

立法會
Legislative Council

LC Paper No. CB(1)2628/11-12

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Panel on Transport

**Minutes of special meeting held on
Wednesday, 25 April 2012, at 8:30 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon Andrew CHENG Kar-foo (Chairman)
Hon CHEUNG Hok-ming, GBS, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon LI Fung-ying, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon WONG Kwok-hing, MH
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Ronny TONG Ka-wah, SC
Hon KAM Nai-wai, MH
Hon CHAN Hak-kan
Hon WONG Sing-chi
Hon IP Wai-ming, MH
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon LEUNG Kwok-hung
Hon Tanya CHAN
Hon Albert CHAN Wai-yip

Members attending : Hon Audrey EU Yuet-mee, SC, JP
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC

Members absent : Hon Abraham SHEK Lai-him, SBS, JP
Hon Starry LEE Wai-king, JP

Public Officers attending : Agenda item I

Ms Eva CHENG, GBS, JP
Secretary for Transport and Housing

Ms Maisie CHENG Mei-sze, JP
Deputy Secretary for Transport and Housing
(Transport)1

Mr Edward TO Wing-hang
Principal Assistant Secretary (Transport)
Transport and Housing Bureau

Mr Peter LAU Ka-keung, JP
Director of Highways

Mr CHOW Chun-wah
Project Manager/Hong Kong-Zhuhai-
Macao Bridge
Highways Department

Clerk in attendance : Mr Derek LO
Chief Council Secretary (1)6

Staff in attendance : Ms Sarah YUEN
Senior Council Secretary (1)6

Miss Ariel SHUM
Clerical Assistant (1)2

Action

- I Hong Kong-Zhuhai-Macao Bridge Hong Kong Link Road**
(LC Paper No. - Administration's paper entitled
CB(1)1624/11-12(01) "Hong Kong-Zhuhai-Macao Bridge
(HZMB) Hong Kong Link Road
(HKLR)"

LC Papers CB(1)1683/11-12(01) CB(1)1687/11-12(01)	Nos. -	Letter dated 23 April 2012 from Hon LAU Kong-wah and the Administration's response dated 24 April 2012)
LC Paper CB(1)133/11-12	No. -	Updated background brief entitled HZMB prepared by the Legislative Council Secretariat)

As the discussion item was related to a funding application, the Chairman reminded members to disclose the nature of any direct or indirect pecuniary interest they had in relation to the proposal before they spoke on the matter. Ir Dr Raymond HO declared that he was an independent non-executive director of an engineering company, a member of the Airport Authority, and was returned from the functional constituency of engineering. Mr Jeffrey LAM declared that he was an independent non-executive director of an engineering company.

2. At the invitation of the Chairman, Secretary for Transport and Housing (STH) and Project Manager/HZMB (PM/HZMB) of the Highways Department (HyD) briefed members on the Administration's paper on its proposal to increase the approved project estimate (APE) of 844TH (i.e., HZMB HKLR) (the HKLR project) by \$8,857.3 million from \$16,189.9 million to \$25,047.2 million in money-of-the-day (MOD) prices. The Administration planned to submit the proposal to the Public Works Subcommittee (PWSC) on 7 May 2012 for discussion.

3. STH said that the construction works of HKLR, which was a dual three-lane road of about 12 kilometres connecting HZMB Main Bridge at the Hong Kong Special Administrative Region (HKSAR) boundary with the proposed Hong Kong Boundary Crossing Facilities (HKBCF) at the north-east of the Airport Island, had been affected by a case of judicial review (JR) against the decisions of the Director of Environmental Protection (DEP) concerning the approval of the Environmental Impact Assessment (EIA) Reports and the granting of Environmental Permits (EPs) relating to the HKBCF and HKLR projects. As a result, the tendering and works commencement of the HKLR project were delayed by about nine months compared with the original schedule, and the Administration could only invite tender for the two HKLR contracts in September and October 2011 respectively. The tender prices finally received exceeded the estimates for the contracts. The Administration therefore needed to further increase the APE of HKLR by about \$8.86 billion.

Economic benefits and strategic value of HZMB

4. Mr Jeffrey LAM hoped that the HKLR project could be completed as soon as possible as the availability of a direct road connected to the Western Pearl River Delta (PRD) would induce investments in Hong Kong, the Mainland and Macao, and would speed up Hong Kong's integration with the PRD region. He opined that the Administration should take the advantage of HZMB to help the small and medium enterprises of Hong Kong to carry out production on the Mainland and tap the Mainland domestic market. Sharing Mr LAM's view, Ir Dr Raymond HO considered that there was an urgent need for the construction of HZMB and its local related infrastructure, which in his view would bring enormous benefits to Hong Kong.

5. STH responded that the Administration all along intended to complete the works of HKLR as soon as possible to dovetail with the commissioning of HZMB. However, it was undesirable to commence the construction works while the validity of the relevant EIA had yet to be confirmed. In respect of the strategic value of HZMB, STH advised that apart from the value of time saved for travellers, HZMB would enable the formation of a strategic road network linking Hong Kong, Zhuhai, Macao and Shenzhen, thereby further strengthening the transportation and aviation hub status of Hong Kong. With its proximity to the Hong Kong International Airport (HKIA), HKBCF would serve as a strategic multi-modal transportation hub. STH said she believed that the Commerce and Economic Development Bureau would take active measures, such as through the Mainland and Hong Kong Closer Economic Partnership Arrangement, to boost trade with PRD after the commissioning of HZMB.

6. Ms Audrey EU requested the Administration to provide a paper to explain the basis on which the economic benefits of HZMB were evaluated. She was concerned about whether the construction of HZMB just aimed to facilitate Mainland vehicles travelling to Hong Kong under the Ad Hoc Quota Scheme for Cross-boundary Private Cars and whether co-location arrangements would be implemented at HZMB.

7. STH said that the Ad hoc Quota Trial Scheme for Cross-boundary Private Cars would be implemented in two phases. The first phase which allowed Hong Kong private cars to enter Guangdong with the quota was in progress. As for the second phase which allowed Guangdong private cars to enter Hong Kong, there was no timetable for its implementation. STH stressed that in estimating the economic benefits of HZMB, the consultant had adopted conservative ranges of traffic and passenger projections in the

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evaluation, and the additional traffic volume which would be brought by the Scheme had not been included in the evaluation. She supplemented that details of the economic benefits of HZMB had been submitted to the Panel previously. Nevertheless, she agreed to provide the relevant information again for members' reference.

8. Mr Albert CHAN considered that the HZMB project seemed to be in the best interest of Macao as the commissioning of HZMB would provide greater convenience for Hong Kong residents to travel to Macao. In his view, the Macao government should share the largest proportion of HZMB's construction cost. He requested the Administration to provide a paper on the funding approved for the HZMB project and the proportion of construction costs shared by respective governments.

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9. STH advised that the Hong Kong, Zhuhai and Macao governments agreed to share the construction cost by the ratio of direct benefits received for each government. Each place also had to fund the costs of its own connecting roads. She said that the construction of HZMB Main Bridge was within budget and was progressing satisfactorily. The Main Bridge was planned to be completed by 2016. She agreed to provide information on the cost contribution shared by the three governments in respect of the HZMB Main Bridge after the meeting.

Proposal to increase APE of the HKLR project

10. Some members, including the Deputy Chairman, Mr WONG Kwok-hing, Ms Miriam LAU, Mr Jeffrey LAM and Mr LAU Kong-wah considered that the JR case had not just caused delay to the HZMB local related projects but had also incurred substantial cost increase of about \$8.86 billion under the current proposal. They pointed out that after incurring an additional funding of \$6.5 billion (in MOD prices) for the projects of HKBCF and the advance works for the Tuen Mun-Chek Lap Kok Link (TM-CLKL) in November 2011, the Administration further applied this time for an additional \$8.86 billion (in MOD prices) for the HKLR project, which in total made up an increase in project cost by about 54%. Mr WONG Kwok-hing and Ms Miriam LAU opined that the huge increase in cost could have been better spent on other measures to improve people's livelihood such as by subsidizing the transportation cost of the public and of low-income families, and improving the general out-patient service of public hospitals. Mr WONG asked whether it would lead to any further cost increase if the current funding proposal was not approved by the Legislative Council (LegCo).

11. STH replied that the HZMB Hong Kong local projects would connect HZMB Main Bridge located in Mainland waters at the HKSAR boundary. The road leading to the eastern artificial island in the Mainland waters had to connect HKLR in Hong Kong waters in order to complete the entire traffic network. Therefore, apart from HZMB Main Bridge, the associated Hong Kong projects needed to be completed in tandem for connection to enable the commissioning of HZMB in 2016. If the current funding proposal was not approved, the Administration might need to conduct the tendering exercise again, thus causing further delay of the programme and increases in construction cost. She further said that if HZMB could not be commissioned by end 2016 due to delay in the completion of local projects, it would incur direct economic loss of about RMB ¥2.2 billion annually and indirect economic loss to Hong Kong, the Mainland and Macao. In addition, the toll fee forgone was estimated to be about RMB ¥2 billion annually. At the same time, the three governments also had to settle the bank loan interests for the construction of HZMB Main Bridge.

12. Mr Jeffrey LAM considered that there was a need to compress the construction timetable of the HKLR project through increased labour resources, arrangement of overtime work and increased plant resources, otherwise the cost incurred as a result of delay would be even greater than the proposed increase in APE. He expressed support for the current proposal to increase the APE of the project.

13. Ir Dr Raymond HO advised that, due to the surge in construction prices in the past few years, a construction project, if delayed for one year, would see an increase in cost by about 30% to 50%. Ir Dr HO pointed out that the HKLR project itself was very complicated. For instance, part of the works of HKLR involved construction of viaduct in offshore areas, and Hong Kong did not have much experience in such works. The project also required tunnelling works underneath the Airport Express Line and the Airport Road etc. He said that such works had to be carried out with extreme care. He considered it reasonable for tenderers to make a higher assessment of risks than the Administration had expected. He asked whether the HKLR project could be commissioned in phases (e.g. a dual two-lane, instead of dual three-lane, road could be provided first) as compressing the construction timetable would incur additional cost.

14. STH and Director of Highways (DHy) advised that there were two design and build (D&B) contracts for HKLR: the first one mainly covered the 1 km long tunnel and 1.6 km long at-grade road section from the Scenic Hill to HKBCF (Tunnel Contract); and the second one mainly covered the 9.4 km viaduct section from the HKSAR Boundary to Scenic Hill (Viaduct Contract).

The Administration had studied whether it was necessary to complete all construction items of HKLR by end 2016, with a view to reducing the increase in construction costs due to compression of works programme. In fact, the Administration had taken the initiative to slightly postpone the works programme of the turnaround facilities of HKLR and some road facilities on the Airport Island, which were not essential for the commissioning of HZMB. Notwithstanding, the Administration still aspired to complete the relevant works by around 2016. As regards the suggestion of opening only two lanes first, to be followed by the third lane at a later stage, the Administration considered the proposal not acceptable from the perspective of road safety.

15. Ms Miriam LAU noted that the higher-than-estimated tender prices of the HKLR project was due to two major factors, namely "surge in construction prices in past six months after delay", which had resulted in a cost increase of \$3,270 million, and "tenderers' risk assessment higher than expected", which had resulted in a cost increase of \$3,440 million. She asked whether the amounts of cost increases were reasonable compared with other similar infrastructure projects. Noting that the relevant tender was invited before the Court of Appeal handed down its judgment on 27 September 2011, Ms LAU asked whether it was possible that the tenderers would now lower their risk assessment given that the validity of EPs had been confirmed. The Deputy Chairman also asked why tenderers had made a higher assessment than expected in the risks of the works.

16. STH reiterated that the works commencement date of the HZMB local projects had been affected by the legal proceedings of the aforementioned JR case. At the time when the Administration invited tenders, there was the uncertainty of the need to conduct the relevant EIA again for the HKBCF and HKLR projects. To cope with the uncertainty, the Administration had included certain terms and conditions in the tender documents to avoid possible claims by the tenderers in the situation that the Administration failed to award the tender. By making such arrangements, the Administration managed to invite tender and undertake the necessary preparatory work, so as to enable works to commence as early as possible after funds were approved by the Finance Committee (FC).

17. DHy supplemented that the Administration had reviewed the tender documents all over again and confirmed that the inclusion of relevant terms and conditions in the tender documents had not led to a higher risk assessment. He said that during the tendering process, the Administration conducted meetings with potential tenderers to understand their concerns and adopted specific measures to alleviate the risks of the project as far as possible. As revealed from the returned tenders, in view of the upward trend

of market prices since the second half of 2011, and taking into account the uniqueness, complexity and requirements of the works of HKLR, the tenderers had made a higher assessment than the Administration had expected in the risks of the works. They had assumed increase in labour resources, overtime work and increase in plant so as to compress the works timetable, and, as a result of that, the cost for risk factor was higher than the estimate. The tenderers had also adopted designs and construction methods that they considered having the most experience and confidence themselves. However, the cost of such construction methods was higher than that of the reference design and construction methods provided by the Administration.

18. Mr LEUNG Kwok-hung considered that because the Administration had announced that the works programme of the HKLR project had to be compressed to dovetail with the commissioning of HZMB, it was natural for the tenderers to submit a higher tender price. He considered that the economic benefits of HZMB were limited and there was no need to expedite the HKLR project with extra cost. Mr IP Wai-ming queried whether the cost of the HKLR project would increase further given the global increase in construction costs.

19. STH explained that as a result of the delay of works caused by the JR case, the works programme for the HKLR project had changed from very adequate to very tight and the tenderers had reflected the associated risk costs in the tender prices. STH advised that the HKLR project had undergone a highly competitive tendering process with four submissions received. The tender prices so submitted had reasonably reflected the costs in the market for the relevant works. She also pointed out that when the Administration applied for funding for the HZMB local related projects in November 2011, she had already explained that the additional expenditures of approximately \$6.5 billion (in MOD prices) for HKBCF and the advance works for TM-CLKL were very conservative, and that such estimates did not include the HKLR project. This was because, though the works programme of HKLR had become very tight, it was still possible to complete the works in 2016. However, the higher-than-estimated tender prices of HKLR were a further revelation of the impact of the delay in commencement of works on the construction programme and cost, and it was more serious than expected.

20. Noting that apart from the HKLR project, the works of TM-CLKL and Tuen Mun Western Bypass (TMWB) were also affected by the JR case, the Deputy Chairman asked about the estimated cost increase for the two projects.

21. STH said that TM-CLKL would be completed by phases. The southern connection connecting HKBCF with the North Lantau Highway

would be completed in 2016 while the northern connection of TM-CLKL, which connected HKBCF with Tuen Mun, would be completed in 2017. As the detailed design for the remaining works of TM-CLKL had not yet started, it was difficult to estimate the cost accurately at the present stage. Similarly, the TMWB project was still in the preliminary design stage and it was difficult to estimate the construction cost due to inadequate information available.

22. Ms LI Fung-ying, however, considered that the Administration should at least provide a very rough estimate on the total cost of the HZMB project and the cost increase caused by the JR case, based on the increase rate in construction price and labour cost in the previous year. Pointing out that the two latest funding increase applications for the HZMB local related projects had already amounted to about \$15.4 billion, she was concerned that the project cost would be subject to further increases.

23. STH and DHy replied that the cost increases of about \$6.5 billion for two local projects (HKBCF and the advance works for TM-CLKL) and \$8.8 billion for HKLR were estimated with reference to the tenders. The project contingencies should provide adequate buffer for meeting unforeseeable circumstances. Based on the current circumstances and with stringent cost control measures that had been introduced, the Administration was confident that the selected tenderer would be able to implement the project within the revised estimate. STH reiterated that as the relevant tendering works for the construction of the remaining works of TM-CLKL and TMWB had not yet commenced, the Administration considered it inappropriate to make a rough estimate in the absence of tender submissions. Admin At Ms LI's further request, STH said that the Administration would provide a very rough estimate on the project costs of the HZMB remaining works.

24. Mr LAU Kong-wah considered that the Civic Party should take the blame for initiating the JR case, which had led to a cost increase of the HKLR project substantially by about \$8.86 billion. He requested the Administration to set out in detail the factors contributing to the delay in works in its paper to be submitted to PWSC and FC. The Deputy Chairman, Mr WONG Kwok-hing and Mr Jeffrey LAM echoed Mr LAU's views.

25. Mr LEUNG Kwok-hung considered that, after the judgment was handed down by the Court of First Instance (CFI) quashing the DEP's approval of the reports relating to HZMB and the EPs for the relevant projects in April 2011, the Administration should have followed up the judgment immediately and carried out a stand-alone assessment of the project in the EIA reports instead of lodging an appeal, which had caused delay to the

works of HKLR. He queried whether the Administration had ever endeavored to work out any contingency plan to minimize the cost increase.

26. STH emphasized that the Government had strictly followed the requirements of conducting EIA stipulated under the EIA Ordinance (EIAO). She pointed out that the three Court of Appeal Judges had unanimously allowed the appeal of the DEP and confirmed the validity of the EPs previously issued by DEP. She supplemented that the construction works of the HZMB local related projects could only commence with valid EPs. Ir Dr Raymond HO said that, according to EIAO, there was not a mandatory requirement for conduct of a stand-alone assessment of the project in EIA reports. This was also not an established practice in the construction industry.

27. Ms Audrey EU opined that the delay in the implementation of the HKLR project was not caused by the JR case as the relevant tendering work had been in progress during the JR process. She also referred to a press release and pointed out that, in a paper submitted by the Administration to the Panel on Development on 22 February 2011, it was stated that, in relation to the investigation and preliminary design for HKBCF, "the project completion date was extended to carry out additional preliminary study for Marine Park in the Brothers Islands in order to fulfill the conditions of the EP issued in November 2009". Ms EU said that as seen from the press release, the JR in question was not the cause of the delay for commencing the HKBCF project. Ms EU requested the Administration to explain why it was said that the schedule of the construction commencement of the HZMB local related projects, including HKLR and HKBCF, had been delayed as a result of the JR case. She also stressed that the JR case was not initiated by the Civic Party.

28. STH clarified that the works of the HZMB local-related projects were totally independent from the project of Marine Park in the Brothers Islands, and so the work schedule of the Marine Park project had never caused delay to the HZMB local related projects. Deputy Secretary for Transport and Housing (Transport)1 (DS(T)1) supplemented that the major local infrastructure works of HZMB included HKBCF, TM-CLKL and HKLR. Among them, only the TM-CLKL EIA was excluded from the JR application. Nevertheless, the construction schedule of TM-CLKL had still been affected because the TM-CLKL southern landfall reclamation (exit of the sub-sea tunnel) would be taken forward under the same works contract together with the reclamation of HKBCF and to be constructed at the same location at the same time.

29. DS(T)1 further said that as a result of the JR case, the construction schedule of HKLR had been directly affected. For example, according to the original plan, the Administration was to invite tender for one of the two contracts of HKLR in early 2011, with works commencing in the middle of the same year. In light of the need to consider CFI's judgment which was handed down in April 2011, the original programme for tendering and construction could no longer be implemented. The Administration was required to amend the terms and conditions of the relevant tender documents for several times in accordance with the progress of the JR case. At last, considering that it would be too late to wait for the judgment of the Court of Appeal, the Administration had decided to commence the relevant tendering work of HKLR in September 2011 before the Court of Appeal handed down its judgment on 27 September 2011. She said that if the Administration had not taken such a move, the period of delay caused by the JR case would have been much longer.

30. In response to Ms Audrey EU's further enquiry, STH said that as a result of the JR case, the construction schedule of HKBCF had been delayed for about one year, whereas that for HKLR had been delayed for about nine months.

31. The Chairman considered that Hong Kong people's right to seek JR with justifications should be respected. He requested the Administration to review whether there were any loopholes in its conduct of EIA to avoid being challenged by JR in future.

32. Mr IP Wai-ming expressed concern about the measures to ensure that the compression of the construction programme would not compromise the safety of the implementation. DHy advised that in addition to specifying in the tender documents that works contractors had to adhere to the safety measures stipulated under the law, a site manager was deployed to oversee the implementation of the relevant safety measures. The tender documents had also specified that the Administration would only make payment upon satisfactory execution of the requirements under the contract, including the safety measures.

33. Pointing out that the business of AsiaWorld-Expo (AWE) and the Disneyland Park, which were located near HKIA, might be greatly improved with the commissioning of HZMB, Mrs Regina IP enquired whether in designing the alignment of HKLR, consideration had been given to ensuring easy access to the two places. She also enquired whether the Administration had assessed the impact of the works delay of HKLR on the business of the two places.

34. STH advised that the Administration had evaluated the economic benefits of HZMB based on savings in transportation costs and value of time saved. Although HZMB would bring indirect benefits for local business, it was difficult to produce a plausible analysis of those benefits. She said that AWE was situated next to HKBCF, the facilities of which would facilitate passengers making use of all the different kinds of public transport means as well as private cars for interchange to different places. She added that the next step of the Government was to consult relevant stakeholders on the ancillary services which should be provided for HZMB and its local related infrastructure, such as point-to-point cross boundary bus services, etc.

35. Summing up, the Chairman concluded that the Panel supported in principle the funding proposal and submission of it to PWSC for consideration on 7 May 2012.

(*Post-meeting note:* the supplementary information paper on HZMB HKLR provided by the Administration was issued under LC Paper No. CB(1)1754/11-12 on 3 May 2012.)

II Any other business

36. There being no other business, the meeting ended at 10:50 am.

Council Business Division 1
Legislative Council Secretariat
26 September 2012