ordinance and would adversely affect the integrity of the planning system;
- (d) the views of Mr Wong Kwun Chi Ernest (R2021) were presented as follows:
- (i) CMD could not serve as a defence facility as it was located in an open area which could be easily attacked or would become a landing point for the enemies in case of wars. It would be inappropriate if the purpose of CMD and the military access was only to demonstrate China's sovereignty over Hong Kong;
 - (ii) the design of the CMD was visually obtrusive and would adversely affect the visual character of the Central harbourfront. Furthermore, the military access would cut the Central harbourfront into two portions, and would reduce the harbourfront's accessibility to the public;

- (iii) Hong Kong people had not been consulted on DLA agreed between the governments of the United Kingdom and the PRC, and therefore it did not represent the views of Hong Kong people;
 - (iv) Hong Kong people were generally peace-loving. The Garrison should learn from the local culture to avoid arousing the animosity of Hong Kong people; and
 - (v) in view of the above, the Board should not agree to the Government's position;
- (e) the views of Ms Melody Chung (R2024) were presented as follows:
- (i) the rezoning of the subject site was not supported;
 - (ii) CMD would lead to irreversible damages on the environment and the ecology of Victoria Harbour and the surrounding areas during both the construction and operation stages;
 - (iii) military equipment inevitably involved explosives, which would increase the risks of conducting business in Central. It was unwise to develop military facilities in the heart of Central;
 - (iv) the choice of the location for CMD was inappropriate. Geographically, CMD was located on Hong Kong Island and was close to Kowloon. Its effectiveness as a military facility was in doubt as Victoria Harbour had become narrower and shallower due to reclamation in recent years. Its defence capabilities were limited when compared with previous military bases such as those in Lei Yue Mun and Mount Davis;
 - (v) CMD would set an undesirable precedent as the Garrison might request for more land in Central for its operation in future. The

cumulative effect of granting more land to the Garrison would be detrimental to further economic development in Central;

- (vi) it was unsure whether the Garrison would claim that the information relating to CMD as military secret and therefore there would not be any further consultation on the design and use of the CMD site with the people of Hong Kong in future;
 - (vii) the rezoning of the CMD site from “O” to “OU(MU)1” would take away an open space area from the people of Hong Kong, sacrificing the interests of Hong Kong people. Furthermore, CMD would increase the risks of visitors getting prosecuted and would endanger visitors to the Central harbourfront; and
 - (viii) only Amendment Item B on the deletion of the straight line with annotation “150m Military Berth (subject to detailed design)” from the OZP was supported;
- (f) the views of Mrs N (R2569) were presented as follows:
- (i) according to the Paper, the Board was not empowered under the Ordinance to specify the operational details or arrangement of a specific site in the OZP or its Notes. This implied that the Board could not guarantee that the Garrison would follow through with its commitment to open the CMD site to the public when it was not in military use;
 - (ii) Article 7 of the Basic Law stated that the land and natural resources within the HKSAR should be State property. The HKSAR Government should be responsible for their management, use and development and for their lease or grant to individuals, legal persons or organizations for use or development. Furthermore, according to DLA and the Garrison Law, military sites including CMD should be handed over to or reprovisioned for the Garrison, and no land grant

document was required between HKSAR Government and the Garrison for the provision of military sites. All these laws and agreement indicated that as the enforcement powers within the CMD site would be in the hands of the Garrison, there was no legal guarantee that it would open the CMD site to the public. Furthermore, as the Board was not empowered under the Ordinance to specify the operational details or the arrangement of a specific site on the OZP or in the Notes, it could not intervene over the details of how the CMD site would be open to the public;

- (iii) it was noted that the Board had deleted the relevant paragraphs concerning the proposed development of the pavement scheme to provide uninterrupted movement for pedestrians from the ES. This implied that the Government no longer had any intention to provide an accessible harbourfront as originally promised;
- (iv) besides the CMD site, there would also be a military access and the “150m minimum clearance zone from CMD” in Victoria Harbour. The Government had indicated that whether these areas should be declared as a Closed Area or Protected Place fell outside the purview of the Board. In the event that these areas were declared as a Closed Area, the actual area required by the Garrison would be larger than 0.3 hectare. The Garrison might even need to clear the entire waterfront and a portion of the harbour for military purposes;
- (v) PlanD stated that whether CCTV cameras would be installed in the CMD site fell outside the ambit of the Board. In this respect, the privacy of the visitors to the harbourfront would not be protected;
- (vi) among the 9,813 representations and 9,228 comments received, only 10 were in support of the amendments. Although the Government stressed that the need to rezone CMD was specified in DLA, it was only repeating the Government’s own interpretation of the documents. Other members of the public had put forward their

interpretations of these documents. For example, in some people's view, DLA specified that the Government only needed to "leave free 150 metres of the eventual permanent waterfront", and there was no requirement for the Government to construct CMD. Even if CMD was supposed to be built, the responsibility for constructing CMD should not fall with the HKSAR Government but with the Central Government;

(vii) on the version of the OZP approved in 2000, CMD was only represented by a straight line annotated "150m Military Berth (subject to detailed design)". It had not specified that an area of 0.3 hectare would be rezoned from "O" to "OU(MU)1". It seemed obvious that, by originally zoning the CMD site as "O", the Government had intended to deceive the public, the Legislative Council and the court. It was only after the relevant funding had been approved and the court had handed down its judgment on CR111 that the Government secretly rezoned the CMD site to "OU(MU)1";

(viii) members of the public had always assumed that the operation of CMD would be like that of the former Queen's Pier, i.e. it would be managed by the Government and it would only be closed off to the public when the Garrison needed to use it for military purposes. This assumption was different from the current arrangement where the Garrison would be responsible for managing CMD. Former Legislative Councillor Ms Margaret Ng had said that the current arrangement was akin to giving somebody the entire library even if that person had only borrowed a book from the library. Ms Margaret Ng also said that she agreed to the funding when she was a legislator only because she thought the facility would be owned and managed by the Government. The term "military site" was not used with respect to CMD at that time. This indicated that the Government had deliberately deceived the Legislative Council and the public;

- (ix) the Government had further deceived the public by constructing the ancillary structures at the CMD site before rezoning the site to “OU(MU)1”;
- (x) it had been reported that the land granted to the Garrison amounted to over 32,000 square feet per member of the Garrison. Many of these military sites were not actively in use. As the Government had already built a large naval base at Stonecutters Island, the need for CMD was questionable; and
- (xi) in view of the above, the rezoning of the CMD site to “OU(MU)1” and the development of CMD on the Central harbourfront were not supported.

[Actual speaking time of the representative of R3532, R3572, R3671 and R4122: 33 minutes]

[Ms Bonnie J.Y. Chan arrived to join the meeting at this point.]

R3620 - Mr Derrick Chung

17. Mr Derrick Chung made the following main points:

- (a) the rezoning of the CMD site from “O” to “OU(MU)1” on the OZP initiated by the HKSAR “Communist regime” headed by Mr C.Y. Leung was objected to;
- (b) it was stated in DLA that the Hong Kong Government had to “leave free 150 metres of the eventual permanent waterfront” for the construction of a military dock after 1997. However, there was no mention in DLA that a site had to be rezoned for military purposes or a military dock had to be constructed along the Central harbourfront. The Government only needed to refrain from development on a stretch of land 150m in length along the Central harbourfront in order to comply with the agreement. There was no obligation for the Government to construct CMD and to

hand over the CMD site to the Garrison. The rezoning of the CMD site went beyond what was required under DLA;

- (c) as DLA was signed by the governments of the United Kingdom and the PRC, there was no obligation for the HKSAR Government to shoulder any responsibility arising from DLA;
- (d) implementation of the “One Country, Two Systems” principle might be affected as Mr Eric Cheung of the Faculty of Law at the University of Hong Kong had stated that the rezoning of the CMD site might take away the law enforcement powers of the relevant Government departments. Mr Eric Cheung also said that the area used for the military transportation centre at Chek Lap Kok had not been zoned for military purposes. This implied that it was not necessary to rezone the CMD site for military purposes;
- (e) in 2000, when the previous OZP No. S/H24/2 was approved, the Central harbourfront was zoned as “O”, with CMD being represented by a straight line annotated “150m Military Berth (subject to detailed design)”. In 2002, when the Government sought funding from the Legislative Council for CRIII and the construction of the military dock and associated facilities, no mention had been made of the rezoning proposal. Subsequently, the Government had repeatedly promised to build a harbourfront for the people, with CMD to be occasionally used by the Garrison. Many members of the public had assumed that the operation of the military dock would be similar to that of the former Queen’s Pier, i.e. it would be open to the public except those few days in a year when it was in military use. In late 2011, the UDS was completed, and the recommended planning and urban design proposals, including those for CMD, was presented to the Legislative Council. In early 2012, when the OZP was amended for the seventh time, the zoning of the CMD site remained as “O”. It was only in late 2012 after Mr C. Y. Leung had come into office as Chief Executive of the HKSAR “Communist regime” that the four structures were constructed at the CMD site without the

approval of the Board. On 15.2.2013, the OZP incorporating the rezoning of the CMD site to “OU(MU)1” was gazetted without prior consultation with the public. On 21.4.2013, the Secretary for Development Mr Paul Chan wrote in his blog that the CMD would be handed over to the Garrison in future. This implied that the Garrison Law rather than Hong Kong Laws would be applied within the CMD site. As \$1.1 billion had already been spent on the naval base at Stonecutters Island, CMD was an extra facility required by the Garrison. The argument put forward by Mr C. Y. Leung that the Garrison was more flexible than the British colonial government in opening up the military dock to the public was unfounded;

- (f) the Government had made six mistakes in the planning and development of CMD. First, it was obvious that CMD was constructed by the CEDD during the time when the CMD site was zoned as “O” on the previous OZP. As ‘pier’ and its related uses were not always permitted within the “O” zone, amendment to the OZP should have been required before construction of CMD. The Government should have set a good example for developers by holding off construction works until the rezoning procedure had been completed. The Government had a responsibility to uphold the rule of law. It should not disregard the role played by the Board, and the Board should not act like a rubber stamp;
- (g) second, DLA was misinterpreted. It was stated in DLA that the Government had to “leave free 150 metres of the eventual permanent waterfront” for the construction of a military dock after 1997. However, the Government misinterpreted DLA to mean that 0.3 hectare of land was needed for the CMD site and that it was to be managed by the Garrison;
- (h) third, there would be legal pitfalls. According to the Garrison Law enacted by the Central Government, acts of State, such as actions for defence taken by the Garrison, should not be subject to the jurisdiction of the courts of Hong Kong. Therefore, members of the public visiting the CMD site might not be protected by the laws of Hong Kong.

The Development Bureau had not responded to questions on law enforcement within the CMD site. It had been rumoured that eight cows on Lantau Island were run over by the heavy vehicles of the Garrison in June 2013. However, it was impossible to carry out investigations due to the limitations imposed by the Garrison Law; and

- (i) fourth, the Government had not kept its promise to provide a harbourfront for the people. Instead, it decided to give priority to the the Garrison when planning for the harbourfront, and in this process the Ordinance was violated and the spirit of the Protection of the Harbour Ordinance was disregarded.

[offensive language in the presentation was not included in the minutes.]

18. As the 10 minutes allotted to Mr Chung had come to an end, the Chairman asked Mr Chung to stop his presentation. Mr Chung then requested for a further period of 5 to 10 minutes to continue his presentation. The Chairman said that his request would be considered by the Board after the oral presentations of the other representers. Mr Chung stopped his presentation.

R3817 - Mr Ho Chi Kin

19. Mr Ho Chi Kin made the following main points:

- (a) the rezoning of the CMD site to “OU(MU)1” was objected to. The people of Hong Kong could permanently lose the right over the CMD site. Article 12 of the Garrison Law stated that persons, vehicles, ships and aircraft outside the Garrison should not enter into military forbidden zones without approval by the highest commander of the Garrison or by the officer authorised by the commander. The guards of the military forbidden zones had the power to stop unauthorised entries into the military forbidden zones and destruction or endangerment of the military installations. Therefore, after the CMD site was transferred to the Garrison, the Government would lose the right to manage the CMD site. Members of the public could not freely enter the CMD site, and the

Central harbourfront would be separated into two portions. Furthermore, it was noted that there was a military transportation centre in Chek Lap Kok which had not been zoned for military purposes. It was doubtful whether the CMD site should be permanently rezoned for military purposes;

- (b) Article 12 of the Garrison Law also stated that the Garrison should protect the natural resources, the cultural relics, the historic sites and non-military rights and interests within the military forbidden zones in accordance with the laws of the HKSAR. It was not clear whether entering into the CMD site should be regarded as a form of “non-military rights” that were protected under the laws of Hong Kong;
- (c) Article 19 of the Garrison Law stated that members of the Garrison who violated the national laws and the laws of HKSAR should be investigated for legal responsibility in accordance with law. The subsequent Articles of the Garrison Law specified the jurisdiction of the courts of Hong Kong, and they seemed to be in contradiction with Article 7 of the Garrison Law, which stated that the Hong Kong Garrison’s aircraft, ships and other military equipment, goods and materials, and its members and vehicles on duty holding certificates or certifying papers issued by the Garrison, were free from any examinations, searches or detentions by executants of HKSAR. If a member of the Garrison committed an offence, but then decided to hide in a restricted area, it was not sure if the law enforcement officers in Hong Kong had the right to arrest him. Although the issue of law enforcement fell outside the purview of the Board, the public would be very concerned about this issue. It was hoped that the Board could clarify the matter.

[Actual speaking time of R3817: 4 minutes]

R3933 - Miss Wong Tung Yi

20. Miss Wong Tung Yi made the following main points:

- (a) there was no need to rezone the CMD site from “O” to “OU(MU)1”. As there was not enough open space in Central, the CMD site should be retained as an open space. Furthermore, considering there was little need for defence in Hong Kong, CMD would only be sparsely used by the Garrison. It was therefore not a fair allocation of resources for CMD to be located on the Central harbourfront;
- (b) as the CMD site would be managed by the Garrison, it was unsure if law enforcement officers for the site would come from the Garrison and whether the laws of Hong Kong would still apply within the CMD site. If people of Hong Kong required assistance within the CMD site, there was no guarantee that they could seek help from the Hong Kong Police Force. The CMD site would create confusion in management and law enforcement, and the safety of Hong Kong people would be in jeopardy. Although this issue fell outside the purview of the Board and PlanD, it did not mean that the Board and PlanD did not have to consider this issue;
- (c) the number of days in a year that the CMD site would be open to the public had not been specified. If the CMD site would be open to the public for only a few days in a year, then the promise of the Government to open up the CMD site to the public would be meaningless. On the other hand, if the CMD site would be open to the public for most days of the year, then the rezoning of the site to “OU(MU)1” would be unnecessary;
- (d) considering the limited supply of vacant land in Central, whether the CMD site should be located at the heart of Central should be reconsidered. Although the development of CMD might, to some degree, comply with DLA, the HKSAR Government should not just take into account its obligation under DLA, but should also consider the needs of Hong Kong when choosing a site for CMD;
- (e) the construction of CMD before the completion of the consultation

process was unreasonable and disrespectful of the views of the public. Procedural fairness in administrative and legal matters should include the principles of independence, transparency and justice. It was questionable whether procedural fairness had been adhered to in the planning and construction of CMD; and

- (f) it was suggested that if the location of CMD did not meet the needs of Hong Kong, DLA should be amended by the signatories.

[Actual speaking time of R3933: 3 minutes]

R4080 - Mr James Chung

21. Mr Tam Hoi Pong, as a representative of CHCG, read out the following statement:

- (a) CHCG hoped to express its views peacefully and expected that its views would be heard in a reasonable manner. It wished to raise two points with the Board. First, the allotment of 10 minutes of speaking time was unreasonable and could be subject to legal challenge. Although the representers could request for more time for oral submission after the 10 minutes were used up, they had to wait in line until all other representers had finished their presentations before they could resume their oral submissions. As a result, their oral submissions could not be presented in one go and, given that the materials to be presented were complicated, this arrangement was considered unacceptable;
- (b) many representers/commenters had already requested for more than 10 minutes of speaking time before the commencement of the hearing, but no response had been received from the Board. According to section 6B(3) of the Ordinance, representers/commenters were entitled to attend and to be heard, either in person or by an authorised representative. Therefore, there should not be any unreasonable restriction on the oral submissions. Normally, if the presentation of a representer was not relevant to the issues under consideration, the Chairman could ask the

representer to stop his presentation. As a representer, he had all along respected this existing practice of the Board. However, if the presentation was relevant to the issues under consideration, it would not be reasonable for the Board to impose a limit on speaking time. Therefore, the Board was requested to renounce the 10-minute rule, otherwise CHCG, Dr Hon Kenneth Chan Ka Lok, and other concerned organizations and individuals would not come back to the meeting;

- (c) second, as the Chairman of the Board was also the Permanent Secretary for Planning and Lands of the Development Bureau, there would be a role conflict for the Chairman in the event that the Board considered a development proposal submitted by the Government. For the subject amendments to the OZP, the role conflict was even more significant as both the Chief Executive and the Secretary for Development had repeatedly stated that they supported the development of CMD. In this regard, the Chairman was requested to withdraw from the meeting and an unofficial Member of the Board of good standing should chair the meeting in his stead. It should be noted that this request was made due to the concern on the Chairman's role conflict, and was not related to the Chairman's personal integrity; and
- (d) the Board should discuss and respond to these two issues. As CHCG had not received a reply to its letter dated 4.11.2013 from the Board, it would hold a "Citizen Town Planning Board" meeting that afternoon as a form of petition. They would allow the participants to speak freely in the meeting.

22. Mr Tam Hoi Pong then expressed his personal views on the amendments to the OZP and made the following main points:

- (a) the Board used to provide a forum where consensus could be reached between the Board and the public, as could be shown in the case of Seaview Building in Repulse Bay a few years ago. However, in recent years, the Board had failed to achieve desirable planning outcomes even

though a lot of effort had been expended by Members of the Board and the concerned members of the public. According to his estimate, about 95% of the planning applications and proposals for zoning amendments submitted by the Government were agreed by the Board even though some of the proposals were unreasonable. An example was the recent amendments to the Cheung Sha Wan OZP where an industrial site had been rezoned to “O” even though the Government had no intention to demolish the existing industrial building on the site. Another example was the approval of the application for a proposed hotel at Lugard Road which would result in vehicles passing through a narrow, popular walking trail. It was hoped that the Board would review its system and operation, including its practice of closed-door deliberations, and its decision-making process, which was heavily influenced by the views of the Government.

[Actual speaking time of the representative of R4080: 10 minutes]

23. As the 10 minutes allotted to Mr Tam Hoi Pong had come to an end, the Chairman asked Mr Tam whether he intended to request for more time for his oral submission. Mr Tam reiterated the two requests made by CHCG, i.e. the renouncement of the 10-minute rule, and the Chairman’s withdrawal from the meeting. The relevant organizations and individuals would not come back to the meeting unless these two requests were met. He also said that Green Sense had requested for a speaking time of one hour prior to the first session of the meeting.

24. The Chairman said that in the first session of the meeting on 4.11.2013, he had intended to ask the concerned representers whether they would request for more time for their oral submissions. However, as the representers had chosen to leave the meeting room before his question could be handled, he was unsure whether the representers wanted to have more speaking time. In this respect, he invited Mr Tam to clarify whether he would request for extension of time for oral submission. In response, Mr Tam said that he had no intention to request for more speaking time. He then invited Members to attend the “Citizen Town Planning Board” that afternoon. The Chairman said that the letter of CHCG dated 11.11.2013 inviting Members to attend the “Citizen Town Planning Board” had been tabled at the meeting for Members’ information.

25. The Chairman said that as all registered representers had made their presentation, a short break of five minutes would be taken and Mr Derrick Chung's (R3620) request for more speaking time would then be considered by the Board in the absence of the representers and Government representatives.

26. A Member asked Mr Derrick Chung for his justification for an additional speaking time of five to 10 minutes. In response, Mr Derrick Chung said that the Government had made a total of six mistakes in the planning and development of CMD. He had only covered four mistakes in his presentation and needed more time to discuss the remaining two mistakes and to conclude his presentation.

[The meeting was adjourned for a short break of 5 minutes.]

[Closed meeting]

27. The Chairman said that as the justification provided by Mr Derrick Chung was reasonable, he should be allowed the requested additional time to complete his presentation. Members agreed. However, a Member said that as Mr Derrick Chung had used offensive language against Government officials in his presentation, he should be reminded not to do so in his remaining presentation. The Secretary said that according to the "Guidance Notes on Attending the Meeting for Consideration of the Representations and Comments in Respect of the Draft Central District (Extension) Outline Zoning Plan No. S/H24/8" (the Guidance Notes), offensive and insulting language should not be used in the meeting.

[Open meeting]

Presentation and Question Session

28. The Chairman then invited the representers back to the meeting and said that in accordance with paragraph 17 of the Guidance Notes, the Board had agreed to grant Mr Derrick Chung an additional speaking time of 10 minutes. He then invited Mr Derrick Chung to continue his presentation.

R3620 - Mr Derrick Chung

29. Mr Derrick Chung continued to make the following main points:

- (a) the fifth mistake that the Government had committed in the planning and development of the CMD was that the Government had “ceded” the CMD site to the Garrison. Although the Government had promised that the CMD site would be open to the public when it was not in military use, any activities or assemblies would require the approval of the Garrison. This would lead to a loss of civil rights for the people of Hong Kong, and the Central harbourfront would no longer be a true open space for the public; and
- (b) the sixth mistake was that since 2000, the Central harbourfront including the subject site had been zoned as “O”. However, in February 2013, the Secretary for Development Mr Paul Chan suddenly rezoned the CMD site to “OU(MU)1” and falsely claimed that the Government had consulted the public on this issue for a number of years. There would be consequences for such a bad Government official one day.
[offensive language in the presentation was not included in the minutes.]

30. The Chairman said that according to the Guidance Notes, no offensive or insulting language should be used in the meeting. In this respect, Mr Derrick Chung was reminded to be careful about his language in the presentation.

31. Mr Derrick Chung continued to make the following main points:

- (a) the land granted to the Garrison amounted to over 32,000 square feet per member of the Garrison. Many of the military sites were not in active use. As the Government had already built a naval base at Stonecutters Island which was larger than the naval basin in Tamar, the need for CMD was questioned. As the Government had not made public any solution that would resolve the interface problem between the “O” zone and the

“OU(MU)1” zone, the promise of the Government that the CMD site would be open to the public when it was not in military use could not be guaranteed. In addition, when developing CMD, the relevant laws of Hong Kong, including the Town Planning Ordinance and the Protection of the Harbour Ordinance, should have been complied with. In January 2004, the Court of Final Appeal (CFA) handed down its judgment on the Board’s appeal against the High Court judgment relating to the draft Wan Chai North OZP. It laid down the “overriding public need test” which stated that the purpose and extent of each proposed reclamation ought to be individually assessed based on the following criteria: (1) meeting overriding public needs; (2) more important than the harbour; (3) for which there was no alternative; and (4) the extent of reclamation was minimal. Furthermore, CFA also pronounced that every element of any harbour reclamation had to be separately justified, and “cogent and convincing materials” had to be submitted to justify the reclamation. In this regard, the only “cogent and convincing materials” submitted to justify the Central Reclamation were for the construction of the Central-Wanchai Bypass and the “Public Open Space” including the harbourfront promenade. No “cogent and convincing materials” had ever been submitted to justify the construction of CMD. As the “overriding public need test” was not satisfied, CMD was not a legal development; and

- (b) the Board should protect the interests of the community and make its decision independently without the interference of the Government. There was a legitimate expectation that the Government would keep its promise to provide a world-class harbourfront for the people of Hong Kong. Section 3(1)(a) of the Ordinance prescribed that, when preparing an OZP, the Board had to consider the relevant issues from the point of view of “the health, safety, convenience and general welfare of the community”. However, the Board had failed to carry out its statutory duties when rezoning the CMD site to “OU(MU)1”. The Board had made its decision based on factual inaccuracies and the misinterpretation and misapplication of the law. In this regard, the Board had the

responsibility to show that (1) it had acted fairly without fear or favour; (2) there was a need for the rezoning according to the established town planning principles; (3) the decision to rezone the CMD site complied with section 3(1)(a) of the Ordinance in that the rezoning was needed for the general welfare of the community; (4) every reason provided by the Government had been fully scrutinised; and (5) all parties had at all times acted in good faith in accordance with the law. To sum up, the Board was requested to stop the development of CMD and its associated facilities immediately.

[Total actual speaking time of R3620: 20 minutes]

32. As the presentation from the Government representatives, representers and their representatives had been completed, the Chairman invited questions from Members and said that the representers could answer questions from Members if the questions were directed at them. He began by asking the Government representatives to provide more information on Mr Ho Chi Kin's (R3817) concern on whether CMD would be freely accessible by members of the public, and the issue of law enforcement within the CMD site, which was a concern of a number of representers.

33. With the aid of a powerpoint presentation, Miss Elsa Cheuk said that CMD would be open to the public when it was not used for military purpose. CMD was fitted with folding gates on its eastern, southern and western sides. These folding gates would be hidden inside the ancillary building structures when CMD was not in military use. When the CMD site was fenced off, the public could use the walkway to the immediate south of the military dock area which would form a continuous east-west connection along the waterfront. The design of CMD including the locations of the ancillary building structures and the folding gates was made known to the public during the public engagement exercise of the UDS. The Government would discuss with the Garrison with regard to the detailed arrangements relating to the opening of CMD to public use. The arrangements would be made known to the public in due course. According to the Garrison Law, the defence functions and responsibilities of the Garrison included, amongst other things, the controlling of military facilities. CMD, being one of the military facilities of the Garrison, would be under the management of the Garrison. However, when the CMD was not in military use and was open to the public, the Hong Kong Police

Force would be responsible for law enforcement in accordance with the laws of Hong Kong. Cases of graffiti or littering, for example, would be handled in accordance with the relevant Hong Kong Laws.

34. A Member asked about the definition of ‘military use’ and whether CMD was an illegal use under the Ordinance given that it was constructed in advance of the rezoning of the site from “O” to “OU(MU)1” as alleged by some representers. Miss Elsa Cheuk said that, in general, ‘military use’ included military training, berthing of military vessels, military ceremonies and maintenance works. It should be noted that CMD was not included as part of the naval basin reprovisioned at Stonecutters Island. CMD was required in accordance with DLA, which stated that the then Hong Kong Government would leave free 150 metres of the eventual permanent waterfront in the plans for the Central and Wanchai Reclamation at a place close to the Prince of Wales Barracks for the construction of a military dock after 1997. When the draft OZP was first approved in 2000, the details of the eventual waterfront area had not been finalised. Therefore, CMD was represented by a straight line annotated “150m Military Berth (subject to detailed design)” on the OZP. As the military berth was shown on the OZP since 2000, it was a use permitted under the OZP and no prior planning permission from the Board was required for the construction of CMD including its ancillary structures.

[Mr H.W. Cheung left the meeting temporarily at this point.]

35. The same Member continued to ask that in relation to CRIII, whether CMD contravened the “overriding public need test” as laid down by CFA. Miss Elsa Cheuk said that, in 2004, the Government completed a review on CRIII and it was concluded that CRIII had satisfied the “overriding public need test”. As the main purpose of CRIII was to provide land for the essential transport infrastructure and for the reprovisioning of the existing waterfront facilities affected by the reclamation, the extent of reclamation was determined by the requirements of the transport infrastructure and the relevant facilities. The construction of the CMD did not result in any increase in the extent of the reclamation.

36. A Member asked why CMD was not included as part of the military facilities reprovisioned at Stonecutters Island. Miss Elsa Cheuk said that, before 1997, there were

a naval basin and dock facilities at the then headquarters of the British Garrison at Tamar. DLA required that a naval base be reprovisioned on the south shore of Stonecutters Island and a military dock be reprovisioned at the eventual permanent waterfront near the Central Barracks in Central District. In this regard, CMD had not been reprovisioned at Stonecutters Island.

37. A Member asked whether consideration had been given to developing the CMD in a place other than the waterfront promenade and whether the public was consulted on such an option. Miss Elsa Cheuk said that the Government had closely liaised with the Garrison with regard to the planning and development of CMD. The locations of CMD and its ancillary facilities were chosen to meet the requirements of the Garrison. Its location and design were included in the UDS which had undergone an extensive public engagement exercise in 2007-2008, involving various organizations including the Legislative Council, the 18 District Councils and the relevant professional organizations. Members of the public were also consulted through roving exhibitions and public forums. Some of the topics included in the public forums concerned whether an offshore military berth should be built and how the military berth could be better integrated with the waterfront promenade. The decisions on the location and the design of CMD, including the use of the folding gates to fence off CMD when it was in military use, were made with reference to the results of the public engagement exercise.

38. Noting that the landing steps would not be open to the public, a Member asked whether fishing or other similar activities were allowed along the waterfront abutting the CMD site. Miss Elsa Cheuk said that there were fences along the waterfront. The three sets of landing steps together with the four ancillary structures within the CMD site would not be open to the public. In this regard, members of the public could only access the open area within the CMD site. As regards the arrangements relating to the opening of the CMD for public use, the Government would continue to liaise with the Garrison and such arrangements would be made known to the public in due course.

39. A Member asked whether the development of CMD had any relation to the relocation of the naval base to Stonecutters Island. With reference to Annex III of DLA which was placed on a visualiser, Miss Elsa Cheuk said that a naval base should be reprovisioned on the southern shore of Stonecutters Island. Furthermore, the Hong Kong

Government should leave free 150 metres of the eventual permanent waterfront in the plans for the Central and Wanchai Reclamation at a place close to the Prince of Wales Barracks for the construction of a military dock after 1997. Therefore, even though there were existing military facilities on Stonecutters Island, the development of the military dock at the Central harbourfront was still required under DLA.

40. The same Member asked whether consideration had been given to the development of a pontoon or an offshore berth so that the military dock would not take up a part of the waterfront promenade. Miss Elsa Cheuk said that the idea of an offshore military berth had been considered when the public engagement exercise was conducted for the UDS in 2007-2008. However, the idea was considered not feasible as an offshore military berth would require additional reclamation and therefore the “minimum reclamation” test could not be met. The consensus arrived at after the public engagement exercise was that it was better to integrate CMD with the waterfront promenade.

41. A Member asked whether it was possible to rezone the CMD site to “O” with a remark stating that the site could also be used for military purposes. Miss Elsa Cheuk said that the CMD site was a military site. The site was chosen in accordance with DLA and the public had been consulted on both the location of the site and the conceptual design of CMD. The rezoning of the CMD site from “O” to “OU(MU)1” was to reflect the planning intention for the site.

42. A Member asked Mr Tam Hoi Pong (R4080) whether he had any suggestions regarding the hearing arrangements so as to satisfy the needs of the representers/commenters while at the same time allowing the meeting to be conducted efficiently. In response, Mr Tam Hoi Pong reiterated the two main requests of CHCG, i.e. the renouncement of the 10-minute rule, and the Chairman’s withdrawal from the meeting, and said that these were the best ways to improve the meeting. He had not requested for more speaking time during his oral submission because he believed that the Board should immediately renounce the 10-minute rule. The retention of the 10-minute rule would only reinforce the image that the Board was not willing to listen to the views of the public. As regards the issue of role conflict for the Chairman, it was suggested that the Vice-Chairman or some other Members independent from the Government could chair the meeting. Furthermore, the Board should consider how to reduce the influence of the

Government in its decision-making process.

43. The Chairman said that the Board would consider all relevant considerations in its decision-making process. Every decision of the Board was arrived at collectively, and the Chairman or the Government did not hold sway over the views of individual Members. In fact, there were instances where the Board had proposed amendments to OZPs after listening to the views of the representers and commenters even though their views were different from those of the Government. Mr Tam Hoi Pong said that there were relatively few amendments proposed by the Board to meet representations in 2013.

44. A Member said that according to the Board's practice, the Chairman would not stop Members from expressing their views, and if voting was required during the meeting, the Chairman could not vote on behalf of individual Members. The Member further said that Mr Tam Hoi Pong had not really responded to the previous question directed at him. As there were over 1,000 representers/commenters who had registered to attend the meeting, the meeting would be further protracted should there be no limit on speaking time. The Member invited Mr Tam Hoi Pong again to elaborate on his idea on improving the hearing arrangement. The Chairman supplemented that even if each registered representer/commenter spoke for 10 minutes, about 16 days would be required just to complete the presentation and question/answer session of the meeting. If the 10-minute rule had not been imposed, even more days would be required to complete the meeting.

45. In response, Mr Tam Hoi Pong said that many solutions could be used to avoid a protracted meeting. As the predominant public opinion was against CMD, there would be no need for a hearing if the Board withdrew the amendments to the OZP or if the Board proposed an amendment to the OZP by rezoning the CMD site to "O" with a remark stating that the site could also be used for military purposes. However, if the Board insisted on hearing all the representers/commenters who had registered to attend the meeting, then it would be difficult to answer the Member's question on how to improve the hearing arrangement. It was considered that the 10-minute rule should not be applied across-the-board to all representers/commenters. Even though the representers/commenters were allowed to request for more speaking time, the arrangement was not satisfactory as they had to wait for the Board's approval of their requests and therefore could not finish their presentations in one go. Instead, it was considered that there should

be a mechanism for the Board to process, prior to the beginning of the hearing, the requests of those representers/commenters who wanted to speak for a longer time. As far as he knew, no representers/commenters had intended to speak for an extended period of time amounting to more than five hours. If the presentation of a speaker was not relevant to the issues under consideration, the Chairman could ask the speaker to stop his presentation. This arrangement would protect the representers/commenters' right to be heard.

46. A Member said that he did not agree with the criticisms directed at the Board as the Board had played a positive role in the planning of Hong Kong. As regards the hearing arrangement, it might be difficult to take up Mr Tam Hoi Pong's suggestion, as it was physically taxing for Members to listen to the long presentations of such a large number of representers/commenters and an appropriate arrangement should be in place to allow the meeting to be conducted effectively.

47. Mr Tam Hoi Pong said that, due to the inadequacies of the planning system, the Board was more effective in scrutinising the development proposals submitted by private developers than those submitted by the Government. Although many measures adopted by the Board, such as the imposition of building height restrictions, had been constructive to the planning of Hong Kong, there were also many instances where proposals detrimental to the development of Hong Kong had been approved by the Board. It was considered that the Board had failed to consider the development proposals submitted by the Government independently, fairly and objectively. The situation became more serious in 2013, as the Government tried very hard to increase the supply of residential land, even though the open space provision in many districts had failed to meet the Hong Kong Planning Standards and Guidelines. The recent amendment of the Cheung Sha Wan OZP to rezone an existing industrial site to "O" was an example of the Government proposals that should not be approved. A survey of the planning boards of many different cities indicated that they generally served as a place for reaching consensus. However, it had become increasingly difficult to reach a consensus in the Board. Two main reasons contributing to this trend were the Government's policy to increase housing land supply, and the Government's insistence to implement its policies regardless of public opposition. Another problem was that the Board was not truly independent from the Government, but relied on PlanD to serve as its secretariat. It was hoped that the Board could adopt reforms to reduce its reliance on the Government, otherwise there would be

increasing conflicts between the Board and the community, and Members would be spending more and more of their time in the Board's meetings.

48. The Chairman said that with regard to the 10-minute rule, a representer/commenter could request for more time for their oral submissions, and/or take up the time allotted to other representatives/commenters if he was their authorised representative. Furthermore, a representer/commenter should not read out the written submission, but to highlight the main points that he wanted to raise with the Board. It was noted that Mr Tam Hoi Pong was the representative of Mr James Chung (R4080), who had only written three lines in his representation. It would not be prudent if the Board had at the outset allowed Mr James Chung or his representative to speak for an hour just to highlight the main points of his submission. Therefore, to ensure the smooth conduct of the meeting, the Board needed to consider the justifications provided by the representatives/commenters for requesting more than 10 minutes of speaking time. The Board would accommodate their requests as far as possible if the justifications provided were reasonable.

49. Mr Tam Hoi Pong said that although the written representation of Mr James Chung was relatively short, Mr Chung had authorised him to speak freely as he wished. Furthermore, even though Green Sense had sent an email to the Board prior to the hearing requesting for a speaking time of 45 minutes to one hour, no formal reply had been received from the Board. It should be clarified that what he had said so far was not about the subject rezoning, but was about the planning system and the hearing arrangement in general. It was hoped that the Board would consider a reform of the planning system, otherwise the conflicts between the Board and the community would become even more severe. A case in point was the upcoming hearing of the representations and comments in respect of the amendments to the Kowloon Tong OZP. For the subject rezoning, if the Board had, before the hearing, further amended the OZP by rezoning the CMD site to "O" with a remark stating that the site could also be used for military purposes, the protracted hearing process could have been avoided.

50. The Chairman thanked Mr Tam for his comments and said that in accordance with the Ordinance, the Board had a statutory duty to hear the representations and comments received in respect of the amendments to the OZP.

51. Mr K.K. Ling said that under the Ordinance, the Board had the powers to formulate its own hearing arrangements. For the subject meeting, the Board considered it necessary to adopt the 10-minute rule to ensure that all representations and comments would be heard fairly. As regards the issue of increasing housing land supply mentioned by Mr Tam, it should be noted that PlanD, in consultation with relevant Government departments, would carefully study every rezoning proposal and consult the relevant District Council before submitting the proposal to the Board for consideration. It should also be clarified that not every rezoning proposal or application submitted by the Government was agreed by the Board. As for the amendments to the Cheung Sha Wan OZP, the planning intention was to phase out the existing industrial use in the area. The existing industrial site had been zoned as “Residential (Group A)” rather than “Industrial” before the site was rezoned to “O”.

52. As all the representers attending the session had completed their presentations and Members had no further question to raise, the Chairman thanked the representers, their representatives and the Government representatives for attending the meeting. They all left the meeting at this point.

[Closed Meeting]

53. The Secretary said that a draft reply to the letter of CHCG dated 11.11.2013 had been prepared. It generally followed the lines agreed by the Board earlier in the meeting. Members agreed that the reply should be issued to CHCG.

54. The Secretary further reported that the Chairman had considered Mr Nigel Kat’s (R48) request for one hour of oral submission in his email dated 1.11.2013. Considering that the justifications provided by Mr Kat were reasonable, with the full discretion granted by Members to the Chairman and the Secretariat, a reply had already been sent to him on 8.11.2013 to let him know that an hour had been set aside for his oral submission. Mr Kat was also requested to choose a session from the set of dates that had been scheduled for hearing the representations.

55. The Chairman said that with regard to those representers who walked out of

the meeting on 4.11.2013, Members should consider whether they should be invited back to the hearing. The following main points were made by Members:

- (a) those representers who walked out of the meeting should be regarded as having forfeited their right to be heard. If they were invited back to the meeting, it might be unfair to the other representers who had not attended the meeting and were also considered to have forfeited their right to be heard;
- (b) the Board should abide by its existing rules. If those representers were invited back to the hearing, the public might think that the Board was not following its own rules;
- (c) according to paragraph 17 of the Guidance Notes, if a request for further time for oral submission was received, the Board would only exercise a discretion upon sufficient cause shown by the representers. As no sufficient cause had been established, the Board should not invite those representers back to the meeting;
- (d) however, as it was unsure whether those representers who walked out of the session of the meeting on 4.11.2013 should be regarded as having submitted requests for additional speaking time, consideration might be given to writing to them to ask them to clarify if they had requested for more time for their presentations in the session of the meeting on 4.11.2013. Asking them to clarify their intention should not be construed as a breach of the existing rules, as the Board would still need to examine their justifications before deciding whether to grant them additional speaking time. Furthermore, as the Board had already sent a letter to Mr Kenneth Chan to ask him to clarify his intention, the same approach should be adopted and the other representers who walked out of the session of the meeting on 4.11.2013 should also be asked to clarify their intention;
- (e) if those representers confirmed that they had requested for more time for

their presentations, the Board should consider their request accordingly. Considering that the number of representers who had actually attended the meeting so far was fewer than expected, greater flexibility in the hearing arrangement could be adopted so as to better accommodate the needs of the representers within the confines of the rules of the Board;

- (f) among the representers who walked out of the session of the meeting on 4.11.2013, Green Sense (R20), Central and Western Concern Group - Ms Katty Law (R29) and Society for Protection of the Harbour (R41) had written to the Board prior to the hearing stating that they would require more than 10 minutes for their respective presentations. There might be a need to distinguish these three representers from the others with regard to whether and how to invite them to clarify their intention; and
- (g) with regard to the hearing arrangement for those representers, two alternatives were considered. One arrangement was that those representers should be given 10 minutes of speaking time first and then they should be asked to wait in line until after all other representers had completed their presentations before they could continue the presentations. The other alternative was that those representers could be allowed to make their presentations in one go. If there were other representers who did not want to wait for a few hours for their opportunity to present to the Board, they should be allowed to speak first.

56. The Chairman said that it might be better to wait until after the “Citizen Town Planning Board” had been completed to see if there would be any other issues that should also be addressed by the Board before making a decision on the way forward. Members agreed.

57. The Chairman further said that the Panel on Development of the Legislative Council had sent a letter to the Government to invite him as Chairman of the Board and the relevant Government representatives to attend a meeting on 26.11.2013 or on an earlier

date to discuss the arrangement of the Board for receiving representations/comments for the OZP and the related issues. Having regard to its statutory and common law duties, and the fact that the meeting was currently scheduled to continue until mid-December 2013, Members considered that it would be inappropriate for the Board including the Chairman to discuss the relevant issues with the Panel when the Board was still conducting the hearing. However, the Chairman and the Government representatives could attend the Panel's meeting after the hearing had been completed. Members noted that a draft reply was being prepared and they would be consulted on the reply in due course.

58. There being no more representers or their representatives turning up to attend the session of the meeting, the Chairman said that the meeting was adjourned and would resume at 9:00 a.m. on 13.11.2013.

59. The meeting was adjourned at 1:45 p.m.