

LEGISLATIVE COUNCIL BRIEF

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

HONG KONG AIRPORT (CONTROL OF OBSTRUCTIONS) (EXEMPTION)(AMENDMENT) ORDER 2010

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 2010 (“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 may, where in 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 specified the Airport Height Restrictions (“AHR”) for certain prescribed areas and it came into operation on 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. Two applications for exemption from the AHR specified in the Order have been received from the Television Broadcasts Limited (“TVB”) and the Asia Television Limited (“ATV”) respectively.

Application from TVB

4. TVB has applied for an exemption from the AHR specified in the Order for the construction of new structures at its sites at Kowloon Peak and Castle Peak to expand digital terrestrial television coverage. With temporary exemptions from the AHR granted by DGCA under section 3(4) of the Ordinance, the new structures have already been substantially completed. For the Kowloon Peak site, the structures are at a height of about 654 mPD, exceeding the AHR of 460 mPD specified under the Order for the area. For the Castle Peak site, the structures are at a height of about 628 mPD, exceeding the AHR of 257 mPD specified under the Order for the area. These structures must obtain exemptions from the operation of the Order granted by the Secretary.

Application from ATV

5. ATV has applied for an exemption from the AHR specified in the Order for the construction of new structures at its site at Lamma Island to expand digital terrestrial television coverage. With temporary exemptions from the AHR granted by DGCA under section 3(4) of the Ordinance, the new structures have already been substantially completed. The structures are at a height of about 269 mPD, exceeding the AHR of 178 mPD specified under the Order for the area. The structures must obtain exemption from the operation of the Order granted by the Secretary.

No objection from relevant departments

6. DGCA has no objection to the granting of the exemptions from the operation of the Order for the structures. 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 and Controller of Government Flying Service have no objection to the two proposals.

THE AMENDMENT ORDER

7. The Hong Kong Airport (Control of Obstructions) (Exemption) Order (Cap. 301 sub. leg. E) is amended to exempt the relevant portions of land* from the operation of the Order and to make two minor amendments to the Chinese text to achieve consistency in wordings. It also specifies the new height restriction for buildings which may be erected on the exempted areas.

**Note: all those portions of land as shown coloured pink hatched black, pink stippled black and pink on the Plans numbered SKM7125a, TMM2886b and ISM1962a respectively signed by the Secretary for Development and deposited at the Land Registry subject to the height restriction of 654 mPD (for the Kowloon Peak site), 628 mPD (for the Castle Peak site) and 269 mPD (for the Lamma Island site).*

LEGISLATIVE TIMETABLE

8. The Amendment Order will be published in the Gazette on 19 November 2010 and tabled in the Legislative Council for negative vetting on 24 November 2010. The Amendment Order will come into operation on 15 January 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
November 2010

Hong Kong Airport (Control of Obstructions) (Exemption) (Amendment) Order 2010

(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 15 January 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)

(1) The Schedule, Chinese text, item 1, column 2—

Repeal

“畫” (wherever appearing).

(2) The Schedule, Chinese text, item 5, column 2—

Repeal

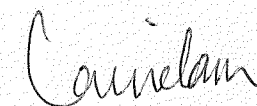
“畫”.

(3) The Schedule, after item 7—

Add

“8. All that portion of land held under Short Term Tenancy No. CX 1834 and shown coloured pink on Plan No. ISM1962a signed by the Secretary for Development and deposited at the Land Registry. 269 m

- | | | |
|-----|---|---------|
| 9. | All that portion of land held under Short Term Tenancy No. SX 3470 and shown coloured pink hatched black on Plan No. SKM7125a signed by the Secretary for Development and deposited at the Land Registry. | 654 m |
| 10. | All that portion of land held under Short Term Tenancy No. 1391 and shown coloured pink stippled black on Plan No. TMM2886b signed by the Secretary for Development and deposited at the Land Registry. | 628 m”. |



Secretary for Development

10 November 2010

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 main purpose of this Order is to exempt certain portions of land at Lamma Island, Kowloon Peak and Castle Peak from that restriction. However, the buildings that are allowed to be erected on those portions of land are still subject to the height restrictions specified in this Order.

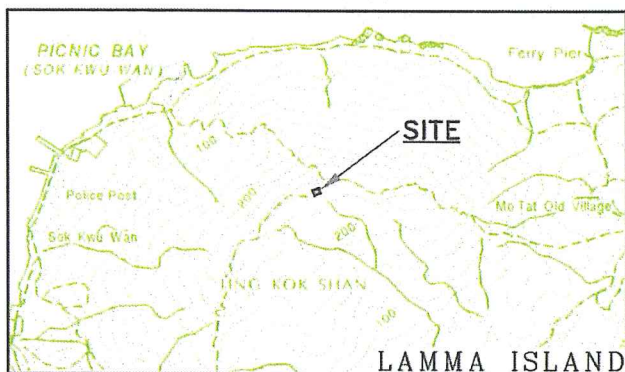


COLOURED PINK AREA 239 SQUARE METRES (ABOUT)

SCALE 1 : 1000

METRES 20 0 20 40 60 80 100 METRES

LOCATION



SCALE 1 : 20000

WITHIN THIS AREA, NO BUILDING SHALL BE
ERECTED ABOVE A HEIGHT OF 269mPD

10 November 2010

Date

Carrollan

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Secretary for Development

FOR IDENTIFICATION PURPOSES ONLY



District Survey Office, Islands
Lands Department

File No. DSO/IS 14/2/2/3 PT2 & DSO/IS W1331

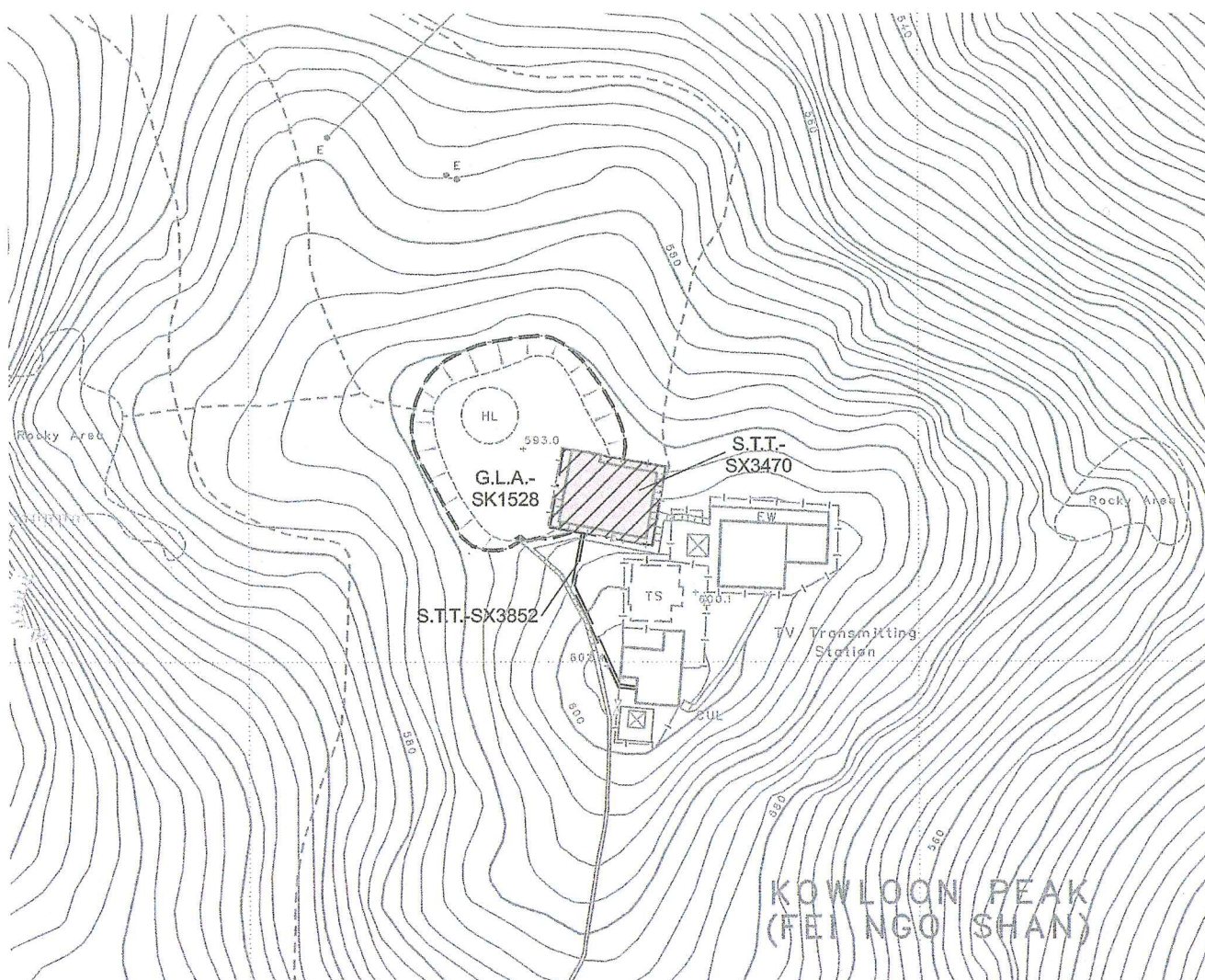
Survey Sheet No. 15-NW-17D

Layout Plan No. -----

Reference Plan No. -----

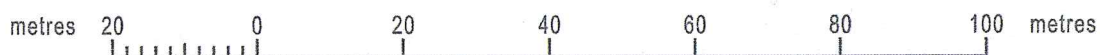
PLAN No. ISM1962a

Date : 8.9.2010

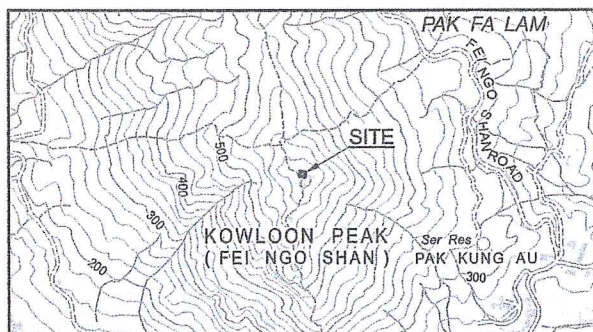


COLOURED PINK HATCHED BLACK AREA 186 SQUARE METRES (ABOUT)

SCALE 1:1 000



LOCATION



SCALE 1:20 000



WITHIN THIS AREA, NO BUILDING SHALL BE
ERECTED ABOVE A HEIGHT OF 654mPD

10 November 2010

Date

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Secretary for Development

FOR IDENTIFICATION PURPOSES ONLY



District Lands Office, Sai Kung
Lands Department

Plan Prepared by District Survey Office, Sai Kung

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File No. (94) IN DSO/SK 17/3/5 PT3

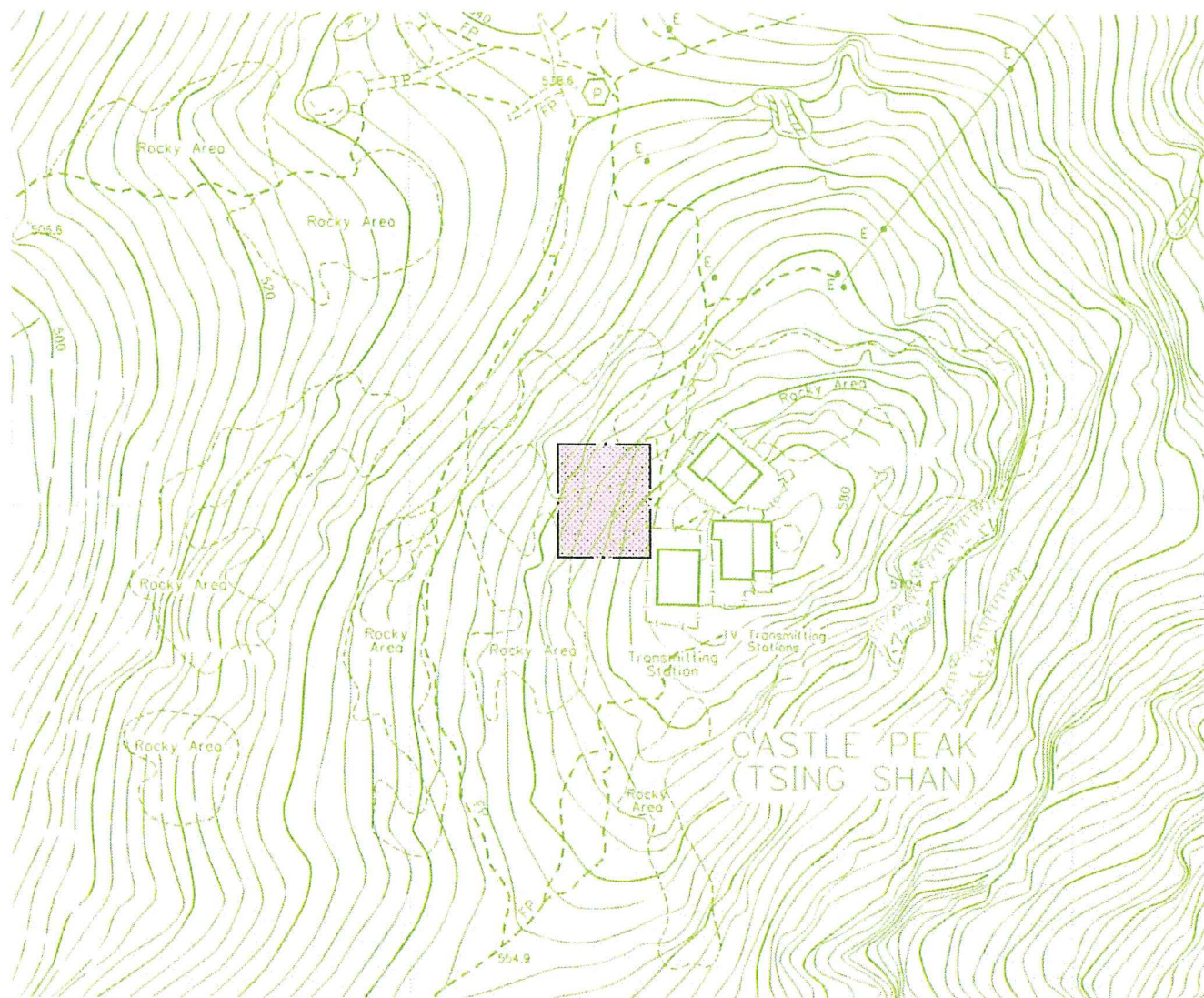
Survey Sheet No. 11-NE-8A

Layout Plan No. -----

Reference Plan No. -----

PLAN No. SKM7125a

Date : 21/09/2010

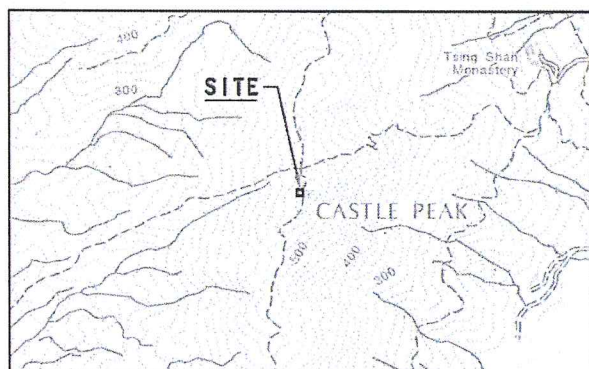


COLOURED PINK STIPPLED BLACK AREA 238.7 SQUARE METRES (ABOUT)

SCALE 1 : 1000

METRES 20 0 20 40 60 80 100 METRES

LOCATION



SCALE 1 : 20000



WITHIN THIS AREA, NO BUILDING SHALL BE
ERECTED ABOVE A HEIGHT OF 628mPD

10 November 2010

Date

Camelam

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Secretary for Development

FOR IDENTIFICATION PURPOSES ONLY



District Lands Office, Tuen Mun
Lands Department

Plan prepared by District Survey Office, Tuen Mun

File No. DSO/TM/13/57

Survey Sheet No. 5-SE-9D

Layout Plan No. -----

Reference Plan No. -----

PLAN No. TMM2886b

Date : 30/09/2010