

立法會
Legislative Council

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(These minutes have been
cleared with the Chairman)

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**Panel on Environmental Affairs and
Panel on Planning, Lands and Works**

**Minutes of joint meeting held on
Friday, 31 October 2003,
immediately after the House Committee meeting
in the Chamber of the Legislative Council Building**

Members present : Members of the Panel on Environmental Affairs

Hon CHOY So-yuk (Chairman)
Hon Cyd HO Sau-lan (Deputy Chairman)
Hon Martin LEE Chu-ming, SC, JP
*Hon WONG Yung-kan
Hon Miriam LAU Kin-ye, JP
Hon Emily LAU Wai-hing, JP
Dr Hon LAW Chi-kwong, JP
Hon Henry WU King-cheong, BBS, JP
Dr Hon LO Wing-lok, JP
Hon Audrey EU Yuet-mee, SC, JP

Members of the Panel on Planning, Lands and Works

Dr Hon TANG Siu-tong, JP (Chairman)
#Hon LAU Ping-cheung (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Ir Dr Hon Raymond HO Chung-tai, JP
Hon James TO Kun-sun
Hon Timothy FOK Tsun-ting, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon IP Kwok-him, JP

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Member attending : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP

Members absent : Members of the Panel on Environmental Affairs

Hon LAU Kong-wah, JP

*Dr Hon David CHU Yu-lin, JP

Members of the Panel on Planning, Lands and Works

Hon LAU Wong-fat, GBS, JP

(* Also members of the Panel on Planning, Lands and Works)

(# Also members of the Panel on Environmental Affairs)

Clerk in attendance : Miss Becky YU
Chief Assistant Secretary (1)1

Staff in attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Miss Odelia LEUNG
Chief Assistant Secretary (1)4

Mrs Mary TANG
Senior Assistant Secretary (1)2

Miss Mandy POON
Legislative Assistant 4

I. Election of Chairman

Dr TANG Siu-tong was elected Chairman of the joint meeting.

II. Central Reclamation Phase III

(LC Paper No. LS8/03-04 — “Examination of the implications of the *Sub Judice* Rule for meeting with deputations on Central Reclamation Phase III or Wanchai Development Phase II” prepared by the Legal Service Division)

2. At the invitation of the Chairman, the Assistant Legal Adviser 1 (ALA1) took members through the paper on “Examination of the implications of the *Sub Judice* Rule for meeting with deputations on Central Reclamation Phase III or Wanchai Development Phase II” (LC Paper No. LS8/03-04). She added that the Department of Justice had advised that no notice of appeal in respect of the application for interim injunction had been received up to noon time that day.

3. Noting that the latest development of the court cases on Central Reclamation Phase III (CRIII) and Wanchai Development Phase II (WDII) had already been widely covered by the press and media, Mr WONG Sing-chi enquired whether the holding of a public hearing to receive views from interested parties by the Legislative Council (LegCo) would still amount to interference with the fair administration of justice. ALA1 advised that discussion on the two projects would not be a problem but care should be taken to avoid any comments which might prejudice the court’s decision. On the propriety for members to move a motion at the public hearing, ALA1 said that this would very much depend on the nature of the motion. Mr WONG asked if it was fair to say that if the hearing was conducted with the necessary precautions and was attended by the Administration, it would not constitute an interference with the fair administration of justice. While affirming that this was the case, ALA1 said that the presiding Chairman had to ensure the discussion would not be seen to be usurping the court’s judicial functions. In this connection, she suggested that the Administration, being familiar with the issue and facts of the pending court proceedings, should be invited to attend the meeting not only to receive views but to exercise its constitutional role to ensure independence of the Judiciary. The Chairman also drew members’ attention to the fact that deputations attending the hearing would not be covered by the protection and immunity provided under the Legislative Council (Power and Privileges) Ordinance (Cap.382).

4. Mr Albert CHAN held the view that the public hearing should be conducted by the Administration, which was ultimately responsible to decide on the way forward on CRIII and WDII. While LegCo would not mind holding the public hearing, he was dissatisfied that the Administration should absolve from its responsibility by transferring such a sensitive and contentious task to members. He added that if LegCo were to take up the task, it would have to clearly define the purpose of the public hearing and the focus of discussion. Members might also need to review their decisions on all funding proposals relating to CRIII and WDII to ascertain if they had been misled in making such decisions, and to review the entire reclamation policy, the consultation mechanism as well as the relevant

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ordinances. If so, care should be taken to avoid usurping the power of the Town Planning Board. Mr WONG Sing-chi said that since the Administration had indicated that it was not prepared to conduct a public hearing given the ongoing works on CRIII and the pending court proceedings, it was appropriate for LegCo to gauge the views of interested parties in an attempt to identify solutions to the problem.

5. Ms Emily LAU expressed support for holding a public hearing on CRIII and WDII which had aroused much controversy. As it might be quite some time before the court proceedings on the two projects were completed, LegCo could proceed with the public hearing, which would not only provide a forum to receive different views on whether reclamation works should continue but also an opportunity for the Administration to explain its stance on issues such as the extent of reclamation, the consultation mechanism and the consequences of suspension of reclamation works, etc. She then sought ALA1's advice on what could or could not be discussed at the hearing. ALA1 said that the relevant principles had been set out in LC Paper No. LS8/03-04. The conduct of public hearing should not be a problem if necessary precautions were taken. While she was not able to advise on what could or could not be discussed at the hearing at the present stage in view of the absence of documents on the pending court cases, the subjects referred to by Ms LAU should be allowed for discussion as these were mainly policy issues. She would also endeavour to render her assistance during the public hearing.

6. Ms Miriam LAU said that Members of the Liberal Party agreed that harbour reclamation should be kept to a minimum and should only be confined to construction of major infrastructure such as the Central Wanchai Bypass. Indiscriminate reclamation, in particular those that were meant for provision of land for property development, would not be supported. As regards the contentious reclamation works at the centre of the harbour, Ms LAU considered it necessary for the Administration to convince members that the current extent of reclamation was kept to a minimum, and that there was no hidden agenda. She also supported that public views, which could be for or against reclamation, should be invited.

7. The Chairman said that the Administration had already explained the extent of harbour reclamation to members at the last joint meeting on 13 October 2003. What members would need to decide at present was whether a public hearing should be held, and if so when the hearing should be held, who should be invited to give views and whether the hearing should be confined to CRIII or should also include WDII. Mr WONG Sing-chi proposed that a public hearing should be held. His proposal was seconded by Miss CHOY So-yuk who suggested that the hearing be confined to reclamation policy and be held some time shortly after the outcome of the appeal in respect of WDII in December 2003. Mr James TIEN however took a different view. He opined that public views be sought not only on reclamation policy but also CRIII and WDII which were interrelated. The proposal was put to a vote and was unanimously supported by members present.

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8. On the scope of discussion, Ms Miriam LAU suggested and Mr James TIEN agreed this should cover all reclamation works in CRIII and WDII related to the Central Wanchai Bypass. While supporting the proposal, Miss CHOY So-yuk said that the discussion would invariably touch on the policy of reclamation of the harbour. Given that there might not be sufficient time to discuss broad policy issues, Mr WONG Sing-chi held the view that the discussion should be focused on CRIII and WDII.

9. As to whether the hearing should be held before or after the judicial proceedings on WDII and CRIII which would be held on 9 December 2003 and 9 February 2004 respectively, Mr WONG Sing-chi said that there was no point in holding the public hearing at that late stage. As the public was concerned about the irreparable damage which the ongoing reclamation works would incur, he considered it more appropriate that the public hearing be held as soon as possible to enable an early exchange of views and clarification by the Administration. The Chairman asked if the holding of public hearing before the judicial proceedings would prejudice the fair administration of justice. ALA1 said that this would depend on how the hearing was conducted. She said that the hearing could be held if discussion was confined to policy matters and due precautions were taken so as not to prejudice the court's decision. It was agreed that the public hearing would be held before the appeal on WDII was heard by the Hong Kong Court of Final Appeal on 9 December 2003.

10. On the persons to be invited to the public hearing, Ms Miriam LAU said that the hearing should be open to all sectors of the community to ensure a balance of views. The Chairman said that the invitation for submissions would be placed on the LegCo website and those who were interested to attend should approach the LegCo Secretariat. Ms Emily LAU emphasized the need to allow sufficient time for the interested parties to submit their views. She added that members should also take the initiative to inform any parties whom they knew might be interested in giving views on the subject. Mr WONG Sing-chi suggested that consideration should be given to invite those who had formerly expressed their views on reclamation.

11. Members agreed that the public hearing would be held on Thursday, 27 November 2003, from 4:30 pm to 6:30 pm.

III. Any other business

12. There being no other business, the meeting ended at 4:00 pm.