

**立法會**  
**Legislative Council**

LC Paper No. CB(4)707/15-16  
(These minutes have been seen  
by the Administration)

Ref: CB4/BC/1/15

**Bills Committee on Eastern Harbour Crossing Legislation  
(Amendment) Bill 2015**

**Minutes of the second meeting held on  
Tuesday, 16 February 2016, at 8:30 am  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)  
Hon Alan LEONG Kah-kit, SC  
Hon WONG Yuk-man  
Hon Frankie YICK Chi-ming, JP  
Hon WU Chi-wai, MH  
Hon KWOK Wai-keung  
Hon POON Siu-ping, BBS, MH  
Hon TANG Ka-piu, JP  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

**Member attending** : Hon James TIEN Pei-chun, GBS, JP

**Members absent** : Hon LEE Cheuk-yan  
Hon Paul TSE Wai-chun, JP  
Hon CHAN Han-pan, JP

**Public Officers  
attending** : **Agenda item I**

Transport and Housing Bureau

Ms Ivy LAW  
Deputy Secretary for Transport and Housing  
(Transport) 3

Ms Cordelia LAM  
Principal Assistant Secretary for Transport and  
Housing (Transport) 2

Transport Department

Ms Macella LEE, JP  
Assistant Commissioner for Transport / Management  
and Paratransit

Mr SO Chun-chuen  
Chief Transport Officer / Eastern Harbour Crossing

Mr Alfred LAM  
Chief Engineer / Transport Planning

Department of Justice

Miss Emma WONG  
Senior Assistant Law Draftsman (Acting)

**Clerk in attendance :** Ms Shirley CHAN  
Chief Council Secretary (4)5

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

Ms Anki NG  
Senior Council Secretary (4)5

Ms Lauren LI  
Council Secretary (4)5

Ms Zoe TONG  
Legislative Assistant (4)5

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Action

**I Meeting with the Administration**

- (LC Paper No. CB(3)237/15-16 — The Bill
- File Ref: THB(T) 4/4651/85 — The Legislative Council Brief issued by the Transport and Housing Bureau
- LC Paper No. LS18/15-16 — Legal Service Division Report on the Bill
- LC Paper No. CB(4)585/15-16(01) — Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to members only)
- LC Paper No. CB(4)585/15-16(02) — List of follow-up action arising from the discussion at the meeting on 12 January 2016
- LC Paper No. CB(4)585/15-16(03) — Administration's response to issues raised at the meeting on 12 January 2016
- LC Paper No. CB(4)585/15-16(04) — Letter from Assistant Legal Adviser to the Administration dated 15 January 2016
- LC Paper No. CB(4)585/15-16(05) — Administration's response to Assistant Legal Adviser's letter dated 15 January 2016)

Discussion

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

2. The Administration's reply to Assistant Legal Adviser's letter dated 15 January 2016 on the implications in the event that the Eastern Harbour Crossing Legislation (Amendment) Bill 2015 ("the Bill") could not be passed before the prorogation of the Fifth Legislative Council ("LegCo") was tabled at the meeting.

(*Post-meeting note:* with the concurrence of the Chairman, the Administration's response was circulated to members and copied to all other Members of the LegCo vide LC Paper No. CB(4)607/15-16(01) on 17 February 2016.)

Follow-up action

3. In the course of deliberation, members expressed concerns on a number of traffic and transport issues relating to the Eastern Harbour Crossing ("EHC") and other road harbour crossings ("RHCs"). The Bills Committee considered that these matters should more appropriately be followed up by the Panel on Transport given the wide implications of the policy matters involved. These included –

- (a) potential impacts on motorists and the travelling public in the event that the Bill could not be passed before the prorogation of the Fifth LegCo, and the formulation and implementation of traffic and transport contingency plans to deal with the situations;
- (b) job security of the exiting staff of the EHC tunnel operator after the expiry of the Build-Operate-Transfer franchise;
- (c) tolling strategy of EHC and other RHCs; and
- (d) distribution of traffic among the three RHCs.

After deliberation, members agreed that the matters be referred to the Panel on Transport for follow-up.

(*Post-meeting note:* a memo for referral of the above matters was issued to the Panel on Transport on 17 February 2016.)

Clause-by-clause examination of the Bill

4. The Bills Committee examined the Chinese version of the Bill clause-by-clause. Upon completion of the examination, the Chairman concluded that the Bills Committee had basically completed scrutiny of the Bill and supported the Bill in general. He asked Assistant Legal Adviser 10 to study the drafting aspect of the English version of the Bill. Members agreed that the Bills Committee would report its deliberations to the House Committee on a date to be fixed after the meeting. The Administration indicated that it would inform the Bills Committee of its intended date for resumption of the Second Reading debate on the Bill at the Council meeting.

Action

**II Any other business**

Date of next meeting

5. Members noted that the Bills Committee had scheduled a meeting for Tuesday, 1 March 2016 at 10:45 am. Depending on the actual needs, the meeting might not need to be held as scheduled.

*(Post-meeting note: with the concurrence of the Chairman, the third meeting of the Bills Committee was held on 1 March 2016 to discuss the proposed Committee Stage amendments from members. Members were informed of the meeting arrangements vide LC Paper No. CB(4)645/15-16 issued on 23 February 2016.)*

6. There being no other business, the meeting ended at 9:59 am.

Council Business Division 4  
Legislative Council Secretariat  
14 March 2016

**Proceedings of the second meeting of  
the Bills Committee on Eastern Harbour Crossing Legislation (Amendment) Bill 2015  
on Tuesday, 16 February 2016, at 8:30 am  
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda item I – Meeting with the Administration</b>			
000349 – 001826	Chairman Administration	<p>Chairman's opening remarks</p> <p>Briefing by the Administration on its written response (LC Paper No. CB(4)585/15-16(03)) to issues raised at the meeting held on 12 January 2016 and Administration's further response (LC Paper No. CB(4)607/15-16(01)) to the letter dated 15 January 2016 from Assistant Legal Adviser (LC Paper No. CB(4)585/15-16(04)) with the aid of a PowerPoint presentation (LC Paper No. CB(4)606/15-16(01))</p>	
001827 – 002456	Chairman Mr TANG Ka-piu Administration	<p>Discussion on the implications in the event that the Bill could not be passed</p> <p>Mr TANG Ka-piu expressed grave concern on the dire consequences in the event that the Eastern Harbour Crossing Legislation (Amendment) Bill 2015 ("the Bill") could not be passed before the prorogation of the Fifth Legislative Council ("LegCo"). He enquired if there were any contingency plans on the Administration's side in the event that the Bill were not passed before the expiry of the Build-Operate-Transfer ("BOT") franchise of the Eastern Harbour Crossing ("EHC") on 7 August 2016. He also enquired under what circumstances closure of EHC would be necessary and whether the Administration could temporarily extend the contract with the existing franchisee on the expiry of the franchise as a possible way out.</p> <p>In response, the Administration advised that –</p> <p>(a) pursuant to Section 70(2)(d) of the Eastern Harbour Crossing Ordinance (Cap. 215) ("EHC Ordinance"), all rights and obligations of the franchisee under the EHC Ordinance would determine on the expiry of the BOT franchise. There was no legal basis for the Administration to extend the franchise with the existing franchisee on the expiry of the franchise;</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) Section 70(4) of the EHC Ordinance provided that EHC, which was currently an asset of the franchisee, would vest in the Government on the expiry of the franchise. While the Government could rely on the provisions of the Road Traffic Ordinance (Cap. 374) and those provisions of the EHC Ordinance which were not related to the rights and obligations of the franchisee to manage and operate EHC, there would be some areas of tunnel operation (e.g. regulating traffic and collection of tolls) not properly covered; and</p> <p>(c) the Administration might consider temporarily close the access to EHC when EHC was considered unsafe or unsuitable for free flow of traffic.</p> <p>The Chairman reminded members that the Bills Committee should focus its discussion on the scrutiny of the Bill. Issues relating to tunnel policies, toll levels and potential traffic impacts if the Bill could not be passed before the prorogation of the Fifth LegCo fell outside the scope of the Bills Committee's work. Such issues should more appropriately be followed up by the Panel on Transport.</p>	
002457 – 002857	Chairman Mr Christopher CHUNG	<p>Mr Christopher CHUNG pointed out that given the dire consequences in the event that the Bill were not passed, the Administration should devise comprehensive contingency plans with detailed figures and data to deal with the adverse situations.</p> <p>The Chairman directed that members' concerns should be forwarded to the Panel on Transport for further discussion and follow-up actions.</p>	
002858 – 003054	Chairman Mr POON Siu-ping Administration	<p>Discussion on employment of existing employees of the EHC operator</p> <p>Mr POON Siu-ping was concerned about the job security of the existing employees of the EHC operator and the progress of the tendering exercise for the appointment of a management, operation and maintenance ("MOM") contractor for EHC upon the expiry of the franchise.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration advised that the tendering exercise for an MOM contractor had completed and a new MOM contractor had been selected. The Administration would announce the tender results shortly. The MOM contractor would be required to make first offer of employment to about 200 staff of the current EHC franchisee at the existing salary levels.</p>	
003055 – 003406	<p>Chairman Mr POON Siu-ping Mr KWOK Wai-keung Administration</p>	<p>Mr POON Siu-ping and Mr KWOK Wai-keung shared the view that the Administration should formulate contingency plans to deal with the potential traffic and transport problems if the Bill could not be passed before the prorogation of the Fifth LegCo. Mr KWOK also enquired about the Administration's plans on toll adjustment after the Government's takeover of EHC.</p> <p>The Administration advised that –</p> <ul style="list-style-type: none"> <li>(a) the Secretary for Transport and Housing had undertaken to study traffic distribution among the three road harbour crossings ("RHCs") at the Panel on Transport;</li> <li>(b) any toll adjustment scheme should take into account all three RHCs in a holistic manner; and</li> <li>(c) commissioning of the Central-Wan Chai Bypass would ease congestion of the connecting roads of the Western Harbour Crossing, hence providing a greater scope for the Administration to consider a comprehensive tolls scheme covering the three RHCs. It would consult LegCo when such scheme had been worked out.</li> </ul>	
003407 – 003736	<p>Chairman Mr WU Chi-wai Administration</p>	<p>In response to Mr WU Chi-wai's enquiry, the Administration advised that any proposed amendments to amend the tolls of EHC in the Bill should fall outside the scope of the Bill. It was clearly stated in the long title of the Bill and other relevant materials that the existing toll chargeable under the EHC Ordinance would be incorporated into the Road Tunnels (Government) Ordinance (Cap. 368) ("the Ordinance") and its subsidiary legislation, namely the Road Tunnels (Government) Regulations (Cap. 368A) ("the Regulations").</p>	



Time marker	Speaker	Subject(s)	Action required
003737 – 004036	Chairman Mr TANG Ka-piu Administration	Mr TANG Ka-piu enquired about the empowerment of the Police to enforce Sections 15, 16 and 18 of the Ordinance in EHC if the Bill could not be passed on the expiry of the BOT franchise. The Administration advised that the Bill, among others, sought to subsume EHC under the legal framework of the Ordinance and the Regulations. If the Bill were not passed, provisions under the Ordinance would not be applicable to EHC.	
004037 – 004212	Chairman Mr Alan LEONG Administration	In response to Mr Alan LEONG's enquiry about the difference between the takeover arrangements of the Cross-Harbour Tunnel ("CHT") in 1999 and EHC in 2016, the Administration advised that generally speaking, arrangements of the two takeovers were largely similar.	
<b>Clause-by-Clause Examination of the Bill</b>			
004213 – 005508	Chairman Administration Assistant Legal Adviser 10 ("ALA10")	<p>Members commenced to scrutinize the Chinese version of the Bill by reference to the marked-up copy of the Bill.</p> <p><b>Part 1 - Preliminary</b></p> <p><u>Clause 1 to Clause 2</u></p> <p>Members raised no query on the above Clauses.</p> <p><b>Part 2 – Amendments to Road Tunnels (Government) Ordinance (Cap. 368)</b></p> <p><u>Clause 3 to Clause 5</u></p> <p>Members raised no query on the above Clauses.</p> <p><b>Part 3 – Amendments to Road Tunnels (Government) Regulations (Cap. 368 sub. leg. A)</b></p> <p><u>Clause 6 – Regulation 2 amended (interpretation)</u></p> <p>Members raised no query on the above Clause.</p>	
005509 – 010254	Chairman Mr Alan LEONG Administration	<p><b>Part 3 – Amendments to Road Tunnels (Government) Regulations (Cap. 368 sub. leg. A)</b></p> <p><u>Clause 7 – Regulation 3 amended (prescribed signs and road markings)</u></p> <p>In response to Mr Alan LEONG's enquiry on whether the definition of CHT should be included in the Regulations, the Administration advised that none of the tunnels in the Regulations were defined.</p>	

Time marker	Speaker	Subject(s)	Action required
		There should be no confusion to the public since CHT was included in Schedule 1 to the Ordinance, hence CHT was one of the tunnels to which the Ordinance applied.	
010255 – 011138	Chairman Administration	<p><b>Part 3 – Amendments to Road Tunnels (Government) Regulations (Cap. 368 sub. leg. A)</b></p> <p><u>Clause 8 to Clause 18</u></p> <p>Members raised no query on the above Clauses.</p> <p><b>Part 4 – Repeal, Savings, Transitional and Consequential Provisions</b></p> <p><u>Clause 19 to Clause 28</u></p> <p>Members raised no query on the above Clauses.</p> <p>The Chairman concluded that the Bills Committee had completed scrutiny of the Chinese version of the Bill and supported the Bill in general. He asked ALA10 to study the drafting aspect of the English version of the Bill.</p>	
011139 – 012819	Chairman Mr WONG Yuk-man ALA10 Administration	<p>Mr WONG Yuk-man enquired about the Administration's confidence in passing the Bill before the prorogation of the Fifth LegCo. He also doubted whether amendments to the Bill regarding toll adjustment would be inadmissible under Rule 57(6) of the Rules of Procedure. He might consider moving Committee Stage amendments to revise the toll levels of EHC.</p> <p>ALA10 advised that –</p> <p>(a) the power to decide whether an amendment involving toll adjustment of EHC was admissible was vested in the President of LegCo; and</p> <p>(b) the Legal Service Division would examine further on LC Paper No. CB(4)607/15-16(01) which was received shortly before the meeting and might seek clarifications from the Administration on certain legal points.</p>	
<b>Agenda item II – Any other business</b>			
012820 – 012917	Chairman	Date of next meeting	