

LEGISLATIVE COUNCIL BRIEF

GUANGZHOU-SHENZHEN-HONG KONG EXPRESS RAIL LINK (CO-LOCATION) BILL

INTRODUCTION

At the meeting of the Executive Council on 16 January 2018, the Council ADVISED and the Chief Executive ORDERED that the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill (Bill), at **Annex A**, be introduced into the Legislative Council (LegCo).

A

JUSTIFICATIONS

Urgency to conclude the “Three-step Process” before commissioning of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL)

2. After detailed studies and thorough discussions of various customs, immigration and quarantine clearance options, the Government of the Hong Kong Special Administrative Region (HKSAR) and the relevant Mainland authorities reached consensus in July 2017 on the framework for implementing a co-location arrangement. On 25 July 2017, the Executive Council ADVISED and the Chief Executive ORDERED that the proposed co-location arrangement at the West Kowloon Station (WKS) of the XRL be endorsed, so that the HKSAR Government could proceed to take forward the relevant tasks. The proposed “Three-step Process” to put in place the co-location arrangement is summarised as follows –

- (a) **Step 1**: the Mainland and the HKSAR are to reach a co-operation arrangement;

- (b) **Step 2:** the Standing Committee of the National People’s Congress (NPCSC) makes a decision approving and endorsing the co-operation arrangement (Decision); and
- (c) **Step 3:** both sides implement the arrangement pursuant to their respective laws. In the case of the HKSAR, local enactment will be necessary to implement the co-location arrangement.

3. The HKSAR Government made an announcement on the “Three-step Process” in the afternoon of the same day to give an account to the community and to initiate public discussion. Following extensive discussions in the community over the past few months, as well as the passage by LegCo on 15 November 2017 of a non-binding motion moved by the HKSAR Government in support of the co-location arrangement, the HKSAR Government formally commenced the “Three-step Process” by signing with the Mainland 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) on 18 November 2017. The NPCSC subsequently approved the Co-operation Arrangement through its Decision on 27 December 2017, completing the second step of the “Three-step Process”. The NPCSC’s Decision and the relevant explanations on the Draft Decision provided by Director Zhang Xiaoming of the Hong Kong and Macao Affairs Office of the State Council (Explanations), together with the approved Co-operation Arrangement, are at **Annex B**.

B

4. In accordance with Step 3 (the final step) of the “Three-step Process”, the HKSAR Government needs to commence the local legislative process pursuant to the NPCSC’s Decision and the Co-operation Arrangement to implement the co-location arrangement in the HKSAR. In view of the anticipated commissioning of the Hong Kong Section of the XRL in the third quarter of 2018, it is necessary to introduce the relevant Bill into LegCo as early as possible with a view to securing its passage before LegCo’s summer recess in 2018.

Need to provide legal basis under Hong Kong laws for implementing co-location arrangement at the WKS

5. Implementation of the co-location arrangement for the XRL involves the establishment of a port at the WKS whereby both sides will, in accordance with their respective laws, exercise exit and entry regulation, including immigration inspection, customs regulation, and inspection and quarantine measures etc., on departing and arriving persons travelling between the Mainland and the HKSAR, as well as their personal belongings and luggage.

6. The WKS Port to be set up comprises the Hong Kong Port Area and the Mainland Port Area. The Hong Kong Port Area is to be established by the HKSAR and be subject to its jurisdiction in accordance with the laws of the HKSAR and managed as a cross-boundary restricted area. The Mainland Port Area is to be established by the Mainland and be subject to its jurisdiction in accordance with the Co-operation Arrangement and the laws of the Mainland, and the port administration system is to be implemented there. To implement the co-location arrangement pursuant to the NPCSC's Decision and Co-operation Arrangement, it is necessary for the HKSAR to enact a piece of local legislation to –

- (a) declare an area as the WKS Mainland Port Area;
- (b) provide that a train compartment of a passenger train in operation on the Hong Kong Section of the XRL is to be regarded as part of the WKS Mainland Port Area;
- (c) provide that the WKS Mainland Port Area is to be regarded as an area lying outside Hong Kong but lying within the Mainland for certain purposes; and
- (d) make supplementary provisions for certain rights and obligations and related matters and for the interpretation of certain documents in relation to rights and obligations.

A 7. The Government has prepared the Bill at **Annex A** to implement relevant provisions of the Co-operation Arrangement. In

preparing the Bill, the Government has made reference to the Shenzhen Bay Port Hong Kong Port Area Ordinance (Cap. 591) which implements relevant provisions of the co-location arrangement for the Shenzhen Bay Port in Shekou, Shenzhen, while catering for the differences between the Shenzhen Bay co-location arrangement and the case of the WKS¹.

8. In parallel with the processing of the Bill through LegCo, we will be pressing ahead with discussion with the Mainland for acquiring the right to use the Mainland Port Area as well as the duration and licence fee involved; such will be provided for by an agreement to be signed by both sides. The Mainland will separately pay, to the operator of the WKS, the maintenance and management fees of relevant buildings and structures and related facilities in the Mainland Port Area. This dual track approach is necessary in the interest of time, and is similar to the approach adopted in the case of Shenzhen Bay Port: at the time when the Shenzhen Bay Port Hong Kong Port Area Bill was being scrutinised by LegCo, the Government discussed in parallel with Shenzhen the land development and usage costs for the Shenzhen Bay Port Hong Kong Port Area payable by Hong Kong.

THE BILL

9. The main provisions of the Bill are set out below.

Preamble

10. The **Preamble** sets out the background of the Bill including the Co-operation Arrangement signed on 18 November 2017 and the NPCSC's Decision made on 27 December 2017.

¹ Specifically, unlike the Shenzhen Bay Port Hong Kong Port Area Ordinance which provides for the extension of the HKSAR laws and court's jurisdiction in the Hong Kong Port Area at Shenzhen Bay Port in full, generally speaking, Mainland laws and jurisdiction will apply in the Mainland Port Area at the WKS except for matters set out in Articles 3 and 7 of the Co-operation Arrangement where Hong Kong laws and jurisdiction will continue to apply (see Article 4 of the Co-operation Arrangement).

Part 1 of the Bill – Preliminary (Clauses 1 to 3)

11. **Part 1 of the Bill** (Clauses 1 to 3) provides for preliminary matters such as commencement of the Bill and interpretative provisions to be used in interpreting the Bill.

Short title and commencement (Clause 1)

12. **Clause 1(2)** provides that the Bill, after its enactment, is to come into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

Interpretation (Clauses 2 to 3)

13. **Clauses 2 to 3** are interpretative provisions, with **Clause 3** being the most important one defining the concepts of reserved matter and non-reserved matter.

14. For the purposes of the Bill, a **reserved matter** is a matter to which the laws of Hong Kong apply, and over which Hong Kong exercises jurisdiction, under Article 3 or 7 of the Co-operation Arrangement; and a **non-reserved matter** is a matter to which the laws of the Mainland apply, and over which the Mainland exercises jurisdiction, under Article 4 of the Co-operation Arrangement. Non-reserved matter, according to the State Council's Explanations on the draft NPCSC's Decision, includes but is not limited to the regulation of exit and entry of personnel and items and public order within the Mainland Port Area. Articles 3, 4 and 7 (including the English translation) are set out in Schedule 1 to the Bill.

Part 2 of the Bill – WKS Mainland Port Area (Clauses 4 to 6)

15. **Part 2 of the Bill** (Clauses 4 to 6) contains provisions relating to the declaration of the WKS Mainland Port Area and the application of laws in, and delineation of jurisdiction over, the Mainland Port Area.

Declaration of WKS Mainland Port Area (Clause 4)

16. **Clause 4** declares the area delineated by the plans (together with annexes) in Schedule 2 to the Bill as the WKS Mainland Port Area. It covers the designated areas on B2 and B3 levels, the platform areas on

B4 level, as well as the relevant connecting passageways, and includes the Mainland Clearance Area and back office, the waiting hall for departing passengers, station platforms and the connecting passageways and escalators.

Train compartments (Clause 5)

17. In accordance with the Co-operation Arrangement, **Clause 5(1)** specifies that a train compartment of a passenger train in operation on the Hong Kong Section of the XRL (including a passenger train which is in motion, stationary and during embarkation or disembarkation) is to be regarded as part of the WKS Mainland Port Area.

18. **Clause 5(2)** clarifies that under certain circumstances, a passenger train is not in operation for the purposes of Clause 5(1).

Laws and jurisdiction in Mainland Port Area (Clause 6)

19. **Clause 6(1)** provides that, **except for reserved matters**, the Mainland Port Area is to be regarded as an area lying outside Hong Kong but lying within the Mainland for the purpose of the application of the laws of the Mainland, and of the laws of Hong Kong, in the Mainland Port Area; and for the purpose of the delineation of jurisdiction (including jurisdiction of the courts) over the Mainland Port Area.

20. In other words, the application of the laws and the jurisdiction of the HKSAR in respect of a **reserved matter** in the Mainland Port Area remain unaffected. For such purpose, the Mainland Port Area is still regarded as an area lying within Hong Kong.

21. **Clause 6(2)** is added to clarify that Clause 6(1) does not affect the boundary of the administrative division of the HKSAR. In other words, there is no realignment of the HKSAR boundary. This is consistent with the views of the NPCSC as stated in the preamble of the Decision that “the establishment of the Mainland Port Area at the WKS does not alter the boundary of the administrative division of the HKSAR”.

Part 3 of the Bill – Supplementary Provisions (Clauses 7 to 8)

22. **Part 3 of the Bill** (Clauses 7 to 8) contains supplementary provisions in the form of a savings provision and a provision for interpretation of certain future documents in relation to rights and obligations.

Savings provision (Clause 7)

23. **Clause 7** is a savings provision dealing with certain matters occurring before the commencement date of the Ordinance (commencement date), and pre-existing rights and obligations. A pre-existing right or obligation is essentially a subsisting right or obligation that was acquired or accrued, or incurred, before the commencement date.

24. **Clause 7(1)** provides that Clause 6(1) does **not** affect –

- (a) a right acquired or accrued, or an obligation incurred, because of an act that was done, or an omission that was made, before the commencement date in the area declared as the WKS Mainland Port Area under Clause 4;
- (b) any investigation, legal proceedings or remedy in respect of such a right or obligation; or
- (c) any penalty, forfeiture or punishment incurred in respect of an offence committed before the commencement date in that area.

25. **Clause 7(2)** provides that no person is entitled to contend in any proceedings (whether civil, criminal or otherwise) that Clause 6(1) has the effect of changing the geographical scope for a pre-existing right or pre-existing obligation.

26. Clauses 7(1) and (2) do not affect the operation of Clause 7(3). When implementing co-location arrangement at the WKS, one of the issues is whether the geographical scope for certain pre-existing rights and obligations should or should not include the Mainland Port Area on

or after the commencement date, especially when the Mainland / HKSAR boundary is a major concern in exercising such rights and obligations on or after the commencement date.

27. In this connection, **Clause 7(3)** specifies that in determining the geographical scope for any of the following rights or obligations, the Mainland Port Area is to be regarded as an area lying outside Hong Kong but lying within the Mainland –

- (a) a pre-existing right or pre-existing obligation that has arisen because of an order specified in Schedule 4; those orders involve the concept of boundary and pertain to non-reserved matters (e.g. a removal order made under the Immigration Ordinance (Cap. 115));
- (b) a pre-existing right or pre-existing obligation that has arisen because of any other statutory authority, but only to the extent that the right or obligation may be exercised or discharged in relation to a non-reserved matter;
- (c) a right conferred, or an obligation imposed, by a pre-existing Court order specified in Schedule 5; those orders involve the concept of boundary and pertain to non-reserved matters (e.g. a Court order or direction to the effect that a person must not leave or be removed from Hong Kong); and
- (d) a right conferred, or an obligation imposed, by any other pre-existing Court order, but only to the extent that the right or obligation may be exercised or discharged in relation to a non-reserved matter.

These rights and obligations do not cover those arising from documents of a private nature (e.g. pre-existing employment contracts etc.). In general, the geographical scope of the latter rights and obligations will not be affected. It will be up to the parties concerned to vary the documents in the days to come as to whether that geographical scope should continue to include the Mainland Port Area as the parties see fit in future.

Interpretation of future documents in relation to rights and obligations (Clause 8)

28. **Clause 8** deals with future documents, i.e. a document made on or after the commencement date. It does not apply to an enactment, a statutory authority or a Court order.

29. If a reference to Hong Kong or part of Hong Kong (e.g. Yau Tsim Mong, Kowloon etc., which may encompass the Mainland Port Area) appears in such a future document, then, in the absence of any contrary intention, the default position in interpreting the reference for the geographical scope for a future right or obligation in relation to a non-reserved matter is that the Mainland Port Area is an area lying outside Hong Kong (but lying within the Mainland). In any case, private parties are free to displace this default interpretation rule.

30. In documents to which Clause 8 does not apply, a reference to Hong Kong or part of Hong Kong to describe the geographical scope for a right or obligation will be interpreted in accordance with Clause 6(1). The reference will include the Mainland Port Area to the extent that the right or obligation may be exercised or performed in relation to a reserved matter, and will not include the Mainland Port Area to the extent that the right or obligation may be exercised or performed in relation to a non-reserved matter.

LEGISLATIVE TIMETABLE

31. The legislative timetable is –

Publication in the Gazette	26 January 2018 (Fri)
First Reading and commencement of Second Reading debate	31 January 2018 (Wed)
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

IMPLICATIONS OF THE PROPOSAL

32. The legislative proposal is in conformity with the Basic Law, including the provisions concerning human rights. The Bill will affect the application of the laws of the HKSAR and jurisdiction of the HKSAR in the Mainland Port Area in relation to a non-reserved matter, and will bind the Government by necessary implication.

C 33. The legislative proposal has financial and civil service, economic, environmental and family implications as set out at **Annex C**. It has no sustainability implications other than those set out in the economic implications paragraph, and has no competition, productivity and gender implications.

PUBLIC CONSULTATION

34. After obtaining the endorsement of the Chief Executive in Council on taking forward the “Three-step Process” to put in place the co-location arrangement on 25 July 2017, the HKSAR Government made an announcement in the afternoon of the same day to give an account to the community and initiate public discussion as early as possible.

35. Although LegCo was in recess on the date of the announcement, it conducted a special House Committee meeting on 3 August 2017 as well as a joint meeting among the Panel on Security, the Panel on Transport and the Panel on Administration of Justice and Legal Services on 8 August 2017. The Secretary for Justice, the Secretary for Transport and Housing and the Secretary for Security attended the aforementioned meetings to comprehensively address Members’ queries at LegCo. Furthermore, the above Principal Officials also attended various public events in the following months, including interviews at radio and television programmes, to explain the co-location arrangement and listen to the views of the community.

36. The HKSAR Government also moved a non-binding motion at the LegCo sitting of 25 October 2017 on taking forward follow-up tasks of co-location arrangement. The debate, which actually commenced on 26 October 2017, allowed all Members to further discuss

and debate issues pertinent to the co-location arrangement. The Secretary for Justice, the Secretary for Transport and Housing and the Secretary for Security attended the debate to listen to the views of Members and to respond to their queries. Following 26 hours of debate, the motion was passed on 15 November 2017, signifying LegCo's support for the Government to take forward the relevant tasks of implementing the co-location arrangement.

PUBLICITY

37. A LegCo Brief and press release are to be issued on 26 January 2018. A spokesman will be available to handle media enquiries.

BACKGROUND

38. The XRL is around 140 km in length running through the Guangzhou South Station, the Humen Station, the Shenzhen North Station, the Futian Station and the WKS. The Hong Kong Section is around 26 km in length, which will be an underground railway running from the boundary at Huanggang to the WKS located at the north of the West Kowloon Cultural District between the Kowloon Station of the Airport Express and the Austin Station of the West Rail Line.

39. Construction works of the Hong Kong Section of the XRL are being taken forward in full steam. The project is about 98.6 per cent complete as at end 2017 and is expected to shortly commission in the third quarter of 2018. It will connect Hong Kong to the expanding national high-speed rail network and greatly shorten travelling time from Hong Kong to major Mainland cities by rail, thereby providing convenient access to various destinations across the country.

ENQUIRY

40. Enquiries may be directed to Mr Andy LAM, Principal Assistant Secretary for Transport and Housing (Transport), at 3509 8163.

Transport and Housing Bureau
26 January 2018

Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill

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A BILL

To

Declare an area as the West Kowloon Station Mainland Port Area; to provide that a train compartment of a passenger train in operation on the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link is to be regarded as part of the West Kowloon Station Mainland Port Area; to provide that the West Kowloon Station Mainland Port Area is to be regarded as an area lying outside Hong Kong but lying within the Mainland for certain purposes; and to make supplementary provisions for certain rights and obligations and related matters and for the interpretation of certain documents in relation to rights and obligations.

Preamble

WHEREAS—

- (1) on 18 November 2017, 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 was signed; and
- (2) on 27 December 2017, the Decision of the Standing Committee of the National People's Congress 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 was adopted at the

Thirty-first Session of the Standing Committee of the Twelfth National People's Congress:

NOW, THEREFORE, it is enacted by the Legislative Council as follows—

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Ordinance.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Interpretation

In this Ordinance—

commencement date (生效日期) means the day on which this Ordinance comes into operation;

Co-operation Arrangement (《合作安排》) means 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 (a translation of “《內地與香港特別行政區關於在廣深港高鐵西九龍站設立口岸實施“一地兩檢”的合作安排》”) signed on 18 November 2017, as approved by the Standing Committee of the National People's Congress on 27 December 2017;

Court (法院) means—

- (a) the Court of Final Appeal;
- (b) the Court of Appeal;
- (c) the Court of First Instance;
- (d) the Competition Tribunal;
- (e) the District Court;
- (f) a Magistrates' Court;
- (g) the Lands Tribunal;
- (h) the Labour Tribunal;
- (i) the Small Claims Tribunal;
- (j) the Obscene Articles Tribunal; or
- (k) the Coroner's Court;

Court order (法院命令) includes a judgment, order, direction or other decision made by a Court;

designated area (指定範圍) means the area declared as the West Kowloon Station Mainland Port Area under section 4;

future document (日後的文件) means a document that is made on or after the commencement date;

geographical scope (地理涵蓋範圍), in relation to a right or obligation, means the geographical area of Hong Kong, or of any part of Hong Kong, within which, or in respect of which, the right or obligation may be exercised or discharged;

Hong Kong Section of the Express Rail Link (高鐵香港段) means the railway constructed under the scheme for the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, which was referred to in G.N. 8022 of 2008 published in the Gazette on 28 November 2008 and 5 December 2008—

- (a) as amended and corrected by the amendments and corrections referred to in G.N. 2598 of 2009 published in the Gazette on 30 April 2009 and 8 May 2009;

- (b) as modified by the modifications referred to in G.N. 6682 of 2009 published in the Gazette on 30 October 2009 and 6 November 2009; and
- (c) as amended by the amendments referred to in G.N. 5488 of 2014 published in the Gazette on 26 September 2014 and 3 October 2014;

Mainland (內地) means the part of China other than Hong Kong, Macau and Taiwan;

Mainland Port Area (內地口岸區)—

- (a) means the designated area; and
- (b) includes a train compartment to be regarded as part of the West Kowloon Station Mainland Port Area under section 5;

non-reserved matter (非保留事項)—see section 3;

obligation (義務) includes a liability;

pre-existing Court order (已有的法院命令) means a Court order—

- (a) that was made before the commencement date; and
- (b) that subsists, or the effect of which has been suspended, immediately before the commencement date;

pre-existing obligation (已有的義務) means an obligation—

- (a) that was incurred before the commencement date; and
- (b) that subsists, or the effect of which has been suspended, immediately before the commencement date;

pre-existing right (已有的權利) means a right—

- (a) that was acquired or accrued before the commencement date; and
- (b) that subsists, or the effect of which has been suspended, immediately before the commencement date;

public authority (公共主管當局) includes any tribunal, board, commission, committee or similar body that is established by or under an enactment, other than a Court or a regulatory body;

public officer (公職人員) means a person holding an office of emolument under the Government (whether the office is permanent or temporary), including a principal official of the Government appointed in accordance with the Basic Law;

regulatory body (規管團體) means a person that regulates standards of competence or service within a profession, trade or business;

reserved matter (保留事項)—see section 3;

right (權利) includes a power and a privilege;

Shek Kong Stabling Sidings (石崗列車停放處) means the area delineated and coloured orange on the plan in Schedule 3 (as read with the Notes on the plan);

statutory authority (法定權限)—

- (a) means a licence, permit, approval, certification, registration, enrolment, authorization or any other authority (however described), exemption (however described), prohibition, order, warrant, direction or requirement issued, given, made or imposed by the exercise or performance of—
 - (i) a power conferred, or a duty imposed, by an enactment on—
 - (A) the Chief Executive (including the Chief Executive in Council), a public officer, public body or public authority; or
 - (B) a person authorized or appointed by the Chief Executive (including the Chief Executive in

Council), a public officer, public body or public authority under an enactment; or

(ii) a power conferred, or a duty imposed, by an enactment on a regulatory body, or an officer of it, for the body or officer to—

(A) admit (however described) any person to a profession, trade or business; or

(B) permit any person to engage in (however described) a profession, trade or business; but

(b) excludes a Court order;

West Kowloon Station (西九龍站) means the railway station within which the designated area is situated.

3. Interpretation: reserved matter and non-reserved matter

(1) For the purposes of this Ordinance—

(a) a reserved matter is a matter to which the laws of Hong Kong apply, and over which Hong Kong exercises jurisdiction, under Article 3 or 7 of the Co-operation Arrangement; and

(b) a non-reserved matter is a matter to which the laws of the Mainland apply, and over which the Mainland exercises jurisdiction, under Article 4 of the Co-operation Arrangement.

(2) The Chinese text of Articles 3, 4 and 7 of the Co-operation Arrangement is reproduced in the Chinese text of Schedule 1. An English translation of those Articles is set out in the English text of that Schedule.

Part 2

West Kowloon Station Mainland Port Area

4. Declaration of West Kowloon Station Mainland Port Area

The area delineated and coloured orange on Plan No. 1 and Annex 1 to Plan No. 1 in Schedule 2 (as read with Annex 2 to Plan No. 1 and Plan Nos. 2, 3 and 4 in that Schedule, and with the Notes on the Plans and Annexes) is declared as the West Kowloon Station Mainland Port Area.

5. Train compartments

- (1) For the purposes of this Ordinance, a train compartment of a passenger train in operation on the Hong Kong Section of the Express Rail Link (including a passenger train which is in motion, stationary and during embarkation or disembarkation) is to be regarded as part of the West Kowloon Station Mainland Port Area.
- (2) For the purposes of subsection (1), a passenger train is not in operation—
 - (a) while within Shek Kong Stabling Sidings; or
 - (b) while making a journey from Shek Kong Stabling Sidings to West Kowloon Station or a journey from West Kowloon Station to Shek Kong Stabling Sidings.

6. Laws and jurisdiction in Mainland Port Area

- (1) Except for reserved matters, the Mainland Port Area is to be regarded as an area lying outside Hong Kong but lying within the Mainland for the purposes of—
 - (a) the application of the laws of the Mainland, and of the laws of Hong Kong, in the Mainland Port Area; and

- (b) the delineation of jurisdiction (including jurisdiction of the courts) over the Mainland Port Area.
- (2) Subsection (1) does not affect the boundary of the administrative division of the Hong Kong Special Administrative Region promulgated by the Order of the State Council of the People's Republic of China No. 221 dated 1 July 1997 and published as S.S. No. 5 to Gazette No. 6/1997 of the Gazette.
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Part 3

Supplementary Provisions

7. Savings provision

- (1) Section 6(1) does not affect—
 - (a) a right acquired or accrued, or an obligation incurred, because of an act that was done, or an omission that was made, before the commencement date in the designated area;
 - (b) any investigation, legal proceedings or remedy in respect of such a right or obligation; or
 - (c) any penalty, forfeiture or punishment incurred in respect of an offence committed before the commencement date in the designated area.
- (2) Also, no person is entitled to contend in any proceedings (whether civil, criminal or otherwise) that section 6(1) has the effect of changing the geographical scope for a pre-existing right or pre-existing obligation.
- (3) However, in determining the geographical scope for any of the following rights or obligations, the Mainland Port Area is to be regarded as an area lying outside Hong Kong but lying within the Mainland—
 - (a) a pre-existing right or pre-existing obligation that has arisen because of an order specified in Schedule 4;
 - (b) a pre-existing right or pre-existing obligation that has arisen because of any other statutory authority, but only to the extent that the right or obligation may be exercised or discharged in relation to a non-reserved matter;

- (c) a right conferred, or an obligation imposed, by a pre-existing Court order specified in Schedule 5;
- (d) a right conferred, or an obligation imposed, by any other pre-existing Court order, but only to the extent that the right or obligation may be exercised or discharged in relation to a non-reserved matter.

8. Interpretation of future documents in relation to rights and obligations

- (1) This section applies if—
 - (a) a future document contains a reference to Hong Kong or part of Hong Kong to describe the geographical scope for a right or obligation (other than a right acquired or accrued, or an obligation incurred, before the commencement date); and
 - (b) the future document is none of the following—
 - (i) an enactment;
 - (ii) a statutory authority;
 - (iii) a Court order.
 - (2) In interpreting the reference, to the extent that the right or obligation may be exercised or discharged in relation to a non-reserved matter, the Mainland Port Area is to be regarded as an area lying outside Hong Kong but lying within the Mainland.
 - (3) However, subsection (2) may be displaced by a contrary intention.
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Schedule 1

[s. 3]

Articles 3, 4 and 7 of Co-operation Arrangement

(English Translation)

Article 3 The establishment of the Mainland Port Area does not affect construction rights, rights relating to the performance of construction work, service concession, operation as well as regulation of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link; nor does it affect the rights and benefits regarding assets (including relevant lands as well as movable or immovable assets on these lands) and facilities pertaining to the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link. The HKSAR will continue to handle these matters in accordance with the laws of the HKSAR and exercise jurisdiction over these matters in accordance with this Co-operation Arrangement.

Article 4 With effect from the date of commissioning of the Mainland Port Area, except for the matters provided for in Article 3 and Article 7 of this Co-operation Arrangement, the Mainland will exercise jurisdiction (including jurisdiction of the courts) over the Mainland Port Area in accordance with this Co-operation Arrangement and the laws of the Mainland.

In handling those matters which are subject to the jurisdiction of the Mainland as set out in the preceding paragraph, for the purposes of the application of the laws of the Mainland and the laws of the HKSAR and the delineation of jurisdiction (including jurisdiction of the courts), the Mainland Port Area will be regarded as being situated in the Mainland.

Article 7 The HKSAR exercises jurisdiction (including jurisdiction of the courts) over the following matters in accordance with the laws of the HKSAR:

1. the performance of duties and functions or matters related to the performance of duties and functions by designated personnel, i.e. holders of valid permit issued by the HKSAR Government or the Hong Kong operator of the Guangzhou-Shenzhen-Hong Kong Express Rail Link who enter the Mainland Port Area or pass through the Mainland Port Area to other places within the West Kowloon Station to carry out duties and functions. Save as stated above, these personnel should comply with the laws of the Mainland inside the Mainland Port Area and be subject to regulation by the Mainland Authorities Stationed at the Mainland Port Area;
2. matters relating to the standards of, and the duties, responsibilities and liabilities concerning, the construction, insurance and design, repair and maintenance of buildings and structures and related facilities (including fire safety; storage facilities of dangerous goods; lifts; escalators; plumbing installations; installations relating to waste and wastewaters; public address systems; ventilation; electricity and energy efficiency etc.), other than facilities and equipments provided by the Mainland Authorities Stationed at the Mainland Port Area themselves or exclusively used by them in carrying out duties and functions pursuant to this Co-operation Arrangement;
3. matters relating to the carrying on of business, related insurance and tax affairs of the Hong Kong operator of the Guangzhou-Shenzhen-Hong Kong Express Rail Link and service provider(s), as well as the tax affairs and employment-related obligations, rights and benefits, protection and

insurance of their staff members. Service provider(s) referred to above does not include a provider of services to the Mainland Authorities Stationed at the Mainland Port Area or to the Mainland operator of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, where such service provider does not carry on business in any area of the HKSAR outside the Mainland Port Area;

4. matters relating to the regulation and monitoring of the operational safety of the railway system of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, as well as matters relating to environmental regulation and control;
5. unless the parties by agreement indicate otherwise (whether such agreement is made in writing, orally or by conduct), matters pertaining to the contractual or other legal relationships of a civil nature among the following bodies or individuals in the Mainland Port Area: the Hong Kong operator of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, contractor(s) of construction works of the West Kowloon Station, material or service provider(s), staff member(s) of the above bodies, and passenger(s) of the Guangzhou-Shenzhen-Hong Kong Express Rail Link;
6. matters under the responsibility of the Hong Kong operator of the Guangzhou-Shenzhen-Hong Kong Express Rail Link as provided for in the Guangzhou-Shenzhen-Hong Kong Express Rail Link Operating Co-operation Agreement (including any subsequent amendment or supplementary agreement thereto) made between the Hong Kong operator and the Mainland operator of the Guangzhou-Shenzhen-Hong Kong Express Rail Link.

Note—

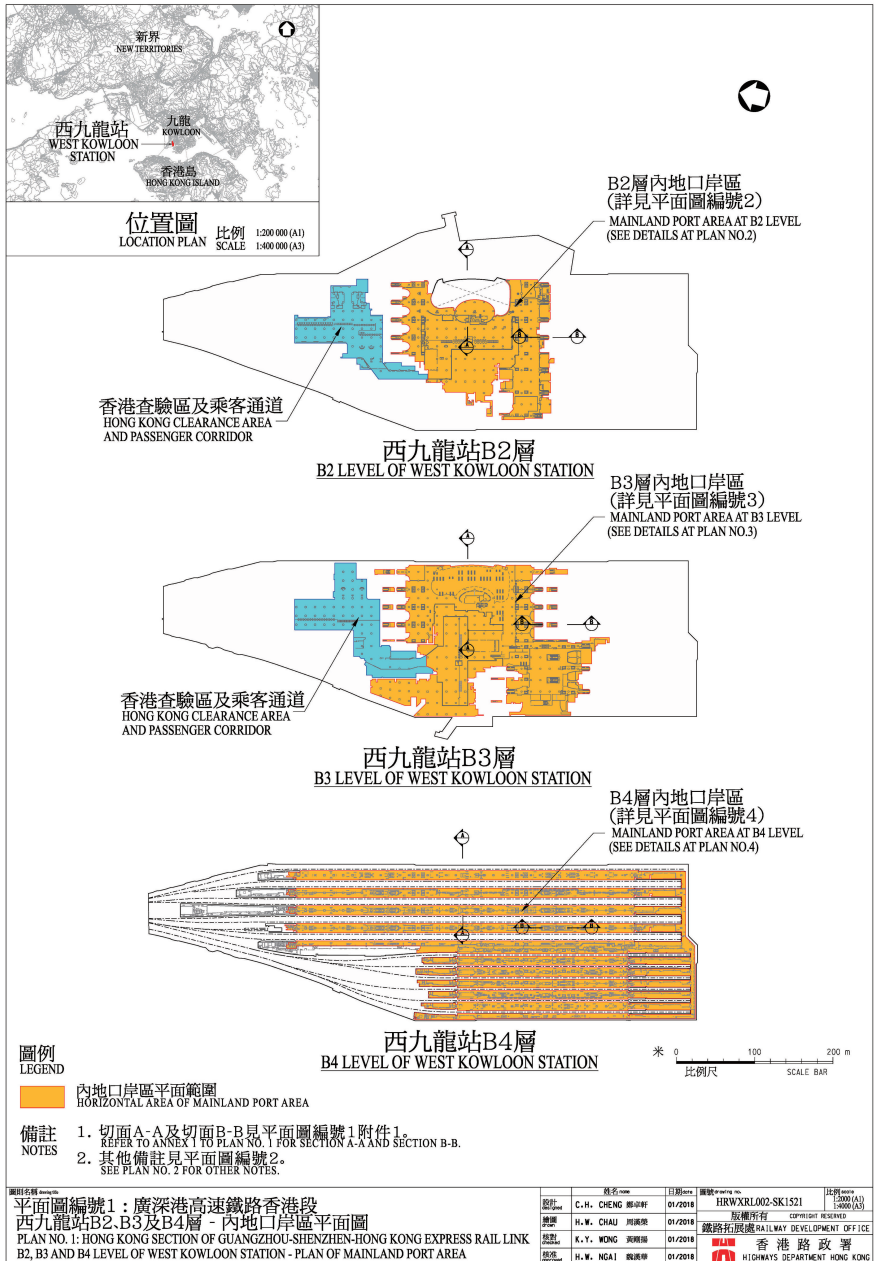
Under Article 6 of the Co-operation Arrangement, “Mainland Authorities Stationed at the Mainland Port Area” means immigration inspection authority, customs authority, inspection and quarantine authority, integrated port administration authority and railway police authority stationed by the Mainland.

Schedule 2

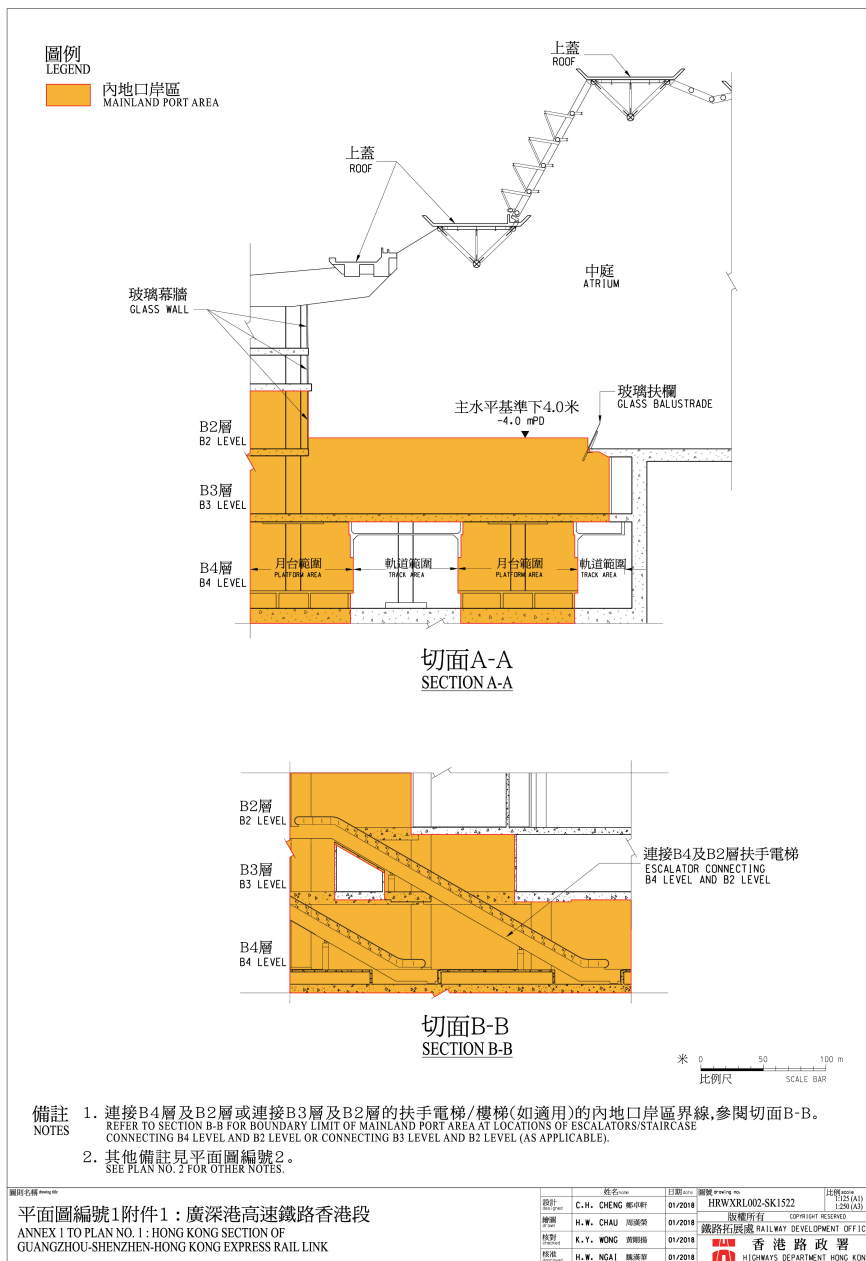
[s. 4]

West Kowloon Station Mainland Port Area

Plan No. 1



Annex 1 to Plan No. 1



Annex 2 to Plan No. 1

B2層界線點
BOUNDARY POINTS AT B2 LEVEL

點號 BOUNDARY POINTS	坐標(東) EASTING (IN METRE)	坐標(北) NORTHING (IN METRE)	點號 BOUNDARY POINTS	坐標(東) EASTING (IN METRE)	坐標(北) NORTHING (IN METRE)
B2-1	E30172 E	E12062 N	B2-33	E49918 E	E13084 N
B2-2	E30874 E	E12112 N	B2-34	E50193 E	E13079 N
B2-3	E40661 E	E12221 N	B2-35	E51173 E	E13073 N
B2-4	E50963 E	E12313 N	B2-36	E52142 E	E13063 N
B2-5	E55614 E	E12325 N	B2-37	E53092 E	E13052 E
B2-6	E55611 E	E12322 N	B2-38	E43963 E	E13044 N
B2-7	E50468 E	E12322 N	B2-39	E43963 E	E13044 N
B2-8	E50501 E	E12326 N	B2-40	E44982 E	E13035 N
B2-9	E50953 E	E12322 N	B2-41	E47748 E	E13032 E
B2-10	E50851 E	E12362 N	B2-42	E48754 E	E13024 N
B2-11	E50883 E	E12326 N	B2-43	E47748 E	E13018 N
B2-12	E50963 E	E12322 N	B2-44	E46672 E	E13010 N
B2-13	E51182 E	E12341 N	B2-45	E46711 E	E13001 N
B2-14	E51313 E	E12346 N	B2-46	E46712 E	E12992 N
B2-15	E51344 E	E12352 N	B2-47	E46659 E	E12989 N
B2-16	E51343 E	E12354 N	B2-48	E46624 E	E12986 N
B2-17	E49713 E	E12324 N	B2-49	E49713 E	E12984 N
B2-18	E50764 E	E12322 E	B2-50	E49663 E	E12985 E
B2-19	E50861 E	E13031 N	B2-51	E49673 E	E12983 E
B2-20	E50712 E	E13032 E	B2-52	E50572 E	E12984 E
B2-21	E50701 E	E13062 N	B2-53	E44659 E	E12982 E
B2-22	E50959 E	E13090 N	B2-54	E49746 E	E12984 N
B2-23	E50981 E	E13092 N	B2-55	E50572 E	E12983 E
B2-24	E50984 E	E13094 N	B2-56	E50574 E	E12984 N
B2-25	E50984 E	E13096 N	B2-57	E49992 E	E12981 E
B2-26	E50983 E	E13092 N	B2-58	E49993 E	E12981 E
B2-27	E50983 E	E13088 N	B2-59	E49993 E	E12979 E
B2-28	E50982 E	E13060 N	B2-60	E49992 E	E12975 E
B2-29	E50981 E	E14250 N	B2-61	E49992 E	E12969 N
B2-30	E50979 E	E14314 N	B2-62	E49994 E	E12972 E
B2-31	E50981 E	E14484 N	B2-63	E49992 E	E12972 E
B2-32	E50983 E	E14939 N	B2-64	E49991 E	E12974 N

B3層界線點
BOUNDARY POINTS AT B3 LEVEL

點號 BOUNDARY POINTS	坐標(東) EASTING (IN METRE)	坐標(北) NORTHING (IN METRE)	點號 BOUNDARY POINTS	坐標(東) EASTING (IN METRE)	坐標(北) NORTHING (IN METRE)
B3-1	E30451 E	E12873 N	B3-46	E50973 E	E13214 N
B3-2	E41463 E	E12874 N	B3-47	E50973 E	E13214 N
B3-3	E49614 E	E12917 E	B3-48	E49980 E	E13206 E
B3-4	E49945 E	E12918 E	B3-49	E49945 E	E13202 E
B3-5	E50125 E	E12913 E	B3-50	E49974 E	E13201 E
B3-6	E50824 E	E12914 E	B3-51	E50981 E	E13202 E
B3-7	E50818 E	E12914 N	B3-52	E49981 E	E13201 E
B3-8	E50812 E	E12911 N	B3-53	E49982 E	E13202 E
B3-9	E50969 E	E13012 E	B3-54	E49982 E	E13202 E
B3-10	E50969 E	E13012 E	B3-55	E49982 E	E13202 E
B3-11	E49982 E	E13012 E	B3-56	E49982 E	E13202 E
B3-12	E49982 E	E13012 E	B3-57	E49982 E	E13202 E
B3-13	E49982 E	E13012 E	B3-58	E49982 E	E13202 E
B3-14	E49982 E	E13012 E	B3-59	E49982 E	E13202 E
B3-15	E49982 E	E13012 E	B3-60	E49982 E	E13202 E
B3-16	E49982 E	E13012 E	B3-61	E49982 E	E13202 E
B3-17	E49982 E	E13012 E	B3-62	E49982 E	E13202 E
B3-18	E49982 E	E13012 E	B3-63	E49982 E	E13202 E
B3-19	E49982 E	E13012 E	B3-64	E49982 E	E13202 E
B3-20	E49982 E	E13012 E	B3-65	E49982 E	E13202 E
B3-21	E49982 E	E13012 E	B3-66	E49982 E	E13202 E
B3-22	E49982 E	E13012 E	B3-67	E49982 E	E13202 E
B3-23	E49982 E	E13012 E	B3-68	E49982 E	E13202 E
B3-24	E49982 E	E13012 E	B3-69	E49982 E	E13202 E
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B3-39	E49982 E	E13012 E	B3-84	E49982 E	E13202 E
B3-40	E49982 E	E13012 E	B3-85	E49982 E	E13202 E
B3-41	E49982 E	E13012 E	B3-86	E49982 E	E13202 E
B3-42	E49982 E	E13012 E	B3-87	E49982 E	E13202 E
B3-43	E49982 E	E13012 E	B3-88	E49982 E	E13202 E
B3-44	E49982 E	E13012 E	B3-89	E49982 E	E13202 E
B3-45	E49982 E	E13012 E	B3-90	E49982 E	E13202 E

B4層界線點
BOUNDARY POINTS AT B4 LEVEL

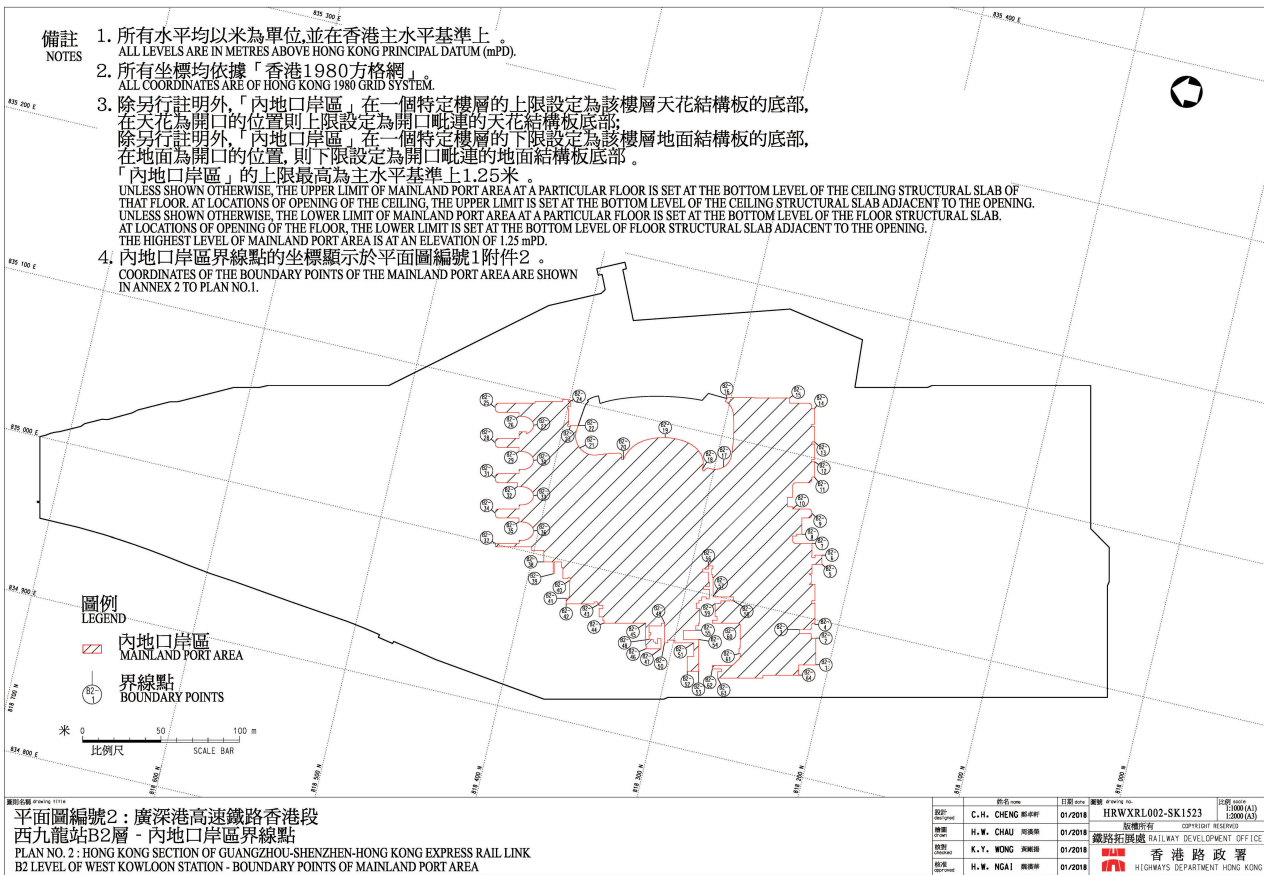
點號 BOUNDARY POINTS	坐標(東) EASTING (IN METRE)	坐標(北) NORTHING (IN METRE)	點號 BOUNDARY POINTS	坐標(東) EASTING (IN METRE)	坐標(北) NORTHING (IN METRE)
B4-1	E49984 E	E13024 N	B4-47	E50983 E	E13214 N
B4-2	E49989 E	E13026 E	B4-48	E49983 E	E13214 N
B4-3	E49984 E	E13026 E	B4-49	E49984 E	E13214 N
B4-4	E50716 E	E13076 N	B4-50	E49983 E	E13214 N
B4-5	E50982 E	E13078 N	B4-51	E49983 E	E13214 N
B4-6	E49983 E	E13078 N	B4-52	E49983 E	E13214 N
B4-7	E50983 E	E13078 N	B4-53	E49983 E	E13214 N
B4-8	E50983 E	E13078 N	B4-54	E49983 E	E13214 N
B4-9	E50983 E	E13078 N	B4-55	E49983 E	E13214 N
B4-10	E50983 E	E13078 N	B4-56	E49983 E	E13214 N
B4-11	E50983 E	E13078 N	B4-57	E49983 E	E13214 N
B4-12	E50983 E	E13078 N	B4-58	E49983 E	E13214 N
B4-13	E50983 E	E13078 N	B4-59	E49983 E	E13214 N
B4-14	E50983 E	E13078 N	B4-60	E49983 E	E13214 N
B4-15	E50983 E	E13078 N	B4-61	E49983 E	E13214 N
B4-16	E50983 E	E13078 N	B4-62	E49983 E	E13214 N
B4-17	E50983 E	E13078 N	B4-63	E49983 E	E13214 N
B4-18	E50983 E	E13078 N	B4-64	E49983 E	E13214 N
B4-19	E50983 E	E13078 N	B4-65	E49983 E	E13214 N
B4-20	E50983 E	E13078 N	B4-66	E49983 E	E13214 N
B4-21	E50983 E	E13078 N	B4-67	E49983 E	E13214 N
B4-22	E50983 E	E13078 N	B4-68	E49983 E	E13214 N
B4-23	E50983 E	E13078 N	B4-69	E49983 E	E13214 N
B4-24	E50983 E	E13078 N	B4-70	E49983 E	E13214 N
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B4-26	E50983 E	E13078 N	B4-72	E49983 E	E13214 N
B4-27	E50983 E	E13078 N	B4-73	E49983 E	E13214 N
B4-28	E50983 E	E13078 N	B4-74	E49983 E	E13214 N
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B4-30	E50983 E	E13078 N	B4-76	E49983 E	E13214 N
B4-31	E50983 E	E13078 N	B4-77	E49983 E	E13214 N
B4-32	E50983 E	E13078 N	B4-78	E49983 E	E13214 N
B4-33	E50983 E	E13078 N	B4-79	E49983 E	E13214 N
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B4-44	E50983 E	E13078 N	B4-90	E49983 E	E13214 N
B4-45	E50983 E	E13078 N	B4-91	E49983 E	E13214 N
B4-46	E50983 E	E13078 N	B4-92	E49983 E	E13214 N

備註 1. 所有坐標均依據「香港1980方格網」。
NOTE ALL COORDINATES ARE OF HONG KONG 1980 GRID SYSTEM.

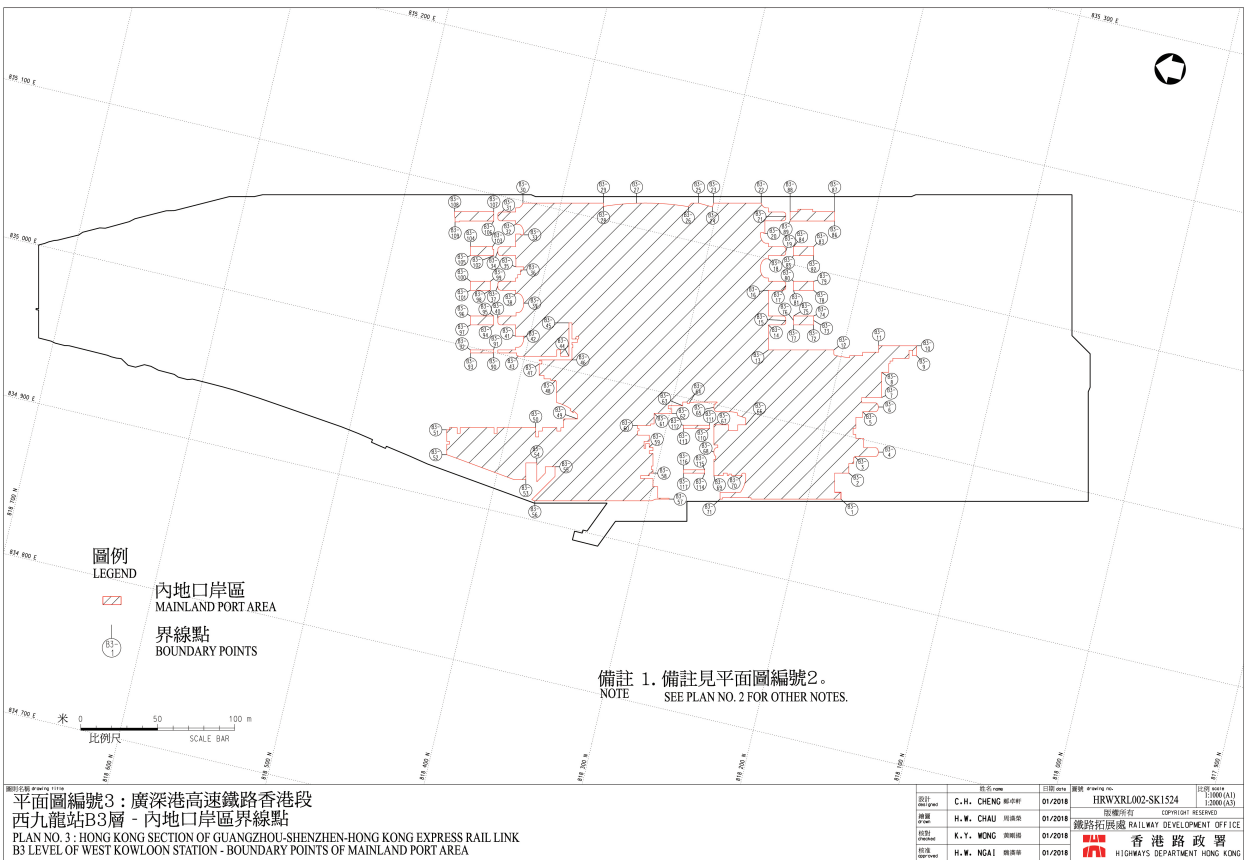
平面圖編號1附件2：廣深港高速鐵路香港段
ANNEX 2 TO PLAN NO. 1: HONG KONG SECTION OF GUANGZHOU-SHENZHEN-HONG KONG EXPRESS RAIL LINK
COORDINATES OF BOUNDARY POINTS OF MAINLAND PORT AREA

項目 ITEM	詳情 DETAILS	日期 DATE	備註 REMARKS
設計 DESIGNER	C. H. CHEUNG 陳智峰	01/2018	HRWXR/L002-SK1526
權照 LICENCEE	H. W. CHAU 周焯榮	01/2018	版權所有 COPYRIGHT RESERVED
經理 MANAGER	K. Y. WONG 黃永祥	01/2018	鐵路拓展處 RAILWAY DEVELOPMENT OFFICE
審核 CHECKED BY	H. W. NGAI 蔣樹培	01/2018	香港鐵路政務處 HONG KONG RAILWAYS DEPARTMENT HONG KONG

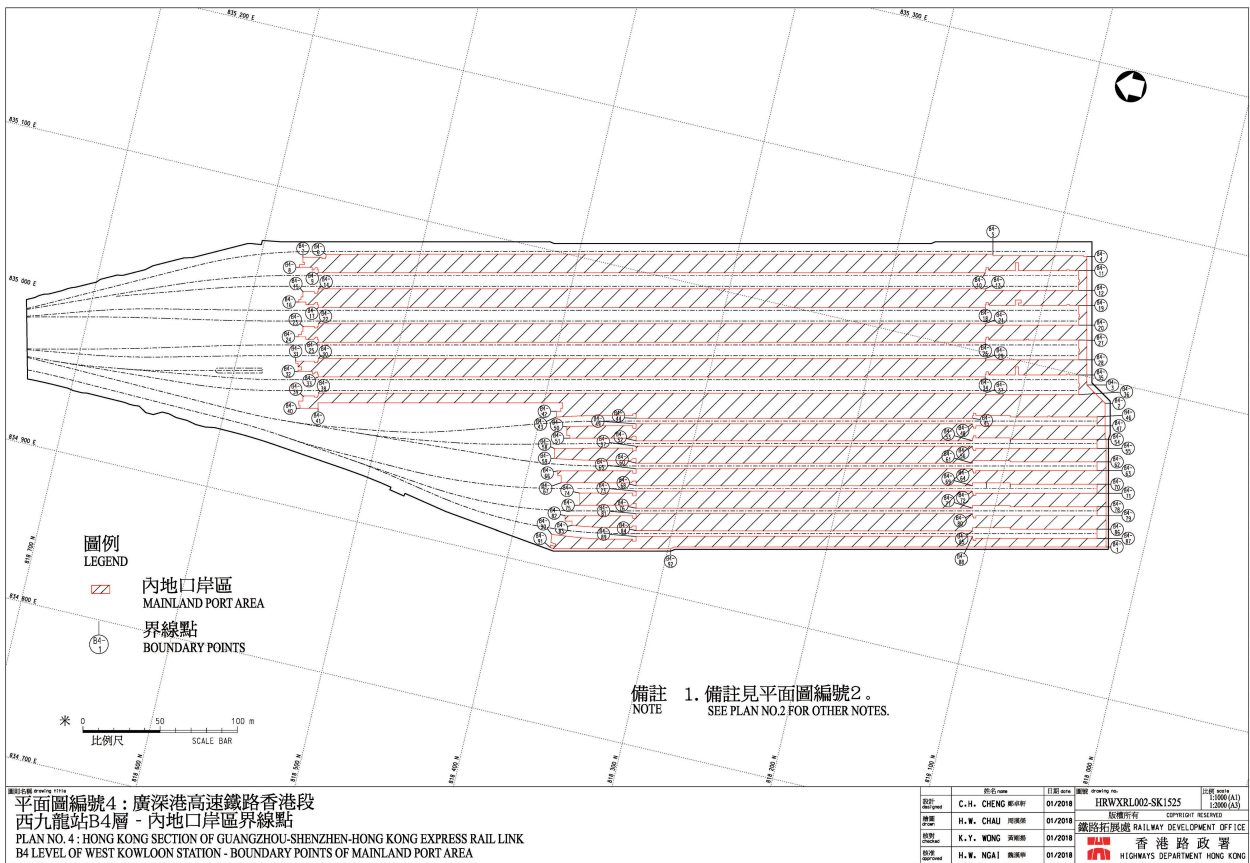
Plan No. 2



Plan No. 3



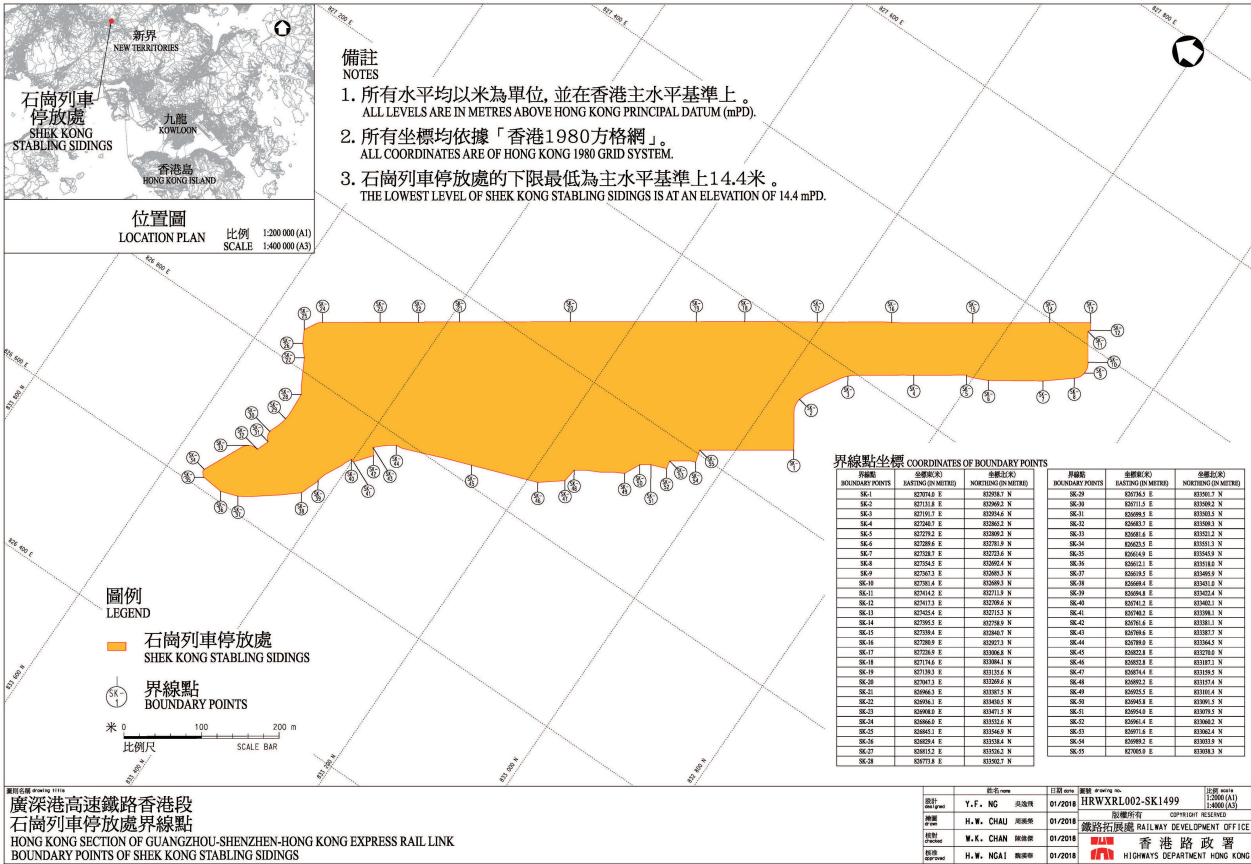
Plan No. 4



Schedule 3

[s. 2]

Shek Kong Stabling Sidings



Schedule 4

[s. 7]

Orders Specified for Section 7(3)(a)

1. A deportation order made under the Immigration Ordinance (Cap. 115), including an order that is treated as if it were so made because of section 13 of Schedule 2 to that Ordinance.
 2. A removal order made under the Immigration Ordinance (Cap. 115).
 3. An order made under the Prevention and Control of Disease Ordinance (Cap. 599) or its regulations prohibiting a person from leaving Hong Kong without the permission of a health officer.
-

Schedule 5

[s. 7]

Pre-existing Court Order Specified for Section 7(3)(c)

1. A pre-existing Court order in the form of—
 - (a) an order or direction to the effect that a person must not leave or be removed from Hong Kong;
 - (b) a notice issued under section 17A(1) of the Prevention of Bribery Ordinance (Cap. 201);
 - (c) a detention order authorizing the seizure or detention of any plants, animals, goods, articles or other things on or after their importation into Hong Kong; or
 - (d) an injunction prohibiting the importation into or exportation from Hong Kong of any plants, animals, goods, articles or other things.
-

Explanatory Memorandum

The objects of this Bill are—

- (a) to declare an area as the West Kowloon Station Mainland Port Area;
- (b) to provide that a train compartment of a passenger train in operation on the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link is to be regarded as part of the West Kowloon Station Mainland Port Area;
- (c) to provide that the West Kowloon Station Mainland Port Area is to be regarded as an area lying outside Hong Kong but lying within the Mainland for certain purposes; and
- (d) to make supplementary provisions for certain rights and obligations and related matters and for the interpretation of certain documents in relation to rights and obligations.

2. The preamble sets out the background to the Bill, including—

- (a) 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 signed on 18 November 2017 (*Co-operation Arrangement*); and
- (b) the Decision of the Standing Committee of the National People's Congress on Approving the Co-operation Arrangement.

The Bill is to implement the Co-operation Arrangement.

3. The Bill is divided into 3 Parts and contains 5 Schedules.

Part 1—Preliminary (Clauses 1 to 3)

4. Clause 1 sets out the short title and provides for commencement.
5. Clause 2 contains definitions that are necessary for the interpretation of the Bill, including *Co-operation Arrangement*, *geographical scope*, *Mainland Port Area*, *obligation*, *right*, *Shek Kong Stabling Sidings*, *statutory authority* and *West Kowloon Station*.
6. Clause 3 contains the definitions of *reserved matter* and *non-reserved matter*. A reserved matter is a matter to which the laws of Hong Kong apply, and over which Hong Kong exercises jurisdiction, under Article 3 or 7 of the Co-operation Arrangement. A non-reserved matter is a matter to which the laws of the Mainland apply, and over which the Mainland exercises jurisdiction, under Article 4 of the Co-operation Arrangement. The Chinese text of Articles 3, 4 and 7 of the Co-operation Arrangement is reproduced in the Chinese text of Schedule 1. An English translation of those Articles is set out in the English text of that Schedule.

Part 2—West Kowloon Station Mainland Port Area (Clauses 4 to 6)

7. Clause 4 declares an area delineated by the plans (together with the annexes) in Schedule 2 as the West Kowloon Station Mainland Port Area.
8. Clause 5 provides that a train compartment of a passenger train in operation on the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link is to be regarded as part of the West Kowloon Station Mainland Port Area.
9. Clause 6(1) provides that except for reserved matters, the West Kowloon Station Mainland Port Area is to be regarded as an area

lying outside Hong Kong but lying within the Mainland for the purposes of—

- (a) the application of the laws of the Mainland, and of the laws of Hong Kong, in the West Kowloon Station Mainland Port Area; and
 - (b) the delineation of jurisdiction (including jurisdiction of the courts) over the West Kowloon Station Mainland Port Area.
10. Clause 6(2) provides that clause 6(1) does not affect the boundary of the administrative division of the Hong Kong Special Administrative Region promulgated by the Order of the State Council of the People's Republic of China No. 221 dated 1 July 1997.

Part 3—Supplementary Provisions (Clauses 7 and 8)

11. Clause 7(1) is a savings provision that clause 6(1) does not affect—
- (a) a right acquired or accrued, or an obligation incurred, because of an act that was done, or an omission that was made, before the day on which the Ordinance comes into operation (*commencement date*) in the area declared as the West Kowloon Station Mainland Port Area under clause 4;
 - (b) any investigation, legal proceedings or remedy in respect of such a right or obligation; or
 - (c) any penalty, forfeiture or punishment incurred in respect of an offence committed before the commencement date in that area.
12. Clause 7(2) clarifies that clause 6(1) does not lend support to the contention in any proceedings that the geographical scope (which is defined in clause 2) for the following is changed—

- (a) a right acquired or accrued before the commencement date and subsisting immediately before that date (*pre-existing right*);
 - (b) an obligation incurred before the commencement date and subsisting immediately before that date (*pre-existing obligation*).
- 13. Clause 7(1) and (2) does not affect the operation of clause 7(3), which makes provision for determining the geographical scope for the following—
 - (a) a pre-existing right or pre-existing obligation that has arisen because of an order specified in Schedule 4;
 - (b) a pre-existing right or pre-existing obligation that has arisen because of any other statutory authority (which is defined in clause 2), but only to the extent that the right or obligation may be exercised or discharged in relation to a non-reserved matter;
 - (c) a right or obligation conferred or imposed by a subsisting Court order specified in Schedule 5 that was made before the commencement date;
 - (d) a right or obligation conferred or imposed by any other subsisting Court order that was made before the commencement date, but only to the extent that the right or obligation may be exercised or discharged in relation to a non-reserved matter.
- 14. Clause 8 contains provisions for the interpretation of certain future documents in relation to a right or obligation (other than a right acquired or accrued, or an obligation incurred, before the commencement date) if the document contains a reference to Hong Kong or part of Hong Kong to describe the geographical scope for the right or obligation. Clause 8(2) makes provision for interpreting

the reference, and clause 8(3) provides that the interpretation may be displaced by a contrary intention.

Schedules

15. Schedule 1 sets out the English translation of Articles 3, 4 and 7 of the Co-operation Arrangement.
16. Schedule 2 contains the plans (together with the annexes) that delineate the area declared as the West Kowloon Station Mainland Port Area under clause 4.
17. Schedule 3 contains the plan that delineates the area known as Shek Kong Stabling Sidings.
18. Schedule 4 specifies various orders for clause 7.
19. Schedule 5 specifies various Court orders for clause 7.

DECISION OF THE STANDING COMMITTEE OF THE NATIONAL PEOPLE'S CONGRESS 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

Adopted at the Thirty-first Session of the Standing Committee of the Twelfth National People's Congress on 27 December 2017

The Standing Committee of the Twelfth National People's Congress examined at its Thirty-first Session the motion submitted by the State Council requesting examination of 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. In the course of its examination, the Standing Committee of the National People's Congress has fully considered the views of relevant parties of the Hong Kong Special Administrative Region and the Mainland concerning the establishment of the port juxtaposed at the Guangzhou-Shenzhen-Hong Kong Express Rail Link and the mode of conducting clearance and inspection.

The Session is of the view that the construction of the Guangzhou-Shenzhen-Hong Kong Express Rail Link and the realization of the inter-connection and mutual access between the Hong Kong Special Administrative Region and the national high-speed rail network are conducive to promoting interactions between the people of, and economic and trade activities between, the Hong Kong Special Administrative Region and the Mainland; conducive to the deepening of mutually beneficial co-operation between the Hong Kong Special Administrative Region and the Mainland; and conducive to the Hong Kong Special Administrative Region's further integration into the macro picture of national development. These have great significance for maintaining the long-term prosperity and stability

(English translation for reference only)

of the Hong Kong Special Administrative Region. To fully unleash the high-speed rail's advantages of high speed and great efficiency, enable the vast number of passengers to fully enjoy fast and convenient service, and ensure the transport, economic and social benefits and efficiency of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, it is necessary to implement co-location arrangement at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link in the Hong Kong Special Administrative Region ("West Kowloon Station") and to establish the Mainland Port Area for the specific purpose of conducting clearance and inspection on high-speed rail passengers and their personal belongings and luggage.

The Session is of the view that the Co-operation Arrangement is consistent with the principle of "one country, two systems" and is consistent with the Constitution and the Basic Law of the Hong Kong Special Administrative Region. Pursuant to the Constitution, the Basic Law of the Hong Kong Special Administrative Region authorizes the Hong Kong Special Administrative Region to exercise a high degree of autonomy, including implementing a separate immigration controls system etc. The making of an appropriate arrangement through consultation on issues relating to the establishment of a port at the West Kowloon Station and the implementation of co-location arrangement thereat by the Government of the Hong Kong Special Administrative Region with the relevant parties of the Mainland is a clear demonstration of the exercise of a high degree of autonomy by the Hong Kong Special Administrative Region in accordance with law. The establishment of the Mainland Port Area at the West Kowloon Station does not alter the boundary of the administrative division of the Hong Kong Special Administrative Region, does not affect the high degree of autonomy enjoyed by the Hong Kong Special Administrative Region in accordance with law, and does not undermine the rights and freedoms enjoyed by the residents of the Hong Kong Special Administrative Region in accordance with law. Out of the need to implement co-location arrangement at the West Kowloon Station, it is appropriate that the Co-operation Arrangement makes provisions for the delineation of jurisdiction (including jurisdiction of the courts) and the application of laws of the Mainland and the Hong Kong Special Administrative Region and expressly provides for the West Kowloon Station Mainland Port Area to be regarded as being situated in the Mainland. The authorities stationed by the Mainland at the West Kowloon Station Mainland

(English translation for reference only)

Port Area will perform their duties and functions in accordance with the laws of the Mainland, strictly confined to the Mainland Port Area. This is different from the application of national laws in the entire Hong Kong Special Administrative Region under Article 18 of the Basic Law of the Hong Kong Special Administrative Region. The acquisition of the right to use the areas of the West Kowloon Station Mainland Port Area, the duration and the fees will be provided for in a contract to be entered into by the Government of the Hong Kong Special Administrative Region and the relevant Mainland authorities, and this is consistent with the provisions of Article 7 of the Basic Law of the Hong Kong Special Administrative Region regarding the ownership of the land of the Hong Kong Special Administrative Region and the management of its uses. The implementation of co-location arrangement at the West Kowloon Station is consistent with the requirements of the Basic Law of the Hong Kong Special Administrative Region that the Government of the Hong Kong Special Administrative Region should formulate appropriate policies to promote and co-ordinate the development of various trades and provide an appropriate economic and legal environment for promoting economic developments etc., and is consistent with the fundamental purposes of the “one country, two systems” principle and of the Basic Law of the Hong Kong Special Administrative Region.

Pursuant to the Constitution of the People’s Republic of China and the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, the Standing Committee of the National People’s Congress decides as follows:

1. The Co-operation Arrangement signed by the People’s Government of Guangdong Province and the Government of the Hong Kong Special Administrative Region on 18 November 2017 is hereby approved, and it is also hereby confirmed that the Co-operation Arrangement is consistent with the Constitution and the Basic Law of the Hong Kong Special Administrative Region.

The Hong Kong Special Administrative Region should enact legislation to ensure the implementation of the Co-operation Arrangement.

2. The establishment of the West Kowloon Station Mainland Port Area and its specific area are to be approved by the State Council.

(English translation for reference only)

The Mainland will exercise jurisdiction over the West Kowloon Station Mainland Port Area in accordance with the laws of the Mainland and the Co-operation Arrangement with effect from its commissioning date, and will station immigration inspection authority, customs authority, inspection and quarantine authority, integrated port administration authority and railway police authority thereat to perform duties and functions in accordance with law. The above-mentioned authorities and their personnel shall not enforce the law in any area outside the West Kowloon Station Mainland Port Area.

3. After the commissioning of the West Kowloon Station Port, any amendment to the Co-operation Arrangement shall be approved by the State Council and shall be reported to the Standing Committee of the National People's Congress for record.

(English translation for reference only)

**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**

On 22 December 2017 at the Thirty-first Session of the Standing Committee
of the Twelfth National People's Congress

Zhang Xiaoming

Director of the Hong Kong and Macao Affairs Office of the State Council

Chairman, Vice-Chairmen, Secretary-General, Members:

On the instruction of the State Council, I hereby provide the following 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:

1. General background

The Guangzhou-Shenzhen-Hong Kong Express Rail Link is a key co-operation initiative on the construction of major infrastructure project between the Mainland and the Hong Kong Special Administrative Region. In this regard, the Hong Kong Section, the construction of which is funded by the Government of the Hong Kong Special Administrative Region, will complete construction and be commissioned in the third quarter of 2018. In order to realize the inter-connection and mutual access between the Hong Kong Special Administrative Region and the national high-speed rail network and ensure the maximization of the transport, economic and social benefits and efficiency of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, having studied the matter repeatedly and having made reference to the previous case model where Mainland Port Area and

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Hong Kong Port Area are established at the Shenzhen Bay in Guangdong Province and co-location arrangement is implemented thereat, the relevant departments of the Central Authorities, the People's Government of Guangdong Province and the Government of the Hong Kong Special Administrative Region have come to the unanimous view that establishing a port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link in the Hong Kong Special Administrative Region ("West Kowloon Station") and implementing co-location arrangement thereat would be the best option. The key contents of that option are: the establishment of a port at the West Kowloon Station, comprising the Hong Kong Port Area and the Mainland Port Area, whereby both sides will, in accordance with their respective laws, exercise exit and entry regulation, including immigration inspection, customs regulation, and inspection and quarantine measures etc., on persons travelling between the Mainland and the Hong Kong Special Administrative Region by high-speed rail, as well as their personal belongings and luggage. Since the implementation of co-location arrangement at the West Kowloon Station involves the establishment of the Mainland Port Area within the Hong Kong Special Administrative Region as well as the delineation of jurisdiction (including jurisdiction of the courts) and the application of laws of the Mainland and the Hong Kong Special Administrative Region, it is necessary to expressly confirm the corresponding legal basis and the specific implementation methods pursuant to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. The relevant departments of the Central Authorities and the Government of the Hong Kong Special Administrative Region, having studied the matter in depth, have agreed to adopt the "Three-step Process" for the relevant arrangement, namely: Step One, the Mainland and the Hong Kong Special Administrative Region to sign 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"); Step Two, the State Council to submit the Co-operation Arrangement to the Standing Committee of the National People's Congress for approval; Step Three, both sides to implement the Co-operation Arrangement through their respective legal procedures. On 18 November 2017, with the authorization of the State Council, Ma Xingrui, the Governor of the People's Government of Guangdong Province representing the Mainland, formally signed the

(English translation for reference only)

Co-operation Arrangement with Lam Cheng Yuet-ngor, the Chief Executive of the Hong Kong Special Administrative Region, thereby completing Step One of the “Three-step Process”.

2. Key contents of the Co-operation Arrangement

The Co-operation Arrangement has a total of 5 chapters, 17 articles in the main body and 1 annex, and its key contents include the following:

First, it provides for matters relating to the establishment of the port.

It expressly provides for the establishment of the Hong Kong Port Area and the Mainland Port Area at the West Kowloon Station and the implementation of co-location arrangement thereat; it sets out the area of the Mainland Port Area and expressly provides that the train compartments of trains in operation on the Guangzhou-Shenzhen-Hong Kong Express Rail Link within the Hong Kong Special Administrative Region are also regarded as part of the Mainland Port Area; it expressly provides that the acquisition of the right to use the areas of the Mainland Port Area, the duration and the fees etc. will be provided for in a contract to be entered into by the two sides.

Second, it provides for the jurisdiction over the Mainland Port Area.

It expressly provides that, except for matters under the jurisdiction of the Hong Kong Special Administrative Region, the Mainland will exercise jurisdiction in accordance with the laws of the Mainland over all other matters including the regulation of exit and entry of personnel and items, and public order within the Mainland Port Area etc., and it expressly provides that the Mainland Port Area will be regarded as “being situated in the Mainland”. The Mainland will station immigration inspection authority, customs authority, inspection and quarantine authority, integrated port administration authority and railway police authority to perform duties and functions in accordance with law. Matters under the jurisdiction of the Hong Kong Special Administrative Region mainly concern the operation and management of the West Kowloon Station and the Hong Kong Section of the Express Rail Link, which include six categories of matters such as the performance of duties and functions or matters related to the performance of duties and functions by personnel of the Hong Kong Special Administrative Region; matters relating to the standards of, and the duties, responsibilities and liabilities concerning, the construction, insurance and design, repair and maintenance of buildings

(English translation for reference only)

and structures and related facilities at the West Kowloon Station; matters relating to the management and monitoring of the operational safety of the railway system of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, as well as matters relating to environmental regulation and control etc. The Hong Kong Special Administrative Region is also responsible for the management of the railway transport service at the West Kowloon Station, and should implement, as expressly stated, a passenger real-name ticket sales system and conduct inspection and security checks on passengers.

Third, it makes provisions for liaison and coordination mechanism and mechanism for handling emergencies. Both sides agree to set up a port liaison and coordination mechanism, a mechanism for handling emergencies and a liaison officer system, regularly arrange joint drill exercises and jointly formulate and sign a collaborative implementation plan for the operation and management of the West Kowloon Station Port. It expressly sets out the principles relating to the conduct of activities and the handling of relevant matters, including sudden or emergency incidents, by both sides in the Mainland Port Area.

Fourth, it provides for dispute resolution as well as other relevant matters such as amendment and coming into effect of the Co-operation Arrangement. The Co-operation Arrangement provides, “This Co-operation Arrangement will come into effect after it has been reported to the Central People’s Government and submitted to and approved by the Standing Committee of the National People’s Congress”, “If this Co-operation Arrangement needs to be amended as a result of any change in the conditions of operation or regulation of the West Kowloon Station Port or for any other reason, the two sides must, after consultation and reaching consensus, sign a written document and submit it to the Central People’s Government for approval”.

The annex to the Co-operation Arrangement includes schematic diagrams of B2 Arrival Level of the West Kowloon Station, B3 Departure Level of the West Kowloon Station and B4 Platform Level of the West Kowloon Station.

3. On the reasons for submitting the Co-operation Arrangement to the Standing Committee of the National People's Congress for examination and approval

The implementation of co-location arrangement at the West Kowloon Station is a new situation encountered in the course of implementing “one country, two systems”. Since it involves the establishment of the Mainland Port Area within the Hong Kong Special Administrative Region as well as the delineation of jurisdiction (including jurisdiction of the courts) and the application of laws of the Mainland and the Hong Kong Special Administrative Region, providing for the Co-operation Arrangement to be examined and approved by the Standing Committee of the National People's Congress and for it to expressly state that the Co-operation Arrangement is consistent with the principle of “one country, two systems” and is consistent with the Constitution and the Basic Law of the Hong Kong Special Administrative Region, pursuant to the provisions of the Constitution of the People's Republic of China (“Constitution”) and the Basic Law of the Hong Kong Special Administrative Region concerning the status, powers and functions of the Standing Committee of the National People's Congress, can provide further constitutional legal basis for establishing a port at the West Kowloon Station for implementing co-location arrangement thereat, and provide the legal basis for the State Council to grant approval for the Mainland to establish a port at the West Kowloon Station and station authorities thereat to perform duties and functions in accordance with law.

For this purpose, the Hong Kong and Macao Affairs Office of the State Council, together with the relevant departments of the Central Authorities, have drafted 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 submitted to the Standing Committee of the National People's Congress for examination (“Draft Decision”). The Draft Decision has been endorsed by the State Council.

4. Relationship between the Co-operation Arrangement and the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region

(English translation for reference only)

In view of the fact that the Hong Kong community is relatively more concerned about the relationship between the Co-operation Arrangement and the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region, I hereby also address this in the following Explanations.

(1) Source of power for the signing of the Co-operation Arrangement between the Hong Kong Special Administrative Region and the Mainland. The making of an appropriate arrangement through consultation on issues relating to the establishment of a port at the West Kowloon Station and the implementation of co-location arrangement thereat by the Government of the Hong Kong Special Administrative Region with the relevant parties of the Mainland, does not alter the boundary of the administrative division of the Hong Kong Special Administrative Region, does not affect the high degree of autonomy enjoyed by the Hong Kong Special Administrative Region in accordance with law, and does not undermine the rights and freedoms enjoyed by the residents of the Hong Kong Special Administrative Region in accordance with law; and is consistent with the provisions of the Basic Law of the Hong Kong Special Administrative Region. Pursuant to the Constitution, the Basic Law of the Hong Kong Special Administrative Region authorizes the Hong Kong Special Administrative Region to exercise a high degree of autonomy (Article 2), and implement a separate immigration controls system (Article 22(4) and Article 154(2)), and authorizes the Government of the Hong Kong Special Administrative Region to enjoy powers to manage the land within the Hong Kong Special Administrative Region (Article 7), provide an economic and legal environment for encouraging investments, technological progress and the development of new industries (Article 118) and formulate appropriate policies to promote and co-ordinate the development of various trades (Article 119) etc. Therefore, the establishment of a port within the Hong Kong Special Administrative Region and the implementation of co-location arrangement thereat reflects the exercise of the relevant powers stipulated by the Basic Law of the Hong Kong Special Administrative Region, and provides the legal basis for the Hong Kong Special Administrative Region to consult on and sign the Co-operation Arrangement with the Mainland. That is to say, the high degree of autonomy enjoyed by the Hong Kong Special Administrative Region in accordance with law is the source of power for it to

(English translation for reference only)

make the above-mentioned co-location arrangement with the Mainland.

(2) Relationship with the provisions concerning the application of national laws in the Hong Kong Special Administrative Region. Article 18 of the Basic Law of the Hong Kong Special Administrative Region stipulates, “National laws shall not be applied in the Hong Kong Special Administrative Region except for those listed in Annex III to this Law”, “Laws listed in Annex III to this Law shall be confined to those relating to defence and foreign affairs as well as other matters outside the limits of autonomy of the Region as specified by this Law”. What that Article stipulates is the extension and application of national laws in the entire Hong Kong Special Administrative Region, including the relevant subject areas and the route through which they become applicable. Specifically, the area of application of the relevant national laws stipulated in that Article is the entire Hong Kong Special Administrative Region. They are mainly implemented by the Hong Kong Special Administrative Region and they are applicable to all persons in the Hong Kong Special Administrative Region. On the other hand, as regards the application of national laws in the West Kowloon Station Mainland Port Area, their area of application is only confined to the Mainland Port Area. They are implemented by the relevant Mainland authorities and they are mainly applicable to high-speed rail passengers present in the Mainland Port Area. This situation is different from the case of application of national laws in the Hong Kong Special Administrative Region under Article 18 of the Basic Law of the Hong Kong Special Administrative Region, thus there is no question of the provisions of Article 18 of the Basic Law of the Hong Kong Special Administrative Region being contravened. The Co-operation Arrangement further expressly provides that for the purposes of the application of the laws of the Mainland and the delineation of jurisdiction, the West Kowloon Station Mainland Port Area will be regarded as “being situated in the Mainland”. Upon approval by the Standing Committee of the National People’s Congress through the making of a decision, the Co-operation Arrangement can provide full and sufficient legal basis for the application of national laws only in the West Kowloon Station Mainland Port Area.

(3) Relationship with provisions concerning the authorization by the Standing Committee of the National People’s Congress. Article 20 of the Basic Law of the Hong Kong Special Administrative Region stipulates, “The

(English translation for reference only)

Hong Kong Special Administrative Region may enjoy other powers granted to it by the National People's Congress, the Standing Committee of the National People's Congress or the Central People's Government". There have been suggestions that the Standing Committee of the National People's Congress may rely on this provision to authorize the establishment of a port at the West Kowloon Station and implementation of co-location arrangement thereat. We are of the view that the legal issues concerning the Co-operation Arrangement are relatively complex and that legal issues at different levels need to be resolved through the "Three-step Process". In this regard, the Standing Committee of the National People's Congress needs to confirm that it is consistent with the Constitution and the Basic Law of the Hong Kong Special Administrative Region for the Hong Kong Special Administrative Region, pursuant to the high degree of autonomy enjoyed by it, to consult on and sign the Co-operation Arrangement with the Mainland. It also needs to authorize the Mainland to establish the Mainland Port Area at the West Kowloon Station and station authorities thereat to perform duties and functions in accordance with the laws of the Mainland. Adopting the approach of making an approval decision would be more appropriate.

5. The examination opinion of the State Council

After examination, the State Council is of the view that the implementation of co-location arrangement at the West Kowloon Station is conducive to realizing the inter-connection and mutual access between the Hong Kong Special Administrative Region and the national high-speed rail network as well as the maximization of the transport, economic and social benefits and efficiency of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link; conducive to promoting interactions between the people of, and economic and trade activities between, the Hong Kong Special Administrative Region and the Mainland; conducive to the deepening of mutually beneficial co-operation between the Hong Kong Special Administrative Region and the Mainland; and conducive to the Hong Kong Special Administrative Region's further integration into the macro picture of national development. These have great significance for maintaining the long-term prosperity and stability of the Hong Kong Special Administrative Region. The Co-operation Arrangement has fully considered the concerns of relevant parties of the Mainland and the Hong Kong Special Administrative Region, is consistent

(English translation for reference only)

with the principle of “one country, two systems”, is consistent with the Constitution and the Basic Law of the Hong Kong Special Administrative Region, accommodates the actual need for establishing a port at the West Kowloon Station, and can ensure the safe, smooth and effective operation and management of the Mainland Port Area.

You are kindly requested to examine whether 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 above Explanations are in order.

(English translation for reference only)

**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**

To realize the inter-connection and mutual access of high-speed rail transport facilities between the Hong Kong Special Administrative Region (“HKSAR”) and the Mainland, promote exchanges between the people of as well as economic and trade interactions between the two places, foster the realization of complementary advantages and collaborative development of the two economies, and fully unleash the benefits and efficiency of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, the Mainland and the HKSAR, after consultation, have reached the following arrangement for the establishment of a port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for implementing co-location arrangement:

Chapter 1 Establishment of Port

Article 1 Both sides agree to establish a port at the West Kowloon Station of the HKSAR to implement co-location arrangement whereby both sides will, in accordance with their respective laws, exercise exit and entry regulation, including immigration inspection, customs regulation, and inspection and quarantine measures etc., on departing and arriving persons travelling between the Mainland and the HKSAR, as well as their personal belongings and luggage.

The West Kowloon Station Port comprises the Hong Kong Port Area and the Mainland Port Area. The Hong Kong Port Area is to be established by the HKSAR and be subject to its jurisdiction in accordance with the laws of the HKSAR and managed as a cross-boundary restricted area. The Mainland Port Area is to be established by the Mainland and be subject to its jurisdiction in accordance with this Co-operation Arrangement and the laws of the Mainland, and the port administration system is to be implemented thereat.

(English translation for reference only)

Article 2 The Mainland Port Area comprises the designated areas on B2 and B3 levels, the platform areas on B4 level as well as the relevant connecting passageways at the West Kowloon Station, and includes the Mainland Clearance Area and back office, the waiting hall for departing passengers, station platforms and the connecting passageways and escalators. Details of the area of the Mainland Port Area are set out in the **Annex**.

The train compartments of trains in operation on the Guangzhou-Shenzhen-Hong Kong Express Rail Link within the HKSAR (including trains which are in motion, stationary and during embarkation or disembarkation) are also regarded as part of the Mainland Port Area.

Save for the above-mentioned areas and high-speed rail train compartments which are included in the Mainland Port Area, all other operating areas and facilities of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (including the Shek Kong Stabling Sidings, railway tracks and tunnels) do not form part of the Mainland Port Area.

The Mainland Port Area will be made available by the HKSAR to the Mainland for use and for exercising jurisdiction in accordance with this Co-operation Arrangement. The acquisition of the right to use the areas of the Mainland Port Area, the duration and the fees (including the fees for repairs and maintenance of relevant buildings and structures and related facilities in the Mainland Port Area) etc. will be provided for in a contract to be entered into by the two sides.

Article 3 The establishment of the Mainland Port Area does not affect construction rights, rights relating to the performance of construction work, service concession, operation as well as regulation of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link; nor does it affect the rights and benefits regarding assets (including relevant lands as well as movable or immovable assets on these lands) and facilities pertaining to the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link. The HKSAR will continue to handle these matters in accordance with the laws of the HKSAR and exercise jurisdiction over these matters in accordance with this Co-operation Arrangement.

Chapter 2 Delineation of Jurisdiction over the Mainland Port Area

Division One – Matters under the Jurisdiction of the Mainland

Article 4 With effect from the date of commissioning of the Mainland Port Area, except for the matters provided for in Article 3 and Article 7 of this Co-operation Arrangement, the Mainland will exercise jurisdiction (including jurisdiction of the courts) over the Mainland Port Area in accordance with this Co-operation Arrangement and the laws of the Mainland.

In handling those matters which are subject to the jurisdiction of the Mainland as set out in the preceding paragraph, for the purposes of the application of the laws of the Mainland and the laws of the HKSAR and the delineation of jurisdiction (including jurisdiction of the courts), the Mainland Port Area will be regarded as being situated in the Mainland.

Article 5 Mainland immigration inspection authority, customs authority and inspection and quarantine authority will apply regulation in respect of cross-boundary transport vehicles to the trains, and perform relevant immigration inspection, customs regulation and inspection and quarantine procedures in the Mainland Port Area.

Article 6 Immigration inspection authority, customs authority, inspection and quarantine authority, integrated port administration authority and railway police authority stationed by the Mainland (“Mainland Authorities Stationed at the Mainland Port Area”) will perform duties and functions in the Mainland Port Area in accordance with the laws of the Mainland. They shall not enter any area outside the Mainland Port Area to enforce the law, and have no law enforcement powers outside the Mainland Port Area.

Division Two – Matters under the Jurisdiction of the HKSAR

Article 7 The HKSAR exercises jurisdiction (including jurisdiction of the courts) over the following matters in accordance with the laws of the HKSAR:

(English translation for reference only)

1. the performance of duties and functions or matters related to the performance of duties and functions by designated personnel, i.e. holders of valid permit issued by the HKSAR Government or the Hong Kong operator of the Guangzhou-Shenzhen-Hong Kong Express Rail Link who enter the Mainland Port Area or pass through the Mainland Port Area to other places within the West Kowloon Station to carry out duties and functions. Save as stated above, these personnel should comply with the laws of the Mainland inside the Mainland Port Area and be subject to regulation by the Mainland Authorities Stationed at the Mainland Port Area;
2. matters relating to the standards of, and the duties, responsibilities and liabilities concerning, the construction, insurance and design, repair and maintenance of buildings and structures and related facilities (including fire safety; storage facilities of dangerous goods; lifts; escalators; plumbing installations; installations relating to waste and wastewaters; public address systems; ventilation; electricity and energy efficiency etc.), other than facilities and equipments provided by the Mainland Authorities Stationed at the Mainland Port Area themselves or exclusively used by them in carrying out duties and functions pursuant to this Co-operation Arrangement;
3. matters relating to the carrying on of business, related insurance and tax affairs of the Hong Kong operator of the Guangzhou-Shenzhen-Hong Kong Express Rail Link and service provider(s), as well as the tax affairs and employment-related obligations, rights and benefits, protection and insurance of their staff members. Service provider(s) referred to above does not include a provider of services to the Mainland Authorities Stationed at the Mainland Port Area or to the Mainland operator of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, where such service provider does not carry on business in any area of the HKSAR outside the Mainland Port Area;
4. matters relating to the regulation and monitoring of the operational safety of the railway system of the Hong Kong

(English translation for reference only)

Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, as well as matters relating to environmental regulation and control;

5. unless the parties by agreement indicate otherwise (whether such agreement is made in writing, orally or by conduct), matters pertaining to the contractual or other legal relationships of a civil nature among the following bodies or individuals in the Mainland Port Area: the Hong Kong operator of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, contractor(s) of construction works of the West Kowloon Station, material or service provider(s), staff member(s) of the above bodies, and passenger(s) of the Guangzhou-Shenzhen-Hong Kong Express Rail Link;
6. matters under the responsibility of the Hong Kong operator of the Guangzhou-Shenzhen-Hong Kong Express Rail Link as provided for in the Guangzhou-Shenzhen-Hong Kong Express Rail Link Operating Co-operation Agreement (including any subsequent amendment or supplementary agreement thereto) made between the Hong Kong operator and the Mainland operator of the Guangzhou-Shenzhen-Hong Kong Express Rail Link.

Article 8 The HKSAR is responsible for the management of the railway transport service at the West Kowloon Station. The relevant Mainland and HKSAR bodies are to separately agree on the management system of the railway transport service after consultation, which should include the following:

1. the HKSAR is to implement a passenger real-name ticket sales system and conduct real-name inspection on high-speed rail passengers (including the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link);
2. the HKSAR is to perform security checks on high-speed rail passengers who enter the West Kowloon Station for departure from the HKSAR.

Chapter 3 Exit and Entry Regulation of Passengers of the Hong Kong Section of the Express Rail Link

Article 9 Passengers bound for the HKSAR, before leaving the Mainland Port Area, are to be regarded as being present in the Mainland and be subject to exit regulation by the Mainland immigration inspection authority, customs authority and inspection and quarantine authority in accordance with the laws of the Mainland. If they comply with the laws of the Mainland, they will be permitted to leave the Mainland in accordance with law. If they contravene the laws of the Mainland, the said Mainland authorities will take corresponding legal measures according to the actual circumstances of the case and in accordance with law.

Article 10 Passengers bound for the Mainland, upon entering the Mainland Port Area, are to be regarded as being present in the Mainland and be subject to entry regulation by the Mainland immigration inspection authority, customs authority and inspection and quarantine authority in accordance with the laws of the Mainland. If they comply with the laws of the Mainland, they will be permitted to enter the Mainland in accordance with law. If they contravene the laws of the Mainland, the said Mainland authorities will take corresponding legal measures according to the actual circumstances of the case and in accordance with law.

Chapter 4 Liaison and Coordination Mechanism and Mechanism for Handling Emergencies

Article 11 Both sides agree to set up a port liaison and coordination mechanism to enhance communication and co-operation in the areas of clearance coordination, joint combat against smuggling, upholding law and order, fire safety, as well as counter-terrorism and anti-riot measures etc., to ensure the safe, smooth and efficient operation of the Mainland Port Area and its effective regulation.

Article 12 Both sides agree to set up a mechanism for handling emergencies and to draw up emergency plans together to assist the Mainland in handling sudden or emergency incidents which may occur in the Mainland

(English translation for reference only)

Port Area in the course of operation, including sudden occurrences of public health incidents, major water and electricity supply incidents, terrorist attacks, fire incidents, incidents of serious violence, hazardous chemicals or explosives incidents, outbreak of communicable diseases, nuclear, biological and chemical incidents, outbreak of animal or plant diseases, abnormalities in train operations etc. Both sides also agree to put in place a liaison officer system for the above purposes and to communicate and regularly arrange joint drill exercises.

At the request of the Mainland Authorities Stationed at the Mainland Port Area and with their authorization, relevant HKSAR personnel may assist in conducting relevant activities in the Mainland Port Area for the purposes of rendering assistance in handling sudden or emergency incidents. They enjoy the protection, exemptions and immunities which they would have enjoyed if they had been subject to the laws of the HKSAR, as well as the protection, exemptions and immunities pursuant to the laws of the Mainland.

Article 13 Both sides agree to formulate and sign a collaborative implementation plan for the operation and management of the West Kowloon Station Port in accordance with the principles established under this Co-operation Arrangement. The plan will prescribe the details of their collaboration in the operation and management of the West Kowloon Station Port.

Article 14 Both sides agree that in conducting any activity and in handling relevant matters in the Mainland Port Area, reasonable care will be exercised in accordance with the principles laid down in this Co-operation Arrangement and any other relevant agreement, so as to ensure the safety of persons and property in the Mainland Port Area. If one side breaches this requirement resulting in damage or loss to the other side, the former is to assume responsibility, including making reasonable compensation, and to make appropriate arrangements through consultations.

Chapter 5 Supplementary Provisions

Article 15 Both sides agree to resolve the disputes arising in the course of

(English translation for reference only)

the implementation of this Co-operation Arrangement through consultations, in the spirit of mutual co-operation, mutual support as well as mutual understanding.

Article 16 Matters which are not fully addressed in this Co-operation Arrangement may be expressly provided for by means of supplementary agreement(s) to be signed between the two sides after consultation and reaching consensus.

If this Co-operation Arrangement needs to be amended as a result of any change in the conditions of operation or regulation of the West Kowloon Station Port or for any other reason, the two sides must, after consultation and reaching consensus, sign a written document and submit it to the Central People's Government for approval.

Article 17 This Co-operation Arrangement will be reported to the Central People's Government for submission to the Standing Committee of the National People's Congress, and will come into effect upon approval by the latter. Thereafter, this Co-operation Arrangement is to be implemented by the relevant Mainland authorities and the HKSAR pursuant to their respective legal procedures (which, in the case of the HKSAR, include the enactment of local legislation).

This Co-operation Arrangement is signed on 18 November 2017 in Hong Kong in 8 originals, with each side holding 4 originals.

Signatory of the Mainland:

Signatory of the HKSAR:

MA Xingrui

Carrie LAM

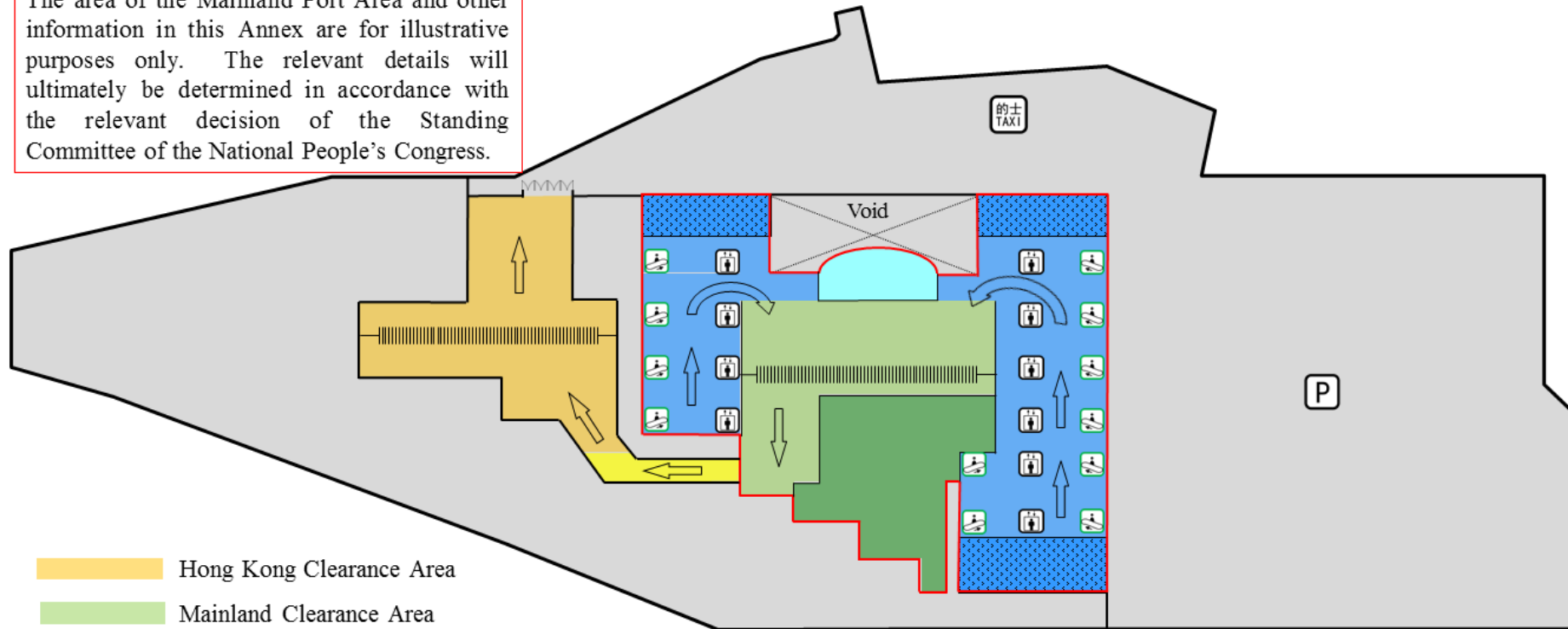
(Governor of Guangdong Province)

(Chief Executive of the HKSAR)

(English translation for reference only)

Annex B2 Arrival Level of the West Kowloon Station

The area of the Mainland Port Area and other information in this Annex are for illustrative purposes only. The relevant details will ultimately be determined in accordance with the relevant decision of the Standing Committee of the National People's Congress.



- Hong Kong Clearance Area
- Mainland Clearance Area
- Back office of the Mainland
- Passenger corridor between clearance areas
- Corridors for arriving passengers
- Corridors for arriving passengers (reserved area)
- Waiting hall for departing passengers (from B3)
- Other areas of the station
- Boundary of Mainland Port Area
- Route of arriving passengers

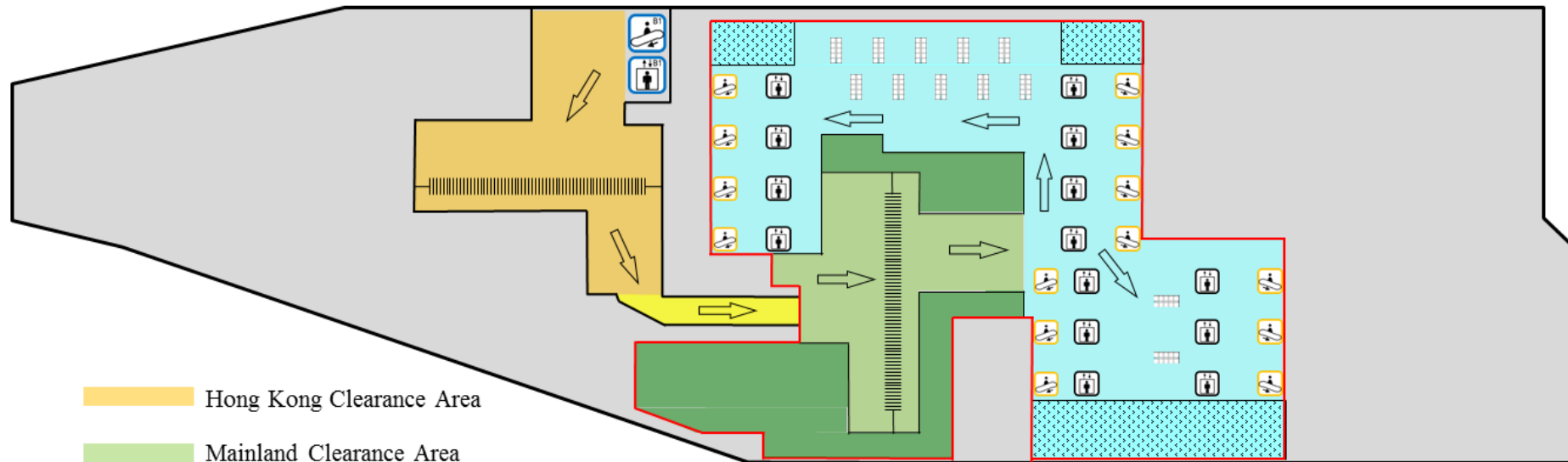
- Immigration channels/counters
- MMMM Gates
- Escalators from B4 to B2
- Lifts
- Taxi stand
- Public car park






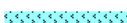









Note:

Upon operation of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, additional platforms may need to be commissioned in the West Kowloon Station to accommodate more train services. The reserved area refers to the parts on B2 Arrival Level which will be added accordingly.

(English translation for reference only)

B3 Departure Level of the West Kowloon Station



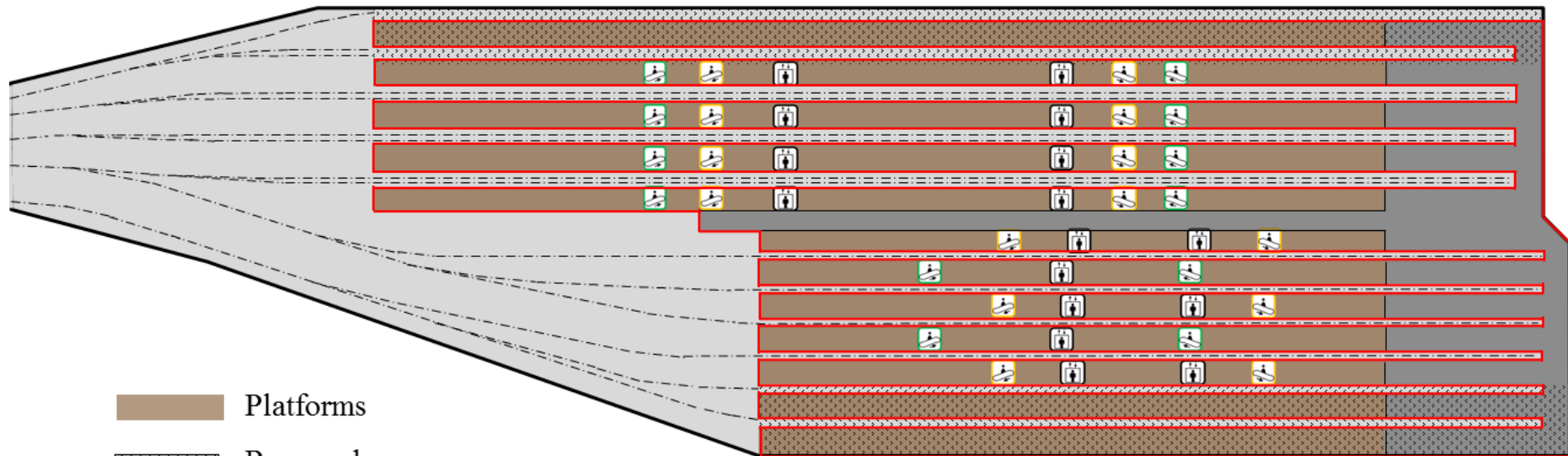
-  Hong Kong Clearance Area
-  Mainland Clearance Area
-  Back office of the Mainland
-  Passenger corridor between clearance areas
-  Waiting hall for departing passengers
-  Waiting hall for departing passengers (reserved area)
-  Other areas of the station
-  Boundary of Mainland Port Area
-  Route of departing passengers
-  Immigration channels/counters
-  Escalators from B1 to B3
-  Lift from B1 to B3
-  Escalators from B3 to B4
-  Lifts
-  Seats





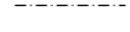




Note:

Upon operation of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, additional platforms may need to be commissioned in the West Kowloon Station to accommodate more train services. The reserved area refers to the parts on B3 Departure Level which will be added accordingly.

(English translation for reference only)

B4 Platform Level of the West Kowloon Station



-  Platforms
-  Reserved area
-  Other areas of the station
-  Back-up passageways and sites for platforms
-  Tracks
-  Boundary of Mainland Port Area
-  Escalators from B4 to B2
-  Escalators from B3 to B4
-  Lifts

Note:

Upon operation of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, additional platforms may need to be commissioned in the West Kowloon Station to accommodate more train services. The reserved area refers to the positions of the additional platforms.

**GUANGZHOU-SHENZHEN-HONG KONG
EXPRESS RAIL LINK (CO-LOCATION) BILL**

**FINANCIAL AND CIVIL SERVICE, ECONOMIC,
ENVIRONMENTAL AND FAMILY IMPLICATIONS**

Financial and Civil Service Implications

The Bill will enable the setting up of a Mainland Port Area at the WKS under the co-location arrangement. The HKSAR Government will discuss with the Mainland for acquiring the right to use the Mainland Port Area as well as the duration and licence fee involved; such will be provided for by an agreement to be signed by both sides. The licence fee to be collected will be credited to the General Revenue Account.

2. Relevant departments such as the Customs and Excise Department, Hong Kong Police Force and Immigration Department will secure the manpower resources required for undertaking boundary control functions and other related duties necessitated by the commissioning of the WKS of the XRL.

Economic Implications

3. After the implementation of co-location arrangement at the WKS of the XRL through the passage of the Bill, passengers will be able to travel between Hong Kong and different destinations across the country more conveniently. This would help realise the full potential of the XRL in terms of speed and convenience, and thus benefit the Hong Kong economy through strengthening closer economic ties and co-operation between Hong Kong and the Mainland.

Environmental Implications

4. Matters relating to environmental regulation and control in the Mainland Port Area will remain to be governed by the HKSAR, such as sewage control of the WKS and noise induced by the operation of the

Hong Kong Section of the XRL etc.

Family Implications

5. The implementation of the co-location arrangement would help realise the full potential of the XRL in terms of speed and convenience. Cross-border families and families with members who need to frequently travel between Hong Kong and the Mainland for work or study can benefit from time-saving thereby having more time to spend together.