

立法會
Legislative Council

LC Paper No. CB(4)703/19-20
(These minutes have been seen
by the Administration)

Ref : CB4/BC/2/17

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

**Minutes of the thirteenth meeting
held on Monday, 23 April 2018, at 2:30 pm
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
Hon Tommy CHEUNG Yu-yan, 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 Hak-kan, BBS, JP
Hon CHAN Kin-por, GBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Paul TSE Wai-chun, 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 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 Andrew WAN Siu-kin
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
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 Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS

Members absent : Hon James TO Kun-sun
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Dr Hon Pierre CHAN

Member attending : Hon Martin LIAO Cheung-kong, SBS, JP

Public officers attending : Agenda 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

Action

I. Meeting with the Administration

[LC Paper Nos. CB(4)947/17-18 (01) - (06), CB(4)914/17-18 (02) - (03), CB(4)897/17-18(02), CB(4)805/17-18(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)587/17-18(01), CB(3)312/17-18, LS31/17-18 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:

- (a) explain the rationale for adopting the drafting approach of incorporating the texts of Articles 3, 4 and 7 of 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 ("Co-operation Arrangement") into the Bill by way of the proposed Schedule 1, as opposed to re-writing the texts of Articles 3, 4 and 7 of the Co-operation Arrangement as substantive provisions of the Bill in order to conform to the normal usage of wording and terminology prevalent in domestic legislation and to clarify the meaning and avoid misinterpretation, for the purpose of providing for the meanings of "reserved matter" and "non-reserved matter" under the Bill;

- (b) consider providing a table summarizing and comparing the arrangements, such as the penalties imposed on persons committing an offence and powers of enforcement officers etc. in the relevant legislation, of different control points (including the Hong Kong International Airport, Kai Tak Cruise Terminal, Hung Hom Intercity Through Train Station and other land boundary control points as appropriate); and
- (c) explain in detail the legal basis for the Administration's stance that a notice published by the MTR Corporation Limited in the Gazette to declare an area to be a cross-boundary restricted area (which is defined under by-law 41A of the Mass Transit Railway By-laws (Cap. 556B)) pursuant to by-law 41B of Cap. 556B is not a subsidiary legislation and is not subject to the scrutiny of the Legislative Council, with reference to sections 34 and 62 of the Mass Transit Railway Ordinance (Cap. 556).

(Post-meeting note: The Chinese and English versions of the Administration's response were issued to members vide LC Paper No. CB(4)1046/17-18(01) on 8 and 10 May 2018 respectively.)

II. Any other business

Date of next meeting

3. Members noted that the next meeting would be held on 24 April 2018 at 8:30 am.

4. There being no other business, the meeting ended at 6:46 pm.

Council Business Division 4
Legislative Council Secretariat
12 June 2020

**Proceedings of the thirteenth meeting of the
Bills Committee on Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location)
Bill
held on Monday, 23 April 2018, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
Meeting with the Administration			
000948-001326	Chairman Mr CHU Hoi-dick Senior Assistant Legal Adviser 1 ("SALA1")	Opening remarks Mr CHU's enquiry about the arrangement for the visit to the West Kowloon Station ("WKS") of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") scheduled for 30 April 2018. SALA1's enquiry about the definition of "public authority" in the Bill.	
001327-002642	Chairman Administration Mr CHU Hoi-dick Mr AU Nok-hin Mr Charles Peter MOK Ms Claudia MO Mr Vincent CHENG Mr CHAN Chi-chuen Ms Alice MAK	Discussion on the arrangement for the visit on 30 April 2018, meeting arrangement and the time taken for the Administration to reply to members' letters of enquiry on the Bill.	
002643-002754	Chairman Administration SALA1	The Administration's response to SALA1's enquiry about the definition of "public authority" in the Bill and SALA1's advice to members on the issue.	
002755-003342	Chairman Mr Charles Peter MOK Administration Mr CHU Hoi-dick Mr HO Kai-ming Mr Vincent CHENG	Further discussion on the arrangement for the visit on 30 April 2018 and meeting management.	
003343-004315	-	Suspension of meeting	

Time Marker	Speaker(s)	Subject(s)	Action required
004316-004417	Chairman Mr CHU Hoi-dick	Discussion on meeting management.	
<i>Clause 4</i>			
004418-004510	Chairman Administration	The Administration gave an introduction on clause 4.	
004511-004902	Chairman Mr CHU Hoi-dick	Discussion on meeting management.	
004903-010130	-	Suspension of meeting	
010131-010329	Chairman Administration	The Administration gave further explanation on clause 4.	
010330-010817	Chairman Ms Tanya CHAN Administration	Ms CHAN's enquiry on the phrase "Article 3 or 7 of the Co-operation Arrangement" in clause 3(1)(a) and the terms "English translation" and "English text" in clause 3(2), and the Administration's response.	
010818-011043	Chairman Mr CHU Hoi-dick Administration	Mr CHU's enquiry about the reasons for not providing definitions for the phrases "laws of the Mainland" and "Mainland Authorities Stationed at the Mainland Port Area ("MPA")" in the Bill, and the Administration's response.	
011044-011330	Chairman Mr CHAN Chi-chuen Administration	Mr CHAN's enquiry relating to the commencement date of the enacted ordinance and the Administration's response.	
011331-011537	Chairman Ms Claudia MO Administration	Ms MO's enquiry about the definition of the phrase "geographical scope" in clause 2 of the Bill and the Administration's response.	
011538-011817	Chairman Dr Fernando CHEUNG Administration	Dr CHEUNG's enquiry on the legal basis for determining whether a matter is a "reserved matter" or a "non-reserved matter" under clause 3, and the Administration's response.	
011818-012059	Chairman Dr KWOK Ka-ki Administration	Dr KWOK's enquiry on the definition of "Mainland" in clause 2 of the Bill and the Administration's response.	
012100-012444	Chairman Mr Gary FAN Administration	Mr FAN's enquiry on the reasons for not setting out in the Bill all the specific matters in the MPA to which the laws of Hong Kong applied and over which	

Time Marker	Speaker(s)	Subject(s)	Action required
		Hong Kong would exercise jurisdiction, and the Administration's response.	
012445-012731	Chairman Ms Tanya CHAN Administration	Ms CHAN's enquiry on the "valid permit" referred to in Article 7(1) of the Co-operation Arrangement, and the Administration's response.	
012732-013115	Chairman Mr HUI Chi-fung Administration	Mr HUI's enquiry about reserved matters and non-reserved matters as well as the laws and jurisdiction in the MPA, and the Administration's response.	
013116-013313	Chairman Mr AU Nok-hin Administration	Mr AU's enquiry for the reasons for not re-writing the texts of Articles 3, 4 and 7 of the Co-operation Arrangement as substantive provisions of the Bill, and the Administration's response.	Admin to provide paper. Para 2(a) of the minutes refers.
013314-013628	Chairman Ms Claudia MO Administration	Ms MO's enquiry about the use of words in and drafting style adopted for clause 4, and the Administration's response.	
013629-013936	Chairman Mr AU Nok-hin Administration	Further discussion on the reasons for not re-writing the texts of Articles 3, 4 and 7 of the Co-operation Arrangement as substantive provisions of the Bill.	Para 2(a) of the minutes refers.
013937-014256	Chairman Ms Tanya CHAN Administration	Ms CHAN's enquiry about the area marked in blue on Plan No. 1 in Schedule 2 to the Bill and the relevant approval document(s) issued by the State Council on the establishment of the MPA and its specific area, and the Administration's response.	
014257-014448	Chairman Mr Gary FAN Administration	Mr FAN's enquiry on the reasons for not setting out in the Bill all the laws of Hong Kong which were applicable inside the MPA, and the Administration's response.	
014449-014954	Chairman Dr KWOK Ka-ki Administration	Dr KWOK's enquiry about the handling of non-reserved matters by Mainland authorities in the MPA and the Administration's response.	
014955-015259	Chairman Mr CHAN Chun-ying Administration	Mr CHAN's enquiry about the usage of the "Reserved Area", "Back-up Sites of the Station" and "Back Office" on B2 to B4 levels of the MPA as set out in the area plans attached to LC Paper No. CB(4)659/17-18(01), and the Administration's response.	

Time Marker	Speaker(s)	Subject(s)	Action required
015300-015646	Chairman Mr CHAN Chi-chuen Administration	Mr CHAN's further enquiry relating to the commencement date of the enacted ordinance and the Administration's response.	
015647-020006	Chairman Dr Fernando CHEUNG Administration	Dr CHEUNG's views on the need to categorize certain matters relating to public health and hygiene as "reserved matters" and the Administration's response.	
020007-020314	Chairman Mr Kenneth LEUNG Administration	Mr LEUNG's enquiry on the area plans of the MPA and the Administration's response.	
020315-021325	-	Break	
021326-021739	Chairman Mr Dennis KWOK Administration SALA1	Discussion on the nature and effect of the area which was coloured in blue and marked "Hong Kong Clearance Area and Passenger Corridor" on Plan No. 1 in Schedule 2 to the Bill and the Administration's stance that a notice published by the MTR Corporation Limited ("MTRCL") in the Gazette to declare an area to be a cross-boundary restricted area (which was defined under by-law 41A of the Mass Transit Railway By-laws (Cap. 556B)) was not a piece of subsidiary legislation and was not subject to the scrutiny of the Legislative Council.	
021740-022057	Chairman Mr Gary FAN Administration	Mr FAN's enquiry about the monitoring of facility usage in the MPA, and the Administration's response.	
022058-022554	Chairman Mr CHAN Chi-chuen	At the request of Mr CHAN, the Chairman directed the Clerk to ring the quorum bell to summon members to the meeting.	
022555-023228	Chairman Ms Tanya CHAN Administration	Ms CHAN's enquiry about the "Back-up Sites of the Station" on B3 level of the MPA as set out in the area plans attached to LC Paper No. CB(4)659/17-18(01) and the rationale for declaring the Hong Kong Clearance Area (and passenger corridor) within the WKS as a cross-boundary restricted area in accordance with Cap. 556B, and the Administration's response.	

Time Marker	Speaker(s)	Subject(s)	Action required
023229-023624	Chairman Mr CHU Hoi-dick Administration	Mr CHU's enquiry about the coordinates of the MPA and the Administration's response.	
023625-023716	Chairman Mr SHIU Ka-fai Administration	Mr SHIU's enquiry about the future arrangement for amending the coordinates of the MPA and the Administration's response.	
023717-024033	Chairman Mr AU Nok-hin Administration	Mr AU's enquiry about the rationale for declaring the Hong Kong Clearance Area (and passenger corridor) within the WKS as a cross-boundary restricted area in accordance with Cap. 556B and the Administration's response.	
024034-024344	Chairman Mr Alvin YEUNG Administration	Further discussion on the related issues raised by Mr AU above. Mr YEUNG's enquiry on the term "valid permit" in Article 7(1) of the Co-operation Arrangement and the meaning of "permit" as defined under by-law 41A of Cap. 556B, and the Administration's response.	
024345-024721	Chairman Dr Fernando CHEUNG Administration	Dr CHEUNG's enquiry on the measures to be implemented at the WKS by the Administration to prevent imported communicable diseases from the Mainland and the Administration's response.	
024722-025045	Chairman Mr Michael TIEN Administration	Mr TIEN's enquiry on the measures to be taken against cross-boundary crimes, such as the use of facial recognition system, at the WKS and the Administration's response.	
025046-025433	Chairman Dr KWOK Ka-ki Administration	Further discussion on the related issues raised by Dr CHEUNG on the measures to be implemented at the WKS by the Administration to prevent imported communicable diseases from the Mainland.	
025434-025753	Chairman Mr Andrew WAN Administration	Mr WAN's enquiry about the arrangements, such as the powers of enforcement officers, at different control points and the Administration's response.	
025754-030153	Chairman Mr Tony TSE Administration	Mr TSE's enquiry about the security measures applicable to the XRL and the mechanism for handling emergency incidents occurring inside train compartments or the tunnels of the XRL, and the Administration's response.	

Time Marker	Speaker(s)	Subject(s)	Action required
030154-030555	Chairman Mr Charles Peter MOK Administration	Mr MOK's stance on the proposed co-location arrangement and his enquiry about the design of the platforms of the XRL as well as the Administration's response.	
030556-030948	Chairman Mr Jeremy TAM Administration	Mr TAM's enquiry on the handling of cross-boundary crimes and rescue arrangement at the WKS and the Administration's response.	
030949-031156	Chairman Mr Dennis KWOK Administration	Mr KWOK's enquiry about the permits/exemption mentioned in section 34 (1A)(b)(ii) and (iii) of the Mass Transit Railway Ordinance (Cap. 556) and the Administration's response.	
031157-031549	Chairman Mr CHU Hoi-dick Administration	Mr CHU's enquiry about the coordinates of the MPA and the Administration's response.	
031550-031849	Chairman Mr Michael TIEN Administration	Mr TIEN's further enquiry on the measures to be taken against cross-boundary crimes, including the use of facial recognition system, at the WKS and the Administration's response.	
031850-032056	Chairman Mr Andrew WAN Administration	Mr WAN's further enquiry about the arrangements at different control points and the Administration's response.	Para 2(b) of the minutes refers.
032057-032348	Chairman Mr CHAN Chi-chuen Administration	Mr CHAN's enquiry on the authority of the staff members of the MTRCL to deal with illegal activities, such as unauthorized entry, in the cross-boundary restricted area in the WKS and the Administration's response.	
032349-032640	Chairman Ms Tanya CHAN Administration	Ms CHAN's enquiry on the term "valid permit" in Article 7(1) of the Co-operation Arrangement and the meaning of "permit" as defined under by-law 41A of Cap. 556B, and the Administration's response.	
032641-033117	Chairman Mr CHAN Chi-chuen	At the request of Mr CHAN, the Chairman directed the Clerk to ring the quorum bell to summon members to the meeting.	
033118-033707	Chairman Mr AU Nok-hin Administration SALA1	Further discussion on the related issues raised by Ms CHAN above on the term "valid permit" in Article 7(1) of the Co-operation Arrangement, the meaning of "permit" as defined under by-law 41A of Cap. 556B, the arrangements at different control points and the Administration's stance that a notice published by the MTRCL in the Gazette to declare an area to be a cross-boundary restricted area (which was defined	Admin to provide paper. Para 2(b) and (c) of the minutes refers.

Time Marker	Speaker(s)	Subject(s)	Action required
		under by-law 41A of Cap. 556B) was not a piece of subsidiary legislation and was not subject to the scrutiny of the Legislative Council.	
033708-033955	Chairman Mr CHU Hoi-dick Administration	Mr CHU's further enquiry about the coordinates of the MPA and the Administration's response.	
033956-034155	Chairman Mr Andrew WAN Administration	Mr WAN's enquiry about the laws and jurisdiction in the MPA, and the Administration's response.	
034156-034443	Chairman Mr Dennis KWOK Administration	Mr KWOK's further enquiry about the permits/exemption mentioned in section 34 (1A)(b)(ii) and (iii) of Cap. 556 and the nature and effect of the area which was coloured in blue and marked "Hong Kong Clearance Area and Passenger Corridor" on Plan No. 1 in Schedule 2 to the Bill as well as the Administration's response.	
034444-035211	Chairman Ms Tanya CHAN Administration	Further discussion on the Hong Kong Clearance Area and Passenger Corridor being coloured in blue on Plan No. 1 in Schedule 2 to the Bill. Ms CHAN's view that the Administration should provide a table comparing the arrangements at different control points (such as the maximum penalties imposed on persons committing an offence thereat) to facilitate members' deliberation on the issue, and the Administration's response.	Para 2(b) of the minutes refers.
035212-035519	Chairman Mr Jeremy TAM Administration	Mr TAM's enquiry about the relevant approval document(s) issued by the State Council on the establishment of the MPA and its specific area, and the Administration's response.	
035520-040016	Chairman Dr Fernando CHEUNG Administration	Dr CHEUNG's further enquiry on the measures to be implemented at the WKS by the Administration to prevent imported communicable diseases from the Mainland, the definitions of "reserved matter" and "non-reserved matter" under clause 3, and the Administration's response.	
040017-040553	Chairman Mr CHAN Chi-chuen Mr WONG Ting- kwong	At the request of Mr CHAN, the Chairman directed the Clerk to ring the quorum bell to summon members to the meeting. Discussion on meeting management.	

Time Marker	Speaker(s)	Subject(s)	Action required
040554-040810	Chairman Mr Dennis KWOK Administration	Mr KWOK's enquiry about the Administration's stance that a notice published by the MTRCL in the Gazette to declare an area to be a cross-boundary restricted area (which was defined under by-law 41A of Cap. 556B) was not a piece of subsidiary legislation and was not subject to the scrutiny of the Legislative Council, and the Administration's response.	Para 2(c) of the minutes refers.
040811-041017	Chairman Mr CHAN Chi-chuen Administration	Mr CHAN's view that the Administration should provide information on the arrangements at different control points to facilitate members' deliberation on the issue, and the Administration's response.	Para 2(b) of the minutes refers.
041018-041240	Chairman Mr AU Nok-hin Administration	Mr AU's enquiry about the management and location of the 211 doors for fire access and escape at the WKS, and the Administration's response.	
041241-041635	Chairman Mr KWONG Chun-yu Administration	Mr KWONG's enquiry about the repair and maintenance of escalators and lifts in the WKS and the applicable laws as well as the Administration's response.	
Any other business			
041636-041655	Chairman	Closing remarks	