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**Background brief on
Operation of Cross Boundary Passenger Ferry Services
at Tuen Mun Ferry Pier**

Purpose

This paper sets out the background to the proposal to convert the Tuen Mun Ferry Pier to a cross boundary passenger ferry terminal (TMFT), and summarizes the major concerns and views expressed by the Panel on Transport (the Panel) previously on the subject matter.

Background

2. In November 2001, the Administration informed the Panel that it had received proposals from the private sector to use the Tuen Mun Ferry Pier to operate cross boundary passenger ferry services to Macau and other cities in the Pearl River Delta Region (the PRD region). There were also requests from residents in Tuen Mun for provision of cross boundary passenger ferry services in Tuen Mun.

3. According to the then Administration's assessment, there was no immediate need for another cross boundary ferry terminal (CBFT) taking into account the patronage trend and utilization rate of the existing CBFTs. However, in considering the views expressed by some members of the public that the proposed CBFT at Tuen Mun could enhance the convenience for residents in the New Territories, in particular those from North West New Territories, to travel to/from Macau and the PRD region, the Administration agreed to examine the proposals received.

4. At the Panel meeting on 23 November 2001, members in general considered that the provision of a CBFT at Tuen Mun would bring benefits to the commuting public in the New Territories as they would not have to travel to Kowloon or Hong Kong Island to take a ferry to go to Macau and cities in the Mainland. Moreover, such a new facility would help provide relief to the existing congestion at major cross-boundary land crossings. Members therefore urged the Administration to make a decision on the matter as early as possible.

Expression of interest exercise and tender exercise

5. In November 2002, the Administration informed the Panel that having examined carefully the technical and operational feasibility and the financial implications of the proposal, the Administration would pursue the proposal on the basis of a partnership between the Government and the private sector if there were sufficient private sector interests in the proposed scheme.

6. The Administration then conducted an expression of interest (EOI) exercise to gauge the interests and expectations of prospective operators. According to the terms and conditions contained in the Project Outline, the Government would provide Government services such as immigration, customs, police support, marine/CBFT safety and control, and port health. The project proponent would be responsible for funding, designing and carrying out the necessary works for pier conversion and modification and be required to pay for the non-recurrent items (e.g. systems, equipment and furniture etc.) required by Government Departments for the operation of the Tuen Mun Ferry Pier as a CBFT, and other annual fee and maintenance expenses, etc.

7. A total of three submissions were received by the close of the deadline for expression of interest on 30 December 2002.

8. The Administration considered that the EOI exercise confirmed that there was genuine private sector interest in the proposed project and that the Administration's proposed financial arrangements were not unreasonable. As such, the Administration decided to proceed with a tender exercise. A tender notice for the project was published in the Gazette and in major newspapers for public information on 6 June 2003. Two submissions were received by the tender submission deadline of 18 July 2003.

9. In December 2003, the Administration informed the Panel that the Government had signed a tenancy agreement with the Hong Kong North West Express Ltd. (North West) in respect of the occupation, modification and use of part of the Tuen Mun Ferry Pier for the operation of cross-boundary passenger ferry services.

Major terms of tenancy agreement

10. According to the Administration, the tenancy agreement includes the following major elements –

- (a) The Government will provide the necessary services such as immigration, customs, police, marine control and port health, etc. to support the operation of CBFT.

- (b) North West, the tenant, will –
 - (i) carry out the necessary pier modification works, including the construction of an additional floor (estimated to cost about \$26 million);
 - (ii) pay for the non-recurrent items such as systems, equipment and furniture required for the Government Departments' operation (estimated to cost about \$27 million);
 - (iii) pay an annual amount of \$16.3 million to the Government;
 - (iv) pay the electricity and water charges incurred by the Government Departments providing services at the new CBFT (estimated to be about \$2.5 million per year); and
 - (v) be responsible for the maintenance and general management of the new CBFT (estimated to cost about \$8 million per year).
- (c) Subject to the availability of space and the Government's prior approval, North West may sub-let terminal premises designated by the Government, berthing slots, advertisement and shopping space (if any) and baggage handling services (if any), and keep the fees received from such sub-letting. Revenue arising from duty-free shops, if any, will be shared between the tenant and the Government.
- (d) The tenancy will be for seven years and may be extended for a period to be agreed between the Government and North West on the same or other terms and conditions.

Service plan of the tenant

11. According to an information paper provided by the Administration in December 2003, North West planned to complete the pier modification works and start providing ferry services to Macau by end 2004 at the earliest. North West planned to use all three berths of the new CBFT to provide daily ferry services to Macau initially, at a service frequency of one sailing every 30 minutes from 11:00 am to 2:00 am. North West also planned to provide ferry services to Mainland ports in PRD region six months after the new TMFT had begun operation.

12. In regard to North West's plan to start providing ferry services to Macau by December 2004, the Administration acknowledged that it was a rather optimistic and ambitious programme and could be achievable only if all the necessary procedures could be compressed. In this regard, members had urged

the Administration to expeditiously process the building plans and other applications submitted by the tenant and prepare the enabling legislation to establish the new TMFT.

Implications of the proposed establishment of TMFT

13. The Administration had pointed out that the proposed establishment of TMFT has financial, civil service and economic implications. Details are set out in **Appendix I** prepared by the Administration in April 2004.

Members' concerns expressed at previous meetings of the Panel

14. When the subject was discussed at the Panel meeting on 30 January 2004, members expressed the following concerns/views –

- (a) North West might charge an unreasonably high fare since it was required under the tenancy agreement to bear all the costs for the pier modification works as well as the non-recurrent items for the Government department's operation;
- (b) the Administration should encourage North West to provide ferry services to Mainland ports in the PRD region as soon as practicable; and
- (c) whether there was any safeguard in the tenancy agreement to prevent the tenant from delaying the provision of services to Mainland ports or refusing to allow other interested operators to operate such services from TMFT.

15. At the meeting, the Administration advised that the fares at TMFT were expected to be competitive as the tenant would take into account the competition from other CBFTs as well as public affordability in determining its fares. As regards the timing of introduction of ferry services to Mainland ports at TMFT, the Administration advised that this was a commercial decision to be made by the tenant and that the Administration was not involved in any way. The Administration would make every effort to facilitate the provision of services to Mainland ports when the tenant was ready.

16. With regard to the rights and obligations of the tenant in subletting the allocated berthing slots at TMFT, the Administration's advice was that under Clause III(2) of the tenancy agreement, the tenant is allowed to "sublet subject to the Director of Marine's consent in writing berthing slots and to keep the revenues arising from such subletting". As with the present policy for managing berthing slots in the two existing CBFTs, the Director of Marine's primary consideration in giving consent to the use of berthing slots is whether the ferry vessels concerned would use the berths safely. In the case of TMFT, the

Director of Marine will also consider whether the operation of the ferry service from the sublet slots would comply with Clause II (19) of the tenancy agreement, which imposes restrictions on (1) the length and displacement of the vessels using the berths; (2) the maximum number of passengers arriving at and departing from the terminal so that it would not exceed the agreed number that was set having regard to the clearance capacity of the control point, and (3) the operating hours of the terminal. Subject to these considerations, the Director of Marine would not interfere with the tenant's business decisions in subletting berthing slots to ferry service operators or the business terms associated with such subletting.

17. The Panel reviewed again the progress of the TMFT project at the meeting on 29 October 2004. Members had expressed concern about the slippage of the project. They urged the Administration to speed up the vetting of building plans and take a more proactive approach to facilitate the project implementation.

Enactment of the enabling legislation

18. The relevant subsidiary legislation to enable the operation of cross-boundary ferry services at TMFT, which include the Shipping and Port Control (Ferry Terminals) (Amendment) Regulation 2004, Immigration (Places of Detention) (Amendment) Order 2004 and Immigration Service (Designated Places) (Amendment) Order 2004, were gazetted on 24 April 2004 and enacted through the negative vetting procedure.

19. The Shipping and Port Control (Ferry Terminals) (Amendment) Regulation 2004 (L.N. 57 of 2004) (the Amendment Regulation) amends the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313 sub. leg. H) (the Principal Regulations) to add a new Schedule 1 to the Principal Regulations. The names, the boundaries of the ferry terminals and the boundaries of their restricted areas are set out in the Schedule. The new TMFT is set out in item 3 of the Schedule. The existing two ferry terminals, namely, the China Ferry Terminal and the Hong Kong-Macau Ferry Terminal are respectively set out in items 1 and 2 of the Schedule. The boundaries of these two existing terminals and their restricted areas as declared by earlier orders and notices contained in subsidiary legislation L, M, P and W of the Shipping and Port Control Ordinance (Cap. 313) are repealed by the Boundaries of Ferry Terminals (Repeal) Order (L.N. 58 of 2004) and the Boundaries of Restricted Areas of Ferry Terminals (Repeal) Notice (L.N. 59 of 2004).

20. The Secretary for Security has also made the Immigration (Places of Detention) (Amendment) Order 2004 (L.N. 60 of 2004) and the Immigration Service (Designated Places) (Amendment) Order 2004 (L.N. 61 of 2004) to amend the Immigration (Places of Detention) Order (Cap. 115 sub. leg. B) and the Immigration Service (Designated Places) Order (Cap. 331 sub. leg. B) to designate a place of detention within TMFT.

21. In order to tie in with the commissioning of the new TMFT, the Secretary for the Environment, Transport and Works has appointed by the Commencement Notice 3 November 2006 as the day on which the Amendment Regulation came into operation. As the other 4 pieces of subsidiary legislation, i.e. L.N. 58 to L.N. 61 of 2004, provide that they shall come into operation on the date appointed for the commencement of the Amendment Regulation, they also came into operation on 3 November 2006

22. A list of the relevant papers is in **Appendix II**.

Council Business Division 1
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IMPLICATIONS OF THE PROPOSAL

Financial and Civil Service Implications

The proposal will entail the creation of 72 civil service posts in the Immigration Department, Customs and Excise Department, Hong Kong Police Force and Marine Department at an annual staff cost of \$30.8 million. Staff cost aside, the departments concerned will incur other expenses amounting to \$8.3 million per annum.

2. North West will be required to pay for the costs of electricity and water charges as well as the maintenance and general management of the terminal, estimated to be about \$10.5 million annually. It will also be responsible for a one-off cost of about \$27 million for procuring the systems, equipment and furniture required for the relevant departments' operation.

3. On the revenue side, the Government will receive an annual amount of \$16.3 million from North West, after a rent-free period of 12 months from the beginning of the tenancy or after permission to commence operation of the ferry service is given by the Director of Marine, whichever is earlier. There will also be additional revenue in the form of berthing and embarkation fees. Under the tenancy agreement, the Government will also receive a share of the income arising from the operation of duty free shops, if any, in the new TMFT, to be agreed between the Government and the tenant.

Economic Implications

4. The establishment of a new cross-boundary ferry terminal in Tuen Mun will further facilitate travel between Hong Kong and Macau and Mainland ports in the Pearl River Delta Region, which will confer broader economic benefits to Hong Kong. It will render yet another choice, apart from the existing cross-boundary terminals in Sheung Wan and Tsim Sha Tsui, for the respective ferry trips, and will pose some competition to the respective ferry operators from those two ferry terminals. In particular, it will benefit residents in the Northwest New Territories, as they will save much time and also some money in travelling to and from Macau and Mainland ports.

5. According to North West, the pier modification works will generate 60 temporary jobs during the works period, and the operation of cross-boundary ferry services will create some 232 jobs (shipping company's office and site staff: 150; cleansing and security staff: 10; vessel crew: 72).

**Operation of Cross Boundary Passenger Ferry Services
at Tuen Mun Ferry Pier**

List of relevant papers

| Date of meeting | Meeting | Minutes/Paper | LC Paper No. |
|------------------------|--------------------|---|--|
| 23 November 2001 | Panel on Transport | Administration's paper on the proposals to convert the Tuen Mun Pier to a cross boundary passenger ferry terminal | CB(1)356/01-02(04) http://www.legco.gov.hk/yr01-02/english/panels/tp/papers/tp1123cb1-356-4e.pdf |
| | | Minutes of meeting | CB(1)733/01-02 http://www.legco.gov.hk/yr01-02/english/panels/tp/minutes/tp011123.pdf |
| 24 May 2002 | Panel on Transport | Administration's paper on the latest position regarding the proposals to convert Tuen Mun Pier to a cross boundary ferry terminal | CB(1)1779/01-02(01) http://www.legco.gov.hk/yr01-02/english/panels/tp/papers/tp0524cb1-1779-1e.pdf |
| 20 December 2002 | Panel on Transport | Administration's paper on the proposal to invite private sector to express interest and submit proposals to occupy and use the Tuen Mun Pier for the operation of cross boundary passenger ferry services | CB(1)372/02-03(01) http://www.legco.gov.hk/yr02-03/english/panels/tp/papers/tp1220cb1-372-1e.pdf |
| 27 June 2003 | Panel on Transport | Administration's paper on the tender exercise for occupation, modification and use of part of Tuen Mun Ferry Pier for the operation of cross boundary passenger ferry services | CB(1)1868/02-03(01) http://www.legco.gov.hk/yr02-03/english/panels/tp/papers/tp0627cb1-1868-1e.pdf |

| Date of meeting | Meeting | Minutes/Paper | LC Paper No. |
|-----------------|--------------------|--|--|
| 30 January 2004 | Panel on Transport | Administration's paper on the tenancy in respect of the occupation, modification and use of part of Tuen Mun Ferry Pier for the operation of cross boundary passenger ferry services | CB(1)669/03-04(01) http://www.legco.gov.hk/yr03-04/english/panels/tp/papers/tpcb1-669-1e.pdf |
| | | Administration's paper on the latest development of the project to establish a new Tuen Mun Ferry Pier to operate ferry services to Macau and Mainland ports | CB(1)848/03-04(06) http://www.legco.gov.hk/yr03-04/english/panels/tp/papers/tp0130cb1-848-6e.pdf |
| | | Administration's supplementary information on the relevant terms and conditions of the tenancy agreement in relation to the rights and obligations of the tenant in subletting the allocated berthing slots at the Tuen Mun Ferry Terminal | CB(1)1177/03-04(01) http://www.legco.gov.hk/yr03-04/english/panels/tp/papers/tp0130cb1-1177-1e.pdf |
| | | Minutes of meeting | CB(1)1146/03-04 http://www.legco.gov.hk/yr03-04/english/panels/tp/minutes/tp040130.pdf |
| 30 April 2004 | House Committee | <p>Legislative Council Brief on</p> <ul style="list-style-type: none"> - Shipping and Port Control (Ferry Terminals) (Amendment) Regulation 2004 - Boundaries of Ferry Terminals (Repeal Order) - Boundaries of Restricted Areas of Ferry Terminals (Repeal) Notice | ETWB(T)CR 1/5481/98 http://www.legco.gov.hk/yr03-04/english/subleg/brief/57_59_brf.pdf |

| Date of meeting | Meeting | Minutes/Paper | LC Paper No. |
|------------------------|--------------------|--|---|
| | | Legal Service Division Report | LS71/04-05 http://www.legco.gov.hk/yr03-04/english/hc/papers/hc0430ls-71e.pdf |
| 29 October 2004 | Panel on Transport | Administration's paper on the progress of the establishment of the new Tuen Mun Ferry Terminal | CB(1)111/04-05(06) http://www.legco.gov.hk/yr04-05/english/panels/tp/papers/tp1029cb1-111-6e.pdf |
| | | Minutes of meeting | CB(1)286/04-05 http://www.legco.gov.hk/yr04-05/english/panels/tp/minutes/tp041029.pdf |
| 10 November 2006 | House Committee | Legal Service Division Report on Shipping and Port Control (Ferry Terminals) (Amendment) Regulation 2004 (Commencement) Notice | LS8/06-07 http://www.legco.gov.hk/yr06-07/english/hc/papers/hc1110ls-8-e.pdf |

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 20 November 2006