

LEGISLATIVE COUNCIL BRIEF

Hong Kong Airport (Control of Obstructions) Ordinance (Chapter 301)

HONG KONG AIRPORT (CONTROL OF OBSTRUCTIONS) (EXEMPTION)(AMENDMENT) ORDER 2011

INTRODUCTION

Pursuant to section 3(3A) of the Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301) (“the Ordinance”), the Secretary for Development (“the Secretary”) has made the Hong Kong Airport (Control of Obstructions)(Exemption)(Amendment) Order 2011 (“the Amendment Order”) as at **Annex A**, in order to amend the Schedule to the Hong Kong Airport (Control of Obstructions)(Exemption) Order (Cap. 301 sub. leg. E).

JUSTIFICATIONS

The Ordinance

2. The Ordinance provides for, *inter alia*, the restriction of heights of buildings in the interest of safety of aircraft. Section 3(1AA) of the Ordinance provides that the Secretary for Development (the Secretary) may, where in his/her opinion the safety of aircraft so requires and on the advice of the Director-General of Civil Aviation (DGCA), by order prescribe areas within which no building shall exceed the height specified in the order. In conjunction with the opening of the Hong Kong International Airport at Chek Lap Kok, the Hong Kong Airport (Control of Obstructions) (No. 2) Order 1997 (the Order) was made pursuant to section 3(1AA) of the Ordinance. The Order specifies the Airport Height Restriction (AHR) for certain prescribed areas and it has come into operation since 20 June 1997.

3. Section 3(3A) of the Ordinance provides that the Secretary may,

on the advice of DGCA, by order grant an exemption from the operation of an order made pursuant to section 3(1AA) of the Ordinance, subject to such terms and conditions required for or related to the safety of aircraft as she may impose. An application for exemption from the AHR specified in the Order has been received from Hutchison Telephone Company Limited (“Hutchison”).

Application from Hutchison

4. For the sake of public safety and interest, the Government has taken the initiative in encouraging mobile network operators to improve mobile phone services in country parks. In the mobile phone service coverage measurement, it has been found that Hutchison does not have good coverage in the Lantau South Country Park. In order to improve its mobile phone service coverage in the Lantau South Country Park, Hutchison has to construct a mobile phone base station in the area as soon as possible.

5. Hutchison has applied to the Secretary for an exemption from the AHR specified in the Order for the construction of a mobile phone base station in the Lantau South Country Park. The site of the proposed mobile phone base station is held under Short Term Tenancy (STT) No. CX1824. The proposed mobile phone base station is at a height of about 276.5 mPD, exceeding the AHR of 211.324 mPD specified under the Order for the area. However, it should be noted that the height of the local terrain at the site is of about 272.3 mPD. In other words, the height of the proposed mobile phone base station is only about 4m. The summit of the proposed mobile phone base station is lower than the summit of the police radio transmission station nearby. The proposed mobile phone base station will not be allowed unless an exemption from the operation of the Order is granted by the Secretary.

No objection from relevant departments

6. DGCA has been consulted and has no objection to the granting of the exemption from the operation of the Order for the proposed mobile phone base station. The Director-General of Telecommunications, Director of Lands, Director of Buildings, Director of Planning, Director of Agriculture, Fisheries and Conservation, Director of Environmental Protection,

Commissioner for Transport, Director of Water Supplies, Director of Drainage Services, Director of Highways, Director of Civil Engineering and Development, Director of Architectural Services, Director of Home Affairs and Controller of Government Flying Service have no objection to the granting of the exemption by the Secretary.

THE AMENDMENT ORDER

7. The Hong Kong Airport (Control of Obstructions) (Exemption) Order (Cap. 301 sub. leg. E) is amended to exempt the relevant portion of land* from the operation of the Order. It also specifies that the new height restriction for buildings which may be erected on the exempted area is 276.5 mPD.

**Note: All that portion of land as shown coloured pink on Plan No. ISM1637c signed by the Secretary for Development and deposited at the Land Registry.*

LEGISLATIVE TIMETABLE

8. The Amendment Order will be published in the Gazette on 29 April 2011 and tabled in the Legislative Council for negative vetting on 4 May 2011. The Amendment Order will come into operation on 25 June 2011.

IMPLICATIONS OF THE PROPOSAL

9. The Amendment Order is in conformity with the Basic Law, including the provisions concerning human rights. The Amendment Order will not affect the current binding effect of the Ordinance. There is no economic, productivity, financial, civil service, environmental and sustainability implication.

PUBLIC CONSULTATION AND PUBLICITY

10. The Amendment Order concerns matters of a technical nature. It is unlikely to attract public interest. As such, neither consultation with the

public nor publicity is considered necessary.

ENQUIRIES

11. For enquiries, please contact Miss Shirley Yu, Assistant Secretary of the Development Bureau, at 2848 2163.

Development Bureau

April 2011

Hong Kong Airport (Control of Obstructions) (Exemption) (Amendment) Order 2011

(Made by the Secretary for Development under section 3(3A) of the Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301) on the advice of the Director-General of Civil Aviation)

1. Commencement

This Order comes into operation on 25 June 2011.

2. Hong Kong Airport (Control of Obstructions) (Exemption) Order amended

The Hong Kong Airport (Control of Obstructions) (Exemption) Order (Cap. 301 sub. leg. E) is amended as set out in section 3.

3. Schedule amended (Exemption from height restriction)

The Schedule, after item 10—

Add

- “11. All that portion of land held under Short Term Tenancy No. CX1824 and shown coloured pink on Plan No. ISM1637c signed by the Secretary for Development and deposited at the Land Registry. 276.5 m”.

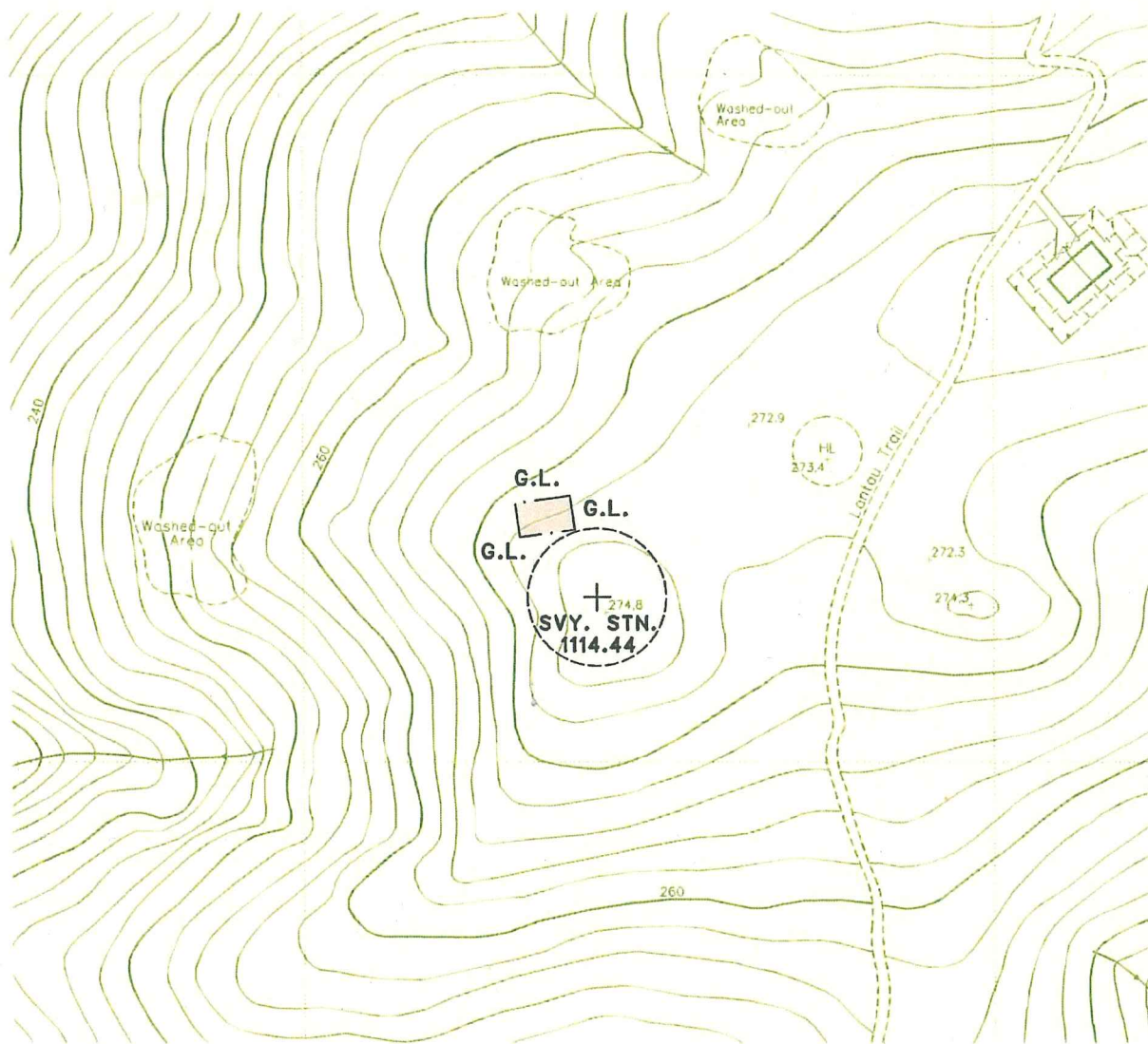


Secretary for Development

15 April 2011

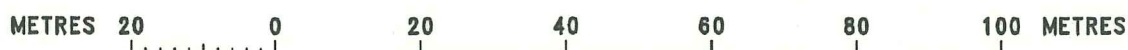
Explanatory Note

In the interest of aircraft safety, the Hong Kong Airport (Control of Obstructions) (No. 2) Order 1997 (Cap. 301 sub. leg. D) imposes a restriction on the height of buildings in some areas. The purpose of this Order is to exempt a portion of land at Lantau Island from that restriction. However, any building to be erected on that portion of land is still subject to a height restriction of 276.5 mPD.

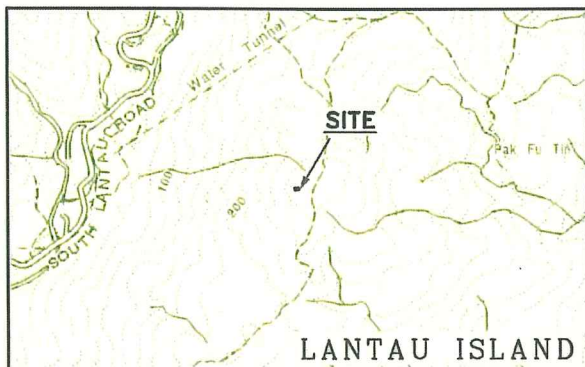


COLOURED PINK AREA 40 SQUARE METRES (ABOUT)

SCALE 1 : 1000



LOCATION



SCALE 1 : 20000

WITHIN THIS AREA, NO BUILDING SHALL BE ERECTED ABOVE A HEIGHT OF 276.5mPD

16 April 2011

Date

Carrie Lam

(Mrs Carrie Lam)
Secretary for Development

FOR IDENTIFICATION PURPOSES ONLY



Plan prepared by
District Survey Office, Islands
Lands Department

File No. LD DSO/IS W1449

Survey Sheet No. 10-SW-22C

Layout Plan No. -----

Ref. Plan No. -----

PLAN No. ISM1637c

Date : 2.12.2010