

## **Review on the Protection of the Harbour Ordinance (Cap. 531) and Proposed Framework of Legislative Amendments**

### **PURPOSE**

This paper seeks Members' views on the proposed framework for legislative amendments to the Protection of the Harbour Ordinance (Cap. 531) (PHO) with a view to facilitating harbourfront development along the Victoria Harbour while maintaining the protection of the harbour.

### **BACKGROUND AND LATEST DEVELOPMENT**

2. Any reclamation within Hong Kong which fall within the definition of "reclamation" under the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) (FS(R)O) is regulated by the FS(R)O. If the reclamations take place within the harbour as stipulated in the Interpretation and General Clauses Ordinance (Cap. 1)<sup>1</sup>, they will also be subject to the PHO.

3. The PHO was enacted in June 1997 with only four sections and simple wording (**Annex A**). Its implementation over the past two decades had been mainly shaped by two court judgments in 2004 and 2008 respectively. A chronology of major events relating to the PHO is in **Annex B**. The Government undertook in the 2021 Policy Address to review the PHO, and emphasized that the intention of the legislative amendments was to improve harbourfront connectivity or enhance harbourfront

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<sup>1</sup> "Harbour" as defined in the Interpretation and General Clauses Ordinance (Cap. 1) means the waters of Hong Kong within the boundaries specified in Schedule 3 thereto. A map showing the harbour boundaries is at **Appendix to Annex A**.

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areas for public enjoyment, and not for reclamation to provide land for sale or housing development.

## JUSTIFICATIONS FOR LEGISLATIVE AMENDMENTS

*Stringent thresholds indiscriminately covers all reclamations in the harbour*

4. Section 3 of the PHO imposes a “presumption against reclamation” in the harbour and requires all public officers and public bodies to have regard to this principle for guidance in exercising their powers. The PHO however does not specify the circumstances under which the presumption can be rebutted.

5. The 2004 judgment (see details in paragraphs 4 to 6 at **Annex B**) explained that the “presumption against reclamation” could only be rebutted by establishing an “overriding public need” (the Test); and there must be cogent and convincing materials (CCM) before the decision-maker to satisfy him that there is an overriding public need to rebut the presumption. However, the PHO itself makes no differentiation in the application of “presumption against reclamation” to different works projects, and the principle of “overriding public need” and the requirement that there must be CCM apply across-the-board to all reclamations in the harbour. As explained in the 2004 judgment, to prove that the Test can be met, project proponents are required to substantiate not only the public need for the reclamation but that such public need is **compelling and present**; that there is **no reasonable alternative to reclamation**; and that the reclamation extent **should not go beyond the minimum of that which is required by the overriding need**.

6. Furthermore, the 2008 judgment (see details in paragraphs 7 to 8 at **Annex B**) held that any (and thereby “all”)

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works of reclamation, whether intended to be permanent or temporary, fall under the constraints of the PHO and hence are subject to the “presumption against reclamation” principle, even though reclamation under PHO is defined as “any works carried out or intended to be carried out for the purpose of forming land from the sea-bed or foreshore”.

7. Therefore, the “presumption against reclamation” **applies indiscriminately to all reclamations** in the harbour, **regardless of permanence, scale or nature**.

8. Since the 2004 judgment, only five reclamation projects within the harbour have proceeded upon preparation of CCM demonstrating the “overriding public need” test being met (see details at **Annex C**). While this may show that the PHO and court judgments have been effective in keeping reclamations in check, the existing legal regime does not provide a less stringent threshold for smaller-scale reclamations to fulfil the demanding nature of the Test and the requirement of CCM, and have deterred many relatively minor harbour enhancement projects involving only small-scale reclamations and affecting the harbour to a minimal extent (e.g. construction of landing steps; pier enhancement, etc.). Some consider that the Government needs not worry about implementation of such works, so long as there are sufficient justifications. However, due to the stringent threshold of the PHO and the Test, there is uncertainty as to whether these works project will be legally challenged. Also, the CCM exercise often requires heavy investment of public funding, time and manpower resources, which are disproportionate to the value and not cost effective in minor projects<sup>2</sup>. Contrasting with

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<sup>2</sup> For reference, the costs for preparing CCM under the Wan Chai Development (Phase 2), the Shatin-Central Link, the Central-Kowloon Route and the Boardwalk underneath the Island Eastern Corridor were \$13.2 million, \$0.7 million, \$2.1 million and \$1.7 million respectively. As for the time taken to complete the entire CCM preparation, the duration varied depending on the complexity and circumstances of individual works projects.

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larger-scale reclamations supporting transport infrastructure (such as strategic roads) where the expected benefits are more quantifiable, the benefits for harbour enhancement works that usually involve intangible benefits such as greater public enjoyment, improved amenity, etc. are difficult to quantify and be proven that the public need is “overriding”. Under such constraints, upon balancing public interests and priority in resource allocation, there is difficulty in implementing a number of harbour enhancement projects involving small-scale reclamations in the harbour in an effective manner.

## *Lack of certainty in assessing fulfillment of the test*

9. While project proponents are required to substantiate in the CCM whether the Test could be fulfilled, the 2004 judgment does not specify how the CCM so prepared were to be assessed by a higher authority. Generally speaking, as per existing practice, individual works department initiating the reclamation will prepare CCM through conducting technical assessments and public consultation, in order to satisfy that the project has an “overriding public need”. In fact, the existing law does not stipulate a standardised assessment mechanism. In contrast, under the FS(R)O, public comments processed by project proponents will be put to the Chief Executive-in-Council (CE-in-C) for consideration as to whether objections to the works should be over-ruled.

## **PROPOSED LEGISLATIVE FRAMEWORK**

10. The Government has indicated that it will not initiate large-scale reclamation in the harbour to form land for housing, commercial or industrial developments, etc. Having regard to this principle and maintaining the boundaries of the harbour to be subject to the PHO, **we propose amending the PHO in two**

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**strategic directions: on the one hand, to strengthen the mechanism for reclamations which should be regulated; and on the other hand, to facilitate in a reasonable manner works involving reclamations which would strengthen the harbour functions, improve harbourfront connectivity or help people better enjoy the harbourfront.** Below set out the proposed legislative framework –

- (a) save for those set out in (b) and (c), **all reclamations in the harbour** will continue to be subject to the stringent threshold of “presumption against reclamation” principle and the Test. New requirements concerning public engagement opportunities and fulfillment of the Test to the satisfaction of the satisfaction of the CE-in-C will also be added (see details under paragraphs 11 to 12 below);
- (b) **harbour enhancement works involving reclamations in the harbour** will be set out in the form of a statutory list in the PHO. If a works project falls within the categories on the list and the area of reclamations involved is **not more than the statutory limit (preliminary proposal is 0.8 hectare)**, such works may be exempted from the “presumption against reclamation” principle. To provide appropriate internal checks and balances, while streamlining the procedures, such works may be exempted by a Secretary-level government official (e.g. the Financial Secretary) (see details under paragraphs 13 to 15 below); and
- (c) for **non-permanent reclamations in the harbour, if the area of the harbour so affected at any point in time will not be more than the statutory limit (preliminary proposal is 3 hectares) with a duration of not more than the statutory limit (preliminary proposal is 3 years)**, such non-permanent reclamations may be

exempted from the “presumption against reclamation” principle. Similarly, to provide appropriate internal checks and balances while streamlining the procedures, such works may be exempted by a Secretary-level government official (e.g. the Financial Secretary) (see details under paragraphs 16 to 17 below).

## **SPECIFIC PROPOSALS UNDER THE FRAMEWORK**

### *(a) Reclamations in the harbour – need to fulfil the Test to the satisfaction of the CE-in-C*

11. Based on the fundamental principle of protecting the harbour against excessive reclamation, we propose introducing legislative amendments to the PHO to the following effect –

- (i) all reclamations in the harbour, save for those set out in parts (b) and (c) (under paragraphs 13 to 14 and paragraph 16 below respectively), shall continue to be subject to the “presumption against reclamation” principle and have to fulfil the Test;
- (ii) for clarity, the principles and considerations as set out in the 2004 judgment (i.e. the public need must be compelling and present; there is no reasonable alternative to reclamation; and the reclamation extent should not go beyond the minimum of that which is required by the overriding need, as well as the requirement that there must be CCM) will be reflected in the PHO;
- (iii) to provide for a proper mechanism for assessing whether the works projects fulfil the Test, it will be specified in the PHO that the assessment will be made by the CE-in-C. In the decision-making process, the CE-in-C will take into

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account the CCM prepared by project proponents and public comments received during the two-month period as mentioned in (iv) below; and

- (iv) to enhance certainty and transparency, a new mechanism with time limits will be set up under the PHO to govern the exhibition, submission and consideration of the CCM. Specifically, project proponents should exhibit the CCM for public inspection and comment for two months and submit the CCM together with public comments received to the CE-in-C within the following five months or any extended period for it to decide whether the Test has been fulfilled.

12. We envisage that examples in this category include reclamations for the purpose of forming land for roads and other infrastructure, etc. For example, the proposed works for constructing a pedestrian cum cyclist bridge with travellers across Kwun Tong Typhoon Shelter would fall within this category. Apart from receiving public comments during the two-month period, project proponents should continue the established administrative arrangements of consulting key stakeholders, including the Harbourfront Commission (HC) and District Councils. Besides, in finalising the CCM, project proponents will continue to consult relevant stakeholders and collate their views on the need for reclamation.

*(b) Reclamations in harbour enhancement works – to be processed according to streamlined procedures*

13. To facilitate harbour enhancement works involving small-scale reclamations, we propose introducing legislative amendments to the PHO to the following effect –

- (i) harbour enhancement works meeting the requirements in

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- (iii) and (iv) below may be exempted from the application of “presumption against reclamation” principle and the Test;
- (ii) to ensure appropriate internal checks and balances, exemption for reclamations under the streamlined procedures may be granted by a Secretary-level government official (e.g. the Financial Secretary), subject to him being satisfied that the harbour enhancement works meeting the requirements in (iii) and (iv) below and relevant works are justified;
  - (iii) harbour enhancement works should fall within the works set out in a prescribed list in a schedule to PHO. The works on the prescribed list aim to enhance the public enjoyment of the harbour (through enhancing connectivity and vibrancy of the harbourfront and improving water-land interface); and/or enhance the functions of the harbour as a working harbour (in terms of marine access, navigation, extreme climate risk mitigation and fishery operation, etc.). Any change to be made to the said list will be subject to negative vetting by the Legislative Council (LegCo); and
  - (iv) to limit the scale of works to be eligible for the said exemption, we propose imposing a limit on the total area of reclamation in the works involved. The preliminary proposal is **not more than 0.8 hectare**.

14. For the prescribed list of works mentioned in paragraph 13(iii) above, we propose including the following categories of harbour enhancement works. Works to be exempted include works for the construction, repair, maintenance and demolition of the structures, features or devices listed below, non-permanent reclamation required to implement such works



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(such as construction of temporary working platform), as well as relevant public amenities (such as food and beverage facilities) –

- (1) promenade and boardwalk;
- (2) cycle track;
- (3) floating pontoons;
- (4) harbour steps;
- (5) harbour pool;
- (6) viewing deck;
- (7) pier;
- (8) landing steps;
- (9) slipway;
- (10) mooring;
- (11) breakwater;
- (12) seawall;
- (13) typhoon shelter;
- (14) facilities for supporting the fishery operation in the sea, e.g. water and fuel oil selling kiosks;
- (15) devices which aim to mitigate extreme climate risks; and
- (16) items specified in the Schedule proposed to be added to the FS(R)O by the Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Bill 2022<sup>3</sup>.

15. Should the above legislative proposals be adopted and as an example of potentially applicable projects, subject to further feasibility study, we envisage that the works projects listed at **Annex D** may be eligible for exemption from the “presumption

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<sup>3</sup> In the Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Bill 2022, a new provision will be added to the FS(R)O to empower the Director of Lands to authorise minor works without gazettal and objection-receiving procedures. 10 types of works are specified in the new schedule, namely landing steps; harbour steps; slipways; mooring dolphins; beacons; floating pontoons; submarine pipelines or outfall; diffuser for open sea discharge; seawater intakes; and peripheral structure or feature associated with a marine structure.

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against reclamation” and the Test. We would also like to emphasize that even if a works project is exempted from the “presumption against reclamation” under the PHO, such works project must still continue to comply with other relevant statutory requirements (such as gazettal and receiving and considering objections as required under the FS(R)O). In addition, we will continue to attach importance to public participation in the process of implementing the said harbour enhancements works. According to established practice, project proponents should consult the HC, relevant District Councils and stakeholders to gauge their views on the project.

*(c) Works involving non-permanent reclamations – to be processed according to streamlined procedures*

16. As a result of the 2008 judgment, non-permanent reclamations are also subject to the “presumption against reclamation” principle and the Test. For example, non-permanent reclamations are usually undertaken to construct temporary working platforms in the harbour for implementing transport infrastructure projects, such as road tunnels. As the affected part of the harbour would be reinstated upon completion of works, they do not cause irrevocable damage to the harbour area. We propose introducing legislative amendments to the PHO to the following effect –.

- (i) non-permanent reclamations meeting the requirements in (iii) below, though not related to harbour enhancement works, may be exempted from the “presumption against reclamation” principle and the Test;
- (ii) similar to the proposal for harbour enhancement works, to ensure appropriate checks and balances, exemption for non-permanent reclamations may be granted by a Secretary-level government official (e.g. the Financial

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Secretary), subject to him being satisfied that non-permanent reclamations meeting the requirements in (iii) below and relevant works are justified; and

- (iii) in a works project involving non-permanent reclamation, the area affecting the harbour at any point in time shall **not be more than the statutory limit (preliminary proposal is 3 hectares) and of a duration not more than the statutory limit (preliminary proposal is 3 years, starting from the time when the works begin affecting the harbour until the time when the works are dismantled and the relevant part of the harbour is reinstated to its original state).**

17. Should the above legislative proposals be adopted and as an example of potentially applicable projects, subject to further feasibility study, we expect that projects involving non-permanent reclamations, such as the extension of the cycle tracks in Tsuen Wan, will benefit from proposals (b)/(c) above. Project proponents will continue the current practice of conducting public consultation on projects of this category, including consultation with the HC, relevant District Councils and stakeholders. We would also like to emphasize that even if a works project is exempted from the “presumption against reclamation” principle under the PHO, such works project must still continue to comply with other relevant statutory requirements (such as gazettal and receiving and considering objections as required under the FS(R)O).

### **WAY FORWARD**

18. We have consulted the Panel on Development of the LegCo on 28 March 2023. After consulting the HC, a public engagement exercise will be conducted to collect public views on the proposed

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legislative amendments from April 2023. Taking into account the comments from LegCo Members, HC Members as well as members of the public, we will finalise the legislative amendments with a view to submitting the amendment bill to the LegCo in the first half of 2024.

## ADVICE SOUGHT

19. Members are invited to offer their views on the above proposals.

<b>Annex A</b>	Chapter 531 - Protection of the Harbour Ordinance
<b>Annex B</b>	Chronology of major events relating to the Protection of the Harbour Ordinance (PHO)
<b>Annex C</b>	Works projects with cogent and convincing materials (CCM) prepared since the Court of Final Appeal's judgment in 2004
<b>Annex D</b>	List of potential projects which may benefit from the proposed legislative amendments to the PHO

**Harbour Office  
Development Bureau  
March 2023**

## **Chapter 531** **Protection of the Harbour Ordinance** **(Last updated date: 13 December 2018)**

An Ordinance to protect and preserve the harbour by establishing a presumption against reclamation in the harbour.

*(Replaced 9 of 1998 s. 2. Amended 75 of 1999 s. 2)*

[30 June 1997]

*(Format changes—E.R. 5 of 2018)*

### **1. Short title**

This Ordinance may be cited as the Protection of the Harbour Ordinance.

### **2. Interpretation**

In this Ordinance, unless the context otherwise requires—

**reclamation** (填海) means any works carried out or intended to be carried out for the purpose of forming land from the sea-bed or foreshore; *(Replaced 9 of 1998 s. 3)*

**relevant Ordinance** (有關條例) means—

- (a) the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127);
  - (b) the Cross-Harbour Tunnel Ordinance (Cap. 203);\*
  - (c) the Eastern Harbour Crossing Ordinance (Cap. 215);<sup>Δ</sup>
  - (d) the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276);
  - (e) the Roads (Works, Use and Compensation) Ordinance (Cap. 370);
  - (f) the Western Harbour Crossing Ordinance (Cap. 436);
- or

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(g) any other Ordinance under which reclamation is authorized or which otherwise provides for reclamation.

*(Amended 9 of 1998 s. 3; 75 of 1999 s. 3)*

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Editorial Note:

\* Repealed – see 44 of 1999 s. 45.

△ Repealed – see 7 of 2016 s. 19.

### 3. Presumption against reclamation in the harbour

*(Amended 9 of 1998 s. 4)*

(1) The harbour is to be protected and preserved as a special public asset and a natural heritage of Hong Kong people, and for that purpose there shall be a presumption against reclamation in the harbour. *(Amended 75 of 1999 s. 4)*

(2) All public officers and public bodies shall have regard to the principle stated in subsection (1) for guidance in the exercise of any powers vested in them.

### 4. Transitional

(1) This Ordinance does not apply to any reclamation authorized under a relevant Ordinance before the commencement of this Ordinance. *(Amended 75 of 1999 s. 5)*

(2) The Protection of the Harbour (Amendment) Ordinance 1999 (75 of 1999) (***the Amendment Ordinance***) does not apply to any reclamation authorized under a relevant Ordinance before the commencement of the Amendment Ordinance. *(Added 75 of 1999 s. 5)*

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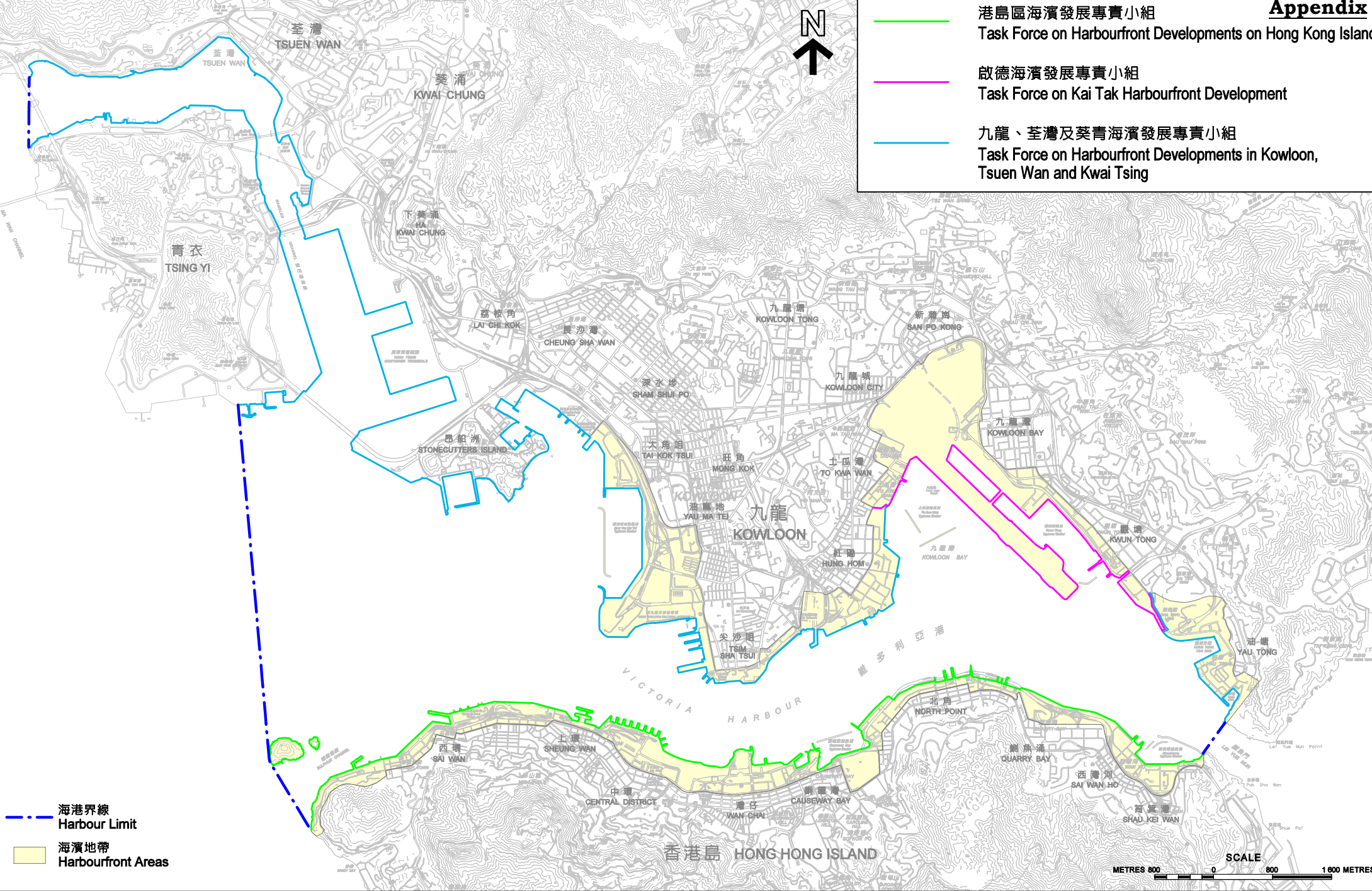
### Schedule 1

*(Repealed 75 of 1999 s. 6)*

港島區海濱發展專責小組  
Task Force on Harbourfront Developments on Hong Kong Island

啟德海濱發展專責小組  
Task Force on Kai Tak Harbourfront Development

九龍、荃灣及葵青海濱發展專責小組  
Task Force on Harbourfront Developments in Kowloon, Tsuen Wan and Kwai Tsing



海港界線  
Harbour Limit

海濱地帶  
Harbourfront Areas

海濱事務委員會轄下專責小組所負責的範圍  
Areas of Responsibility of the Harbourfront Commission Task Forces  
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## Annex B

### **Chronology of major events relating to the Protection of the Harbour Ordinance (PHO)**

#### *Enactment of PHO in 1997*

The PHO was enacted based on a Private Member's Bill submitted by a Legislative Council (LegCo) member in August 1996<sup>1</sup>. According to the Report of the Bills Committee on the Protection of the Harbour Bill in June 1997, the purpose of the Bill was "...to ensure that Victoria Harbour will be protected against excessive reclamation. It establishes a presumption against reclamation in the harbour...".

2. The Protection of the Harbour Bill was passed to become the PHO in June 1997. Its application was limited to the central harbour. Subsequently, further legislative amendments were made in December 1999 to expand its scope to cover the whole of the harbour<sup>2</sup>. The amended PHO has continued to remain in force since then.

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<sup>1</sup> Hong Kong is short of land and reclamation has long been a well-established means to generate more land to serve the social and economic development of Hong Kong. As development progressed, there had been rising concerns for the protection and preservation of the Victoria Harbour in the 1990s. It was against such background that Hon Christine LOH, a LegCo member at the time, submitted the Protection of the Harbour Bill.

<sup>2</sup> The boundaries of the harbour are set out in Schedule 3 to the Interpretation and General Clauses Ordinance (Cap. 1), recapped as follows –

“On the east - A straight line drawn from the westernmost extremity of Siu Chau Wan Point to the westernmost extremity of Ah Kung Ngam Point (sometimes known as Kung Am);

On the west - A straight line drawn from the westernmost point of Island of Hong Kong to the westernmost point of Green Island, thence a straight line drawn from the westernmost point of Green Island to the southeastern most point of Tsing Yi, thence along the eastern and northern coast lines of Tsing Yi to the westernmost extremity of Tsing Yi and thence a straight line drawn true north therefrom to the mainland.”



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3. The PHO itself does not explain how the “presumption against reclamation” under Section 3 of the PHO can be rebutted. The rebuttal of this presumption through the fulfillment of the “overriding public need” test (the Test) was indeed introduced in the judgment of the Court of Final Appeal in 2004, as elaborated below.

### *Court of Final Appeal (CFA)’s judgment in January 2004*

4. Arising from the proposed Central Reclamations (Phase 3) and Wan Chai Development Phase 2, a judicial review was lodged in February 2003 regarding the Town Planning Board’s decisions that the two proposed reclamation projects were in compliance with the PHO. In January 2004, the CFA handed down the judgment (the 2004 judgment), clarifying the interpretation of the statutory principles in the PHO. It held that “there must be **protection**, that is, (the harbour) 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.**” It was also held that “the statutory presumption [against reclamation in the harbour]... is a legal concept and is a means or method for achieving protection and preservation. Its legal effect is not to impose an absolute bar against any reclamation...As a presumption, it is **capable of being rebutted.**”

5. CFA further held that the presumption against reclamation should be established and could only be rebutted by establishing **an overriding public need** for reclamation. There were three key concepts to explain this overriding public need –

- (a) a need would only be regarded as overriding if it is a **compelling and present need**. The need has to be compelling so that it has the requisite force to prevail over the strong public need for protection and preservation;

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- (b) where there is a **reasonable alternative to reclamation**, an overriding need or reclamation would not be made out; and
- (c) the **extent of the proposed reclamation should not go beyond the minimum** of that which is required by the overriding need.

6. There must be **cogent and convincing materials (CCM)** before the decision-maker to satisfy him that there is an overriding public need for reclamation so as to rebut the presumption against it.

*Court of First Instance (CFI)'s judgment in March 2008*

7. Subsequent to the 2004 judgment, another judicial review was lodged against the Government in respect of the **temporary reclamation** under the proposed road scheme of the Central-Wan Chai Bypass and the Island Eastern Corridor Link. Specifically, the applicant of the judicial review sought a declaration that the PHO did apply to the proposed temporary reclamation works. The CFI delivered its judgment in March 2008 (the 2008 judgment), and held that there was no stated limitation on the nature of works; and the definition of “reclamation” encompassed “any” works, that was, works of all kinds. **Any (and thereby “all”) works of reclamation, whether intended to be permanent or temporary, fall under the constraints of the PHO.** However, the PHO provides that the works should be for a purpose, i.e. to form “land”.

8. The 2008 judgment has also elaborated on the meaning of “land”. As held in the 2008 judgment, what is or is not to be considered “land” is not defined in the PHO and accordingly, its ordinary meaning is to be adopted. In other words, each case would depend on its own facts and circumstances.

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### Annex C

### Works projects with cogent and convincing materials (CCM) prepared since the Court of Final Appeal's judgment in 2004

No.	Project [Leading party]	Key features which have implications with PHO	Way of handling	CCM report (if available)
1.	<p><b>Central Reclamation (Phase 3) (CRIII)</b> [Civil Engineering and Development Department (CEDD)]</p>	<ul style="list-style-type: none"> <li>involved <b>permanent reclamation</b> to provide land for essential transport infrastructure and a waterfront promenade on the northern shore of Hong Kong Island.</li> </ul>	<ul style="list-style-type: none"> <li>As an effort to demonstrate there was an overriding public need in CRIII, CEDD conducted two reviews in 2003 and 2004 in respect of reclamation for CRIII to ensure its compliance with PHO.</li> </ul>	<p>(Report in 2004) <a href="https://www.reclamation.gov.hk/filemanager/en/content_11/review02_apr04.pdf">https://www.reclamation.gov.hk/filemanager/en/content_11/review02_apr04.pdf</a></p>
2.	<p><b>Wanchai Development (Phase 2) (WDII)</b> [CEDD/Highways Department (HyD)]</p>	<ul style="list-style-type: none"> <li>involved <b>permanent reclamation</b> to provide land for constructing a Trunk Road and other key transport infrastructure, as well as developing a waterfront promenade.</li> <li>involved <b>temporary reclamation</b> to facilitate the construction of the Trunk Road tunnel (under the Central-Wanchai Bypass and Island Eastern Corridor Link project managed by HyD) beneath the seabed of ex-Public Cargo Working Area (ex-PCWA) and Causeway Bay Typhoon Shelter (CBTS). The total duration of the temporary reclamation works was <b>around 6 years</b>. The extent of temporary reclamation at ex-PCWA and CBTS were <b>1.9 hectares</b> and <b>6.4 hectares</b> approximately.</li> </ul>	<ul style="list-style-type: none"> <li>CEDD completed a CCM report for the WDII project in 2007.</li> <li>The cost for preparing CCM was <b>\$13.2 million</b>.</li> </ul>	<p><a href="https://www.reclamation.gov.hk/filemanager/en/content_19/main_report_e.pdf">https://www.reclamation.gov.hk/filemanager/en/content_19/main_report_e.pdf</a></p>

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No.	Project [Leading party]	Key features which have implications with PHO	Way of handling	CCM report (if available)
3.	<b>Shatin to Central Link (SCL)</b> [Mass Transit Railway Corporation Limited (MTRCL) <sup>1</sup> /HyD]	<ul style="list-style-type: none"> <li>involved <b>temporary reclamation</b> for constructing a section of the railway tunnel in the vicinity of the seashore in the CBTS.</li> <li>as part of the Cross-harbour Section of the SCL at the CBTS, MTRCL took over the temporary reclamation of approximately <b>0.26 hectares</b> from the Central-Wanchai Bypass and Island Eastern Corridor Link project in December 2014 for the implementation of SCL railway works. Upon the completion of the concerned SCL railway works in April 2018, the temporary reclamation was removed by MTRCL.</li> </ul>	<ul style="list-style-type: none"> <li>A consultant was engaged to carry out various works relating to the SCL project, including preliminary design for cross-harbour section of SCL and preparation of the CCM report. According to MTRCL, the said consultancy agreement commenced in September 2008 and the CCM report was completed in May 2010.</li> <li>The cost for preparing CCM was about <b>\$700,000</b>.</li> </ul>	<a href="https://www.hfc.org.hk/filemanager/files/WGPHO_02_2017.pdf">https://www.hfc.org.hk/filemanager/files/WGPHO_02_2017.pdf</a> (see P.279 – P.362)
4.	<b>Central Kowloon Route (CKR)</b> [HyD]	<ul style="list-style-type: none"> <li>involved <b>temporary reclamation</b> for constructing a section of the tunnel between the Kowloon City Ferry Pier to the Kai Tak Development Area through the seabed of Kowloon Bay.</li> <li>the works mainly comprise, among others, the construction of a 370-metre underwater tunnel and the associated temporary reclamation of about <b>3 hectares</b> in Kowloon Bay. The total duration of the temporary reclamation works was about 52 months (i.e. <b>about 4.3 years</b>).</li> </ul>	<ul style="list-style-type: none"> <li>Under this project, CCM reports were prepared in both the investigation consultancy assignment and the subsequent Design and Construction (D&amp;C) assignment. The project proponent started preparing the CCM report under the investigation assignment in April 2009, and published the final CCM report prepared in the D&amp;C assignment in March 2013.</li> <li>The cost for preparing CCM was about <b>\$2.1 million</b>.</li> </ul>	<a href="https://ckr-hyd.hk/wp-content/uploads/doc/community/consultation_documents/044-02_English(Combined).pdf">https://ckr-hyd.hk/wp-content/uploads/doc/community/consultation_documents/044-02_English(Combined).pdf</a>

<sup>1</sup> On 29 May 2012, the Government entered into an Entrustment Agreement with the MTRCL for Construction and Commissioning of the SCL, in which the Government funds the SCL and MTRCL has been entrusted to carry out the design, site investigation, construction and commissioning of the SCL.

## Harbourfront Commission


For discussion  
on 31 March 2023

HC/06/2023



No.	Project [Leading party]	Key features which have implications with PHO	Way of handling	CCM report (if available)
5.	<b>Boardwalk underneath the Island Eastern Corridor</b> [CEDD]	<ul style="list-style-type: none"> <li>involved <b>permanent reclamation</b> for erecting new piles in the seabed and construction of a new boardwalk above the piles.</li> </ul>	<ul style="list-style-type: none"> <li>Under this project, CCM reports were prepared in both the investigation consultancy assignment and the subsequent D&amp;C assignment. The project proponent started preparing the CCM report under the investigation assignment in March 2015, and published the final CCM report prepared in the D&amp;C assignment in December 2020.</li> <li>The cost for preparing CCM was about <b>\$1.7 million</b>.</li> </ul>	<a href="https://www.boardwalk.gov.hk/en/ccm.html">https://www.boardwalk.gov.hk/en/ccm.html</a>

Annex D

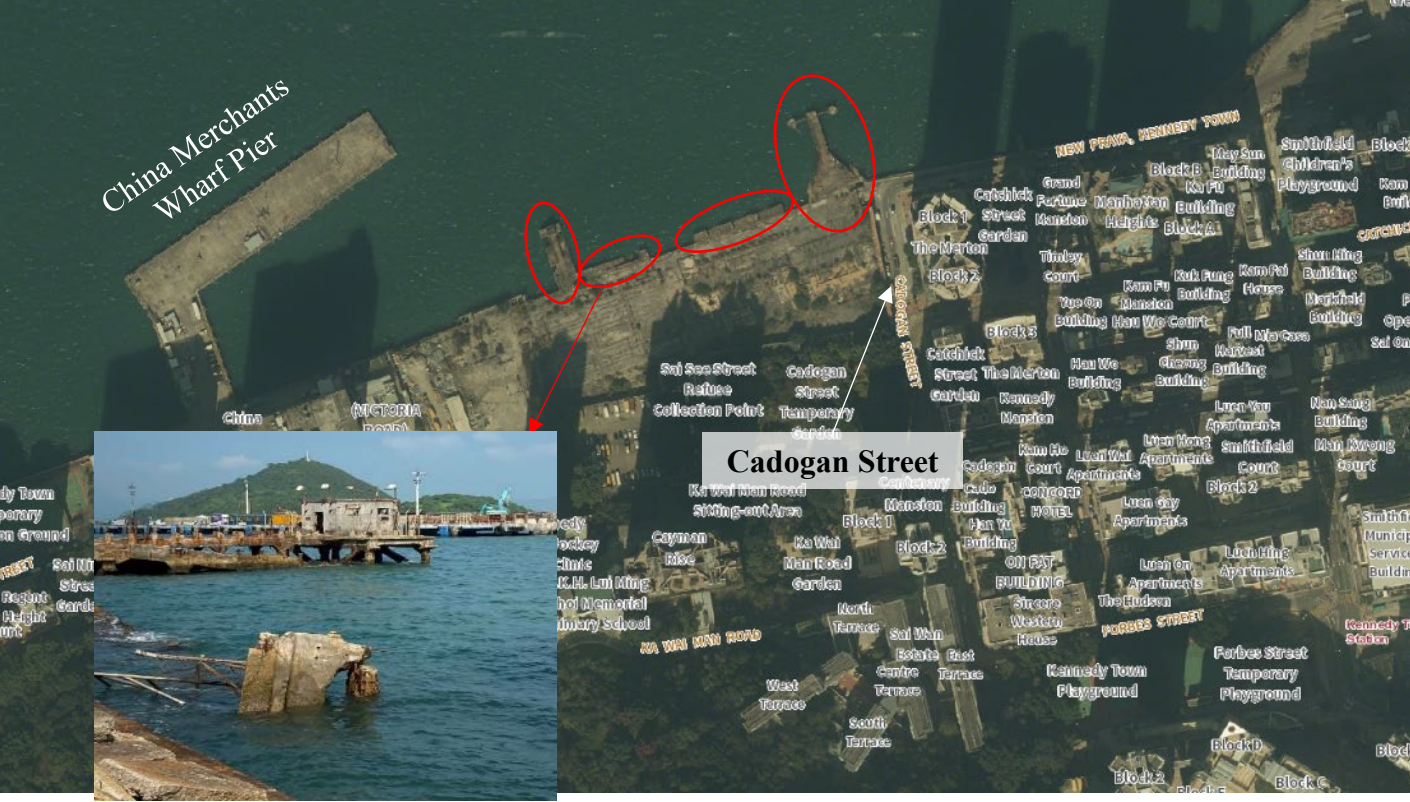
List of potential projects which may benefit from the proposed legislative amendments to the PHO

No.	Potential projects	Location photos / illustrations	Key features which are regarded as “reclamation” and subject to the presumption against reclamation under the existing PHO
<b>(A) Boardwalk</b>			
1.	<b>Boardwalk to enhance harbourfront connectivity in Kennedy Town</b>		<ul style="list-style-type: none"> <li>• New Praya in Kennedy Town is a popular destination for local visitors and tourists to enjoy the harbour view, especially during sunset. However, the harbourfront area is directly abutted by road, hence visitors can only enjoy the harbour while standing in the road, which is dangerous especially in times of busy traffic.</li> <li>• We have considered constructing a boardwalk to enhance the waterfront promenade at the said location, but such structure is subject to the presumption against reclamation under the existing PHO.</li> <li>• Subject to the outcome of the PHO legislative amendment exercise, feasibility will be studied to construct a boardwalk for improving the connectivity along the harbourfront at the said locations.</li> </ul>




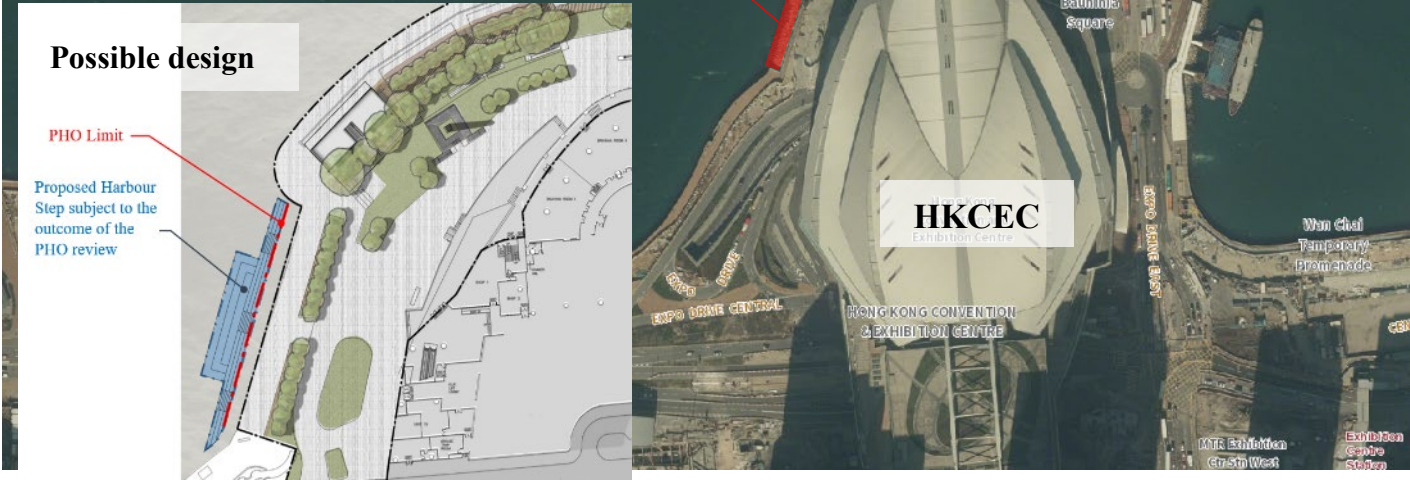


No.	Potential projects	Location photos / illustrations	Key features which are regarded as “reclamation” and subject to the presumption against reclamation under the existing PHO
<b>(B) Pier</b>			
2.	<b>Revitalisation of the Kowloon City Vehicular Ferry Pier</b>	 <p>Kowloon City Vehicular Ferry Pier (existing condition)</p>	<ul style="list-style-type: none"> <li>The Kowloon City Vehicular Ferry Pier, which has ceased operation in 1998, is a Grade II historic building. Given its convenient location, revitalising the pier can enhance visitors’ experience along the harbourfront in To Kwa Wan. However, such revitalisation works may be subject to the presumption against reclamation under the PHO.</li> <li>Subject to the outcome of the PHO legislative amendment exercise, feasibility will be studied to revitalise the said pier for better water-land interface/visitors’ experience.</li> </ul>
3.	<b>Enhancement of the old pier at the former Kai Tak Runway</b>	 <p>Kai Tak Pier (existing condition)</p>	<ul style="list-style-type: none"> <li>The pier at the former Kai Tak Runway facing the Victoria Harbour is currently disused. Given its location at the mid-point of the former Kai Tak Runway, redeveloping the pier can enhance visitors’ experience and improve water-land interface. However, such redevelopment works may be subject to the presumption against reclamation under the PHO.</li> <li>Subject to the outcome of the PHO legislative amendment exercise, feasibility will be studied to redevelop the said pier.</li> </ul>

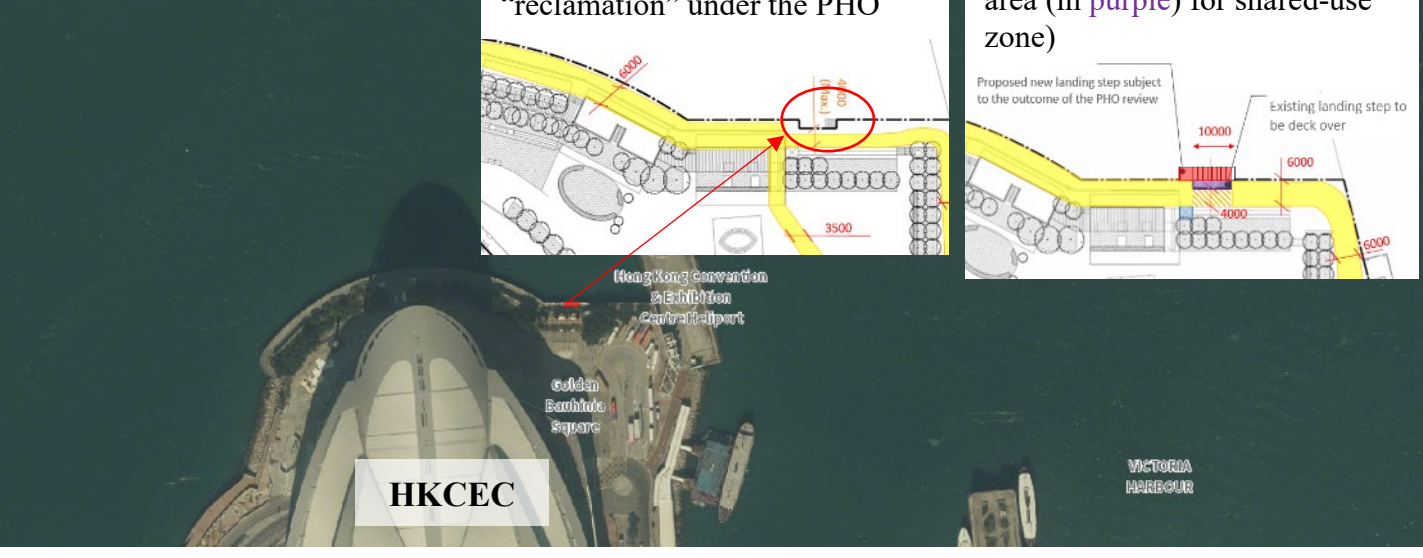
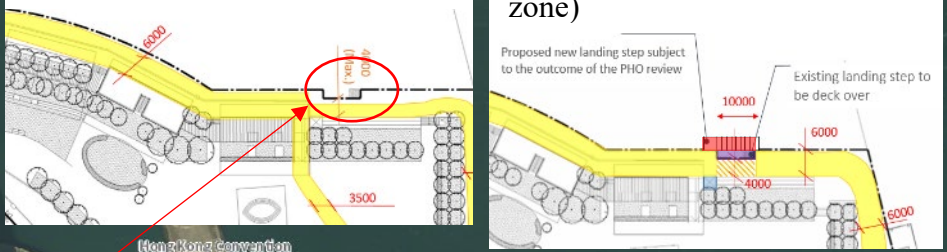

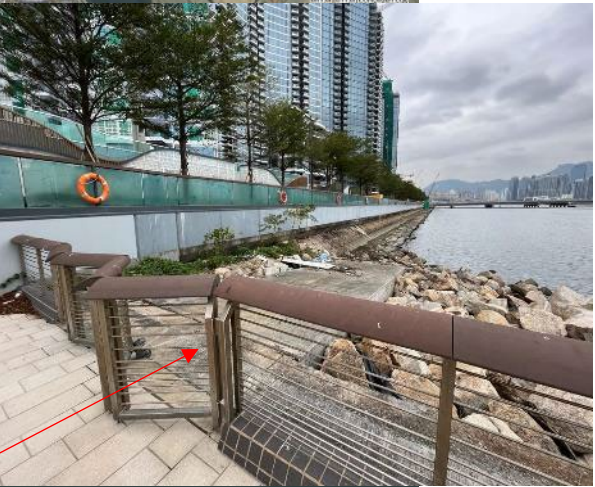


No.	Potential projects	Location photos / illustrations	Key features which are regarded as “reclamation” and subject to the presumption against reclamation under the existing PHO
4.	<p><b>Restoration/enhancement of the four old piers near Cadogan Street in Kennedy Town</b></p>	 <p>The image consists of an aerial map of Kennedy Town, Hong Kong, with four piers near Cadogan Street circled in red. A white arrow points from the label 'Cadogan Street' to the map. An inset photograph in the bottom-left corner shows a close-up of one of the piers, which is a concrete structure extending into the water. The map includes various labels for streets and buildings, such as 'China Merchants Wharf Pier', 'Cadogan Street', and 'Kennedy Town Promenade'.</p>	<ul style="list-style-type: none"> <li>• The four old piers near Cadogan Street in Kennedy Town are assessed to be beyond repair. In view of the opening of the adjacent Kennedy Town Promenade to the public in the coming one or two years, it would be desirable to redevelop the four piers to enhance visitors’ experience and improve water-land interface.</li> <li>• Subject to the outcome of the PHO legislative amendment exercise, feasibility will be studied to redevelop the said four piers.</li> </ul>



No.	Potential projects	Location photos / illustrations	Key features which are regarded as “reclamation” and subject to the presumption against reclamation under the existing PHO
<b>(C) Improvements to harbour steps</b>			
5.	<b>Extension of harbour steps at the Water Sports and Recreation Precinct (WSP) in Wan Chai and Revitalised Typhoon Shelter Precinct (RTSP) in Causeway Bay</b>	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p>Existing conditions at WSP, Wan Chai</p>  </div> <div style="text-align: center;"> <p>Existing conditions at RTSP, Causeway Bay</p>  </div> </div>	<ul style="list-style-type: none"> <li>• Currently, the lowest step in the harbour steps provided at the WSP in Wan Chai and RTSP in Causeway Bay is above the high water mark. Extending the harbour steps below the high water mark and further into the water will constitute “reclamations” under the existing PHO and will hence have to meet the overriding public need test before the works can proceed.</li> <li>• Subject to the outcome of the PHO legislative amendment exercise, feasibility will be studied to enhance these harbour steps so as to provide a gradual extension to the harbour and allow the public to get closer to the water.</li> </ul>
6.	<b>Provision of harbour steps outside the Celebration Precinct outside the Hong Kong Convention and Exhibition Centre (HKCEC)</b>	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p>Existing conditions at Celebration Precinct</p>  </div> <div style="text-align: center;"> <p>Possible design</p>  </div> </div>	<ul style="list-style-type: none"> <li>• As proposed in the design of the public open space in the Celebration Precinct in Wan Chai (i.e. the harbourfront area surrounding the HKCEC), subject to the outcome of the PHO legislative amendment exercise, the Government will explore the possibility of providing harbour steps to allow visitors to get closer to the water and enjoy the harbour view.</li> </ul>



No.	Potential projects	Location photos / illustrations	Key features which are regarded as “reclamation” and subject to the presumption against reclamation under the existing PHO
<b>(D) Improvements to landing steps</b>			
7.	<b>Enhancement of landing steps in the Celebration Precinct in Wan Chai</b>	<p><b>Existing situation</b> (Landing step is set back into pavement to avoid constituting “reclamation” under the PHO)</p>  <p><b>Possible improvement</b> (To construct a new landing step (in red) and restore the original area (in purple) for shared-use zone)</p> 	<ul style="list-style-type: none"> <li>As proposed in the design of the public open space in the Celebration Precinct in Wan Chai (i.e. the harbourfront area surrounding the HKCEC), subject to the outcome of the PHO legislative amendment exercise, the Government will explore the possibility of relocating the existing landing steps, so as to free up space for providing a minimum width for the shared-use zone for pedestrians and cyclists.</li> </ul>
<b>(E) Improvements to slipway</b>			
8.	<b>Enhancement of slipway at the public open space developed by private developer (POSPD) at Area 4B3 at the former Kai Tak Runway</b>	 	<ul style="list-style-type: none"> <li>Currently, a slipway is provided outside the POSPD at Area 4B3 outside the POSPD at the former Kai Tak Runway, which was granted to the Hong Kong Canoe Union as a water sports centre under Short Term Tenancy in 2022. However, the existing slipway does not extend fully into the water to avoid “reclamation” under the existing PHO.</li> <li>Subject to the outcome of the PHO legislative amendment exercise, feasibility will be studied to enhance the slipway so as to provide a gradual extension into the water to enhance water-land interface and facilitate water sports activities.</li> </ul>