

LCQ22: Shatin to Central Link project compensation claims

Following is a question by the Hon Vincent Cheng and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (January 23):

Question:

Some shop operators in Kowloon City have relayed to me that in order to implement the Shatin to Central Link (SCL) project, the MTR Corporation Limited (MTRCL) has since 2014 enclosed several large construction sites with wire fences on a number of roads in the district and closed several road sections (such as a lane of Nam Kok Road bound for Prince Edward Road East). Due to sight line obstructions, coupled with the dust and noise generated by the works, the shops located on numbers 4 to 24 Nam Kok Road have suffered a plunge in business. Although they have filed compensation claims in accordance with the Railways Ordinance (Cap 519) (the Ordinance) and submitted detailed information, none of the claims have been approved so far. Regarding complaints and compensation claims arising from railway projects, will the Government inform this Council:

(1) among the 26 compensation claims in respect of the SCL project received by the authorities in the past five years, of the number of those rejected and the reasons for the rejection, with a tabulated breakdown by type of claimants and District Council district;

(2) of the respective numbers of complaints received by the authorities in each of the past five years involving the works carried out at Ma Tau Wai Road, Kiang Su Street, Lok Shan Road and Nam Kok Road under the SCL project, with a breakdown by the contents of the complaints; the measures taken by the authorities to mitigate the impact of the works on nearby shop operators and residents;

(3) of the anticipated time for (i) the completion of the works at the roads mentioned in (2) under the SCL project, and (ii) the removal of the wire fences erected thereon for the purpose of the works; the expected commissioning dates of To Kwa Wan Station and Sung Wong Toi Station which are related to such works;

(4) of the respective numbers of compensation claims filed under the Ordinance which were received, approved and rejected by the authorities, and the number of them referred to the Lands Tribunal (with a tabulated breakdown by the handling results and District Council district), in each of the past five years;

(5) given that the Government is a major shareholder of MTRCL, whether the Government will refer the compensation claims arising from railway projects to an independent third-party organisation or a committee comprising non-

official members for assessments, in order to show impartiality; and

(6) whether it will review the Ordinance with a view to improving the mechanism for compensation claims?

Reply:

President,

Our reply to the six parts of the question raised by the Hon Vincent Cheng is as follows:

(1) In the past five years (from January 2014), a total of 26 compensation claims involving the Shatin to Central Link (SCL) project were submitted to the Secretary for Transport and Housing under the Railways Ordinance. All the cases were referred to the Lands Department for follow-up and processing. Of the 26 cases, 15 cases were claims involving commercial properties lodged by owners or shop tenants and the remaining 11 cases were claims involving residential properties lodged by owners. Of these, five claims have been rejected and 21 claims are still being processed. The relevant figures are tabulated below:

District	Number of claims involving commercial properties lodged by owners or shop tenants	Number of claims involving residential properties lodged by owners
Wan Chai	2	0
Kowloon City	13	9
Wong Tai Sin	0	2
Total	15	11

According to the information submitted by the claimants, the five rejected cases involved commercial properties in Kowloon City and the main head of claim is related to the temporary road closure arrangements. In handling the above five cases, the Lands Department has considered the relevant information submitted by the claimants and the relevant records of the department. Though there was obstruction to part of the footpath due to the construction, there was sufficient width of the footpath maintained. After seeking legal advice, the Lands Department considered that the access to the premises had not been adversely affected and did not constitute a claim for compensation under the Railways Ordinance. Therefore, the five compensation claims were not substantiated and were rejected.

(2) To tie in with the construction of To Kwa Wan Station and Sung Wong Toi Station of the SCL, the MTR Corporation Limited (MTRCL) has to implement temporary traffic management measures in stages to facilitate the construction of the stations and their entrances/ exits. The extent of the measures covers Ma Tau Wai Road, Kiang Su Street, Lok Shan Road and Nam Kok Road.

During the construction period, the MTRCL and the contractors have taken various measures to reduce the impact of the works on shop tenants and residents, including maintaining appropriate width of the footpaths for public use; placing clear notices and signs; using translucent barriers and noise insulating equipment when practicable, with the names of the shop tenants printed on the barriers; beautifying the barriers on site as far as possible to improve the walking environment; and reducing a part of the works sites for maintaining loading and unloading bays during holidays, etc. In addition, during the implementation of large-scale temporary traffic management measures at Ma Tau Wai Road, the MTRCL arranged caring ambassadors to assist residents in crossing roads and taking vehicles. As residents may feel slight vibrations during the excavation of tunnel, the MTRCL has conducted safety monitoring on buildings in the vicinity of the tunnel area and has designated staff to conduct regular ground monitoring to ensure building and public safety. The MTRCL has added noise insulation equipment to reduce the noise level with a view to minimising the nuisance to the community arising from the construction.

Before the implementation of the temporary traffic management measures and during the construction period, the MTRCL and the contractors have maintained close communication with nearby shop tenants and residents. Apart from distributing notices, they have also met with the shop tenants and residents from time to time to explain the construction arrangement and related temporary traffic management measures. In addition, the MTRCL has also reported to the Community Liaison Group (members including residents) meetings on construction progress and sought views on the temporary traffic management measures.

In the past five years (from January 2014), the complaints received by the Highways Department in relation to the works under the SCL project in the vicinity of Ma Tau Wai Road, Kiang Su Street, Lok Shan Road and Nam Kok Road are tabulated below:

Year	Classification of complaints received by Highways Department							Total
	Obstruction to traffic/pedestrian	Site hygiene	Design and arrangement of temporary traffic management measures	Road defects	Building vibration, noise and air pollution	Site safety	Others	
2014	8	1	5	0	14	1	5	34
2015	1	4	4	3	3	0	2	17
2016	6	1	3	8	5	0	0	23
2017	0	2	1	2	2	0	2	9
2018	2	0	6	5	3	0	2	18

(3) To Kwa Wan Station of the SCL is located underneath Ma Tau Wai Road. Temporary traffic management measures are still being implemented on sections of the road. The MTRCL envisages that traffic in three northbound and three

southbound carriageways of Ma Tau Wai Road will be resumed progressively from the second half of 2019 and will be completed by early 2020.

The structural works, E&M works and fitting-out works of the entrances/exits of To Kwa Wan Station at Kiang Su Street and Lok Shan Road have been completed. The underground utility facilities are being reinstated in phases and the works for the carriageway and footpath are under way. The MTRCL expects that the reinstatement works at Kiang Su Street and Lok Shan Road will be completed by the end of 2019. After the completion of reinstatement works, the barriers used for separating the works site will be removed.

Regarding the section of Nam Kok Road that connects to Sung Wong Toi Station, the reinstatement works of the carriageways were completed in October 2018 and eleven metered car parking spaces along that road section were permanently re-provisioned for public use. The reinstatement works of the footpath are to be completed in the second quarter of 2019. The MTRCL will maintain close communication with the relevant shop tenants to minimise the impact of the remaining works.

The Tai Wai to Hung Hom Section was originally scheduled for commissioning in mid-2019. However, in view of the spate of incidents about the quality of the construction of Hung Hom Station and associated investigation work, the target commissioning date has to be reviewed.

As regards the partial commissioning of some stations and sections of the Tai Wai to Hung Hom Section, the Government has requested the MTRCL to expedite the study on different options and make recommendations. The Government and the MTRCL will actively continue exploring suitable options, with priority accorded to practical feasibility and safety. There is no decision at this stage.

(4) In the past five years (from January 2014), there were a total of 46 compensation claims submitted to the Secretary for Transport and Housing under the Railways Ordinance. The railway projects include the SCL, the Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link, the South Island Line (East), the Kwun Tong Line Extension and the West Island Line. All claims were referred to the Lands Department for follow-up and processing. Among the 46 cases, there were six successful claims and 11 rejected claims. The remaining 29 claims are still being processed. No cases have been referred to the Lands Tribunal. The relevant figures are tabulated as below:

Year of claims received	District	No. of cases received	No. of cases rejected	No. of successful claims
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2014	Central and Western	4	0	2
	Southern	1	1	0
	Yuen Long	1	0	0
	Kowloon City	9	7	0
	Wong Tai Sin	2	0	0
	Kwai Tsing	1	1	0
2015	Central and Western	1	0	1
	Wan Chai	1	0	0
	Sham Shui Po	1	0	0
	Kowloon City	6	0	0
	Yuen Long	1	0	1
2016	Central and Western	1	0	1
	Wan Chai	1	0	0
	Southern	2	1	0
	Sham Shui Po	1	0	1
	Kowloon City	11	1	0
2017	Central and Western	1	0	0
	Kowloon City	1	0	0
2018	All districts	0	0	0
	Total	46	11	6

(5) Under the Railways Ordinance, the claimant is required to serve his claim for compensation to the Secretary for Transport and Housing. In general, the Bureau will refer the claims to the Lands Department for processing under the Railways Ordinance. The Lands Department will assign departmental professional officers (such as surveyors and accountants) to follow up each case. The responsible officers will also seek professional advice from relevant departments (such as the Highways Department, the Buildings Department and the Department of Justice) for giving comprehensive

consideration if necessary.

Within six months of the service of a claim or the further particulars requested from a claimant, the Government will determine whether his claim is accepted or rejected, or a counter-offer is proposed. If the claimant does not agree with the result of his claim, the claimant may refer the claim to the Lands Tribunal for determination after the expiry of 7 months from the receipt of the claim by the Government. The Lands Tribunal is established under the Lands Tribunal Ordinance (Cap 17). It has four professional judges including a President who is a Judge of the Court of First Instance of the High Court and three Presiding Officers, who are District Judges. There are also two Members of the Tribunal who are qualified surveyors. The President and a Presiding Officer may either sit alone or together with a Member in hearing cases. A Member may also sit alone in hearing cases. The Tribunal can determine the amount of compensation payable by the Government to a claimant for his claim.

(6) As mentioned in (5), if the claimant does not agree with the result of his claim, he may refer the claim to the Lands Tribunal to commence proceedings in accordance with section 34(7) of the Railways Ordinance for determination by the Lands Tribunal after the expiry of 7 months from the receipt of his claim by the Government. The Government has no plans to review the Ordinance at the moment.