

**For consideration
on 26 March 2004**

Legislative Council Panel on Transport

Staffing Proposal on Possible Merger of MTR Corporation Limited and Kowloon-Canton Railway Corporation in the Environment, Transport and Works Bureau

PURPOSE

This paper briefs Members on the Administration's proposal to create two supernumerary posts of one Administrative Officer Staff Grade B (AOSGB) (D3) and one Administrative Officer Staff Grade C (AOGSC) (D2) in the Environment, Transport and Works Bureau (ETWB). We plan to submit the proposal to the Establishment Subcommittee (ESC) of the Finance Committee for consideration at its meeting on 28 April 2004.

PROPOSAL

2. The existing directorate support in the ETWB is not adequate to cope with the additional workload arising from a possible merger of the MTR Corporation Limited (MTRCL) and Kowloon-Canton Railway Corporation (KCRC). We need to set up a dedicated team by creating two supernumerary posts of one AOSGB (D3) and one AOSGC (D2) for a period of two years with effect from 1 July 2004. The two supernumerary posts will be designated as Deputy Secretary for the Environment, Transport and Works (Transport) 4 (DS(T)4) and Principal Assistant Secretary for the

Environment, Transport and Works (Transport) Special Duties (PAS(T)SD) respectively.

JUSTIFICATION

3. At the meeting of the Executive Council on 24 February 2004, the Council advised and the Chief Executive ordered that the MTRCL and KCRC should be invited to commence negotiations on a possible merger based on a set of parameters defined by the Government. The two railway corporations were asked to report the outcome of their negotiations on or before 31 August 2004. Having regard to the outcome of the negotiations, the Government would then decide on the way forward.

4. There is a huge amount of work to be done by August 2004. We have set up a merger management committee with the two corporations to monitor the programme and facilitate the negotiations, and to ensure that the parameters set by the Government are adequately addressed in the negotiations. A merger steering committee has also been set up between the Government and KCRC for the Government, as the sole shareholder of KCRC, to give steer to KCRC in its negotiations. Against this background, one supernumerary post of AOSGB (D3) has been created under delegated authority from Finance Committee (FC) with effect from 29 February 2004 in the ETWB to help oversee the operation of the merger steering committee and the merger management committee; to monitor the progress of the negotiations and follow up on matters that may require the Government's input/actions to facilitate the negotiations; to provide policy guidance on a whole range of merger-related transport issues arising from the negotiations; to maintain liaison with major stakeholders as well as to work hand in hand with the Financial

Services and the Treasury Bureau on the valuation and financial aspects of the possible merger and the management of Government's consultant(s) for the merger exercise.

5. The negotiations between the two railway corporations will cover a wide range of issues including, for example, review of fare structure, development of proposal for a more objective and transparent fare adjustment formula, resolution of interchange arrangements for railway projects under planning, development of safeguards and measures to deal with service disruption, preparation of the framework of an integrated Operating Agreement (OA), assessment of the management and organisational structure of the merged corporation, handling of human resource matters, development of proposal concerning the transaction structure, identification of areas for synergy, development and evaluation of business plan for the merged corporation, and preparation of written undertakings and related documents. The negotiations are expected to reach a critical stage towards July 2004. There will be increasing demand for policy guidance at Bureau level and ETWB will actively involve in intensive discussions with the two corporations on the various issues to be addressed in the negotiations nearer the time to examine in detail the policy issues arising therefrom to facilitate the timely conclusion of the negotiations within the parameters set by the Government. With these considerations, it is necessary to strengthen our directorate support by setting up a dedicated team comprising two directorate officers at AOSGB (D3) and AOSGC (D2) levels with effect from 1 July 2004. Taking into account the complexity of and the procedures required for the merger exercise, we propose that the posts be created for a period of two years up to implementation of the merger.

6. The dedicated team will follow through the conclusion of the

negotiations, assess the outcome of the negotiations to decide upon the optimal form of legal and regulatory framework for the merged corporation and, upon the Government's decision to proceed with the merger, ensure its successful implementation. They will provide policy input on all transport-related issues arising from the possible merger and a whole range of corporate governance issues relating to the formation of the merged corporation. To ensure proper regulation of the merged entity, it is essential to have in place a carefully drafted piece of legislation which sets out clearly the rights and obligations of the merged corporation and an integrated OA which sets out clearly the quality and safety requirements for the services to be provided. Besides, proper safeguards and precautionary measures will need to be incorporated into the OA or the governing legislation of the merged corporation to provide an effective and adequate contingency plan in case of service disruption or station closure. The dedicated team will prepare the governing legislation and the OA. They will oversee the completion of the legislative process and the implementation of the merger.

7. Taking into account the complexity of the tasks involved, we need two supernumerary posts of one AOSGB (D3) to be designated as DS(T)4 and one AOSGC (D2) to be designated as PAS(T)SD. The proposed ranking is to ensure that the post-holders have the requisite experience, exposure and expertise to execute the responsibilities of DS(T)4 and PAS(T)SD. The supernumerary AOSGB (D3) post created under delegated authority (paragraph 4 above) will lapse upon the creation of the proposed DS(T)4 post with effect from 1 July 2004.

Encls. 8. The job descriptions of DS(T)4 and PAS(T)SD are at Enclosures 1 and
1 & 2
Encl. 3 2 respectively. The proposed organization chart of ETWB is at Enclosure 3.

9. In the event that the Government, having regard to the outcome of the

negotiations and all relevant factors, decides not to proceed with the merger, we will report to the ESC as soon as practicable and the two supernumerary posts under the current proposal would be proposed for deletion.

10. The creation of the two supernumerary posts of DS(T)4 and PAS(T)SD will be offset by the deletion of two permanent posts of one Assistant Director (Civil)/Land Development (Government Engineer) (D2) and one Chief Geotechnical Engineer/Materials (Chief Geotechnical Engineer) (D1) upon the amalgamation of the Civil Engineering Department and Territory Development Department with effect from 1 July 2004.

11. The level and complexity of the responsibilities of the proposed DS(T)4 and PAS(T)SD posts require dedicated attention and input at AOSGB (D3) and AOSGC (D2) levels respectively. We have critically considered the possible redeployment of existing directorate posts to take on the work of the proposed DS(T)4 and PAS(T)SD posts. As all the other Deputy Secretaries and Principal Assistant Secretaries are fully occupied with their existing schedules, it is operationally not possible for them to take up the job without adversely affecting the discharge of their current duties.

FINANCIAL IMPLICATIONS

12. The proposed creation of two supernumerary directorate posts will bring about an additional notional annual mid-point salary cost of \$2,984,820 and in full annual average staff cost of \$4,255,000. The cost of the two posts will be met by internal redeployment of resources within ETWB.

ADVICE SOUGHT

13. Members are invited to give their views on this paper and indicate support for the staffing proposal.

Environment, Transport and Works Bureau
March 2004

**Proposed Job Description for
Deputy Secretary for
the Environment, Transport and Works (Transport)⁴**

Rank : Administrative Officer Staff Grade B (D3)

Main Duties and Responsibilities –

Responsible to the Permanent Secretary for the Environment, Transport and Works (Environment and Transport) for the following main duties -

1. to oversee the operation of the merger steering committee and the merger management committee, provide policy input to facilitate the timely conclusion of the negotiations between the MTR Corporation Limited and the Kowloon-Canton Railway Corporation on a possible merger, provide policy guidance on the assessment of the outcome of the negotiations and decide upon the optimal form of legal and regulatory framework for the merged corporation;
2. to provide policy guidance on all transport-related issues arising from the merger exercise;
3. to provide policy guidance on a whole range of corporate governance issues relating to the formation of the merged corporation;
4. to supervise the preparation of the governing legislation and an integrated Operating Agreement for regulating the operation of the merged corporation and oversee the completion of the legislative process; and
5. to set up the legal and regulatory framework for the merged corporation and oversee the implementation of the merger.

**Proposed Job Description for
Principal Assistant Secretary for
the Environment, Transport and Works (Transport) Special Duties**

Rank : Administrative Officer Staff Grade C (D2)

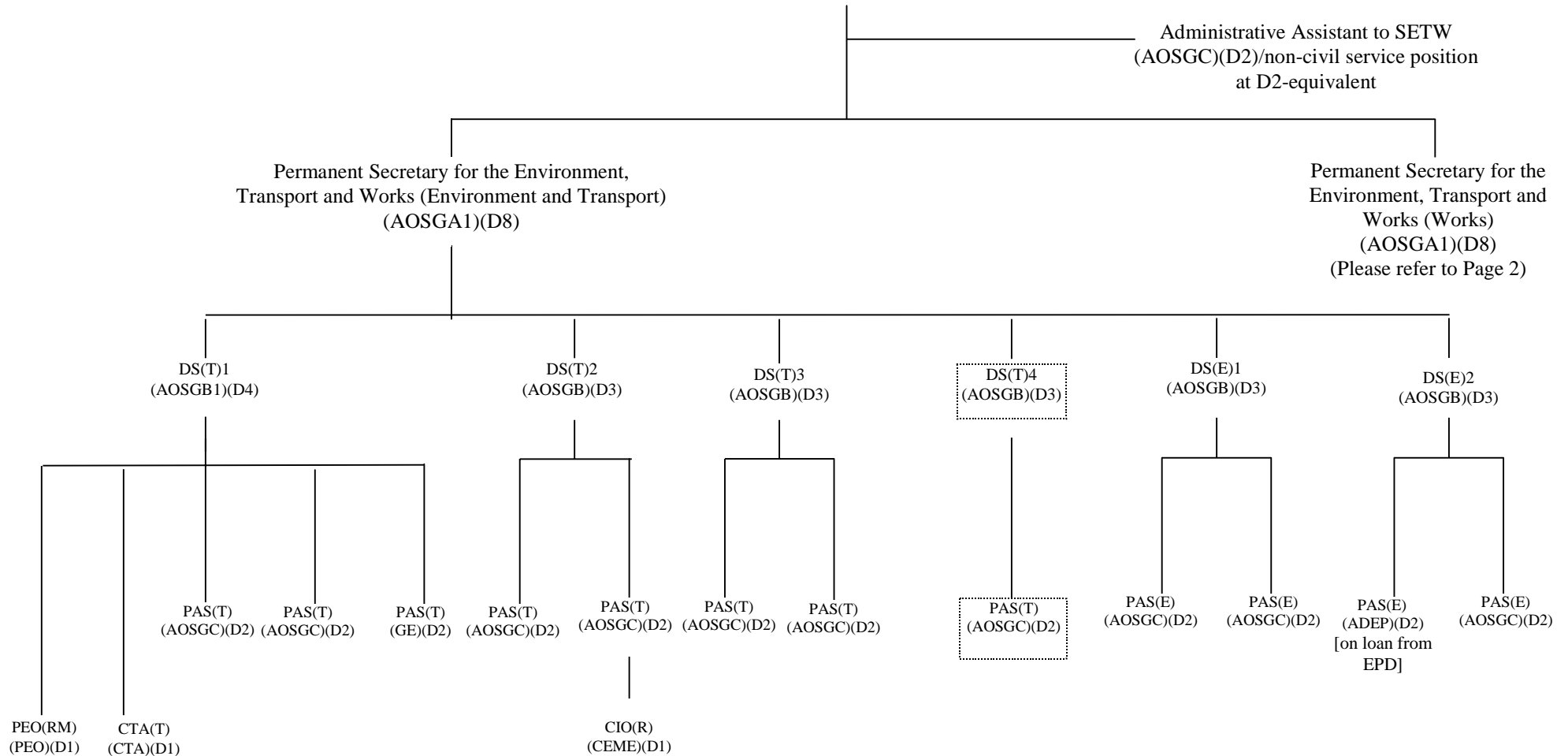
Main Duties and Responsibilities –

Responsible to the Deputy Secretary for the Environment, Transport and Works (Transport) 4 for the following main duties -

1. to provide policy and administrative support for the merger steering committee and the merger management committee;
2. to examine and advise on the policy implications of all transport-related issues arising from the merger exercise in consultation with the relevant Government bureaux and departments, including all matters relating to the parameters set by the Government for the negotiations;
3. to develop policy proposals on corporate governance of the merged corporation;
4. to prepare the governing legislation and an integrated Operating Agreement for regulating the operation of the merged corporation in conjunction with the Department of Justice and other relevant parties and assist in the legislative process;
5. to assist in setting up the legal and regulatory framework for the merged corporation and coordinate with the railway corporations and the relevant Government bureaux and departments to work out and implement transitional arrangements for implementing the merger; and
6. to manage the Government's consultant(s) in respect of matters concerning the traffic, transport and railway operation aspects of the merger exercise.

Proposed Organization Chart of the Environment, Transport and Works Bureau (Environment and Transport Branch)

Secretary for the Environment, Transport and Works



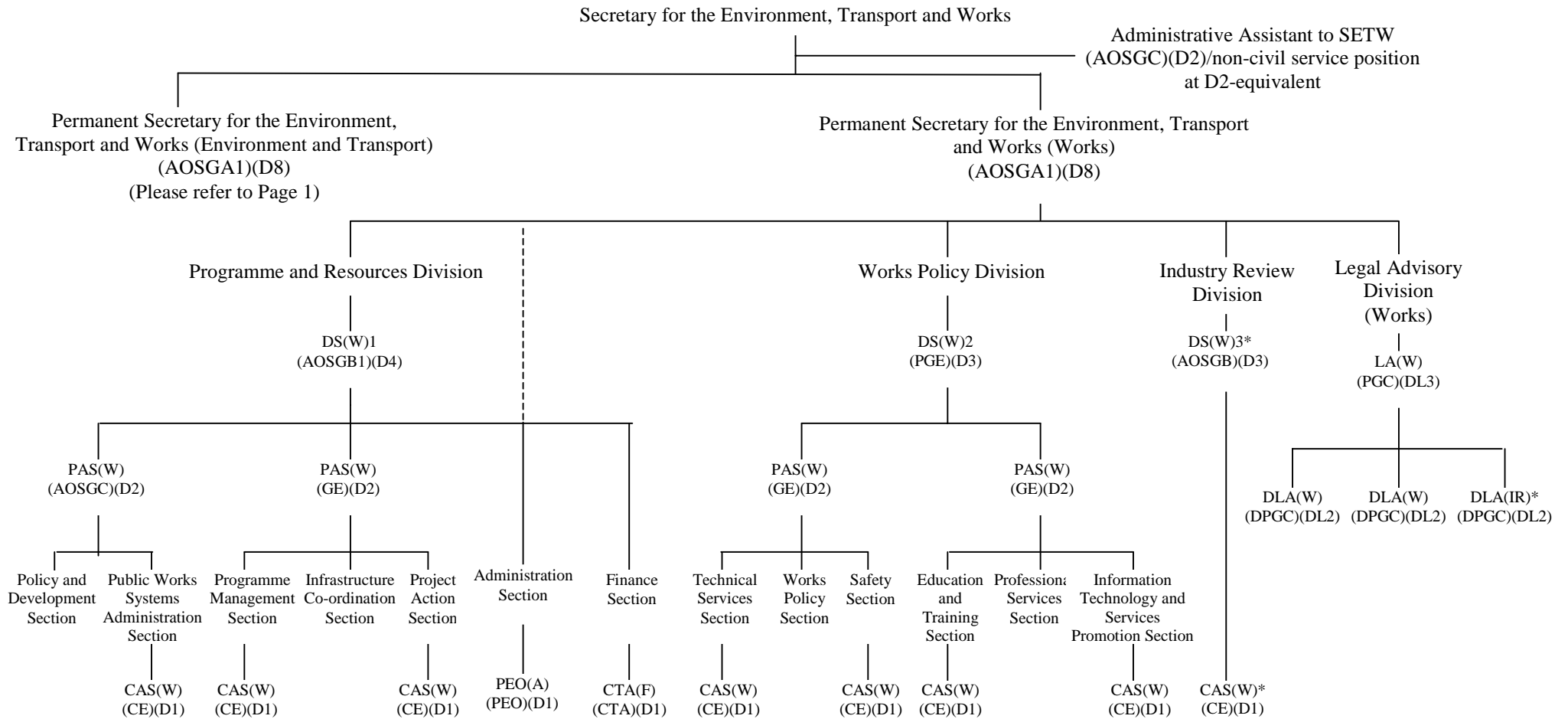
Legend

SETW Secretary for the Environment, Transport and Works
 DS Deputy Secretary
 PAS Principal Assistant Secretary
 AOSGA1 Administrative Officer Staff Grade A1
 AOSGB1 Administrative Officer Staff Grade B1
 AOSGB Administrative Officer Staff Grade B
 AOSGC Administrative Officer Staff Grade C
 ADEP Assistant Director of Environmental Protection

GE Government Engineer
 CEME Chief Electrical and Mechanical Engineer
 CIO(R) Chief Inspecting Officer (Railways)
 CTA Chief Treasury Accountant
 PEO Principal Executive Officer
 E Environment
 EPD Environmental Protection Department
 T Transport
 RM Resource Management

 Proposed creation of two supernumerary posts of AOSGB and AOSGC

Proposed Organization Chart of the Environment, Transport and Works Bureau (Works Branch)



Legend

SETW Secretary for the Environment, Transport and Works
 DS Deputy Secretary
 LA Legal Advisor
 PAS Principal Assistant Secretary
 DLA Deputy Legal Advisor
 IR Industry Review
 CAS Chief Assistant Secretary

AOSGA1 Administrative Officer Staff Grade A1
 AOSGB1 Administrative Officer Staff Grade B1
 AOSGB Administrative Officer Staff Grade B
 AOSGC Administrative Officer Staff Grade C
 PGE Principal Government Engineer
 GE Government Engineer
 CE Chief Engineer

PGC Principal Government Counsel
 DPGC Deputy Principal Government Counsel
 PEO Principal Executive Officer
 CTA Chief Treasury Accountant
 A Administration
 F Finance
 W Works

* Supernumerary posts up to 5.7.2004