

Press Release

13/01/2010

**"Five Barriers facing XRL - insurmountable obstacles faced by the Express Rail
Government Option at this stage"**

According to the answers provided by the government officials on the members' questions in the Legislative Council Finance Committee meetings on December 18, 2009, and January 8, 2010, the "XRL Expert Group" has conducted a detailed analysis of these answers, and confirmed the issue of the following areas. Based on engineering, legal or procedural obstacles, the Government could not find a solution for them in the short term, it cannot submit to the Legislative Council a reply following common sense and normal procedures within the next few months:

1. The Failure on the Realization of "Co-location" of Boundary Crossing Facilities Leading to the Deformation of the Functions of "High Speed Rail"

As the current legal constraints, to effectively implement "co-location" in Hong Kong, modification of the law, and even involving the Basic Law would be required. As both of the modification could not be completed in the next few months, not even the confirmation of the feasibility studies from the executive and legislative branches in both the Mainland and Hong Kong. Once the "co-location" is unable to be implemented, high-speed rail passengers (especially long-distance commuters) may have to spend an additional hour or two away from the nearest mainland port border inspection station and get off for inspection, so that, high-speed railway concept is in name only, and it merely become a de facto medium-speed railway in essence. Hence the so-called high-speed rail service sounds not so attractive, thereby reducing the patronage and weaken the economic benefits. Even if the executive authorities in Hong Kong is willing to consider electronic pre-screening system, the inspection system in the train or mobile inspection system, they would still need to face an uncertain legal and operational obstacles, which are impossible to be achieved in the near future.

In the absence of the "co-location", the nature of high-speed rail will be fundamentally changed, it is simply becoming a "regional express" connecting Hong Kong to Shenzhen and Guangzhou, which is similar with the operation mode of the current "through train" services. For many long distance passengers, departing from Shenzhen Futian Station or the Shibu Station in Guangzhou would be more

convenient than departing from the West Kowloon Terminus. Due to the changes in operation mode and sources of recipient, the design mentality of the entire high speed rail should be reviewed. If merely a “regional express” of a lesser significance in strategic positioning, the issues of the means of fine-tune the proposal, the reduction of costs for the maintaining of operational efficiency would be the main factors for consideration.

2. Traffic Congestion in Kowloon and Environmental Degradation

The “West Kowloon Reclamation Development Traffic Study” discussed under the Finance Committee on 8 January indicated that: After the West Kowloon Terminus has been completed, the new traffic situation would seriously affect the 18 junctions in Kowloon, Jordan Road should be broaden to 13 lanes, many junctions in Nathan Road could not make a turn, the traffic flow would be made compulsory to flow to the side streets, the traffic flow in 11 inner streets would be dramatically increased, the insertion of roads into parks and the West Kowloon Cultural District (hereafter the “WKCD”). These would dramatically undermining the community environment. The Report also admitted that it is technically infeasible for some of the recommended improvement measures to be implemented, while they have not provided a set of solutions.

As part of the proposed improvement measures (such as the vehicle tunnel between Canton Road and Austin Road), it would be required to conduct feasibility studies and environmental impact assessments, and none of the above measures have been consulted with the District Councils and Yau Tsim Mong District residents, it is a question whether these plans would be accepted by the public. It is impossible for the Government to submit to the LegCo concerning the improvement measures on traffic congestion in the Kowloon districts, as well as mitigation measures on the environmental degradation programs in a short period.

3. The Impairment of the West Kowloon Cultural District (WKCD)

According to the "West Kowloon Reclamation Development Traffic Study ," a permanent occupation of land by the Express Rail Link is required for Canton Road and Austin Road West, at the same time, as the underground area would be designated as a rail buffer zone deep underground at the eastern area of the District, it would impose insurmountable constraints due to the noise and vibration during operation, so that the cultural and performing venues of a high quality could not be built

over-ground. During the construction of the express rail link, it has to recoup one-third of the land in the WKCD, and half of the seashore line. Hence, it would be difficult for the WKCD to be completed in 2014 and 2015 as scheduled, and deprives the rights of usage by the public.

In the view that the Transport and Housing Bureau have not officially notified the West Kowloon Cultural District Authority of the various impacts, and it has not conducted consultation with the cultural sector as well as the general public, and that the three architectural firms involving in the master planning design are unable to submit and provide a report on the design and problems on the delay. It is obvious that the Government is unable to submit to the LegCo shortly on the solutions for relieving and compensate the damages towards the West Kowloon Cultural District.

4. The compensation arrangements for the residents in Tai Kok Tsui

During the meeting on January 8, the Government revealed for the first time that there are 47 buildings in the Tai Kok Tsui District, equivalent to tens of thousands of residents, in which the potential development rights would be undermined as a result of the construction of the tunnel of the Express Rail Link, As in the ruling of the Court of Final Appeal case of *Director of Lands vs Yin Shuen Enterprises Ltd.* in 2003 indicated, although the residents would be compensated by the Government, they are unable to obtain the “expected value”, which would be equivalent to the value of the change of land lease and the value when the site is being redeveloped, not to mention that the residents which have to pay in advance a large sum of amount to the surveyors, engineers and lawyers before they have received the compensation.

During the meeting on January 8, the Secretary for Housing and Transport Eva Cheng stated that she would consider to set up a “compensation committee”, but there are no specifications, and if the Government designated a standard which could compensate the loss of potential development rights, it needs to abide to both the “Railway Ordinance” and the limitations concerning the 2003 judgment of the Court of Final Appeal, it might be necessary to amend the laws. Hence, the Government could not submit a full compensation of laws. Hence, it is obvious that the Government could not submit a full compensation proposal to LegCo for the residents of Tai Kok Tsui in a short period.

5. Social Impact Assessment in Choi Yuen Village

Persistent resistances by Choi Yuen Villagers have declared their “No Moving No Demolition” demand, notwithstanding an increase in compensation by the Government. This is a rare situation betokening the Government’s incompetence in doing “Social Impact Assessment” with respect to different land acquisition options. Regarding the assessment, remedial measures should be prioritized to “options” that are likely to pose huge environmental and social impacts, so as to avoid such influence as much as possible. Monetary compensation and “remedial measures” should always be regarded as the “last resort”, provided that all the available options have been proved, with adequate scientific and professional input, infeasible. Villagers’ vigorous reaction revealed that demolition of Choi Yuen Village is apparently a decision causing huge environmental impact. To this end, the above-mentioned prioritization principle should be adopted.

Choi Yuen Village is indeed a piece of arable land. On a contrary, expansive lands nearby are mostly used to heap scraped cars and containers, this is apparently violating the principle of proper land use. In the light of this, why does the Government not consider acquisition of these semi-deserted (even non-developing) brownfield lands, so as to safeguard the countryside landscape and local agriculture? Or is it an option to consider staying the proposed infrastructure away from Choi Yuen Village and therefore turn to our “Kam Sheung Road” option?

In view of the fact that the Government consultants did not undertake a comprehensive “Social Impact Assessment” amidst all available options in their Environmental Assessment Research, it is indispensable of the Government to ponder over and finally think up the feasibility of any possible alternatives, including the “Integrated Option” (the Kam Sheung Road Station option). Requirement of considerable time implies that it is impossible for the Government to provide the answers to these “reasonable doubts” in the short run.

Conclusion

In view of the five obstacles of engineering technology, legal and procedural constraints, it seems to be the “five mountains” facing the Express Rail Link. Not only the Government is unable to provide an appropriate answer with reason within a short period, even though the appropriations of the Express Rail Link, it would be difficult to implement it smoothly. The XRL Expert Group appeal that the Government knew it advance that they are unable to provide an answer for the “five mountains”, it should not waste the time of the legislators, and to apply for appropriations to the Finance Committee of the LegCo in a hasty manner on January

15. The Government should shelve the applications of appropriations, and to conduct the research and procedures which should be done, but not yet done in three months time. It should provide all the information which should be disclosed to the public, and to launch the public engagement mechanism in serving the purposes of collecting different calls and concerns from the public. At the same time, the LegCo should hire an independent consultant, for the assessment of the feasibilities of the “Integrated Option” (the Kam Sheung Road Station proposal), so that a decision that best suits the needs of the public would be decided, through a fair and objective comparison with the West Kowloon Terminus option after the three months public engagement exercise.

**The XRL Expert Group
The Professional Commons
13 January 2010**