

9 September 2013

Submission to the Panel on Economic Development

SUBJECT: Paper CB(1)1522/12-13(01)

Submitted by Royal Hong Kong Yacht Club

This submission is made at the invitation of the Panel Chairman, Hon Jeffrey LAM Kin-fung.

1) Introduction

The RHKYC is a strong supporter of efforts to improve standards of safety afloat.

By way of background, The Royal Hong Kong Yacht Club is a not-for profit members' sailing and rowing club with a membership of 12,000 of which slightly more than 5,000 are active / resident in Hong Kong. The vast majority of our members are actively involved in boating, principally the sports of sailing and rowing.

The author of this paper has served on the LVAC Class IV Sub-Committee (representing Yachting and Boating Clubs) since its formation in 2007, and previously on COMBAY (Committee on Boating and Yachting). Class IV vessels form the largest sector of Local Vessels. Of the 16,286 Local Vessels licensed by MD (MD) in 2012, 7,920 were Class IV.

It should be noted that whilst the majority of Paper CB(1)1522/12-13(01) "the paper" relates to vessels engaged in commercial operations, this submission reflects the RHKYC's perspective as a user and provider of services and facilities for Class IV pleasure vessels that are used exclusively for pleasure purposes.

2) Improvement Measures to be Implemented during the First Phase (Class I, II & III vessels) – Para. 4 & 5

We would endorse proposals (a) through (e), and suggest that the review process for the Code of Practice for Class I, II and II vessels is conducted in conjunction with the relevant Local Vessel Advisory Sub-Committees.

We would note that installation of video or graphic displays providing safety information for passengers may not be practical for all such vessels, and would encourage MD to seek out practical means to help the industry disseminate safety information to their passengers.

3) Medium and Longer Term Measures - Para. 6 to 8

(a) AIS, Radar and VHF. In our view, all three devices, if correctly installed, calibrated and used correctly by trained operators are valuable tools that can enhance safety and reduce the risk of collision. During the task force meetings with Class I and Class IV vessels we have noted concerns from the Class 1 operators regarding the mandatory installation of AIS – principally in relation to the training (and associated costs) involved for crew to effectively operate such equipment.

In our view, mandatory AIS for vessels of certain types (ferries) / capacity (say 100+ pax.) should remain a long-term goal, and we would support a phased introduction, perhaps in combination with an incentive scheme that would assist and encourage operators to acquire appropriate training for their crew. However, in our view, any

vessel that has a permit to exceed the speed limit in the Harbour (high speed craft) should be required to operate AIS in addition to VHF and Radar.

(b) On the matter of practical assessment. If concerns over costs and availability of training and assessment can be resolved, then the introduction of a practical assessment element to the current examination process should continue to be explored.

(c) Working hours for crew on Class I vessels is a contentious issue. Class I vessel operators all report that recruitment is already “challenging” and cite potential significant cost increases if more prescriptive working hours are imposed on them. This reaches some way beyond our area of operation, and as such we would not comment further, other than to highlight that legislation defining working hours for crew could potentially have a significant financial impact on ferry operations, and presumably by extension on the cost of travel by ferry.

4) Third Party Insurance – Para. 9

We have long held the view that the minimum third party insurance cover of HK\$ 1,000,000 (increased from HK\$ 600,000 in 2007) for Class IV vessels used exclusively for pleasure purposes (i.e. those not let for hire or reward) is far too low and should be reviewed as a matter of priority. We would also be supportive of the introduction of a Marine Accident Victims Assistance Fund.

5) Independent Audit Review and Benchmark Survey – Para. 10 to 13

The resolution of the four areas of non-conformity, and 19 opportunities for improvement are likely to have manning implications for MD as noted in para. 14 of the paper.

It is noted that the benchmark survey identified Hong Kong as a safe port to travel by boat in terms on man miles.

On the note that the number of Class IV vessels for hire increasing five fold since 2007. We would agree that there has been a significant increase in the number of such vessels; however the fivefold increase shown in MD record is potentially misleading. Prior to the introduction of new legislation under Cap 548 (and related Code of Practice) on Jan 2nd 2007, the regulation of vessels for hire or reward was much more loosely defined. From our observation it took some considerable time for all such “charter junks” to register as such with MD after the legislation came into force. The recorded increase in such vessels thus captures an increase in licensing compliance as well as the actual increase in numbers of such vessels.

6) Other Follow Up Actions

We note that a Steering Committee on Systemic Reform of the MD has been established that will address issues that may well extend beyond those covered in the paper.

It is our hope that as part of this process, the provision and management of marine facilities, specifically safe moorings for local vessels might be included in the review. Hong Kong is facing a chronic shortage of moorings for Class IV vessels. Current estimates that there are 3,230 private moorings and marina berths in Hong Kong for 7,920 Class IV vessels. This shortage of safe mooring facilities is having a significant negative impact on the safety of local vessels, and also on development of the Pleasure Vessel sector. Affected businesses include yacht dealers and brokers, repair and maintenance facilities, chandleries, service companies and boating clubs. It is noted that in July 2013 the Secretary for Transport and

Housing wrote to the Mr Kandy Chan of the Pleasure Boating Alliance advising that a fundamental review of the provision and management of private moorings would be conducted in September 2013, though it is not clear if this review would form part of the Systemic Review process.

7) Annex I – Findings of the Lloyd’s Register Audit Report

In general, the main findings of this report relate to MD’s provision of local vessel survey services. Based on our own observation there are not enough Authorised Surveyors (AS) in Hong Kong. The report mentions in Item 14 that there are “12 or 13” AS. In 2012, 16,286 local vessels were licensed by MD. It seems clear that more AS should be appointed as a matter of priority. Given the significant differences between large commercial craft and vessels used exclusively for pleasure, we would encourage MD to consider adopting different categories of AS approval so that each sector of the industry could be better / more appropriately served.

8) Annex II – Benchmark Survey

It is our experience that regulations governing local vessel are developed by maritime authorities to deal with specific issues that relate to local conditions and existing practice in their home port and in combination with State, Federal or Crown legislation and International conventions. The validity for Hong Kong of any recommendations based on such benchmarking must ultimately be weighed against our own prevailing conditions.

Specific areas of concern arising from the recommendations and proposed follow up actions in Annex II include:-

Item No. 1 – Passenger vessels.

The report recommends that any vessel “capable of carrying more than 12 passengers”, regardless of whether for commercial or purely private use should be subject to higher and more uniform standards of safety. We fundamentally believe that a clear demarcation must be drawn between vessels operating for hire or reward, and vessels that are used exclusively for pleasure. A complex and prescriptive code might render it practically impossible for larger racing yachts - many of which race with a crew of 14 or more to comply. Should MD wish to further explore this suggestion we feel it is imperative to develop a clear definition and differentiation between “passengers” and “crew”.

Item No. 2 - Training and certification

We would endorse MD’s proposed follow up action to explore one day refresher courses for Class I vessel crew and provide additional training for certain vessel types. We would add that the current Class IV Pleasure Vessel Operator Certificate examination process (syllabus and exam) patently fails to effectively educate and evaluate coxswains. The exam is poorly written, resulting in the majority of schools teaching candidates how to pass the exam rather than training them to be safe and skilled vessel operators. In our view the Class IV vessel operator certification process is in need of review.

Item No. 5 – Navigation equipment

If MD wishes to encourage increased use of VHF then the Office of Communications Authority (OFCA) need to be engaged to help develop accessible training and certification courses for local VHF radio licensing and use.

Item No. 5 – Vessel monitoring

We would agree that the HARTS system as developed for use in Singapore is not suitable for HK, and that MD should explore means to incentivise vessel operators to install AIS (though should be mandatory for all high speed craft).

Item No. 7 - Lifejackets

Current Code of Practice (CoP) uses The International Maritime Organisation's (IMO) Safety of Life at Sea (SOLAS) as the prescribed standard for lifejackets. Meeting SOLAS standards may not be appropriate for all local vessels or for all lifejackets. We would urge MD, as a matter of priority to review the CoP for Class IV vessels to permit the adoption of more appropriate international standards such as ISO. Adoption of ISO for children's lifejackets might also allow operators of some Class I vessels to be able to provide an appropriate and functional solution for younger passengers. It is also noted that Class I operators have concerns over the liability of coxswains in the event that children refuse to wear lifejackets. We would endorse an approach that requires the vessel operator to provide appropriate safety equipment (and instructions on use) but that the responsibility for use remains with the individual (or parent or guardian in the case of a minor).

Item No. 8 – Passenger tally

In the LVAC Class I / Class IV task force meetings there has been much discussion over the requirement for all vessel operators to submit passenger lists prior to departure to major maritime events. Whilst it is understood that an accurate passenger list would be of great value to emergency services in the event of a major incident, the means of delivery of such a list has yet to be established.

Item No. 10 – Class IV vessels

We would agree that Class IV vessels let for hire or reward should be subject to more stringent standards than Class IV vessels used exclusively for pleasure, and that a clear distinction in terms of the CoP requirements should be maintained between the two sectors of Class IV vessels. We would recommend that for clarity, the current CoP is re formatted into two separate documents, one for vessels let for hire or reward, and one for vessels used exclusively for pleasure.

Item No. 12 – Vessel design

The report recommends that Hong Kong adopts specific standards for stability and watertight bulkhead subdivisions for Class IV vessels. It should be noted that two of the benchmarked ports that are referenced (Sydney and Southampton) apply more rigorous standards for vessels engaged in charter than for vessels used exclusively for pleasure. It is important that this distinction is recognised, as the potential is that impractical or unachievable standards might be foisted on all Class IV vessels. We would urge MD to look to existing conventions / standards such as the EU Recreational Craft Directive (2003/44/EC) when reviewing standards.

9) Suggested for consideration by the Steering Committee into the Systemic Reform of MD

The following points are suggested for consideration by the Steering Committee into the Systemic Reform of the MD

- a) **Education / Information** MD used to publish a booklet entitled “Safety Afloat”. This was aimed at giving practical information to pleasure vessel users in Hong Kong, and was comparable to publications such as the Highway Code. The current legislation governing the operation of Class IV vessels (Cap 548 together with the CoP for Class IV vessels, and Cap 313) is impenetrable to the average boat owner. A publication such as Safety Afloat could encapsulate the core intent of the legislation and provide a useful reference manual to local owners and coxswains. We believe that the industry is in a position to work with MD to produce such a document, which could be made available on line in .pdf format and be regularly reviewed and updated. This would go a long way to promoting the culture of safe boating in Hong Kong.
- b) **LVAC Class IV Sub-Committee**
 - i) Frequency of meetings Since its formation in 2007 the Class IV Sub-Committee has only met once (with the exception of the combined Class I / Class IV task force meetings). We would support regular meetings of the Class IV sub-committee to promote better communication of relevant issues between MD and the Class IV constituents.
 - ii) Membership We would suggest that the current membership is reviewed to ensure that all sectors of the Class IV community are fairly represented
 - iii) Terms of Reference Unlike other sub-committees of the LVAC, the Class IV sub-committee Terms of Reference do not include the regular review of the CoP. This is an omission that we feel should be corrected.
- c) **Code of Practice for Class IV Vessels**

So as to reflect the differentiation between vessels let for hire and reward, and vessels used exclusively for pleasure purposes, we would propose that the CoP for Class IV vessels is produced in two distinct and separate versions. One covering vessels let for hire or reward, and one for vessels used exclusively for pleasure purposes. Separating the two groups with their own CoP will allow MD to more clearly address specific requirements for the two distinct groups. Generally, the Code of Practice should be under constant and regular review so that new developments in construction standards, safety equipment standards and best practice can be incorporated without recourse to legislation.
- d) **Lifejacket Standards**

For MD to consider adopting ISO standards for lifejackets for Class IV pleasure vessels.
- e) **Private Mooring Policy and Legislation**

Given the significant shortfall of safe mooring facilities for pleasure craft in Hong Kong, the negative impact on the local economy of such a shortage and the associated implications on safety of local vessels and crew, we would request that MD reviews the current policy that “no additional private moorings are to be laid in Typhoon Shelters”. Furthermore that the legislation in Cap 313 regarding the allocation and management of Private Moorings be reviewed in light of the administrative challenges that current legislation imposes on MD.
- f) **Curriculum and Examination for Pleasure Vessel Operator Certificates**

We are of the view that generally, the current curriculum and examination process encourages “learning how to pass the exam” rather than effectively educating and assessing candidates’ abilities to safely operate pleasure vessels.

g) Appointment of Authorised Surveyors

That MD appoints more AS and develops a category for AS who are only engaged to provide services to the Class IV sector.

10) In Conclusion

The RHKYC enjoys a close working relationship with MD, both through formal channels such as the LVAC committees as well as on a day to day basis with various operational and administrative sections. From our perspective, MD are proactive and responsive, but may sometimes be constrained by issues of manpower and resources together with prescriptive and specific legislation that imposes a significant administrative burden on the Department and that can render some application processes both cumbersome and protracted.

We would endorse a pragmatic phased approach to the review and adoption of appropriate measures that fulfil the overarching objective to make Hong Kong waters safer for all users whilst maintaining and enhancing Hong Kong’s position as a leading World port.

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