

**Information Note for External Fixed Carriers
to Apply for Statutory Approvals for
Laying of Submarine Cable and
Landing at Cable Landing Station**

This information note is prepared with a view to facilitating applications for installation of submarine cable system in Hong Kong by External Fixed Carriers¹. It provides the applicants with an outline of the procedures in applying for the necessary statutory approvals under Environmental Impact Assessment Ordinance (“EIAO”) for environmental permit, Foreshore and Sea-bed (Reclamations) Ordinance (“FSRO”) for laying the submarine cable and Town Planning Ordinance (“TPO”) for cable landing station. While the Government will render facilitation to the applicants in the process, it by no means carries any implication that the necessary statutory approvals or grant of land will be guaranteed.

2. The Government is not bound by the guidelines and any information communicated to the applicants concerned through their enquiries to the officers, whose titles are given in the following paragraphs. The Government does not accept any responsibilities on the accuracy of the information given in this note, or any statement or information contained in the guidelines referred.

Environmental Impact Assessment Ordinance (“EIAO”)

3. The purpose of the EIAO (Chapter 499) is to avoid, minimise and control the adverse impact on the environment of designated projects through the environmental impact assessment process and the environmental permit. Depending on the location and the scope of work, laying of a submarine cable may be classified as a designated project which requires an Environmental Permit issued by the

¹ For the purpose of this information note, “External Fixed Carriers” refers to unified carrier licensees and fixed carrier licensees authorized to provide cable-based external fixed service and fixed telecommunications network services licensees authorized to provide cable-based external fixed telecommunications network service.

Environmental Protection Department under the EIAO. Items C12 and Q1 in Schedule 2 of the EIAO are particularly relevant for cable laying in proximity to sensitive areas.

4. The applicant should apply for an environmental impact assessment study brief to proceed with an environmental impact assessment study for the project. Alternatively, if the applicant considers that the impact of the designated project is unlikely to be adverse and the mitigation measures described in the project profile meets the requirements of the “Technical Memorandum on Environmental Impact Assessment Process”, the applicant could submit a project profile to the Director of Environmental Protection (“DEP”) applying for approval to apply directly for an Environmental Permit. The following paragraphs briefly describe the necessary steps and the timing that may be involved in applying directly for an Environmental Permit.

5. Once DEP approves such application, an applicant can then proceed to apply directly for the Environmental Permit.

6. The guidelines on the application procedure and timeline for the aforementioned two applications are detailed in “A Guide to the Environmental Impact Assessment Ordinance”.

7. An applicant should factor in the time required for the EIAO application in the project delivery process.

8. Both the documents entitled “Technical Memorandum on Environmental Impact Assessment Process” and “A Guide to the Environmental Impact Assessment Ordinance” can be obtained from the EIAO Register Office, Environmental Protection Department, 27/F, Southorn Centre, 130 Hennessy Road, Wanchai Hong Kong. Telephone: (852) 2835 1835. Fax: (852) 2147 0894. Further information can be obtained from EIAO website at: <http://www.epd.gov.hk/eia> and the EIAO cyber helpbench (<http://www.epd.gov.hk/eia/hb>).

9. Reference can also be made to similar applications at Tseung Kwan O (EIAO Register No.: DIR-217/2011), Chung Hom Kok (EIAO Register No.: DIR-213/2011), South Lantau (EIAO Register No.:

DIR-160/2007) and Deep Water Bay (EIAO Register No.: DIR-155/2007) whose project profiles are at the following EIAO website address -

<http://www.epd.gov.hk/eia/register/profile/latest/dir217/dir217.pdf>

<http://www.epd.gov.hk/eia/register/profile/latest/dir213/dir213.pdf>

<http://www.epd.gov.hk/eia/register/profile/latest/dir160/dir160.pdf>

<http://www.epd.gov.hk/eia/register/profile/latest/dir155/dir155.pdf>

10. For enquiries, the applicant may contact the EIAO Register Office (Tel: (852) 2835 1835; Fax: (852) 2147 0894).

Foreshore and Sea-bed (Reclamations) Ordinance (“FSRO”)

11. Under the FSRO (Chapter 127), the Director of Lands must, inter alia, publish in the gazette the authorization of the reclamation project before any works start. Laying of a submarine cable in or on the sea-bed within the Hong Kong waters should be gazetted in accordance with the FSRO. The following paragraphs briefly describe the necessary steps and the timing that may be involved in applying for authorization under FSRO.

12. Under S.3 of the FSRO, “where a reclamation is proposed in relation to any foreshore and sea-bed, the Director (of Lands) shall prepare a plan delineating and describing the proposed reclamation and the foreshore and sea-bed intended to be affected thereby.” The Director shall also cause notice of the plan to be published in the gazette under S.5 of the same Ordinance. The notice shall describe the foreshore and sea-bed affected and the manner in which it will be affected by the proposed reclamation. Reclamation includes any works over and upon any foreshore and sea-bed within Hong Kong.

13. To enable the District Lands Office (“DLO”) concerned to arrange for gazettal of the proposed project, the applicant needs to provide the following information -

- the number and nature of cable(s) and the proposed works; and

- the alignment of the cables on both land and sea to be shown on a plan and the works limit.

14. The applicant should submit a plan in larger scale (preferably 1:1000) for DLO to determine the exact alignment of the cables. Such plan will form the basis for the preparation of the gazette plan mentioned above.

15. DLO will co-ordinate all the gazettal works and the applicant may be invited to meetings to answer questions. When DLO obtains sufficient relevant information for the preparation of a background note, a draft gazette notice, draft gazette plans and a draft press release, etc., the DLO will circulate the proposal to all relevant parties for clearance before submitting it to the Lands Department Headquarters for further processing of the gazettal application. Final clearance from the Department of Justice (“D of J”) will be required before the gazetting of the notice under S.5 of the FSRO.

16. After the publication of the notice in the gazette, members of the public may lodge objections to the proposed project during the prescribed two-month period. After that, depending on whether any objection is received, the proposed undertaking may be authorized and the works can commence. This may take from a minimum of four weeks (if there is no objection) to about 12 months (when objections lead to lengthy negotiations with objectors and ultimate submission to the Executive Council to overrule the objections before the proposed works can be authorized).

17. The applicant is responsible for payment of the statutory compensation and ex-gratia allowances (“EGA”) payable due to the reclamation project together with an administrative fee to be decided by the Government and to indemnify the Government from and against all claims, costs and expenses arising out of or in connection with the reclamation. An undertaking (to be prepared by the concerned DLO in consultation with District Solicitor) to this effect will have to be executed by the applicant before the publication of the notice in the gazette. Besides, the applicant will have to deposit the estimated EGA amounts plus ten percent of contingency (after initial assessment by Agriculture,

Fisheries and Conservation Department (“AFCD”)) in the concerned DLO’s Deposit Account before commencement of the works. The applicant will have to supply the information of the works area to the satisfaction of concerned DLO for calculation of the “affected area” of the proposed works before estimation of the EGA amounts by AFCD.

18. For enquiries in respect of a proposed project, the applicant may contact the Senior Estate Surveyor/South (DLO, Hong Kong West & South) (Tel: 2835 1552; Fax: 2833 1945), the Senior Estate Surveyor/2 (DLO, Islands) (Tel: 2852 3571; Fax: 2850 5104) or the Senior Estate Surveyor of the respective District Lands Office for other areas. The Boundary Plan of District Lands Offices and their enquiries directory can be found from Lands Department’s website at http://www.landsd.gov.hk/en/about/boundary_plan.htm and <http://www.landsd.gov.hk/en/about/enquiries.htm> respectively.

Town Planning Ordinance (“TPO”)

19. In Hong Kong, there are two types of statutory plans, namely the Outline Zoning Plans (“OZP”) and Development Permission Area Plans (“DPA Plan”) prepared by the Town Planning Board (“TPB”), which governs the permitted use or zoning of land. Attached to the statutory plans is a set of Notes which sets out for each land use zone the uses that are always permitted (called the “Column One” uses) and those requiring permission from the TPB (called the “Column Two” uses). According to the “Definition of Terms in Statutory Plans”, submarine cable landing stations are considered as one kind of “radar, telecommunications electronic microwave repeater, television and/or radio transmitter installation” or “public utility installation”.

20. Depending on the land use zoning of the proposed submarine cable landing stations on the relevant statutory plans, the applicant may need to submit an application to the TPB for approval under the TPO (Chapter 131). The following paragraphs briefly describe the necessary steps that may be involved.

21. The applicant should first check the land use zoning of the

proposed submarine cable landing station, and the Notes attached to the statutory plans, at the Planning Department (“PD”) or the relevant District Planning Office (“DPO”). If “radar, telecommunications electronic microwave repeater, television and/or radio transmitter installation” or “public utility installation” is one of the “Column One” uses of the relevant land use zones, then no planning permission is required. However, if “radar, telecommunications electronic microwave repeater, television and/or radio transmitter installation” or “public utility installation” is a “Column Two” use, the operator should apply to the TPB for approval under S.16 of the TPO.

22. Nevertheless, should “radar, telecommunications electronic microwave repeater, television and/or radio transmitter installation” and “public utility installation” be neither a “Column One” use nor a “Column Two” use of the relevant land use zone, the operator may submit to the TPB a request for amendment to the statutory plans (i.e. rezoning request) to facilitate the proposed cable landing station.

23. When submitting the application/rezoning request to the TPB, the applicant has to provide the detailed information of the proposed submarine cable landing station including the proposed development scheme, site plans showing the site boundary, layout and disposition of building(s) and any ancillary facilities, assessment on any environmental, transport, landscape and visual impacts and other technical assessments such as drainage and geotechnical assessments, where appropriate.

24. Upon receipt of the application/rezoning request, PD will circulate the application/rezoning request to other relevant Government departments for comments and arrange it for TPB’s consideration. For application submitted under S.16 of the TPO, the applicant will be informed about the result within 2 months; whereas for a rezoning request, the applicant will be informed about the result within 3 months. In the event that a rezoning request is approved by the TPB, the proponent should also allow time for the necessary statutory procedures under the provision of the TPO, e.g. plan exhibition and processing of objection, etc.

25. For enquiries, the applicant may contact the Chief Town Planner/Town Planning Board 1 (Tel: 2231 4800; Fax: 2877 0245, 2522 8426).

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