

**立法會**  
**Legislative Council**

Ref : CB4/BC/2/17

LC Paper No. CB(4)1577/17-18  
(These minutes have been seen  
by the Administration)

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

**Minutes of the sixth meeting  
held on Friday, 23 March 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 LEUNG Yiu-chung  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP  
Hon Jeffrey LAM Kin-fung, 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 Paul TSE Wai-chun, JP  
Hon Claudia MO  
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 Kenneth LEUNG  
Hon KWOK Wai-keung, JP  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Helena WONG Pik-wan  
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 KWONG Chun-yu  
Hon Jeremy TAM Man-ho  
Hon Gary FAN Kwok-wai  
Hon AU Nok-hin  
Hon Tony TSE Wai-chuen, BBS

**Members  
absent**

: Hon Abraham SHEK Lai-him, GBS, JP  
Hon WONG Ting-kwong, GBS, JP  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon CHAN Han-pan, JP  
Hon LEUNG Che-cheung, SBS, MH, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon KWOK Ka-ki  
Hon Dennis KWOK Wing-hang  
Hon IP Kin-yuen  
Hon Andrew WAN Siu-kin

**Member  
attending**

: Hon Martin LIAO Cheung-kong, SBS, JP

**Public officers  
attending** : Item I

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

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 Sonny AU Chi-kwong, PDSM, PMSM, JP  
Under Secretary for Security

Ms Maggie WONG Siu-chu, JP  
Deputy Secretary for Security 3

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

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**I. Meeting with the Administration**

[LC Paper Nos. CB(3)312/17-18, LS31/17-18, CB(4)587/17-18(01), CB(4)597/17-18(01), CB(4)631/17-18(01), CB(4)670/17-18(01), CB(4)720/17-18(01), CB(4)710/17-18(01) to (02), CB(4)751/17-18(01) to (04), CB(4)769/17-18(01) to (04) and THB(T)CR 9/1/16/581/99]

Discussion

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

Follow-up actions to be taken by the Administration

2. The Bills Committee requested the Administration to provide the following information:

- (a) the reasons for Secretary for Justice and Secretary for Security not attending the Bills Committee meeting, and whether the two

Principal Officials concerned would attend other forthcoming meetings of the Bills Committee;

- (b) a written account of the Solicitor General's response to Mr James TO's enquiry regarding the Administration's view on the interpretation of Article 18 of the Basic Law ("BL 18"), and the Administration's position on the applicability of BL 18 in the context of the proposed co-location arrangement; and
- (c) a response to Dr Fernando CHEUNG's enquiry on the Administration's interpretation of BL 18, in particular, detailed information on the internal aids and extrinsic materials (including pre-enactment and/or post-enactment materials) that might support its view on the interpretation of BL 18 and its conclusion that BL 18 was not engaged in the context of the proposed co-location arrangement under the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill.

*(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(4)882/17-18(01) on 6 April 2018.)*

#### Adjournment of meeting

- 3. At 12:30 pm, the Chairman directed the Clerk to, at Mr CHAN Chi-chuen's request, ring the quorum bell to summon members to the meeting.
- 4. At 12:45 pm, the Chairman ordered that the meeting be adjourned as a quorum was not present within 15 minutes after members had been summoned.

Council Business Division 4  
Legislative Council Secretariat  
27 September 2018

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

| <b>Time Marker</b>                     | <b>Speaker(s)</b>                             | <b>Subject(s)</b>   | <b>Action required</b> |
|--|---|---|------------------------|
| <b>Meeting with the Administration</b> |   |   |                        |
| 000820-000854                          | Chairman                                      | Welcoming remarks and meeting arrangement.  |                        |
| 000855-001225                          | Chairman<br>Mr CHU Hoi-dick<br>Administration | Mr CHU's request to conduct another site visit to the West Kowloon Station ("WKS") of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") and the Administration's response.   |                        |
| 001226-001506                          | Chairman<br>Ms Tanya CHAN<br>Administration   | Ms CHAN requested the Administration to provide in writing the reasons for the Secretary for Justice and the Secretary for Security not attending the meeting, and whether they would attend other forthcoming meetings.  | Admin                  |
| 001507-002202                          | Chairman<br>Mr Gary FAN<br>Administration     | Mr FAN's question on whether all provisions in the Basic Law ("BL") were subject to the proportionality test.<br><br>The Administration's explanation on the principles and considerations for application of the proportionality test.   |                        |
| 002203-002732                          | Chairman<br>Mr AU Nok-hin<br>Administration   | Mr AU's question on whether "sunset clauses" such as section 14 of the Shenzhen Bay Port Hong Kong Port Area Ordinance (Cap. 591) would be included in the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill ("the Bill").<br><br>The Administration's reply as set out in part (1) in LC Paper No. CB(4)805/17-18(01). |                        |
| 002733-003200                          | Chairman<br>Mr Gary FAN<br>Administration     | Mr FAN's question on the circumstances under which the proportionality test would be applied in relation to the provisions of BL other than e.g. Article 19 of BL and the Administration's response.  |                        |
| 003201-003705                          | Chairman<br>Mr AU Nok-hin                     | Mr AU was of the view that if the lease for the WKS Mainland Port Area ("MPA") did not have a specified   |                        |

| Time Marker   | Speaker(s)                                       | Subject(s)  | Action required |
|---------------|--|---|-----------------|
|               | Administration                                   | <p>duration, the proposed co-location arrangement would amount to "ceding" permanently to the Mainland a portion of the "territory" of the Hong Kong Special Administrative Region ("HKSAR"), with reference to Article 7 of BL.</p> <p>The Administration explained the difference between the Bill and Cap. 591 and clarified that the boundary of the administrative division of the HKSAR would not be affected by the Bill, and therefore there was no question of the HKSAR "ceding" the HKSAR's territory.</p> |                 |
| 003706-004042 | Chairman<br>Administration                       | Discussion on the principles for application of the proportionality test.   |                 |
| 004043-004604 | Chairman<br>Dr Helena WONG<br>Administration     | <p>Dr WONG's enquiry on the total area of and estimated rental fee payable by the Mainland to HKSAR for WKS MPA and the total area of and rental fee payable by HKSAR to the Mainland for the Hong Kong Port Area of the Shenzhen Bay Port.</p> <p>The Administration's response to the above matters.</p>  |                 |
| 004605-005312 | Chairman<br>Mr James TO<br>Administration        | Mr TO requested the Administration to provide a written response regarding its view on the interpretation of Article 18 of BL ("BL 18") and its position on the applicability of BL 18 in the context of the proposed co-location arrangement.  | Admin           |
| 005313-005759 | Chairman<br>Mr AU Nok-hin<br>Administration      | <p>Mr AU expressed concern on the issue of whether the lease for WKS MPA would have a specified duration.</p> <p>The Administration's reply as set out in paragraph 8 of the Legislative Council Brief.</p>   |                 |
| 005800-010126 | Chairman<br>Mr LUK Chung-hung<br>Administration  | Mr LUK's view on specifying an expiry date in the Bill and the Administration's response.   |                 |
| 010127-010641 | Chairman<br>Mr LEUNG yiu-chung<br>Administration | <p>Mr LEUNG's enquiry on why the Bill did not contain a "sunset clause" similar to section 14 of Cap. 591.</p> <p>The Administration reiterated its reply as set out in part (1) in LC Paper No. CB(4)805/17-18(01).</p>  |                 |
| 010642-011438 | Chairman<br>Mr Gary FAN                          | Mr FAN's enquiry on the legal basis for the Administration's proposition that "the legal system   |                 |

| Time Marker   | Speaker(s)   | Subject(s)  | Action required |
|---------------|--|---|-----------------|
|               | Administration   | <p>and principles previously in force in Hong Kong" stipulated in Article 19(2) of BL included the restrictions imposed on the court's jurisdiction by legislation, and whether the Bill would contravene BL.</p> <p>The Administration reiterated its stance as set out in paragraph 2 of part (3), and part (5) of LC Paper No. CB(4)720/17-18(01) and that the Bill would not contravene BL.</p> |                 |
| 011439-011927 | Chairman<br>Mr AU Nok-hin<br>Administration  | Mr AU's concern relating to issues relating to the expiry of Cap. 591 and the Administration's response.  |                 |
| 011928-013240 | Chairman<br>Dr Helena WONG<br>Ms Tanya CHAN<br>Mr CHU Hoi-dick<br>Dr Fernando CHEUNG<br>Administration<br>Mr Kenneth LEUNG | Discussion on time management and meeting arrangement.  |                 |
| 013241-013722 | Chairman<br>Senior Assistant Legal Adviser 1 ("SALA 1")  | SALA 1 was requested to state his observations on the Administration's responses dated 22 February and 9 March 2018 (LC Paper Nos. CB(4)631/17-18(01) and CB(4)720/17-18(01)).  |                 |
| 013723-014204 | Chairman<br>Dr Junius HO   | Dr HO's view on the constitutional basis for implementing co-location arrangement.  |                 |
| 014205-014249 | Chairman<br>Mr CHU Hoi-dick<br>Administration  | <p>Mr CHU enquired whether amendments to the Mass Transit Railway Ordinance (Cap. 556) and the Mass Transit Railway By-Laws (Cap. 556B) were necessary in view of the Bill and to cater for the operation of XRL.</p> <p>The Administration replied in the negative.</p>  |                 |
| 014250-014437 | Chairman<br>Ms Tanya CHAN  | Discussion on time management of meetings.  |                 |
| 014438-015009 | Chairman<br>Dr Fernando CHEUNG<br>Administration   | Dr CHEUNG requested the Administration to provide written response to its interpretation of BL 18, in particular, detailed information on the internal aids and extrinsic materials (including pre-enactment and/or post-enactment materials) that might support its view on the interpretation of BL 18 and its  | Admin           |



| <b>Time Marker</b> | <b>Speaker(s)</b>  | <b>Subject(s)</b>  | <b>Action required</b> |
|--------------------|--|--|------------------------|
|                    |  | conclusion that BL 18 was not engaged in the context of the proposed co-location arrangement under the Bill.   |                        |
| 015010-015346      | Chairman<br>Mr CHAN Chi-chuen<br>Mr Christopher CHEUNG<br>Administration | Discussion on time management of meetings.   |                        |
| 015347-020418      | Chairman<br>Mr CHAN Chi-chuen<br>Clerk                                   | At the request of Mr CHAN, the Chairman directed the Clerk to ring the quorum bell to summon members to the meeting.<br><br>As a quorum was not present within 15 minutes after members had been summoned, the Chairman ordered that the meeting be adjourned. |                        |