

LEGISLATIVE COUNCIL BRIEF

KAI TAK CRUISE TERMINAL BILL

INTRODUCTION

A At the meeting of the Executive Council on 30 June 2015, the Council **ADVISED** and the Chief Executive **ORDERED** that the Kai Tak Cruise Terminal Bill (“the Bill”), at Annex A, should be introduced into the Legislative Council (“LegCo”) to provide for a legal framework for regulating the use, operation, management and control of the Kai Tak Cruise Terminal (“KTCT”).

JUSTIFICATIONS

Need for Legislation

2. The KTCT is an important infrastructure which supports the development of cruise tourism in Hong Kong. Since the commissioning of the KTCT in June 2013, the security arrangements (including the designation of restricted areas) thereat have been governed by the Port Facility Security Plan (“PFSP”) which was prepared by the terminal operator and approved by the Government under the *Merchant Shipping (Security of Ships and Port Facilities) Rules* (Cap. 582A) and the *International Ship and Port Facility Security Code*. With the PFSP in place, the operation of the KTCT has been smooth and orderly so far.

3. That notwithstanding, the PFSP does not empower the Commissioner for Tourism (“the Commissioner”) and law enforcement agencies to act against some specific misconducts (e.g. unauthorized entry into restricted areas) within the KTCT which may potentially jeopardize its security and smooth operation, nor does it set out the corresponding penalty for such misconducts. The KTCT has permanent customs, immigration, quarantine and police facilities with computers and communication systems containing confidential data, as well as detention facilities for law enforcement purposes. We therefore consider it necessary to provide more comprehensive legal backing for regulating the use, operation and management of and enforcing the restrictions and prohibitions of certain

conducts at the KTCT to uphold its security and to ensure its smooth operation. Our objective is to bring the relevant legal framework for regulating the use of the KTCT broadly on par with that for other cross-boundary ferry terminals in Hong Kong.

4. Our original plan was to make subsidiary legislation under the *Shipping and Port Control Ordinance* (Cap. 313) to achieve the above objectives. Nevertheless, with the statutory declaration of the Terminal Area, any fees and charges collected within the Terminal Area on a commercial basis and beyond cost-recovery level must be expressly provided for in the statute. However, legal advice suggested that the regulation making powers under Cap. 313 have certain limitations¹. Having regard to such constraint, in order to ensure that we have the necessary flexibility, we decided to enact new primary legislation with an express “fee-charging” provision to reflect the intended charging scheme. The Bill also provides for the necessary enforcement powers which are originally beyond the vires of the proposed subsidiary legislation.

Key Elements of the Bill

5. The major elements of the Bill are as follows –

(A) Delineating the Terminal Area and the Restricted Areas

6. The Bill will delineate a Terminal Area, and empower the Commissioner to designate areas within it as restricted areas. This is to control the access to the Terminal Area and restricted areas, as well as regulate the use of the relevant facilities therein. The Terminal Area (as delineated under the Bill) and the restricted areas (to be designated by the Commissioner after enactment) will include the waters around the KTCT to ensure smooth operation of its two berths.

7. As far as the restricted areas are concerned, there will be permanent restricted areas and non-permanent restricted areas. The Commissioner (or her delegates) may declare by notice that certain non-permanent restricted areas cease to be restricted areas during a specified period of time for better utilisation of the KTCT for other use (e.g. as event venue during non-cruise days).

¹ Legal advice suggested that although the fee of a *particular* service, facility or matter may be set at a level that exceeds the administrative or other costs incurred in the provision of that service, facility or matter as empowered under s.80(1A) of Cap. 313, there is no provision enabling the charging of fees not limited by reference to the amount of administrative or other costs incurred or likely incurred by the Government or other authority in the discharge of its functions under Cap. 313. As such, over cost-recovery in the “*overall*” sense is not allowed. In other words, the sum of all fees charged under Cap. 313 may not exceed the total costs incurred.

B 8. The plans indicating the proposed boundaries of the Terminal Area and the restricted areas are at Annex B.

(B) Controlling the Operation and Management of the Terminal Area

9. The Bill will expressly confer on the Government and the terminal operator a fee-charging power for the purposes of operating and managing the Terminal Area on a commercial basis and provide that the level of fees charged may exceed the level for cost recovery. For avoidance of doubt, the Bill will also provide that subject to the tenancy agreement between the Government and the terminal operator, any money received by the operator will not be regarded as money raised or received for the purposes of the Government under section 3 of the Public Finance Ordinance (Cap. 2) and may be retained by the terminal operator. This is in line with the existing tenancy agreement between the Government and the terminal operator.

(C) General prohibitions

10. In order to ensure the smooth operation of the KTCT and to ensure that cruise passengers can use the terminal building and boundary crossing facilities smoothly and without disturbance, the Bill will include some general prohibitions within the Terminal Area. These prohibitions include the control of unauthorized business activities and advertising; acts that cause danger, nuisance etc. to others; acts that interfere with the equipment at KTCT (e.g. the radar and plant rooms); non-compliance with notices without reasonable excuse; and other prohibitions such as fishing, begging, littering and smoking, etc.

(D) Enforcement Power and Penalty

11. The Bill will provide the Commissioner and authorized officers with the power to enforce the provisions in relation to the prohibited acts mentioned above. The Bill will also set out the corresponding penalty for contravening certain provisions in the Bill. Depending on the nature and severity of the offences, the authorized officers may also exercise the power to remove the offenders. In addition, if the authorized officer is a law enforcement officer, he or she may exercise the power to arrest the offenders; and to seize, remove or detain anything that the officer reasonably suspects to be relevant to the contravention.

12. We will also make some related amendments to existing pieces of legislation (e.g. for designating detention quarters within the Terminal Area) to facilitate the work of law enforcement officers.

THE BILL

13. Main provisions of the Bill are set out below -

- (a) **Clause 3 and Schedule 1** designate the KTCT and delineate the Terminal Area, and **Clauses 7 and 8** control the access to and remaining in the Terminal Area (*see paragraph 6 above*);
- (b) **Clause 5** expressly empowers the Commissioner and the terminal operator to charge fees on a commercial basis (*see paragraph 9 above*);
- (c) **Clauses 9 and 10** provide for the designation of the permanent and non-permanent restricted areas, and the mechanism for temporary cessation of restriction for the non-permanent restricted areas (*see paragraphs 6 and 7 above*);
- (d) **Clause 12** controls the access to and from and remaining in the restricted areas (*see paragraph 6 above*);
- (e) **Clauses 15 to 20** provides for some general prohibitions within the Terminal Area (*see paragraph 10 above*);
- (f) **Clause 21** confers on the Commissioner and authorized officers (which can be law enforcement officers) with appropriate enforcement powers to act against the commission of offences under the Bill (*see paragraph 11 above*);
- (g) **Schedule 2** provides for the mechanism of issuance, cancellation and surrender of passes for access to restricted areas; and
- (h) **Schedule 3** provides for the necessary related amendments to existing law to facilitate the enforcement actions of law enforcement officers (*see paragraph 12 above*).

OTHER OPTIONS

14. There is no alternative other than through legislation to provide the necessary legal backing for regulating the use, operation, management and control of the KTCT. As mentioned in paragraph 4 above, we have considered the option of achieving the above objectives through making subsidiary legislation under the *Shipping and Port Control Ordinance* (Cap. 313). However, given the vires problem, we decided to enact new primary legislation.

LEGISLATIVE TIMETABLE

15. The legislative timetable will be as follows –

Publication in the Gazette	3 July 2015
First Reading and commencement of Second Reading Debate	8 July 2015
Resumption of Second Reading Debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

16. The Bill has no economic, sustainability, competition, environmental, family, gender or productivity implications. It is in conformity with the Basic Law, including the provisions concerning human rights. There is no express provision in the Bill which binds the state. Regarding financial implications, any future government fees or rent charged by the Commissioner will be credited to the General Revenue Account in accordance with the established practice. Relevant departments can absorb the workload arising from the enforcement of the new legislative provisions with the additional manpower allocated for the operation of the KTCT.

PUBLIC CONSULTATION

17. We last discussed issues relating to the KTCT, including our plan to introduce new primary legislation to regulate its use, at the Panel on Economic Development of this Council at its meeting in October 2014. We also circulated an information paper which sets out the framework of the proposed legislation to the Panel in May 2015. Members did not raise any specific comments to the proposal.

18. As regards the delineation of the restricted areas in the waters around the KTCT, we have informed relevant advisory committees under the Marine Department (including Local Vessels Advisory Committee, Port Operations Committee and Port Area Security Advisory Committee) by way of an information paper. So far, we have not received any adverse comments.

PUBLICITY

19. We will issue a press release upon the gazettal of the Bill on 3 July 2015. We will arrange a spokesperson to answer media enquiries.

ENQUIRIES

20. Enquiries relating to this Brief can be directed to Mr. George Tsoi, Assistant Commissioner for Tourism, at 2810 2461.

**Tourism Commission
Commerce, Industry and Tourism Branch
Commerce and Economic Development Bureau
2 July 2015**

Kai Tak Cruise Terminal Bill

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A BILL

To

Provide for the designation of the Kai Tak Cruise Terminal, for its use, operation, management and control, and for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title

This Ordinance may be cited as the Kai Tak Cruise Terminal Ordinance.

2. Interpretation

In this Ordinance—

authorized officer (獲授權人員), in relation to a provision of this Ordinance, means—

- (a) a public officer, or a member of a class of public officers, authorized under section 6(1) in relation to that provision;
- (b) a public officer, or a member of a class of public officers, authorized under section 6(1) in relation to this Ordinance generally; or
- (c) a police officer on duty within the Terminal Area;

Commissioner (專員) means the Commissioner for Tourism;

cruise ship (郵輪) means any vessel—

- (a) carrying or intended to be used to carry passengers exclusively for sightseeing or pleasure purposes; and
- (b) plying, along a predetermined route, on any voyage—
 - (i) from a port outside Hong Kong to the same or another port outside Hong Kong, during the course of which Hong Kong is an intermediate port of call; or
 - (ii) which begins, ends or begins and ends within the waters of Hong Kong, whether or not the vessel calls at any port outside Hong Kong during its course,

and includes any other vessel approved by the Commissioner for the purposes of this Ordinance;

functions (職能) includes powers, duties and activities;

law enforcement officer (執法人員) means—

- (a) a police officer;
- (b) a member of the Immigration Service established by section 3 of the Immigration Service Ordinance (Cap. 331); or
- (c) a person holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap. 342);

non-permanent restricted area (非永久限制區) means an area designated as such under section 9(1)(a)(ii);

owner (擁有人) means a person within the meaning of paragraph (a) of the definition of **owner** in section 2 of the Shipping and Port Control Ordinance (Cap. 313);

pass (通行證) means a pass issued under Schedule 2;

permanent restricted area (永久限制區) means an area designated as such under section 9(1)(a)(i);

property manager (管理者) means a person who enters into a contract with the Government for providing property management services in relation to any part of the Terminal Area specified in the contract;

restricted area (限制區) means an area comprising one or more of the following—

- (a) a permanent restricted area;
- (b) a non-permanent restricted area (except any non-permanent restricted area, or part of it, declared under section 10(1) to cease to be a restricted area for the time being);

tenancy agreement (租賃協議) means an agreement—

- (a) between—
 - (i) the Government as the landlord; and
 - (ii) any person as the tenant; and
- (b) for the operation and management of the Terminal in relation to any part of the Terminal Area specified in the agreement;

Terminal (郵輪碼頭) means the Kai Tak Cruise Terminal designated under section 3;

Terminal Area (郵輪碼頭區) means the area described in Schedule 1;

terminal operator (碼頭營運者) means a person who enters into a tenancy agreement as the tenant with the Government;

vehicle (車輛) means any vehicle whether or not mechanically propelled;

vessel (船隻) has the meaning given by section 2 of the Shipping and Port Control Ordinance (Cap. 313).

Part 2

The Terminal

3. Designation of Terminal

The Terminal Area is designated as a terminal, to be known as the “Kai Tak Cruise Terminal”.

4. Use of Terminal

The Terminal is to be used—

- (a) for the berthing or anchorage of cruise ships;
- (b) for facilitating the embarkation and disembarkation of passengers of cruise ships;
- (c) for carrying out any activity that the Commissioner considers appropriate; and
- (d) for ancillary purposes.

5. Operation and management of Terminal

- (1) The Commissioner may operate and manage the Terminal on a commercial basis.
- (2) Subject to the tenancy agreement between the Government and a terminal operator, the operator may operate and manage the Terminal in relation to any part of the Terminal Area specified in the agreement on a commercial basis.
- (3) Without limiting subsection (1) or (2), for the purposes of operating and managing the Terminal on a commercial basis under that subsection, the Commissioner or a terminal operator may determine, demand and collect any or all of the following fees and rents—

- (a) fees for the berthing or anchorage of cruise ships or other vessels;
 - (b) rents for the lease or sublease of any premises;
 - (c) fees for licences for the entry, use or occupation of any premises;
 - (d) fees for the use of vehicle parking facilities;
 - (e) any other fees.
- (4) The fees and rents referred to in subsection (3) are not limited by reference to—
- (a) the administrative or other costs incurred or likely to be incurred in operating and managing the Terminal; or
 - (b) the recovery of expenditure in operating and managing the Terminal.
- (5) To avoid doubt, subject to the tenancy agreement between the Government and a terminal operator, any moneys received by the operator in the course of operating and managing the Terminal in accordance with the agreement—
- (a) are not moneys raised or received for the purposes of the Government under section 3 of the Public Finance Ordinance (Cap. 2); and
 - (b) may be retained by the operator.
- #### 6. Authorization and delegation by Commissioner
- (1) The Commissioner may authorize a public officer, or any member of a class of public officers, to be an authorized officer for the purposes of this Ordinance.
 - (2) An authorization under subsection (1)—
 - (a) must be in writing; and
 - (b) may be given in relation to specified provisions of this Ordinance or in relation to this Ordinance generally.

- (3) Subject to subsection (4), the Commissioner may, in writing, delegate any of his or her functions under this Ordinance to—
- (a) a public officer or any member of a class of public officers;
 - (b) a terminal operator; or
 - (c) a property manager.
- (4) The Commissioner may not delegate under subsection (3) his or her function under—
- (a) subsection (1) or (3);
 - (b) section 9(1); or
 - (c) section 23(1).
- (5) If a function is delegated to a terminal operator or property manager (*delegate*) under subsection (3), the delegate may sub-delegate that function to the delegate's employee.
- (6) If a function under this Ordinance is performed by a person who is—
- (a) a public officer;
 - (b) a terminal operator or an employee of a terminal operator; or
 - (c) a property manager or an employee of a property manager,
- then, until the contrary is proved, the person is taken to have performed the function in accordance with an authorization or delegation under this section.
- (7) In this Ordinance (other than in subsections (1) and (3) and sections 9(1) and 23(1)), a reference to the Commissioner in relation to a function includes—
- (a) a person to whom the function is delegated by the Commissioner under subsection (3); and

- (b) if the person sub-delegates that function to the person's employee under subsection (5), that employee.
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Part 3**Access to Terminal Area****7. Access to and from and remaining in Terminal Area by persons**

- (1) A person must not enter or leave the Terminal Area except—
 - (a) by an entrance or exit of the Terminal Area specified by the Commissioner or an authorized officer; or
 - (b) by means of a vessel.
- (2) A person must not remain in the Terminal Area, or any part of it, after being ordered to leave the Terminal Area, or that part of it, by the Commissioner or an authorized officer.
- (3) The Commissioner or an authorized officer may, by notice or sign exhibited in a conspicuous place within or near the Terminal Area, prohibit access by any person or class of persons to the Terminal Area, or any part of it.
- (4) A person who, without reasonable excuse, contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 1.
- (5) A person who, without reasonable excuse, fails to comply with a notice or sign exhibited under subsection (3) commits an offence and is liable on conviction to a fine at level 1.

8. Vehicles and vessels within, entering, leaving Terminal Area etc.

- (1) A person must not drive a vehicle into or out of the Terminal Area except by an entrance or exit of the Terminal Area specified by the Commissioner or an authorized officer.
- (2) Except with the permission of the Commissioner or an authorized officer, a person must not—

- (a) navigate a vessel into, within or out of the Terminal Area; or
 - (b) cause an object to float on, or be in, the sea within the Terminal Area.
- (3) Subsection (2) does not apply in relation to—
 - (a) the navigation of a vessel that is used by a person acting in his or her capacity as a public officer;
 - (b) the navigation of a vessel that is scheduled to be berthed or anchored within the Terminal Area; or
 - (c) the use of a life-saving appliance in an emergency.
 - (4) While a vehicle or vessel is within, entering or leaving the Terminal Area, the driver of the vehicle or the owner or master of the vessel must comply with—
 - (a) a direction or an order given by the Commissioner or an authorized officer (including an order directing the vehicle or vessel to leave the Terminal Area, or any part of it); and
 - (b) a notice or sign exhibited in a conspicuous place within or near the Terminal Area by the Commissioner or an authorized officer.
 - (5) Without limiting subsection (4)(b), the Commissioner or an authorized officer may exhibit a notice or sign under that subsection to prohibit access by—
 - (a) any vehicle or class of vehicles; or
 - (b) any vessel or class of vessels, to the Terminal Area, or any part of it.

- (6) A person who, without reasonable excuse, contravenes subsection (1), (2) or (4) commits an offence and is liable on conviction to a fine at level 1.
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Part 4

Restricted Areas

9. Permanent and non-permanent restricted areas

- (1) The Commissioner may, by notice published in the Gazette—
- (a) designate an area of land or water within the Terminal Area as—
 - (i) a permanent restricted area; or
 - (ii) a non-permanent restricted area; or
 - (b) vary or revoke the designation of a permanent restricted area or non-permanent restricted area.
- (2) A notice published under subsection (1) for the purposes of designating, or varying the boundaries of, a permanent restricted area or non-permanent restricted area must describe and delineate the area by reference to a plan.
- (3) A plan under subsection (2) must be—
- (a) numbered, dated and signed by the Commissioner; and
 - (b) deposited in the Commissioner's office.
- (4) A designation, variation or revocation under subsection (1) becomes effective on the date the notice is published in the Gazette or a later date specified in the notice.
- (5) A notice under subsection (1) is not subsidiary legislation.

10. Temporary cessation of restricted areas

- (1) The Commissioner may declare by notice that a non-permanent restricted area, or any part of it, specified in the notice ceases to be a restricted area during the period specified in the notice—

- (a) to cater for operational needs; or
 - (b) to facilitate the use of the non-permanent restricted area, or that part of it, for carrying out any activity that the Commissioner considers appropriate.
- (2) The notice under subsection (1), or its copy, must be exhibited in a conspicuous place within or near the non-permanent restricted area, or the part of it, concerned during the period of cessation.
- (3) A notice under subsection (1) is not subsidiary legislation.

11. Demarcation of restricted areas

The Commissioner must cause the boundaries of, or entrances to, a restricted area to be demarcated by signs, or in any other manner, that will reasonably indicate the restricted area to members of the public who might enter it.

12. Prohibition of entry etc. to restricted areas

- (1) Subject to section 14(1), a person must not enter or remain in a restricted area unless—
- (a) the person—
 - (i) is in possession of a valid pass issued for the restricted area; and
 - (ii) produces the pass for examination on entering the restricted area, and at any time while present in the restricted area if so required by the Commissioner or an authorized officer;
 - (b) the person is being escorted by the Commissioner, or an authorized officer, who is in possession of a valid pass issued for the restricted area; or
 - (c) the person is a law enforcement officer on duty within the Terminal Area.

- (2) A person must not enter or leave a restricted area except—
- (a) by an entrance or exit of the restricted area specified by the Commissioner or an authorized officer; or
 - (b) by means of a vessel.
- (3) A person must not remain in a restricted area, or any part of it, after being ordered to leave the restricted area, or that part of it, by the Commissioner or an authorized officer.
- (4) Except with the permission of the Commissioner or an authorized officer, a person (other than a law enforcement officer on duty within the Terminal Area) must not drive a vehicle into a restricted area.
- (5) A person who, without reasonable excuse, contravenes subsection (1), (2), (3) or (4) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

13. Passes

Schedule 2 has effect with respect to a pass.

14. Exemption for bona fide passengers and crew members

- (1) Subject to subsections (2) and (3), a bona fide passenger or a bona fide crew member of a vessel scheduled to be berthed or anchored within the Terminal Area is exempted from section 12(1) if the passenger or crew member—
- (a) is passing through any restricted area—
 - (i) after having disembarked from the vessel; or
 - (ii) for boarding the vessel; or
 - (b) is on board the vessel.

- (2) A passenger or crew member of a vessel is not exempted under subsection (1) unless the passenger or crew member is in possession of—
- (a) a valid travel document; or
 - (b) a valid document issued by the owner or master of the vessel for identifying the passengers or crew members of the vessel.
- (3) The exemption under subsection (1) does not apply in relation to a restricted area, or any part of it, if the Commissioner or an authorized officer has, by notice or sign exhibited in a conspicuous place within or near the restricted area, prohibited access by passengers and crew members of vessels to the restricted area, or that part of it.
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Part 5

General Prohibitions

15. Embarkation and disembarkation

- (1) Except with the permission of the Commissioner or an authorized officer, a person must not board, or disembark from, a vessel within the Terminal Area—
- (a) while the vessel is in motion; or
 - (b) otherwise than by a gangway.
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

16. Business activities and advertising

- (1) Except with the permission of the Commissioner or an authorized officer, a person must not, within the Terminal Area—
- (a) sell anything;
 - (b) offer anything for sale, or offer any service;
 - (c) display or exhibit any material for the purpose of advertisement or publicity (except where it is displayed or exhibited inside, or on the body of, a vehicle);
 - (d) distribute any material; or
 - (e) make any public announcement—
 - (i) by radio or television; or
 - (ii) by video or cinematographic film.
- (2) Subsection (1) does not affect the performance of a function—

- (a) by a person acting in his or her capacity as a public officer; or
- (b) by a person who is an employee of the Hong Kong Tourism Board acting in the course of that employment.
- (3) Subsection (1) does not apply in relation to anything done on board a vessel.
- (4) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.
- (5) In this section—

Hong Kong Tourism Board (香港旅遊發展局) means the body of that name established by section 3(1) of the Hong Kong Tourism Board Ordinance (Cap. 302);

material (資料) means any printed, electronic, written or pictorial matter or any article, including any book, leaflet, banner and sample.

17. **Danger, nuisance, etc.**

- (1) A person must not cause any danger, nuisance or annoyance to another person within the Terminal Area.
- (2) The Commissioner or an authorized officer may prohibit a person from entering, or order a person to leave, the Terminal Area, or any part of it, if, in his or her opinion, the person has caused, is causing or will probably cause disturbance to the operation of the Terminal.
- (3) The Commissioner or an authorized officer may prohibit a person from entering, or order a person to leave, the Terminal Area, or any part of it, if, in his or her opinion, the person—
 - (a) is under the influence of alcohol, medicine or drug; and
 - (b) is a probable danger or source of nuisance or annoyance to another person within the Terminal Area.

- (4) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.
- (5) A person who, without reasonable excuse, fails to comply with a prohibition or an order imposed on the person under subsection (2) or (3) commits an offence and is liable on conviction to a fine at level 1.
- (6) To avoid doubt, subsection (2) or (3) does not limit section 7(2) or (3).

18. **Interference with equipment**

- (1) Except with the permission of the Commissioner or an authorized officer or with lawful authority, a person must not interfere with, meddle with or move in any way—
 - (a) any equipment or machine owned by the Government, a terminal operator or a property manager within the Terminal Area; or
 - (b) any information or data stored in such equipment or machine.
- (2) Except with the permission of the Commissioner or an authorized officer or with lawful authority, a person must not activate any emergency or safety device within the Terminal Area except—
 - (a) for the purpose for which the device is provided; and
 - (b) in accordance with any instructions shown on the device.
- (3) A person who, without reasonable excuse, contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 1.

19. Compliance with direction, notice, etc.

- (1) A person, while within the Terminal Area, must comply with—
 - (a) a reasonable direction or order given by the Commissioner or an authorized officer; or
 - (b) a notice or sign exhibited by the Commissioner or an authorized officer.
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

20. Other prohibited acts

- (1) A person must not, while within the Terminal Area—
 - (a) throw, deposit, leave or drop litter, paper or rubbish (other than in a bin or container provided for the purpose);
 - (b) throw, deposit, leave or drop anything capable of causing injury to a person or damage to property;
 - (c) open, remove or climb over any wall, fence, railing, barrier, gate or post constructed or erected within the Terminal Area;
 - (d) without reasonable excuse, set out or leave anything which obstructs, inconveniences or endangers, or may obstruct, inconvenience or endanger, another person or any vehicle or vessel;
 - (e) loiter in the Terminal Area without reasonable cause;
 - (f) beg;
 - (g) fish; or
 - (h) smoke or carry a lighted cigarette, cigar or pipe.

- (2) Subsection (1) does not apply in relation to anything done on board a vessel.
- (3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.

Part 6**Miscellaneous****21. Enforcement powers**

- (1) If the Commissioner or an authorized officer has reasonable grounds for suspecting that a person has committed an offence under this Ordinance, the Commissioner or officer may, without warrant and if necessary by using reasonable force, detain the person.
- (2) If a person is detained under subsection (1) by the Commissioner or by an authorized officer who is not a law enforcement officer, then the Commissioner or officer must, as soon as practicable after detaining the person—
 - (a) take the person to a police station to be dealt with in accordance with the Police Force Ordinance (Cap. 232); or
 - (b) deliver the person into the custody of a police officer to be dealt with in accordance with that Ordinance.
- (3) If a person is detained under subsection (1) by an authorized officer who is a law enforcement officer, the officer may detain the person for a reasonable period while the officer inquires about the suspected commission of the offence.
- (4) If the Commissioner or an authorized officer has reasonable grounds for suspecting that a person has committed an offence under section 7, 12 or 22, the Commissioner or officer may, without warrant and if necessary by using reasonable force, remove the person from the Terminal Area.
- (5) If an authorized officer who is a law enforcement officer has reasonable grounds for suspecting that a person has committed an offence under section 12 or 22, the officer may

exercise any or all of the following powers, without warrant and if necessary by using reasonable force—

- (a) arrest the person;
- (b) seize, remove or detain anything that the officer reasonably suspects to be relevant to the suspected commission of the offence.

22. Offences relating to performance of functions under this Ordinance

- (1) Without limiting any other law, a person commits an offence if the person—
 - (a) wilfully obstructs the Commissioner or an authorized officer in the performance of a function under this Ordinance; or
 - (b) falsely pretends to be a person acting under the authorization or delegation by the Commissioner under this Ordinance.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

23. Commissioner may amend Schedules 1 and 2

- (1) The Commissioner may, by notice published in the Gazette, amend Schedule 1 or 2.
- (2) A notice under subsection (1) may contain incidental, consequential, supplemental, transitional or savings provisions that are necessary or expedient in consequence of an amendment made by the notice.

24. Public inspection of plans

The Commissioner must keep available at the Commissioner's office, for public inspection free of charge during normal office hours, a copy of any plan deposited in that office under this Ordinance.

25. Evidence by documents

- (1) In any legal proceedings, a document purporting to be certified by the Commissioner as the Terminal Area plan or a plan of a permanent restricted area or non-permanent restricted area, or as a copy of such a plan—
 - (a) is admissible in evidence on production without further proof; and
 - (b) until the contrary is proved—
 - (i) is presumed to be certified by the Commissioner; and
 - (ii) is evidence of the extent of the Terminal Area, permanent restricted area or non-permanent restricted area, as the case may be.
- (2) In any legal proceedings, a document purporting to be certified by the Commissioner as a notice under section 10(1), or as a copy of such a notice—
 - (a) is admissible in evidence on production without further proof; and
 - (b) until the contrary is proved—
 - (i) is presumed to be certified by the Commissioner; and
 - (ii) is evidence of the declaration made by that notice.
- (3) In this section—

Terminal Area plan (郵輪碼頭區圖則) has the meaning given by section 3 of Schedule 1.

26. Saving

This Ordinance does not restrict, derogate from or otherwise interfere with—

- (a) a function under any law of a person in the service of the Government; or
- (b) the person's performance of the function.

27. Related amendments

The enactments specified in Schedule 3 are amended as set out in that Schedule.

Schedule 1[ss. 2, 23 &
25]**Terminal Area**

1. Subject to section 2 of this Schedule, the Terminal Area comprises—
 - (a) the area of land within the boundaries delineated and shown edged red in the Terminal Area plan, including—
 - (i) the terminal building;
 - (ii) the apron; and
 - (iii) any structure or erection below, or annexed or attached to, the apron; and
 - (b) the area of water within the boundaries delineated and shown hatched black in the Terminal Area plan.
2. The Terminal Area does not include the Kai Tak Cruise Terminal Park (set aside under section 106 of the Public Health and Municipal Services Ordinance (Cap. 132) for use as a public pleasure ground) on the roof top of the terminal building.
3. In this Schedule—

Terminal Area plan (郵輪碼頭區圖則) means a plan—

 - (a) titled “Location Plan of the Terminal Area” numbered KM9344;
 - (b) signed by the Commissioner on 11 June 2015; and
 - (c) deposited in the Commissioner’s office.

Schedule 2[ss. 2, 13 &
23]**Passes**

1. **Interpretation**
In this Schedule—
pass holder (通行證持有人), in relation to a pass, means the person to whom the pass is issued.
2. **Issue of passes**
 - (1) The Commissioner may issue a pass for a restricted area to a person if satisfied that—
 - (a) because of the nature of the person’s occupation or employment—
 - (i) the person requires immediate access to the restricted area; or
 - (ii) the person requires frequent and regular access to the restricted area; and
 - (b) the person is not, for any reason relating to the operation or security of the Terminal, unfit to have access to the restricted area.
 - (2) A pass may be issued subject to any conditions specified by the Commissioner.
 - (3) A pass—
 - (a) must be in the form specified by the Commissioner; and
 - (b) must indicate—
 - (i) the name of the pass holder;
 - (ii) its period of validity;

- (iii) the restricted area for which it is issued; and
- (iv) any conditions subject to which it is issued.

3. Validity of passes

A pass ceases to be valid—

- (a) on the expiry of the period of validity indicated on it;
- (b) on its cancellation under section 4(1) of this Schedule; or
- (c) when the pass holder ceases to be employed by the person who was his or her employer when the pass was issued.

4. Cancellation and surrender of passes

- (1) The Commissioner may cancel a pass if it appears to the Commissioner that—
 - (a) the pass holder no longer requires immediate access, or frequent and regular access, to the restricted area concerned;
 - (b) the pass holder is, for any reason relating to the operation or security of the Terminal, unfit to have access to the restricted area concerned;
 - (c) a condition subject to which the pass was issued has been contravened;
 - (d) the pass holder, or his or her employer, has contravened this Ordinance; or
 - (e) the pass has been lost, destroyed or defaced.
- (2) If a pass is cancelled, the Commissioner—
 - (a) must notify the pass holder; and
 - (b) may, if considered necessary, notify the employer of the pass holder.

- (3) Unless the pass is lost or destroyed, a pass holder, on receiving a notice under subsection (2), must surrender, as soon as practicable, the pass to the Commissioner.
- (4) A pass holder who ceases to be employed by the person who was his or her employer when the pass was issued must surrender, immediately after the cessation of the employment, the pass to the Commissioner.
- (5) A person who, without reasonable excuse, contravenes subsection (3) or (4) commits an offence and is liable on conviction to a fine at level 2.

Schedule 3

[s. 27]

Related Amendments**Part 1****Amendment to Immigration (Places of Detention)
Order (Cap. 115 sub. leg. B)****1. Schedule 3 amended**

Schedule 3—

Add

“29. The area within the Kai Tak Cruise Terminal that is set aside as detention quarters for use by the Immigration Department.”.

Part 2**Amendments to Immigration (Anchorages and Landing
Places) Order (Cap. 115 sub. leg. C)****2. Paragraph 2 amended (designation of approved immigration
anchorages)**

(1) After paragraph 2(1)(ba)—

Add

“(bb) for a cruise ship as defined by section 2 of the Kai Tak Cruise Terminal Ordinance (of 2015), the Kai Tak Cruise Terminal designated under section 3 of that Ordinance;”.

(2) Paragraph 2(1)(c)—

Repeal

“any other ship”

Substitute

“a ship not falling within sub-subparagraph (a), (b) or (ba)”.

Part 3**Amendment to Immigration Service (Designated Places)
Order (Cap. 331 sub. leg. B)****3. Schedule amended**

The Schedule—

Add

“15. The area within the Kai Tak Cruise Terminal that is set aside as detention quarters for use by the Immigration Department.”.

Explanatory Memorandum

The main purpose of this Bill is to provide for the designation of the Kai Tak Cruise Terminal (*Terminal*) and for the use, operation, management and control of the Terminal.

Part 1—Preliminary

2. Clause 1 sets out the short title.
3. Clause 2 contains the definitions for the interpretation of the Bill. In particular—
 - (a) *Terminal Area*—defined as the area described in Schedule 1;
 - (b) *restricted area*—defined as an area comprising one or more of the permanent restricted areas and non-permanent restricted areas (except any non-permanent restricted area, or part of it, which temporarily ceases to be a restricted area) designated by the Commissioner for Tourism (*Commissioner*).

Part 2—The Terminal

4. Clause 3 provides for the designation of the Terminal.
5. Clause 4 sets out the use of the Terminal.
6. Clause 5 empowers the Commissioner and an operator of the Terminal to operate and manage the Terminal on a commercial basis, including by charging fees and rents.
7. Clause 6 empowers the Commissioner to authorize a public officer, or any member of a class of public officers, to be an *authorized officer* for the purposes of the Bill and to delegate any of his or her functions under the Bill.

Part 3—Access to Terminal Area

8. Clauses 7 and 8 regulate the access to and from the Terminal Area by any person and by any vehicle or vessel respectively. The clauses also empower the Commissioner and authorized officers to order any person, vehicle or vessel to leave the Terminal Area.

Part 4—Restricted Areas

9. Clause 9 enables the Commissioner to designate an area within the Terminal Area as a permanent restricted area or non-permanent restricted area, and clause 10 empowers the Commissioner to declare that a non-permanent restricted area (or any part of it) temporarily ceases to be a restricted area.
10. Clause 11 requires the Commissioner to demarcate a restricted area.
11. Clause 12 prohibits entry to a restricted area, but the prohibition does not apply to, among others, a person in possession of a valid pass.
12. Clause 13 and Schedule 2 deal with the issue of a pass.
13. Clause 14 exempts a bona fide passenger or crew member of a vessel from the prohibition under clause 12 in certain circumstances.

Part 5—General Prohibitions

14. Clause 15 deals with embarkation and disembarkation within the Terminal Area.
15. Clause 16 prohibits certain business and advertising activities within the Terminal Area.
16. Clause 17 creates offences relating to acts causing danger, nuisance, annoyance or disturbance.

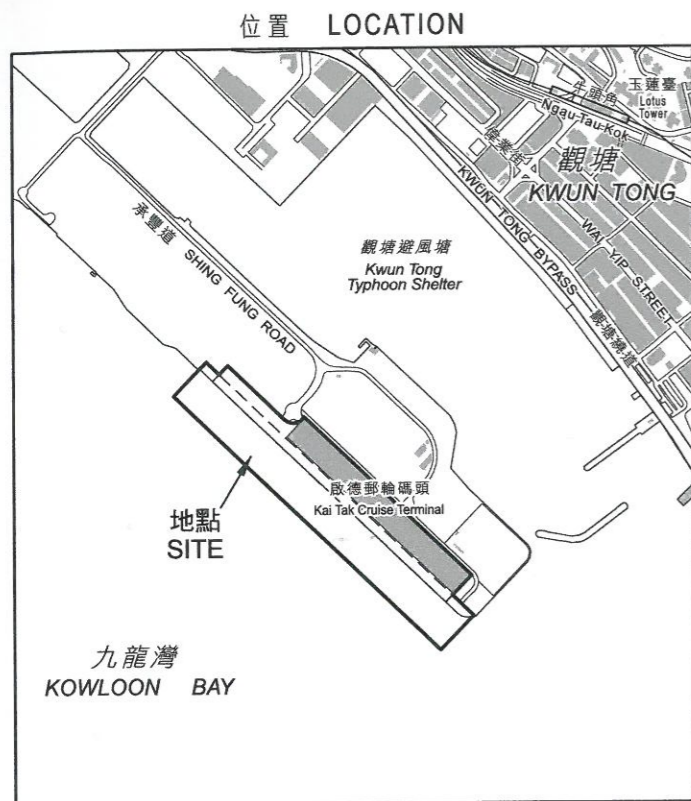
17. Clause 18 creates an offence relating to interference with equipment or machines and an offence relating to the misuse of emergency or safety devices.
18. Clause 19 requires a person within the Terminal Area to comply with directions, orders, notices and signs.
19. Clause 20 regulates conduct within the Terminal Area.

Part 6—Miscellaneous

20. Clause 21 sets out the enforcement powers of the Commissioner and authorized officers.
21. Clause 22 creates offences relating to the performance of functions under the Bill.
22. Clause 23 empowers the Commissioner to amend Schedules 1 and 2.
23. Clause 24 requires the Commissioner to keep available a copy of any plan deposited in the Commissioner's office under the Bill for public inspection.
24. Clause 25 provides that certain documents are admissible in evidence in legal proceedings.
25. Clause 26 provides that the Bill does not interfere with the functions under any law of persons in the service of the Government or with the performance of such functions.
26. Clause 27 and Schedule 3 deal with related amendments.

Schedules

27. The Bill contains 3 Schedules. For further details, see paragraphs 3(a), 12 and 26.

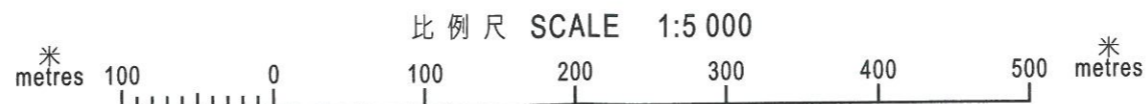
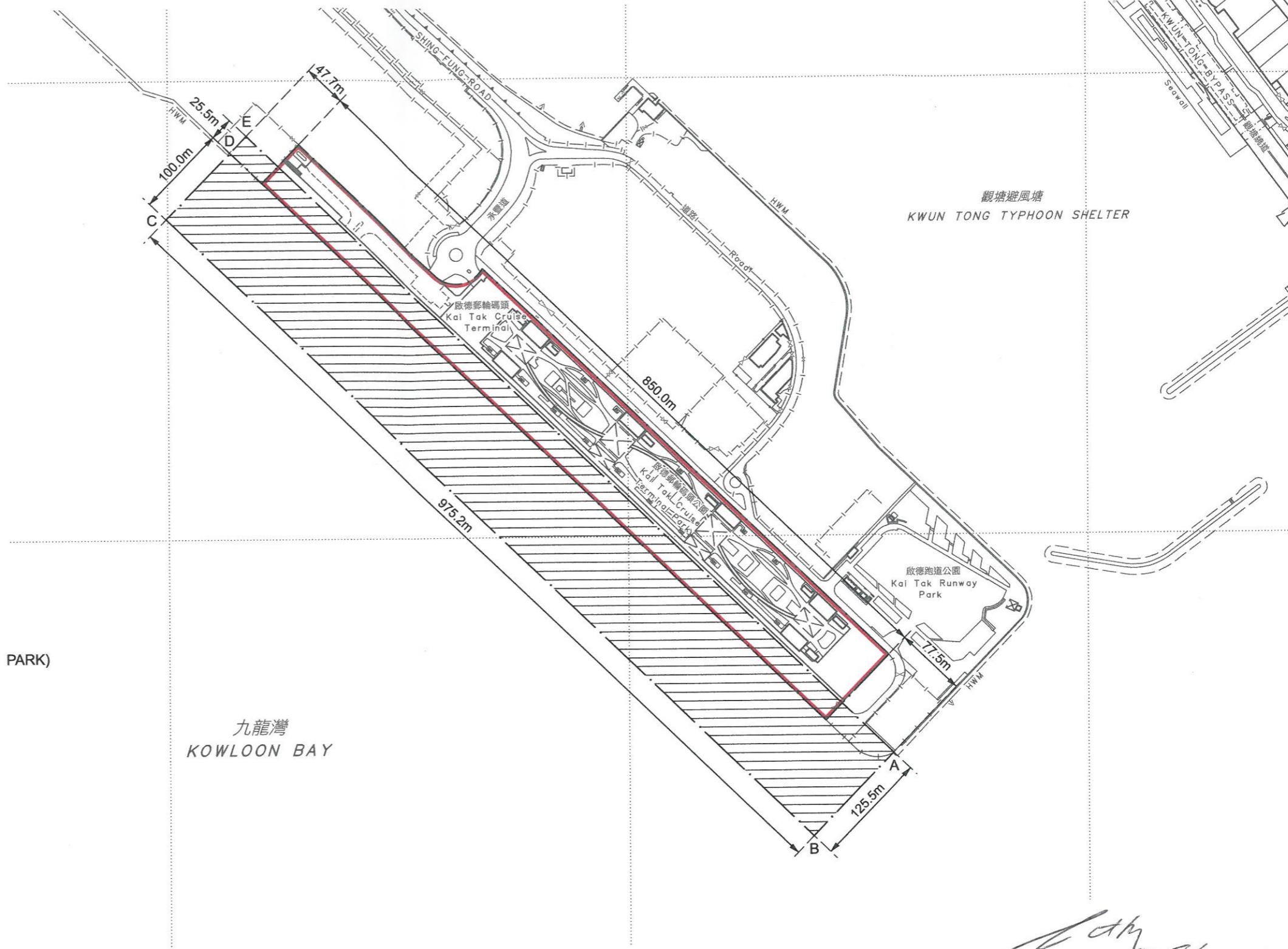


比例 SCALE 1:20 000

圖例 LEGEND

- 郵輪碼頭區-陸地範圍 (啟德郵輪碼頭公園除外)
TERMINAL AREA - AREA OF LAND (EXCEPT FOR THE KAI TAK CRUISE TERMINAL PARK)
- 郵輪碼頭區-水域範圍
TERMINAL AREA - AREA OF WATER

點 Point	1984年世界大地坐標系(國際地球參考架96) WGS84 (ITRF96)	
	北緯 Latitude (N)	東經 Longitude (E)
A	22° 18.199'	114° 12.953'
B	22° 18.150'	114° 12.902'
C	22° 18.517'	114° 12.493'
D	22° 18.556'	114° 12.534'
E	22° 18.566'	114° 12.544'



比例尺 SCALE 1:5 000

Cathy Chu
(朱曼鈴 Cathy Chu)

旅遊事務專員 Commissioner for Tourism

日期 Date 11 JUN 2015

本圖則乃依據總務規例第475條，由地政總署副署長(測繪事務)授權測繪處九龍測量處繪製。

Pursuant to GR 475, this plan has been prepared by the District Survey Office, Kowloon, Survey and Mapping Office, Lands Department, under the Authority of the Deputy Director/Survey and Mapping.

地政總署
Lands Department

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《啟德郵輪碼頭條例》
郵輪碼頭區位置圖

KAI TAK CRUISE TERMINAL ORDINANCE
LOCATION PLAN OF THE TERMINAL AREA

檔案編號 File No. DSO/K 9/42

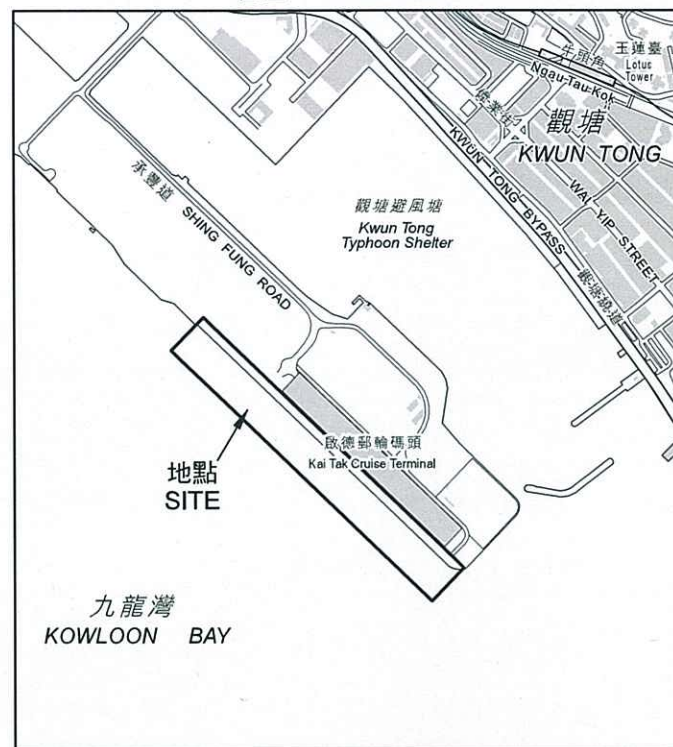
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發展藍圖編號 Layout Plan No. ---

參考圖編號 Reference Plan No. ---

圖則編號 PLAN No. KM9344

位置 LOCATION

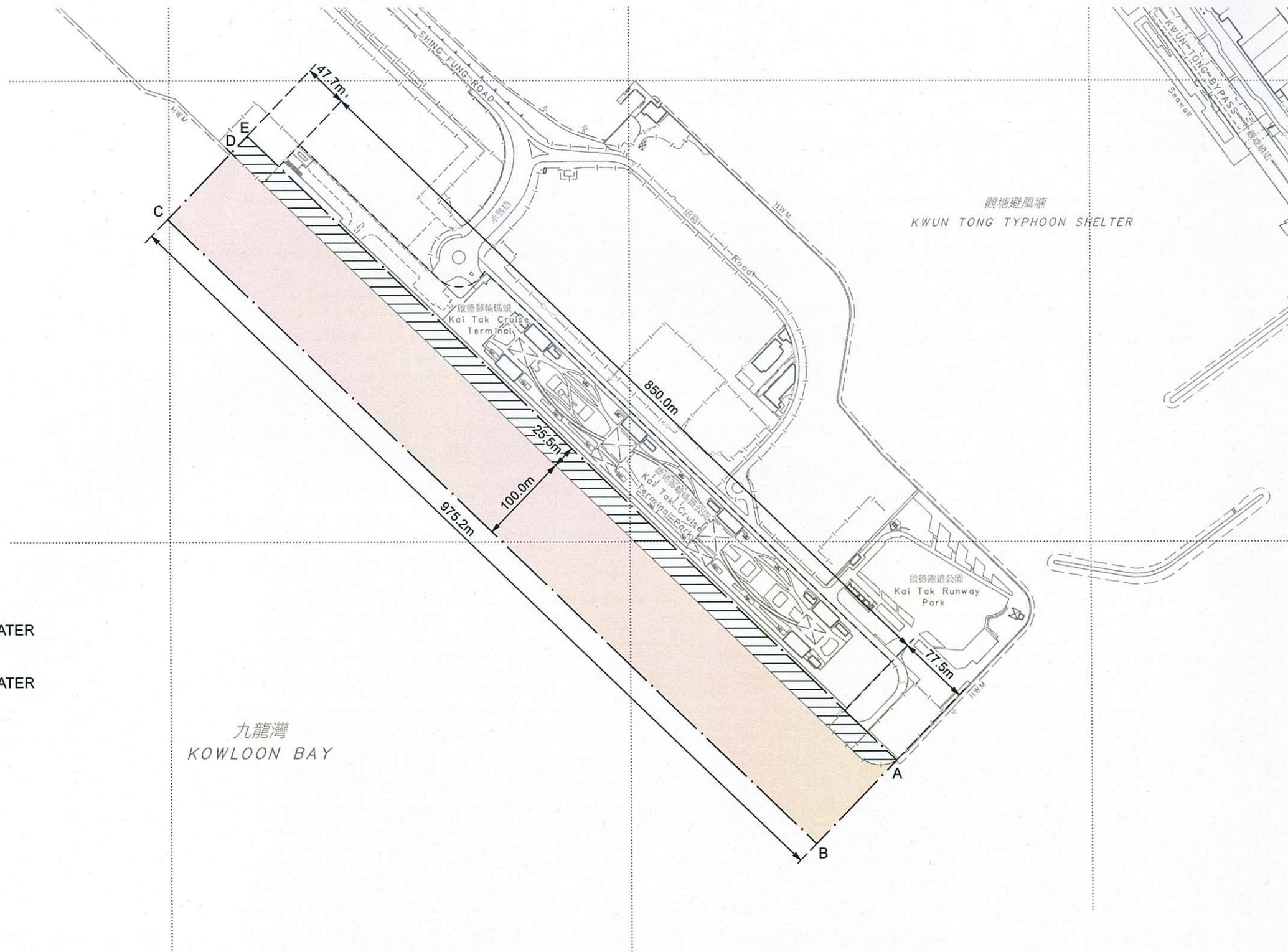


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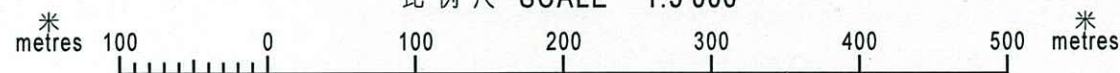
圖例 LEGEND

- 永久限制區-水域範圍
PERMANENT RESTRICTED AREA - AREA OF WATER
- 永久限制區-混凝土結構下的水域範圍
PERMANENT RESTRICTED AREA - AREA OF WATER UNDERNEATH CONCRETE STRUCTURE

點 Point	1984年世界大地坐標系(國際地球參考架96) WGS84 (ITRF96)	
	北緯 Latitude (N)	東經 Longitude (E)
A	22° 18.199'	114° 12.953'
B	22° 18.150'	114° 12.902'
C	22° 18.517'	114° 12.493'
D	22° 18.556'	114° 12.534'
E	22° 18.566'	114° 12.544'



比例尺 SCALE 1:5 000



(朱曼鈴 Cathy Chu)

旅遊事務專員 Commissioner for Tourism

日期 Date _____

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地政總署
Lands Department

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《啟德郵輪碼頭條例》
郵輪碼頭區內的限制區-水域範圍

KAI TAK CRUISE TERMINAL ORDINANCE
RESTRICTED AREAS WITHIN TERMINAL AREA - AREAS OF WATER

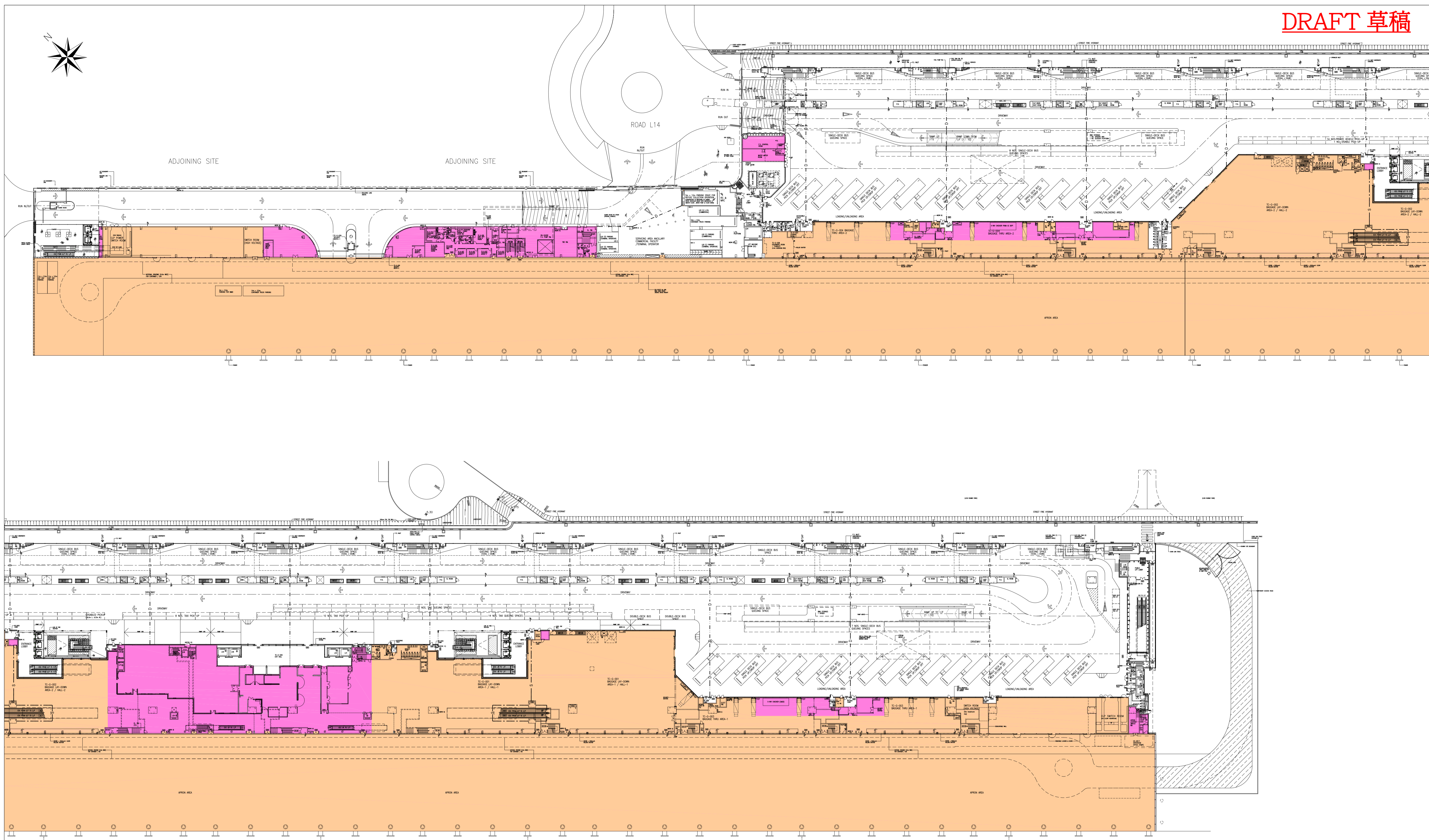
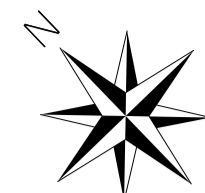
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測量圖編號 Survey Sheet No. 11-NE-22A, B, C, D

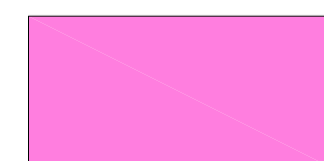
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參考圖編號 Reference Plan No. ---

圖則編號 PLAN No. KM9345



LEGEND 圖例



PERMANENT RESTRICTED AREA
永久限制區



NON-PERMANENT RESTRICTED AREA
非永久限制區

KAI TAK CRUISE TERMINAL ORDINANCE

《 啟德郵輪碼頭條例 》

KAI TAK CRUISE TERMINAL BUILDING AND ANCILLARY FACILITIES - GROUND FLOOR PLAN

啟德郵輪碼頭大樓及附屬設施 - (地下平面圖)

旅遊事務專員

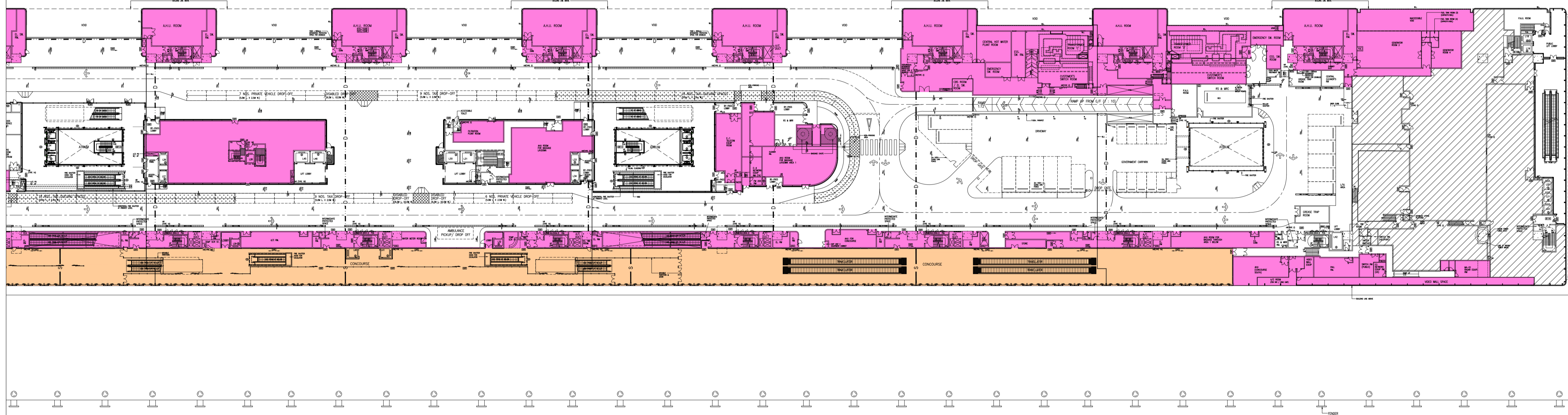
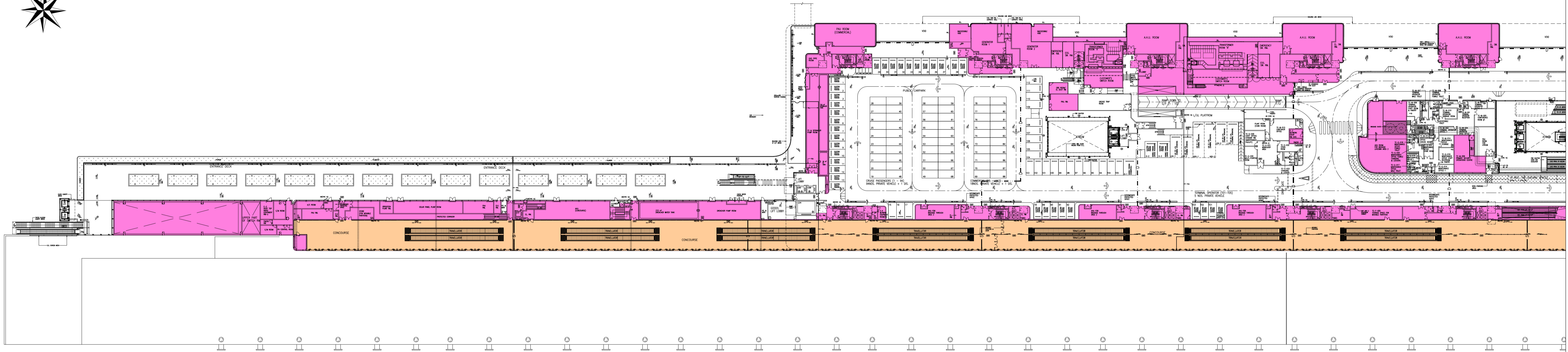
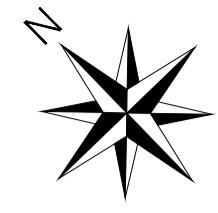
Commissioner for Tourism

朱曼鈴

Cathy Chu

圖則編號

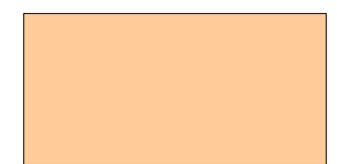
Plan No. KTCTB/201506/01



LEGEND 圖例



PERMANENT RESTRICTED AREA
永久限制區



NON-PERMANENT RESTRICTED AREA
非永久限制區

KAI TAK CRUISE TERMINAL ORDINANCE

《 啟德郵輪碼頭條例 》

KAI TAK CRUISE TERMINAL BUILDING AND ANCILLARY FACILITIES - FIRST FLOOR PLAN

啟德郵輪碼頭大樓及附屬設施 - (一樓平面圖)

旅遊事務專員

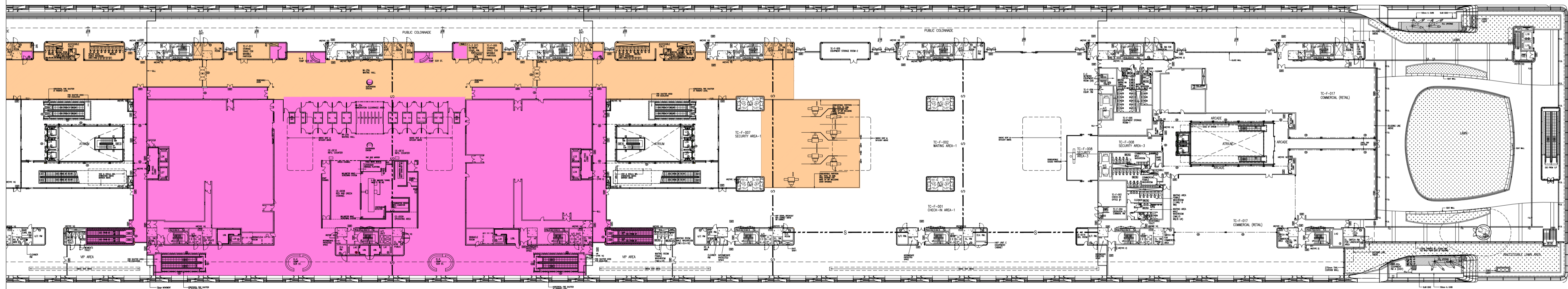
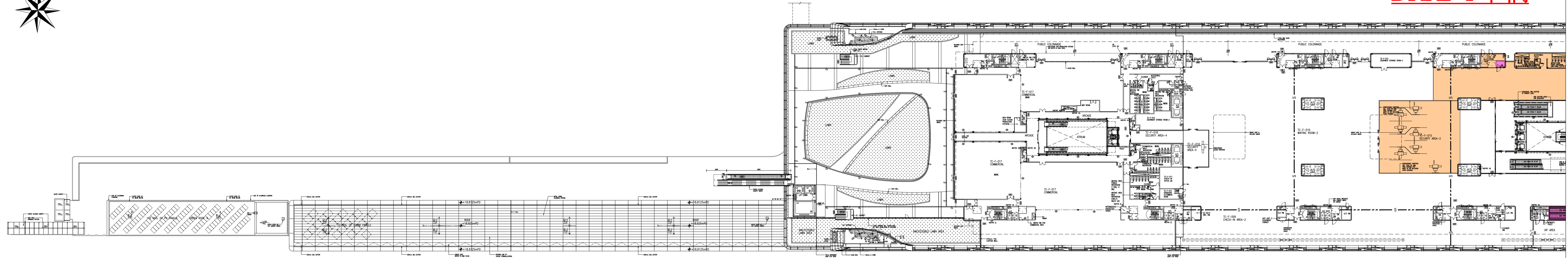
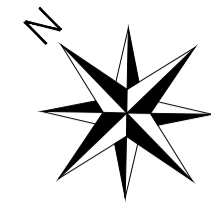
朱曼鈴

Commissioner for Tourism

Cathy Chu

圖則編號

Plan No. KTCTB/201506/02



LEGEND 圖例



PERMANENT RESTRICTED AREA
永久限制區



NON-PERMANENT RESTRICTED AREA
非永久限制區

KAI TAK CRUISE TERMINAL ORDINANCE

《 啟德郵輪碼頭條例 》

KAI TAK CRUISE TERMINAL BUILDING AND ANCILLARY FACILITIES - SECOND FLOOR PLAN

啟德郵輪碼頭大樓及附屬設施 - (二樓平面圖)

旅遊事務專員

朱曼鈴

Commissioner for Tourism

Cathy Chu

圖則編號

Plan No. KTCTB/201506/03