

# 立法會

## *Legislative Council*

LC Paper No. CB(4)1605/20-21

Ref : CB4/PL/TP

### **Report of the Panel on Transport for submission to the Legislative Council**

#### **Purpose**

This report which is made in accordance with Rule 77(14) of the Rules of Procedure of the Legislative Council ("LegCo") gives an account of the work of the Panel on Transport ("the Panel") during the 2020-2021 legislative session.

#### **The Panel**

2. The Panel was formed by a resolution passed by the LegCo on 8 July 1998 and as amended on 20 December 2000, 9 October 2002, 11 July 2007 and 2 July 2008 for the purpose of monitoring and examining government policies and issues of public concern relating to transport matters. The terms of reference of the Panel are at **Appendix I**.

3. For the 2020-2021 session, the Panel comprises 22 members, with Hon Frankie YICK Chi-ming and Hon CHAN Han-pan elected as the Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is at **Appendix II**.

#### Meetings

4. During the period from October 2020 to October 2021, the Panel held a total of 11 meetings.

#### **Major Work**

##### Public transport services

*MTR fare adjustment for 2021*

5. On 20 April 2021, the Panel was briefed by the Administration on the details of the MTR fare adjustment for 2021 under the Fare Adjustment Mechanism ("FAM") of the MTR Corporation Limited ("MTRCL") in 2021 and fare concessions to be offered to passengers. According to the ("FAM") formula, MTRCL would reduce fare by 1.7% in 2021. The total fare adjustment rate of +1.58% from 2019 and 2020 to be recouped in 2021 would be carried forward. The Panel noted that MTRCL would introduce various fare concessions, including topping up the committed rebate under FAM so that passengers can continue to save around 5% on actual fares till 1 January 2022.

6. A member opined that in the past ten years, MTR had raised fare in nine years and kept its fare frozen in one year. Total fare had increased by 27% in ten years' time according to FAM. He said that members of the public were deeply disappointed that MTRCL raised fare every year despite the hefty profits earned.

7. Another member expressed that the FAM formula was ineffective in deriving a suitable level of fare adjustment. He suggested simplifying the formula by directly linking fare adjustment to inflation. Fare adjustment would be 50% of the inflation rate of a particular year, so that MTR fare burden should be lower than the overall inflation level. In addition, a profit factor should be incorporated into the formula such that when the profits of MTRCL reached a certain level, fare level would be frozen. A member added that the public was very concerned about the huge income generated from the granting of land resources to MTRCL for property development, and called upon the Administration to seriously review the relevant policy.

8. A member commented that even though MTRCL would reduce fare by 1.7% this year, the public was still disappointed on the fare adjustment level. He pointed out that the public was dissatisfied with the services provided by MTRCL due to the occurrence of service disruption incidents and project mismanagement. He thus urged MTRCL to consider means to restore Hong Kong people's confidence in the company.

9. Although MTRCL would reduce fare by 1.7% with effect from 27 June 2021, some members expressed disappointment that the "20% rebate for every Octopus Trip" ("20% rebate") would cease starting from 1 April 2021. They opined that the fare reduction of 1.7% would bring about, in effect, an increase in fare without the 20% rebate offer. A member opined that Hong Kong was still facing tough times amidst the COVID-19 pandemic, and a large number of different trades such as the tourism industry had not revived.

10. The Administration explained that a special measure had been implemented under the Public Transport Fare Subsidy Scheme ("PTFSS") to temporarily relax the monthly public transport expenses threshold from \$400 to \$200 during the period from 1 July 2020 to 31 December 2021, and to temporarily increase the monthly subsidy cap from \$400 to \$500 during the period from 1 April to 31 December 2021.

11. The representative of MTRCL also explained that whilst MTRCL had recorded an operating loss in 2021, MTRCL decided to offer on its own resources a special "5% Rebate for Every Trip" to passengers from 1 April to 26 June 2021. In addition, MTRCL would top up the 3% rebate for every trip committed under FAM from 27 June 2021 until 1 January 2022, which, together with the fare reduction of -1.7%, would allow passengers to keep savings of around 5% on actual fares. As regards fare level benchmarking with other cities, MTR fare was assessed to be in the lower quartile and considered competitive to the fares of other neighbouring cities like Singapore.

12. In late May 2021, the Administration informed the Panel that, as the Census and Statistics Department announced on 28 May 2021 that the year-on-year change in the Composite Consumer Price Index for December 2020 was revised from -0.7% to -1.0%, MTRCL has revised the 2021 overall fare adjustment rate to -1.85% according to the FAM formula.

*Franchises of Citybus Limited (Franchise for Airport and North Lantau Bus Network) ("Citybus Franchise 2"), Long Win Bus Company Limited ("LW") and New World First Bus Services Limited ("NWFB")*

13. At the Panel meeting held on 18 June 2021, the Administration briefed members on the status of the current franchises of Citybus Franchise 2, LW and NWFB ("the three franchisees"). The franchises of Citybus Franchise 2 and LW would expire on 1 May 2023, while that of NWFB would expire on 1 July 2023. The Panel noted that the Administration planned to commence discussion with the three franchisees for the new ten-year franchises, which would take effect immediately upon expiry of the current ones in 2023.

14. Members were concerned about safety of franchised buses ("FB") following a fatal traffic accident happened recently involving a public light bus driver not wearing his seat belt properly. They followed up on the progress of retrofitting passenger seat belts on FB and ways to encourage passengers to wear seat belts. A member opined that the Administration should mandate the wearing of seat belts on all public transport services

through legislation.

15. The Administration advised that the the ("TD") had been actively pursuing the recommendations put forth in the Report submitted by the Independent Review Committee on Hong Kong Franchised Bus Service on the safety and reliability of public bus service in Hong Kong, including the appointment of a Safety Director and a dedicated safety team within TD to promote and enhance FB safety. The Finance Committee ("FC") of LegCo subsequently approved the proposal on the creation of the requisite posts at its meeting on 2 July 2021.. On the progress of retrofitting passenger seat belts on FB, the Administration advised that by 2022, about 3 000 new and existing buses would be equipped or retrofitted with passenger seat belts, including the installation of suitable devices to remind passengers. As regards mandating the wearing of seat belt through legislation, the Administration advised that the suggestion would require prudent considerations, including enforcement issues.

16. Having noted the financial performance of Citybus (Franchise 2) and NWFB in recent years, members expressed deep concern about their financial situation, especially NWFB which had been operating at a loss for three consecutive years. They worried that the FB operators might seek fare increase frequently to cover their losses. A member opined that the Administration should consider introducing a fare adjustment mechanism for FB services and study ways to stabilize bus fare. Noting that a dedicated fund had been set up under each FB operators to keep the toll exempted from using government tolled tunnels such that in case of an approved fare increase, relevant FB operators would be required to offset the increase by first using the balance in the fund, a member suggested the Administration to explore ways to expand the size of the fund. There was also a suggestion that the Administration should waive the toll of West Harbour Crossing ("WHC") upon the expiry of its Build-Operate-Transfer franchise in 2023.

17. The Administration explained that Citybus (Franchise 2) operated routes plying to and from the Airport and the Hong Kong-Zhuhai-Macao Bridge ("HZMB"). Its financial performance was seriously affected by the travel restrictions because of the COVID-19 pandemic. NWFB, on the other hand, operated routes mainly on the Hong Kong Island. Since the full commissioning of the MTR West Island Line and South Island Line (East) in 2014 and 2016 respectively, NWFB had been suffering from a notable drop in patronage. In addition, population growth on the Hong Kong Island had been stagnant in recent years, rendering little room for NWFB to develop new routes. Against the above backdrop, TD had been working closely with both FB operators on ways to increase their operating revenue and reduce costs.

On the suggestion of waiving toll of WHC upon the expiry of its operating franchise in 2023, the Administration advised that the suggestion would require a wider consideration in terms of traffic redistribution and traffic flow management. The setting of toll level would be prudently considered along with other traffic management measures such as congestion charging and electronic road pricing.

*The introduction of alternative means of emergency exit for light buses*

18. On 19 February 2021, the Panel was consulted by the Administration on the legislative proposal to introduce alternative means of emergency exit for light buses ("LB"). Members in general did not object to the legislative proposal.

19. In reply to members' enquiry, the Administration advised that in evaluating the effect of adopting different design of emergency exits on the ease of escape and the required safe egress time for passengers to get out of the vehicle in an accident, a technical study showed that the level of safety and egress time of using driver's door together with emergency window and escape hatch was similar to that of using an emergency door in a LB under different collision scenarios. It was therefore concluded that with the use of alternative means of emergency exits in LBs, passenger safety during emergency situations could be equally upheld.

20. Taking note that some overseas jurisdiction would determine the number of emergency exits on LBs having regard to the passenger capacity of different LB models, a member enquired about the justification of setting the number of exits on LBs in Hong Kong at two in the light of the fact that the passenger capacity of public LBs had already been raised to 19 a few years ago. The Administration explained that under the legislative proposal, apart from the need to complying with current requirements on the design and specification of LB emergency doors, LB manufacturers might also use the driver's door, emergency window and escape hatch together in replacement for the emergency door to satisfy the legal requirements on emergency exits for LBs. Hence the number of emergency exits proposed would be three.

21. A few members took the opportunity to express concern about the safety of passenger riding on a public LB as the problem of speeding was very serious. They opined that TD should step up enforcement actions against such driving behavior. The Administration advised that public LBs were already required to install a number of speed control devices, including speed limiter, electronic data recording device or blackbox, and speed display

device to monitor the speed of public LBs. If public LBs were travelling in excess of the speed limit of 80 kilometers per hour allowed for public LBs, the speed display device would alert both the driver and passengers by giving out a beep sound. Two members urged the Administration to consider the application of advanced technology to assist TD in detecting speeding of public LBs to ensure safety of LB passengers.

22. The Administration advised that TD would continue to step up efforts in this regard and that TD would be installing real time arrival information systems for green minibus service in Hong Kong, which would capture relevant operating data of green minibus service including the average speed of a particular route.

### Transport infrastructure

#### *"Universal Accessibility" Programme ("the UA Programme")*

23. The Panel has been closely monitoring measures to improve the pedestrian environment. Members were briefed on 20 November 2020 on the progress of the UA Programme and the Administration's proposal to seek funding of \$565 million under the block allocation Subhead 6101TX to take forward the UA programme in the 2021-2022 financial year.

24. While some members expressed appreciation of the policy to provide more barrier-free access facilities at public walkways like lifts and ramps to enhance the convenience of the public, some members expressed serious concern over the slow implementation progress of the UA Programme. Given that each item would take at least three to four years to complete, a member enquired about the major difficulties and challenges that the Administration had generally faced in the course of implementation.

25. The Administration explained that they had taken forward all lift retrofitting items under the UA Programme according to the established procedures of the Public Works Programme. The Administration needed to spend considerable time on administrative and technical aspects of the works such as the diversion of congested underground utilities. Other factors like traffic conditions and noise control also imposed constraints on the Administration to reduce the costs and time required for the UA Programme.

26. A member enquired whether it was possible to reduce the construction costs for retrofitting the lifts by standardizing the design of lift towers and lifts. Panel members were advised that Highways Department

("HyD") had been exploring different means, such as adoption of the Modular Integrated Construction ("MIC") method in urban areas and standardizing the design of lift towers to improve efficiency and effectiveness.

27. Members noted that the Administration had announced in 2019 to launch a "Special Scheme" under the UA Programme for retrofitting lifts at walkways in three types of housing estates, i.e. estates under Tenants Purchase Scheme, the Buy or Rent Option Scheme and public rental estates with non-residential properties divested. In this connection, a member enquired how the Administration would address the possible problems if the relevant owner(s) or parties, such as the Link Real Estate Investment Trust ("Link REIT") and the Hong Kong Housing Authority ("HKHA"), who were responsible for the management of the concerned land/walkways, did not agree to those lift retrofitting proposals. The member also asked what measures would be taken by the Administration in case they were unwilling to cooperate with the Administration in subsequent management and maintenance of the lifts.

28. Another member also enquired whether the Administration would consider inserting a provision into the Deed of Mutual Covenant or amend relevant legislation with a view to stipulating that relevant owner(s) or parties responsible for the management of the land/walkways concerned should give the right of access to the Administration to implement the lift retrofitting works within the concerned housing estates and to carry out subsequent maintenance works.

29. In reply, the Administration advised that items to be implemented under the Special Scheme should meet the criteria that Manager of Deed of Mutual Covenant or all owners agreed to the arrangements as included in the Deed of Grant of Easement in respect of the provision of land for construction of lift facilities, provision of access right for the Administration to carry out construction and future maintenance of the facilities and taking up of daily operation and management of the completed facilities. The Panel further noted that the Administration had sought legal advice in these areas, with a view to standardizing the relevant procedures for all items under the Special Scheme.

30. At the FC meeting held on 22 January 2021, \$565 million was approved to fund projects under UA Programme costing up to \$75 million each to provide universal accessibility facilities to existing walkways to improve accessibility for the public.

*6170TB - Braemar Hill Pedestrian Link*

31. A majority of members expressed deep concern about the slow progress of the Project when they were briefed by the Administration on 19 February 2021. Members expressed that residents living in the Braemar Hill districts had been waiting long for the construction of the Project, which when completed would offer a safe and convenient means for the elderly and persons with disabilities travelling to and from uphill areas. It would also ease the serious congestion problem along Wan Tin Path especially during morning peak periods. The Administration explained that the Project was a large-scale public works project involving complicated technical issues. In addition, much time was needed for public consultation because residents living in uphill and downhill areas had diverse views on the proposal. Considerable time was needed to reconcile their different concerns and views on the alignment of the Project.

32. The Chairman and a few members urged the Administration to enhance efficacy in the implementation of the Project and called on the Administration to review the existing regime which was found inefficient. Having noted that the construction works comprised two stages under which the pedestrian subways/walkways would be completed in four years' time while the lift tower connecting to the underground concourse of the MTR Fortress Hill Station would take two further years to complete, some members urged the Administration to explore ways to squeeze the completion timeline further. Another member suggested prioritizing works items that could meet immense needs. He also enquired about the feasibility of contracting out the works items to different contractors to expedite the construction progress.

33. The Administration explained that it normally took around four years to complete the construction of a hillside escalator link and elevator system. Taking into account the need for maintaining normal pedestrian flow at King's Road and the operation of the MTR Fortress Hill station, limited working areas, and complicated excavation works, more time would be needed for constructing the subway connecting the proposed lift tower and the MTR Fortress Hill Station as compared to other parts of the Project. The Administration would expedite the construction works as far as practicable. The Administration planned to award the Project under one single works contract so as to ensure better coordination and interfacing of different works items.

34. Having noted from the Administration's explanation that the construction of covered escalators along Wan Tin Path was only one-way going uphill, a member enquired whether it was feasible to provide for a dual-way escalator for the convenience of passengers going downhill as well. The Administration explained that due to geographical constraint, it was only feasible to install one-way escalators along the Wan Tin Path.

35. As the pedestrian link project might adversely affect some of the short-haul minibus routes plying between areas near the Fortress Hill MTR station and Braemar Hill districts, the Panel Chairman urged the Administration to maintain close dialogue with the trade and offer other service routes as appropriate. The Administration took note of the suggestion. The funding proposal of the Project was finally approved by the Finance Committee of LegCo on 4 June 2021.

*Public vehicle park at Areas 4 and 30 (Site 2), Sheung Shui, Public vehicle park at Area 99, Tung Chung and Public Transport Interchange at Tung Chung Area 99*

36. On 5 January 2021, the Panel was consulted on the the funding proposals for upgrading 3023TP – Public vehicle park ("PVP") at Areas 4 and 30 (Site 2), Sheung Shui, 3024TP – PVP at Area 99, Tung Chung and B085TI – Public Transport Interchange ("PTI") at Tung Chung Area 99 to Category A. Panel members noted that the estimated cost of the 9-storey aboveground PVP in Sheung Shui amounted to \$421.3 million while the estimated cost of the one-level underground PVP in Tung Chung providing about 80 parking spaces for private cars would be about \$167.5 million. It was also noted that the capital cost for the PTI in Tung Chung, providing facilities for the operation of franchised bus services, would be \$269 million.

37. Quite a number of members expressed concern about the high estimated capital cost of the three projects. It was pointed out that according to the estimate capital cost, each parking space in PVP in Sheung Shui and Tung Chung would cost about \$1.27 million and \$2.11 million respectively. The Administration advised that the cost estimate of a public works project would be affected by a host of factors including the foundation works, the electricity and fire services requirements of the project concerned and that the Administration would ensure the cost-effectiveness of the projects and the prudent use of public funds. Given that the proposed PVP in Tung Chung would be constructed on reclaimed land, its cost estimate would be relatively higher as compared with that of the proposed PVP in Sheung Shui.

38. Concerning the justifications for the construction of an underground PVP at Area 99, Tung Chung, the Administration advised that the proposed PVP, public transport interchange ("PTI") and PHD at Area 99, Tung Chung would be planned and constructed by Hong Kong Housing Authority ("HKHA"). As a matter of fact, the permitted plot ratios for the project site had been fully utilised. Having regard to the building height restrictions and geological conditions of the area concerned, HKHA considered the sites selected for the above projects to be appropriate. The Panel further noted that constructing the proposed PVP above the PTI would reduce the building separation at low zone, and would not comply with the guidelines on building separation stipulated under the sustainable building design guidelines ("SBD guidelines") for granting GFA exemption, and would as a result reduce the housing yield of about 200 residential units in Area 99.

39. As regards the comments made by members that the provision of only 80 parking spaces by the PVP in Tung Chung should not be sufficient to meet the demand of some 4 800 residential units under the public housing development in the area, the Administration advised that the Government's transport policy was to encourage the use of public transport as far as possible and about 90% of the total passenger trips were made on public transport. It might not be appropriate to assess the demand of private car parking spaces simply based on the population or the number of households of the district concerned.

40. As for the proposed PVP in Sheung Shui, the Administration indicated in response to members' enquiry that charging facilities for electric vehicles would be provided. Other members suggested the Administration to plan ahead of the times and consider installing automated parking systems (APSs") at the proposed PVP in Sheung Shui. The Administration however considered it more appropriate to construct a conventional carpark in view of the tight works schedule associated with the relevant public housing development project in Sheung Shui, and the fact that the development of APSs was still at a preliminary stage. The Administration pledged to actively consider this possibility in other new Government carpark projects in the light of the experience gained from the pilot project on APS.

41. The funding proposal for upgrading 3023TP –PVP at Areas 4 and 30 (Site 2), Sheung Shui, 3024TP – PVP at Area 99, Tung Chung and B085TI –PTI at Tung Chung Area 99 to Category A was subsequently approved by FC at its meeting on 21 May 2021.

### Other consultations

#### *Free-Flow Tolling System ("FFTS") for Government Tolloed Tunnels and Tsing Sha Control Area*

42. In January 2021, members were briefed on the Administration's plan to implement free-flow tolling system ("FFTS") at government tolloed tunnels and Tsing Sha Control Area ("TSCA") (hereafter collectively referred to as "Tolloed Tunnels"). Members generally welcomed the Administration's policy initiative to implement FFTS at Tolloed Tunnels.

43. Noting that the Administration planned to start rolling out FFTS in around end 2022 by phases, and motorists would still need to stop at toll booths for manual toll payment at certain government tolloed tunnels during the transitional period, a member expressed concern that the said arrangement might cause confusion to motorists. The member enquired if it was possible to implement FFTS by two phases, the first phase would cover the Tolloed Tunnels while the two Build-Operate-Transfer ("BOT") tunnels, viz. Western Harbour Crossing and Tai Lam Tunnel, would be implemented as the second phase. He further asked if the Administration had considered the feasibility of implementing FFTS at Western Harbour Crossing and Tai Lam Tunnel before the Government's takeover of those tunnels in August 2023 and May 2025 to compress the implementation timetable.

44. The Administration explained that to roll out FFTS by phases was to ensure a smooth transition from the existing booth-mode toll collection to the boothless mode under FFTS. Besides, it would be necessary to install field equipment and facilities as well as removing toll booths thereat, and it would be technically difficult and operationally undesirable to roll out FFTS at all Tolloed Tunnels on the same day. However the Administration agreed to monitor the adaptability of motorists and strive to compress the implementation timetable as appropriate.

45. Panel members also considered the implementation details of FFTS. The Administration advised that the first issue of a vehicle-specific toll tag ("VTT") to a particular vehicle would be free-of-charge and the usable life of a VTT would be about seven years. Re-issuance, including replacement, of VTT would in general be at a cost to the vehicle owner on a full cost-recovery basis, which was estimated to be about \$60 to \$70 each.

46. A few members enquired about the reasons for proposing the legislative amendment to the effect that failure to pay toll would no longer be subject to penalty of imprisonment. The Administration explained that

the Administration had reviewed the penalty levels of road traffic offences stipulated under the existing legislation. After reviewing the relevant provisions in the existing legislation, the Administration took the view that it was not necessary to include imprisonment penalty for the offence against toll evasion under the Bill.

47. The Administration introduced into the LegCo in March 2021 the FFTS Bill in order to provide the requisite legal backing for implementing FFTS at Tolled Tunnels. The Bill was subsequently passed by the LegCo on 23 June 2021.

#### *Traffic e-Enforcement System*

48. The Panel was consulted on 19 March 2021 on the proposed Traffic e-Enforcement System and relevant legislative proposals for providing legal backing for serving fixed penalty notices ("FPNs") by electronic means under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) and Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240).

49. Members in general welcomed the Administration's initiative to implement the Traffic e-Enforcement System for enhancing enforcement accuracy and efficiency of the Police, as well as providing convenience to drivers and vehicle owners as they would be able to make online payment to settle the penalty and obtain related information through the thematic portal in the future.

50. Some members were concerned about the high implementation cost and enquired about the value for money assessment of the proposed System. The Administration advised that the realizable savings in manpower could only be ascertained after full implementation of the proposed System. It was expected that with the human errors in issuance of handwritten FPNs and manual data input reduced, the numbers of enquiries and dispute liabilities on prosecution raised by the public would decrease, thereby further increasing the realizable savings in manpower.

51. On the issue of how vehicle owners or drivers who committed traffic offence could receive the e-FPNs, some members pointed out that some of the vehicle owners or drivers might have difficulty in viewing e-FPNs online as they might not be familiar with the use of smart mobile phones or they might not have access to the Internet. Noting that a citizen-centric Traffic e-Enforcement thematic portal would be developed under the proposed System, there were also views that the Administration should consider streamlining or

consolidating different government websites or applications to bring more convenience to the public.

52. The Administration explained that after passage of relevant legislative amendments, it would be mandatory for all vehicle owners and drivers to provide to TD their mobile phone number or email addresses. The issuance of notifications of e-FPNs via Short Message Service could be received by both smart and non-smart mobile phones. In addition, the public could access the thematic portal via the one-stop “iAM Smart” mobile application recently launched by the Administration for the convenience of the public. The concerned vehicle owners or drivers could view the traffic offence photos and/or videos through the thematic portal upon full implementation of the proposed System.

53. Regarding wider application of the proposed System, some members opined that the Administration should consider making use of the data collected for big data analytics purpose to achieve the objectives like alleviating road traffic congestion, reducing the occurrences of traffic accidents and making efficient use of road space. A member also opined that TD should share the traffic offence data related to illegal parking with other relevant government departments with a view to formulating effective policies to combat illegal parking. On the other hand, a member was concerned about system security and personal data privacy issue and urged the Administration to ensure that there would be no leakage of vehicle owners/drivers' personal data.

54. FC approved at its meeting on 25 June 2021 the funding proposal to create a new commitment of \$351,586,000 to develop the Traffic e-Enforcement System. As regards amendments to relevant legislation to provide legal backing for implementing the functions and features of the proposed Traffic e-Enforcement System, the Administration has advised at the same FC meeting that the relevant legislative proposals would be submitted to LegCo in the next legislative session.

#### *Proposed Regulatory Framework for Autonomous Vehicles*

55. The Administration briefed the Panel on the proposed regulatory framework for autonomous vehicles ("AVs") in Hong Kong at the meeting held on 21 May 2021. While supporting the Administration's proposal of establishing a new regulatory framework to provide favourable conditions for the development of AVs in Hong Kong, members in general expressed concern about the development progress of AVs in Hong Kong as compared to other cities in China or overseas. Some members expressed

dissappointment that the Administration could not provide the public a clear vision or concrete development strategy and implementation plan on how they would realize autonomous driving in Hong Kong.

56. A member opined that the Administration should encourage wider private sector participation in the trial of AVs, and suggested THB to work closely with the Innovation and Technology Bureau and other government departments in this regard. A member also suggested the Administration to explore ways to foster a deeper collaboration between research institutions and private companies to promote the development of AVs in Hong Kong.

57. The Administration advised that given that AV technology was still evolving and some experts had mentioned that AVs could only attain full automation by 2030 or beyond, it would be a pragmatic approach to introduce a flexible regulatory framework to facilitate a wider trial and use of AVs in Hong Kong. At present, development of AV technology in Hong Kong had already reached high driving autonomy, and the progress was on a par with other places worldwide.

58. On promoting AV development in Hong Kong, the Administration advised that TD had set up the Technical Advisory Committee on the Application of AV Technologies in Hong Kong, which comprised representatives and experts from the trade and relevant R & D institutions. Through close cooperation and liaison with the trade, TD had been gathering experience of local trials of AV technology. Furthermore, the Administration had set up a \$1 billion Smart Traffic Fund to provide funding support to enterprises and organizations for conducting research and application of innovation and technology. Private organizations could apply for the Fund to undertake projects such as vehicle-related big data analysis and vehicle-to-everything technology.

59. Some members suggested adopting a phased approach by allowing early implementation of mature and safe AV technology available in the market before full driving automation could be realized, such as allowing “car-hailing feature” to be adopted in Hong Kong where drivers could remotely control their vehicles by using a mobile application without having the need to be physically present inside the car. The Administration advised that the "car-hailing feature" would contravene the existing legislation. In considering whether to amend existing legislation to allow driver to remotely control the vehicle away from the driving seat in Hong Kong, the Administration would need to carefully study issues relating to safety and responsibility in respect of an unmanned but remotely controlled vehicle. TD would keep abreast of latest development of relevant technologies through

continuously liaising with the stakeholders.

60. In respect of the legal obligations and liabilities of drivers or owners of AVs, members noted that as the operation of AVs under "driverless mode" was controlled by autonomous systems, certain drivers' obligations and liabilities under existing legislation might render inapplicable as a result. In addition, under the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374E) ("RT(R)R") where relevant obligations in respect of AV trials and use were set out as conditions imposed to the Movement Permits issued by TD, members noted that the penalty involved in case of violations of the conditions would be a fine at level 1, i.e. \$2,000 upon conviction. Members therefore expressed concern about legal liability in case of an accident involving an AV under trial and use, and called on the Administration to prudently and holistically consider all relevant legal issues when drawing up the proposed regulatory regime to define clearly legal liabilities of all parties to ensure safety of all road users.

61. The Administration explained that in drawing up relevant obligations of different parties and consequences in case of violation under the new regulatory regime, the Administration would make reference to the practice of overseas jurisdiction to see if similar provisions could be made applicable to Hong Kong. TD would work closely with the Department of Justice to study relevant legislation. As regards liability issues in case of accidents involving an AV in trial and use, apart from legal liability stipulated under RT(R)R, victims of the accident could also seek civil remedies for their loss or injury.

#### *Others*

62. The Panel received a briefing by the Secretary for Transport and Housing ("STH") on 18 December 2020 on the policy initiatives relevant to land and waterborne transport in the Chief Executive's 2020 Policy Address. Another briefing by STH would be conducted on 15 October 2021 on the relevant policy initiatives in the Chief Executive's 2021 Policy Address. Members actively made comments on transport related issues and proposed relevant suggestions.

63. The Panel was also consulted on the upgrading of passenger ancillary facilities and application of technology on public light buses, review of the Public Transport Fare Subsidy Scheme, and the proposed creation of six permanent posts in the Highways Department to strengthen management and support in taking forward projects under the policy initiative of "Walk in Hong Kong" and to strengthen road maintenance and district administration

work. At the meeting on 15 October 2021, the Administration planned to brief members on the traffic and transport strategy study.

64. Besides, the Panel also considered the following funding proposals in the session:

- (a) 6856TH – Flyover from Kwai Tsing Interchange Upramp to Kwai Chung Road;
- (b) 8003QR – Hong Kong- Zhuhai-Macao Bridge – funding support for Main Bridge;
- (c) Route 11 (section between Yuen Long and North Lantau) – Investigation; and
- (d) Replacement of Traffic Control and Surveillance System ("TCSS") at Lion Rock Tunnel.

Others

### Railway matters

65. Railway plays a key role in Hong Kong's transport system. A subcommittee was formed under the Panel to continue to follow up on matters relating to railway planning, implementation and operation.<sup>1</sup> During the period from October 2020 to October 2021, the Subcommittee on Matters Relating to Railways held five meetings. The work of the Subcommittee is summarized in its report at **Appendix III**.

### Insurance coverage for the Transport Sector

66. At the meeting of the Panel on Transport held on 20 November 2020, members agreed to appoint a subcommittee to study and follow up on the difficulties encountered by the transport sector in procuring insurance and related issues. In view of the nature of the issues to be discussed, the Panel on Transport further decided at its meeting on 5 January 2021 that the Panel on Financial Affairs should be invited to join the Subcommittee to study the problems involved and to recommend solutions. Members of the Panel on Financial Affairs were consulted on the proposal in January 2021 and the

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<sup>1</sup> According to the terms of reference of the subcommittee, matters relating to corporate governance of the post-merger corporation and fares, including review of the fare adjustment mechanism, should be dealt with by the Panel.

Panel expressed support to it. The House Committee endorsed at its meeting on 29 January 2021 the proposal of setting up a joint subcommittee under the two Panels to study issues relating to insurance coverage for the transport sector. The Joint Subcommittee on Issues Relating to Insurance Coverage for the Transport Sector held five meetings with the Administration and representatives of the insurance industry. The work of the Subcommittee is summarized in its report at **Appendix IV**.

Council Business Division 4  
Legislative Council Secretariat  
7 October 2021

**Legislative Council**

**Panel on Transport**

**Terms of Reference**

1. To monitor and examine Government policies and issues of public concern relating to transport.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy area prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

**Legislative Council  
Panel on Transport**

**Membership list for 2020-2021 session\***

<b>Chairman</b>	Hon Frankie YICK Chi-ming, SBS, JP
<b>Deputy Chairman</b>	Hon CHAN Han-pan, BBS, JP
<b>Members</b>	Hon Abraham SHEK Lai-him, GBS, JP Hon Tommy CHEUNG Yu-yan, GBS, JP Hon CHAN Hak-kan, SBS, JP Dr Hon Priscilla LEUNG Mei-fun, SBS, JP Hon WONG Kwok-kin, GBS, JP Hon Mrs Regina IP LAU Suk-ye, GBM, GBS, JP Hon Paul TSE Wai-chun, JP Hon Michael TIEN Puk-sun, BBS, JP Hon YIU Si-wing, SBS Hon LEUNG Che-cheung, SBS, MH, JP Hon POON Siu-ping, BBS, MH Ir Dr Hon LO Wai-kwok, GBS, MH, JP Dr Hon Junius HO Kwan-yiu, JP Hon Holden CHOW Ho-ding Hon SHIU Ka-fai, JP Hon Wilson OR Chong-shing, MH Hon LUK Chung-hung, JP Hon LAU Kwok-fan, MH, JP Hon Kenneth LAU Ip-keung, BBS, MH, JP Hon Tony TSE Wai-chuen, BBS, JP

(Total: 22 members)

**Clerk** Ms Sophie LAU

**Legal Adviser** Mr Alvin CHUI

\* Changes in membership are set out in Annex to Appendix II

**Changes in membership**

**(Year 2020-2021)**

<b>Member</b>	<b>Relevant date</b>
Hon HUI Chi-fung	Up to 18 October 2020
Hon IP Kin-yuen	Up to 20 October 2020
Dr Hon Fernando CHEUNG Chiu-hung	Up to 21 October 2020
Hon SHIU Ka-chun	Up to 21 October 2020
Prof Hon Joseph LEE Kok-long, SBS, JP	Up to 10 November 2020
Hon Charles Peter MOK, JP	Up to 10 November 2020
Hon Jeremy TAM Man-ho	Up to 11 November 2020
Hon Claudia MO	Up to 12 November 2020
Dr Hon Helena WONG Pik-wan	Up to 12 November 2020
Hon WU Chi-wai, MH	Up to 12 November 2020
Hon LAM Cheuk-ting	Up to 12 November 2020
Hon Andrew WAN Siu-kin	Up to 12 November 2020
Hon KWONG Chun-yu	Up to 12 November 2020
Hon James TO Kun-sun	Up to 12 November 2020
Hon CHAN Chun-ying, JP	Up to 1 December 2020
Hon Jimmy NG Wing-ka, BBS, JP	Up to 2 December 2020
Hon Steven HO Chun-yin, BBS, JP	Up to 8 December 2020
Hon Jeffrey LAM Kin-fung, GBS, JP	Up to 9 December 2020
Hon Vincent CHENG Wing-shun, MH, JP	Up to 11 January 2021
Dr Hon CHENG Chung-tai	Up to 25 August 2021

For **changes in LegCo Membership**, please refer to the link below:  
<https://www.legco.gov.hk/general/english/members/yr16-20/notes.htm>

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**Report of the Subcommittee on Matters Relating to Railways  
for submission to the Panel on Transport**

**Purpose**

This report gives an account of the work of the Subcommittee on Matters Relating to Railways during the 2020-2021 legislative session.

**The Subcommittee**

2. The Panel on Transport ("the Panel") agreed at its meeting on 15 October 2020 to set up a Subcommittee on Matters Relating to Railways ("the Subcommittee"). The terms of reference and membership list of the Subcommittee are set out in **Appendices I and II** respectively.

3. Under the chairmanship of Hon CHAN Han-pan, the Subcommittee has discharged its functions according to its terms of reference and held five meetings (up to end-August 2021) with the Administration and representatives of the MTR Corporation Limited ("MTRCL").

**Major work**

4. In the current session, the Subcommittee continued to follow up on various issues relating to the operation of existing railways and the implementation of new railway projects. The discussion of the Subcommittee with the Administration and MTRCL are summarized in the ensuing paragraphs.

## Operation of existing railways

### *Upgrading signalling system for railway lines*

5. The signalling system upgrade has been a matter of concern to the Subcommittee. At the meeting on 9 April 2021, the Subcommittee was briefed by MTRCL on the latest progress of upgrading signalling system of seven railway lines. Members were advised that the new software design and development team appointed by the contractor had completed development of the verification procedures of the new signalling system software and confirmed the relevant processes and detailed requirements. Following that would be testing and confirmation of software performance item-by-item.

6. MTRCL advised that as the software review work of the new signalling system had to be carried out on-site in the software testing laboratory in Toronto, Canada, the local outbreak and thus the measures to contain the pandemic, such as city closure, had severely affected the work progress. Nevertheless, MTRCL had been urging the contractor to follow-up at full speed, and making every effort to continue with the relevant work on the new software development process. In the interest of time, MTRCL had in parallel commenced the installation of hardware signalling system equipment on various railway lines as well as the preparation work for setting up a new signalling system integrated testing platform in Tsing Yi Station. The target to complete the replacement of signalling system upgrading work of Tsuen Wan Line in 2023 was highly challenging. MTRCL estimated that the new signalling system of Island Line would commence service in about 1.5 years the earliest following the launch of new signalling system on Tsuen Wan Line. Whereas the new signalling system in Kwun Tong Line and Tseung Kwan O Line would commence service in around two years the earliest after the new system on Island Line was launched.

7. In response to members' enquiries about the implementation of recovery measures as well as the follow-up action against the contractor concerned after the incident of the new signalling system testing on Tsuen Wan Line on 18 March 2019, MTRCL advised that the Corporation had reached an agreement with the contractor concerned on the contract terms, which covered aspects relating to compensation and the extra workload arising from the incident. It had also urged the contractor to deploy additional manpower to expedite the software revamping process. The contractor had also appointed an independent consultant for software quality assurance and would review and improve the whole revamping process continuously. The additional expenses incurred by the

implementation of recovery measures would be supported by MTRCL's internal resources.

8. MTRCL further advised that it would spare no effort to ascertain the safety and reliability of the new signalling system software having regard to the inadequacies of the contractor as identified after the incident. MTRCL and the contractor had agreed that the Warm-standby Computer C would not be used when the new signalling system of Tsuen Wan Line as well as other railway lines commenced service. Upon completion of the software verification and rectification for the new signalling system, MTRCL would conduct repeated testing and fully utilize the new signalling system integrated testing platform to perform more scenario simulation tests as far as practicable.

*Enhanced monitoring, control and regulatory strategies for new railway projects and operating railways, and proposed establishment of the Railways Department*

9. Members were briefed on 5 February 2021 on the Administration's enhanced monitoring and control strategies for adoption in new railway projects during the design, construction, and testing and commissioning stages. Such included (a) enhanced project supervision and communication platforms; (b) strengthened monitoring and checking levels; (c) a new Project Safety Review ("PSR") process; (d) proactive reporting and early warning mechanisms; (e) project delivery performance monitoring of MTRCL; and (f) building-up of collaborative culture, as well as enhanced regulatory regime for railway operation. Members was also consulted on the Administration's proposal to establish the Railways Department ("RD") under the Transport and Housing Bureau ("THB") and its staffing proposal with a view to strengthening its supervision of railway planning and project delivery as well as the regulation of railway safety.

10. Referring to members' request to clarify the duties of the directorate and non-directorate establishment for the proposed RD, the Administration advised that the establishment of the proposed RD would entail the creation of three new permanent directorate posts and the conversion of one supernumerary directorate post into a permanent post. As far as non-directorate support was concerned, the Administration advised that a total of 61 new posts would be created to take up the new tasks with respect to the new PSR process, strengthened Safety Performance Monitoring System, strengthened monitoring and checking and other departmental administrative and accounting duties arising from the establishment of the proposed RD.

11. In response to a member's question whether the new Director of Railways ("D of R") would have the authority to investigate into any railway matters, and whether the Administration would undertake that the holder of the D of R post would be a seasoned professional in railway fields, the Administration assured members that the new D of R would have the full support of the Government including THB so that the holder of the post would be able to discharge his/her duties effectively and to conduct in-depth investigation into railway incidents. Two offices, namely Railway Regulation Office ("RD/RRO") and Railway Development Office ("RD/RDO"), were proposed to be established under the new RD, and would be respectively responsible for the regulation of the safe operation of railway systems and the monitoring of the implementation of new railway projects.

12. In respect of a member's enquiry about how the proposed RD would expedite the implementation and lower the construction cost of new railway projects including the Northern Link ("NOL") and the Tung Chung Line Extension projects, the Administration advised that the RD/RDO would be responsible for monitoring the project programme and cost during the planning, design and construction stages of new railway projects. Prior to the finalization of a new railway project, THB and the new RD, together with other relevant bureaux/departments, would examine the project estimate and programme in detail. Having noted the community's call for compressing the programme and lowering the construction cost of new railway projects, the Administration undertook to further enhance monitoring and control on construction safety, quality, programme and cost aspects of railway projects.

13. Referring to a member's opinion that the monitoring of the performance of MTRCL by the Administration was limited by the Operating Agreement and the project/entrustment agreement(s) of the railway lines concerned signed between the Government and MTRCL, the Administration responded that the scope and timeframe of the monitoring and regulatory work to be undertaken by the proposed RD would be significantly enhanced. The proposed enhanced monitoring and regulatory strategies would be forward-looking with an early warning mechanism in place. In the course of implementing new railway projects, the Administration would enhance its monitoring and control, in particular on the inspection of critical tests and procedures which could not be repeated when the system was commissioned. Furthermore, the Administration would not rule out the possibility of revising the clauses of the Operating Agreement and any other project/entrustment agreement(s) to be signed between the Government and MTRCL in future, so that penalty could be imposed on MTRCL on the grounds of unsatisfactory

performance. The Administration considered that the proposed initiatives covering different stages of the whole project life cycle were comprehensive and would lay a good foundation for the implementation and operation of future railway projects.

14. In view of the past railway incidents relating to the construction of the Shatin to Central Link ("SCL") where some of the MTR staff did not escalate major issues/incidents internally and report to the Administration in a timely manner, the Administration proposed to enhance collaborative culture between the Government and MTRCL for new railway projects. Noting that the use of New Engineering Contract ("NEC") form had brought benefits to public works projects in terms of time, quality and cost, the Administration considered that the adoption of collaborative form of contracts should be promoted to facilitate the building-up of collaborative culture among relevant parties during the implementation of new railway projects.

15. The Administration believed that the proposed amalgamation of Highways Department ("HyD")/Railways Development Office (the project delivery arm) and Electrical and Mechanical Services Department("EMSD")/Railways Branch (the regulatory arm) would bring about synergy effects, so that monitoring and control over various engineering fields including civil infrastructure, permanent way, rolling stock and signalling system would be enhanced throughout the whole project life cycle, thereby benefiting the future railway development of Hong Kong.

16. Some members expressed support for the Administration's proposal, while some had reservation on the proposed establishment of RD. As revealed in the final report submitted by the Expert Adviser Team ("EAT") on SCL Project, a number of irregularities had been covering aspects relating to quality assurance, settlement issues, design-related matters and project management. It was considered that the irregularities as identified in the construction of SCL were attributable to factors such as implementation of too many new railway projects simultaneously by MTRCL, expansion of overseas railway business of MTRCL and the monopoly of MTRCL in the provision of railway services in Hong Kong, and such could not be properly addressed through the establishment of RD. The Administration was also asked to amend the relevant legislation so that other railway operators could be introduced into the market.

17. The Administration explained that about 40 new posts would be created under the RD/RRO to take up the additional duties arising from the proposed enhanced railway safety regulatory regime, namely the

implementation of a new PSR process, the strengthened Safety Performance Monitoring System and the extended Comprehensive and Direct Assessment of MTRCL's asset and safety management system. Given that railways accounted for about 40% of all trips made on public transport each day, and the potential impact of railway incidents on people's living was significant, the Administration considered it necessary to further enhance the safety and reliability performance of MTRCL's operating railways. Since the work of the Departmental Secretary would be placed under RD/RRO, about 11 out of the 40 odd new posts would be responsible for providing administrative and information technology support to the new RD.

18. The Administration also advised that the measures to be taken for the building-up of collaborative culture between the Government and MTRCL would include the adoption of NEC form in works projects which had been widely promoted globally and locally. NEC was a contract form that emphasized cooperation and mutual trust between contracting parties. Specifically, the Administration would work with MTRCL to establish common short-term and long-term objectives at different project stages.

19. The Administration explained that instead of focusing on the monitoring and control of one single railway project, the new RD would strengthen the monitoring and regulation of new railway projects and operating railways throughout the whole life cycle of railways in the planning, construction, operation, and asset replacement stages. Also, the new department would adopt a forward-looking attitude, taking into account a number of factors including social and technological developments when taking forward the railway projects and also identify in early stage the potentially critical issues and the associated risks for timely follow-up actions. To safeguard the long-term safety of operating railways, the relevant staff would attend the railway safety related tests which could not be repeated when the system was commissioned and ensure proper documentation of the critical safety-related records.

### Implementation of new railway project

#### *Shatin to Central Link*

20. The SCL is a territory-wide strategic railway project. With a total length of 17 kilometres, it consists of (a) the Tai Wai to Hung Hom Section, and (b) the Hung Hom to Admiralty Section.<sup>1</sup> During this session, the

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<sup>1</sup> The Tai Wai to Hung Hom Section will extend the existing Ma On Shan Line from Tai Wai to the West Rail Line via Southeast Kowloon to form the Tuen Ma Line; the

Subcommittee continued to closely monitor the Administration and MTRCL's work in implementing SCL project, which is funded by the Administration under the concession approach.<sup>2</sup>

21. In February 2011, the Finance Committee ("FC") approved the funding applications for the advance railway (i.e. 63TR) and non-railway works (i.e. 64TR) at \$6,254.9 million and \$1,448.2 million in money-of-the-day ("MOD") prices respectively. In May 2012, FC approved the funding applications for the remaining railway (i.e. 61TR) and non-railway works (i.e. 62TR) with a total of about \$71,400 million in MOD prices. Thereafter, the Administration and MTRCL entered into an agreement for entrusting construction, testing and commissioning of SCL to the latter at a cost of \$70,827 million. The Administration informed the Subcommittee in December 2016 that the revised cost of advance railway works of SCL (i.e. 63TR) would exceed Approved Project Estimate ("APE") by \$847.7 million, increasing from \$6,254.9 million to \$7,102.6 million in MOD prices. FC approved the additional funding application at its meeting on 17 June 2017.

22. FC further approved additional funding application for the remaining railway and non-railway works of SCL (i.e. 61TR and 62TR) by increasing their APE from \$65,433.3 million to \$74,130.1 million and from \$5983.1 million to \$7,350.1 million respectively in June 2020. The APE for the entire SCL project was then adjusted upward from the original estimate of \$79,800 million to about \$90,730 million in MOD prices.

23. HyD, in collaboration with its monitoring and verification ("M&V") consultant, had held numerous meetings with MTRCL. After taken into account the views of HyD, MTRCL confirmed with the Government on 21 February 2020 that the entrustment cost estimate for the main construction works of the SCL should be revised to \$82,999.3 million. However, the Government considered that the justification submitted by MTRCL for the proposed additional project management cost (about \$1,371 million) insufficient<sup>3</sup> as there had been no material modifications to the scope of

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Hung Hom to Admiralty Section will extend the existing East Rail Line across the harbour to Wan Chai North and Admiralty.

<sup>2</sup> Under the concession approach, the Administration is responsible for the construction costs of the railway project whilst MTRCL is entrusted with the planning and design of the project. Upon completion of the construction, MTRCL will be granted a service concession for the operation of the railway line while the Administration will receive a service concession payment annually.

<sup>3</sup> In accordance with the relevant clauses in the entrustment agreement concerning the increase or decrease of project management cost, if there is material modification to

works, the entrustment activities and/or the entrustment programme of the entrustment agreement, and thus disagreed to any additional project management cost. For the above reason, the Government adjusted the revised entrustment cost estimate to \$81,628.3 million, which was an increase of \$10,801.3 million over the original entrustment cost, and in other words a reduction of about \$5,700 million compared with the estimate in 2017. After taken into account the original project reserve, expenses funded by other works projects, as well as the M&V consultancy fee and other Government expenses, it was necessary for the Government to increase the APE for the main works of SCL (i.e. 61TR and 62TR) by about \$10,063.8 million<sup>4</sup> in order to take forward the remaining works of the SCL project.

24. At the Subcommittee meetings on 15 January 2021, 5 February 2021 and 4 June 2021, members were briefed on the progress of the main construction works of SCL. The Tuen Ma Line ("TML") had commissioned on 27 June 2021 for service. According to the Administration, with work of the cross harbour tunnel section substantially completed, MTRCL was testing the signalling system.

25. Members were gravely concerned about the incident of the new signalling system testing on East Rail Line ("EAL") happened during non-traffic hours in May 2020, especially the delayed notification from MTRCL to the Administration. MTRCL advised that it submitted the Investigation Panel Report and the Technical Investigation Report prepared by the Investigation Panel and MTRCL respectively to the Government in January 2021. After vetting the reports and based on the involvement in the tests over the months, the Government approved in

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the scope of the works, the entrustment activities or the entrustment programme annexed to the entrustment agreement, or if there is any change in law, regulations or directions in respect of the works or the method of construction, and in the reasonable opinion of MTRCL or Government that such modification result in a material increase or decrease in the project management responsibility or costs of MTRCL, MTRCL and the Government shall negotiate in good faith to agree an increase or decrease in the project management cost.

<sup>4</sup> Among the \$10,801.3 million increase in entrustment cost, about \$254.7 million was the sum of works entrusted by the other projects, including primarily Civil Engineering and Development Department's entrusted drainage works for the reconstruction and enhancement of the former Kai Tak Airport North Apron area, and the construction of a section of Road P2 and its associated road facilities at Wan Chai North area. As such, the sum to be borne by 61TR and 62TR is about \$10,546.6 million. This amount, plus the additional M&V consultancy fee of about \$44 million and expenses payable to other projects of about \$60 million, and minus the original project contingencies of about \$586.8 million, is the required increase in APE for 61TR and 62TR, totalling about \$10,063.8 million.

February 2021 that the new EAL signalling system with nine-car trains could be put into service. The EAL was being operated with a mixed fleet of new 9-car trains and old 12-car trains, and with the progressive replacement of old 12-car trains by the new 9-car trains. As to whether the target commissioning date for "Hung Hom to Admiralty Section" could be maintained as the first quarter of 2022, members noted that the effectiveness of progress recovery measures was most critical. HyD and the MTRCL were assessing the implication of the suspension of new EAL signalling system on the commissioning date for "Hung Hom to Admiralty Section" and investigating feasible measures to make progress.

26. About the funding obligations of the proposed additional project management cost of SCL project which was about \$1,371 million, the Administration reiterated its position at the meeting in January 2021 that it disagreed to any additional project management cost as the justifications submitted by MTRCL was insufficient. MTRCL supplemented that the matter was being handled in accordance with the established mechanism and the discussion with Administration was still underway. MTRCL would inform the public on the outcome of discussion in due course.

27. The Administration briefed members on the Final Report and the progress for implementing its recommendations at the meeting in April 2021, including the quality assurance for the Hung Hom Station Extension ("HUH") and other SCL stations, improvements to project management and design of railway projects, and enhancement of settle monitoring and control.

28. In the light of the EAT's observations set out in its final report, a member enquired whether the Administration would continue to take forward new railway projects under the concession approach. The Administration advised that both the concession approach and the ownership approach had their own advantages. For future railway projects to be implemented under the concession approach (if any), MTRCL would be required under the Entrustment Agreement concerned to report any major issues/incidents proactively at an appropriate timeframe so that the issues/incidents could be brought to the attention of the Project Board for timely follow-up actions as appropriate.

29. Referring to a member's enquiry if any party would be liable for criminal prosecution for the irregularities in the construction works of the HUH, the Administration advised that for matters involving suspected misconduct or criminal act, the Administration had referred them to the relevant law enforcement agencies for follow-up. It was understood that the Buildings Department prosecuted the contractor concerned under Cap.

123. Since the case had entered the judicial process, it was not appropriate for the Administration to comment at this stage.

30. The Administration further responded that pursuant to the Entrustment Agreement of SCL, should it be established that MTRCL had not fulfilled the obligation as stipulated in the Agreement thus causing a loss to the Government, the Government would reserve the rights to pursue the responsibilities of MTRCL. Given that the SCL project was yet to complete, the Administration would ensure proper documentation of the construction works concerned for taking follow-up actions against MTRCL as and when appropriate.

*Northern Link (and Kwu Tung Station)*

31. The Northern Link ("NOL") is one of the seven recommended railway schemes in the Railway Development Strategy 2014 ("RDS-2014"), comprising the construction of Kwu Tung ("KTU") Station and a 10.7-kilometre long railway link between the existing Kam Sheung Road ("KSR") Station of WRL and KTU Station. MTRCL was invited to submit a proposal for NOL under the ownership approach. The Subcommittee was briefed by the Administration on the proposed way forward of NOL project at the meeting on 15 January 2021.

32. According to MTRCL's proposal, the construction of NOL would be carried out in two phases. Phase 1 would be KTU Station on the Lok Ma Chau Spur Line; and Phase 2 would be the NOL Main Line between KSR Station and KTU Station, with three intermediate stations at San Tin, Ngau Tam Mei and Au Tau. The construction of NOL Phase 1 may commence in 2023 for completion in 2027 to support the first substantial population intake of the public housing in Kwu Tung North ("KTN") New Development Area ("NDA"), while the construction of NOL Phase 2 may commence in 2025 for completion in 2034 to provide impetus for growth in the area covering San Tin, Ngau Tam Mei and Au Tau. The estimated costs of NOL Phase 1 and Phase 2 would be about \$3.5 billion and \$58.5 billion (in December 2015 prices).

33. Members in general supported the NOL project, while at the same time expressed deep concern about the long lead time required for taking forward the NOL project. The Administration was urged to compress the construction time of the project, say by carrying out NOL Phase 1 and Phase 2 concurrently, in order to meet the transport need of the first population intake of public housing units in KTN NDA in 2026. Some members questioned the major progress made over the past few years since MTRCL submitted the proposal in 2016. Some members were also

concerned about the high construction cost of the project and doubted whether the Administration could only engage MTRCL in the implementation of new railway projects or not, and the Administration was encouraged to consider other corporations for future railway projects.

34. The Administration advised that after receiving the proposal, the Administration would have to evaluate the proposal and clarify with MTRCL on a number of issues to ensure that the proposal was practically feasible and financially viable, with a view to submitting the proposal to the Executive Council for approval the soonest possible. The population intake of public housing units in KTN NDA would commence progressively from 2026 onwards. By the time when KTU Station was expected to be commissioned in 2027, about 7 400 public housing units (i.e. about one quarter) would have been completed. The Administration would explore with MTRCL on the ways to expedite the implementation of NOL Phase 1. Besides, the works programme of NOL Phase 2 indicated in the paper was only preliminary. Subject to the detailed planning and design of the project, the Administration would strive to shorten the construction time of NOL Phase 2.

35. In response to members' enquiry, the Administration explained that the purpose of granting property development rights to MTRCL under the "Railway-plus-Property" development model in previous projects was to subsidize the entire operation cycle of a new railway line. Suitable sites in the vicinity of KTU Station had been identified and it was proposed that the property development rights of the sites concerned should be granted to MTRCL under the "Railway-plus-Property" model to bridge the funding gap of the KTU Station and the detailed planning and design of NOL Phase 2. Prior to the construction of NOL Phase 1, the Administration and its independent consultant would examine the cost estimates submitted by MTRCL to ascertain necessary funding support.

#### *Hung Shui Kiu ("HSK") Station*

36. The Subcommittee was briefed by the Administration on the proposal of the HSK Station on 4 June 2021. Members noted that HSK Station is one of the seven recommended railway schemes in RDS-2014. The HSK Station will be on the WRL between the existing Tin Shui Wai Station and Siu Hong Station, primarily to serve the transport need of future Hung Shui Kiu/Ha Tsuen ("HSK/HT") NDA which, upon full development, will accommodate a total population of 218 000. MTRCL was invited to submit a proposal for the HSK Station under the ownership approach in

May 2019. To tie in with the development programme of HSK/HT NDA, the construction of HSK Station may commence in 2024 for completion in 2030. The estimated capital costs of the HSK Station are about \$4.1 billion (in December 2018's prices).

37. Several members considered the construction cost of \$4.1 billion expensive as only a new station would be constructed along an existing railway line. Some members were dissatisfied that the HSK Station project was implemented seven years after the RDS-2014 had been announced. The Administration advised that railway projects involved huge investment. The Government had to be prudent in planning future railway projects having regard to population, construction cost and other development programme. The Administration had been implementing the railway projects recommended under the RDS-2014 progressively. The estimated construction cost for HSK Station was only a preliminary estimate.

38. Members pointed out that HSK Station could not tie in with the timetable of developments nearby and that the commissioning target by 2030 seemed to be contradictory to the "infrastructure-led, capacity creating" planning approach. The Administration advised that the primary function of HSK Station was to serve the population of HSK/HT NDA of which major population intake would only start in 2030. Before 2030, other public transport would be sufficient to satisfy the need of new population of around 4 000. It was considered more cost-effective to serve the first batch population intake with other modes of public transport before the completion of the HSK Station.

39. The Administration further advised that to reduce the impact on the existing railway line and ensure normal operation of the WRL, the construction of the HSK Station would be carried out during non-traffic hours. Certain advance works would commence beforehand to shorten the construction time as far as possible. The train services for the WRL would be reviewed upon completion of the HSK Station. To encourage the general public to use public transportation, the Administration would proactively consider providing concessions under the Park & Ride Scheme for the HSK Station.

#### *Commissioning arrangements of Tuen Ma Line ("TML")*

40. Members were briefed the opening arrangements for the TML at the meeting on 4 June 2021 before its commissioning on 27 June 2021. Members noted that the TML is about 56 km long, connecting Wu Kai Sha Station and Tuen Mun Station, with 27 stations in total. End-to-end

journey time is about 73 minutes. Two new stations, i.e. Sung Wong Toi Station and To Kwa Wan Station and two new platforms at the existing Ho Man Tin Station and the HUH will be commissioned, linking up the original Ma On Shan Line and WRL. Fare structure for the new stations along the TML follows that of the existing domestic services provided by MTRCL, which is determined basically on distance.

41. A few members noted with concern that passengers travelling on TML upon its full commissioning would have to pay more for some journeys than those travelling further. For example, passengers travelling from Hung Hom to Hin Keng stations would be charged \$3.4 more than those travelling one station further to Tai Wai. MTRCL advised that alongside distance, the fare structure of new railway line would also take into account market factors including convenience and journey time, and in some cases historical factors. Upon the full commissioning of TML, passengers would have more options on travelling routes. This might create irregularities under the existing TML fare structure. MTRCL pledged that the issue would be addressed through the Fare Adjustment Exercise over the coming years.

42. Responding to members' enquiry about public transport reorganization plan after the full commissioning of TML, the Administration advised that the Transport Department ("TD") expected that the travelling patterns for public transport modal choices of residents living in the vicinity of the TML new stations would change upon the full commissioning of TML. TD considered it necessary to review and, subject to the actual passenger demand, adjust the existing public transport services in the district concerned and had submitted an information paper in this regard to the relevant District Councils for reference.

### **Recommendation**

43. The Panel is invited to note the work of the Subcommittee.

**Panel on Transport**

**Subcommittee on matters relating to railways**

**Terms of Reference**

To follow up on overall planning of railways (Note 2), and various issues relating to the planning and implementation of new railway projects, and the operation of existing railways as follows:

- (a) implementation progress of "Railway Development Strategy 2014";
- (b) overall planning and financing of new railway projects;
- (c) environmental impact assessment of new railway projects;
- (d) resumption of land arising from the implementation of new railway projects under the Railways Ordinance (Cap. 519);
- (e) progress update on the implementation of new railway projects;
- (f) provision of supporting public infrastructure for new railway projects;
- (g) co-ordination of other public transport services consequent to the commissioning of new railway lines and related matters;
- (h) performance of existing railway lines including train service performance and safety management;
- (i) maintenance programme; and
- (j) train service disruptions and breakdowns, and arrangements for handling emergency situations.

Note 1: Matters relating to corporate governance of the post-merger corporation and fares, including review of the fare adjustment mechanism, should be dealt with by the Panel on Transport.

Note 2: According to the "Third Comprehensive Transport Study" conducted in 1997, railways would form the backbone of the passenger transport system. Railway developments would thus have considerable impact on the overall community and people's livelihood. At the Transport Panel meeting on 20 November 2020, members expressed the view that the Subcommittee on Matters Relating to Railways should not only follow up on the operation of individual railways, but should also focus on the overall planning of railway developments and time table of the implementation.

**Panel on Transport  
Subcommittee on Matters Relating to Railways**

**Membership list for 2020-2021 session\***

<b>Chairman</b>	Hon CHAN Han-pan, BBS, JP
<b>Deputy Chairman</b>	Hon LUK Chung-hung, JP
<b>Members</b>	Hon Abraham SHEK Lai-him, GBS, JP Hon Tommy CHEUNG Yu-yan, GBS, JP Dr Hon Priscilla LEUNG Mei-fun, SBS, JP Hon Mrs Regina IP LAU Suk-ye, GBM, GBS, JP Hon Michael TIEN Puk-sun, BBS, JP Hon Frankie YICK Chi-ming, SBS, JP Hon YIU Si-wing, SBS Hon POON Siu-ping, BBS, MH Ir Dr Hon LO Wai-kwok, GBS, MH, JP Hon Wilson OR Chong-shing, MH Hon LAU Kwok-fan, MH, JP Hon Tony TSE Wai-chuen, BBS, JP

(Total: 14 members)

<b>Clerk</b>	Ms Sophie LAU
<b>Legal Adviser</b>	Mr Alvin CHUI

\* Changes in membership

**Panel on Transport**  
**Subcommittee on Matters Relating to Railways**  
**Changes in membership**  
**(Year 2020-2021)**

<b>Member</b>	<b>Relevant date</b>
Dr Hon CHENG Chung-tai	Up to 25 August 2021

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**Panel on Transport and Panel on Financial Affairs**

**Report of the Joint Subcommittee on Issues Relating to  
Insurance Coverage for the Transport Sector**

**Purpose**

This paper reports on the deliberations of the Joint Subcommittee on Issues Relating to Insurance Coverage for the Transport Sector ("the Joint Subcommittee").

**The Joint Subcommittee**

2. At the meeting of the Panel on Transport ("TP Panel") held on 20 November 2020, members agreed to appoint a subcommittee to study and follow up on the problems encountered by the transport sector in procuring insurance. In view of the nature of the issues to be discussed, TP Panel decided at its meeting on 5 January 2021 that the Panel on Financial Affairs ("FA Panel") should be invited to join the subcommittee to jointly study the problems involved and to recommend solutions. Members of FA Panel were consulted on the proposal by way of circulation on 8 January 2021 and they expressed support to it. The House Committee endorsed at its meeting on 29 January 2021 the proposal of setting up a joint subcommittee under TP Panel and FA Panel to study issues relating to insurance coverage for the transport sector. The terms of reference and membership of the Joint Subcommittee are set out in **Appendices I and II** respectively.

3. Under the chairmanship of Hon Frankie YICK Chi-ming, the Joint Subcommittee, on the basis of its terms of reference, decided to focus its deliberations on exploration of possible measures to tackle the problems

encountered by the taxi trade in obtaining insurance coverage. The Joint Subcommittee held a total of five meetings between February and September 2021, including four meetings with the Administration at which representatives of the Insurance Authority ("IA") and the Hong Kong Federation of Insurers ("HKFI") participated. The Joint Subcommittee has invited interested parties to give views on related issues. A list of the deputations which have provided views to the Joint Subcommittee is in **Appendix III**.

4. To facilitate members' discussion, the Joint Subcommittee has requested the Research Office of the Legislative Council Secretariat to study measures to promote the adoption of safety enhancements by the taxi trade.

## **Deliberations of the Joint Subcommittee**

### Causes of high insurance premiums

5. According to the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap. 272), any vehicle owner must procure insurance from authorized insurance company to insure such person or drivers authorized by such person against the liability incurred by personal injury or death to a third party due to use of motor vehicles. The Joint Subcommittee takes note of the concerns of the taxi owners/dealers about the soaring insurance premiums, surcharges imposed by insurance companies for different reasons (e.g. elderly drivers, old vehicle age, etc.) and arrangement of deduction of no claim discount ("NCD") in recent years. The Joint Subcommittee notes with concern that according to the statistics provided by IA and the Transport Department ("TD"), the average premium for third party taxi insurance rose from HK\$20,435 in 2016 to HK\$26,189 in 2020 representing an increase of 28%, while the numbers of traffic accidents involving taxis have remained relatively stable over the period.

6. The Administration has advised that the main function of insurance is to reduce the loss to be borne by policyholders in the event of unforeseen circumstances via risk management and mitigation, thereby facilitating various socio-economic activities. For motor insurance, insurance companies will make reference to data including accident rate and claims amount in the past when underwriting and determining premium levels. Generally speaking, policy holders with good claims history will enjoy a higher NCD when taking out motor insurance policies. The insurance sector considers that renting out taxis to drivers with good driving records can help the insurers to differentiate risk at source. However, since currently taxi owners/dealers generally do not provide insurers with information on individual drivers' driving experience and

driving offence records, etc., the insurers can only differentiate risk of vehicles based on their past claim records or on a fleet basis.

7. Some members consider it unsatisfactory that there are only a few insurance companies underwriting taxi insurance in Hong Kong which might give rise to lack of competition in the market. The Administration has advised that whether an insurance company provides taxi insurance service is purely a commercial decision. According to the information from IA, the taxi insurance business registered loss in 11 years during the 16-year period between 2005 and 2020. This has become one of the factors which insurance companies have taken into consideration when deciding whether to participate in this type of business. In this connection, HKFI has also explained that there is a long-standing underwriting loss in the taxi insurance business and such loss expanded drastically in 2019, making relevant insurance companies increase the premiums to a larger extent so as to recoup the loss suffered. Instead of subsidizing the loss-making insurance product by the profit-making one, insurance companies will strive to adopt a suitable premium rate for every product to ensure that each of the products would achieve breakeven.

8. The Joint Subcommittee shares the view that the sustained losses reported in taxi insurance business is mainly due to increase in claims cost, which might have resulted from bad driving behaviour of some drivers as well as insurance frauds and cases of champerty that should be addressed at root from a risk management perspective. To address the problem of high insurance premiums, the Joint Subcommittee has examined various measures to improve driving safety of taxi drivers and combat insurance frauds and champerty. Meetings have been conducted between different parties, including TD, the Hong Kong Police Force ("the Police"), IA, HKFI, the taxi trade and stakeholders concerned to exchange views on possible solutions to address the problems.

### Measures to improve driving safety of taxi drivers

#### *Implementing driver responsibility system on taxis*

9. Some members consider it undesirable that taxi owners/dealers have to bear a heavy burden of soaring third party insurance premiums owing to the bad driving behaviour of some taxi drivers. Such situation has caused business difficulties to the taxi trade, which leads to increased pressure on taxi rental, thereby affecting all drivers including those with good driving behaviour. There is a suggestion of requiring taxi drivers to procure their own third party risks insurance so that they will be held responsible for their own driving behavior. Reduction of taxi rental could be offered by taxi owners/dealers to

those drivers who had purchased third party insurance.

10. The Administration has advised that views on the suggestion of requiring taxi drivers to procure their own third party risks insurance remain diverse among the taxi trade. While some support the suggestion as they believe that the drivers could then be held responsible for their own driving behaviour, some others oppose to the suggestion as they opine that it is unfair to only target taxi drivers and the suggestion will discourage newcomers from joining the taxi industry and may even cause the part-time elderly drivers to leave the trade, which in turn will aggravate the problem of manpower shortage in the taxi trade. In view that the suggestion will bring significant impact and changes to the taxi industry and involve complicated issues including the impact on manpower of the trade, insurance premium levels as well as impact on the procedures, time and cost involved in processing the insurance claims, and that existing legislations in other jurisdictions generally require owners (but not drivers) of commercial passenger vehicles to take out third party risks insurance, the Administration, after careful consideration and balancing the views of various stakeholders, considers it not appropriate to implement the taxi driver responsibility system at this time.

11. The Administration has also advised that similar to the practice of car rental companies, taxi owners/dealers will collect a deposit from taxi drivers when renting out taxis. Such deposit will be forfeited if there is a traffic accident involving the drivers' fault. If there is no accident, the deposit will be returned to the rentee-driver after the rental period. It is believed that such arrangement can provide certain incentive for taxi drivers to pay attention to driving safety with a view to reducing the accident rate.

*Encouraging the taxi trade to hire drivers with good driving records*

12. The Joint Subcommittee considers that encouraging taxi owners/dealers to hire drivers with good driving records may reduce traffic accidents and claims at source, which may in turn help reduce the insurance premiums. Members have urged the Administration to facilitate the taxi trade to establish a database on traffic accidents and claims of taxi drivers so that taxi owners/dealers could identify drivers with poor driving records, thereby encouraging taxi drivers to cultivate good driving behaviour and reducing traffic accidents.

13. The Administration has advised that it welcomes the taxi trade's own initiative to establish such a database which will facilitate taxi owners/dealers to provide information on traffic accidents or claims of individual drivers to insurance companies when taking out insurance, so that the insurance

companies will be able to more accurately assess the risks involved and determine the appropriate amount of premiums. According to IA, some insurers are underwriting on a "named driver" basis and offering premium discounts to policy holders who can provide the requisite information (including traffic offence records) of the taxi driver. Since the database will involve collection and storage of personal data of individual taxi drivers, the Administration advises that the trade must be cautious about the collection, storage, access and transfer of personal data to a third party when setting up the database so as to ensure that the use of the database complies with the Personal Data (Privacy) Ordinance (Cap. 486) and other relevant legislation.

14. While the establishment of such a database may require further consideration, some members consider that, in the short term, it will be useful if taxi owners/dealers can provide the Certificate of Previous Conviction ("the Certificate") of relevant drivers issued by the Police when taking out insurance to facilitate insurance companies to assess the risk and determine the appropriate amount of premiums. The Joint Subcommittee notes that during recent meetings between the taxi trade and TD, the taxi trade has initially agreed to ask rentee-drivers to provide the Certificate to taxi owners/dealers so that the latter will be aware of the past conviction records for driving offences of the rentee-drivers and be able to avoid renting out vehicles to taxi drivers with bad driving records. TD will maintain communication with the trade and relevant government departments to explore appropriate measures to facilitate application for the Certificate by the taxi trade, such as streamlining the application procedures.

*Encouraging the taxi trade to adopt technology to reduce traffic accidents*

15. The Joint Subcommittee is of the view that collision avoidance and recording devices for vehicles can effectively reduce traffic accidents and promote good driving attitude. Insurance companies may also provide concessionary insurance discount for taxis which have installed with recognized safety devices. To encourage the taxi trade to adopt technology to reduce traffic accidents, members have called on the Administration to assist the taxi trade to identify suitable devices which can effectively reduce traffic accidents and clarify the related liability issues in case of a traffic accident. To facilitate retrieval of driving records and prevent insurance frauds, members also request the Administration to facilitate the taxi trade and insurance sector to use cloud platforms for storage of footages of traffic accidents.

16. The Administration has advised that it maintains an open mind about innovation and technologies that can effectively improve road and driving safety, and welcomes the introduction of advanced driver assistance systems by

vehicle manufacturers for various classes of vehicles. Currently, the taxi trade is actively participating in the testing of various Anti-collision Warning, Lane Keeping Warning and devices that can monitor drivers' condition/driving behaviour. TD will continue to follow up closely with the taxi trade on the testing progress and effectiveness with a view to identifying suitable safety devices to be installed on taxis. If car owners are interested in installing such systems, TD will examine and approve the vehicles in accordance with the legislation to ensure road safety.

17. IA has advised that the insurance sector considers that measures such as encouraging vehicle owners to install dash cameras on vehicles can help reduce the traffic accident rate at source and hence claims. Besides, installing dash cameras and providing footage of the relevant traffic accidents can help clarify the related liability issues. At present, insurers have devised different measures to incentivize the taxi trade to install dash cameras and provide footage when submitting claims to insurers. For instance, an insurer is partnering with a service provider to sponsor taxi owners to install dash cameras. In addition, if the taxi trade can provide footage of the relevant accident when submitting claims, some insurers will offer reduction in the amount of excess to be borne by the policy holders.

18. The Joint Subcommittee welcomes the launch of the \$1 billion Smart Traffic Fund to provide funding support to local organizations or enterprises for conducting research and application of innovation and technology related to vehicles, the scope of which also covers projects to improve driving safety. Apart from providing funding support to research on driving safety, some members suggest that the Administration should follow the practice of some overseas places to provide subsidies to incentivize the taxi trade to make wider use of safety devices to reduce traffic accidents, and in the long run, mandate the installation of safety devices on all taxis.

*Adopting fleet management to strengthen the management of taxis and drivers*

19. In response to some members' suggestion of formulating suitable policies and measures to encourage the taxi trade to adopt fleet management so as to strengthen the management of taxis and drivers, the Administration has advised that it has all along endorsed the general direction of centralizing the management of taxi service quality through professional fleet management. Currently, some taxi operators are running taxi services as fleets and providing various channels for passengers to make suggestions and lodge complaints on taxi services so as to monitor drivers' performance. In addition, some taxi operators have enhanced pre-service training for drivers, and will issue warning or provide training to in-service drivers who have repeatedly been involved in

improper driving behaviour. TD will continue to encourage more members of the taxi trade to adopt fleet management and leverage on innovation and technology to enhance the operational efficiency and quality of management so as to enhance taxi service quality. Meanwhile, TD will also continue to collaborate with the Committee on Taxi Service Quality to organise the Taxi Service Commendation Scheme to recognize outstanding taxi drivers and taxi service management teams.

20. Regarding measures to enhance taxi drivers' awareness of safe driving, the Administration has advised that it will continue to enhance its work through various measures, which include stepping up enforcement actions; disseminating promotional videos and leaflets to remind drivers to stay attentive, avoid using smart phones or devices while driving and observe speed limit, etc.; organising seminars and talks on safe driving, etc. Starting from October 2020, the Administration has also required all applicants for full taxi driving licences to attend and complete a pre-service taxi course in addition to passing the relevant written test before they can be issued with a full driving licence.

21. Some members have expressed concern about the health condition of taxi drivers, especially the senior drivers. The Administration has advised that TD organizes the Safe Driving and Health Campaign for commercial vehicle drivers (including taxi drivers) each year to provide free health tests for participating drivers. To encourage the public transport trade to receive the COVID-19 vaccination, TD has also provided a one-off medical check-up service for taxi and public light bus drivers recently. Under the Road Traffic (Driving Licences) Regulations (Cap. 374B), all driving licence holders, including taxi drivers, are responsible for ensuring that they are physically fit to drive before they are allowed to drive a vehicle. To ensure that taxi drivers are medically fit to drive so as to reduce traffic accidents, the Chairman suggests that instead of providing voluntary health tests, the Administration should introduce measures under which taxi drivers of a certain age are required to attend free health tests to safeguard the safety of road users.

*Attracting drivers to join the taxi industry*

22. To alleviate the current shortage of taxi drivers and facilitate the sustainable development of the taxi trade, the Joint Subcommittee notes that TD has enhanced the taxi written test with effect from 14 February 2020, including adjusting the content, number of questions and passing criteria on the premise of ensuring the rigour of taxi written test and robustness of the test system, so as to attract more new blood to join the taxi trade. The Administration has also relaxed the requirement for applying a commercial vehicle (including taxi) driving licence since 1 October 2020, from the original requirement that the

applicant must have held a driving licence of private car or light goods vehicle for at least three years to at least one year.

23. On the suggestion that the Administration should speed up the vetting and approval of fare increase applications submitted by the taxi trade with a view to increasing taxi drivers' income and attracting young people to join the industry, the Administration has advised that TD has been closely monitoring the operating environment of the taxi trade and maintaining close communication with the trade in this regard. In view of the impact of public order events in 2019 and the COVID-19 epidemic on the economy, the Administration is reviewing the fare increase applications afresh and collecting latest data. The Administration will submit the recommendation on fare increases to the Executive Council and Legislative Council for review as soon as practicable after the completion of relevant assessment.

### Measures to combat insurance frauds and champerty

#### *Actions taken by the Police*

24. On the measures to combat insurance frauds, the Joint Subcommittee notes that the Police has been conducting professional investigations into insurance frauds, including the establishment of the Insurance Fraud Focus Group ("the Focus Group") under the Commercial Crime Bureau ("CCB") to monitor emerging trends of organized fraud cases, and conduct targeted investigation and analysis. The Police has maintained close contacts with other government departments, IA, HKFI and other stakeholders while at the same time enhanced intelligence gathering for intelligence-led operations. On publicity and education, the Police has disseminated information on the latest modus operandi of various common fraud cases and anti-deception messages via different media platforms, including online platforms and traditional media. The Police has also set up the Anti-Deception Coordination Centre's "Anti-Scam Helpline 18222" to provide 24-hour immediate assistance to the public.

25. Members and HKFI in general appreciate the efforts taken by CCB in relation to traffic accident-related insurance frauds. To speed up the investigation process, HKFI suggests that the Police should expedite the provision of information required by the insurance sector on road traffic accidents and strengthen communication with the insurance sector. The Police has advised that in handling requests of insurance companies for details of traffic accidents, the Police will provide relevant information as appropriate upon request of the insurance companies in a timely manner under an established mechanism. Since the Police has to check the authenticity of the insurance information of both parties involved in the accident before the

requested information can be passed to a third party under the existing legislation, it takes time for the Police to process relevant requests. The Police notes the views of the insurance sector and will provide assistance as far as practicable so as to help the people in need. To expedite the process in getting the required information, the insurance companies are recommended to make such application as soon as possible after the accident and maintain communication with the case investigation officer for obtaining further information.

26. The Police has also advised that the Focus Group organizes regular meetings with IA and ad hoc meetings with HKFI. Other than IA and HKFI, the Focus Group also maintains close communication with various stakeholders in the insurance sector about insurance-related cases and matters. To provide the insurance sector with a better understanding of the prevention, investigation and reporting of fraud cases, the Focus Group met with HKFI in June 2021 to share latest information and collaborated with HKFI in July 2021 to hold an experience sharing session on collection of evidence and investigation on suspected insurance fraud cases. The Police will continue to maintain close liaison with various stakeholders in the insurance sector on insurance fraud cases and conduct regular sharing sessions to exchange experience with the sector.

27. On HKFI's suggestion that the Police should conduct investigations into suspected insurance fraud cases by the Focus Group or CCB which has professional knowledge and experience in this aspect, instead of by regional police stations, the Police has advised that when a report on insurance-related fraud is received, the report will be referred to the investigation units in the respective Police district where the case took place for commencement of investigation. Cases that are highly-syndicated, complicated in nature or cases that involve a substantial amount of money will be referred to and handled by CCB. In addition, the Focus Group will provide crime officers of different Police districts with training and sharing sessions on how to handle insurance-related fraud cases. An internal hotline is set up for crime officers to make enquiries to ensure thorough investigation into the cases.

28. The Joint Subcommittee also notes that insurance companies usually identify suspected cases for detailed review and consider whether the Police's assistance should be sought through the deployment of claims handlers. In order to enhance effectiveness and efficiency, HKFI established the Insurance Fraud Prevention Claims Database ("IFPCD") in 2018 to identify suspected cases on claims fraud through artificial intelligence and data analysis. In response to the suggestion of the Joint Subcommittee to further develop the database, IA collaborated with HKFI in organising a meeting in July 2021 to

provide authorized motor insurers with updates about the deliberation of the Joint Subcommittee as well as to encourage their participation in IFPCD. Taking into account the three new motor insurers who have recently agreed to join IFPCD, the participating companies account for around 80% of the motor insurance market coverage. IA will continue to provide support to HKFI's promotion efforts with a view to increasing participation rate and data flow as well as enhancing the effectiveness of IFPCD.

### *Review of the Traffic Accident Victims Assistance Scheme*

29. The Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229) provides for the establishment of the Traffic Accident Victims Assistance Scheme ("TAVA"), which is administrated by the Social Welfare Department ("SWD"). The objective of TAVA is to provide speedy financial assistance to road traffic accident victims or their surviving dependents (in case of death of the victims) on a non-means-tested basis, regardless of the element of fault leading to the occurrence of the accident. Assistance payments are made for personal injuries, while loss of or damage to property is not covered.

30. The Joint Subcommittee is concerned about suspected fraudulent claims of TAVA. Members note from the taxi trade and the insurance sector that some recovery agents have sent representatives to station nearby the TAVA Section of SWD to enlist applicants of TAVA to make insurance claims and apply for legal aid for instituting legal proceedings to make claims while guiding them to exaggerate their injuries as a result of the accidents, with the intention of profiting from a higher level of insurance compensation. To prevent fraudulent claims of TAVA, members urge SWD to strengthen efforts to verify the information received from applicants of TAVA and explore ways to avoid touting activities conducted by recovery agents. Some members consider that the Administration should review the current eligibility criteria for applying TAVA to prevent abuse.

31. The Administration has advised that there is no requirement under Cap. 229 or the eligibility criteria of TAVA for the applicant to make insurance claims or take legal actions in respect of the traffic accident. According to Cap. 229, applicants who receive damages or compensation in respect of the same traffic accident must notify SWD within a specified period and repay the amount of money received from TAVA, or the amount of damages or compensation received, whichever is the less. An applicant who wilfully breaches the relevant undertaking of notifying SWD commits an offence and is liable on conviction to a fine and to imprisonment. To further guard against abuse and fraud under TAVA, SWD has clearly stated the legal consequences of fraudulent act on the application form and website. SWD will also include reminders on the applicant's declaration form as well as the certificate issued by

SWD to the self-employed professional driver applicant for referring to the car rental agent and the vehicle owner for certifying the applicant's rental status, so as to strengthen the deterrent effect. In addition, the staff of TAVA Section have stepped up efforts to vet the income statements and information of all applicants, including requiring self-employed professional drivers to provide all relevant documentary proof relating to car rental agents and car owners concerned.

32. The Joint Subcommittee is also informed that to curb the touting activities of recovery agents, SWD has installed a closed-circuit television system at the office of TAVA Section and put up notices against touting activities. SWD will continue to enhance the publicity on application channels other than approaching the TAVA Section in person, e.g. submitting applications through email, online form, fax or post, so as to reduce the number of applicants gathering outside the office. SWD will continue to monitor the implementation of TAVA and maintain close collaboration with the Police, the Hospital Authority and the Department of Health to combat fraud cases.

33. The Joint Subcommittee notes the view of HKFI that data sharing between SWD and the insurance sector can help deter and prevent fraudulent claims. In this connection, SWD has advised that if the applicant for TAVA indicates his intention to make insurance claims, SWD will issue a notice to the insurance company concerned. SWD will refine the existing correspondence templates with insurance companies and include the name, address and telephone numbers of the applicant. SWD will further discuss with HKFI on how to improve the correspondence templates.

*Right of aided person to select lawyer under the Legal Aid Ordinance*

34. Some members have expressed concern that the right of an aided person to select his own lawyer under the Legal Aid Ordinance (Cap. 91) in legal aid cases may give rise to the activity of champerty. They urge the Administration to review the practice of allowing an aided person to select lawyers to represent him in civil claims for damages arising from traffic accidents. Suggestions raised by members include assigning legal aid cases to lawyers on the Legal Aid Panel ("the Panel") by rotation instead of allowing an aided person to nominate his own lawyer and reducing the limit set for the number of cases assigned to a Panel lawyer.

35. The Administration has advised that Cap. 91 provides that the Legal Aid Department ("LAD") may act for an aided person through an in-house professional lawyer, or assign a lawyer in private practice selected from the Panel by either the Director of Legal Aid or the aided person. Having regard to the interest of the aided person, when an aided person nominates a lawyer

pursuant to Cap. 91 by himself, LAD will normally give weight to such a nomination. However, LAD may also reject the nomination if the lawyer nominated by the aided person is considered not appropriate. LAD will consider the suggestion of requiring the aided persons to provide adequate justification when nominating their lawyers and direct handling of cases by LAD subject to available resources as appropriate.

36. The Administration has advised that to protect the interest of the aided person and ensure the proper use of public funds, LAD will consider a number of relevant factors before assigning a lawyer from the Panel for a legal aid case. LAD will act in accordance with established guidelines and criteria, taking into account the minimum experience requirements for the relevant area of work, the performance record of the lawyer in handling previous cases, whether the lawyer has exceeded the limit on assignments of legal aid work, as well as a series of relevant factors such as the nature and complexity of the cases, etc, before selecting a lawyer from the Panel. As LAD will consider the competence of lawyers according to the merits and requirements of the cases, legal aid work would not be distributed to lawyers on the Panel by rotation.

37. The Administration has also advised that since cases are assigned on the basis of individual solicitor, LAD sets an assignment limit on individual solicitor but not on a law firm. The limit was adjusted recently in 2018. LAD will carefully take into account the number of cases taken up by various lawyers in the same law firm, such as whether necessary support can be obtained for handling the cases, and consider not assigning cases to other lawyers in the same law firm when necessary. LAD will review the assignment limit for a Panel lawyer as and when appropriate in consultation with the Legal Aid Services Council.

38. The Administration has further advised that LAD attaches great importance to and closely monitors the performance of assigned lawyers. Guidance Notes setting out the statutory provisions relating to legal aid and the criteria required by LAD in handling legal aid cases are issued to all solicitors and counsel on the Panel. LAD will assess the performance of assigned lawyers in accordance with the statutory provisions and guidelines specified and take actions against assigned lawyers with unsatisfactory performance, which include issuance of advisory letters, placing the lawyer on the Record of Unsatisfactory Performance/Conduct, removing the lawyer from the Panel, or/and re-assigning the case to other lawyers.

39. On HKFI's suggestion that LAD should consider referring cases involving minor injuries or undisputed responsibility to the insurance companies for direct follow-up, the Administration has pointed out that prior to the granting of legal aid certificates, LAD is not representing the applicants and

thus is not in a position to provide legal advice to the applicants in respect of the amount of compensation. Hence, for cases involving minor injuries or undisputed responsibility, the applicants have to decide for themselves how to negotiate with the insurance companies. Also, if a legal aid certificate is discharged or revoked, the injured person is no longer a legally-aided person. LAD can no longer act for that person.

### Other issues

40. The Joint Subcommittee has also taken the opportunity to discuss issues on how to reduce the financial burden of the transport sector in procuring insurance. A brief summary is provided below.

#### *Suspension of the levies on motor insurance*

41. According to section 4 of the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap. 272), any person to use, or to cause or permit any other person to use, a motor vehicle on a road must have an effective policy of insurance which insures such person in respect of any liability which may be incurred by such person in respect of the death of or bodily injury to any person. The Motor Insurers' Bureau ("MIB") is a company established by the insurance sector, the members of which include all companies authorized to conduct motor insurance business in Hong Kong. MIB administers the First Fund and Insolvency Fund, which respectively provide compensation to victims of traffic accidents when the driver is uninsured or untraceable, or when the insurer concerned is insolvent. The two Funds are financed by levies on the premiums of motor insurance policies. Since July 2012, the levy rates of the First Fund and Insolvency Fund have been maintained at 1% and 2% of the gross premiums of motor insurance policies respectively.

42. Noting that as at 31 December 2019, the net assets of the First Fund and the Insolvency Fund were HK\$400 million and HK\$2,820 million respectively, members urge IA to explore with MIB the feasibility of suspending the motor insurance levies or reducing the levy rate having regard to the current net asset value of the two Funds. After considering actuarial advice and consulting the Administration and IA, MIB announced suspension of the levies on motor insurance for a year with effect from 1 October 2021 (previously levies amounted to 3% of the gross premium of motor insurance policies, amounting to around \$143 million in 2020), so as to alleviate the financial burden of the public amidst the impact of COVID-19. This measure will directly reduce the cost of motor insurance and benefit various transport sectors, including the taxi trade.

*Cross-boundary insurance for the transport sector*

43. On some members' suggestion of enhancing the cross-boundary motor vehicle insurance arrangement to provide flexible insurance products with premium calculated on a daily basis, the Administration has advised that Guangdong and Hong Kong cross-boundary coach, hire car and goods vehicle operators must procure statutory motor insurance for relevant vehicles in both jurisdictions in accordance with the laws and regulations of Hong Kong and the Mainland before such vehicles can be issued with relevant licences for usage of such vehicles on the road and provision of services. IA has maintained close contact with the insurance sector, with a view to facilitating vehicle owners who use the Hong Kong-Zhuhai-Macao Bridge to purchase motor insurance conveniently and developing products with short tenor. IA understands that there are individual insurance companies which provide consumers with cross-boundary motor insurance products with tenor ranging from seven days to one year.

**Recommendations**

44. The Joint Subcommittee has observed that insurance premiums for taxis have been soaring in recent years. There are many causes for this situation but in general the relatively high accident rate of taxis and the undesirable occurrences of insurance frauds and champerty are regarded as the main causes. To tackle the problem, the Administration should take into account the views and concerns expressed by members and stakeholders, and continue to strengthen its work in enhancing the driving safety of taxi drivers and combating insurance frauds and champerty as well as establishing a regular communication mechanism with different stakeholders.

45. The Joint Subcommittee also recommends that the Administration should:

Measures to improve driving safety of taxi drivers and reduce traffic accidents

*The Transport and Housing Bureau and TD*

- (a) consider introducing legislative amendments to implement the driver responsibility system on the taxi trade in the long run so that taxi drivers will be held responsible for their driving behaviour;

- (b) encourage the taxi trade to hire drivers with good driving records by devising measures to facilitate the trade to apply for the Certificate;
- (c) encourage the taxi trade to adopt technology to reduce traffic accidents by assisting the trade to identify suitable safety devices and to use cloud platforms for storage of footages;
- (d) consider subsidizing the taxi trade to install suitable safety devices and in the long run, mandating the installation of such devices on all taxis;
- (e) formulate policies and measures to encourage the taxi trade to adopt fleet management with a view to strengthening the management of taxis and drivers;
- (f) introduce measures under which taxi drivers of a certain age are required to attend free health tests to ensure that they are fit to drive so as to enhance driving safety;
- (g) speed up the vetting and approval of fare increase applications submitted by the taxi trade to increase taxi drivers' income and attract young people to join the industry;

#### Measures to combat insurance frauds and champerty

##### *The Police*

- (h) strengthen communication between the Police and the insurance sector and arrange experience sharing sessions on a regular basis so as to speed up the investigation process;
- (i) expedite the provision of information required by the insurance sector on road traffic accidents;

##### *LAD*

- (j) review the legal aid system, in particular, the current practice of nomination of lawyers by aided persons and the mechanism for allocation of cases to prevent abuse;

*SWD*

- (k) strengthen efforts to verify the information received from applicants of TAVA;
- (l) review whether to tighten the current eligibility criteria for applying TAVA to prevent abuse;
- (m) maintain close liaison with the insurance sector and provide the information required by the sector on TAVA applications; and
- (n) monitor the possible touting activities conducted by recovery agents nearby the office of the TAVA Section.

46. Meanwhile, IA should continue to facilitate discussion between the insurance sector and the taxi trade to adopt a risk management-based approach in the underwriting and pricing of taxi insurance based on the driving safety of taxi drivers, traffic accidents rates and the resultant claims in order to achieve sustainability in taxi insurance.

**Advice sought**

47. Members are invited to note the work of the Joint Subcommittee.

**Panel on Transport and Panel on Financial Affairs**

**Joint Subcommittee on  
Issues Relating to Insurance Coverage for the Transport Sector**

**Terms of reference**

To study and follow up on the problems encountered by the transport sector in procuring insurance, and to make recommendations to tackle such problems where appropriate.

## Appendix II

### Panel on Transport and Panel on Financial Affairs

#### Joint Subcommittee on Issues Relating to Insurance Coverage for the Transport Sector

##### Membership list

<b>Chairman</b>	Hon Frankie YICK Chi-ming, SBS, JP
<b>Members</b>	Hon CHAN Kin-por, GBS, JP Hon Mrs Regina IP LAU Suk-ye, GBM, GBS, JP Hon YIU Si-wing, SBS Ir Dr Hon LO Wai-kwok, GBS, MH, JP
	(Total : 5 members)
<b>Clerk</b>	Ms Shirley CHAN
<b>Legal Adviser</b>	Mr Alvin CHUI

## **Appendix III**

### **Panel on Transport and Panel on Financial Affairs**

#### **Joint Subcommittee on Issues Relating to Insurance Coverage for the Transport Sector**

##### **List of deputations which have provided written views to the Joint Subcommittee**

1. Hong Kong Federation of Insurers
2. Hong Kong Taxi Council
3. Hong Kong Taxi Owners' Association Limited
4. Liberal Party
5. Taxi Dealers and Owners Association Limited
6. Transport Industry Committee of The Federation of Hong Kong and Kowloon Labour Unions