

LEGISLATIVE COUNCIL BRIEF

Peak Tramway Ordinance (Chapter 265)

OPERATING RIGHT OF THE PEAK TRAMWAY COMMENCING 1 JANUARY 2026

INTROUCTION

At the meeting of the Executive Council on 2 October 2018, the Council ADVISED and the Chief Executive ORDERED that –

- (a) the Peak Tramways Company Limited (“PTC”) be granted the second ten-year operating right commencing 1 January 2026, on the terms agreed between the Government and PTC, under section 2B(5) of the Peak Tramway Ordinance (Cap. 265)(“PTO”);
- (b) on the understanding that the sum of consideration chargeable for the first and second ten-year operating rights had already taken into account PTC’s upgrading plan, which would cover use of the requested additional Government land on top of the Government land on which the tram track and the four intermediate stations currently lie, PTC be granted a Special Purpose Lease (“SPL”) for the requested unleased and unallocated Government land of about 426m² by way of private treaty at a nominal land premium and nil administrative fee, for a term starting from the date of the execution of SPL up to 31 December 2035, for implementing its upgrading plan to maintain the peak tramway as an important tourism and recreational facility;
- (c) the Peak Tramway (Safety) (Amendment) Regulation 2018 and the Peak Tramway Ordinance (Amendment of Section 3(3)) Notice 2018 (at **Annex A**) be made;
- (d) the Director of Lands be delegated the authority to approve the SPL and make adjustments to the boundary and site area of the land required by PTC provided that the Commerce and Economic Development Bureau

(“CEDB”) is satisfied that the key basic principles for SPL are met and adjustments are supported by the Secretary for Commerce and Economic Development (“SCED”);

- (e) a renewable Short-Term Tenancy (“STT”) be granted to PTC at nominal rent and nil administrative fee from the date following the de-gazettal of the tramway area for expansion of Lower Terminus (“New Lower Terminus Area”) from the Plan defined under section 3(3) of PTO (tentatively in late 2018) up to the date of execution of SPL to enable PTC to commence the alteration and construction works for implementation of its upgrading plan as soon as possible; and
- (f) the land lease of the terminus site of the Peak (RBL 1104) expiring in 2031 be extended on the basis of existing terms by four years to end-2035, to co-terminus with the end date of the second ten-year operating right to be granted to PTC under (a) above, with land premium and administrative fee to be determined by the Lands Department (“LandsD”) as per the land policy prevailing at the time when the extension is processed and finalised according to the normal procedures, to reflect the then market value and the then prevailing administrative charge.

JUSTIFICATIONS

PTC’s application for the second ten-year operating right commencing 1 January 2026

2. Following the enactment of the Peak Tramway (Amendment) Ordinance 2015 in November 2015, the Chief Executive in Council (“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.

3. Subsequently on 1 December 2015, CE-in-C approved under section 2B(1) of PTO the grant to PTC of the first ten-year operating right of peak tramway commencing 1 January 2016. In that context, PTC had already

indicated to the Government its intention to undertake an upgrading plan by replacing and enhancing the existing system with a new one, at an estimated cost of some \$650 million.

4. As mentioned in the LegCo Brief “Operating Right of the Peak Tramway Commencing 1 January 2016” (TC CR T3/22/22/9) issued in December 2015, the Government, without pre-empting any decisions that CE-in-C might make in future, had conveyed in writing to PTC for the purpose of consideration of the grant of the second ten-year operating right under the ten-plus-ten year operating right arrangement that –

- (a) the basis for calculating the sum of consideration chargeable for the first ten-year operating right (commencing on 1 January 2016) would basically apply to the second ten-year operating right, barring any material difference in business performance and prospects of the operation of peak tramway. If the upgrading plan would materialise in the end and the second ten-year operating right would be granted to PTC, the sum of consideration chargeable for the first and second ten-year operating rights had already taken into account PTC’s upgrading plan which would cover the use of additional Government land (see (b) below), on top of the Government land on which the tram track and the four intermediate stations lie;
- (b) any reasonable request put forth by PTC for “direct grant” of additional Government land for the purpose of the upgrading plan would be considered in the context of maintaining the peak tramway as an important tourism and recreational facility, as well as land and other relevant policies, land availability and proven genuine need. Such additional Government land would be granted to PTC without additional charge through an appropriate instrument; and
- (c) the land lease of the terminus site of the Peak (RBL 1104), expiring in 2031, would be extended on terms basically the same as the existing terms by four years to end-2035, to co-terminus with the end date of the second ten-year operating period. As advised by LandsD, land premium for this extension, as per the prevailing land policy, will be determined nearer the time and would reflect the then market value.

5. Against the above background, PTC formally submitted the application for a ten-year extension (i.e. second ten-year operating right from 2026 to 2035) together with the upgrading plan in support of its application in late December 2016 under section 2B(4)(b) of PTO.

PTC's upgrading plan in support of its application for an extension of the operating right

6. Under the upgrading plan, PTC proposes to replace and enhance the existing peak tramway system in the following ways to provide better service for the passengers –

- (a) increasing the tramcar capacity by over 75% from 120 passengers to 210 passengers, with installation of an upgraded haulage system to operate the enlarged tramcars to maintain safety and reliability;
- (b) expansion and redevelopment of the Lower Terminus at Garden Road and the Peak Tower terminus to cope with the need of a longer tramcar, expansion of the holding capacity and improvements to the waiting environment. Specifically, PTC plans to provide a covered, temperature-controlled queuing and waiting area for about 1,300 passengers at the Lower Terminus by relocating the boarding and alighting platforms some 70 meters uphill and creating an extended Lower Terminus extending down to St. John's Building;
- (c) renovation of the Upper Terminus platform areas, including widening the boarding platform, increasing the number of turnstiles and points-of-sale and providing a larger waiting area prior to ticketing; and
- (d) undertaking consequential works arising from the increased tram size, including replacement of all track rails and structural improvement of track foundation and tramway bridges.

These measures aim to address the long-standing concerns on the queuing and waiting arrangements at the terminus of the Peak Tramway, in particular the Lower Terminus, as well as to enhance service quality for the enjoyment of tourists and locals alike.

Phased approach

7. PTC aims to commence the upgrading works in late 2018, for completion in 2021, while maintaining intact the Peak Tram service as far as possible. The first phase of construction includes the facelift of part of the Tramway Path and the building of the platform between Tramway Path and the tramway itself, with the new alighting platform adjoining Tramway Path used as the temporary boarding platform. The works (including demolition of existing cable store, site formation and new platform construction works) will be carried

out from early 2019. During this period, the Peak Tram will continue its normal operation. After completion of the new alighting platform (temporary boarding platform), there will be a short period of service suspension for around two months for construction of a temporary alighting platform, and modification of the existing Peak Tram system for operation of the temporary platform. This temporary platform will be in operation for around 12 to 15 months. After completion of the temporary platform and arrangements, the Peak Tram service will resume and maintain its normal operation while the remaining parts of the Lower Terminus including ticket hall, waiting area, and the existing terminus in St. John's Building will undergo construction/renovation. The second period of service suspension is expected to last for around five months, when the existing tramcars, systems and haulage equipment are replaced with new ones.

Temporary service plan

8. There is a need for PTC to put in place a temporary service plan for the operation of the temporary platform arrangements so as to vacate the area for the construction of the new Lower Terminus. PTC's temporary arrangements maintain all existing thoroughfares and access points and aim to maintain the current frequency and capacity of the peak tram service. PTC has been in dialogue with relevant parties to minimise any impact of its temporary service plan. PTC will also keep the stakeholders informed in advance of the two planned temporary suspension periods of the peak tram service according to the established mechanism and maintain liaison with other road-based public transport operators to ensure provision of alternative public transport services as in similar planned suspensions in 2017 and 2018.

Additional land requested for the upgrading plan

9. PTC has requested additional Government land for implementing the upgrading plan. As mentioned in paragraph 6 above, PTC proposed to build a covered and temperature-controlled queuing and waiting area for about 1,300 passengers and additional Government land is thus required to build a new lower terminus platform. The additional land involves three areas of unallocated Government land. The first two are adjacent to either side of the tramway area, between Tramway Path and Helena May, which is about 274m² in size. The third area of unleased and unallocated Government land, about 152m² in size, is required for the passing loop extension to cater for the relocated passing point and operation of larger tramcar. The total size of the three areas of land, which are adjacent to the existing tramway and are of very low development potential, is about 426m². A plan showing the additional land requested by PTC is at **Annex**

Assessment of PTC's application and upgrading plan

10. Under sections 2B(5) and (6) of the PTO, CE-in-C must grant the operating right to the holder for a further period not exceeding ten years, beginning on the expiry of the current period (i.e. 1 January 2026) and on terms agreed between the Government and the holder, 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.

11. To assess PTC's application for the second ten-year operating right and its upgrading plan, an inter-departmental working group comprising 18 bureaux/departments has been set up. The aim is to ensure PTC's design proposals and their implementation would comply with the requisite standards and applicable statutory requirements.

12. It is envisaged that PTC's upgrading plan, with current estimated costs of over \$650 million to be fully funded by the company, would bring about an upgraded Peak Tramway with modernized termini facilities and increased tramcar capacity (see paragraphs 6(a) to 6(d)). The proposed upgrading plan demonstrates PTC's commitment to modernizing and enhancing the tramway and ancillary equipment and facilities. It is in fact noted in the 2017 annual report of PTC's parent company, Hong Kong and Shanghai Hotels Limited, that in order to address the long queues to board the Peak Tram during peak hours, to improve visitors' experience and comfort and to reduce waiting time, the company has been investing in a new ticketing system and a full upgrade of the Peak Tram system and facilities, with sufficient funding reserved for the full upgrade exercise. Extensive planning, design and preparation has also been carried out by PTC. Given bureaux/departments' assessments of different technical aspects were confirmed to be positive and feasible, PTC has demonstrated its capability in implementing the upgrading plan. In sum, our assessment is that the grant of the second ten-year operating right to PTC and the implementation of its upgrading plan will be conducive to maintaining the peak tramway as an important tourism and recreational facility.

Terms of second ten-year operating right

Payment of Consideration

13. The operator to which an operating right is granted has to pay to the Government a consideration for the occupation and use of Government land¹ for

¹ The Government land on which the track and four intermediate stations lie.

the operation of the peak tramway. As set out in the LegCo Brief “Operating Right of the Peak Tramway Commencing 1 January 2016”, the annual consideration payable for the first ten-year operating right commencing January 2016 (which is amenable to a possible extension of ten years) 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. Given there is no material difference in business performance and prospects of the operation of peak tramway, the payment of annual consideration at the agreed 12% revenue-sharing ratio should continue to apply to the second ten-year operating right.

Service frequency

14. PTC has set a pledge on the frequency of the peak tramway service and published a Schedule of Service of the peak tramway to the public as required by the terms of the first ten-year operating right². It is agreed between the Government and PTC that the pledge on the frequency of the peak tramway service for the second ten-year operating period should be no worse than that committed under the first ten-year operating period, and that PTC has to publish a Schedule of Service to the public which should aim at maintaining the peak tramway as an important tourism and recreational facility.

Land arrangements to facilitate the upgrading plan

15. PTC’s additional land request has been considered in the context of maintaining the peak tramway as an important tourism and recreational facility, as well as from the perspectives of land and other relevant policies, land availability and proven genuine need. Since the additional land requested is for the building of a bigger platform at the Lower Terminus to accommodate more passengers and for the passing loop extension to tie in with the bigger tramcar, we agree that PTC has a genuine need for the additional land for implementing the upgrading plan with a view to improving the operation of the peak tramway.

16. In determining the appropriate instrument for granting such additional land to PTC, our prime consideration is to ensure that public safety would be adequately safeguarded and, in particular any building works to be conducted on such land would be subject to the proper scrutiny of the Building Authority (“BA”) under the Buildings Ordinance (Cap. 123) (“BO”). Given that the existing tramway area as delineated on the Plan³ defined under section 3(3) of PTO is unleased and unallocated Government land to which BO does not apply, and that substantial building works of the upgrading plan is envisaged to be done,

² Pledged service frequency: to provide service from 07:00 to 24:00 daily at every 10-15 minutes

³ “Plan” under PTO means the plan numbered MH 2528c signed on behalf of the Director of Lands and deposited in the Land Registry.

the best option is to grant the additional land together with the part of the existing tramway area to be used for the expansion of the Lower Terminus to PTC by way of private treaty as an SPL. The use of SPL will make the land so granted “leased land” which will come under the proper regulation of BO throughout the planning, construction and post-construction stages.

17. The additional Government land would be granted to PTC at nominal land premium and nil administrative fee. This is so 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 additional Government land on top of the existing Government land on which the tram track and the four intermediate stations lie. PTC has confirmed that the additional Government land to be granted to PTC would be used solely for the operation of the peak tramway. Should PTC wish to use the additional land for purposes other than peak tramway operation in future, such request would be processed by LandsD subject to the policy directive from CEDB.

18. To enable PTC to embark upon the construction works of the upgrading plan as soon as possible, an STT will be granted to PTC as an interim arrangement, pending Government’s negotiations with PTC on the detailed terms and conditions of SPL to ensure that PTC will occupy the additional Government land and the New Lower Terminus Area for operation of the Peak Tram services in accordance with PTO. Since the main purpose of granting the STT to PTC is to (a) enable PTC’s early submission of the relevant building plans for the proper scrutiny of BA and (b) provide PTC with access to the additional Government land for carrying out the necessary alteration and construction works without deriving any financial gain from the STT, the STT will be granted to PTC at nominal rent and nil administrative fee.

Legislative amendments consequential to the approval of the upgrading plan

19. In relation to the increase in the tramcar capacity from 120 passengers to 210 passengers, there is a need to revise the maximum number of passengers of a tramcar under Regulation 21 of the Peak Tramway (Safety) Regulations (Cap.265 sub. Leg. A) (see **section 4** of the Peak Tramway (Safety) (Amendment) Regulation 2018 at Annex A). Besides, as aforementioned, under PTC’s upgrading plan, a portion of the new Lower Terminus will fall within the existing tramway area, which is unleased government land, and thus will not be subject to the scrutiny of BA by virtue of section 41 of the BO. Given the substantial building works involved in the construction of the new Lower Terminus, it is necessary to de-designate the portion of the existing tramway area on which the new Lower Terminus will situate from the Plan as defined under section 3(3) of PTO and to grant this de-designated piece of land, together with the three pieces

of additional land to PTC by SPL so that the building works to be carried out on the land would be subject to BA's scrutiny under BO. As a result, the definition of Plan in section 3(3) of PTO needs to be amended by replacing the reference to the plan in the definition with a reference to another plan (see **section 3** of the Peak Tramway Ordinance (Amendment of Section 3(3)) Notice 2018 at Annex A).

Legislative Amendment Timetable

20. The legislative amendments will be published in the Gazette on 12 October 2018 and introduced into Legislative Council on 24 October 2018.

Other issue – Land lease of the terminus site of the Peak

21. The current land lease of the terminus site of the Peak (RBL 1104), expiring in 2031, would be extended, on terms which are basically the same as existing ones, to end 2035 so as to co-terminus with the end date of the second ten-year operating period. The land premium for the extension will be determined as per the prevailing land administration practice at the time when the lease extension is processed and finalised according to the normal procedures and would reflect the then market value. Similarly, the administrative fee chargeable will be determined at the time of lease extension.

IMPLICATIONS OF THE PROPOSAL

22. The granting of the second ten-year operating right commencing from 1 January 2026 together with the upgrading plan has financial, economic, environmental and sustainability implications as set out at **Annex C**. It has no productivity, civil service, family or gender implications. It is in conformity with the Basic Law, including the provisions concerning human rights and will not affect the current binding effect of PTO and its subsidiary legislation.

C

PUBLIC CONSULTATION

23. On 12 April 2018, the Government and PTC consulted the Traffic and Transport Committee of the Central and Western District Council which was generally supportive of PTC's upgrading plan. On 25 June 2018, the Government consulted the Panel on Economic Development of LegCo on PTC's upgrading plan and the associated legislative amendment proposals. The Panel was supportive of the plan and raised no objection to the legislative amendment proposals. PTC has also separately consulted various stakeholders who might have concerns about the proposed works of the upgrading plan and those who

would be directly affected by the construction works or the operation of the peak tramway following the upgrading plan, including users in the neighbourhood. All of them have expressed no objection to the proposed works.

PUBLICITY

24. A press release will be issued on 10 October 2018 (Wednesday) regarding the grant of the second ten-year operating right to PTC. A spokesperson will be available for answering media enquiries. A gazette notice will also be published on 12 October 2018 (Friday) on the legislative amendments consequential to the approval of PTC's upgrading plan.

BACKGROUND

25. The peak tramway has been in operation since 1888 and is one of the most popular tourism and recreational attractions of Hong Kong for locals and tourists alike. Its 1.4-kilometres tram track and four intermediate stations are constructed on Government land, while the termini at both ends of the track on Garden Road and at the Peak are situated on sites owned by PTC. In 2017, the peak tramway served a total of around 6.2 million of passengers, with the vast majority being visitors.

ENQUIRIES

26. Any enquiries on this brief can be addressed to Miss Maggie Chow, Assistant Commissioner (Tourism) 3 (Tel: 2810 2087).

Commerce and Economic Development Bureau
10 October 2018

Peak Tramway (Safety) (Amendment) Regulation 2018

(Made by the Chief Executive in Council under section 15 of the Peak Tramway Ordinance (Cap. 265))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Commerce and Economic Development by notice published in the Gazette.

2. Peak Tramway (Safety) Regulations amended

The Peak Tramway (Safety) Regulations (Cap. 265 sub. leg. A) are amended as set out in sections 3 and 4.

3. Regulation 2 amended (interpretation)

Regulation 2, definition of *tramcar*—

Repeal

everything after “including”

Substitute

“all compartments) used on the tramway.”.

4. Regulation 21 amended (duty relating to number of passengers)

Regulation 21—

Repeal

“The company shall ensure that no tramcar contains more than 120 passengers.”

Substitute

“The company must ensure that no tramcar carries more than 210 passengers.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2018

Explanatory Note

The Peak Tramways Company Limited will implement an upgrading plan for the peak tramway system and service. The carrying capacity of a new tramcar will be 210 passengers. This Regulation amends the Peak Tramway (Safety) Regulations (Cap. 265 sub. leg. A) to—

- (a) increase the maximum number of passengers that a tramcar may carry from 120 to 210;
- (b) introduce flexibility about the number of compartments for a tramcar; and
- (c) make minor drafting improvements.

**Peak Tramway Ordinance (Amendment of Section 3(3))
Notice 2018**

(Made by the Secretary for Commerce and Economic Development under section 3(4) of the Peak Tramway Ordinance (Cap. 265))

1. Commencement

This Notice comes into operation on 31 December 2018.

2. Peak Tramway Ordinance amended

The Peak Tramway Ordinance (Cap. 265) is amended as set out in section 3.

2018

Secretary for Commerce and
Economic Development

3. Section 3 amended (power to construct and work certain tramways)

Section 3(3), definition of *Plan*—

Repeal

“MH2528c”

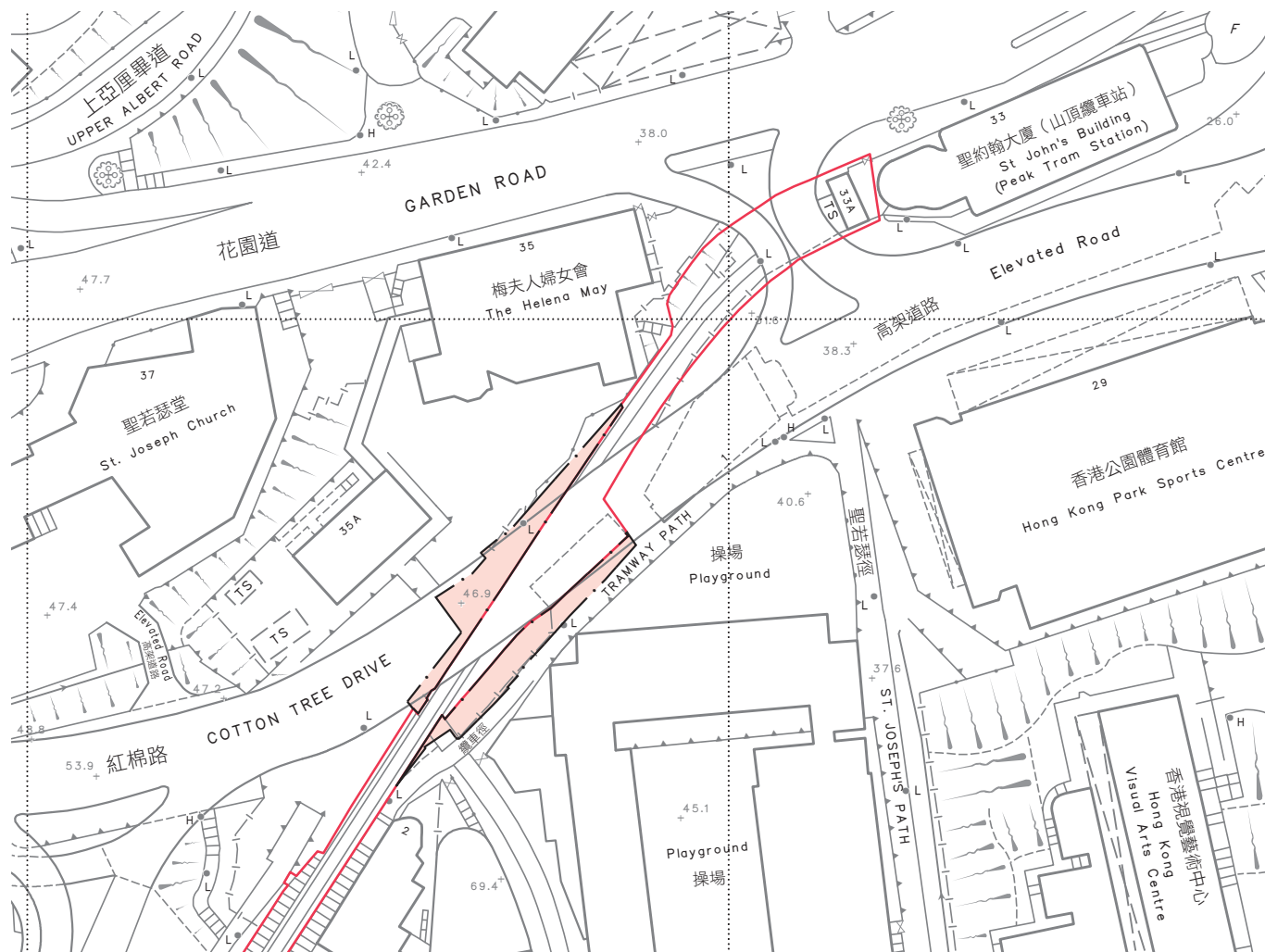
Substitute

“MH2528d”.

Explanatory Note

The Peak Tramways Company Limited (*company*) has the right to construct and work the tramway under section 3 of the Peak Tramway Ordinance (Cap. 265) (*Ordinance*). The purpose of this Notice is to amend the definition of *Plan* in section 3(3) of the Ordinance so that a portion of the existing tramway area is to cease to form part of the area (*excluded area*). The excluded area, together with certain additional land, will be granted to the company by way of a land lease. The building and construction works to be carried out on the excluded area will then be subject to the regulation of the Building Authority under the Buildings Ordinance (Cap. 123).

位置圖 SITE PLAN



以粉紅色標示的面積約為274平方米

COLOURED PINK AREA 274 SQUARE METRES (ABOUT)

比例尺 SCALE 1:1 000



位置 LOCATION



比例 SCALE 1:20 000

圖則 LEGEND

- 纜車軌道範圍
圖則編號 MH2528c
- TRAMWAY AREA
PLAN No. MH2528c

只作識別用 FOR IDENTIFICATION PURPOSES ONLY

地政總署 港島西及南區地政處
District Lands Office, Hong Kong West and South
Lands Department

圖則由港島測量處繪製
Plan Prepared by District Survey Office, Hong Kong

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檔案編號 File No. DLO/HW L/M 632/DMS/82, DSO/HK 13/106 Pt.2

測量圖編號 Survey Sheet No. 11-SW-13B

發展藍圖編號 Layout Plan No. --

參考圖編號 Reference Plan. AP-LT-GF-ADDITIONAL AREA.dwg

圖則編號 PLAN No. HKM10286-Xa (PLAN 1 OF 2)

日期 Date : 02/08/2018

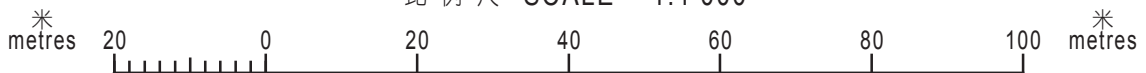
位置圖 SITE PLAN



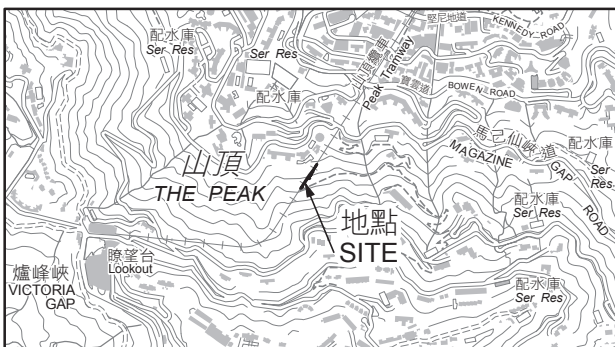
以粉紅色標示的面積約為152平方米

COLOURED PINK AREA 152 SQUARE METRES (ABOUT)

比例尺 SCALE 1:1 000



位置 LOCATION



比例 SCALE 1:20 000

圖則 LEGEND

- 纜車軌道範圍
圖則編號 MH2528c
- TRAMWAY AREA
PLAN No. MH2528c

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地政總署 港島西及南區地政處
District Lands Office, Hong Kong West and South Lands Department

圖則由港島測量處繪製

Plan Prepared by District Survey Office, Hong Kong

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測量圖編號 Survey Sheet No. 11-SW-13D

發展藍圖編號 Layout Plan No. --

參考圖編號 Reference Plan. LG-03-01 30/5/2018 (AGC DESIGN LTD)

圖則編號 PLAN No. HKM10286-Xa (PLAN 2 OF 2)

日期 Date : 02/08/2018

Implications of the Granting of a Second Ten-year Operating Right together with an Upgrading Plan

Financial implications

The existing charging basis of annual consideration at 12% of total revenue of peak tramway operation will continue to apply for the second ten-year operating right commencing 1 January 2026 (i.e. 2026 - 2035). Additional government land of about 426m², which is considered to be necessary for the implementation of the upgrading plan, will be granted to Peak Tramways Company Limited (“PTC”) at no additional charge.

2. For the extension of land lease of the terminus site of the Peak by four years to 2035, PTC will need to pay full market value land premium and the amount will be assessed by the Lands Department nearer the time.

Economic implications

3. The granting of the second ten-year operating right will help ensure the continued operation of the peak tramway. The associated upgrading plan will also significantly improve the tramcar capacity and service quality, which will maintain the peak tramway as an important tourism and recreational facility and thus be conducive to maintaining Hong Kong's attractiveness to tourists.

Environmental implications

4. The continued operation of the peak tramway will obviate the need to enhance the provision of road-based public transport services to/from the Peak. This helps reduce road-side emission. An Environmental Review has been conducted which confirmed that no adverse environmental impact is anticipated from the upgrading works.

Sustainability implications

5. The granting of the second ten-year operating right and the associated upgrading plan are conducive to the sustainable development of Hong Kong in light of the economic and environmental implications stated above.