

1. The meeting was resumed at 9:20 a.m. on 27.11.2013.
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	
Professor P.P. Ho	
Professor Eddie C.M. Hui	
Dr C.P. Lau	
Ms Julia M.K. Lau	
Mr Clarence W.C. Leung	
Mr Roger K.H. Luk	
Ms Anita W.T. Ma	
Ms Bonnie J.Y. Chan	
Mr H.W. Cheung	
Mr Ivan C.S. Fu	
Mr Sunny L.K. Ho	
Mr Lincoln L.H. Huang	
Ms Janice W.M. Lai	
Mr Dominic K.K. Lam	
Ms Christina M. Lee	
Mr Stephen H.B. Yau	
Mr F.C. Chan	
Deputy Director of Lands (General)	
Mr Jeff Y.T. Lam	
Director of Planning	
Mr K.K. Ling	

Presentation and Question Session

[Open Meeting]

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

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

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

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

C13, C314, C478, C598,
C617, C735, C741, C749,
C823, C962, C966, C969,
C970, C976, C1010, C1033,
C1068 and C1088

Mr Paul Zimmerman - Commenters' Representative

C801 - Mist Chang

Ms Chan Ka Lam - Commenter's Representative

C953 - Poon Shing

Mr Poon Shing - Commenter

C1025 - Tom Cohen

Ms Mary Mulvihill - Commenter's Representative

C1171 - Janice Cheng

Ms Janice Cheng - Commenter

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

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

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

6. The Chairman then invited the commenters and the commenter's representatives to elaborate on their representations and comments. For the efficient conduct of the meeting, the Chairman asked the commenters not to repeat unnecessarily long the same points that had already been presented by previous commenters. As Mr Paul Zimmerman would represent a number of commenters and had asked to speak for about an hour, the Chairman asked Mr Zimmerman whether he would agree to let other commenters/their representatives make the presentation first.

7. Mr Paul Zimmerman said that Mr Poon Shing (C953) had requested to change the order to allow him to make his presentation first and he had no objection to his request. The Chairman invited Mr Poon Shing to elaborate on his comment.

C953 - Poon Shing

8. Mr Poon Shing made the following main points:

- (a) he supported the amendments to use the site for defence purpose which also symbolized the sovereignty of the People's Republic of China (PRC). He received an email from the Society for Protection of the Harbour asking him to object to the amendments and was very unhappy about it. The major grounds of the adverse representations were that DLA only required the then Hong Kong Government to reprovide a military dock but it did not require the rezoning of the site. Moreover, the adverse representations pointed out that there was no justification for

the Garrison to manage the CMD site in future. However, it should be noted that before the reunification, the former Tamar Basin was used and managed by the British Garrison. As the Tamar Basin was affected by the Central and Wanchai Reclamation, DLA stated that the then Hong Kong Government should reprovide a military dock near the Central Barracks. The Annexes of DLA did not require the People's Liberation Army Hong Kong Garrison (the Garrison) to hand over the jurisdiction of the site to the HKSAR Government; and

- (b) it had already been made clear that the military dock would be open to the public when it was not in military use. He said that the issue had been politicised and overplayed. Should a judicial review be sought against the Central District (Extension) Outline Zoning Plan (OZP) No. S/H24/8, it would cause tremendous loss to Hong Kong people.

9. As the allotted 10-minute time slot was up, the Chairman asked Mr Poon Shing if he would like to request for an extension of time for his oral submission. Mr Poon requested for another 5 minutes to complete his presentation. After consulting other attendees who had no objection to let him finish his presentation first, the Chairman invited Mr Poon to continue his presentation.

10. Mr Poon Shing continued to make the following points:

- (a) it was envisaged that the Board's decision would be subject to judicial review which would be a loss to Hong Kong people. However, the Government should honour DLA which was signed between the UK Government and the PRC Government; and
- (b) he supported the beautification and greening of the waterfront promenade and hoped the future generations would be able to enjoy it.

[Actual speaking time of C953: 12 minutes]

[Ms Anita W.T. Ma left the meeting temporarily at this point.]

11. Ms Janice Cheng (C1171) requested to make a presentation first at this point. After consulting other attendees who had no objection, the Chairman acceded to Ms Cheng's request. Ms Cheng then requested for an extension of time to a total of 20 minutes for her oral submission as she had some important points to make. The Chairman allowed her request.

C1171 - Janice Cheng

12. Ms Janice Cheng made the following main points:

- (a) the Director of Buildings should be one of the official members of the Town Planning Board (the Board). The Buildings Ordinance (Cap. 123) and Building (Planning) Regulations (Cap. 123F), which governed the construction of all buildings and planning of roads, were very important and the Government should act strictly in accordance with the Ordinance. She had grave concern on the safety of the general public in the event of an accident, as the site, which also served as an emergency vehicular access, might be closed once the CMD site was handed over to the Garrison and the area would not be subject to the statutory provisions of the Ordinance;

[Ms Anita W.T. Ma returned to join the meeting and Ms Bonnie J.Y. Chan left the meeting temporarily at this point.]

- (b) the embarking/disembarking of the Garrison's vessels could be arranged at the public piers or naval base, and the military facilities could be provided at Stonecutters Island. There was no justification for the military use of the subject site, which would adversely affect the public enjoyment of the promenade and had a negative impact on the vibrancy and attractiveness of the area;
- (c) there was no precedent case in other overseas cities to have military use at the core of the city, which would break the continuity of the waterfront promenade. There was an acute shortage of land in Hong Kong. The

military dock of the Garrison, which would be of low utilization rate, should be located at outlying islands. She could not see why the location of the military dock/facilities could not be changed;

- (d) the site should be retained for open space use with the original “O” zoning. There should be better quality of greening works to cater for local needs. Further public consultation and study were required prior to the gazetting of the revised plan; and
- (e) the open space was for the public to relax, which was particularly necessary for people working in the financial sector who were subject to great work pressure. Open space provision was therefore a matter of public interest.

[Actual speaking time of C1171: 16 minutes]

13. Ms Janice Cheng enquired if she could ask questions after all the attendees’ presentations. The Chairman explained again the procedure of the hearing and reiterated that only Members of the Board would be invited to ask questions, which might require the commenters/commenters’ representatives and Government representatives to respond. She would be welcomed to stay if she wished.

C13 – Designing Hong Kong Ltd.

C314 – Ryan Ng

C478 – Louis Wong

C598 – Ronald Taylor

C617 – Heinz Rust

C735 – Raymond Chan

C741 – Catherine Hui

C749 – Kelvin Kwan

C823 – Chan Ting Cheong

C962 – Frederick Liu

C966 – B Chan

C969 – Mei Chan

C970 – Edmund Lai

C976 – Y.S. Lau

C1010 – Kai Leung Robert Lo

C1033 – Henry Chow

C1068 – Wai Sing Li

C1088 – Timothy Cheng

14. The Chairman then invited Mr Paul Zimmerman to elaborate on the comments. As Mr Zimmerman was appointed by several commenters to represent them, the Chairman said that one hour would initially be given for Mr Zimmerman's presentation. Should more time be needed, it could be further considered when the allotted time was up.

15. In response to Mr Zimmerman's comment about the change in the 10-minute time limit, the Chairman clarified that the time limit had not been changed. According to the Guidance Notes on Attending the Meeting for Consideration of the Representations and Comments in respect of the Draft Central District (Extension) OZP No. S/H24/8, there was flexible arrangement on the presentation time if an authorized representative was appointed by more than one representer/commenter to represent them. As such, he could use the cumulative time allotted to all the persons he represented to make his presentation.

16. Mr Zimmerman then said that there was a conflict of interest for the Chairman to chair the meeting and considered that the Chairman's position within the Government would influence the decision of the hearing. He also enquired if the relevant Government bureaux/departments including the Security Bureau, Home Affairs Bureau and Leisure and Cultural Services Department would be present at the meeting for the benefit of Members.

17. The Chairman said that the Board had already considered the legal advice on the alleged conflict of interest on his role as the Chairman. After considering the legal advice, Members agreed that there was no conflict of role/interest and hence he would continue to chair the meeting. The Board had also agreed that other Government bureaux/departments would be invited should Members consider it necessary. Mr Zimmerman said that the Board's position was noted but he disagreed. Mr Zimmerman then went on and made the following main points with the aid of a Powerpoint presentation:

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

- (a) as background information, he said that he had been involved in the planning of Central harbourfront since 2002. He was a Member of the then Harbourfront Enhancement Committee (HEC) and later the Harbourfront Commission (HC);
- (b) he supported R11 to R9815 who were against the amendments. He urged the Government to keep the promise it made to Hong Kong people to retain the existing “O” zoning and public promenade, as it was the most precious section of the Central harbourfront and would be the icon of Hong Kong. The amendments would truncate and interrupt the harbourfront promenade and CMD was visually obtrusive to the world-class waterfront;

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

- (c) all permitted developments within the site should be limited to the existing four small structures. In all the discussions since 2002, the community had been promised by the Government and PlanD in the LegCo and HC meetings that there would only be four small buildings within the site, instead of a zoning which would allow erection of structures up to 10mPD on the entire site. Besides, the amendments were in breach of the commitment that the site would be an open space for public use and would only be closed when vessels had to berth;
- (d) there was no justification for the proposed change of zoning to military use. The only possible explanation for the change was the concern on the future maintenance responsibility of the buildings. On the basis that the buildings would be used and thus maintained by the Garrison, it was reasonable to rezone the buildings to military use. However, there was no justification to support the rezoning of the area beyond the footprints of the four buildings for military use;
- (e) General Circular No. 3/2010 published by the Chief Secretary for

Administration stated that new facilities that were incompatible with harbourfront enhancement should not be supported and when there were no better alternatives, the footprint should be kept to a minimum. There was no justification to deviate from the circular and to allow the four buildings with the potential for increasing their building height to 10mPD. The amendment was a mistake which should be rectified, although it had been turned into a political issue now;

- (f) in general, the majority of the public had no objection to the berthing of military vessels at the Central harbourfront for ceremonial purpose. However, the public should be able to enjoy a continuous waterfront promenade;

[Dr C.P. Lau left the meeting temporarily at this point.]

- (g) with the original “O” zoning, the management responsibility of the area could lie with the Leisure and Cultural Services Department, other Government departments, or the future Harbourfront Authority. The Garrison would still have the right to use the dock for occasional berthing of military vessels. There were established procedures and practice, and there was no need to cede the land/jurisdiction of the site to the Garrison on a permanent basis. Queries had also been raised on the opening arrangement but no response was given;
- (h) it was proposed that the extent of the “OU(MU)1” zone be reduced to the footprints of the existing buildings, including the concrete structure on top, which could be rezoned as “OU(Military Berth Facilities)”. The original straight line annotated ‘150m Military Berth’ along the waterfrontage should be retained. Similar approach had been adopted for the Tsim Sha Tsui OZP, where a Mass Transit Railway ventilation building was zoned “OU(Ventilation Building)”;
- (i) the detailed design of CMD was presented to the Finance Committee of LegCo in 2002 and only minor changes were involved since then. It was

unreasonable to claim that the detailed design was only confirmed in January 2013 and amendments to the OZP were required;

- (j) the Government responded that CMD had been shown clearly on the plans included in UDS. However, the 'Design Constraints' plan in UDS also showed the access road and culvert which were both zoned "O". That plan was only intended to highlight the technical constraints in designing the waterfront. Besides, the OZP included in UDS indicated that the CMD site was zoned "O";

[Dr C.P. Lau returned to join the meeting at this point.]

- (k) should the dock be closed for military use, the Marine Department could, according to the existing practice, designate the water area around the berth as restricted area under the Shipping and Port Control Regulations (Cap. 313A). For the CMD site and the access road, the areas could be closed as needed pursuant to section 36 of the Public Order Ordinance (Cap. 245). It was a simple and easy solution; and
- (l) in sum, there was no objection to use the site for the occasional berthing of military vessels by the Garrison. The major concern was how to ensure that it would not affect the Central harbourfront. The amendments deviated from the Government's commitment to dedicate the harbourfront to the people, and the site should be reverted to "O" for public enjoyment.

[Actual speaking time of the representative of C13, C314, C478, C598, C617, C735, C741, C749, C823, C962, C966, C969, C970, C976, C1010, C1033, C1068 and C1088: 25 minutes]

C801 - Mist Chang

18. Ms Chan Ka Lam made the following main points:

- (a) it was sad to see the works being carried out on the harbourfront, which

used to be a very attractive and vibrant waterfront for public enjoyment. As the Government did not respect the history and culture of Hong Kong, with no emphasis on environmental protection and with excessive reclamation, the Jordan Road Ferry Pier, Queen's Pier, old Star Ferry Clock Tower and the coastline of Victoria Harbour had all been destroyed;

- (b) she opposed the rezoning of part of the Central harbourfront to military use as well as requested the Board to reject the amendments and retain the zoning and original planning intention of the entire Central harbourfront as "O" for public enjoyment. The Government and the Board should listen to the public views and rectify the mistakes made;
- (c) the site had all along been zoned "O" on the OZP, and only a 150m long water frontage was reserved for the military berth use. Since then, the Government had promised to return the harbour to the people and the military dock would only be used occasionally by the Garrison;
- (d) the CMD project had commenced construction at the end of 2012 prior to the approval by the Board while there had been no public consultation prior to the gazetting of the OZP. It was a wrong decision to hand over the CMD site at the core of the Central waterfront to the Garrison, which would be managed in accordance with the Garrison Law instead of Hong Kong laws. It violated the existing systems and procedures, and broke the Government's promise. The military facilities should be developed at peripheral locations while the naval base at Stonecutters Island should be sufficient for defence purpose. A permanent military site at Central was not required; and
- (e) she had made effort to prepare for the hearing. The imposition of a 10-minute time limit on the oral submission of each representer/commenter by the Board was a disrespect to them. The hearing was not in line with the existing practice and would be rendered meaningless. The commenter was totally disappointed with the incident of switching off of the microphone of Mr Chan Ka Lok. The Board should not impose any time

limit on the oral submissions. The commenter also requested the Chairman not to chair the meeting and to withdraw from the meeting so as to avoid conflict of interest.

[Actual speaking time of the representative of C801: 10 minutes]

C1025 - Tom Cohen

19. Ms Mary Mulvihill requested for an extension of time to a total of 20 minutes for her oral submission and it was her right to ask for it. The Chairman noted that the commenter only made a standard submission. However, as she was the last registered representative to present, the Chairman acceded to the request.

[Mr Jeff Y.T. Lam left the meeting temporarily at this point.]

20. Ms Mary Mulvihill made the following main points:

- (a) the commenter welcomed the berthing of military vessels for ceremonial use. However, he had grave concern on the future management responsibility of the CMD site and that Hong Kong people would not be protected under Hong Kong laws. There was also concern on the future holding of festive and community events on the waterfront;
- (b) according to the Vision Statement for Victoria Harbour, the goals for the harbour were to bring the people to the harbour and the harbour to the people; to enhance the scenic views of the harbour; to enhance the harbour as a unique attraction; and to create a quality harbourfront through encouraging innovative building design and a variety of tourist, retail, leisure and recreational activities, and providing an integrated network of open space and pedestrian links. There was no mention that a section of the harbourfront would be cut off and closed under the management by the Garrison;
- (c) the commenter was concerned that the buildings of CMD would constitute

an eye-sore on the waterfront and would be incompatible with the surrounding land uses. The former Queen's Pier was closed occasionally for ceremonial use and berthing of vessels but it was not zoned military. It would set an undesirable precedent for the Garrison to take over other pieces of land in Hong Kong ;

[Professor P.P. Ho left the meeting temporarily at this point.]

- (d) according to Article 9 of the Garrison Law and the Basic Law, the Garrison should not interfere in the local affairs of Hong Kong. Besides, the 1994 Sino-British Agreement clearly stated that the military sites should be used exclusively for defence purposes and should not be made available for purposes other than defence. To hand over the CMD site to the Garrison would cede the HKSAR Government's right of management as well as interfere and diminish the freedom/right currently enjoyed by Hong Kong people;
- (e) the right and freedom of Hong Kong residents were under the jurisdiction of the Basic Law which were outside the purview of the Board and PlanD. The Board and PlanD were acting *ultra vires* the scope, power and functions of the Board, while the Board had not given due consideration to the legal and jurisdiction issues. The role of the Board and PlanD was to prepare and exhibit plans. They should not introduce zoning that would have impact on the autonomy/jurisdiction of the HKSAR Government, Hong Kong people, the Basic Law, etc.; and

[Professor P.P. Ho returned to join the meeting at this point.]

- (f) when PlanD's representative was asked during the meeting on 25.11.2013 on whether the Garrison or the Hong Kong Police Force would be responsible for maintaining the order of the CMD site, the answer of PlanD's representative was that she 'thought' it would be the Hong Kong Police Force. It was considered that representative from the Department of Justice or Security Bureau should be present at the meeting to answer

questions about the management and legal issues. She believed that the hearing should be adjourned as the Board was acting *ultra vires*.

[Actual speaking time of the representative of C1025: 11 minutes]

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

[Ms Anita W.T. Ma left the meeting temporarily at this point.]

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

22. In response to a Member's question on the rationale for delineating a military berth on the OZP, Miss Elsa Cheuk replied that when the draft OZP was first approved in 2000, the DLA requirement to leave free a 150m of the eventual permanent waterfront on the OZP for the construction of a military dock was featured. As the area that it would occupy had not yet been confirmed, 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 CMD were now confirmed, technical amendments were made to reflect the final delineation and the land use of CMD on the OZP. Such annotation and the technical amendments to the OZP were in line with the usual practice of the Board.

23. Mr Paul Zimmerman referred to a plan in his Powerpoint presentation showing the detailed design of CMD, which was submitted to LegCo in 2002, and said that the design, details, location and area of the military berth had never been changed.

24. Noting the claim of some commenters and their representatives it was a common understanding that the entire CMD site would be exclusively for public use but that it had now been changed, a Member asked PlanD to elaborate on the background to the amendments. Referring to an extract of the LegCo Paper No. PWSC(2002-03)41 submitted to the Public Works Subcommittee of the Finance Committee in 2002 as shown on the visualizer, Miss Elsa Cheuk said that the paper had indicated that a military dock of about 150m long and associated facilities for the use of PLA would be constructed. The planning intention was that the military dock would be open for public access and as part

of the future waterfront promenade when it was not in military use. The Hong Kong Garrison had already agreed in principle to this planning intention. The site had all along been intended to be a military dock and associated facilities, and it would be open to the public when it was not in military use. Moreover, in UDS and other consultation documents, there were also descriptions and plans showing clearly the location and conceptual design of CMD and its associated facilities including the four ancillary structures. The design of CMD had taken into account the public views collected during the public engagement exercises.

[Ms Anita W.T. Ma returned to join the meeting at this point.]

25. By making reference to the UDS Stage 2 Public Engagement Consultation Digest and the Final Report published in March 2011 shown on the visualiser, Mr Paul Zimmerman said that according to the plans, there would only be four small buildings and the berth, while the remaining area was marked clearly as public open space. On that basis, the public had no objection to the proposal. However, the current amendment to the OZP had changed the land use of the site. The Chairman then asked Mr Zimmerman about his interpretation of the area shown as “PLA Berth” on the plan. Mr Zimmerman said that there were different facilities marked on the plan including an access road to the berth, which was zoned “O” instead of ‘Road’. The plan only showed the design constraints on the open space. It was presented to the public, HEC and HC that the area would only be closed when there was a vessel in town. The Government had committed in LegCo and HC that the Board had agreed to the “O” zone and there would be no change to the OZP.

26. In response to the concerns of some commenters and their representatives on the opening and management responsibility, the Vice-chairman asked if there was any room for changing the arrangement for opening the area to the public. Miss Elsa Cheuk said that under Article 5 of the Garrison Law, controlling military facilities was one of the defence functions and responsibilities of the Garrison. CMD, being one of the military facilities of the Garrison, would be under the management and use by the Garrison. The Garrison had committed that having regard to its operation and need for protecting the dock, the land area of the military dock would be opened to public as part of the promenade when it was not in military use. The HKSAR Government would continue to

liaise with the Garrison on the details in respect of the opening arrangement and would notify the public when such information was available. Except for closing the berth for inspection and maintenance, under normal circumstances when the CMD site was not in military use, the site would be open for public use. Military uses might include berthing of military vessels, military ceremonies, military rehearsal, training, and maintenance works, etc. Regarding the management responsibility, regardless of whether a place was publicly or privately owned, the Hong Kong Police Force could carry out enforcement duties under Hong Kong laws against social stability or other criminal acts.

27. The Chairman requested PlanD to comment on an accusation that the information given at the meeting was made up by PlanD. Miss Elsa Cheuk replied that as stated in paragraph 6 of the TPB Paper No. 9491 (the Paper), relevant Government bureaux/departments including the Department of Justice, Lands Department and Buildings Department had been consulted and their comments had been incorporated into the Paper for Members' consideration. Hence, the information provided at the meeting was the consolidated responses from the Government.

28. In response to the question of a Member on the area marked as "Military Berth" on the 'Design Constraints' plan in UDS, Mr Paul Zimmerman said that the plan was intended to highlight the design constraints on the waterfront, which indicated the underground facilities including the Airport Express, Central-Wanchai Bypass, and the culvert, etc. It was understood that there would be occasional use of the four small buildings above ground while the remaining area would be used as open space.

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

29. Ms Mary Mulvihill (representative of C1025) said that the focus of the discussion should be on the jurisdiction of the site. The Government should make known to LegCo and the public from the very beginning of the discussion that the Hong Kong Police Force had no jurisdiction of the site. The site would be under the jurisdiction of PLA instead. Furthermore, the Paper did not explain the change in jurisdiction and no copy of the Garrison Law was attached to the Paper. The Board should not approve the amendments which would cede the jurisdiction of the site to PLA, and should revert the zoning of the site to "O". Ms Mulvihill urged Members who had conflict of interests to

withdraw from deliberation as Members should look after the safety and security of Hong Kong people.

[Mr Ivan C.S. Fu left the meeting temporarily at this point.]

30. With regard to the commenter's proposal to reduce the "OU(MU)1" extent to the footprints of the existing buildings only, a Member asked PlanD whether any problem was envisaged. Miss Elsa Cheuk said that the entire CMD site of about 0.3ha (including a dock area and four single-storey ancillary structures) was required for defence purpose and to support the operational needs of the Garrison. The amendments to the OZP were made to reflect the final delineation and the planning intention of the CMD site, which was in accordance with the usual practice. She reiterated that the Garrison had committed that the military dock would be open to public as part of the waterfront promenade when it was not in military use. The amendments had struck a balance between the requirement for military security and the public usage of the harbourfront.

[Mr Roger K.H. Luk returned to join the meeting at this point.]

31. Ms Janice Cheng (C1171) reiterated that there was no need to develop military facilities at the Central harbourfront, which would disrupt the continuity of the waterfront promenade. The utilisation rate of the site for military use was low and it should be located at outlying islands. She recapped that the Government should act in accordance with the laws, in particular the Buildings Ordinance. She asked again why the Director of Buildings was not present at the meeting.

[Dr C.P. Lau left the meeting temporarily at this point.]

32. The Chairman reiterated that other Government bureaux/departments would be invited to the meeting should Members consider it necessary. The Chairman reminded Ms Janice Cheng (C1171) that the Q & A session was for Members to ask questions, and for the Government representatives, commenters and/or their representatives to respond, but not for commenters and/or representatives to ask questions or repeat their oral submissions.

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

33. A Member asked PlanD what were the legal basis and the justifications for the location of CMD, and when it was first made known to the public. Miss Elsa Cheuk displayed an aerial photo taken in 1986 showing the former Tamar Basin. She explained that before the reunification, the headquarters of the British Garrison used to have a naval basin and dock facilities in the former Tamar Basin. As the Tamar Basin was planned to be reclaimed under the Central Reclamation, Annex III of DLA set out that the then Hong Kong Government would leave free 150m of the eventual permanent waterfront in the plan 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. Annex III of DLA also required 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. When the draft OZP was first approved in 2000, the intention for the provision of a military dock and its location had been clearly presented in the OZP. As the design of the dock and the area it would occupy had not yet been determined at that time, it was represented by a straight line annotated “150m Military Berth (subject to detailed design)” on the OZP. Such annotation on the OZP was in line with the usual zoning practice of the Board.

34. Miss Elsa Cheuk continued to explain that the proposal was made known to the public at the meeting of the Public Works Subcommittee of the Finance Committee in 2002 when the Government sought LegCo’s approval to the funding application for the Central Reclamation Phase III works. The LegCo Paper had clearly stated that a 150m long berth and the associated facilities would be constructed and the area would be open to the public when it was not in military use.

[Mr H.W. Cheung returned to join the meeting at this point.]

35. In response to the questions of a Member, Mr Paul Zimmerman confirmed that the arrangement for the CMD site to be closed for occasional berthing of vessels and ceremonial use by the Garrison was supported. The training and maintenance of vessels should be carried out at the naval base. He also exhibited two papers of LegCo Panel on Planning, Lands and Works (No. CB(1)123/05-06(06) and CB(1)2219/05-06(01)) on the

visualiser and read out that “the Board decided to request the Government to prepare/refine the planning design briefs for the Central District waterfront” and “the Board had reaffirmed the land use zonings of the current plan and rejected the requests/application”. He further said that there was no indication that there would be a change in land use and the Board had reaffirmed several times that the zoning would be “O”. In case of war, the site and the whole territory could be closed for military use under the Public Order Ordinance.

36. A Member requested PlanD to provide more information on the Public Order Ordinance and asked if the zoning of the site could be time-based, i.e. changing the zoning of the site at different timeframes based on the actual use on the site. Miss Elsa Cheuk said that the military sites in general would be declared as Closed Area under the Public Order Ordinance (Cap. 245) or ‘Protected Place’ under the Protected Places (Safety) Ordinance (Cap. 260). As the Garrison had committed that having regard to its operation and need for protecting the military dock, the military dock would be open as part of the waterfront promenade when it was not in military use, the HKSAR Government would make appropriate legal arrangements on the opening of the site.

[Dr C.P. Lau returned to join the meeting at this point.]

37. On the proposal of a time-based zoning, Miss Elsa Cheuk said that the site was primarily intended for military use and the current zoning on the OZP was appropriate to reflect the planning intention of the site. The operational details or arrangement in respect of the opening and closure of CMD for public use would be subject to further liaison between the HKSAR Government and the Garrison. The public would be notified when further information was available, and such information would not be specified on the OZP.

38. In response to the question of a Member, Miss Elsa Cheuk reiterated that the reprovisioning of the military berth was in accordance with DLA. As the detailed design and delineation of CMD were now confirmed, technical amendments were made to reflect the final delineation and the land use of CMD on the OZP. It was in line with the established practice. She said that the CMD site with a total area of about 0.3 ha was minimal when compared with the total waterfront open space in the new Central

harbourfront, which was about 9.87ha in area. When the CMD site was closed for military use, the public could use the walkway to the immediate south of the site as a continuous east-west connection along the waterfront, which would be designated for open space use. The east-west connectivity along the waterfront would not be affected when the dock was in military use.

[Ms Julia M.K. Lau left the meeting temporarily at this point.]

39. A Member asked whether, hypothetically, the site could be closed 365 days for military use even if it was zoned "O". Miss Elsa Cheuk said that according to the Garrison Law, controlling military facilities was one of the defence functions and responsibilities of the Garrison. The CMD site would be handed over to the Garrison in future as one of the military facilities. The CMD site would be closed for certain period daily for routine repair and maintenance. It would also be closed occasionally when it was used for berthing of military vessels, military ceremonies and training, etc. Other than that, the land area of CMD would be open to the public as part of the waterfront promenade when it was not in military use. The current amendments to the OZP were mainly to reflect the final delineation and the land use of the military dock. The same Member noted that, under DLA, the Garrison had the right to use the site for military purpose at any time without giving any reason. In that case, this Member considered that, insofar as the opening of the area to the public was concerned, it would be the same whether the site was zoned as "OU(MU)1", or "O", since the determinant would be whether or not the area was in military use but not the zoning of the area.

40. A Member asked CEDD how the area of the CMD site was determined and whether there were underground facilities to be managed and maintained by the Garrison.

[Professor P.P. Ho left the meeting temporarily at this point.]

41. Mr Lam Chun Tak, SE/2, CEDD, said that the area of the CMD site was to provide facilities for the Garrison for defence purpose, including landing steps, areas for ceremonial use and maintenance purpose, etc. He said that there were various underground facilities within the site.

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

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

43. As no more commenters or their representatives had arrived to attend the session of the meeting, the meeting was adjourned at 12:15 p.m..