

政府總部
環境局
香港添馬添美道二號
政府總部東翼十六樓



ENVIRONMENT BUREAU
GOVERNMENT SECRETARIAT
16/F, East Wing, Central Government Offices
2 Tim Mei Avenue, Tamar, Hong Kong

本函檔號 Our Ref: ENB CR 4/2061/08

電話 Tel: 3509 8659

來函檔號 Your Ref: LS/B/1/14-15

圖文傳真 Fax: 2147 5834

21 November 2014

Assistant Legal Adviser
Legislative Council Secretariat
Legislative Council Complex,
1 Legislative Council Road,
Central, Hong Kong
(Attn.: Miss Evelyn LEE)

Dear Miss LEE,

**Additional Information on
District Cooling Services Bill**

I refer to your letter dated 13 October 2014, and would like to provide additional information concerning the District Cooling Services Bill (the Bill) as follows –

(i) Application of the Legislative Proposal

- (a) The purpose of the Bill is to provide for matters relating to district cooling services provided by the Government, including the imposition of charges of the services and other related matters.

The Bill may apply to any district cooling systems (DCS) as specified in Schedule 1 to the Bill, and Schedule 2 provides for the methods of calculating charges for district cooling services provided by each DCS specified in Schedule 1. Currently, Schedule 1 and Schedule 2 to the Bill cover the DCS in Kai Tak Development only. The Bill may apply to

other DCS that may be constructed by the Government in future as and when necessary subject to future amendments to the Schedules. For each DCS in relation to which the Bill applies, the scope of the Bill is not limited to or does not exclude a particular type of buildings. In other words, the Bill applies to both domestic and non-domestic developments.

As mentioned in paragraph 3 of the Legislative Council Brief on the Bill, DCS is an energy efficient air-conditioning system alternative to the traditional air-cooled air-conditioning systems and individual water-cooled air-conditioning systems (both of which are central air-conditioning systems). As domestic developments are generally not installed with a central air-conditioning system, owners or occupiers or persons responsible for the management of domestic buildings are unlikely to be consumers of the Kai Tak DCS. In this context, for the Kai Tak DCS as specified in the current Schedule 1 to the Bill, the design capacity of Phases I-III A of the project which have received funding approval from the Finance Committee of the Legislative Council is based on the scale of non-domestic air-conditioned developments in the district, which is about 1.73 million square metres of non-domestic air-conditioned gross floor area. It does not cover residential buildings.

(b) No application fees will be charged for the application.

(ii) Tariff Adjustment

The capacity charge rate is proposed to be adjusted annually based on the Composite Consumer Price Index while the consumption charge rate is proposed to be adjusted annually to take into account the change in electricity tariff rate. This annual adjustment mechanism is provided in section 5 of Schedule 2 to the Bill.

As for the proposed tariff review to be conducted at least once every five years, its purpose is to identify any significant

discrepancies between the actual cost and revenue and the forecast that may require an adjustment to the capacity charge rate stipulated in section 5 of Schedule 2 to the Bill. It is our policy commitment to conduct such tariff review at least once every five years. The conduct of such reviews is an administrative arrangement and does not require legislative backing.

(iii) Legal Authorities of Advice Sought

The Administration has sought legal advice from the Department of Justice which advised that, according to the House of Lords in McCarthy & Stone (Developments) Ltd. v Richmond upon Thames London Borough Council [1992] 2 A.C. 48, clear and explicit statutory authority is required for the Government to impose charges.

On the basis of the aforementioned legal advice, it would be necessary for the Administration to introduce a new piece of legislation to provide legal backing for the Government to collect charges from non-Government users of the district cooling services at the Kai Tak Development.

Yours sincerely,



(Miss Sheena YAP)

for the Secretary for the Environment