



中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF : DEVB(PL-CR)1-10/94
本函檔號 OUR REF : LS/B/15/2026
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Ms Apple LAU
Assistant Secretary (Northern Metropolis) 3
Northern Metropolis Co-ordination Office
Development Bureau
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Hong Kong

Dear Ms LAU,

Northern Metropolis Development Bill

We are scrutinizing the captioned Bill with a view to advising Members on its legal and drafting aspects. To facilitate Members' consideration of the Bill, we should be grateful if you could clarify the matters set out in the **Appendix**.

Please let us have your response in both Chinese and English as soon as practicable, and in any event, before the second meeting of the Bills Committee.

Yours sincerely,

(Mark LAM)

Assistant Legal Adviser

Encl.

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Clause 1(2) and (3) of the Bill

Clause 1(2) and (3) of the Bill sets out the commencement arrangements of the Bill (if passed) as follows:

- (a) Parts 1 and 2, clauses 14 and 16 and Schedule 1 would come into operation on the day on which the Bill (if passed) is published in the Gazette as an Ordinance; and
- (b) Part 3 (except clauses 14 and 16), Part 4 and Schedule 2 would come into operation on a day to be appointed by the Secretary for Development (“Secretary”) by notice published in the Gazette.

2. Please advise Members on the reason(s) of the proposed commencement arrangements of the Bill (if passed). In particular,

- (a) why clauses 14 and 16 would come into operation separately from the remaining clauses (i.e. clauses 15 and 17) contained in Division 4 of Part 3 (the Division that deals with noise control in the Northern Metropolis); and
- (b) the details of the proposed commencement plan for the clauses covered in paragraph 1(b) above and Schedule 2, and the reason(s) for the plan.

Clause 3(2) of the Bill

3. Clause 3(1) of the Bill seeks to declare the areas described in Schedule 1 to the Bill (i.e. the area shown coloured pink on the plan numbered NM/001 and deposited in the Land Registry, and the Shenzhen Bay Port Hong Kong Port Area) as the Northern Metropolis. Under clause 3(2)(a) of the Bill, where Schedule 1 to the Bill refers to any plan, the Secretary must publish the plan on a website specified by the Secretary. Please clarify whether the Secretary would specify such website by notice published in the Gazette, and if so, whether such notice would be subsidiary legislation subject to the negative vetting procedure of Legislative Council (“LegCo”) under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) (“negative vetting”). If not, please clarify how the public would know which website on which the plan could be found.

Clause 4 of the Bill

4. Under clause 4 of the Bill, the Chief Executive in Council (“CE in C”) may, by notice published in the Gazette, amend Schedule 1 to the Bill (see paragraph 3 above) under specified circumstances. Please clarify why such notice would not be included in the proposed definition of “Northern Metropolis subsidiary legislation” under clause 23 of the Bill. Given that clause 4 of the Bill would be the only clause of the Bill providing for the making of subsidiary legislation by CE in C that is not included in the said proposed definition, please consider, for the avoidance of doubt, expressly providing for in the Bill that a notice made by CE in C under clause 4 of the Bill would be subsidiary legislation.

Clause 6(1) of the Bill

5. Clause 6(1) of the Bill seeks to provide that the Town Planning Board may, in accordance with a regulation to be made by CE in C under clause 7 of the Bill, grant permission for any use or development of any land or building that falls wholly within an area in the Northern Metropolis that is included in a plan under the Town Planning Ordinance (Cap. 131) regardless of whether the relevant plan under Cap. 131 for the land or building provides for the grant of such permission. Please clarify whether “use” in clause 6(1) of the Bill would have the same meaning as “use” in Column 1 (i.e. uses which are always permitted in that zone) or “use” in Column 2 (i.e. uses that may be permitted with or without conditions on application to the Town Planning Board) of a plan under Cap. 131, or it would have other meanings. Please consider, for the avoidance of doubt, expressly providing for the meaning of “use” in the Bill. For instance, under clause 5 of the Bill, “development” would have the meaning given by section 1A(1) of Cap. 131.

Clauses 7, 21(6)(b) and 22(1) of the Bill

6. The Bill seeks to, among others, empower CE in C to make subsidiary legislation to provide for matters in relation to various measures for facilitating the development of the Northern Metropolis. Please clarify why it is considered appropriate for providing the matters in regulations to be made by CE in C pursuant to the following clauses of the Bill, instead of in the Bill:

- (a) clause 7 of the Bill (in relation to regulations to provide for, among others, matters relating to the imposition of any limitations or conditions on the grant of permission under clause 6(1) of the Bill); it is noted that, for instance, Schedule 4 to the Environmental Impact Assessment Ordinance (Cap. 499) sets out matters which the Director of Environmental Protection may include, under section 10(6) of Cap. 499, as condition(s) of an environmental permit issued under section 10(5) of Cap. 499;

- (b) clause 21(6)(b) of the Bill (in relation to a regulation to provide for (i) the imposition of a financial penalty not exceeding HK\$2,000,000 for a contravention of the regulation; and (ii) the enforcement of such financial penalties in court); it is noted that, for instance, sections 82C and 82D of the Inland Revenue Ordinance (Cap. 112) (as added by section 18 of the Inland Revenue (Amendment) (Automatic Exchange of Information) Ordinance 2026 (Ord. No. 4 of 2026)) provide for a financial penalty mechanism which includes details on offences involved, procedures for assessment of financial penalty and appeal procedures; also, sections 101F and 101G of the Securities and Futures Ordinance (Cap. 571) provide for the Court of First Instance to impose a financial penalty under certain circumstances; and
- (c) clause 22(1) of the Bill (in relation to regulations to, among others, specify the purposes of establishing the body corporates for managing specified areas within the Northern Metropolis and provide for powers of such body corporates); it is noted that, for instance, sections 6 and 8 of the Hong Kong Science and Technology Parks Corporation Ordinance (Cap. 565) provide for purposes and powers of the Hong Kong Science and Technology Parks Corporation respectively.

Clause 10(2) and (4) of the Bill

7. Under clause 10(2) and (4) of the Bill, the payment of compensation in respect of resumption of specified land in the Northern Metropolis that was held in the name of a clan, family or t'ong immediately before the resumption could be made to the registered manager(s) of the clan, family or t'ong even if there is an objection of any kind from any member of the clan, family and t'ong. It is noted that t'so land is "family" land and is therefore registrable under section 15 of the New Territories Ordinance (Cap. 97) (see *Li Tang-Shi v Li Wai-Kwong and A-G* [1969] HKLR 367 at 372). It is also noted that a t'so is a trust, and the manager registered under section 15 of Cap. 97 is a trustee and holds the property of the t'so as legal owner for the benefit of all its members (see paragraph 45 of *Tsang Shu Wo v Person Unknown in Occupation of Lot* [2020] 1 HKLRD 1234). In relation to the registered manager(s) of the t'so who could accept payment of compensation for the resumption of land under clause 10(2) and (4) of the Bill despite objection of any kind from any member of the t'so, please clarify:

- (a) why the existing practice of the payment of compensation will not be released until the objection from any members of the t'so/t'ong has been withdrawn or resolved (see paragraph 12 of the LegCo Brief (File Ref.: DEVB(PL-CR)1-10/94) issued by the Development Bureau on 3 July 2026) would not be followed under the Bill;

- (b) whether, and if so, why such act of the registered manager(s) of t'so would be consistent with the legal requirements on the disposition of land of t'so (e.g. disposition of land of t'so requiring the consent of all members of t'so (see *Kan Fat-Tat v Kan Yin-Tat* [1987] HKLR 516 at 537));
- (c) whether such act of the registered manager(s) of t'so would be regarded as maladministration by such registered manager(s) and would amount to a good cause for the Secretary for Home and Youth Affairs to cancel the appointment of the registered manager(s) concerned under section 15 of Cap. 97 (see *Chan Choy Fong v Secretary for Home Affairs* [1997] 4 HKC 122 at 128E-G) or would amount to a cause for the members of t'so to apply to the Secretary for Home and Youth Affairs to have such registered manager(s) replaced (see paragraph 46 of *Tsang Shu Wo v Person Unknown in Occupation of Lot* (supra)); if yes to either question, please clarify whether it is necessary to provide for e.g. exemption of liabilities for the registered manager(s) concerned under the Bill;
- (d) whether clause 10(2) and (4) of the Bill would be consistent with Article 105 of the Basic Law which, in essence, confers upon individuals the right to full and fair compensation for the lawful deprivation of their property (see *Law of the Hong Kong Constitution*, Third Edition, Sweet & Maxwell, paragraph 13.086); and
- (e) (as clause 10(1)(a) of the Bill seeks to provide that clause 10 of the Bill would apply to Northern Metropolis land resumed under any specified enactment (as defined in clause 8(1) of the Bill) before (among others) the commencement of clause 10 of the Bill), the detailed arrangements for effecting payment of compensation in respect of Northern Metropolis land resumed under any specified enactment before such commencement.

Clause 21(4)(o), (p) and (q) of the Bill

8. Under clause 21(4)(o), (p) and (q) of the Bill, CE in C may make regulations (in relation to facilitating or regulating Northern Metropolis cross-boundary flows (as defined in clause 21(7) of the Bill)) to provide for, among others, the giving of directions in relation to, and the issuance of a code of practice for, Northern Metropolis cross-boundary flows by specified authorities or entities, and the consequences for failing to comply with such a direction or a provision in such a code of practice.

9. Please clarify:

- (a) whether such a direction and code of practice would not have legislative effect (i.e. would not be subsidiary legislation subject to the negative vetting); and
- (b) what would be the consequences for failing to comply with such a direction or a provision in such a code of practice, and whether a Northern Metropolis (cross-boundary flow) regulation (i.e. a regulation to be made under clause 21 of the Bill) would prescribe such consequences that may be imposed; for instance, section 41 of the Occupational Safety and Health Ordinance (Cap. 509) provides for the effect of the workplace code of practice issued under section 40(1) of Cap. 509.

Clause 21(6)(a) of the Bill

10. Clause 21(6)(a) of the Bill seeks to provide that a Northern Metropolis (cross-boundary flow) regulation (see paragraph 9(b) above) may, (a) despite section 28(1)(e) of Cap. 1, provide that a contravention of the regulation would be an indictable or summary offence, and prescribe penalties for it of a fine not exceeding HK\$2,000,000 and imprisonment not exceeding seven years; and (b) provide for the imposition of a financial penalty not exceeding HK\$2,000,000 for a contravention of the regulation. Please clarify the reason(s) for setting the maximum penalties mentioned above for the contravention of a Northern Metropolis (cross-boundary flow) regulation (including whether references have been made to the existing offences of similar kind or seriousness in Hong Kong and/or other jurisdictions).