

立法會
Legislative Council

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LC Paper No. CB(4)1589/17-18
(These minutes have been seen
by the Administration)

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

**Minutes of the tenth meeting
held on Sunday, 8 April 2018, at 9:00 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 LEUNG Yiu-chung
Hon Abraham SHEK Lai-him, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, 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 YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
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
Dr Hon Fernando CHEUNG Chiu-hung
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, BBS, JP

Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, 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 LUK Chung-hung
Hon LAU Kwok-fan, MH
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon AU Nok-hin
Hon Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS

**Members
absent** : Hon James TO Kun-sun
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon Michael TIEN Puk-sun, BBS, JP
Hon WU Chi-wai, MH
Hon CHAN Han-pan, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Helena WONG Pik-wan
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon HUI Chi-fung
Hon Kenneth LAU Ip-keung, BBS, MH, JP

**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

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

I. Meeting with the Administration

[LC paper Nos. CB(4)882/17-18(01), CB(3)312/17-18, CB(4)597/17-18(01), CB(4)631/17-18(01), CB(4)670/17-18(01), CB(4)720/17-18(01), File Ref.: THB(T)CR 9/1/16/581/99, 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 to be taken by the Administration

2. The Bills Committee requested the Administration to:

(a) provide document(s) and annex(es), if any, on the approval of the establishment of the West Kowloon Station Mainland Port Area and its specific area (including its coordinates) issued by the State Council; and

(b) consider including more details in the Preamble to explain the background of the Bill, such as the Explanations on the Draft Decision on Approving the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region 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, and the document(s) and annex(es), if any, issued by the State Council mentioned in item (a) above.

(Post-meeting note: The Chinese and English versions of the Administration's response were issued to members vide LC Paper No. CB(4)947/17-18(02) on 20 April 2018 and 23 April 2018 respectively.)

II. Any other business

Date of next meeting

3. Members noted that the next meeting would be held on 10 April 2018 at 2:30 pm.
4. There being no other business, the meeting ended at 12:52 pm.

Council Business Division 4
Legislative Council Secretariat
2 October 2018

**Proceedings of the tenth meeting of the
Bills Committee on Guangzhou-Shenzhen-Hong Kong Express Rail Link
(Co-location) Bill
held on Sunday, 8 April 2018, at 9 am
in Conference Room 1 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
Meeting with the Administration			
000517-000810	Chairman	Opening remark	
000810-001455	Chairman Mr Charles Peter MOK Dr KWOK Ka-ki Administration	Mr MOK and Mr KWOK requested the Administration to explain its response to the list of follow-up actions arising from the discussion at the meeting on 23 March 2018. In response, the Administration explained its stance as stated in LC Paper No. CB(4)882/17-18(01). Mr MOK also enquired on the status of the Administration's responses to the outstanding issues raised by members in their letters.	
001455-001919	Chairman Dr Fernando CHEUNG	Dr CHEUNG's enquiry on the status of his letter dated 4 April 2018 (LC Paper No. CB(4)885/17-18(01)).	
001919-002415	Chairman Dr KWOK Ka-ki Mr SHIU Ka-fai Mr CHAN Kin-por Administration	Discussion on meeting management. Upon the enquiry from Mr KWOK, the Administration further explained its stance as stated in paragraph (a) of LC Paper No. CB(4)882/17-18(01).	
<i>Long Title</i>			
002415-002743	Chairman Mr Andrew WAN Administration	Mr WAN's enquiry about the phrase "an area" in the Long Title. The Administration advised that the precise area to be declared as the Mainland Port Area	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>(“MPA”) in the Bill was specified in clause 4 (to be read together with Schedule 2) which was the relevant operative provision. The Administration also explained the justifications for using the phrases "an area" and "某範圍" in the English and Chinese versions of the Long Title of the Bill respectively to refer to the area specified in the operative provision.</p>	
<p>002743-003139</p>	<p>Chairman Mr Charles Peter MOK Administration</p>	<p>Mr MOK's enquiry about the phrase "passenger train in operation" and his suggestion to provide a definition for the phrase in the Bill.</p> <p>The Administration advised that the above phrase could be given its ordinary meaning and thus they considered it was not necessary to provide a definition in the Bill.</p>	
<p>003139-003327</p>	<p>Chairman Mr IP Kin-yuen Administration</p>	<p>In response to the enquiry from Mr IP Kin-yuen about his letter dated 29 March 2018 (LC Paper No. CB(4)858/17-18(01), the Administration advised that the response was being drafted.</p>	
<p>003327-003735</p>	<p>Chairman Dr CHENG Chung-tai Administration</p>	<p>Dr CHENG's enquiry on the reason for not including in the Long Title the application of laws and the delineation of jurisdiction in the MPA.</p> <p>The Administration advised that regarding the application of laws in and the delineation of jurisdiction over the MPA, the relevant operative provision was clause 6. The Long Title in the Bill was sufficiently clear for the purposes of Rule 50(3) of the Rules of Procedures of the Legislative Council (“RoP 50(3)”).</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
003735-004355	Chairman Mr Dennis KWOK SALA Administration	Mr KWOK's enquiry on the drafting aspect of the Long Title. The Legal Adviser's explanation on Rule 50(3) and certain issues relating to the drafting of the Long Title of the Bill.	
004355-004717	Chairman Dr KWOK Ka-ki Administration	Mr KWOK relayed the concern of the Hong Kong Bar Association about the constitutional and legal basis of the Bill and their view that the Bill would contravene the Basic Law. The Administration affirmed its stance that the Bill was consistent with the Basic Law.	
004717-005100	Chairman Mr CHAN Chi-chuen Administration	Mr CHAN's enquiry about the similarities and differences between the MPA and the Shenzhen Bay Port Hong Kong Port Area and the Administration's response to this matter.	
005100-005506	Chairman Dr Fernando CHEUNG Administration	Dr CHEUNG's enquiry on the related issues stated in paragraph 7 of his letter dated 4 April 2018 (LC Paper No. CB(4)885/17-18(01)), i.e. issues related to Article 20 of the Basic Law, and the Administration's response.	
005506-005820	Chairman Mr Andrew WAN Administration	Mr WAN's enquiry about the use of the phrase "certain purposes" in the Long Title. The Administration advised that the relevant operative provision was clause 6(1) and explained its stance that the use of the above phrase in the Long Title would be sufficiently clear for the purposes of RoP 50(3).	
005820-005850	Chairman Mr LEUNG Yiu-chung	Discussion on meeting management.	
005850-010145	Chairman Mr Kenneth LEUNG	In response to Mr LEUNG's enquiry, the Administration confirmed that the descriptive phrase "a train compartment of a passenger	

Time Marker	Speaker(s)	Subject(s)	Action required
	Administration	<p>train in operation on the HKS of the XRL" in the Long Title included a passenger train which was stationary and during embarkation or disembarkation.</p> <p>Mr LEUNG's enquiry about issues related to immigration and clearance arrangements for passengers and train crews in the context of emergency incidents occurring on the HKS of the XRL.</p> <p>The Administration advised that the matters related to the above issues were covered under Part 2 of the Bill.</p>	
010145-010505	Chairman Mr AU Nok-hin Administration	<p>Mr AU's view that the use of the phrase "certain purposes" in the Long Title could not reflect the effect of clause 6(1).</p> <p>The Administration explained the drafting of the Long Title with reference to paragraph 2.1.7 of "Drafting Legislation in Hong Kong - A Guide to Styles and Practices" and reiterated its stance that the Long Title was sufficiently clear for the purposes of RoP 50(3).</p>	
010505-010905	Chairman Mr Dennis KWOK Administration	<p>Mr KWOK requested the Administration to respond to the technical issues raised by the Legal Adviser on the drafting of the Long Title.</p> <p>The Administration advised that proper balance had to be struck in determining how much information should be included in the Long Title to avoid making it too long.</p>	
010905-011218	Chairman Mr Jeremy TAM Administration	<p>Mr TAM's enquiry about the phrase "certain documents" in the Long Title.</p> <p>The Administration advised that the relevant operative provision was clause 8.</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
011218-011650	Chairman Ms Tanya CHAN Administration	Discussion on the phrase "certain documents" in the Long Title as well as the terms "future documents" and "commencement date" in clause 8.	
011650-012014	Chairman Mr CHU Hoi-dick Administration	Mr CHU's enquiry on issues related to the application of laws and the delineation of jurisdiction in the West Kowloon Station MPA as well as the operation of clause 6(1) and the Administration's response.	
<i>Preamble</i>			
012014-012142	Chairman Administration	The Administration gave an introduction on the Preamble.	
012142-012602	Chairman Dr KWOK Ka-ki Administration	Dr KWOK's view on the constitutional basis of the Co-operation Arrangement and his view that the acquisition of the right to use the areas of the MPA, the duration of the right to use the areas and the fees payable should be included in the Preamble. In response, the Administration referred to the motion related to co-location arrangement which was passed by the Council at the meeting of 15 November 2017.	Admin to provide paper. Para 2(b) of the minutes refers
012602-013021	Chairman Ms Tanya CHAN Administration	Ms CHAN's enquiry on the Preamble and whether it was relevant for the purpose of statutory interpretation by the courts, and her enquiry on issues related to the Co-operation Arrangement. The Administration's explanation with reference to paragraph 2.1.10 of "Drafting Legislation in Hong Kong - A Guide to Styles and Practices" and content of the Co-operation Arrangement.	
013021-013428	Chairman Mr Alvin YEUNG	Mr YEUNG called on the Administration to include more details in the Preamble to explain the background of the Bill.	Admin to provide paper.

Time Marker	Speaker(s)	Subject(s)	Action required
	Administration	The Administration took the view that the content of the Preamble as currently drafted had appropriately and accurately set out the relevant context.	Para 2(b) of the minutes refers
013428-013814	Chairman Mr IP Kin-yuen Administration	In response to Mr IP's enquiry on issues related to Article 16 of the Co-operation Arrangement, the Administration explained its stance as stated in paragraph (2) of its response to Mr IP's letter dated 29 March 2018 (LC Paper No. CB(4)897/17-18(02)).	
013814-014309	Chairman Mr Jeremy TAM Administration	Further discussion on the related issues raised by Mr IP above. Mr TAM's enquiry on the acquisition of the right to use the areas of the MPA, the duration of the right to use the areas and the fees payable and the Administration's response.	
014309-014800	Chairman Mr CHU Hoi-dick Administration	Discussion on the acquisition of the right to use the areas of the MPA, the duration of the right to use the areas and the fees payable. In response to Mr CHU's enquiry, the Administration confirmed that the coordinates of B2, B3 and B4 levels as indicated in the plans under Schedule 2 to the Bill were agreed between the Mainland and the Hong Kong Special Administrative Region ("HKSAR").	
014800-015206	Chairman Dr Fernando CHEUNG Administration	Dr CHEUNG's enquiry on the legal basis for the implementation of the co-location arrangement and the reason for not including the legal basis in the Preamble. The Administration advised that the Preamble had the purpose of setting out the background of the above matters and that the Preamble, as it was, adequately served such purpose.	Admin to provide paper. Para 2(b) of the minutes refers

Time Marker	Speaker(s)	Subject(s)	Action required
015206-015419	Chairman Mr CHU Hoi-dick Dr Fernando CHEUNG Administration	Discussion on procedural matters.	
015419-015829	Chairman Mr Kenneth LEUNG Administration	In response to Mr LEUNG's enquiry about the legal effect of the Preamble, the Administration advised that it would be part of the legislation. Mr LEUNG suggested including references to other relevant documents and the relevant resolution passed by the Legislative Council in the Preamble.	Admin to provide paper. Para 2(b) of the minutes refers
015829-020253	Chairman Mr AU Nok-hin Administration	Mr AU asked about the legal effect of the Preamble and suggested to include more details in the Preamble to explain the background of the Bill. The Administration advised that a preamble could be used as an aid for construction of the operative provisions of the legislation, but was not an operative provision itself.	Admin to provide paper. Para 2(b) of the minutes refers
020253-021911	-	Fifteen minutes' break	
021911-022240	-	At the request of Mr SHIU Ka-chun, the Chairman directed the Clerk to ring the quorum bell to summon members to the meeting.	
022240-022909	Chairman Mr SHIU Ka-chun Administration	Mr SHIU's view that more details should be included in the Preamble to explain the background of the Bill and the Administration's response.	Admin to provide paper. Para 2(b) of the minutes refers

Time Marker	Speaker(s)	Subject(s)	Action required
022909-023211	Chairman Mr Abraham SHEK	Mr SHEK's view that the Preamble was simple and the discussion time on this part should be kept to the minimum. Discussion on time management.	
023211-023633	Chairman Mr Dennis KWOK Mr Abraham SHEK SALA Administration	Mr KWOK sought advice from the Legal Adviser on whether more information should be included in the Preamble and his suggestion that background on the Decision made by the Standing Committee of the National People's Congress ("NPCSC") should be included.	Admin to provide paper. Para 2(b) of the minutes refers
023633-024036	Chairman Mr CHAN Chi-chuen Administration	Mr CHAN called on the Administration to include more details, in particular, the background on the Co-operation Arrangement and the NPCSC's Decision, in the Preamble. The Administration reiterated its stance that the Preamble had appropriately and accurately set out the relevant context.	Admin to provide paper. Para 2(b) of the minutes refers
024036-024418	Chairman Ms YUNG Hoi-yan Administration	Ms YUNG's view that the background to the Co-operation Arrangement should be included in the Preamble and the Administration's response. The Chairman advised that members could consider proposing amendments to the Bill in connection with the above, if necessary, to address their various concerns.	Admin to provide paper. Para 2(b) of the minutes refers
024418-024900	Chairman Ms Claudia MO Administration	Ms MO's view that the Preamble should also set out the justification of the Bill. Ms MO's enquiry on the Chinese version of the terms "Co-operation Arrangement" and "THEREFORE" in the Preamble and the Administration's response.	Admin to provide paper. Para 2(b) of the minutes refers

Time Marker	Speaker(s)	Subject(s)	Action required
024900-025409	Chairman Mr Andrew WAN Administration	Mr WAN's enquiry on whether the Administration would consider revising the Preamble to reflect members' views expressed above and how the Administration would handle the proposed amendments to the Bill from members in this part, if any, and the Administration's response.	Admin to provide paper. Para 2(b) of the minutes refers
025409-025823	Chairman Mr Paul TSE Administration	Mr TSE opined that the Preamble was simple and the discussion time on this part should be kept to the minimum. Mr TSE's view that the Preamble had appropriately and accurately set out the relevant context.	
025823-031202	Chairman Dr KWOK Ka-ki Ms Claudia MO Dr Fernando CHEUNG Mr LUK Chung-hung Mr HO Kai-ming Mr CHAN Kin-por Mr SHIU Ka-chun	Discussion on procedural matters.	
031202-031554	Chairman Dr KWOK Ka-ki Administration	Mr KWOK's enquiry on the acquisition of the right to use the areas of the MPA, the duration of the right to use the areas and the fees payable and the Administration's response.	
031554-032318	Chairman Ms Tanya CHAN Administration SALA	Ms CHAN and the Legal Adviser requested the Administration to provide the document(s) and annex(es), if any, on the approval of the establishment of the West Kowloon Station MPA and its specific area (including its coordinates) issued by the State Council.	Admin to provide paper. Para 2(a) of the minutes refers

Time Marker	Speaker(s)	Subject(s)	Action required
032318-032921	Chairman Mr CHU Hoi-dick Administration	Mr CHU's enquiry on whether the NPCSC's Decision could be challenged in the courts of the HKSAR for contravening the Basic Law, in particular, Article 18 and the Administration's response.	
032921-033350	Chairman Dr Fernando CHEUNG Administration	Dr CHEUNG's enquiry on issues related to the authorization by the NPCSC and Article 20 of the Basic Law. The Administration's explanation with reference to the relevant considerations as stated in the NPCSC's Decision.	
033350-033754	Chairman Ms Starry LEE Mr CHU Hoi-dick Mr AU Nok-hin	Discussion on procedural matters.	
033754-034149	Chairman Mr AU Nok-hin Administration	Mr AU's enquiry about the Co-operation Arrangement, including the implications on the Bill in case it was revised, and the Administration's response.	
034149-034613	Chairman Mr Jeremy TAM Administration	Mr TAM's enquiry about issues relating to the approval of the establishment of the West Kowloon Station MPA and its specific area (including its coordinates) by the State Council.	Admin to provide paper. Para 2(a) of the minutes refers
034613-035106	Chairman Mr CHAN Chi-chuen Administration	Mr CHAN's enquiry on the rationale of not including details like the acquisition of the right to use the areas of the MPA, the duration of the right to use the areas and the fees payable in the Preamble and whether the courts of the HKSAR and the Mainland had jurisdiction over the disputes arising from the Co-operation Arrangement, and the Administration's response.	Admin to provide paper. Para 2(b) of the minutes refers

Time Marker	Speaker(s)	Subject(s)	Action required
035106-035553	Chairman Ms Claudia MO Administration	Ms MO's enquiry related to Article 158 of the Basic Law and matters relating to the Constitution of the People's Republic of China and the Administration's response.	
Any other business			
035553-035618	Chairman	Closing remarks.	

Council Business Division 4
Legislative Council Secretariat
2 October 2018