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**Panel on Economic Development
Meeting on 23 March 2015**

Background brief on the peak tramway

Purpose

This paper provides background information on the peak tramway. It also summarizes the major views and concerns expressed by the Legislative Council ("LegCo") Members during previous discussions on the subject.

Background

2. The peak tramway has been in operation since 1888 and is a popular tourist and recreational facility for both visitors and local people. It is run and operated by the Peak Tramways Company Limited ("PTC"). Its 1.4 kilometre-long tram track runs on government land, with its termini, at both ends of the track, situated on sites owned by PTC. When the operating right of PTC was examined by the Executive Council in 1980s, PTC was granted an operating right from 1 January 1984 for 10 years plus an extension of 10 years subject to payment of a premium of \$2.79 million and commitment from PTC to modernize the peak tramway system. At the same time, the fares of the peak tramway were de-regulated.

3. In November 2003, the Chief Executive in Council approved the granting of a 10-year extension to PTC to run and operate the peak tramway from 1 January 2004 to 31 December 2013 in accordance with section 2A of the Peak Tramway Ordinance (Cap. 265) ("the Ordinance") on account of PTC's good performance on service and safety, and its commitment to implement a number of measures to enhance passenger convenience as well as following its payment of a lump-sum premium of \$36.8 million for the period.

Operating right beyond 2013

4. In anticipation of the expiry of the operating right on 31 December 2013, PTC had since late 2012 started approaching the Government for an extension and subsequently for exploring feasibility of a plan to upgrade the peak tramway system and services in order to tackle the current queuing problem and expand its capacity. PTC also requested the Government to consider if an operating right of longer than 10 years could be granted to make its proposed upgrading plan¹, if found feasible and meritorious, financially viable.

5. According to the Administration, it was the previous understanding of the Administration and PTC that sections 2A(5) and 2A(6) of the Ordinance provided the necessary basis for the continued operation of the peak tramway beyond 2013, subject to application by PTC, payment of a premium by PTC and approval by the Executive Council. However, during the discussion on the extension of the operating right beyond 2013 between the Administration and PTC, and upon further examination of the legislation by and advice from the Department of Justice, it came to the Administration's attention that sections 2A(5) and 2A(6) were one-off provisions and would not allow further extensions beyond 2013. The Administration needed to amend the Ordinance to enable the Chief Executive in Council to grant the operating right for the peak tramway again to PTC. At the meeting of the Panel on Transport on 19 July 2013, members were consulted on the Administration's proposal to amend the Ordinance to enable continuation of the operation of the peak tramway service by PTC after 31 December 2013, for an interim period till 31 December 2015.

6. The Administration advised the Panel on Transport on 19 July 2013 that it would take a two-stage approach for the legislative amendment exercise. The first would be to amend the Ordinance so that a two-year operating right could be granted to PTC as an interim measure. The second stage would be for the Administration to study and decide during the proposed two-year interim period the long-term arrangements including assessing the merits and feasibility of PTC's proposed upgrading plan for the peak tramway system and services, how the operating right should be granted, extended and, where necessary, ended for the long term having regard to the upgrading plan. The Administration suggested that it would prepare a bill to implement the long-term arrangements

¹ The Administration is given to understand that the plan comprises road, civil engineering, drainage and other works and requires heavy investment. Its key features include –

- (a) replacement of tramcars with new ones that can increase carrying capacity by over 60%;
- (b) substantial improvement of the two termini to expand the holding capacity and improve the waiting environment;
- (c) installation of an upgraded haulage system to operate the enlarged tramcars whilst maintaining safety and reliability; and
- (d) replacement of all track rails and structural improvement of track foundation and tramway bridges.

and introduce the bill concerned to LegCo before the end of the interim period, i.e. 31 December 2015.

7. On 11 September 2013, the Administration introduced the Peak Tramway (Amendment) Bill 2013 ("the Bill") into LegCo in order to empower the Chief Executive in Council to grant an operating right to PTC for a two-year interim period. The Bills Committee on Peak Tramway (Amendment) Bill 2013 ("the Bills Committee") was then formed on 11 October 2013 to scrutinize the Bill. Subsequently, LegCo passed the Bill on 20 November 2013. According to the Administration², the Chief Executive in Council on 10 December 2013 approved the granting of a right to run and operate the peak tramway to PTC for a period of two years, from 1 January 2014 to 31 December 2015, under the Ordinance. PTC has to pay to the Administration a non-refundable lump-sum full market premium of \$25 million for the Government land on which the track of the peak tramway lies.

Deliberations by Members

8. Members of the Panel on Transport and the Bills Committee discussed the operating right of the peak tramway on 19 July 2013 and 25 October 2013 respectively. Their major views and concerns are summarized below.

Two-stage approach

9. The Panel on Transport and the Bills Committee were generally in support of the Administration's proposal to grant an operating right to PTC for two years as an interim measure so that long term arrangements including legislative amendments required for the operation beyond December 2015 could be worked out. Recognizing the importance of the peak tramway as a tourist and recreational facility in Hong Kong, members considered that the service should not be disrupted as a result of the legal problem.

Interim arrangements

Reasonable time for review

10. Members had questioned whether the interim period of two years was sufficient for the Administration to carry out a comprehensive review on the related matters. They also called on the Administration to formulate a

² Source: The Administration's press release on "Executive Council grants interim operating right to peak tramway" issued on 10 December 2013

contingency plan in case the Administration could not complete the review in time. In response, the Administration advised that considering the tasks which needed to be completed, and having regard to PTC's request for an early decision of the Administration on the long-term arrangements to enable PTC to decide on its upgrading plan, a two-year period would be reasonable.

Amount of premium to be paid by PTC

11. Some members expressed concern over the amount of premium to be paid by PTC for the two-year interim operating right from 1 January 2014 to 31 December 2015. In response, the Administration explained that the amount of premium would be assessed by the Lands Department ("LandsD") based on the full market value of the government land occupied, taking into due consideration of past profits generated from the peak tramway service. If PTC had disagreement over the amount of premium assessed by LandsD, it could counter-propose with justifications. LandsD would then conduct an independent assessment on the counter proposal. The reassessment result had to be approved by a committee comprising the Deputy Director of Lands, Assistant Directors of Lands and professional estate surveyors.

Long-term arrangements

Safety and service performance

12. Members expressed concern over the safety and service performance of the peak tramway and called on the Administration to review whether additional safeguards should be put in place to ensure the future service performance of PTC. They also expressed concern about the details pertaining to complaints made against the peak tramway service. Besides, members urged the Administration to implement measures to improve the queuing environment for passengers and reduce waiting time for the peak tramway. In October 2013, the Administration provided supplementary information³ updating members on how PTC planned to maintain the safe operation of the peak tramway and to further enhance its services in 2014 and 2015. PTC would carry out a number of measures, including replacement of direct current motors and haulage ropes, upgrade of the haulage drum, repair of the tramcar body and roof, strengthening of the track and foundation, upgrade of ticketing system, etc. Also, PTC would improve queue management for passengers as well as undertake further consultancy study in architectural, structural, geotechnical and civil engineering for the long-term passenger service improvement planning. The Company

³ Source: The Administration's supplementary information on "Follow-up actions for the Bills Committee on the Peak Tramway (Amendment) Bill 2013" issued on 30 October 2013 [LC Paper No. CB(1)198/13-14(01)]

expected the enhancement measures would require an investment of over \$75 million in 2014 and 2015.

Opening up of the peak tramway service

13. Some members considered that the peak tramway service should not be monopolized in the long term. The Administration should consider opening up the peak tramway service through tender so that the service could be improved through competition. Nevertheless, some other members noted that the land of the two peak tramway termini was owned by PTC whilst the land on which the track laid was owned by the Government. They therefore reminded that this might be a major issue for the Administration to address for any possible open tender to be arranged. In addition, some members also considered that opening up the peak tramway service might not be easy if intellectual property registration was made. They urged the Administration to handle the matter promptly and carefully.

Fares of peak tramway service

14. Members expressed concern over the fare level of the peak tramway and urged the Administration to have some control over its fares. The Administration explained that the fares of the peak tramway were already deregulated in 1980s and they believed that any fare adjustment would be carefully considered by PTC having regard to the market situation.

Policy responsibility

15. Members expressed concern about the policy responsibility over the operation of the peak tramway. They viewed that as the peak tramway system had evolved from a form of public transport to a tourism facility, the Administration should take the opportunity to explore whether the policy responsibility for overseeing its operation should be changed from the Transport and Housing Bureau to the Commerce and Economic Development Bureau so as to facilitate its strategic development, as well as for better promotion and coordination of tourism facilities.

Latest developments

16. The Administration plans to brief the Panel on Economic Development on the long-term arrangements for the peak tramway upon the expiry of the

existing operating right in end-2015 at the meeting to be held on 23 March 2015.

Relevant papers

17. A list of the relevant papers is set out in the **Appendix**.

Council Business Division 4
Legislative Council Secretariat
17 March 2015

List of relevant papers

Issued by	Meeting date/ Issue date	Paper
Panel on Transport	24.10.2003	Administration's paper on application from the Peak Tramways Company Limited for Extension of the Period to run and operate the peak tramway Minutes of meeting
	5.11.2003	Administration's press release on "Peak Tramways Co gets 10-year extension to run peak tram"
	19.7.2013	Administration's paper on the operating right of the peak tramway Minutes of meeting
Bills Committee on Peak Tramway (Amendment) Bill 2013	25.10.2013	Legislative Council brief on Peak Tramway (Amendment) Bill 2003 Administration's response to issues raised at the meeting on 25 October 2013 Minutes of meeting
	8.11.2013	Paper for the House Committee meeting: Report of the Bills Committee on Peak Tramway (Amendment) Bill 2013
	20.11.2013	Paper for the Legislative Council meeting: Report of the Bills Committee on Peak Tramway (Amendment) Bill 2013

Issued by	Meeting date/ Issue date	Paper
	10.12.2013	<u>Administration's press release on "Executive Council grants interim operating right to Peak Tramway"</u>