

**Minutes of 840th Meeting of the
Town Planning Board held on 5 August 2005**

Present

Permanent Secretary for Housing, Planning and Lands
(Planning & Lands)
Mrs. Rita Lau

Chairperson

Hon. Patrick S.S. Lau

Vice-Chairman

Dr. Peter K.K. Wong

Mr. Michael K.C. Lai

Professor K.C. Ho

Mr. Alex C.W. Lui

Mr. Keith G. McKinnell

Mr. S.L. Ng

Dr. Greg C.Y. Wong

Mr. C.K. Wong

Mr. Erwin A. Hardy

Mr. Nelson W.Y. Chan

Mr. David W.M. Chan

Mr. Leslie H.C. Chen

Dr. Lily Chiang

Professor David Dudgeon

Professor Peter R. Hills

Mr. Edmund K.H. Leung

Professor Bernard V.W.F. Lim

Dr. C.N. Ng

Mr. Daniel B.M. To

Mr. Alfred Donald Yap

Ms. Sylvia S.F. Yau

Principal Assistant Secretary (Transport)
Environment, Transport and Works Bureau
Ms. Ava Chiu

Assistant Director (2), Home Affairs Department
Mr. Patrick Li

Director of Environmental Protection
Dr. Michael Chiu

Director of Lands
Mr. Patrick L.C. Lau

Director of Planning
Mr. Bosco C.K. Fung

Deputy Director of Planning/District
Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Dr. Alex S.K. Chan

Dr. Rebecca L.H. Chiu

Mrs. Angelina P.L. Lee

Mr. Francis Y.T. Lui

Dr. Pamela R. Rogers

Ms. Carmen K.M. Chan

Professor Nora F.Y. Tam

Mr. Tony W.C. Tse

Mr. Tony C.N. Kan

Professor N.K. Leung

Mr. Stanley Y.F. Wong

In Attendance

Assistant Director of Planning/Board

Mr. P.Y. Tam

Chief Town Planner/Town Planning Board

Ms. Brenda K.Y. Au (Items 1 and 3 to 5)

Miss Fiona S.Y. Lung (Items 2 and 6 to 12)

Senior Town Planner/Town Planning Board

Mr. C.M. Li (Items 1 and 3 to 5)

Ms. Margaret H.Y. Chan (Items 2 and 6 to 12)

1. The Chairperson extended a welcome to all Members.

Agenda Item 1

Confirmation of Minutes of the 839th Meeting held on 22.7.2005

2. The minutes of the 839th meeting held on 22.7.2005 were confirmed without amendment.

Agenda Item 2

Matters Arising

3. As one of the matters arising was confidential, Members agreed to consider this item after the open meeting on Items 3 to 5.

Agenda Items 3 to 5

Request for Amendments to the Approved Central District (Extension)

Outline Zoning Plan No. S/H24/6

(on Reduction of Reclamation Extent)

(TPB Paper No. 7363)

Request for Amendments to the Approved Central District (Extension)

Outline Zoning Plan No. S/H24/6

(on Reduction of Reclamation Extent with Immersed Tube Tunnel Proposal)

(TPB Paper No. 7364)

Request for Amendments to

the Approved Central District (Extension) Outline Zoning Plan No. S/H24/6 and

the Draft Wan Chai North Outline Zoning Plan No. S/H25/1

(on Retention of Existing Shoreline)

(TPB Paper No. 7365)

[Hearing Part – Open Meeting]

4. The Chairman said that the three rezoning requests were submitted by the Society for Protection of the Harbour Limited (SPH), Save Our Shorelines (SOS) and Clear the Air (CA) respectively. The hearing part of the meeting would be open to the public. Given the similar nature of the three rezoning requests which were concerned with the reclamation extent in Central and Wan Chai and the Central-Wan Chai Bypass (CWB), the Chairman suggested and Members agreed that the three proponents should be invited to attend the hearing part together, and sufficient time would be allowed for each proponent to present their cases sequentially. There would be time for Members to ask questions and seek clarification after each presentation. After the hearing session, the representatives of the proponents, Government departments and consultants would leave the meeting and the Board would deliberate on the three rezoning requests in closed meeting.

5. The Secretary reported that Mr. Edmund K.H. Leung had declared an interest in the three rezoning requests as he was the Chairman of Hyder Consulting Ltd. (HCL) about 3 years ago. However, he was not involved in the Central Reclamation Phase III (CRIII) project during his time in HCL. While Mr. Leung was currently an advisor of Parsons Brinckerhoff (Asia) Ltd., which had previously been a sub-consultant of Maunsell Consultants Asia Ltd. (MCAL) on the CRI project more than 3 years ago, he had never been personally involved in any matters relating to CRIII and Wanchai Development Phase II (WDII). Dr. Alex S.K. Chan had also declared an interest in the three cases as he had been involved in the CRIII project 9 years ago. Considering the nature of declarations, Members were of the view that both Mr Leung and Dr. Chan's interests were remote and indirect, and Mr. Leung could stay at the meeting and participate in the discussion of the three rezoning requests. Dr. Chan had tendered his apologies for not being able to attend the meeting.

[Mr. Nelson W.Y. Chan arrived to join the meeting at this point.]

6. The following representatives of the proponents were invited to the meeting:

Mr. Hardy Lok

] – SPH

Mr. Dennis Li]
Mr. Ian Brownlee]
Miss Jessica Lam]
Mr. Sylvester Wong]
Mr. Fred Brown]
Mr. Jeff Tse]
Ms. Vivian Wong]
Mr. John Bowden	} – SOS
Mr. Nigel Easterbrook	}
Ms. Annelise Connell) – CA
Ms. Christian Masset)
Mr. Philip Heung)

7. The following representatives of Government departments and consultants were invited to the meeting:

Ms. Christine Tse	District Planning Officer/Hong Kong, Planning Department (PlanD)
Mr. Roy Li	Senior Town Planner/Hong Kong, PlanD
Mr. K.K. Lau	Deputy Commissioner/Planning and Technical Services, Transport Department (TD)
Mr. Lawrence Kwan	Chief Engineer/Traffic Engineering (Hong Kong), TD
Mr. L.T. Ma	Project Manager/Hong Kong Island & Islands, Civil Engineering and Development Department (CEDD)
Mr. H.H. Yeung	Chief Engineer/Hong Kong, CEDD
Mr. Dickson Lo	MCAL
Mr. Peter Cheek	MCAL
Mr. Terrence Chan	HCL

8. The Chairperson extended a welcome and explained that at its meeting held on 22.7.2005, the Board agreed to exceptionally allow the proponents to present their rezoning requests submitted before the commencement of the Town Planning (Amendment) Ordinance in an open meeting of the Board. The proponents were

subsequently informed of the arrangement. The Board's papers including the proponents' submissions and departmental comments had also been made available for public inspection. For efficient conduct of the hearing of each proposal, Members had agreed to divide the hearing into three parts, comprising presentations by the representatives of Government departments and the respective proponent, and question and answer session. After the hearing, representatives from both parties would be invited to leave the meeting. The Board would then deliberate the rezoning requests in closed meeting. The proponents would be informed of the Board's decisions in due course. The proponents had no objection to the proposed procedures.

SPH's Rezoning Request

9. The Chairperson invited the representatives of Government departments to brief Members on SPH's rezoning request. With the aid of a Powerpoint presentation, Ms. Christine Tse did so as detailed in the Paper. She first set out the background by highlighting the following:

- (a) under the approved Central District (Extension) Outline Zoning Plan (OZP) No. S/H24/6, 23 ha were reclaimed land, of which 18 ha were within the CRIII boundary and the 5 ha within the WDII boundary. Most of the reclamation area was zoned "Open Space" ("O") for the development of a waterfront promenade. Some areas were zoned "Other Specified Uses" annotated "(Waterfront Related Commercial and Leisure Uses)" ("OU(WRCLU)"). On the western side, a "Comprehensive Development Area" ("CDA") site was planned for office and retail uses. New developments on the waterfront were all subject to building height restrictions;
- (b) the amendments proposed by SPH were shown on Plans Z-1 and Z-2 of the Paper and included reduction of the reclamation shown on the Central District (Extension) OZP (Items A and B); deletion of the "CDA" zone (Item C); reduction of the size of the "OU(WRCLU)" sites (Item D); deletion of Road P1 and Road D6 (Item E); deletion of Road P2 (Item F); consequential changes to the "Government, Institution or Community (2)" ("G/IC(2)") and "O" zones near Wan

Chai West Sewage Screening Plant (Item G); and amendment to the Notes of the OZP to include 'Tram Line' as a Column 2 use within the "O" zone, and possibly other zones (item H);

- (c) main features of the proponent's Urban Design and Conceptual Landscape Plan as set out in paragraph 1.4 on page 5 of the Paper; and
- (d) the justifications put forth by the proponent for the proposed amendments as set out in paragraph 2 of the Paper.

10. After Ms. Christine Tse's introduction, Mr. L.T. Ma presented an assessment on the rezoning request from an engineering point of view and made the following main points with the aid of a Powerpoint presentation:

- (a) the proponent's arguments that the extent of CRIII could be trimmed by, for example, reducing the size and number of seawater cooling pumping stations, relocating these facilities, using alternative cooling means or change of seawall design, were not new and had been fully addressed by the Administration in the Further Review of CRIII completed in April 2004. The findings of the Further Review of CRIII had also been endorsed by independent third party experts;
- (b) the reprovisioning of the existing seawater cooling pumping stations were agreed with the concerned private owners after years of extensive consultations. The discussions covered the type, size, location, electrical and mechanical equipment, pipe run, maintenance and operation requirements, and switch over arrangements. The owners had been most cautious in guarding against over-provision, as they would have to bear the construction costs and land premiums for their facilities;
- (c) the proponent had made reference to an existing pumping station of Swire in Admiralty and those planned under the WDII near the Hong Kong Convention and Exhibition Centre Extension. However, besides the above-ground structure, Swire's pumping station also had

an underground chamber bigger than the above-ground structure. As for the comparison with the pumping stations in WDII, the differences in dimensions were essentially in the greater setback of the CRIII pumping chamber from the edge of the seawall for providing side access to the band screen chamber and the incorporation of a 3m wide cross-over well in the CRIII design, both arising from the need of the owners' specified operational and maintenance requirements for the much larger scale of the cooling facilities;

- (d) the shoreline was set by the reprovisioned piers and pumping stations. Provision of pumping stations for planned developments was necessary and seawater cooling was an energy efficient provision. Minor localized curtailment of reclamation extent was not a practical arrangement as it would create water embayment adversely affecting the water quality;
- (e) the suggestion to relocate the pumping stations to clear off the CRIII initial reclamation areas would block the safe marine access for the Star Ferry Pier and Queen's Pier and affect the operation of the existing seawater cooling pumping stations. The Initial Reclamation Area East (IRAE) and Initial Reclamation Area West (IRAW) had already been in place;
- (f) alternatives other than seawater cooling to the existing buildings (including fresh water cooling, air-cooled system, individual evaporative cooling towers, district cooling and centralized seawater cooling systems) had been examined. They were not considered to be reasonable alternatives, for one or more of the reasons of extra space and structural loading requirements, lower energy efficiency, additional site area requirement and complicated legal, land and institutional issues. Seawater cooling was the most energy efficient and had been used by most buildings near the shoreline. The third party endorser's view was that for reprovisioning works, minimum interruption during reprovisioning was an essential consideration;

- (g) the provision of lagoons as suggested by the proponent was not practical as the lagoons would pose major barriers to roads, utilities, culverts and major infrastructure like the North Hong Kong Island Line (NIL) and CWB. There were also severe technical problems to replenish the lagoons;
- (h) the current seawall and pump house design with rubble mound foundation was a proven safe design worldwide and the foundation was virtually maintenance-free. There was substantial cost difference for other designs such as driven or bored piles. Further reduction of the space between the pumping stations and CWB was not practical due to the requirements for construction of cooling water mains, chambers, bend blocks and other utilities, and adequate construction and maintenance clearance for these facilities. In addition, to install marine piles for seawall in CRIII would be very expensive and time consuming due to existence of a large amount of core stones underneath the seabed; and
- (i) in view of the above, the proponent's proposals were not reasonable alternatives and the claimed reduction of reclamation extent was not achievable.

11. With the aid of a Powerpoint presentation, Mr. Lawrence Kwan presented TD's comments on the rezoning request by making the following main points:

- (a) the proponent's traffic impact assessment (TIA) was inadequate and unacceptable as it did not provide any information on the modelling assumptions and method of traffic forecast. The assumptions on development in the hinterland and the method of calibrating the models were not given. The junction assessment was incomplete and did not cover the most critical junction at Connaught Road and Pedder Street. The pedestrian facilities were not addressed and the supporting traffic and transport facilities were omitted. A number of at-grade pedestrian crossings were proposed, which were not preferable from the traffic planning point of view;

- (b) Road P2 would serve the existing Airport Railway Hong Kong Station, International Finance Centre (IFC) and Four Seasons Hotel on Central Reclamation Phase I (CRI), and the future Tamar development. Even without further development on CRIII, the proponent's single 2-lane configuration for Road P2 would not be able to cope with the existing traffic. Sufficient provision should be made for loading/unloading facilities and bus-stops. A single 2-lane P2 would not be adequate;
- (c) a through Road P2 would divert traffic away from the critical junctions, provide a direct route from developments on CRI without passing through the congested Connaught Road Central. Without Road P2, traffic between the Central Reclamation areas and Wan Chai North would have to be detoured and the junction of Connaught Road Central and Pedder Street would be overloaded;
- (d) the proponent's assumption for a westbound slip road from Wan Chai North via the CWB was technically not feasible as it would crash into the eastbound CWB tunnel; and
- (e) the proposed tramway was not realistic and connection to the existing tramway would cause significant traffic problems at the connection points and where it would cross Gloucester Road and Connaught Road Central.

12. Ms. Christine Tse then went through the assessment of the land use proposals in the proponent's rezoning request as set out in paragraph 6.1 of the Paper and highlighted the following main points:

- (a) the land uses proposed on CRIII were consequential to the reclamation primarily determined by the essential transport infrastructure and the reprovisioned waterfront facilities. The reclaimed land for CRIII would provide the opportunities to create a world-class waterfront fully equipped with recreation and tourism

related developments whilst accommodating the necessary Government/civic/cultural facilities as well as high quality commercial/office floor space. The proponent's land use proposal would undermine the original planning intention and urban design framework to create a vibrant waterfront of world class standard for public enjoyment;

- (b) to maintain the role and competitive status of the CBD, a critical mass of office accommodation serviced by high quality facilities and services was required. Further capacity to accommodate Grade A office should continue to be found in the CBD. The proposed deletion of the "CDA" site (190,000m² in GFA) would mean that the opportunity of meeting the long-term demand of high quality office at a central and prestigious location would be forgone;
- (c) about 47% (10.7 ha) of the total reclaimed area (23 ha) was planned for open space use while only 11.6% (2.6 ha) was zoned "CDA";
- (d) the "OU(WRCLU)" sites were planned for commercial and leisure facilities including festival market, restaurants, café and retail shops to add variety and attraction to the waterfront. A substantial reduction of such use as proposed by SPH might reduce the diversity of activities and hence jeopardise the planning intention of adding variety and attraction to the waterfront;
- (e) only low to medium rise developments were planned on the new waterfront. Height restrictions from 13mPD to 25mPD were imposed on the "OU(WRCLU)" zones. Since the ground level was already at 6mPD, the actual building height restrictions were 7m to 19m. Assuming a 4.75m headroom, which was comparable to the IFC Mall and Pacific Place Shopping Mall of 5m, these developments were just one to four storeys high;
- (f) the "CDA" site would include a landscape deck which would provide uninterrupted pedestrian connection from the Statute Square to the

waterfront near the new Star Ferry Pier. It was restricted to 16mPD and comprised just two levels of retail use of 10m high. The groundscraper at the western part of the “CDA” site, with a restriction of 50mPD, would have a maximum height of about 10 storeys, with the building height gradually descending towards the waterfront;

- (g) the whole planning concept and urban design framework of the area was structured around three principal design corridors and a world class waterfront promenade. As shown in the 3-dimensional animation, the corridors would provide direct and continuous connections between the new waterfront and developments in the existing urban area;
- (h) the proponent's contention that any reclaimed land from the harbour should only be used for public purpose or public enjoyment had no legal basis. The Protection of the Harbour Ordinance (PHO) had not specified any use of reclaimed land. The Court of Final Appeal (CFA) judgment had also not specified whether any reclaimed land should only be used for public purpose or public enjoyment, or whether any reclaimed land should not be used for sale for commercial or residential purposes. The land use of the reclaimed land was a matter under the Town Planning Ordinance (TPO);
- (i) the various public views collected were set out in paragraph 4.10 of the Paper. 114 standard letters from the public in support of the rezoning proposal had also been received and were deposited at the Secretariat for Member's reference;
- (j) the Administration's Further Review on CRIII had confirmed that CRIII met the 'overriding public need' test and the extent of reclamation was the minimum that was required. As advised by CEDD, the alternatives proposed by the proponent for the cooling water pumping stations and the seawall design to reduce the extent of reclamation were not reasonable;

- (k) the need and extent of reclamation for the eastern part of the Central District (Extension) OZP, which fell within the WDII area, was currently under review. It was inappropriate to consider amending the OZP before the completion of the review; and
- (l) in view of the above, the PlanD did not support the rezoning request.

13. The Chairperson then invited the representatives of the proponent to present their case. The proponent tabled some further written representations at the meeting.

14. Mr. Hardy Lok thanked the Board for the exceptional arrangement to allow their presentation at an open meeting. He said that the legal challenge to CRIII was initiated with strong public support, and the current OZP proposed excessive reclamation and allowed unacceptably high development density. The Board was urged to amend the OZP to substantially reduce the development intensity of the “CDA” and “OU(WRCLU)” sites, which could in turn make the waterfront more easily accessible with much greater aesthetic value.

[Dr. Lily Chiang arrived to join the meeting at this point.]

15. Mr. Jeff Tse went through SPH’s legal submission tabled at the meeting (attached as Appendix to the minutes), which covered the duty of Members, necessity for amendment to the OZP, lack of justification for the marine basin area to the east of CRIII, and gist of CFA judgment in respect of the ‘overriding public need’ test.

16. With the aid of plans and photos, Mr. Ian Brownlee made the following main points:

- (a) the Administration’s Further Review on CRIII was an internal assessment of the CRIII contract and not the Central District (Extension) OZP. The Administration did not reconsider the OZP but pursued the implementation of the reclamation as quickly as possible after the High Court judgement;
- (b) the rezoning request was intended to raise the issues of extent and

land use of the reclamation to the Board, and to stimulate a dialogue with the Board and the public. This hearing was the first opportunity for the Board to review the OZP and the extent of reclamation since the CFA judgment;

- (c) the assessment in the Paper was inadequate in terms of the PHO requirements. The CEDD's assessment was not on alternative options, but a defence of the committed reclamation contract;
- (d) the Technical Circular on Protection of the Harbour Ordinance (the Technical Circular) jointly issued by the Housing, Planning and Lands Bureau and Environment, Transport and Works Bureau stipulated that as a general rule, reprovisioning of affected facilities on reclaimed land should be justified on individual basis and should not be taken for granted. In particular, the decision makers should ask themselves whether a change in policy could effectively resolve the problem and whether there was an alternative mode of operation/system that could achieve or substantially achieve the same objective of the proposed reclamation;
- (e) out of the 29 proposed pumphouse cells, 12 were for new buildings on reclamation which could be cooled by other means. For example, the CITIC Tower did not use seawater for cooling. A change in policy should have been initiated to reduce reclamation by stating that pumphouses for new buildings would not be provided for cooling purposes;
- (f) the Electrical and Mechanical Services Department (EMSD) was promoting the wider use of freshwater for cooling purposes. The scheme was being expanded and had been accepted at an increasing rate as evident from the EMSD's 2004 Achievement Summary tabled at the meeting. Instead of pursuing reclamation, a policy solution to include the reclamation area into EMSD's pilot scheme should be adopted. In looking at the pumphouse options proposed by the proponent, CEDD had placed the requirement of the PHO at a lower

priority than resolving institutional problems or modifying policies. This was a common theme throughout the assessment which did not comply with the PHO and the Technical Circular;

- (g) the court judgments had clearly stated that the enactment of the PHO indicated that the legislature and the people of Hong Kong had placed the preservation and protection of the harbour at a much higher priority than the production of land from the harbour. The engineering approach adopted by the Government only placed a value on the cost of engineering construction, and gave no value to the loss of the harbour;
- (h) the proponent's argument for public use of reclaimed land was set out in the tabled information. It was proposed as a moral obligation and a sound planning policy, not as a legal requirement;
- (i) in a speech in October 2003, the then Chief Executive made a statement that the road on CRIII was a tunnel and only the minimum area necessary for a road would be reclaimed; a park or promenade would be built and there would be no commercial buildings on the reclamation. However, the zonings on the OZP were in conflict with this statement;

[Mr. Alex C.W. Lui arrived to join the meeting at this point.]

- (j) implementation of the "CDA" site would mean selling part of the harbour for commercial purpose. There was no GFA restriction in the Notes of the OZP, but just building height restrictions. With a length of 420m and a GFA of 190,000m² as stated in the Explanatory Statement of the OZP, the groundscraper was like a IFC 2 tower with about 200,000m² GFA lying horizontally along the "CDA" site. The bulk of the building could be further increased to 480,000m² with the granting of hotel concessions and exemption of carparking area from GFA calculation;

- (k) the OZP allowed the “OU(WRCLU)” sites to be sold and developed without application to the Board. The Board had no control over their built forms. With a length of 300m and a height of seven storeys, the festival market would completely block views and connections to the harbour. The photomontages prepared by the proponent accurately indicated the proposal as would be seen by a person at street level; and
- (l) there was unanimous public opposition to the selling of the land for the groundscraper and festival market developments.

17. With the aid of a Powerpoint presentation, Mr. Sylvester Wong made the following main points on the urban design and landscape aspects:

- (a) tourist and leisure related buildings in the renowned Baltimore and Sydney harbour-fronts were low to avoid blocking of views. The New York Central Park had no commercial use at all;
- (b) as shown on the proposed urban design and conceptual landscape plan tabled at the meeting, the proponent’s urban design proposal for the waterfront could better achieve the urban design concepts of the OZP in that:
 - (i) it had a high degree of openness, rather than blocking the important public views from the existing CBD at ground level;
 - (ii) air ventilation on reclamation and the existing CBD would be improved. The festival market and groundscraper would hamper ventilation across the reclamation area;
 - (iii) barrier-free and at-grade pedestrian access was available with removal of Road P2. Under the OZP proposal, pedestrians were forced to climb the buildings and footbridges in order to access the waterfront; and

- (iv) five view corridors were provided to open up views towards the harbour;
- (c) the proponent's urban design scheme would provide a range of public open spaces. The three corridors envisaged on the OZP would also be provided. The urban design and landscape proposal would encourage public gathering, provide unblocked views at ground level, and facilitate street level access. Open areas were provided next to the existing CBD with small-scale commercial facilities and cafes to serve the public and tourists. With the reduced Road P2, there was a good opportunity to provide a well-designed and accessible waterfront park with a variety of sheltered space, plaza, pedestrian underpass, amphitheatre, etc.

18. With the aid of a Powerpoint presentation, Mr. Fred Brown presented the proponent's transport arguments by making the following main points:

- (a) in the traffic assessment, the CWB was taken as a committed scheme. While the CWB would provide major relief to Connaught Road Central by providing a bypass for through traffic between Central and Wan Chai, it should not simply be used to accommodate traffic growth. The CWB would afford good opportunities to divert through traffic from the surface roads in Central, provide new ingress and egress to Central North and Wan Chai North, minimize surface traffic, provide more space for pedestrians, improve the environment, and release surface roads for access and public transport only;
- (b) the western section of Road P2 should be used for relieving traffic in Central North, and its eastern section for access to the CWB from Gloucester Road. Road P2 could be reduced and truncated whilst still providing relief to the congested Gloucester Road. This would enable better pedestrian connections to the waterfront and improve the traffic and environmental conditions of the area; and
- (c) the model and planning data used in the TIA were the same as those

adopted by TD. The reduced road network could accommodate the Government's proposed development intensity. According to the findings of the TIA, the traffic condition of Connaught Road Central would be much improved with the completion of the CWB and Road P2. Notwithstanding the reduced and truncated Road P2, the v/c ratios of the proponent's proposal were similar to those of the Government's proposal.

19. Mr. Ian Brownlee then made the following main points:

- (a) Amendment Item A was related to part of the reclamation within the CRIII contract area. There was still time to amend the OZP as the land had not been reclaimed;
- (b) the area under Item B involved reclamation with WDII for open space, enclosure for marine basin, and waterfront related commercial and leisure uses. No technical study would be necessary to confirm that it was in contravention of the PHO. The Government had stated that the area involved was under review as part of the WDII review. However, the area had been excluded from the review by the Harbour-front Enhancement Committee (HEC);
- (c) the Board had two separate plans to review, one was the Wan Chai North OZP which had been remitted back by the court, and the other was the Central District (Extension) OZP as requested by the proponent. The Board should not confuse the two plans and the two processes. There was no submission from the Government that the proponent's proposed reclamation limit was wrong. Hence, the Board was obliged under the PHO to adopt the proposed amendment. If additional land was required, the Government had to provide the necessary justifications for amending the reclamation limit later on;
- (d) Item C was concerned with the "CDA" site. The groundscraper was out of character with the intention and public expectations for the waterfront. There were inadequate restrictions on the OZP to ensure

that the development described by the PlanD would take place. There was no maximum GFA stipulated in the Notes for the “CDA” zone and there was no stepped height limit to achieve the stepped building mentioned by the PlanD;

- (e) the Government’s argument for the groundscraper was based on a study completed in 1999 which was outdated. When the Board heard the objections to the first Central District (Extension) OZP in March 1999, a similar point was included in the Explanatory Statement, which was subsequently removed;
- (f) the recent Hong Kong 2030 Study had taken the CBD to be a much wider area from Sheung Wan to Causeway Bay, and Tsim Sha Tsui. The Study also indicated that the CBD could be expanded to accommodate future demand. There was a continuous dispersal of Grade A office developments to areas such as Taikoo Place, Cheung Sha Wan and Kwun Tong as a result of the rezoning of the areas from industrial to business uses;
- (g) the proposed groundscraper would generate a large requirement for surface roads. It would add to the problems that the CWB was supposed to be solving;
- (h) Item D was to reduce the size of the “OU(WRCLU)” sites, particularly the festival market building. Development on these sites should be reduced to 2-storey high so as not to obstruct ground level public view of the waterfront. Planning applications should be required to ensure that the future developments were for public enjoyment of the waterfront;
- (i) Items E and F were for deletion and reduction of surface roads. The CWB should be fully utilized so as to ensure that there were minimal roads above ground interfering with good use of the waterfront. P2 had to be changed to a local road;

- (j) Item G was for consequential changes to the sites near the Wan Chai Sewerage Screening Plant; and
- (k) Item H proposed to include tram as a use permitted on application in the “O” zone. As a result of previous objections to the OZP, the Board had already amended the Explanatory Statement to include the provision of an environmentally friendly transport system. There was originally a proposal for a tramline to be extended along the reclamation area from Sheung Wan to Victoria Park, but it had been ignored in all subsequent studies on the reclamation.

20. Mr. Ian Brownlee concluded by saying that the proponent’s proposals had been made on a sound technical basis and could not be simply dismissed. The proposed amendments were consistent with the Board’s planning objectives for the area. The difference was that the amount of reclamation was minimized and the amount of public open space maximized. The proponent was not against development but proposed a reduced scale of development compatible with the use of the waterfront as an active and vibrant legacy for future generations of Hong Kong people. The Board was requested to respect the PHO and the views of the Hong Kong public, and take steps to change the OZP.

21. Members then raised a number of comments and questions as summarized below.

Reclamation Extent

22. A Member asked whether the arguments put forward by SPH in support of the rezoning request had been presented to the court before; whether the plan-making process for the Central District (Extension) OZP was erroneous as contended by the proponent; and whether the High Court judgment covered the eastern part of the OZP which fell within WDII. This Member said that if the reclamation extent was already considered by the High Court, the Board might not need to consider the issue again. In response, Mr. Jeff Tse and Mr. Ian Brownlee made the following main points:

- (a) the only issue in the court proceedings on CRIII was the Chief

Executive in Council (CE in C)'s decision of not revoking the OZP or referring it to the Board for amendment. The Government argued that although the OZP was prepared on a wrong interpretation of the PHO, CRIII was in compliance with the court's interpretation of the presumption against harbour reclamation as demonstrated in its engineering review report. Although SPH had submitted technical affirmations against the Government's contention, the court did not examine or make a ruling on them. The court took the view that the only issue before it was whether the CE in C was obliged to refer the OZP to the Board, and that under the Basic Law, it was not for the court to tell the executive-led Government what to do; and

- (b) the submission of the rezoning request had now provided the Board and the public the first opportunity to see if the OZP could meet the CFA's 'overriding public need' test. The Government's two reviews on CRIII were undertaken in-house and did not involve public consultation. Under the PHO, the Board had to be satisfied that the reclamation extent submitted by the Government would meet the test. The CRIII reviews were on engineering issues only, whereas SPH's proposal covered the entire OZP area and a range of planning issues.

23. The Chairperson pointed out that the public had full access to the CRIII review reports and Members of the Board had been provided with the full CFA and High Court judgments before.

24. Ms. Christine Tse said that the Board's previous interpretation of the presumption against harbour reclamation, namely it was a weighing exercise and as long as the public benefits of reclamation would outweigh the presumption, reclamation could be undertaken was considered erroneous by the court. Subsequent to the CFA judgment on the Wan Chai North OZP, the Administration conducted two reviews of CRIII, which confirmed that the CRIII was in compliance with the PHO and the extent of reclamation was the minimum required. The land uses proposed on CRIII were consequential to the reclamation primarily determined by the provision of essential transport infrastructure and the reprovisioned waterfront facilities. The court did not rule on the eastern part of the OZP which fell within WDII. The Government was in

the process of reviewing the reclamation extent of WDII to ensure its compliance with the PHO.

25. A Member asked whether the reclamation extent could be reduced if there was no commercial development on CRIII, thus reducing the amount of pumping stations to be provided; whether deletion of the marine basin to the east of CRIII would satisfy the proponent's demand for amending that part of the OZP; and whether there would be any adverse contractual implications if the reclamation extent was changed. In reply, Mr. L.T. Ma made the following main points:

- (a) the extent of CRIII was determined by the alignment of the CWB and the need to re-provision existing facilities such as cooling water pumping stations and the piers to north of the CBW alignment. The vertical alignment of the CWB was constrained by the requirement to connect the bypass with the ground level roads at two ends of the highway;
- (b) the 12 pump houses serving new developments on reclamation, including the groundscraper, festival market building and new Government Headquarters, were located in the middle part of the reclamation. The removal of these pump houses would result in localized embayment which would have adverse impact on water quality;
- (c) seawater pumping stations were proposed for the new development sites as they were most energy efficient and sustainable;
- (d) under the original WDII proposal, the outmost part of the marine basin was an openable causeway. The marine basin would not be reclaimed. The southern edge of the basin was a new seawall designed to protect the CWB which would have to bridge over the existing MTR Tsuen Wan Line tunnel below. WDII, including the 5 ha of reclamation to the east of CRIII, was now under review by the Government; and

- (e) the CRIII contract was awarded in February 2003. The IRAW and IRAE were substantially completed. Most of the pumping station structures had been in place. With the reprovisioning of the piers and the switching over of the cooling water systems, the remaining part of the reclamation works would commence. There would be dire consequences if changes to reclamation contract were introduced at this late stage. In this regard, the contractor overhead amounted to \$0.35 million per day.

26. Mr. Ian Brownlee said that the engineering approach adopted by the Government did not comply with the PHO. Whilst the proponent had no problem with reclamation for the purpose of building the CWB, the seawall could be moved inward to obviate the need for reclaiming the 'Red Areas' beyond the CWB as shown on Figure 7 of the proponent's Planning Statement. The fact that air-cooling was used in CITIC Tower had demonstrated that there were alternatives to seawater cooling. Reducing energy consumption should not be used as an excuse for harbour reclamation. The PHO mandated the Government to resort to alternative methods if they were reasonable. Reclamation should not be carried out if it was not absolutely essential. The court did not rule on the legality of CRIII. It was only a Government's claim that CRIII complied with the 'overriding public need' test.

Alternatives to Seawater Cooling

27. In response to Members' questions on whether there was any scope to reduce seawater cooling and whether the Government had considered other alternative cooling methods, Mr. L.T. Ma and Mr. H.H. Yeung made the following main points:

- (a) Air-conditioning systems in Hong Kong currently consumed about one-third of the total electricity consumption in Hong Kong, with air-cooled systems accounting for one-fourth of the total electricity consumption. Hence, the Government was promoting a pilot scheme to replace air-cooled systems by fresh water cooling systems in buildings where seawater was not readily available. According to the EMSD, air-cooled systems should apply to small and medium centralized air-conditioning installations where convenient and

reliable water source was unavailable, whereas seawater cooling should be used for large centralized air-conditioning installations in locations where seawater could be easily accessed as fresh water resource was relatively scarce. The pilot scheme was not meant to replace seawater cooling, but promoted for replacement of air-cooled systems in selected areas.

- (b) the use of air-cooled systems was not sustainable. Air-cooled systems were much less energy efficient than seawater cooling systems. In comparison, the average energy consumption of the air-cooled and seawater cooling systems were at a unit of 2 and 1.2 respectively. Wider use of air-cooled systems would have significant adverse impacts in terms of greenhouse emissions and noise pollution as well; and
- (c) in the detailed design for CRIII, the choice of cooling systems were made after extensive consultations with the respective private owners and EMSD.

Transport and Traffic

28. A Member asked whether Road P2 was assumed to be a dual-2 road under the proponent's TIA. In reply, Mr. Fred Brown said that the v/c ratio of the 2016 eastbound traffic on the western section of Road P2 was between 0.25 and 0.3 with or without the Government's proposed road connections. Subject to detailed design, the western part of Road P2 could be in dual-2 configuration up to the Tamar site. The section between the Tamar site and Gloucester Road could be reduced to a single lane road. Under the Government's proposal, the section of Road P2 to the east of Tamar site was in dual-3 configuration.

29. Mr. K.K. Lau said that the issue of whether Road P2 could be truncated depended very much on whether a westbound slip road from Wan Chai North via the CWB to Central could be provided. TD had examined this issue critically and had concluded that it was technically not feasible due to space constraints. Hence, Road P2 had to be a through route between Central and Wan Chai North.

30. A Member asked whether the Government had included tramway in the public transport system of the waterfront and whether any feasibility study had been undertaken. In reply, Mr. K.K. Lau said that the Explanatory Statement of the OZP had stated that the feasibility and design of an environmentally and pedestrian-friendly transport system on the promenade would be studied. The Government had duly considered the tramway proposal and concluded that it was not workable as connection to the existing tram line would cause significant traffic problems at the connection points and where it crossed Gloucester Road and Connaught Road Central. In any event, the tramway could not replace Road P2 or other modes of public transport in the reclamation area, although it might be considered on the basis of a tourist attraction. The issue of providing environmentally and pedestrian-friendly transport system could be further examined as part of the future detailed design for the promenade.

Urban Design

31. Members raised the following questions in respect of the planning and design of the groundscraper (zoned “CDA”) and festival market (zoned “OU2 (WRCLU)”) sites and the pedestrian connections in the reclamation area:

- (a) whether the proponent’s photomontages of the groundscraper and festival market sites were accurate;
- (b) whether the groundscraper and festival market sites were subject to specific development parameters and whether these buildings would create any wall effect; and
- (c) whether the current planning and layout of the OZP could meet the public aspiration for high quality waterfront area.

32. In reply, Ms. Christine Tse made the following main points:

- (a) the length of the “CDA” site was much shorter than the height of IFC 2. SPH’s photomontages with a IFC 2 tower lying horizontally along the “CDA” site had exaggerated the possible built form of the site.

Maximum building heights of 50mPD and 16mPD for the western and eastern parts of the site respectively were stipulated in the Notes of the “CDA” zone. It was also clearly stated in the Explanatory Statement of the OZP that the site was subject to a maximum GFA of 190,000m² and a stepped height profile descending towards the harbour. The Board would have sufficient control in the eventual built form of the site at the Master Layout Plan (MLP) submission stage;

- (b) the proposed land uses and layout on the OZP followed the general principles recommended in the Board’s Vision Statement for Victoria Harbour. The design framework of the area was structured around a waterfront promenade and three principal design corridors i.e. the Statue Square Corridor, the Civic Corridor and the Arts and Entertainment Corridor. These corridors would provide direct and continuous pedestrian and visual connections between the existing urban area and the new waterfront;
- (c) to improve permeability of development and avoid wall effect, a design brief could be prepared for the festival market building. The main design parameters could be incorporated in the future land disposal document;
- (d) the “OU(WRCLU)” sites were planned for commercial and leisure facilities to add variety and attraction to the waterfront, similar to the Darling Harbour in Sydney. To achieve the planning objective of vibrancy and variety, sufficient commercial spaces would have to be provided to accommodate the activities in both daytime and night-time. It was doubtful that SPH’s proposal of reducing significantly the building footprint, and hence the diversity of activities could deliver a waterfront as attractive and vibrant as that envisaged under the OZP; and
- (e) the OZP provided a network of at-grade and elevated pedestrian walkways across Road P2 to link the harbour-front with the CBD.

33. A Member said that the proponent's urban design proposal had a continuous pedestrian access and a view corridor on the western part of the reclamation area, but a similar treatment was not provided in the middle and eastern parts. Also, no information on the form and massing of buildings to the north of Road P2 was provided.

34. In response, Ms. Christine Tse explained in detail the pedestrian network planned in the OZP. The three principal design corridors would provide unimpeded pedestrian access via landscaped walkways and footbridges. The comprehensive elevated pedestrian footbridge system in Central District and CRI would be extended to the waterfront area. Connections in the form of footbridges, elevated walkways, open space decks and subways would provide safe and convenient pedestrian links between the existing area and various developments in the reclamation area. On building height, Ms. Tse showed a 3-D animation of the "CDA" (i.e. groundscraper) site as compared with the horizontal IFC 2 conceived by the proponent. She said that a stepped height profile concept for the whole reclamation area had been incorporated in the OZP. Site-specific building height control was imposed on various development sites, including the "CDA" (16mPD and 50mPD), waterfront related commercial and leisure uses sites (13mPD to 25mPD), the CITIC Tower site (131mPD), "G/IC" sites (from 50mPD to 180mPD) and piers (13mPD to 21mPD). However, if the Board considered appropriate, planning/design briefs could be prepared to guide the design of the groundscraper and festival market.

35. Mr. Ian Brownlee said that the GFA of the groundscraper building was comparable to that of the IFC 2 (i.e about 200,000m²). The bulk of the building could further be increased with the granting of hotel concessions and exemption of carparking area from GFA calculation. The GFA stated in the Explanatory Statement of the OZP had no statutory effect. There was no guarantee that the built form of the groundscraper envisaged by the PlanD would eventually be realized. The requirement of a stepped height profile should be stipulated in the Notes of the OZP. Similarly, the Board should impose detailed control on the festival market building to avoid wall effect.

36. Mr. Sylvester Wong said that the proponent's urban design framework had built in a high degree of permeability. There was a gradual decrease of building

heights from the CBD towards the harbour-front. The park design was flexible enough to allow different treatments and provide further view corridors. Various formal and informal activity spaces were planned. Given that there would be other cultural and entertainment nodes in the other parts of the harbour-front such as that being planned in West Kowloon, this part of the harbour-front could be largely used for providing green space.

37. As the proponent's representatives had no further point to make and Members had no further question to raise, the Chairperson informed them that the hearing procedure for SPH's rezoning request was completed.

[SPH's representatives left the meeting at this point.]

SOS's Rezoning Request

38. The Chairperson invited the representatives of Government departments to brief Members on SOS's rezoning request. With the aid of a Powerpoint presentation, Ms. Christine Tse did so as detailed in the Paper and the following main points/aspects were highlighted:

- (a) the proponent proposed to amend the OZP and extent of reclamation by using an Immersed Tube Tunnel (ITT) to accommodate the CWB. The ITT would be laid along the harbour shoreline under the water (approximately 950m) and required less than 5 ha of reclamation at the tunnel transitions in and out of the existing land areas. According to PlanD's measurement based on the proponent's proposed reclamation boundary, the reclamation area should be about 9.6 ha;
- (b) details of the proposed amendments as set out in paragraph 1 of the Paper, which included reduction of reclamation; deletion of the "CDA" zone; cancellation of the "OU(2)" zones; deletion of Roads P1, P2 and D6; rezoning of limited reclamation as open space; and modification of zoning for the military berth; and

- (c) the justifications put forth by the proponent for the proposed amendments as summarized in paragraph 2 of the Paper.

39. Mr. L.T. Ma then pointed out that ITT was not new to Hong Kong. The Cross Harbour Tunnel, Eastern Harbour Crossing, Western Harbour Crossing, and Mass Transit Railway (MTR) cross harbour tunnel were constructed by the ITT method. However, these tunnels were in open water across Victoria Harbour. The issue at stake was the proposed laying of ITT along and close to the shoreline which involved a number of engineering problems and rendered the proposal an unreasonable alternative to the cut-and-cover method adopted for the construction of the CWB. Mr. Ma went on to say that a review of SOS's proposal had been undertaken by a specialist team led by Maunsell Consultants Asia Ltd. (MCAL). The review was far more technically comprehensive than SOS's proposal and the adequacy of the ITT proposal had been addressed from both technical and overall project planning and implementation points of view. The review concluded that the ITT proposal was not a practically feasible solution due to design and construction difficulties and inability to meet project requirements and site-specific constraints. A further independent review conducted by Hyder Consulting Ltd. (HCL) also supported the conclusion.

40. With the aid of a Powerpoint presentation, Mr. Dickson Lo made the following main points:

- (a) the issues in contention were tunnel alignment and profile, navigation access, wave absorbing seawall, ITT constructability, reprovisioning of cooling water pumping stations, construction staging, and cost and time implications;
- (b) there were deficiencies in SOS's proposal in respect of vertical alignment, navigation access and trench dredged level, as follows:
 - (i.) the 4% tunnel gradient used by SOS was steeper than the maximum acceptable 3%. There were no overtaking opportunities in tunnels or space for climbing lanes. The 4% gradient would adversely affect the road capacity and traffic performance and result in significantly higher levels of

emissions. The proponent's proposal to relocate the western portal of the CWB was not feasible as the trunk road had to connect the existing Rumsey Street Flyover and slip connections to the existing roads;

- (ii.) the design did not maintain the navigational access for the entire length of the ITT (i.e. the top level of the ITT armour layer at -6.7mPD);
 - (iii.) in respect of the trench dredged level, no adequate allowance was made for the armour protection layer, water depth for navigation access, overhead directional signs, provision of ballast in the ITT units, and a foundation layer throughout the entire length of the ITT; and
 - (iv.) after correcting the above design deficiencies, the length of the open water section through which the ITT could be constructed would be about 350m (not 950m as suggested by the proponent);
- (c) the reprovisioning requirement for the existing seawater cooling systems was ignored by the proponent. In the proponent's scheme, the operation of the existing seawater cooling systems would need to be terminated during reclamation works, thus affecting a number of important buildings in the area, including the Hong Kong Bank Building, Pacific Place, Admiralty Centre, Queensway Government Office, the Police Headquarters, etc. If advanced reclamation was incorporated into the proponent's scheme to enable the reprovisioning requirement, part of the water area that would otherwise be provided for the construction of ITT would be filled, thus reducing the length of the open water section through which the ITT could be constructed to 200m;
- (d) the need to demolish the existing seawall and excavate the side slope of the 28m deep trench through the existing land to the edge of Lung

Wui Road immediately in front of the PLA barrack would lead to settlement or collapse of the road, thus resulting in major traffic problems and possible shut down of the cooling systems serving a number of important buildings in Central due to the disruption to the cooling water mains. After considering the effects on Lung Wui Road, the possible extent of ITT would be reduced from 200m to zero;

- (e) as the ITT would be separated from the new seawall by only 20m, foundation loading of the new seawall and the retained reclamation would exert lateral loading onto the ITT. It might be found in detailed design that the differential displacements arising from the site specific loading could not be feasibly accommodated. This problem would affect the entire length of the ITT;
- (f) even with the placement of an armour protection layer over the tunnel, the ITT at levels proposed by the proponent would still be susceptible to risk of damage due to ship grounding;
- (g) the close spacing between the proposed seawall and the Airport Railway Extended Overrun Tunnel and NIL in front of the People's Liberation Army (PLA) barracks would cause difficulties in installing diaphragm walls through the rock foundation layers of the seawall. The NIL works would also disturb the gravity seawall structure;
- (h) the approach bridge of the PLA jetty would have a very long span of 50m, which would be susceptible to risk of impact by vessels operating in the vicinity;
- (i) the CRIII works had reached an advanced stage. The initial reclamation areas had substantially been completed and reprovisioning of affected existing facilities were in progress. Any modification to the CRIII conforming design would result in abortive works, contractor's claims and delays;

- (j) the cost savings of \$1 billion suggested by the proponent were not realistic without taking into account the increased construction costs of the proposed PLA jetty and ITT, cost of abortive works under the current contract, contractor's claims, and new design and contract tender costs. The cost savings were also incorrect due to increase in the length of seawall, deletion of cooling water system, and omission of all ground level roads;
- (k) there would be a longer implementation programme. The respective target completion dates of 2006 and 2012 for Road P2 and the CWB could not be met. As construction of ITT could only commence at around 2010, Road P2 and the CWB could only be completed in 2015 and 2018 respectively; and
- (l) in view of the above, the ITT proposal was not considered as a practically reasonable alternative to the cut-and-cover method adopted for the CWB.

41. Ms. Christine Tse then reported on the public views collected as set out in paragraph 4.10 of the Paper. She said that the PlanD did not support the rezoning request for the following reasons:

- (a) the building of the CWB using ITT was not a practically feasible solution;
- (b) the proponent's claim that the extent of the reclamation was excessive was unfounded as the alternative proposal for the CWB, cooling water pumping stations and seawall design were not reasonable nor feasible;
- (c) the proposed transport network, including a reduced Road P2 and a tramway, was not acceptable in traffic terms. No road layout plans had been provided to demonstrate that the road network proposed could be accommodated within the reduced reclamation area; and

- (d) the need and extent of reclamation for the eastern part of the Central District (Extension) OZP, which fell within the WDII area, was currently under review. It was inappropriate to consider amending the OZP before the completion of the review.

42. The Chairperson then invited the representatives of the proponent to present their case.

43. With the aid of a Powerpoint presentation, Mr. John Bowden and Mr. Nigel Easterbrook made the following main points:

- (a) SOS agreed to the legal arguments presented by SPH earlier at the meeting. Although the ITT proposal might have constraints, it was a feasible option. According to the PHO, ITT should be adopted for the construction of the CWB;
- (b) at the initial bidding stage of the CWB, Atkins (Asia) Ltd. (the winning bidder) had also looked at the ITT option but rejected it for two reasons only, i.e. the crossover of the MTR tunnel and the PLA pier. These two constraints could now be overcome by SOS's proposal;
- (c) the Government had never certified that the ITT could not be built. There was serious doubt in CEDD's and its consultants' conclusions on SOS's ITT option. The Board should recognize that the reclamation limit and the OZP were flawed and ask the CE in C to refer the OZP to it for amendment;
- (d) the comments from CEDD, MCAL and HCL had mentioned 25 constraints with regard to ITT. If required, the proponent could provide counter arguments to all these issues. Also, the HCL's endorsement did not fully support the MCAL's contentions and raised some contradictory viewpoints;

[Mr. K.K. Wong left the meeting at this point.]

- (e) on the three major criticisms on the ITT option raised by MCAL with respect to the vertical alignment, navigation access and western portal location, SOS's responses were as follows:
 - i. MCAL's requirement for a maximum tunnel gradient of 3% did not have the endorsement of HCL which considered that 4% (as proposed by SOS) was acceptable. Also, there was no such gradient requirement in the relevant Government's guidelines. The steeper 4% gradient would create sufficient vertical clearance for pleasure crafts entering the inshore area. The viability of the tunnel was directly influenced by its ability to retain the free water area. MCAL's diagram indicating that a 3% gradient provided only 350m ITT at 6.7m depth. However, actual measurement by SOS showed that the length was 430m. The 1% difference in gradient was equivalent to a 200m long tunnel at 6.7m depth and 6.6 ha less reclamation. The length of ITT at 6.7m depth was 630m. Any additional pollution due to vehicle emissions as a result of the steeper gradient would be balanced off by less reclamation;
 - ii. SOS's solution met the navigation access requirement of the brief for the CWB. Re-provisioning of piers for ferries and pleasure crafts in SOS's proposal matched that of the Government, and allowed the 10m draft as required for the PLA's pier. MCAL's criticisms of insufficient water depth had ignored SOS's stated intention for traffic restriction to pleasure craft and transport vessels only. Over 95% of the 20,000 registered ferries and pleasure crafts in Hong Kong would have safe access in depths of 4m to 6m as they had drafts less than 2.5m. In fact, marinas and typhoon shelters in Discovery Bay, the Royal

Hong Kong Yacht Club and the cargo handling basin in Wan Chai had an average depth of 4m only. It was not necessary to mandate a 6.7m depth above the full length of the ITT. If 4m depth was adopted, the length of the ITT could be extended by 100m with 3 ha less reclamation. The ITT length below water would be at least 730m and there would be 9.6 ha less reclamation;

- iii. neither MCAL nor HCL stated that SOS's proposed lengthening of the ITT submerged section by entering the water up to 100m further west in front of the IFC would not work in principle. It was possible that existing roads could be regraded and realigned. Any movement of the tunnel portal to the west would increase the ITT length and reduce reclamation accordingly;
- (f) MCAL had just identified constraints of the ITT but made no reference to reasonable alternatives. It had not assessed the ITT option but only provided commentary on the option. SOS considered that there were solutions to the constraints identified by MCAL, as follows:
- i. as proposed by HCL, the constraint to provide a clear 100m marine access for placement of caissons could be overcome by the use of shore mounted winches;
 - ii. the concern on possible slumping of the existing road formation at Lung Wui Road could be addressed by providing a short section of temporary stabilizing wall (such as sheet piling) along the embankment edge, which was a relatively simple solution;
 - iii. the 11 pump houses at the eastern end of CRIII were the only justification for reclamation over there. These pump houses were to cater for air conditioning for new

buildings on CRIII and adjoining areas. However, there should be no additional commercial or major building development on the reduced reclamation. MCAL also ignored the other options such as evaporative cooling systems which were used in most buildings in Hong Kong;

- iv. dredging in front of pumps was not impossible. The Government had carried out similar works in the other areas. It was a simple and conventional practice to undertake mitigation measures such as floating silt curtains and bubble curtains to control silt flow in dredged areas;

[Mr. C.K. Wong arrived to join the meeting at this point.]

- v. rock armour had been allowed over the ITT tunnel and extended seaward to create a shallow water to ground large vessels before reaching the tunnel. As the major navigation channel in the harbour was the central fairway, there was no issue of large vessels grounding near the ITT; and
 - vi. the constraint of seawall lateral loading was not significant and the extent of influenced seawall was very short as the pinch point was short relative to the entire length of ITT. The introduction of a deeper vertical section on the caisson foundation would eliminate the issue altogether;
- (g) since realistic solutions were available to all constraints identified by CEDD and MCAL, SOS's solution did allow major reduction of reclamation whilst accommodating the CWB. Hence, the ITT solution was an option for CRIII which could meet the PHO; and

- (h) the argument that it was too late to change the construction method was not sound having regard to the fact SOS's proposal had been submitted eight months ago. Also, the CWB could not be completed without constructing its adjoining section in WDII, the reclamation extent of which was still under review. Meanwhile, any existing traffic problems could be mitigated by the early implementation of the ERP. The Board should take steps to amend the OZP now.

44. As the proponent's representatives had no further point to make and Members had no question to raise, the Chairperson informed them that the hearing procedure for SOS's rezoning request was completed.

45. The meeting adjourned for a 5-minute break and resumed afterwards.

CA's Rezoning Request

46. The Chairperson invited the representatives of Government departments to brief Members on SOS's rezoning request. With the aid of a Powerpoint presentation, Ms. Christine Tse did so as detailed in the Paper and the following main points/aspects were highlighted:

- (a) in addition to the Main Paper issued to Members on 18.7.2005, a Supplementary Paper in response to the additional information submitted by CA on 21.7.2005 and 29.7.2005 was sent to Members on 3.8.2005;
- (b) the proponent requested that the approved Central District (Extension) OZP and the draft Wan Chai North OZP be amended so that the proposed reclamation areas under WDII be removed and the plans be redrawn to show only the existing shoreline;
- (c) the proponent also requested the Board to ask the Government to update the Electronic Road Pricing (ERP) Feasibility Study Report of 2001 and outline an implementation plan that would meet the

‘overriding public need’ test to reduce traffic congestion in the Central to Causeway Bay corridor by 2006; and

- (d) the justifications put forth by the proponent for the proposed amendments as set out in paragraph 2 of the Paper.

47. With the aid of a Powerpoint presentation, Mr. K.K. Lau made the following main points:

- (a) the findings of the 2001 ERP Feasibility Study (the Study) indicated that ERP would not be warranted on traffic grounds if the annual growth of private cars was not more than 3%, and implementation of the ERP required public consensus. The Executive Summary of the Study was attached at Annex III of the Paper, and the Final Report and the Executive Summary were viewable on TD’s website.;
- (b) the Study was based on average traffic speed in the urban area;
- (c) experience in London and Singapore had shown that implementation of ERP needed to be supported by alternative routes or bypasses having sufficient capacity to receive the diverted traffic generated from those wishing to avoid entering the charging zone. The PRoGRESS Project sponsored by the European Community found that stakeholders across eight European cities expected alternative routes for traffic to bypass so that the general public would be free to move between different parts of the cities. In Edinburgh, the proposed ERP was voted down by the local citizens in February 2005 showing a general sentiment against such schemes;
- (d) a balanced supply-demand approach was required to address traffic problems, rather than indiscriminately suppressing the demand through high tolls and charges as in ERP. Demand management measures alone were not effective in resolving major traffic problems. The view was supported by Professor Tim Hau at the HEC public forums. ERP as another form of demand management measure

could not replace the need of a new strategic infrastructure such as the CWB. ERP only complemented the CWB but could not replace it;

- (e) the long established transport policy emphasized on a 3-pronged approach comprising management of the demand for road use, expansion and improvement of public transport, and improvement of transport infrastructure;
- (f) stringent demand management measures including high First Registration Tax, high Annual License Fee, and high fuel duty had already been in place in Hong Kong. As a result, Hong Kong had a high public transport usage rate of 90% and a low car ownership rate of 50 per 1,000 population. In Singapore, the car ownership rate was about 120 per 1,000 population. Also, most non-essential traffic had been removed from Central. To effect further suppression, high ERP charges would be required which might cause damages to the economy;
- (g) there was strong objection to ERP when the results of the Study were presented to the Legislative Council Panel on Transport in May 2001. Majority of LegCo Members even questioned the need to spend money on the Study;
- (h) 20% of the interviewees of a recent roadside opinion survey carried out by the HEC indicated that building the CWB alone could solve the traffic congestion problem. Another 20% opined that implementing management measures alone could solve the traffic congestion problem. However, 46% considered that both had to be implemented in order to resolve the traffic congestion problem. These findings echoed Government's view that ERP complemented, rather than replaced the CWB;
- (i) the economic benefit of the CWB at 2011 was estimated to be \$2.2 billion; and

- (j) the Stated Preference Survey results of the likely behaviour of private car drivers conducted in May/June 1997 were used to derive model coefficients for different ERP scenarios for the development of the ERP Transport Model. With charging scenarios up to \$100 per entry, 40% of the private car drivers might be diverted to public transport and 10% might change their time of travel. However, as evidenced in the London Congestion Charging Scheme, the actual impact of an ERP scheme on relieving traffic congestion might turn out to be less than that inferred from the stated preference survey results.

48. Ms. Christine Tse then made the following main points on the rezoning request:

- (a) the subject rezoning request was mainly based on the argument that ERP was a reasonable alternative to address the issue of traffic congestion and the CWB was not necessary. However, according to the High Court's judgment in respect of the CRIII, determination of policy concerning how best to resolve transport difficulties was a matter for the CE in C. It was not for the Board to look into such matters as road taxes or tolls. The Board had no power to make policies on behalf of the Government. Rather, it acted on policies made by the Government. The argument that ERP was an alternative to solve traffic problem was a transport policy issue which lied outside the purview of the Board;
- (b) notwithstanding the above, the Board might still wish to consider the proposed amendments to the two OZPs as submitted;
- (c) community consensus was a prerequisite for the implementation of ERP. When the results of the ERP Study were presented to the Legislative Council Panel on Transport held in 2001, members generally did not support ERP. Members of a political party also quoted a survey which showed that ERP was the least supported measure to tackle traffic congestion;

- (d) the public views collected as set out in paragraph 4.7 of the Paper were explained in detail; and
- (e) in view of the above, the PlanD did not support the rezoning request.

49. The Chairperson then invited the representatives of the proponent to present their case.

50. With the aid of a Powerpoint presentation, Ms. Annelise Connell made the following main points:

- (a) the enactment of the PHO rendered Hong Kong unique. To comply with the PHO, the Government had to implement ERP, which was a reasonable alternative to building the CWB;
- (b) traffic congestion had been presented by the Government as the only overriding public need justifying the proposed reclamation for CRIII and WDII. The Board had a statutory responsibility to follow the PHO and amend the two OZPs;
- (c) as set out in Annex E of the Technical Circular, several questions should be asked on the alternatives to reclamation, particularly whether demand management measures should be used instead of reclaiming the harbour to provide land for developing a new facility; whether a change in policy could effectively resolve the problem; whether there was an alternative mode of operation/system that could achieve or substantially achieve the same objectives of the proposed reclamation; and whether the existing facilities could be improved or better utilized to reduce or postpone the need to provide the new facility on reclamation;
- (d) Hong Kong had already had a bypass all the way from the airport to North Point. The issue was how to manage the road system

properly;

- (e) the CWB is an optional item in the CRIII contract. There was no contract penalty if the CWB was not built. Its removal would save \$1.3 billion;
- (f) according to the Study, road traffic would be reduced by 24% with the implementation of ERP, and the rich people were most likely to leave their cars at home. Mr. Jack Opiola, the original author of the Study, stated in a public forum that it was possible to implement ERP even without a bypass. The cogent and convincing materials in support of the ERP were in the Study Report. However, the Government had all along refused to release the detailed findings. In order to provide cogent and convincing evidence as stipulated in the PHO, the Board should request the Government to provide it with the detailed findings of the Study.
- (g) whether the public would accept ERP depended on how the policy was advocated. The public should be informed that ERP would reduce the time wasted in traffic congestion. As recommended in the Study, implementation of ERP could be accompanied with reduction of First Registration Tax and Annual Licence Fee in order to gain more public support. The Financial Secretary should be asked to be involved in the process as his decisions would also have to satisfy the requirements of the PHO. The Board should request the Government to change the traffic policy in order to save the harbour from further reclamation;
- (h) the cost of building the CWB was about \$10 billion. The ERP was an electronic bypass and would generate an annual revenue of about \$1 billion to the Government. The implementation cost of the ERP could be recouped within 2 years;
- (i) the survey of the ERP Study indicated that with a \$30 congestion

charge, 40% of the people surveyed would leave their cars at home, and 10% would change their time of travel;

- (j) the survey findings mentioned earlier by TD could also be interpreted as about 70% of the respondents supported or had no objection to road pricing as a means to mitigate traffic congestion;
- (k) a harbour-front tramway should be provided as part of an integrated public transport system. The tramway was a history and legacy of Hong Kong. It was technically feasible to connect harbour-front tram with the existing system, and TD should work on it;
- (l) the Board should ensure the compliance of the PHO and should not follow transport policy which was unlawful and in contravention of the PHO. There was no 'overriding public need' for the CWB as ERP could solve the traffic congestion problem. The present need for the CWB did not exist. ERP was a reasonable alternative and there was huge public support for saving the harbour from reclamation; and
- (m) as the Board did not appear to have an updated ERP Study, it should request the Government to provide all the necessary information to meet the PHO requirement. The updated ERP Study should take the presumption against reclamation in the harbour. The Government should formulate a plan to implement the ERP soonest or delay the construction of the CWB as much as possible.

51. In reply to a Member's question on whether transport policy fell within the jurisdiction of the Board, Ms. Christine Tse said that according to the High Court's judgment, the Board had no power to make policies on behalf of the Government. The Board could only act on policies made by the Government and discharge its statutory plan-preparation function within the strategic planning policy framework set by the

Government. The Chairperson read out paragraph 81(i) of the judgment, in which the Judge stated that “It must first be understood that determination of policy concerning how best to resolve transport difficulties is a matter for the CE in C. It is not therefore for the Board to look into such matters as road taxes or tolls.”

52. Ms. Annelise Connell asked whether the Board should follow a transport policy which was deemed unlawful under the PHO. In reply, the Chairperson said that it was not for the Board to determine whether a policy was lawful or not. As a responsible Government, the Administration had a duty to ensure the policies it made were appropriate in all aspects.

53. Ms. Annelise Connell said that the High Court’s decision was that CE in C’s decision of not referring the plan to the Board was lawful. The court did not state whether the OZP itself was lawful. It was only the Government’s view that the OZP was lawful. In response, the Chairperson said that the Central District (Extension) OZP was an approved plan and had gone through the due process of plan preparation and public consultation, whereas the draft Wan Chai North OZP was currently under review.

[Mr. Erwin A. Hardy left the meeting at this point.]

54. As the proponents’ representatives had no further comment to make and Members had no further question to raise, the Chairperson informed them that the hearing procedures for the three rezoning requests had been completed and the Board would further deliberate on the requests in their absence and inform the proponents of the Board’s decision in due course. The Chairperson thanked the representatives of the proponents and Government departments for attending the meeting. They all left the meeting at this point.

[Deliberation in Private]

[Mr. Alfred Donald Yap, Dr. Lily Chiang, Professor Peter R. Hills, Professor K.C. Ho, Mr. B.M. To and Mr. Leslie H.C. Chen left the meeting during deliberation of the

rezoning requests.]

55. A summary of Judge Hartmann's judgment dated 9.3.2004 in relation to the Central District (Extension) OZP was tabled for Members' easy reference.

56. The Chairperson said that there were two issues under contention, namely, the reclamation extent and the land use proposals shown on the OZP. As far as the former was concerned, the CRIII had gone through a due process of scrutiny and supported by extensive public consultation. The findings of the CRIII Further Review had also confirmed that the extent of reclamation was the minimum necessary and able to meet the CFA's 'overriding public need' test. The OZP was a valid plan and the CRIII project had been duly authorized and was on-going. The area to the east of CRIII was currently under the WDII review. It might not be appropriate to amend this part of the OZP until the findings of the WDII review were available. With regard to individual land use proposals such as the groundscraper and festival market sites, the Board had to consider whether there was a case for review particularly in respect of land use, development scale and height restriction.

57. Members then had a lengthy discussion on the three rezoning requests. Their comments and views were summarized below.

CA's Rezoning Request

58. On CA's rezoning request, a Member opined that the Board should not deliberate on transport policy issues. The Chairperson said that whether ERP should be adopted was a matter of transport policy and the decision should rest with the CE in C. The Board could not usurp the role of CE in C in making policy decisions. Neither was the Board in a position to deliberate on CA's argument that the CWB would not be required if ERP was adopted as the subject fell outside the purview of the Board.

59. Members agreed that CA's proposal for adopting ERP as an alternative to the CWB was a transport policy outside the purview of the Board. Members also noted that the TD had explained in detail why the use of ERP would not be effective in the absence of an alternative route and agreed to the conclusion.

SOS's Rezoning Request

60. On SOS's proposal, Members had the following views:

- (a) a Member considered that the Board might need to know more about the internationally acceptable design standards, such as tunnel gradient, for deciding on the ITT option;
- (b) another Member said that there was no ITT in the world that was laid along the coastline. MCAL had already rightly pointed out in great detail the problems of adopting ITT for constructing the CWB and concluded that such option was not feasible in this location;
- (c) in considering the reasonableness of alternatives, the Board should take into account issues of safety, environmental impacts and difficulty in changing the horizontal alignment and the location of the western portal of the CWB, etc;
- (d) several Members considered that apart from the technical problems, timing was also a valid consideration. As the reclamation works had already progressed to a rather advance stage, the ITT option might not be realistic; and
- (e) on the need for sea water pumping stations, a Member pointed out that the Energy Advisory Committee did not support the use of air-cooled systems, and held the view that fresh water cooling was less environmentally acceptable than seawater cooling and waterfront sites should use seawater for cooling as far as possible.

61. The Chairperson said that the CRIII Further Review had examined various alternatives including the ITT option to reduce the extent of reclamation and concluded that they were not reasonable. The same conclusion was drawn by CEDD and its specialist consultants. She drew Members' attention to the CFA judgment which obliged all public officers and bodies to consider all possible alternatives to reduce

reclamation, and it was also stated that the alternatives had to be reasonable.

SPH's Rezoning Request

62. On the legality of the reclamation works, Members had the following views:
- (a) a Member said that while the High Court did not rule on whether CRIII met the 'overriding public need' test per se, Judge Hartmann did make reference to the Government's CRIII engineering review report. Reasonable efforts had been made by the Government in carrying out reviews on the CRIII, and the Government's findings could be accepted. There would not be a need to review the reclamation extent of the CRIII as shown on the approved Central District (Extension) OZP. As the reclamation extent in the eastern part of the OZP was now under review as part of the WDII, it was inappropriate to agree to any proposed amendment for the time being; and
 - (b) the Chairperson said that in conducting the CRIII Further Review, the Government had gone through a very rigorous process and confirmed that the reclamation extent was the minimum required. The CRIII project was lawful and had gone through a due process of public consultation and approval procedures, including funding approval by the Legislative Council. Until and unless the CRIII works were challenged and ruled unlawful by the court, the Board had to abide by the reclamation extent as promulgated in the approved and gazetted OZP.
63. On whether there were reasonable alternatives to reclamation, Members had the following views:
- (a) a Member said that the Board should look at all reasonable alternatives that could reduce the extent of reclamation. While it might be difficult for the Board to decide on the reasonableness of various alternatives suggested by the proponents, the Board should try its best to make its own judgment;

- (b) a Member said that the proposed alternatives to reduce reclamation extent were essentially an issue of trading and relieving constraints. By removing a particular constraint, there might be a possibility to slightly reduce the reclamation extent. However, the Board was not in a position to determine if certain constraints could be removed without adversely affecting the other considerations. Another Member shared the same view and said that the Board should consider the OZP in a holistic manner; and
- (c) several Members said that they were not convinced that the proponents' proposals to reduce reclamation were realistic and reasonable. In comparison, the Government's views had been supported by independent experts and it was confirmed that the reclamation extent of CRIII was the minimum necessary. Taking into account the social and economic needs, which were also important aspects of sustainable development, the Board should not agree to the rezoning proposals which would further delay the implementation programme of the essential infrastructures.

64. On the aspects of land use planning and urban design in relation to SPH's proposals, Members had the following views:

The "CDA" Site

- i A Member said that the issues in question were whether it was necessary to reserve a site on the OZP to meet the long-term demand for Grade A office, and whether more specific control on the development parameters of this important site was required. This Member did not support the deletion of the "CDA" site, noting that only about half of the site would be on reclaimed land;
- ii. Mr. Bosco C.K. Fung said that the Board would need to consider whether there was a need for future expansion of the

CBD. On the original OZP gazetted in 1998, about 10 ha of land was zoned “Commercial”, which had been reduced substantially in the current OZP. With a proposed GFA of 190,000m², the plot ratio of the “CDA” site was only about 3.6, which was very low bearing in mind its location in the CBD. The groundscraper had a number of merits in terms of facilitating pedestrian movement and providing a variety of walking experience. It would also be linked up with the existing elevated walkway system in Central, thus bringing people to and from other parts of the CBD to the harbour. Pedestrians could choose to use the landscape pedestrian deck, shopping arcade or ground level pavement within the “CDA” site to access the harbour-front under different weather conditions; and

- iii. several Members were of the view that the Board should not solely look into the present situation but also take into account the future economic and social needs of Hong Kong. If Hong Kong was to remain competitive as an international financial centre, space should be provided for the future expansion of CBD in Central.

(b) “OU(WRCLU)” Sites and Open Space

- i. The “OU(WRCLU)” sites should be subject to the Board’s scrutiny, similar to that for the “CDA” site, and further work should be done to minimize the potential adverse impacts of Road P2 on the civic and open spaces;
- ii. Mr. Bosco C.K. Fung said that SPH’s proposal for a New York Central Park type of open space was different from that proposed on the OZP which envisaged a high degree of vibrancy and variety similar to the Darling Harbour in Sydney. Focal points and public gathering space for festivals and

celebrations, waterfront related commercial and leisure uses, festival market-type development, and formal and informal open space were planned on the waterfront. The Board would need to decide on the appropriate type and form of open space to be provided, bearing in mind its location right next to the heart of the CBD. Any significant reduction in the proposed GFA for the waterfront related commercial and leisure uses might jeopardize the intention to maintain vibrancy of activities on the harbour-front at both daytime and night-time;

- iii. a Member said that SPH's proposal had some merits in providing substantial greening area which could be taken as a benchmark for future detailed design of the harbour-front areas. Mr. Bosco C.K. Fung explained that about half of the reclamation area on the OZP was already zoned for open space purpose. The opportunity of providing both land-based and sea-based activity areas would be lost if the waterfront was solely designed as a central park; and
- iv. a Member considered that the OZP's concept for the entire waterfront area was good, and that it was not appropriate to have a central park type of open space development.

(c) Urban Design

- i. The proponent's photomontages of the groundscraper and festival market building were misleading and had created a very bad image on the planning intention for the sites by dramatizing their built form. The Secretariat was requested to rebut these misleading messages when opportunity arose;
- ii. Members generally supported the stepped height concept for the groundscraper. However, the design brief for the subject waterfront area should be refined to include the urban design concepts of penetration, accessibility and permeability for

incorporation in future land disposal documents. The size and configuration of land parcels could also be refined to avoid creating any possible wall effect;

- iii. the design of the “CDA” site should promote pedestrian movement within the site similar to the shopping arcade in Queensway and the renowned Raffles Walk in Singapore. This should be clearly spelt out in the planning brief to be prepared for the “CDA” site;
- iv. a Member considered that a detailed urban design study to translate the OZP proposals into the shapes of developments that would eventually take place should be undertaken. Without detailed design control, the festival market site could have negative visual impact and might block the view towards the harbour from City Hall. Proper setback requirements should also be introduced. SPH’s proposal did not give sufficient attention to pedestrian connection and visual permeability along the Civic Corridor and the Arts and Entertainment Corridor; and
- v. Mr. Bosco C.K. Fung said that an urban design study for the area had been undertaken before. Members’ comments on various urban design issues could be taken forward by refining the urban design framework and preparing planning/design briefs for major development sites. Such further work should also take into account the Board’s Vision Statement for Victoria Harbour and the Harbour Planning Vision, Mission and Principles of the HEC.

(d) Surface Roads

- i. Several Members said that Road P2 and the footbridges across it might have adverse impacts on the pedestrian movement across the reclamation. The Board’s objective of bringing

people to the harbour would be better achieved if the width of Road P2 could be reduced and if pedestrian friendly corridors were provided; and

- ii. Ms. Ava Chiu said that according to the TD, Road P2 would perform a function which the CWB would not be able to perform. It would therefore be necessary to provide a dual-2 Road P2 to serve the traffic need for vehicular movements between Central North and Wan Chai North.

(e) Consequential Changes to Sites near Wan Chai West Sewage Screening Plant

As the proposed amendment was related to the reclamation extent of WDII which was under review, Members agreed that the matter should be considered later when the review findings were available.

(f) Tram Line

A Member said that it would be a good idea to introduce environmentally friendly mode of transport to the waterfront like the electric train service in Nanjing Road, Shanghai.

Conclusion

65. Summarizing Members' views on the three rezoning requests, the Chairperson said that the three rezoning requests could not be accepted by the Board based on the following considerations:

CA's rezoning request

- (a) transport policy was a matter for the CE in C and the Board had no power to consider road taxes or tolls. Whether ERP was an alternative to solve the traffic problem was a transport policy which lay outside the purview of the Board. The Board could not usurp the role of CE in C in making policy decisions. As confirmed by

the TD, the use of ERP would not be effective without an alternative route or a bypass;

SOS's rezoning request

- (b) SOS's proposal was submitted on the basis that ITT was a reasonable alternative. However, as advised by CEDD and the independent consultants, the ITT was not a feasible solution due to design deficiencies (in terms of vertical alignment, navigation access and trench dredged level); construction difficulties; inability to meet project requirements and site-specific constraints (adverse effects on Lung Wui Road and risk of ship grounding); and ignoring of the reprovisioning requirement for the existing water cooling systems;

SPH's rezoning request

- (c) CRIII had gone through the due process of scrutiny supported by extensive public consultation. The Further Review on CRIII had reaffirmed that the extent of reclamation was the minimum necessary and able to meet the CFA's 'overriding public need' test;
- (d) SPH's alternatives to reduce reclamation were not reasonable as demonstrated by the assessments of the concerned Government departments; and
- (e) the need and extent of reclamation for the eastern part of the Central District (Extension) OZP was currently under review as part of the Planning and Engineering Review of WDII. It was inappropriate to amend that part of the OZP before completion of the review.

66. The Chairperson said that Members generally saw the merits of preparing planning/design briefs for the "CDA" and "OU(WRCLU)" sites to ensure that the future developments would blend in with the waterfront setting, facilitate pedestrian access to the waterfront, and promote visual permeability of the developments. The existing urban design framework for the reclamation area should be refined to meet public

aspiration. The refined urban design framework and the planning/design briefs to be prepared should also take into account the Board's Vision Statement for Victoria Harbour and the Harbour Planning Vision, Mission and Principles of the HEC. The Secretary said that the refined urban design framework for the area and the planning/design briefs for specific sites would be submitted to the Board for consideration in due course.

67. Noting some Members' concerns on the possible impacts of Road P2 on the new waterfront, the Chairperson said that the PlanD should relay Members' views to the TD, requesting it to ensure that the design of the road would be compatible with the overall urban design of the area while allowing maximum pedestrian accessibility to the harbour-front. To facilitate more efficient and convenient east-west connection along the waterfront, an environmentally friendly transport system on the promenade should be further studied. The Secretary said that the issue of pedestrian movements could also be taken up in the revision of the urban design framework and in the preparation of the planning/design briefs.

SPH's Rezoning Request

68. After deliberation, the Board decided not to agree to SPH's rezoning request for the following reasons:

- (a) the Government's Further Review on Central Reclamation Phase III (CRIII) had confirmed that CRIII met the 'overriding public need' test and that the reclamation extent was the minimum required. The alternatives proposed by the proponent for the cooling water pumping stations and the seawall design to reduce the extent of reclamation were considered not reasonable. Hence, the proponent's claim that the extent of reclamation proposed by the Government was excessive was unfounded;
- (b) the proposed change of land uses would undermine the original planning intention and urban design framework to create a vibrant waterfront of world class standard for public enjoyment. Commercial and leisure uses proposed along the waterfront

promenade were intended to add variety and attraction to the waterfront. It was doubtful if a significantly reduced scale of such uses would allow for the diversity of activities to deliver a waterfront as attractive and vibrant as originally envisaged in the subject OZP;

- (c) the proposed deletion of the “Comprehensive Development Area” site would adversely affect the opportunity of providing new land for the highest quality Grade A office at a central location, which was needed to support the role of Hong Kong as an international financial centre;
- (d) the transport network proposed by the proponent which included a truncated and reduced Road P2 and a tramway was considered not acceptable in traffic terms and the TIA submitted was also considered not acceptable; and
- (e) the need and extent of reclamation for the eastern part of the Central District (Extension) OZP which fell within the Wan Chai Development Phase II area was currently under review. It was considered inappropriate to amend the OZP before the completion of the review.

SOS’s Rezoning Request

69. After deliberation, the Board decided not to agree to SOS’s rezoning request for the following reasons:

- (a) the Government’s Further Review on Central Reclamation Phase III (CRIII) had confirmed that CRIII met the ‘overriding public need’ test and that the reclamation extent was the minimum required;
- (b) the alternatives proposed by the proponent for the Central-Wan Chai Bypass, cooling water pumping stations and the seawall design to reduce the extent of reclamation were considered not reasonable or feasible. Hence, the proponent’s claim that the extent of

reclamation proposed by the Government was excessive was unfounded;

- (c) the building of the CWB using the Immersed Tube Tunnel (ITT) method was not a practically feasible solution given all the design and construction difficulties and the inability to meet project requirements and site specific constraints. There would be no cost benefits by adopting the ITT proposal and it would result in a longer implementation programme;
- (d) the transport network proposed by the proponent which included a truncated and reduced Road P2 and a tramway was considered not acceptable in traffic terms and no road layout plan was provided to demonstrate that the proposed road network could be accommodated within the reduced reclamation area; and
- (e) the need and extent of reclamation for the eastern part of the Central District (Extension) OZP which fell within the Wan Chai Development Phase II area was currently under review. It was considered inappropriate to amend the OZP before the completion of the review.

CA's Rezoning Request

70. After deliberation, the Board decided not to agree to CA's rezoning request for the following reasons:

- (a) the proposal for adopting ERP as an alternative to the CWB was a transport policy outside the purview of the Board;
- (b) the use of Electronic Road Pricing (ERP) would not be effective in the absence of an alternative route or a bypass. The CWB was needed to divert the east-west through traffic and the Government was reviewing the alignment and construction of Central-Wan Chai Bypass under the Wan Chai Development Phase II (WDII) Review.

It was premature at this stage to determine the transport and environmental needs of the application of ERP as the Government was still monitoring the development of the ERP technology;

- (c) there was insufficient information to demonstrate how the land use and other infrastructure along the waterfront of the Central and Wan Chai areas should be revised on the Central District (Extension) and the Wan Chai North Outline Zoning Plans (OZPs). No information was available to demonstrate how the harbour-front could be improved for public enjoyment; and
- (d) the Government was conducting the WDII Review and a public engagement exercise was underway to enhance public participation throughout the review process. Based on the consensus established in the public engagement exercise, the Wan Chai North OZP and part of the Central District (Extension) OZP would be reviewed. It was premature to amend the OZPs at this stage.

71. The meeting adjourned for a break of 10 minutes at 3:40 p.m.

[Mr. Keith G. McKinnell, Mr. Michael K.C. Lai, Professor David Dudgeon, Ms. Ava Chiu, Dr. Michael Chiu, and Mr. Bosco C.K. Fung left the meeting at this point.]

72. The following Members and the Secretary were present in the afternoon session:

Hon. Patrick S.S. Lau
Mr. S.L. Ng
Dr. Greg C.Y. Wong
Mr. C.K. Wong
Mr. Nelson W.Y. Chan
Mr. David W.M. Chan
Mr. Edmund K.H. Leung
Professor Bernard Vincent W.F. Lim
Dr. C.N. Ng
Ms. Sylvia S.F. Yau

Mr. Patrick Li

Mr. Patrick L.C. Lau

73. The Vice-chairman informed Members that the Chairperson had left the meeting due to an urgent commitment and that he would chair the afternoon session on her behalf.

Agenda Item 6

Area Improvement Plan for the Shopping Area of Mong Kok
(TPB Paper No. 7378)

[Open Meeting (whole agenda item)]

74. The following representatives from the Planning Department (PlanD) were invited to the meeting:

Mr. W.S. Lau) Senior Town Planner/Standards & Studies
Mr. J.J. Austin)

Presentation Session

75. The Vice-chairman extended a welcome and invited PlanD's representatives to brief Members on the Paper.

[Dr. Greg C.Y. Wong returned to join the meeting at this point.]

76. With the aid of a Powerpoint presentation, Mr. J.J. Austin covered the following aspects as detailed in the Paper:

- (a) the background of the Study on the Area Improvement Plan for the Shopping Areas of Mong Kok (the Study);
- (b) the Study Area and the considerations made in defining its coverage;
- (c) the key issues identified in the Study;

- (d) the overall and specific objectives of the Study;
- (e) the key tasks of the Study; and
- (f) the study programme, including the public consultation programme involved.

Discussion Session

77. Members generally supported the study initiatives. Major questions and comments raised by Members were as follows:

Approaches to Area Improvement

- (a) improvement should not be limited to main streets but also back lanes;
- (b) barrier-free access should be provided to cater for the needs of the physically handicapped;
- (c) the Study should endeavour to identify means to enhance local character of individual area. There were a number of themed streets within the Study Area. They could have their own unique design to promote tourism and facilitate orientation, and appropriate street furniture and amenities should be provided to complement the themed streets;
- (d) the linkage of the themed streets with similar or related characteristics should be improved, e.g. Gold Fish Street and Flower Market Road. The improvement measures should cater for the special characters of the area, e.g. landscape treatment might be appropriate for Flower Market Road but might not be so for Ladies Street;
- (e) the area had great potential in attracting locals and tourists to shop around. Street maps should be provided for the area and a

traffic-free pedestrian network should be established. Consideration should also be given to organizing an open design competition to foster the development of themed districts in the area;

Consultancy Team

- (f) a pool of expertise including urban designers, architects, landscape architects, and researchers on local cultures should be engaged in the Study;

Study Programme

- (g) possibility of expediting the implementation programme of the area improvement measures should be explored;

Study Area

- (h) the Study Area should preferably be extended to cover other areas, such as the areas adjoining the western side of Shanghai Street and the Government nursery abutting Flower Market Road;
- (i) noting that an underground shopping centre was proposed below Macpherson Playground and a subway leading to Peace Avenue might be provided, consideration should be given to examining the possible integration of Macpherson Playground and the areas around Peace Avenue, Victory Avenue, Liberty Avenue (with clusters of second-hand car retail shops, pubs and pet stores) and inclusion of these areas into the Study Area;
- (j) whether there were any special reasons for annotating certain areas on the plan at Annex 1 of the Paper as “Potential Area for Street Activities”;

Other Questions/Comments

- (k) the locals should be consulted with a view to obtaining more ideas pertaining to the Study Area;
- (l) it might be worthwhile to undertake assessments on the impacts of large shopping malls on the surrounding local shops;
- (m) noting that some schools in the area had surplus school places, the Government might consider merging or relocating these schools elsewhere and releasing the land for area improvement; and
- (n) whether the Study could also address the issues relating to indecent advertisement signs in the area.

78. In response, Mr. W.S. Lau made the following points:

Approaches to Area Improvement

- (a) consideration would be given to improving the back lanes as part of the integrated improvement measures;
- (b) the Study would pay attention to the needs of the physically handicapped and elderly persons;
- (c) the Study would review different parts of the area and identify opportunities to enhance their functional roles. The area improvement measures would give due respect to the local characteristics of individual area. Instead of adopting standard design, consideration would be given to providing appropriate street furniture and landscape measures which complemented the themes of a particular area;
- (d) the Study would take into consideration the suggestion of providing street maps for the area. The provision of a network of pedestrian

connections would also be studied. The suggestion of organizing an open design competition would also be considered;

Consultancy Team

- (e) a pool of relevant expertise would be commissioned for the Study;

Study Programme

- (f) the Study was expected to be completed within 24 months to allow sufficient time for organizing two rounds of public consultation. Noting that the public would prefer early implementation of the improvement measures, six priority projects would be identified for early implementation and to serve as a catalyst for the area improvement initiatives;

[Professor Bernard V.W.F. Lim left the meeting at this point.]

Study Area

- (g) the boundary shown on the plan at Annex 1 of the Paper indicated the broad study area. It covered those areas where the main problems affecting the pedestrian environment, traffic and landscaping were more concentrated. The Study Area was defined after consultation with the relevant Government departments to ensure that the Study would be manageable and that the integrated improvement measures proposed would have a maximum impact. Flexibility would be allowed to include areas outside the study boundary should improvement measures come up with such justifications;
- (h) the possibility of using the area currently occupied by the Government nursery abutting Flower Market Road to help alleviate the traffic congestion problems in the area was being explored;

- (i) the Study focused on short-term and medium-term projects, while the proposed underground shopping centre below Macpherson Playground was a long-term project. Notwithstanding this, the proposal could be further investigated;
- (j) the annotation of “Potential Area for Street Activities” along Shantung Street, as shown on the plan at Annex 1 of the Paper, indicated areas with good potential to serve as an area for congregation. The Transport Department was carrying out a traffic study to explore the possibility of converting a section of Nathan Road to a bus-only corridor. If the proposal was materialized, there would be less traffic in the area and some sections of Shantung Street might be considered for use as a public place;

Other Questions/Comments

- (k) early consultation with the locals would be made to gain a better understanding of the issues involved, and the format of how the consultation would be conducted was not yet confirmed. The relevant District Council, Area Committee, various transport-related associations, and local shop owners and retail operators, among others, would be consulted;
- (l) consideration would be given to undertaking assessments on the impacts of large shopping malls on the surrounding local shops;
- (m) noting that Mong Kok was small and congested, consideration would be given to making good use of those Government sites in the area, including the FEHD and WSD depots at Sai Yee Street and the temporary car park at Argyle Street, which were currently under-utilized. For example, it might be possible to relocate the mini-bus stops to the less congested areas. Possible opportunity offered by surplus school sites was noted and would be further studied; and

- (n) while the Study could cover issues relating to the design of road/street signage, those relating to indecent advertisement signs in the area would be beyond the scope of the Study.

79. As Members had no further question or comment to raise, the Vice-chairman requested Messrs. W.S. Lau and J.J. Austin to take Members' comments into account in the Study. He thanked Messrs. Lau and Austin for attending the meeting, and they left the meeting at this point.

Agenda Item 2

Matters Arising

80. The minutes of sub-item (i) under this item were recorded under confidential cover.

[Ms. Sylvia S.F. Yau left the meeting at this point.]

(ii) Town Planning Appeal Received

Town Planning Appeal No. 16 of 2005 (16/05)

Proposed Harbourside Tourism, Entertainment and Commercial Facilities
and Minor Relaxation of Building Height Restrictions in

“Other Specified Uses (1)” and “Other Specified Uses (2)” annotated

“Cultural and/or Commercial, Leisure and Tourism Related Uses” Zones

at Hoi Yu Street, Quarry Bay, Hong Kong

(Application No. A/H21/122)

81. The Secretary reported that an appeal against the Board's decision to reject on review an application for harbourside tourism, entertainment and commercial facilities and minor relaxation of building height restrictions in the “Other Specified Uses (1)” and “Other Specified Uses (2)” annotated “Cultural and/or Commercial, Leisure and Tourism Related Uses” zones at Hoi Yu Street, Quarry Bay (i.e. the “Old Hong Kong Scheme”) was received by the Town Planning Appeal Board on 1.8.2005.

82. The Secretary said that the review application was rejected by the Board on 20.5.2005 on the grounds that the proposed development was of excessive scale and intensity; the implementability of the proposed development was in doubt; and the submission had not demonstrated that the wall effect of the proposed development would be minimized and that spacious environment would be provided for the pedestrians. The hearing date of the appeal was yet to be fixed.

(iii) Town Planning Appeal Statistics

83. The Secretary reported that as at 5.8.2005, 21 cases were yet to be heard by the Town Planning Appeal Board. Details of the appeal statistics were as follows:

Allowed	:	12
Dismissed	:	80
Abandoned/Withdrawn/Invalid	:	109
Yet to be Heard	:	21
Decision Outstanding	:	3
<hr/>		
Total	:	225

84. The Vice-chairman remarked that the Board had finished considering all the agenda items which were scheduled for public viewing. He said that the Board would proceed with the remaining agenda items in a private session.

**Legal Submissions on Central Reclamation Rezoning Application
Town Planning Board Hearing on Friday, 5th August 2005
Court of Final Appeal Judgment – Overriding Public Need Test**

Duty of Board members

1. The Society has submitted a Rezoning Request to the Board for consideration. In considering the Rezoning Request, all the Board members have the duty as public officers to have regard to the principles stated in Section 3 (1) of the Protection of the Harbour Ordinance (“the Harbour Ordinance”) and in accordance with the legal interpretation prescribed by the Court of Final Appeal (“CFA”) Judgment a summary of which is hereto annexed.
2. The statutory presumption against reclamation can only be rebutted when the Overriding Public Need Test prescribed by the Judgment has been complied with.

Present OZP Must Be Amended

3. The present OZP was prepared in accordance with an erroneous legal interpretation of the Harbour Ordinance and must now be reviewed in accordance with the correct legal interpretation prescribed by the CFA.
4. Applying the CFA test, at the present time there is no cogent and convincing material to justify the reclamation of the 5 hectares reclamation for the Marine Basin area (“the Marine Basin Area”) and it should be deleted from the present OZP. This so-called Marine Basin Area is the area referred to in paragraphs 4.3.1 and 4.3.2 of our Rezoning Request.
5. The present OZP must be amended and cannot be allowed to stand because it takes immediate statutory effect and the approved Marine Basin Area reclamation can be immediately proceeded with.
6. Furthermore, under Section 3(2) of the Town Planning Ordinance, the Board is required to make such public inquiries and arrangements as it may consider necessary for the preparation of the draft OZP. With regard to the present OZP, public inquiries have never been conducted in accordance with the correct interpretation of the Harbour Ordinance.

Justification of Marine Basin Area

7. Therefore if the Government still wants to reclaim for the Marine Basin Area after the Wanchai WDII Review, then they must come back to the Board to justify the proposed reclamation. The Board should then consider the Government’s application in accordance with the CFA Judgment and the Board must then also make the public enquiries required by Section 3(2) of the Town Planning Ordinance.

Society for Protection of the Harbour Limited

Court of Final Appeal Judgment

Overriding Public Need Test

Importance of the Harbour – The public need for reclamation must be so great as to override the importance that the law attaches to the Harbour and the degree of protection that the law affords to it. To implement the strong and vigorous statutory principle of protection and preservation of the Harbour, reclamation would only be justified where there is a much stronger public need to override such statutory principle. (Paragraph 44)

Statutory Duty – The primary duty is to protect and preserve the Harbour. The extent of reclamation that had already taken place renders what remains of the Harbour even more precious, and it makes the need to protect and preserve what remains of the Harbour all the more important and compelling. (Paragraph 31)

Legislative Intention – The Harbour Ordinance accords to the Harbour a unique legal status. The Harbour is undoubtedly a central part of Hong Kong's identity. There is a great public need to protect and preserve it having regard to its unique character. (Paragraph 35)

Natural Heritage – The Harbour is a part of nature which is inherited as a legacy from previous generations and which is to be transmitted from generation to generation. It is a community asset to be enjoyed by the people of Hong Kong. (Paragraph 33)

Protection & Preservation – There must be protection, that is, it must be kept from harm, defended and guarded. And there must be not merely protection. There must also be preservation. Preservation connotes maintenance and conservation in its present state. (Paragraph 34)

Overriding Public Need Test – A need which satisfies the following requirements (Paragraphs 44 – 49):-

Compelling – a need which has the requisite force to prevail over the strong public need for protection and preservation of the harbour

Present – the need must arise within a definite and reasonable time frame

Public – includes the economic, environmental and social needs of the community

Minimum – reclamation must not go beyond what is required

No Reasonable Alternative – where costs, time and delay would be relevant

Heavy Burden - The burden to rebut the presumption is a heavy one. (Paragraph 52) The need must go far beyond something which is “nice to have”, desirable, preferable or beneficial. (Paragraph 47)

Cogent & Convincing Materials - Due to the demanding nature of the Test, it is not sufficient to incant the Test or just to pay lip service to it. The materials relied on must be cogent and convincing. (Paragraphs 50 & 51) Each area proposed to be reclaimed must be justified. (Paragraph 48)

What is at Stake – Irreversible loss of a special asset and a natural heritage belonging to the people of Hong Kong. (Paragraph 52)