

**立法會**  
**Legislative Council**

LC Paper No. CB(4)1488/14-15  
(These minutes have been seen  
by the Administration)

Ref: CB4/BC/2/14

**Bills Committee on Peak Tramway (Amendment) Bill 2015**

**Minutes of the fourth meeting held on  
Thursday, 16 July 2015, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon Jeffrey LAM Kin-fung, GBS, JP (Chairman)  
Hon CHAN Kam-lam, SBS, JP  
Hon Cyd HO Sau-lan, JP  
Hon Frankie YICK Chi-ming, JP  
Dr Hon Kenneth CHAN Ka-lok  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Hon SIN Chung-kai, SBS, JP

**Members absent** : Hon WONG Kwok-hing, BBS, MH  
Hon Paul TSE Wai-chun, JP  
Hon YIU Si-wing, BBS  
Hon CHAN Han-pan, JP  
Hon KWOK Wai-keung  
Hon Tony TSE Wai-chuen, BBS

**Public Officers  
attending** : **Agenda item II**

Mr Andy CHAN, JP  
Deputy Secretary for Transport and Housing  
(Transport) 2

Miss Carrie CHANG  
Principal Assistant Secretary for Transport and  
Housing (Transport) 1

Mr Gilbert MO  
Deputy Law Draftsman (Bilingual Drafting and  
Administration)  
Department of Justice

Mr Llewellyn MUI  
Senior Assistant Solicitor General  
Department of Justice

Mr Simon WANG  
Assistant Director (Regional 1) (Acting)  
Lands Department

Ms Phyllis MCKENNA  
Assistant Director/Legal/Hong Kong and Tsuen Wan  
(Legal Advisory and Conveyancing Office)  
Lands Department

**Clerk in attendance** : Ms Debbie YAU  
Chief Council Secretary (4)5

**Staff in attendance** : Miss Evelyn LEE  
Assistant Legal Adviser 10

Ms Katrina WU  
Senior Council Secretary (4)5

Ms Zoe TONG  
Legislative Assistant (4)5

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Action

**I. Confirmation of minutes of meeting**

LC Paper No. CB(4)1322/14-15 -- Minutes of meeting held on  
2 June 2015

The minutes of the meeting held on 2 June 2015 were confirmed.

**II. Meeting with the Administration**

(LC Paper No. CB(4)1288/14-15(01) -- List of follow-up actions  
arising from the discussion at  
the meeting on 29 June 2015

Action

LC Paper No. CB(4)1288/14-15(02) -- Administration's response to issues raised at the meeting on 29 June 2015)

Discussion

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

Legislative timetable

3. The Chairman concluded that the Bills Committee had completed the scrutiny of the Bill. The Bills Committee had no objection to the draft Committee Stage amendments ("CSAs") proposed by the Administration and supported the resumption of the Second Reading debate on the Bill.

*(Post-meeting note: The Administration had proposed to resume the Second Reading debate on the Bill at the Council meeting of 28 October 2015. The Chairman would report the deliberations of the Bills Committee to the House Committee on 9 October 2015. The deadline for giving notice to move CSAs to the Bill was 17 October 2015. Members were informed of the above vide LC Paper No. CB(4)1355/14-15 on 20 July 2015.)*

**III. Any other business**

4. There being no other business, the meeting ended at 11:30 am.

Council Business Division 4  
Legislative Council Secretariat  
 24 September 2015

**Proceedings of the fourth meeting of  
the Bills Committee on Peak Tramway (Amendment) Bill 2015  
on Thursday, 16 July 2015, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda item I – Confirmation of minutes of meeting</b>			
000253 – 000413	Chairman	Confirmation of minutes of meeting	
<b>Agenda item II – Meeting with the Administration</b>			
000414 – 001220	Chairman Administration	The Administration briefed members on its response to issues raised at the meeting on 29 June 2015 (LC Paper No. CB(4)1288/14-15(02))	
001221 – 002019	Chairman Assistant Legal Adviser ("ALA") Administration	In reply to the concern raised by ALA, the Administration advised that it would intervene and trigger the mandatory lease arrangement ("MLA") and mandatory sale arrangement proposed under the Bill only if the negotiation between the asset owner and the new operator could not reach an agreement on the handover arrangements.	
002020 – 002925	Chairman Mr Frankie YICK Administration	<p>Mr YICK indicated reservation on the Administration's view on protection of private property right as stipulated in Article 105 of the Basic Law. He opined that although the proposed amendment required market rent be paid to the land owner when its premises essential to the peak tramway operation was leased out, the right for the land owner to freely use its property was affected. While noting the unique nature of the peak tramway, he was keen to ensure that the proposed exit mechanism would not be cited as a precedent for other bills in future.</p> <p>The Administration assured members that by the fact that the Bill was solely related to peak tramway, the effect of the Bill, including that of the proposed MLA, would only be applicable to the peak tramway. It would not be applicable to other legislation.</p> <p>The Administration reiterated that the Peak Tramways Company, Limited ("PTC"), the owner of the land and premises essential to the peak tramway operation, had agreed with the proposed MLA. Even if the Administration and PTC could reach an agreement on how the terms under the land lease should be modified, implementing the proposed MLA by way of land lease modification could not achieve the same binding effect as legislative amendments. It would</p>	

Time marker	Speaker	Subject(s)	Action required
		not be certain if the terms under the land lease as modified could also bind PTC's successor in land title. There was so far no case law under the common law that provided a clear answer to this question.	
002926 – 003934	Chairman Dr Kenneth CHAN Administration	In response to Dr CHAN's concern on public consultation before granting the operating right, the Administration advised that as stipulated in the Bill, the Chief Executive ("CE") in Council must consider all relevant matters when deciding whether or not to grant an operating right to a body corporate. According to the established practice, the Administration would consult the Legislative Council ("LegCo") before making a recommendation to CE in Council on the granting of the operating right. All the views received during the process would be taken into account in making the recommendation. The Administration undertook to set out the consultation process in the speech of the Secretary for Transport and Housing during the resumption of the Second Reading debate on the Bill. In keeping with the established practice, the Administration planned to consult LegCo on PTC's application for the second 10-year operating right, it being that consultation with LegCo on the grant of the first 10-year operating right had already been completed. That should include details of PTC's upgrading plan.	
003935 – 004107	Chairman Mr SIN Chung-kai Mr Frankie YICK	Mr SIN considered the proposed Committee Stage amendment ("CSA") to the proposed section 2C(2) in order.	
004108 – 004314	Chairman Mr CHAN Kam-lam	Mr CHAN supported the proposed CSAs to the Bill, and urged the Administration to maintain frequent communication with PTC.	
004315 – 004505	Chairman Administration	The Bills Committee did not raise objection to CSAs proposed by the Administration.  Legislative timetable	
<b>Agenda item III – Any other business</b>			
004506 – 004531	Chairman	Closing remarks by the Chairman	