

Hong Kong, 31 August 2023

Public Engagement on Proposed Amendments to the Protection of the Harbour Ordinance  
Harbour Office, Development Bureau  
Room 1106-07, 11/F, Wing On Kowloon Centre,  
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**Re: Public Engagement on Proposed Amendments to Protection of the Harbour Ordinance**

Dear Sir/Madam,

In 2002, we conducted a campaign - Designing Hong Kong Harbour District. The objective was to build consensus among government, business and civic sectors on sustainable planning for the Harbour District: Victoria Harbour and its adjoining districts, which forms the heart of the Pearl River Delta.

In response to our efforts, government formed the Harbourfront Enhancement Committee, which was later converted into the Harbourfront Commission, advising the Secretary for Development and the Commissioner for the Harbourfront, on planning, development and uses of the harbourfront areas and adjacent waters.

As a member of the Society for Protection of the Harbour we have recommended to Government the 'Proportionality Principle on Reclamation of Victoria Harbour', acknowledging that the greater the adverse impact of the reclamation on the harbour, the greater must be the justification; accordingly having established a public need, in deciding if such need overrides the importance of the harbour, the prime consideration is whether any enrichment of the public enjoyment of the harbour and any enhancement of the environmental, social and economic value of the harbour as a harbour as a result of the reclamation would justify the loss and damage consequentially caused to the harbour.

With this in mind, we have proposed various enhancement works irrespective of the fact that they involved some minor reclamations, including for the boardwalk under the Island Eastern Corridor. Preparation for this project has proven that reclamation is acceptable and implementable without changing the law. Moreover, government and public have learned how to establish the public overriding need and agree on minimisation of reclamation. This learning forms the basis for significant time and cost savings for similar future projects for enhancement of enjoyment of the harbour as a harbour.

Having said that, we recognise the benefit of exempting a list of **minor harbour enhancement works** from the "presumption against reclamation" principle and the "overriding public need" test, to further expedite harbourfront enhancement projects which improve the enjoyment of the harbour as a harbour.

Equally we recognise the need for temporary or **non-permanent reclamations** to facilitate works requirements to be exempted.

Having said this, we urge government to compel all departments to minimise and closely monitor the extent and time required for all such works, and where applicable, to ensure that the harbour is reinstated with sufficient water depth for use of the harbour as a harbour in the affected area.

At all times, Government must engage the public and relevant stakeholders in advance to agree that the above applies, and to resolve any objections raised prior to proceeding with minor harbour enhancement and temporary works even when they are exempted from the “presumption against reclamation” principle and the “overriding public need” test.

We thus do welcome the proposed framework of public engagement and exhibition of cogent and convincing materials (CCM) for public inspection related to large scale reclamation. The framework should apply to all projects involving reclamation. This process provides clarity to government departments and private entities which seek to undertake projects which impact the harbour. Public engagement is crucial to good urban planning as it allows proponents and the community to learn and understand the range of diverse perspectives and opinions and provide all with an opportunity to improve the proposed projects for the public benefit, and the public’s enjoyment of the harbour as a harbour.

Finally, we strongly oppose to amendments in relation to **Large Scale Reclamations**. It is inappropriate for the CE-in-C, as the head of the Hong Kong Government, to be the final decision maker of reclamation projects as there are obvious conflicts of interest. The final arbiter of large-scale reclamation should remain with an independent tribunal such as the Law Courts.

As government is keen to facilitate and expedite works – including those which may involve reclamation – we fully support further fine-tuning of the relevant circulars guiding public works projects. There is no need to make amendments to the Ordinance itself.

The presumption against reclamation in the harbour is clearly identified in the Protection of the Harbour Ordinance and must not be undermined. The public overriding needs tests identified by the Court of Final Appeal’s judgement in 2004 must remain in place for all works which involve reclamation.

Victoria Harbour is a precious natural asset and icon of our city. It is to be treasured for all and future generations. It represents the story of Hong Kong.

Herewith we so submit for your consideration.

Yours sincerely, Designing Hong Kong Limited