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2 August 2017

Clerk to the Legislative Council  
(Attn: Ms. Alice LEUNG)  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Ms. Leung,

**Special House Committee Meeting on 3 August 2017**  
**Letter from Hon Claudia MO**

I refer to your letter to the Director of Administration dated 27 July 2017 enclosing the letter from Hon Claudia MO, requesting the Government to provide information in relation to the co-location arrangement of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (“XRL”). Our reply is as follows.

Article 31 of the Constitution of the People’s Republic of China provides, “[t]he State may establish special administrative regions when necessary. The systems to be instituted in special administrative regions

shall be prescribed by law enacted by the National People's Congress in the light of specific conditions.”

Article 2 of the Basic Law provides, “[t]he National People's Congress authorizes the Hong Kong Special Administrative Region (“HKSAR”) to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of this Law”. The relevant executive, legislative, independent judicial power and the power of final adjudication are set out in more detail in other provisions of the Basic Law. Article 20 of the Basic Law further provides, “[t]he HKSAR may enjoy other powers granted to it by the National People's Congress, the Standing Committee of the National People's Congress or the Central People's Government”.

It can thus be seen that the legislative intention of Article 20 is to expressly stipulate that the National People's Congress and the Standing Committee of the National People's Congress have authority to grant to the HKSAR such other powers as not already enjoyed by it under the Basic Law.

The HKSAR Government has not changed its understanding of Article 20 of the Basic Law. The XRL is a cross-boundary railway between the Mainland and the HKSAR, and passengers must undergo the clearance procedures of the two jurisdictions. The sole purpose of implementing the co-location arrangement at the West Kowloon Station (“WKS”) is to provide convenience to passengers and to fully unleash the potentials of the Hong Kong Section of the XRL. Compared to the traditional separate-location arrangement, the co-location arrangement will not alter the immigration regime of the HKSAR, nor the rights and obligations of passengers undergoing clearance procedures.

As mentioned above, the Hong Kong Section of the XRL is an important strategic infrastructure project for the future of Hong Kong. The purpose of implementing the co-location arrangement at the WKS is to maximise its full transport, social and economic benefits. This is fully consistent with the policy intention of “one country, two systems” in maintaining the prosperity and stability of Hong Kong. This policy intention is also reflected in or implemented by many provisions of the Basic Law, including Articles 118 and 119, in different fields, at different levels and to a varying degree.

To ensure the smooth operation of the XRL after its commissioning in the third quarter of 2018, the HKSAR Government will set up a coordination mechanism with the Mainland Government to work out the implementation details for the co-location arrangement of the XRL.

We will make reference to the practice of the Shenzhen Bay Port<sup>1</sup> and set up working groups under the coordination mechanism, the members of which will be sent by relevant departments of both sides. Working groups to be set up include those which will be responsible for

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<sup>1</sup> The Shenzhen and the HKSAR Governments jointly established the “Shenzhen Bay Port Shenzhen-Hong Kong Joint Coordination Committee” (“the Committee”) for handling the operation, management and maintenance of the Shenzhen Bay Port. The Committee was co-chaired by the Deputy Major of Shenzhen and the Secretary for Security of the HKSAR Government. Under the Committee, the following units were set up -

- (a) the “Joint Working Group on Hong Kong Port Area Facilities”, and its “Port Facilities Maintenance Task Group”, which are responsible for matters relating to the maintenance and repairs of the Shenzhen Bay Port; and
- (b) the “Joint Working Group on Shenzhen Bay Port”, and its “Port Operation Task Group” and “Shenzhen Bay Bridge Maintenance Technical Task Group”, which are responsible for matters relating to the daily operation, clearance, quarantine, emergency rescue and maintenance of the Shenzhen Section of the Shenzhen Bay Bridge.

Each side sent representatives to join the working/task groups as members.

the daily operation of the “Mainland Port Area” (“MPA”) (e.g. coordination of maintenance and repair matters, property management, immigration, customs and quarantine clearance for visitors and daily security management in the MPA etc.) as well as emergency rescue matters (e.g. setting up mechanisms for handling emergency rescue and major incidents, such as fire, train failures, urgent medical assistance required by passengers, large-scale public health incidents, terrorist attacks and the handling of dangerous or chemical goods etc., formulating rescue contingency plans and conducting regular drills) etc.

Detailed membership of the working groups will be worked out based on the nature of their responsible matters. Members of the HKSAR Government will include representatives from the Department of Justice, the Transport and Housing Bureau, the Security Bureau as well as relevant works, law enforcement and health and environmental hygiene departments etc.

Venues and space within the MPA will be made available to the Mainland side for use and for exercising jurisdiction in accordance with the Co-operation Arrangement. Matters such as the acquisition of the right to use, duration and fees (including the maintenance fees of relevant structures and related facilities in the MPA) would be provided for by an agreement to be signed by both sides. We will begin discussion on the above matters with the Mainland side in a timely manner.

Implementing the co-location arrangement at the WKS of the XRL involves complicated constitutional, legal and operational issues. As such, the Department of Justice, the Transport and Housing Bureau, the Security Bureau and the Constitutional and Mainland Affairs Bureau conducted multiple internal meetings and discussions with the relevant Mainland authorities. The discussion outcome (including proposals

explored by both sides) is set out in the discussion paper submitted to the Legislative Council on 25 July 2017.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Ronald CHENG', with a stylized flourish at the end.

( Ronald CHENG )

for Secretary for Transport and Housing

c.c.      Secretary for Justice  
            Secretary for Security  
            Director of Administration