

**For discussion  
on 6 November 2015**

**Legislative Council Panel on Transport**  
**Takeover Arrangements of Eastern Harbour Crossing**

**Purpose**

This paper briefs Members on the arrangements being taken by the Government to take over the ownership of the Eastern Harbour Crossing (“EHC”) upon expiry of the EHC franchise on 7 August 2016.

**Background**

2. Opened to traffic in 1989, EHC links up Quarry Bay on Hong Kong Island and Cha Kwo Ling in the Eastern Kowloon. It was the second Build-Operate-Transfer (“BOT”)<sup>1</sup> tunnel after the Cross-Harbour Tunnel (“CHT”). The BOT franchise was awarded to the New Hong Kong Tunnel Company Limited (“the franchisee”) for thirty years. The Eastern Harbour Crossing Ordinance (“EHC Ordinance”) (Cap. 215) was enacted in 1986 to govern the construction, operation and maintenance of the EHC during the franchise period.

3. The BOT franchise of EHC will expire on 7 August 2016, whereupon EHC will vest in the Government.

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<sup>1</sup> Under a BOT tunnel arrangement, a franchisee is responsible for the construction, operation and maintenance of the tunnel concerned during the franchise period. Upon the expiry of the franchise, the tunnel will vest in the Government. The two major principles of the Government in adopting the BOT mode in constructing and operating tunnels are: (a) the Government should encourage private participation and optimise the use of public resources; and (b) as investors are required to make substantial upfront capital investment, they should be given the opportunity to make a reasonable return on their investment while bearing the commercial risk.

## Takeover of EHC

4. Similar to the arrangements upon the expiry of the CHT franchise in 1999, the Government's takeover of EHC will be a technical exercise involving a change of tunnel ownership as well as the legal backing and management mode for its operation. There will be no change to the actual tunnel operation. For example, the prevailing toll and fee levels as well as road traffic regulations in terms of traffic signs, procedures to apply for permits to carry dangerous goods, etc. will not be affected. In other words, from a tunnel user's point of view, there will be no difference before and after the Government's takeover of EHC.

### Legal Backing

5. EHC will become a Government tunnel upon the franchise expiry. In line with the operation of other Government tunnels, EHC will be subsumed under the legal framework of the Road Tunnels (Government) Ordinance (Cap. 368) and its subsidiary legislation. The EHC Ordinance and its subsidiary legislation, which provide the legal backing for the operation of EHC as a BOT tunnel, will be repealed. We are preparing the Eastern Harbour Crossing Legislation (Amendment) Bill 2015 ("EHC Amendment Bill") for this purpose. We target to introduce the EHC Amendment Bill into the Legislative Council in December 2015.

6. The EHC Amendment Bill seeks to add EHC to the list of tunnels to which the Road Tunnels (Government) Ordinance applies. It also amends the Road Tunnels (Government) Regulations (Cap. 368A), the major amendments of which include –

- (a) adding the schedules of toll, removal fee<sup>2</sup> and permit fee<sup>3</sup> for vehicles passing through EHC; and
- (b) specifying certain requirements in relation to the operation of EHC, including types of vehicles which require permits for passing through EHC, restrictions on the passage of vehicles conveying dangerous goods, and the traffic signs and road markings for use at EHC.

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<sup>2</sup> Any vehicle causing an obstruction in a tunnel will be removed and the owner of the vehicle may be charged a removal fee.

<sup>3</sup> Same as CHT, a vehicle with oversized height or weight requires a permit to pass through EHC. A permit fee shall be paid on the issue of a permit.

7. The EHC Amendment Bill also provides for necessary savings and transitional arrangements to ensure that the repeal of the EHC Ordinance and its subsidiary legislation will not affect any right, privilege or liability acquired, accrued or incurred regarding matters which the Government may need to pursue after the repeal. For example, a motorist who crosses the continuous double lines in the tunnel area commits an offence under the subsidiary legislation of the EHC Ordinance (“EHC Bylaw”), the conviction of which will result in, amongst others, a reduction of points under the Road Traffic (Driving-offence Points) Ordinance (Cap. 375). The transitional provisions in the EHC Amendment Bill enable the Government to continue to take prosecution action against the motorist concerned and make the necessary incurring of driving offence points once the motorist is convicted, even if the offence was committed prior to the repeal of the EHC Bylaw.

8. In addition, the EHC Amendment Bill will include consequential amendments to repeal the references to the EHC Ordinance or the franchisee in other legislation. For example, references to the EHC Ordinance and its subsidiary legislation in the Specification of Public Offices Notice (Cap. 1C) will be repealed<sup>4</sup>.

### Management Mode

9. In line with the practice of other Government tunnels including CHT, EHC will be managed by a Government’s contractor under the supervision of the Transport Department (“TD”) and other concerned departments. TD will grant, through open tender, a management, operation and maintenance (“MOM”) contract for EHC’s operation and management upon the franchise expiry. TD has already commenced the tender process and the MOM contract will be awarded in early 2016. This will allow the MOM contractor adequate time to gear up for the takeover.

10. To ensure a seamless transition of this strategic tunnel, the Government considers that it would be in the public interest to retain as far as practicable existing employees of the franchisee who are essential to the operation of EHC. Thus, the terms of the MOM contract require the contractor to undertake to make first offer of employment to these staff

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<sup>4</sup> The relevant provisions in Cap. 1C specify the public offices (namely the Secretary for Transport and Housing and the Commissioner for Transport) for the purposes of exercising powers or perform duties under the EHC Ordinance and the EHC Bylaw.

members at the existing salary levels. They are mostly frontline and technical employees, amounting to about 200 (or 85%) staff members in the operations, engineering and maintenance departments. This arrangement will not only ensure that the MOM contractor will have a suitable workforce possessing the necessary knowhow to operate the EHC, it will also avoid any possible manpower drain of the franchisee towards the end of the franchise period to the detriment of a safe and efficient operation of EHC in the run-up to the takeover.

### **Steps Ahead**

11. TD will continue to closely monitor the traffic situation at EHC and put in place appropriate traffic management measures as and when necessary. TD will also liaise closely with the franchisee and the MOM contractor to ensure that EHC will continue its smooth and efficient operation.

12. The Government will study the rationalisation of traffic distribution among road harbour crossings (“RHCs”), as undertaken earlier. With the takeover of EHC upon the franchise expiry, two of the three RHCs will be Government owned, which will provide greater flexibility for the Government in devising a toll adjustment scheme to better rationalise the traffic distribution. When commissioned, the Central-Wan Chai Bypass will help ease the congestion of the connecting roads of the Western Harbour Crossing (“WHC”), and provide greater scope for the Government to consider toll adjustment at WHC in the context of a comprehensive scheme to rationalise traffic distribution among RHCs. We will continue our study on this front and will consult the Panel in due course.

### **Advice Sought**

13. Members’ views are sought on the EHC takeover arrangements being undertaken by the Government.

**Transport and Housing Bureau  
October 2015**