

## **Overriding Public Need**

### **Avoid creating demand for harbour-front land**

1. Due process as a mechanism for establishing that a demand for harbour-front land use is a public need which overrides the statutory presumption against reclamation, is merely designed to facilitate reclamation unless all measures have been taken to avoid creating or stimulating demand for harbour-front land in the first place.
2. Without such deliberate measures the remaining harbour-front land will further deteriorate and reclamation will become 'unavoidable' while at the same time public support will be harder to garner and overriding public needs tests will be left open to legal and political challenges.

### **No reclamation means safeguarding acutely limited harbour-front land**

3. The urgency is not the presumption against reclamation but safeguarding the acutely limited land around the harbour available for public enjoyment and harbour enhancement. Creating or stimulating demand for harbour-front land uses incompatible with public enjoyment and harbour enhancement must be avoided.
4. The presumption against reclamation lays down the responsibility to amend policy decisions or to address the lack thereof, which may give cause to a public overriding need for incompatible harbour-front land uses or reclamation.

### **Pro-active initiatives required to reverse demand generating policies**

5. The demand for harbour-front land 'today' is the consequence of policy decisions or the lack thereof 'yesterday'. Examples include among others the demand for transport services/infrastructure as a result of land development, a demand for pumping stations as a result of a chosen cooling technology, or the need for land sales to finance Government expenditure.

## **Overriding Public Need (cont'd)**

### **Pro-active policy initiatives required ... (cont'd)**

6. The presumption against reclamation requires coordination of policy decision making processes to eliminate demand for incompatible harbour-front land uses or reclamation, to re-provision and re-engineer existing incompatible land uses, and to stimulate land uses which enhance the harbour and harbour-fronts.

### **Reclamation for enhancement of the harbour, not the formation of land**

7. New and improved water/land interfaces (break waters, piers, docks, promenades, supporting land uses, etc.) are required to facilitate and stimulate the changing uses of Victoria Harbour and to repair its water-fronts. Inevitably, some of these interfaces may require support on the existing seabed by piling or otherwise.
8. The Protection of the Harbour Ordinance defines reclamation as 'any works .. forming land from the sea-bed or the foreshore.' Michael Thomas Q.C. concludes that '*These words are not apt to include .. construction of a .. pier .. There is nothing in the Ordinance to suggest a presumption against piers .. these have always enabled harbours to be used and enjoyed*' in a Legislative Council submission on heliports (LC Paper No. CB(1)791/04-05(03), point 7 and 8 – attached).
9. And even if the mounting of structures such as piers were to be considered formation of land or reclamation, the development of these facilities must proceed as they are fundamental in ensuring that Victoria Harbour is a 'living' harbour – economically viable, exciting, accessible, and enjoyed and used by all people.