

香港特別行政區政府  
商務及經濟發展局  
工商及旅遊科



香港添馬添美道二號  
政府總部西翼二十三樓

COMMERCE, INDUSTRY AND TOURISM BRANCH  
COMMERCE AND ECONOMIC  
DEVELOPMENT BUREAU  
GOVERNMENT OF THE HONG KONG  
SPECIAL ADMINISTRATIVE REGION

23/F, WEST WING  
CENTRAL GOVERNMENT OFFICES  
2 TIM MEI AVENUE  
TAMAR, HONG KONG

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電話號碼 Tel. No.: 2810 2087

傳真號碼 Fax No.: 2121 1468

16 November 2018

Ms Wendy Jan  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Ms Jan,

**Subcommittee on  
Peak Tramway (Safety) (Amendment) Regulation 2018 and  
Peak Tramway Ordinance (Amendment of Section 3(3)) Notice 2018**

**Letter from Hon HUI Chi-fung**

Thank you for your letter of 9 November 2018. Our response to Hon HUI Chi-fung's enquiries is set out in the ensuing paragraphs.

**Granting of operating right of peak tramway**

- 1. (a) Whether it is stipulated in the Peak Tramway Ordinance ("PTO") that the holder of the operating right has the priority to be considered by the Chief Executive in Council ("CE-in-C") for the granting of the future operating right or the Government might consider granting the future operating right through open tendering or other means*

Please refer to paragraphs 2 to 5 of the Legislative Council Brief "Operating

Right of Peak Tramway Commencing 1 January 2026” (TC CR T3/22/22/9) issued by the Commerce and Economic Development Bureau (“CEDB”) on 10 October 2018.

Following the enactment of the Peak Tramway (Amendment) Ordinance 2015 in November 2015, CE-in-C may grant an operating right of the peak tramway to a suitable operator from time to time in any manner that CE-in-C thinks fit. Each operating right should not exceed ten years. The operating right is subject to terms agreed between the Government and the operator. Under sections 2B(5) and (6) of PTO, CE-in-C must grant the operating right to the holder for a further period of not exceeding ten years if the operator can satisfy CE-in-C that it is committed to and is capable of implementing an upgrading plan conducive to maintaining the peak tramway as an important tourism and recreational facility. This means the total period of an operating right could be up to 20 years, through a “ten-plus-ten-year” arrangement. Therefore, the holder of the current operating right has the right to apply for an extension of the operating right in accordance with PTO.

***(b) the factors considered by CE-in-C in granting the future operating right of peak tramway***

According to sections 2B(5) and (6) of PTO, CE-in-C has to consider the evidence submitted by the holder of the current operating right (i.e. the Peak Tramways Company Limited (“PTC”)) that: (i) it is committed to implementing a plan for modernizing and improving the tramway and ancillary equipment and facilities; (ii) it is capable of implementing the plan; and (iii) the implementation of the plan will be conducive to maintaining the tramway as an important tourism and recreational facility. In granting the second ten-year operating right, CE-in-C has already considered the upgrading plan and implementation timetable provided by PTC, and is satisfied with PTC's commitment and capability of implementing the upgrading plan.

**Land premium**

***2. The estimated amount of full land premium and administrative fee for using the additional Government land to be granted to PTC***

Relevant information has been set out in item (a) in CEDB’s written reply of 9 November 2018 in response to issues raised at the Subcommittee meeting held on 31 October 2018 (see attachment for details).



3. *(a) In formulating the annual consideration paid by PTC, which is based on a rate of 12% of the total revenue generated and collected by PTC from the peak tramway operation in the relevant year, how much is for purchase of Government land and how much is for renting of Government land? (b) what are the other items covered in this annual consideration apart from land premium?*

The annual consideration payable by PTC is based on a rate of 12% of the total revenue generated and collected by PTC from the peak tramway operation in the relevant year, which is the land premium for the occupation and use of Government land for the operation of the peak tramway. There is no other items covered.

#### 4. *General land policy in tourism projects*

As we pointed out at the Subcommittee meeting held on 12 November 2018, the mode of granting of land in different tourism projects would hinge on the nature and development need of projects concerned. There is no hard and fast rule in this regard.

#### **Measures to monitor the performance of PTC**

5. *(a) Measures to be taken by the Administration to monitor the progress of PTC's upgrading plan, and the follow-up actions to be taken by the Administration if PTC cannot complete its upgrading plan by 2021; and (b) terms of operating right*

The Administration has formed an inter-departmental working group comprising various government bureaux / departments to examine PTC's upgrading plan and to monitor the works to ensure PTC's upgrading plan would comply with the requisite statutory requirements and be completed on time. Moreover, to monitor the progress of PTC's upgrading plan, the Administration will take various administrative measures, such as maintaining close communications with PTC, and requesting PTC to provide progress reports at regular intervals.

In case of PTC's failure or default in completing the upgrading plan on time falls within any of the situations of default under section 8A of PTC (e.g. PTC fails to comply with a term on which the operating right is granted, fails to operate or maintain the tramway properly which is likely to result in a substantial breakdown of the tramway system or serious injury to persons who travel on the tramway, etc.), the mechanism under section 8B to 8E may come into play.



According to section 8B(2), the Secretary for Commerce and Economic Development (the “Secretary”) may issue a notice to the company (i.e. PTC) requiring it to remedy the default and take effective measures to the satisfaction of the Secretary. Should PTC fail to comply with a notice issued to it under section 8B(2) of PTO, CE-in-C may, pursuant to section 8C(3) of PTO, direct the Secretary to issue a notice to PTC informing it of the intention of CE-in-C to terminate the operating right granted to it.

Further, under section 14D of PTO, if the Secretary opines that the condition of any part of the tramway or of any machinery, plant or equipment of such part is such as to cause, or to be likely to cause, a risk of injury to any person, the Secretary may direct PTC to carry out works or take steps as specified in his order to ensure that the condition of the tramway, or of any part in question, will cease to constitute such a risk.

The Government will make the best endeavor to monitor the progress of the upgrading plan and ensure that PTC is able to maintain the tramway as an important tourism and recreational facility.

Apart from the statutory requirement that PTC should be committed to implementing an upgrading plan for the granting of the second ten-year operating right, the Government has also included the following in the terms of the operating right: the consideration that PTC has to pay to the Government for the occupation and use of Government land for the operation of the peak tramway (based on a rate of 12% of the total revenue generated and collected by PTC from the peak tramway operation in the relevant year); the mechanism of collecting consideration, such as annual submission to the Government by PTC of its annual audited financial statements for the calculation of the actual sum of consideration to be paid; the payment arrangement, such as the provisional payment made by PTC to Lands Department (“LandsD”) by a deadline as set by LandsD; the pledge on the frequency of the peak tramway service, such as the pledge that the frequency should be no worse than that committed under the first ten-year operating period; the pledge on the service reliability ratio of the peak tramway service; the requirement of reporting to the Government on the actual service performance; the mechanism of providing the Government access to the premises and equipment used for the operation of the peak tramway; the requirement of providing information and assistance to the Government, etc.

***6. Measures to be taken by the Administration to monitor the progress of PTC's upgrading plan and whether a mid-term review will be taken***

As mentioned above, the Administration has formed an inter-departmental working group comprising various government bureaux / departments to examine PTC's upgrading plan and to monitor the works to ensure PTC's

upgrading plan would comply with the requisite statutory requirements and be completed on time. The Administration would continue to closely monitor the progress of the upgrading plan, including maintaining close communications with PTC and requesting PTC to provide progress reports at regular intervals.

Yours sincerely,



(Miss Maggie Chow)  
for Secretary for Commerce and  
Economic Development

Encl.

c.c. Hon Jeffrey LAM, Kin-fung, GBS, JP (Chairman)



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9 November 2018

Ms Wendy Jan  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Ms Jan,

**Subcommittee on  
Peak Tramway (Safety) (Amendment) Regulation 2018 and  
Peak Tramway Ordinance (Amendment of Section 3(3)) Notice 2018**

Thank you for your letter of 1 November 2018. At the meeting of the Subcommittee held on 31 October 2018, members enquired about some issues relating to the captioned subject. Our response to members' enquiries is set out in the ensuing paragraphs.

***(a) The estimated amount of full land premium/market rent and administrative fee for using the additional Government land to be granted to the Peak Tramways Company Limited ("PTC")***

As explained in paragraph 17 of the Legislative Council ("LegCo") Brief "Operating Right of the Peak Tramway Commencing 1 January 2026" (TC CR T3 22/22/9) issued on 10 October 2018, the additional Government land is granted to PTC at nominal land premium and nil administrative fee because the sum of consideration chargeable for the first and second ten-year operating rights had already taken into account the land use under

PTC's upgrading plan, which would extend to the additional government land on top of the existing Government land on which the tram track and the four intermediate stations lie. The proposed arrangement was endorsed by Chief Executive in Council in 2015 and was also reported to the Legislative Council in 2015 (set out in paragraph 4 of the above-mentioned LegCo Brief).

The additional land granted to PTC is adjacent to the tramway and of very low development potential. As a matter of fact, the additional land granted to PTC is not free of charge. In formulating the annual consideration payable by PTC based on a rate of 12% of its total revenue generated, the value for PTC's use of the government land, including the additional land, has already been reflected. As the additional land forms part and parcel of PTC's upgrading plan and its use has been reflected in the annual consideration payable by PTC, there is thus no separate assessment on the rent / land premium for the additional land granted to PTC. As regards the administrative fee of the subject direct grant of Short-Term Tenancy, it is \$19,450 if charged.

***(b) The number of seated and non-seated passengers in each tramcar before and after increasing the tramcar capacity from 120 to 210 passengers and the factors considered by PTC in determining the new tramcar capacity***

Currently the ratio of seated to non-seated passengers in the tramcar is 95 to 25 (79% to 21%). The existing seat rows are spaced at 700 mm pitch and the two-seat benches are 800 mm wide, the three seat benches are 1240 mm wide. There is approximately 10 square metres for standing passengers, i.e. a maximum 2.5 passengers per square metre.

The proposed new tramcars will maintain the seated to non-seated ratio at 79 : 21 (i.e. 167 seated : 43 standing passengers). The seat row spacing and the seat bench widths will also be maintained. There is approximately 25 square metres for standing passengers, i.e. a maximum 1.7 passengers per square metre. This is largely due to the wider gangways at the tramcar doors providing more standing area.

The primary factor considered in determining the new tramcar capacity was the increase in hourly capacity to meet and exceed demand. This was balanced against the increased length and weight of the tramcars, which affects the existing infrastructure and the constrained space in the existing haulage room for the larger haulage equipment required. The tramcar length and door positions are also limited by the existing Upper Terminus platform space.



**(c) Details of alternative public transport services to reach the Peak**

The requested information is set out below –

<i>Route</i>	<b>New World First Bus Route No.15</b> Central (Central Ferry Piers) – The Peak	<b>New World First Bus Route No.15B</b> Wan Chai (HK Convention and Exhibition Centre Extension) – The Peak	<b>Green Mini Bus Route No.1</b> Central (HK Station) – The Peak
<i>Service hours</i>	6:15 a.m. – 1:00 a.m.	12.40 p.m. – 7.40 p.m. (Sundays and Public Holidays only)	6:30 a.m. – 12:25 a.m.
<i>Frequency</i>	<u>Monday to Friday (except Public Holidays)</u> 9 – 30 mins  <u>Saturdays, Sundays and Public Holidays</u> 7 – 30 mins	20 mins	5 – 12 mins
<i>Patronage statistics in 2017</i>	3.5 million	0.1 million	1.4 million

**(d) Measures to be taken by the Administration to monitor the progress of PTC's upgrading plan to ensure its timely completion, and the follow-up actions to be taken by the Administration if PTC cannot complete its upgrading plan by 2021**

The Administration has formed an inter-departmental working group comprising various government bureaux / departments to examine PTC's upgrading plan and to monitor the works to ensure PTC's upgrading plan would comply with the requisite statutory requirements and be completed in good time. Besides, to monitor the progress of PTC's upgrading plan, the Administration will take various administrative measures, such as maintaining close communications with PTC, requesting PTC to provide progress reports at regular intervals.

In case PTC's failure or default in completing the upgrading plan on time



falls within any of the situations of default under section 8A of PTC (e.g. PTC fails to comply with a term on which the operating right is granted, fails to operate or maintain the tramway properly which is likely to result in a substantial breakdown of the tramway system or serious injury to persons who travel on the tramway, etc.), the mechanism under section 8B to 8E may come into play.

According to section 8B(2), the Secretary for Commerce and Economic Development (the “Secretary”) may issue a notice to the company (i.e. PTC) requiring it to remedy the default and take effective measures to the satisfaction of the Secretary. Should PTC fail to comply with a notice issued to it under section 8B(2) of PTO, the Chief Executive in Council may, pursuant to section 8C(3) of PTO, direct the Secretary to issue a notice to PTC informing it of the intention of the Chief Executive in Council to terminate the operating right granted to it.

Further, under section 14D of PTO, if the Secretary opines that the condition of any part of the tramway or of any machinery, plant or equipment of such part is such as to cause, or to be likely to cause, a risk of injury to any person, the Secretary may direct PTC to carry out works or take steps as specified in his order to ensure that the condition of the tramway, or of any part in question, will cease to constitute such a risk.

Please rest assured that the Government will make the best endeavor to monitor the progress of the upgrading plan and ensure that PTC is able to maintain the tramway as an important tourism and recreational facility.

***(e) The improvement measures to be taken to address the long-standing concerns on the queuing and waiting arrangements at the Upper Terminus***

The boarding platform will be widened and lengthened to provide sufficient waiting area for a full tram-load of 210 passengers, an increase of 90 passengers. There will also be an indoor, air-conditioned waiting area for 80 passengers prior to the ticket gates, which is an increase of 40 passengers from the current provision.

After the completion of the upgrading plan, the new Peak Tram’s hourly capacity will exceed the current and forecast demand, and hence queues will not normally build-up at the Upper Terminus.

The Lower Terminus expansion is more extensive than the Upper Terminus for the following reasons – (a) the platforms need to be relocated uphill to house the longer tramcar; (b) the Lower Terminus passenger demand is

greater than the Upper Terminus; and (c) PTC wants to enrich visitors' experience through this provision of entertainment including a display of the Peak Tram history and engineering system.

(f) *Services PTC provided / to be provided at the termini of the Peak Tramway for assisting elderly, disabled persons and other passengers with special needs in using the Peak Tram service*

PTC currently offers a concessionary rate (55 - 62% discount) to seniors and disabled passengers throughout the year. Operations staff are well-trained to provide assistance and to offer boarding priority for anyone in need, including disabled passengers, pregnant ladies and senior citizens with walking aids.

Currently, there are steps up into the existing tramcar and wheelchair passengers have to be manhandled up a ramp onto the tramcar by PTC's staff. After the completion of the upgrading plan, the platforms and the tramcar floor will be level and the tramcar doors will be wider therefore a wheelchair can roll-on and roll-off with ease. The new tramcar will provide eight fixing spaces for wheelchairs per journey compared to the current provision of two. Furthermore, a wheelchair lifting platform will be added at the Lower Terminus.

(g) *Reason for the Administration to propose to repeal the term "both compartments" and substitute that with "all compartments" in clause 3 of the Peak Tramway (Safety) (Amendment) Regulation 2018*

The definition of *tramcar* under section 2 of the Peak Tramway (Safety) Regulations (Cap. 265A) appears in regulations 4, 18, 21 and 28 of Cap. 265A. These provisions concern the duties of surveyor in examining the tramcar (reg. 4), duties of operator to properly operate the tramcar (reg. 18), as well as duties of company to ensure the safety of tramcar generally (reg. 28). The reason for changing from "both compartments" to "all compartments" is to allow flexibility of the number of compartment. The capacity of a tramcar is limited by regulation 21 of Cap. 265A.

(h) *Whether the term "所有車卡" (all compartments) has been used in other legislation in relation to public transport*

As to similar reference in other ordinances concerning similar mode of transport, we note the following definitions:



“car” (電車廂) includes *all cars and trucks* used upon the tramway; (section 2 of the Tramway Ordinance, Cap. 107)

“train” (列車) means *any train (or carriage or compartment thereof)* owned by or in the possession of the Corporation. (by-law 2 of the Mass Transit Railway By-laws, Cap. 556B)

“vehicle of the North-west Railway” (西北鐵路車輛) means *any train or carriage or compartment thereof* used on or in connection with the railway. (section 1 of the Mass Transit Railway (North-west Railway) Bylaw, Cap. 556H)

*(Emphasis added)*

Yours sincerely,



(Miss Maggie Chow)

for Secretary for Commerce and Economic  
Development

c.c. Hon Jeffrey LAM, Kin-fung, GBS, JP (Chairman)