

立法會
Legislative Council

LC Paper No. CB(4)625/15-16
(These minutes have been seen
by the Administration)

Ref: CB4/BC/3/14

Bills Committee on Kai Tak Cruise Terminal Bill

**Minutes of the fourth meeting held on
Tuesday, 19 January 2016, at 4:30 pm
in Conference Room 2B of the Legislative Council Complex**

Members present : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon James TO Kun-sun
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon WONG Kwok-kin, SBS
Hon Paul TSE Wai-chun, JP
Hon Frankie YICK Chi-ming, JP
Hon YIU Si-wing, BBS
Hon SIN Chung-kai, SBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Tony TSE Wai-chuen, BBS

Members absent : Hon Cyd HO Sau-lan, JP
Hon Alan LEONG Kah-kit, SC

Public Officers attending : **Agenda item II**
Commerce and Economic Development Bureau

Miss Rosanna LAW, JP
Deputy Commissioner for Tourism

Mr George TSOI
Assistant Commissioner for Tourism 4

Miss Carrie LEE
Senior Administrative Officer (Tourism)4

Department of Justice

Mr Henry CHAN
Senior Government Counsel

Miss Queenie WU
Government Counsel

Clerk in attendance : Mr Daniel SIN
Chief Council Secretary (4)3

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Ms Lauren LI
Council Secretary (4)5

Ms Zoe TONG
Legislative Assistant (4)5

Action

I. Confirmation of minutes of meetings

(LC Paper No. CB(4)431/15-16 — Minutes of meeting held on
24 November 2015

LC Paper No. CB(4)432/15-16 — Minutes of meeting held on
8 December 2015)

The minutes of the meetings held on 24 November and 8 December 2015
were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(4)486/15-16(01) — List of follow-up action(s)
arising from the discussion at
the meeting on 8 December
2015

Action

- LC Paper No. CB(4)486/15-16(02) — Administration's response to issues raised at the meeting on 8 December 2015
- LC Paper No. CB(4)376/15-16(01) — Letter dated 15 December 2015 from Hon James TO
- LC Paper No. CB(4)486/15-16(03) — Administration's response to the letter from Hon James TO dated 15 December 2015
- LC Paper No. CB(3)828/14-15 — The Bill
- LC Paper No. CB(4)41/15-16(01) — Marked-up copy of related amendments to existing three items of subsidiary legislation prepared by the Legal Service Division (Restricted to members only)

Discussion

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

Follow-up actions to be taken by the Administration

3. The Administration was requested to provide information/response to the following –
- (a) examples in other legislation which delegate statutory powers including enforcement powers to persons other than public officers as currently proposed in Clauses 6 and 21 of the Kai Tak Cruise Terminal Bill ("the Bill");
 - (b) whether the Administration will align the drafting of "must, as soon as practicable ... take the person to a police station ..." ("須...在切實可行範圍內盡快將該人帶往警署") in Clause 21(2) of the Bill along the wording of "... and forthwith take him to a police station" ("...並立即將他帶到警署") in Section 36 of the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313H) and if the answer is negative, the reasons for the present drafting of Clause 21(2);

Action

- (c) whether the Port Facility Security Plan is only applicable to the restricted areas of the Kai Tak Cruise Terminal ("KTCT");
- (d) a copy of the tenancy agreement sample including the provisions in relation to the rent and any other fees (if any) to be paid by the terminal operator to the Government under the tenancy agreement;
- (e) the permissible uses under Column I and Column II of the relevant statutory plans that have been determined by the Town Planning Board in respect of KTCT;
- (f) whether the Commissioner for Tourism's power to allow "any activity that the Commissioner considers appropriate" at KTCT under Clause 4(c) of the Bill would override the restrictions on such use of KTCT as imposed by the Town Planning Board and whether the Commissioner's power under Clause 4(c) is subject to any limits or restrictions; and
- (g) details, including the rank(s) and any particular requirements e.g. training, of the terminal operator's or the property manager's employees who could be delegated/sub-delegated to exercise the relevant powers under Clause 6 of the Bill.

(Post-meeting note: The Administration's written response was issued to members vide LC Paper No. CB(4)548/15-16(02) on 1 February 2016.)

III. Any other business

Date of next meeting

4. The Chairman advised that the next meeting of the Bills Committee would be held on Tuesday, 2 February 2016 at 10:45 am.
5. There being no other business, the meeting ended at 6:30 pm.

Council Business Division 4
Legislative Council Secretariat
 19 February 2016

**Proceedings of the fourth meeting of
the Bills Committee on Kai Tak Cruise Terminal Bill
on Tuesday, 19 January 2016, at 4:30 pm
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Confirmation of minutes of meetings			
000307 – 000327	Chairman	Confirmation of minutes of meetings	
Agenda item II – Meeting with the Administration			
000328 – 002551	Chairman Administration Mr James TO	Briefing by the Administration on its written response to issues arising from the meeting held on 8 December 2015 (LC Paper No. CB(4)486/15-16(02)) and to the letter dated 15 December 2015 from Hon James TO (LC Paper No. CB(4)486/15-16(03))	
002552 – 003033	Chairman Mr James TO Administration	Mr James TO's enquiry about and the Administration's response to the delegation of statutory powers including enforcement powers to persons other than public officers. The Administration undertook to provide relevant information to members for reference.	The Administration to follow up as per paragraph 3(a) of the minutes
003034 – 003720	Chairman Mr YIU Si-wing Administration	Mr YIU Si-wing commented on the drafting of the definition of "cruise ship" and the statutory powers delegated to persons other than public officers.	
003721 – 004320	Chairman Mr YIU Si-wing Administration Mr James TO	Discussion on Clause 21(2) of the Bill Mr YIU Si-wing's enquiry about and the Administration's response to the meaning of "as soon as practicable" under Clause 21(2). Mr James TO's enquiry about and the Administration's response to the difference between the drafting of Clause 21(2) of the Bill and the similar provision in the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313H).	The Administration to follow up as per paragraph 3(b) of the minutes
004321 – 004615	Chairman Mr James TO	Mr James TO expressed his views on the Administration's response regarding the policy objectives of the Bill.	
004616 – 005941	Chairman Mr James TO Administration Mr Frankie YICK	Discussion on the Port Facility Security Plan ("the Security Plan") Mr James TO enquired if any provisions in the Security Plan were legally binding and might undermine the enforcement of the Bill.	

Time marker	Speaker	Subject(s)	Action required
		<p>In response, the Administration advised that –</p> <ul style="list-style-type: none"> (a) the Security Plan was prepared by the terminal operator and approved by the Government under the Merchant Shipping (Security of Ships and Port Facilities) Rules (Cap. 582A) and the International Ship and Port Facility Security Code; (b) it could not disclose the Security Plan due to security reasons; and (c) issues concerning the Security Plan fell outside the purview of the Commerce and Economic Development Bureau. <p>Mr TO urged the Administration to provide explanations, from the legal perspectives and without contravening the confidentiality of the Security Plan, on its conclusion that there was "no inconsistency" between the Security Plan and the Bill. Mr Frankie YICK enquired if the Security Plan was only applicable to the restricted areas of KTCT.</p> <p>In response to Mr TO and Mr Frankie YICK's enquiry, the Administration explained that relevant departments overseeing the Security Plan had been consulted and undertook to confirm whether the Security Plan was only applicable to the restricted areas of KTCT.</p>	<p>The Administration to follow up as per paragraph 3(c) of the minutes</p>
005942 – 012324	<p>Chairman Mr James TO Administration Mr Frankie YICK Mr Tony TSE Assistant Legal Adviser 9 ("ALA9")</p>	<p>Discussion on the need to disclose the tenancy agreement between the Government and the terminal operator to facilitate the scrutiny of the clauses containing a reference to such an agreement in the Bill</p> <p>Noting that Clauses 5(2) and 5(5) contained the condition of "subject to the tenancy agreement between the Government and a terminal operator", Mr James TO urged the Administration to disclose the contents of the tenancy agreement to facilitate members' scrutiny of the Bill. ALA9 shared a similar view.</p> <p>In response, the Administration advised that –</p> <ul style="list-style-type: none"> (a) while it could not unilaterally disclose the content of the tenancy agreement, the sample of the tenancy agreement which was substantially the same as the one signed was available to the public, a copy of which could be provided; and 	<p>The Administration to follow up as per paragraph 3(d) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
		(b) information on the rent that the terminal operator had to pay to the Administration under the tenancy agreement had been released to the Legislative Council (including the Panel on Economic Development) earlier.	
012325 – 012544	Chairman Mr Frankie YICK Administration	The Administration undertook to provide relevant information to address Mr Frankie YICK's concern about the deviations to the permissible uses of KTCT as determined by the Town Planning Board ("TPB").	The Administration to follow up as per paragraph 3(e) of the minutes
012545 – 013055	Chairman Mr James TO ALA9 Administration	<p>Discussion on the use of KTCT</p> <p>Mr James TO's enquiry about the application of Clause 4(c) that KTCT was to be used "for carrying out any activity that the Commissioner considers appropriate", and the situations which conflicted with the permissible uses of KTCT as determined by TPB.</p> <p>ALA9 drew members' attention to her letter to the Administration dated 20 November 2015 (LC Paper No. CB(4)244/15-16(03)) enquiring about the examples under Clauses 4(c) and (d), and the response provided by the Administration (LC Paper No. CB(4)301/15-16(02)).</p>	The Administration to follow up as per paragraph 3(f) of the minutes
013056 – 014053	Chairman Mr James TO Administration	<p>Discussion on the delegation of powers</p> <p>Mr James TO's enquiry about and the Administration's response to the details of the terminal operator's staff who could be delegated/sub-delegated with the relevant powers under the Bill as agreed by the Administration and the terminal operator.</p> <p>Referring to point 10 of the Administration's response to his letter dated 15 December 2015 (LC Paper No. CB(4)376/15-16(01)) that "the Administration would consider making appropriate amendments to stipulate that such power (to order a person to leave KTCT) may only be exercised on the grounds of operation, safety and security within the Terminal Area", Mr TO urged the Administration to give some thought to confer more specific meanings and restrictions to "operation" so mentioned.</p>	The Administration to follow up as per paragraph 3(g) of the minutes
014054 – 015019	Chairman Mr James TO Administration	Mr James TO's enquiry about and the Administration's response to the reasons for having the same enforcement power under the Bill regardless of whether a vessel was berthing at KTCT or not.	

Time marker	Speaker	Subject(s)	Action required
		<p>The Chairman added that there was a need to uphold the security of KTCT regardless of whether a vessel was at berth and asked the Administration to consider whether there could be ways to open up more space to the public when no vessels were berthing at KTCT, taking into consideration the operation and management of KTCT.</p>	
015020 – 015117	Chairman Mr YIU Si-wing Administration	<p>Discussion on the definition of "cruise ship"</p> <p>Upon the suggestion and request of Mr YIU Si-wing, the Administration undertook to consider the option of adding "[including] vessels equipped with ancillary facilities related to cruise ships" ("[包括]與郵輪配套相關的船隻") in the definition of "cruise ship".</p>	
015118 – 015957	Chairman Mr James TO Administration	<p>Discussion on vehicles and vessels within, entering and leaving KTCT</p> <p>Mr James TO enquired about the right of vessels used by public officers to berth at KTCT. The Administration referred to Clause 8(3)(a) of the Bill and advised that no approval from the Commissioner for Tourism was required for the berthing of such vessels at KTCT.</p> <p>Mr James TO's enquiry about and the Administration's response to the application of Clause 8(3)(c) of the Bill relating to the use of a life-saving appliance in an emergency.</p>	
Agenda item III –Any other business			
015958 – 020113	Chairman Administration	Date of next meeting	