

# Proposed Legislative Amendments to the Protection of the Harbour Ordinance (Cap. 531)

## Public Engagement Exercise – Executive Summary



**Development Bureau**

The Government of the Hong Kong Special Administrative Region  
of the People's Republic of China



# 1. Introduction

## 1.1 Overview

1.1.1 This summary provides an overview of the results of a public engagement exercise undertaken by the Development Bureau (DEVB) regarding the legislative amendment proposals of the Protection of the Harbour Ordinance (Cap. 531) (PHO).

1.1.2 Various public engagement activities were conducted with response received from the public. The use of a blend of qualitative and quantitative methods in collating and analysing data facilitated us to gain a more comprehensive understanding of the public views.

## 1.2 Background

1.2.1 DEVB and the Harbourfront Commission (HC) are actively engaged in advancing harbourfront development on both sides of the Victoria Harbour. In recent years, the public open space on both sides of the Victoria Harbour, including the “Harbourfront Shared Spaces” operated under an open management model, has been positively received by the public. At present, promenades of around 27 kilometres on both sides of the harbour are open to the public. The total length of the harbourfront promenades is expected to reach 34 kilometres by end-2028.

1.2.2 Reclamations within the harbour are governed by the PHO, with the boundaries of the harbour defined in the Interpretation and General Clauses Ordinance (Cap. 1). Further details regarding the boundaries of the harbour can be found in the Appendix. While the PHO has been effective in keeping large-scale reclamations in the harbour in check since its implementation over 20 years ago, the stringent requirements under the PHO and relevant legal framework has also made it difficult to implement harbour enhancement works that are convenient and beneficial to the public.

1.2.3 Against such background, DEVB has reviewed the PHO and proposed the framework of legislative amendments<sup>1</sup>, which was submitted to the Legislative Council's (LegCo) Panel on Development and the HC for deliberation on 28 March 2023<sup>2</sup> and 30 March 2023<sup>3</sup> respectively. It is emphasized that the intention of the amendments is not for reclamation to form land for housing, commercial or industrial developments, etc., but to achieve the dual objectives of maintaining the protection of the harbour while promoting harbourfront development, so as to enhance harbourfront areas for public enjoyment and strengthen harbour functions. DEVB proposes to amend the PHO in two strategic directions, namely:

- (i) to strengthen the mechanism for large-scale reclamations which should be regulated; and
- (ii) to facilitate in a reasonable manner certain harbour enhancement works involving reclamations which would strengthen the harbour functions, improve harbourfront connectivity or help people better enjoy the harbourfront, as well as non-permanent reclamations.

1.2.4 Subsequently, to solicit public views on the legislative amendment proposals, a series of public engagement activities (including town hall sessions and on-site surveys) were conducted between 12 May 2023 and 27 July 2023, with the views collection period ending on 31 August 2023 (public engagement period).

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<sup>1</sup> The relevant public engagement document is at –  
[https://www.devb.gov.hk/filemanager/en/content\\_2384/PHO\\_Engagement\\_Document.pdf](https://www.devb.gov.hk/filemanager/en/content_2384/PHO_Engagement_Document.pdf)

<sup>2</sup> The Panel discussion paper is at –  
<https://www.legco.gov.hk/yr2023/english/panels/dev/papers/dev20230328cb1-243-5-e.pdf>  
The Panel meeting minutes is at –  
<https://www.legco.gov.hk/yr2023/english/panels/dev/minutes/dev20230328.pdf>

<sup>3</sup> The HC discussion paper is at –  
[https://www.hfc.org.hk/filemanager/files/HC\\_06\\_2023.pdf](https://www.hfc.org.hk/filemanager/files/HC_06_2023.pdf)  
The HC meeting minutes is at –  
[https://www.hfc.org.hk/filemanager/files/meeting\\_minutes\\_20230331.pdf](https://www.hfc.org.hk/filemanager/files/meeting_minutes_20230331.pdf)

## 2. Summary of comments on key areas

### 2.1 Collection of views

- 2.1.1 We have specified a number of channels for all sectors of the community and the public to express their views on the amendment proposals to the PHO, so that we can better understand the considerations from different perspectives when finalising the details of the proposal, and ensure that through PHO, the protection of the harbour will be maintained while harbourfront development along the Victoria Harbour will be promoted in future.
- 2.1.2 The channels for offering comments include a dedicated public engagement website (<https://phoreview-pe.hk/>)<sup>4</sup>, which contained the public engagement document setting out the background information and legislative amendment proposals. Members of public can also submit their views and suggestions through submitting an online views collection form, attending a series of public engagement activities (including town hall sessions and on-site surveys at harbourfront sites) or via email, post or fax.
- 2.1.3 During the public engagement period, views from professional bodies, water-based activities organisations, fishermen's organisations, users with operations/activities in the harbour, District Councils, local representatives and members of the general public were received. A total of about 1 160 survey responses were collected, through online views collection form, as well as on-site surveys and voting board at four designated harbourfront sites, between May and July 2023. Views collected through the survey was used for quantitative analysis. In addition, six town hall sessions were held and about 30 written submissions were received, which provided the basis for qualitative analysis. Views received after the end of the public engagement period, are also taken into account of when we are formulating the legislative amendment proposals.

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<sup>4</sup> The website has ceased operation upon completion of public engagement exercise.

## 2.2 Overview

2.2.1 According to the survey findings, over 60% agreed with the overall proposal; about 30% were neutral and did not raise objection towards the proposal; and less than 10% disagreed.

2.2.2 Views and suggestions from the public and key stakeholders are consolidated into the following four key areas –

- (a) the overall legal framework and the “presumption against reclamation” under the PHO;
- (b) large-scale reclamations<sup>5</sup>;
- (c) harbour enhancement works involving reclamations; and
- (d) non-permanent reclamations.

## 2.3 Summary of comments on the overall legal framework and the “presumption against reclamation”

2.3.1 The overall proposed framework of legislative amendments is generally supported. The majority agreed that the “presumption against reclamation” should continue to apply to large-scale reclamations in the harbour to minimise unnecessary developments or changes. On the other hand, there was also a broad consensus that the existing across-the-board application of the “presumption against reclamation” to reclamations of all kinds might have deterred certain enhancement works, especially small-scale ones, from taking forward.

2.3.2 Specifically, survey respondents generally recognised that the amendment proposals to the PHO would bring positive impacts, including increased public engagement opportunities (52%), enhancing the overall attractiveness of the Victoria Harbour (47%) and enabling more facilities to be provided in the harbour or along the harbourfront (41%).

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<sup>5</sup> Reclamations that are not exempted from the “presumption against reclamation” under the proposed mechanism.

2.3.3 There were suggestions that, after the amendment of the PHO, the Government should regularly review the relevant implementation and make further amendments as necessary, taking into account of the changes in public needs and other prevailing circumstances. Some survey respondents expressed views on the environmental concerns and possible abuse of the new exemption mechanisms.

2.3.4 The majority of survey respondents (52%) agreed that public engagement opportunities would be enhanced under the new mechanisms. In terms of stakeholders to be engaged, the majority of survey respondents considered that residents within the respective district of the proposed works for large-scale reclamations (75%) should be consulted, followed by District Councils (62%). Some respondents in the town hall sessions also emphasized the importance of engaging stakeholders with professional knowledge and expertise during the consultation process.

#### 2.4 **Summary of comments on the proposed regulatory mechanism for large-scale reclamations**

2.4.1 Generally speaking, the proposed mechanism of ascertaining the fulfilment of the “overriding public need” test for large-scale reclamations (i.e. through the introduction of a more formalised public consultation arrangement and to have the Chief Executive-in-Council (CE-in-C) to assess and decide on whether the concerned reclamation has an “overriding public need”) was supported by 61% of the survey respondents, with another 30% of respondents remained neutral and did not raise objection to the propose arrangement.

2.4.2 Some respondents in the town hall sessions also raised the suggestions that independent bodies with relevant expertise and notable credibility (such as the HC), should be involved in the process of approval and ascertaining whether the project fulfilled the “overriding public need” test.

## 2.5 **Summary of comments on the streamlined mechanism for harbour enhancement works involving reclamations**

- 2.5.1 The majority agreed (among the survey respondents, 67% supported while another 22% remained neutral and did not raise objection) with the proposal of exempting the reclamation of the list of harbour enhancement works from the “presumption against reclamation”.
- 2.5.2 As regards the approval authority of granting the exemption to reclamation for harbour enhancement works, over half (55%) of the survey respondents agreed that such exemptions could only be granted by a government official at the level of Secretary of Department (e.g. the Financial Secretary), while 31% remained neutral and did not raise objection to the proposed arrangement.
- 2.5.3 As regards the requirements in granting of the exemption, survey respondents (62%) generally agreed that each reclamation for harbour enhancement works which may be exempted should be subject to the area limit of 0.8 hectare. The majority of the survey respondents also generally agreed with the proposed categories of harbour enhancement works which may be exempted, and the top categories mentioned to be exempted from the “overriding public need” test are the promenade/boardwalk, cycle track, viewing deck and harbour steps. There was consensus that the public’s enjoyment of the harbour will be greatly improved through the implementation of the proposed categories of harbour enhancement works. Specifically, based on the results of the voting board activities, the majority (78%) believed that these facilities can contribute to creating more vibrant harbourfront spaces, while about half of the respondents (53%) perceived that these facilities could enhance the connectivity of the harbourfront.
- 2.5.4 As regards the public engagement which should be conducted for harbourfront enhancement proposals in future, some respondents in the town hall sessions suggested that the Government should consult the relevant District Council(s) before submitting proposals to the government official at the level of Secretary of Department for further approval, so as to avoid failing to take full consideration of



the local and public needs due to a lack of consultation with the relevant District Council(s). Some respondents further proposed in the town hall sessions that independent bodies with relevant expertise and notable credibility (such as the HC) should be involved in the process of vetting to ensure the procedures to be fair, open and just.

2.5.5 In addition, during the public engagement period, there were views expressing concerns that the large-scale reclamations may be “split up”, such that they can meet the area limit and be implemented as multiple projects under the exemption mechanism, and thereby circumventing the stringent requirement to rebut the “presumption against reclamation”. In this regard, some respondents in the town hall sessions suggested putting in place mechanisms to avoid excessive and cumulative small-scale works. For example, the Government should set a reasonable time interval in between projects, as well as limit the number of ongoing works in the vicinity at the same time, in order to alleviate accumulated impact of the works on the harbour.

## 2.6 **Summary of comments on the proposed streamlined mechanisms for non-permanent reclamations**

2.6.1 There was general support for the proposal to exempt non-permanent reclamations from the “presumption against reclamation”: 56% of the survey respondents agreed to exempt non-permanent reclamations from the “presumption against reclamation” and 31% remained neutral and did not raise objection to the proposal.

2.6.2 As regards the authority of granting the exemption to non-permanent reclamations, according to the proposed arrangement, the proposed non-permanent reclamations should be approved by a government official at the level of Secretary of Department, and the relevant considerations include relevant applications prepared by the project proponent and the public comments. The majority (56%) of the survey respondents agreed, and 31% were neutral and did not raise objection to the proposed arrangement.



- 2.6.3 As regards the area limit, the majority (63%) of the survey respondents agreed that any non-permanent reclamation eligible for exemption should be subject to an area limit of not more than three hectares at any point in time. Nevertheless, some respondents also expressed concerns that this area limit may deter or complicate the implementation of works. Specifically, some considered the area limit counterproductive as project proponents may “split up” the works (instead of completing the works in one go) to meet the area limit under the exemption mechanism, hence prolonging the whole works and thereby aggravating the impacts on the harbour.
- 2.6.4 As regards the duration limit, the majority (68%) of the survey respondents agreed that each phase of the non-permanent reclamations to be exempted should not be more than three years, in order to speed up project completion, lower costs and minimize environmental impacts. Some also agreed with imposing such duration limit to reassure the public that the affected areas will be reinstated after projects are completed within the said timeframe. On the other hand, some opined that the three-year duration limit for each phase might prompt project proponents to “split up” the works, and might aggravate issues such as water pollution, waterway disruptions, etc; some also suggested that such reclamation should be regulated by a specific cap on the overall duration, rather than a cap on the number of phases involved.
- 2.6.5 To address potential delays in works, some respondents in the town hall sessions suggested that the Government should allow the project proponent to apply for extension of the exemption period granted, provided that such application is supported by valid justifications, such as delays due to extreme weather conditions. Some also suggested putting in place a penalty system for unjustified delays or last-minute application for extension, while remarking that the penalty system should be practical as well as leaving necessary flexibility.

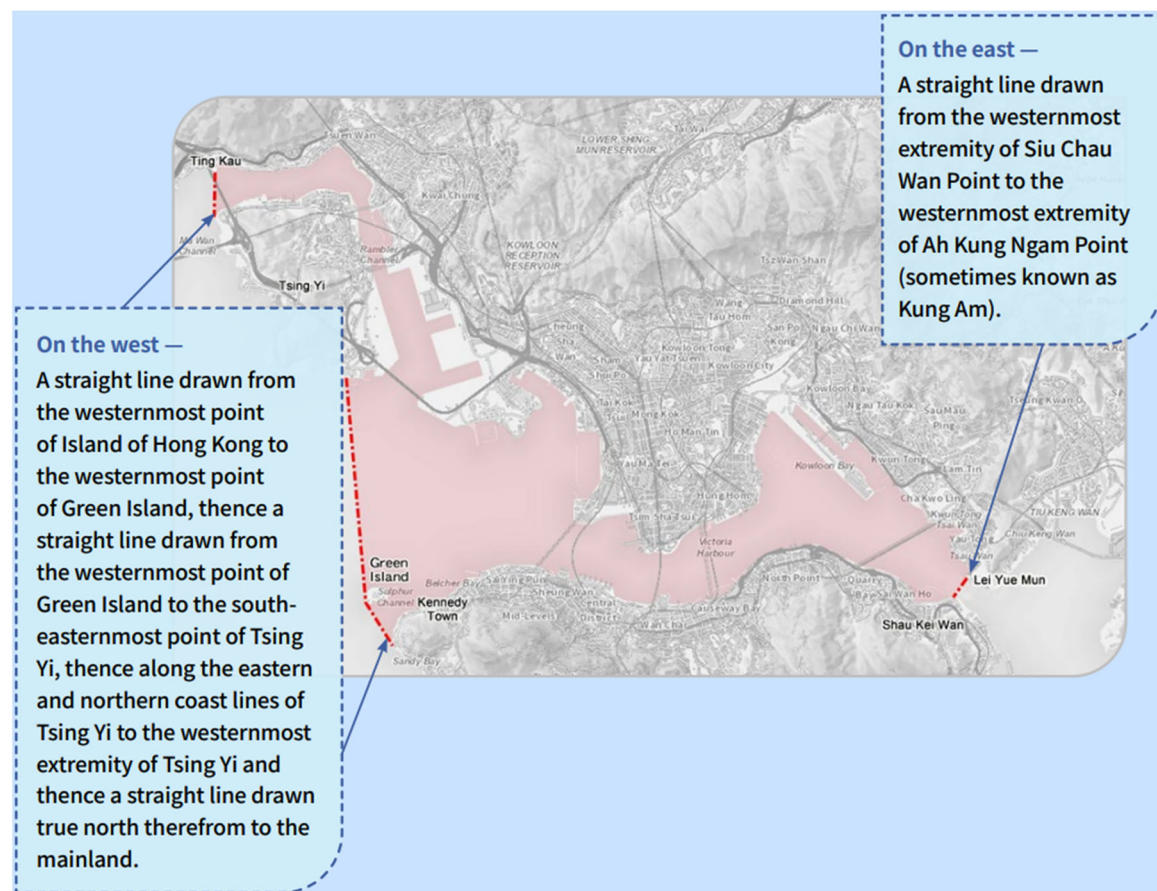
### **3. Conclusions and Way forward**

- 3.1 The extensive public engagement exercise conducted by DEVB regarding the proposed framework of legislative amendments to the PHO has yielded significant insights and consensus. The public and key stakeholders have generally expressed support for the amendment proposals, which aim to enhance harbourfront connectivity, strengthen harbour functions, and enhance public enjoyment of the harbourfront.
- 3.2 Overall speaking, the public recognised the benefits that the amendment proposals could bring. There is consensus on exempting reclamations for specific harbour enhancement works and non-permanent reclamations from the “presumption against reclamation”. The proposal to have the CE-in-C to assess and decide the fulfillment of the “overriding public need” test for large-scale reclamations received general support, albeit with some expressed different opinions regarding the approval mechanism and the relevant details.
- 3.3 Upon the conclusion of the public engagement period in end-August 2023, DEVB has been refining some of the original proposals in the light of the specific comments and suggestions received, and to further formulate the legislative amendment proposals in detail.

## Appendix

### The harbour area governed by the Protection of the Harbour Ordinance (PHO)

The “harbour”, as referred to in the PHO, is defined as the waters of Hong Kong within the boundaries of the Interpretation and General Clauses Ordinance, as shown in the diagram below:



*The harbour area governed by the PHO*