

**For information
on 31 August 2018**

**Legislative Council Panel on Transport
Right to Use and Commissioning Arrangements
of the West Kowloon Station Mainland Port Area**

Purpose

This paper reports to Members on the right to use and commissioning arrangements of the West Kowloon Station Mainland Port Area (“MPA”) of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (“XRL”).

Background

2. The Hong Kong Section of the XRL will formally commence operation on 23 September 2018. As announced by the Government earlier, the Hong Kong Section of the XRL will provide high-speed rail service between the Hong Kong West Kowloon Station and 44 Mainland destinations (including 6 short-haul destinations and 38 long-haul destinations) upon commissioning. As the co-location arrangement will be in place at the West Kowloon Station of the XRL, passengers can complete clearance procedures of both Hong Kong and the Mainland at the West Kowloon Station successively. Passengers departing from Hong Kong can stay on trains and go to cities covered by the national high-speed rail network without having to undergo clearance procedures again in the Mainland; whilst passengers coming to Hong Kong can freely board trains at any station on the national high-speed rail network, and go through clearance procedures upon arrival at the West Kowloon Station. They are not constrained by whether a particular Mainland station is equipped with clearance facilities. This arrangement will bring maximum convenience to passengers by enabling them to travel to and from different destinations across the country with ease, and allow Hong Kong to provide direct high-speed rail service to an increasing number of Mainland cities in the days to come to cater for future demands for railway service.

3. Pursuant to 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”) signed between the Government of the Hong Kong Special Administrative Region (“HKSAR”) and the Mainland on 18 November 2017, the West Kowloon Station Port comprises the Hong Kong Port Area and the MPA. 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 MPA 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 thereat.

4. The MPA 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 escalators¹. The Co-operation Arrangement also specifies that the MPA will be made available by the HKSAR to the Mainland for use and for exercising jurisdiction in accordance with the Co-operation Arrangement. The acquisition of the right to use the areas of the MPA, the duration and the fees (including the fees for repairs and maintenance of relevant buildings and structures and related facilities in the MPA) etc. will be provided for in a contract to be entered into by the two sides.

5. The Standing Committee of the National People’s Congress (“NPCSC”) made a decision on 27 December 2017 (“Decision”), approving the Co-operation Arrangement and confirming that the Co-operation Arrangement is consistent with the Constitution of the People’s Republic of China and the Basic Law of the HKSAR. Pursuant to the “Three-step Process”, the HKSAR Government introduced the

¹ Furthermore, the Co-operation Arrangement stipulates that the train compartments of trains in operation on the XRL within the HKSAR (including trains which are in motion, stationary and during embarkation or disembarkation) are also regarded as part of the MPA.

Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill (“Bill”), which had been prepared in accordance with the NPCSC’s Decision and the approved Co-operation Arrangement, at the sitting of the Legislative Council (“LegCo”) on 31 January 2018 to formally commence the local legislative process. Following detailed scrutiny by the Bills Committee, the Bill was passed by the LegCo at its Third Reading on 14 June 2018, thereby completing the “Three-step Process”. The Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Ordinance (“Ordinance”), which comprises the specific area of the West Kowloon Station MPA and makes provisions for matters including the laws and jurisdiction in the MPA, was subsequently gazetted on 22 June 2018, providing the domestic legal basis for implementing the co-location arrangement at the West Kowloon Station in future.

Commissioning Arrangements of the MPA

6. Section 1(2) of the Ordinance provides that the Ordinance comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette. As stated by the HKSAR Government to the relevant Bills Committee during the local legislative process, the HKSAR Government understands that the Mainland personnel needs to conduct final preparatory works at the West Kowloon Station MPA prior to the commissioning of the Hong Kong Section of the XRL, such as ensuring that all requisite materials have been delivered to the MPA and familiarising themselves with the relevant operational procedures. We need to consider whether it would be necessary for the Ordinance to come into operation in a short period of time before the commissioning of the Hong Kong Section of the XRL, so as to ensure that the West Kowloon Station MPA can operate smoothly after the commissioning of the Hong Kong Section of the XRL.

7. Upon detailed discussions with the Mainland, the Secretary for Transport and Housing decided to appoint 4 September 2018 as the day on which the Ordinance comes into operation to dovetail with the commencement of operation of the Hong Kong Section of the XRL on 23 September 2018. With effect from midnight on 4 September 2018, for the purposes of the application of laws and the delineation of jurisdiction in the MPA, the Mainland will exercise jurisdiction over the non-reserved

matters as defined in the Ordinance in accordance with the Co-operation Arrangement and the laws of the Mainland. Personnel from the Mainland Authorities Stationed at the Mainland Port Area² will also work in the West Kowloon Station MPA to make final preparations for the implementation of the co-location arrangement. As stated in the NPCSC's Decision, these personnel shall not enforce the law in any area outside the West Kowloon Station MPA.

8. Starting from the same day (i.e. also with effect from midnight on 4 September 2018), the Hong Kong Port Area within the West Kowloon Station will also be declared, in accordance with the provisions of the Co-operation Arrangement, as a cross-boundary restricted area by the MTR Corporation Limited ("MTRCL") by notice published in the Gazette pursuant to the laws of the HKSAR (i.e. Mass Transit Railway By-laws (Cap. 556B)). Persons who enter or leave the two port areas shall produce the cross-boundary restricted area permits issued by the MTRCL, and shall undergo clearance procedures of both sides. The aforementioned commencement notice of the Ordinance and the notice to declare the cross-boundary restricted area will be gazetted on 31 August 2018. This arrangement will assist the clearance departments of both sides in preparing for the formal commencement of operation of the Hong Kong Section of the XRL on 23 September 2018 and conducting clearance procedures for passengers in a smooth manner, thereby unleashing the full benefits of the XRL in terms of speed and convenience.

Arrangements for the Right to Use the MPA

9. In accordance with the decision of the Chief Executive in Council on 12 September 2017, the Government and the Kowloon-Canton Railway Corporation ("KCRC") have entered into a vesting deed and a deed of assignment of the Hong Kong Section of the XRL for vesting the land or interest or other rights in respect of land for the operation of the Hong Kong Section of the XRL in KCRC, and for assigning the moveable assets of the Hong Kong Section of the XRL to KCRC at nominal value.

² 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.

10. The vesting deed contains a clause under which the Government retains the requisite rights to occupy the sections of the MPA at the West Kowloon Station to be taken up and used by the Mainland authorities for performing their duties under the co-location arrangement, and to make available the said sections to the Mainland authorities through a licence agreement between the KCRC and the Government in the first instance, and then a subsequent sub-licence agreement negotiated between the Government and the Mainland authorities. The said sections are known as the “Mainland Authorities’ Accommodation”, and includes the Mainland Clearance Area and back office at B2 and B3 Levels of the West Kowloon Station and a section of the port clearance corridor for goods and trash at the B4 Level, amounting to a construction floor area of around 24,300 square metres.

11. It must be noted that the application of laws and delineation of jurisdiction in the MPA have no direct relationship with the right to use, duration and fees of the Mainland Authorities’ Accommodation. The areas in the MPA that are not included in the Mainland Authorities’ Accommodation (including the departure passenger waiting hall at B3 level and platform at B4 level) are managed by MTRCL and used for railway operation. Nevertheless, the Mainland will exercise its jurisdiction in accordance with the Mainland laws and the Co-operation Arrangement.

12. Under the sub-licence agreement, the Government will charge the Mainland authorities a fee for occupation and use of the Mainland Authorities’ Accommodation. Fundamentally, the construction of the Hong Kong Section of the XRL as well as the implementation of the co-location arrangement at the West Kowloon Station are Hong Kong’s initiatives (rather than the Mainland’s). As mentioned in paragraph 2 above, the Hong Kong Section of the XRL will provide high-speed rail service between the Hong Kong West Kowloon Station and 44 Mainland destinations upon commissioning, and direct high-speed rail service to an increasing number of Mainland cities can be provided to cater for demands for railway service in the days to come. These would not have been possible without the co-location arrangement. The co-location arrangement is instrumental to fully unleashing the potential of the Hong Kong Section of the XRL which will benefit Hong Kong in the long term.

13. Therefore, it is reasonable for Hong Kong to make the necessary arrangements to facilitate the Mainland authorities' assistance with the implementation of the co-location arrangement at the West Kowloon Station. The Chief Executive in Council decided that the HKSAR Government charge a nominal fee of \$1,000 per year for the use of the Mainland Authorities' Accommodation by the Mainland authorities as the premises of the Mainland Clearance Area, back office and port clearance corridor for exercising exit and entry regulation, including immigration inspection, customs regulation, and inspection and quarantine measures etc. For parity, the Shenzhen Municipal People's Government has agreed to lower the rental for the Hong Kong Clearance Area (415,654 square metres) of the Shenzhen Bay Port from 8,105,235 Renminbi per year (i.e. a rental of 19.5 Renminbi per square metre) to a nominal rental of 1,000 Renminbi similarly, and will be implemented from the next payment cycle (i.e. from 1 July 2019).

Conclusion

14. Members are invited to note the right to use and commissioning arrangements of the West Kowloon Station MPA.

Transport and Housing Bureau
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