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Paper for the House Committee

**Report of Subcommittee on Subsidiary Legislation Relating to the
Commissioning of the Hong Kong-Zhuhai-Macao Bridge Hong Kong Port**

Purpose

This paper reports on the deliberations of the Subcommittee on Subsidiary Legislation Relating to the Commissioning of the Hong Kong-Zhuhai-Macao Bridge Hong Kong Port ("the Subcommittee").

Background

2. The Hong Kong-Zhuhai-Macao Bridge ("HZMB") is the first cross-boundary land bridge connecting Guangdong, Hong Kong and Macao. The entire HZMB project includes the Main Bridge in the Mainland waters and the respective link roads and boundary crossing facilities in Hong Kong, Zhuhai and Macao. The HZMB Hong Kong Link Road ("HKLR"), which is a 12-kilometre dual three-lane carriageway, starts from the boundary between the Hong Kong Special Administrative Region and the Mainland and runs continuously to the HZMB Hong Kong Port ("HKP"), which is located to the east of the Hong Kong International Airport, thereby linking the Main Bridge and HZMB HKP.

3. According to the Administration, all land boundary control points in Hong Kong like the Lok Ma Chau Spur Line and Shenzhen Bay Hong Kong Port Area are currently administered under a closed area approach to maintain their security and effective operation. For effective management of the new control point (i.e. HZMB HKP), HZMB HKP and the related roads in the vicinity, including HKLR, are required to be designated as a closed area under section 36(1) of the Public Order Ordinance (Cap. 245) ("POO"). Subsidiary legislation is required to effect the designation and to grant general permission for cross-boundary passengers and drivers to go through the relevant closed

areas and to provide for other matters under the Immigration Ordinance (Cap. 115) ("IO") and the Immigration Service Ordinance (Cap. 331) ("ISO").

The subsidiary legislation

Immigration (Places of Detention) (Amendment) Order 2017

4. The Immigration (Places of Detention) (Amendment) Order 2017 (L.N. 153 of 2017) is made by the Secretary for Security ("S for S") under section 35(1) of IO. It amends Schedule 3 to the Immigration (Places of Detention) Order (Cap. 115B) by adding the area within HZMB HKP that is set aside as detention quarters for use by the Immigration Department ("ImmD").

Immigration Service (Designated Places) (Amendment) Order 2017

5. The Immigration Service (Designated Places) (Amendment) Order 2017 (L.N. 161 of 2017) is made by S for S under section 13A(9) of ISO. It amends the Schedule to the Immigration Service (Designated Places) Order (Cap. 331B) by adding the area within HZMB HKP that is set aside as detention quarters for use by ImmD.

Closed Area (Hong Kong-Zhuhai-Macao Bridge Hong Kong Port and Hong Kong Link Road) Order

6. The Closed Area (Hong Kong-Zhuhai-Macao Bridge Hong Kong Port and Hong Kong Link Road) Order (L.N. 162 of 2017), made by the Chief Executive after consultation with the Executive Council under section 36(1) of POO, declares certain areas located at or adjacent to HZMB HKP and HKLR as closed areas under POO ("Closed Areas") as shown in the maps in Schedules 1 and 3 to the Order.

Hong Kong-Zhuhai-Macao Bridge Hong Kong Port and Hong Kong Link Road Closed Area (Permission to Enter) Notice

7. The Hong Kong-Zhuhai-Macao Bridge Hong Kong Port and Hong Kong Link Road Closed Area (Permission to Enter) Notice (L.N. 163 of 2017), made by the Commissioner of Police under section 38A of POO, grants general permission to five categories of persons to enter or leave the Closed Areas at any time subject to certain conditions as specified in the Notice. These categories of persons include the driver of and cross-boundary passenger on a road vehicle to the Mainland of China or Macao (leaving Hong Kong via HZMB HKP and HKLR), and the driver of and cross-boundary passenger on a

road vehicle from the Mainland of China or Macao (entering Hong Kong via HKLR).

8. The above four items of subsidiary legislation will come into operation on a day to be appointed by S for S by notice published in the Gazette, which, according to the Administration, will be the day on which HZMB and HKP commence operation.

The Subcommittee

9. At the House Committee meeting on 13 October 2017, Members formed a subcommittee to study the four items of subsidiary legislation relating to the commissioning of HZMB HKP tabled in the Legislative Council on 11 October 2017. The membership list of the Subcommittee is in the **Appendix**.

10. Under the chairmanship of Hon Holden CHOW Ho-ding, the Subcommittee has held one meeting with the Administration.

Deliberations of the Subcommittee

Designation of the Closed Areas

11. Members note that apart from areas for immigration and customs clearance, and inspection and quarantine in HZMB HKP, some related areas and access roads to HZMB HKP and HKLR will also be designated as Closed Areas. Members have enquired about the criteria for determining the coverage of the Closed Areas.

12. The Administration has advised that the designation of the Closed Areas is in line with the practice for other land boundary control points. Having regard to operational experience, it is considered necessary to designate HZMB HKP and the related areas as Closed Areas for effective management of the new control point and the maintenance of public order and public safety.

13. Members have also enquired about the precise coverage of the Closed Areas under the three-dimensional designation approach, i.e. with reference to both horizontal and vertical boundaries.

14. The Administration has explained that having regard to the specific circumstances of the HZMB control point, it is necessary to adopt the three-dimensional designation approach for HZMB HKP and related areas

because there will be overlapping viaducts/roads in HZMB HKP and some of the viaducts/roads in the Closed Areas will be directly above/underneath viaducts/roads which should remain non-closed area. Notably, there will be vessels sailing below and across HKLR and hence the sea space underneath HKLR must not be caught by the Closed Areas. Therefore, the lower vertical boundary of the closed area varies from one area to another depending on the specific circumstances of each area, such as the existence of underground structures and overlapping viaducts/roads. As for the upper vertical boundaries, it will cover the top of all structures in the Closed Areas but not the airspace in which aircraft may fly in the light of the close proximity of the Hong Kong International Airport. Having regard to the height of the highest structure in the Closed Areas (around 70 to 80 metres above Hong Kong Principal Datum) and having consulted the Civil Aviation Department, the upper vertical boundary of the entire Closed Areas is proposed to be 80 metres above Hong Kong Principal Datum but subject to the height restriction set out in section 3(1) of the Hong Kong Airport (Control of Obstructions) (No. 2) Order 1997 (Cap. 301D), which is the maximum height of building which can be built in the light of aviation safety concern.

15. The Administration has stressed that the three-dimensional designation approach was also adopted for the Shenzhen Bay Port Hong Kong Port Area and the Shenzhen Bay Bridge.

Granting general permission for cross-boundary passengers and drivers to enter the Closed Areas

16. Section 3 of the Hong Kong-Zhuhai-Macao Bridge Hong Kong Port and Hong Kong Link Road Closed Area (Permission to Enter) Notice provides that five categories of persons specified in the Schedule to the Notice are permitted to enter or leave the Closed Areas at any time subject to the conditions detailed in that Schedule. Noting that one of the conditions imposed is that the drivers and passengers must not leave the immediate vicinity of the vehicle on which they are travelling, members have enquired about the meaning of "immediate vicinity" and whether a person is strictly prohibited from leaving the vehicle in the Closed Areas.

17. The Administration has advised that the grant of permission aims at providing facilitation to bona fide cross-boundary passengers and drivers such that they can enter or leave the Closed Areas without the need for a closed area permit. The purpose of imposing conditions on these passengers and drivers is to prevent any persons from idling in the Closed Areas that would adversely affect the order of the Closed Areas. To this end, passengers and drivers will be prohibited from leaving the immediate vicinity of their vehicles (with some

reasonable exceptions) whilst in the Closed Areas and from unduly delaying leaving the Closed Areas. In the view of the Administration, the term "immediate vicinity of the vehicle" allows room for reasonable judgment by the law enforcement agencies having regard to the actual circumstances, such as the need for the passengers or drivers to leave their vehicles during emergency situations and accidents.

18. Some members have further enquired about the reasons for using the term "the Mainland of China or Macao" in Column 2 of the Schedule to the Notice. The Administration has explained that cross-boundary passengers and drivers leaving Hong Kong via HZMB HKP and HKLR will go to either the Mainland or Macao and those entering Hong Kong via HKLR come from the Mainland or Macao, the term "the Mainland of China or Macao" is considered wide enough to cater for all cross-boundary passengers and drivers who are permitted under the Notice to leave or enter the Closed Areas.

Setting up and use of detention quarters at the Hong Kong Port

19. Members have enquired whether law enforcement agencies other than ImmD can use the detention quarters at HZMB HKP. The Administration has advised that the area within HZMB HKP that is set aside as detention quarters under IO or ISO will be solely used by ImmD for its routine immigration control and law enforcement duties.

Manpower deployment

20. Members have expressed concern about the manpower deployment for the new boundary control point at HZMB HKP. The Administration has advised that according to the latest projections of the Transport and Housing Bureau, it is estimated that the daily passenger and vehicular flow of HZMB will be in the region of 55 850 to 69 200 and 92 00 to 14 000 respectively. The Administration has allocated additional resources to the Customs and Excise Department and ImmD in the 2017-2018 financial year to create over 300 new posts respectively for customs clearance, immigration control and related duties at HZMB HKP. As the commissioning date of HZMB is approaching, it will consider allocating additional resources to the relevant departments in 2018-2019 in the light of the latest situation. The Administration has stressed that it will closely monitor the passenger and traffic volume of the new control point upon its commissioning and allocate additional resources, if required, to ensure its smooth operation.

Recommendation

21. The Subcommittee raises no objection to the four items of subsidiary legislation and will not propose any amendment to the subsidiary legislation.

Advice Sought

22. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 2
Legislative Council Secretariat
31 October 2017

**Subcommittee on Subsidiary Legislation Relating to the Commissioning of
the Hong Kong-Zhuhai-Macao Bridge Hong Kong Port**

Membership list

Chairman Hon Holden CHOW Ho-ding

Members Hon WONG Ting-kwong, GBS, JP
 Hon Frankie YICK Chi-ming, SBS, JP
 Hon YIU Si-wing, BBS
 Dr Hon KWOK Ka-ki
 Hon Martin LIAO Cheung-kong, SBS, JP
 Ir Dr Hon LO Wai-kwok, SBS, MH, JP
 Hon CHU Hoi-dick
 Dr Hon Junius HO Kwan-yiu, JP
 Hon Tanya CHAN
 Hon LUK Chung-hung

(Total : 11 members)

Clerk Miss Betty MA

Legal Adviser Mr Cliff IP

Date 23 October 2017