

Central Reclamation Phase III

Purpose

This paper briefs Members on the background, latest development, and the Government's position regarding the Central Reclamation Phase III ("CRIII").

Background

2. CRIII arose from a number of planning studies commissioned by the Government first dated back to the early 1980s. A chronology of events related to CRIII is attached at **Annex A**.

3. CRIII is the fourth of the five phases of the Central and Wanchai Reclamation, the need for which was first identified in the strategic study on "Harbour Reclamation and Urban Growth" undertaken between March 1982 and October 1983. The need was further confirmed in various planning studies, including the Territorial Development Strategy of 1984 and the Territorial Development Strategy Review of 1996. The whole Central and Wanchai Reclamation project forms land for the construction of, among other things, strategic transport links, associated surface road networks, the Airport Railway and its Hong Kong Station and the Hong Kong Convention and Exhibition Centre Extension. The Central Reclamation Phases I, II and the Wanchai Reclamation Phase I were completed in 1993 to 1998.

4. CRIII is needed to provide land for essential transport infrastructure including the Central-Wanchai Bypass ("CWB") and Road P2 network and to re-provision existing waterfront facilities (e.g. pumping stations providing cooling water for buildings in Central, Star Ferry piers and Queen's Pier). The land made available for the above items will also provide an opportunity for a vibrant waterfront promenade for the access and enjoyment by the community. Although some of the reclaimed land is reserved for commercial uses, stringent height restrictions are

stipulated on the OZP so that only low rise developments will be allowed on the waterfront. The commercial sites along the promenade are meant for waterfront related commercial and leisure uses such as retail shops and cafes/restaurants to complement the function of the promenade as an attraction to our citizens and tourists.

5. Also accommodated in the CRIII will be -

- a military dock for the People's Liberation Army as agreed under the 1994 Sino-British Defence Land Agreement; and
- the future North Hong Kong Island Line and an overturn tunnel for the Airport Railway and Tung Chung Line to allow them to operate at their full capacity.

6. The Legislative Council, relevant District Councils, professional bodies and the general public have all been consulted on CRIII, and have given support for the project.

Vital conduit to solve traffic problems

7. At present, the traffic generated from the completed Central Reclamation Phase I ("CRI") area north of Exchange Square has to be routed through some already congested roads and junctions in Central. Traffic along Man Yiu Street and Connaught Place, which is the main east-bound outlet, has to wait for several traffic light cycles before joining Connaught Road Central. There is a high risk of a gridlock in the CRI area as traffic is unable to exit onto Connaught Road Central, thus seriously affecting the operation of Airport Railway Station, Exchange Square, International Finance Centre ("IFC") Phases 1 & 2 and the nearby ferry piers. The gridlock will in turn cause traffic to pile up along routes carrying incoming traffic to CRI including Connaught Road Central, Pedder Street and Queen's Road Central. By year 2006, traffic along the main east-bound outlet is forecast to double its current volume. As a result, a traffic queue up to 850 meters will occur occupying the full carriageway width along Connaught Place/Man Yiu Street/Man Cheung Street around the Airport Railway Station and IFC Phases 1 & 2.

8. At present, the Connaught Road Central-Harcourt Road- Gloucester Road corridor is operating over its capacity and there is regular traffic congestion. CWB is a strategic road linking the Rumsey Street Flyover with the Island Eastern Corridor via the Island Eastern Corridor Link. The CWB and the associated Road P2 network

will provide urgent relief to the traffic congestion problem in Central and indeed the whole northern shore of the Hong Kong Island. The community in general has accepted that these road schemes are urgently needed. As such, it is essential to proceed with CRIII early. The Government has thoroughly considered the presumption against reclamation under the Protection of the Harbour Ordinance (“PHO”) and is of the view that if the new roads have to be built, we must reclaim land. Drawings/maps to illustrate the traffic problem and the extent of reclamation under CRIII are at **Annex B**.

Consultation and support

9. The draft Central District (Extension) Outline Zoning Plan (“OZP”) covering CRIII was exhibited for public inspection on 29 May 1998 in accordance with the Town Planning Ordinance (“TPO”). At that time, the draft OZP covered a proposed reclamation area of 38 hectares.

10. At the end of the two-month exhibition period, 70 objections were received, including quite a number on the ground that the proposed scale of reclamation was excessive. After considering the objections, the Town Planning Board (“TPB”) requested the Government to undertake a study to make recommendations to reduce the scale of reclamation. As a result, the area of reclamation was reduced to 23 hectares (i.e. the “minimum reclamation option”). The minimum reclamation option was presented to the objectors at the TPB hearing on 30 March 1999 and was considered generally acceptable by them as a suitable basis for the planning of the reclamation. After giving due consideration to the objections and the revised reclamation extent proposed by the Government, TPB decided to propose amendments to the draft OZP and the minimum reclamation option was adopted.

11. On 10 June 1999, the Government presented the minimum reclamation option to the Legislative Council Panel on Planning, Lands and Works and the scheme was generally accepted. On 16 July 1999, the proposed amendments to the draft OZP were gazetted under TPO.

12. In mid-1999, the Government presented the amended draft OZP to the then Central and Western District Board and various professional bodies including the Hong Kong Institute of Engineers, Hong Kong Institute of Planners, Hong Kong Institute of Architect, Hong Kong Institute of Surveyors, Hong Kong Institute of Landscape Architect and the Real Estate Developers’ Association of Hong Kong. They generally supported the minimum reclamation option. On 22 February 2000,

the amended draft OZP incorporating this option was approved by the Chief Executive in Council.

13. As a consequence of the above plan-making process, the Government consulted the Central and Western and Wan Chai District Councils in March 2000 regarding the proposed CRIII works, and received no adverse comments. The Finance Committee of this Council approved funding for CRIII's detailed design and construction on 28 April 2000 and 21 June 2002 respectively. The works contract (with a contract price of \$3,790 million) was awarded on 10 February 2003, and is scheduled to last for 55 months. The actual area of reclamation under the contract is 18 hectares.

14. As illustrated in paragraphs 9-13 above, the CRIII has gone through a due process of statutory town planning procedures and public consultation, in which there had been thorough public discussion on matters including the scale of reclamation and the usage of the land to be made available by the project.

No adverse environmental impact

15. CRIII is a designated project under the Environmental Impact Assessment ("EIA") Ordinance, which requires an Environmental Permit for the construction and operation of the works. The EIA for CRIII concluded that the project had no adverse long-term environmental implications. Short-term impacts during construction, such as noise and dust, would be controlled to the established standards through the implementation of appropriate monitoring and mitigation measures in the works contracts. The EIA report for CRIII was endorsed by the Advisory Council on the Environment on 27 August 2001 and subsequently approved by the Director of Environmental Protection under the EIA Ordinance. The Environmental Permit was granted in respect of the CRIII works.

16. As the CRIII project area holds no unique habitats or ecological resources of conservation value or interest, ecological impacts, which would trigger migration of marine life, are not anticipated to result from the CRIII project. There would not be any impact on the ecological resources outside the study area.

17. As the EIA findings have been endorsed and relevant permits issued through a due process, the recent discussions on the interpretation of the PHO would not change these findings. CRIII is in full compliance with the requirements of the EIA Ordinance and will have no adverse long-term environmental implications.

Latest developments

18. In February 2003, the Society for Protection of the Harbour Limited (“SPH”) applied for a judicial review (“JR”) of TPB’s decision in respect of the draft Wan Chai North OZP. The Court of First Instance hearing the application handed down its judgment on 8 July 2003. The Judge ruled that reclamation in the Harbour must satisfy the three tests of (1) compelling, overriding and present need, (2) no viable alternative, and (3) minimum impairment to the Harbour. Otherwise, the presumption against reclamation in section 3 of the PHO would not be rebutted. TPB’s decision in respect of the draft Wan Chai North OZP was reviewed and quashed. TPB was ordered to reconsider the draft Wan Chai North OZP and the objections thereto. In view of the far-reaching implications arising from the ruling, TPB decided to appeal against the judgment after announcing that it would no longer pursue the Harbour Park proposal. By consent of TPB and SPH, the appeal will go to the Court of Final Appeal direct and will be heard in December 2003. While the Judge has not directed or ordered Government to review other reclamation projects, Government has initiated the review of projects that involve the reclamation of the Harbour.

19. On 25 September 2003, SPH applied to the High Court for a JR on decisions made by the Government in relation to CRIII and demanded for an interim injunction over CRIII works.

20. On 27 September 2003, the Government, noting that judicial proceedings have commenced and that a court decision on the interim injunction case is expected soon, announced on its own initiative to suspend all marine works under CRIII pending the High Court’s judgment on the interim injunction case to be heard on 3 October 2003.

21. On 6 October 2003, the High Court delivered its judgment, which ruled in favour of the Government, after assessing the balance of convenience in the wider public interest and allowed for a continuance of the CRIII works.

22. The Central District (Extension) OZP is lawful and remains effective until it is set aside by the court. The reclamation works being carried out are lawful. The High Court notes that the works are quite capable, at this relatively early stage, of being physically scaled back or removed without incurring an absurd expenditure of public funds; and that if the works were stopped now, substantial delay and costs

would be incurred in proceeding with the CWB, a roadwork that is needed in the greater public interest.

23. Notwithstanding that the High Court has ruled in the Government's favour and allows for continuance of the works, we have not ordered full resumption of all marine works. Instead, we will resume only those works programme that will not cause any irreparable damages to the Harbour such as dredging work. We are liaising with the contractor on the re-arrangement of the works. The impact of our decision on the re-arrangement of the works programme are being examined.

Government's position

24. The reclamation works are only at an early stage. We will ensure that no "irreparable" harm will be done to the Harbour, when allowing the CRIII works to proceed from now until the final determination of the JR on CRIII early next year.

25. The Government agrees that it is important to protect and preserve the Victoria Harbour, which is an invaluable natural asset of the people of Hong Kong. The Government is also determined to do its utmost to protect the Harbour and comply with the PHO. We need to preserve the Harbour for our future generations. Recently, diverse views have been expressed in the community on the legality and scope of CRIII. As judicial proceedings are underway on the application for JR filed by SPH, it is not appropriate for the Government to comment on specific details.

26. The Government will continue to respect the rule of law, act in accordance with the law and follow the decision of the Court. While we will, of course, be bound by the Court's final verdict, we are prepared to continue to listen to the views of this Council and members of the public on the subject.

Housing, Planning and Lands Bureau
October 2003

Chronology of Events Relating to Central Reclamation Phase III (“CRIII”)

Mar 1982 – Oct 1983	The need for reclamation in Central and Wanchai was first identified in a strategic planning study entitled “Study on Harbour Reclamation and Urban Growth”.
1984	The need was reconfirmed in various major planning development studies, including the Territorial Development Strategy.
1987 – 1989	The Central and Wan Chai Reclamation Feasibility Study was carried out.
Sep 1991	ExCo endorsed the Metroplan Selected Strategy, which recommended various reclamation projects in the Harbour areas.
1993 – 1998	Reclamation works for Central Reclamation Phases I and II and Wan Chai Reclamation Phase I were completed.
1996	The need for reclamation in Central and Wanchai was reconfirmed in the Territorial Development Strategy Review.
30 Jun 1997	The Protection of the Harbour Ordinance (“PHO”) was enacted.
29 May 1998	The draft Central District (Extension) OZP No. S/H24/1 covering 38 hectares of reclamation was gazetted.
29 Jul 1998	By end of the 2-month exhibition period, 70 valid objections including one from the Society for Protection of the Harbour Limited (“SPH”) were received.
23 Oct 1998	Town Planning Board (“TPB”) gave preliminary consideration to the objections and agreed to request the Government to undertake a further study to determine the minimum reclamation option.
Oct 1998 – Mar 1999	The Government drew up the minimum reclamation option, which proposed to reduce the reclamation area to 23 hectares.

5 Mar 1999	TPB considered the minimum reclamation option.
30 Mar 1999	TPB heard the objections at its meeting of 30 March 1999, although SPH did not withdraw their objection to the OZP, they together with other objectors on the scene agreed that the minimum reclamation option could be used as a blue print for CR III works.
23 Apr 1999	TPB gave deliberation to the objections and decided to propose amendments to the draft Central District (Extension) OZP No. S/H24/1 to meet/partially meet the objections by reducing the extent of the proposed reclamation to 23 hectares.
10 Jun 1999	The minimum reclamation option was presented to the LegCo Panel on Planning, Lands and Works and was generally accepted. The majority of the comments were concerned with land use, traffic, the design of roads and waterfront promenade. After considering Members' comments, TPB gazetted the amended Central District (Extension) OZP that covered the minimum reclamation option on 16 July 1999.
16 Jul 1999	The amended Central District (Extension) OZP No. O/S/H24/1-A covering the minimum reclamation option of 23 hectares was gazetted. 18 original objections were subsequently withdrawn.
Mid 1999	The Government presented the amended minimum reclamation option to the then Central and Western District Board and various professional bodies (e.g. Hong Kong Institute of Engineers, Hong Kong Institute of Planners, Hong Kong Institute of Architect, Hong Kong Institute of Surveyors ("HKIS"), Hong Kong Institute of Landscape Architect ("HKILA"), and Real Estate Developers Association of Hong Kong). They generally supported the revised reclamation scheme.
1 Sep 1999	TPB considered the further objection and decided to propose further amendments to the draft Central District (Extension) OZP to partially meet the further objection.
22 Feb 2000	The amended Central District (Extension) OZP No. S/H24/2 was approved by CE in C.
3 Mar 2000	The approved OZP was gazetted for public inspection.

Mid 2000	The feasibility of the minimum reclamation option was further confirmed by the Comprehensive Feasibility Study for the Minimum Reclamation.
16, 21 Mar 2000	The Central and Western and Wan Chai District Councils were consulted on the proposed CRIII works and there were no adverse comments.
28 Apr 2000	Finance Committee (FC) of LegCo approved funding for the detailed design of CRIII.
30 Jun 2000	CRIII reclamation and road works were gazetted under the Foreshore and Sea-bed (Reclamations) Ordinance and the Roads (Works, Use and Compensation) Ordinance respectively. They received 3 and 2 objections respectively and SPH was not an objector under either Ordinance.
Jul 2000 – late 2002	CRIII's detailed design stage completed.
27 Aug 2001	CRIII's EIA report was endorsed by the Advisory Council on the Environment.
31 Aug 2001	CRIII's EIA report was approved by DEP under the EIA Ordinance.
18 Dec 2001	CE in C authorized CRIII's reclamation and road works.
Jan 2002	The Government presented to LegCo a brief informing LegCo of the authorization of CRIII's reclamation and road works and of the objections received.
1 Mar 2002	LegCo Panel on Housing, Planning and Lands was briefed on the CRIII engineering works.
7 Mar 2002	EPD issued the Environment Permit for the construction of works.
21 Jun 2002	FC approved funding for the construction of CRIII under the minimum reclamation option.
12 Aug 2002	Tenders were invited.
22 Nov 2002	Tender invitation exercise closed.
10 Feb 2003	CRIII's contract was awarded to Leighton-China State-Van Oord Joint Venture. TDD issued the Letter of Acceptance.

27 Feb 2003	SPH initiated judicial review (JR) proceedings against TPB's decision in respect of another OZP, i.e. the draft Wan Chai North OZP No. S/H25/1.
28 Feb 2003	CRIII's works commenced. The works require reclaiming land of 18 hectares.
28 Feb 2003	The High Court granted leave to SPH's application for JR.
14 Mar 2003	The High Court ordered the submission of the draft Wan Chai North OZP to CE in C be stayed.
7 Apr 2003	The High Court's hearing of the JR case commenced.
8 Jul 2003	The High Court delivered its judgment on the JR case.
19 Jul 2003	TPB announced that it had decided to lodge an appeal against the High Court judgment.
26 Aug 2003	D of J applied to Court of Final Appeal for leave for the appeal case.
17 Sep 2003	SPH wrote to the Administration asking for suspension of the reclamation works for CRIII.
25 Sep 2003	SPH applied to the High Court for an interim injunction over CRIII works.
27 Sep 2003	The Government announced to temporarily suspend all marine works under CRIII until a decision of the High Court is given on the interim injunction case.
29 Sep 2003	The Court of Final Appeal ("CFA") granted leave for TPB to appeal against the High Court ruling on the draft Wan Chai North OZP. CFA proceedings have been scheduled for 9-16 December 2003.
3 Oct 2003	The High Court heard SPH's application for an interim injunction over CRIII works.
6 Oct 2003	The High Court handed down its judgment over the interim injunction case, allowing the Government to continue with the CRIII works.