

立法會
Legislative Council

LC Paper No. CB(4)264/18-19
(These minutes have been
seen by the Administration)

Ref : CB4/BC/2/17

**Bills Committee on Guangzhou-Shenzhen-Hong Kong Express Rail Link
(Co-location) Bill**

**Minutes of the eighth meeting
held on Friday, 6 April 2018, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon Mrs Regina IP LAU Suk-ye, GBS, JP (Chairman)
Hon LEUNG Yiu-chung
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Kin-por, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, SBS, JP
Hon WU Chi-wai, MH
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, BBS, JP
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick

Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon LUK Chung-hung
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon AU Nok-hin
Hon Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS

Members absent : Hon CHEUNG Kwok-kwan, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, GBS, JP
Hon Tommy CHEUNG Yu-yan, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon Michael TIEN Puk-sun, BBS, JP
Hon YIU Si-wing, BBS
Hon CHAN Han-pan, JP
Hon Dennis KWOK Wing-hang
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon SHIU Ka-chun
Hon HUI Chi-fung
Hon LAU Kwok-fan, MH
Hon KWONG Chun-yu

Public officers attending : Item II

Transport and Housing Bureau

Mr Frank CHAN Fan, JP

Secretary for Transport and Housing

Ms Rebecca PUN Ting-ting, JP
Deputy Secretary for Transport and Housing
(Transport) 1

Mr Andy LAM Siu-hong
Principal Assistant Secretary for Transport and Housing
(Transport) 3

Mr Ronald CHENG Long-fung
Assistant Secretary for Transport and Housing
(Transport) 3C

Department of Justice

Mr Wesley WONG Wai-chung, SC, JP
Solicitor General

Mr Dominic LAI Kai-sang
Deputy Law Officer (Civil Law)(Advisory)

Mr Llewellyn MUI Kei-fat
Deputy Solicitor General (Constitutional Affairs) (Acting)

Mr Lawrence PENG Si-yun
Senior Assistant Law Draftsman

Mr Henry CHAN Ngai-him
Senior Government Counsel

Security Bureau

Ms Maggie WONG Siu-chu, JP
Deputy Secretary for Security 3

Mr Parson LAM Chun-wah
Principal Assistant Secretary for Security D

Clerk in attendance : Ms Sophie LAU
Chief Council Secretary (4)2

Staff in : Mr Timothy TSO

attendance Senior Assistant Legal Adviser 1

Miss Joyce CHAN
Assistant Legal Adviser 1

Miss Joyce CHING
Senior Council Secretary (4)2

Ms Jacqueline LAW
Council Secretary (4)2

Miss Mandy LAM
Legislative Assistant (4)2

I. Meeting with the Administration

[LC Paper Nos. CB(4)865/17-18(01), CB(3)312/17-18, CB(4)597/17-18(01), CB(4)631/17-18(01), CB(4)670/17-18(01), CB(4)720/17-18(01), THB(T)CR 9/1/16/581/99, LS31/17-18 and CB(4)587/17-18(01)]

Discussion

The Bills Committee deliberated (Index of proceedings attached at **Annex**).

2. At 12:31 pm, the Chairman extended the meeting for 15 minutes beyond the appointed ending time to allow sufficient time for discussion.

II. Any other business

Date of next meeting

3. Members noted that the next meeting would be held on 7 April 2018 from 9 am to 7:50 pm to receive public views on the Bill.

4. There being no other business, the meeting ended at 12:58 pm.

**Proceedings of the eighth meeting of the
Bills Committee on Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location)
Bill
held on Friday, 6 April 2018, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
Meeting with the Administration			
000723-000736	Chairman	Opening remarks.	
000737-000834	Chairman Ms Tanya CHAN Clerk	Ms CHAN's enquiry on the status of the Administration's responses to the outstanding issues raised by members.	
000835-001610	Chairman Mr WONG Kwok-kin Ms Tanya CHAN Mr LAM Cheuk-ting Mr Jeffery LAM	Discussion on procedural matters and meeting arrangement.	
001611-002222	Chairman Administration	At the invitation of the Chairman, the Administration briefed members on its written responses (LC Paper Nos. CB(4)865/17-18(01) and CB(4)870/17-18(01)) to issues raised by Mr CHU Hoi-dick in his letter dated 13 March 2018 (LC Paper No. CB(4)751/17-18(02)) and issues raised by members at the meeting on 17 March 2018.	
<i>Long Title</i>			
002223-002740	Chairman Mr CHU Hoi-dick Administration	Mr CHU referred to the use of the phrase "an area" in other legislation and opined that the phrases "an area" and "某範圍" as bilingual equivalents in the Long Title to refer to the area specified as the West Kowloon Station Mainland Port Area ("MPA") were inappropriate. The Administration advised that as the Long Title only set out the main purposes of the Bill in general terms for the purposes of Rule 50(3) of the Rules of Procedure of the Legislative Council ("RoP 50(3)"), using "某範圍" as the corresponding Chinese text for the phrase "an area" was in order.	
002741-003140	Chairman Mr LAM Cheuk-ting Administration	Mr LAM expressed his concern about the ambiguous meaning of the phrase "certain purposes" in the Long Title and the constitutional issues arising from the Bill.	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>The Administration explained that the Long Title was sufficiently clear for the purposes of RoP 50(3).</p>	
003141-003548	<p>Chairman Mr AU Nok-hin Administration</p>	<p>Mr AU opined that the Administration should make reference to the Shenzhen Bay Port Hong Kong Port Area Ordinance (Cap. 591) and <i>Drafting Legislation in Hong Kong – A Guide to Styles and Practices</i> in drafting the Long Title of the Bill.</p> <p>The Administration explained that the Long Title was in compliance with RoP 50(3) in that it set out in general terms the purposes of the Bill, while the operative provisions were set out under various Clauses of the Bill.</p>	
003549-003957	<p>Chairman Mr WU Chi-wai Administration</p>	<p>Mr WU asked firstly, whether the phrases "某範圍" and "一個範圍" had the same meaning and secondly, whether the establishment of the MPA would necessitate adaptations or amendments of certain applicable Hong Kong laws, such as those concerning public order and security.</p> <p>The Administration advised that in the case of this Bill, it was appropriate to use the phrases "an area" and "某範圍" as bilingual equivalents. The Administration also advised that no adaptation or amendment of Hong Kong laws would be required in connection with the establishment of the MPA and the delineation of jurisdiction.</p>	
003958-004434	<p>Chairman Ms Tanya CHAN Administration</p>	<p>Ms CHAN raised her concern about the absence of definitions for the phrases "an area" and "in operation" in the Long Title.</p> <p>The Administration advised that the relevant operative provisions were contained in Clauses 4 and 5 of the Bill.</p>	
004435-004838	<p>Chairman Mr Frankie YICK Administration</p>	<p>Mr YICK enquired about the necessity of local legislation to implement the co-location arrangement at the West Kowloon Station. He asked if it was necessary to add the phrase "pursuant to the decision of the Standing Committee of the National People's Congress ("NPCSC")" to Clause 4 of the Bill.</p> <p>The Administration explained that pursuant to NPCSC's decision on 27 December 2017, local legislation was necessary for the Hong Kong Special Administrative Region ("HKSAR") to implement the co-location arrangement and that given the Preamble</p>	

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		<p>and Explanatory Memorandum of the Bill had provided clearly the Bill was made pursuant to the "Three-step Process", it was not necessary to refer specifically to the decision of the NPCSC in Clause 4 of the Bill.</p>	
004839-005333	<p>Chairman Mr Alvin YEUNG Administration</p>	<p>Mr YEUNG compared the Bill with Cap. 591 and opined that whereas Cap. 591's Long Title was clear as to the application of Hong Kong's jurisdiction in the Shenzhen Bay Port Hong Kong Port Area ("SBPHKPA"), the Long Title of the Bill did not clearly mention the jurisdictional arrangements in relation to the MPA.</p> <p>The Administration advised that the relevant operative provision was Clause 6 and the Long Title was sufficiently clear to reflect the purpose of Clause 6.</p>	
005334-005903	<p>Chairman Mr Paul TSE Ms Tanya CHAN Mr Jeremy TAM</p>	<p>Mr TSE asked whether the Bill had any implication on Article 19 of the Basic Law and the International Organizations and Diplomatic Privileges Ordinance (Cap. 190).</p> <p>Discussion on procedural matters.</p>	
005904-010439	<p>Chairman Mr CHAN Chi-chuen Administration</p>	<p>Mr CHAN expressed that the co-location arrangement would contravene Article 18 of the Basic Law ("BL 18").</p> <p>The Administration elucidated that BL 18 was not engaged for the Bill taking into account the legislative intent behind BL 18 and its applicability.</p>	
010440-011001	<p>Chairman Dr KWOK Ka-ki Administration</p>	<p>In response to Dr KWOK's concerns about the constitutional issues of the Bill, the Administration recapitulated its interpretation of BL 18.</p>	
011002-011329	<p>Chairman Ms YUNG Hoi-yan Administration</p>	<p>Ms YUNG called on the Administration to include in the Long Title the application of laws and the delineation of jurisdiction in the MPA.</p> <p>The Administration explained that the Long Title did not seek to expressly provide for the details of the Bill; the details referred to by the Member were set out in Clause 6 of the Bill.</p>	
011330-011745	<p>Chairman Mr Jeremy TAM Administration</p>	<p>Mr TAM enquired about whether the Long Title sufficiently specified the effect of Clause 6 of the Bill.</p> <p>The Administration explained that the Long Title had adequately set out the purposes of the Bill in general terms for the purposes of RoP 50(3).</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
011746-012109	Chairman Dr Junius HO Administration	Dr HO's comment that the Long Title of the Bill was precise and concise.	
012110-012224	Chairman Administration	Referring to the Chairman's enquiry, the Administration explained the differences between the MPA and the SBPHKPA.	
012225-012714	Chairman Ms Claudia MO Administration	Ms MO expressed concern about the mixed use of "某些" and "若干" in the Chinese text of the Long Title as the bilingual equivalents to the term "certain" in the English text. The Administration advised that the use of both phrases "某些" and "若干" in the Chinese text of the Long Title was appropriate.	
012715-013046	Chairman Mr Kenneth LEUNG Administration	Mr LEUNG enquired whether the term "Declare" could be replaced by "Designate", and whether the phrase "an area" could be replaced by "certain area" in the Long Title. The Administration advised that it had made references to Cap. 591 for the purpose of drafting the Long Title of the Bill.	
013047-013640	Chairman Mr CHU hoi-dick Administration	In response to Mr CHU's enquiries about the legal basis of the Bill and the phrase "to be regarded as" in the Long Title, the Administration explained that pursuant to the decision of the NPCSC, the HKSAR had to implement the co-location arrangement through local legislation. The Administration also explained the effect of the deeming provision (Clause 6 of the Bill) in connection with the use of the phrase "to be regarded as".	
013641-014139	Chairman Ms Tanya CHAN Administration	Ms CHAN enquired about the meaning of "supplementary provisions" in the Long Title, and why agreements to set out the land use right of MPA were not mentioned. The Administration advised that "supplementary provisions" referred to the provisions set out in the proposed Part 3 of the Bill.	
014140-014530	Chairman Mr AU Nok-hin Administration	Mr AU called upon the Administration to take into account members' views and concerns to amend the Long Title. The Administration reiterated its stance that the Long	

Time Marker	Speaker(s)	Subject(s)	Action required
		Title had already reflected the purposes of the Bill in general terms for the purposes of RoP 50(3).	
014531-015012	-	At the request of Mr AU Nok-hin, the Chairman directed the Clerk to ring the quorum bell to summon members to the meeting.	
015013-015419	Chairman Mr Alvin YEUNG Administration	Mr YEUNG suggested modelling the Long Title of the Bill on the Long Title of Cap. 591, which contained a description of the jurisdictional arrangements regarding the SBPHKPA under Cap. 591. The Administration emphasized that the Long Title's function was to set out in general terms the purposes of the Bill. It was not intended as an operative part of the Bill; the relevant operative provision was Clause 6 of the Bill.	
015420-015822	Chairman Mr Gary FAN Administration	Mr FAN expressed that the meaning of the phrase "certain purposes" in the Long Title was vague and proposed to provide definition for it. The Administration explained that the relevant part of the Long Title was sufficient to reflect generally the effect of Clause 6, which was the relevant operative provision.	
015823-020251	Chairman Mr Jeremy TAM Administration	Mr TAM enquired as to why "passenger train" was specifically referred to in the Long Title and whether there would be any freight transport under the co-location arrangement. The Administration advised that the purpose of the Bill was to implement co-location arrangement for passenger train service. The Guangzhou-Shenzhen-Hong Kong Express Rail Link was not envisaged to offer freight transport, and that if necessary, the relevant legislation could be amended according to the established mechanism in future.	
020252-020657	Chairman Ms Claudia MO Administration	Ms MO suggested that the term "area" could be replaced by "space", and the term "certain" could be replaced by "specific", "particular" or "exact" in the Long Title. The Administration advised that the precise area to be declared as the MPA in the Bill was specified in Clause 4 to be read together with the proposed Schedule 2.	
020658-020724	Chairman Mr IP Kin-yuen	In response to the Chairman's invitation, Mr IP said that he had no questions concerning the Long Title at	

Time Marker	Speaker(s)	Subject(s)	Action required
		the moment.	
020725-021132	Chairman Mr CHU Hoi-dick Administration	In response to Mr CHU's suggestion to amend the Long Title, the Administration emphasized that the present drafting of the Long Title was sufficiently clear for the purpose of informing readers of the Bill's main purposes.	
021133-021542	Chairman Ms Tanya CHAN Administration	Ms CHAN expressed her concern that agreements to be signed subsequent to the passage of the Bill were not mentioned in the Long Title. The Administration advised that the relevant operative provision was Clause 8, which provided for the interpretation of future documents in relation to rights and obligations.	
Any other business			
021543-021652	Chairman	Closing remarks.	