Paper No. 22/2008
For discussion
on 31 October 2008

Harbour-front Enhancement Committee (HEC)

Central-Wan Chai Bypass
Temporary Reclamation and Reprovisioning Arrangements for Affected Vessels in Causeway Bay Typhoon Shelter

Purpose

This paper seeks Members' views on the reprovisioning arrangements for the affected vessels in the Causeway Bay Typhoon Shelter (CBTS) and supplementary information prepared by the Administration in response to a recent judicial review[1] (JR) relating to the Central-Wan Chai Bypass and Island Eastern Corridor Link (Trunk Road) project.

Background

2. The proposed amendments to the draft Wan Chai North Outline Zoning Plan (OZP) No. S/H25/1 and draft North Point OZP No. S/H8/21 incorporating the Tunnel Option of the Trunk Road (known as the "Trunk Road Tunnel") and the proposed reclamation in Wan Chai Development Phase II (WDII) were gazetted on 27 July 2007. The Trunk Road scheme was also gazetted on the same date under the Roads (Works, Use and Compensation) Ordinance. Temporary reclamations for the Trunk Road Tunnel construction in the CBTS and ex-Wan Chai Public Cargo Working Area

[1] The judicial review applied by the Society for Protection of the Harbour on 3 October 2007.

(ex-PCWA) and a temporary breakwater for on-site reprovisioning of the affected moorings and anchorages in the CBTS were proposed in the road scheme.

3. The Court of First Instance (CFI) ruled in the above mentioned JR on 20 March 2008 that the Protection of the Harbour Ordinance (PHO) applies to the proposed temporary reclamations referred to in the road scheme of the Trunk Road gazetted under the Roads (Works, Use and Compensation) Ordinance on 27 July 2007.

Further Studies on the Trunk Road Construction

4. As reported to the HEC at the meeting on 18 August 2008, in the light of the CFI's judgment on the application of PHO to temporary reclamation, we have engaged the consultants to examine the overriding public need of the temporary reclamation for constructing the Trunk Road Tunnel and their compliance with the PHO. After consulting various professional institutions, the four District Councils on Hong Kong Island, the HEC, the public and other concerned parties on the methods of construction of the Trunk Road in the CBTS and ex-PCWA, it is ascertained that the cut-and-cover method using diaphragm walls is the only safe, feasible and practicable method of construction for the Trunk Road Tunnel in the CBTS and ex-PCWA. It is also noted that this arrangement will require temporary reclamation.

5. Subsequently, we have carefully examined the reprovisioning options of the affected moorings and anchorages in the CBTS, including off-site reprovisioning options as alternatives to the temporary breakwater for on-site reprovisioning. Details are set out in paragraphs 7-8 below.

6. We have also prepared materials to supplement the "Report on Cogent and Convincing Materials to Demonstrate Compliance with the Overriding Public Need Test" (the CCM Report) issued in February 2007 to address specifically the reclamation requirements, with particular reference to the temporary reclamation

requirements, of the feasible Trunk Road options. Details are set out in paragraphs 9-18 below.

Reprovisioning Options for Affected Moorings and Anchorages in the CBTS

7. After investigation, the consultants have identified six main reprovisioning options for the affected moorings and anchorages in the CBTS. An information paper on the proposed reprovisioning options is at **Annex A**.

8. We have started consulting the CBTS users on the reprovisioning options since early September 2008. A public forum was held on 25 October 2008 to gauge the views of the public. We will continue to engage the CBTS users and the public on the formulation and finalisation of the reprovisioning arrangement.

Review on the comparison of the Trunk Road construction options

9. According to the judgment of the Court of Final Appeal (CFA) in January 2004, the presumption against reclamation as set out in the PHO could be rebutted only if an overriding public need for reclamation (the Overriding Public Need Test) is demonstrated in accordance with the CFA's judgment. In considering what is a reasonable alternative to reclamation, all circumstances should be considered, including economic, environmental, social implications of each alternative; cost, time and delay involved would also be relevant.

10. While the feasible Trunk Road options have been evaluated in Chapter 4 of the CCM Report, details on temporary reclamation were not specifically elaborated in the comparison of feasible Trunk Road options, i.e. the Tunnel Option and the Flyover Option, at that time on the ground of the temporary nature of those works.

11. In line with the CFI's judgment on the application of the PHO to temporary reclamation, the CCM Report has now been supplemented, with additional materials, to address specifically the reclamation requirements of the feasible Trunk Road options, including the temporary reclamation requirements, and then the comparison of the Tunnel and Flyover Options with some further elaboration on their relative performance in all relevant aspects for the purposes of assessing both Options by reference to the Overriding Public Need Test. A report in this respect is at **Annex B**. This report has also been uploaded onto the website of Civil Engineering and Development Department at the following link

http://www.cedd.gov.hk/eng/topics/wdii/index.htm

12. In summary, both the estimated extents of permanent and temporary reclamation of the Tunnel Option are larger than that of the Flyover Option and the relevant data are tabulated below:

Permanent Reclamation

	Tunnel Option	**Flyover Option**
land formation pile caps and dolphins[2]	12.7 ha 0.1 ha	9.8 ha 0.4 ha

[2] While the pile caps and protective dolphin structures are not land formed with soil, they are solid structures rising up from the seabed to above water level, and these will permanently occupy the water area of the Harbour. The pile caps form a solid platform in the water on which the road structure rests; they are therefore considered as reclamation in respect of the PHO. In the CCM Report, this area overlaps with the 0.4ha area of "flyover structures over water" and thus is not separately counted. For the avoidance of doubt, it is identified separately in the report at **Annex B**.

Temporary Reclamation

	Tunnel Option	**Flyover Option**
At the stage when the area of temporary reclamation is the largest[3]	CBTS: 3.7 ha ex-PCWA: 1.2 ha	CBTS and ex-PCWA: 3.3 ha North Point: 0.1 ha

13. The comparison of the Tunnel Option and Flyover Option in the CCM Report has been reviewed taking into account the CFI's judgment in relation to temporary reclamation. Taking into account the following social, environmental and economic implications, we consider that the Flyover Option, even though it requires a lesser extent of both permanent and temporary reclamation, should not be regarded as a reasonable alternative to the Tunnel Option:

- In respect of protection of the Harbour, the Flyover Option will affect a substantially greater area[4] of the Harbour than the Tunnel Option (as shown in Table 3.1 of **Annex B**, an additional 2.3ha of the sea will be covered by the flyover structures and an additional 4.0ha of the sea will be affected by the flyover structures). As such, the Flyover Option has a major drawback in terms of protection and preservation of the Harbour as intended by the PHO.

- Unlike the Tunnel Option, the Flyover Option cannot meet public aspirations for harbour-front enhancement or accommodate reasonably expected harbour-front planning improvements which will enhance the

[3] As the temporary reclamation would be carried out in stages, the area of temporary reclamation at any one time will differ. The area of temporary reclamation at the stage when it is the largest is tabulated for comparison purpose.

[4] The affected area is not "reclamation" within the meaning of the PHO.

harbour's accessibility to the public. Land use opportunities for providing a similar extent and quality of harbour-front are comparatively limited.

- The Flyover Option goes against the strong desire of the public for the Trunk Road to be underground rather than, in effect, an extension of the elevated Island Eastern Corridor along the shoreline.

- In terms of traffic disruption, construction of the Flyover Option will cause severe disruption to traffic flows and substantial delay to journey times, compared to the Tunnel Option which can be constructed with minimal traffic disruption or delay.

- In respect of the environment, the Flyover Option will cause relatively greater air and noise impacts, and have significant adverse visual impact than the Tunnel Option.

14. It is noted that the Flyover Option does perform better than the Tunnel Option in respect of construction time and costs, but this benefit is outweighed by the above negative factors.

15. In overall terms, the Tunnel Option performs better than the Flyover Option. The Tunnel Option has its own merits because it:

- will result in a lesser affected area of the Harbour;
- will have more opportunities for harbour-front enhancement and provide better access to the waterfront;
- has received public support through extensive public engagement activities;
- will cause less traffic disruption during construction;
- will cause less extensive air and noise impacts;
- will have no adverse visual impact.

16. We are therefore of the view that, after consideration of all relevant factors, in particular in respect of social and environmental implications, the Flyover Option is not regarded as a reasonable alternative to the Tunnel Option even though the latter requires an additional permanent reclamation of 2.6ha and an additional temporary reclamation of 1.5ha. Details are provided in Chapter 3 of the report at **Annex B**.

17. The public has been consulted on the above supplementary materials at the public forum held on 25 October 2008 mentioned in paragraph 8 above. There was unanimous support of the Tunnel Option and a general sentiment to implement the Trunk Road as soon as possible was also expressed.

18. The Trunk Road option has been fully deliberated at the then HEC Sub-committee on WDII Review in 2006. Taking into account considerations under the PHO, the merits and demerits of the options/variations assessed by the consultants, and general support to the Tunnel Option reflected in the public engagement exercise, the Sub-committee endorsed, at the meeting held on 13 June 2006, the Tunnel Option (viz. Trunk Road Tunnel Variation 1) as the basis for WDII Concept Plan preparation. The supplementary materials at **Annex B** again concluded that after consideration of all the social, environmental and economic implications, the Flyover Option, even though it requires a lesser extent of both permanent and temporary reclamation, should not be regarded as a reasonable alternative to the Tunnel Option and the Tunnel Option serves best to protect and preserve the Harbour. Members are requested to endorse this conclusion.

Advice Sought

19. Members are invited to note the paper and endorse the conclusion set out in paragraph 18.

Attachment

Annex A	Information Paper on Options for Reprovisioning of Affected Moorings and Anchorages at the Causeway Bay Typhoon Shelter
Annex B	Report on Comparison of Trunk Road Tunnel and Flyover Options in Accordance with the Overriding Public Need Test

Highways Department

Civil Engineering and Development Department

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