

立法會
Legislative Council

Ref : CB4/BC/2/17

LC Paper No. CB(4)1428/17-18
(These minutes have been seen
by the Administration)

**Bills Committee on Guangzhou-Shenzhen-Hong Kong Express Rail Link
(Co-location) Bill**

**Minutes of the second meeting
held on Friday, 23 February 2018, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon Mrs Regina IP, LAU Suk-ye, GBS, JP (Chairman)
Hon CHEUNG Kwok-kwan, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, GBS, JP
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon CHAN Kin-por, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, SBS, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP
Hon Dennis KWOK Wing-hang

Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, BBS, JP
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Alvin YEUNG
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon HUI Chi-fung
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon Jeremy TAM Man-ho

**Members
absent** : Hon LEUNG Yiu-chung
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon Andrew WAN Siu-kin
Hon KWONG Chun-yu

**Public officers
attending** : Item II

Transport and Housing Bureau

Mr Frank CHAN Fan, JP
Secretary for Transport and Housing

Ms Rebecca PUN Ting-ting, JP
Deputy Secretary for Transport and Housing (Transport) 1

Mr Andy LAM Siu-hong
Principal Assistant Secretary for Transport and Housing
(Transport) 3

Mr Ronald CHENG Long-fung
Assistant Secretary for Transport and Housing
(Transport) 3C

Department of Justice

Ms Teresa CHENG, GBS, SC, JP
Secretary for Justice

Mr Wesley WONG Wai-chung, SC, JP
Solicitor General

Mr Dominic LAI Kai-sang
Deputy Law Officer (Civil Law)(Advisory)

Mr Llewellyn MUI Kei-fat
Deputy Solicitor General (Constitutional Affairs) (Acting)

Mr Lawrence PENG Si-yun
Senior Assistant Law Draftsman

Mr Henry CHAN Ngai-him
Senior Government Counsel

Security Bureau

Mr John LEE Ka-chiu, SBS, PDSM, PMSM, JP
Secretary for Security

Mr Parson LAM Chun-wah
Principal Assistant Secretary for Security D

Clerk in attendance : Ms Sophie LAU
Chief Council Secretary (4)2

Staff in attendance : Mr Timothy TSO
Senior Assistant Legal Adviser 1

Miss Joyce CHAN
Assistant Legal Adviser 1

Miss Joyce CHING
Senior Council Secretary (4)2

Ms Jacqueline LAW
Council Secretary (4)2

Miss Mandy LAM
Legislative Assistant (4)2

I. Meeting with the Administration

(LC Paper Nos. CB(4)597/17-18(01), CB(4)631/17-18(01), File ref.: THB(T)CR 9/1/16/581/99, LC Paper Nos. CB(3)312/17-18, LS31/17-18 and CB(4)587/17-18(01))

Discussion

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

Follow-up actions required of the Administration

2. The Administration was requested to provide:
 - (a) a written response to "Statement of the Hong Kong Bar Association on the decision of the NPCSC of 27 December 2017 on the Co-operation Agreement between the Mainland and the HKSAR on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for implementing co-location arrangement" issued on 28 December 2017;
 - (b) relevant cases in other common law jurisdictions applicable in demonstrating that the proposed establishment of the Mainland Port Area and the proposed application of the laws of the Mainland within the Mainland Port Area under the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill would satisfy the proportionality test; and

- (c) floor plan(s) of the West Kowloon Station of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, in particular that of the Mainland Port Area detailing the uses of different parts therein before the site visit scheduled for 27 February 2018.

(Post-meeting note: The Administration's responses to the above issues were provided to members vide LC Paper No. CB(4)710/17-18(02) issued on 8 March 2018, making reference to LC Paper No. CB(4)659/17-18(01) issued on 26 February 2018 which provided the information in (c).)

II. Any other business

Date of next meeting

3. Members noted that the next meeting would be held on 13 March 2018 at 8:45 am.
4. There being no other business, the meeting ended at 1:01 pm.

Council Business Division 4
Legislative Council Secretariat
19 July 2018

**Proceedings of the second meeting of the
Bills Committee on Guangzhou-Shenzhen-Hong Kong Express Rail Link
(Co-location) Bill
held on Friday, 23 February 2018, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
Agenda item I - Meeting with the Administration			
000812-000859	Chairman Ms Tanya CHAN	Ms CHAN's enquiry about issues relating to the site visit to the West Kowloon Station of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("the Site Visit").	
000859-001030	Chairman Dr Helena WONG	Dr WONG urged the Administration to provide a written response to "Statement of the Hong Kong Bar Association on the decision of the NPCSC of 27 December 2017 on the Co-operation Agreement between the Mainland and the HKSAR on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for implementing co-location arrangement" issued on 28 December 2017.	Admin to provide paper. Para 2(a) of the minutes refers
001030-001132	Chairman Mr Charles Peter MOK	Mr MOK expressed that the Administration's paper should be submitted at least one or two days prior to the meeting.	
001132-001230	Chairman Mr Michael TIEN	Mr TIEN urged the Administration to submit paper as early as practicable to allow enough time for members to study the paper before the meeting.	
001230-003133	Chairman Ms Tanya CHAN Administration	The Administration noted members' request for early submission of paper. The Administration briefed members on LC Paper CB(4)631/17-18(01).	

Time Marker	Speaker(s)	Subject(s)	Action required
003133-003720	Chairman Mr YIU Si-wing Administration	<p>Mr YIU expressed support for the co-location arrangement and opined that the Administration's stance on the legal basis for the implementation of the co-location arrangement was reasonable and acceptable.</p> <p>Mr YIU's enquiry on the economic benefits of the co-location arrangement and his suggestion of arranging a visit for the tourism trade and the Administration's response.</p>	
003720-004342	Chairman Dr KWOK Ka-ki Administration	<p>Dr KWOK 's view on Article 19 of the Basic Law and his enquiry on Article 7 of the Co-operation Arrangement (Schedule 1 to the Bill).</p> <p>The Administration's explanation on Article 7 of the Co-operation Arrangement and the arrangement under Article 12 of the Co-operation Arrangement relating to the handling of emergency incidents.</p>	
004342-005117	Chairman Ms Claudia MO Administration	<p>Ms MO expressed discontent about late submission of the Administration's paper.</p> <p>Ms MO requested the Administration to pledge that other co-location arrangement(s) would not be implemented in the future in Hong Kong.</p> <p>The Administration explained the legal and constitutional basis for the proposal regarding the West Kowloon Station Mainland Port Area under the Bill.</p>	
005117-005727	Chairman Dr Priscilla LEUNG Administration	<p>Dr LEUNG's enquiry on the delineation of jurisdiction in respect of the Mainland Port Area as well as issues relating to conflict of laws.</p> <p>The Administration's response to the above matters.</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
005727-010250	Chairman Mr LAM Cheuk-ting Administration	Mr LAM's enquiry on issues relating to Article 18 of the Basic Law. The Administration reiterated its stance as set out in paragraph (4) of LC Paper No. CB(4)631/17-18(01).	
010250-011139	Chairman Mr James TO Administration	Mr TO's enquiry of whether any specific provisions of the Basic Law might provide the legal basis for regarding an area within the West Kowloon Station as lying outside Hong Kong and that the laws of Hong Kong did not apply. The Administration's explanation on the Administration's duty to make policies, and Hong Kong's high degree of autonomy in implementing different policies.	
011139-011810	Chairman Mr Dennis KWOK Administration	Mr KWOK sought clarification on the Administration's position that Article 18 of the Basic Law would not be contravened if the application of Mainland laws was confined to a designated area in Hong Kong and the Mainland laws were only applicable to a particular group of people in Hong Kong. The Administration's explanation on the proposed establishment of the Mainland Port Area for a special purpose based on policy considerations and the Co-operation Arrangement as well as explanation on the proportionality test. The Administration was requested to provide relevant cases in other common law jurisdictions applicable in demonstrating that the proposed establishment of the Mainland Port Area and the proposed application of the laws of the Mainland within the Mainland Port Area under the Bill would satisfy the proportionality test.	Admin to provide paper. Para 2(b) of the minutes refers

Time Marker	Speaker(s)	Subject(s)	Action required
011810-012329	Chairman Dr CHENG Chung-tai Administration	<p>Dr CHENG's enquiry about the meaning of the terms "individuals, legal persons or organizations" in the context relating to the right to use the venues within the Mainland Port Area.</p> <p>The Administration's explanation on Articles 2 and 7 of the Basic Law and the arrangements on the right to use the above mentioned venues within the Mainland Port Area by individuals or organizations having the status of a legal person.</p>	
012329-012853	Chairman Mr Jeremy TAM Administration	<p>Mr TAM's view that the Bill would contravene Article 18 of the Basic Law, and query on why a layout plan of the Shek Kong Stabling Sidings is included in Schedule 3 to the Bill.</p> <p>In response to Mr TAM's enquiry on the Basic Law, the Administration also advised that the Shek Kong Stabling Sidings is referred to in Clause 5 of the Bill.</p>	
012853-013316	Chairman Dr Helena WONG Administration	<p>Referring to the Administration's interpretation of Article 18 of the Basic Law as explained in the letter from the Administration responding to Senior Assistant Legal Adviser 1 ("SALA1")'s letter dated 9 February 2018 (LC Paper No. CB(4)631/17-18(01)), Dr WONG enquired on the basis of the Administration's stance.</p> <p>The Administration's explanation on the adoption of a purposive approach in the interpretation of the Basic Law.</p>	
013316-015118	Chairman Dr Helena WONG Ms Tanya CHAN Mr CHAN Chi-	Discussion on procedural matters and time management of the meetings.	

Time Marker	Speaker(s)	Subject(s)	Action required
	<p>chuen SALA1 Clerk to Bills Committee Dr Fernando CHEUNG Mr Jeremy TAM Mr Charles Peter MOK</p>		
<p>015118- 015723</p>	<p>Chairman Mr Alvin YEUNG Mr Michael TIEN Administration</p>	<p>Discussion on time management of the meeting.</p> <p>The Administration was again requested to provide relevant cases in other common law jurisdictions applicable in demonstrating that the proposed establishment of the Mainland Port Area and the proposed application of the laws of the Mainland within the Mainland Port Area under the Bill would satisfy the proportionality test.</p>	<p>Admin to provide paper. Para 2(b) of the minutes refers</p>
<p>015723- 020335</p>	<p>Chairman Mr Michael TIEN Administration</p>	<p>Mr TIEN expressed his discontent that too much time was spent on the discussion of procedural matters of the meeting.</p> <p>Mr TIEN's enquiry on whether the courts in Hong Kong had jurisdiction to adjudicate whether the Bill would contravene the Basic Law or not.</p> <p>The Administration's explanation on the court's power to consider granting of leave for application for judicial review.</p>	
<p>020335- 021212</p>	<p>Chairman Mr CHU Hoi-dick Administration</p>	<p>Referring to the Administration's response to SALA1's letter dated 9 February 2018, Mr CHU sought further clarification on the issues relating to the Co-operation Arrangement, the Decision of the Standing Committee of the National People's Congress, Articles 18, 19 and 22(3) of the Basic Law as well as reserved</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>and non-reserved matters under the Bill. (Paragraphs (1) to (4) under LC Paper No. CB(4) 631/17-18(01)).</p> <p>The Administration's explanation on the above matters.</p>	
021212-021738	Chairman Mr HUI Chi-fung Administration	<p>Mr HUI's enquiry on issues relating to Article 18 of the Basic Law.</p> <p>The Administration reiterated its stance as set out in paragraph (4) of LC Paper No. CB(4)631/17-18(01).</p>	
Agenda item II - Any other business			
021738-022003	Chairman Ms Tanya CHAN Administration	<p>The Chairman advised members on the logistical arrangement for the site visit scheduled for 27 February 2018.</p> <p>The Administration was requested to provide the floor plan(s) of the West Kowloon Station of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, in particular that of the Mainland Port Area detailing the uses of different parts therein before the site visit scheduled for 27 February 2018.</p>	Admin to provide paper. Para 2(c) of the minutes refers
022003-022033	Chairman Clerk to Bills Committee	Closing remarks	