

Overriding Public Needs (OPN): a Preliminary Exploration

Citizen Envisioning@Harbour





Reclaim or Not to Reclaim – Overriding Public Needs (OPN) Test

The CFA Judgement:

“Public Needs are **community needs** and include the economic, environmental and social needs of the community.”

“A need should only be regarded as overriding if it is a **compelling** and **present** need and there is **no reasonable alternative** to reclamation.”



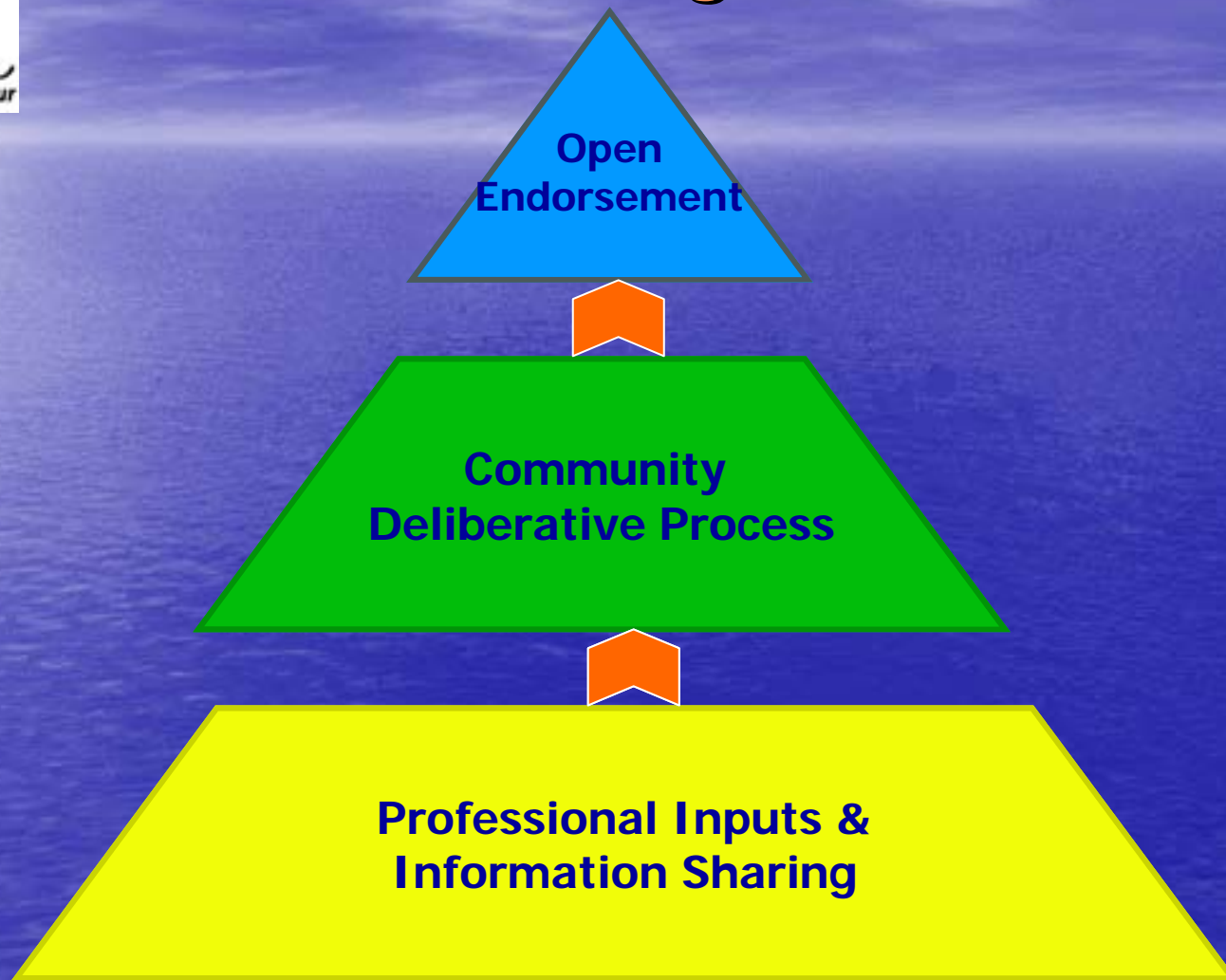
Overriding Public Needs (OPN) Relevant Guiding Principles

- **Rio Principle 10:**
 - ✓ **Subsidiarity Principle** - ensuring that decisions are taken as close as possible to those who are likely to be most affected by the results of those decisions, i.e., a community-led process is required to determine public needs <**Right to decision making**>
 - ✓ **Access Principle** – ensuring that concerned citizens have access to information from public authorities and access to participation in decision-making. <**Right to information and participation**>
- **Harbour Planning Principles** – sustainable development principles endorsed by HEC.



OPN

A Three-Stage Test



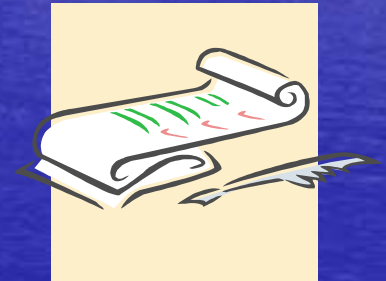
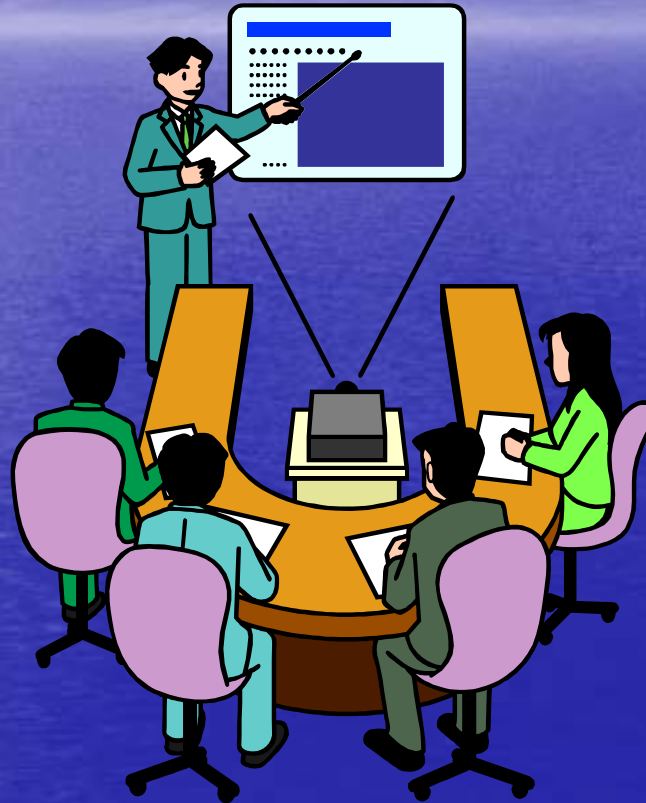
Open
Endorsement

Community
Deliberative Process

Professional Inputs &
Information Sharing



Stage 1: Information Sharing & Professional Inputs





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- To collate cogent information to suit multi-stakeholder needs at different levels;
 - To compile **wish lists** and **constraints lists**;
 - To consolidate and enrich **citizen-initiated options**;
 - To conduct **sustainability impact assessments** on alternatives;
 - To present “*reasonable alternatives*” (with or without reclamation) in formats suitable for **community engagement**.
- These should apply to ALL harbour-related plans or development projects



Stage 2: Community Deliberative Process (CDP)





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- **CDP** must meet “**best endeavour**” criteria to enable the community to determine “*compelling & present needs*”:
 - ✓ Use **best endeavour** to disseminate relevant, unfiltered and comprehensible information to the community;
 - ✓ Use **best endeavour** to foster fair, equitable participation by an iterative process at district and neighbourhood levels;
 - ✓ Use **best endeavour** to enable key stakeholders, in particular disadvantaged groups, to fully participate in the process, including the use of deliberative polling.
- A **Consensus Plan of Reclamation (CPR)** - if it reflects community value judgement - is to be prepared on the basis of the CDP outcome;



Stage 3 Open Endorsement





Stage 3

Open Endorsement

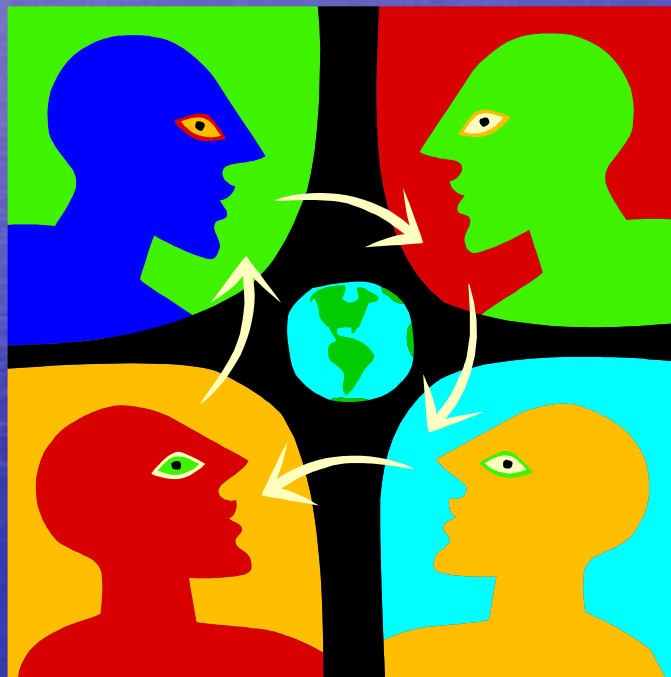
- An **Open Endorsement Event(s)** in the format of a townhall meeting(s) will be held to endorse the CPR with or without fine-tuning;
- Participants in the Open Endorsement Event should include all members of **LegCo, HEC, TPB and representatives of district councils and stakeholders groups identified and nominated during the CDP;**
- Once endorsed, the CPR will become the **Endorsed Plan of Reclamation (EPR)** deemed to have passed the OPN Test;
- The **Administration will make the final decision** to take the EPR forward for implementation in its complete, unaltered form, or not to take it forward at all.



Institutional Arrangement

Academics & Prof.

Government



Business Sector

Civil Society Org.



Institutional Arrangements

- As a Community-led Process, the entire OPN test should be driven by an “**OPN Stakeholder Panel**” (OSP) comprising representatives of multi-stakeholders.
- OSP can be established with reference to the multi-stakeholder governance model used by **Global Reporting Initiative (GRI)** – a collaborating centre of UNEP.
- **A 2-step nomination process for OSP**: 50% nominated by individual HEC members and appointed by Government upon HEC’s recommendation; thereafter the first 50% OSP members receive open nominations and self-appoint the remaining 50% members based on preset criteria on commitment, impartiality and balance of constituency.
- **Equal representation in OSP by four constituencies**: government, mediating institutions (academics and professionals), civil society organisations, and business (e.g. 4 in each constituency).



OPN Stakeholder Panel (OSP)

- Terms of reference:
 - ✓ To design and oversee the implementation of the 3-stage OPN Test;
 - ✓ To ensure that OPN Test is conducted in accordance with relevant guiding principles;
 - ✓ To validate the fulfillment of the “best endeavour” requirements in the CDP;
 - ✓ To certify the Endorsed Plan of Reclamation (EPR) and present it to the Administration.
- Resources required by OSP for professional support and independent secretariat are to be provided by Government.



Overriding Public Needs Test Key Features

- Full Access to Unfiltered Information
- Community Deliberative Process
 - Open Endorsement
 - OPN Stakeholder Panel
- Multi-stakeholder Governance